



General Permit 3

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG®

BOAT DOCKS AND ASSOCIATED STRUCTURES

EFFECTIVE DATE: August 23, 2019

EXPIRATION DATE: August 23, 2024

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee. The term "this office" refers to the U.S. Army Corps of Engineers, Sacramento District.

ISSUING OFFICE: U.S. Army Corps of Engineers, Sacramento District

ACTION ID: SPK-1997-00732

AUTHORITY: Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) for structures or work in or affecting navigable waters of the United States.

PURPOSE: The purpose of this RGP is to implement an expedited permit application and review process for the installation, repair, modification, replacement, or removal of pile supported docks and floating docks, and their associated structures (e.g. access, decks, landings, gangway, ramp, stairs, etc.), that require a Department of the Army (DA) Permit prior to installation in navigable waters of the United States (U.S.). These activities have minimal impacts on the aquatic environment, individually and cumulatively.

LOCATION: All navigable waters of the United States located within the Sacramento District boundary of the states of California, Colorado, Nevada, and Utah, unless otherwise an excluded area.

EXCLUDED AREAS: The use of this RGP is not authorized for the construction of a new dock or the enlargement of an existing dock, within navigable waters of the U.S. adjacent to Bethel Island, in Contra Costa County, California. The replacement of a dock on the same parcel as the existing dock is not considered a new dock and could be authorized by this RGP. The reconfiguration of a dock which results in a dock with the same or less square feet in size and which extends from the MWHM the same or less distance is not considered an enlargement and could be authorized by this RGP.

ACTIVITIES COVERED: This RGP authorizes the installation, repair, modification, replacement, or removal, of pile supported or floating boat docks and associated structures (e.g. access, decks, landings, gangway, ramp, stairs, etc.) within navigable waters of the U.S. subject to Section 10 of the Rivers and Harbors Act of 1899.

TERMS:

1. The area of the boat dock and associated deck and access, combined, does not exceed 1,800 square feet from the plane of the ordinary high water mark (OHWM) for non-tidal waters or mean high water mark (MHW) for tidal waters. Configuration of the dock may vary in plan (i.e. straight, T-shaped, U-shaped, L-shaped, etc.) provided the total length of all segments and components does not exceed 180 feet and the surface area of the dock and associated deck and access does not exceed

1,800 square feet below the plane of the ordinary high water mark (OHWM) for non-tidal waters or mean high water mark (MHWM) for tidal waters. (Note: This limitation does not include those areas of uncovered open water used to moor a boat).

2. The width of the dock does not exceed 10 feet.
3. As measured from the plane of the ordinary high water mark (OHWM) for non-tidal waters or mean high water mark (MHWM) for tidal waters, the dock and associated deck and associated structures may not extend:
 - a. more than 180-feet; or
 - b. 30% of the distance across the water way, whichever is more restrictive;
4. The footprint of the dock and associated structures provide a minimum of 5-feet of clearance from the imaginary lines extending from the adjacent property boundaries.
5. A deck is defined as the portion of the dock greater than 10 feet wide. A deck associated with a dock is allowable, provided that the area of the deck does not exceed 240 square feet below the plane of the ordinary high water mark (OHWM) for non-tidal waters or mean high water mark (MHWM) for tidal waters.
6. Only one dock is allowed per parcel.
7. The following activities are prohibited under this RGP:
 - a. The construction or placement of enclosed buildings, boathouses, fuel storage tanks, fuel dispensing facilities, sinks toilets, showers or sanitary pump out facilities.
 - b. The conversion of the boat dock into a recreation room, residence, or dwelling.
 - c. The permanent mooring of a recreation room, floating residence, or dwelling.

GENERAL CONDITIONS:

1. **Notification:** You shall submit a pre-construction notification to this office prior to commencement of construction activities in waters of the U.S. requiring a permit. The PCN shall contain the information identified in the "Pre-Construction Notification Procedures" section below. You shall not commence construction activities in waters of the U.S. requiring a permit until you have received written notification from this office that the proposed activity is authorized under RGP 3.
2. **Special Conditions:** You shall comply with all special conditions that are placed on verifications under this RGP to ensure the authorized activity has minimal impacts on the aquatic environment.
3. **Navigation:**
 - a. Your use of the boat dock and associated access must not interfere with the public's right to free navigation on all navigable waters of the United States, and the installed boat dock and associated deck and access may not cause more than a minimal adverse effect on navigation.

b. Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at your expense on authorized facilities in navigable waters of the United States.

c. You understand and agree that, if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, you will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused hereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration

4. Endangered Species and Essential Fish Habitat: No activity is authorized under this RGP that is likely to jeopardize the continued existence of a threatened and/or endangered species, or a species proposed for such designation, as identified under the Federal ESA, or which will directly or indirectly destroy or adversely modify the critical habitat of such species. In addition, no work may occur that may affect a threatened and/or endangered species, or that may adversely affect essential fish habitat (EFH), until this office has completed consultations under Section 7 of the ESA and Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act. Information regarding the effects of the project on Federally listed threatened and/or endangered species, critical habitat and EFH shall be submitted with the PCN required for this RGP.

5. Cultural Resources: No activity is authorized that may affect cultural resources listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

6. Anchoring and Damage from High Water Events:

a. You shall ensure that the boat dock and associated access are properly anchored utilizing systems designed to withstand anticipated high flows.

b. Permanent or temporary anchoring to riparian vegetation is not authorized by this permit.

c. The issuance of this permit does not relieve you from taking all necessary steps to ensure the integrity of boat dock and associated access and the safety of boats moored thereto, from damage by wave wash or high water events, and you shall not hold the United States liable for any such damages.

7. Maintenance: You shall maintain the dock and associated deck and access authorized by this RGP in good condition and in conformance with the terms and conditions of this RGP. You are not relieved of this requirement if you abandon the boat dock and/or associated access, although you may make a good faith transfer to a third party. Should you wish to cease to maintain the authorized structure or desire to abandon it without a good faith transfer, you shall request a permit from this office, which may require removal of the dock, associated deck and access and site restoration. Maintenance may require additional Department of the Army (DA) authorization prior to proceeding with the maintenance work.

8. **Discovery of Previously Unknown Remains and Artifacts:** If you discover any previously unknown historical or archeological remains during installation of the structure authorized by this permit, you shall immediately cease work and notify this office of what was found. The Corps will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

9. **Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of aquatic wildlife indigenous to the waterbody, including those species that migrate through the area. For boat docks and/or associated access, you shall ensure that the PCN contains information on how impacts to aquatic life movements will be avoided and/or minimized.

10. **Spawning Areas.** You shall avoid activities in spawning areas during spawning seasons to the maximum extent practicable. For boat docks and/or associated access located within spawning areas, you shall ensure that the PCN contains information on how spawning areas will be avoided and/or how impacts to spawning areas will be minimized.

11. **Suitable Material.** You shall install the boat dock and associated access using suitable materials, and shall ensure that materials used are free from pollutants in toxic amounts (see Section 307 of the Clean Water Act). Decking material shall be made of metal grating, plastic, pressure-treated wood, or non-reactive (epoxy wood) product, and flotation devices shall be of materials that will not disintegrate, such as plastic or closed cell foam encapsulated sun-resistant polyethylene. All pressure-treated wood must be treated with wood preservatives in strict compliance with the Registration/Reregistration Documents issued by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act for use in or above fresh water environments, and in accordance with standards established by the American Wood Protection Association or evaluation reports issued by the International Code Council Evaluation Service.

12. **Tribal Rights:** You shall ensure that the boat dock or associated access does not impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

13. **Contractor Compliance:** You are responsible for all authorized work and ensuring that all contractors and workers are made aware of and adhere to the terms and conditions of the permit authorization. You shall ensure that a copy of the permit authorization and associated drawings are available and visible for quick reference at the site until all installation activities are completed.

14. **Notification of Start and Complete Dates:** You shall notify this office of the start date for the authorized work within 10 days prior to beginning work within navigable waters of the U.S. and of the completion date for the authorized work within 30 days following completion of work within navigable waters of the U.S.

15. **Inspections:** You shall allow representatives from this office to inspect the authorized structure and any mitigation areas at any time deemed necessary to determine compliance with the terms and conditions of the RGP verification. You will be notified by this office in advance of an inspection.

16. **Transfer of RGP Verification:** If you sell the property associated with a nationwide permit verification, you may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(Transferee)

(Date)

17. Compliance Certification: Within 30 days following installation of the boat dock and associated access, you shall submit a signed copy of the Compliance Certificate located in Attachment C, regarding the completed work and any required mitigation. The certification shall also contain:

a. As-built drawings of the boat dock and/or associated access installed, which shall include a plan view drawing of the location of the authorized work, with an overlay of the work conducted in the same scale.

b. Numbered and dated post-construction color photographs of the installed dock, as well as the access areas. The photographs shall be similar to the pre-construction photographs required in the PCN, and shall be identified in the plan-view drawing required in subpart c of this condition.

PRE-CONSTRUCTION NOTIFICATION PROCEDURES:

1. You must submit a completed *Sacramento District Regional General Permit 3 Pre-Construction Notification Checklist* (PCN Checklist), located in Attachment A, prior to beginning any work in the navigable water. The PCN shall be submitted to the appropriate office identified in the *Contacts and Additional Information* section below. If you need assistance in completing any portion of the PCN Checklist, please contact this office. The PCN Checklist shall include the following information:

a. Name, address and telephone number(s) of the prospective permittee and authorized agent, if applicable;

b. Signature of the authorization of an agent, if applicable;

c. Location of the proposed project, which may include street address, assessor’s parcel number, latitude and longitude, section, township, range, municipality, and county, as well as directions to the site.

d. A description of the proposed boat dock and associated deck and access, including the materials to be used, the date(s) work would occur within navigable waters, and methods and equipment proposed to be used for the installation. If the proposed activities would involve the installation of pilings, the description shall specifically include a description of the size of the pilings, method of the installation (e.g. drop hammer or vibratory hammer), the length of time required for the installation, and the proposed date(s) of the installation;

e. A vicinity map, plan-view and cross-section drawings clearly depicting the location, size and dimensions of the proposed dock and associated deck and access, as well as the location of the OHWM or MHW of the navigable water. The drawings shall contain a title block, legend and scale, nearby structures, parcel boundaries, and dimensions of the proposed dock and associated deck and access. All drawings shall comply with the *Final Map and Drawing Standards for the South Pacific Division Regulatory Program*, which can be found at <http://www.spd.usace.army.mil/Portals/13/docs/regulatory/standards/map.pdf>.

f. Pre-project color photographs of the proposed dock location, the shoreline where the dock would be accessed, and the areas upstream, downstream, and across the channel from of the proposed dock location. The location of the photographs shall be identified on the plan view drawing required in subpart (e) of this condition;

g. A description of measures proposed to be taken to avoid and minimize to the maximum extent practicable, impacts to the aquatic environment, including those to wetlands, Federally-listed threatened and/or endangered species, spawning habitat, and shallow water habitat.

h. Information regarding how your proposed boat dock and associated deck and access will not interfere with the public's right to free navigation on all navigable waters of the United States. The information provided must include a description of the nearest docks or other structures, how far they are from the proposed dock, and how far they extend into the water from the plane of the ordinary high water mark (OHWM) for non-tidal waters or mean high water mark (MHW) for tidal waters.

i. A description of impacts from the proposed boat dock, associated deck and access on Federally-listed threatened and/or endangered species and essential fish habitat (EFH). Potential Federally listed threatened and/or endangered species, and/or their critical habitat that may be affected by boat docks and/or associated access include, but are not limited to: Delta smelt (*Hypomesus transpacificus*), giant garter snake (*Thamnophis gigas*), yellow-billed Cuckoo (*Coccyzus americanus*), Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*), Sacramento River winter-run Chinook salmon (*O. tshawytscha*), Central Valley steelhead (*O. mykiss*), green sturgeon (*Acipenser medirostris*), and Lahontan cutthroat trout (*Oncorhynchus clarkii henshawi*). In addition, some waters may contain EFH for Chinook salmon. Information on the location of threatened and/or endangered species and their critical habitat, and EFH within the Sacramento District can be obtained directly from the U.S. Fish and Wildlife Service (USFWS) Environmental Conservation Online System (<https://ecos.fws.gov/ecp>) and the West Coast Regional Office of the National Marine Fisheries Service (NMFS) (<http://www.westcoast.fisheries.noaa.gov/>). The Sacramento District 2018, *ESA Information Guidelines for the Regulatory Program*, provided additional information regarding requirements for consultation for compliance with Section 7 of the Endangered Species Act (see <https://www.spk.usace.army.mil/Portals/12/documents/regulatory/references/2018.03.22.ESAGuidelines.pdf?ver=2018-03-28-173448-713>). The information submitted must include the following:

(1) A description of the action to be considered;

(2) A description of the specific area that may be affected by the action (generally would include the footprint of the proposed boat dock and associated deck and access and construction access and staging areas) ;

(3) A description of any listed species or critical habitat that may be affected by the action (see above for the potential species that may be affected by boat dock and associated deck and access);

(4) A description of the manner in which the action may affect any listed species or critical habitat and an analysis of any cumulative impacts (identify the impacts that would occur to species. Examples include sound effects from pile driving and shading from docks. Also include as any proposed compensatory mitigation;

(5) Relevant reports including any environmental impact statement, environmental assessment, or biological assessment prepared; and

(6) Any other relevant available information on the action, the listed species, or critical habitat (this may include previous consultations conducted or completed).

j. A description of any known historic properties which may be affected by the proposed work, include a vicinity map indicating the location of historic resources, and identifying the potential for the presence of historic resources. If it is determined by this office that the project may affect cultural resources, you may be required to submit a cultural resources report, prepared in accordance with the Sacramento Districts *Guidelines for Compliance with Section 106 of the National Historic Preservation Act* (<https://www.spk.usace.army.mil/Missions/Regulatory/Permitting/Cultural-Resources-Agency-Consultation/>)

k. A description of how the activities will comply with each of the permit conditions of this RGP (see the RGP 3 Checklist located at the end of the PCN checklist found in Attachment A);

l. For an activity that requires 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, the pre-construction notification must include a statement confirming that you have submitted a written request for Section 408 permission from the Corps office having jurisdiction over that USACE project. Please note that if the activity requires Section 408 permission, this office cannot authorize the activity under this RGP until the Section 408 permission has been received.

2. Within 30-days following receipt of the PCN form, this office will notify you via letter or email if:

a. The project may qualify for authorization under this RGP;

b. The PCN is complete; and

c. If consultation under Section 7 of the Endangered Species Act (ESA) and/or Section 106 of the National Historic Preservation Act (NHPA) is required.

If the PCN is not complete, the notification will specifically identify the additional information required to be submitted.

If the project does not qualify for authorization under this RGP, the notification will specifically identify the information necessary to review your application as an Individual Permit.

3. Within 30-days following receipt of a complete PCN form, this office will initiate any required consultations under Section 7 of the ESA and/or Section 106 of the NHPA.

4. Within 30-days following completion of required consultations or receipt of a Section 408 permission, or, if consultation and Section 408 permission is not required, within 45-days following receipt of a complete PCN, this office will notify you via letter if the project is authorized under this RGP, subject to the terms, general conditions, and any special conditions.

FURTHER INFORMATION:

1. Congressional Authorities: This RGP has been issued under the authority of Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
2. District Engineers have the authority to determine if an activity complies with the terms and conditions of this RGP.
3. This RGP does not obviate the need to obtain other Federal, state, or local permits, approvals, or authorizations required by law.
4. This RGP does not grant any property rights or exclusive privileges.
5. This RGP does not authorize any injury to the property or rights of others.
6. This RGP does not authorize interference with any existing or proposed Federal project.
7. Limits of Federal Liability. In issuing this RGP and authorizing any activity under this RGP, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. 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.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
8. Reevaluation of Permit Decision. This office may reevaluate its decision on this RGP at any time the circumstances warrant. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7.
9. Activities not meeting the terms and conditions of this RGP may be authorized through another type of permit, such as a Nationwide Permit, Letter of Permission, or Standard Permit. This office will determine on a case-by-case basis whether an activity has a more than minimal impact, individually or cumulatively, on the aquatic environment or may be contrary to the public interest. The Corps may include additional special conditions to any verification under this RGP to ensure the activity has minimal impact.

PERMIT DURATION: This permit is valid for 5 years from issuance and will expire on **August 23, 2024**. If this RGP is not modified or reissued by the expiration date, it automatically expires and becomes null and void. The Corps may re-evaluate the terms and conditions of this permit at any time it deems necessary to protect the public interest. This RGP may be re-issued, after public notice and documentation of the decision. Activities under this permit must be verified in writing by the Corps. Verifications are valid until this RGP expires.

CONTACTS AND ADDITIONAL INFORMATION: PCNs may be submitted via email to the Regulatory Division at spk-regulatory-info@usace.army.mil. [For questions, please contact us by phone at 916-557-5288, or by email at](tel:916-557-5288) Email: spk-regulatory-info@usace.army.mil. For an updated list of Sacramento District contacts, please visit our website at <http://www.spk.usace.army.mil/missions/regulatory>.

ATTACHMENTS:

Attachment A: RGP 3, Pre-Construction Notification Form

Attachment B: Compliance Certification

This permit becomes effective when the federal official, designated to act for the Secretary of the Army has signed below.



Michael Nepstad
Acting Chief, Regulatory Division

19 August 2019

Date