

**ROANOKE RAPIDS AND GASTON
CONSTRUCTION AND USE PROCEDURES - APPENDIX 1
GUIDELINES FOR PREPARING AN APPLICATION FOR COMMERCIAL OR
PRIVATE MULTI-SLIP DEVELOPMENT**

December 3, 2010

I. OVERVIEW

A. Purpose

The objectives of the *Construction and Use Procedures* (Procedures) are to protect environmental resources around Lake Gaston and Roanoke Rapids Lake and to permit use of Dominion's Property by the public. While these Procedures are designed to complement and incorporate the requirements of federal and state laws and regulations, they also incorporate Dominion's policies in reference to its property. As such, these Procedures are administered in the sole discretion and authority of Dominion.

B. FERC REQUIREMENTS

The Federal Energy Regulatory Commission (FERC) requires that Dominion obtain prior FERC approval before granting permission or conveying interests in project lands and waters for the construction of any commercial facility or any non-commercial facility that is designed to accommodate more than 10 watercraft (Roanoke Rapids and Gaston FERC License Article 26 Use and Occupancy). Dominion will apply the same standards for any private marina designed to accommodate 10 or more watercraft at one time as it does for commercial facilities.

In reviewing proposals for such facilities, FERC requires that Dominion provide evidence of consultation with all state and Federal resource agencies concerning the proposed development and conducts an environmental review as required under the National Environmental Policy Act (NEPA). The environmental review generally takes the form of an environmental assessment (EA); however, a large development project, which would result in a "significant impact" to the environment, might require an environmental impact statement (EIS). If FERC approves the development, it will issue an Order Approving Non-project Use of Project Lands. In some instances FERC may approve the proposed development with conditions. In such instances, Dominion is responsible for assuring that all the conditions of the approval are met. In turn, Dominion requires that the developer comply with all conditions imposed by FERC as part of the approval. Should a developer fail to meet its obligations as set forth in the conditions of the FERC Order, Dominion as the responsible entity has the authority to require that use of the project lands and waters cease, and that project lands and waters be returned to their pre-developed state.

C. US ARMY CORPS OF ENGINEERS REQUIREMENTS

The US Army Corps of Engineers (USACE) has final jurisdiction over in-water structures that may affect navigation or safety in Lake Gaston or Roanoke Rapids Lake. All boat docks, piers

and similar structures that protrude into navigable water must be approved by the USACE (see Construction and Use Procedures Section II Paragraph 1, Section II Step 4.). In addition, the USACE has an extensive requirement for commercial marinas and boat slips designed for 10 or more boats. It is suggested that applicants for these type facilities work concurrently with Dominion and the USACE to avoid duplication of work and to ensure compliance with all Dominion and federal agency requirements.

D. REFERENCES FROM SHORELINE MANAGEMENT PLAN

1. Section 1.2.3 *Uses Dominion Can Authorize with a 45-day Prior Notice to FERC*

FERC authorizes Dominion to convey fee title to easements or rights-of-way across, or leases of project lands for: (5) private or public marinas that accommodate no more than 10 watercraft at a time and are located at least one-half mile from any other marina.

At least 45 days prior to granting approval for such uses, Dominion must file a letter with FERC stating its intention to convey the interest and briefly describing the location and use of the lands to be conveyed. Unless FERC, within 45 days from the date the letter is filed, requires Dominion to file an application for prior approval, Dominion may convey the intended interest at the end of that period.

2. From Section 1.2.4 *Uses Dominion Can Authorize Requiring Prior FERC Approval*. FERC requires that Dominion obtain prior FERC approval before granting permission or conveying interests in project lands and waters for the construction of any commercial facility or any private facility that is designed to accommodate more than 10 watercraft.

3. From Section 5.1.2 *Commercial Development and Dense Recreational Development*

The amount of project shoreline that is devoted to commercial (i.e., for profit) recreational developments is small, less than 1 percent of project shoreline. Boat ramps, docks, moorages, and other shoreline facilities proposed as part of multi-lot residential developments are not considered commercial developments. Because commercial developments and private developments with < 10 boatslips have the potential to provide lake and shoreline access to large numbers of people, they can have a greater impact on shoreline and lake resources than other adjacent shoreline uses. Therefore, the licensing process for commercial shoreline stabilization and recreation development is more involved than that for residential developments. Appendix 1 to the Construction and Use Procedures address specific permitting requirements for commercial and dense residential development

4. Section 5.2.3 *Commercial Shoreline Structures*

Proposed repairs or alterations to existing commercial shoreline structures will be evaluated on a case-by-case basis. At a minimum, all must meet the requirements that have been developed for residential shoreline structures that are covered under the Lake Gaston and Roanoke Rapids Construction and Use Procedures. The procedure involves the same five steps as for residential permits. Step 1. Applicants contact Dominion to request a Construction and Use License Agreement package. Step 2. Applicants meet with Dominion staff to help the applicant understand what is required for a license. (At this time Dominion will determine a "preliminary approval". Since the development of the application involves significant expenditures for the applicant, Dominion makes a good faith determination that if all requirements are met, if the proposed development is "likely" to be approved by Dominion.

This preliminary approval is in no way final, nor is it an attempt by Dominion to predict FERC's final determination. Step 3. The applicant submits the Construction and Use Agreement to Dominion including an original and ten copies. Step 4. Dominion processes the application. Depending upon the complexity of the proposal, the applicant may be required to prepare an environmental assessment. Step 5. Dominion will inspect and approve the project after completion.

No commercial structures will be permitted in sensitive shoreline areas. Commercial shoreline structures that are grandfathered in will be under the same replacement guidelines for residential structures. As with residential requirements, when repairs are made to more than 50 percent of a structure, commercial structures will have to be repaired so that the facility meets the new guidelines.

E. APPLICABILITY TO EXISTING DEVELOPMENTS

1. Marinas Previously Approved by FERC

In the case of an existing public or private marina that has been previously approved by FERC as a *non-project use of project lands*, if the applicant is applying for a permit to expand the marina, the requirements of these guidelines shall apply if the expansion is for 10 or more boat slips. If the expansion is for less than 10 boat slips, it shall also apply if any of the conditions below are met within a 10-year period:

- a. The expansion will enlarge the affected development's footprint by 10% or more,
- b. The expansion will be for six or more boat slips.
- c. In either case a or b above, if Dominion approves the project, FERC will be given the 45 day notification described in section C. 1. above.

If the expansion is for less than 10 boat slips and the criteria above is not met and Dominion does not require an Environmental Assessment as discussed below, if the marina is not in compliance with the Shoreline Management Procedures, Dominion may require the development to be brought into compliance with the existing Shoreline Management Procedures as a condition of issuing the requested permit.

2. Marinas Not Previously Approved by FERC

Any marina, public or private, applying for a permit to expand or make changes to the marina requiring a Construction and Use Permit, if not previously approved by FERC as a *non-project use of project lands*, may be required to follow the guidelines listed below. However, any request to expand the facility will require the applicant to implement these guidelines.

II. GUIDELINES

A. GENERAL

Licensing of commercial docks, marinas and private marinas will be handled on a case-by-case basis. In general, licensing of commercial facilities will be done in a manner consistent with the Construction and Use Procedures. A private marina for the purpose of this guideline is any private boat slip development of 10 or more boat slips.

B. UTILIZATION OF CONSTRUCTION AND USE PROCEDURES

Where applicable, the Licensee shall follow all the requirements of the Roanoke Rapids and Gaston Construction and Use Procedures. This includes specifically:

1. Section II, Application Procedures,
2. Section IV, Specifications for Construction and Use of Bulkheads and Riprap Placement,
3. Section V, Specifications for Dredging and Stump Removal,
4. Section VI, Specifications for Vegetation Removal / Trimming and Landscaping,
5. Section VII, Replanting Specifications.

C. OPERATIONS PLAN

In addition to the requirements for ensuring compliance with construction, the licensee shall provide an operations plan. The operations plan shall address at a minimum the following:

1. Management of daily activities,
2. Management of the facility during the off-peak season,
3. Maintenance of the facility to ensure continued compliance with the Construction and Use Procedures,
4. Ongoing management activities needed to ensure mitigation measures as a result of the Environmental Assessment below are continued for the life of the project.

D. DRAFT ENVIRONMENTAL ASSESSMENT

Dominion requires that the Licensee prepare an Environmental Assessment (EA) for the proposed development to accompany the permit application. Elements of the Draft EA shall include but not be limited to:

1. Impacts to Water Quality

Discuss potential impacts to water quality of the applicable reservoir. Elements to be addressed should include but not be limited to:

- a. Erosion and sedimentation as a result of the project construction (including development of properties adjacent to Dominion's land)
- b. Erosion, sedimentation and other pollutants as a result of project operation
- c. Erosion and sedimentation control plan for:
 - Project development on Dominion's property
 - Project development on Licensee's or private property including utilization of Best Management Practices (BMP)
- d. Shoreline impacts as a result of additional watercraft in the general area of the proposed project.
- e. Mitigation measures proposed for any project Water Quality impacts
NOTE: Dominion encourages development of buffer zones between proposed construction areas and Dominion's property line.

2. Fish and Wildlife Impact Analysis.

The EA shall address potential impacts on each of the following:

- a. Fish and other aquatic life
 - b. Terrestrial wildlife
 - c. Terrestrial biota
 - d. Mitigation measures proposed for any project Fish and Wildlife impacts
3. Cultural Resources
- a. Phase 1B analysis
 - b. If phase 1B analysis indicates the area proposed for development is considered potentially significant, consult with Dominion to determine appropriate next- step requirements.
 - c. If required, mitigation measures
4. Recreation Impacts
- a. Safety
 - b. Analysis for the need of commercial or private marina
 - c. Analysis of additional loading to the reservoir
 - d. Analysis of local impacts to additional loading
 - e. Analysis of affect on local public marinas and / or boat ramps
 - f. If required, mitigation measures

5. Potential Impacts to Adjacent Property Owners

The Licensee shall consult with adjacent property owners, and if reasonable, property owners in the area close to the proposed project. The Licensee is encouraged to obtain written concurrence to the project from the adjacent property owners and if practical, owners in close proximity to the proposed project. If written concurrence is not obtainable, Licensee shall state date and time consultation occurred and reasons given by the adjacent property owners (and others as applicable) why concurrence was not obtained.

6. For commercial development, a list of any water-to-land commercial facilities within a ½ mile of the proposed development.
7. All the drawing requirements for the permit must be included in the EA, including vegetation removal and replanting plans, if applicable.

E. FINAL ENVIRONMENTAL ASSESSMENT

In order to allow Dominion and FERC to appropriately analyze environmental impacts of the proposed project on the environment, the Licensee must address public and appropriate resource agency concerns. The Licensee shall utilize the Draft EA for presentation to the resource agencies and the public.

1. Public Meeting

The Licensee shall have at least one public meeting in the general area of the proposed project. The Licensee shall advertise the public meeting at least 30 days prior to the meeting date in at least three (3) local newspapers. At the meeting the Licensee shall present the proposed plan and environmental impacts as determined in section II, D, 1 - 5 above. The Licensee shall provide as part of the Final EA:

- a. Copies of the newspaper notices
- b. List of attendees
- c. Minutes from the meeting
- d. Specific comments from the meeting
- e. Licensee's plans for addressing the comments

2. County Approvals

The Licensee shall provide Dominion with documentation that the project is consistent with local zoning and building requirements and any other local governmental ordinances.

3. State Agencies

The Licensee shall consult with the state and federal agencies listed below. In the consultation the Licensee shall provide project plans, the Draft EA and the documentation from the Public Meeting required above. Any comments received from the agencies shall be incorporated into the Final EA or provide a discussion as to why the comments were not incorporated. The Licensee shall allow a minimum of 45 days for the agencies to comment and shall make reasonable accommodation to extend the comment period when requested by the agencies.

- a. US Fish and Wildlife Service
- b. US Army Corps of Engineers
- c. VA Department of Environmental Quality (if in VA)
- d. NC Department of Environment and Natural Resources. Division of Water Quality (if in NC)
- e. VA Department of Game and Inland Fisheries (if in VA)
- f. NC Wildlife Resources Commission (if in NC)
- g. State Historic Preservation Office (in VA or NC, where appropriate)

III SUBMISSION OF PLANS FOR APPROVAL

A. DOMINION APPROVAL

Prior to submittal of the proposed project to FERC for approval, Dominion must approve the project. Dominion will submit the project to FERC only if it determines that the plans are in accordance with the Construction and User Procedures; any determined environmental impacts have appropriate mitigation plans; local zoning plans and ordinances allow the project to be constructed; and comments raised by the public and resource agencies have been appropriately addressed. The Licensee must provide Dominion with an original and 10 copies of the EA and all project plans.

B. FERC APPROVAL

FERC will review the proposed project and determine if it approves the project. FERC may develop its own EA; FERC will notice the application for public comment. If FERC approves the project, it will notify Dominion.

C. FINAL APPROVAL

Dominion will notify the applicant once FERC notifies Dominion of its final decision. If FERC does not approve the proposed development, the applicant has the right to request a rehearing with FERC within 30 days of FERC's denial.

IV FEES AND PROJECT DEVELOPMENT

A. APPLICATION FEE

Dominion charges an application fee for commercial and multi-slip docks per its current fee schedule. The fee is due at time the application is submitted to Dominion for review.

B. CONSTRUCTION AND DEVELOPMENT

1. Phased Schedule

If the applicant determines that full development of the proposed project will take more than one year, a construction schedule shall be provided to Dominion. The construction may use a phased approach. Each phase must be completed within one year of the scheduled start date. The initial phase must be completed within one year of the issuance by Dominion of the final approved permit. A letter must be sent to notify Dominion of completion at the end of each phase. The entire development must be complete within five years permit issuance.

2. Construction fee.

Prior to starting any phase of construction, the applicant must provide a construction fee to Dominion. The fee is on a per slip basis to be constructed during the current phase per Dominion's current fee schedule. The first phase construction fee must be paid prior to Dominion issuing the final permit.

C. OPERATIONS FEE

An annual operations fee will be accessed on a per-slip basis. The fee is due to Dominion annually by January 31 and is per the current fee schedule.

D. SUMMARY OF PROCESS

1. Applicant contacts Dominion for a Construction and Use Package
2. Applicant meets with Dominion to ensure they understand what is required to obtain a permit
3. Applicant provides Dominion with a tentative development plan and Dominion determines if "preliminary" approval is appropriate
4. Applicant provides a Draft EA to Dominion and agencies and public.
5. Applicant incorporates Dominion, agency and public comments (or discussion delineating why comments were not included) and appropriate proposed mitigation to agency / public concerns in final EA.
6. Applicant provides completed application which includes final EA and all application required drawings to Dominion.
7. If Dominion approves application, application submitted by Dominion to FERC
8. If FERC approves, Dominion issues approved permit to Applicant.