

Interim Standard Operating Procedures 07-SPGP-01

Initial Review of All 07-SPGP-01 Projects

1. Preapplication Consultation: The Corps will be the lead on preapplication consultations/confirmations of delineations. After receipt of a request for a preapplication/confirmation of a delineation, the Corps will assign the project a reference number (ORM identification number).

a. Prior to the submission of a permit application for 07-SPGP-01, a proponent must obtain a confirmed delineation of all Federal waters and wetlands on the property. If the Corps project manager knows in advance that a site visit will serve as a pre-application meeting (with discussion of project details, avoidance and minimization efforts, etc.), then the Corps project manager will include DEQ in the scheduling of the meeting. When the Corps project manager sets up a site visit with the project proponent and/or his/her agent to confirm a delineation of wetlands and/or waters, the project manager will invite the DEQ to attend the site visit once it's scheduled. When advising DEQ of such a scheduled site visit, the Corps will provide the DEQ the following pertinent data:

- Corps project manager name
- Date and time of the site visit
- Location of the site visit (locality name, meeting point, etc.)
- Size of the property being reviewed
- Any available information regarding work proposed to be performed on the site in the future
- The ORM reference number

Individual Corps offices should determine how best to coordinate this information with the appropriate DEQ Regional Office(s). **Corps project managers should advise DEQ of cancellation or rescheduling of any site visits to which DEQ has been invited.**

b. The Corps will confirm the limits of waters of the United States, including wetlands, on properties. In addition, the Corps will confirm delineations of isolated wetlands on properties under most circumstances, and notify the project proponent/agent and DEQ if it is unable to do so.

c. The Corps will send the project proponent a delineation confirmation letter after performing the site visit. With this letter, the Corps will include a "Supplemental Preapplication Information" form, a Corps administrative appeal form (when not prohibited by Corps Headquarters), and a printout from the Virginia Department of Historic Resources (VDHR) Data Sharing System (DSS), if historic properties are located on or near the project site. The Supplemental Preapplication Information form should indicate the presence of any Federally

listed threatened or endangered species or designated critical habitat in the vicinity of the project site, information regarding any previously-identified historic properties located on or near the project site (as identified through use of the DSS or through other knowledge), and any recommendations for site-specific avoidance and minimization of impacts to regulated aquatic resources.

2. Application: A project proponent must complete and submit the most recent version of the Joint Permit Application (JPA) to the Virginia Marine Resources Commission (VMRC) along with a confirmed delineation. Virginia Department of Transportation (VDOT) may continue to use the Interagency JPA. All applications for SPGP projects must be clearly marked "SPGP" by the applicant prior to submission. These applications will be distributed only to DEQ. If an application contains oversized drawings in conjunction with the required letter-sized drawings, the applicant should provide five copies of the oversized drawings to the VMRC for distribution to DEQ. In addition, if applicants utilize color drawings that need to be reproduced in color to maintain legibility, they must also submit five copies of each color drawing. Processing of applications will not commence until projects have been issued VMRC identification numbers and the appropriate DEQ offices have received the applications. *Sending applications directly to the DEQ and/or the Corps should be discouraged.*
3. If an application is submitted without a confirmed delineation: DEQ will send a letter to the applicant indicating all of the information lacking in the application package. Virginia Water Protection Permit (VWPP) regulations at 9 VAC 25-210-80, 9 VAC 25-660-50, 9 VAC 25-670-50, 9 VAC 25-680-50, and 9 VAC 25-690-50 indicate the requirements for complete VWPP applications. To render an application complete for 07-SPGP-01, all projects must also contain a confirmed delineation.
4. Endangered Species Act screening and coordination: DEQ will determine whether Federally listed species or Federally designated critical habitat may occur in the project's action area. The action area is defined by regulation (50 C.F.R. § 402.02) as all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action.
 - To perform initial screening, DEQ will check the county/city list(s), check the VDGIF Virginia Fish and Wildlife Information Service database using a 2-mile radius search, and check the VDCR-DNH Biotics database using a 2-mile radius search.
 - If a Federally listed threatened or endangered species is listed on a county/city list but was not identified with the 2-mile radius search, the DEQ will evaluate whether habitat for the species may be present. Appendix A, the FWS' website species fact sheets, and information on site conditions obtained through review of delineation data sheets or from personal observation will assist with this determination. If habitat is present, the DEQ will require the applicant to survey for the species. The applicant may use a pre-approved surveyor (lists are available on FWS' website) or may ask FWS to approve someone else. DEQ will provide a copy of all surveys to the FWS, the Corps, VDGIF, and VDCR-DNH.

- DEQ will determine which species and/or critical habitat is present in the action area, based on the database searches or surveys. The DEQ will make a preliminary effect determination for the proposed project. DEQ will send the Threatened & Endangered Species Consultation Form (T&E Form) to the Corps project manager for concurrence with DEQ's preliminary effect determination and scope of analysis. The Corps will have 15 calendar days from receipt of the T&E Form to provide DEQ with a revised determination or scope of analysis or concur. If the Corps does not respond within 15 calendar days, DEQ may assume that the Corps concurs with DEQ's effect determination and scope of analysis. DEQ will notify FWS if the scope of analysis does not include the entire action area.
 - If the Corps agrees that the project will have no effect on a Federally listed threatened or endangered species or Federally designated critical habitat, no coordination with FWS is necessary.
 - If the Corps agrees that the project is not likely to adversely affect Federally listed threatened or endangered species or Federally designated critical habitat, the DEQ will send the T&E Form to the FWS for concurrence. The FWS will have 15 calendar days to respond to the DEQ. If the DEQ does not receive a response from the FWS, they may assume the FWS has no comments. If the FWS provides project-specific conditions or alterations necessary to avoid adverse effects to federally listed species, the DEQ will have the applicant request suspension of the application while they address the FWS' concerns. Once the applicant agrees to any necessary project alterations and/or conditions, application processing will recommence. Authorization for the project will include the FWS' conditions.
 - If the DEQ determines (and the Corps concurs) or if FWS determines that the activities proposed may affect Federally listed species or critical habitat, either because of the inherent nature of the project or because the applicant has rejected the conditions or alterations necessary to avoid impacts to those species, formal consultation between FWS and the Corps will be necessary. DEQ will forward the application and all associated materials to the appropriate Corps field office and have the applicant request suspension the VWP permit application so that the Corps can complete formal consultation with FWS. The Corps will inform DEQ of any required conditions resulting from its formal consultation using the 07-SPGP-01 Special Conditions Form, and DEQ shall attach the form to the DEQ project authorization package. Those conditions shall become enforceable conditions of the 07-SPGP-01 authorization.
- VDOT may continue to perform internal review of threatened and endangered species, as long as all "no effect" determinations are supported by written determinations by FWS. These written determinations may be either e-mails or conventional letters from FWS and they must be included in the original application package to DEQ.

5. Historic properties: DEQ regional office staff will strive to forward necessary project specific information, including the Historic Resources Screening Form, to Corps project managers within seven calendar days of receipt of an application for 07-SPGP-01 (the Corps project manager's name can usually be found on the letter confirming the delineation). If the Corps project manager is unknown, the forms should be sent to the appropriate Corps Section Chief

- The Corps will review the Virginia Department of Historic Resources (VDHR) Data Sharing System (DSS) database and perform other necessary reviews. The Corps will inform the DEQ Cultural Resources Specialist (CRS) and the DEQ project manager of the results of the screening within seven calendar days of receipt of the Historic Resources Screening Form.
- If it is determined that there is no need for additional cultural resources coordination, the DEQ will continue processing the SPGP permit application.
- If it is determined that there is need for additional cultural resources coordination, the Corps will advise DEQ of this finding and will commence coordination with VDHR. The DEQ will also inform the applicant that they must request a suspension of the processing of their VWP application or DEQ's permit decision may be to deny the permit.
- Within 15 calendar days of determination that a project requires historic resources coordination, the Corps will begin the coordination process with VDHR.
 - If there is no objection from VDHR on "no historic properties affected" or "no historic properties adversely affected" based on the original project proposal, then DEQ continues to process the permit application after being notified of these findings by the Corps (Corps will send this notification to the DEQ CRS, advising the CRS of any project specific conditions necessary to ensure "no historic properties adversely affected").
 - If there is either concurrence on "historic properties adversely affected" and/or it appears that further project modifications will be necessary to minimize or avoid impacts to historic resources or mitigate impacts to historic resources, the Corps will do the following:
 - Invite the DEQ CRS to attend all meetings, site visits, and conference calls related to the historic properties consultation
 - Advise the DEQ of any project specific conditions necessary to ensure Section 106 compliance (landscape buffers needed to ensure that there are no viewshed impacts, required compliance with Memoranda of Agreement, etc.) via the 07-SPGP-01 Special Conditions Form. DEQ will reactivate VWP permit processing and include the 07-SPGP-01 Special Conditions Form with the permit authorization package.

6. Deed Restrictions

DEQ staff and the Virginia Attorney General's office, when necessary, will review and approve deed restriction language. If mitigation credit is given for deed-restricted land, the applicant must use the Corps-approved deed restriction template. If the applicant

proposes deed restriction language that substantially from the template, Corps Office of Counsel must be provided the opportunity to review and approve the proposed language.

Federal Review

The following procedures apply to projects involving:

- a) Residential, commercial and institutional development activities with total project impacts to over ½ acre of wetlands or waters or to over 300 linear feet of stream,

OR

- b) Linear transportation activities with impacts to over 300 linear feet of stream at any single impact area or containing multiple single and complete impact areas on the same project that additively exceed 1/3 acre of impact, or where lateral stream encroachments of a project cumulatively impact over 300 linear feet

DEQ shall forward a copy of pertinent portions of the application and drawings to the Environmental Protection Agency (EPA), the Fish and Wildlife Service (FWS), and the Corps. These agencies shall have 15 calendar days from the receipt of the information package from DEQ to review the project and provide any project-specific objections or concerns to DEQ, providing courtesy copies of their letters to the Corps.

- If EPA or FWS responds within the 15 calendar day timeframe and submits project-specific objections due to the proposed impacts on the aquatic environment, the DEQ will inform the applicant that they must request suspension of application processing. The suspension will allow the applicant to address these concerns to the satisfaction of the objecting agency(ies). If the applicant modifies the proposal to address these concerns to the satisfaction of the agency(ies), the DEQ will resume processing of the application. If the applicant chooses not to modify the application to address the concerns and/or chooses not to suspend processing, the DEQ will not authorize SPGP and will contact the Corps to advise them of the situation. Once the Corps is advised, the Corps will exert discretionary authority and will begin to process as an Individual Permit.
- If EPA or FWS either responds with no comments or does not respond within the 15 day timeframe, the DEQ will assume those agencies have no objections and will continue processing of the application.
- If, during the 15 day review period, the Corps has project specific concerns regarding impacts to aquatic resources (typically those regarding avoidance and minimization of impacts or mitigation proposed to compensate for unavoidable impacts), the Corps project manager will relay these concerns to the DEQ project manager and the concerns will be addressed through DEQ communication with the applicant. Furthermore, the Corps will review site-specific mitigation/stream relocation plans associated with these projects to determine the need for financial assurances. If the DEQ does not agree with the Corps' concerns regarding projects, the DEQ and Corps project managers will enter into the Dispute

Resolution Process, detailed on pages 7 and 8 of this SOP. Disagreements regarding avoidance and minimization will not delay DEQ's authorization of either the VWP permit or 07-SPGP-01.

Transfer of Information for Special Conditions for Compliance with Section 106 of the National Historic Preservation Act, Endangered Species Act, Financial Assurances, Etc.

If the Corps determines, through consultation with the VDHR or FWS, that special conditions are necessary to ensure compliance with Section 106 or ESA, or for financial assurances, the Corps project manager will send the DEQ project manager the 07-SPGP-01 Special Conditions Form (located on page 12 of this SOP) to attach to the DEQ authorization package. These special conditions will be considered enforceable conditions of the 07-SPGP-01 authorization.

Permit Decisions

1. Issuance: The DEQ will determine whether the work proposed satisfies the terms and conditions of 07-SPGP-01, through the processes outlined above. All DEQ permit authorization letters shall include the following language:

“The work authorized by this permit satisfies the terms and conditions contained in the Norfolk District, Corps of Engineers’ State Program General Permit (07-SPGP-01) and the special conditions, if any, attached to 07-SPGP-01. No additional authorization from the Corps is required. Your 07-SPGP-01 authorization is effective as of the date on this letter and remains effective until June 1, 2012.”

The DEQ project manager will attach an 07-SPGP-01 Special Conditions Form (provided to DEQ by the Corps project manager after Section 106 or ESA coordination, or for financial assurance) to the front of the copy of 07-SPGP-01 and include with the DEQ authorization package. The DEQ project manager shall then provide a copy of the authorization to the Corps. The special conditions listed on the 07-SPGP-01 Special Conditions Form shall be considered enforceable conditions of the 07-SPGP-01 authorization.

2. Denial: The DEQ project manager should advise the Corps if the project does not qualify for a VWP permit. If a project does not qualify for a VWP permit, then it does not meet the terms and conditions of 07-SPGP-01. In these situations, the Corps project manager should send a letter to the applicant allowing them to either revise their proposal so that it qualifies for a VWP and SPGP or, alternatively, allow them to go through the Corps individual permit process (in which case they would still need to obtain § 401 certification from DEQ at some point).

Dispute Resolution Process

Tier I: Monthly meetings

1. Two separate regional monthly meetings will be held on the first Wednesday of every other month for the purposes of discussing potential conflicts between the agencies. One meeting will be held in the western portion of the state and the other will be held in the central/eastern portion of the state. Projects and issues may only be presented at the monthly meeting with the approval of the immediate supervisor of both the Corps and DEQ project managers. DEQ and Corps staff must make every effort to discuss the projects and issues with their peers prior to making the decision to present a project at the meeting. Monthly meetings may be necessary if there are large numbers of projects to be presented.
2. Responsibility for the meeting organization and agenda shall alternate between the Corps and DEQ.
3. For each project to be discussed at the meeting, the Corps and DEQ project managers will create a document that includes a brief, joint statement identifying the specific points of conflict and the positions of each project manager (see the template Agenda Item document on page 11 of this SOP). The document must be submitted to the person responsible for developing the agenda no later than seven calendar days prior to the meeting. If no agenda items are received at least seven days prior to the scheduled meeting, the meeting should be canceled.
4. The affected project managers shall be in attendance at the meeting. If the affected project managers can not attend the meeting due to illness, vacation, etc., they will be responsible for finding a colleague or supervisor to represent them at the meeting. At least one VWP Regional Program Manager and Corps Section Chief shall be in attendance at each meeting. The Manager/Chief can ask a peer from another region or section to represent him or her at the meeting.
5. Corps and DEQ project managers shall jointly develop their presentations (in other words, the project managers must thoroughly discuss the disagreements beforehand so that there are no surprises at the meeting).
6. A decision, even if it is to elevate the issue to the next tier, must be made at the meeting; the discussion cannot be deferred to the next monthly meeting unless extenuating circumstances exist. The decision should be documented in the Agenda Item document for that project. The Agenda Item should be put into each agency's respective file for the project. If the decision is made that a resolution cannot be reached through informal discussion or the meeting, the parties should proceed to Tier II, below.

Tier II: Division Director / Regulatory Office Chief Review

In such cases where agreement cannot be reached informally or through the meeting, the Agenda Item document shall be forwarded within one calendar day of the meeting to the appropriate DEQ Water Division Director and the Corps Regulatory Office Chief. The

DEQ Water Division Director may delegate his/her responsibilities to the DEQ Director of the Office of Wetlands and Water Protection. The Office Chief and Division Director (or their designee) shall review the document, gather all information necessary from their respective staffs, and discuss the issue with each other. Resolution of the issue or a decision to elevate the project shall be made no later than seven calendar days after their receipt of the Agenda Item. If resolution cannot be obtained, the Agenda Item shall be documented as such, and the parties should proceed to Tier III, below. If the DEQ Water Division Director and the Corps Regulatory Office Chief both attend the monthly meeting where agreement was not reached, Tier II should be bypassed entirely.

Tier III: Norfolk District Commander / Director, Virginia DEQ

In such cases where agreement cannot be reached through Tier II coordination, the Agenda Item document shall be forwarded no later than eight calendar days after the monthly meeting to the Corps Norfolk District Commander and the Director of the Virginia DEQ. The Commander and Director shall review the document, gather all information necessary from their respective staffs, and discuss the issue with each other. Resolution of the issue shall occur no later than ten calendar days after their receipt of the Agenda Item.

If conflicts cannot be resolved through this process, or if conflicts in regulatory programs are not appropriate for this process, the Corps District Commander may exert his/her discretionary authority to require the project to be processed as an individual permit.

Compliance with 07-SPGP-01

DEQ will maintain the primary responsibility for inspection of sites permitted under 07-SPGP-01 and residential, commercial, and institutional development or linear transportation projects that have resulted in unauthorized impacts within 07-SPGP-01 thresholds. This does not, however, prevent the Corps from inspecting these project sites independently. If a Corps project manager intends to visit an 07-SPGP-01 project site, they should make every effort to contact DEQ staff prior to conducting an inspection to ensure that efforts are not unnecessarily duplicated. Once compliance inspections are performed, the agency performing the inspection shall immediately notify the other agency if it appears that the permittee does not appear to be in compliance with its permit or potentially the other agency's permit. After any compliance inspection, the agency performing the inspection should supply the other agency a copy of their site memo or field notes. Once noncompliance has been substantiated, the prospective agency will correspond with the permittee regarding the noncompliance and actions necessary to bring the projects into compliance. It is recommended that the DEQ and Corps staff work together through these processes to try to streamline the compliance efforts as much as possible (i.e., try not to make conflicting demands of the permittee, etc., in the resolution process). Disputes or conflicts may be presented via the dispute resolution process.

In situations where there are special conditions on 07-SPGP-01 to ensure compliance with Section 106 or ESA, the Corps should take the lead role on compliance with those conditions. It is appropriate to work jointly with DEQ on resolution of violations of ESA conditions, as there are likely similar conditions on the DEQ permit to ensure compliance with state endangered species laws. Both agencies should copy each other on correspondence related to all compliance issues.

SPGP Annual Report Requirements:

On an annual basis, beginning June 1, 2008, DEQ will provide the Corps a report to assess the effectiveness of 07-SPGP-01 and evaluate the extent of its cumulative impacts. Generally, the reports will be for the period of July 1 through June 30 of every year. The first yearly report will contain an extra month (June 2007). The reports will include the following information:

- Average number of calendar days between initial receipt of application and final approval
- Average number of calendar days between receipt of complete application and final approval
- Total acres of wetland impacts requested
- Total acres of wetland impacts authorized
- Total acres of wetland mitigation required, broken out into the following categories:
 - Acres of wetland preservation performed by the permittee
 - Acres of wetland creation/restoration performed by the permittee
 - Acres of wetland mitigation performed at mitigation banks
 - Acres of wetland mitigation performed through contributions to the VA Aquatic Resources Trust Fund (including total dollar amount)
- Linear feet of stream impacts requested
- Linear feet of stream impacts authorized
- Linear feet of stream mitigation required, broken out into the following categories:
 - Linear feet of stream preservation performed by the permittee
 - Linear feet of stream enhancement/restoration performed by the permittee
 - Linear feet of stream mitigation performed at mitigation banks
 - Linear feet of stream mitigation performed through contributions to the VA Aquatic Resources Trust Fund (including total dollar amount)
- Total number of projects authorized, organized by 8-digit hydrologic unit code (HUC)
- Total wetland impact acres authorized, organized by 8-digit hydrologic unit code (HUC)
- Total linear feet of stream impact authorized, organized by 8-digit hydrologic unit code (HUC)

To summarize, the report will provide 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 will be advertised by public notice to provide an opportunity for the public, agencies, and interested organizations to submit comments.

DEQ / CORPS MONTHLY MEETING AGENDA ITEM

Corps Project Manager: [Name]
Section Chief: [Name]

Email address:
Email address:

DEQ Project Manager: [Name]
Regional VWP Program Manger: [Name]

Email address:
Email address:

Brief Description of Project and Identification of Points of Conflict:

[Written jointly between Corps and DEQ project managers]

DEQ Perspective

[Written by DEQ project manager]

Corps Perspective

[Written by Corps project manager]

Result of monthly meeting

[Written after the meeting]

Result of Tier II coordination *[delete if not applicable]*

[Written jointly by Division Director and Office Chief]

Result of Tier III coordination *[delete if not applicable]*

[Agenda Item Document to be submitted to person developing monthly meeting agenda no less than 7 days prior to meeting! After the meeting, the Results section is completed and a copy of the agenda is forwarded to each project manager and put into permit file. If Tier II coordination is needed, the agenda is also forwarded to the Division Director and Office Chief]



**US Army Corps
of Engineers ®
Norfolk District**

Regulatory Office

07-SPGP-01 Special Conditions

Permit number:

Date:

In addition to all general conditions of 07-SPGP-01 and conditions required of your DEQ Virginia Water Protection Permit authorization, you will be required to comply with the following special condition(s) of your 07-SPGP-01 authorization:

Failure to comply with all terms and conditions, including special conditions, of your 07-SPGP-01 authorization, may result in the Corps of Engineers taking enforcement action against you and/or your contractor.

If you have any questions about these requirements, please contact the Corps project manager listed below.

Chief, Virginia
Regulatory Section

To:

- DCR-Natural Heritage, Environmental Review Coordinator
- DGIF, Environmental Review Coordinator
- US Fish & Wildlife Service, T/E Review Coordinator
- US Army Corps of Engineers, [*Project Manager*]

Date Sent:

Date Needed:

DEQ Project Number:

From:

Site Name/Address:

Locality:

USGS Quadrangle:

Latitude/Longitude:

Waterway:

Site Owner's Name/Address/Phone Number:

Authorized Agent's Name/Address/Phone Number:

General Project Location and Description:

(include 8 1/2 x 11" drawings if sending to Corps or FWS for T&E consultation. Include database search printouts for all consultations)

General Habitat Types Present On-Site:

Project/Permit Manager's Comments:

Proposed Compensation:

Appendix A: Species-Specific Guidelines for Listed Species and Critical Habitat Review

This list provides guidance to assist project managers in determining habitat requirements of the Federally listed species that come up most often during consultation.

PLANTS

Small Whorled Pogonia, *Isotria medeoloides*, threatened

This orchid lives in a wide range of habitats. The DEQ can rule out pine plantations, old fields, agricultural lands, pastoral lands, and full sun habitats; but other than that, potential habitat should be assumed in counties/cities with known populations and adjacent counties. The survey window is small. South of Caroline County, surveys should be conducted from May 25 through July 15. In Caroline County and north, surveys should be conducted from June 1 through July 20. Surveys for potential habitat can be conducted year-round.

Swamp Pink, *Helonias bullata*, threatened

Swamp pink occurs in a variety of wetland habitats that include bogs, spring seeps, stream edges, wet meadows, and headwater wetlands. Sites are saturated year-round, but are rarely flooded and soils are generally neutral to acidic. FWS recommends a survey within appropriate habitat at the project site.

ANIMALS

Bald Eagle, *Haliaeetus leucocephalus*, threatened

Site-specific surveys are rarely necessary because nesting surveys are conducted by VDGIF and the College of William and Mary's Center for Conservation Biology. Project managers need to remember that eagle nests and eagle concentration areas have different requirements. Use the joint FWS/VDGIF document, "Bald Eagle Protection Guidelines for Virginia." Please distribute copies of the Guidelines freely. The eagle is listed under the ESA, though it has been proposed for delisting (removal from the list). Even if the eagle is delisted, it will still be protected under the Bald and Golden Eagle Protection Act (BGEPA) and the Virginia Endangered Species Law. It is not known exactly what level of protection the BGEPA will provide, but it will probably be close to the current level of protection under the ESA.

Eagle Nests

Development may occur from 1,320 feet to 750 feet (the secondary management zone) of an eagle nest as long as Time of Year (TOY) restrictions are observed on the land clearing and external construction phases. Eagle nesting season in Virginia is December 15 through July 15. If the DEQ is able to get the Applicant to agree to observe TOY restrictions on the land clearing or external construction, the project is not likely to adversely affect the eagle, and the DEQ does not need

to contact FWS. Within 750 feet (the primary management zone), the DEQ will coordinate with FWS.

Important Eagle Foraging Areas

The locations of the three important eagle foraging areas in Virginia are available on FWS's website. These areas are critical to eagle recovery, not just in Virginia, but throughout the eastern U.S. The TOY restrictions for all three areas are December 1 to February 28 and June 1 to August 31. The DEQ should coordinate with FWS for any activity on the water or within 750 feet of the shoreline within the important foraging area.

Freshwater Mussels and Fish

For any project within a 2-mile radius of a documented occurrence of these species, the DEQ must contact FWS for consultation. Based on the scope of the project and its proximity to habitat or potential habitat, FWS will determine whether a survey is needed and whether further consultation is necessary.

CRITICAL HABITAT: All critical habitat in Virginia occurs within the Upper Tennessee River Basin. Text descriptions of the critical habitat are available on FWS's web site.