

TVA gives notice of the hearing to permit attendance by interested persons. Such notice may be given by publication in the FEDERAL REGISTER, publication in a daily newspaper of general circulation in the area of the proposed structure, personal written notice, or a combination of these methods. The notice indicates the place, date and time of hearing, so far as feasible indicates the particular issues to which the hearing will pertain, states the manner of becoming a party of record, and provides other relevant information. The applicant is automatically a party of record.

(b) Hearings may be conducted by the Director and/or such other person or persons as he may designate for that purpose. Hearings are public and are conducted in an informal manner. Parties of record may be represented by counsel or other persons of their choosing. Technical rules of evidence are not observed although reasonable bounds are maintained as to relevancy, materiality, and competency. Evidence may be presented orally or by written statement and need not be under oath. After the hearing has been completed, additional evidence will not be received unless it presents new and material matter that in the judgment of the person or persons conducting the hearing could not be presented at the hearing. Where construction of the project also requires the approval of another agency of the Federal Government by or before whom a hearing is to be held, the Director may arrange with such agency to hold a joint hearing.

§ 1304.108 Conditions of approvals.

(a) Approvals of applications shall contain such conditions as are required by law. Approvals of applications may contain such other conditions as TVA deems necessary to carry out the provisions of the Act, the policy of related statutes, and the intent of this part.

(b) If an approval is granted under this subpart of a structure or facility with respect to which a certificate of compliance with applicable water quality standards has been obtained pursuant to FWPCA and no additional or other Federal permit or license is required for operation of such structure or facility, the holder of the TVA ap-

proval shall, prior to initial operation of such structure or facility, provide an opportunity for the certifying state or, if appropriate, the interstate agency or the Environmental Protection Agency to review the manner in which the structure or facility will be operated or conducted, for the purpose of assuring that applicable water quality standards will not be violated.

(c) Except for plans which must be approved only because the proposed structure is to be built upon land subject to a TVA flowage easement, as provided in § 1304.109, no plans will be approved for any structure, including by way of example only, boat docks, piers, fixed boathouses, floats or rafts, if they provide for toilets, living or sleeping quarters, or any type of enclosed floor space in excess of 25 square feet, not including walkways around boat wells or mooring slips. Such walkways shall not exceed 4 feet in width unless, in the sole judgment of the Director, the size of the well or slip justifies a greater width. For the purposes of this subsection, floor space shall not be deemed *enclosed* solely because of plans providing for the use of wire mesh or similar screening which leaves the interior of the structure of facility open to the weather: *And, provided further*, That nothing contained in this paragraph shall be construed as prohibiting enclosure of the boat well or mooring slip proper. In the case of applications for structures to be used as part of a public boat dock, marina, or other public or commercial facility, the requirements of this paragraph (c) may be waived or modified by the Director if he considers such waiver necessary or desirable for proper development of the facility.

[36 FR 20424, Oct. 22, 1971; 36 FR 22901, Dec. 2, 1971, as amended at 42 FR 65148, Dec. 30, 1977; 43 FR 6766, Feb. 16, 1978. Redesignated at 44 FR 30682, May 29, 1979]

§ 1304.109 Habitable and certain other enclosed structures within the flowage easement areas of TVA reservoirs.

In addition to all other requirements of this part, any structure built upon land subject to a flowage easement held by TVA shall be deemed an obstruction affecting navigation, flood