

CORPS/VDEQ
22-SPGP
STANDARD OPERATING PROCEDURES (SOP)

I. QUALIFYING ACTIVITIES

A. 22-SPGP-Residential, Commercial, Institutional and Recreation Developments (RCIR):

1. 22-SPGP-RCIR authorizes the discharge of dredged or fill material in nontidal waters of the United States (WOTUS), including wetlands, associated with residential, commercial, institutional, and recreational developments within the geographical limits of the Commonwealth of Virginia and under the regulatory jurisdiction of the US Army Corps of Engineers - Norfolk District (Corps).
2. These projects must have minimal individual and cumulative impacts and meet the terms and conditions outlined within the 22-SPGP-RCIR permit authorization.
3. Stand-alone projects such as utilities, substations, regional stormwater management, mining, and TMDL projects that are not associated with a qualifying residential, commercial, institutional, or recreational development project are not authorized by 22-SPGP-RCIR.
4. The discharge must not cause the loss of greater than 1 acre of WOTUS (e.g., wetlands, open water, and stream channel). *Stream channel loss must be reported in acreage and linear feet.*

B. 22-SPGP-Linear Transportation (LT):

1. 22-SPGP-LT authorizes the discharge of dredged or fill material in non-tidal WOTUS, including wetlands, associated with Linear Transportation (LT) projects within the geographical limits of the Commonwealth of Virginia and under the regulatory jurisdiction of the Corps.
2. These projects must have minimal individual and cumulative impacts and meet the terms and conditions outlined within the 22-SPGP-LT permit authorization.
3. Stand-alone projects such as regional stormwater management, mining, and TMDL projects that are not associated with a qualifying linear transportation project are not authorized by 22-SPGP-LT.
4. The discharge must not cause the loss of greater than 1/2 acre of WOTUS (e.g., wetlands, open water, and stream channel). *Stream*

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channel loss must be reported in acreage and linear feet.

- C. The use of any 22-SPGP shall be restricted to those projects that have avoided and minimized impacts to waters of the United States, including wetlands, to the maximum extent practicable. The Clean Water Act (CWA) Section 404(b)(1) guidelines state that, no discharge of dredged/fill material shall be permitted if there is a practicable alternative to the proposed discharge that would have less adverse effect on the aquatic ecosystem and so long as the alternative does not have other significant adverse environmental consequences.

II. PROCEDURES

- A. **CONFIRMATION OF DELINEATIONS, Delineation Concurrence, and PRELIMINARY FEDERAL SCREENINGS:** a 22-SPGP application must include one of the following, from the Corps, to be considered completed
1. A Corps preliminary federal screening form (PSF) that is approved for use with a permit.
 2. A Corps confirmed preliminary jurisdictional determination (PJD) that is approved for use with a permit application.
 3. A Corps confirmed approved jurisdictional determination (AJD), confirmed under the governing jurisdictional rule in place at the time of receipt of the application, unless Corps guidance changes.
 4. A Corps Delineation Concurrence.

All submittals must include the limits of all aquatic features that are located within the project boundaries.

B. **PREAPPLICATION CONSULTATIONS:**

1. Upon receipt of a preapplication meeting request, the receiving agency will schedule a meeting with the requestor and the appropriate representative from the Corps/VDEQ
2. The requestor should provide the following information prior to the preapplication meeting:
 - a. a development plan,
 - b. a vicinity map with the project boundaries clearly identified,
 - c. all known permitting history and,

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- d. a wetland delineation report, Corps delineation concurrence, or Corps confirmed jurisdictional determination (PJD or AJD).
3. Both the Corps and VDEQ should be in attendance for all 22-SPGP preapplication meetings unless they have specifically declined attendance for that project.
4. A Corps preliminary federal screening may be completed at a preapplication meeting.

III. APPLICATION

- A. **APPLICATION COMPLETE FOR COORDINATION:** The joint permit application (JPA) must be submitted in accordance with Section II.B of the 22-SPGP permit. An application is complete for coordination when the following have been received:
1. A valid PSF, Corps Delineation Concurrence, PJD, or AJD.
 2. A development plan that accurately accounts for all impacts to WOTUS, including secondary impacts, and is acceptable for permitting.
 3. A development plan that clearly identifies all impact types (e.g., fill, dredging, temporary, conversion, and permanent) and is acceptable for permitting.

*****NOTE: when the use of a permittee responsible mitigation site (PRM) is proposed for compensation, a valid PSF, Delineation Concurrence, PJD, or AJD must also be provided for the PRM site.**

- B. **FEDERAL REVIEW:**
1. Federal review is complete and ONLY Corps notification is required when **ALL** the following requirements are met:
 - a. The PSF states NO federal coordination is required for all federal responsibilities.
 - b. The PSF states the delineation is acceptable for permitting **OR** a confirmation has been submitted in accordance with Section II.A of the 22-SPGP permit.
 - c. The PSF states the development plan is acceptable for federal

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review.

- d. The VDEQ has verified that the delineation map and development plan in the application both match the plans referenced in the PSF. If the maps do not match the PSF, the application will have to be processed in accordance with Section III.C of the 22-SPGP SOP.

****The VDEQ will send the Corps PM the SPGP coordination form checking the box stating “no coordination required, per the PSF”**

2. Federal review is incomplete and Corps coordination is required when **ANY** of the following occur:
 - a. A PSF has not been provided.
 - b. When the PSF indicates federal coordination is required.
 - c. When the delineation map is different from the delineation referenced in the PSF.
 - d. When the development plan is different from the development plan referenced in the PSF.

C. CORPS NOTIFICATION:

D. COORDINATION WITH THE CORPS:

1. The VDEQ will coordinate the JPA with the Corps when it has been deemed complete for Corps coordination.
2. The VDEQ will complete Section I of the 22-SPGP coordination form and then forward the 22-SPGP coordination form and JPA link to the Corps Regulator of the Day (ROD) email: cenao.reg_rod@usace.army.mil
3. The Corps will review the project to determine if federal coordination is required.
 - a. Section 106, ESA, Tribal coordination, and 408 will be completed according to Corps procedures and policies.
 - b. For all projects with permanent impacts that exceed ½ acre, the Corps PM will coordinate the project with EPA for a 15-day comment period.
4. The Corps will communicate with the VDEQ to let them know whether

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federal coordination must be completed. The goal is to do this within 15 days.

5. When federal review and any required coordination is complete, the Corps will complete Section II of the 22-SPGP coordination form and send it to the VDEQ.
6. The 22-SPGP verification will not be issued until the VDEQ receives a complete 22-SPGP coordination form.

E. **MITIGATION COORDINATION: Corps coordination and Corps concurrence is required when:**

1. The applicant proposes mitigation that does **NOT** follow the hierarchy as listed in the Mitigation Rule [Corps-EPA Compensatory Mitigation for Losses of Aquatic Resources, dated April 10, 2008, 33 CFR 325 and 332/40 CFR 230].
 - a. The VDEQ will complete Section I of the 22-SPGP coordination form and then forward the 22-SPGP coordination form, proposed mitigation, and the applicant's justification statement to the Corps Regulator of the Day (ROD) email: cenao.reg_rod@usace.army.mil
 - b. The Corps will work directly with the VDEQ to resolve any outstanding concerns.
 - c. Once the mitigation is acceptable, the Corps will complete Section II of the 22-SPGP coordination form and send it to the VDEQ.
 - d. The 22-SPGP verification will not be issued until the Corps has approved the use of the mitigation.
 - e. If the applicant changes their mitigation to follow the hierarchy, the VDEQ will notify the Corps and move forward with the 22-SPGP review and verification as outlined in Section II-IV of 22-SPGP SOP.
2. The applicant proposes permittee responsible mitigation (PRM).
 - a. The VDEQ will complete Section I of the 22-SPGP coordination form and then forward the 22-SPGP coordination

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form and the proposed PRM package the Corps Regulator of the Day (ROD) email: cenao.reg_rod@usace.army.mil

- b. The Corps will work directly with the VDEQ to resolve any outstanding concerns.
- c. The Corps PM will complete federal review and coordination for the PRM site.
- d. Once the mitigation is acceptable, the Corps will complete Section II of the 22-SPGP coordination form and send it to the VDEQ.
- e. Issuance of the 22-SPGP verification will not be issued until the Corps has approved the PRM.
- f. If the applicant changes their mitigation to credit purchase, the VDEQ will notify the Corps and move forward with the 22-SPGP review and verification as outlined in Section II-IV of this SOP.

IV. Permit Decisions

- A. **Complete Application for Verification:** The VDEQ is responsible for ensuring the permit applications meet the requirements listed in Section II of the 22-SPGP permit.
- B. **Incomplete Application for Verification:** The VDEQ will address incomplete applications in accordance with their internal review.
- C. **Verification Issuance:** The VDEQ will determine whether the work proposed satisfies the terms and conditions of 22-SPGP permit. All 22-SPGP verifications will be written on the “22-SPGP Verification Letter”.
- D. **Denial:** The VDEQ should advise the applicant if the project does not qualify for a 22-SPGP verification. In these situations, the VDEQ should send correspondence to the applicant notifying them to:
 - 1. Revise their permit application to meet the terms and conditions of the applicable 22-SPGP permit.OR
 - 2. Submit their application directly to the Corps for processing under a different Corps permit.

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V. New Permit Verifications Required

SPGPs are general permits; therefore, SPGP permit verifications cannot be modified or extended. All changes to a project must be submitted as a new permit application and receive a new 22-SPGP verification. The following should apply to all verification requests for 22-SPGP projects **where a 22-SPGP verification has previously been issued by the VDEQ (these applications may be submitted directly to the VDEQ except when a VMRC permit was required):**

- A. The following projects must be processed in accordance with Section II-IV of the SOP. **New verifications may be issued using the same permit number but must outline the changes made that require a new 22-SPGP verification:**
 - 1. All projects that have associated special conditions, an MOA regarding Section 106 of the NHPA, and/or require formal consultation under Section 7 of the ESA, regardless of the newly proposed impact totals.
 - 2. All projects proposing additional temporary, conversion, and/or permanent impacts.
 - 3. All projects proposing impacts in new locations even when there is a decrease in impact totals.
- B. The following do not require coordination with the Corps but do require the issuance of a new 22-SPGP Verification Letter. **New verifications may be issued using the same permit number but must outline the changes made that require a new 22-SPGP verification:**
 - 1. Change in ownership/project name
 - 2. Modification to the development plan but no additional impacts
 - 3. Change in use of bank/in-lieu fee **AND** when the project is in compliance with the mitigation hierarchy as listed the Mitigation Rule [Corps-EPA Compensatory Mitigation for Losses of Aquatic Resources, dated April 10, 2008, 33 CFR 325 and 332/40 CFR 230].
 - 4. Clerical revisions
- C. If the new application cumulatively exceeds the thresholds of the applicable 22-SPGP, the VDEQ will send correspondence to the applicant notifying

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them to:

1. Revise their permit application to meet the terms and conditions of the applicable 22-SPGP verification.

OR

2. Submit their application directly to the Corps for processing under a different Corps permit.

VI. Compliance and Resolution of Non-compliance for projects authorized by a 22-SPGP

The VDEQ will maintain the primary responsibility for performing compliance inspections and resolution of non-compliance for projects verified under a 22-SPGP permit. However, this does not prevent the Corps from inspecting these project sites independently or from exerting enforcement authority.

- A. All projects that have associated special conditions, an MOA regarding Section 106 of the NHPA, and/or require formal consultation under Section 7 of the ESA must be coordinated with the Corps regardless of their impact totals.
- B. All residential, commercial, institutional, and recreational non-compliance activities that cumulatively exceed permanent impacts to 1 acre of WOTUS will be forward to the Corps for processing under a different Corps permit.
- C. All linear transportation non-compliance activities that cumulatively exceed permanent impacts to 1/2 acre of WOTUS will be forward to the Corps for processing under a different Corps permit.
- D. Non-compliance discovered by Corps will be forwarded to the VDEQ for resolution. The Corps will include:
 1. Project name and number.
 2. Dated discovered.
 3. Brief description of the potential non-compliance.
- E. **All non-compliance for activities identified in Section V.A of this SOP, will require a new 22-SPGP verification.** The applicant must submit a new permit application and receive a new 22-SPGP verification (**these**

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applications may be submitted directly to the VDEQ except when a VMRC permit was required).

VII. SPGP Report

By October 1st of each year, the VDEQ will provide the Corps with the following information for the 22-SPGP-RCIR and for the 22-SPGP-LT:

A. Wetland and Open Waters:

1. Total acres of wetland impact authorized.
2. Total square feet of wetland impact authorized.
3. Total wetland mitigation required, broken out into the following categories:
 - a. Acres of wetland preservation required.
 - b. Acres of wetland creation/restoration required.
 - c. Wetland mitigation credits required to be purchased from a bank or in-lieu fee.

B. Stream Channel:

1. Linear feet of stream impacts authorized.
2. Total square feet of stream channel authorized.
3. Total stream mitigation required, broken out into the following categories:
 - a. Linear feet of stream preservation required.
 - b. Linear feet of stream enhancement/restoration required.
 - c. Stream mitigation credits required to be purchased from a bank or in-lieu fee.

C. Compliance

1. Total number of compliance Inspections performed.
2. Total number of compliance inspections resolved.