



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

December 15, 2006

FEDERAL PUBLIC NOTICE

The Commonwealth of Virginia, through the Department of Environmental Quality (DEQ), has requested modifications to the State Program General Permit (SPGP-01) issued by the Norfolk District Army Corps for certain kinds of work in nontidal waters and wetlands in Virginia.

BACKGROUND

Corps general permits are generic 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 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.

The Norfolk District Army Corps of Engineers issued the original SPGP-01 on October 4, 2002. Certain subsequent minor modifications have been made since that time, but in general SPGP-01 provides blanket Corps of Engineers regulatory authorization for certain residential, commercial, and institutional developments (Activity 1), as well as certain linear transportation projects (Activity 2), provided they meet a number of limitations and restrictions, and further provided they also receive regulatory authorization from the Virginia Department of Environmental Quality. The specific details, limitations, and restrictions regarding SPGP-01 can be found at: http://www.nao.usace.army.mil/technical%20services/Regulatory%20branch/spgp_2005/SPGP-05.pdf or by going to the Norfolk District home page at www.nao.usace.army.mil and following the links to "Regulatory," then "Regional & Nationwide Permits and Certifications," then "Regional Permits and SPGP-01," then "SPGP-01."

Activity 1 (residential, commercial, and institutional developments) is currently broken into three categories, divided by wetland acreage and stream impact thresholds. Category A authorizes projects affecting up to 1/10 acre of wetlands and/or up to 300 linear feet of streams. Category B authorizes projects affecting between 1/10 acre and 1/2 acre of wetlands and/or up to 300 linear feet of streams. Category C authorizes projects affecting between 1/2 and 1 acre of wetlands and/or between 300 and 2000 linear feet of streams. Currently, Category A and B projects are reviewed and acted on only by DEQ, whereas Category C projects require review and action by both DEQ and the Norfolk District.

Activity 2 (linear transportation projects) is broken into two categories, divided by wetland acreage and stream impact thresholds. Category A authorizes projects affecting up to 1/10 acre of wetlands and/or up to 300 linear feet of streams. Category B authorizes projects affecting between 1/10 and 1/3 acre of wetlands. Any stream impacts over 300 linear feet must be mitigated.

PROPOSED CHANGES

1 - Distinctions between Categories would be eliminated. Once a project qualifies for SPGP-01, DEQ would be responsible for review of all aspects of the project and issuance of the permit with any conditions, including compensation requirements. Authorization from the Norfolk District would no longer be required for the former Category C projects.

2 - Upper impact limits for SPGP-01 would remain at 1 acre of nontidal wetlands and 2,000 linear feet of streambed, but these limits would apply to all projects qualifying for SPGP-01 (i.e., for residential, commercial, and institutional developments as well as linear transportation projects).

3 - Norfolk District's current suspensions of Corps nationwide permits 39 and 14 are proposed to be extended, along with the potential addition of nationwide permit 29, depending on the final outcome of changed proposed to nationwide permit 29 by Corps of Engineers Headquarters (see http://www.nao.usace.army.mil/technical%20services/Regulatory%20branch/NW_enclosures/NWP_2007_proposed.pdf). However, DEQ requests that single family home construction and improvements such as driveways, if applied for by an individual homeowner, be excluded from SPGP-01 in favor of continuing to use Corps nationwide permits for those activities.

4 - DEQ would develop memoranda of agreement with the U.S. Fish and Wildlife Service and the Virginia Department of Historic Resources to take over many of the requirements of the Endangered Species Act and National Historical Preservation Act that currently pertain to the Corps.

5 - All applications for projects that would be authorized by SPGP-01 would require submittal of the most current version of the Joint Permit Application (available from DEQ, the Norfolk District, or on the web at <http://www.nao.usace.army.mil/technical%20services/Regulatory%20branch/JPA.asp>).

FEDERAL EVALUATION OF APPLICATION: The decision whether to approve these proposed modifications will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. The decision will reflect the national concern for both protection and utilization of important resources. The Environmental Protection Agency's "Guidelines for Specification of Disposal Sites for Dredged or Fill Material" will also be applied (Section 404(b)(1) of the Clean Water Act).

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of, and any recommended alternatives to, this proposed activity. Comments are used in

the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Anyone may request a public hearing to consider this permit application by writing to the District Commander within 30 days of the date of this notice, stating specific reasons for holding the public hearing. The District Commander will then decide if a hearing should be held.

Preliminary review indicates that: (1) no environmental impact statement will be required; (2) no species of fish, wildlife, or plant (or their critical habitat) listed as endangered or threatened under the Endangered Species Act of 1973 (PL 93-205) will be affected, except through procedures provided under Section 7 of that Act, as modified by pertinent memoranda of agreement noted in (4) above; and (3) no known properties eligible for inclusion or included in the National Register of Historic Places are in or near the permit area, or would likely be affected by the proposal, except through procedures provided under that Act, as modified by pertinent memoranda of agreement noted in (4) above. Additional information might change any of these findings. For compliance with the Coastal Zone Management Act of 1972, as amended, DEQ must certify that federally licensed or permitted activities affecting Virginia's coastal zone (Tidewater) will be conducted in a manner consistent with the Virginia Coastal Resources Management Program (VCP). For more information or to obtain a list of the enforceable programs of the VCP, contact the Department of Environmental Quality, Office of Environmental Impact Review at (804) 698-4330 or e-mail: elirons@deq.virginia.gov.

COMMENT PERIOD: Comments on this project should be made in writing, addressed to the Norfolk District, Corps of Engineers (ATTN: CENAO-REG), 803 Front Street, Norfolk, Virginia 23510-1096, and should be received by the close of business on February 15, 2007.

If you have any questions about this project or the permit process, please call:

Ms. Lesley Leonard at 757-201-7540.

FOR THE DISTRICT COMMANDER:

<s>

J. Robert Hume, III
Chief, Regulatory Office