

Subpart C—TVA-Owned Residential Access Shoreland**§ 1304.200 Scope and intent.**

This subpart C applies to residential water-use facilities, specifically the construction of docks, piers, boathouses (fixed and floating), retaining walls, and other structures and alterations, including channel excavation and vegetation management, on or along TVA-owned residential access shoreland. TVA manages the TVA-owned residential access shoreland to conserve, protect, and enhance shoreland resources, while providing reasonable access to the water of the reservoir by qualifying adjacent residents.

§ 1304.201 Applicability.

This subpart addresses residential-related (all private, noncommercial uses) construction activities along and across shoreland property owned by the United States and under the custody and control of TVA. Individual residential landowners wishing to construct facilities, clear vegetation and/or maintain an access corridor on adjacent TVA-owned lands are required to apply for and obtain a permit from TVA before conducting any such activities.

(a) This subpart applies to the following TVA-reservoir shoreland classifications:

(1) TVA-owned shorelands over which the adjacent residential landowner holds rights of ingress and egress to the water (except where a particular activity is specifically excluded by an applicable real estate document), including, at TVA's discretion, cases where the applicant owns access rights across adjoining private property that borders on and benefits from rights of ingress and egress across TVA-owned shoreland.

(2) TVA-owned shorelands designated in current TVA Reservoir Land Management Plans as open for consideration of residential development; and

(3) On reservoirs not having a current approved TVA Reservoir Land Management Plan at the time of application, TVA-owned shorelands designated in TVA's property forecast system as "reservoir operations property," identified in a subdivision plat recorded prior to September 24, 1992, and containing at least one water-use facility developed prior to September 24, 1992.

(b) Construction of structures, access corridors, and vegetation management activities by owners of adjacent upland residential property shall not be allowed

on any TVA-owned lands other than those described in one or more of the classifications identified in paragraph (a) of this section.

(c) Flowage easement shoreland. Except as otherwise specifically provided in subpart D of this part, this subpart C does not apply to shoreland where TVA's property interest is ownership of a flowage easement. The terms of the particular flowage easement and subparts A, B, D, and E of this part govern the use of such property.

§ 1304.202 General sediment and erosion control provisions.

(a) During construction activities, TVA shall require that appropriate erosion and sediment control measures be utilized to prevent pollution of the waters of the reservoir.

(b) All material which accumulates behind sediment control structures must be removed from TVA land and placed at an upland site above the 100-year floodplain elevation or the Flood Risk Profile Elevation (whichever is applicable).

(c) Disturbed sites must be promptly stabilized with seeding, vegetative planting, erosion control netting, and/or mulch material.

§ 1304.203 Vegetation management.

No vegetation management shall be approved on TVA-owned Residential Access Shoreland until a Vegetation Management Plan meeting the vegetation management standards contained in this section is submitted to and approved by TVA.

(a) Except for the mowing of lawns established and existing before November 1, 1999, all vegetation management activities on TVA-owned property subject to this subpart (including all such activities described in paragraphs (b) through (m) of this section as "allowed" and all activities undertaken in connection with a section 26a permit obtained before September 8, 2003) require TVA's advance written permission. Special site circumstances such as the presence of wetlands may result in a requirement for mitigative measures or alternative vegetation management approaches.

(b) Vegetation may be cleared to create and maintain an access corridor up to but not exceeding 20 feet wide. The corridor will extend from the common boundary between TVA and the adjacent landowner to the water-use facility.

(c) The access corridor will be located to minimize removal of trees or other vegetation on the TVA land.

(d) Grass may be planted and mowed within the access corridor, and stone,

brick, concrete, mulch, or wooden paths, walkways and/or steps are allowed. Pruning of side limbs that extend into the access corridor from trees located outside the access corridor is allowed.

(e) A 50-foot-deep shoreline management zone (SMZ) shall be designated by TVA on TVA property; provided, however, that where TVA ownership is insufficient to establish a 50-foot-deep SMZ, the SMZ shall consist only of all of the TVA land at the location (private land shall not be included within the SMZ). Within the SMZ, no trees may be cut or vegetation removed, except that which is preapproved by TVA within the access corridor.

(f) Within the 50-foot SMZ and elsewhere on TVA land as defined in § 1304.201, clearing of specified understory plants (poison ivy, Japanese honeysuckle, kudzu, and other exotic plants on a list provided by TVA) is allowed.

(g) On TVA land situated above the SMZ, selective thinning of trees or other vegetation under three inches in diameter at the ground level is allowed.

(h) Removal of trees outside of the access corridor but within the SMZ may be approved to make the site suitable for approved shoreline erosion control projects.

(i) Vegetation removed for erosion control projects must be replaced with native species of vegetation.

(j) The forest floor must be left undisturbed, except as specified in this section. Mowing is allowed only within the access corridor.

(k) Planting of trees, shrubs, wildflowers, native grasses, and ground covers within the SMZ is allowed to create, improve, or enhance the vegetative cover, provided native plants are used.

(l) Fertilizers and herbicides shall not be applied within the SMZ or elsewhere on TVA land, except as specifically approved in the Vegetative Management Plan.

(m) Restricted use herbicides and pesticides shall not be applied on TVA-owned shoreland except by a State certified applicator. All herbicides and pesticides shall be applied in accordance with label requirements.

§ 1304.204 Docks, piers, and boathouses.

Applicants are responsible for submitting plans for proposed docks, piers, and boathouses that conform to the size standards specified in this section. Where and if site constraints at the proposed construction location preclude a structure of the maximum size, TVA shall determine the size of