



CENAO-CO-R
98-RP-24

REGIONAL PERMIT

Effective date: August 28, 1998

Expiration Date: August 28, 2003

Authorized Activities: Bulkheads, Riprap, Boathouses and Boat Ramps in Claytor Lake and Smith Mountain Lake in the Commonwealth of Virginia.

The people of Pulaski, Bedford, Franklin, and Pittsylvania Counties, Virginia are hereby authorized by the Secretary of the Army and the Chief of Engineers (under provisions of Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344)) to install bulkheads, riprap, boathouses, and boat ramps in Claytor and Smith Mountain Lakes.

Permits for private, community, commercial, or government open-pile, and floating piers and mooring piles are not required in these waterways pursuant to Section 154 of the Water Resources Development Act of 1976. Further, private, community, commercial, or government recreational boathouses that do not exceed 36 feet in length, 12 feet in width and 15 feet in height are permitted by this regional permit and submission of an application is not required.

Activities authorized by this permit do not require further authorization under the provisions contained in 33 CFR 325 unless the District Engineer determines, on a case-by-case basis, that additional review is in the public interest. This regional permit shall not be interpreted as authorizing any work other than that which is outlined below.

All work undertaken outside the following conditions, standards, and limitations will require separate Department of the Army authorization.

Special Conditions

1. Any person wishing to utilize this regional permit must follow the procedures listed below:
 - a. Complete and sign the attached Application for Installation of Bulkheads, Riprap, Boathouses and Boat Ramps in Claytor Lake and Smith Mountain Lake (Form NAO FL 106, January 31, 1990).
 - b. Submit a drawing with dimensions and benchmarks showing the location of the proposed structures in plan and section view, and showing property lines and property ownership. (See attached sample drawings and checklist).
 - c. Submit a completed "Adjacent Property Owner's Acknowledgement Form" (see attached) or similar statement from each adjacent property owner indicating they have reviewed the proposed work.

- d. Submit the aforementioned forms and drawings to the Norfolk District, Corps of Engineers, Christiansburg Field Office, Tudor Square 209-211 Roanoke Street, Suite 8, Christiansburg, Virginia 24073, (540) 382-6740.
- e. No work shall be authorized under this permit until this information has been received and approved by the District Engineer or his designee.

2. For bulkheads, riprap and associated backfill:

- a. The work must be necessary to combat an existing erosion problem.
- b. The total amount of vegetated wetlands which may be filled, in square feet, must not exceed the length of the activity along the shoreline in linear feet (e.g. 100 square feet maximum for a 100-foot long bulkhead.)
- c. The structure and backfill must be placed as closely to the shoreline as is practicable. No material may be placed in excess of the minimum necessary for erosion protection.
- d. The activity must not impair surface flows.
- e. Only clean, non-metallic, non-organic, non-floatable fill may be used.
- f. The activity must be a single and complete project.

3. For recreational boathouses:

- a. This authorization covers any boathouse whose primary purpose is recreational.
- b. An application is not required if the dimensions of the boathouses do not exceed 36 feet in length, 12 feet in width, and 15 feet in height.
- c. This work does not qualify for the regional permit if it involves any dredging or filling. In that event, separate Department of the Army authorization will be required. Authorization of the boathouse does not imply that a future dredging proposal to provide access to the structure would be approved.

4. For boat ramps, accessory structures and associated fill and excavation:

- a. This regional permit covers all boat ramps, whether private, public, commercial, or government-owned.
- b. This permit authorizes excavation and/or filling within the limits of the boat ramp only (e. g. for bedding). Dredging or filling for access to the boat ramp is not covered under this regional permit and will require separate Department of the Army authorization. Authorization of the boat ramp does not imply that a future dredging proposal to provide access to the structure would be approved. Therefore, it is recommended that ramps be located in areas that will eliminate or minimize the need to dredge for access.
- c. This regional permit does not preclude boat ramp construction in wetland areas; however, a site visit will be conducted by the District staff on each application in an effort to minimize project impacts and review alternative locations.

- d. All State and local requirements and regulations pertaining to construction, installation, and maintenance of boat ramps remain applicable.
5. No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material discharged must be free from toxic pollutants in toxic amounts.
6. If the activity involves a discharge of dredged or fill material, the discharge will be carried out in conformity with the goals and objectives of the EPA Guidelines established pursuant to Section 404(b) of the Clean Water Act and published in 40 CFR 230.
7. The permittee must install and maintain, at his expense, any safety lights and signals prescribed by the United States Coast Guard (USCG), through regulations or otherwise, on the authorized facilities. The USCG may be reached at the following address and telephone number: Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23704, telephone number (757) 398-6230.
8. The permittee hereby recognizes the possibility that the structures permitted herein may be subject to damage by wave wash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to ensure the integrity of the structure permitted herein from damage by wave wash and the permittee shall not hold the United States liable for any damages.
9. If the project involves pouring of concrete, it must be accomplished within a cofferdam unless the activity can be performed completely in the dry, such as during lake drawdown periods. The introduction of uncured concrete into surface waters is prohibited.
10. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.

General Conditions:

1. This regional permit will authorize work undertaken within the geographical limits of the counties of Pulaski, Bedford, Franklin, and Pittsylvania within the Commonwealth of Virginia under the regulatory jurisdiction of the Norfolk District.
2. A copy of this permit and any verification letter must be provided to the contractor and made available at the project site to any regulatory representative.
3. (a) No activity is authorized under this permit 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, or which is likely to destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the Norfolk District if any listed species or critical habitat might be affected or is in the vicinity of the project and shall not begin work until notified by the district engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.
(b) Authorization of an activity by this permit does not authorize the "take" of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g. an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal "takes" of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained from the

U.S. Fish and Wildlife Service and National Marine Fisheries Service or their world web pages at:
<http://www.fws.gov/~r9endspp/endspp.html>
and
http://kingfish.ssp.nmfs.gov/tmcintyr/prot_res.html#ES and recovery

4. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized until the Norfolk District has complied with the provisions of 33 CFR 325, Appendix C. The prospective permittee must notify the Norfolk District if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the Norfolk District 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 can be obtained from the Virginia Department of Historic Resources and the National Register of Historic Places.

5. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify the Norfolk District of what you have found. We 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.

6. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

7. Authorized activities must comply with Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations".

8. No activity may cause more than a minimal adverse effect on navigation.

9. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.

10. Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date.

11. The construction or work authorized by this permit will be conducted in a manner so as to avoid any degradation of water quality and/or damage to aquatic life where possible, and minimize any degradation where unavoidable. Also, you will employ measures to prevent or control spills of fuels or lubricants from entering the waterway.

12. Permittees are expected to fully comply with Virginia Administrative Code 9 VAC 25-260-10, Water Quality Standards, and all other appropriate laws and regulations of the Commonwealth of Virginia pertaining to water quality.

13. The permittee will make every reasonable effort to conduct the construction or operation of the work authorized by this permit in a manner so as to minimize any adverse impact on fish, wildlife and natural environmental values.

14. Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance.

15. The permittee shall allow the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.
16. Failure to comply with the terms and conditions of this permit can result in enforcement actions against the permittee and/or contractor.
17. The provisions of this permit shall be binding on any assignee or successor in interest of the permittee.
18. In order to transfer this permit, the transferee must supply the Norfolk District with a written request to transfer the permit.
19. Should you be unable to complete the authorized activity in the time limit provided, you must submit your request for a time extension to this office for consideration at least one month before the permit expiration date.
20. In granting an authorization pursuant to this permit, the Norfolk District has relied on the information and data provided by the permittee. If, subsequent to notification by the Corps that a project qualifies for this permit, such information and data prove to be materially false or materially incomplete, the authorization may be suspended or revoked, in whole or in part, and/or the Government may institute appropriate legal proceedings.
21. Limits of this authorization:
 - a. This permit does not obviate the need to obtain other Federal, state or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal projects.
 - e. This permit does not grant any Corps real estate rights. If real estate rights are needed from the Corps, please contact Norfolk District's Real Estate Division at the address listed on the front page or telephone (757) 441-7735.
22. In issuing this permit, 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.
23. The Norfolk District may reevaluate its decision on your authorization under this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 20 above).

- c. Significant new information surfaces which this office did not consider in reaching the original decision.

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 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 you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail 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 you for the cost. In addition, unpermitted work or violation of permit conditions may result in civil, criminal or administrative penalties (33 U.S.C. 1319 c, d, and g).

24. This regional permit, unless further modified, suspended or revoked, will be in effect until August 28, 2003. Upon expiration, it may be considered for revalidation.

25 August 1998

//Signed//

Date

Robert H. Reardon, Jr.
Colonel, Corps of Engineers
District Engineer