

USACE Permits and VWP Certification/Conditions

(Rev. 2/2008)

| USACE Nationwide or Regional Permit | Last Date of DEQ 401 Certification | DEQ VWP Permit Process | DEQ 401 Certification Conditions (list follows table) |
|--|------------------------------------|------------------------|---|
| 1. Aids to Navigation | Apr-07 | NPR | N/A |
| 2. Structures in Artificial Canals | Apr-07 | NPR | N/A |
| 3. Maintenance | Apr-07 | NPR | N/A |
| 4. Fish and Wildlife Harvesting, Enhancement, & Attraction Activities | Apr-07 | NPR | N/A |
| 5. Scientific Measurement Devices | Apr-07 | NPR | N/A |
| 6. Survey Activities | Apr-07 | NPR | N/A |
| 7. Outfall Structures and Maintenance | Apr-07 | Conditional* | 1,2 |
| 8. Oil and Gas Structures | Apr-07 | NPR | N/A |
| 9. Structures in Fleeting and Anchorage Areas | Apr-07 | NPR | N/A |
| 10. Mooring Buoys | Apr-07 | NPR | N/A |
| 11. Temporary Recreational Structures | Apr-07 | NPR | N/A |
| 12. Utility Line Activities | Mar-02 | Conditional* | 1,3 |
| 13. Bank Stabilization | Apr-07 | NPR | N/A |
| 14. Linear Transport Crossings (Tidal Waters) | Apr-07 | Conditional* | 1 |
| 14. REPLACED BY SPGP (Linear Transport Crossings - Nontidal Waters) | Expired Nov-02 | -- | -- |
| 15. U.S. Coast Guard Approved Bridges | Apr-07 | NPR | N/A |
| 16. Return Water from Upland Contained Disposal Areas | Apr-07 | Permit Req'd | N/A |
| 17. Hydropower Projects | Apr-07 | Permit Req'd | N/A |
| 18. Minor Discharges | Apr-07 | Conditional* | 1,4 |
| 19. Minor Dredging | Apr -07 | Conditional* | 1,5 |
| 20. Oil Spill Cleanup | Apr-07 | NPR | N/A |
| 21. Surface Coal Mining Activities | Apr-07 | NPR | N/A |
| 22. Removal of Vessels | Apr-07 | NPR | N/A |
| 23. Approved Categorical Exclusions | Apr-07 | NPR | N/A |
| 24. Indian Tribe or State Administered Section 404 Programs | Apr-07 | N/A in VA | N/A |
| 25. Structural Discharges | Apr-07 | Conditional* | 1,6 |
| 26. EXPIRED | Expired Jun-00 | -- | -- |
| 27. Stream and Wetland Restoration Activities | Apr-07 | Conditional* | 1,7,8,9 |
| 28. Modifications of Existing Marinas | Apr-07 | NPR | N/A |
| 29. Residential Developments | Apr-07 | Conditional* | 1 |
| 30. Moist Soil Management for Wildlife | Apr-07 | NPR | N/A |
| 31. Maintenance of Existing Flood Control Facilities | Apr-07 | NPR | N/A |
| 32. Completed Enforcement Actions | Apr-07 | Conditional* | 1,10 |
| 33. Temporary Construction, Access and Dewatering | Apr-07 | NPR | N/A |
| 34. Cranberry Production Activities | Apr-07 | NPR | N/A |
| 35. Maintenance Dredging of Existing Basins | Apr-07 | NPR | N/A |
| 36. Boat Ramps | Apr-07 | NPR | N/A |
| 37. REPLACED BY RP-37 (11/21/05) | — | — | — |
| 38. Cleanup of Hazardous and Toxic Waste | Apr-07 | NPR | N/A |
| 39. REPLACED BY SPGP (Residential, Commercial and Institutional Development) | Expired Nov-02 | -- | -- |

USACE Permits and VWP Certification/Conditions

(Rev. 2/2008)

| USACE Nationwide or Regional Permit | Last Date of DEQ 401 Certification | DEQ VWP Permit Process | DEQ 401 Certification Conditions (list follows table) |
|--|---|-------------------------------|--|
| 40. Agricultural Activities | Apr-07 | Conditional* | 1, 11 |
| 41. Reshaping Drainage Ditches | Apr-07 | NPR | N/A |
| 42. Recreational Facilities | Apr-07 | Conditional* | 1,12 |
| 43. Stormwater Management Facilities | Apr-07 | Conditional* | 1,13 |
| 44. Mining Activities | Apr-07 | Conditional* | 1,14 |
| 45. Repair of Uplands Damaged by Discrete Events | Apr-07 | NPR | N/A |
| 46. Discharges Into Ditches | Apr-07 | NPR | N/A |
| 47. Pipeline Safety Program Designated Time Sensitive Inspections & Repairs | Apr-07 | NPR | N/A |
| 48. Commercial Shellfish Aquaculture Activities | Apr-07 | Conditional* | 1, 15 |
| 49. Coal Re-mining Activities | Apr-07 | NPR | N/A |
| 50. Underground Coal Mining Activities | Apr-07 | NPR | N/A |
| ASP-18. DISCONTINUED (Abbreviated Standard Permit) | Discontinued Feb-02 | -- | -- |
| LOP-1. Letter of Permission for VDOT Projects | Cert. Denied | Permit Req'd | N/A |
| LOP-2. Letter of Permission for Certain Navigationally-related Recreational and Commercial Dredging Projects | Mar-04 | Conditional* | 16 |
| RP-05. Construction of Small Impoundments | Jan-08 | Conditional* | 17,18,19 |
| RP-15. Maintenance of Certain Ditches | Oct-03 | NPR | N/A |
| RP-17. Private Piers and Mooring Piles | Oct-03 | NPR | N/A |
| RP-18. Private Piers not covered by RP-17 | Oct-03 | NPR | N/A |
| RP-19. Certain Activities covered by VMRC and/or Local Wetlands Boards (Note: As of 2/6/06, Activity 15 of this RP is covered under RP-20) | Oct-03 | NPR | N/A |
| RP-20. Development of State-owned and Operated Artificial Fin and Shellfish Reefs | Apr-06 | NPR | N/A |
| RP-22. For Certain Activities in Lake Gaston | Oct-03 | NPR | N/A |
| RP-24. For Certain Activities in Claytor & Smith Mtn. Lake | Aug-98 | NPR | N/A |
| RP-37. Discharges Performed or Funded by NRCS under its Emergency Watershed Protection (EWP) Program (Note: As of 11/21/05, replaces Nationwide Permit 37) | Jan-06 | Conditional* | 20 |
| RP-40. Minor Maintenance Dredging in Nontidal Waters | Oct-03 | Conditional* | 21 |

Abbreviations/Definitions

VWPP = Virginia Water Protection Permit

NPR = No Permit Required from the VWPP Program

N/A = Not Applicable

Permit Req'd = Some type of VWPP action is required

Conditional* = Section 401 Certification is only granted (e.g., no separate permit required from VWPP Program) if the noted conditions are met. Otherwise, some type of VWPP action is required, and the permittee must comply with the noted conditions.

DEQ Section 401 Conditions

1. Compensatory mitigation, when including purchases of mitigation bank credits, must comply with Section 62.1-44.15:23 A through C of the Code of Virginia.
2. The structure or maintenance is not associated with intake structures.
3. The activities are not associated with intake structures or do not transport non-potable raw surface water.
4. The discharge does not include water withdrawals, such as the construction of an intake structure, weir or water diversion structure.
5. The dredging is not used to create a deep space for water withdrawal.
6. The discharge does not include structures such as pilings to construct a platform to mount a pump for water withdrawals.
7. When used to permit a wetland mitigation bank, compensation for any surface water impacts is debited from the bank credits.
8. Natural stream design shall be used for stream restoration projects.
9. Monitoring for success shall be conducted, including submittal of as-built plans, surveys, and photographs.
10. The impact does not exceed 2 acres of wetlands or 1500 linear feet of streambed and only past unauthorized impacts are addressed.
11. Does not include the location of concentrated animal feeding operations or waste storage facilities in surface waters.
12. The facility does not include an impoundment for irrigation, and compensation is required for wetland and/or stream loss due to direct impacts and permanent backflooding.
13. The management facility is not associated with a water withdrawal.
14. The activity is not for hydraulic dredging.
15. The activity complies with the conditions of any VPDES permit issued for the facility.
16. The applicant must meet the following conditions: a) the containment area is adequately sized to prevent overtopping of any containment berm used for upland disposal of dredged material; b) the need is adequately addressed regarding a liner or impermeable material to prevent leaching of any identified contaminants into ground water; and c) the dredging will not exacerbate impairment of water body segments on the current effective Section 303(d) Total Maximum Daily Load (TMDL) priority list or water body segments with an approved TMDL; and the dredging is consistent with any waste load allocation, limit, or conditions imposed by an approved TMDL.
17. Agricultural surface water withdrawals from nontidal waters that total less than one million gallons in a single month do not require flow-by of water past the impoundment. Withdrawals greater than or equal to one million gallons in a single month will be subject to a DEQ permit, unless otherwise exempt, that includes withdrawal limits to ensure the protection of in-stream beneficial uses downstream of the impoundment.
18. Surface water withdrawals from nontidal waters for all other purposes that total less than 10,000 gallons per day do not require flow-by of water past the impoundment. Withdrawals greater than or equal to 10,000 gallons per day will be subject to a DEQ permit, unless otherwise exempt, that includes withdrawal limits to ensure the protection of in-stream beneficial uses downstream of the impoundment.
19. The permittee shall report surface water withdrawals: [a]) where the average daily withdrawal during any single month exceeds 10,000 gallons per day for the purposes of, but not limited to, public water supply, manufacturing, mining, commercial, institutional, livestock watering, artificial fish culture, and steam-electric power generation uses; and [b]) where the withdrawal exceeds 1 million gallons in any single month for the purpose of irrigating crops. Permittees are not required to report the withdrawal of surface water if the withdrawal is made from a pond that only collects diffuse surface water (pond that is not located in a wetland or on an intermittent or perennial stream).
20. The applicant must meet the following conditions: a) work is to restore damage incurred by a natural disaster event declared as a local or state of emergency, pursuant to Code of Virginia § 44-146 et seq.; b) wetland or stream impacts [shall] be avoided and minimized to the maximum extent practicable; c) proposed work does not allow impacts that cause or contribute to a significant impairment of state waters or fish and wildlife resources; d) additional or inadvertent impacts caused by the restoration activities requires compensatory mitigation sufficient to achieve no net loss of existing wetland acreage and function; and that any such compensatory mitigation be provided through wetland or stream creation or restoration, purchase or use of mitigation bank credits in accordance with § 62.1-44.15:23 A through C of the Code of Virginia, contribution to an in-lieu fee fund approved by the board in accordance with these regulations, or preservation or restoration of upland buffers adjacent to wetlands or other state waters or preservation of wetlands or streams when done in conjunction with creation, restoration or mitigation bank credits; and e) NRCS notifies DEQ if they or the local sponsor prefers not to incorporate one or more of the

recommendations made by the Department of Game and Inland Fisheries, the Virginia Marine Resources Commission, or the Department of Conservation and Recreation regarding measures to avoid adverse effects of a project on state designated critical or proposed critical habitat or a state listed or proposed threaten or endangered species or two categories of trout waters, Class V (Put and Take Trout Waters) and Class VI (Natural Trout Waters); DEQ will then consult with the agency or agencies who made the recommendation(s) and determine whether or not they need to be incorporated into the project plans.

21. The amount of dredged/excavated material cannot exceed 5,000 cubic yards (no limits on method of dredging/excavation, and no separate limits on the area of impact).