

Revised Standard Operating Procedures for Implementing the
Virginia State Program General Permit (SPGP) August 2005

Residential, Commercial and Institutional Development Activities

1. Preapplication Consultation Requirements:

a. Prior to the submission of a permit application, a proponent must first obtain a Corps confirmed delineation of all State and federal waters and wetlands (including isolated) on the property (~~except for Category A projects~~). This confirmed delineation will be provided to the project proponent at the time of the site visit through use of either a carbonless paper form (Enclosure 1) or within approximately two to three weeks thereafter by other correspondence. (Corps staff is encouraged to use the preprinted carbonless paper form for delineations that are accurate, when minor changes are made to the delineation, or when the property is part of a due diligence review.)

b. To obtain a confirmed delineation, a project proponent must submit the following information to the Corps:

- 1) the names and addresses of the project proponent and landowner;
- 2) an 8 1/2" by 11" **copy of the appropriate USGS Quadrangle map with the property boundaries clearly indicated** and the site survey/property plat;
- 3) a **dated** wetland delineation map (prepared in accordance with the Corps 1987 **wetland delineation manual** and subsequent applicable guidance) **that includes** handwritten or typed wetland delineation data sheets for each "vegetative community". **The wetland delineation map will include** transect lines along with a sufficient number of data points to document the proposed nontidal waters and wetland boundary;
- 4) data points up and down slope of the location of the wetland or waters boundary;
- 5) the **proposed** nontidal wetland and waters boundaries must be flagged **in the field** and **the flags must be** numbered;
- 6) a distinction between the wetlands and other waters (streams, etc.) **and the total acreage of wetlands and linear feet of stream on the property should be noted on the drawing;**
- 7) **a soils map, soil series names of mapped soils on site and an indication if they are hydric or have hydric inclusions; and**
- 8) **if the delineation is amended, the revised delineation map should be include a revised date.**

(If any of this information is lacking, Enclosure 2 can be used to request it.)

While the Corps cannot require the wetlands/waters boundary to be surveyed, we do strongly encourage it. However, we suggest the survey be performed after the delineation has been confirmed.

NOTE: All previously Corps confirmed and still valid delineations satisfy this requirement.

2. Preapplication Consultation: Upon receipt of a request for Corps confirmed delineation, a Corps project manager will be assigned along with a preapplication number.

a. The Corps project manager will

-consult the VDCR database relative to federally listed or proposed threatened or endangered species or proposed or designated critical habitat. In areas of noncritical habitat, the project manager's search will be for one minute (1 mile by 1 mile). This search area will be expanded if the project limits exceed one square mile.

-consult the Virginia Department of Historic Resources' Data Sharing System (DSS) and print out a copy of any known historic properties on the project site. (Instructions on how to access the DSS and print out a copy of a map showing any known historic properties appear as Enclosure 10.)

-provide advice, **when the project proponent provides preliminary plans**, on measures to avoid, minimize, and compensate for unavoidable impacts to nontidal waters and wetlands.

b. The aforementioned information obtained from this review will be conveyed to the project proponent during the site visit and outlined in the checklist (Enclosure 1a) and attached to Enclosure 1 or a subsequent letter. (If a preprinted confirmation letter is not provided to the project proponent at the time of the site visit, the subsequent letter will be sent within two to three weeks of the site visit.)

c. For preapplication consultations involving prospective projects with likely impacts to more than 1 acre of nontidal wetlands or 2000 linear feet of stream, involving the preparation of an environmental impact statement or projects of special interest or circumstances, the Corps project manager will advise the DEQ Regional Program Manager by email and invite DEQ to participate.

3. If a delineation confirmation request is submitted without all or portions of the aforementioned information, Enclosure 2 will be used by the Corps project manager to request the needed information.

4. If an application is submitted without a Corps confirmed jurisdictional determination:

Enclosure 3 will be used by DEQ to request that the needed information be sent to the Corps so that a delineation may be confirmed.

5. Application: A project proponent must complete the pertinent portions of the Joint Permit Application and provide drawings for a permit under the SPGP. When an application is submitted, the applicant must include a copy of the Corps' confirmation letter, delineation map, and data sheets to DEQ. ~~The applicant must also send a copy of the Corps' confirmation letter and delineation map to the locality.~~ For an application to be considered complete under the Residential, Commercial and Institutional Development Activity of the SPGP, ~~(except for Category A)~~, the applicant must have first obtained a Corps confirmed delineation of all waters and wetlands on the property.

a. For Residential, Commercial and Institutional Development, Category A and B activities causing the loss due to filling or backflooding of less than **1/2** acre of nontidal waters or wetlands or the loss due to filling of less than 300 linear feet of stream bed, the applicant must submit **to the Corps one (1)** copy of the pertinent portions of the Joint Permit Application, three **(3) large-scale drawings with a scale no smaller than 1"=200', and one (1), 8 1/2" by 11" drawings (with match lines, if needed)**. The extra copies of the drawings will be used by the Corps if we need to coordinate the project with either the Fish and Wildlife Service or the Virginia Department of Historic Resources due to effects of the project on federally listed species or historic properties. These drawings will show the Corps' confirmed limits of waters **including streams, lakes and ponds** and wetlands and the extent of proposed impacts to waters and wetlands. The location of all known historic properties and all federally designated or proposed critical listed or proposed threatened or endangered species **will be depicted on a U.S.G.S quadrangle sheet and the project drawings**. (This will facilitate our determining the permit area for purposes of Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act.)

The Corps will determine if the proposed work satisfies the criteria of the SPGP or is excluded **and advise the DEQ Program Manager whether or not Section 7 or Section 106 consultation is needed within calendar 20 days of receiving the permit application**. When the DEQ project manager issues their permit, a copy of the authorization will be sent to the Corps project manager and include the Corps' preapplication number and the following statement:

“The work authorized by this permit satisfies the terms and conditions contained in the Norfolk District, Corps of Engineers' State Program General Permit (SPGP-01) and no additional authorization from the Corps is required.”

If after providing FWS with a 15 day comment period and VDHR a 30 day comment period, we determine the project will have an effect on an eligible or listed historic properties or federally listed endangered species or designated critical habitat, we can issue a provisional permit using Enclosure 9 and copy DEQ.

For Corps processing time purposes, the complete date will be the day the application is received provided the following information is submitted:

- 1. A completed Joint Permit Application along with all the pertinent appendices and drawings and the proper number of copies of each as outlined above;**
- 2. A description of the avoidance and minimization measures incorporated into the project plans, an explanation of why additional measures could not be incorporated to further minimize impacts, and the proposed plan to compensate for any unavoidable permanent impacts to waters and wetlands; and**
- 3. Drawings showing the Corps' confirmed limits of all waters, including streams, lakes, and ponds and wetlands and the extent of all proposed impacts to waters and wetlands either depicted and quantified on the drawings or in a table as a supplement to the Joint Permit Application. The vicinity map (a U.S.G.S. quadrangle sheet) and the drawings must also show the location of all federally designated or proposed critical habitat or listed or proposed threatened or endangered species and all known historic properties based on information supplied by the Corps at the preapplication site visit or from additional site or archival investigations performed by the applicant.**

The end date for processing purposes will be the date the Corps project manager determines the proposed work satisfies the conditions of the SPGP.

b. For Residential, Commercial and Institutional Development, Category C activities causing the loss due to filling or backflooding of up to 1 acre of waters or wetlands or the loss due to filling of up to 2000 linear feet of stream bed, the applicant must submit **to the Corps three (3) copies** of the pertinent portions of the Joint Permit Application, **four (4) large-scale drawings with a scale no smaller than 1"=200'**, and **one (1) 8 ½" by 11" drawing (with match lines , if needed)**. The extra copies of the application and drawings will be used by the Corps to coordinate the project with the Fish and Wildlife Service, the Environmental Protection Agency, and the Virginia Department of Historic Resources. These drawings will show the Corps' confirmed limits of waters and wetlands and the extent of proposed impacts to waters and wetlands. The location of all known historic properties and all federally designated or proposed critical listed or proposed threatened or endangered species **will also be shown on a U.S.G.S. Quadrangle sheet and on the drawings.**

DEQ and the Corps will have 45 days from the receipt of a complete Joint Permit Application (**see above**) to make a permit decision. A memo (Enclosure 4) will be used by the Corps project manager to send a copy of the application to the Fish and Wildlife Service, the Environmental Protection Agency, and the Virginia Department of Historic Resources. **EPA and FWS** will be provided 15 days to submit their comments (**the package should be**

express mailed) and **VDHR will be provided 30 days.** (This coordination period is part of the overall 45 day review period.) If no project-specific objections are received from the aforementioned agencies and the project satisfies the conditions of the SPGP, the work may be authorized by the Corps using Enclosure 7.

If the Environmental Protection Agency or the United States Fish and Wildlife Service respond within the allotted time frame and submit project-specific objections due to its impact on the aquatic environment or the Corps determines the impacts of the work are more than minimal, the Corps will notify the applicant using Enclosure 6. The Corps' processing time clock will stop to allow the applicant the opportunity to address the objections if they so choose.

If the applicant modifies the project to the satisfaction of the objecting federal resource agency or agencies and the Corps and the project satisfies the requirements of the SPGP, the Corps will authorize the work under the SPGP using Enclosure 7. In those cases, no work in jurisdictional waters or wetlands may begin until the Corps issues an SPGP verification. If the Corps project manager needs to recoordinate the applicant's response with the agencies (**15 day comment period**), he/she can use Enclosure 8. **Processing time will restart where it let off once the agency comments have been received.** If the applicant chooses not to address the objections or cannot address the objections to the satisfaction of the objecting federal agency or agencies or the Corps, an individual permit will be required by the Corps (regardless of whether the DEQ issues an individual permit or a general permit authorization) and will include the issuance of a public notice and a full public interest review.

If the project may affect properties listed on or eligible for inclusion on the National Register of Historic Places or may affect federally listed or proposed threatened or endangered species federally designated critical habitat or proposed or designated critical habitat, the Corps project manager will follow the procedures outlined under Category A **and B.**

If DEQ determines the project meets the requirements of one of their general permits or an individual permit, including the incorporation of all appropriate and practicable avoidance and minimization and compensatory mitigation, DEQ will issue a general permit authorization or an individual permit.

Projects causing the loss due to backflooding or filling of more than 1 acre of nontidal wetlands or the loss due to filling of more than 2000 linear feet of stream bed will require a Corps individual permit and either a DEQ General Permit authorization or individual permit.

Linear Transportation Projects

For Linear Transportation Projects, Category A activities not causing the permanent loss of **less than or equal**

to 1/10 acre of nontidal waters and wetlands per road crossing **and/or the sum of lateral encroachment impacts**. No additional authorization from the Corps is required provided the project is not excluded from the SPGP and the applicant satisfies conditions a through e of the SPGP. DEQ will include the following language in their permit authorization:

“The work authorized by this permit satisfies the terms and conditions contained in the Norfolk District, Corps of Engineers’ State Program General Permit (SPGP-1) and no additional authorization from the Corps is required provided the final mitigation plan is submitted and approved by the Corps prior to commencement of construction for all stream losses greater than 300 linear feet.” (This last portion of the sentence will only be included when stream mitigation is required.)

For Linear Transportation Projects, Category B activities causing the permanent loss of greater than 1/10 but no more than 1/3 acre of waters and wetlands per crossing **and/or the sum of the lateral encroachment impacts**. No additional authorization from the Corps is required provided the project is not excluded from the SPGP and the applicant satisfies conditions a through e of the SPGP. DEQ will include the following language in their permit authorization:

“The work authorized by this permit satisfies the terms and conditions contained in the Norfolk District, Corps of Engineers’ State Program General Permit (SPGP-01) and no additional authorization from the Corps is required provided the final mitigation plan is submitted and approved by the Corps prior to commencement of construction for all stream losses greater than 300 linear feet.” (This last portion of the sentence will only be included when stream mitigation is required.)

If the proposed work is associated with a residential, commercial or institutional development, it must satisfy the requirements of the Residential, Commercial, and Institutional Development Activity Category A or B (unless the only impacts to nontidal waters or wetlands are road crossings).

Projects affecting more than 1/3 acre of nontidal water and wetlands or the Corps determines will have more than minimal individual and cumulative impacts will require an individual permit from the Corps regardless of whether the DEQ issues an individual permit or a general permit authorization.

Linear transportation projects that will have an effect on federally listed or proposed species or designated or proposed critical habitat or listed or eligible historic properties will be evaluated as outlined under the Residential, Commercial, and Institutional Development Activity.

NOTE: With any new program, instances will arise where procedures are unclear. In those cases, the Corps and the DEQ project manager will attempt to resolve the issue. If they are unsuccessful, their respective supervisors will discuss the issue. If the issue remains unresolved, **Catherine Harold** and Bruce Williams will be requested to resolve the issue.