



DEPARTMENT OF THE ARMY
CHICAGO DISTRICT, CORPS OF ENGINEERS
111 NORTH CANAL STREET
CHICAGO, ILLINOIS 60606-7206

REPLY TO
ATTENTION OF:

Executive Office

MAY 12 2000

Fox River-Chain O'Lakes Boat Pier and Boat Ramp
Application Review Policy

On June 21, 1994 the U.S. Army Corps of Engineers, Chicago District (District), issued a policy that outlined the District's procedures and requirements for obtaining permits for boat piers and boat ramps in the Fox River-Chain O'Lakes region. That region extends from the Fox River at the Wisconsin-Illinois state line to the Algonquin Dam on the Fox River, including the lakes and connecting channels that lie between those two points, all located within the State of Illinois. The District's policy resulted, in part, from an environmental impact study, which examined the environmental impacts of recreational boating in the Fox River-Chain O'Lakes region.

Since the District's implementation of that policy, the District has clarified certain language in the policy and made other changes in the regulatory permit program, including the development of the District's Regional Permit Program, which began January 1, 2000. In light of these changes, the District has decided to amend its 1994 policy, which is effective immediately upon signature.

The policy is directed at limiting the number of permanent piers and boat ramps at multi-user facilities to the number of already existing, currently serviceable piers and ramps at such facilities. The policy accomplishes this goal by requiring permit applicants to remove from the defined trading regions, one existing, currently serviceable pier or boat ramp for each pier or boat ramp for which a permit is sought.

Single family or single user piers were routinely reviewed in accordance with this policy and authorized under Regional Permit number 15 or under a Letter of Permission. The impact of new single family or single user piers are adequately evaluated under either the Regional Permit Program or other standard procedures, including letters of permission or individual permits, as the specific circumstance warrant. Single family or single user piers will no longer be covered by this policy. All boat ramps, regardless of ownership, require a trading offset as outlined above.

Since the creation of the 1994 policy, the District has not learned of any significant environmental concerns that differ from those included in the environmental impact statement. The District has therefore revised the policy, enclosed, to clarify the procedures that it will follow for evaluating applications for piers and boat ramps in the Fox River-Chain O'Lakes region.

Enclosure

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District Engineer

**Fox River-Chain O'Lakes Boat Pier and Boat Ramp
Application Review Policy**

I. Piers

A. Single Family Homes- Single User Piers - The policy does not apply to single user or single-residence piers. Single user or single residence piers may be processed under the Regional Permit Program, letter of permission or individual permit procedures, depending on the circumstance and shall be subject to mitigation for environmental impacts to the human and/or aquatic environment.

B. Restaurants, Taverns and Parks with temporary or transient docking may have their applications processed under the Regional Permit Program, letter of permission, or individual permit procedures if the proposed piers will not be used for overnight mooring. If the restaurant, tavern, or park will allow overnight mooring at the proposed piers, the District will consider the facility to be a multi-user facility subject to the pier permitting policy below.

C. Multi-user Facilities include, but are not limited to, marinas, yacht clubs, motels, hotels, country clubs, town home developments, homeowners associations, condominiums, apartments, common lots, and restaurants, taverns, or parks with overnight mooring. To be considered for a Department of the Army authorization, applicants must remove from the same trading region one authorized, currently serviceable multi-user pier for each pier for which a permit is sought. Moreover, each pier removed from the trading region must provide dockage for the same or greater size and equivalent or greater number of boats as the pier for which a permit is sought.

The pier trading regions are established for the lakes, river sections and their contiguous channels. The District must approve the suitability of proposed facilities for trading. The trading regions are:

- 1 - Grass Lake, Fox River north to the state line
- 2 - Bluff, Channel, Catherine, Marie, Petite, and Spring Lakes
- 3 - Fox, Nippersink and Pistakee Lakes, Fox River to Stratton Dam
- 4 - Fox River between Stratton and Algonquin Dams

Thus, all multi-user facility piers in the Fox River-Chain O'Lakes region must be either:

1. Currently authorized and in use under an existing Department of the Army permit or,
2. Present and in use in 1985 aerial photographs with verification of continued use by a site inspection and presence on current aerial photographs.

Pre-application discussions with District representatives are mandatory for multi-user facilities. The District will consider all permit applications on a case-by-case basis. In reviewing a permit application, the District will evaluate, among other things, whether the piers which the applicant seeks to remove from the trading region,

are comparable to the piers for which a permit is sought. Under Department of the Army Regulations, the aspect of right of reasonable use of private land is subject to the rights and interests of the public in the navigable waters of the United States, and consideration of fish and wildlife values.

Piers from single family platted homes or temporary piers from restaurants or taverns will not be considered acceptable "trading" piers. The District will not process permit applications unless and until the multi-user facility applying for the permit complies with the District's pier policy.

Notwithstanding this policy, the District has established a "grandfathering" policy for piers that were both present and in use in the Fox River-Chain O'Lakes region as of July 17, 1985, as shown by aerial photographs taken on that date and continue to be used, as verified by either a current site inspection or current aerial photographs. Only such multi-user piers that meet all of these criteria are "grandfathered." Replacement piers (that is, piers that replaced those in use in the Fox River-Chain O'Lakes region as of July 17, 1985) are not "grandfathered;" such piers require a permit.

II. Ramps

A. All Ramps - For each boat ramp for which a Department of the Army permit is sought, the permit applicant must remove from the ramp trading region an authorized, currently serviceable ramp of equal or greater size and equivalent or greater trailer parking as the ramp for which a permit is sought. Ramp(s) considered for trading must be currently authorized and in use under an existing Department of the Army permit.

All applications will be considered on a case-by-case basis, including suitability of proposed facilities for trading. Pre-application discussions are mandatory for ramp placement in all instances. An application will not be processed unless and until the applicant complies with the policy.

B. Ramp Trading Regions - The following ramp trading regions are established for the lake and river sections listed and their contiguous channels:

- 1 - Grass Lake, Fox River north to the state line
- 2 - Bluff, Channel, Catherine, Marie, Petite, Spring, Fox, Nippersink and Pistakee Lakes, Fox River to Stratton Dam
- 3 - Fox River between Stratton and Algonquin Dam

Ramp trading regions differ from those for piers because single family platted homes are included in the ramp restriction and there are fewer ramps available than piers.

III. Trading Eligibility

The District will determine the eligibility terms and requirements for trading upon evaluation of the circumstances presented by the pier or

ramp owner. All multi-user facilities authorized by the District to trade piers and/or ramps may do so for three years from the date of authorization, provided that they continue to meet the eligibility requirements set forth in this policy and/or as specifically determined by this office. A time extension may be granted if this office determines that the request for extension would not be contrary to the intent of this policy or the public interest. Any authorization issued by the District will be for the current circumstances and/or conditions of the pier and/or ramp at the time of issuance. Any structural changes, deterioration, or removal of the authorized structure(s) and/or fill will warrant reconsideration of trading rights by the Chicago District. Such changes without the Corps review shall invalidate eligibility for trading.

IV. Extraordinary Circumstances

Exceptions to this policy will be made only in extraordinary circumstances and solely at the discretion of the Chicago District.

V. Discretionary Authority

The District has the discretion to further condition or restrict the applicability of this policy, on a case-by-case basis, for any specific geographic area, or type(s) of activities or structures where there are concerns for aquatic resources or other factors of the public interest.

VI. Other Permits Required

Issuance of a Department of the Army permit does not obviate the need to secure all other permits or authorizations as may be required by local, state or other federal agencies. The responsibility for identifying and securing all such permits lies solely with the applicant.

A Department of the Army permit is without force or effect until all other required permits have been obtained.

Definitions

Abandonment - "failure to continue use or serviceability of the structure for at least one boating season."

Authority B "the District is authorized to issue or deny permits for structures on navigable waters of the United States pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act, and as per its regulations, the Corps has the discretion to suspend, modify, or revoke authorizations. Issuance of permits or authorizations by other agencies does not constitute an authorization from the Corps of Engineers."

Currently serviceable B "means useable as is or with some maintenance, but not so degraded as to essentially require reconstruction."

Discretionary authority B "the District has the discretion to further condition or restrict the applicability of this policy, on a case-by-case basis, for any specific geographic area, or type(s) of activities or structures where there are concerns for aquatic resources or other factors of the public interest."

Grandfathering - "applies to any structure that was constructed and in place prior to or on July 17, 1985 is allowed to exist provided the structure has not been modified or abandoned since 1985. As of June 21, 1994, the original establishment date of this policy, those grandfathered structures do not require further authorization unless they are proposed for modification."

Modification of structures B "any deviation to the structures, configuration, location, use, or construction materials specified at the enactment of an authorization or grandfathering."

Multi-user piers B "piers that are normally accessed and used by multiple individuals for overnight mooring. Multi-user piers typically include, but are not limited to, marinas, yacht clubs, motels, hotels, country clubs, townhomes, homeowners associations, condominiums, apartments and outlots."

Single-user or Single-resident piers B "piers designated for use by a single residence on lots that are:

1) Platted to the riverfront and meet the local government's minimal legal lot size requirement for permanently fixed, legal family residences, or 2) designated through a recorded covenant, statute or ordinance before June 21, 1994 for use by a single family residence meeting the above criteria."

Transient piers B "piers used for parking, but not overnight mooring, to access facilities, parks, restaurants, businesses, or other establishments that provide goods or services to boaters or for boating uses."