



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT
4751 BEST ROAD, SUITE 140
COLLEGE PARK, GEORGIA 30337-5600

May 20, 2024

Regulatory Division
SAS-2024-00393

JOINT PUBLIC NOTICE
Savannah District/State of Georgia

**PROPOSAL TO ISSUE 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 (Corps) proposes to issue Programmatic General Permit 100 (PGP-100) for a period of five (5) years, to authorize minor activities in waters of the United States.

Scope: Programmatic General Permits (PGPs) 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 would be used to authorize activities that are substantially similar in nature and cause only minimal individual and cumulative environmental impacts (33 CFR Parts 322.2(1), 325.2(e) and 330).

Location: PGP-100 would authorize activities in Blue Ridge Reservoir, located on the Toccoa River in Fannin County, Georgia (Dam: Lat 34.8825, Long -84.2790).

Authorities: 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).

Proposed PGP-100: Prior to conducting work under authority of PGP-100, a Section 26a Permit must be issued by TVA. When TVA completes review of a proposed activity and issues a Section 26a permit for existing floating cabins¹ and associated maintenance on Blue Ridge Reservoir, then the activity is automatically authorized by

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.

the Corps pursuant to Section 10 under the authority of PGP-100 without prior notification by the applicant.

A copy of draft PGP-100 and the Provisional Determination of Eligibility are attached.

STATE OF GEORGIA

Water Quality Certification: The Georgia Department of Natural Resources, Environmental Protection Division, intends to certify PGP-100 in accordance with the provisions of Section 401 of the Clean Water Act, which is required for a Federal Permit to conduct activity in, on, or adjacent to the waters of the State of Georgia. Any person who desires to comment, object, or request a public hearing relative to State Water Quality Certification must do so within 30 days of the date of this notice and state the reasons or basis of objections or request for a hearing. Comments, objections, or requests for a public hearing should be sent to the Georgia Department of Natural Resources, Environmental Protection Division, Water Protection Branch, 7 Martin Luther King Jr. Drive, Suite 450, Atlanta, Georgia 30334.

State-owned Property and Resources: Persons intending to perform work under authority of the PGP may also require assent from the State of Georgia, which may be in the form of a license, easement, lease, permit or another appropriate instrument.

U.S. ARMY CORPS OF ENGINEERS

Background: Proposed PGP-100 will authorize existing floating cabins and maintenance activities linked to the upkeep of existing floating cabins situated on TVA lakes that have received prior approval from TVA through the Section 26(a)-approval process. Since 1971, the Tennessee Valley Authority (TVA) has restricted the mooring of new floating cabins on the Tennessee River System, with amendments in 1971 and 1978 specifying criteria for identifying navigable houseboats. Despite these regulations, the number of floating cabins increased over 40 years. In response, TVA conducted an Environmental Impact Statement (EIS) in 2015, proposing a preferred policy in 2016. This policy aimed to enhance safety, electrical connections, and water quality by prohibiting new floating cabins and requiring existing ones to be removed by January 1, 2036 (later extended to May 5, 2046).

However, the Water Infrastructure Improvements for the Nation Act of 2016 (WIIN Act) enacted on December 16, 2016, introduced changes. Section 9b of the TVA Act, added by WIIN Act, allowed TVA to approve existing floating cabins meeting health, safety, and environmental standards, with specific conditions and compliance fees. Removal requirements were waived for certain cabins for 15 or 5 years based on permit status before WIIN Act enactment.

TVA implemented amendments in 2018 clarifying regulations for floating cabins, prohibiting new moorings after December 16, 2016, and estimating around 2,250 cabins on that date. The final rule, effective until December 9, 2021, establishes health, safety, environmental, and permitting standards applicable to all floating cabins. Owners have until **October 1, 2024**, to comply and apply for a permit, with an application fee waived for existing permit holders meeting specific criteria. The rule emphasizes compliance and outlines fees and procedures for permit transfers or modifications. Owners are encouraged to apply promptly, with TVA allowing them to remain in place during the application process. If approved, TVA issues a Section 26a permit; if denied, owners must address deficiencies or remove the structure in accordance with regulations.

Cultural Resources Assessment: The proposed PGP would not authorize activities which would adversely affect properties registered or listed as eligible for inclusion in the National Register of Historic Places. Presently unknown archaeological, scientific, prehistorical, or historical data may be located within the areas of consideration and could be affected by the proposed work.

Endangered Species: Pursuant to Section 7(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), there are no known federally listed threatened or endangered species, or critical habitat present in the vicinity of the areas on Blue Ridge Reservoir where work would be authorized by PGP-100. Therefore, the Corps has determined that issuance of PGP-100 and the activities that would be authorized would have no effect on threatened or endangered species. By this Joint Public Notice, the Corps is requesting concurrence of its no effect determination from the U.S. Department of the Interior, Fish and Wildlife Service. There are no species under the purview of the National Marine Fisheries Service listed for the Fannin County, Georgia, where Blue Ridge Reservoir is located.

Public Interest Review: The decision whether to issue PGP-100 will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and in general, the needs and welfare of the people.

Consideration of Public Comments: The Corps is soliciting comments from the public; federal, state, and local agencies and officials; Native American Tribes; and other interested parties to consider and evaluate the impacts of PGP-100. Any

comments received will be considered by the Corps to determine whether to issue, modify, condition, or not issue this PGP. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Public Hearing: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the issuance of PGP-100. Requests for public hearings shall state, with particularity, the reasons for requesting a public hearing. The decision whether to hold a public hearing is at the discretion of the District Engineer, or his designated appointee, based on the need for additional substantial information necessary in evaluating the proposed PGP.

Comment Period: Anyone wishing to comment on this application for a Department of the Army Permit should submit comments in writing to: Commander, U.S. Army Corps of Engineers, Savannah District, Attention: Kevin Thames, 4751 Best Road, Suite 140, College Park, Georgia 30337-5600, no later than **30 days** from the date of this notice. Submittal of comments via email, to the address listed below, is also acceptable.

If you have any further questions concerning this public notice, please contact Kevin D. Thames, Chief, Piedmont Branch at 678-422-1981, or at kevin.d.thames@usace.army.mil.

Enclosures
Draft Programmatic General Permit 100
Provisional Determination of Eligibility for PGP-100

DRAFT Programmatic General Permit 100

Effective Date: XXXX, 2024

Expiration Date: XXXX, 2024

**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

(Date)

Provisional Determination of Eligibility (PGP-100)

Subject: Proposed Department of the Army (DA) Programmatic General Permit (PGP) for existing floating cabins¹ and associated maintenance in Blue Ridge Reservoir, a Tennessee Valley Authority (TVA) reservoir for which the Applicant has obtained a valid TVA 26(a) permit.

Proposed Action: The Savannah District of the U.S. Army Corps of Engineers (Corps) proposes to issue the DA PGP-100, copy attached. This PGP will authorize existing floating cabins and maintenance activities linked to the upkeep of existing floating cabins situated on TVA lakes that have received prior approval from TVA through a 26(a)-approval process. The PGP would be valid for a period of five years, unless the PGP is modified, suspended, or revoked. There is not a current PGP in place that authorizes the subject activity. TVA estimates that 2,261 existing floating cabins (see Table 1) are present on their reservoirs.

Since 1971, the Tennessee Valley Authority (TVA) has restricted the mooring of new floating cabins on the Tennessee River System, with amendments in 1971 and 1978 specifying criteria for identifying navigable houseboats. Despite these regulations, the number of floating cabins increased over 40 years. In response, TVA conducted an Environmental Impact Statement (EIS) in 2015, proposing a preferred policy in 2016. This policy aimed to enhance safety, electrical connections, and water quality by prohibiting new floating cabins and requiring existing ones to be removed by January 1, 2036 (later extended to May 5, 2046).

However, the Water Infrastructure Improvements for the Nation Act of 2016 (WIIN Act) enacted on December 16, 2016, introduced changes. Section 9b of the TVA Act, added by WIIN Act, allowed TVA to approve existing floating cabins meeting health, safety, and environmental standards, with specific conditions and compliance fees. Removal requirements were waived for certain cabins for 15 or 5 years based on permit status before WIIN Act enactment.

TVA implemented amendments in 2018 clarifying regulations for floating cabins, prohibiting new moorings after December 16, 2016, and estimating around 2,250 cabins on that date. The final rule, effective until December 9, 2021, establishes health, safety, environmental, and permitting standards applicable to all floating cabins. Owners have until October 1, 2024, to comply and apply for a permit, with an application fee waived for existing permit holders meeting specific criteria. The rule emphasizes compliance and outlines fees and procedures for permit transfers or modifications. Owners are encouraged to apply promptly, with TVA allowing them to remain in place during the application process. If approved, TVA issues a Section 26a permit; if denied, owners must address deficiencies or remove the structure in accordance with regulations.

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.

Activities to be authorized by the 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.
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.

Location of Activities: The PGP would be applicable to the navigable and slack waters of Blue Ridge Reservoir.

Covered Activities/Pre-Construction Notification (PCN) Requirement: Activities to be covered under the PGP require DA authorization pursuant to Section 10 of the Rivers and Harbors Act of 1899, and TVA authorization pursuant to Section 26a of the TVA Act of 1933. In recognition of the fact that TVA and the DA have related authorities and permitting responsibilities for regulating waters of the US, specifically navigable waters within TVA reservoir boundaries, and in accordance with 33 CFR 322.2(f) and CEQ Sections 1501 and 1508, the Corps is also proposing that once a TVA permit has been issued for an activity then the activity would also be covered under the PGP; PCN by the permittee to the Corps would not be required.

| TVA Reservoir locations for PGP 100 | | | |
|-------------------------------------|---|----------------|---------------|
| Reservoir | Estimated existing floating cabins ⁶ | USACE District | PCN Required? |
| Blue Ridge | 21 | SAS | No |

When completed, TVA (as lead federal agency) would forward their environmental evaluation and permit to the Corps, and the permittee would be responsible for complying with all the conditions of the PGP. Likewise, any activity that is denied a permit from TVA would be denied a permit (without prejudice) from the Corps [33 CFR 320.4(j)(1)]. This

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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))

⁶ From TVA inventory data collected from 2017-2023.

procedure would streamline and simplify the process for applicants and eliminate overlapping environmental reviews exercised by the separate regulatory programs of the two agencies within the Savannah District Regulatory boundaries.

Purpose: A PGP is a type of general permit that is issued by the Corps to avoid unnecessary duplication of regulatory control exercised by another federal, state, or local agency. In accordance with 33 CFR 322.2(f), general permits can be issued on a regional basis for a category of activities when those activities are substantially similar in nature and cause only minimal individual and cumulative environmental impacts; or the general permit would result in avoiding unnecessary duplication of the regulatory control exercised by another Federal, state, or local agency provided it has been determined that the environmental consequences of the action are individually and cumulatively minimal. Not requiring the permittee to additionally notify the Corps will streamline and simplify the process for applicants and would reduce and/or eliminate overlapping environmental reviews exercised by the separate regulatory programs of the two agencies pursuant to NEPA within the Savannah District regulatory boundaries.

Background (Lead Agency Roles, TVA, Corps): The Council on Environmental Quality (CEQ), established by Congress as part of NEPA, defines lead Federal agency roles and responsibilities under NEPA. CEQ Section 1501 provides that if more than one federal agency is involved in the same action or is involved in a group of actions directly related to each other because of their geographical proximity, then one agency may act as lead. CEQ Section 1508 defines the lead agency as the agency taking primary responsibility for conducting and preparing environmental impact reviews pursuant to NEPA. The lead agency is responsible for initiating and directing the conduct of all NEPA consultations and coordination. Recently, the Corps and TVA revisited their 1985 Memorandum of Understanding for the purpose of reducing overlapping environmental reviews for permit applications. Since both the Corps and TVA have related jurisdiction and responsibilities for regulating activities within the project boundaries of TVA reservoirs, the agencies re-established that TVA will serve as the lead federal agency on permit applications and projects within the Tennessee River reservoir boundaries and whenever US property in TVA custody or control is involved. The Corps will serve as the lead Federal agency in all other cases (off Tennessee River reservoir) unless otherwise agreed to by TVA and the Corps.

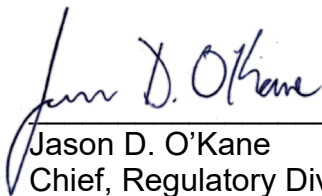
The types of activities to be covered under the PGP are not considered to be major Federal actions significantly affecting the quality of human environment and are therefore categorically excluded from NEPA documentation requirements (33 CFR Part 325, Appendix B, Paragraph 6, effective on March 4, 1988); however, the Federal actions are not exempt from procedural or substantive compliance with any other Federal law (i.e., the Endangered Species Act, the Clean Water Act, the Historic Preservation Act). TVA ensures that the activities constructed along the Tennessee River shorelines are in procedural or substantive compliance with other Federal laws. Section 26a authority is subject to the requirements of NEPA, including the regulations of the Council on Environmental Quality, and TVA's own implementing procedures and Shoreline Management Policy.

Conclusion: Based upon my review, I have made a provisional determination that issuance of this PGP meets the criteria identified in 33 CFR 322.2(f). A public notice will be issued to describe our proposal and to solicit comments from the public and interested agencies. This public interest review may generate special or provisional criteria which may be added to the activity specific thresholds to further minimize activity specific impacts, and protect the environment, including aquatic and cultural resources.

I have determined that issuance of this PGP will streamline the process for both the applicant and the Government and will provide an efficient management tool for the regulatory program. Issuance of the PGP will improve interagency cooperation, consultation, and efficiency, and is in accordance with 33 CFR 322.2(f) and CEQ Sections 1501 and 1508. The PGP will result in avoiding unnecessary duplication of NEPA environmental reviews and regulatory control exercised by both the Corps and TVA without reducing the degree of protection afforded waters of the US by the separate regulatory and permit programs. I will make a final decision regarding issuance of the PGP after conducting a full public interest review of the proposal.

FOR THE COMMANDER:

May 16, 2024
Date



Jason D. O'Kane
Chief, Regulatory Division
Savannah District