

Claytor Lake Dredging Process

The purpose of this narrative is to guide property owners who about Claytor Lake, and who desire to dredge in front of their properties. This narrative provides an understanding of what can be done and how to accomplish a successful application process. Some of the following is wording (and numbering) taken verbatim from applicable regulations.

Dredging sediment from within waterways located in the Commonwealth of Virginia is governed by the U.S. Army Corps of Engineers (COE), the Virginia Department of Environmental Quality (VDEQ) and the Virginia Marine Resources Commission (VMRC). In addition, dredging within Claytor Lake is regulated by Appalachian Power Company (Appalachian), licensee for the Claytor Project. Regulations are different based upon the amount to be removed and the location of the area to be dredged. Amounts to be removed are categorized as:

- 25 cubic yards or less (Approximately 2 dump truck loads at 15 tons/load);
- More than 25 cubic yards but less than or equal to 5,000 cubic yards (Up to approximately 300 dump truck loads); and
- More than 5,000 cubic yards.

Dredging 25 cubic yards or less is allowed by the COE under Nationwide Permit -19 provided the activity is part of a single and complete project and does not impact wetland and/or submerged aquatic vegetation. Property owners are required to contact Appalachian to report the amount being removed and the location of the area to be dredged 10 days prior to the actual dredging activity. There may be areas where dredging is prohibited. Dredging may not be used to create a deep space for water withdrawal.

Dredging more than 25 cubic yards but less than or equal to 5000 cubic yards requires application for a Regional Permit (RP) from the COE and a dredging permit from Appalachian. Application for the Regional Permit is

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made through the Standard Joint Permit Application (JPA) process for concurrent federal and state project review.

Dredging more than 5000 cubic yards requires a dredging permit from Appalachian, an application for a Regional Permit from the COE, and a Virginia Water Protection Permit from VDEQ. Application for the Regional Permit and the Virginia Water Protection Permit (a State certification under the Clean Water Act) are made together using the Standard Joint Permit Application (JPA).

The JPA for dredging over 25 cubic yards is submitted to the Virginia Marine Resources Commission (VMRC) who in turn submits the application to the COE and the VDEQ. Application is also made to Appalachian (available at www.claytorhydro.com) to ensure compliance with the regulations set forth in the Claytor Lake Shoreline Management Plan.

The governing documents that control dredging greater than 25 yards are published on the U.S. Army Corps of Engineers, Norfolk District website: <http://www.nao.usace.army.mil/Missions/Regulatory/JPA.aspx>

Details regarding the Regional Permit 13-RP-02 and the JPA include:

- I. Authorized activities

- 13-RP-02, Regional Permit 2, authorizes both new and maintenance dredging (channels and basins) for certain navigationally-related recreational and commercial dredging projects, by either mechanical or hydraulic method, in navigable waters of the United States. This regional permit is under the regulatory jurisdiction of the Norfolk District Corps of Engineers, under the terms and conditions further set out herein:

2. New dredging in navigable waters

- a. The dredging authorized by this permit will not exceed a surface area of two (2) acres calculated by the

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length of the area to be dredged times the top width of the area to be dredged.

b. Channels will have a bottom width of at least 20 feet except where the Corps determines that safe navigation will not be compromised. In those cases a reduction in the bottom width to 15 feet will be allowed.

c. Dredging is limited to areas below mean low water.

3. Maintenance Dredging/Excavation of Non-Tidal, Non-Navigable Waters Not Subject to the Exemption Under Section 404(f)(1)(c):

The combined amount of no-navigational related dredge/ excavated material in the wetlands or waters of the United States (including any temporary discharges), cannot exceed 5,000 cubic yards, nor can the combined area of fill and dredge/excavation exceed a surface area of two (2) acres.

II. Authorities

The people of the Commonwealth of Virginia are authorized by the Secretary of the Army and the Chief of Engineers to do the work as further described herein and pursuant to the terms and conditions herein.

III. State and Local Approvals

1. Local approvals

Appalachian Power has permit requirements in addition to JPA requirements. See Additional Requirements on page 6 of this guide. For a copy of Appalachian's application, please visit www.claytorhydro.com.

2. Water Quality Certification Condition:

Clean Water Act § 401 Water Quality Certification Condition

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For new dredging projects in a water body the current effective Section 303 (d) Total Maximum Daily Load (TMDL) priority list or impaired waters list with an approved TMDL, the prospective permittee must ensure that the proposed dredging will not exacerbate impairment of the water body and that the dredging is consistent with any waste load allocation, limit, or conditions imposed by an approved TMDL. Claytor Lake is on the impaired waters lists due to Polychlorinated Byphenyls (PCBs) and may trigger additional soil testing after submitting the JPA permit request prior to a permit being issued. "[Approved TMDLs](#)" can be obtained at the VDEQ web site.

IV. Procedures (paragraphs not applicable to Claytor Lake have been omitted)

1. Applicants shall use the newest version of the Joint Permit Applications (JPA), applicants must supply drawings required by the applicable JPA, and must submit applications to the Virginia Marine Resources Commission (VMRC).
2. More information for the JPA to be considered complete:
 - d. Information on the dredged material disposal site including location maps, drawings, and a description of the methods of transporting the material to the dredged material management site.
4. Prospective permittees shall not begin the proposed dredging until notified in writing that the activity may proceed under this RP, and must follow any special conditions imposed by the District Engineer.

VI. General Conditions

6. This Regional Permit (RP) shall only be applied to single and complete projects. A single and complete project means the

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total project proposed or accomplished by one owner/ developer or partnership and which has independent utility.

General conditions related to national concerns:

14. Endangered species (a) No activity is authorized under any RP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, and identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species

The JPA Process

The joint Permit Application (JPA) process and the standard JPA form are used by the COE, VMRC, VDEQ, and the Local Wetlands Boards(LWB) for permitting purposes involving water, wetlands, and dune/beach resources, including, but not limited to, major water supply and water withdrawals projects (as defined in DEQ Regulation 9 VAC 25-210).

How to Apply

Applications for dredging should include:

1. Sections 1 through 10, and Section 18 of the JPA form. This form is available at <http://www.nao.usace.army.mil/Missions/Regulatory/JPA.aspx>

Adjacent property owners' acknowledgement forms. Application materials should be submitted to VMRC.

1. If by mail:

Virginia Marine Resources Commission (VMRC)

Habitat Management Division

2600 Washington Avenue, 3rd Floor

Newport News, Virginia, 23607-0756

2. Website:

<http://www.jpva.permits@mrc.virginia.gov>

The application must be supplied in the .pdf format

Additional Requirements

In addition to the COE and VDEQ dredging requirements, Appalachian has the additional following requirements in its SMP:

- Dredging and/or excavation activity greater than 25 cubic yards requires filing the joint COE and Appalachian application. A pre-application site visit is recommended prior to the submission of the application.
- Dredging and/or excavation of all vegetated wetland areas are prohibited.
- Dredging and/or excavation near any wetland areas requires sufficient buffers to insure no adverse impacts to those areas.
- Dredging and/or excavation between elevations 1844' and 1846' are prohibited in order to protect shallow water habitat.
- Dredging and/or excavation to a depth greater than 1840' elevation are prohibited. Only accumulated sediment may be removed, and the original lake bottom may not be disturbed.
- Dredging and/or excavation may not be performed between March 1 and June 30 of each year in order to protect fish spawning.
- Dredged and/or excavated material must be deposited outside the project boundary in an upland site to conform to all federal, state, and local regulations. Side casting dredged material is construed to be a form of fill and is unauthorized.
- Dredging and or excavation requiring COE and/or VDEQ approval must also be approved by Appalachian. Applications for an Appalachian permit must also include any additional required permits.