

**Annual Review of the Norfolk
District Corps' State Program
General Permit (12-SPGP-01),
Effective April 30, 2012**

**Reporting Period: September 1,
2013 – August 31, 2014**

December 2014

Executive Summary

The objective of a State Program General Permit (SPGP) is to eliminate duplicative federal and state permitting activities where authorization to impact surface waters will have minimal environmental impacts. Based on information from the reporting period, the 12-SPGP-01 meets or exceeds the federally recommended goal, and the Commonwealth's statutory goal, of no net loss of wetland acreage and functions and other aquatic resource functions for those impacts that are required to be compensated on a cumulative basis. The public is invited to comment on this annual report for a 30-day period, as detailed in the public notice issued by the Norfolk District Corps of (Corps) and concurrently posted on DEQ's web site.

Introduction

On November 1, 2002, the first State Program General Permit (SPGP-01) was granted to the Commonwealth of Virginia by the Corps for the discharge of dredged and/or fill material in nontidal wetlands and waters, of the United States, associated with residential, commercial, and institutional developments and linear transportation projects within the Commonwealth. At that time, the Norfolk District suspended Corps Nationwide Permits 14 and 39 in Virginia, where they applied to nontidal waters and overlapped the coverage provided by the SPGP. Currently, the Norfolk District has suspended Nationwide Permit 39 and portions of Nationwide Permits 14 and 29 in Virginia, where they apply to nontidal waters, including wetlands. These changes were based on revisions that were made to the 2012 Nationwide Permit reauthorizations.

Corps general permits are authorizations issued on a nationwide or regional basis by the Army Corps of Engineers for categories of activities that have minimal environmental impacts. Programmatic general permits may be issued in situations where a state, regional, or local authority has a regulatory program in place that provides a similar level of review as the Corps. In such cases (as with 12-SPGP-01), the programmatic general permit avoids unnecessary duplication of effort by providing blanket Corps authorization for certain activities provided they obtain the necessary state, regional, or local authorizations. In Virginia, the SPGP program is appropriate because Virginia has its own state program with authorities similar to the federal program.

The Corps revised and expanded the State Program General Permit (07-SPGP-01) on June 1, 2007. The Corps' 07-SPGP-01 authorized the discharge of dredged or fill material causing the loss of not more than one acre of nontidal wetlands or waters or causing the loss of not more than 2,000 linear feet of nontidal waters of the United States associated with certain residential, commercial, and institutional developments and not causing the loss of more than 1/3 acre nontidal waters of the United States, including wetlands, for linear transportation projects within the geographical limits of the Commonwealth of Virginia under the regulatory jurisdiction of the Corps.

The Corps again revised the State Program General Permit (12-SPGP-01) in April 2012. The Corps' 12-SPGP-01 authorizes the discharge of dredged or fill material causing the loss of (1) not more than one acre of nontidal wetlands or open waters or causing the loss of not more than 2,000 linear feet of nontidal stream channel associated with certain residential, commercial, and institutional developments, and (2) not causing the loss of more than 1/3 acre nontidal waters, including wetlands, or 2,000 linear feet of nontidal stream channel for linear transportation projects within the geographical limits of the Commonwealth of Virginia under the regulatory jurisdiction of the Corps.

The 12-SPGP-01 can only be issued for projects where the discharge of dredge or fill material into waters, including wetlands, of the United States has been avoided and minimized to the maximum extent practicable. Based on the current regulatory requirements, impacts are determined on a single-and-complete project basis, as defined in 9VAC25-210 et seq., and therefore, the total cumulative amount of impacts to state waters may not require compensation. For those impacts that have been determined "unavoidable", compensatory mitigation is required to offset losses of aquatic functions and values. In general wetland mitigation is required for wetland impacts over 1/10 acre on residential, commercial and institutional development projects and for all wetland impacts on linear transportation projects, regardless of amount. Stream mitigation is typically required for any project that involves more than 300 linear feet of stream impact, regardless of activity type.

Many procedural revisions were made with the 12-SPGP-01 that can be viewed on the Norfolk District Corps of Engineers' web page at:

<http://www.nao.usace.army.mil/Missions/Regulatory/RBregional.aspx>. To determine the effectiveness of the 12-SPGP-01 and to evaluate the extent of its cumulative impacts, DEQ committed to continuing the process of conducting an annual review, which was first initiated by the Corps. Generally, the annual reports are for the period of September 1st through August 31st, as agreed to in the SPGP Standard Operating Procedures effective in April 2012. The 2013 report was an exception (June 1, 2012 to August 31, 2013) because the 12-SPGP-01 became effective near the end of the typical reporting cycle. The 2014 report covers the typical September to August timeframe (Reporting Period). Previous annual reports may be viewed on the Norfolk District Corps of Engineers' (Corps) web page at:

<http://www.nao.usace.army.mil/Missions/Regulatory/RBregional/SPGPReview.aspx>

or on the DEQ webpage at:

<http://www.deq.virginia.gov/Programs/Water/WetlandsStreams/Permits/SPGP.aspx>.

The annual report provides data on the type, number, and acreage of wetland impacts and linear footage of stream impacts requested and authorized, the mitigation required, and the geographic distribution of the authorized impacts. DEQ is also providing: the average number of calendar days between initial receipt of application and permit authorization/issuance, as well as the average number of calendar days between application completeness and permit authorization/issuanceⁱ; the approximate number of residential, commercial, or institutional activities; and the approximate number of linear transportation activities. Compensatory mitigation data is provided in terms of the units used in the permit authorization/issuance, often expressed in functional units such as credits or stream conditions units (SCUs)ⁱⁱ, and makes generalizations by representing all methods of compensation. Data related to linear transportation activities are separated from data related to non-linear transportation activities due to the manner in which linear transportation impacts may be considered as single and complete projects. Detailed permit-by-permit data does not appear in the report tables but is available upon request.

On October 23, 2008 a Programmatic Agreement (PA) was executed to authorize the DEQ to conduct the initial review of existing information on historic properties for permit applications submitted under the 07-SPGP-01. The PA originally stipulated that the DEQ Cultural Resource Specialist (CRS) could only issue a No Historic Properties Effectuated determination for projects five acres or less and that met all criterion under Stipulations II(a) of the PA. In December 2012, the PA was revised to allow the DEQ CRS to issue a No Historic Properties Effectuated determination for projects 20 acres or less and that met all criteria under Stipulations II(a) of the PA. The PA requires DEQ to summarize the 12-SPGP-01 permits issued and Cultural Resource Initial Screening activities over the Reporting Period.

Results and Conclusions

Specific data items are provided in the tables of Appendices A through D. DEQ utilizes database queries that are specifically programmed to provide calculations for processing times and to provide calculations for impact and compensation data separately. Processing time calculations include the date on which an application was received, the date on which an application is deemed complete, and/or the date on which the permit or authorization was issued. Periods during which the permit process was officially suspended have been subtracted from the processing time from initial application receipt to permit authorization/issuance. Processing time calculations do not apply to revisions or modifications made to permits or permit authorizations after the original authorization/issuance.

VWP general permit authorizations in particular are often modified during the same SPGP Reporting Period in which the original authorization or permit was issued, or during a subsequent Reporting Period. No effort is made in this report to track each modification to impacts or compensation, as in many instances, these do not change or do not change

ⁱ Requirements for a complete application are given in the Virginia Water Protection Permit Program Regulation (see 9 VAC 22-210-80).

ⁱⁱ Stream Condition Units (SCU) are units used at the Northern Virginia Stream Restoration Bank operated by Wetland Studies & Solutions, Inc (WSSI).

significantly from authorization/issuance to modification. In order not to double-count impacts and compensation from one Reporting Period to the next, only those initial permit actions completed within the Reporting Period are considered in this report. The date on which an application is received and the date on which the application is deemed complete may not be within the same Reporting Period as the authorization/issuance date.

Permitting Activities

Tables 1 and 4 present a summary of the 12-SPGP-01 residential, commercial, and institutional permitting activities, and the linear transportation activities, respectively.

A total of 199 VWP general permit actions were considered in evaluating the processing times during the Reporting Period. Of these actions, approximately 153 were related to residential, commercial, or institutional activities, and approximately 46 projects were related to linear transportation activities. The average time to process a complete general permit application during this Reporting Period was 44 days for residential, commercial, or institutional activities and 16 days for linear transportation activities. This is within the statutory limit of 45 days total per general permit authorization action.

Two VWP individual permit actions were considered in conjunction with the 12-SPGP-01 for this Reporting Period. The average time to process a complete application during this Reporting Period was 125 days for the residential activities, which is just over the statutory limit of 120 days per individual permit issuance action.

While SPGP actions cannot be modified or extended, 10 Notices of Planned Change - all for residential, commercial, or institutional activities - were processed on the VWP general permit actions considered during this Reporting Period. No VWP individual permits were modified or extended. One VWP general permit authorization for residential, commercial, or institutional activities and six VWP general permit authorizations for linear transportation activities were terminated because regulated activities were completed prior to the expiration date.

Impacts to Waters from Permitted Activities

Figures 1 through 4 illustrate wetland and stream impacts requested/proposed, authorized/permited for all activities (by both VWP individual permits and general permit authorizations) and the associated compensation (including preservationⁱⁱⁱ) under 12-SPGP-01 for this Reporting Period. A total of 199 VWP general permit authorizations and two VWP individual permits were considered to calculate the impact and compensation results, but not all of these actions required compensation (see Tables 1 and 4).

ⁱⁱⁱ Approximately 45 riparian buffer acres and 10,132 linear feet of stream were preserved for residential, commercial, or institutional activities. No preservation was provided for linear transportation activities.

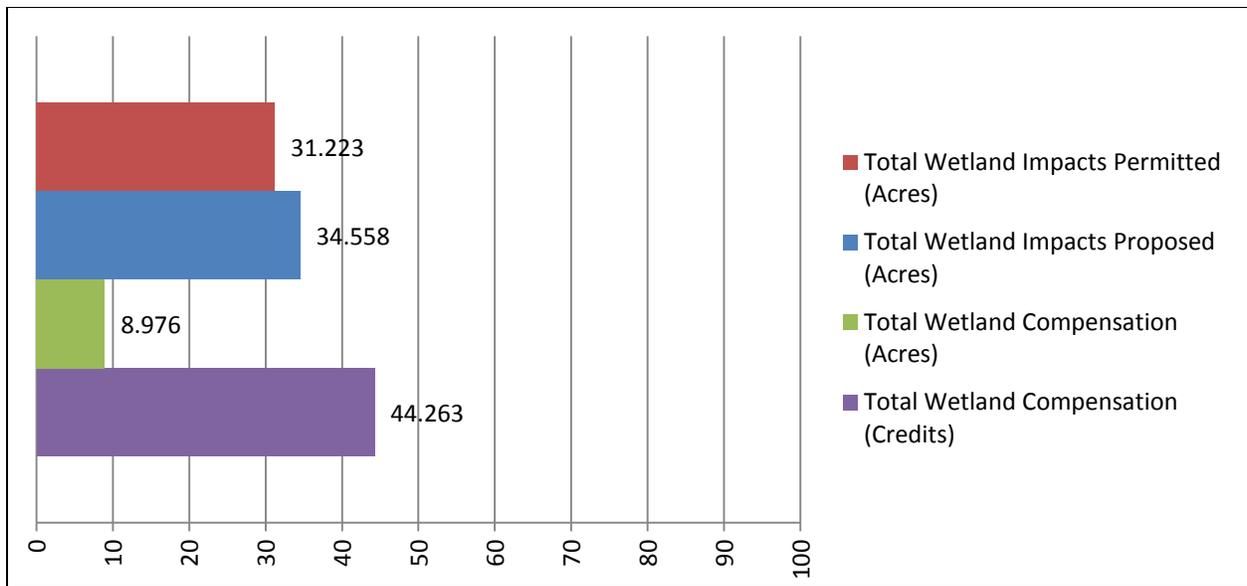


Figure 1. Wetland impacts requested, authorized, and compensated under 12-SPGP-01 for residential, commercial, or institutional activities

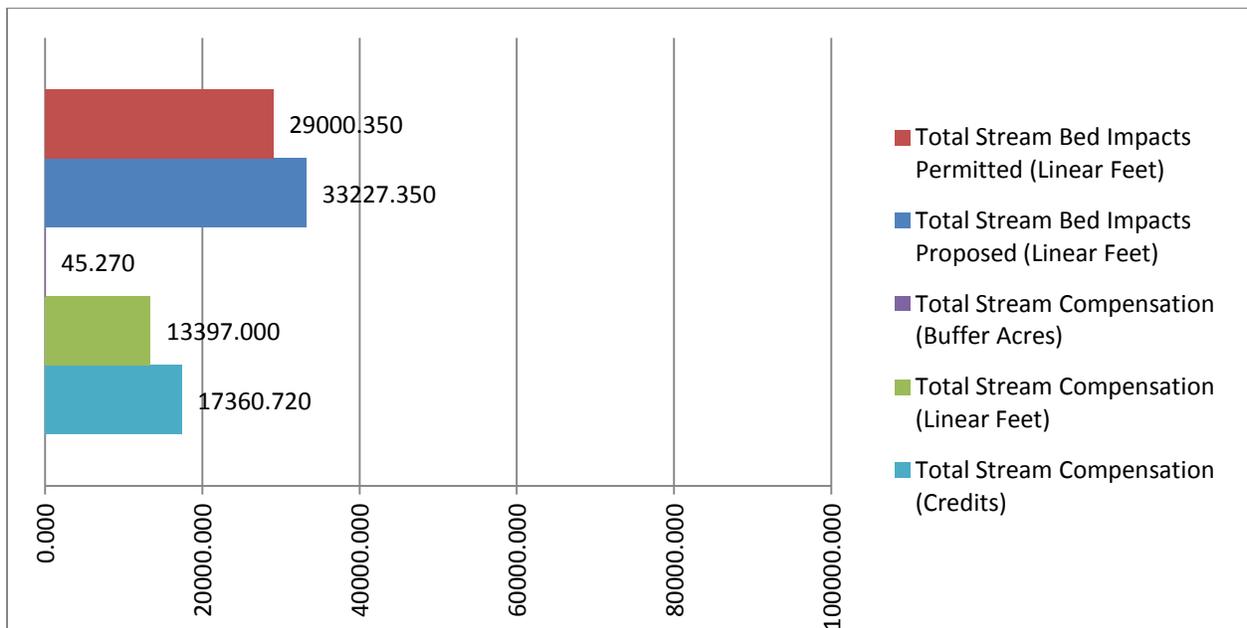


Figure 2. Stream impacts requested, authorized, and compensated under 12-SPGP-01 for residential, commercial, or institutional activities

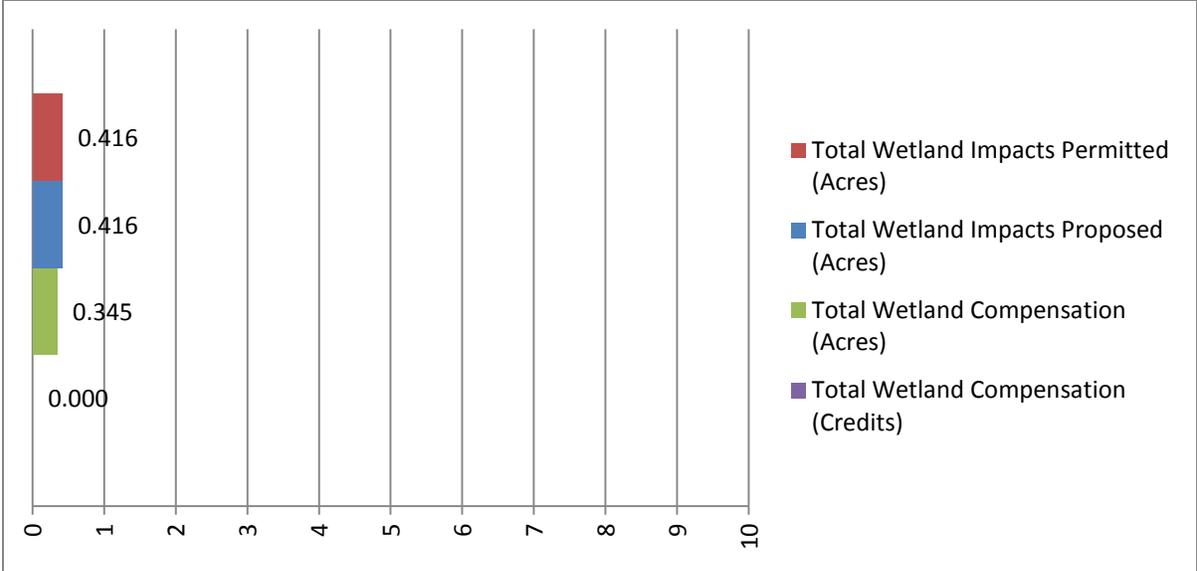


Figure 3. Wetland impacts requested, authorized, and compensated under 12-SPGP-01 for linear transportation activities

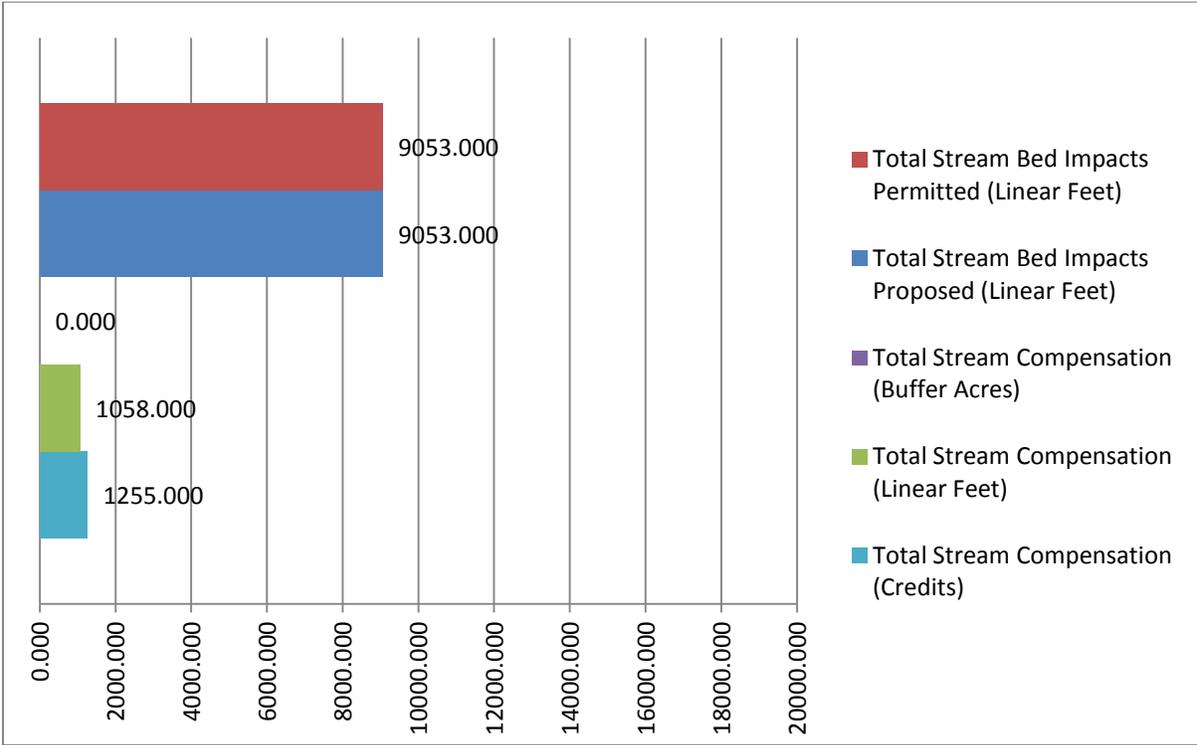


Figure 4. Stream impacts requested, authorized, and compensated under 12-SPGP-01 for linear transportation activities

Tables 2 and 5 summarize the amount of wetland and stream impacts requested/proposed, and the amount of wetland and stream impacts permitted/authorized for this Reporting Period, organized by drainage area as defined by the 8-digit U.S. Geological Survey (USGS) Hydrologic Unit Code (HUC8). Impacts for residential, commercial, or institutional activities were authorized in 27 out of the 46, 8-digit HUC drainage areas in Virginia (Table 2). Impacts for linear transportation activities were authorized in 17 out of the 46, 8-digit HUC (Table 5).

- *VWP General Permit Authorizations:* Total (rounded) wetland and stream impacts *proposed* by applicants for residential, commercial, or institutional activities were approximately 34 acres and 30,849 linear feet, respectively, and total impacts *authorized* were approximately 31 acres and 26,867 linear feet, respectively. Total (rounded) linear feet of stream impacts *proposed* by applicants for linear transportation activities were approximately 0.42 acres and 9,053 linear feet, respectively, and total impacts *authorized* were approximately 0.42 acres and 9,053 linear feet, respectively.
- *VWP Individual Permits:* Total (rounded) wetland and stream impacts *proposed* by applicants for residential, commercial, or institutional activities were approximately 0.21 acre and 2,378 linear feet, respectively, and total impacts *authorized* were approximately 0.14 acre and 2,133 linear feet, respectively.

The difference between impacts requested by the applicant and impacts authorized by DEQ does not reflect all of the avoidance and minimization obtained, as DEQ and the Corps work with 12-SPGP-01 applicants to avoid and minimize surface water impacts through a pre-application process. Further, the DEQ database for individual permits has not yet been updated to track avoidance and minimization electronically. DEQ and the Corps have also provided guidance to the public on ways to demonstrate avoidance and minimization efforts on projects.

Tables 3 and 6 summarize the compensation actions for this Reporting Period, organized into the following categories: Bank, Creation, Restoration, Enhancement, Preservation, and Fund. Two individual permits and 90 general permit authorizations required compensation. Bank totals include mitigation credits for wetland acres impacted or stream linear feet impacted. Fund totals include acreage, linear feet, and more recently, credits, as a result of the Virginia Aquatic Resources Trust Fund converting from a dollar-based management system to a credit-based management system in July 2012^{iv}. While one credit or unit does not always equal one acre of wetland or one linear foot of stream, the goal is for one credit or unit to assimilate the functional value provided by one acre or linear foot. Buffer compensation (acres) for stream impacts is separated from other stream compensation types.

Wetland compensation (rounded) for residential, commercial, or institutional activities (VWP general permit authorizations / VWP individual permits) was provided using the following mechanisms:

- 42 mitigation bank credits and 7 acres at banks / 0.4 acre at banks;
- 2 acres of wetland creation; and
- 2 credits of wetland compensation through Funds.

^{iv} DEQ CEDS data entry procedures have been revised to indicate fund credit purchases in addition to dollar amounts.

Wetland compensation (rounded) for linear transportation activities (VWP general permit authorizations) was provided using the following mechanisms:

- 0.2 acres at mitigation banks;
- 0.2 acres of wetland creation; and
- 0.01 acre of wetland compensation through Funds.

Stream compensation (rounded) for residential, commercial, or institutional activities (VWP general permit authorizations and VWP individual permits) was provided using the following mechanisms:

- 16,632 mitigation bank credits / 2,857 linear feet at banks;
- 10,132 linear feet of stream preservation;
- 45 acres of buffer preservation (30 riparian, 15 upland); and
- 408 linear feet and 729 credits of stream compensation through Funds.

Stream compensation (rounded) for linear transportation activities (VWP general permit authorizations) was provided using the following mechanisms:

- 912 mitigation bank credits;
- 1,058 linear feet of stream restoration; and
- 343 credits of stream compensation through Funds.

The data summarized above and included in the report appendices demonstrates that the 12-SPGP-01 meets or exceeds the federally recommended goal, and the Commonwealth's statutory goal, of no net loss of wetland acreage and functions and other aquatic resource functions for those impacts that are required to be compensated on a cumulative basis. No effort was made to determine the ratio on each individual permit or permit authorization.

- Not considering preservation, DEQ required approximately a 1.7:1 wetland impact/credit ratio for residential, commercial, or institutional activities. For streams under these activities, the ratio for both credits and buffer acres was 0.7:1 stream impact/credit-acre.
- DEQ required approximately a 0.8:1 wetland impact/credit ratio for linear transportation activities. For streams under this activity, the ratio for credits was 0.3:1 stream impact-to-linear foot/credit.

Compliance Activities

A total of 205 VWP general permit authorization projects were found to be in compliance with permit conditions during this Reporting Period and 54 projects were found to be out of compliance (Table 7, Appendix C). During the Reporting Period, 42 non-compliant projects were corrected. No compliance actions have been completed for the VWP individual permit project during the Reporting Period.

Cultural Resource Screening Activities

Tables 8 through 10 in Appendix D present the Cultural Resource Initial Screening data for 12-SPGP-01 applications for residential, commercial, or institutional activities during the Reporting

Period, including a summary of cultural resource screening activity by DEQ region and a summary of cultural resource data based on project size.

Table 11 in Appendix D is reserved for future reporting of the total, no-historic-properties-effected determinations made by the DEQ cultural resources screener for linear transportation projects sponsored by the Virginia Department of Transportation or conducted as a locally-administered project. Region and size for screenings of linear transportation projects are not recorded by DEQ per the requirements established by 2012 Cultural Resource Review Programmatic Agreement (PA) between DEQ and the U.S. Army Corps of Engineers.

The data presents the results of the initial screening for those projects sent to the Corps for further review or those where a No Effect Determination was made by the CRS. The CRS performed initial screening of 163 12-SPGP-01 applications. The CRS made a No Historic Properties Effected Determination on 54 applications and forwarded 109 applications to the Corps for additional review. A map of DEQ regions can be found at <http://www.deq.virginia.gov/Locations.aspx>. For the current reporting period, 54% of the projects were less than 20 acres in size.

In conclusion, the data summarized above demonstrates that DEQ is conducting activities in compliance with the PA.

Appendix A

Residential, Commercial, or Institutional Activities

**Table 1. 12-SPGP-01 permitting activities (residential, commercial, or institutional)
September 1, 2013 through August 31, 2014**

	SPGP issued in conjunction with VWP General Permit	SPGP issued in conjunction with VWP Individual Permit	Total
Approximate number of permits authorized for residential, commercial, or institutional activities	153	2	155
Approximate number of permits requiring wetland compensation	82 out of 90	1 out of 2	83
Approximate number of permits requiring stream compensation	39 out of 90	2 out of 2	41
Average number of calendar days between initial receipt of application and permit issuance	78	185	
Average number of calendar days between receipt of complete application and permit issuance	44	125	
SPGP permit modifications	10	NA	
SPGP permit extensions	NA	NA	

Table 2. 12-SPGP-01 / VWP Actions (residential, commercial, or institutional) September 1, 2013 through August 31, 2014, Organized by 8-Digit Hydrologic Unit Code (HUC)

HUC8	Number of Permit Authorizations/ Issuances	Total Wetland Acres Proposed	Total Wetland Acres Permitted	Total Stream Bed Linear Feet Proposed	Total Stream Bed Linear Feet Permitted
02040303	2	1.104	0.31	260	260
02070001	3	0.571	0.571	1498	1548
02070004	2	0.33	0.33	170	190
02070005	2	0.16	0.16	100	100
02070006	1	0	0	73	73
02070008	22	6.027	4.629	5496	5698
02070010	11	1.55	1.564	3282	3295
02070011	10	0.47	0.5	2050	2050
02080102	2	0.55	0.55	0	0
02080103	5	0.61	0.59	620	620
02080104	5	0.119	0.119	977	977
02080105	2	0.28	0.28	418	418
02080106	7	0.845	0.795	544	544
02080107	1	0.77	0.77	0	0
02080108	9	1.816	1.362	894	473
02080203	3	0.45	0.45	867.9	708.9
02080204	4	0.63	0.63	1333	1279
02080205	6	1.639	1.859	2142	2120
02080206	19	5.278	5.274	1436.34	1150.34
02080207	9	2.963	1.862	2055	1987
02080208	11	4	4.493	360.11	360.11
03010101	4	0	0	705	705
03010104	2	0.2	0.02	5011	1754
03010201	1	0.402	0.402	184	184
03010205	8	3.584	3.563	0	0
05050001	1	0	0	105	105
05070202	1	0	0	268	268
SubTotal	153	34.348	31.083	30849.35	26867.35
02070010	2	0.21	0.14	2378	2133
Total	155	34.558	31.223	33227.35	29000.35

VWP individual permits

Table 3. Compensatory Mitigation Authorized (residential, commercial, or institutional) September 1, 2013 through August 31, 2014			
Wetland Mitigation Action	Wetland Acres	Upland Buffer Acres	Wetland Credits
Bank	6.556	0	42.209
<i>Bank</i>	<i>0.4</i>	<i>0</i>	<i>0</i>
Creation	2.02	0	
Preservation	0	0	
Fund	0	0	2.054
Stream Mitigation Action	Stream LF	Stream Buffer Acres	Stream Credits
Bank	0	0	16631.72
<i>Bank</i>	<i>2857</i>	<i>0</i>	<i>0</i>
Enhancement	0	0	
Restoration	0	0	
Preservation	10132	45.27	
Fund	408	0	729

VWP individual permits

Appendix B

Linear Transportation Activities

Table 4. 12-SPGP-01 permitting activities (linear transportation) September 1, 2013 through August 31, 2014

	SPGP issued in conjunction with VWP General Permit	SPGP issued in conjunction with VWP Individual Permit	Total
Approximate number of permits authorized for linear transportation activities	46	0	46
Approximate number of permits requiring wetland compensation	3 out of 90	NA	3
Approximate number of permits requiring stream compensation	3 out of 90	NA	3
Average number of calendar days between initial receipt of application and permit issuance	21	NA	
Average number of calendar days between receipt of complete application and permit issuance	16	NA	
SPGP permit modifications	0	NA	
SPGP permit extensions	NA	NA	

Table 5. 12-SPGP-01 / VWP General Authorizations (linear transportation) September 1, 2013 through August 31, 2014, Organized by 8-Digit Hydrologic Unit Code (HUC)

HUC8	Number of Permits Authorized	Total Wetland Acres Proposed	Total Wetland Acres Permitted	Total Stream Bed Linear Feet Proposed	Total Stream Bed Linear Feet Permitted
02040303	1	0	0	170	170
02070004	2	0.006	0.006	332	332
02070005	6	0	0	597	597
02070007	1	0	0	330	330
02070008	1	0	0	111	111
02080102	1	0.034	0.034	92	92
02080105	1	0	0	105	105
02080106	1	0	0	287	287
02080201	1	0	0	295	295
02080202	2	0	0	118	118
02080203	4	0	0	582	582
02080205	1	0.09	0.09	28	28
03010101	7	0	0	2168	2168
03010103	1	0	0	126	126
03010104	1	0	0	50	50
05050001	14	0.156	0.156	2604	2604
05070202	1	0.13	0.13	1058	1058
Total	46	0.416	0.416	9053	9053

Table 6. Compensatory Mitigation Authorized (linear transportation) September 1, 2013 through August 31, 2014			
Wetland Mitigation Action	Wetland Acres	Upland Buffer Acres	Wetland Credits
Bank	0.16	0	0
Creation	0.179	0	
Preservation	0	0	
Fund	0.006	0	0
Stream Mitigation Action	Stream LF	Stream Buffer Acres	Stream Credits
Bank	0	0	912
Enhancement	0	0	
Restoration	1058	0	
Preservation	0	0	
Fund	0	0	343

Appendix C

Compliance Activities

**Table 7. 12-SPGP-01 compliance activities (all activities)
September 1, 2013 through August 31, 2014**

	SPGP issued in conjunction with VWP General Permit	SPGP issued in conjunction with VWP Individual Permit	Total
Number of projects found to be in compliance with permit conditions	205	NA	205
Number of projects found to be in non-compliance with permit conditions	54	NA	54
Number of non-compliance activities resolved within reporting period	42	NA	42

Appendix D

Cultural Resource Screening Activities

Table 8. Initial screening activities performed (residential, commercial, or institutional) September 1, 2013 through August 31, 2014			
Type of Cultural Resources Screening	Action	Number	Number
12-SPGP-01 Application	<i>Applications sent to the Corps for further cultural resources review or Section 106 coordination</i>	109	
12-SPGP-01 Application	<i>No Historic Properties Effected Determination made by DEQ CRS</i>	54	
12-SPGP-01 Application	<i>Projects forwarded to the NPS for official comments</i>		2
Total DEQ Screened		163	

Table 9. Cultural resource screenings per DEQ Region (residential, commercial, or institutional) September 1, 2013 through August 31, 2014			
DEQ Regional Office	Total Screened	Sent to the Corps for Review	No Effect Determination by CRS
Blue Ridge	10	5	5
Central	0	0	0
Northern	63	49	14
Piedmont	49	36	13
Southwest	3	1	2
Tidewater	32	13	19
Valley	6	5	1
Total	163	109	54

Table 10. Number of projects based on size (residential, commercial, or institutional) September 1, 2013 through August 31, 2014	
Project Size	Number
Projects less than 5 acres	41
Projects between 5 acres and 9 acres	22
Projects between 10 acres and 19 acres	26
Projects between 20 acres and 49 acres	31
Projects between 50 acres and 99 acres	25
Projects 100 acres or greater	18
Total	163

Table 11. Initial screening activities performed (linear transportation) September 1, 2013 through August 31, 2014		
Type of Cultural Resources Screening	Action	Number
Virginia Department of Transportation (VDOT) Projects with Preliminary Review by VDOT Staff	Total No Historic Properties Effected Determination reviewed by DEQ CRS	0 ¹

¹No project names contained 'VDOT' or 'Virginia Dept. of Transportation', and therefore were assumed not to be linear transportation. Future reports will identify linear projects.