

DRAFT
DEPARTMENT OF THE ARMY
REGIONAL GENERAL PERMIT, IDAHO
(RGP-Idaho)

NAVIGABLE WATERS OF THE UNITED STATES WITHIN THE STATE OF IDAHO

Effective Date:

Expiration Date:

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I. AUTHORITY

In accordance with 33 CFR 325.2(e) (2), the U.S. Army Corps of Engineers (Corps) hereby issues this regional general permit (RGP) that authorizes certain activities in Navigable Waters of the United States, 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 CFR 1344). The State of Idaho Departments of Lands and Water Resources may also require separate approvals for these activities.

II. AUTHORIZED ACTIVITIES

Activities described below in A through D may be constructed individually or in combination with one another.

A. CONSTRUCTION, REPAIR OR REPLACEMENT OF PIERS AND FLOATING DOCKS: Single-use and joint-use piers and floating docks, with necessary electrical service, are authorized under the following terms:

1. One pier or floating dock is authorized for each riparian property owner.
2. The facility shall be for non-commercial activities only.
3. All electrical wiring shall be in accordance with National Electrical Code (NEC) requirements.
4. Piers or floating docks shall extend into the waterway no further than the line of navigation. This limit is generally 55 feet, but in cases where the applicant can provide information that the line of navigation is greater, the applicant may request a longer extension waterward not to exceed 100 if the Corps makes a specific finding that the greater length will not appreciably impact navigation.
5. Total deck area of a single-use pier or floating dock, including the access ramp, shall not exceed 700 square feet. Total deck area of a joint-use pier or floating dock, including the access ramp, shall not exceed 1,100 square feet.
6. Only open-pile pier construction is authorized. The maximum size for steel piles is 10-inch in diameter. Piling shall be driven or set in excavated footings. No more than 10 cubic yards of lakebed may be excavated for footings. Footings shall be backfilled with native material, concrete, sand, gravel, grout or epoxy. All excavation and filling of footings shall be done in the dry during low water conditions. All excess excavated material shall be disposed of in an upland location in a manner that precludes it from reentering waters of the United States. Piles may be bolted to bedrock

if conditions preclude other attachment methods.

7. No other structures, such as living quarters, toilets, fueling facilities, or hard-covered boat moorages shall be constructed or installed on any float or pier.

8. Floating docks will be designed to contain encapsulated flotation material under all conditions. Open cell polystyrene (beaded Styrofoam) is not allowed under any circumstance nor is the reuse of industrial drums.

9. Piers and floating docks shall be constructed in a manner that no more than 8 linear feet of shoreline vegetation shall be disturbed at the access point to the pier or dock.

10. In-water pile driving will use a bubble curtain and a 6-inch minimum thick wood, rubber or synthetic cushion block between the driving apparatus and the pile while driving the piles.

B. CONSTRUCTION, REPAIR OR REPLACEMENT OF MARINE LAUNCHING RAILS: One marine launching rail, with necessary electrical service, per riparian property ownership is authorized under the following terms:

1. The marine launching rail shall be for non-commercial use.

2. All electrical wiring shall be in accordance with NEC requirements.

3. Marine launching rail systems shall be anchored to the surface of the bed of the waterway or on low profile concrete plank ties, poured concrete footings, untreated wood ties, or similar structures resting on the bed. If a boat launching ramp exists on the property, the marine launching rail system can be installed on the existing ramp surface. If minor dredging or backfilling is required this work must be in accordance with NWP 18 and 19 (33CFR 330, Appendix A).

4. Marine launching rail systems shall not extend more than 10 feet vertically below low water.

5. Construction of marine launching rails shall be done in the dry during low water conditions.

6. Pile size and driving requirements are set forth at Special Conditions 12 and 13.

C. CONSTRUCTION, REPAIR OR REPLACEMENT OF MOORING PILES: A maximum of four mooring piles per riparian property ownership is authorized under the following terms:

1. Mooring piles shall be for a non-commercial use.

2. Piles shall be single and separate and not constructed so as to form a multi-piled dolphin.

3. Mooring piles shall not be installed more than 55 feet water ward of the ordinary high water mark or to length of the permitted dock, whichever is less.

4. Pile size and driving requirements are set forth at Special Conditions 12 and 13.

D. CONSTRUCTION REPAIR OR REPLACEMENT OF PORTABLE BOAT LIFT STATIONS:

A maximum of two portable boat lift stations (with cover and necessary electrical service) per private riparian property ownership are authorized under the following terms:

1. Portable boat-lift stations shall be for non-commercial use.

2. All electrical wiring shall be in accordance with the NEC requirements.
3. Portable boat-lift stations will not be installed farther out than the authorized length of the associated pier or dock and may not exceed 100 feet waterward of the ordinary high water mark.
4. Portable boat-lift stations shall be located adjacent to existing authorized floating docks and piers. They shall not extend water ward of the existing, authorized float or pier.
5. Canopies shall be part of the boat-lift station or a framework attached to the floating dock or pier.

III. NAVIGABLE WATERS OF THE UNITED STATES IN IDAHO

- A. A complete list of all Navigable Waters of the United States as defined by Section 10 of the Rivers and Harbors Act of 1899 within the state of Idaho are listed below and shown on Sheet 1 of the drawings.
- B. Navigable Waters of the United States within the State of Idaho include:
 1. Snake River upstream to River Miles 445.5
 2. Clearwater River upstream to River Mile 40.5
 3. North Fork Clearwater River upstream to River Mile 57.9.
 4. Clark Fork River upstream to River Mile 4
 5. Kootenai River from Bonners Ferry to the Canadian border
 6. Pack River upstream to River Mile 1.5
 7. Pend Oreille River
 8. Lake Pend Oreille to elevation 2,062.5 NGVD. (ordinary high water mark)
 9. Bear Lake

IV. EXCLUSION AREAS

- A. Portions of the Pend Oreille River and Lake Pend Oreille upstream of Albeni Falls Dam, including reaches of the Pack and Clark Fork Rivers, which are influenced by Lake Pend Oreille, are subject to Regional General Permit 27, which is being reissued by separate action.
- B. Reaches of waters that are occupied by listed threatened or endangered species, are designated as critical habitat for endangered species or are designated as Wild and Scenic Rivers will require individual consultation with the appropriate agencies.

C. Reaches of waters that are excluded from coverage under this RGP and will require an individual permit include:

1. Areas within ½ mile of a bald eagle nest.
2. Areas within 500 feet of municipal water intakes. This restriction will apply to any municipal water intakes within the RGP-I project area.
3. Areas within 100 feet of the mouth of any river, stream or creek.

V. DEFINITIONS

The following definitions are applicable for the purpose of this Regional Permit:

A. Navigable Waters of the United States - All waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water mark, and/or are presently used, or have been used in the past, or may be susceptible to use to transport interstate or foreign commerce. These waters within the state of Idaho are listed in III, above and shown on drawing sheet 1.

B. Ordinary High Water Mark - The line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

C. Riparian Property - Property bordering the shoreline of the lake or waterway. For the purposes of this regional permit, riparian property is the property that borders the shoreline at the ordinary high water.

D. Line of Navigation - A line connecting the pier heads of existing piers and docks located 200 yards along the shoreline in both directions from the proposed pier or dock.

E. Single-use and Joint-use – Single-use means use by a single permittee and joint-use means use by more than a single permittee.

VI. PROCEDURE FOR OBTAINING APPROVAL

A. Individuals who want to construct an activity described in the RGP-I shall submit the information listed at B, C, and D, below to the appropriate Corps of Engineers office, with a copy to the Idaho Historic Preservation Office, 210 Main Street, Boise, Idaho 83702, Attention: Travis Pitkin and, if your project is located in Adams, Washington, Payette or Canyon Counties, also send a copy to the Idaho Department of Fish and Game, Southwest Region, 3101 South Powerline Road, Nampa, Idaho 83868.

For activities located in Nez Perce, Lewis, Clearwater, Latah, Benewah, Shoshone, Kootenai, Bonner or Boundary Counties send application to:

Corps of Engineers Regulatory Office
2065 W. Riverstone Drive, Suite 201
Coeur d'Alene, ID 83814
Telephone 208-765-8961

For activities located in Idaho, Adams, Valley, Washington, Payette, Boise, Elmore, Gem, Ada, Canyon, and Owyhee Counties send application to:

Corps of Engineers Regulatory Office
10095 West Emerald Street
Boise, Idaho 83704-9754
Telephone 208-345-2154

For activities located in Lemhi, Custer, Camas, Gooding, Twin Falls, Jerome, Cassia, Minidoka, Blaine, Lincoln, Butte, Clark, Fremont, Jefferson, Madison, Teton, Bonneville, Bingham, Power, Oneida, Bannock, Franklin, Bear Lake, or Caribou Counties send application to:

Corps of Engineers Regulatory Office
900 North Skyline Drive, Suite A
Idaho Falls, Idaho 83402-1718
Telephone 208-522-1676

B. Completed application for a Department of the Army Permit (Joint Application for Permits).

Application forms are available on the Walla Walla District Regulatory webpage at:

<http://www.nwww.usace.army.mil/BusinessWithUs/RegulatoryDivision/JointApplicationforPermit.aspx>.

C. Location map, clearly showing proposed structure location on a controlled map such as a U.S.G.S quad map.

D. Drawings of the proposed project, including plan-view and cross-section view with the ordinary high water mark clearly labeled.

APPLICANTS ARE NOT AUTHORIZED TO BEGIN CONSTRUCTION UNTIL THEY RECEIVE WRITTEN VERIFICATION FROM THE ARMY CORPS OF ENGINEERS THAT THE WORK COMPLIES WITH THE REGIONAL PERMIT.

VII. CONDITIONS

The following General and Special Conditions shall be followed:

A. GENERAL CONDITIONS:

1. Maintenance. You shall maintain the activity authorized by this Regional Permit in good condition and in conformance with the terms and conditions. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 3 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you shall obtain a modification of this permit from this office, which may require restoration of the area.
2. Historic properties. Any activity proposed on a known historic or archaeological property, either listed or eligible for listing in the National Register of Historic Places, will not be permitted if found not to be in compliance with the National Historic Preservation Act. If you discover any previously unknown historic or archaeological remains while accomplishing the activity

authorized by this permit, you shall immediately notify this office of what you have found. We will initiate the Federal, Tribal, and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing on the National Register of Historic Places.

3. Transfer of Permit. If you sell the property associated with this permit, the new owner shall request, in writing, that the permit be transferred to them.
4. Inspections. You shall allow representatives from the local regulatory field office to inspect the authorized activity any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

B. SPECIAL CONDITIONS:

1. An Encroachment Permit shall be obtained from the Idaho Department of Lands and/or a Stream Alteration Permit shall be obtained from the Idaho Department of Water Resources, if required, before commencing work on any activity authorized by this Regional Permit.
2. Activities not specifically authorized by this Regional Permit require a separate Department of the Army Permit.
3. Activities may not jeopardize any federally listed, threatened or endangered species. All applications submitted under this Regional Permit, will be reviewed by the Corps of Engineers to determine if the work will have any effect on a listed species. If the Corps of Engineers determines a specific project may affect a listed species, we will initiate consultation with the responsible federal agency as required under Section 7 of the Endangered Species Act.
4. Use of structures authorized under the RGP-I may not interfere with navigation.
5. Structures proposed within boundaries of any Federal Government fee-owned lands, are not authorized under this Regional Permit.
6. The permittee shall obtain the legal right to use and occupy the affected submerged land. An easement or lease of the submerged land may be required.
7. Existing native shoreline or riverbank vegetation shall be protected to the extent possible to minimize soil disturbance, erosion, delivery of sediment to the waterway and minimize the affect of construction activity on aquatic biota.
8. Disturbed shoreline or riverbank shall be protected by appropriate soil erosion control practices to minimize sediment delivery into the water, which may result in an adverse impact to aquatic biota.
9. Disturbed soils shall be re-vegetated with native plant species.
10. All construction debris shall be disposed of in an upland location in a manner that precludes it from reentering waters of the United State, including wetlands. Disposal must be in compliance with all state and local regulations with regard to open burning of construction debris.
11. Wood materials used to construct any of the activities described in this Regional Permit shall comply

with the Environmental Protection Agency (EPA). Contact the EPA at <http://www.epa.gov/oppad001/reregistration/cca> or Idaho Department of Environmental Quality at: https://www.deq.idaho.gov/media/488795wood_products_guidance_final.pdf.

12. Hammer or vibratory pile-driving equipment is allowed when driving piling into the bed during in-water work. In-water pile driving shall utilize a bubble curtain and a 6-inch minimum thickness wood, rubber or synthetic block between the driving apparatus and steel pile while hammer-driving piles.
13. The maximum size for steel piles is 10 inches in diameter. The maximum size for wood piles shall be 18 inches.

VIII. FURTHER INFORMATION

A. LIMITS OF THIS AUTHORIZATION

1. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
2. This permit does not grant any property rights or exclusive privileges.
3. This permit does not authorize any injury to the property or rights of others.
4. This permit does not authorize the interference with any existing or proposed Federal project.

B. LIMITS OF FEDERAL LIABILITY: In issuing this permit, the Federal Government does not assume any liability for the following:

1. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes
2. Damages 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
3. Damages to persons, property or other permitted or unpermitted activities or structures caused by the activity authorized by this permit
4. Design or construction deficiencies associated with the permitted work
5. Damage claims associated with any future modification, suspension, or revocation of this permit.

C. REEVALUATION OF PERMIT DECISIONS: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

1. Permittee fails to comply with the terms and conditions of this permit
2. The information provided by permittee in support of the permit application proves to be false, incomplete, or inaccurate

3. Significant new information surfaces which this office did not consider in reaching the original public interest decision. Such reevaluation may result in a determination that it is appropriate to use the suspension, modification, or revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring permittee to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. Permittee will be required to pay for any corrective measures ordered by this office, and if the permittee fails to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170 to protect the navigable waters) accomplish the corrective measures by contract or otherwise and bill the permittee for the cost.

D. EXPIRATION: This regional permit expires 5 years from the date of issuance and will be subject to public review prior to being reissued.

The permittee shall comply with all conditions contained in this regional permit or the permit is not valid and a separate Department of the Army Permit will be required to authorize the work.

Kelly J. Urbanek
Chief, Regulatory Division