



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT
4751 BEST ROAD, SUITE 140
COLLEGE PARK, GEORGIA 30337

August 23, 2024

Regulatory Division
SAS-2024-00393

PUBLIC NOTICE
ISSUANCE OF PROGRAMMATIC GENERAL PERMIT 100
AUTHORIZING EXISTING FLOATING CABINS AND ASSOCIATED
MAINTENANCE WHEN THE APPLICANT HAS OBTAINED A VALID
TVA SECTION 26(A) PERMIT IN BLUE RIDGE RESERVOIR
WITHIN THE STATE OF GEORGIA

The Savannah District, U.S. Army Corps of Engineers has issued Programmatic General Permit 100 (PGP-100) for a period of five (5) years to authorize activities in waters of the United States in Blue Ridge Reservoir, located on the Toccoa River in Fannin County, Georgia (Latitude: 34.8825, Longitude: -84.2790).

The Tennessee Valley Authority (TVA) is responsible for implementing Section 26a of the TVA Act (US Congress, 1933, as amended), which requires TVA approval be obtained prior to construction, operation, or maintenance of any activity, appurtenant works, or other obstruction affecting navigation, flood control, public lands, or reservations along or in the Tennessee River or its tributaries. Blue Ridge Reservoir is subject to TVA regulation under Section 26a and is regulated by the Corps under Section 10 of the Rivers and Harbors Act of 1899 [33 United States Code (U.S.C.) 403] (Section 10).

Programmatic General Permits are used by the Corps to avoid unnecessary duplication of regulatory control over activities that are regulated by another Federal, state, or local agency. PGP-100 authorizes activities which are considered minor in nature and would cause only minimal individual and cumulative environmental impacts. All proposals must be in accordance with the guidelines and limitations set forth in the conditions of PGP-100. Activities not authorized by PGP-100 and activities that exceed the limitations of the PGP require individual review by the U.S. Army Corps of Engineers and authorization under another general permit or an individual permit. In addition, on a case-by-case basis that the concerns for the aquatic environment so indicate, the Savannah District Commander may exercise discretionary authority to override the programmatic general permit and require an individual application and review.

Prior to conducting work under the authority of PGP-100, a Section 26a permit must first be obtained from TVA. When TVA completes review of a proposed activity and issues a Section 26a permit for existing floating cabins and associated maintenance on Blue Ridge Reservoir, then the activity is automatically authorized by the Corps pursuant to Section 10 under the authority of PGP-100 without prior notification by the applicant.

Enclosure – Programmatic General Permit 100

Programmatic General Permit 100

Effective Date: August 23, 2024

Expiration Date: August 23, 2029

PROGRAMMATIC GENERAL PERMIT (PGP-100) AUTHORIZING EXISTING FLOATING CABINS AND ASSOCIATED MAINTENANCE IN BLUE RIDGE RESERVOIR, A TENNESSEE VALLEY AUTHORITY RESERVOIR FOR WHICH THE APPLICANT HAS OBTAINED A VALID TVA 26(A) PERMIT WITHIN THE STATE OF GEORGIA

A. On the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 United States Code (U.S.C.) § 403) (Section 10), authority is hereby given under PGP-100 to conduct the below listed minor activities in certain Tennessee Valley Authority (TVA) reservoirs for which the Applicant has obtained a valid TVA 26(a) permit within the State of Georgia.

B. The Tennessee Valley Authority (TVA) manages reservoir shoreline construction activities along or in the Blue Ridge Reservoir through issuance of Section 26a permits, which regulate the construction of shoreline structures and other related activities. Section 26a of the TVA Act (16 U.S.C. §§ 831, et seq., as amended) requires that TVA approval be obtained prior to construction, operation or maintenance of any dam, appurtenant works, or other obstruction affecting navigation, flood control, public lands, or reservations across, along or in the Tennessee River or any of its tributaries. TVA administers its Section 26a authority under Part 1304 of Title 18 of the Code of Federal Regulations (C.F.R.). This PGP is designed to avoid duplication with the TVA Section 26a regulatory program.

C. PGP-100 authorizes activities which are considered to be minor in nature and would cause only minimal individual and cumulative environmental impacts. All proposals must be in accordance with the guidelines and limitations set forth in the conditions of PGP-100. Activities not authorized by PGP-100 and activities that exceed the limitations of the PGP require individual review by the U.S. Army Corps of Engineers and authorization under another general permit or an individual permit. In addition, on a case-by-case basis that the concerns for the aquatic environment so indicate, the Savannah District Commander may exercise discretionary authority to override the programmatic general permit and require an individual application and review.

D. Prior to conducting work under the authority of PGP-100, a Section 26a permit must first be obtained from TVA. When TVA completes review of a proposed activity and issues a Section 26a permit for existing floating cabins¹ and associated maintenance on

¹ Existing floating cabin is defined at 18 CFR § 1304.412 and means a floating cabin that was located or moored on the Tennessee River System as of December 16, 2016.

Blue Ridge Reservoir, then the activity is automatically authorized by the Corps pursuant to Section 10 under the authority of PGP-100 without prior notification by the applicant.

E. Activities authorized by this PGP: This PGP authorizes the following work in or affecting navigable waters of the United States and discharges of dredge or fill material into waters of the United States. After work is authorized by this PGP, a Department of the Army individual or general permit must approve any proposed modifications beyond the limitations of the original authorization. Additionally, for any proposal to modify an existing structure to receive authorization under this PGP, both the existing and proposed work must meet the conditions of this PGP.

1. **Existing Floating Cabins**. Existing Floating Cabins² that are in compliance with TVA regulation 26(a) requirements³ (18 CFR Part 1304 Subpart B) and have obtained a Section 26a permit from TVA. (SECTION 10)
2. **Maintenance**. The repair and rehabilitation of previously authorized, currently serviceable existing floating cabins⁴. By way of example, these activities may include painting, changing the internal walls within the existing enclosed space, replacing the shingles, siding, electrical wiring, or plumbing, or adding new flotation in compliance with 18 CFR § 1304.400. Repair and maintenance activities shall not modify the dimensions (length, width, and height) of the floating cabin, any external walls, or the enclosed or open space (18 CFR 1304.101(h)(1))⁵. (SECTION 10)

GENERAL CONDITIONS:

1. The Permittee must maintain the facilities or activities authorized by this PGP in good condition and in compliance with the terms and conditions of this PGP. This PGP may be revoked with written notice if: (a) the structure is not completed in accordance with approved plans; (b) in the Corps' judgment, the structure is not maintained as provided herein or the structure is abandoned; or (c) TVA notifies the Corps that they have revoked Section 26a approval for any reason. If this PGP is revoked, the Permittee may be required to remove the structure within 30 days, at the Permittee's expense.
2. Modification, suspension or revocation of this PGP shall not be the basis for any claim for damages against the United States.

² *Existing floating cabin* is defined at 18 CFR § 1304.412, and means a floating cabin that was located or moored on the Tennessee River System as of December 16, 2016.

³ <https://www.tva.com/environment/shoreline-construction-permits/section-26a-regulations>

⁴ *Existing floating cabin* is defined at 18 CFR § 1304.412, and means a floating cabin that was located or moored on the Tennessee River System as of December 16, 2016.

⁵ [https://www.ecfr.gov/current/title-18/part-1304#p-1304.101\(h\)](https://www.ecfr.gov/current/title-18/part-1304#p-1304.101(h))

3. Representatives of the Corps must be allowed to inspect the authorized activity at any time deemed necessary to ensure the work is accomplished in accordance with the terms and conditions of the PGP. It is the Permittee's responsibility to obtain other federal, state, or local approvals required for the work.

4. No attempt shall be made by a Permittee to prevent the full and free use by the public of all navigable waters at or adjacent to an activity authorized by this PGP.

5. If and when a Permittee desires to abandon the activity authorized by this PGP, the Permittee must restore the area to the original condition or a condition satisfactory to the Corps. Other state or federal permitting agencies may have additional restoration requirements.

6. The Permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by waves from passing vessels. The issuance of this PGP does not relieve the Permittee from responsibility for taking all proper steps to ensure the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash, and the Permittee shall not hold the United States liable for such damage.

7. Activities not specified in this PGP, or which exceed the limitations of this PGP, require prior authorization under a Department of the Army general permit or individual permit from the Corps. In addition, on a case-by-case basis that the concerns for the aquatic environment so indicate, the Savannah District Engineer may exercise discretionary authority to override the regional permit and require an individual application and review.

8. The District Engineer may, by following the procedures outlined in Corps regulations (33 C.F.R. § 325.7), modify, suspend, or revoke this PGP for an individual activity, a category of activities, or a geographic area if the District Engineer determines it to be in the public interest. The general public would be notified of such action by public notice.

9. If the Secretary of the Army or an authorized representative of the Secretary of the Army determines there has been a violation of the terms and conditions of this PGP, he or she may suspend or revoke the authorization for an individual project under this PGP. In addition, failure to comply with the terms and conditions of this PGP may result in removal of the structures, restoration of the waterway, and imposition of penalties, as provided by law.

SPECIAL CONDITIONS:

1. No work shall be performed under the authority of PGP-100 until the Permittee has received a TVA-issued Section 26a permit for authorized activities. The TVA Section

26a permit application and processing instructions are available on the TVA website, <https://www.tva.gov/Environment/Shoreline-Construction/26a-How-to-Apply>.

2. The work authorized under this PGP must not cause an adverse impact to navigation and must not interfere with the public's right to free navigation on all navigable waters of the U.S.

3. Structures may be subject to damage by wave wash from passing vessels. This PGP does not relieve the Permittee from responsibility for taking all proper steps to ensure the integrity of the structures and the safety of boats moored thereto from damage by wave wash. The Permittee shall not hold the United States liable for any such damage.

4. Authorized work must be completed by the expiration date of the PGP. Work that is authorized by PGP-100, but that is not completed prior to the expiration date of the PGP, may be authorized by subsequent re-issuance of the PGP, if/when the PGP is re-authorized by the Corps. Permits from other State and Federal agencies may have different expiration dates.

5. No work or activity is authorized by PGP-100 that would impact, affect, or otherwise degrade any cultural resources that are listed in or nominated for listing in the National Register of Historic Places. This includes any future sites that become listed or nominated.

6. If the Permittee or the Permittee's contractors discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by the PGP, the Corps shall be immediately notified. The Permittee is also responsible for compliance with the applicable terms and conditions of the TVA-issued Section 26a permit regarding cultural resources.

7. The activities authorized by this PGP will not jeopardize a threatened or endangered species as identified under the Endangered Species Act or destroy or adversely modify the critical habitat of such species. If the Permittee or the Permittee's contractors discover any federally listed threatened or endangered species or their habitat while accomplishing work or activities authorized by PGP-100, the Corps shall be immediately notified. The Permittee is also responsible for compliance with applicable terms and conditions of the TVA-issued Section 26a permit regarding federally listed endangered species. The Permittee agrees to make every reasonable effort to execute the work authorized by PGP-100 in a manner that minimizes any adverse impact on fish, wildlife, and natural environmental values.

8. The Permittee shall obtain and comply with all appropriate Federal, State, and local authorizations required for the type of activity authorized by PGP-100.

9. The Permittee shall ensure that contractors, subcontractors, and other personnel performing permitted work are aware of the terms and conditions of PGP-100.

10. You must install and maintain, at your expense, any safety lights and signals prescribed by the United States Coast Guard, through regulations or otherwise, on your authorized facilities.

11. No structures authorized by this PGP may extend into a federal navigational channel or be used to moor vessels within a federal navigational channel.

12. Section 401 Water Quality Certification: Where a Certifying Agency has determined a Clean Water Act Section 401 water quality certification is required for the activities authorized by this PGP, the PGP authorization is not valid until a project proponent obtains a Clean Water Act Section 401 water quality certification (401 certification).

13. This PGP does not convey any property rights, either in real estate or material, or any exclusive privileges; and it does not authorize any injury to property or invasion of rights or any infringement of federal, state, or local laws or regulations.

FURTHER INFORMATION:

1. Congressional Authorities: Authorization to undertake the activities described above are issued pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403).

2. Limits of This Authorization.

- a. This PGP does not obviate the need to obtain other Federal, State, or local authorizations required by law.
- b. This PGP does not grant any property rights or exclusive privileges.
- c. This PGP does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project. The Permittee agrees that, if future operations by the Federal Government require the removal, relocation or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of navigable waters of the U.S., the Permittee will be required, upon due notice from the Corps, to remove, relocate or alter the structural work or obstructions caused thereby, without expense to the United

States. No claim shall be made against the United States on account of any such removal or alteration.

3. Limits of Federal Liability. In issuing this PGP, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted activities, unpermitted activities, or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the U.S. in the public interest.
- c. Damages to persons, property, to other permitted or unpermitted activities, or structures caused by the activity authorized by this PGP.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension or revocation of this permit.

4. Transfer. When the structures authorized by this PGP are still in existence at the time the underlying property is transferred, the terms and conditions of this PGP will continue to be binding on the new owner(s) of the property. Please notify the Corps to transfer the associated liabilities with compliance with the terms and conditions of this PGP.

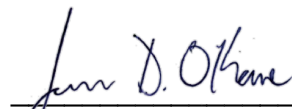
5. Reevaluation of Permit Decision. The Corps may re-evaluate its decision on an activity authorized by this PGP at any time that circumstances warrant re-evaluation. Circumstances that may require a re-evaluation include, but are not limited to, the following:

- a. The Permittee's failure to comply with the terms and conditions of the PGP.
- b. The information provided by the Permittee in support of a permit application proves to have been false, incomplete, or inaccurate.
- c. Significant new information surfaces that the Corps did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the modification, suspension and revocation procedures contained in 33 C.F.R. § 325.7 or enforcement procedures in 33 C.F.R Part 326. The referenced enforcement procedures provide for the issuance of an administrative order requiring the Permittee to comply with the terms and conditions of the applicable permit authorization and for the initiation

of legal action where appropriate. The Permittee will be required to pay for any corrective measures ordered by the Corps, and, if the Permittee fails to comply with such directive, the Corps may, in certain situations (such as those specified in 33 C.F.R § 209.170), accomplish the corrective measures by contract or otherwise and bill the Permittee for the cost.

This PGP becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below:



Jason D. O'Kane
Chief, Regulatory Division

for Ronald J. Sturgeon, PMP
Colonel, EN
Commanding

August 23, 2024

(Date)