



US Army Corps
of Engineers
Seattle District

Public Notice

Proposal to Modify a Regional General Permit

Seattle District, Regulatory Branch

Telephone: (206) 764-6883

ATTN: Mr. Darren Habel, Project Manager

Reference: CENWS-OD-RG-RGP-8

Name: U.S. Forest Service Fish Passage Program

Public Notice Date: July 13, 2016

Public Notice Expiration Date: August 12, 2016

Interested parties are hereby notified that, in accordance with 33 CFR 325.3(b), the Seattle District of the U.S. Army Corps of Engineers (Corps) is proposing to modify a regional general permit (RGP) that would authorize the work described herein, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344).

PERMIT NUMBER – CENWS-OD-RG-RGP-8

PERMIT TITLE – U.S. Forest Service Fish Passage Program within the State of Washington

ISSUING OFFICE – U.S. Army Corps of Engineers, Seattle District
Regulatory Branch
P.O. Box 3755
Seattle, Washington 98124-3755

LOCATION OF AUTHORIZED ACTIVITIES – National Forest System Lands located in Washington. National Forests located solely in Washington include the Colville, Gifford Pinchot, Mt. Baker Snoqualmie, Okanogan-Wenatchee, Olympic, Umatilla National Forest, and the Columbia River Gorge National Scenic Area. Within the aforementioned National Forest units in Washington State, the proposed activities will be restricted to restoration projects that are designed to maintain, enhance, and/or restore watershed functions to benefit fish species, other aquatic organisms, water quality, riparian areas, floodplains, and wetlands. Projects on Non-Federal lands are included when a culvert removal or replacement leads to passage of fish onto Forest Service administered lands.

WORK – Eleven restoration activities in waters of the U.S. designed to maintain, enhance, and restore watershed functions that affect aquatic species. Activities, occurring waterward of the ordinary high water mark, eligible for authorization under this modified RGP are described below:

1) **Fish Passage Restoration:** Total removal of culverts or bridges, or replacing culverts or bridges with properly sized culverts and bridges, replacing a damaged culvert or bridge, and resetting an existing culvert that was improperly installed or damaged; stabilizing and providing passage over head-cuts; removing, constructing (including relocations), repairing, or maintaining fish ladders; and replacing, relocating, or constructing fish screens and irrigation diversions.

2) **Large Wood (LW), Boulder, and Gravel Placement:** LW and boulder placement, ELJs, porous boulder structures and vanes, gravel placement, and tree removal for LW projects. Such activities will occur in areas where channel structure is lacking due to past stream cleaning (LW removal), riparian timber harvest, and in areas where natural gravel supplies are low due to anthropogenic disruptions.

- 3) **Dam, Tidegate and Legacy Structure Removal:** To remove dams, tidegates, channel-spanning weirs, legacy habitat structures, earthen embankments, subsurface drainage features, spillway systems, outfalls, pipes, instream flow redirection structures (e.g., drop structure, gabion, groin), or similar devices used to control, discharge, or maintain water levels.
- 4) **Channel Reconstruction/Relocation:** To reconstruct existing stream channels through excavation and structure placement (large wood and boulders) or relocation (rerouting of flow) into historic or newly constructed channels that are typically more sinuous and complex.
- 5) **Off- and Side-Channel Habitat:** Reconnection of historic side-channels with floodplains by removing off-channel fill and plugs. Furthermore, new side-channels and alcoves can be constructed in geomorphic settings that will accommodate such features.
- 6) **Streambank Restoration:** Activities that include bank shaping and installation of coir logs or other soil reinforcements as necessary to support riparian vegetation; planting or installing large wood, trees, shrubs, and herbaceous cover as necessary to restore ecological function in riparian and floodplain habitats; or a combination of the above methods.
- 7) **Set-back or Removal of Existing Berms, Dikes, and Levees:** Projects will result in reconnection of historic fresh-water deltas to inundation, stream channels with floodplains, and historic estuaries to tidal influence as a means to increase habitat diversity and complexity, moderate flow disturbances, and provide refuge for fish during high flows.
- 8) **Reduction/Relocation of Recreation Impacts:** To close, better control, or relocate recreation infrastructure and use along streams and within riparian areas. This includes removal, improvement, or relocation of infrastructure associated with designated campgrounds, dispersed camp sites, day-use sites, foot trails, and off-road vehicle roads/trails in riparian areas.
- 9) **Livestock Fencing, Stream Crossings and Off-Channel Livestock Watering Facilities:** Construction of fences to exclude riparian, providing controlled access for walkways that livestock use to transit across streams and through riparian areas, and reducing livestock use in riparian areas and stream channels by providing upslope water facilities.
- 10) **Road and Trail Erosion Control and Decommissioning:** The decommissioning or obliteration of roads and trails to restore watershed function. Actions will target priority roads and trails that contribute sediment to streams, block fish passage, or disrupt floodplain and riparian functions.
- 11) **Juniper Tree Removal:** Fell juniper trees occurring in riparian areas and placing stem into the stream channel and floodplain to provide aquatic benefits.

PURPOSE – The purpose of this RGP is to expedite the authorization of recurring activities that are similar in nature and have minor individual and cumulative adverse impact on the aquatic environment. Use of this RGP would reduce the amount of paperwork and time required to authorize qualifying projects by making available for public use an already issued Department of Army general permit that includes a concluded Endangered Species Act Section 7 consultation and Essential Fish Habitat consultation and will likely include a State water quality certification, and coastal zone management consistency concurrence.

The proposed RGP contains provisions intended to protect the environment, endangered species, and cultural resources. Work that would not comply with the provisions of both RGPs would not be authorized by this permit and may require Department of the Army authorization by a standard individual permit. Moreover, compliance with the provisions of the RGP would not in itself guarantee that the work is authorized by this RGP. Activities that appear to comply with the provisions of the RGP but would have an unacceptable adverse impact on the public interest would not be authorized by this permit.

ENDANGERED SPECIES – The Endangered Species Act of 1973 (ESA), as amended, requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS)/National Oceanic Atmospheric Administration (NOAA) and/or U.S. Fish and Wildlife Service (USFWS), pursuant to Section 7 of the ESA, on any action, or proposed action, permitted, funded, or undertaken by the agency that may affect a species listed as threatened or endangered under the ESA, or its designated critical habitat. The U.S. Forest Service has determined that activities that would be authorized by this RGP may affect federally listed species and, therefore, have completed consultation with the NMFS and USFWS. For the State of Washington - NMFS (NMFS Reference Number NWP-2013-9664) issued a Biological Opinion (BO) on April 25, 2013, and USFWS (USFWS Reference Numbers 01EOFW00-2013-F-0090) issued BO on July 1, 2013, for the proposed activities covered under Seattle District RGP 8. The U.S. Forest Service will implement the terms and conditions stated in all the BOs.

ESSENTIAL FISH HABITAT – The Magnuson-Stevens Fishery Conservation and Management Act (MSA), as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). The U.S. Forest Service has determined that activities authorized by this RGP may adversely affect EFH for Federally managed fisheries in Washington waters. The U.S. Forest Service has completed consultation with the NMFS. In this consultation, the NMFS concluded that the proposed activities that would be authorized by this RGP may adversely affect designated EFH for Pacific salmon. The NMFS has included conservation recommendations as terms and conditions of the BO, issued by NMFS on April 25, 2013, for activities in Washington. These recommendations are designed to avoid, minimize, or otherwise offset affects to designated EFH produced by the activities authorized by this RGP. These terms and conditions are incorporated into this RGP either by reference or special conditions.

CULTURAL RESOURCES – U.S. Forest Service, Pacific Northwest Region 6, is the Federal lead for National Historic Preservation Act. Activities authorized by both RGPs that may affect historic properties listed or eligible for listing, in the National Register of Historic Places (NRHP) under the provisions of 33 CFR 325, Appendix C, must be satisfied prior to construction. Historic properties include prehistoric and historic archeological sites, and areas or structures of cultural interest. The locations of activities that might be authorized by the proposed RGP are not known; therefore, the U.S. Forest Service or the District Engineer cannot determine at this time whether any of the activities that would be authorized by the proposed RGP may affect an historic property listed, or eligible for listing, in the National Register of Historic Places (NRHP). However, if issued, the proposed RGP would not authorize any activity that may affect historic properties listed, or eligible for listing, in the NRHP until the provisions of 33 CFR 325, Appendix C, have been satisfied. The U.S. Forest Service would be required to notify the District Engineer if the proposed activity may affect an historic property that is listed, eligible for listing, or may be eligible for listing in the NRHP, and would not begin the activity until the requirements of the National Historic Preservation Act have been satisfied by providing documentation, including a concurrence letter from State Historic Preservation Office and/or from an affected Indian Tribe(s) to the District Engineer. The District Engineer invites responses to this public notice from Federal, State, and local agencies, historical and archeological societies, Indian tribes, and other parties with knowledge of, or concerns with, historic properties.

PUBLIC HEARING – Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

EVALUATION – The decision whether to issue the proposed permit will be based on an evaluation of the probable impact, including cumulative impacts of the authorized activities on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposal. Any comments received will be considered by the Corps in determining whether or not to issue the proposed permit. Comments are used to help the Corps assess likely impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and the overall public interest of the activity.

The evaluation of the likely impact of the proposed on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the CWA. This evaluation will include an alternatives analysis.

ADDITIONAL EVALUATION – The Washington Department of Ecology (Ecology) will determine, pursuant to Section 401 of the CWA and State Laws, Chapters 173-225 of the Washington Administrative Code (WAC) and the Environmental Protection Agency, pursuant to Section 401 of the CWA will determine, whether the activities that would be authorized by the both proposed RGPs and for which the agency is responsible will comply with established water quality standards.

The Ecology will also determine, pursuant to the requirements of the U.S. Coastal Zone Management Act (16 U.S.C. 1452 et seq.) and it's implementing regulations (15 CFR 923-930), whether the activities that would be authorized by the proposed RGP and for which Ecology is responsible will be consistent with the State's Coastal Zone Management program.

COMMENT AND REVIEW PERIOD – Comments on this proposal will be accepted and made part of the record and will be considered in determining whether it would be in the best public interest to issue the proposed permit. Comments should reach this office, Attention: Regulatory Branch, not later than the expiration date of this public notice to ensure that they can be considered. Please include in your comments the following name and RGP number:

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