

Pt. 1304

(b) Distribution of free samples of tobacco products on TVA property is prohibited.

(c) TVA may, as appropriate, designate areas not subject to this section if individuals under the age of 18 are not allowed in such areas.

PART 1304—APPROVAL OF CONSTRUCTION IN THE TENNESSEE RIVER SYSTEM AND REGULATION OF STRUCTURES AND OTHER ALTERATIONS

Subpart A—Procedures for Approval of Construction

Sec.

- 1304.1 Scope and intent.
- 1304.2 Application.
- 1304.3 Delegation of authority.
- 1304.4 Application review and approval process.
- 1304.5 Conduct of hearings.
- 1304.6 Appeals.
- 1304.7 Conditions of approvals.
- 1304.8 Denials.
- 1304.9 Initiation of construction.
- 1304.10 Change in ownership of approved facilities or activities.
- 1304.11 Little Tennessee River; date of formal submission.

Subpart B—Regulation of Nonnavigable Houseboats

- 1304.100 Scope and intent.
- 1304.101 Nonnavigable houseboats.
- 1304.102 Numbering of nonnavigable houseboats and transfer of ownership.
- 1304.103 Approval of plans for structural modifications or rebuilding of approved nonnavigable houseboats.

Subpart C—TVA-Owned Residential Access Shoreland

- 1304.200 Scope and intent.
- 1304.201 Applicability.
- 1304.202 General sediment and erosion control provisions.
- 1304.203 Vegetation management.
- 1304.204 Docks, piers, and boathouses.
- 1304.205 Other water-use facilities.
- 1304.206 Requirements for community docks, piers, boathouses, or other water-use facilities.
- 1304.207 Channel excavation on TVA-owned residential access shoreland.
- 1304.208 Shoreline stabilization on TVA-owned residential access shoreland.
- 1304.209 Land-based structures/alterations.
- 1304.210 Grandfathering of preexisting shoreland uses and structures.

18 CFR Ch. XIII (4–1–07 Edition)

- 1304.211 Change in ownership of grandfathered structures or alterations.
- 1304.212 Waivers.

Subpart D—Activities on TVA Flowage Easement Shoreland

- 1304.300 Scope and intent.
- 1304.301 Utilities.
- 1304.302 Vegetation management on flowage easement shoreland.
- 1304.303 Channel excavation.

Subpart E—Miscellaneous

- 1304.400 Flotation devices and material, all floating structures.
- 1304.401 Marine sanitation devices.
- 1304.402 Wastewater outfalls.
- 1304.403 Marina sewage pump-out stations and holding tanks.
- 1304.404 Commercial marina harbor limits.
- 1304.405 Fuel storage tanks and handling facilities.
- 1304.406 Removal of unauthorized, unsafe, and derelict structures or facilities.
- 1304.407 Development within flood control storage zones of TVA reservoirs.
- 1304.408 Variances.
- 1304.409 Indefinite or temporary moorage of recreational vessels.
- 1304.410 Navigation restrictions.
- 1304.411 Fish attractor, spawning, and habitat structures.
- 1304.412 Definitions.

AUTHORITY: 16 U.S.C. 831–831ee.

SOURCE: 68 FR 46936, Aug. 7, 2003, unless otherwise noted.

Subpart A—Procedures for Approval of Construction

§ 1304.1 Scope and intent.

The Tennessee Valley Authority Act of 1933 among other things confers on TVA broad authority related to the unified conservation and development of the Tennessee River Valley and surrounding area and directs that property in TVA's custody be used to promote the Act's purposes. In particular, section 26a of the Act requires that TVA's approval be obtained prior to the construction, operation, or maintenance of any dam, appurtenant works, or other obstruction affecting navigation, flood control, or public lands or reservations along or in the Tennessee River or any of its tributaries. By way of example only, such obstructions may include boat docks, piers, boathouses, buoys, floats, boat launching ramps, fills, water intakes, devices for

discharging effluent, bridges, aerial cables, culverts, pipelines, fish attractors, shoreline stabilization projects, channel excavations, and nonnavigable houseboats as defined in §1304.101. Any person considering constructing, operating, or maintaining any such obstruction on a stream in the Tennessee River Watershed should carefully review the regulations in this part and the 26a Applicant's Package before doing so. The regulations also apply to certain activities on TVA-owned land alongside TVA reservoirs and to land subject to TVA flowage easements. TVA uses and permits use of the lands and land rights in its custody alongside and subjacent to TVA reservoirs and exercises its land rights to carry out the purposes and policies of the Act. In addition, the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4321 *et seq.*, and the Federal Water Pollution Control Act Amendments of 1972 (FWPCA), 33 U.S.C. 1251 *et seq.*, have declared it to be congressional policy that agencies should administer their statutory authorities so as to restore, preserve, and enhance the quality of the environment and should cooperate in the control of pollution. It is the intent of the regulations in this part 1304 to carry out the purposes of the Act and other statutes relating to these purposes, and this part shall be interpreted and applied to that end.

§ 1304.2 Application.

(a) If the facility is to be built on TVA land, the applicant must, in addition to the other requirements of this part, own the fee interest in or have an adequate leasehold or easement interest of sufficient tenure to cover the normal useful life of the proposed facility in land immediately adjoining the TVA land. If the facility is to be built on private land, the applicant must own the fee interest in the land or have an adequate leasehold or easement interest in the property where the facility will be located. TVA recognizes, however, that in some cases private property has been subdivided in a way that left an intervening strip of land between the upland boundary of a TVA flowage easement and the waters of the reservoir, or did not convey to the adjoining landowner the land underlying

the waters of the reservoir. In some of these situations, the owner of the intervening strip or underlying land cannot be identified or does not object to construction of water-use facilities by the adjacent landowner. In these situations, TVA may exercise its discretion to permit the facility, provided there is no objection from the fee owner of the intervening strip or underlying land. A TVA permit conveys no property interest. The applicant is responsible for locating the proposed facility on qualifying land and ensuring that there is no objection from any owner of such land. TVA may require the applicant to provide appropriate verification of ownership and lack of objection, but TVA is not responsible for resolving ownership questions. In case of a dispute, TVA may require private parties requesting TVA action to grant or revoke a TVA permit to obtain a court order declaring respective land rights. TVA may exercise its discretion to permit a facility on TVA land that is located up or downstream from the land which makes the applicant eligible for consideration to receive a permit.

(b) Applications shall be addressed to the Tennessee Valley Authority, at one of the following Watershed Team locations:

(1) P.O. Box 1589, Norris, TN 37828, (865) 632-1539, Reservoir: Norris;

(2) Suite 300, 804 Highway 321, North, Lenoir City, TN 37771-6440, (865) 988-2420, Reservoirs: Ft. Loudoun, Tellico, Fontana;

(3) 221 Old Ranger Road, Murphy, NC 28906, (704) 837-7395, Reservoirs: Hiwassee, Chatuge, Appalachia, Blue Ridge, Nottely, Ocoee;

(4) 2611 W. Andrew Johnson Hwy., Morristown, TN 37814-3295, (865) 632-3791, Reservoirs: Cherokee, Douglas;

(5) P.O. Box 1010, Muscle Shoals, AL 35662-1010, (256) 386-2560, Reservoirs: Tim's Ford, Normandy, Wheeler, Wilson;

(6) 202 West Blythe Street, P.O. Box 280, Paris, TN 38242, (901) 642-2026, Reservoirs: Kentucky, Beech River;

(7) P.O. Box 1010, Muscle Shoals, AL 35662-1010, (256) 386-2228, Reservoirs: Pickwick, Bear Creek;