

## FREQUENTLY ASKED QUESTIONS

### 22-SPGP-RESIDENTIAL, COMMERCIAL, INSTITUTIONAL AND RECREATIONAL (RCIR)

### 22-SPGP-LINEAR TRANSPORTATION (LT)

## **TRANSITION FROM THE 17-SPGP TO THE 22-SPGP:**

1. Do I meet the 12-month extension requirements?

General Condition 44 of the 17-SPGP states: “Activities which have commenced (i.e., are under construction) or are under contract to commence construction in reliance upon 17-SPGP-01 will remain authorized provided the activity is completed within twelve months of the date of this 17-SPGP-01’s expiration of May 31, 2022, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 325.7(a-e).”

2. What qualifies as “under contract to commence construction”?

Under contract to commence construction may vary depending on the type of project. Generally, a contract with a company to complete the land disturbance or construction activity associated with the work in Waters of the U.S. will satisfy this requirement. If you are unsure if your project qualifies, please reach out to the COE SPGP POC Anna Lawston at [anna.r.lawston@usace.army.mil](mailto:anna.r.lawston@usace.army.mil).

3. Will the COE/DEQ give me written confirmation that my project meets the requirements of the 12-month extension?

General condition 44 of the 17-SPGP permit is your written confirmation.

4. Do I need a new delineation, and do I need to submit a new application?

Please see the attached flowchart.

5. I have completed all discharge of fill, into waters of the U.S., that was verified under the 17-SPGP, but I have not finished construction of the infrastructure. Do I need a 22-SPGP to complete the work?

No

6. My JD has expired, can I use the preliminary screening process to reconfirm the project.

Yes when appropriate, however your preliminary screening request must be sent to the COE and completed prior to submitting a 22-SPGP permit application.

7. I had a 17-SPGP and now I need a 22-SPGP, how do I submit the application?

Submit the 22-SPGP documentation to VMRC as additional information and note the VMRC/VWP project number. **PLEASE CLEARLY STATE IN YOUR REQUEST THAT A NEW VMRC NUMBER IS NOT NEEDED.**

8. For my 22-SPGP, can I use the same application documents that I submitted with the 17-SPGP application?

Yes, if those documents fulfill the requirements of a complete application and are accurate with the work that is to be verified under the 22-SPGP. If there have been changes or additional information submitted since the 17-SPGP application was originally submitted, that information should be updated and reflected in the 22-SPGP request. Changes can be noted in various formats (e.g., cover page, timeline, or completely new application).

9. I had a 17-SPGP and now I am requesting a 22-SPGP for the same project(s), do I have to go through federal coordination again?

All new verifications must go through a new federal review per regulations.

## **PRELIMINARY SCREENING PROCESS:**

1. What is the purpose of the preliminary screening process?

This process was designed to expedite those projects where review can be streamlined. Complicated projects, projects that require complex federal coordination or projects in certain localities should use alternative reviews such as the preapplication process and the delineation confirmation process.

2. Do preapplication request forms need to be submitted with the preliminary screening request?

Yes, completed and signed preapplication forms must be submitted with the preliminary screening request.

3. How do I request a preliminary screening of my project?

Your request should be submitted in the same manner as delineation confirmation requests. All requests should be sent to the Corps ROD email for assignment: [cenao.reg\\_rod@usace.army.mil](mailto:cenao.reg_rod@usace.army.mil)

4. Can isolated features be reviewed through the preliminary screening process?

Yes, however, if the applicant wants the feature confirmed as non-jurisdictional for the Corps, then a request for an approved jurisdictional determination will be required.

5. What do you mean by “development plan”?

A plan that is not speculative and that contains all information necessary for the Corps federal review. Below are examples of the information that should be included in your plan:

- All permanent, temporary, and secondary impacts and wetland conversion should be accounted for and depicted on the map and in an impact table.
- All attendant features and infrastructure shown on plan (e.g., stormwater ponds, temporary utilities, permanent utilities, parking, playgrounds, and ballfields).
- The limits of grading for the entire project, not just the impact areas, shown on plan.
- A title and a final date/final revision date that includes month, day, and year shown on the plan.

6. What constitutes a “change” in the development plan?

If the development plan referenced differs, in any way, from the development plan submitted in the 22-SPGP application, then that constitutes a change, then and the project will need to be coordinated with the Corps.

7. Is the preliminary screening process appropriate for all 22-SPGP projects?

No, applicants and consultants should use discretion when submitting a preliminary screening request. This process is designed to expedite those projects where review can be streamlined. Complicated projects, projects that require complex federal coordination, or projects in certain localities should use alternative reviews such as the preapplication process and the delineation confirmation process.

8. Are there situations where the preliminary screening process is not as efficient as for a delineation review?

Yes, please work with your COE project managers to determine these areas. Projects that have known concerns (e.g., Section 106, ESA, mineral flats) should be reviewed through the delineation confirmation process AND preapplication process.

9. What if the locality requires a delineation confirmation letter, instead of the preliminary screening form, for the county process?

The PSF is Corps approval for use of the delineation with a 22-SPGP permit application.

## **FEDERAL COORDINATION:**

1. What is the difference between federal review and federal coordination?

The Corps completes federal review of a projects to ensure issuance of a permit verification complies with all federal responsibilities and regulations. Not all federal review will require federal coordination.

The Corps must complete federal coordination with other agencies or governments to resolve any outstanding issues so a permit verification can be issued.

2. How will I know when federal coordination has been initiated?

The COE PM should notify you when the coordination has been initiated and provide you the suspense date(s) for comments.

3. What determines when federal coordination is required?

This is dependent on the resources present and the scope of the project. It is recommended that all SPGP projects be vetted through a preapplication review process or, when appropriate, a preliminary screening process. This will provide the applicant(s) an early understanding of what federal coordination will be required, what that process entails, and how to best submit the project.

4. May the DEQ issue the 22-SPGP verification while we wait for the federal coordination to be completed?

No, while the DEQ can issue the Virginia Water Protection Permit, the 22-SPGP verification can not be issued until the federal coordination process is complete.

## 22-SPGP VERIFICATIONS:

1. Do conversion and temporary impacts count towards the permit thresholds?

No, the permit specifically states, “the permanent loss of waters”.

2. Is mitigation required for conversion impacts?

Please refer to of the 22-SPGP-RCIR or 22-SPGP-LT permit general condition 21 regarding compensatory mitigation. It states “Generally, the minimum required mitigation ratios will be as follows... 1:1 for conversion of forested or scrub-shrub wetlands to emergent wetlands when certain functions and services of WOTUS are permanently adversely affected by a regulated activity. (e.g., when a discharge of dredge or fill material into WOTUS will convert a forested or scrub-shrub wetland to an herbaceous wetland in a permanently maintained utility line right-of-way).”

3. If I submit a Notice of Plan Change for the VWP, do I need a new 22-SPGP verification letter?

Yes

4. Do I need a new 22-SPGP verification if my plan only involves a decrease in impacts to WOTUS?

- If there is a reduction in impacts but an impact is occurring in a new location, then **yes**, a new 22-SPGP verification letter must be issued **AND** a new federal review must be completed.
- If there is a reduction in impacts and all the impacts remain in the same location or the impacts are eliminated, then **yes**, a new 22-SPGP verification letter must be issued; however, a new federal review is not required.

5. The DEQ has asked me to avoid and minimize impacts, but I have a preliminary screening form and don't want to delay the process. Do I have to change my development plan?

The preliminary screening form only addresses delineation review and federal coordination requirements with other agencies and governments. It does not replace or negate federal or state regulatory requirements for least environmentally damaging practicable alternative (LEDPA) or compensatory mitigation.

6. I have a PSF and I changed the development plan for the permit application. The delineation did not change, is my PSF delineation review still valid?

Yes, as long as the PSF states “the delineation map and report are acceptable for permitting” **and** the delineation map referenced on the PSF matches the delineation map submitted in the 22-SPGP permit application.

7. If the SPGP is not available for use in the Commonwealth of Virginia subwatersheds shared with the State of Tennessee (identified in Appendix A of the 22-SPGP-RCIR and 22-SPGP-LT documents), what type of permit from the Corps of Engineers can I apply for in those areas?

You can apply for verification under a Nationwide Permit or Regional General Permit, or a Standard Individual Permit.