

REGIONAL GENERAL PERMIT 3:

Boat Docks and Appurtenant Structures

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BACKGROUND



- Regional General Permit 3 was first issued in 1998 and its geographic range covers California, Nevada, and Utah.

- Only granted jurisdiction under Section 10 of the Rivers and Harbors Act.
 - ❖ Work or structures in, over, or under navigable Waters of the U.S.

- No authority under Section 404 of the Clean Water Act
 - ❖ RGP 3 cannot be used to authorize fill such as rip-rap or seawalls. These may be applied for under a separate permit (Nationwide Permit 13)
 - ❖ Boat docks may be fixed or floating, but if they are piling supported, the pilings may not have the effect of fill.





BACKGROUND CONT'D



- Configuration of the dock may vary (i.e., straight, T- shaped, U-shaped, L-shaped, etc.)
- Only one dock is allowed per parcel
 - ❖ Docks must be at least 5 feet from imaginary lines extending from property boundaries.
- Docks may not extend more than 180 feet beyond the Ordinary High Water Mark (OHWM)/Mean High Water Mark (MHWM) or more than 30% of the distance across the waterway, whichever is more restrictive.
- The following are prohibited under RGP 3
 - ❖ Construction of enclosed buildings, boathouses, fuel storage tanks, fuel dispensing facilities, sinks, toilets, showers, or sanitary pump out facilities.
 - ❖ Conversion of the dock to or mooring of a rec room, floating residence, or dwelling.



WHY AN RGP?



- Streamlined Process
 - No interagency notification and comment period.
- Simplified Documentation
 - No Public Interest Review in our decision memorandum
- Ability for General Certification Coverage
 - We are able to pursue general Water Quality Certification for this GP.





MAJOR CHANGES FOR 2024



➤ Excluded Waters

- ❖ Bethel Island removed. Almost all parcels have existing docks. RGP 3 may be used for repair or replacement
- ❖ Lake Tahoe excluded.
 - RGP 4 covers minor impact activities/structures in Lake Tahoe.





MAJOR CHANGES CONT'D



- Greatly simplified definitions in the permit terms
- Removed “10-foot width” limitation.
 - ❖ Now a standard 1,800 square foot limitation beyond the OHWM/MHWM.
- Removed deck definition and limitations
 - ❖ Previously intended to cover the dock platform but was vague and unclear.
- Misinterpretation of the 10-foot limitation and deck definition may have been responsible for the RGP’s lack of use from 2019 to 2024.



MAJOR CHANGES CONT'D



- CWA 401 Requirement based on new EPA Rule issued September 27, 2023.
 - ❖ “Under CWA section 401, a Federal agency may not issue a license or permit to conduct any activity that may result in any discharge into “waters of the United States” unless the state or authorized Tribe...either issues a CWA section 401 water quality certification...or waives certification.”
 - ❖ “Although the Agency is not providing an exclusive list of all Federal licenses or permits subject to section 401, EPA recognizes that there is an array of licenses and permits that may trigger the need to seek certification. These may include, but are not limited to, CWA section 404 permits...**Rivers and Harbors Act section 10 permits issued by the Corps for construction of wharfs, piers, etc.**, Rivers and Harbors Act section 9 permits...”
 - ❖ Added new general condition to reflect this:
 - Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of this RGP with CWA Section 401, individual water quality certification for the proposed discharge must be obtained or waived.





MAJOR CHANGES CONT'D



- Where applicable, receipt of a 408 Permissions request is now required for a complete Regulatory application
 - ❖ Requests should be handled through your local non-Federal sponsor, such as the Central Valley Flood Protection Board.
 - ❖ Previously only confirmation of submitted application was required.

14. Section 408 Permission
<p>a. Does the proposed activity require permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized civil works project?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown</p> <p>If yes, have you received a Section 408 permission? <input type="checkbox"/> Yes, Attached <input type="checkbox"/> No</p> <p>If no, submit confirmation that a request for Section 408 Permission has been received by the appropriate Corps office (see https://www.spk.usace.army.mil/408permissions/), or evidence that authorization is not required from the Corps.</p>





MINOR REVISIONS



- Replaced the phrase “Below the OHWM/MHWM” with “Beyond the OHWM/MWHM.”
 - ❖ “Below” implies discharge of fill.

- Title updated:
 - ❖ Associated \longrightarrow Appurtenant
 - Additional structures authorized under RGP 3 must be a component of the dock.
 - e.g. Roofing, Walkways, Ramps, Stairs.
 - Term also appears in 2020 Ditch Exemption memo.





RGP 3: FOR YOUR CONSIDERATION



- If your proposed dock project meets the terms and conditions of RGP 3, or you can revise it to match, please consider applying for verification under RGP 3
- Text Location:
<https://www.spk.usace.army.mil/Portals/12/documents/regulatory/gp/RGP3/2024/2024.08.29-Final%202024%20RGP%203-199700732.pdf>
- ❖ Application form located at the bottom of the text.





QUESTIONS?





CONTACT INFORMATION



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<https://www.spk.usace.army.mil/Missions/Regulatory/>