

**Third Annual Review
of the Norfolk District's
State Program General Permit
(SPGP-01)**

November 2005

Table of Contents

	Page
Executive Summary	1
Introduction	2
Historical Perspective	3-4
DEQ and Corps Data on Permit Actions, Wetland and Stream Impacts Requested and Authorized and Mitigation Required	5-9
Geographic Distribution of Permit Actions, Wetland and Stream Impacts and Mitigation Required	10-12
Individual Permit Data	13-14
Summary	14-15

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 Norfolk District. 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. In February 2004, we issued the first annual report on SPGP-01. In December 2004, we issued a second annual report. This is the third annual report.

To determine the effectiveness of SPGP-01 and to evaluate the extent of its cumulative impacts, the Corps committed to conducting an annual review. We have scheduled a meeting with the stakeholders who assisted in the development of SPGP-01 and any other interested parties to obtain their comments. The meeting will be on December 8, 2005 at the James City County Library on Croaker Road from 10:00 to 3:00. We have issued a public notice inviting the public to comment on this third annual report.

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 revised on August 2, 2005.

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

The Corps has scheduled a meeting on December 8, 2005 with the DEQ, the U.S. Fish and Wildlife Service, the Environmental Protection Agency, and the National Marine Fisheries Service, and the original stakeholders who assisted in the development of the SPGP-01 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 on August 2, 2005.

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)	% reduction	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)	% reduction	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)	% reduction	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, & Institutional Developments (Category A and B) Issued between November 1, 2004 and October 1, 2005 on Projects Impacting Less Than ½ acre of Nontidal Wetlands or Less Than 300 Linear Feet of Stream

	Category A	Category B
Number of Permits Issued	84	57
Acres of Wetland impacts requested	Forested: 2.921 Shrub Scrub: 0.788 Emergent: 1.543	Forested: 11.42 Shrub Scrub: 3.841 Emergent: 2.312
Acres of wetland impacts authorized	Forested: 2.864 Shrub Scrub: 0.638 Emergent: 1.15	Forested: 11.41 Shrub Scrub: 0.941 Emergent: 2.312
Acres of wetlands mitigated through creation, restoration, purchase of credits from an approved mitigation bank or contribution to the VARTF (1)	Forested: 0.876 Shrub Scrub: 0.24 Emergent: 0.66 Trust Fund: 0.79	Forested: 20.378 Shrub Scrub: 1.106 Emergent: 2.156 Trust Fund: 4.39
Linear feet of stream impacts initially requested	10,174.21	5,560.50
Linear feet of stream impacts authorized	8,254.22	5,353.91
Linear feet of stream mitigation proposed/provided (1)	1,694	4,705.91

DEQ Data for all Water Protection General Permits for Commercial, Residential & Institutional Activities (Category C) Issued Between November 1, 2004 and October 1, 2005 on Projects Impacting up to 1 acre of Nontidal Wetlands and Between 300 and 2,000 Linear Feet of Stream Bed.

Number of Permits Issued	62
Acres of wetland impacts initially requested	Forested: 19.408 Shrub Scrub: 0.42 Emergent: 2.78
Acres of wetland impacts authorized	Forested: 17.628 Shrub Scrub: 0.42 Emergent: 2.497
Acres of wetland mitigated through creation, restoration, or purchase of credits from an approved mitigation bank (1)	Forested, Shrub Scrub and Emergent: 32.22
Acres of wetlands mitigated through a contribution to the VA Aquatic Resources Trust Fund (1) (2)	Forested, Shrub Scrub and Emergent: 3.32
Linear feet of stream impacts initially requested	43,986.84
Linear feet of stream impacts authorized	35,520.43
Linear feet of stream mitigated through restoration, enhancement, preservation or through purchase of credits from an approved mitigation bank (1)	Restoration: 2,029 Preservation: 4,793
Contribution required to the VA Aquatic Resources Trust Fund (1)	17,687

**Corps Data for SPGP Residential, Commercial & Institutional Activities
Affecting up to 1 acre of Nontidal Wetlands and/or Between 300 and 2,000
Linear Feet of Stream Bed for Actions Taken between November 1, 2004
and October 1, 2005 (Category C)**

Number of Permits Issued	66
Acres of wetland impacts requested	Forested: 24.63 acres Shrub Scrub: 1.30 acres Emergent: 6.43 acres
Acres of wetland impacts authorized	Forested: 16.18 acres Shrub Scrub: 1.10 acre Emergent: 4.27 acres
Acres of wetland mitigation required through creation, restoration, or purchase of credits from an approved mitigation bank	Forested: 31.29 acres Shrub Scrub: 1.08 acres Emergent: 4.96 acres
Contributions required to the VA Aquatic Resources Trust Fund	\$201,020
Acres of wetland preservation required to mitigate authorized impacts	13.06 acres
Linear feet of stream impacts requested	48,971 linear feet
Linear feet of stream impacts authorized	42,396 linear feet
Linear feet of stream mitigation required through purchase of credits from an approved mitigation bank, restoration , or creation	Restoration: 16,193 linear feet Preservation: 76,407 linear feet
Mitigation required through a contribution to the VA Aquatic Resources Trust Fund	\$2,159,540

**Data for SPGP Linear Transportation Projects, Category A and B
for Actions Taken Between January 1, 2004 and October 1, 2005**

During the period 120 projects (113 under Category A and 7 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. The Corps only reviews mitigation plans for linear transportation projects with impacts to greater than 300 linear feet of stream bed. During the period, there were two projects proposing impacts to more than 300 linear feet of stream bed. Total requested and authorized impacts to wetlands and streams and the required mitigation were as follows:

DEQ Category A Nontidal Wetlands Data

	Requested Impacts (acres)	Authorized Impacts (acres)	Mitigation provided (acres) (1)
Forested wetlands	0.873	0.873	0.999
Scrub-Shrub Wetlands	0.005	0.005	0.132
Emergent Wetlands	2.379	2.379	1.999

DEQ Category B Nontidal Wetland Data

	Requested Impacts (acres)	Authorized Impacts (acres)	Mitigation provided (acres) (1)
Forested wetlands	0.822	0.822	1.547
Shrub-Scrub Wetlands	0	0	0
Emergent Wetlands	0.14	0.14	0.14

DEQ Category A Nontidal Stream Data

Requested Impacts (linear feet)	Authorized Impacts (linear feet)	Mitigation provided (linear feet) (1)
10,458.5	10,458.5	2,399

DEQ Category B Nontidal Stream Data

Requested Impacts (linear feet)	Authorized Impacts (linear feet)	Mitigation provided (linear feet) (1)
1,284.8	1,207.8	902.2

Corps Category B Linear Transportation Projects with Impacts to >300 Linear Feet of Stream Bed

Requested Impacts (linear feet)	Authorized Impacts (linear feet)	Mitigation provided (linear feet or dollar amount)
1,068	1,068	\$134,956 to the Virginia Aquatic Resources Trust Fund

(1) Wetland and stream mitigation totals may be less than the wetland and stream permitted totals because VWP general permit authorizations for impacts totaling less than 1/10 of an acre of wetlands and less than 300 linear feet of stream bed are included in the permitted totals, while mitigation is not required for up to 1/10 acre impacts or less than 300 linear feet of stream impact (this is per crossing for linear transportation projects). Also, temporary impacts may be included in the permitted totals, but not in the mitigation totals.

(2) Data on the dollar amount of fund contributions are not available.

Corps Data on SPGP Geographic Cumulative Impacts Analysis of Residential, Commercial & Institutional Developments Based on the Number of Permits & Nontidal Wetland Impacts Organized by Locality Between November 1, 2004 & October 1, 2005 (only includes Corps permit actions 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/restoration	Acres of Preservation	Trust Fund
Loudoun Co.	8	F: 3.17 SS: 0.2 E: 1.53	F: 1.44 SS: 0.14 E: 0.21	F: 2.7 SS: 0.21 E: 2.60	0	
Greene Co.	1	F: 0.2	F: 0.2	F: 0.522		
Chesapeake	1	F: 0.54	F: 0.54	F: 1.08	2.06	
Suffolk	2	F: 1.21	F: 0.47	F: 0.83	5.1	
Franklin County	1	E: 0.34	E: 0.34	E: 0.38		
Henrico Co.	6	F: 5.02	F: 3.85	F: 6.94		\$25,392
Hanover County	2	E: 0.28	E: 0.28	0.30		\$6,600
Chesterfield Co.	9	F: 3.81 E: 0.31	F: 3.06 E: 0.31	F: 4.45 E: 0.17		
City of Richmond	1	F: 0.06	F: 0.06	F: 0.12		
Spotsylvania Co.	1	F: 1.0	F: 0.68	F: 1.36		
Stafford Co.	7	F: 2.46 SS: 0.58	F: 2.30 SS: 0.44	F: 4.20 SS: 0.66		
Isle of Wight Co..	1	F: 0.66	F: 0.66	F: 1.32		
Orange County	1	F:	F:	F:	1.94	
Prince William Co.	9	F: 4.07 E: 0.22	F: 2.85 E: 0.22	F: 5.80 E: 0.22		
Culpeper Co.	3	E: 1.36	E: 1.30	E: 1.19		\$41,735
Mecklenburg Co.	1	F: 0.5	F: 0.06			\$28,860
Fauquier Co.	1	F: 0.68	F: 0.53	F: 1.06		
City of Fredericksburg	1	E: 0.56	E: 0.56			\$12,000
Loudoun Co.	9	F: 3.22 S: 0.22 E: 0.93	F: 1.86 S: 0.14 E: 0.74	F: 4.09 S: 0.21 E: 0.9		
Fairfax Co.	1	F: 0.06	F: 0.06			

F= Forested S=Scrub-shrub E=Emergent

Corps Data on SPGP Geographic Cumulative Impacts Analysis of Residential, Commercial & Institutional Developments Based on the Number of Permits & Nontidal Wetland Impacts Organized by Hydrologic Unit Code (HUC) Between January 1, 2004 & October 1, 2005 (only includes Corps permit actions impacting greater 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 Preservation	Trust Fund
02080208	1	0.995	0.958	1.41	5.1	
02080206	9	5.05	3.73	4.73		\$25,392
02080205	6	3.59	3.28	6.48		
02080104	3	2.0	0.98	2.08		
02080103	3	1.36	1.30	1.19		\$41,735
02070010	10	5.24	2.78	4.75		
02070008	7	3.29	2.80	5.07		
02080100	1	0.06	0.06			\$6,600
03010205	1	0.54	0.54	1.08	2.06	
02070011	9	4.62	4.12	7.68		
02080108	1	0.21	0.21	0.42		
02070004	1	0.56	0.56			\$12,000
03010101	1	0.34	0.34	0.38		
03010102	1	0.5	0.06			\$28,860

Corps Data on SPGP Geographic Cumulative Impacts Analysis of Residential, Commercial & Institutional Development Projects Based on the Number of Permits and Nontidal Stream Impacts Organized by Locality Between January 1, 2004 & October 1, 2005 (only includes Corps permit actions 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
Mecklenburg Co.	2	2,871	2001			\$37,975
Isle of Wight Co.	1	312	0			
Frederick Co.	1	525	360			\$75,600
Henrico Co.	3	2,230	2,051			\$270,728
Hanover Co.	2	1,718	1,718			\$102,328
Chesterfield Co.	7	7,749	6,660			\$597,024
Greene Co.	1	1,347	622			\$75,289
Spotsylvania Co.	2	503	442	481		
Stafford Co.	7	7,315	6,172	860	35,803	\$37,995
City of Richmond	2	695	626	626		
Roanoke Co.	1	551	551	4313	390e	
Prince William Co.	10	8,016	6,532	440 356e	4,876	\$256,441
Culpeper Co.	3	2,801	2,801	2,236		\$184,022
Fauquier Co.	2	2,871	2,387	3,480	8,091	
Franklin Co.	1	1,492	1,492	2,130		
Loudoun Co.	8	6,112	5,737	1,220	21,636	\$348,522
Fairfax Co.	1	411	392			\$45,472

Individual Permits Issued Between November 1, 2004 and October 1, 2005 affecting
Nontidal Wetlands and/or Streams

Locality	Req'ted Wetland Impacts (acres)	Auth'd Wetland Impacts (acres)	Req'd Wetland Mitigation (acres)	Req'ted Stream Impacts (lf)	Auth'd Stream Impacts (lf)	Req'd Stream Mitigation (lf)	HUC
Suffolk	4.6	4.6	9.2				2080208
Prince William Co.	0.99	0.99	1.85c	3885	3885	4550p	2070010
Virginia Beach	0.07	0.07	\$1,400				2080108
Norfolk	0.55	0			868	\$97,208	2080108
Isle of Wight Co.	0.002	0.002	\$703				2080208
Chesterfield Co.	0.89	0.03	7.46p	1019	810	2409p	2080207
Newport News	0.065	0.065	0.129c	368	64		2080206
Prince William Co.	1.23	1.15	2.28b				2070010
Suffolk	1.639	1.639	0.97c				2080108
Loudoun Co.	0.73	0.73	1.2b	1617	1225	\$206,700	2070008
Prince William Co.	1.25	1.25	0.75	315	315	\$36,540	2070010
Prince William Co.	5.149	5.149	9.957b	419	419		2070010
Buchanan County				2020	2020	735r/2643p	5070202
Virginia Beach	0.977	0.774	1.2b/ \$40,820				3010205
James City Co.	3.73	0.38	0.7c/12.66p	775			2080206
Chesapeake	1.995	1.995	3.99b				2080108
Albemarle County	0.13	0.13	\$14,300	3,275	3,275	\$360,240	2080204
Albemarle County	6.12	4.4	0.62p/4.22b			380r/11,958p	
Chesterfield Co.	1.61	1.14	2.28c	2181	1818	1818c	2080206
Chesterfield Co.	0.31	0.31		3670	3670		2080207
Chesterfield Co.	0.172	0.062	0.124b	4647	2889	26,558p/	2080205
Chesterfield Co.	1.35	1.16	2.32c	1328	1166	\$126,150	2080207
Henrico Co.	0.32	0.32	0.62b	218	218		2080206
Chesterfield Co.	1.41	1.36	3c	121	111	\$15,984	2080207
Henrico Co.	5.34		6.93b/28p	1584	1584		2080206
Chesterfield Co.	0.59	0.59	1.16b	469	469	469b	2080207
Henrico Co.	2.19	2.19	4.38c				2080206
Chesterfield Co.	0.3	0.3		915	915		2080207
Chesterfield Co.	1.146	1.146	2.1b/37p	2700	1665	380r	2080207
Henrico Co.	1.067	1.067	0.498b				2080206
Caroline Co.	8.47	1.92					2080105
Spotsylvania Co.	1.73	1.23	1.73b				2080104
Prince William Co.	1.72	1.72	1.72b				2070011
Prince William Co.	3.65	2.46	3.61b				2080107
Essex County	1.76	1.66	2.94				2080107
Henrico Co.	1.08	1.08	1.56b	374	374	\$53,856	2080205
Chesterfield Co.	0.7	0.7	1.3c	440	440	\$64,240	2080206
Dinwiddie Co.	25	2.83	\$123,885				3010201
Loudoun Co.	0.97	0.97	0.97	4153	4153	\$348,852	2070008
Prince William Co.	1.72	1.72	2.52b/0.42p	1974	1974	\$229,658	2070010

c= creation b= bank p=preservation

Summary of Individual Permits Data

Requested Wetland Impacts	92.66 acres
Authorized Wetland Impacts	52.62 acres
Wetland Mitigation Required	76.61 acres of restoration, creation or bank credits 86.16 acres of preservation \$181,108 contributed to the Virginia Aquatic Resources Trust Fund
Requested Stream Impacts	38,467 linear feet
Authorized Stream Impacts	34,147 linear feet
Stream Mitigation Required	3,782 linear feet of restoration 48,118 linear feet of preservation \$1,551,389 contributed to the Virginia Aquatic Resources Trust Fund

Report 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. 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, although mitigation is not required for impacts to less than 1/10 of an acre.
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. Two 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. However, to enhance our ability to provide constructive comments in the plan formation stage, we sent a letter in September 2004 to all known consultants in Virginia encouraging them to provide us with this opportunity. Since then, we have taken the

initiative to improve coordination with localities by providing comments during their plan review process. This effort is ongoing and we believe it has been effective.

5. With a few exceptions, the Corps and DEQ appear to be applying similar review procedures to projects relative to avoidance, minimization, and compensatory wetland mitigation.

6. The SPGP has allowed the Corps to focus some its resources to other program responsibilities. Specifically, we have been able to perform more preapplication consultations, permit compliance review, and unauthorized activities investigations. The chart below demonstrates this trend.

	# of site visits for unauthorized activities	# of compliance inspections	# of preapplication consultations
FY02	226	85	1292
FY03	315	111	1304
FY04	332	156	1684
FY05	336	201	2006

