

Tennessee Valley Authority

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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, boat-houses, 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

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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 dis-

pute, 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 the appropriate Regional Watershed Office location using the addresses provided below. To contact an office, call 1-800-882-5263. Applications are available on TVA's internet Web site and at the addresses listed below.

(1) For Chickamauga and Nickajack Reservoirs: 1101 Market Street, PSC 1E-C, Chattanooga, TN 37402-2801;

(2) For Apalachia, Blue Ridge, Chatuge, Hiwassee, Nottely, and the Ocoee Reservoirs: 4800 US Highway 64 West, Suite 102, MLO 1A-MRN, Murphy, NC 28906;

(3) For Guntersville, Normandy, and Tims Ford Reservoirs: 3696 Alabama Highway 69, CAB 1A-GVA, Guntersville, AL 35976-7196;

(4) For Cherokee, Douglas, and Nolichucky Reservoirs and the French Broad River: 3726 E. Morris Boulevard, MOC 1A-MOT, Morristown, TN 37813-1270;

(5) For Boone, Fort Patrick Henry South Holston, Watauga, and Wilbur Reservoirs and the Bristol Project: 106 Tri-Cities Business Park Drive, WTR 1A-GRT, Gray, TN 37615;

(6) For the Beech River Project, Kentucky Reservoir, and the Lower Duck River: 2835-A East Wood Street, WTB 1A-PAT, Paris, TN 38242-5948;

(7) For Fontana, Fort Loudon, Great Falls, Melton Hill, Norris, Tellico, and Watts Bar Reservoirs, and the Little Tennessee, Clinch, and Powell Rivers: 260 Interchange Park Dr., LCB 1A-LCT, Lenoir City, TN 37772-5664;

(8) For Bear Creek, Cedar Creek, Little Bear Creek, Upper Bear Creek, and the Duck and Elk Rivers, and Pickwick, Wheeler and Wilson Reservoirs: P.O. Box 1010, MPB 1H-M, Muscle Shoals, AL 35662-1010.

(c) *Submittal of section 26a application.* Applicants must submit certain required information depending upon whether a proposed facility is a minor