US Army Corps of Engineers®

REGIONAL GENERAL PERMIT NUMBER 27

LAKE PEND OREILLE
PEND OREILLE RIVER
IDAHO

Effective Date:
June 9, 2025

Expiration Date:
June 8, 2030

The Walla Walla District of the U.S. Army Corps of Engineers authorizes work in Lake Pend Oreille, Pend Oreille River, and specific tributaries, as described in this Regional General Permit 27 (RGP-27) and shown on the attached drawings. Attachment A shows the geographic area applicable to RGP-27 and Attachment B shows the types of authorized structures.

PLEASE NOTE: The Idaho Department of Lands requires separate approval for these activities.

I. AUTHORIZED ACTIVITIES

A. PIERS AND FLOATING DOCKS: Single-use and joint-use piers and floating docks are authorized under the following terms:

1. One pier or floating dock is authorized for each riparian property owner.

2. The structure shall be for non-commercial activities only.

3. Piers or floating docks shall extend into the waterway no further than the line of navigation. In no case shall the pier or dock extend more than 100 feet waterward of the ordinary high water mark (OHWM) (elevation 2,062.5 National Geodetic Vertical Datum or NGVD), regardless of depth.

4. Total deck area of a single-use pier or floating dock, including the access ramp, shall not exceed 700 square feet waterward of the OHWM (elevation 2,062.5 National Geodetic Vertical Datum or NGVD). Total deck area of a joint-use pier or floating dock, including portions of the access ramp extending waterward of the OHWM (elevation 2,062.5 NGVD), shall not exceed 1,100 square feet.

5. Only open-pile pier construction is authorized. Steel piles may not be larger than 10 inches in diameter. Wood pile diameter is not limited. 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.

6. 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.

7. Floating docks shall be designed to contain encapsulated flotation material under all conditions. Open cell polystyrene (beaded Styrofoam) and the reuse of industrial drums is not authorized under any circumstance.

8. Piers and floating docks shall generally be constructed perpendicular to the shore, and the width of disturbance to the shoreline shall not exceed 8 feet at the access point to the pier or dock.

9. In-water pile driving requires the use of a bubble curtain AND a 6-inch minimum thick wood, rubber or synthetic cushion block between the driving apparatus and the pile.

B. MARINE LAUNCHING RAILS: One marine launching rail per riparian property ownership is authorized under the following terms:

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

2. 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 or pressure-treated wood ties, or similar structures resting on the bed. If the area is bedrock, they may be fastened by drilled anchor bolts. If a boat launching ramp exists on the property, the marine launching rail system can be installed on the existing ramp surface.

3. Marine launching rail systems shall not extend more than 200 feet waterward of the ordinary high water mark (elevation 2,062.5 NGVD).

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

C. MOORING PILES: A maximum of four mooring piles per riparian property ownership are authorized under the following terms:

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

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

3. Mooring piles shall not be installed more than 55 feet waterward of the ordinary high water mark, or to the length of the permitted dock as determined on a case by case basis.

4. 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. Steel piles may not be larger than 10 inches in diameter. Wood pile diameter is not limited.

D. PORTABLE LIFT STATIONS: A maximum of two portable lift stations (i.e., boat or jet ski) per private riparian property ownership are authorized under the following terms:

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

2. Portable boat-lift stations shall be located adjacent to existing authorized floating docks and piers. They shall not extend waterward of the authorized floating dock or pier.

3. Canopies shall be made of canvas or synthetic cloth and can be part of the boat-lift station or a framework attached to the floating dock or pier.

E. SMALL DIAMETER WATERLINE INTAKES: A maximum of one small diameter waterline intake per private riparian property ownership is authorized under the following terms:

1. Waterline intakes will be for non-commercial use.

2. The diameter of the intake line shall not exceed 2 inches, though the intake manifold may be larger.

3. To prevent unwanted entrainment and impingement of state or federally protected fish, waterline intakes shall be appropriately screened using the National Marine Fisheries Service's (NMFS) "Fish Screening Criteria for Anadromous Salmonids." For any technical questions regarding this criterion, applicants will contact the U.S. Fish and Wildlife Service's Idaho Fish and Wildlife Office Coeur d'Alene at (208) 918-2155 or their local Idaho Department of Fish and Game office

4. The waterline can be attached to an existing dock or pier, placed on the lake bottom and held down by concrete blocks or similar means, or trenched into the lake bottom in the dry during the lake drawdown period.

5. A submersible pump can be part of the structure, either attached to a dock or pier, or lying on the lake bottom.

6. Waterlines will not extend more than 120 feet waterward of the OHWM (elevation 2,062.5 NGVD).

F. MOORING BUOYS: A maximum of one single boat mooring buoy per private riparian property ownership is authorized under the following terms:

1. Mooring buoys will be for non-commercial use.

2. Mooring buoys shall not be installed more than 55 feet waterward of the OHWM (elevation 2,062.5 NGVD), or to length of the permitted dock as determined on a case by case basis.

II. GEOGRAPHIC AREA OF COVERAGE

The geographic area covered by Regional General Permit (RGP) 27 includes Lake Pend Oreille, Pend Oreille River and their tributaries that are inundated by the summer pool elevation of 2062.5 feet, NGVD, in Bonner and Kootenai Counties, Idaho (See Attachment A). This includes navigable waters of the United States (U.S.) that are located upstream of the Albeni Falls Dam. Several areas within the geographical area described above are excluded from coverage under RGP-27. The excluded areas are discussed below in Section III and noted on Attachment A.

III. EXCLUSION AREAS

Certain areas are excluded from coverage under RGP-27. These areas are shown on Attachment A. A separate Department of Army Permit is required for the above-described work located in the following areas:

1. Mouths of Gold Creek, North Gold Creek, Granite Creek, Trestle Creek, Lightning Creek, Strong Creek (near Hope) and Priest River for a radius of 100 yards.

2. Areas that provide important bull trout habitat and forage areas:

a) Clark Fork Delta, from the confluence of Lightning Creek and the Clark Fork River, west to the range line between Range 1E and Range 2E.

b) Denton Slough, located in Sections 7, 18 & 19, T 56N, R 2E.

c) Pack River including the Pack River Flats, north of Trestle Creek on the east, and north of Sunnyside Sportsman Access (Hawkins Point) on the west.

d) Morton Slough, including the left bank (east shoreline) of the Pend Oreille River from the half section line of Section 16, T 56N, R 3W, south to the south section line of Sec. 21, T 56N, R 3W.

e) Cocolalla Slough/Creek, upstream from the Spokane International Railroad Bridge across the slough.

f) Scenic Bay of Lake Pend Oreille that provides kokanee spawning habitat.

IV. AUTHORITIES

This RGP is issued under the following authorities:

A. Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
B. Section 404 of the Clean Water Act (33 CFR 1344).

V. DEFINITIONS

The following definitions are applicable for the purpose of this RGP:

A. Navigable Waters - All waters of the U.S. 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.

B. Ordinary High Water Mark - The line on the shore established by the fluctuations of water and indicated by physical characteristics such as a 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. For the purposes of this RGP, the ordinary high water mark upstream from Albeni Falls Dam is defined as elevation 2062.5 feet (National Geodetic Vertical Datum).

C. Riparian Property - For the purposes of this RGP, riparian property is the property that borders the shoreline of the lake or waterway at the ordinary high water mark (elevation 2062.5 feet NGVD).

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

VI. PROCEDURE FOR OBTAINING APPROVAL

Individuals interested in constructing an activity described in this RGP shall submit the following information to:

U.S. Army Corps of Engineers
Walla Walla District
Coeur d'Alene Regulatory Office
1910 Northwest Boulevard, Suite 210
Coeur d'Alene, Idaho 83814

A. Completed application for a Department of the Army Permit (Joint Application for Permits, Form NWW 1145-1). Application forms are available on the Walla Walla District Regulatory webpage at: https://www.nww.usace.army.mil/Business-With-Us/Regulatory-Division/Joint-Application-for-Permit/

B. Drawings of the proposed project, including plan-view and cross-section view drawings. Refer to the drawing checklist for more details.

C. Vicinity map, including a copy of the plat map of the property where the work is proposed.

D. Completed Project Form (Appendix C to February 6, 2025, USFWS Biological Opinion).

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 Conditions shall be followed:

A. GENERAL CONDITIONS:

1. Maintenance. You shall maintain the activity authorized by this RGP 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.

   a. In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

   b. Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map

indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on historic properties. Where the non-Federal applicant has identified historic properties on which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

c. The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

d. Prospective permittees should be aware that section 110(k) of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on

tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

e. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in 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. Water Quality Certification. The Idaho Department of Environmental Quality issued water quality certification for projects covered by this RGP on March 17, 2025. You shall comply with the conditions specified in the certification as a condition of this permit. A copy of the certification can be found at: https://media.defense.gov/2025/Apr/22/2003695706/-1/-1/1/FINAL%20401%20WATER%20QUALITY%20CERTIFICATION%20-%20ARMY%20CORPS%20OF%20ENGINEERS%20-%20REGIONAL%20GENERAL%20PERMIT%2027%20-%20NWW-2007-00475%20-%20APRIL%2017,%202025%20(.PDF.

5. Inspections. You shall allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

6. The permittee understands and agrees that, if future operations by the U.S. 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, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the U.S. No claim shall be made against the U.S. on account of any such removal or alteration.

7. Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the U.S.

8. Activities not specifically authorized by this RGP may require a separate Department of the Army Permit.

9. You must comply with the mandatory terms and conditions that apply to the RGP-27 activities within the Corps' jurisdiction to implement the reasonable and prudent measures associated with "incidental take" of bull trout (*Salvelinus confluentus*) in the enclosed U.S. Fish and Wildlife Service (USFWS) Biological Opinion (FWS/R1/ES/IFWO/2024-0118358, February 6, 2025). The mandatory terms and conditions that apply to the activities within the Corps' jurisdiction are listed in the USFWS Biological Opinion (Attachment C). The USFWS has the final authority to determine compliance with the terms and conditions of its Biological Opinion(s), and with the ESA. Alternate options for ESA compliance include the USFWS' Standing Analysis (SA) for U.S. Army Corps of Engineers Lake Pend Oreille Docks and Piers and its associated decision key (D-Key), or an individual consultation. The Corps' jurisdiction is limited to activities that require Department of the Army authorization. The areas within the Corps' jurisdiction, which include the authorized activity, cover navigable waters of the United States in Lake Pend Oreille, the Pend Oreille River and their tributaries that are inundated by the summer pool elevation of 2062.5 NGVD, except for those areas listed in Section II, as approximated on the map (Attachment A).

10. Use of structures authorized under this RGP may not interfere with navigation.

11. Structures proposed within boundaries of the Albeni Falls Dam site, or any Federal Government fee-owned lands, are not authorized under this RGP.

12. 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 from the Seattle District of the Corps of Engineers.

13. 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 effect of construction activity on aquatic biota, including bull trout.

14. Shoreline or riverbank disturbed during construction shall be stabilized by appropriate soil erosion control practices to minimize sediment delivery into the water, which may result in an adverse impact to aquatic biota, including bull trout.

15. Disturbed soils shall be re-vegetated with non-invasive plant species within the current or next appropriate planting season.

16. All construction debris shall be disposed of in an upland location in a manner that precludes it from reentering Waters of the U.S., including wetlands.

Disposal must be in compliance with all state and local regulations with regard to open burning of construction debris.

17. Hammer or vibratory pile-driving equipment is allowed when driving steel piling into the lakebed during in-water work. A bubble curtain in the water AND a wood, rubber or synthetic block, between the driving apparatus and the pile, shall be used at all times when using hammer-driving equipment. Bubble curtains shall be maintained according to manufacturer's specifications. No more than 16 piles may be driven by impact hammer per day.

18. Installation of light penetrative decking (e.g., grating or clear translucent material) is required for docks constructed between 100 yards and ¼ mile on each side of the mouth of excluded streams (see Section III). Light penetrative decking is required for docks constructed near known kokanee spawning areas in order to reduce potential impacts to kokanee, potential prey base for bull trout. Grating or clear translucent material is required to cover the entire surface area of the piers and ramps. Grating material must have at least 60% open area, and clear translucent material must have greater than 90% light transmittance (as rated by the manufacturer).

19. Any equipment operating over water is required to replace hydraulic fluid with vegetable or mineral oil, which is less toxic to fish and other aquatic organisms.

20. Any hydraulic boat or waterski lifts are required to replace hydraulic fluid with Environmentally Acceptable Lubricants, or to comply with any State water quality standards relative to hydraulic oil, whichever is more stringent.

21. No in- or overwater concrete pouring is authorized under this RGP.

22. The permittee is responsible for all work done by any contractor. Permittee shall ensure any contractor who performs the work is informed of and follows all the terms and conditions of this authorization, including any Special Conditions listed above. The permittee shall also ensure these terms and conditions are incorporated into engineering plans and contract specifications.

23. All pressure-treated wood must be treated in a manner consistent with the pesticide's EPA-approved labeling. As a matter of good industry practice, pressure-treated wood ties are also to be treated in accordance with standards established by the American Wood Protection Association. Additionally, only wood treated with ACQ, ACZA, CA-B, and copper naphthenate may be used. Any wood treated with creosote, CCA, Penta, or any other type of chemical will not be covered under the RGP-27 without a completed individual ESA consultation.

24. To prevent unanticipated effects to bull trout, no digging or trenching in the lakebed or riverbed will be done in-water.

25. To prevent unanticipated effects to bull trout, all construction activities shall occur between sunrise and sunset.

26. Notify the U.S. Fish and Wildlife Service within three working days upon locating a dead, injured, or sick endangered or threatened species specimen. Initial notification must be made to the nearest U.S. Fish and Wildlife Service Law Enforcement Office. Notification must include the date, time, precise location of the injured animal or carcass, and any other pertinent information. Care should be taken in handling sick or injured specimens to preserve biological materials in the best possible state for later analysis of cause of death, if that occurs. In conjunction with the care of sick or injured endangered or threatened species or preservation of biological materials from a dead animal, the finder has the responsibility to ensure that evidence associated with the specimen is not unnecessarily disturbed. Contact the resident agent-in-charge at the U.S. Fish and Wildlife Service Law Enforcement Office at (425) 883-8122, or the Service's Coeur d'Alene Idaho Fish and Wildlife Office at (218) 918-2155.

27. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring that an action authorized by this RGP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

28. The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

29. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

30. The prospective permittee must notify the district engineer by submitting a preconstruction notification (PCN) as early as possible. The prospective permittee shall not begin the activity until he or she is notified in writing by the district engineer that the activity may proceed under the RGP with any special conditions imposed by the district.

31. You must provide a complete "Project Form" (Appendix C to the USFWS' February 6, 20205 Biological Opinion) to the Corps with your PCN.

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 may 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) accomplish the corrective measures by contract or otherwise, and bill the permittee for the cost.

D. EXPIRATION

This RGP expires five 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 RGP or the permit is not valid and a separate Department of the Army Permit will be required to authorize the work.

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

Kelly J. Urbanek for

Kathryn A. Werback
Lieutenant Colonel, Corps of Engineers
District Engineer
By: Kelly J. Urbanek
Chief, Regulatory Division

Date June 09, 2025

Attachments

A. RGP-27 Coverage Map
B. RGP-27 Type of Structures
C. USFWS Biological Opinion for RGP-27
D. IDEQ Final section 401 Water Quality Certification for RGP-27