

§ 1304.2

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

Application means a written request for the approval of plans pursuant to section 26a of the Act and the regulations contained in this part.

Board means the Board of Directors of TVA.

Director means the Director of Land and Forest Resources of TVA.

TVA means the Tennessee Valley Authority.

[42 FR 65146, Dec. 30, 1977, as amended at 44 FR 23066, Apr. 18, 1979. Redesignated at 44 FR 30682, May 29, 1979]

§ 1304.2 Scope and intent.

The Act among other things confers on TVA broad powers 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 include boat docks, piers, boathouses, rafts, buoys, floats, boat launching ramps, fills, and nonnavigable houseboats as defined in §1304.201. Any person considering construction, operating, or maintaining any such structure should carefully study these regulations before doing so. The regulations also apply to certain structures built upon land subject to TVA flowage easements. In the transfer or other disposition affecting shoreline lands within its custody, TVA has also retained land rights to carry out the Act's purposes including rights related to control of water pollution from the use of the land transferred. TVA uses and permits use of the lands and land rights in its custody alongside and adjacent to TVA reservoirs to carry out the purposes and policies of the Act. In addition, recent legislation, including the National Environmental Policy Act of 1969, as amended, (NEPA) 42 U.S.C. 4321

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et seq., and the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et seq.* (FWPCA), 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. Unless otherwise noted, all references in this title to these statutes shall be deemed to include any future amendments to them. It is the intent of the regulations prescribed 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.

[42 FR 65146, Dec. 30, 1977. Redesignated at 44 FR 30682, May 29, 1979]

§ 1304.3 Flotation devices and material.

(a) Because of the possible release of toxic or polluting substances, and the hazard to navigation from metal drums that become partially filled with water and escape from docks, boathouses, houseboats, floats, and other water-use structures and facilities for which they are used for flotation, the Board has prohibited use of metal drums in any form, except as authorized in paragraph (b) of this section, for flotation of any facilities requiring approval under this part before being constructed or placed on any TVA reservoir.

(b) The only metal drums permitted are those which have been filled with plastic foam or other solid flotation materials and welded, strapped, or otherwise firmly secured in place prior to July 1, 1972, on existing facilities, but replacement of any metal drum flotation permitted to be used by this subsection must be with some type of permanent flotation device or material, for example, pontoons, boat hulls, or other buoyancy devices made of steel, aluminum, fiberglass, or plastic foam, not including filled metal drums.

(c) Every flotation device employed in the Tennessee River system must be firmly and securely affixed to the structure it supports with materials

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capable of withstanding prolonged exposure to wave wash and weather conditions.

[36 FR 20424, Oct. 22, 1971, as amended at 42 FR 65147, Dec. 30, 1977. Redesignated at 44 FR 30682, May 29, 1979]

§ 1304.4 Treatment of sewage.

No person operating a commercial boat dock on or over real property of the United States in the custody and control of TVA, or on or over real property subject to provisions for the control of water pollution in a deed, grant or easement, lease, license, permit or other instrument from or to the United States or TVA shall permit the mooring on or over such real property of any watercraft or floating structure equipped with a marine toilet unless such toilet is in compliance with all applicable statutes and regulations, including the FWPCA and regulations issued thereunder.

[42 FR 65147, Dec. 30, 1977. Redesignated at 44 FR 30682, May 29, 1979]

§ 1304.5 Removal of unauthorized, unsafe, and derelict structures.

If, at any time, any dock, wharf, floating boathouse, nonnavigable houseboat, outfall, or other fixed or floating structure or facility anchored, installed, constructed, or moored under a license, permit, or approval from TVA is not constructed in accordance with plans approved by TVA, or is not maintained or operated so as to remain in accordance with such plans, or is not kept in a good state of repair and in good, safe, and substantial condition, and the owner or operator thereof fails to repair or remove such structure (or operate or maintain it in accordance with such plans) within ninety (90) days after written notice from TVA to do so, TVA may cancel such license, permit, or approval and remove such structure, or cause it to be removed, from the Tennessee River system and/or lands in the custody or control of TVA. Such written notice may be given by mailing a copy thereof to the owner's address as listed on the license, permit, or approval or by posting a copy on the structure or facility. TVA will remove or cause to be removed any such structure or facility anchored, installed, constructed, or moored with-

out such license, permit, or approval, whether such license or approval has once been obtained and subsequently canceled, or whether it has never been obtained.

[42 FR 65147, Dec. 30, 1977. Redesignated at 44 FR 30682, May 29, 1979]

Subpart B—Approval of Construction

§ 1304.100 Scope and intent.

Approval must be obtained with respect to each structure subject to section 26a of the Act prior to its construction, operation, or maintenance. This subpart prescribes procedures to be followed in any case where it is desired to obtain such approval.

[42 FR 65147, Dec. 30, 1977. Redesignated at 44 FR 30682, May 29, 1979]

§ 1304.101 Delegation of authority.

The power to approve or disapprove applications under this part is delegated to the Director, subject to appeal to the Board as provided in § 1304.106. In his discretion the Director may submit any application to the Board for its approval or disapproval. Administration of the handling of applications is delegated to the Division of Land and Forest Resources.

[42 FR 65147, Dec. 30, 1977, as amended at 44 FR 23066, Apr. 18, 1979. Redesignated at 44 FR 30682, May 29, 1979]

§ 1304.102 Application.

Applications shall be addressed to Tennessee Valley Authority, Director of Land and Forest Resources, Norris, Tenn. 37828.

[44 FR 20366, Apr. 18, 1979. Redesignated at 44 FR 30682, May 29, 1979]

§ 1304.103 Contents of application.

(a) Each application must be accompanied by five (5) complete sets of plans for the construction, operation, and maintenance of the proposed structure. The application shall be prepared according to "Instructions for Preparing an Application for an Approval of Plans for Proposed Structures Under