

(v) The nature and significance of any economic and/or natural resource benefits that would be realized as a result of the project.

(2) TVA may, in its discretion, decline to permit any project that would result in the loss of flood control storage.

(d) Recreational vehicles parked or placed within flood control storage zones of TVA reservoirs shall be deemed an obstruction affecting navigation, flood control, or public lands or reservations within the meaning of section 26a of the Act unless they:

(1) Remain truly mobile and ready for highway use. The unit must be on its wheels or a jacking system and be attached to its site by only quick disconnect type utilities;

(2) Have no permanently attached additions, connections, foundations, porches, or similar structures; and

(3) Have an electrical cutoff switch that is located above the flood control zone and fully accessible during flood events.

#### § 1304.408 Variances.

The Vice President or the designee thereof is authorized, following consideration whether a proposed structure or other regulated activity would adversely impact navigation, flood control, public lands or reservations, power generation, the environment, or sensitive environmental resources, or would be incompatible with surrounding uses or inconsistent with an approved TVA reservoir land management plan, to approve a structure or activity that varies from the requirements of this part in minor aspects.

#### § 1304.409 Indefinite or temporary moorage of recreational vessels.

(a) Recreational vessels' moorage at unpermitted locations along the water's edge of any TVA reservoir may not exceed 14 consecutive days at any one place or at any place within one mile thereof.

(b) Recreational vessels may not establish temporary moorage within the limits of primary or secondary navigation channels.

(c) Moorage lines of recreational vessels may not be placed in such a way as

to block or hinder boating access to any part of the reservoir.

(d) Permanent or extended moorage of a recreational vessel along the shoreline of any TVA reservoir without approval under section 26a of the TVA Act is prohibited.

#### § 1304.410 Navigation restrictions.

(a) Except for the placement of riprap along the shoreline, structures, land based or water use, shall not be located within the limits of safety harbors and landings established for commercial navigation.

(b) Structures shall not be located in such a way as to block the visibility of navigation aids. Examples of navigation aids are lights, dayboards, and directional signs.

(c) The establishment of "no-wake" zones outside approved harbor limits is prohibited at marinas or community dock facilities that are adjacent to or near a commercial navigation channel. In such circumstances, facility owners may, upon approval from TVA, install a floating breakwater along the harbor limit to reduce wave and wash action.

#### § 1304.411 Fish attractor, spawning, and habitat structures.

Fish attractors constitute potential obstructions and require TVA approval.

(a) Fish attractors may be constructed of anchored brush piles, log cribs, and/or spawning benches, stake beds, vegetation, or rock piles, provided they meet "TVA Guidelines for Fish Attractor Placement in TVA Reservoirs" (TVA 1997).

(b) When established in connection with an approved dock, fish attractors shall not project more than 30 feet out from any portion of the dock.

(c) Any floatable materials must be permanently anchored.

#### § 1304.412 Definitions.

Except as the context may otherwise require, the following words or terms, when used in this part 1304, have the meaning specified in this section.

*100-year floodplain* means that area inundated by the one percent annual chance (or 100-year) flood.

*500-year floodplain* means that area inundated by the 0.2 percent annual

chance (or 500-year) flood; any land susceptible to inundation during the 500-year or greater flood.

*Act* means the Tennessee Valley Authority Act of 1933, as amended.

*Applicant* means the person, corporation, State, municipality, political subdivision or other entity making application to TVA.

*Application* means a written request for the approval of plans pursuant to the regulations contained in this part.

*Backlot* means a residential lot not located adjacent to the shoreline but located in a subdivision associated with the shoreline.

*Board* means the Board of Directors of TVA.

*Community outlot* means a subdivision lot located adjacent to the shoreline and designated by deed, subdivision covenant, or recorded plat as available for use by designated property owners within the subdivision.

*Dredging* means the removal of material from a submerged location, primarily for deepening harbors and waterways.

*Enclosed structure* means a structure enclosed overhead and on all sides so as to keep out the weather.

*Flood control storage* means the volume within an elevation range on a TVA reservoir that is reserved for the storage of floodwater.

*Flood control storage zone* means the area within an elevation range on a TVA reservoir that is reserved for the storage of floodwater. TVA shall, upon request, identify the contour marking the upper limit of the flood control storage zone at particular reservoir locations.

*Flood risk profile elevation* means the elevation of the 500-year flood that has been adjusted for surcharge at the dam. Surcharge is the ability to raise the water level behind the dam above the top-of-gates elevation.

*Flowage easement shoreland* means privately-owned properties where TVA has the right to flood the land.

*Footprint* means the total water surface area of either a square or rectangular shape occupied by an adjoining property owner's dock, pier, boathouse, or boatwells.

*Full summer pool* means the targeted elevation to which TVA plans to fill

each reservoir during its annual operating cycle. Applicants are encouraged to consult the appropriate TVA Watershed Team or the TVA website to obtain the full summer pool elevation for the reservoir in question at the time the application is submitted.

*Land-based structure* means any structure constructed on ground entirely above the full summer pool elevation of a TVA reservoir but below the maximum shoreline contours of that reservoir.

*Maximum shoreline contour* means an elevation typically five feet above the top of the gates of a TVA dam. It is sometimes the property boundary between TVA property and adjoining private property.

*Nonnavigable houseboat* means any houseboat not in compliance with one or more of the criteria defining a navigable houseboat.

*Owner or landowner* ordinarily means all of the owners of a parcel of land. Except as otherwise specifically provided in this part, in all cases where TVA approval is required to engage in an activity and the applicant's eligibility to seek approval depends on status as an owner of real property, the owner or owners of only a fractional interest or of fractional interests totaling less than one in any such property shall not be considered, by virtue of such fractional interest or interests only, to be an owner and as such eligible to seek approval to conduct the activity without the consent of the other co-owners. In cases where the applicant owns water access rights across adjoining private property that borders TVA-owned shoreland, TVA may exercise its discretion to consider such person an owner, taking into account the availability of the shoreline to accommodate similarly situated owners and such other factors as TVA deems to be appropriate. In subdivisions where TVA had an established practice prior to September 8, 2003 of permitting individual or common water-use facilities on or at jointly-owned lots without the consent of all co-owners, TVA may exercise its discretion to continue such practice, taking into account the availability of the shoreline to accommodate similarly situated owners and

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other factors as TVA deems to be appropriate; provided, however, that the issuance of a TVA permit conveys no property interests, and the objections of a co-owner may be a basis for revocation of the permit.

*Shoreland* means the surface of land lying between minimum winter pool elevation of a TVA reservoir and the maximum shoreline contour.

*Shoreline* means the line where the water of a TVA reservoir meets the shore when the water level is at the full summer pool elevation.

*Shoreline Management Zone (SMZ)* means a 50-foot-deep vegetated zone designated by TVA on TVA-owned land.

*TVA* means the Tennessee Valley Authority.

*TVA property* means real property owned by the United States and under the custody and control of TVA.

*Vice President* means the Vice President, Resource Stewardship, TVA, or a functionally equivalent position.

*Water-based structure* means any structure, fixed or floating, constructed on or in navigable waters of the United States.

*Winter drawdown elevation* means the elevation to which a reservoir water level is lowered during fall to provide storage capacity for winter and spring floodwaters.

*Winter pool* means the lowest level expected for the reservoir during the flood season.

### PART 1305 [RESERVED]

## PART 1306—RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

### Subpart A—Regulations and Procedures

Sec.

1306.1 Purpose and applicability.

1306.2 Uniform real property acquisition policy.

1306.3 Surrender of possession.

1306.4 Rent after acquisition.

1306.5 Tenants' rights in improvements.

1306.6 Expense of transfer of title and proration of taxes.

### Subpart B [Reserved]

AUTHORITY: Sec. 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894 (42 U.S.C. 4601) as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, Title IV of Pub. L. 100-17, 101 Stat. 246-256 (42 U.S.C. 4601 note); 48 Stat. 58, as amended (16 U.S.C. 831-831dd).

### Subpart A—Regulations and Procedures

#### § 1306.1 Purpose and applicability.

(a) *Purpose.* The purpose of the regulations and procedures in this Subpart A is to implement Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 84 Stat. 42 U.S.C. 4601) as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Title IV of Pub. L. 100-17, Stat. 246-256, 42 U.S.C. 4601 note) (Uniform Act, as amended).

(b) *Applicability.* (1) Titles and I and II of the Uniform Act, as amended, govern relocation assistance by TVA. For TVA program activities undertaken after April 1, 1989, relocation assistance under those titles will be governed by implementing regulations set forth in Subpart A and Subparts C through G of 49 CFR Part 24.

(2) Regulations and procedures for complying with the real property acquisition provisions of Title III of the Uniform Act, as amended, are set forth in this part.

[52 FR 48019, Dec. 17, 1987]

#### § 1306.2 Uniform real property acquisition policy.

(a) Before negotiations are initiated for acquisition of real property, the Chief of TVA's Land Branch will cause the property to be appraised and establish an amount believed to be just compensation therefor. The appraiser shall afford the owner or his representative an opportunity to accompany him during his inspection of the property.

(b) When negotiations are initiated to acquire real property, the owner will be given a written statement of, and summary of the basis for, the amount estimated as just compensation. The statement will identify the property and the interest therein to be acquired,