

Any person who fails to comply with closure or restriction order issued under this subpart may be subject to the penalties provided in 43 CFR 8360.0-7. These penalties are as follows: Violations are punishable by a fine not to exceed \$1,000 and/or imprisonment not to exceed 12 months.

**FOR FURTHER INFORMATION CONTACT:**

Questions about this notice can be answered by: Mr. James Fisher, Area Manager, Bureau of Land Management, Wenatchee Resource Area Office, 915 N Walla Walla Street, Wenatchee, Washington 98801-1521; (509) 665-2100.

James F. Fisher,

*Wenatchee Resource Area Manager, Bureau of Land Management.*

Joseph C. Duncan,

*Seattle District, Real Estate Division, Corps of Engineers.*

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## DEPARTMENT OF DEFENSE

### Corps of Engineers

#### **Proposed Authorization Under the U.S. Army Corps of Engineers Nationwide General Permit Program of the U.S. Department of Transportation, United States Coast Guard Categorical Exclusions for Certain Activities Requiring Department of the Army Authorization**

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of intent and request for comments.

**SUMMARY:** The Corps of Engineers is proposing to authorize U.S. Coast Guard categorical exclusions (CEs) under nationwide general permit number 23. The Corps is requesting comment on the appropriateness of the CEs for nationwide general permit authorization and any conditions or restrictions to such authorization. The Coast Guard has previously adopted its CEs pursuant to the Council on Environmental Quality Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (40 CFR part 1500 *et seq.*).

**DATES:** Comments must be received by May 28, 1996.

**ADDRESSES:** Comments may be mailed to the U.S. Army Corps of Engineers, ATTN: CECW-OR, Nationwide General Permit Number 23 Docket, 20 Massachusetts Avenue, N.W., Washington, D.C. 20314-1000 or faxed to (202) 761-5096.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Victor Cole, Regulatory Branch, Office of the Chief of Engineers at (202) 761-0199.

**SUPPLEMENTARY INFORMATION:** The Coast Guard has requested Corps authorization in accordance with the Corps nationwide general permit number 23 of its CEs originally published in the Federal Register on July 29, 1994 (59 FR 38654), and subsequently modified on September 6, 1995 (60 FR 46327), June 20, 1995 (60 FR 32197), and March 27, 1996 (61 FR 13563). The Corps issued the nationwide general permit to reduce duplicative Federal processes when another Federal agency has completed the NEPA analysis for an activity, and to expedite Department of the Army authorization for projects having no more than minimal adverse environmental effects either individually or cumulatively.

In 1983, the Corps approved the original Coast Guard CEs (45 FR 32819) and have been authorizing the approved CEs since then. We are publishing the existing Coast Guard CEs in their entirety, incorporating the subsequent changes made by the Coast Guard as identified in the Federal Register citations listed above. Reviewers should note that several of the categorical exclusions do not require Department of the Army authorization but are listed to provide the complete listing and same numbering system as the Coast Guard CEs. For further information regarding the original establishment of the CEs by the Coast Guard, the Federal Register citations above should be reviewed. Upon review and consideration of comments received, the Corps will publish the final list of Coast Guard CEs approved by the Corps to qualify under nationwide general permit number 23, including any required notification procedures and/or certain conditions, in the Federal Register.

Dated: April 16, 1996.

Colonel Ronald L. Stewart,  
*Assistant Chief, Operations, Construction, and Readiness Division, Directorate of Civil Works.*

#### **U.S. Coast Guard Categorical Exclusion List**

(1) Routine personnel, fiscal, and administrative activities, actions, procedures, and policies which clearly do not have any environmental impacts, such as military and civilian personnel recruiting, processing, paying, and record keeping.

(2) Routine procurement activities and actions for goods and services, including office supplies, equipment,

mobile assets, and utility services for routine administration, operation, and maintenance.

(3) Maintenance dredging and debris disposal where no new depths as required, applicable permits are secured, and disposal will be at an existing approved disposal site. (Checklist required).

(4) Routine repair, renovation, and maintenance actions on aircraft and vessels.

(5) Routine repair and maintenance of buildings, roads, airfields, grounds, equipment, and other facilities which do not result in a change in functional use, or an impact on a historically significant element or settings.

(6) Minor renovations and additions to buildings, roads, airfields, grounds, equipment, and other facilities which do not result in a change in functional use, a historically significant element, or historically significant setting. (Checklist required).

(7) Routine repair and maintenance to waterfront facilities, including mooring piles, fixed floating piers, existing piers, and unburied power cables.

(8) Minor renovations and additions to waterfront facilities, including mooring piles, fixed floating piers, existing piers, and unburied power cables, which do not require special, site-specific regulatory permits. (Checklist required).

(9) Routine grounds maintenance and activities at units and facilities. Examples include localized pest management actions and actions to maintain improved grounds (such as landscaping, lawn care and minor erosion control measures) that are conducted in accordance with applicable Federal, State and local directives.

(10) Installation of devices to protect human or animal life, such as raptor electrocution prevention devices, fencing to restrict wildlife movement on to airfields, and fencing and grating to prevent accidental entry to hazardous areas. (Checklist required).

(11) New construction on heavily developed portions of Coast Guard property, when construction, use, and operation will comply with regulatory requirements and constraints. (Checklist required).

(12) Decisions to decommission equipment or temporarily discontinue use of facilities or equipment. This does not preclude the need to review decommissioning under section 106 of the National Historic Preservation Act. (Checklist required for vessels and aircraft).

(13) Demolition or disposal actions that involve buildings or structures when conducted in accordance with regulations applying to removal of asbestos, PCB's, and other hazardous materials, or disposal actions mandated by Congress. In addition, if the building or structure is listed, or eligible for listing, in the National Register of Historic Places, then compliance with section 106 of the National Historic Preservation Act is required. (Checklist required).

(14) Outleasing of historic lighthouse properties as outlined in the Programmatic Memorandum of Agreement between the Coast Guard, Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers. (Checklist required).

(15) Transfer of real property from the Coast Guard to the General Services Administration, Department of the Interior, and other Federal departments and agencies, or as mandated by Congress; and the granting of leases, permits, and easements where there is no substantial change in use of the property. (Checklist required).

(16) Renewals and minor amendments of existing real estate licenses or grants for use of government-owned real property where prior environmental review has determined that no significant environmental effects would occur.

(17) New grants or renewal of existing grants of license, easements, or similar arrangements for the use of existing rights-of-way or incidental easement complementing the use of existing rights-of-way for use by vehicles; for such existing rights-of-way as electrical, telephone, and other transmission and communication lines; water, wastewater, stormwater, and irrigation pipelines, pumping stations, and irrigation facilities; and for similar utility and transportation uses. (Checklist required).

(18) Defense preparedness training and exercises conducted on other than Coast Guard property, where the lead agency or department is not Coast Guard or Department of Transportation and the lead agency or department has completed its NEPA analysis and documentation requirements.

(19) Defense preparedness training and exercise conducted on Coast Guard property that do not involve undeveloped property or increase noise levels over adjacent property and that involve a limited number of personnel, such as exercises involving primarily electric simulation or command post personnel.

(20) Simulated exercises, including tactical and logistical exercises that involve small numbers of personnel.

(21) Training of an administrative or classroom nature.

(22) Operations to carry out our maritime safety, maritime law enforcement, search and rescue, domestic ice breaking, and oil or hazardous substance removal programs.

(23) Actions performed as a part of Coast Guard operations and the Aids to Navigation Program to carry out statutory authority in the area of establishment of floating and minor fixed aids to navigation, except electronic sound signals.

(24) Routine movement of personnel and equipment, and the routine movement, handling, and distribution of nonhazardous materials and wastes in accordance with applicable regulations.

(25) Coast Guard participation in disaster relief efforts under the guidance or leadership of another Federal agency that has taken responsibility for NEPA compliance.

(26) Data gathering, information gathering, and studies that involve no physical change to the environment. Examples include topographic surveys, bird counts, wetland mapping, and other inventories.

(27) Natural and cultural resource management and research activities that are in accordance with interagency agreements and which are designed to improve or upgrade the Coast Guard's ability to manage those resources.

(28) Contracts for activities conducted at established laboratories and facilities, to include contractor-operated laboratories and facilities, on Coast Guard-owned property where all airborne emissions, waterborne effluents, external radiation levels, outdoor noise, and solid and bulk waste disposal practices are in compliance with existing applicable Federal, State, and local laws and regulations. (Checklist required).

(29) Approval of recreational activities (such as a Coast Guard unit picnic) which do not involve significant physical alteration of the environment, increase disturbance by humans of sensitive natural habitats, or disturbance of historic properties, and which do not occur in, or adjacent to, areas inhabited by threatened or endangered species. (Checklist required unless the activity will take place at a location developed or created for that type of activity).

(30) Review of documents, such as studies, reports, and analyses, prepared for legislative proposals that did not originate in DOT and that relate to matters that are not the primary responsibility of the Coast Guard.

(31) Planning and technical studies which do not contain recommendations for authorization or funding for future construction, but may recommend further study. This includes engineering efforts or environmental studies undertaken to define the elements of a proposal or alternatives sufficiently so that the environmental effects may be assessed and does not exclude consideration of environmental matters in the studies.

(32) Bridge Administration Program actions which can be described as one of the following:

(a) Modification or replacement of an existing bridge on essentially the same alignment or location. Excluded are bridges with historic significance or bridges providing access to undeveloped barrier islands and beaches.

(b) Construction of pipeline bridges for transporting potable water.

(c) Construction of pedestrian, bicycle, or equestrian bridges and stream gauging cableways used to transport people.

(d) Temporary replacement of a bridge immediately after a natural disaster or a catastrophic failure for reasons of public safety, health, or welfare.

(e) Promulgation of operating regulations or procedures for drawbridges.

(f) Identification of advance approval waterways under 33 CFR 115.70.

(g) Any Bridge Program action which is classified as a CE by another Department of Transportation agency acting as lead agency for such action.

(33) Preparation of guidance documents that implement, without substantive change, the applicable Commandant Instruction or other

Federal agency regulations, procedures, manuals, and other guidance documents.

(34) Promulgation of the following regulations: (Note: When relying upon a CE in promulgating regulations, an environmental analysis checklist and an attached CED (Enclosure 6) must be filed in the rulemaking docket before publication of a Notice of Proposed Rulemaking (NPRM), or an Interim or Final Rule not preceded by an NPRM, unless specifically indicated below.)

(a) Regulations which are editorial or procedural, such as those updating addresses or establishing application procedures.

(b) Regulations concerning internal agency functions or organization or personnel administration, such as funding, establishing Captain of the Port boundaries, or delegating authority.

(c) Regulations concerning the training, qualifying, licensing, and disciplining of maritime personnel.

(d) Regulations concerning manning, documentation, admeasurement, inspection, and equipping of vessels.

(e) Regulations concerning equipment approval and carriage requirements.

(f) Regulations establishing, disestablishing, or changing the size of Special Anchorage Areas or anchorage grounds. (Checklist and CED not required for actions that disestablish or reduce the size of the Area or grounds).

(g) Regulations establishing, disestablishing, or changing Regulated Navigation Areas and security or safety zones. (Checklist and CED not required for actions that disestablish or reduce the size of the area or zone. For temporary areas and zones that are established to deal with emergency situations and that are less than one week in duration, the checklist and CED are not required. For temporary areas and zones that are established to deal with emergency situations and that are one week or longer in duration, the checklist and CED will be prepared and submitted after issuance or publication.)

(h) Special local regulations issued in conjunction with a regatta or marine parade; provided that, if a permit is required, the environmental analysis conducted for the permit included an analysis of the impact of the regulations. (Checklist and CED not required.)

(i) Regulations in aid of navigation, such as those concerning rules of the road, International Regulations for the Prevention of Collisions at Sea (COLREGS), bridge-to-bridge communication, vessel traffic services, and marking of navigation systems.

(35) Approvals of regatta and marine parade event permits for the following events:

(a) Events that are not located in, proximate to, or above an area designated as environmentally sensitive by an environmental agency of the Federal, State, or local government. For example, environmentally sensitive areas may include such areas as critical habitats or migration routes for endangered or threatened species or important fish or shellfish nursery areas.

(b) Events that are located in, proximate to, or above an area designated as environmentally sensitive by an environmental agency of the Federal, State, or local government and for which the Coast Guard determines, based on consultation with the Government agency, that the event will not significantly affect the environmentally sensitive area. (Checklist and CED required.)

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## Department of the Army; Corps of Engineers

### Proposed Regulatory Guidance Letter on Programmatic General Permits

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of intent and request for comments.

**SUMMARY:** The Corps of Engineers is proposing to issue a Regulatory Guidance Letter (RGL) which would establish National policy guidance for the development and implementation of Programmatic General Permits (PGP). PGPs are a type of general permit issued by the Corps, that authorizes, for the purposes of Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), Section 404 of the Clean Water Act (33 U.S.C. 1344), and/or Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413), certain projects that are also regulated by another Federal, tribal, state, or local regulatory authority. This notice provides the proposed PGP RGL for review and opportunity to comment. RGLs are used by the Corps Headquarters as a means to transmit guidance on the regulatory program (33 CFR Parts 320-330), to its division and district engineers. While not required by law or regulation, the Corps is publishing this PGP RGL for review and comment.

**DATES:** Comments on the proposed PGP RGL must be received by May 28, 1996.

**ADDRESSES:** Comments may be mailed to the U.S. Army Corps of Engineers, ATTN: CECW-OR, PGP Docket, 20 Massachusetts Avenue, NW.,

Washington, DC 20314-1000 or faxed to (202) 761-5096.

**FOR FURTHER INFORMATION CONTACT:** Mr. Victor Cole, Regulatory Branch, Office of the Chief of Engineers at (202) 761-0199.

**SUPPLEMENTARY INFORMATION:** The Clinton Administration's Wetlands Plan promotes State involvement through assumption of the Clean Water Act Section 404 program (through Section 404 g-1) and/or PGP development. Many States have chosen to pursue a PGP with the Corps in lieu of State assumption or as an initial first step to assumption. Regardless of the reason, the Corps encourages the use of PGPs as a effective mechanism to reduce duplicative regulatory processes, simplify the application process for applicants, and make wise use of limited resources, while continuing to protect the aquatic environment in at least an equivalent manner as the Corps program. Our efforts to prepare a draft PGP RGL for publication involved coordination with several states, Corps districts, and other Federal resource agencies. The draft PGP RGL was developed based upon this coordination and structured similar to several successful PGPs that have been issued by Corps districts. The draft PGP RGL was also provided for review and comment to the White House Wetlands Working Group. Upon review and consideration of comments received, the Corps will publish the final PGP RGL in the Federal Register.

Dated: April 1, 1996.

Approved:

Daniel R. Burns,

*Chief, Operations, Construction, and Readiness Division, Directorate of Civil Works.*

Regulatory Guidance Letter

*RGL 96-01, Date: pending, Expires: pending*

Subject: Programmatic General Permits, Including State Program General Permits

#### 1. Background and Purpose

a. The development of a programmatic general permit (PGP) is an effective mechanism available to the U.S. Army Corps of Engineers (Corps) and Federal, tribal, State, and local regulatory authorities (other regulatory authority (ORA)) to improve the regulatory process for applicants, enhance environmental protection, reduce unnecessary duplicative procedures and evaluations, and make more efficient use of limited resources. The partnership that develops between the Corps and the ORA will directly benefit the regulated public and effectively reduce unnecessary

duplication while maintaining important environmental safeguards. Our encouragement of the use of PGPs should not be viewed as an attempt to allow the Corps to evade its statutory responsibility to administer the Regulatory Program, nor as an attempt to delegate the Regulatory Program, or simply to reduce the Corps workload. In times of increasing fiscal pressure, all levels of Government must redouble their efforts to use resources as efficiently as possible. PGPs can provide an efficient mechanism to meet this objective, to maintain important environmental protection, and to provide improved service to the regulated public.

b. A PGP is a type of general permit (33 CFR 322.2(f) and 323.2(h)), issued by the Corps, that authorizes, for the purposes of Section 10 of the Rivers and Harbors Act of 1899 (RFA; 33 U.S.C. 403), Section 404 of the Clean Water Act (CWA; 33 U.S.C. 1344), and/or Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (MPRSA; 33 U.S.C. 1413), certain projects that are also regulated by another Federal, tribal, State, or local regulatory authority. A PGP is the written vehicle identifying the terms, limitations, and conditions under which specific projects regulated by an ORA program may be authorized under the Corps Regulatory Program with a much more efficient and abbreviated review by the Corps. Programmatic general permits are designed to:

(1) Simplify the evaluation process for both the regulatory agencies and the applicant (i.e., to strive for "one-stop-shopping");

(2) Provide at least equivalent (and sometimes enhanced) environmental protection for aquatic resources;

(3) Reduce unnecessary duplicative project evaluation; and

(4) Promote more effective and efficient use of Corps, as well as other agencies', resources.

c. While administering the Regulatory Program, the Corps attempts to minimize duplication of effort with ORA programs that protect the aquatic environment in a manner at least equivalent to the Corps Regulatory Program. Minimizing duplication of effort serves the best interests of the regulated public, by reducing or eliminating unnecessary paperwork, reviews, and delays, and also serves the best interests of the environment and all other aspects of the public interest, by allowing the Corps to use its limited regulatory resources where they will do the most good. Moreover, in many cases when an ORA program develops to the extent that a PGP is appropriate, the