

Nationwide Permit No.	Norfolk District's Regional Conditions	DEQ 401 Water Quality Certification & CZM Conditions 1) & 2)
1. Aids to Navigation		CZM
2. Structures in Artificial Canals		CZM
3. Maintenance	PCN: T&E, T-W, C	CZM
4. Fish and Wildlife Harvesting Devices	PCN: T&E	CZM
5. Scientific Measurement Devices	PCN: T&E	CZM
6. Survey Activities	PCN: T&E	CZM
7. Outfall Structures & Maintenance	PCN: T&E, T-W, C	1,2,4,8,9, CZM
8. Oil and Gas Structures	PCN: T&E	CZM
9. Structures in Fleeting & Anchorage Areas		CZM
10. Mooring Buoys		CZM
11. Temporary Recreational Structures	PCN: T&E, C	CZM
12. Utility Line Activities	NW12, PCN: T&E, T-W, C	1,2,4,8,9, CZM
13. Bank Stabilization	PCN: T&E, T-W	1,2,4,8,9, CZM
14. Linear Transportation Projects*	NW14, PCN: T&E, T-W	1,2,4,8,9, CZM
15. U.S. Coast Guard Approved Bridges		CZM
16. Return Water from Upland Contained Disposal Areas	PCN: T&E	Individual WQ Permit Required, CZM
17. Hydropower Projects	PCN: T&E, T-W, C	Individual WQ Permit Required, CZM
18. Minor Discharges	PCN: T&E, T-W, C	1,2,4,8,9, CZM
19. Minor Dredging	PCN: T&E	1,2,4,5,8,9, CZM
20. Oil Spill Cleanup	PCN: T&E	CZM
21. Surface Coal Mining Activities	PCN: T&E, T-W, C	1,2,4,8,9, CZM
22. Removal of Vessels		CZM
23. Approved Categorical Exclusions	NW 23, PCN: T&E, T-W, C	CZM
24. State Administered 404 Program	N/A	N/A
25. Structural Discharges	PCN: T&E, T-W, C	1,2,4,8,9, CZM
27. Stream & Wetland Restoration	C	1,2,4,7,8,9, CZM
28. Modifications of Existing Marinas		CZM
29. Single Family Housing	PCN: T&E, C	CZM
30. Moist Soil Management	PCN: T&E	CZM
31. Maintenance of Existing Flood Control Facilities	PCN: T&E	CZM
32. Completed Enforcement Actions	PCN: T&E, C	CZM
33. Temporary Construction Access and Dewatering	PCN: T&E, T-W, C	CZM
34. Cranberry Production Activities	PCN: T&E	CZM
35. Maintenance Dredging of Existing Basins		CZM
36. Boat Ramps	PCN: T&E	CZM
37. Emergency Watershed Protection & Rehabilitation	PCN: T&E, T-W, C	CZM
38. Cleanup of Hazardous & Toxic Waste	PCN: T&E, T-W	CZM
39. Residential, Commercial, and Institutional Developments**	PCN: T&E, T-W	CZM
40. Agricultural Activities	PCN: T&E, T-W, C	6, CZM
41. Reshaping Drainage Ditches	PCN: T&E, T-W, C	CZM
42. Recreational Facilities	PCN: T&E, T-W, C	1,2,3,4,8,9, CZM
43. Stormwater Management		

Facilities	PCN: T&E, T-W, C	1,2,4,8,9, CZM
44. Mining Activities	PCN: T&E, T-W, C	1,2,4,5,8,9, CZM

#### Abbreviations/Definitions

NW12 = Nationwide Permit with Regional Conditions (see below)

\*NW14 = NWP 14 has been suspended in VA in nontidal waters; is in effect in tidal waters only. See SPGP.

\* \*NW39 = NWP 39 has been suspended in VA. See SPGP.

PCN = Preconstruction Notification required (see below)

T&E = Federally listed Threatened and Endangered Species (see below)

T-W = State Designated Trout Waters (see below)

CZM = Coastal Zone Management (see below)

C=Countersinking

### NORFOLK DISTRICT'S REGIONAL CONDITIONS

#### Nationwide Permit 12: Utility Activities

Regional Condition (Modification): Paragraph (iv) Access roads is modified to reduce the maximum allowable loss of non-tidal waters of the United States for access road construction from 1 acre to 1/3 acre.

Regional Condition (Modification): Under Notification, Paragraphs e and f are modified to reduce the wetland impact threshold for notification to read as follows:

- e. Discharges associated with the construction of utility line substations that result in the loss of greater than 5000 square feet of waters of the United States;
- f. Permanent and temporary access roads affecting special aquatic sites, including wetlands.

Regional Condition (Addition): A new condition is added to read as follows:

For utility activities requiring notification the permittee shall submit the following information:

1. A map of the entire utility corridor including a delineation of all wetlands and waters of the United States within the corridor. Aquatic resource information shall be submitted using the Cowardin Classification System mapping conventions (e.g. PFO, PEM, POW, etc.)
2. An alternatives analysis which specifically addresses the following:
  - a. Selection of an alignment which avoids and minimizes wetland impacts to the maximum extent practicable.
  - b. Selection of an alignment which avoids fragmenting large tracts of forested wetlands by routing utility lines outside of forested tracts or on the edges of forested tracts.
  - c. Minimizing clearing of wetlands. Grubbing will be limited to the permanent easement for underground utility lines. In other area wetland vegetation shall be removed at or above the ground surface.
  - d. For overhead utility lines, allow natural succession to restore and maintain the corridor in scrub-shrub wetlands except for a minimum corridor needed for access, to the maximum extent practicable.
  - e. For buried utility lines allowing natural succession to restore the area to tree and scrub shrub except for a 15-foot wide access corridor, to the maximum extent practicable.
  - f. Place access roads where they have the least impact to wetlands. Construct access roads to the minimum width necessary.
3. For all submerged utility lines across navigable waters of the United States, a location map and cross-sectional view showing the utility line crossing from bank to bank is required. In addition, the location and depth of the Federal Project Channel shall be shown in relation to the proposed utility line. In general, all utility lines shall be buried at least 6 feet below the authorized bottom depth of Federal project channel and at least 3 feet below the bottom depth in all subaqueous areas.

Existing Regional Condition: The following is a regional condition which Norfolk District added to NWP 12 in 1996, which is now continued with the reissued NWP 12:

Whenever possible, excavated material shall be placed on an upland site. However, when this is not feasible, temporary stockpiling is hereby authorized provided that:

1. All excavated material stockpiled in a vegetated wetland area is placed on filter cloth, mats, or some other semi-permeable surface. The material will be stabilized with straw bales, filter cloth, etc. to prevent reentry into the waterway.
2. All excavated material must be placed back into the trench to the original contour and all excess excavated material must be completely removed from the wetlands within 30 days after the pipeline has been laid through the wetlands area. Permission must be granted by the District Engineer or his authorized representatives if the material is to be stockpiled longer than 30 days.

#### **Nationwide Permit 14: Linear Transportation Crossings**

Regional Condition (Modification): Paragraph a (1) and (2) are combined and modified to eliminate the distinction between linear transportation projects affecting tidal and non-tidal waters. Also, the 200 linear foot limitation is eliminated in conjunction with the same modification in the 15 January 2002 NWPs. The replacement Paragraph a now reads:

That the discharge does not cause the loss of greater than 1/3 acre of waters of the United States.

#### **Nationwide Permit 23: Approved Categorical Exclusions**

Addition:

- (a) The discharge does not cause the loss of greater than ½ acre of wetlands;
- (b) The permittee must notify the District Engineer if there is a discharge in special aquatic sites, including wetlands, and/or resulting in impacts to more than 300 linear feet of streambed (send notification to the Norfolk District Corps of Engineers, Regulatory Branch, 803 Front St., Norfolk, VA 23510-1096). Written verification from this office is before performing the proposed work. The notification must be in writing and include the following information (the joint permit application may also be used; the Virginia Department of Transportation may use their application form):
  1. Name, address, and telephone number of the prospective permittee.
  2. Location of the proposed project.
  3. Vicinity map and project drawings on 8.5-inch by 11-inch paper (plan view, profile, & cross section).
  4. Brief description of the proposed project and the project purpose.
  5. A delineation of wetlands.

When we receive all required information, the Corps will notify the prospective permittee within 45 days either that the project may proceed under the nationwide permit or that an individual permit is required. If, after reviewing the notification, the District Engineer determines that the proposed activity would have more than a minimal individual or cumulative adverse impact on the aquatic environment or otherwise may be contrary to the public interest, then he will either condition the nationwide permit authorization to reduce or eliminate the adverse impacts, or notify the prospective permittee that the activity is not authorized by the nationwide permit and will provide the permittee with instructions on how to seek authorization under an individual permit. If the permittee is not notified otherwise within the 45-day period, the permittee may begin the activity.

- (c) The notification must include a compensatory mitigation proposal to offset permanent losses of waters of the United States (see (b) above) to ensure that those losses result in minimal adverse effects to the aquatic environment and a statement describing how temporary losses of waters of the United States will be minimized to the maximum extent practicable.

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*The following, existing regional conditions previously issued by the Norfolk District will continue as part of the District's implementation of the 15 January 2002 NWPs:*

#### **Regional Condition Pertaining to Designated Areas of Critical Habitat in Virginia**

Notification to the Norfolk District Engineer is required for certain nationwide permit activities occurring in several river reaches in the counties of Lee, Russell, Scott, Tazewell, Wise, and Washington in Southwestern Virginia. The specific waters and reaches are:

- 1) Powell River - from the Tennessee-Virginia state line upstream to the Route 58 bridge in Big Stone Gap and one mile upstream of the mouth of any tributary adjacent to this portion of the River.
- 2) Clinch River - from the Tennessee-Virginia state line upstream to Route 632 at Pisgah in Tazewell County and one mile upstream of the mouth of any tributary adjacent to this portion of the River, the Little River to its confluence with Maiden Spring Creek, and one mile upstream of the mouth of any tributary adjacent to this portion of Little River.

- 3) North Fork Holston River - from the Tennessee-Virginia state line upstream to the Smyth County/Bland County line and one mile upstream of any tributary adjacent to this portion of the River.
- 4) Copper Creek - from its junction with the Clinch River upstream to the Route 58 bridge at Dickensonville in Russell County and one mile upstream of any tributary adjacent to this portion of the Creek.
- 5) Indian Creek - from its junction with the Clinch River upstream to the fourth Norfolk and Western Railroad bridge at Van Dyke in Tazewell County and one mile upstream of the mouth of any tributary adjacent to this portion of the Creek.
- 6) Middle Fork Holston River - from the Tennessee-Virginia state line to its junction with Walker Creek in Smyth County near Marion, Virginia.
- 7) South Fork Holston River - from its junction with Middle Fork Holston River upstream to its junction with Beech Creek in Washington County.

Activities authorized under certain Nationwide Permits which involve the discharge of dredged and/or fill material will be subject to the notification procedures indicated below. All reaches of critical habitat, including the tributaries and associated wetlands as specified above are subject to this action.

Any discharge of dredged and/or fill material authorized by the nationwide permits listed above which would occur in the designated waterways or contiguous wetlands in Lee, Russell, Scott, or Wise Counties the specified counties would require notification to the Norfolk District Corps of Engineers, Clinch Valley Field Office, POB 338, Abingdon, Virginia 24210. Any discharge of dredged and/or fill material authorized by the Nationwide Permits listed above which would occur in the designated waterways or contiguous wetlands in Smyth, Tazewell, or Washington Counties would require notification to the Norfolk District Corps of Engineers, Walker Mountain Field Office, POB 694, Wytheville, Virginia 23482. Written verification from these offices would be required prior to performing the proposed work. It is recommended that the prospective permittees first contact the field offices by telephone at (276) 623-5259 (Clinch Valley) or (276) 228-4592 (Walker Mountain) to determine if the notification procedures would apply. The notification must be in writing and include the following information ( the joint permit application may also be used - be sure to mark it with the letters PCN at the top of the first page):

- a. Name, address, and telephone number of the prospective permittee.
- b. Location of the proposed project.
- c. Vicinity map and project drawings (plan view, profile, & cross section).
- d. Brief description of the proposed project and the project purpose.
- e. Where required by the terms of the nationwide permit, a delineation of affected special aquatic sites, including wetlands.

When all required information is received by the appropriate field office, the Corps will notify the prospective permittee within 45 days whether the project may proceed under the nationwide permit or whether an individual permit is required. If, after reviewing the notification, the District Engineer determines that the proposed activity would have more than a minimal individual or cumulative adverse impact on the aquatic environment or otherwise may be contrary to the public interest, then he will either condition the nationwide permit authorization to reduce or eliminate the adverse impacts, or notify the prospective permittee that the activity is not authorized by the nationwide permit and provide the permittee with instructions on how to seek authorization under an individual permit. If the permittee is not notified otherwise within the 45-day period, the permittee may begin the activity.

#### **Regional Condition Pertaining to Designated Trout Waters**

Notification to the Norfolk District Engineer is required for certain nationwide permit activities occurring in two categories of waters; Class V (Put and Take Trout Waters) and Class VI (Natural Trout Waters), as defined by the Virginia State Water Control Board Regulations, Water Quality Standards (VR-680-21-00), dated January 1, 1991, or the most recently updated publication. The waters, occurring specifically within the mountains of Virginia, are within the following river basins:

- 1). Potomac-Shenandoah
- 2). James
- 3). Roanoke
- 4). New
- 5). Tennessee and Big Sandy

The counties in which this notification requirement applies include: Albemarle, Allegheny, Amherst, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Carroll, Clarke, Craig, Dickenson, Floyd, Franklin, Frederick, Giles, Grayson, Greene, Henry, Highland, Lee, Madison, Montgomery, Nelson, Pulaski, Page, Patrick, Rappahannock, Roanoke, Rockbridge, Russell, Scott, Rockingham, Shenandoah, Smyth, Tazewell, Warren, Washington, Wise, Wythe

Activities authorized under certain Nationwide Permits which involve the discharge of dredged and/or fill material will be subject to the notification procedures indicated below in Virginia Designated Natural, and Put and Take Trout Waters, including all waters upstream to and above their headwaters and their adjacent wetlands.

Any discharge of dredged and/or fill material authorized by the nationwide permits listed above which would occur in the designated waterways or adjacent wetlands of the specified counties would require notification to the appropriate Corps of Engineers field office, and written approval from that office prior to performing the work. It is recommended that prospective permittees first contact the appropriate field office by telephone to determine if the notification procedures would apply. The notification must be in writing and include the following information (the standard Joint Permit Application may also be used):

- (a) Name, address and telephone number of the permittee;
- (b) Location of the proposed project;
- (c) Vicinity map and drawings of the project;
- (d) Brief description of the proposed project and its purpose;
- (e) Where required by the terms of the NWP, a delineation of affected special aquatic sites, including wetlands.

When all required information is received by the appropriate field office, the Corps will notify the prospective permittee within 45 days whether the project can proceed under the NWP or whether an individual permit is required. If, after reviewing the notification, the District Engineer determines that the proposed activity would have more than minimal individual or cumulative adverse impacts on the aquatic environment or otherwise may be contrary to the public interest, then he will either condition the nationwide permit authorization to reduce or eliminate the adverse impacts, or notify the prospective permittee that the activity is not authorized by the nationwide permit and provide with instructions on how to seek authorization under an individual permit. If the permittee is not notified otherwise within the 45-day period the permittee may begin the activity.

### **Regional Conditions Pertaining to Countersinking of Pipes and Culverts in Nontidal Waters**

**NOTE:** The countersinking requirement does not apply in tidal waters.

a. Following consultation with the Virginia Department of Game and Inland Fisheries (DGIF), the Norfolk District has determined that it will be assumed that fish and other aquatic organisms are present in any stream being crossed, in the absence of evidence to the contrary. Although permittees have the option of providing such evidence, extensive efforts to collect such information is not encouraged, since countersinking will in most cases be required except as outlined in the conditions below.

b. All pipes: All pipes and culverts placed in streams will be countersunk at both the inlet and outlet ends, unless indicated otherwise by the Norfolk District on a case-by-case basis (see below). Pipes that are 24" or less in diameter shall be countersunk 3" below the natural stream bottom. Pipes that are greater than 24" in diameter shall be countersunk 6" below the natural stream bottom. The countersinking requirement does not apply to bottomless pipes/culverts or pipe arches. All single pipes or culverts (with bottoms) shall be depressed (countersunk) below the natural streambed at both the inlet and outlet of the structure. In sets of multiple pipes or culverts (with bottoms) at least one pipe or culvert shall be depressed (countersunk) at both the inlet and outlet to convey low flows.

c. Exemption for extensions and certain maintenance: The requirement to countersink does not apply to extensions of existing pipes or culverts that are not countersunk, or to maintenance to pipes/culverts that does not involve replacing the pipe/culvert (such as repairing cracks, adding material to prevent/correct scour, etc.).

d. Floodplain pipes: The requirement to countersink does not apply to pipes or culverts that are being placed above ordinary high water, such as those placed to allow for floodplain flows. The placement of pipes above ordinary high water is not jurisdictional (provided no fill is discharged into wetlands).

e. Hydraulic opening: Pipes should be adequately sized to allow for the passage of ordinary high water *with the countersinking and invert restrictions taken into account*.

f. Pipes on bedrock: Different procedures will be followed for pipes or culverts to be placed on bedrock, depending on whether the work is for replacement of an existing pipe/culvert or a new pipe/culvert:

1. Replacement of an existing pipe/culvert: Countersinking is not required provided the elevations of the inlet and outlet ends of the replacement pipe/culvert are no higher above the stream bottom than those of the existing pipe/culvert. Documentation (photographic or other evidence) must be maintained in the permittee's records showing the bedrock condition and the existing inlet and outlet elevations. That documentation will be available to the Norfolk District upon request, but notification or coordination with the Norfolk District is not otherwise required.

2. A pipe/culvert is being placed in a new location: If the prospective permittee determines that the bedrock prevents countersinking, they should evaluate the use of a bottomless pipe/culvert, bottomless utility vault, span (bridge) or other bottomless structure to cross the waterway, and also evaluate alternative locations for the new pipe/culvert that

will allow for countersinking. If the prospective permittee determines that neither a bottomless structure nor an alternative location is practicable, then they must submit a Pre-Construction Notification to the Norfolk District in accordance with General Condition #13 of the Nationwide Permits. In addition to the information required by General Condition #13, the prospective permittee must provide documentation of measures evaluated to minimize disruption of the movement of aquatic life as well as documentation of the cost, engineering factors, and site conditions that prohibit countersinking the pipe/culvert. Options that must be considered include partial countersinking (such as less than 3" of countersinking, or countersinking of one end of the pipe), and constructing stone step pools, low rock weirs downstream, or other measures to provide for the movement of aquatic organisms. The PCN must also include photographs documenting site conditions. The prospective permittee may find it helpful to contact their regional fishery biologist for the Virginia Department of Game and Inland Fisheries (DGIF), for recommendations about the measures to be taken to allow for fish movements. When seeking advice from DGIF, the prospective permittee should provide the DGIF biologist with all available information such as location, flow rates, stream bottom features, description of proposed pipe(s), slopes, etc. Any recommendations from DGIF should be included in the PCN. The Norfolk District will notify the prospective permittee whether the proposed work qualifies for the nationwide permit within 45 days of receipt of a complete PCN.

NOTE: Blasting of stream bottoms through the use of explosives is not acceptable as a means of providing for countersinking of pipes on bedrock.

g. Pipes on steep terrain: Pipes being placed on steep terrain (slope of 5% or greater) must be countersunk in accordance with the conditions above and will in most cases be non-reporting. It is recommended that on slopes greater than 5% the permittee install larger pipe than required for passage of ordinary high water in order to increase the likelihood that natural velocities can be maintained. There may be situations where countersinking both the inlet and outlet may result in a slope in the pipe that results in flow velocities that cause excessive scour at the outlet and/or prohibit some fish movement. This type of situation could occur on the side of a mountain where falls and drop pools occur along a stream. Should this be the case, or should the prospective permittee not want to countersink the pipe/culvert for other reasons, they must submit a Pre-Construction Notification to the Norfolk District in accordance with General Condition #13 of the Nationwide Permits. In addition to the information required by General Condition #13, the prospective permittee must provide documentation of measures evaluated to minimize disruption of the movement of aquatic life as well as documentation of the cost, engineering factors, and site conditions that prohibit countersinking the pipe/culvert. The prospective permittee should design the pipe to be placed at a slope as steep as stream characteristics allow, countersink the inlet 3-6", and implement measures to minimize any disruption of fish movement. These measures can include constructing a stone step/pool structure, preferably using river rock/native stone rather than riprap, constructing low rock weirs to create a pool or pools, or other structures to allow for fish movements in both directions. Stone structures should be designed with sufficient-sized stone to prevent erosion or washout and should include keying-in as appropriate. These structures should be designed both to allow for fish passage and to minimize scour at the outlet. The quantities of fill discharged below ordinary high water necessary to comply with these requirements (i.e., the cubic yards of stone, riprap or other fill placed below the plane of ordinary high water) must be included in project totals. These quantities could affect meeting the criteria of Nationwide Permit #18. The prospective permittee may find it helpful to contact their regional fishery biologist for the Virginia Department of Game and Inland Fisheries (DGIF), for recommendations about the measures to be taken to allow for fish movements. When seeking advice from DGIF, the prospective permittee should provide the DGIF biologist with all available information such as location, flow rates, stream bottom features, description of proposed pipe(s), slopes, etc. Any recommendations from DGIF should be included in the PCN. The Norfolk District will notify the prospective permittee whether the proposed work qualifies for the nationwide permit within 45 days of receipt of a complete PCN.

h. Problems encountered during construction: When a pipe/culvert is being replaced, and the design calls for countersinking at both ends of the pipe/culvert, and during construction it is found that the streambed/banks are on bedrock, then the permittee must stop work and contact the Norfolk District (contact by telephone and/or email is acceptable). The permittee must provide the Norfolk District with specific information concerning site conditions and limitations on countersinking. The Norfolk District will work with the permittee to determine an acceptable plan, taking into consideration the information provided by the permittee, but the permittee should recognize that the Norfolk District could determine that the work will not qualify for a nationwide permit.

i. Emergency pipe replacements: In the case of an emergency situation, such as when a pipe/culvert washes out during a flood, a permittee is encouraged to countersink the replacement pipe at the time of replacement, in accordance with the conditions above. However, if conditions or timeframes do not allow for countersinking, then the pipe can be replaced as it was before the washout, but the permittee will have to come back and replace the pipe/culvert and countersink it in accordance with the guidance above. In other words, the replacement of the washed out pipe is viewed as a temporary repair, and a countersunk replacement should be made at the earliest possible date. The Norfolk District must be notified of all pipes/culverts that are replaced without countersinking at the time that it occurs, even if it is an otherwise non-reporting activity, and must provide the permittee's planned schedule for installing a countersunk replacement (it is acceptable to submit such notification by email). The permittee should anticipate whether bedrock or steep terrain will limit countersinking, and if so, should follow the procedures outlined in

(f) and/or (g) above.

**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY'S 401 WATER QUALITY AND COASTAL ZONE MANAGEMENT ACT (CZM) CONDITIONS**

Water Quality Conditions:

1. When compensatory mitigation is in the form of the purchase of mitigation bank credits and the bank is not located within the same hydrologic unit or an adjacent unit within the same river watershed as the impacted site, as defined by the Hydrologic Unit map of the U.S. (USGS, 1980), unless it meets the conditions listed in Section 62.1-44.15:5e of the Code of Virginia for transportation or locality projects.
2. When compensatory mitigation involves only the preservation of wetlands and/or wetland or upland vegetation buffers without accompanying creation or restoration of wetlands or the purchase of mitigation bank credits, or does not meet the goal of no net loss of wetland acreage and function.
3. When proposed construction of irrigation impoundments is located on perennial streams. May include impoundments for golf course irrigation, snowmaking operations.
4. When there is/are any proposed water withdrawal activity(ies). May include construction and/or protection of intake structures, transporting non-potable water, construction of weir or water diversion structure, installation of pilings for any type platform/holding structure mounted with water withdrawal pumps.
5. Proposed hydraulic dredging, or dredging a deep space/hole for water withdrawal.
6. When any concentrated animal feeding operation or waste storage facility is proposed in surface waters.
7. When used to permit a wetland mitigation bank, compensation for surface water impacts is debited from the mitigation bank credits.
8. When stormwater management facilities are located in perennial streams or oxygen- or temperature- impaired waters.
9. When impacts to perennial streams are in excess of 500 linear feet, and for impacts to intermittent streams in excess of 1,500 linear feet.

CZM Conditions:

- 1) Authorization under any NWP requires the applicant to ensure that the project will be designed and constructed in a manner consistent with all state and local requirements pursuant to the Chesapeake Bay Preservation Act (*Virginia Code* sections 10.1-2100 et seq.) and the Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 10-20 et seq.). This authorization does not supersede state or local government authority and responsibilities pursuant to the Act.
- 2) Where local zoning ordinances provide for riparian and floodplain protection pursuant to the Chesapeake Bay Preservation Act (*Virginia Code* sections 10.1-2100 et seq.) and the Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 10-20 et seq.), the use of buffers as a form of mitigation shall be allowed only (a) where the extent of the buffer exceeds the lateral extent already required by local ordinances pursuant to the Act and the Regulations, or (b) where the quality of the existing protected buffer area is enhanced to provide greater water quality protection benefits.