

EFFECTIVE DATE: April 23, 2009

FILE NO \_\_\_\_\_  
REGIONAL PERMIT 09-RP-1  
(Commercial Marina Facilities)

### **DEPARTMENT OF THE ARMY REGIONAL PERMIT**

Pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), this Regional Permit (RP) authorizes you to construct the marina facilities as shown on the attached plans provided the work is accomplished and maintained in accordance with the terms and conditions specified below.

#### **PERMIT CONDITIONS:**

##### **GENERAL CONDITIONS.**

1. The work must be completed within five years of the date of issuance of the RP, before: April 23, 2014.
2. The facilities must be maintained in good condition and in conformance with the terms and conditions of the RP.
3. If any previously unknown historic or archaeological remains are discovered while accomplishing the activity authorized by the RP, the permittee must immediately notify this office. This office will initiate 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.
4. Representatives of the Corps must be allowed 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 the RP.

##### **SPECIAL CONDITIONS.**

1. All work must be performed within harbor limits of existing, currently operational marinas as established by the Tennessee Valley Authority (TVA) and TVA must approve the work prior to construction.
2. The number of additional slips approved within existing harbor limits cannot be greater than one-third of the existing number of slips.
3. No-wake zones and/or no wake buoys are not authorized by this permit.
4. Structures must be constructed of quality materials free of toxic substances, and if flotation is required, barrels, drums, etc., are not to be used. Flotation material shall be styrofoam or similar material and shall be encapsulated with plastic or protected in such a manner so that pieces will not break off and pollute the waterway.
5. The work must not interfere with the public's right to free navigation on all navigable waters of the United States.
6. Any safety lights and signals prescribed by the United States Coast Guard, through regulations or otherwise, must be installed on the facilities at the owner's expense.
7. There is a possibility that structures permitted by this RP may be subject to wave wash from passing vessels. The issuance of this RP does not relieve the permittee from taking all proper steps to insure the integrity of these structures and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.
8. The work shall not affect threatened or endangered species, as identified under the Endangered Species Act, or endanger the habitat of such species.

##### **SPECIAL CONDITIONS IN ALABAMA ONLY**

1. Marina operators should contact the Marine Police Division (334) 242-3673 with regard to water safety, pier lighting requirements, etc.

2. Marina operators should also coordinate with the state Lands Division (334) 242-3484 with regard to potential impacts to state owned water bottoms.

3. Marina operators must consult with marine architects or professional civil engineers familiar with the Access Board latest rulings.

**FURTHER INFORMATION:**

1. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, state, or local authorization 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 project.

**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.**

2. Limits of Federal Liability. 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.

3. Reliance on Applicant's Data. The determination of this office that your work meets the criteria for authorization by this permit was made in reliance on the information you provided.

4. Reevaluation of your activity. This office may reevaluate its decision that your activity is authorized by this permit at any time the circumstances warrant. Circumstances that could require 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 regarding the activity proves to have been false, incomplete, or inaccurate.

c. Significant new information surfaces which this office did not consider in reaching a decision that your work meets the criteria for authorization under this permit.

d. Any new information regarding threatened or endangered species and/or their habitats, including new listings, that was not available when this RP was issued.