



**US Army Corps
of Engineers**
Louisville District

Public Notice

Public Notice No.
RGP No. 003

Date:
9 Jul 08

Expiration Date:
9 Jul 13

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Mr. Greg Cardwell, CELRL-OP-FN
P.O. Box 59
Louisville, Kentucky 40201-0059

Phone: (502) 315-6691

NOTICE ANNOUNCING RE-ISSUANCE OF A REGIONAL GENERAL PERMIT

This notice announces the issuance of a Regional General Permit (RGP) by the Louisville District U.S. Army Corps of Engineers in accordance with Title 33 CFR 325.5(b)(1), as published in the Federal Register, Volume 51, No. 219, pursuant to Section 10 of the Rivers and Harbors Act of 1899.

COVERAGE AREA: All navigable "waters of the United States" (U.S.) located in the States of Indiana, Illinois, Ohio, and the Commonwealth of Kentucky within the Louisville District regulatory boundaries.

TYPE OF ACTIVITY: The construction of private, noncommercial floating and/or fixed boat docks in navigable "waters of the U.S."

EFFECTIVE DATE: July 9, 2008

RESTRICTIONS:

See conditions "A" through "H" of the attached sheet titled, "SPECIAL CONDITIONS" and "EXCLUDED ACTIVITIES" for specific restrictions. The work authorized by this RGP is also subject to the attached "GENERAL CONDITIONS". Each notification for a proposal would be reviewed on a case-by-case basis by the District Engineer or his assigned representative, with the discretionary authority reserved to require the public interest review necessary for an individual Department of the Army Permit.

RGP IMPLEMENTATION PROCEDURES:

- A. The District will review all applications for project compliance with the terms, Special and General Conditions identified in this document. Any individual project that fails to comply with all conditions can not be authorized under this RGP.
- B. The District will respond in writing to all requests within 45 days. However, any work conducted under the RGP shall comply with all RGP General and Special Conditions.
- C. The District may determine that the RGP is not appropriate for a particular request and require an individual Department of the Army (DA) permit review.

NOTIFICATION/APPLICATION PROCEDURES:

The minimum procedures to be followed for notification of work under this permit will be a statement that the work will be performed in accordance with the General and Special Conditions, along with the following information: the name, address, and phone number of the applicant; location of the proposed work, including Section, Township, and Range, latitude and longitude, or UTM; a brief description and purpose; dimensions including the size of and material used for the structure; drawings with exact dimensions and scale on 8½ x 11-inch paper, including a location map, plan view, and cross-section illustrating all proposed construction; and a mitigation and monitoring plan, if applicable. Guidelines for submittals are outlined in the "Applicant and Information for Permits" section of the Louisville District's Internet site found by visiting <http://www.lrl.usace.army.mil>, and clicking on "Obtain a Permit". A copy may be obtained on request by writing to the above address, ATTN: CELRL-OP-F.

EXCLUDED ACTIVITIES:

- A. There shall be no structures built on or adjacent to docks for any non-water related use.
- B. There shall be no installation of facilities conducive to human habitation and/or non-water dependant activities, including but not limited to; household furnishings, potable water, living quarters, toilets, fueling facilities, or electric hookups. Exceptions include utility connections required by the U.S. Coast Guard (USCG) and applicable State agencies.
- C. There shall be no structure authorized by this RGP that may be used for any commercial or industrial purposes.
- D. There shall be no storage, either permanent or temporary, of any hazardous material, including but not limited to, gasoline and/or petroleum products, allowed on the dock at any time.
- E. There will be no excavation or fill work, including riprap, in connection with the proposed dock, unless specifically authorized.
- F. There shall be no activities authorized under this RGP if they are denied any required local, State, or Federal authorization.
- G. There shall be no activities authorized under this RGP if the District determines that they have the potential to cause unacceptable adverse impacts on aquatic resources or other public interest factors. The District may, on a case-by-case basis, require an Individual Department of the Army (DA) permit. The District will notify the applicant that the project does not qualify for the RGP and instruct the applicant on the procedures to seek authorization under an Individual DA permit. The District may also require an Individual DA permit for any After-the-Fact application or unauthorized activity, regardless if construction meets the RGP limitations.

Operations Division
Regulatory Branch
ID No. LRL-2008-00117

EXPIRATION DATE:

This RGP will be in effect for a period of five (5) years. At the end of the 5-year period, the impact of the authorized activities will be evaluated and a decision made whether the permit should be renewed. Furthermore, the District Engineer, shall, at any time during the 5-year period, alter, modify, or revoke this permit should it be determined that such action would be in the public interest.

Information pertaining to this RGP, including the Decision Document is available for public examination during normal business hours upon prior request. Any questions pertaining to this RGP should be addressed to CELRL-OP-F at the address noted above and should refer to Regional General Permit No. 003.

SPECIAL CONDITIONS

- A. The permittee understands and agrees 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, 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 United States. No claim shall be made against the United States on account of any such removal or alteration.
- B. Total dock extension, including moored boats, shall not exceed 50 feet from the shoreline at normal pool. Further, this permit is not valid for docks in embayment areas. An embayment area is defined as an area off of, but connected to, the main channel of the Ohio River by surface water, and is inundated by corresponding pool elevation at the connection.
- C. The total length of the boat and docks, parallel to the shoreline, shall not exceed a maximum of 50 feet. Further, authorized docks shall not extend beyond the applicant's property, except in cases where the dock is in joint ownership or where the affected property owner provides signed acceptance of encroachment.
- D. All floating docks shall be adequately moored with steel cable, no smaller than 1/4 inch in diameter, which must be securely affixed to a structure (post, deadman, etc.), as opposed to vegetation.
- E. Materials authorized for the structural framing include, but are not limited to; wood, steel, aluminum, polyethylene, and concrete. Floatation material shall be encased in polyethylene, metal, or timber. Metal drum buoyancy shall not be permitted unless filled with floatation material. Metal container and/or drum buoyancy shall not be used if they previously contained chemicals, pesticides, oil, gas, and/or other toxic materials, except that the container and/or drum buoyancy is cleaned in a manner that guarantees removal of all contaminants.
- F. No construction shall be authorized 15,000 feet above or below any locks on the lock side of the Ohio River, or 5,000 feet above or below any locks on the opposite side.
- G. Construction of boat docks in Indiana is subject to the formal approval of the Indiana Department of Natural Resources (IDNR). The IDNR may be contacted at the following address:

Permit Administration Section
IDNR-Division of Water
402 West Washington Street, Room 264
Indianapolis, Indiana 46204
(317) 232-4160
- H. No construction shall be authorized on either bank of the Ohio River between Mile 467 to Mile 474.

GENERAL CONDITIONS

- A. The activity authorized by this permit must be maintained in good condition and in conformance with the terms and conditions of this permit. Permitted activity requirements are not relieved when the activity is abandoned, although there may be a good faith transfer to a third party. A modification of this permit from this office, which may require restoration of the area, must be obtained to cease maintenance of the authorized activity or to abandon the authorized activity without a good faith transfer.
- B. If a conditioned water quality certification has been issued for this project, compliance with the conditions specified in the certification as special conditions of this authorization is required.
- C. Impacts to navigable "waters of the U.S." shall be minimized to the maximum extent practicable. A mitigation/monitoring plan shall be submitted for any activity where the impact is determined to be more than minimal. In determining the minimal impact threshold, the District shall consider the direct and secondary impacts of the proposed activity and any mitigation measures necessary.
- D. The permittee shall ensure that no construction activity is performed during periods of high stream flow or during the fish-spawning season, between April 1 through June 30.
- E. The permittee shall ensure that the authorized activity will not disrupt movement of indigenous aquatic species, including species that normally migrate through the project area.
- F. The permittee shall ensure that all construction equipment is refueled and maintained in an upland site, away from existing streams, drainage and wetland areas.
- G. The permittee shall comply with any case-specific Special Conditions added by the Corps of Engineers.
- H. The permittee shall ensure that no activity authorized by the RGP may cause more than minimal adverse effects on navigation.
- I. The permittee shall ensure proper maintenance of any structure authorized by this RGP, including but not limited to, maintenance for the purpose of public safety.
- J. The permittee shall not perform any work within any Wild and Scenic Rivers, or in any river officially designated as a "study river." Exceptions include when the appropriate Federal agency, with direct management responsibility for such river, has determined, in writing, that the proposed activity authorized by the RGP will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal Land Management agency in the area (i.e. United States Forest Service, Bureau of Land Management or the United States Fish and Wildlife Service).

- K. The permittee shall not perform any work under the RGP which is likely to jeopardize the continued existence of a threatened or endangered species, or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which is likely to destroy or adversely modify the critical habitat of such species. The permittee shall notify the District Engineer if any listed species or critical habitat may be affected or is in the vicinity of the project. Work shall not begin under the RGP until notified by the District Engineer that the requirements of the ESA have been satisfied and that the activity is authorized. Authorization of an activity under the RGP does not authorize the "take" of a threatened or endangered species as defined under the Federal ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the United States Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal "takes" of protected species are in violation of the ESA.
- L. The permittee shall not perform any activity under the RGP which may effect historic properties listed, or eligible for listing, in the National Register of Historic Places, until the District Engineer has complied with the provisions of 33 CFR Part 325, Appendix C. The permittee shall notify the District Engineer if the activity authorized by the RGP may affect any historic properties listed, determined to be eligible, or which the permittee has reason to believe may be eligible for listing on the National Register of Historic Places. Construction shall not begin until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources may be obtained from the appropriate State, Division of Historic Preservation and Archaeology.
- Work shall immediately stop and this office immediately notified if the permittee discovers any previously unknown historic or archaeological remains while accomplishing the authorized activity. The District 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 in the National Register of Historic Places.
- M. Representatives from the Corps of Engineers, State, and/or Federal agencies shall inspect any authorized activity and/or mitigation site at any time deemed necessary to ensure compliance with the terms and conditions of the RGP and/or applicable laws.
- N. All work authorized by this RGP must be completed by the expiration date of this RGP or 1 year after the date of the Corps of Engineers authorization letter, whichever occurs later. If more time is needed to complete the authorized activity, a time extension should be submitted to this office at least 3 months before the expiration date.

- O. The permittee, after the completion of work under the RGP, shall submit a signed certification letter regarding the completed work and required mitigation, if applicable. The certification letter shall include a statement that the work was completed in accordance with the authorized RGP, including compliance with all General and Special Conditions, and completion of mitigation work.
- P. Any specific authorization granted by this RGP is subject to revocation or modification by the District Engineer if he determines that the structure authorized:
 - 1. Has created or may create, a hindrance or hazard to navigation.
 - 2. Is detrimental to the environment.
 - 3. Is damaging to the general public interest.
- Q. The permittee shall refer to the Corps of Engineers, Real Estate Branch, in cases where construction on the shore may affect flowage easements.
- R. There shall be no boat docks constructed in a known shellfish bed.