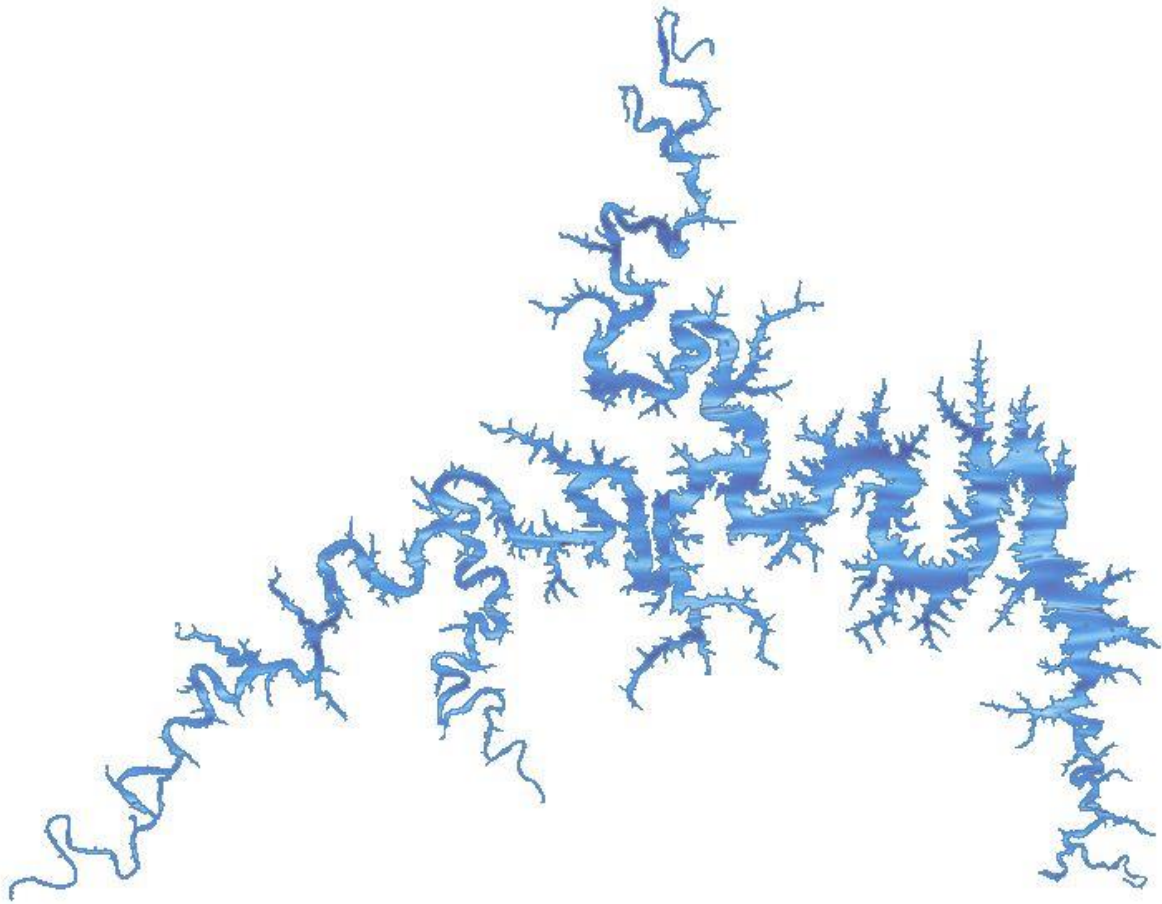


Shoreline Management Plan



**US Army Corps
of Engineers** ®
Little Rock District

Table Rock Lake

White River and Tributaries,
Arkansas and Missouri

2019

**DRAFT SHORELINE MANAGEMENT PLAN
SUPPLEMENT TO THE
TABLE ROCK LAKE
OPERATIONAL MANAGEMENT PLAN**

**DEPARTMENT OF THE ARMY
LITTLE ROCK DISTRICT CORPS OF ENGINEERS
LITTLE ROCK, ARKANSAS
DRAFT November 2019**

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INTRODUCTION

PURPOSE

The *Shoreline Management Plan for Table Rock Lake* establishes policy and furnishes guidelines for the protection and preservation of desirable environmental characteristics of the shoreline while maintaining a balance between public and private shoreline uses. The plan also considers means of restoration of the shoreline where degradation has occurred because of private exclusive use. This plan is intended to develop management strategies for the review, approval, and administration of private shoreline uses on Table Rock Lake. It is not intended to evaluate or develop management measures for application in the review, approval and administration of public shoreline uses, such as commercial concession leases, limited motel/resort leases, and public utilities, except as specifically stated herein.

POLICY

It is the policy of the Chief of Engineers to protect and manage shorelines of all Civil Works water resource development projects under Corps jurisdiction in a manner which will promote the safe and healthful use of these shorelines by the public while maintaining environmental safeguards to ensure a quality resource for use by the public. Authority for administering this policy is granted under Public Laws 86-717 and 87-874 which charge the Chief of Engineers with the application of good conservation practices which promote recreation and the operation and maintenance of water resource projects in the public interest.

In this document when the title *Operations Project Manager* is used it is intended to include his or her authorized representatives, except for where specifically excluded.

REFERENCES

- Section 4, 1944 Flood Control Act, as amended (16 USC 460d).
- The Rivers and Harbors Act of 1894, as amended and supplemented (33 USC 1).
- Section 10, Rivers and Harbors Act of 1899 (33 USC 403).
- National Historic Preservation Act of 1966 (P.L. 89-665; 80 Stat. 915) as amended (16 USC 470 et seq.).
- The National Environmental Policy Act of 1969 as amended (42 USC 4321, et seq.).
- The Clean Water Act (33 USC 1344 et seq.).
- The Water Resources Development Act of 1986 (P.L. 99-662).
- Title 36, Chapter III, Part 327, Code of Federal Regulations, “Rules and Regulations Governing Public Use of Water Resources Development Projects Administered by the Chief of Engineers”.
- Executive Order 12088 (13 Oct 1978), Federal Compliance with Pollution Control Standards. See Exhibit A.
- 33 CFR 320-330, “Regulatory Programs of the Corps of Engineers”.
- ER 1130-2-540, “Management of Natural Resources and Outdoor Recreation at Water Resource Projects”.
- EM 385-1-1, “Safety and Health Requirements Manual”.
- The Federal Water Pollution Control Act of 1972 (FWPCA).

- ER 1130-2-540, “Historic Preservation Program”.
- Executive Order 11990, “Protection of Wetlands”.
- Endangered Species Act of 1973, as amended.
- Federal Insecticide, Fungicide, and Rodenticide Act of 1972, as amended (P.L. 92 516).
- ER 1130-2-406, Shoreline Management at Civil Works Projects (31 Oct 1990).
- Reservoir/Forest Cover Act of Sept. 6, 1960 (P.L. 86-717).
- ER 405-1-12, Real Estate Handbook, as amended.
- Executive Order 13514, “Federal Leadership in Environmental Energy and Economic Performance”

HISTORY AND BACKGROUND

TABLE ROCK LAKE

The Table Rock Lake Civil Works project on the White River, located within Southwest Missouri (Stone, Taney, and Barry counties) and Northwest Arkansas (Boone and Carroll counties), was authorized by the Flood Control Act of 28 June 1938, Public Law 761, 75th Congress, 3rd Session. Table Rock Lake was authorized for five missions: flood control, generation of hydroelectric power, provide recreational development, fish and wildlife, and water supply (storage to provide water for operation of a fish hatchery by the State of Missouri). The construction of the dam was completed in 1958, and the powerhouse and switchyard were completed in 1959. The lake was declared operational for public use in 1960.

SHORELINE MANAGEMENT

Table Rock Lake was selected as one of the three representative study areas in the Southwestern Division designated to develop the initial lakeshore management plans. The general concept for lakeshore management was approved by the Division Engineer in October 1972. The general public participated in the development of a preliminary *Lakeshore Management Plan for Table Rock Lake* through public meetings held in Shell Knob, Missouri and Kimberling City, Missouri, in December 1972. The original *Table Rock Lake Shoreline Management Plan (SMP)*, also known as the *Lakeshore Management Plan*, was approved in April 1976.

The *SMP* was reviewed, updated with public involvement, and approved by the Division Engineer in May 1982. After a period of public review, the *SMP* was supplemented in January 1988, April 1989, July 1990, and August 1991. In September 1992, the official conversion of a *Lakeshore Management Plan* to a *Shoreline Management Plan (SMP)* was approved. The last review, update, and approval process of the *Table Rock Lake SMP* took place in March 1996.

This current revision also included public participation in the form of several comment periods, focus group sessions, and informational public workshops, which were conducted as part of the preparation of an Environmental Assessment (EA). This EA provides the documentation of the impacts of the program and will allow for future revisions of this plan. In accordance with Section 1185 of WIIN/WRDA 2016, the Table Rock Lake Oversight Committee (TRLOC) was established in 2019. TRLOC will meet four times and will provide recommendations to the District Commander at the conclusion of the Committee. This Shoreline Management Plan will

be reviewed at least once every five years, in accordance with regulations in place at the time of the review.

DESCRIPTION OF SHORELINE

PROJECT INFORMATION

The project is located in the scenic Ozark Mountain region of southwest Missouri and northwest Arkansas. The total area contained in the Table Rock project, including both land and water surface consists of 62,207 acres. Of this total, 2,576 acres are in flowage easement. When the lake is at the top of the conservation pool, 915' elevation contour, the water area comprises 42,644 acres and 758 miles of shoreline. All measurements for dock spacing and location is based on the 915' elevation contour. Table Rock Lake has a seasonal conservation pool from May through November, topping at the 917' elevation contour. The top of the flood pool is the 931' elevation contour and the 936' elevation contour is the top of the surcharge pool.

PRESENT LAND USE

Land classification categories are established in the *Table Rock Lake Master Plan* and provide the basic framework that will guide the development, management, and operation of all resources and facilities. The shoreline adjacent to all reservoir lands have been classified into shoreline allocations as described in the Shoreline Allocation Section below. The Shoreline Allocations and permitted activities shall not contradict the *Table Rock Lake Master Plan*. Should there be cases where the *Master Plan* conflicts with this *SMP*, the *Master Plan* is the overriding document.

GENERAL PUBLIC USE

Table Rock Lake provides a wide variety of opportunities for the public to recreate on Corps lands and waters. At the time of writing this updated plan, there are numerous county roads that end at Corps property near the lake and over 100 public boat launching ramps with 1,278 parking spaces. There are 26 public use areas with 15 commercial concessionaires with 4,291 wet boat slips and 380 dry boat slips. Additionally, there are 86 limited motel/resort leases with 1,719 wet boat slips.

PRIVATE USE

At the time of writing this document, there are over 11,000 privately owned land parcels adjacent to Corps property, with approximately 8,000 structures. There are 2,246 active vegetation modification permits and 1,915 active private floating facility permits (private/community docks) with 13,549 boat slips. There are approximately 2,000 outgrants for private uses on Corps lands, uses such as steps/stairs, roads, tramways, water lines, and electric service lines to boat docks.

BOUNDARY LINE

The boundary line, Government Fee Take Line, at Table Rock Lake has been established and marked by the Corps of Engineers or private surveyors under contract with the Corps of Engineers, in accordance with standard survey techniques. Most surveys were completed prior

to 1992. The boundary line is generally not located along a specific elevation, and does not form a single contour around the lake, but rather was established by metes and bounds property descriptions. More information on the land acquisition policy for Table Rock Lake can be found in the *Table Rock Lake Master Plan*. The boundary line was marked with standard brass caps. Replacement monuments may have either a brass or aluminum cap. The year that the monument was set is stamped on the cap along with the monument number. These monuments were witnessed with a steel fence post that was painted white. In open areas where the distance between corners is such that the monuments or pins are not visible additional Point On Tangent (POT) monuments were installed. These POTs are designated with a letter on the end of the monument number. Additional boundary line posts were installed at some locations to help locate the line. These posts should not be moved or destroyed. Witness posts are used to mark the approximate boundary location but are not registered, legal survey markers. The brass or aluminum caps designate the boundary.

If a private need arises for the exact location of the common private/Corps property line, the adjacent property owner, at his/her expense, must use a licensed surveyor. The Corps of Engineers will provide information to surveyors or property owners which might assist in the location of boundary lines and property corners. Most of this information is available online and accessible through the Table Rock Lake website. This information is indexed by section, township, and range. A copy of this information is kept at the Table Rock Lake Office and the master records are kept in the Little Rock District Office. Any discrepancies identified by the survey should be resolved with the Operations Project Manager; Chief, Real Estate Division; and the Chief, Survey Section.

MAJOR CHANGES FROM THE PREVIOUS PLAN

This list is not intended to be an all-inclusive list of all changes, but rather to highlight major changes to the Plan.

Shoreline Allocations (Zoning)

- Park Buffer allocation name changed to Public Recreation Area.
- Certain Public Recreation Areas around the lake have been reduced, thus allowing the potential for vegetation permits in some areas where previously not allowed.
- Unusable Limited Development Areas (LDA) were repositioned to encompass docks that were previously located outside of LDA and outside of Marina Buffer Areas.
- Docks located in Restricted Limited Development Areas (RLDA) have fewer restrictions. If all other criteria are met, docks may expand, add swim docks, etc. but may not add slips.
- Community Dock only and Courtesy Dock only allocations have been changed to LDA. Some of those allocations have been repositioned if inactive.

Private Floating Facilities (Docks)

- New permits will be issued for new docks containing a range of 1 to 20 slips.
- There is now a combined total 30,806 boat slips and launching ramp parking spaces that can be placed on the lake.
- Two printed (legible; preferred 11 inches by 17 inches) and one electronic set of engineered stamped plans of the entire facility are required for new and modifications to

existing facilities. In addition to the actual structure, plans must include all amenities, including but not limited to, lockers/storage, PWC moorage, deck overs, and solar battery storage.

- Maximum size slip has changed from 14' x 30' to 12' x 30'.
- Requests to modify docks can only be submitted by the permittee and only one request (which could contain multiple modifications) will be considered in the 5-year permit period.
- PWC lifts attached to the dock must be owned/used by slip owners in the dock.
- No bill of sale or boat registration certificate required to be provided to the Corps for change of ownership of a slip in a community dock; however, it must be provided for verification purposes as requested by the Operations Project Manager, or his/her representative.
- Licenses for new land based electric service will not be approved. If a dock with existing land based electric service is relocated or moved, the existing electric service must be removed and the area restored prior to the issuance or approval of the boat dock permit. In these instances, new electric service must be provided by an alternative power source. If a dock is rebuilt at the same location, the existing electric service may be used. Licenses for existing electrical service to docks may be renewed. In any instance of ground disturbance, compliance with Archeological Resources Protection Act (ARPA) must be met at the landowner's expense or the updated electric service must be provided by an alternative power source.

Vegetation Modification Permits

- Mowing and/or underbrushing permitted area may be limited in circumstances when determined to be in the best interest of the stewardship of the natural resources, for instance if a protected species habitat is discovered such as a Bald Eagle nest or if a safety issue is discovered on site such as crossing a creek, bluff, or a government maintained road.
- Trees and shrubs up to two (2) inches in diameter (measured at ground level) may be removed. Cedar trees up to three (3) inches in diameter (measured at ground level) may be removed. Dogwood, redbud, or serviceberry trees cannot be removed, regardless of size.

Other Permits/Outgrants

- No new ski course permits will be issued.
- No licenses will be issued for new stairs, steps, mooring buoys, or tramways.

SHORELINE ALLOCATION

GENERAL

In compliance with the Corps of Engineers' shoreline management regulation (ER 1130-2-406), the Table Rock Lake shoreline has been classified into six allocations. These allocations are described below and are in agreement with the *Table Rock Lake Master Plan*, at the time of writing this document. A map of the shoreline allocations, stored in GIS format, is readily available for viewing at the Table Rock Lake Office and will serve as the authoritative reference.

Reduced or smaller scale maps may be developed for public dissemination. No changes will be made to the shoreline allocation layer except through the formal update process.

ALLOCATIONS

Limited Development Areas (LDA) (12.0% of Total Shoreline)

These areas are allocated for private activities, such as vegetative modification, and/or the mooring of privately owned floating facilities following the issuance of a permit in accordance with this *SMP* and current Federal Regulations. Requests for enlarging an existing LDA or adding a new LDA will not be accepted or approved. There are 91.3 miles of shoreline allocated as LDA. These areas are shown in red on the *SMP* allocation maps.

Restricted Limited Development Areas (RLDA) (0.9% of Total Shoreline)

Restricted Limited Development Areas are designated to honor previous commitments to owners of existing, lawfully installed docks. Docks moored in RLDA may be sold, bought, ownership transferred, etc., and a permit issued to the new owners(s) allowing the dock to remain at its approved location. Docks moored in these areas will not be allowed to construct additional slips; however, they are allowed to rebuild and/or expand their existing dock/slips the same as docks in LDA, as conditions permit. Relocation of facilities within restricted limited development areas will be considered on a case-by-case basis. No new private floating facilities will be permitted in RLDA. Vegetation modification requests may be approved in RLDA. Requests for enlarging an existing RLDA or adding a new RLDA will not be accepted or approved. There are 6.8 miles of shoreline allocated as RLDA. These areas are shown in purple on the *SMP* allocation maps. This area is a dual allocation with Marina Buffer Area.

Marina Buffer Areas (10.1% of Total Shoreline)

These areas are allocated to designate the area considered to be near commercial marine services per Title 36. Commercial Remote Service Docks are located within this allocation. Vegetation modification requests may be approved in Marina Buffer Areas, provided the request area is located inside the appropriate *Master Plan* land classification. There are 76.3 miles of shoreline allocated as Marina Buffer Areas. These areas are shown in yellow on the *SMP* allocation maps and can be a dual allocation with Public Recreation Area and RLDA.

Historical information on this special allocation: The 1982 *SMP*, Section 4-02.b., Public Recreation Areas, established that “Private floating facilities will not be permitted in areas within approximately 3 road miles of commercial docks and marinas.” The plan went further to state the docks existing in these areas would be allowed to remain under a restricted limited development classification, and could be sold but could not be enlarged or expanded to accommodate additional boats. Additional roads created in the lake area required numerous updates to the 3 road mile designation in the *SMP*. Therefore, during the 1990 update to the *SMP* the 3 road mile designation was translated to an allocation identified as the Marina Buffer to avoid further confusion and to protect these areas from further private development. The 1993 update to the *SMP* added provisions for the placement of Commercial Remote Service Docks within the Marina Buffer Areas allocation.

Public Recreation Areas (5.4% of Total Shoreline)

These areas are designated as developed public recreational sites or Federal, State or similar public use and for commercial concessionaire facilities. No new permits for private shoreline use facilities and/or activities will issued in these areas. Existing permitted docks moored in Public Recreation Areas may be sold, bought, ownership transferred, etc., and a permit issued to the new owners(s) allowing the dock to remain at its approved location. Docks moored in these areas will not be allowed to construct additional slips; however, they are allowed to rebuild and/or expand their existing dock/slips the same as docks in LDA, as conditions permit. Relocation of facilities within Public Recreation Areas will be considered on a case-by-case basis. There are 40.6 miles of shoreline allocated as Public Recreation Areas. These areas are shown in green on the *SMP* allocation maps. This area can be a dual allocation with Marina Buffer Areas.

Protected Shoreline Areas (71.5 % of Total Shoreline)

Protected shoreline areas are designated primarily to protect or restore aesthetic, fish and wildlife, cultural or other environmental values. The shoreline may also be designated in this category for physical protection reasons, such as heavy siltation, rapid dewatering, erosion or exposure to high wind, wave, and current action. Land access and boating are permitted along the shoreline in this allocation, provided aesthetic, environmental and natural resource values are not damaged or destroyed, but private floating recreation facilities may not be moored in these areas. Modification of land form or vegetation by private individuals will be permitted only after due consideration of the effects of such action on the environmental and physical characteristics of the area, provided the request area is located inside the appropriate Master Plan land classification. There are 542.2 miles of shoreline classified as Protected Shoreline Areas. These areas do not have a designated color on the *SMP* allocation maps.

Prohibited Access Areas (0.1% of Total Shoreline)

These shoreline areas are those in which public access is not allowed or is restricted for health, safety or security reasons. These could include hazardous areas near dams, spillways, hydro-electric power stations, work areas, water intake structures, etc. No shoreline use permits will be issued in these areas. Approximately one mile of shoreline is allocated as Prohibited Access Areas. These areas are shown in black on the *SMP* allocation maps.

FLOWAGE EASEMENT

There are lands at Table Rock Lake where the Corps of Engineers' real estate interest is limited to the right to flood the privately owned property commonly referred to as flowage easements. These easements were acquired for the operation of the Table Rock Lake Project and are typically applicable to that portion of the described property lying between the 936' elevation contour, and the Government Fee Take Line. The typical flowage easement grants the Government the perpetual right to occasionally overflow the easement area, if necessary, for the operation of the reservoir; and specifically provides that, "No structures for human habitation shall be constructed on the land [...]"; and provided further that, "No other structures of any other type shall be constructed or maintained on the land except as may be approved in writing by the representative of the United States in charge of the project." All flowage easement deeds should be checked for exact rights acquired prior to proceeding in any action on the easement.

Under *Title 36, Chapter III, Part 327, Code of Federal Regulations*, the Corps of Engineers has authority over all waters of the reservoir and all facilities thereon, regardless of ownership of the underlying land. Easement lands are therefore classified into shoreline use allocations similar to fee-owned lands. Adjoining landowners who desire to place private floating facilities on waters over flowage easement lands must obtain a *Shoreline Use Permit* from the Operations Project Manager and legal access. There are currently 2,576 calculated acres of land affected by flowage easements.

SHORELINE USE PERMITS

All approved private activities or facilities are only authorized in writing from the Corps of Engineers. The type of written authorization issued by the Corps depends on the type of activity or facility.

A *Shoreline Use Permit* is required for most private activities and/or facilities on Corps property and on waters areas at Table Rock Lake. *Shoreline Use Permits* are issued for private floating facilities, vegetation modification and certain other activities. These are governed by the regulations referenced in this *SMP*.

Ownership, construction, operation, use and maintenance of permitted/licensed facilities and/or activities are subject to all permit conditions and all applicable federal, state and local laws and regulations. Failure to abide by these applicable laws and regulations may be cause for revocation of the permit. The Table Rock Lake Office collects permittee and/or owner information including name, address, phone number, boat registration information and email to keep on file for permit purposes. This information will not be released to the general public except in accordance with the Freedom of Information Act (FOIA) and the Privacy Act of 1974. All general public requests for this information must be submitted to the Little Rock District Corps of Engineers FOIA Officer.

GENERAL REQUIREMENTS

Shoreline Use Permits are generally issued for a period of five years. Only one permit is issued per dock structure. These documents contain general terms and conditions that are uniformly applicable to all permits issued (See Exhibit B). However, unique circumstances may require the establishment of additional terms and/or special conditions. All applications for *Shoreline Use Permits* on the reservoir are subject to approval by the Operations Project Manager. Requests for activities not specifically addressed in this plan must be submitted in writing to the Operations Project Manager for review.

All *Shoreline Use Permits* are issued and enforced in accordance with the provisions of *Title 36, Chapter III, Part 327, Code of Federal Regulations (CFR)*. The version of this *CFR* in place at the time of writing of this document is attached as Exhibit A. Failure to obtain the proper permits or noncompliance with any of the terms and conditions, general or special, may result in termination or revocation of the permit or other enforcement action.

PUBLIC'S RIGHT OF ACCESS AND USE

The issuance of a *Shoreline Use Permit* does not convey any real estate or personal property rights or exclusive use rights to the permit holder. The public's right of access and use of the permit area must be maintained and preserved. Owners of permitted facilities may take necessary precautions to protect their property from theft, vandalism or trespass, but may in no way preclude the public right of pedestrian or vessel access to the water surface or public land adjacent to the facility.

PRIVATE FLOATING FACILITY PERMITS (DOCKS)

Shoreline Use Permits are required for all private floating facilities. Private floating facilities as discussed in this plan include private boat docks, community boat docks, and courtesy boat docks. No new permits will be issued for stand-alone swim docks or mooring buoys. Current permits for existing swim docks will continue to be renewed, provided the use and maintenance of the facility is in accordance with all applicable laws, regulations and permit conditions. As addressed in this plan, private docks are docks that have a single owner, as defined herein. Community docks are docks that have multiple owners, as defined herein.

Floating facilities are considered private structures. Because of this, the owners of the dock may restrict use of the facility. All new permits for private floating facilities and any modifications to existing facilities must meet the requirements in this plan. Dock and/or slip ownership is not limited to U.S. citizens. Vessels moored in a private floating facility must be registered to the owner of the facility.

Docks are approved for the mooring of the owner's vessel and the storage of gear essential to the vessel's operation. All boats must be moored inside a slip, with the exception of personal water craft storage as discussed in this plan.

The maximum slip ownership on Table Rock Lake is two slips per household. Slips may be owned by an individual, a married couple, or a single or joint revocable or irrevocable trust. In the case of a trust, the trustee information shall be listed as a point of contact. Being listed as a trustee or point of contact for any slip will be construed as owning one slip as it applies to the maximum ownership of two slips on the lake. When a slip is registered to a trust, boats using the slip must also be registered in the name of the trust. In the case a person comes to acquire more than two slips due to an inheritance, the slips must be sold as soon as possible so that ownership becomes compliant with the *SMP*. Ownership of more than two slips can be cause for termination of the permit and removal of the dock.

Slips will be allowed to have more than two owners only in cases of inheritance. For such transfers, estate documentation will be required, and the fractional interests may not be sold to an outside party, until the sale makes the slip ownership compliant with the *SMP*. Being listed as an owner or point of contact for any slip interest will be construed as owning one slip as it applies to the maximum ownership of two slips on the lake.

PRIVATE DOCKS

New permits may be issued for private docks within a LDA, subject to the restrictions listed

herein. These docks may be a one or two slip dock.

A private dock is a dock that has a single owner, defined as an individual, married couple, or a single or joint revocable or irrevocable trust.

A permit for a private dock does not give the members any exclusive rights to the use of Government lands for access, parking or utilities to serve the dock. Dock owners may not: (a) remove vegetation or trees without approval, (b) construct breakwaters to protect the dock from wave action or, (c) install buoys to restrict speed of passing boats.

The dock permittee is responsible to provide updated ownership information to the Operations Project Manager during the permit renewal process or any other time as requested. An applicant requesting change of ownership of an existing single owner private floating facility permit must submit a signed application, a bill of sale or other proof of ownership transfer from the current permittee and a check or money order for the permit fee.

COMMUNITY DOCKS

New permits may be issued for community docks within a LDA, subject to the restrictions listed herein. These docks may range from two slips to 20 slips in size.

A permit for a community dock does not give the members any exclusive rights to the use of Government lands for access, parking or utilities to serve the dock. Members may not: (a) remove vegetation or trees without approval, (b) construct breakwaters to protect the dock from wave action or, (c) install buoys to restrict speed of passing boats.

Shoreline Use Permits for community docks are issued to a community dock association. The permit also includes an individual who is listed as the “point of contact” for the community dock association. This person is synonymous with the term permittee in this *SMP*. To change the “point of contact” the new permittee must submit an *Application for Shoreline Use Permit/License*, have written approval from a majority of the slip owners, and provide an updated Dock Owner Information form. The “point of contact” will be provided an optional form that, once signed, will allow the Corps to provide his/her contact information to any owners and future owners of slips in his/her dock.

When a slip in a community dock is transferred to a new owner, the seller and buyer must notify the dock permit’s point of contact individual and provide a copy of the bill of sale for the slip and boat registration certificate for the boat to be moored in the dock. The dock permit’s point of contact is responsible to provide updated ownership information to the Operations Project Manager during the permit renewal process or any other time as requested. The dock permit's point of contact information may be provided to slip owners of the community dock. Providing false information and/or otherwise not complying with this *SMP* and/or the terms and conditions of the permit can result in the termination of the permit and the removal of the dock from the lake.

COURTESY DOCKS

Permits for courtesy docks may be issued to other government agencies, municipalities, and commercial enterprises to support public recreation purposes for eating establishments or boat launching ramps. Courtesy docks will not be issued to individuals and no fueling of boats is allowed on courtesy dock. Courtesy docks will be open in design without roof and any signage must be approved by the Operations Project Manager. Courtesy docks may receive conceptual approval for 6-month period; however the dock may not be constructed, nor the permit issued until the construction of the qualifying recreation facility has been substantially completed. Courtesy docks may be moored in LDA or RLDA. Courtesy docks in RLDA will be to support existing boat launching ramps only. Courtesy docks must be used for short term tie-up (1-2 hours) while boaters are conducting their business; no overnight tie-up is allowed. A courtesy dock's size and spacing shall match the type of use, as determined appropriate by the Operations Project Manager on a case-by-case basis. In no case shall the dock exceed one-third width of cove, nor shall it be placed closer than 100 feet to any other docks or other floating structures. A courtesy dock may be located closer than 100 feet to its associated boat launching ramp.

APPLICATION

New or Modification to Existing Facility

A request must be submitted to the Table Rock Lake Office for any new or modification to an existing floating facility. Any new facility or modification must be located within a Limited Development Area. Upon request, a Corps employee will conduct a site inspection to determine if the location is physically suitable. If approved, the applicant will have six months to provide all required submittals. If the submittals are not received within the six month period, the approval becomes null and void. Upon approval of submittals, the applicant will have six months to complete construction. Construction cannot begin until all submittals have been approved and construction plans are stamped/signed approved for construction.

Upon site approval, the applicant must provide the following submittals to receive construction approval:

- *Shoreline Use Application (new permits only).*
- Two printed (legible; preferred 11 inches by 17 inches) and one electronic set of engineered stamped plans of the entire facility. In addition to the actual structure, plans must include all amenities, including but not limited to, lockers/storage, PWC moorage, deck overs, and solar battery storage.
- *Dock Owner Information Sheet* with the name, address, and boat registration for all slips.
- Copy of current boat registration for each new slip. Boat length cannot exceed the length of the new slip. Boats with a marine sanitation device are recommended to be moored in a commercial marina, which can provide approved sewage pump-out.
- A recorded dedicated easement for access and parking, with Planning and Zoning approval (if applicable).
- When replacing an existing dock, must submit either a letter stating old dock will be destroyed and removed from Corps property and waters within 30-days of the installation of the new dock, or Bills of Sale to new owners who have an approved location.

- For requests located in one of the six LDAs where a known cultural site/survey is located, a site visit and/or survey shall be required as appropriate to satisfy ARPA requirements. Finding may preclude facility approval.

Upon construction completion, a *Construction/Electrical Certification* must be completed and submitted. In any instance of ground disturbance, compliance with ARPA must be met at the landowner's expense or the updated electric service must be provided by an alternative power source. A final inspection will be scheduled and upon completion of inspection and approval, the appropriate fee payment to the Table Rock Lake Office is required.

Roof extensions are essentially the same as lengthening a boat slip and will be treated the same as a slip extension.

Additional information for existing docks: Only one request per dock, which can include multiple modifications, will be considered in the five-year permit period and must be requested and submitted by the permittee. Dock modifications require approval by the majority of the slip owners. This approval must be submitted in writing with the request. Converting electric service to an alternative source does not count against the one-time modification.

Reissue (Permit Renewals)

Applications for "renewal" of expiring permits require the applicant to submit the following:

- A completed and signed application.
- Check or money order for applicable fees.
- Current *Dock Owner Information Sheet* with all owner's names, address, phone numbers, and current boat registration numbers.
- The dock permittee is responsible to provide updated ownership information to the Operations Project Manager during the permit renewal process or any other time as requested.
- *Electrical Certification* (if applicable).
- Signed statement that all noted deficiencies have been corrected.

The permit may then be reissued with a new expiration date to the current permittee. All permit conditions of the new permit will apply at that time.

DOCK ACCESS REQUIREMENTS

Reissue (Permit Renewals) and Change of Ownership of Existing Facilities

Dock/slip owners should have legal access to their private floating facilities. However, no documentation of this will be required at the time of application for reissue of existing permits or change in ownership of a facility.

New Slip Construction and Relocating Existing Facilities

The applicant must prove legal access to the shoreline as defined below.

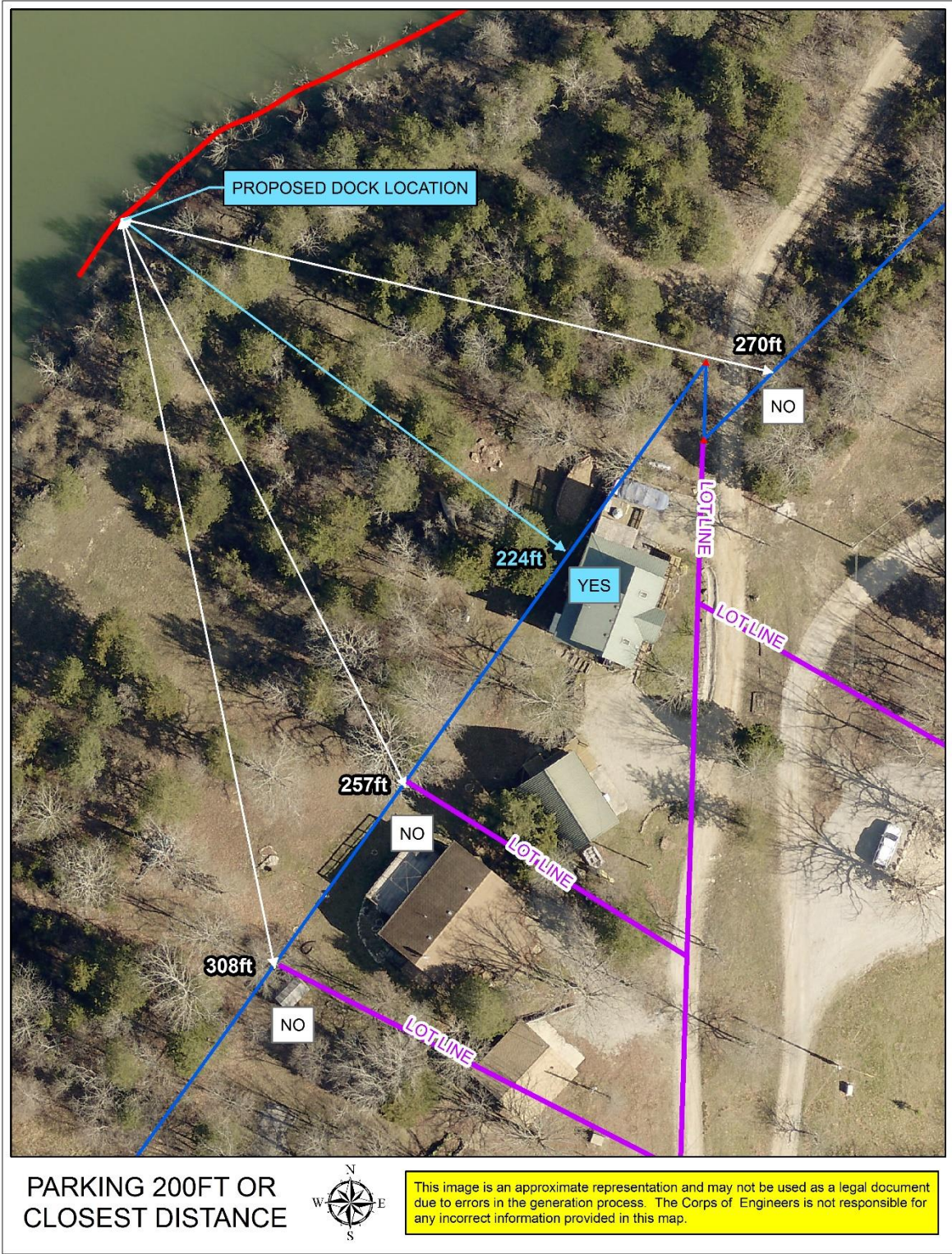
Dedicated parking will not be required for single owner docks; however, applicants must be able

to provide a copy of a land deed showing ownership of adjoining private property within 200' from the 915' elevation contour where the dock site is being considered. In instances where there is greater than 200' from the 915' elevation contour to the Government Fee Take Line (GFTL), the applicant must have legal access on the private property at the location closest to the dock site being considered.

A recorded dedicated easement for access and parking on private property for slip owners must be provided when placing a new community dock, adding a slip to a community dock, or relocating an existing community dock. The access and parking easement must be perpetual and generic in nature so it allows current and future boat slip owners the right to cross adjacent private property for access to the GFTL. The easement must be recorded in the county recorder's office and attached to the property deeds. The easement must be from the landowner and must be dock specific. If the easement is located in a county that requires approval from a Planning and Zoning Office, documentation of approval is required. The parking must be located on private property within 200' from the 915' elevation contour where the dock site is being considered. In instances where there is greater than 200' from the 915' elevation contour to the GFTL, access and parking must be located on private property at the location closest to the dock site being considered (see Figure 1). A minimum of one 10' x 20' parking space will be required for every three slips, with adequate room included for ingress and egress access to these parking spaces.

In the case where a floating facility will be adjoining or floating over a flowage easement area, the applicant must obtain a recorded dedicated easement from the underlying property owner to allow the boat dock to be moored to and float over the property and allow the owners and future owners of the dock, at minimum, pedestrian access to the dock from the dedicated parking area. This easement shall be written to be in effect so long as the dock remains moored at the site, but may be terminated upon permanent removal of the dock/termination of the dock's shoreline use permit. The applicant must also submit a request to the Table Rock Project Office for any proposed improvements in the flowage easement.

FIGURE 1: PARKING/ACCESS 200' OR CLOSEST DISTANCE



Applicants may use dedicated public or county roads that provide access to the GFTL for access and parking. If such road is utilized for parking purposes, the applicant must first obtain a license or easement from the government entity which has jurisdiction over the road.

Use of pre-existing access and parking on Corps property could be considered if the existing licensed area is large enough to accommodate additional slips. These areas include outgranted roads/parking areas licensed to homeowners associations or like groups and county outgrants. Parking areas that were initially licensed under the Traditional Use Roads policy will not be considered to be adequate parking for additional slips. In the event that the dock is relocated or permanently removed from public property at this location and the road and parking area are not servicing any other docks at this location, the easement or license will be terminated and the area must be restored to its original conditions and contours.

Vegetation Modification for Dock Permits

A maximum six-foot wide meandering foot path can be maintained for access to the dock. Reference the Vegetation Modification, Foot Paths section in this plan for additional requirements. A maximum six-foot wide area along each dock anchor cable can be maintained in adherence with the vegetation modification size of tree removal restrictions. Submerged trees located underneath a dock structure at the dock's approved site, at the 915' elevation contour, can be removed.

LOCATION AND SPACING REQUIREMENTS

Location, spacing, density, and depth will be determined at the 915' elevation contour.

Location

Unless specified otherwise in this *SMP*, new floating facilities or relocation of existing facilities will only be considered in areas allocated as Limited Development as indicated on the shoreline zoning maps. The entire facility must be located within the Limited Development Area.

Spacing and Density

No facility will extend out from the shoreline more than one-third the total width of any particular cove, as determined by the Corps of Engineers. In the event where docks are placed across the cove or lake from each other, one-third of the cove's width must remain open for navigation. See Figure 2 and Figure 3.

Each floating facility is to be located no closer than 100 feet from the nearest point of an adjacent facility or land structure. This 100 foot spacing will be measured from the point of any existing facilities nearest to the proposed new facility. Add-ons for all other attachments to the facilities will be considered part of the facility with regards to the spacing requirement. See Figure 4. Requests to modify an existing dock that is less than 100 feet from another facility or structure, refer to section on Pre-existing and Grandfathered Facilities. . The configuration of the facilities, as well as navigational ingress and egress of the boats, will be taken into consideration. If LDA is available, docks may need to move to increase the current spacing. In no case will the distance between docks decrease if the current distance is 100 feet or less. See section on Courtesy Docks for exceptions.

According to Title 36, facilities in limited development areas will not occupy more than 50 percent of the total shoreline bearing that designation. Historically, Table Rock Lake has used the 100ft spacing between facilities to satisfy maximum density requirements.

DRAFT

FIGURE 2: HOW TO MEASURE 1/3 OF COVE WITH DOCK AT AN ANGLE

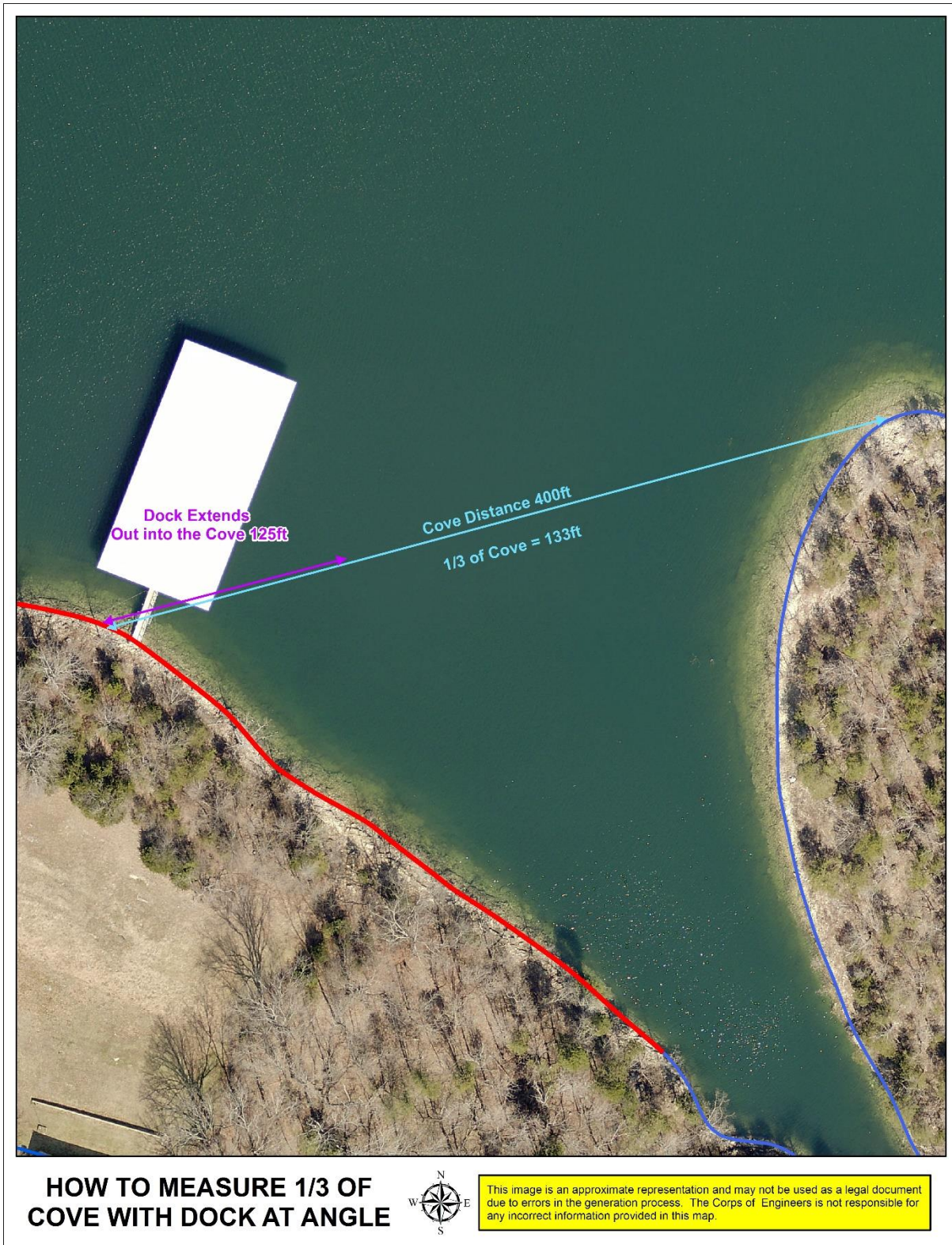


FIGURE 3: HOW TO MEASURE 1/3 COVE WITH MULTIPLE DOCKS



FIGURE 4: HOW TO MEASURE 100' BETWEEN DOCKS



**HOW TO MEASURE
100FT BETWEEN DOCKS**



This image is an approximate representation and may not be used as a legal document due to errors in the generation process. The Corps of Engineers is not responsible for any incorrect information provided in this map.

Water Depth and Slope

New floating facilities or relocation of existing facilities must maintain a minimum of eight-foot water depth at elevation contour 915' for all slips to provide adequate depth for mooring of boats, lifts, and underwater bracing. Ease of pedestrian access should be considered by the applicant, with the understanding that new construction of steps, stairs, or other improved access will not be approved. A site that presents a severe slope and/or bluff may be denied at the discretion of the Operations Project Manager.

Dock Configuration

Docks may be constructed in a perpendicular or parallel design. The access ramp to the facility must be perpendicular to the shoreline and docks cannot be moored at an angle. The number of slips in a dock may be reduced. Docks irregular in shape may be considered on a case by case basis.

PRE-EXISTING AND GRANDFATHERED FACILITIES

Facilities that were permitted and constructed in accordance with a previous *SMP* are authorized to remain in place, as long as the facility is maintained in accordance with the *Shoreline Use Permit Conditions*, even if not in compliance with the current *SMP*. These docks will be referred to as “non-conforming” docks. New docks with enclosed sides (i.e. boat houses) are prohibited; therefore when an existing dock with enclosed sides is replaced, the new dock will not have enclosed sides. Other docks which are non-conforming may be rebuilt to the currently approved square footage; however, the new dock should comply with the current *SMP* to the maximum extent possible. If dock spacing is less than 100 ft., no slips shall be added and in no case will a modification be approved that decreases the distance between docks. Additional specific conditions for existing facilities located in a Restricted Limited Development Area or Public Recreation Area are discussed in their respective shoreline allocation description sections.

MULTIPLE FLOATING FACILITIES

More than one floating facility may be permitted to the same individual when:

- An existing floating facility is purchased by a person who already has a floating facility. A change of ownership of the permit must be requested by the new owner.
- Multiple parcels or easements, etc. are owned by the same individual.
- An individual is an owner in more than one dock.
- An individual is the elected point of contact of more than one community dock, for example a subdivision or neighborhood has four community docks, all four community docks may have a single point of contact for the four permits.

FACILITY CONSTRUCTION REQUIREMENTS

New facilities or modification of existing facilities must include plans signed and stamped by a licensed engineer. Alterations to the original approved plan may not be made without prior approval, except as noted below. All construction must be in compliance with *Title 36, Section 327.30*, attached as Exhibit A as updated, revised, or superseded; as well as, compliance with all other Federal, State, and local laws and regulations. All electrical facilities must be in compliance with the National Electric Code and *Title 36, Section 327.30* as updated, revised, or

superseded; as well as, compliance with all other Federal, State, and local laws and regulations. Electric service for new floating facilities and those existing facilities without service must be supplied from an alternative power source (e.g. solar or wind). This service must be installed and maintained to the standards established by the current National Electrical Code. In any instance of ground disturbance, compliance with ARPA must be met at the landowner's expense or the updated electric service must be provided by an alternative power source. Listed below are additional requirements; however, if there is any conflict between this *SMP* and the above, the more stringent rule will apply.

Minimum/Maximum Component Dimensions for the Main Walkway, Fingers, Slips, and Access Ramp.

<u>Component</u>	<u>Minimum Size (feet)</u>	<u>Maximum Size (feet)</u>
Main Walkway (width)	4	6
Finger (width)	3	4
Slip (width)	N/A	12
Slip (length)	N/A	30
Access Ramp (width)	4	6
Access Ramp (length)	20	60

Design Loads (Minimum)

- (1) Deck loads and walkways loads (substructure) 30 psf.
- (2) Wind loads (sub and superstructure) 20 psf.
- (3) Roof loads (superstructure) 10 psf.
- (4) Bracing – All columns and/or studs must be adequately braced to resist wind loads. Bracing shall be designed and constructed to counteract design loads, while allowing sufficient flexibility so wave action will not damage the structural and/or roof system.

Flotation

- (1) Must meet 36 CFR 327.30 Appendix C on all new docks and/or on repairs to existing docks.
- (2) Flotation may not be stacked under the dock structure.
- (3) Adequate flotation must be provided to maintain the substructure a minimum of 8 inches above the water's surface.

Roofs. Roofs may be gabled or single-pitched. The roofs must be securely fastened to the

superstructure to resist wind uplift. Minimum thickness: steel 28 ga., aluminum .032 inches. No recreational features are allowed on roof tops.

Anchorage. An anchorage system shall provide secure mooring of the private floating facility. Anchorage system utilizing dead man or ground stakes shall be installed flush with the existing grade. Anchor cables or other securing devices shall be maintained in good repair and located to minimize obstruction hazards to pedestrians, boaters, and vehicular traffic. Anchor cables will not be attached to trees, stumps, power poles, guardrail posts, etc. Minimum requirements for anchor cables: 3/8 inch steel cable. Galvanized and/or stainless steel cable of same size or larger may be used.

Construction Materials

(1) The dock superstructure and substructure must be constructed of similar type design and construction materials i.e., wood, metal, aluminum. Decking material may vary.

(2) All materials used in construction of the dock must meet Environmental Protection Agency (EPA), National, State, and local guidelines on all new docks and/or repairs to existing docks.

Handrails

(1) Handrails will be provided on at least one side of the walkway leading to the dock and perimeter areas of the dock, with the exception of a swim deck which requires hand and guard rails on the shore side. Gates or safety chains, not to exceed 4 feet wide, may be used in areas on the perimeter of the dock where frequent loading/unloading takes place.

(2) Handrails shall be approximately 42 inches in height with a guardrail approximately 22 inches in height below the handrail.

(3) Handrails must be structurally sound and maintained.

(4) Handrails must withstand a load of at least 200 pounds applied in any direction at any point with minimum deflection.

Access Ramp

All floating facilities must have an access ramp that connects the facility to the shoreline. Each floating access ramp must have enough flotation to provide a stable walking platform or be one solid piece connecting the shoreline to the floating facility without touching water. Access ramps cannot be supported by fixed piers or posts.

Storage Lockers

A minimum sized enclosed storage area or locker may be constructed for the storage of equipment necessary for recreational boating. The maximum size footprint allowed is 16 square-feet. Lockers may be placed at the end of fingers, on deck overs in slips, or on the shore side of the dock. Lockers must allow a minimum of three feet pedestrian access on fingers and four feet

pedestrian access on main walkways. Prior approval is not required for the installation of lockers; however, lockers must be shown on the engineer certified docks plans provided to the Table Rock Lake Office.

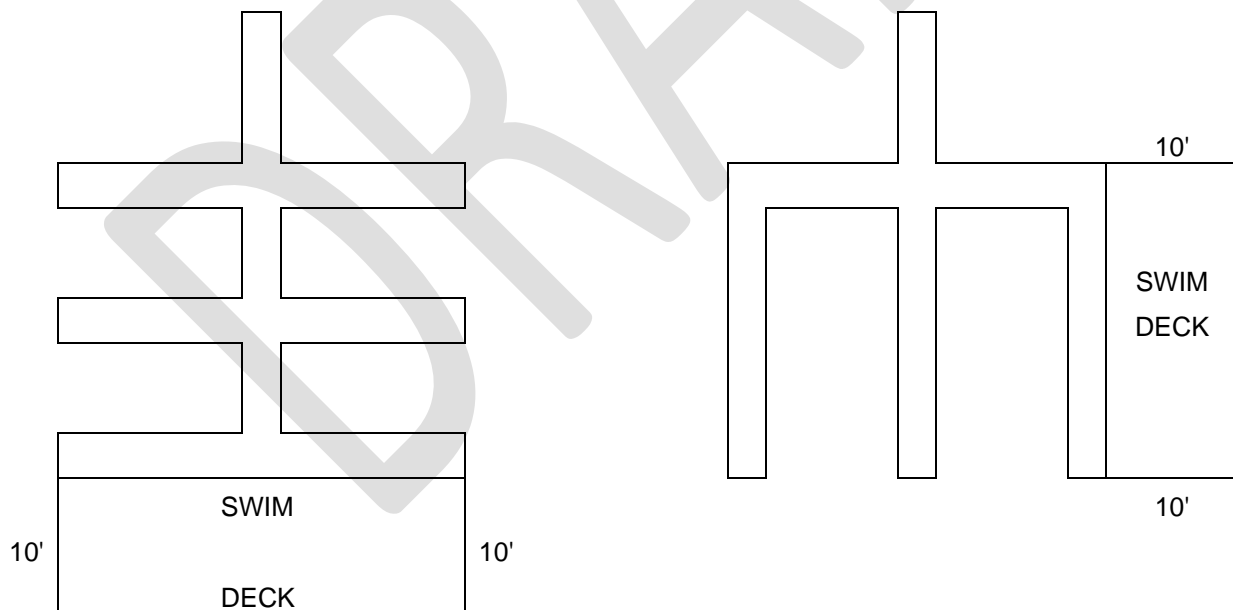
Personal Watercraft (PWC) Mooring

PWC lifts are allowed to be placed in boat slips or along the shore-side of the dock. Only current slip owners within the dock are allowed to place, own, and/or use PWC lifts on a dock. Prior approval is not required for the installation of PWC lifts; however, the lifts must be shown on the engineer certified docks plans provided to the Table Rock Lake Office.

Swim Decks

On perpendicular docks, swim decks cannot exceed 10 feet from the lake side and not exceed the width of the dock. On parallel docks, the swim deck cannot exceed more than 10 feet from either end slip and cannot exceed the length of the slip. See Figure 5. Only one swim deck is allowed per dock and can be covered. Step downs are permitted, but must be included in the size restrictions and must be shown on plans. Any existing permitted docks with swim decks that are rebuilt must comply with the current size requirements. Swim decks will not be allowed on the shoreline side of a dock. Diving boards, water slides, and elevated platforms are prohibited. Swim decks for irregular docks will be considered on a case by case basis.

FIGURE 5: SWIM DECKS



Deck Over

Slips may be decked over a maximum of six feet from the inside edge of the existing closed end of the slip. Prior approval is not required for the installation of deck overs; however, the deck overs must be shown on the engineer certified docks plans provided to the Table Rock Lake

Office.

Permit Display

Permit holders are required to display two permit plates with the permit number sticker and expiration year sticker. These plates are provided by the Table Rock Lake Office and will be sent to the applicant upon permit issuance. One plate must be securely attached to and displayed on the shoreline side and the other on the lake side of the dock. New expiration year stickers will be sent to the permittee at each permit renewal. These stickers are to be placed over the old expiration date on the permit plates.

Electric Service

Temporary use of generators is allowed; however, generators may not be stored on the dock. See section on Facilities Requiring Outgrants, Electric Lines, for information on use, maintenance, and renewal of existing electric line right-of-ways.

Structure Enclosure

Enclosure of the superstructure will not be allowed. Existing enclosed facilities will be allowed to remain as long as they are maintained in their current condition. No modifications to, or replacement of, an enclosed facility will be allowed. If replaced, the new facility must be open in design.

VEGETATION MODIFICATION PERMITS

Mowing, underbrushing, dead tree removal and all other related work performed on Corps property around the lake must have prior written approval from the Corps of Engineers. The approval for a vegetation modification request is granted through a *Shoreline Use Permit*. Where significant wildlife habitat or scenic/aesthetic areas occur, requests for vegetation modification may be denied or additional restrictions may be included on the permit.

In all cases, the permittee will avoid creating the appearance of private exclusive use of public property. All lands covered by a *Shoreline Use Permit* will remain open at all times for use by the general public. The placement of personal property on Corps property is prohibited. Permit conditions are attached as Exhibit B.

APPLICATION

An application must be made to the Table Rock Lake Office, and permit issued prior to modification of vegetation on Corps property.

New or Change of Ownership Permit Requests

All persons applying for a permit allowing vegetation modification in a new area or persons requesting a change of ownership of an existing *Shoreline Use Permit* must submit a completed *Application for Shoreline Use Permit* along with the required fee and proof of ownership of property adjacent to Corps property. Upon issuance of a permit, the boundary must be marked by installing a standard Corps-supplied permit sign on the common boundary line. The applicant must provide a metal T-post or 4"x4" wooden post and install the provided sign on the

post as directed. It is the responsibility of the applicant to establish the location of the common boundary. In cases where there is a boundary line dispute or a potential encroachment, the applicant will be required to provide a survey, prior to issuance of a permit.

Reissue (renewal)

Applications for “renewal” of expiring permits require the applicant to submit a signed *Application for Shoreline Use Permit* and a check or money order for the permit fee. The permit will then be reissued with a new expiration date to the existing permittee. All permit conditions in place at the time of the new permit issuance will apply to the renewed permit, except as noted herein. In cases where there is a boundary line dispute or a potential encroachment, the applicant will be required to provide a survey, prior to issuance of a permit.

VEGETATION MODIFICATION

Mowing and Underbrushing

Shoreline Use Permits for vegetation modification, to include mowing or underbrushing, may be approved and a *Shoreline Use Permit* issued within areas of the lake allocated as LDA, RLDA and Protected Areas, provided the area is not classified as Environmentally Sensitive Area in the most current Table Rock Lake Master Plan. Permits for mowing and underbrushing on lands classified as Wildlife Management Areas may be considered on a case-by-case basis by the Operations Project Manager. Previously approved vegetation modification requests within a shoreline allocation which normally would not allow vegetation modification, shall be grandfathered and will be allowed to continue and/or renew his or her existing permit as long as it remains active and in good standing ; however these grandfathered permits will not be transferrable to a new landowner should the properties be sold or transferred.

Mowing and underbrushing will be limited to the area of Corps property between the adjoining private property lot lines, as though the lot lines were extended onto Corps property from the common private/Corps property line towards the shoreline, for up to a maximum of 200 feet from the base of the permanent habitable structure on the adjoining private property. At no time should mowing or underbrushing occur in an area that exceeds 200 feet from a habitable structure, unless provided for specifically in this *SMP*. Within specified areas of the permitted vegetation modification request, turf tired lawn mowers, string trimmers, and hand tools may be used. Use of tractors may be approved in specific situations with prior written approval. A Right of Entry from Real Estate Division may be required for equipment use on Federal lands. . Campsites, decks, porches, and garages are not considered part of the habitable structure for the purposes of obtaining mowing and/or underbrushing permit. Mowing and/or underbrushing permitted area may be limited in circumstances when determined to be in the best interest of the stewardship of the natural resources, for instance if a protected species habitat is discovered such as a Bald Eagle nest or if a safety issue is discovered on site such as crossing a creek, bluff, or a government maintained road. The actual limits of vegetation modification in each case will be determined by the Operations Project Manager, and defined on the *Shoreline Use Permit*. Trees and shrubs up to two (2) inches in diameter (measured at ground level) may be removed. Cedar trees up to three (3) inches in diameter (measured at ground level) may be removed. Dogwood, redbud, or serviceberry trees cannot be removed, regardless of size. Trimming, limbing or topping of trees and chemical manipulation of vegetation is prohibited, unless provided for

specifically in this *SMP*.

There are currently three active *Shoreline Use Permits* for vegetative modification in Environmentally Sensitive Areas (ESA). *Shoreline Use Permits* for vegetative modification are not allowed in ESA. Each of the three current permit holders have been notified of the permit status and will be allowed to continue and/or renew his or her existing permit as long as it remains active and in good standing. These permits will not be transferrable to a new landowner should the properties be sold or transferred.

Foot Paths

In areas with a land classification as Low Density Recreation, a foot path may be permitted to the 915' elevation contour. There is no requirement for a habitable structure on the adjacent private property for the issuance of this permit. The path cannot exceed 6 feet in width and must be meandering to prevent erosion. The path route will be the shortest meandering distance between private property and the lake, keeping in mind possible safety issues. Natural colored wood mulch or wood bark may be used on the path. No materials such as stairs, steps, landscape blocks, or landscape timbers are permitted on the path. Delineation of the path can be done with natural rock or logs where needed to prevent erosion. Rocks and logs must be small enough to be placed by hand, can't be attached by mortar or permanently installed, and must come from the natural environment. No digging, fill material, or bridges will be allowed to be constructed on the path. Trees may be limbed along the path to keep the immediate area of the path clear for walking (maximum six feet wide and six feet tall).

In areas with a land classification of Environmentally Sensitive, a permit for a foot path may be considered. The path cannot exceed 3 feet in width, must be meandering to prevent erosion and no materials can be used on the surface. No limbing is allowed on these paths.

Permits for foot paths on lands classified as Wildlife Management Areas may be considered on a case-by-case basis by the Operations Project Manager.

Path erosion is generally caused by overuse of the trail or use of the trail by vehicles. When an access route to the shoreline is creating an erosion problem, use of the trail must cease and the trail must be restored.

Dead Trees and Limb Hazards

Cutting of dead trees without a permit is prohibited. Dead trees which have fallen to the ground within a vegetation modification permitted area may be cut up and removed from Corps property or left for wildlife habitat, under an existing vegetation modification permit. Photos of the fallen tree must be provided to the Corps office for the permit file. Trees which have fallen to the ground outside a vegetation modification permitted area must be left, unless it is impeding a permitted or outgranted path or road. Standing dead trees within a vegetative management permitted area require a separate permit issued by the Corps of Engineers.

Standing dead trees outside of a permitted vegetation modification area that present a potential hazard to a permanent structure or pose a safety threat to fall on a designated foot path,

approved road, or parking lot may be approved for removal.

With approval, dead or live trees or tree limbs may be removed if causing a imminent threat (at a Corps Ranger's discretion) to a structure or obstructing the designated foot path.

Invasive Species Removal

The removal of invasive species from Government lands is encouraged; however, a *Shoreline Use Permit* for the activity is required. There will be no charge for a permit for the removal of invasive species from Government lands, provided no other vegetation modification is involved in the request. When other vegetation modification is requested in conjunction with the invasive species removal the normal fee payment will be required. For the purpose of this *SMP*, invasive species is defined as those species of plants identified by the Missouri Department of Conservation (for permits in Missouri) or the State of Arkansas (for permits in Arkansas) as "invasive species" in an agency publication. An application for removal of an invasive species should include photos of the area, identification of the invasive species, and the conceptual plan for removal of the species. Use of chemicals can be approved for this purpose; however a use plan must be provided with the application. These permits are not subject to the mowing/underbrushing area distance limitations, nor are they subject to the 2" diameter at ground level size limitation for tree removal. For example, at the time of the writing of this *SMP* the Missouri Department of Conservation listed the Bradford Pear Tree as an invasive species; therefore, any Bradford Pear Tree existing on Corps property could be removed under this type of permit regardless of the tree's location in relation to a habitable structure or the tree's size.

LANDSCAPING

Landscaping in reference to this *SMP*, is defined as the planting of vegetation on public property. Landscaping may be allowed under a permit, provided it is in accordance with an approved planting plan. Planting of vegetation is encouraged; however, only native plants are approved for use. Upon planting, all vegetation is subject to current permit requirements. Ornamental flowers and other non-native plants are not authorized. Building structures, use of timbers, decorative rock, and similar items are prohibited.

OTHER SHORELINE USE PERMITS

DUCK BLINDS

A seasonal duck blind is defined as a structure fabricated from metal, lumber, wire, and other identifiable building material placed on a project for seasonal use. A *Shoreline Use Permit* is not required of those who hunt from the concealment of natural shoreline vegetation or portable blinds placed and removed on a daily basis. Duck blinds are issued through a *Shoreline Use Permit*. The permit will not be issued in excess of 30 days prior to waterfowl season. A description of the structure must accompany the application.

A map will be maintained in the Project Office showing the location of each permitted blind and shall be referred to while processing applications to avoid conflicts in location. Blinds must be

set up at least 600 feet from any other blind. The applicants are advised that the permit does not convey exclusive or protected hunting rights to any segment of the lake or shoreline, including use of the blind itself. All other Federal, State, and local hunting laws and regulations also apply.

The expiration date of the permit will correspond with the closing of the waterfowl hunting season. The permittee will be required to remove the structure within 30 calendar days after expiration of the permit.

SKI COURSES

New ski course permits will not be issued on Table Rock Lake. Current permits with the Corps of Engineers and the Missouri State Highway Patrol, Water Patrol Division will be considered for renewal annually. Existing permits can be relocated with concurrence by the Corps of Engineers and Missouri State Highway Patrol. Applicants are advised that the permit does not convey exclusive use of the ski course. The general public must be allowed to use the ski course free of charge.

EROSION CONTROL

When bank erosion occurs on Table Rock Lake, certain measures may be approved to prevent further erosion. Federally funded erosion control is limited to protecting the Government's investment in the Project, such as the dam, overflow structure, or the shoreline of a park or other public use areas. Adjoining landowners may apply for a permit(s) to complete a bank stabilization project, subject to all current Federal, State and local laws and regulations. Potential applicants should contact the Table Rock Lake Office for current specific requirements.

AMBULATORY ASSISTANCE VEHICLE

Individuals with physical impairments are eligible to receive a Letter of Permission (LOP) to operate an ambulatory assistance vehicle (AAV), such as a golf cart, ATV, or UTV, on Corps property to gain access to a boat dock or the shoreline. Accessibility will be limited to a permitted maximum six-foot wide path to provide access to the shoreline or a dock. A LOP for AAV use is not available on lands classified as Environmentally Sensitive Areas.

The applicant must submit a letter of request for a LOP. The request will include name, address, telephone number, location, and a detailed explanation for the need of the permit. The applicant must also provide documentation of the physical impairment. Acceptable criteria may include, but is not limited to:

- A document issued by an office of a Federal agency providing benefits, which attests to the fact that the individual has been medically determined to be eligible to receive benefits as a result of blindness or permanent disability.
- An official identification card or certification issued by a state government identifying the individual as being permanently disabled.
- An identification card issued by a national or state organization of, by or for disabled persons identifying the individual as a permanently disabled person.

- A statement signed by a licensed physician attesting to the fact that the individual does have a permanent disability, with the nature of the disability explained in detail.

The Table Rock Lake Office will mail the applicant a LOP. This LOP will serve as the applicant's proof of permission. The following are terms and conditions of the LOP:

- The LOP is granted to the applicant only.
- Only golf carts, ATVs or UTVs are allowed.
- The vehicle will only be driven on a designated permitted path.
- This permit is granted for access to the applicants boat dock or to the shoreline only.
- The access path will comply with the conditions in the *SMP* for a pedestrian foot path.
- The path will not exceed six feet (6') in width and must follow a meandering route.
- No digging, fill material, or bridges will be allowed to be constructed on the path.
- Applicants must own land adjacent to public land or have a legal access.
- Applicant must have a copy of their LOP readily available to provide proof of permission.
- The LOP is granted for an indefinite period of time and may be terminated pending future changes in policies.
- If the permitted path is creating an erosion problem, use of the trail must cease and the trail must be restored.

UNAUTHORIZED ACTIVITIES AND VIOLATIONS

All *Shoreline Use Permits* are issued and enforced in accordance with the provisions of Title 36, Chapter III, Part 327, Code of Federal Regulations. Any activities, other than public recreational activities or unimproved pedestrian access, which are not covered by a *Shoreline Use Permit* or license will be considered an encroachment or degradation of public property. These unauthorized activities are considered violations of the rules and regulations contained in Title 36, Chapter III, Part 327, Code of Federal Regulations. Violations can result in an enforcement actions such as but not limited to removal, restitution, restoration, permit revocation, boat dock/slip access restrictions, issuance of a citation requiring the payment of a fine and/or the appearance before a Federal Magistrate and/or recovery of damages through civil litigation, etc.

Placement of Personal Property on Corps property

Personal property is not to be placed or stored on Corps property. This includes, but is not limited to items such as sheds, furniture, outdoor decor, swing sets, bird baths, firewood, boats, lights, hammocks, fire pits, etc.

Shoreline Tie-Up of Vessels

Temporary shoreline tie-up is defined as the intermittent moorage of private watercraft along the shoreline during a period of recreational activity, not to exceed 24 hours of non-use. All vessels shall be removed from Corps property if not in actual use. Habitation is not allowed on Government lands or waters; however, the temporary use of a houseboat for recreational purposes is allowed. Houseboats may be tied to the shoreline (outside of public uses areas) for

overnight moorage when being used for recreational purposes. Watercraft owners needing non-temporary moorage of vessels are encouraged to contact local marinas or apply for a private floating facility permit.

Burning

Generally, no burning of any kind is allowed on Corps of Engineers property. Any burning must be performed on private property and in accordance to applicable state and local laws. In special circumstances, for instance after a flood event, permits for limited burning of debris may be approved by Operations Project Manager.

SPECIAL ENFORCEMENT STANDARDS

The actions listed below are considered to be issues requiring special enforcement standards on Table Rock Lake in order to gain and maintain compliance.

Unauthorized use of a private floating facility:

The use of a permitted private floating facility shall be limited to the mooring of the slip owner's vessel or watercraft and the storage of his/her gear essential to the operation of such vessel or watercraft in an enclosed locker. Facilities granted under this permit will not be leased, rented, sub-let or provided to others by any means of engaging in commercial activity(s) by the permittee or his/her agent for monetary gain. This does not preclude the sale of total ownership of a private dock or slip(s) in a community dock. Commercial use of a boat slip in a private and/or community dock, to include but not limited to rental of a slip, use of a slip included in a residential or commercial rental agreement, or use of a slip in the operation of business is prohibited. The following enforcement standards will be applied:

1st Offense: Citation with letter of warning of consequences for future offenses.

2nd Offense: Restrict use of boat slip(s), by barricading slip(s) or dock, for a period of up to two years, regardless of sale of slip(s) or dock.

3rd Offense: Recommendation to the District Commander for revocation of the permit or removal/permanent barricading of the slip(s), regardless of sale of slip(s) or dock.

Unauthorized use of a vehicle on Corps property:

The operation and/or parking of motorized vehicles on Corps property, including but not limited to automobiles, trucks, motorcycles, mini-bikes, all-terrain vehicles (ATV's), golf carts, utility and lawn tractors, etc., are prohibited off authorized roadways with the exception of vehicles approved under an LOP riding lawn mowers used in accordance with a valid *Shoreline Use permit* for vegetation modification, or other special permit granted by the Table Rock Lake Office. The following enforcements actions will be taken:

1st Offense: Citation, loss of LOP, and letter of warning of consequences for future offenses.

2nd Offense: Recommendation to the District Commander revocation of the *Shoreline Use Permit* for vegetation modification, establishment of restoration area, and payment of restitution, if required. Restrict use of boat slip(s), by barricading slip(s) or dock, for a period of up to two years, regardless of sale of slip(s) or dock.

3rd Offense: Recommendation to the District Commander revocation of the *Shoreline Use Permit* for the private floating facility or removal/permanent barricading of the slip(s), regardless of sale of slip(s) or dock, continuation of the established restoration area, construction of a fence at the Government boundary line adjoining private property, and payment of the restitution, if required.

Unauthorized Vegetation Modification:

Unauthorized vegetation modification can include, but is not limited to timber trespass, mowing/underbrushing outside of a permitted area, and/or unauthorized limbing.

1st Offense: Depending on severity of the offense, at the option of the Operations Project Manager, citation and/or recommend to the District Commander revocation of the *Shoreline Use Permit*, establishment of restoration area, and payment of restitution, if required. Restrict use of boat slip(s) or dock, by barricading slip(s) or dock, for a period of up to two years, regardless of sale of slip(s) or dock, if not resolved. Notification letter warning of consequences for future offense.

2nd Offense: Restrict use of boat slip(s), by barricading slip(s) or dock, for a period of up to two years, regardless of sale of slip(s) or dock, re-establishment of a restoration area, construction of a fence at the Government boundary line adjoining private property, and payment of the restitution, if required.

FACILITIES REQUIRING AN OUTGRANT

Outgrants, such as licenses and easements, are real estate instruments and are governed by Corps real estate regulations. All real estate instruments are administered by the Corps of Engineers Real Estate Division. This section discusses only those uses associated with private use of Corps property. Uses of the project for the general public, such as public roads and highways or electric distribution lines are not discussed in this *SMP*.

A real estate instrument is required for the installation and maintenance of certain land-based facilities such as roads, parking areas, boat launching facilities, electric lines, improved pathways, stairways or water lines. Generally, new outgrants will not be issued for residential amenities, such as steps, stairways, water lines, tramways or private electric service lines that have not previously been issued an outgrant. Renewal outgrants for existing structures may be reissued in accordance with current rules, regulations, and policies in place at the time of expiration or termination.

Fees will be collected for specific facilities prior to the issuance of an outgrant. These fees are separate from any *Shoreline Use Permit* fees for permitted activities or facilities.

Individuals issued an outgrant must agree to give the Chief, Real Estate Division or his/her representative access across their properties for the purpose of inspecting outgranted facilities or other activities.

APPLICATION

New

Applicants requesting a land-based facility must complete a written request to the Table Rock Lake Project Office. The request must include all required documents including a map showing where the structure will cross public land, a legal description of the area of the facility and proof of ownership of the land or legal access to the land adjacent to Corps property, and any other pertinent information. Contact the Table Rock Lake Office for current requirements.

Change of Ownership of Existing Structure

Applicants requesting a change of grantee of a land-based structure outgrant must submit a written request to the Table Rock Lake Office. The request must include a proof of ownership of the land adjacent to Corps property at the point the facility enters Corps property. Other documents may also be required. Contact the Table Rock Lake Office for current requirements.

Renewal

Current grantees may request to “renew” expiring outgrants by submitting a written request to the Table Rock Lake Office stating the intent to have the real estate instrument reissued to them. Other documents may also be required. Contact the Table Rock Lake Office for current requirements.

ELECTRIC LINES

Existing electrical services supplying floating structures or occupying Corps property must meet the standards set by the current National Electrical Code. Licenses are not required for solar or other alternative electric systems that are contained entirely upon a permitted boat dock.

Outgrants will not be issued for new electric service to private floating facilities. Electric service for new floating facilities and those existing facilities without service must be supplied from an alternative power source (e.g. solar or wind). This service must be installed and maintained to the standards established by the current National Electrical Code.

Licenses for new land based electric service will not be approved. If a dock with existing land based electric service is relocated or moved, the existing electric service must be removed and the area restored prior to the issuance or approval of the boat dock permit. In these instances, new electric service must be provided by an alternative power source. If a dock is rebuilt at the same location, the existing electric service may be used. Licenses for existing electrical service to docks may be renewed. In any instance of ground disturbance, compliance with ARPA must be met at the landowner’s expense or the updated electric service must be provided by an alternative power source.

All electric service must be maintained in safe working condition and meet Corps standards (including license/easement and *SMP* conditions), meet all local and state codes, and meet all requirements of the National Electrical Code.

ROADS, PARKING AREAS, AND BOAT LAUNCHING RAMPS

Construction of new roads, turnarounds, parking areas and boat launching ramps will only be considered when all the following conditions are met:

1. Request is in compliance with the *Master Plan* land classifications;
2. Requested by a Government entity;
3. No other alternative exists on privately owned lands;
4. The use will not interfere with project purposes and is located within “limited development area” designation in the *SMP*;
5. Access to the facility is by public road or is guaranteed by legally dedicated right of access through private property;
6. The use is considered an integral part of a boat launching ramp facility;
7. The proposed new boat launching facility is greater than three shoreline miles from the nearest public ramp at conservation pool, or if there is an existing ramp in the area, but it can’t be modified to meet the current demand;
8. The improvements are sited or routed to minimize impacts to the natural and cultural resources;
9. Corps property are not severed and isolated rendering them too small for beneficial use.
10. Archeological review and any required survey must be completed. All archeological sites must be avoided.

Mitigation for environmental damage must be evaluated, valued, and agreed to by the OPM.

STAIRS/STEPS

Generally, outgrants will not be issued for steps or stairs that have not previously been issued an outgrant, including those proposed to access a private floating facility. Existing outgranted steps or stairs will be allowed to remain, in accordance with the regulations in place at the time of renewal, so long as they are maintained in safe working condition and meet Corps standards (including license/easement and *SMP* conditions).

SPECIAL TOPICS

CARRYING CAPACITY

One of the Corps’ priorities is the safety of the public. Studies suggest that the maximum boat density for safe boat operation is 10 usable surface acres of water per vessel.

The Recreational Boating Use Study, Table Rock Lake, completed in April 2010, stated in Section 4.2, “Key Finding for Management” that:

"When viewing the management compartment classification maps for 20% to 100% projected increases in average number of boats, it appears at a 60% increase in boats above the number counted in this study [2,090] there is a threshold of crossing nearly half of Table Rock Lake's management compartments as being Class I [High Density, High Conflict designation] designation for density/conflict. Therefore, management should strive to conserve use levels to prevent these levels from exceeding this threshold. Without this type of management strategy, opportunities for other classes of experience on the lake will be eliminated and those boaters looking to fish, swim, or relax quietly will likely be displaced elsewhere to seek out their recreational experiences."

In this study, there were 2,090 boats counted on the lake during a summer non-peak weekend day in 2009. At that time there were a total of 19,254 boat slips and boat launching ramp parking spaces (private, commercial, and boat launching ramp parking) on the lake. An increase of 60% to both of these numbers is an additional 1,254 boats and an additional 11,552 boat slips and boat launching ramp parking. As of September 2019, there was a total of 21,217 boat slips and boat launching ramp parking spaces. Therefore, we calculated an additional 9,589 boat slips and boat launching ramp parking spaces for a total 30,806 boat slips and boat launching ramp parking spaces that can be on Table Rock Lake without breaching the recommended maximum 60% increase in boats. See Figure 6.

FIGURE 6: DENSITY CALCULATIONS

	2009	60% increase from 2009 (x * 60%)	2019	Difference between 2019 and total after 60% increase from 2009	Total after 60% Increase	Boat Density after 60% Increase
Slips ^a	19,254	11,552	21,217	9,589	30,806	10 acres ^b /boat
Boats in Use	2,090	1,254			3,344	

^aSlips = Private slips + all commercial slips wet and dry + all boat ramp parking

^bAcres = useable surface acres of water (approximately 33,000 acres).

The referenced Boating Use Study also suggested that the only areas where additional development should be considered is in the area the study classified as Class II (Moderate Density, Moderate Conflict designation). The PDT recommends that we do not implement this management measure because we believe that while boating use has not decreased, boat use patterns may have changed; additionally the study did not assess factors other than boating use (such as environmental concerns) of funneling all new development to the Class II area. Maximum density requirements required by Title 36 may preclude over-development in the Class I, III, and IV areas of the lake. Also, the study did not assess the ability of the current LDA and High Density lands in Class II areas to support the additional development. Further, the PDT believes the addition of new boat slips and boat launching ramp parking spaces in Class II areas would not restrict boats from traveling into more populated areas and heavily trafficked

areas of the lake.

Based on the slip numbers counted in 2009 and 2017, Table Rock has been experiencing a 6.9% annual growth rate. It is calculated, based on historical growth rates and these density calculations, that Table Rock Lake may not reach this maximum density (one boat per 10 acres of usable watersurface) for another 61 years. The PDT suggests that another carrying capacity study be completed when funding becomes available, but not later than when the lake reaches its midpoint to the maximum density threshold. The midpoint to the maximum density threshold is approximately 26,000 boat slips and boat launching ramp parking spaces. The study will have the potential to adjust the number of boat slips and boat launching ramp parking spaces either up or down depending on trends observed at the time of the study. Until this study is completed, there will be a threshold of 30,806 boat slips and boat launching ramp parking spaces on Table Rock Lake.

LIMITED MOTEL/RESORT LEASES

Limited Motel/Resorts are quasi-public recreational facilities located on public land, owned and operated by individuals for commercial purposes. The resort is located on private property and is operated along with supporting facilities on outgranted public land. The facilities on public land are open to registered overnight resort guests only. At the time of writing this plan, there are 86 existing Limited Motel/Resort Leases on Table Rock Lake. These leases are managed and administered under a Little Rock District regulation that requires the lease facilities follow the applicable *SMP* to the maximum extent possible, under the binding lease agreement.

COMMERCIAL REMOTE SERVICE DOCK PROGRAM

Commercial Remote Service Docks (CRSD) are docks owned and operated by a marina concessionaire, but located outside the marina's prime lease area within the Marina Buffer allocation. These docks were intended to provide commercial dock storage expansion, reduce marina-related traffic on interior park roads, and enable convenient public utilization of quality commercial boat storage services outside of park areas. The CRSD program is specific to Table Rock Lake and has not been implemented at any another Corps project. The Table Rock Lake Office sees a need to restrict expansion of the CRSD program due to increasing objections voiced related to vehicular and pedestrian traffic in communities adjacent to the lake. Additionally, the CRSD regulation signed in 2007 is so restrictive that only one new CRSD has been approved. The CRSD program will be eliminated one year after the signing of this *SMP*. Existing CRSD will be allowed to remain, but not expanded. These sites will not be converted to LDA.

COMBINING DOCK AND VEGETATION PERMITS

From 2008 to 2015, the Table Rock Lake Office implemented a combined permit process. Due to the size and nature of the shoreline use permit program at Table Rock Lake, combining floating facility activity and vegetation modification activity on one permit was not an efficient or effective way of managing the program. Often there is no correlation between vegetation permits and adjacent private floating facilities. Additionally, frequent sales of boat slips required separation and/or recombination of permits issued.

REGULATORY BUOYS

Regulatory buoys are not subject to the shoreline allocations in this plan and they do not require a shoreline use permit. The Corps of Engineers will maintain regulatory buoys as needed for operation and maintenance of Corps of Engineers facilities and in those areas identified as high danger in accordance with regulations. The Missouri Highway Patrol, Water Patrol Division, in coordination with the Corps of Engineers, must approve the placement of any other regulatory buoy. The Corps of Engineers does not recommend the installation of “No Wake” buoys to restrict the speed of passing boats at private/community docks.

ADA ACCESSIBILITY

ADA Accessibility is provided at commercial concession/marina facilities. In addition, those with need for ambulatory assistance to access a private floating facility can apply for a LOP to use a AAV to traverse the unimproved path to the facility. From 2000 to 2017, Table Rock Lake had a hard surface path policy, for the purpose of access to a permitted private floating facility when the use of a golf cart or other turf tired vehicle was impractical. Due to ADA slope requirements, this policy was found to be difficult for the applicant to implement. No license packages were ever completed. Therefore, the policy has been rescinded.

CEDAR TREES

Cedar trees are native to the region and do provide ecological value. Of the 155 comments received about removal of “invasive species”, the majority of the comments specifically indicated a desire to be able to remove cedar trees; many wanted to remove cedars due to fire hazard posed by the trees. The Missouri Department of Conservation and the State of Arkansas do not recognize the cedar tree as an “invasive species.” The PDT researched and found many benefits of allowing cedars to grow on the lake shore and surrounding Corps property, including wildlife shelters, nesting cover for neotropical migrating song birds, creating wind breaks and shelter belts for many species, as well as cedars tend to grow well where other species do not, providing a root system to hold soil. Therefore allowing the removal of cedar trees with the requirement of replanting other species of trees is not feasible. Missouri Department of Conservation staff suggested that cedar trees that are not in riparian zones or on slopes could be removed to permit the growth of native warm season grasses; however, for these grasses to perform well, they cannot be mowed to yard like conditions. Taking this knowledge under consideration, the PDT suggested a special condition in the vegetation modification permit allowing removal of slightly larger cedars trees (three inches in diameter at ground level) to provide a little more leniency in allowing removal of these trees which are often considered a nuisance in mowed areas.

CHANGES AND REVISIONS

Natural Resources Management personnel will continually work to protect and manage shoreline uses at Table Rock Lake in a manner to promote the safe and healthful use by the public while maintaining environmental safeguards to ensure a quality resource for use by the public. When needed, the *SMP* will be revised to better accomplish this. At a minimum, the *SMP* will be reviewed every five years, at which time minor changes in the *SMP* may be approved by the

District Commander. When major revisions to the *SMP* are needed, including any changes in the Shoreline Allocations, the plan will be formally updated through the public participation process. Cumulative environmental impacts of permit actions and the possibility of preparing or revising project NEPA documentation will be considered.

In this revision 19 re-zoning requests were considered because they were submitted in accordance with regulations, including being received prior to January 6, 2003 and located within low density land classification. Of the 19 requests only two applicants responded with continued interest. Those two requests were evaluated and approved. Boat dock rezoning requests for additional Limited Development Areas (LDA) will not be considered or accepted until all current LDA at Table Rock Lake are utilized to the maximum extent permitted by 36 CFR 327.30. During a *SMP* revision shoreline allocations will not be changed unless unique situations exist.

APPEAL PROCESS

Shoreline use decisions may be appealed based on evidence of an administrative error to supervisory levels above that of the original decision. The appeal process will be afforded to individuals petitioning for shoreline use. Appeals may be forwarded to the Chief, Operations Division for a final decision. To request such an administrative appeal, an individual must submit a written request for action within thirty (30) days of the decision. The request should be accompanied by appropriate supporting documentation (letter, maps, diagrams, copies of correspondence, doctor's letters, etc., and mailed to Little Rock District, U.S. Army Corps of Engineers, ATTN: Chief, Operations Division, P.O. Box 867, Little Rock, Arkansas 72203-0867.

CONTACT INFORMATION

Table Rock Lake personnel are available to address requests or questions concerning the *Shoreline Management Plan* and its policies. The Table Rock Lake Office is located just above Table Rock Dam on State Highway 165, near Branson, Missouri. You may make an appointment to speak with Table Rock Lake personnel by email at DutyRoom.TableRock@usace.army.mil or by calling 501-340-1935.

EXHIBIT A: TITLE 36, PART 327

Title 36: Parks, Forests, and Public Property

PART 327—RULES AND REGULATIONS GOVERNING PUBLIC USE OF WATER RESOURCE DEVELOPMENT PROJECTS ADMINISTERED BY THE CHIEF OF ENGINEERS

PART 327—RULES AND REGULATIONS GOVERNING PUBLIC USE OF WATER RESOURCE DEVELOPMENT PROJECTS ADMINISTERED BY THE CHIEF OF ENGINEERS

Sec.

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- 327.30 Shoreline Management on Civil Works Projects.
- 327.31 Shoreline management fee schedule.

AUTHORITY: 16 U.S.C. 460d; 16 U.S.C. 4601–6a; Sec. 210, Pub. L. 90–483, 82 Stat. 746.; 33 U.S.C. 1, 28 Stat. 362.

SOURCE: 50 FR 35556, Sept. 3, 1985, unless otherwise noted.

§ 327.0 Applicability.

The regulations covered in this part 327 shall be applicable to water resources development projects, completed or under construction, administered by the Chief of Engineers, and to those portions of jointly administered water resources development projects which are under the administrative jurisdiction of the Chief of Engineers. All other Federal, state and local laws and regulations remain in full force and effect where applicable to those water resources development projects.

[65 FR 6898, Feb. 11, 2000]

§ 327.1 Policy.

(a) It is the policy of the Secretary of the Army, acting through the Chief of Engineers, to manage the natural, cultural and developed resources of each project in the public interest, providing the public with safe and healthful recreational opportunities while protecting and enhancing these resources.

(b) Unless otherwise indicated in this part, the term “District Commander” shall include the authorized representatives of the District Commander.

(c) The term “project” or “water resources development project” refers to the water areas of any water resources development project administered by the Chief of Engineers, without regard to ownership of underlying land, to all lands owned in fee by the Federal Government and to all facilities therein or thereon of any such water resources development project.

(d) All water resources development projects open for public use shall be available to the public without regard to sex, race, color, creed, age, nationality or place of origin. No lessee, licensee, or concessionaire providing a service to the public shall discriminate against any person because of sex, race, creed, color, age, nationality or place of origin in the conduct of the operations under the lease, license or concession contract.

(e) In addition to the regulations in this part 327, all applicable Federal, state and local laws and regulations remain in full force and effect on project lands or waters which are outgranted by the District Commander by lease, license or other written agreement.

(f) The regulations in this part 327 shall be deemed to apply to those lands and waters which are subject to treaties and Federal laws and regulations concerning the rights of Indian Nations and which lands and waters are incorporated, in whole or in part, within water resources development projects administered by the Chief of Engineers, to the extent that the regulations in this part 327 are not inconsistent with such treaties and Federal laws and regulations.

(g) Any violation of any section of this part 327 shall constitute a separate

violation for each calendar day in which it occurs.

(h) For the purposes of this part 327, the operator of any vehicle, vessel or aircraft as described in this part, shall be presumed to be responsible for its use on project property. In the event where an operator cannot be determined, the owner of the vehicle, vessel, or aircraft, whether attended or unattended, will be presumed responsible.

Unless proven otherwise, such presumption will be sufficient to issue a citation for the violation of regulations applicable to the use of such vehicle, vessel or aircraft as provided for in § 327.25.

(i) For the purposes of this part 327, the registered user of a campsite, picnic area, or other facility shall be presumed to be responsible for its use. Unless proven otherwise, such presumption will be sufficient to issue a citation for the violation of regulations applicable to the use of such facilities as provided for in § 327.25.

[65 FR 6898, Feb. 11, 2000]

§ 327.2 Vehicles.

(a) This section pertains to all vehicles, including, but not limited to, automobiles, trucks, motorcycles, mini-bikes, snowmobiles, dune buggies, all-terrain vehicles, and trailers, campers, bicycles, or any other such equipment.

(b) Vehicles shall not be parked in violation of posted restrictions and regulations, or in such a manner as to obstruct or impede normal or emergency traffic movement or the parking of other vehicles, create a safety hazard, or endanger any person, property or environmental feature. Vehicles so parked are subject to removal and impoundment at the owner’s expense.

(c) The operation and/or parking of a vehicle off authorized roadways is prohibited except at locations and times designated by the District Commander. Taking any vehicle through, around or beyond a restrictive sign, recognizable barricade, fence, or traffic control barrier is prohibited.

(d) Vehicles shall be operated in accordance with posted restrictions and regulations.

(e) No person shall operate any vehicle in a careless, negligent or reckless

manner so as to endanger any person, property or environmental feature.

(f) At designated recreation areas, vehicles shall be used only to enter or leave the area or individual sites or facilities unless otherwise posted.

(g) Except as authorized by the District Commander, no person shall operate any motorized vehicle without a proper and effective exhaust muffler as defined by state and local laws, or with an exhaust muffler cutout open, or in any other manner which renders the exhaust muffler ineffective in muffling the sound of engine exhaust.

(h) Vehicles shall be operated in accordance with applicable Federal, state and local laws, which shall be regulated by authorized enforcement officials as prescribed in § 327.26.

[65 FR 6899, Feb. 11, 2000]

§ 327.3 Vessels.

(a) This section pertains to all vessels or watercraft, including, but not limited to, powerboats, cruisers, houseboats, sailboats, rowboats, canoes, kayaks, personal watercraft, and any other such equipment capable of navigation on water or ice, whether in motion or at rest.

(b) The placement and/or operation of any vessel or watercraft for a fee or profit upon project waters or lands is prohibited except as authorized by permit, lease, license, or concession contract with the Department of the Army. This paragraph shall not apply to the operation of commercial tows or passenger carrying vessels not based at a Corps project which utilize project waters as a link in continuous transit over navigable waters of the United States.

(c) Vessels or other watercraft may be operated on the project waters, except in prohibited or restricted areas, in accordance with posted regulations and restrictions, including buoys. All vessels or watercraft so required by applicable Federal, state and local laws shall display an appropriate registration on board whenever the vessel is on project waters.

(d) No person shall operate any vessel or other watercraft in a careless, negligent, or reckless manner so as to endanger any person, property, or environmental feature.

(e) All vessels, when on project waters, shall have safety equipment, including personal flotation devices, on board in compliance with U.S. Coast flight devices or any other such equipment.

(b) The operation of aircraft on project lands at locations other than those designated by the District Commander is prohibited. This provision shall not be applicable to aircraft engaged on official business of Federal,

state or local governments or law enforcement agencies, aircraft used in emergency rescue in accordance with the directions of the District Commander or aircraft forced to land due to circumstances beyond the control of the operator.

(c) No person shall operate any aircraft while on or above project waters or project lands in a careless, negligent or reckless manner so as to endanger any person, property or environmental feature.

(d) Nothing in this section bestows authority to deviate from rules and regulations or prescribed standards of the appropriate State Aeronautical Agency, or the Federal Aviation Administration, including, but not limited to, regulations and standards concerning pilot certifications or ratings, and airspace requirements.

(e) Except in extreme emergencies threatening human life or serious property loss, the air delivery or retrieval of any person, material or equipment by parachute, balloon, helicopter or other means onto or from project lands or waters without written permission of the District Commander is prohibited.

(f) In addition to the provisions in paragraphs (a) through (e) of this section, seaplanes are subject to the following restrictions:

(1) Such use is limited to aircraft utilized for water landings and takeoff, in this part called seaplanes, at the risk of owner, operator and passenger(s).

(2) Seaplane operations contrary to the prohibitions or restrictions established by the District Commander (pursuant to part 328 of this title) are prohibited. The responsibility to ascertain whether seaplane operations are prohibited or restricted is incumbent upon the person(s) contemplating the use of, or using, such waters.

(3) All operations of seaplanes while upon project waters shall be in accordance with U.S. Coast Guard navigation rules for powerboats or vessels and § 327.3.

(4) Seaplanes on project waters and lands in excess of 24 hours shall be securely moored at mooring facilities and at locations permitted by the District Commander. Seaplanes may be temporarily moored on project waters and lands, except in areas prohibited by the District Commander, for periods less than 24 hours providing:

(i) The mooring is safe, secure, and accomplished so as not to damage the rights of the Government or members of the public, and

(ii) The operator remains in the vicinity of the seaplane and reasonably available to relocate the seaplane if

necessary.

(5) Commercial operation of seaplanes from project waters is prohibited without written approval of the District Commander following consultation with and necessary clearance from the Federal Aviation Administration (FAA) and other appropriate public authorities and affected interests.

(6) Seaplanes may not be operated at Corps projects between sunset and sunrise unless approved by the District Commander.

[65 FR 6899, Feb. 11, 2000]

§ 327.5 Swimming.

(a) Swimming, wading, snorkeling or scuba diving at one's own risk is permitted, except at launching sites, designated mooring points and public docks, or other areas so designated by the District Commander.

(b) An international diver down, or inland diving flag must be displayed during underwater activities.

(c) Diving, jumping or swinging from trees, bridges or other structures which cross or are adjacent to project waters is prohibited.

[65 FR 6900, Feb. 11, 2000]

§ 327.6 Picnicking.

Picnicking and related day-use activities are permitted, except in those areas where prohibited by the District Commander.

[65 FR 6900, Feb. 11, 2000]

§ 327.7 Camping.

(a) Camping is permitted only at sites and/or areas designated by the District Commander.

(b) Camping at one or more campsites at any one water resource project for a period longer than 14 days during any 30-consecutive-day period is prohibited without the written permission of the District Commander.

(c) The unauthorized placement of camping equipment or other items on a campsite and/or personal appearance at a campsite without daily occupancy for the purpose of reserving that campsite for future occupancy is prohibited.

(d) The digging or leveling of any ground or the construction of any structure without written permission of the District Commander is prohibited.

(e) Occupying or placement of any camping equipment at a campsite which is posted or otherwise marked or indicated as "reserved" without an authorized reservation for that site is prohibited.

[65 FR 6900, Feb. 11, 2000]

§ 327.8 Hunting, fishing, and trapping.

(a) Hunting is permitted except in areas and during periods where prohibited by the District Commander.

(b) Trapping is permitted except in areas and during periods where prohibited by the District Commander.

(c) Fishing is permitted except in

swimming areas, on boat ramps or other areas designated by the District Commander.

(d) Additional restrictions pertaining to these activities may be established by the District Commander.

(e) All applicable Federal, State and local laws regulating these activities apply on project lands and waters, and shall be regulated by authorized enforcement officials as prescribed in § 327.26.

[65 FR 6900, Feb. 11, 2000]

§ 327.9 Sanitation.

(a) Garbage, trash, rubbish, litter, gray water, or any other waste material or waste liquid generated on the project and incidental to authorized recreational activities shall be either removed from the project or deposited in receptacles provided for that purpose. The improper disposal of such wastes, human and animal waste included, on the project is prohibited.

(b) It is a violation to bring onto a project any household or commercial garbage, trash, rubbish, debris, dead animals or litter of any kind for disposal or dumping without the written permission of the District Commander. For the purposes of this section, the owner of any garbage, trash, rubbish, debris, dead animals or litter of any kind shall be presumed to be responsible for proper disposal. Such presumption will be sufficient to issue a citation for violation.

(c) The spilling, pumping, discharge or disposal of contaminants, pollutants or other wastes, including, but not limited to, human or animal waste, petroleum, industrial and commercial products and by-products, on project lands or into project waters is prohibited.

(d) Campers, picnickers, and all other persons using a water resources development project shall keep their sites free of trash and litter during the period of occupancy and shall remove all personal equipment and clean their sites upon departure.

(e) The discharge or placing of sewage, galley waste, garbage, refuse, or pollutants into the project waters from any vessel or watercraft is prohibited. [65 FR 6900, Feb. 11, 2000]

§ 327.10 Fires.

(a) Gasoline and other fuels, except that which is contained in storage tanks of vehicles, vessels, camping equipment, or hand portable containers designed for such purpose, shall not be carried onto or stored on the project without written permission of the District Commander.

(b) Fires shall be confined to those areas designated by the District Commander, and shall be contained in fireplaces, grills, or other facilities designated

for this purpose. Fires shall not be left unattended and must be completely extinguished prior to departure.

The burning of materials that produce toxic fumes, including, but not limited to, tires, plastic and other floatation materials or treated wood products is prohibited. The District Commander may prohibit open burning of any type for environmental considerations.

(c) Improper disposal of lighted smoking materials, matches or other burning material is prohibited.

[65 FR 6900, Feb. 11, 2000]

§ 327.11 Control of animals.

(a) No person shall bring or allow dogs, cats, or other pets into developed recreation areas or adjacent waters unless penned, caged, on a leash under six feet in length, or otherwise physically restrained. No person shall allow animals to impede or restrict otherwise full and free use of project lands and waters by the public. No person shall allow animals to bark or emit other noise which unreasonably disturbs other people. Animals and pets, except properly trained animals assisting those with disabilities (such as seeing eye dogs), are prohibited in sanitary facilities, playgrounds, swimming beaches and any other areas so designated by the District Commander. Abandonment of any animal on project lands or waters is prohibited. Unclaimed or unattended animals are subject to immediate impoundment and removal in accordance with state and local laws.

(b) Persons bringing or allowing pets in designated public use areas shall be responsible for proper removal and disposal of any waste produced by these animals.

(c) No person shall bring or allow horses, cattle, or other livestock in camping, picnicking, swimming or other recreation areas or on trails except in areas designated by the District Commander.

(d) Ranging, grazing, watering or allowing livestock on project lands and waters is prohibited except when authorized by lease, license or other written agreement with the District Commander.

(e) Unauthorized livestock are subject to impoundment and removal in accordance with Federal, state and local laws.

(f) Any animal impounded under the provisions of this section may be confined at a location designated by the District Commander, who may assess a reasonable impoundment fee. This fee shall be paid before the impounded animal is returned to its owner(s).

(g) Wild or exotic pets and animals (including but not limited to cougars, lions, bears, bobcats, wolves, and snakes), or any pets or animals displaying

vicious or aggressive behavior or otherwise posing a threat to public safety or deemed a public nuisance, are prohibited from project lands and waters unless authorized by the District Commander, and are subject to removal in accordance with Federal, state and local laws.

[65 FR 6901, Feb. 11, 2000]

§ 327.12 Restrictions.

(a) The District Commander may establish and post a schedule of visiting hours and/or restrictions on the public use of a project or portion of a project. The District Commander may close or restrict the use of a project or portion of a project when necessitated by reason of public health, public safety, maintenance, resource protection or other reasons in the public interest. Entering or using a project in a manner which is contrary to the schedule of visiting hours, closures or restrictions is prohibited.

(b) Quiet shall be maintained in all public use areas between the hours of 10 p.m. and 6 a.m., or those hours designated by the District Commander.

Excessive noise during such times which unreasonably disturbs persons is prohibited.

(c) Any act or conduct by any person which interferes with, impedes or disrupts the use of the project or impairs the safety of any person is prohibited. Individuals who are boisterous, rowdy, disorderly, or otherwise disturb the peace on project lands or waters may be requested to leave the project.

(d) The operation or use of any sound producing or motorized equipment, including but not limited to generators, vessels or vehicles, in such a manner as to unreasonably annoy or endanger persons at any time or exceed state or local laws governing noise levels from motorized equipment is prohibited.

(e) The possession and/or consumption of alcoholic beverages on any portion of the project land or waters, or the entire project, may be prohibited when designated and posted by the District Commander.

(f) Unless authorized by the District Commander, smoking is prohibited in Visitor Centers, enclosed park buildings and in areas posted to restrict smoking.

[65 FR 6901, Feb. 11, 2000]

§ 327.13 Explosives, firearms, other weapons and fireworks.

(a) The possession of loaded firearms, ammunition, loaded projectile firing devices, bows and arrows, crossbows, or other weapons is prohibited unless:

- (1) In the possession of a Federal, state or local law enforcement officer;
- (2) Being used for hunting or fishing as permitted under § 327.8, with devices

being unloaded when transported to, from or between hunting and fishing sites;

(3) Being used at authorized shooting ranges; or

(4) Written permission has been received from the District Commander.

(b) Possession of explosives or explosive devices of any kind, including fireworks or other pyrotechnics, is prohibited unless written permission has been received from the District Commander. [65 FR 6901, Feb. 11, 2000]

§ 327.14 Public property.

(a) Destruction, injury, defacement, removal or any alteration of public property including, but not limited to, developed facilities, natural formations, mineral deposits, historical and archaeological features, paleontological resources, boundary monumentation or markers and vegetative growth, is prohibited except when in accordance with written permission of the District Commander.

(b) Cutting or gathering of trees or parts of trees and/or the removal of wood from project lands is prohibited without written permission of the District Commander.

(c) Gathering of dead wood on the ground for use in designated recreation areas as firewood is permitted, unless prohibited and posted by the District Commander.

(d) The use of metal detectors is permitted on designated beaches or other previously disturbed areas unless prohibited by the District Commander for reasons of protection of archaeological, historical or paleontological resources. Specific information regarding metal detector policy and designated use areas is available at the Manager's Office. Items found must be handled in accordance with §§ 327.15 and 327.16 except for non-identifiable items such as coins of value less than \$25. [65 FR 6901, Feb. 11, 2000]

§ 327.15 Abandonment and impoundment of personal property.

(a) Personal property of any kind shall not be abandoned, stored or left unattended upon project lands or waters. After a period of 24 hours, or at any time after a posted closure hour in a public use area or for the purpose of providing public safety or resource protection, unattended personal property shall be presumed to be abandoned and may be impounded and stored at a storage point designated by the District Commander, who may assess a reasonable impoundment fee. Such fee shall be paid before the impounded property is returned to its owner.

(b) Personal property placed on Federal lands or waters adjacent to a private residence, facility and/or developments

of any private nature for more than 24 hours without permission of the District Commander shall be presumed to have been abandoned and, unless proven otherwise, such presumption will be sufficient to impound the property and/or issue a citation as provided for in § 327.25.

(c) The District Commander shall, by public or private sale or otherwise, dispose of all lost, abandoned or unclaimed personal property that comes into Government custody or control. However, property may not be disposed of until diligent effort has been made to find the owner, heirs, next of kin or legal representative(s). If the owner, heirs, next of kin or legal representative(s) are determined but not found, the property may not be disposed of until the expiration of 120 days after the date when notice, giving the time and place of the intended sale or other disposition, has been sent by certified or registered mail to that person at the last known address. When diligent efforts to determine the owner, heirs, next of kin or legal representative(s) are unsuccessful, the property may be disposed of without delay except that if it has a fair market value of \$100 or more the property may not be disposed of until 90 days after the date it is received at the storage point designated by the District Commander. The net proceeds from the sale of property shall be conveyed into the Treasury of the United States as miscellaneous receipts. [65 FR 6901, Feb. 11, 2000]

§ 327.16 Lost and found articles.

All articles found shall be deposited by the finder at the Manager's office or with a ranger. All such articles shall be disposed of in accordance with the procedures set forth in § 327.15. [65 FR 6902, Feb. 11, 2000]

§ 327.17 Advertisement.

(a) Advertising and the distribution of printed matter is allowed within project land and waters provided that a permit to do so has been issued by the District Commander and provided that this activity is not solely commercial advertising.

(b) An application for such a permit shall set forth the name of the applicant, the name of the organization (if any), the date, time, duration, and location of the proposed advertising or the distribution of printed matter, the number of participants, and any other information required by the permit application form. Permit conditions and procedures are available from the District Commander.

(c) Vessels and vehicles with semipermanent or permanent painted or installed signs are exempt as long as they are used for authorized recreational

activities and comply with all other rules and regulations pertaining to vessels and vehicles.

(d) The District Commander shall, without unreasonable delay, issue a permit on proper application unless:

(1) A prior application for a permit for the same time and location has been made that has been or will be granted and the activities authorized by that permit do not reasonably allow multiple occupancy of the particular area; or

(2) It reasonably appears that the advertising or the distribution of printed matter will present a clear and present danger to the public health and safety; or

(3) The number of persons engaged in the advertising or the distribution of printed matter exceeds the number that can reasonably be accommodated in the particular location applied for, considering such things as damage to project resources or facilities, impairment of a protected area's atmosphere of peace and tranquility, interference with program activities, or impairment of public use facilities; or

(4) The location applied for has not been designated as available for the advertising or the distribution of printed matter; or

(5) The activity would constitute a violation of an applicable law or regulation.

(e) If a permit is denied, the applicant shall be so informed in writing, with the reason(s) for the denial set forth.

(f) The District Commander shall designate on a map, which shall be available for inspection in the applicable project office, the locations within the project that are available for the advertising or the distribution of printed matter. Locations may be designated as not available only if the advertising or the distribution of printed matter would:

(1) Cause injury or damage to project resources; or

(2) Unreasonably impair the atmosphere of the peace and tranquility maintained in natural, historic, or commemorative zones; or

(3) Unreasonably interfere with interpretive, visitor service, or other program activities, or with the administrative activities of the Corps of Engineers; or

(4) Substantially impair the operation of public use facilities or services of Corps of Engineers concessioners or contractors.

(5) Present a clear and present danger to the public health and safety.

(g) The permit may contain such conditions as are reasonably consistent

with protection and use of the project area for the purposes for which it is established.

(h) No permit shall be issued for a period in excess of 14 consecutive days, provided that permits may be extended for like periods, upon a new application, unless another applicant has requested use of the same location and multiple occupancy of that location is not reasonably possible.

(i) It is prohibited for persons engaged in the activity under this section to obstruct or impede pedestrians or vehicles, harass project visitors with physical contact or persistent demands, misrepresent the purposes or affiliations of those engaged in the advertising or the distribution of printed matter, or misrepresent whether the printed matter is available without cost or donation.

(j) A permit may be revoked under any of those conditions, as listed in paragraph (d) of this section, that constitute grounds for denial of a permit, or for violation of the terms and conditions of the permit. Such a revocation shall be made in writing, with the reason(s) for revocation clearly set forth, except under emergency circumstances, when an immediate verbal revocation or suspension may be made, to be followed by written confirmation within 72 hours.

(k) Violation of the terms and conditions of a permit issued in accordance with this section may result in the suspension or revocation of the permit.

[65 FR 26137, May 5, 2000]

§ 327.18 Commercial activities.

(a) The engaging in or solicitation of business on project land or waters without the express written permission of the District Commander is prohibited.

(b) It shall be a violation of this part to refuse to or fail to comply with any terms, clauses or conditions of any lease, license or agreements issued by the District Commander.

[65 FR 6902, Feb. 11, 2000]

§ 327.19 Permits.

(a) It shall be a violation of this part to refuse to or fail to comply with the fee requirements or other terms or conditions of any permit issued under the provisions of this part 327.

(b) Permits for floating structures (issued under the authority of § 327.30) of any kind on/in waters of water resources development projects, whether or not such waters are deemed navigable waters of the United States but where such waters are under the management of the Corps of Engineers, shall be issued at the discretion of the District Commander under the authority of this section. District Commanders will delineate those portions

of the navigable waters of the United States where this provision is applicable and post notices of this designation in the vicinity of the appropriate Manager's office.

(c) Permits for non-floating structures (issued under the authority of § 327.30) of any kind constructed, placed in or affecting waters of water resources development projects where such waters are deemed navigable waters of the U.S. shall be issued under the provisions of section 10 of the Rivers and Harbors Act approved March 3, 1899 (33 U.S.C. 403). If a discharge of dredged or fill material in these waters is involved, a permit is required under section 404 of the Clean Water Act (33 U.S.C. 1344). (See 33 CFR parts 320 through 330.)

(d) Permits for non-floating structures (issued under the authority of § 327.30) of any kind in waters of water resources development projects, where such waters are under the management of the Corps of Engineers and where such waters are not deemed navigable waters of the United States, shall be issued as set forth in paragraph (b) of this section. If a discharge of dredged or fill material into any water of the United States is involved, a permit is required under section 404 of the Clean Water Act (33 U.S.C. 1344) (See 33 CFR parts 320 through 330). Water quality certification may be required pursuant to Section 401 of the Clean Water Act (33 U.S.C. 1341).

(e) Shoreline Use Permits to authorize private shoreline use facilities, activities or development (issued under the authority of § 327.30) may be issued in accordance with the project Shoreline Management Plan. Failure to comply with the permit conditions issued under § 327.30 is prohibited.

[65 FR 6902, Feb. 11, 2000]

§ 327.20 Unauthorized structures.

The construction, placement, or existence of any structure (including, but not limited to, roads, trails, signs, nonportable hunting stands or blinds, buoys, docks, or landscape features) of any kind under, upon, in or over the project lands, or waters is prohibited unless a permit, lease, license or other appropriate written authorization has been issued by the District Commander. The design, construction, placement, existence or use of structures in violation of the terms of the permit, lease, license, or other written authorization is prohibited. The government shall not be liable for the loss of, or damage to, any private structures, whether authorized or not, placed on project lands or waters.

Unauthorized

structures are subject to summary removal or impoundment by the District Commander. Portable hunting stands, climbing devices, steps, or blinds, that are not nailed or screwed into trees and are removed at the end of a day's hunt may be used.

[65 FR 6902, Feb. 11, 2000]

§ 327.21 Special events.

(a) Special events including, but not limited to, water carnivals, boat regattas, fishing tournaments, music festivals, dramatic presentations or other special recreation programs are prohibited unless written permission has been granted by the District Commander.

Where appropriate, District Commanders can provide the state a blanket letter of permission to permit fishing tournaments while coordinating the scheduling and details of tournaments with individual projects. An appropriate fee may be charged under the authority of § 327.23.

(b) The public shall not be charged any fee by the sponsor of such event unless the District Commander has approved in writing (and the sponsor has properly posted) the proposed schedule of fees. The District Commander shall have authority to revoke permission, require removal of any equipment, and require restoration of an area to prevent condition, upon failure of the sponsor to comply with terms and conditions of the permit/permission or the regulations in this part 327.

[65 FR 6902, Feb. 11, 2000]

§ 327.22 Unauthorized occupation.

(a) Occupying any lands, buildings, vessels or other facilities within water resource development projects for the purpose of maintaining the same as a full-or part-time residence without the written permission of the District Commander is prohibited. The provisions of this section shall not apply to the occupation of lands for the purpose of camping, in accordance with the provisions of § 327.7.

(b) Use of project lands or waters for agricultural purposes is prohibited except when in compliance with terms and conditions authorized by lease, license or other written agreement issued by the District Commander.

[65 FR 6903, Feb. 11, 2000]

§ 327.23 Recreation use fees.

(a) In accordance with the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601) and the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103-66, the Corps of Engineers collects day use fees, special recreation use fees and/or special permit fees for the use of specialized sites, facilities, equipment or services related to outdoor recreation furnished at Federal expense.

(b) Where such fees are charged, the

District Commander shall insure that clear notice of fee requirements is prominently posted at each area, and at appropriate locations therein and that the notice be included in publications distributed at such areas. Failure to pay authorized recreation use fees as established pursuant to Pub. L. 88-578, 78 Stat. 897, as amended (16 U.S.C. 4601-6a), is prohibited and is punishable by a fine of not more than \$100.

(c) Failure to pay authorized day use fees, and/or properly display applicable receipt, permit or pass is prohibited.
(d) Any Golden Age or Golden Access Passport permittee shall be entitled, upon presentation of such a permit, to utilize special recreation facilities at a rate of 50 percent off the established use fee at Federally operated areas.

Fraudulent use of a Golden Age or Golden Access Passport is prohibited. [65 FR 6903, Feb. 11, 2000]

§ 327.24 Interference with Government employees.

(a) It is a Federal crime pursuant to the provisions of sections 111 and 1114 of Title 18, United States Code, to forcibly assault, resist, oppose, impede, intimidate, or interfere with, attempt to kill or kill any civilian official or employee for the U.S. Army Corps of Engineers engaged in the performance of his or her official duties, or on account of the performance of his or her official duties. Such actions or interference directed against a Federal employee while carrying out the regulations in this part are violation of such regulations and may be a state crime pursuant to the laws of the state where they occur.

(b) Failure to comply with a lawful order issued by a Federal employee acting pursuant to the regulations in this part shall be considered as interference with that employee while engaged in the performance of their official duties. Such interference with a Federal employee includes failure to provide a correct name, address or other information deemed necessary for identification upon request of the Federal employee, when that employee is authorized by the District Commander to issue citations in the performance of the employee's official duties. [65 FR 6903, Feb. 11, 2000]

§ 327.25 Violations of rules and regulations.

(a) Any person who violates the provisions of the regulations in this part, other than for a failure to pay authorized recreation use fees as separately provided for in § 327.23, may be punished by a fine of not more than \$5,000 or imprisonment for not more than six months or both and may be tried and sentenced in accordance with the provisions

of section 3401 of Title 18, United States Code. Persons designated by the District Commander shall have the authority to issue a citation for violation of the regulations in this part, requiring any person charged with the violation to appear before the United States Magistrate within whose jurisdiction the affected water resources development project is located (16 U.S.C. 460d).

(b) Any person who commits an act against any official or employee of the U.S. Army Corps of Engineers that is a crime under the provisions of section 111 or section 1114 of Title 18, United States Code or under provisions of pertinent state law may be tried and sentenced as further provided under Federal or state law, as the case may be. [65 FR 6903, Feb. 11, 2000]

§ 327.26 State and local laws.

(a) Except as otherwise provided in this part or by Federal law or regulation, state and local laws and ordinances shall apply on project lands and waters. This includes, but is not limited to, state and local laws and ordinances governing:

- (1) Operation and use of motor vehicles, vessels, and aircraft;
- (2) Hunting, fishing and trapping;
- (3) Use or possession of firearms or other weapons;
- (4) Civil disobedience and criminal acts;
- (5) Littering, sanitation and pollution; and
- (6) Alcohol or other controlled substances.

(b) These state and local laws and ordinances are enforced by those state and local enforcement agencies established and authorized for that purpose. [65 FR 6903, Feb. 11, 2000]

§§ 327.27-327.29 [Reserved]

§ 327.30 Shoreline Management on Civil Works Projects.

(a) *Purpose.* The purpose of this regulation is to provide policy and guidance on management of shorelines of Civil Works projects where 36 CFR part 327 is applicable.

(b) *Applicability.* This regulation is applicable to all field operating agencies with Civil Works responsibilities except when such application would result in an impingement upon existing Indian rights.

(c) *References.* (1) Section 4, 1944 Flood Control Act, as amended (16 U.S.C. 460d).

(2) The Rivers and Harbors Act of 1894, as amended and supplemented (33 U.S.C. 1)

(3) Section 10, River and Harbor Act of 1899 (33 U.S.C. 403).

(4) National Historic Preservation Act of 1966 (Pub. L. 89-665; 80 Stat. 915)

as amended (16 U.S.C. 470 *et seq.*).

(5) The National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*).

(6) The Clean Water Act (33 U.S.C. 1344, *et seq.*).

(7) The Water Resources Development Act of 1986 (Pub. L. 99-662).

(8) Title 36, chapter III, part 327, Code of Federal Regulations, "Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers."

(9) Executive Order 12088 (13 Oct. 78).

(10) 33 CFR parts 320-330, "Regulatory Programs of the Corps of Engineers."

(11) ER 1130-2-400, "Management of Natural Resources and Outdoor Recreation at Civil Works Water Resource Projects."

(12) EM 385-1-1, "Safety and Health Requirements Manual."

(d) *Policy.* (1) It is the policy of the Chief of Engineers to protect and manage shorelines of all Civil Works water resource development projects under Corps jurisdiction in a manner which will promote the safe and healthful use of these shorelines by the public while maintaining environmental safeguards to ensure a quality resource for use by the public. The objectives of all management actions will be to achieve a balance between permitted private uses and resource protection for general public use. Public pedestrian access to and exit from these shorelines shall be preserved. For projects or portions of projects where Federal real estate interest is limited to easement title only, management actions will be appropriate within the limits of the estate acquired.

(2) Private shoreline uses may be authorized in designated areas consistent with approved use allocations specified in Shoreline Management Plans. Except to honor written commitments made prior to publication of this regulation, private shoreline uses are not allowed on water resource projects where construction was initiated after December 13, 1974, or on water resource projects where no private shoreline uses existed as of that date. Any existing permitted facilities on these projects will be grandfathered until the facilities fail to meet the criteria set forth in § 327.30(h).

(3) A Shoreline Management Plan, as described in § 327.30(e), will be prepared for each Corps project where private shoreline use is allowed. This plan will honor past written commitments. The plan will be reviewed at least once every five years and revised as necessary. Shoreline uses that do not interfere with authorized project purposes, public safety concerns, violate

local norms or result in significant environmental effects should be allowed unless the public participation process identifies problems in these areas. If sufficient demand exists, consideration should be given to revising the shoreline allocations (e.g. increases/decreases). Maximum public participation will be encouraged as set forth in § 327.30(e)(6). Except to honor written commitments made prior to the publication of this regulation, shoreline management plans are not required for those projects where construction was initiated after December 13, 1974, or on projects not having private shoreline use as of that date. In that case, a statement of policy will be developed by the district commander to present the shoreline management policy. This policy statement will be subject to the approval of the division commander. For projects where two or more agencies have jurisdiction, the plan will be cooperatively prepared with the Corps as coordinator.

(4) Where commercial or other public launching and/or moorage facilities are not available within a reasonable distance, group owned mooring facilities may be allowed in Limited Development Areas to limit the proliferation of individual facilities. Generally only one permit will be necessary for a group owned mooring facility with that entity, if incorporated, or with one person from the organization designated as the permittee and responsible for all moorage spaces within the facility. No charge may be made for use of any permitted facility by others nor shall any commercial activity be engaged in thereon.

(5) The issuance of a private shoreline use permit does not convey any real estate or personal property rights or exclusive use rights to the permit holder. The public's right of access and use of the permit area must be maintained and preserved. Owners of permitted facilities may take necessary precautions to protect their property from theft, vandalism or trespass, but may in no way preclude the public right of pedestrian or vessel access to the water surface or public land adjacent to the facility.

(6) Shoreline Use Permits will only be issued to individuals or groups with legal right of access to public lands.

(e) *Shoreline Management Plan*—(1) *General*. The policies outlined in § 327.30(d) will be implemented through preparation of Shoreline Management Plans, where private shoreline use is allowed.

(2) *Preparation*. A Shoreline Management Plan is prepared as part of the Operational Management Plan. A moratorium

on accepting applications for new permits may be placed in effect from the time an announcement of creation of a plan or formal revision of a plan is made until the action is completed.

(3) *Approval*. Approval of Shoreline Management Plans rests with division commanders. After approval, one copy of each project Shoreline Management Plan will be forwarded to HQUSACE (CECW-ON) WASH DC 20314–1000. Copies of the approved plan will also be made available to the public.

(4) *Scope and Format*. The Shoreline Management Plan will consist of a map showing the shoreline allocated to the uses listed in § 327.30(e)(6), related rules and regulations, a discussion of what areas are open or closed to specific activities and facilities, how to apply for permits and other information pertinent to the Corps management of the shoreline. The plan will be prepared in sufficient detail to ensure that it is clear to the public what uses are and are not allowed on the shoreline of the project and why. A process will be developed and presented in the Shoreline Management Plan that prescribes a procedure for review of activities requested but not specifically addressed by the Shoreline Management Plan.

(5) *Shoreline Allocation*. The entire shoreline will be allocated within the classifications below and delineated on a map. Any action, within the context of this rule, which gives a special privilege to an individual or group of individuals on land or water at a Corps project, that precludes use of those lands and waters by the general public, is considered to be private shoreline use. Shoreline allocations cover that land and/or water extending from the edge of the water and waterward with the exception of allocations for the purpose of vegetation modification which extends landward to the project boundary. These allocations should complement, but certainly not contradict, the land classifications in the project master plan. A map of sufficient size and scale to clearly display the shoreline allocations will be conspicuously displayed or readily available for viewing in the project administration office and will serve as the authoritative reference. Reduced or smaller scale maps may be developed for public dissemination but the information contained on these must be identical to that contained on the display map in the project administration office. No changes will be made to these maps except through the formal update process. District commanders may add specific constraints and identify areas having unique characteristics during the plan preparation, review,

or updating process in addition to the allocation classifications described below.

(i) *Limited Development Areas*. Limited Development Areas are those areas in which private facilities and/or activities may be allowed consistent with § 327.30(h) and appendix A. Modification of vegetation by individuals may be allowed only following the issuance of a permit in accordance with appendix A. Potential low and high water conditions and underwater topography should be carefully evaluated before shoreline is allocated as Limited Development Area.

(ii) *Public Recreation Areas*. Public Recreation Areas are those areas designated for commercial concessionaire facilities, Federal, state or other similar public use. No private shoreline use facilities and/or activities will be permitted within or near designated or developed public recreation areas. The term “near” depends on the terrain, road system, and other local conditions, so actual distances must be established on a case by case basis in each project Shoreline Management Plan. No modification of land forms or vegetation by private individuals or groups of individuals is permitted in public recreation areas.

(iii) *Protected Shoreline Areas*. Protected Shoreline Areas are those areas designated to maintain or restore aesthetic, fish and wildlife, cultural, or other environmental values. Shoreline may also be so designated to prevent development in areas that are subject to excessive siltation, erosion, rapid dewatering, or exposure to high wind, wave, or current action and/or in areas in which development would interfere with navigation. No Shoreline Use Permits for floating or fixed recreation facilities will be allowed in protected areas. Some modification of vegetation by private individuals, such as clearing a narrow meandering path to the water, or limited mowing, may be allowed only following the issuance of a permit if the resource manager determines that the activity will not adversely impact the environment or physical characteristics for which the area was designated as protected. In making this determination the effect on water quality will also be considered.

(iv) *Prohibited Access Areas*. Prohibited Access Areas are those in which public access is not allowed or is restricted for health, safety or security reasons. These could include hazardous areas near dams, spillways, hydro-electric power stations, work areas, water intake structures, etc. No shoreline use permits will be issued in Prohibited Access Areas.

(6) *Public Participation.* District commanders will ensure public participation to the maximum practicable extent in Shoreline Management Plan formulation, preparation and subsequent revisions. This may be accomplished by public meetings, group workshops, open houses or other public involvement techniques. When master plan updates and preparation of the Shoreline Management Plans are concurrent, public participation may be combined and should consider all aspects of both plans, including shoreline allocation classifications. Public participation will begin during the initial formulation stage and must be broadbased to cover all aspects of public interest. The key to successful implementation is an early and continual public relations program. Projects with significant numbers of permits should consider developing computerized programs to facilitate exchange of information with permittees and to improve program efficiency. Special care will be taken to advise citizen and conservation organizations; Federal, state and local natural resource management agencies; Indian Tribes; the media; commercial concessionaires; congressional liaisons; adjacent landowners and other concerned entities during the formulation of Shoreline Management Plans and subsequent revisions. Notices shall be published prior to public meetings to assure maximum public awareness. Public notices shall be issued by the district commander allowing for a minimum of 30 days for receipt of written public comment in regard to the proposed Shoreline Management Plan or any major revision thereto.

(7) *Periodic Review.* Shoreline Management Plans will be reviewed periodically, but no less often than every five years, by the district commander to determine the need for update. If sufficient controversy or demand exists, consideration should be given, consistent with other factors, to a process of reevaluation of the shoreline allocations and the plan. When changes to the Shoreline Management Plan are needed, the plan will be formally updated through the public participation process. Cumulative environmental impacts of permit actions and the possibility of preparing or revising project NEPA documentation will be considered. District commanders may make minor revisions to the Shoreline Management Plan when the revisions are consistent with policy and funds for a complete plan update are not available. The amount and type of public involvement needed for such revision is at the discretion of the district commander.

(f) *Instruments for Shoreline Use.* Instruments used to authorize private shoreline use facilities, activities or development are as follows:

(1) *Shoreline Use Permits.* (i) Shoreline Use Permits are issued and enforced in accordance with provisions of 36 CFR 327.19.

(ii) Shoreline Use Permits are required for private structures/activities of any kind (except boats) in waters of Civil Works projects whether or not such waters are deemed navigable and where such waters are under the primary jurisdiction of the Secretary of the Army and under the management of the Corps of Engineers.

(iii) Shoreline Use Permits are required for non-floating structures on waters deemed commercially non-navigable, when such waters are under management of the Corps of Engineers.

(iv) Shoreline Use Permits are also required for land vegetation modification activities which do not involve disruption to land form.

(v) Permits should be issued for a term of five years. To reduce administration costs, one year permits should be issued only when the location or nature of the activity requires annual reissuance.

(vi) Shoreline Use Permits for erosion control may be issued for the life or period of continual ownership of the structure by the permittee and his/her legal spouse.

(2) *Department of the Army Permits.* Dredging, construction of fixed structures, including fills and combination fixed-floating structures and the discharge of dredged or fill material in waters of the United States will be evaluated under authority of section 10, River and Harbor Act of 1899 (33 U.S.C. 403) and section 404 of the Clean Water Act (33 U.S.C. 1344). Permits will be issued where appropriate.

(3) *Real Estate Instruments.* Commercial development activities and activities which involve grading, cuts, fills, or other changes in land form, or establishment of appropriate land-based support facilities required for private floating facilities, will continue to be covered by a lease, license or other legal grant issued through the appropriate real estate element. Shoreline Management Plans should identify the types of activities that require real estate instruments and indicate the general process for obtaining same. Shoreline Use Permits are not required for facilities or activities covered by a real estate instrument.

(g) *Transfer of Permits.* Shoreline Use Permits are non-transferable. They become null and void upon sale or transfer of the permitted facility or the

death of the permittee and his/her legal spouse.

(h) *Existing Facilities Now Under Permit.* Implementation of a Shoreline Management Plan shall consider existing permitted facilities and prior written Corps commitments implicit in their issuance. Facilities or activities permitted under special provisions should be identified in a way that will set them apart from other facilities or activities.

(1) Section 6 of Pub. L. 97-140 provides that no lawfully installed dock or appurtenant structures shall be required to be removed prior to December 31, 1989, from any Federal water resources reservoir or lake project administered by the Secretary of the Army, acting through the Chief of Engineers, on which it was located on December 29, 1981, if such property is maintained in usable condition, and does not occasion a threat to life or property.

(2) In accordance with section 1134(d) of Pub. L. 99-662, any houseboat, boathouse, floating cabin or lawfully installed dock or appurtenant structures in place under a valid shoreline use permit as of November 17, 1986, cannot be forced to be removed from any Federal water resources project or lake administered by the Secretary of the Army on or after December 31, 1989, if it meets the three conditions below except where necessary for immediate use for public purposes or higher public use or for a navigation or flood control project.

(i) Such property is maintained in a usable and safe condition,

(ii) Such property does not occasion a threat to life or property, and

(iii) The holder of the permit is in substantial compliance with the existing permit.

(3) All such floating facilities and appurtenances will be formally recognized in an appropriate Shoreline Management Plan. New permits for these permitted facilities will be issued to new owners. If the holder of the permit fails to comply with the terms of the permit, it may be revoked and the holder required to remove the structure, in accordance with the terms of the permit as to notice, time, and appeal.

(i) *Facility Maintenance.* Permitted facilities must be operated, used and maintained by the permittee in a safe, healthful condition at all times. If determined to be unsafe, the resource manager will establish together with the permittee a schedule, based on the seriousness of the safety deficiency, for correcting the deficiency or having it removed, at the permittee's expense.

The applicable safety and health prescriptions in EM 385-1-1 should be used as a guide.

(j) *Density of Development.* The density of private floating and fixed recreation facilities will be established in the Shoreline Management Plan for all portions of Limited Development areas consistent with ecological and aesthetic characteristics and prior written commitments. The facility density in Limited Development Areas should, if feasible, be determined prior to the development

of adjacent private property. The density of facilities will not be more than 50 per cent of the Limited Development Area in which they are located. Density will be measured by determining the linear feet of shoreline as compared to the width of the facilities in the water plus associated moorage arrangements which restrict the full unobstructed use of that portion of the shoreline. When a Limited Development Area or a portion of a Limited Development area reaches maximum density, notice should be given to the public and facility owners in that area that no additional facilities will be allowed. In all cases, sufficient open area will be maintained for safe maneuvering of watercraft. Docks should not extend out from the shore more than one-third of the width of a cove at normal recreation or multipurpose pool. In those cases where current density of development exceeds the density level established in the Shoreline Management Plan, the density will be reduced to the prescribed level through attrition.

(k) *Permit Fees.* Fees associated with the Shoreline Use Permits shall be paid prior to issuing the permit in accordance with the provisions of § 327.30(c)(1). The fee schedule will be published separately.

APPENDIX A TO § 327.30—GUIDELINES FOR GRANTING SHORELINE USE PERMITS
1. General

a. Decisions regarding permits for private floating recreation facilities will consider the operating objectives and physical characteristics of each project. In developing Shoreline Management Plans, district commanders will give consideration to the effects of added private boat storage facilities on commercial concessions for that purpose. Consistent with established policies, new commercial concessions may be alternatives to additional limited development shoreline.

b. Permits for individually or group owned shoreline use facilities may be granted only in Limited Development Areas when the sites are not near commercial marine services and such use will not despoil the shoreline nor inhibit public use or enjoyment thereof. The installation and use of such facilities will not be in conflict with the preservation of the natural characteristics of the shoreline nor will they result in significant environmental damage. Charges will be made

for Shoreline Use Permits in accordance with the separately published fee schedule.

c. Permits may be granted within Limited Development Areas for ski jumps, floats, boat moorage facilities, duck blinds, and other private floating recreation facilities when they will not create a safety hazard and inhibit public use or enjoyment of project waters or shoreline. A Corps permit is not required for temporary ice fishing shelters or duck blinds when they are regulated by a state program. When the facility or activity is authorized by a shoreline use permit, a separate real estate instrument is generally not required.

d. Group owned boat mooring facilities may be permitted in Limited Development Areas where practicable (e.g. where physically feasible in terms of access, water depths, wind protection, etc.).

2. Applications for Shoreline Use Permits

a. Applications for private Shoreline Use Permits will be reviewed with full consideration of the policies set forth in this and referenced regulations, and the Shoreline Management Plan. Fees associated with the Shoreline Use Permit shall be paid prior to issuing the permit. Plans and specifications of the proposed facility shall be submitted and approved prior to the start of construction. Submissions should include engineering details, structural design, anchorage method, and construction materials; the type, size, location and ownership of the facility; expected duration of use; and an indication of willingness to abide by the applicable regulations and terms and conditions of the permit. Permit applications shall also identify and locate any land-based support facilities and any specific safety considerations.

b. Permits will be issued by the district commander or his/her authorized representative on ENG Form 4264-R (Application for Shoreline Use Permit) (appendix B). Computer generated forms may be substituted for ENG Form 4264-R provided all information is included. The computer generated form will be designated, "ENG Form 4264-RE, Oct 87 (Electronic generation approved by USACE, Oct 87)".

c. The following are guides to issuance of Shoreline Use Permits:

- (1) Use of boat mooring facilities, including piers and boat (shelters) houses, will be limited to vessel or watercraft mooring and storage of gear essential to vessel or watercraft operation.
- (2) Private floating recreation facilities, including boat mooring facilities shall not be constructed or used for human habitation or in a manner which gives the appearance of converting Federal public property on which the facility is located to private, exclusive use. New docks with enclosed sides (i.e. boathouses) are prohibited.
- (3) No private floating facility will exceed the minimum size required to moor the owner's boat or boats plus the minimum size required for an enclosed storage locker of oars, life preservers and other items essential to watercraft operation. Specific size limitations may be established in the project Shoreline Management Plan.
- (4) All private floating recreation facilities including boat mooring facilities will be constructed in accordance with plans and specifications, approved by the resource manager, or a written certification from a licensed engineer, stating the facility is structurally

safe will accompany the initial submission of the plans and specifications.

(5) Procedures regarding permits for individual facilities shall also apply to permits

for non-commercial group mooring facilities.

(6) Facilities attached to the shore shall be securely anchored by means of moorings which do not obstruct the free use of the shoreline, nor damage vegetation or other natural features. Anchoring to vegetation is prohibited.

(7) Electrical service and equipment leading to or on private mooring facilities must not pose a safety hazard nor conflict with other recreational use. Electrical installations must be weatherproof and meet all current applicable electrical codes and regulations. The facility must be equipped with quick disconnect fittings mounted above the flood pool elevation. All electrical installations must conform to the National Electric Code and all state, and local codes and regulations. In those states where electricians are licensed, registered, or otherwise certified, a copy of the electrical certification must be provided to the resource manager before a Shoreline Use Permit can be issued or renewed. The resource manager will require immediate removal or disconnection of any electrical service or equipment that is not certified (if appropriate), does not meet code, or is not safely maintained. All new electrical lines will be installed underground. This will require a separate real estate instrument for the service right-of-way. Existing overhead lines will be allowed, as long as they meet all applicable electrical codes, regulations and above guidelines, to include compatibility and safety related to fluctuating water levels.

(8) Private floating recreation facilities will not be placed so as to interfere with any authorized project purposes, including navigation, or create a safety or health hazard.

(9) The district commander or his/her authorized representative may place special conditions on the permit when deemed necessary. Requests for waivers of shoreline management plan permit conditions based on health conditions will be reviewed on a case by case basis by the Operations Manager. Efforts will be made to reduce onerous requirements when a limiting health condition is obvious or when an applicant provides a doctor's certification of need for conditions which are not obvious.

(10) Vegetation modification, including but not limited to, cutting, pruning, chemical manipulation, removal or seeding by private individuals is allowed only in those areas designated as Limited Development Areas or Protected Shoreline Areas. An existing (as of July 1, 1987) vegetation modification permit, within a shoreline allocation which normally would not allow vegetation modification, should be grandfathered. Permittees will not create the appearance of private ownership of public lands.

(11) The term of a permit for vegetation modification will be for five years. Where possible, such permits will be consolidated with other shoreline management permits into a single permit. The district commander is authorized to issue vegetation modification permits of less than five years for onetime requests or to aid in the consolidation of shoreline management permits.

(12) When issued a permit for vegetative modification, the permittee will delineate

the government property line, as surveyed and marked by the government, in a clear but unobtrusive manner approved by the district commander and in accordance with the project Shoreline Management Plan and the conditions of the permit. Other adjoining owners may also delineate the common boundary subject to these same conditions. This delineation may include, but is not limited to, boundary plantings and fencing. The delineation will be accomplished at no cost to the government.

(13) No permit will be issued for vegetation modification in Protected Shoreline Areas until the environmental impacts of the proposed modification are assessed by the resource manager and it has been determined that no significant adverse impacts will result. The effects of the proposed modification on water quality will also be considered in making this determination.

(14) The original of the completed permit application is to be retained by the permittee. A duplicate will be retained in the resource manager's office.

3. *Permit Revocation*

Permits may be revoked by the district commander when it is determined that the public interest requires such revocation or when the permittee fails to comply with terms and conditions of the permit, the Shoreline Management Plan, or of this regulation. Permits for duck blinds and ice fishing shelters will be issued to cover a period not to exceed 30 days prior to and 30 days after the season.

4. *Removal of Facilities*

Facilities not removed when specified in the permit or when requested after termination or revocation of the permit will be treated as unauthorized structures pursuant to 36 CFR 327.20.

5. *Posting of Permit Number*

Each district will procure 53-83 or larger printed permit tags of light metal or plastic for posting. The permit display tag shall be posted on the facility and/or on the land area covered by the permit, so that it can be visually checked, with ease in accordance with instructions provided by the resource manager. Facilities or activities permitted under special provisions should be identified in a way that will set apart from other facilities or activities.

APPENDIX B TO § 327.30—APPLICATION FOR SHORELINE USE PERMIT [RESERVED]
APPENDIX C TO § 327.30—SHORELINE USE PERMIT CONDITIONS

1. This permit is granted solely to the applicant for the purpose described on the attached permit.

2. The permittee agrees to and does hereby release and agree to save and hold the Government harmless from any and all causes of action, suits at law or equity, or claims or demands or from any liability of any nature whatsoever for or on account of any damages to persons or property, including a permitted facility, growing out of the ownership, construction, operation or maintenance by the permittee of the permitted facilities and/or activities.

3. Ownership, construction, operation, use and maintenance of a permitted facility are subject to the Government's navigation servitude.

4. No attempt shall be made by the permittee to forbid the full and free use by the public of all public waters and/or lands at or adjacent to the permitted facility or to unreasonably

interfere with any authorized project purposes, including navigation in connection with the ownership, construction, operation or maintenance of a permitted facility and/or activity.

5. The permittee agrees that if subsequent operations by the Government require an alteration in the location of a permitted facility and/or activity or if in the opinion of the district commander a permitted facility and/or activity shall cause unreasonable obstruction to navigation or that the public interest so requires, the permittee shall be required, upon written notice from the district commander to remove, alter, or relocate the permitted facility, without expense to the Government.

6. The Government shall in no case be liable for any damage or injury to a permitted facility which may be caused by or result from subsequent operations undertaken by the Government for the improvement of navigation or for other lawful purposes, and no claims or right to compensation shall accrue from any such damage. This includes any damage that may occur to private property if a facility is removed for noncompliance with the conditions of the permit.

7. Ownership, construction, operation, use and maintenance of a permitted facility and/or activity are subject to all applicable Federal, state and local laws and regulations. Failure to abide by these applicable laws and regulations may be cause for revocation of the permit.

8. This permit does not convey any property rights either in real estate or material; and does not authorize any injury to private property or invasion of private rights or any infringement of Federal, state or local laws or regulations, nor does it obviate the necessity of obtaining state or local consent required by law for the construction, operation, use or maintenance of a permitted facility and/or activity.

9. The permittee agrees to construct the facility within the time limit agreed to on the permit issuance date. The permit shall become null and void if construction is not completed within that period. Further, the permittee agrees to operate and maintain any permitted facility and/or activity in a manner so as to provide safety, minimize any adverse impact on fish and wildlife habitat, natural, environmental, or cultural resources values and in a manner so as to minimize the degradation of water quality.

10. The permittee shall remove a permitted facility within 30 days, at his/her expense, and restore the waterway and lands to a condition accepted by the resource manager upon termination or revocation of this permit or if the permittee ceases to use, operate or maintain a permitted facility and/or activity.

If the permittee fails to comply to the satisfaction of the resource manager, the district commander may remove the facility by contract or otherwise and the permittee agrees to pay all costs incurred thereof.

11. The use of a permitted boat dock facility shall be limited to the mooring of the permittee's vessel or watercraft and the storage, in enclosed locker facilities, of his/her gear essential to the operation of such vessel or watercraft.

12. Neither a permitted facility nor any houseboat, cabin cruiser, or other vessel moored thereto shall be used as a place of habitation or as a full or part-time residence or in any manner which gives the appearance

of converting the public property, on which the facility is located, to private use.

13. Facilities granted under this permit will not be leased, rented, sub-let or provided to others by any means of engaging in commercial activity(s) by the permittee or his/her agent for monetary gain. This does not preclude the permittee from selling total ownership to the facility.

14. Floats and the flotation material for all docks and boat mooring buoys shall be fabricated of materials manufactured for marine use. The float and its flotation material shall be 100% warranted for a minimum of 8 years against sinking, becoming waterlogged, cracking, peeling, fragmenting, or losing beads. All floats shall resist puncture and penetration and shall not be subject to damage by animals under normal conditions for the area. All floats and the flotation material used in them shall be fire resistant.

Any float which is within 40 feet of a line carrying fuel shall be 100% impervious to water and fuel. The use of new or recycled plastic or metal drums or non-compartmentalized air containers for encasement or floats is prohibited. Existing floats are authorized until it or its flotation material is no longer serviceable, at which time it shall be replaced with a float that meets the conditions listed above. For any floats installed after the effective date of this specification, repair or replacement shall be required when it or its flotation material no longer performs its designated function or it fails to meet the specifications for which it was originally warranted.

15. Permitted facilities and activities are subject to periodic inspection by authorized Corps representatives. The resource manager will notify the permittee of any deficiencies and together establish a schedule for their correction. No deviation or changes from approved plans will be allowed without prior written approval of the resource manager.

16. Floating facilities shall be securely attached to the shore in accordance with the approved plans by means of moorings which do not obstruct general public use of the shoreline or adversely affect the natural terrain or vegetation. Anchoring to vegetation is prohibited.

17. The permit display tag shall be posted on the permitted facility and/or on the land areas covered by the permit so that it can be visually checked with ease in accordance with instructions provided by the resource manager.

18. No vegetation other than that prescribed in the permit will be damaged, destroyed or removed. No vegetation of any kind will be planted, other than that specifically prescribed in the permit.

19. No change in land form such as grading, excavation or filling is authorized by this permit.

20. This permit is non-transferable. Upon the sale or other transfer of the permitted facility or the death of the permittee and his/her legal spouse, this permit is null and void.

21. By 30 days written notice, mailed to the permittee by certified letter, the district commander may revoke this permit whenever the public interest necessitates such revocation or when the permittee fails to comply with any permit condition or term. The revocation notice shall specify the reasons for such action. If the permittee requests

a hearing in writing to the district commander through the resource manager within the 30-day period, the district commander shall grant such hearing at the earliest opportunity. In no event shall the hearing date be more than 60 days from the date of the hearing request. Following the hearing, a written decision will be rendered and a copy mailed to the permittee by certified letter.

22. Notwithstanding the conditions cited in condition 21 above, if in the opinion of the district commander, emergency circumstances dictate otherwise, the district commander may summarily revoke the permit.

23. When vegetation modification on these lands is accomplished by chemical means, the program will be in accordance with appropriate Federal, state and local laws, rules and regulations.

24. The resource manager or his/her authorized representative shall be allowed to cross the permittee's property, as necessary to inspect facilities and/or activities under permit.

25. When vegetation modification is allowed, the permittee will delineate the government property line in a clear, but unobtrusive manner approved by the resource manager and in accordance with the project Shoreline Management Plan.

26. If the ownership of a permitted facility is sold or transferred, the permittee or new owner will notify the Resource Manager of the action prior to finalization. The new owner must apply for a Shoreline Use Permit within 14 days or remove the facility and restore the use area within 30 days from the date of ownership transfer.

27. If permitted facilities are removed for storage or extensive maintenance, the resource manager may require all portions of the facility be removed from public property.

APPENDIX D TO § 327.30—PERMIT [RESERVED]
[55 FR 30697, July 27, 1990, as amended at 57 FR 21895, May 26, 1992; 57 FR 29220, July 1, 1992; 63 FR 35828, July 1, 1998]

EFFECTIVE DATE NOTE: The amendment to § 327.30 revising the last sentence of paragraph (k), published at 56 FR 29587, June 28, 1991, was deferred indefinitely. See 56 FR 49706, Oct. 1, 1991. The administrative charges contained in § 327.30, Shoreline Management

on Civil Works Projects, published in the July 1, 1991 edition of the Code of Federal Regulations will remain in effect. Any future decisions affecting this regulation will be published in the FEDERAL REGISTER at a later date by the Corps of Engineers, Department of the Army. For the convenience of the user, the rule published on June 28, 1991, at FR page 29587, is set forth as follows:

§ 327.30 Shoreline Management on Civil Works Projects.

* * * * *

(k) * * * The Fee Schedule is published in § 327.31.

§ 327.31 Shoreline management fee schedule.

A charge will be made for Shoreline Use Permits to help defray expenses associated with issuance and administration of the permits. As permits become eligible for renewal after July 1, 1976, a charge of \$10 for each new permit and a \$5 annual fee for inspection of floating

facilities will be made. There will be no annual inspection fee for permits for vegetative modification on Shoreline areas. In all cases the total administrative charge will be collected initially at the time of permit issuance rather than on a piecemeal annual basis.
[56 FR 61163, Dec. 2, 1991; 56 FR 65190, Dec. 16, 1991]

EXHIBIT B: SHORELINE USE PERMIT CONDITIONS

Shoreline Use Permit Conditions

Revised 06/27/2018

This Shoreline Use Permit/License is granted subject to the following conditions:

1. The permittee shall pay, in advance, to the United States, compensation in accordance with the fee schedule attached hereto as Exhibit B.
2. This permit/license is granted solely to the applicant for the purpose described on the attached permit/license. The exercise of the privileges herein granted shall be:
 - a. without cost or expense to the United States;
 - b. subject to the right of the United States to improve, use or maintain the premises.
 - c. subject to other outgrants of the United States on the premises.
 - d. personal to the permittee, and this Shoreline Use Permit/License, or any interest therein, may not be transferred or assigned. Upon the sale or other transfer of the permitted facility or the death of the permittee and his/her legal spouse, this permit/license is null and void.
3. If the ownership of a permitted facility is sold or transferred, the permittee or new owner will notify the Resource Manager of the action prior to finalization. The new owner must apply for a Shoreline Use Permit/license within 14 days or remove the facility and restore the use area within 30 days from the date of the ownership transfer.
4. Notices to be given pursuant to this Shoreline Use Permit/License shall be addressed, if to permittee, the same as recited on the Application for Shoreline Use Permit/License, and if to the United States, to **FAO, US Army, Little Rock District** and delivered to **Duty Ranger, US Army Corps of Engineers, 4600 State Highway 165, Branson, MO 65616**, or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly-sealed envelope or wrapper addressed as aforesaid, and deposited postage prepaid in a post office regularly maintained by the United States Postal Service.
5. The construction, operation, maintenance, repair or replacement of said facilities shall be performed at no cost or expense to the United States and subject to the approval of the District Engineer, Little Rock District, Corps of Engineers, P.O. Box 867, Little Rock, AR 72203-0867, hereinafter referred to as "said officer." Upon the completion of any of the above activities, the Permittee shall immediately restore the premises to the satisfaction of said officer. The use and occupation of the premises for the purposes herein granted shall be subject to the Government's navigation servitude, to rules published in Title 36, Code of Federal Regulations, Part 327, and to all applicable Federal, state and local laws and regulations.
6. Except as otherwise specifically provided, any reference herein to "Secretary," "District Engineer," "Installation Commander," "Resource Manager" or "said officer" shall include their

duly authorized representatives. Any reference to "grantee" or "permittee" shall include their duly authorized representatives.

7. The permittee acknowledges that it has inspected the premises, knows the condition, and understands that the same is granted without any representation or warranties whatsoever and without any obligation on the part of the United States. The permittee shall inspect the facilities at reasonable intervals and immediately repair any defects found by such inspection or when required by said officer to repair any such defects.

8. The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property or injuries to the person of the permittee's officers, agents, or employees or others who may be on the premises at the invitation of any one of them, and the permittee shall hold the United States harmless from any and all causes of action, suits at law or equity, claims or demands, or from any liability of any nature whatsoever for or on account of any damages to persons or property, construction or maintenance by the permittee of the permitted facilities and/or activities.

9. The permittee shall be responsible for any damage that may be caused to the property of the United States by the activities of the permittee under this Shoreline Use Permit/License and shall exercise due diligence in the protection of all property located on the premises against fire or damage from any and all other causes. Any property of the United States damaged or destroyed by the permittee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the permittee to a condition satisfactory to said officer, or at the election of said officer, reimbursement made therefor by the permittee in an amount necessary to restore or replace the property to a condition satisfactory to said officer.

10. The right is reserved to the United States, its officers, agents, and employees to enter upon the premises at any time and for any purpose necessary or convenient in connection with government work, to make inspections, to remove timber or other material, except property of the permittee, and/or to make any other use of the lands as may be necessary in connection with government purposes, and the permittee shall have no claim for damages on account thereof against the United States or any officer, agent, or employee thereof.

The authorized representative shall be allowed to cross the permittee's property, as necessary, to inspect facilities and/or activities under permit. The resource manager will notify the permittee of any deficiencies and together establish a schedule for their correction. No deviation or changes from approved plans will be allowed without prior written approval of the resource manager.

11. This permit/license does not convey any property rights either in real estate or material; and does not authorize any injury to private property or invasion of private rights or any infringement of Federal, state or local laws or regulations, nor does it obviate the necessity of obtaining state or local assent required by law for the construction, operation, use or maintenance of a permitted facility and/or activity.

12. The permittee agrees to construct the facility within the time limit agreed to on the permit/license issuance date. The permit/license shall become null and void if construction is not

completed within that period. Further, the permittee agrees to operate and maintain any permitted facility and/or activity in a manner so as to provide safety, minimize any adverse impact on fish and wildlife habitat, natural, environmental, or cultural resources values and in a manner so as to minimize the degradation of water quality.

13. The permittee shall maintain, in a manner satisfactory to said officer, all soil and water conservation structures that may be in existence upon said premises at the beginning of or that may be constructed by the permittee during the term of this Shoreline Use Permit/License, and the permittee shall take appropriate measures to prevent or control soil erosion within the right-of-way herein granted. Any soil erosion occurring outside the premises resulting from the activities of the permittee shall be corrected by the permittee as directed by said officer.

14. The use of a permitted boat dock facility shall be limited to the mooring of the permittee's vessel or watercraft and the storage, in enclosed locker facilities, of gear essential to the operation of such vessel or watercraft.

15. No attempt shall be made by the permittee to forbid the full and free use by the public of all navigable waters or public land at or adjacent to the approved facility. No charge may be made for use by others of the facilities nor shall commercial activities be conducted thereon. Use of all land-based improvements shall be open to the general public without charge.

16. Neither a permitted facility, any improvement authorized, nor any houseboat, cabin cruiser, or other vessel moored thereto shall be used as a place of habitation or as a full or part-time residence or in any manner that gives the appearance of converting the public property on which the facility is located to private use. Household furnishings are not permitted on boat docks or other structures.

17. Facilities granted under this permit/license will not be leased, rented, sub-let or provided to others by any means of engaging in commercial activity(s) by the permittee or his/her agent for monetary gain. This does not preclude the permittee from selling total ownership of the facility.

18. Floats and the flotation material for all docks and boat mooring buoys shall be fabricated of materials manufactured for marine use. The float and its flotation material shall be 100% warranted for a minimum of 8 years against sinking, becoming waterlogged, cracking, peeling, fragmenting or losing beads. All floats shall resist puncture and penetration and shall not be subject to damage by animals under normal conditions for the area. All floats and the flotation material used in them shall be fire resistant. Any float which is within 40 feet of a line carrying fuel shall be 100% impervious to water and fuel. The use of new or recycled plastic or metal drums or non-compartmentalized air containers for encasement or floats is prohibited. Existing floats are authorized until it or its flotation material is no longer serviceable, at which time it shall be replaced with a float that meets the conditions listed above. For any floats installed after the effective date of this specification, repair or replacement shall be required when it or its flotation material no longer performs its designated function or it fails to meet the specifications for which it was originally warranted. Adequate flotation must be provided to maintain the substructure a minimum of eight (8) inches above the water surface.

19. Floating facilities shall be securely attached to the shore in accordance with the approved plans by means of moorings which do not obstruct general public use of the shoreline or adversely affect the natural terrain or vegetation. Anchoring to vegetation is prohibited.

20. The permit/license display tag shall be posted on the permitted facility and/or on the land areas covered by the permit/license so that it can be visually checked with ease in accordance with instructions provided by the resource manager.

21. No vegetation other than that prescribed in the permit/license will be damaged, destroyed or removed. In no event will vegetation be disturbed to the extent the right-of-way will be subject to erosion or natural beauty destroyed. All disturbed areas shall be seeded, replanted, or given some type of equivalent protection against subsequent erosion. No change in landform such as grading, excavation or filling is authorized by this permit/license. No vegetation planting of any kind may be done, other than that specifically prescribed.

22. When vegetation modification is approved to be accomplished by chemical means, the program will be in accordance with appropriate Federal, state and local laws, rules and regulations. When vegetation modification is allowed, the permittee will delineate the Corps property line in a clear, but unobtrusive manner approved by the resource manager and in accordance with the project Shoreline Management Plan.

23. The permittee shall comply with all applicable Federal, state, county, municipal laws, ordinances and regulations wherein the premises are located, including, but not limited to, the provisions of the latest edition of the National Electrical Safety Code (NESC), Engineer Regulation 1110-2-4401, Clearances for Electric Power Supply Lines and Communication Lines over Reservoirs, dated May 30, 1997, and the Environmental Protection Agency regulations on Polychlorinated Biphenyls (PCB's). Failure to abide by these applicable laws and regulations may be cause for revocation of the permit/license.

24. a. Within the limits of their respective legal powers, the parties hereto shall protect the premises against pollution of its air, ground, and water. The permittee shall promptly comply with any laws, regulations, conditions or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the premises is strictly prohibited. Such regulations, conditions, or instructions in effect or prescribed by the said Environmental Protection Agency or any Federal, state, interstate or local governmental agency are hereby made a condition of this Shoreline Use Permit/License. The permittee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The use of any pesticides or herbicides within the premises shall be in conformance with all applicable Federal, state and local laws and regulations. The permittee must obtain approval in writing from said officer before any pesticides or herbicides are applied to the premises.

c. The permittee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs arising from the permittee's activities, the permittee shall be liable to restore the damaged resources.

25. The permittee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural or other cultural artifacts, relics, remains or objects of antiquity. In the event such items are discovered on the premises, the permittee shall immediately notify said officer and protect the site and material from further disturbance until said officer gives clearance to proceed.

26. If permitted facilities are removed for storage or extensive maintenance, the resource manager may require portions of the facility be removed from the public property.

27. The permittee shall remove a permitted facility within 30 days, at his/her expense, and restore the waterway and lands to a condition accepted by the resource manager upon termination or revocation of this permit/license or if the permittee ceases to use, operate or maintain a permitted facility and/or activity. If the permittee fails to comply to the satisfaction of the resource manager, the district commander may remove the facility by contract or otherwise and the permittee agrees to pay all costs incurred thereof. The permittee shall have no claim for damages against the United States for such action and no refund by the United States of any fee theretofore paid shall be made.

28. By 30 days written notice, mailed to the permittee by certified letter, the district commander may revoke this permit/license whenever the public interest necessitates such revocation or when the permittee fails to comply with any permit/license condition or term. The revocation notice shall specify the reasons for such action. If the permittee requests a hearing in writing to the district commander through the resource manager within the 30 day period, the district commander shall grant such hearing at the earliest opportunity. In no event shall the hearing date be more than 60 days from the date of the hearing request. Following the hearing, a written decision will be rendered and a copy mailed to the permittee by certified letter.

29. Notwithstanding the condition cited in condition 28 above, if in the opinion of the district commander, emergency circumstances dictate otherwise, the district commander may summarily revoke the permit./license.

30. The permittee shall not discriminate against any person or persons because of race, color, age, sex, handicap, national origin, or religion in the conduct of operations on the premises.

31. On or before the expiration or termination of this Shoreline Use Permit/License, the permittee shall, without expense to the United States, and within such time as said officer may indicate, remove said facilities and restore the premises to the satisfaction of said officer. In the event the permittee shall fail to remove said facilities and restore the premises, the United States shall have the option to take over said facilities without compensation, or to remove said facilities and perform the restoration at the expense of the permittee, and the permittee shall have no claim for damages against the United States or its officers or agents for such action.

32. The permittee agrees that if subsequent operations by the United States require an alteration in the location of a permitted facility and/or activity and if in the opinion of the district commander a permitted facility and/or activity shall cause unreasonable obstruction to navigation or that the public interest so requires, the permittee shall be required, upon written

notice from the district commander, to remove, alter, or relocate the permitted facility, without expense to the Government.

33. The United States shall in no case be liable for any damage or injury to a permitted facility which may be caused by or result from subsequent operations undertaken by the Government for the improvement of navigation or for other lawful purposes, and no claims or right to compensation shall accrue from any such damage. This includes any damage that may occur to private property if a facility is removed for noncompliance with the conditions of the permit/license.

34. This instrument is effective only insofar as the rights of the United States in the property are concerned, and the permittee shall obtain such permission as may be required on account of any other existing rights. It is understood that the granting of this Shoreline Use Permit/License does not eliminate the necessity of obtaining any Department of the Army permit which may be required pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (30 Stat. 1151; 33 U.S.C. @ 403), Section 404 of the Clean Water Act (33 U.S.C. @ 1344) or any other permit or Shoreline Use Permit/License which may be required by Federal, state or local statute in connection with use of the premises.

35. The permittee shall take all necessary action and provide all necessary facilities to maintain the area in a clean and sanitary manner, removing promptly and regularly trash and garbage from the said area. Construction materials and refuse are to be removed from the premises immediately upon completion of construction.

36. If a water line is authorized for withdrawal of water, the permittee shall register the taking of water from the reservoir with the appropriate state agency and shall save the United States harmless from any and all claims for damages by riparian owners arising out of taking water therefrom. Further, in the event of federal and/or state legislation providing for charges for the taking of water, the permittee agrees to enter into a water contract with the appropriate agency and pay such charges. It is understood and agreed that any water taken from the reservoir will not be used for human consumption or other domestic purposes, irrigation for the production of crops, or for a commercial purpose. A submersible water pump, along with associated electrical components, is not authorized on Federal property.

37. If a water line is authorized for a geothermal closed loop system, the solution to be circulated in the closed loop system shall be non-toxic, non-contaminating, and at minimal risk of imposing any type of environmental hazard. In the event of accidental spill, the grantee shall be solely responsible for clean-up and/or restoration of the damaged resources.

38. a. It has been determined this contract is not subject to Executive Order 13658 or the regulations issued by the Secretary of Labor in 29 CFR part 10 pursuant to the Executive Order, and the following provisions.

b. If a duly authorized representative of the United States discovers or determines, whether before or subsequent to executing this contract, that an erroneous determination regarding the applicability of Executive Order 13658 was made, contractor, to the extent permitted by law, agrees to indemnify and hold harmless the United States, its officers, agents, and employees, for

and from any and all liabilities, losses, claims, expenses, suits, fines, penalties, judgments, demands or actions, costs, fees, and damages directly or indirectly arising out of, caused by, related to, resulting from or in any way predicated upon, in whole or in part, the erroneous Executive Order 13658 determination. This includes contractor releasing any claim or entitlement it would otherwise have to an equitable adjustment to the contract and indemnifying and holding harmless the United States from the claims of subcontractors and contractor employees.

39. It has been determined this contract is not subject to Executive Order 13706 or the regulations issued by the Secretary of Labor in 29 CFR part 13 pursuant to the Executive Order.

40. Road facilities, if authorized, shall be open to the public for use without charge. Vehicular traffic shall be restricted to the approved right-of-way only. Large boulders, heavy enough to prevent easy removal, may be required around the perimeter of the right-of-way and spaced to prevent vehicular access but not impede pedestrian access. The facilities may be repaired and maintained to ensure their licensed purpose, but may not be enlarged or otherwise further improved in any manner. Unauthorized expansion may result in termination of this license, removal and/or closure of the road authorized herein, and a citation for destruction of public property under Title 36, part 327.14, Public Property.

41. The power lines serving the railway, if authorized, shall carry a maximum of 120 volts and will be equipped with a cut-off switch placed above the top of the flood control pool. The owner of the railway will be responsible for cutting off power at the switch location when the railway is not in use. The railway shall not interfere with pedestrian circulation around the lake. The railway and related equipment shall be used for private use and not commercial service. The railway and related equipment shall be inspected by a qualified engineer every five years.

THIS SHORELINE USE PERMIT/LICENSE is not subject to Title 10, United States Code, Section 2262, as amended.