

ANDY BESHEAR
GOVERNOR



REBECCA W. GOODMAN
SECRETARY

ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

ANTHONY R. HATTON
COMMISSIONER

300 SOWER BOULEVARD
FRANKFORT, KENTUCKY 40601

June 14, 2022

Paul Pearman
Sr. Manager, Water Permits and Compliance
Tennessee Valley Authority
1101 Market Street, BR 2C-C
Chattanooga, TN 37402

Re: §401 Water Quality Certification
Regulations of Floating Cabins (18 CFR Part 1304)

Dear Mr. Pearman:

The Kentucky Division of Water has reviewed the Floating Cabins 18 CFR Part 1304 for the purposes of providing State certification pursuant to Section 401 of the Clean Water Act (CWA). This General Certification authorizes the operation, maintenance, and management of floating cabins on certain Tennessee Valley Authority (TVA) reservoir boundaries in the following waters of the Commonwealth of Kentucky: Kentucky Lake. For the purpose of this general certification, floating cabins include non-navigable houseboats approved by TVA on or before December 16, 2016, and other floating structures moored on the Tennessee River System and determined by TVA in its sole discretion to be designed and used primarily for human habitation or occupation and not designed and used primarily for navigation or transportation on the water (§1304.101 TVA's Section 26a regulations).

Certain activities due to size, location or potential water quality impacts are not covered under this general certification; Activities not qualifying for authorization under this General Certification may be authorized by an Individual Water Quality Certification.

Pursuant to Section 401 of the CWA, the Commonwealth of Kentucky certifies it has reasonable assurances that applicable water quality standards under Kentucky Administrative Regulations Title 401, Chapter 10, established pursuant to Sections 301, 302, 303, 304, 306, and 307 of the CWA, will not be violated by the above referenced regional general permits. The Kentucky Division of Water hereby **certifies with conditions** the Floating Cabins 18 CFR Part 1304 for the operation, maintenance, and management of floating cabins in Kentucky Lake. Please contact the Water Quality Certification Section with any questions by calling (502) 564-3410 or by emailing 401WQC@ky.gov.

Sincerely,

A handwritten signature in cursive script that reads "Samantha Vogeler".

Samantha Vogeler, Supervisor
Water Quality Certification Section
Kentucky Division of Water

SV:EMM

Attachment: WQC Conditions Enclosure

cc: Paul Pearman, TVA (via email: pjpearman@tva.gov)
Samantha Strickland, TVA (via email: sjstrickland@tva.gov)
Callan Pierson, TVA (via email: cpierson@tva.gov)
Lee Andrews, USFWS: Frankfort (via email: kentuckyes@fws.gov)
Ashley Monroe, USEPA: Region 4 (via email Monroe.Ashely@epa.gov)
Todd Tillinger, USACE: Nashville District (via email: todd.n.tillinger@usace.army.mil)
Doug Dawson, KDFWR: Frankfort (via email: doug.dawson@ky.gov)

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**General Water Quality Certification – Floating Cabins 18 CFR Part 1304
in TVA Kentucky Lake reservoir**

This General Certification is issued June 14, 2022, in conformity with the requirements of Section 401 of the Clean Water Act of 1977, as amended (33 U.S.C. §1341), as well as Kentucky Statute KRS 224.16-050.

For this General Certification for Floating Cabins 18 CFR Part 1304, the definition of ‘surface water’ is as per 401 KAR 10:001 Chapter 10, Section 1(80): Surface Waters means those waters having well-defined banks and beds, either constantly or intermittently flowing; lakes and impounded waters; marshes and wetlands; and any subterranean waters flowing in well-defined channels and having a demonstrable hydrologic connection with the surface. Lagoons used for waste treatment and effluent ditches that are situated on property owned, leased, or under valid easement by a permitted discharger are not considered to be surface waters of the Commonwealth.

The Commonwealth of Kentucky hereby certifies under Section 401 of the Clean Water Act (CWA) that it has reasonable assurances that applicable water quality standards under Kentucky Administrative Regulations Title 401, Chapter 10, established pursuant to Sections 301, 302, 304, 306, and 307 of the CWA, will not be violated for the activity covered under Floating Cabins 18 CFR Part 1304, provided the following conditions are met. Activities that do not meet the conditions of this General Certification require an Individual Section 401 Water Quality Certification.

1. There shall be no discharge of any substance or pollutant, liquid or solid, wastewater, sewage, or other wastes¹, whether treated or untreated, from any source, including but not limited to:
 - a. shower, bath, sink, dishwasher, clothes washer, etc.
 - b. toilet water
 - c. marine sanitation device, incinerating toilet, composting toilet, filtering device, etc.
 - d. household wash water, cleaning residue, etc.

[Statements A & B and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]

¹ “Other wastes” means any and all other substances or forms of energy, with the exception of sewage and industrial wastes, including, but not limited to, decayed wood, sand, garbage, silt, municipal refuse, sawdust, shavings, bark, lime, ashes, offal, oil, hazardous materials, tar, sludge, or other petroleum byproducts, radioactive material, chemicals, heated substances, dredged spoil, solid waste, incinerator residue, sewage sludge, munitions, biological materials, wrecked and discarded equipment, rock, and cellar dirt;

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2. Owners or operators of a floating cabin covered by this general certification shall utilize the best available technologies to contain and dispose of household wastes and wastewaters at approved off-site disposal facilities, including but not limited to:
 - a. liquid holding tanks with regular pump-out and removal,
 - b. marine sanitation device, incinerating toilet, or composting toilet with full containment and carry-off, or
 - c. direct pipe connection to approved upland containment or disposal.

[Statements A & B and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]

3. Owners or operators of a floating cabin covered by this general certification shall demonstrate compliance with the prohibition on any discharge of treated or untreated wastewater by maintaining records such as receipts and other documentation of equipment purchase, pump and haul services, sewerage services, etc. Compliance records shall be:
 - a. maintained for at least one year,
 - b. in any electronic or paper form,
 - c. available upon request of the certifying or permitting agencies, or property manager of the mooring location of the floating cabin.

[Statements A & B and citations KRS 224.10-100, KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]

4. Measures shall be taken to prevent or control spills of fuels, lubricants, or other toxic materials used from entering surface waters. [Statements A & B and citations KRS 224.10-100, KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
5. Should evidence of stream pollution or jurisdictional wetland impairment and/or violations of water quality standards occur as a result of this activity (either from a spill or other forms of water pollution), the Kentucky Division of Water shall be notified immediately by calling (800) 928-2380. [Statements A & B and citations KRS 224.10-100, KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
6. The Kentucky Division of Water may require submission of a formal application for an Individual Certification for any project that has been determined to likely have a significant adverse effect upon water quality or degrade surface waters so that existing uses of the water body or downstream waters are precluded. [Statements A & B and citations KRS 224.10-100, KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]

Statements of Necessity:

- A. This condition is necessary to prevent water pollution as prohibited by statute.
- B. This condition is necessary to monitor aquatic resources, minimize impact to aquatic resources, protect the use and designation of resources, allow more effective and efficient control practices, identify changes and conditions in ecological systems as a result of activities, and to warn of emergency conditions.

Violations of Kentucky state water quality standards may result in civil penalties and remediation actions.

For assistance contact the Kentucky Division of Water, Water Quality Certification Section by email (401WQC@ky.gov) or by phone (502)-564-3410.