

Programmatic General Permit 18-01 (18-PGP-01)

Effective Date: August 10, 2018

Expiration Date: August 9, 2023

DEPARTMENT OF THE ARMY  
PROGRAMMATIC GENERAL PERMIT 18-01  
AUTHORIZING MINOR STRUCTURES, FILL AND WORK IN  
TENNESSEE VALEY AUTHORITY RESERVOIRS  
WITHIN THE STATES OF ALABAMA, KENTUCKY, MISSISSIPPI, TENNESSEE &  
VIRGINIA

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) and Section 404 of the Clean Water Act (CWA, 33 U.S.C. § 1344) (Section 404), authority is hereby given under Programmatic General Permit 18-01 (18-PGP-01) for minor structures, fill and work in or affecting waters of the United States (U.S.) or navigable waters of the U.S. in the Beech River Projects, Boone Lake, Cedar Creek Lake, Cherokee Lake, Chickamauga Lake, Douglas Lake, Ft. Loudoun Lake, Ft. Patrick Henry Lake, Guntersville Lake, Kentucky Lake, Little Bear Creek Lake, Melton Hill Lake, Nickajack Lake, Norris Lake, Pickwick Lake, South Holston Lake, Tellico Lake, Tims Ford Lake, Upper Bear Creek Lake, Watauga Lake, Watts Bar Lake, Wheeler Lake, and Wilson Lake within the States of Alabama, Mississippi and Tennessee and the Commonwealths of Kentucky and Virginia.

B. The Tennessee Valley Authority (TVA) manages reservoir shoreline construction activities along or in the Beech River Projects, Boone Lake, Cedar Creek Lake, Cherokee Lake, Chickamauga Lake, Douglas Lake, Ft. Loudoun Lake, Ft. Patrick Henry Lake, Guntersville Lake, Kentucky Lake, Little Bear Creek Lake, Melton Hill Lake, Nickajack Lake, Norris Lake, Pickwick Lake, South Holston Lake, Tellico Lake, Tims Ford Lake, Upper Bear Creek Lake, Watauga Lake, Watts Bar Lake, Wheeler Lake and Wilson Lake 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. Programmatic General Permit 18-01 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 18-PGP-01. Activities not authorized by 18-PGP-01 and activities that exceed the limitations of the PGP require individual review by the Corps 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 Nashville District Commander may exercise discretionary authority to override the regional permit and require an individual application and review..

D. Prior to conducting work under the authority of 18-PGP-01, a Section 26a permit must first be obtained from TVA.

Activities Requiring Notification: This PGP requires pre-construction notification (PCN) to the Corps for activities located in areas identified by the Corps to be potentially hazardous for navigation, as designated on the following lakes (Table 1.2):

Table 1.2 – Reservoir Locations That Require PCN

Chickamauga Lake	Pickwick Lake
Ft. Loudoun Lake	Tellico Lake
Guntersville Lake	Watts Bar Lake
Kentucky Lake	Wheeler Lake
Melton Hill Lake	Wilson Lake
Nickajack Lake	

Activities Not Requiring Notification: When TVA completes review of a proposed activity and issues a Section 26a permit for a below-listed structure, fill or work on the following lakes (Table 1.3), PCN is not required and the activity is automatically authorized by the Corps pursuant to Section 10 or Section 404 under the authority of 18-PGP-01.

Table 1.3 – Reservoir Locations That Do Not Require PCN

Beech River Projects	Little Bear Creek Lake
Boone Lake	Norris Lake
Cedar Creek Lake	South Holston Lake
Cherokee Lake	Tims Ford Lake
Douglas Lake	Upper Bear Creek Lake
Ft. Patrick Henry Lake	Watauga Lake

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. Private Docks, Piers, Boathouses, and Other Water Use Facilities. Construction, modification and maintenance of fixed and floating docks, piers, and boathouses; steps leading to the reservoir; walkways leading to dock facilities; water intakes, geothermal heat exchange units or electrical lines attached to dock facilities; and other associated structures. Private dock structures constructed for permanent boat moorage shall be limited to a maximum size of 1,800 square feet displaced water surface area (open slip

area is included in the area; steps and walkways are not included in the area). If the action is a rehabilitation or expansion, then the size of the existing and proposed structures shall be included in the computation of the total area. Structures shall be constructed of quality materials; e.g., encased expanded polystyrene must be used for flotation; barrels, drums, etc., are not authorized. Steps and walkway structures shall not exceed 6-feet in width. The total length of the dock, including walkways, dock to shoreline, shall not extend into the waterway more than one-third (1/3) the distance from the minimum pool shoreline to the opposite shoreline, or 150 feet, whichever is the lesser distance. Water intake lines must not exceed 3-inches in diameter or the lakeward extent of the associated dock facility, and disturbance to riparian vegetation must be limited to the minimum needed to install the lines. (Section 10)

2. Channel Excavation and Dredging. Construction and maintenance of small boat access channels shall be authorized for the operation of and access to private dock structures.

- a. New work excavation or dredging of material from the reservoir bottom to create sufficient depth for mooring and navigation of vessels. Up to 150 cubic yards of material may be removed, but no dredging is authorized within 10 feet of the normal summer pool contour.
- b. Maintenance dredging for small boat access channels is limited to the removal of accumulated sediment to previously authorized depths and contours, provided the cumulative total of dredging authorized at the site (not including maintenance dredging) does not exceed 150 yards.

Side slopes shall not be steeper than 3:1 and, for those lakes with winter drawdown (which is referred to as work in the dry), the channel bottom must drain lakeward.

Excavated/dredged material shall be disposed of in a confined upland disposal site located above the 100-year floodplain off TVA property. The discharge of effluent from a confined upland disposal site is not authorized. (Section 10)

3. Shoreline Stabilization: Shoreline stabilization necessary for erosion control. All fill and excavation work shall be performed in the dry. Seawalls, retaining walls, bulkheads, etc. are not authorized. The total length of riprap shoreline stabilization necessary for erosion control must not exceed 150 linear feet, must not extend below winter pool elevation, and the discharge must not exceed an average of two cubic yards per running foot, as measured along the length of the treated bank. There is an unlimited total length limit for vegetative stabilization techniques. (Sections 10 and 404)

4. Boat Ramps and Other Recreational Watercraft Launching Facilities. The discharge of fill material and the excavation of material necessary for the construction, improvement, expansion or maintenance of boat ramps or other recreational watercraft launching facilities. The boat ramp must not exceed 20 feet in width, and the discharge into waters of the United States must not exceed 50 cubic yards. Only clean, inert material shall be used for fill material. Excavated material not used for boat ramp

construction will be disposed of in a confined upland disposal site located above the 100-year floodplain. All fill and excavation work shall be performed in the dry. The discharge of effluent from a confined upland disposal site is not authorized. (Sections 10 and 404)

#### 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.
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 issued by the Corps. In addition, on a case-by-case basis that the concerns for the aquatic environment so indicate, the Nashville District Commander may exercise discretionary authority to override the regional permit and require an individual application and review..
8. The District Commander 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 Commander 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 18-PGP-01 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 insure 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 18-PGP-01, but that is not completed prior to the expiration date of the PGP, may be authorized by subsequent re-issuance of the PGP, if and 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 18-PGP-01 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 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 18-PGP-01, 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 18-PGP-01 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 18-PGP-01.

9. The discharge of dredged or fill material into waters of the United States shall consist of suitable material free from toxic pollutants in toxic amounts. All fill material not excavated at project locations shall be obtained from non-contaminated high ground sources which have little or no organic content. All dredged or borrowed material used as fill on this project will be from clean, uncontaminated sources and free from cultural resources.

10. The Permittee shall ensure that contractors, subcontractors, and other personnel performing permitted work are aware of the terms and conditions of 18-PGP-01.

11. The Permittee shall comply with all state conditions included in the CWA Section 401 Water Quality Certification for 18-PGP-01 (if certified), or, in order for this PGP to be valid, the Permittee must obtain authorization from the appropriate agency under Section 401 of the Clean Water Act and comply with all conditions of this authorization.

#### 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) and Section 404 of the CWA (33 U.S.C. § 1344).

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.

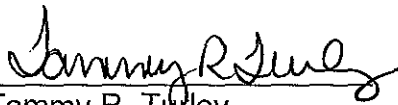
5. Reevaluation of Permit Decision. The Corps may re-evaluate its decision on an activity authorized by this PGP at any time that circumstances warrant re-evaluation. Circumstances that may require a re-evaluation include, but are not limited to, the following:

- 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 re-evaluation 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.



Tammy R. Tutley  
Chief, Regulatory Division

for Cullen A. Jones, P.E., PMP  
Lieutenant Colonel, U.S. Army  
District Engineer

10 Aug 2018  
(Date)