



US Army Corps  
of Engineers  
Seattle District

# Proposed Department of the Army Regional General Permit



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## Piling, Floats, Ramps, Piers, Minor Fills, and Bank Stabilization in the Pend Oreille River and Lake Chelan, in the State of Washington

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**Effective Date:**

**Expiration Date:**

**Permit Number:** CENWS-OD-RG-RGP-4

**Authority:** In accordance with 33 CFR 325.2(e)(2), the U.S. Army Corps of Engineers (Corps) is proposing a regional general permit (RGP) that would authorize certain activities in or affecting waters of the United States, including navigable waters of the United States, upon the recommendation of the Chief of Engineers, 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 (33 U.S.C. 1344).

**Issuing Office:** U.S. Army Corps of Engineers, Seattle District  
Regulatory Branch, CENWS-OD-RG  
Post Office Box 3755  
Seattle, Washington 98124-3755  
(206) 764-3495

**Purpose and Location:** The purpose of this RGP is to authorize piling, floats, ramps, piers, minor fills, and bank stabilization in the Pend Oreille River and Lake Chelan, in the State of Washington

**Use of this RGP:** To use this RGP, a prospective permittee must first notify the Corps of the proposed work in accordance with the application procedures in this RGP. ***The proposed project is not authorized under this RGP, and work may not commence, until the District Engineer or his designee has issued written notification that the proposed project appears to meet the requirements of this RGP and is authorized.*** The permittee is responsible for ensuring that the authorized structures and/or activities comply with all applicable provisions of this RGP, including any project-specific special conditions that may be added by the District Engineer. Failure to abide by the requirements of this RGP may constitute a violation of the Clean Water Act and/or Rivers and Harbors Act. For purposes of this RGP, the term “permittee” shall include all successors in interest.

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

**Activities authorized by this RGP:** Work authorized by this RGP is limited to the activities described below. This RGP authorizes the following work in or affecting the Pend Oreille River and Lake Chelan within the State of Washington:

- a. Maintenance of any work authorized by this Regional Permit or any over water structure authorized by a previously issued Department of the Army permit.
- b. Drive boat mooring or float anchor piling for noncommercial use.
- c. Install floats with or without access ramps for noncommercial use.
- d. Construct small piers for noncommercial use.
- e. Discharge of a total of 10 cubic yards of material for all pile footings combined.
- f. Discharge of fill material for minor bank stabilization projects.
- g. Discharge of dredged or fill material associated with the placement of large woody debris if such placement is a condition of a hydraulic project approval issued by the State of Washington Department of Fish and Wildlife for any of the types of work listed in a. through f. above.

**Construction Limitations:** Activities authorized above are limited by the following conditions. In addition, activities must comply with the Special and General Conditions beginning on page 5.

Maintenance:

1. Any maintenance performed on an authorized structure shall not change the size or configuration from that which was originally authorized.
2. No paint, stain, preservative or other protective coating application shall occur while the structure is in or over the water body, and any such application shall be completely cured prior to the structure being returned to the water. (Also refer to Special Condition 10.)

Piers and Floats:

1. This permit authorizes only one pier and/or float system, including an access ramp if necessary, per upland private property ownership. This property must front the navigable water.
2. This permit authorizes joint-use and community piers and/or floats constructed by more than one private property owner fronting the shoreline, or by a homeowner's association proprietorship. Joint-use properties shall front the waterway. All affected joint-use property owners must sign a legal agreement to construct a joint-use pier or install floats. A copy of this agreement must be submitted with the application.
3. Piers and/or floats shall not extend more than 55 feet waterward (toward the middle of the waterway) of the ordinary high waterline. A float system must be held in place by piling or other fixed structures, and may be made up of more than one individual float.
4. Only open pile pier construction is authorized. Piling shall be structurally sound and cured prior to placing in the water. (Also refer to Special Condition 10.)
5. Total deck area of pier(s), float(s), ramp(s), and existing structures waterward of the ordinary high waterline shall not exceed 320 square feet for each upland private property. Total deck area of

pier(s), float(s), ramp(s), and existing structures waterward of the ordinary high waterline, shall not exceed 450 square feet for joint-use and 1,600 square feet for community piers and floats. The width of any individual section of deck shall not exceed 8 feet for floats and piers, and 4 feet for ramps and walkways.

6. Floats shall be designed so as to contain the flotation material under all conditions.
7. No other structures such as living quarters, toilets, fueling facilities, or covered boat moorage shall be constructed or installed on any pier or float.

Piling:

1. Fill around pilings may only be used when the condition of the substrate prevents the use of driven piles. Fill material is limited to clean rock. The total amount of fill used to secure all piles associated with a structure shall not exceed 10 cubic yards, but is limited to the minimum amount necessary to secure the piles.
2. Only two mooring piles per upland private property ownership are allowed. This property must front the navigable water.
3. Piling shall be driven within 55 feet of the ordinary high waterline.
4. Piling shall be structurally sound and cured prior to placing in the water. (Also refer to Special Condition 10.)

Bank Stabilization:

1. No material is placed in excess of the minimum needed for erosion protection.
2. The bank stabilization activity does not exceed 250 feet in length.
3. The activity does not exceed an average of one-half cubic yard of material per running foot placed along the bank below the plane of the ordinary high water mark.
4. No material is placed in wetlands or in a manner that will be eroded by normal or expected high flows.
5. All work associated with a bank stabilization activity must be completed in the dry, when the elevation of the water surface is below the elevation of the proposed work.
6. Properly installed and maintained silt fencing must be used between the construction area and the waters edge.
7. Bank stabilization activity must incorporate least environmentally damaging bank protection methods that include, but are not limited to, biotechnical design, and/or the use of root wads, large woody debris and native vegetation plantings.
8. The bank stabilization activity must be part of a single and complete project.

**Application Procedure:** Authorization under this RGP requires that prospective permittees notify the Corps of the proposed work in accordance with the application procedures described in this section and shall not proceed with the proposed work until the District Engineer or his designee issues written notification that the proposed project appears to meet the requirements of this RGP and is authorized. To notify the Corps of a proposed project that may qualify for authorization under this RGP, the prospective permittee must submit the following information:

1. A complete written application that fully describes the proposed work and clearly demonstrates to the Corps that the work would meet the requirements of this RGP. The Corps does not require that the applicant use a specific application form for this RGP but recommends the Joint Aquatic Resources Permit Application (JARPA) form approved for use in Washington State. A non-JARPA application must include the same basic information requested in the JARPA and any additional information necessary to address RGP-specific requirements. A “complete application” also includes appropriate plan, profile, and cross-section drawings of the proposed work and structures, as well as estimates of the volume of each type of material that would be discharged (temporarily or permanently) into waters of the United States. (Refer to “Guidance for Completion of Drawings” included in the Corps’ JARPA instructions.) Include in the application the title or permit number of the RGP being requested to authorize the project.
2. Information that clearly identifies the location and extent of waters of the United States in the project area, particularly those that would be affected by the proposed work. This information (e.g., ordinary high water line, wetland boundaries) should be included in the project drawings where practicable, but may also be the subject of a separate drawing or report. Wetland delineations must be conducted using the 1987 *Corps of Engineers Wetland Delineation Manual* (Corps, Waterways Experiment Station, Wetlands Research Program Technical Report Y-87-1, January 1987). An on-line edition of the manual, including supplemental guidance from the Corps, is available at <http://www.wes.army.mil/el/wetlands/wlpubs.html>.
3. As applicable, a compensatory mitigation plan that describes the actions the permittee would take to restore, enhance, protect, and/or replace the aquatic ecosystem functions that would be lost as a result of the of the proposed work. The critical elements of a compensatory mitigation plan include a statement of the specific goals and objectives of the plan; detailed descriptions and drawings of the proposed construction, grading, and planting activities; provisions for monitoring and reporting on the progress of the plan’s implementation; performance standards that measure the ecological success of the plan; a long-term mitigation area management plan, including a vegetation management plan; and any necessary protective covenant, such as a deed restriction or conservation easement.
4. For activities that may affect historic properties listed, or eligible for listing, in the National Register of Historic Places, the notification must include a description of each historic property that may be affected by the proposed work and a map indicating the location of the property.
5. Any other relevant information, such as information on local hydrology, photographs of the project area, and a description and location of any off-site borrow or disposal site that would be used.

**Water Quality Certification:** The Corps will request that the Washington Department of Ecology (Ecology) and U.S. Environmental Protection Agency (EPA) certify, pursuant to Section 401 of the CWA and Chapters 173-225 of the Washington Administrative Code (WAC), that those activities authorized by this RGP for which Ecology or EPA is responsible will not violate established state water

quality standards. Any requirement that Ecology or EPA requires as a condition of water quality certification will be included in this RGP, when issued.

**Endangered Species:** The Endangered Species Act of 1973 (ESA), as amended, requires all federal agencies to consult with the National Marine Fisheries Service (NMFS) 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 Corps has determined that activities that would be authorized by this RGP may affect federally listed species and, therefore, will consult with the USFWS.

**PERMIT CONDITIONS:** Department of the Army authorization under this RGP is subject to the following special and general conditions:

### SPECIAL CONDITIONS

1. Work Windows. In-water work that disturbs the substrate, bank, or shore of a water of the United States that contains fish life shall be conducted only during approved work window for that waterbody.
2. Work located within ½ mile of an active bald eagle nest shall only occur to between September 1 and October 31 of any year.
3. Work located within 2 ½ miles of an active bald eagle nest and will require more than 2 days to complete shall only occur to between September 1 and October 31 of any year.
4. Work in the Dry. All work shall occur in the dry whenever practicable. Bank stabilization work shall only occur in the dry.
5. Operation of Equipment. Equipment shall be operated from the top of the bank, dry gravel bar, work platform, or similar out-of-water location whenever possible. Equipment shall be operated in a manner that minimizes the suspension of particulates. All equipment used in or around waters shall be clean and inspected daily prior to use to ensure that the equipment has no fluid leaks. Should a leak develop during use, the leaking equipment shall be removed from the site immediately and not used again until it has been adequately repaired. No equipment may be stored or fueled within 100 feet of the waterbody.
6. Disturbance of Vegetation. Disturbance of bank vegetation shall be limited to the minimum amount necessary to accomplish the project. Disturbed bank vegetation shall be replaced with native, locally adapted species appropriate for the site.
7. Permanent Discharges. The discharge of dredged or fill material into waters of the United States to dispose of the material or to create dry land is not authorized.
8. No fill permitted herein shall be placed in wetlands. No structure permitted herein shall be installed within 100 feet of the mouth of any river, stream or creek, or within 300 feet of the mouth of any river or stream identified as containing bull trout or targeted for bull trout recovery. Non-fill structure placement in or over wetlands shall be limited to the minimum amount necessary.

9. All construction debris will be disposed in an upland location in such a manner that it cannot enter waters of the United States, including wetlands.
10. Creosote, pentachlorophenol (Penta), copper naphthalene, or other leachable protection chemicals shall not be used to treat piling and lumber.

#### GENERAL CONDITIONS

1. Reliance on Permittee's Information. In verifying a permittee's authorization under this RGP, the Department of the Army has relied, in part, on the information provided by the permittee. If this information proves to be false, incomplete, or inaccurate, the permittee's authorization may be modified, suspended, or revoked, in whole or in part.
2. Compliance with Terms and Conditions. Projects authorized by this RGP shall comply with all terms and conditions herein and any case-specific conditions added by the Corps or by the state or a tribe as a result of a Water Quality Certification or Coastal Zone Management consistency determination. Failure to abide by these terms and conditions invalidates this authorization and may result in a violation of federal law, which may require that the permittee restore the site or take other remedial action. Activities requiring Department of the Army authorization that are not specifically authorized by this RGP are prohibited unless authorized by another Department of the Army permit.
3. Contractor's Copy of Permit. The permittee shall provide complete copies of this permit, including project construction drawings, and the Corps verification letter for the authorized project to each contractor involved in the project and keep copies of this permit and Corps verification letter available for inspection at the project site.
4. Compliance Certification. Every permittee shall submit to the Corps, within 30 days of completing the authorized work, certification that the work, including any required compensatory mitigation, was conducted in accordance with the provisions of this RGP, including case-specific special conditions. Permittees must use the "Statement of Compliance" form included in Appendix A of this RGP.
5. Access for Inspection. The permittee shall allow the District Engineer or his authorized representative to inspect the project whenever deemed necessary to assure that the activity is in compliance with the terms and conditions prescribed herein.
6. Limits of Authorization. This permit does *not*:
  - a. Obviate the requirement to obtain all state, local, or other federal authorizations required by law for the activity authorized herein, including any authorization required from Congress.
  - b. Convey any property rights, either in real estate or material, or any exclusive privileges.
  - c. Authorize any injury to property, invasion of rights, or any infringement of federal, state, or local laws or regulations.
  - d. Authorize the interference with any existing or proposed federal project.

7. Limits of Federal Liability. This permit is not an approval of the design features of any authorized project or an implication that such project is adequate for the intended purpose; a Department of the Army permit merely expresses the consent of the Federal Government to conduct the proposed work insofar as public rights are concerned. In issuing this RGP, the Federal Government does not assume any liability for the following:
  - a. Design or construction deficiencies associated with the authorized work.
  - b. Damages to the permitted project or uses thereof as a result of other permitted activities or from natural causes, such as flooding.
  - c. Damages to persons, property, or to other permitted or unauthorized activities or structures caused by the activity authorized by this permit.
  - d. Damages associated with any future modification, suspension, revocation of this permit.
  - e. The removal, relocation, or alteration of any structure or work in navigable waters of the United States ordered by the Secretary of the Army or his authorized representative.
  - f. Damage to the permitted project or uses thereof as a result of current or future activities undertaken by, or on behalf of, the United States in the public interest.
8. Tribal Rights. No activity may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
9. Corps Coordination. Permittees shall coordinate with the appropriate office of the Corps prior to commencing any construction activity in a federally maintained channel and/or waterway.
10. Obstruction of Navigation. Permittees understand and agree that, if future operations by the United States require the removal, relocation, or other alteration of the work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work unreasonably obstructs the full and free use of navigable waters of the United States, the permittee shall, upon due notice from the Corps, remove, relocate, or alter the obstructions caused thereby, without expense to the United States. If the permittee fails to comply with the direction of the Corps, the District Engineer may restore the navigable capacity of the waterway, by contract or otherwise, and recover the cost thereof from the permittee. (Section 10)
11. Stability. Permittees shall design projects to be stable against the forces of flowing water, wave action, and the wake of passing vessels.
12. Maintenance. Permittees shall properly maintain all authorized structures and fills, including maintenance necessary to ensure public safety.
13. Marking Structures. Permittees shall install and maintain any lights, signals, or other appropriate markers necessary to clearly designate the location of structures or work that might pose a hazard to public safety. Permittees shall abide by U.S. Coast Guard requirements concerning the marking of structures and work in navigable waters of the United States. (Section 10)
14. Endangered Species. This RGP does not authorize any activity that is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such

designation, as identified under the Endangered Species Act (ESA). Prospective permittees shall notify the District Engineer if any listed species or designated critical habitat might be affected by, or is in the vicinity of, the project and shall not begin work until notified by the District Engineer that the requirements of the ESA have been satisfied and that the activity is authorized.

15. Historic Properties. This RGP does not authorize any activity that may affect historic properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) until the provisions of 33 CFR 325, Appendix C, have been satisfied. Historic properties include prehistoric and historic archeological sites, and areas or structures of cultural interest. A prospective permittee must 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 shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. If a previously unknown historic property is encountered during work authorized by this RGP, the permittee shall immediately (within 1 calendar day) notify the Corps and avoid any further impact to the property until the District Engineer verifies that the requirements of 33 CFR Part 325, Appendix C, have been satisfied.
16. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status unless the appropriate federal agency (e.g. National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service), with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.
17. Water Quality Standards. All activities authorized herein that involve a discharge of dredged or fill material into waters of the United States shall, at all times, remain consistent with all applicable water quality standards, effluent limitations and standards of performance, prohibitions, pretreatment standards, and management practices established pursuant to the Clean Water Act (P.L. 92-500; 86 Stat. 816) or pursuant to applicable state and local law. (Section 404)
18. Minimization of Environmental Impact. Permittees shall make every reasonable effort to conduct the authorized activities in a manner that minimizes the adverse impact of the work on water quality, fish and wildlife, and the natural environment, including adverse impacts to migratory waterfowl breeding areas, spawning areas, shellfish beds, and aquatic resource buffer zones.
19. Soil Erosion and Sediment Controls. Permittees shall use and maintain appropriate erosion and sediment controls in effective operating condition and permanently stabilize all exposed soil and other fills, including any work below the ordinary high water mark, at the earliest practicable date using native vegetation to the maximum extent practicable. The permittee shall remove all installed controls as soon as they are no longer needed to control erosion or sediment.
20. Aquatic Life Movements. Permittees shall not substantially disrupt the necessary life-cycle movement of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the primary purpose of the activity is to temporarily impound water.

21. Management of Water Flows. To the maximum extent practicable, the activity must be designed to maintain downstream flow conditions. Furthermore, the activity shall not permanently restrict or impede the passage of normal or expected high flows unless the primary purpose of the fill is to temporarily impound water. Permittees should limit the work conducted in waters of the United States to low- or no-flow periods.
22. Water Supply Intakes. Permittees shall ensure that activities authorized by this RGP have no more than a minimal adverse impact on public water supply intakes.
23. Practicable Alternatives. Activities authorized by this RGP shall be designed and constructed to avoid and minimize adverse impacts to waters of the United States to the extent practicable through the use of practicable alternatives. Alternatives that shall be considered include those that minimize the number and extent of discharges of dredged or fill material into waters of the United States.
24. Compensatory Mitigation. Appropriate and practicable compensatory mitigation shall be required to the extent necessary to ensure that the authorized activities would not have more than a minor adverse impact on the aquatic environment.
25. Suitable Material. Any material or structure placed in waters of the United States, whether temporary or permanent, shall be free of toxic pollutants in toxic amounts. (Section 404)
26. Disposal of Excess Material. All construction debris and any other material not authorized by the Corps for permanent placement into waters of the United States shall be disposed of in an upland location in a manner that precludes it from entering waters of the United States. (Section 404)

**Modification, suspension, or revocation of the RGP:** This RGP may be modified, suspended, or revoked in whole or in part if the Secretary of the Army or his authorized representative determines that the individual or cumulative impacts of work that would be authorized using this procedure are contrary to the public interest. Any such modification, suspension, or revocation shall become effective 30 days after the issuance of a public notice announcing such action. The final decision whether to modify, suspend, or revoke this permit, in whole or in part, shall be made pursuant to procedures prescribed by the Chief of Engineers. Following such revocation, any future activities heretofore authorized by this RGP will require alternate Department of the Army authorization.

The authorization of an individual project under this RGP may also be summarily modified, suspended, or revoked, in whole or in part, if the permittee either fails to abide by the terms and conditions of this permit or provides information that proves to be false, incomplete, or inaccurate, or, upon a finding by the District Engineer that such action would be in the public interest. If a permittee's authorization is revoked, the permittee shall, upon notice of such revocation, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former condition. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

**Expiration of the RGP:** This permit shall become effective on the date of the signature of the District Engineers or his authorized representative and will automatically expire five years from that date unless the permit is modified, revoked, or extended prior to that date. Activities that have commenced (e.g., are under construction) or are under contract to commence in reliance upon this permit will remain

authorized provided that the activity is completed within one year of the date of this permit's expiration, modification, or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

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Date

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RALPH H. GRAVES  
Colonel, Corps of Engineers  
District Engineer

# APPENDIX A

## Statement of Compliance Form Regional General Permit CENWS-OD-RG-RGP-4

Within 30 days of completing the authorized work, you must fill out and sign this statement of compliance form and submit it to: U.S. Army Corps of Engineers, Regulatory Branch, P.O. Box 3755, Seattle, WA 98124-3755.

1. Corps Reference Number: \_\_\_\_\_ (refer to your RGP verification letter)
2. Permittee's name, address, and telephone number:
  
3. Contractor's name, address, telephone number, and point of contact:
  
4. Specific location of project area:  
 Name of Waterway \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_  
 Latitude \_\_\_\_\_ Longitude \_\_\_\_\_  
 City/County \_\_\_\_\_, Washington State
5. Description of completed work (if applicable, attach as-built drawings and/or written explanation if the completed work varies from the original plans, the drawings must include information as detailed on Appendix B – Drawing Checklist)
6. Dates of Work: The work was initiated on \_\_\_\_\_ and completed on \_\_\_\_\_.

I hereby certify that I have conducted the above-described work in compliance with the terms and conditions of this permit, including any project-specific conditions required by the District Engineer to ensure that this work would have no more than minimal adverse impact on the aquatic environment. I further certify that I have fully implemented any compensatory mitigation required by the District Engineer as a condition of this authorization.

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Date