



Cube Hydro Carolinas LLC
293 Highway 740
PO Box 575
Badin, NC 28009-0575

Water Ski Course Permitting Procedures Yadkin Hydroelectric Project (FERC No. 2197)

Background

The Yadkin Hydroelectric Project includes four reservoirs: High Rock, Tuckertown, Narrows (locally known as Badin Lake), and Falls. The Yadkin Project is licensed by the Federal Energy Regulatory Commission (“FERC”). As a FERC licensee, Cube Yadkin Generation LLC (“Cube Yadkin”) operates and manages the four Project reservoirs in accordance with the terms of its license and the applicable rules and regulations of FERC. Cube Yadkin is responsible for providing public access to Project lands and reservoirs for public recreation, while protecting natural, environmental, cultural, and scenic resources.

Written permits for Courses on High Rock and Narrows reservoirs are required effective May 1, 2003. Existing Courses (Courses that exist as of or have existed prior to December 31, 2002) were not “grandfathered”. Prior written permission for the construction and operation of all (new and/or existing) water ski courses, including slalom, jump and trick courses (“Courses”) on High Rock and Narrows reservoirs is required to 1) ensure that the Courses are constructed in accordance with the requirements of the most recent edition of the American Water Ski Association (“AWSA”) rules, 2) consider the interests of adjoining property owners, 3) minimize potential recreation use conflicts between water skiers and other reservoir users, 4) provide the natural resources and public safety agencies an opportunity to comment on the presence of the Courses, and 5) preserve the Project’s natural, environmental, cultural, and scenic resources. Cube Yadkin will continue the practice of not allowing Courses on Falls and Tuckertown reservoirs.

The following permitting procedures will apply to all Courses on High Rock and Narrows reservoirs at the Yadkin Project. These procedures outline a two-part process, which will be required for the review and permitting of Courses.

To the extent applicable, the requirements of the Shoreline Stewardship Policy or other applicable procedures or requirements shall also apply to the construction, maintenance, and operation of Courses.

Water Ski Course Permitting Procedures

Generally, the party desiring to construct and operate the Course(s), and be responsible therefore (the “Responsible Party”), will be required to:

1. Annually complete an Application for an "Activity Permit" and pay a \$350 annual fee (a one-time initial application fee in the amount of \$500 also applies).
2. Annually obtain liability insurance in the form and amount required by Cube Yadkin.
3. Annually sign and ensure full compliance with an Activity Permit, issued by Cube Yadkin.

Pre-Application Meeting (Optional)

The Responsible Party, who wishes to construct and operate the Course(s) on High Rock or Narrows reservoirs, may meet with Cube Yadkin prior to submitting an Application for an Activity Permit. The purpose of a Pre-Application Meeting is to review the permitting procedures in advance of an application submission to avoid any confusion or delay. The Pre-Application Meeting should be, at a minimum, 90 days prior to the desired construction and/or operation date of the Course(s).

Activity Permit Application

At least 30 days prior to the desired date of construction of the Course(s), the Responsible Party must submit a completed Permit Application Package to Cube Yadkin. If the Permit Application Package is complete (including submission of the non-refundable Application fee and proof of insurance), and meets Cube Yadkin's approval criteria (see below), Cube Yadkin may issue the Activity Permit. The Activity Permit, if issued, will give the Responsible Party permission to construct and operate the proposed Course(s). The Permit Application Package must include the following:

1. The name, mailing address, and phone number of the Responsible Party.
2. A map that delineates the location and extent of the Course(s).
3. A plan(s) for the design and construction of the Course(s) at a scale of 1:2,400 (1 inch = 200 feet) or larger. The plan(s) should include a description of the Course(s), to include major dimensions.
4. Except as otherwise provided herein, documentation of agency consultation and a public comment period (defined below).
5. A project schedule for constructing, operating and (if applicable) removing the proposed Course(s).
6. Copies of all local, state, and federal permits required for the construction and/or operation of the Course(s) in lakes or reservoirs.
7. Proof of insurance: all Courses must carry Comprehensive General Liability Insurance and Automobile Liability Insurance for personal injury and property damage and, for employees, Workers Compensation Insurance to satisfy the laws of the State of North Carolina and Employers' Liability Insurance in the amount and form required by Cube Yadkin, and upon terms and conditions satisfactory to Cube Yadkin. (See approval criteria for additional information.)
8. A non-refundable Application fee in the amount of \$500.00.
9. A statement by the Responsible Party certifying that the design meets and the construction and operation of the Course(s) will meet the requirements of the most recent edition of the AWSA's "Official Tournament Rules", including but not limited to

the “Official Slalom Course Design”, “Official Jump Course Design”, the “Ramp Setting Chart”, and “Official Trick Course Diagram” and Rules 8 (Equipment and Definitions), 9 (Jumping), 10 (Slalom), 11 (Tricks) and 12 (Safety Requirements), as applicable.

Agency Consultation and Public Comment

The requirements regarding Agency Consultation and Public Comment apply to those Responsible Parties for an Activity Permit for the Course(s) who either:

- a) did not have an Activity Permit in the year immediately preceding the year of application; or
- b) did have an Activity Permit in the year immediately preceding the year of application but are proposing a Course that is significantly different than the Course permitted in the preceding year.

A Responsible Party who did have an Activity Permit in the preceding year and who is not proposing a significantly different Course is exempt from the Agency Consultation and Public Comment requirements.

Based upon its review of the plans required as part of the Permit Application Package, Cube Yadkin reserves the right to make the final determination as to whether the proposed Course is significantly different than the Course permitted in the preceding year and will inform the applicant of its determination.

Except as provided in the preceding paragraphs, the Permit Application Package must include documentation of agency consultation and a public comment period. The Responsible Party must prepare and submit an Agency Consultation and Public Comment package, which must include the information outlined below, to the local, state, and federal agencies listed below for their review and comment.

1. A cover letter – the letter should describe the Responsible Party’s desire to construct and/or operate a Course on High Rock or Narrows Reservoir and solicit comments from the agencies listed below; the letter should also include the Responsible Party’s name, mailing address, and phone number.
2. A description – the information package should include a detailed description of the proposed Course(s), to include a map illustrating the location and extent of the Course(s), the dimensions of the Course(s) and/or ramp settings, a proposed use schedule (Courses can only be operated between May 15 and September 15 of each year), the hours of operation (Courses can only be operated between sunrise and sunset), a discussion of potential users (i.e., will the Course(s) be used solely by a water ski organization), whether the Course(s) will be used for tournaments (including a schedule of proposed tournaments and numbers of competitors) and a discussion of safety precautions.
3. A discussion of impacts – the information package should also include a brief discussion of potential impacts to the reservoir and shoreline, and compatibility of the use of the Course(s) with other reservoir users.

4. A list of required permits – the information package should include a list of all local, state, and federal permits that will be required.

The Responsible Party is required to submit the information package to and request written comments within 30 days from the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, the North Carolina State Clearinghouse, the North Carolina Wildlife Resources Commission (including the Law Enforcement Division), the North Carolina Division of Water Resources, the county planning or recreation department and sheriff's office.

The Responsible Party must also notice, at its own expense, its intent to construct and/or operate the Course(s) in a local newspaper at least 30 days prior to the Permit Application Package submission. This notice shall also be submitted directly to any homeowners' association that represents adjoining property owners, who may be impacted by the Course(s). If there is no homeowners' association that represents adjoining property owners, the Responsible Party shall submit a copy of the notice directly to each individual adjoining property owner who may be impacted by the proposed Course(s). The following information should be included in the notice:

1. The name, mailing address, and a phone number for Course's contact person.
2. A description of the Course, to include the reservoir name, the location, the Course dimensions and ramp settings.
3. A use schedule, proposing hours of operation during daylight.
4. An explanation that the Course(s) are for authorized users only (members only).
5. A statement that the water ski association or organization membership shall be open to the general public (details described below in approval criteria).
6. A statement whether the Course(s) will be used for tournaments and if so, the schedule for and expected number of competitors in such tournaments.

Documentation of agency consultation and a public comment period must be attached to the Application for an Activity Permit. Copies of all correspondence received from the agencies and the public and the Responsible Party's responses to those comments must be attached to the Application.

Approval Criteria

If the Permit Application Package is complete and meets the following approval criteria, then Cube Yadkin may issue the Activity Permit to the Responsible Party. The approval criteria are:

1. An Application fee has been submitted to Cube Yadkin.
2. Only Courses that have been designed in accordance with the requirements of the most recent edition of the AWSA's "Official Tournament Rules", including but not limited to "Official Slalom Course Design", "Official Jump Course Design", "Ramp Setting Chart" and the "Official Trick Course Diagram" and constructed and operated in accordance with Rules 8 (Equipment and Definitions), 9 (Jumping), 10 (Slalom),

11 (Tricks) and 12 (Safety Requirements) will be permitted. No other Courses shall be permitted, as applicable.

3. Courses will not be permitted in the main channel of the reservoirs.
4. When proposing a location for the construction and operation of a Course, the following should be considered: the reservoir and shoreline environment will not be adversely impacted; the Course will not be located in a high use area or within 100 feet of existing boat ramps and/or docks, fishing piers, or swimming areas; and compliance with any local, state or federal laws, rules, regulations and ordinances.
5. Courses will not be permitted on Tuckertown or Falls reservoirs.
6. Courses may be used between sunrise and sunset only (night skiing and/or jumping is not permitted).
7. Courses may only be operated from May 15 through September 15 of each year. Construction of the Course(s) shall not occur prior to May 1 and if the Activity Permit includes a requirement that the Course must be removed, then removal must be complete prior to September 30.
8. Membership to the water ski organization or association must be open to the general public, however, membership may be based upon the applicant's qualifications.
9. Resolution of issues identified by agencies, homeowners' associations, or other commenters on the Application is the sole responsibility of the Responsible Party. Cube Yadkin will not approve the requested Activity Permit without resolution of issues. The Responsible Party must demonstrate satisfactory resolution of the issues.
10. The Responsible Party must carry the following insurance: Comprehensive General Liability Insurance and Automobile Liability Insurance for personal injury and property damage, and for employees, Workers Compensation Insurance and Employers' Liability Insurance in the amount and form required by Cube Yadkin (see Notice of Insurance Requirements).

The foregoing insurance shall be primary, without right of contribution of any other insurance carried by or on behalf of Cube Yadkin. The insurance shall be placed with financially responsible insurers and contain provision for a 20-day notice of cancellation to Cube Yadkin. Cube Yadkin Generation LLC shall be named as additional insureds on the general liability insurance policy.

Prior to issuance of the Activity Permit, the Responsible Party shall furnish to Cube Yadkin, in form satisfactory to Cube Yadkin, certificates to evidence the minimum insurance(s) and endorsement(s) to the policies required above. To the extent that the Responsible Party uses any contractors or subcontractors, upon request by Cube Yadkin, the Responsible Party shall provide to Cube Yadkin copies of the insurance certificates from the contractors and subcontractors evidencing compliance with the terms of this provision. Cube Yadkin reserves the right to, at such other times as it deems necessary in its sole discretion, review the insurance coverage to (i) verify compliance with the terms of this provision, and (ii) ensure that such coverage is sufficient given the scope of operations of the Course(s).

Enforcement

Failure to receive Cube Yadkin's written permission for the construction, maintenance and operation of a Course and any failure to comply with the provisions of the Activity Permit, the Shoreline Stewardship Policy, or other applicable procedures or requirements will be considered a violation of these permitting procedures. The primary sanctions for violations of these permitting procedures can include the loss of eligibility for an Activity Permit for a Course, the termination of an existing Activity Permit, and the required removal of the Course at the expense of the Responsible Party.