



US Army Corps  
of Engineers  
Seattle District

# Department of the Army Regional General Permit



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## PROPOSED

### Regional General Permit -7

Routine Maintenance and Repairs of Structures at Public and Industrial Facilities.

**Effective Date:**

**Expiration Date:**

**Permit Number:** CENWS-OD-RG-RGP-7, 200300154

**Permit Title:** Routine Maintenance and Repairs of Structures at Public and Industrial Facilities.

**Authority:** Regulations found at 33 CFR 320-330 govern the administration of the Department of the Army (DA) regulatory program.

In accordance with 33 CFR 325.2(e)(2), U.S. Army Corps of Engineers, Seattle District (Corps) is proposing a regional general permit (RGP) that would authorize certain activities in navigable waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the 1899 Rivers and Harbors Act (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

Within the State of Washington, the Corps, Seattle District administers the DA regulatory program. An exception to that statement occurs on the lower Columbia River, where the Corps, Portland District administers the DA regulatory program as it applies to twelve Washington port districts between Ilwaco, in Pacific County and Bingen, in Klickitat County.

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

**Purpose:** – The purpose of this RGP is to authorize “Routine Maintenance and Repairs of Structures at Public and Industrial Facilities” in navigable waters. Its scope includes actions necessary to maintain usability of existing structures, or to replace broken, damaged, or aging components of structures, or of entire structures themselves, in industrial settings, port facilities, ferry terminals, and other facilities under the ownership of Federal, state, local or Tribal government entities.

The RGP would expedite the authorization of these recurring repair, maintenance, and replacement activities. Use of this RGP would reduce the amount of paperwork and time required to authorize qualifying projects. It would make available for limited use an already-issued Department of Army general permit that will likely include concluded Endangered Species Act Section 7 consultations, Essential Fish Habitat consultation, State water quality certification, and coastal zone management consistency concurrence. All instances of work would be similar in nature and have minor individual and cumulative adverse impact on the aquatic environment. We would not authorize any work with this RGP that could not be similarly authorized by Nationwide Permit 3.

The proposed RGP contains provisions intended to protect the environment, endangered species, and cultural resources. Work that does not comply with the provisions of the RGP would not be routinely authorized by this permit. Minor exceptions to the provisions would be referred to the Services for informal ESA consultation via the expedited “Specific Project Information Form” process. What the Corps or the Services determine to be more substantial divergence from the RGP provision will require a different form of Department of the Army authorization. As with nationwide permits, the Corps reserves the right to exercise discretionary authority and require a standard individual permit for activities that would have a substantial adverse impact on some aspect of the general public interest.

**Use of this RGP:** To use this RGP, a prospective permittee would first notify the Corps, of the proposed work in accordance with the application procedures in this RGP. The Corps would then review the proposal, and if appropriate, notify the applicant in writing that the proposed work is authorized by the RGP. Our goal is to provide an expedited response to each applicant, within 7 to 21 days, depending on the amount of interagency coordination required.

No proposed project would be authorized under this RGP until the Corps has issued written notification that the specific 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 Corps. Failure to abide by the requirements of this RGP may constitute a violation of the Clean Water Act and/or Rivers and Harbors Act.

**Definitions, descriptions, and/or examples:**

*Routine Maintenance and Repairs:* Includes repair of existing structures that have been damaged by an unforeseen incident (such as a storm, natural disaster, or operational accident), have experienced deterioration over time, or otherwise need some degree of component repair or replacement as part of a planned maintenance program.

*Structures:* Structures to be repaired or replaced include piling (including mooring , fender, and support piling), dolphins (including those with components of tubular steel filled with poured concrete), piers, wharves, overwater buildings, floats, platforms (including aids to navigation and catwalks), specialized structures at ferry terminals (wingwalls, dolphins, transfer towers, bridge seats, trestles, etc.), commercial mooring buoys, and the unburied portions of submarine pipelines, communications lines, and power cables.

*Public and Industrial Facilities:* This RGP would only apply at facilities owned and operated by a governmental entity (e.g., Federal, state or local government, port district, Indian Tribe) or a private entity, at a site engaged in some form of interstate or international commerce (e.g., industrial production, transportation, transshipment, communications, law enforcement, safety). Routine maintenance and repairs could be affected at commercial marinas under this RGP, but not at residential piers, yacht club outstations, or condominium facilities.

*Navigable Waters:* The proposed RGP would be applicable in all navigable waters within the State of Washington. A list of all Washington waters designated navigable is available at the following Seattle District web site:

[www.nws.usace.army.mil/publicmenu/DOCUMENTS/navigable\\_waters.xls](http://www.nws.usace.army.mil/publicmenu/DOCUMENTS/navigable_waters.xls)

We expect almost all of the work this RGP would authorize would be concentrated in the following navigable waters:

- Urban waterfronts in marine waters
- Snohomish River to its upstream confluence with Ebey Slough
- Lake Washington Ship Canal, Lake Union, Lake Washington
- Chehalis River to River Mile 4 (Cosmopolis)
- Willapa River to River Mile 8 (South Bend)
- Columbia River, mouth Vancouver
- Cowlitz River to River Mile 5 (New SR 4 Bridge in Kelso)
- Snake River, from its confluence with Columbia River to the Idaho border

*Mean Higher High Water (MHHW):* On the West Coast of the United States, two high tides and two low tides generally occur daily, all at varying elevations. MHHW is a tidal elevation calculated by averaging the height of the *higher* of the two daily high tides over a 19-year period early in the 20<sup>th</sup> Century, and subject to occasional updating. MHHW represents a tidal elevation seldom exceeded for very long by daily high tides. In marine waters, the line of MHHW is the line of jurisdiction for activities authorized under Section 404 of the Clean Water Act. MHHW and other Washington tide information for nearly 200 sites can be obtained at the following website: [www.nwd-wc.usace.army.mil/nws/hh/tides/tides.htm](http://www.nwd-wc.usace.army.mil/nws/hh/tides/tides.htm).

*Mean High Water (MHW)*: On the West Coast of the United States, MHW is a tidal elevation calculated by averaging the height of *both* the two daily high tides over a 19-year period in the first third of the 20<sup>th</sup> Century. In southern Puget Sound, MHW is nearly a foot lower than MHHW. In the Straits of Juan de Fuca and along the Pacific coast of Washington, MHW is closer to half a foot below MHHW. In marine waters, the line of MHW is the line of jurisdiction for activities authorized under Section 10 of the 1899 Rivers and Harbors Act.

*Ordinary High Water*: OHW, as used in this document, is a term applied to a surface elevation in freshwater systems. In the designated navigable waters to which this RGP applies, OHW corresponds to the regulated high water controlled by dams or locks. It is the line of jurisdiction in freshwaters for the Corps regulatory program. For Corps purposes in marine waters, OHW correlates to the line of Mean Higher High Water (MHHW).

*Fish Window* is the period of time during which fish, or a specific life stage of fish, are more likely to be present in a given waterbody. The fish window is the period of time when work is not allowed.

*Allowable Work Window* is the time period during which in-water work is allowed. Work windows are listed by waterbody, and can be found at:

[www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=work\\_windows](http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=work_windows)

Additional site-specific timing restrictions may apply within 1 mile of nesting eagles, or in or near eagle foraging areas.

*The Services* refers to the U. S. Fish and Wildlife Service and the National Marine Fisheries Service, agencies of the Department of Interior and the Department of Commerce, respectively, with oversight under the Endangered Species Act.

**Activities authorized by this RGP:** Work authorized by this RGP is limited to the “routine maintenance and repairs of structures at public and industrial facilities” in navigable waters within the State of Washington. This RGP would not authorize new structures.

“Routine maintenance and repairs” include repair of existing structures that have been damaged by an unforeseen incident (such as a storm, natural disaster, or operational accident), have experienced deterioration over time, or otherwise need some degree of component repair or replacement as part of a planned maintenance program. The maintenance/repair work must be completed within 2 years of its perceived occurrence, and within the site’s specific Allowable Work Window. Maintenance/repair work authorized by this RGP does not include activities that will result in an increase in the size of the existing structure, or a change in its configuration except as discussed in the next paragraph, below. This RGP authorizes the following work and/or discharges of dredged or fill material into or affecting navigable waters of the United States.

This permit authorizes the repair/replacement of the structures listed in a) through g) in subsection 1 below, the addition of the stabilization structures under certain circumstances, and the addition of fill as required for habitat enhancement or sediment capping. Minor deviations in the structure's configuration or filled area including those due to changes in materials, construction techniques, or current construction codes or safety standards which are necessary to make repair, rehabilitation, or replacement are permitted, provided the adverse environmental effects resulting from such repair, rehabilitation, or replacement are minimal. The activity must comply with the following conservation measures and construction specifications:

**Construction Specifications and Conservation Measures: The following construction specifications and conservation measures must be implemented for the work to be authorized by this RGP:**

Structural Repair/Replacement. No creosote or pentachlorophenol treated wood may be installed.

a. Piling (mooring piles, fender piles, support piling) piling in dolphins, piling in wingwalls, etc.) No piles shall be associated with log raft booms. No sheet piling shall be used in lieu of pole piling. Existing piles shall be partially cut with a new pile secured directly on top or fully extracted. While full extraction is the preferred method of treated wood pile disposition, other acceptable methods of disposition include cutting the pile off above the mudline and installing a metal or plastic tight-fitting "sleeve and cap" over the stub and reaching at least 1 foot below the mudline. Another acceptable form of disposition would be to cut off the unusable pile 2 feet below the mudline, and fill in the resulting hole with clean sand or gravel. The intent of any of the foregoing methods is to ensure that chemicals from disused, unextracted piling do not leach into the adjacent sediments or water column.

Removed creosote treated piles shall be disposed of in a manner which precludes further use. Piles must be cut into maximum lengths of 4 ft prior to disposal. If 4 ft lengths are not practical, the applicant may cut the removed creosote piling into manageable lengths for transport and disposal in an approved upland location. In all cases, applicants must be prepared to provide documentation of disposal with the statement of compliance.

Replacement piling may be made from concrete, steel, plastic, or wood.

Hydraulic water jets shall not be used to remove or place piles unless a turbidity curtain is utilized.

A vibratory pile driver must be used whenever possible.

If inert materials (i.e. plastic or untreated wood) are not utilized for rub railings, all borings or shavings shall be completely contained during construction.

b. Dolphins. Dolphin replacement or repair shall occur under the same conditions that apply to piling replacement or repair.

If concrete is poured into a tubular steel pile as part of a dolphin component, a plug will be poured into the base of the driven pile. Once the concrete plug cures, any remaining seawater shall be removed and disposed of in a manner approved by the Washington Department of Ecology.

The permittee will prevent uncured concrete from coming in contact with the surrounding water.

c. Piers, Wharves, and Overwater Buildings. Piers, wharves, and buildings are essentially platforms supported over water by pilings. Support piling replacement or repair shall occur under the same conditions that apply to the replacement or repair of other piling. Structures repaired or replaced under this RGP shall not be put to new or different uses.

d. Floats. Replacement floats are to be prefabricated offsite or “in the dry,” floated into position, and mechanically attached to piling, and are to be no larger than the floats they replace. Floats being replaced under this RGP shall not be allowed to ground out during low tidal stages.

e. Specialized structures at ferry terminals (wingwalls, dolphins, transfer towers, bridge seats, trestles, etc.) and other platform-based structures would undergo replacement or repair of support piling under the same conditions that apply to the replacement or repair of other piling.

f. Commercial mooring buoys are presumed to be composed of an anchoring system, an anchor line of heavy metal chain links with a scope of line equal to about three times the distance from the bottom to MHW, and a surface mooring float. For replacement or component repairs under this RGP, buoys’ anchors must be in water at least 40 feet deep, and 150 feet away from any vegetated shallows.

g. Unburied portions of submarine pipelines, communications and power cables are presumed to lie inertly on marine bottoms. “Routine maintenance and repairs” under this RGP would be limited to splicing or otherwise rejoining cables, and repairing leaks in submarine pipelines.

No repairs can be effected under this RGP on buried sections of submarine cables and Pipelines.

2. Stabilizing structures. Stabilizing structural components (such as diagonally-driven H piling) may be installed for the purposes of stabilizing existing structures. Stabilizing structures may be concrete, steel, plastic or untreated wood. Any stain, paint, or preservatives to be applied on such components shall be completely dry/cured prior to installation and no material shall enter the waterbody. The equipment and methods utilized to install the additional stabilizing structures must comply with the conditions outlined for the appropriate structure type listed above. If the

additional stabilizing structure does not fit within one of the structure types listed above, then the materials, methods and equipment for the additional structure must represent the least damaging practicable alternative.

3. Fill for the purposes of habitat enhancement or sediment capping. Fill for the purposes of habitat enhancement or sediment capping related to pile removal is authorized by this RGP.

4. Temporary Access Fills. This RGP will not authorize any temporary access or construction fills.

5. Maintenance Dredging. This RGP will not authorize any form of maintenance dredging or removal of materials spilled at loading facilities.

### **SPECIAL CONDITIONS**

#### **1. (apply to all categories of activities)**

1. Temporary Structures. Both permanent and temporary structures as defined in the activities to be covered section above may be installed. If temporary structures are installed, they must be designed to function until a permanent structure is designed, permitted and built. Temporary structures must not remain in place for longer than 1 year from the date of permit issuance and must be removed once a permanent replacement is installed. Corps authorization to install a temporary structure will not necessarily authorize the permanent replacement.
2. Change in use. This RGP does not authorize any change in the use of a facility.
3. Work During the Allowable Work Windows. Any in-water work that disturbs the substrate, bank, or shore of navigable water must be conducted during the allowable work window.
4. For Steel Piling. Use of vibratory pile drivers is the preferred method of installing steel piling. In no case can sound levels exceed 180 dB (re: 1  $\mu$ Pa) at a distance 10 meters from the pile at a 3-meter depth. If impact hammers are to be used to drive steel piles, the applicant must so state during the application process, and detail the method(s), which will be employed to attenuate sound levels. Such methods may include reducing the force of each strike, or attenuating the underwater sound by enclosing the pile in an air bubble curtain or pile sleeve, or utilizing some other insulating or sound-dampening methodology. The Seattle District will then review the plan and respond in writing to the permittee about the adequacy of the proposed methods. If no methods of sound level attenuation are to be used, the permittee will be required to monitor sound levels, and cease operations if the monitoring (10 meters from the pile at a 3-meter depth) reveals an exceedance of 180 dB (re: 1  $\mu$ Pa). Work could resume if a vibratory pile driver is used instead of the impact pile driver. Before work can resume with an impact pile driver, the

permittee must submit a plan to the Seattle District detailing methods that will be employed to reduce the underwater sound pressure levels to at or below 180 dB (re: 1  $\mu$ Pa). The Seattle District will then review the plan and respond in writing to the permittee. If the plan is approved by the Seattle District, the permittee must implement the measures outlined in the plan before resumption of pile driving, and must continue monitoring during all pile driving activities. When monitoring is required, the results must be submitted to the Seattle District with the statement of compliance (Appendix A), no more than 30 days after the date of project completion. The following data must be included in the report: size and type of pile; approximate energy supplied to the pile; frequency and amplitude of the underwater sound; angle of the pile; water depth, distance from shore or bulkhead; and type and depth of substrate.

5. Work in the Dry. Work that disturbs the substrate, bank, or shore of a water of the United States shall occur in the dry whenever practicable.
6. CERCLA. By accepting this permit, the permittee agrees to accept potential liability for both response costs and natural resource damages, to the same extent as would be inherent under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended (42 U.S.C. 9601 et. seq.). Further, the permittee agrees that this permit does not exclude the permittee from liability under the CERCLA or the 1989 Washington State Model Toxic Control Act (R.C.W. 70.105), nor does the permit waive any liability for response costs, damages, and any other costs that may be assessed under CERCLA. Additionally, the permittee agrees that the permittee will be financially responsible for any logistic problems associated with the construction and operation of this project and potential cleanup operations in the portion of the waterbody where work will occur.
7. Work in Superfund Sites. It is incumbent upon applicants to inform the Seattle District, at the time of application, if the site of their proposed work lies in an existing or previously designated Superfund Clean-up site or a site currently or previously designated for cleanup under the Washington State Model Toxic Cleanup Act (MTCA). Upon receipt of such information, the Seattle District will fax a work description and set of drawings to the Services and the Environmental Protection Agency (EPA). EPA will perform an expedited review of the proposal and provide the Seattle District with its opinion about the proposal's effects on the Superfund/MCTA site, and any recommended BMPs that EPA sees as appropriate. After receiving this information from EPA, the Seattle District would transmit it to the Services. The Services will then perform their own expedited reviews, focusing on impacts the Superfund/MTCA effects would have on their respective listed species, and providing recommended conservation measures, BMPs, or other special conditions that will preserve applicability of their RGP concurrence to the specific proposal. If the one or both of the Services express a need for further informal consultation, or for formal consultation, the Seattle District will cease processing the application under the RGP, and continue processing under a permitting

process other than the RGP. We would also initiate informal or formal ESA consultation with the Services, as appropriate.

8. Operation of Equipment. Equipment shall be operated from the top of the bank, 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 so close to surface water that the activity could adversely affect the waterbody. If a barge is used, the barge shall not ground out and the barge shall not be located over or adjacent to (i.e., within 300 feet) vegetated shallows (except where such vegetation is limited to State-designated noxious weeds) for more than 3 days.. No barge anchors or spuds shall be set in vegetated shallows.
9. Spill Prevention, Control and Containment (SPCC) Plan. If heavy equipment is used to accomplish the work, a SPCC plan must be implemented. A copy of the SPCC plan must be submitted to the Corps prior to construction.
10. Isolation of Work Area. When work involves a discharge of fill material, the in-water work areas shall be isolated from the surrounding waterbody by a properly installed silt screen or a similar sediment containment device whenever practicable. The permittee shall remove the silt screen or other temporary sediment containment devices as soon as they are no longer necessary to protect the surrounding waterbody.
11. Permanent Discharges. This RGP will not authorize the discharge of dredged or fill material into waters of the United States to dispose of the material or to create dry land.

**Location of Authorized Activities.** Work authorized by this RGP will occur at public and industrial facilities in navigable waters within the State of Washington.

**Application Procedure:** Authorization under this RGP requires that a prospective permittee notify the Corps of the proposed work in accordance with the application procedures described in this section. Applicants may not proceed with the proposed work until the Seattle District issues written notification that the proposed project appears to meet the requirements of this RGP and is thus 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 written statement describing the work to be performed, why the work is necessary in order to maintain operation at the facility, the current condition of the facility, and the proposed timeline for the work.

2. 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 recommends that the applicant use the Joint Aquatic Resources Permit Application (JARPA) form approved for use in Washington State. (The JARPA form with instructions is available on the Internet at the Corps's Regulatory Branch homepage, <http://www.nws.usace.army.mil/reg.html> via the "Permit and Applicant Information" link.

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.

3. A statement disclosing whether any species listed as threatened or endangered under the Endangered Species Act (ESA) occurs in the vicinity or might otherwise be affected by the proposed project.
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. If the proposed work is in or near (within 300 feet of) a designated Superfund site, the application shall include any BMPs that the applicant proposes to minimize the possibility of disturbing existing contamination or contributing additional contamination. The Corps will coordinate with EPA in an expedited fashion in order to determine the sufficiency of the proposed BMPs to minimize risk. Additional conditions may be added to the permit under CERCLA based on the coordination with EPA. The results of the coordination with EPA will then be forwarded to the Services for further consideration of the Superfund designation's implications on Endangered Species Act considerations. For more discussion on this topic, see **Special Condition 7** on page 8 of this document.
6. Any other relevant information, such as information on local hydrology, photographs of the project area, and a description and location of any offsite borrow or disposal site that would be used.

**Water Quality Certification:** The Corps will request that the Washington Department of Ecology (Ecology) pursuant to Section 401 of the CWA and Chapters 173-225 of the Washington Administrative Code (WAC), and the Environmental Protection Agency and

Puyallup and Chehalis Tribes pursuant to Section 401 of the CWA, certify that those activities authorized by this RGP for which these agencies are responsible will not violate established State water quality standards. Any requirement that any agency requires as a condition of water quality certification will be included in this RGP, when issued.

**Coastal Zone Management Consistency:** The Corps will request that the Ecology concur, pursuant to the requirements of the U.S. Coastal Zone Management (CZM) Act (16 U.S.C. 1452 et seq.) and its implementing regulations (15 CFR 923-930), that the activities authorized by this RGP for which the Ecology is responsible will be consistent with the requirements of the State of Washington's CZM program. Any requirement that the Ecology requires as a condition of its CZM consistency concurrence 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 the U.S. Fish and Wildlife Service (FWS), 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 some activities authorized by this RGP may affect federally listed species and, therefore, will consult with the NMFS and FWS.

**Essential Fish Habitat:** The Magnuson-Stevens Fishery Conservation and Management Act (MSA), 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 Corps has determined that some of the work, which would be authorized by this RGP, may adversely affect EFH for federally managed fisheries in Washington waters. The Corps will initiate consultation with the NMFS.

**Permit Conditions:** Department of the Army authorization under this RGP is subject to the following general conditions:

#### **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, State, or Environmental Protection Agency 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 authorizations 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 construction (project) 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. The permittee must use the Statement of Compliance Form (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 by the Corps, to ensure that the activity is in compliance with the terms and conditions prescribed herein.
6. Limits of Authorization. This permit does *not*:
  - a. Eliminate the requirement to obtain all other state or local authorizations required by law for the activity authorized herein.
  - 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, or 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. The permittee 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. The permittee 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. The permittee shall design projects to be stable against the forces of flowing water, wave action, and the wake of passing vessels.
  12. Maintenance. The permittee shall properly maintain all authorized structures, including maintenance necessary to ensure public safety.
  13. Marking Structures. The permittee 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 ESA. The prospective permittee 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. The presence of listed or proposed species or critical habitat is available by contacting NMFS at [www.nmfs.noaa.gov](http://www.nmfs.noaa.gov) and FWS at U.S. Fish and Wildlife Service, Endangered Species Division, 510 Desmond Drive SE #102, Lacey, WA 98503-1273.
15. Essential Fish Habitat. This RGP does not authorize any activity that may adversely affect designated Essential Fish Habitat (EFH) as defined under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). In Washington State, EFH has been designated for Pacific salmon, ground fish and coastal pelagic species. The prospective permittee shall notify the District Engineer if any designated EFH under the MSA may 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 MSA have been satisfied and that the activity is authorized.
16. 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 cease all ground activities in the immediate area, notify the Corps within 1 business day of discovery. The permittee shall perform any work required by the Corps in accordance with Section 106 of the National Historic Preservation Act and Corps regulations 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.
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. The permittee 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. The permittee 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 or high tide line, 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. Equipment. The permittee shall place heavy equipment working in wetlands on mats, or take other appropriate measures to minimize soil disturbance.
21. Aquatic Life Movements. The permittee 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.
22. Water Supply Intakes. The permittee shall ensure that activities authorized by this RGP have no more than a minimal adverse impact on public water supply intakes.
23. 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.
24. 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.

**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 Engineer or his authorized representative and will automatically expire 5 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 1 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-7

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. You must submit this form within 30 days of completing the authorized work,

1. Permittee name, address, and telephone number:
  
2. Contractor name, address, telephone number, and point of contact:
  
3. Specific location of project area:  
 Name of Waterway \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_  
 Latitude \_\_\_\_\_ Longitude \_\_\_\_\_  
 City/County \_\_\_\_\_, Washington State
  
4. Description of work, including the materials and equipment used (attach drawings on 8 1/2- by 11-inch sheets, including a vicinity map, a plan view, and an elevation view; the drawings must include information as detailed on Appendix B – Drawing Checklist).
  
5. Dates of Work: The work was initiated on \_\_\_\_\_ and completed on \_\_\_\_\_.
  
6. If the work required hydroacoustic monitoring, attach the results of the monitoring as described in special condition 3 (c) of the Regional General Permit.

I hereby certify that I have completed 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.

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Contractor

\_\_\_\_\_  
Date