U.S. Army Corps
Of Engineers
Norfolk District

Amended First Annual Review of the Norfolk

District's State Program General Permit (SPGP-01)

February 2004

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Executive Summary

On October 4, 2002, the Norfolk District, Corps of Engineers (Corps) issued a State Program General Permit (SPGP-01) for the discharge of dredged and/or fill material in nontidal wetlands and waters associated with residential, commercial, and institutional developments and linear transportation projects within the geographic limits of the Commonwealth of Virginia under the regulatory jurisdiction of the Corps. SPGP-01 became effective on November 1, 2002. At that time, we also suspended Corps Nationwide Permit 14 and 39 where they apply to nontidal waters.

To determine the effectiveness and to evaluate the extent of the cumulative impacts of SPGP-01, the Corps committed to conducting an annual review. As part of this review, there either have or will be regional meetings between the Corps and the Virginia Department of Environmental Quality staff, a meeting with the stakeholders who assisted in the development of SPGP-01, and issuance of public notice inviting the public to comment on this report and SPGP-01.

After reviewing all comments received, we will then decide what, if any, changes to propose to SPGP-01. If we propose to modify SPGP-01, we will issue a public notice to provide the public and pertinent agencies with an opportunity to submit comments. After fully considering all comments received, we will complete our public interest review and advise the public through the issuance of a public notice of any modifications to SPGP-01. During this review process, SPGP-01 will remain in effect as originally issued.

Introduction

When the Corps issued the SPGP-01 in October 2002, we committed to preparing annual reports. The reports would assess the effectiveness of SPGP-01 and evaluate the extent of its cumulative impacts. The report would also review similar information related to the Virginia Department of Environmental Quality's (DEQ) nontidal wetlands program. The Norfolk District's SPGP-01 includes the following activities:

Residential, Commercial & Institutional Developments

Affecting less than 1/10 acre of nontidal wetlands and less than 300 linear feet of stream bed (Category A);

affecting up to 1/2 acre of nontidal wetland and/or no more than to 300 linear feet of stream bed (Category B); and

affecting up to 1/2 and 1 acre of nontidal wetland and/or between 300 and 2,000 linear feet of stream bed (Category C).

Linear Transportation Projects

affecting no more 1/10 acre of nontidal wetlands and waters per crossing (Category A) and

affecting between 1/10 and 1/3 acre of wetlands and waters per crossing (Category B).

Specifically, the report provides data on the type, number and acreage of wetland and linear feet of stream impacts requested and authorized, the mitigation required, and the geographic distribution of the authorized impacts. This report is part of a public notice issued by the Corps on December 3, 2003. The purpose of the public notice is to provide an opportunity for the public, agencies, and interested organizations to submit comments.

The Corps held a meeting on December 17, 2003 with the DEQ, the U.S. Fish and Wildlife Service, the Environmental Protection Agency, and the National Marine Fisheries Service along with other interested parties to review the DEQ's implementation of the portion of the program where they are lead agency as well as the overall effectiveness of the SPGP. Based on review of the comments, the Corps will then decide what, if any, changes to propose to the SPGP. If the Corps proposes to modify the SPGP, it will issue a public notice and request comments. After fully considering all comments received, the Corps will complete its public interest review and advise the public through the issuance of a public notice of the modifications to the SPGP. During this review process, the SPGP will remain in effect as issued.

Historical Perspective

To provide an historical perspective and a means of comparison, the tables below outline the requested and authorized impacts, and mitigation required for permits issued by the Corps under Nationwide Permits 39 and 14 in FY 2000, 2001, and 2002.

Nationwide Permit 39 verifications for impacts to less than 0.1 acre of nontidal wetlands

FY	Number of permit verifications	Wetland impacts requested (acres)	Wetland Impacts authorized (acres)	% reduc-tion	Wetland restoration/ creation/ bank (acres)	Wetland Preservation (acres)	In Lieu Fee Contributions
2000	19	1.68	0.68	40.4%	0.1	1.24	0
2001	109	11.86	6.32	46.7%	1.05	18.77	$9,274
2002	130	14.81	5.97	59.7%	3.71	40.12	$14,307

Reduction achieved on 20% of the projects in FY 2000, 4.1% of the projects in FY 2001, and 11.5% of the projects in FY 2002.

Mitigation required on 30% of the projects in FY 2000, 24.6% of the projects in FY 2001, and 42.3% of the projects in FY 2002.

Nationwide Permit 39 verifications for impacts to between 0.10 & 0.50 acre of nontidal wetlands

FY	Number of permit verifications	Wetland impacts requested (acres)	Wetland Impacts authorized (acres)	% reduc-tion	Wetland restoration/ creation/ bank (acres)	Wetland Preservation (acres)	In Lieu Fee Contributions
2000	22	5.59	4.87	12.8%	4.64	10.8	0
2001	108	34.65	27.9	19.4%	23.15	146.23	$228,931
2002	130	45.84	33.70	26.4%	34.33	175.5	$712,305

Reduction achieved on 18.7% of the projects in FY 2000, 19.2% of the projects in FY 2001, and 18.1% of the projects in FY 2002.

Mitigation required on 68.8% of the projects in FY 2000, 83.1% of the projects in FY 2001, and 82.9% of the projects in FY 2002.

Nationwide 14 verifications for impacts to less than 1/3 acre of wetlands

FY	Number of permit verifications	Wetland impacts requested (acres)	Wetland Impacts authorized (acres)	% reduc-tion	Wetland restoration/ creation/ bank (acres)	Wetland Preservation (acres)	In Lieu Fee Contributions
2000	124	6.92	6.86	0.86%	2.88	1.2	$2,389
2001	162	8.14	7.26	10.8%	4.3	27.07	$171,863
2002	172	12.36	11.01	10.9%	9.81	16.75	$39,286

Reduction achieved on 2.4% projects in FY 2000, 5.5% of the projects in FY 2001, and on 2.9% of the projects in FY 2002.

Mitigation required on 28.2% of the projects in FY 2000, on 35.8% projects in FY 2001, and on 23.2% of the projects in FY 2002.

DEQ Data for all Water Protection General Permits for Commercial, Residential, and Institutional Developments Issued between November 1, 2002 and November 1, 2003

Number of Permits Issued	98
Acres of Wetland impacts requested	Forested: 15.95 Shrub Scrub: 1.283 Emergent: 7.308
Acres of wetland impacts authorized	Forested: 14.793 Shrub Scrub: 1.022 Emergent: 7.259
Acres of wetland mitigation required	Forested: 31.13 Shrub Scrub: 1.494 Emergent: 7.114
Linear feet of stream impacts requested	42,860
Linear feet of stream impacts authorized	40,666
Linear feet of stream mitigation required	88,526

Corps Data for SPGP Residential, Commercial & Institutional Activities, Affecting up to 1 acre of Nontidal Wetlands and Between 300 and 2,000 Linear Feet of Stream Bed for Actions Taken between November 1, 2002 and November 1, 2003

Number of Permits Issued	42
Acres of wetland impacts requested	Forested: 6.71 acres Shrub Scrub: 0.74 acre Emergent: 5.69 acre
Acres of wetland impacts authorized	Forested: 5.83 acres Shrub Scrub: 0.74 acre Emergent: 5.65 acres
Acres of wetland mitigation required through creation, restoration, or purchase of credits from an approved mitigation bank	Forested: 10.5 acres Shrub Scrub: 1.05 acres Emergent: 5.95 acres
Acres of wetland mitigation required through a contribution to the VA Wetlands Restoration Trust Fund & the amount of the contributions	Contributions: $89,688
Acres of wetland preservation required to mitigate authorized impacts	Forested: 1.66 acres Shrub Scrub: 0 acres Emergent: 14.54 acres
Linear feet of stream impacts requested	28,735 linear feet
Linear feet of stream impacts authorized	27,676 linear feet
Linear feet of stream mitigation required through purchase of credits from an approved mitigation bank, restoration , or creation	Restoration: 11,959 linear feet Preservation: 18,887 linear feet
Mitigation required through a contribution to the VA Wetlands Restoration Trust Fund & the amount of the contributions	$391,830

Data for SPGP Linear Transportation Projects, Category A and B for Actions Taken Between November 1, 2002 and November 1, 2003

During the period, 370 projects (368 under Category A and 2 under Category B) were authorized under SPGP-01. All unavoidable impacts to wetlands were compensated for through the purchase of wetland credits or contributions to the Virginia Wetland Restoration Trust Fund. Total impacts to wetlands were 0.31 acre of forested wetlands, 0.016 acre of shrub scrub wetlands, 0.61 acre of emergent wetlands, and 22,758 linear feet of stream bed. No individual projects had impacts greater than 300 linear feet of stream bed*.

*The Corps only reviews mitigation plans for linear transportation projects with impacts to greater than 300 linear feet of stream bed. No mitigation for impacts to less than 300 linear feet of stream bed was required by SPGP-01.

SPGP Geographic Cumulative Impacts Analysis of Residential, Commercial & Institutional Developments Based on the Number of Permits & Nontidal Wetland Impacts Authorized by Locality Between November 1, 2002 & November 1, 2003 (only includes projects impacting greater than ½ acre of nontidal wetlands)

Locality	Number of Permits	Acreage of Nontidal Wetland Impacts requested	Acreage of Nontidal Wetland Impacts Authorized	Acres of creation	Acres of Res-toration	Acres of Preserva-tion	Trust Fund
Virginia Beach	2	F: 0.167 SS: 0.57	F: 0.167 SS: 0.57	F: 0.334 SS: 0.86			
Chesapeake	3	F: 0.842 E: 0.77	F: 0.842 E: 0.77	F: 1.784 E: 0.77		1.66	
Isle of Wight	1	F: 0.43	F:0.43				$19,780
Henrico Co.	4	F: 1.19 E: 0.304	F: 1.19 E: 0.304	F: 2.38 E: 0.6			
Chesterfield Co.	4	F: 0.80	F:0.68	F: 1.32			
Caroline Co.	1	F: 0.49	F: 0.095				$15,980
Spotsylvania Co.	1	E: 0.242	E: 0.242	E: 0.242			
Stafford Co.	2	F: 0.295	F: 0.255				$53,928
Fairfax Co.	4	F: 0.198 E: 0.39	F: 0.198 E: 0.39	F: 0.156 E: 0.39		11.4	$30,488
Albemarle Co.	1	E: 0.36	E: 0.36	E: 0.36			
Goochland Co.	1	F: 0.36	0				
Culpeper Co.	1	E: 0.93	E: 0.93	E: 0.93			
Pittsylvania Co.	1	E: 0.24	E: 0.24			1.2	
Augusta Co.	1	E: 0.67	E: 0.67	E: 0.67			
Rockingham Co.	1	E: 0.12	E: 0.12	E: 0.12			
Fauquier Co.	2	F: 0.10 SS: 0.12 E: 0.19	F: 0.10 SS:0.12 E: 0.19	F: 0.20 SS: 0.12 E: 0.19			
Campbell Co.	1	E: 0.13	E: 0.13	0.13			
Loudoun Co.	3	F: 0.039 E: 0.77	F: 0.039 E: 0.77	F: 0.78 E: 0.77			
Prince William Co.	7	F: 2.07 SS: 0.04 E: 0.04	F: 2.07 SS: 0.04 E: 0.04	F: 4.15 SS: 0.06 E: 0.04			

F= Forested SS=Scrub-shrub E=Emergent

SPGP Geographic Cumulative Impacts Analysis of Residential, Commercial & Institutional Developments Based on the Number of Permits & Nontidal Wetland Impacts Authorized by Hydrologic Unit Code (HUC) Between November 1, 2002 & November 1, 2003 (only includes projects impacting >than ½ acre of nontidal wetlands)

HUC	Number of Permits	Acreage of Nontidal Wetland Impacts requested	Acreage of Nontidal Wetland Impacts Authorized	Acres of Creation/ Restoration	Acres of Mitigation by Bank	Acres of Preservation	Trust Fund
02080208	2	F: 0.84 E: 0.77	F: 0.84 E: 0.77	F: SS:	F: 1.78 E: 0.77	1.66	
02080206	5	F: 0.80 SS: 0.57 E: 0.004	F: 0.68 SS: 0.57 E: 0.004	F: SS: E:	F: 2.14 SS:0.86		$35,920
02080205	1	F: 0.36	F:				$85,050
02080203	1	E: 0.13	E: 0.13	E: 0.13			
02080108	1	F: 0.17	F: 0.17	F: 0.34			
02080105	2	F: 0.49 E: 0.24	F: 0.095 E: 0.24	F: 0. E: 0.24			$15,980
02080104	1	E: 0.10	E: 0.06				$5,100
02080103	1	E: 0.93	E: 0.93	E: 0.93			
02070011	5	F: 0.97 E: 0.45	F: 0.97 E: 0.45		F: 1.54 E: 0.45		$48,828
02070010	7	F: 1.56 SS: 0.17 E: 0.13	F: 1.56 SS: 0.17 E: 0.13	F: 0.28 SS: 0.20 E: 0.12	F: 2.61 SS: 0.06		$270,410
02070008	4	F: 0.09 E: 1.46	F: 0.39 E: 0.809	F: 0.18 E: 0.809	F: 0.60		
02070005	2	E: 0.79	E: 0.79	E: 0.79			
03010202	1	F: 0.43	F: 0.43	E:			$19,780
03010104	1	E: 0.24	E: 0.24			1.2	

F= Forested SS=Scrub-shrub E=Emergent

SPGP Geographic Cumulative Impacts Analysis of Residential, Commercial & Institutional Development Projects Based on the Number of Permits and Nontidal Stream Impacts Authorized by Locality Between November 1, 2002 & November 1, 2003 (only includes projects impacting greater than 300 linear feet of stream bed)

Locality	Number of Permits	Linear Footage of Stream Impacts requested	Linear Footage of Nontidal Stream Impacts authorized	Linear footage of Restora -tion	Linear footage of Preserva-tion	Trust Fund
Virginia Beach	1	276	276	276		
Chesapeake	1	700	700	700		
Isle of Wight Co.	1	938	938	2810		
Henrico Co.	3	1349	1349	800		$35,920
Chesterfield Co.	2	817	817		1290	
Caroline Co.	1	612	612		2970	
Spotsylvania Co.	1	470	470	800		
Stafford Co.	2	2429	1890		1699	
Fairfax Co.	4	3109	3109		300	$240,360
Albemarle Co.	1	1464	1464		1464	
Rockingham Co.	1	1090	1090	1090		
Fauquier Co.	2	1807	1537		2047	
Campbell Co.	1	797	797	797		
Loudoun County	3	3524	3524		3524	
Prince William Co.	5	6360	6360		5890	
Goochland Co.	1	11955	945			$85,050

Summary

1. For those residential, commercial and institutional development projects where both DEQ and the Corps make a permit decision (projects affecting between ½ and one acre of nontidal wetlands and between 300 and 2,000 linear feet of stream bed), both agencies reviewed the applications and issued permits. The data show that most avoidance and minimization measures are incorporated into project plans prior to submission of a joint permit application. While we lack specific data, from our experience most of the avoidance and minimization occurs during the pre-application process. The additional avoidance and minimization measures incorporated into the plans at the application review stage are reflected in the differences between the requested impacts and the authorized impacts.

2. For linear transportation projects affecting less than 1/3 of acre of wetlands, DEQ required mitigation for all authorized impacts to wetlands.

3. For linear transportation projects affecting less than 1/3 acre of wetlands or waters, but more than 300 linear feet of stream bed, the SPGP requires the applicant to submit a mitigation plan for the Corps' approval for the stream impacts. No projects were authorized with impacts exceeding 300 linear feet.

4. The pre-application process seems to work effectively by providing prospective applicants with wetlands/waters delineation confirmation and information relative to the presence or absence of historic properties and federal listed endangered/threatened species.

5. With a few exceptions, the Corps and DEQ appear to be applying similar review procedures to projects relative to avoidance, minimization, and compensatory mitigation. Additional joint guidance will be provided to both staffs in the near future clarifying how the avoidance and minimization review should be conducted.