

**Annual Review of the Norfolk
District Corps' State Program
General Permit (12-SPGP-01)
Effective April 30, 2012
Reporting Period: June 1, 2012 –
August 31, 2013**

December 10, 2013

Executive Summary

The objective of a State Program General Permit (SPGP) is to eliminate duplicative federal and state permitting activities where authorization to impact surface waters will have minimal environmental impacts. Based on information from the reporting period, the 12-SPGP-01 meets or exceeds state and federal goals of no net loss of aquatic functions and values. The public is invited to comment on this annual report for a 30-day period, as detailed in the public notice issued by the Department of Environmental Quality (DEQ) and/or the Norfolk District Corps of (Corps). Previous annual reports for the SPGP-01 may be viewed on the Norfolk District Corps of Engineers' (Corps) web page at: <http://www.nao.usace.army.mil/Missions/Regulatory/RBregional/SPGPReview.aspx>; or on the DEQ webpage at: <http://www.deq.virginia.gov/Programs/Water/WetlandsStreams/PermitsFeesRegulations/SPGP.aspx>.

Introduction

On November 1, 2002, the first State Program General Permit (SPGP-01) was granted to the Commonwealth of Virginia by the Corps for the discharge of dredged and/or fill material in nontidal wetlands and waters, of the United States, associated with residential, commercial, and institutional developments and linear transportation projects within the Commonwealth. At that time, the Norfolk District suspended Corps Nationwide Permits 14 and 39 in Virginia, where they applied to nontidal waters and overlapped the coverage provided by the SPGP. Currently, the Norfolk District has suspended Nationwide Permits 14, 39 and a portion of 29 in Virginia, where they apply to nontidal waters, including wetlands. These changes were based on revisions that were made to the 2012 Nationwide Permit reauthorizations.

Corps general permits are 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 12-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. In Virginia, the SPGP program is appropriate because Virginia has its own state program with authorities similar to the federal program.

The Corps revised and expanded the State Program General Permit (07-SPGP-01) on June 1, 2007. The Corps' 07-SPGP-01 authorized the discharge of dredged or fill material causing the loss of not more than one acre of nontidal wetlands or waters or causing the loss of not more than 2,000 linear feet of nontidal waters of the United States associated with certain residential, commercial, and institutional developments and not causing the loss of more than 1/3 acre nontidal waters of the United States, including wetlands, for linear transportation projects within the geographical limits of the Commonwealth of Virginia under the regulatory jurisdiction of the Corps.

The Corps again revised the State Program General Permit (12-SPGP-01) in April 2012. The Corps' 12-SPGP-01 authorizes the discharge of dredged or fill material causing the loss of (1) not more than one acre of nontidal wetlands or open waters or causing the loss of not more than 2,000 linear feet of nontidal stream channel associated with certain residential, commercial, and institutional developments, and (2) not causing the loss of more than 1/3 acre nontidal waters, including wetlands, or 2,000 linear feet of nontidal stream channel for linear transportation projects within the geographical limits of the Commonwealth of Virginia under the regulatory jurisdiction of the Corps.

The 12-SPGP-01 can only be issued for projects where the discharge of dredge or fill material into waters, including wetlands, of the United States has been avoided and minimized to the maximum extent practicable. Based on the current regulatory requirements, impacts are determined on a single-and-complete project basis, as defined in 9VAC25-210 et seq., and therefore, the total cumulative amount of impacts to state waters may not require compensation. For those impacts that have been determined "unavoidable", compensatory mitigation is required to offset losses of aquatic functions and values. In general wetland mitigation is required for wetland impacts over 1/10 acre on residential, commercial and institutional development projects and for all wetland impacts on linear transportation projects, regardless of amount. Stream mitigation is typically required for any project that involves more than 300 linear feet of stream impact, regardless of activity type.

Many procedural revisions were made with the 12-SPGP-01 that can be viewed on the Norfolk District Corps of Engineers' web page at:

<http://www.nao.usace.army.mil/Missions/Regulatory/RBregional.aspx>. To determine the effectiveness of the 12-SPGP-01 and to evaluate the extent of its cumulative impacts, DEQ committed to continuing the process of conducting an annual review, which was first initiated by the Corps. Generally, the resulting annual reports are for the period of September 1st through August 31st, as agreed to in the SPGP Standard Operating Procedures effective in April 2012. However, the 12-SPGP-01 became effective near the end of the usual reporting cycle, and thus, this report covers an extended time period beginning on June 1, 2012 and ending on August 31, 2013 (Reporting Period). The public is invited to comment on this annual report for a 30-day period, as detailed in the public notice issued by DEQ and/or the Corps. Previous annual reports for the SPGP-01 may be viewed on the Norfolk District Corps of Engineers' (Corps) web page at:

<http://www.nao.usace.army.mil/Missions/Regulatory/RBregional/SPGPReview.aspx>

Previous annual reports for the 07-SPGP-01 can be found on the DEQ webpage at: <http://www.deq.virginia.gov/Programs/Water/WetlandsStreams/PermitsFeesRegulations.aspx>.

The annual report provides data on the type, number, and acreage of wetland impacts and linear footage of stream impacts requested and authorized, the mitigation required, and the geographic distribution of the authorized impacts. DEQ is also providing the average number of calendar days between initial receipt of application and receipt of complete applicationⁱ; the approximate number of residential, commercial, or institutional activities; and the approximate number of linear transportation activities. Compensatory mitigation data is provided in terms of the units used in the permit, often expressed in functional units such as credits or stream conditions units (SCUs)ⁱⁱ, and makes generalizations by representing all methods of compensation. New for this Reporting Period are: 1) the separation of data related to linear transportation activities from that related to non-linear transportation activities due to the manner in which linear transportation impacts may be considered as single and complete projects; and 2) the elimination of the detailed permit-by-permit data in the report tables but which remains available upon request.

On October 23, 2008 a Programmatic Agreement (PA) was executed to authorize the DEQ to conduct the initial review of existing information on historic properties for permit applications submitted under the 07-SPGP-01. The PA originally stipulated that the DEQ Cultural Resource Specialist (CRS) could only issue a No Historic Properties Effected determination for projects five acres or less and that met all criterion under Stipulations II(a) of the PA. In December 2012, the PA was revised to allow the DEQ CRS to issue a No Historic Properties Effected determination for projects 20 acres or less and that met all criterion under Stipulations II(a) of the PA. The PA requires DEQ to summarize the 12-SPGP-01 permits issued and Cultural Resource Initial Screening activities over the Reporting Period.

Results and Conclusions

Specific data items are provided in the tables of Appendices A and B. DEQ utilizes database queries that are specifically programmed to provide calculations for processing times and to provide calculations for impact and compensation data separately. Processing time calculations include the date on which an application was received, the date on which an application is deemed complete, and/or the date on which the permit or authorization was issued. Periods during which the permit process was officially suspended have been subtracted from the processing time calculations. No consideration is given to the time necessary to process revisions to permits or permit authorizations *after* the original issuance. VWP general permit authorizations in particular are often revised during the same SPGP Reporting Period in which the original authorization was issued. Conversely, a permit authorization may occur in one Reporting Period while a subsequent revision may occur in another Reporting Period. In order not to double-count impacts and compensation, only the most recent permit action was considered for tallying the impact and compensation data. Thus, it is possible that the number of permit actions considered for the processing time calculations will differ from the number of permit actions considered to calculate impacts and compensation.

ⁱ Requirements for a complete application are given in the Virginia Water Protection Permit Program Regulation (see 9 VAC 22-210-80 Application for a VWP permit).

ⁱⁱ Stream Condition Units (SCU) are units used at the Northern Virginia Stream Restoration Bank operated by Wetland Studies & Solutions, Inc (WSSI).

Permitting Activities

Tables 1 and 7 present a summary of the 12-SPGP-01 residential, commercial, and institutional permitting activities, and the linear transportation activities, respectively.

A total of 244 actions were considered to determine the VWP general permit authorization processing time necessary during the Reporting Period. Of these actions, approximately 171 were related to residential, commercial, or institutional activities, and approximately 75 projects were related to linear transportation activities. The average time to process a complete general permit application during this Reporting Period was 29 days for residential, commercial, or institutional activities and ten days for linear transportation activities. This is well below the statutory limit of 45 days total per general permit action.

Only one VWP individual permit action was considered in conjunction with the 12-SPGP-01 for this Reporting Period. The commercial project activity required 313 days to process for a VWP individual permit. Additional time was necessary due to changes in design that caused a change in how the project had to be permitted, starting out as a VWP general permit authorization and ending as a VWP individual permit.

While SPGP actions cannot be modified or extended, 48 Notices of Planned Change - all for residential, commercial, or institutional activities - were processed on the associated VWP general permit authorizations. No VWP individual permits were modified or extended. Two VWP general permit authorizations for residential, commercial, or institutional activities and 19 VWP general permit authorizations for linear transportation activities were terminated because regulated activities were completed prior to the expiration date.

A total of 230 VWP general permit authorization projects were found to be in compliance with permit conditions during this Reporting Period, and out of the 43 projects found to be out of compliance, 38 were corrected within the Reporting Period. No compliance actions have been completed for the VWP individual permit project during the Reporting Period.

Impacts to Waters from Permitted Activities

Figures 1 through 4 illustrate wetland and stream impacts requested/proposed, authorized/permitted (by both VWP individual permits and general permit authorizations), and compensated (including preservationⁱⁱⁱ) under 12-SPGP-01 for this Reporting Period. A total of 327 VWP general permit authorizations and one VWP individual permit were considered to calculate the impact and compensation results.

ⁱⁱⁱ Approximately 33 wetland acres, 64,037 linear feet of stream, and 258 buffer acres of preservation was required for residential, commercial, or institutional activities. No preservation was required for linear transportation activities.

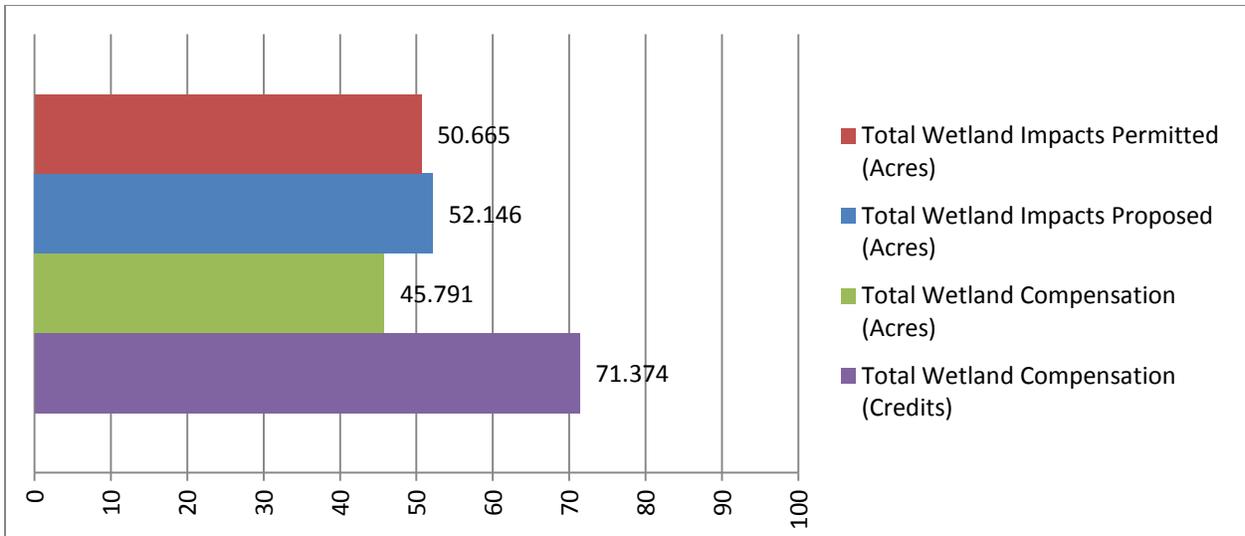


Figure 1. Wetland impacts requested, authorized, and compensated under 12-SPGP-01 for residential, commercial, or institutional activities

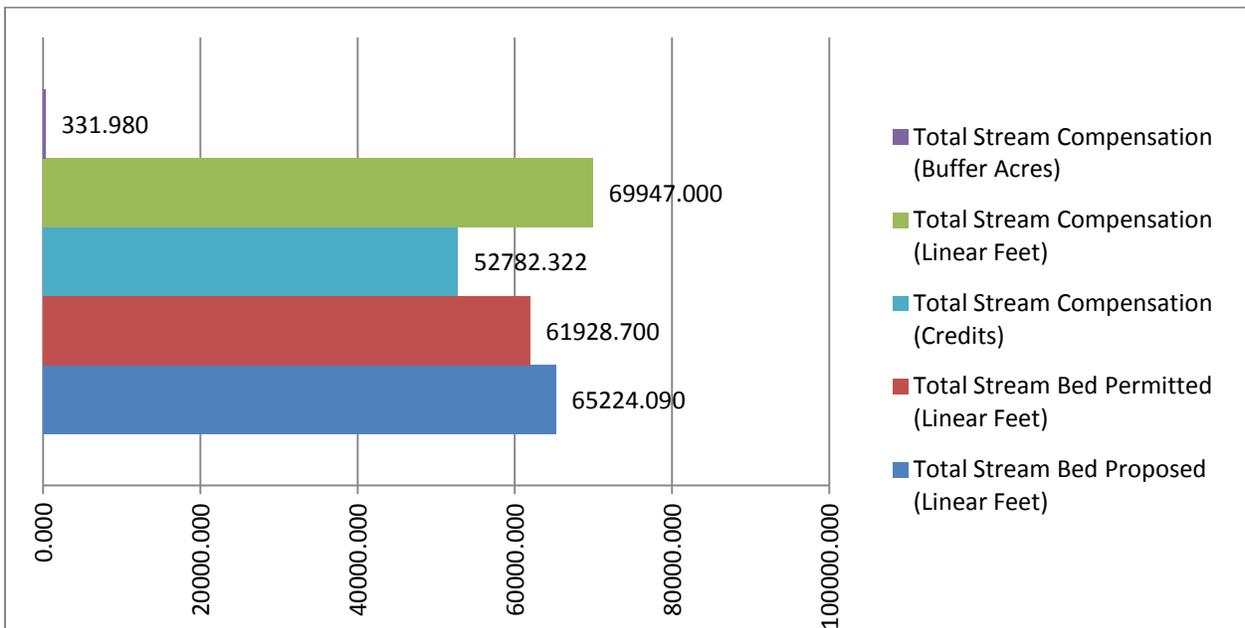


Figure 2. Stream impacts requested, authorized, and compensated under 12-SPGP-01 for residential, commercial, or institutional activities

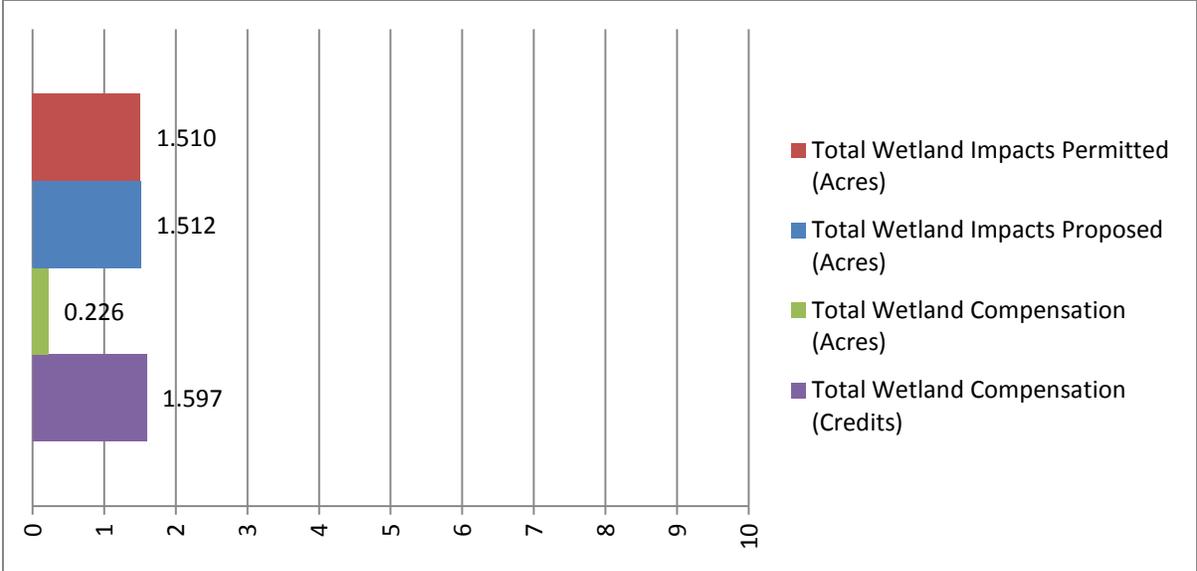


Figure 3. Wetland impacts requested, authorized, and compensated under 12-SPGP-01 for linear transportation activities

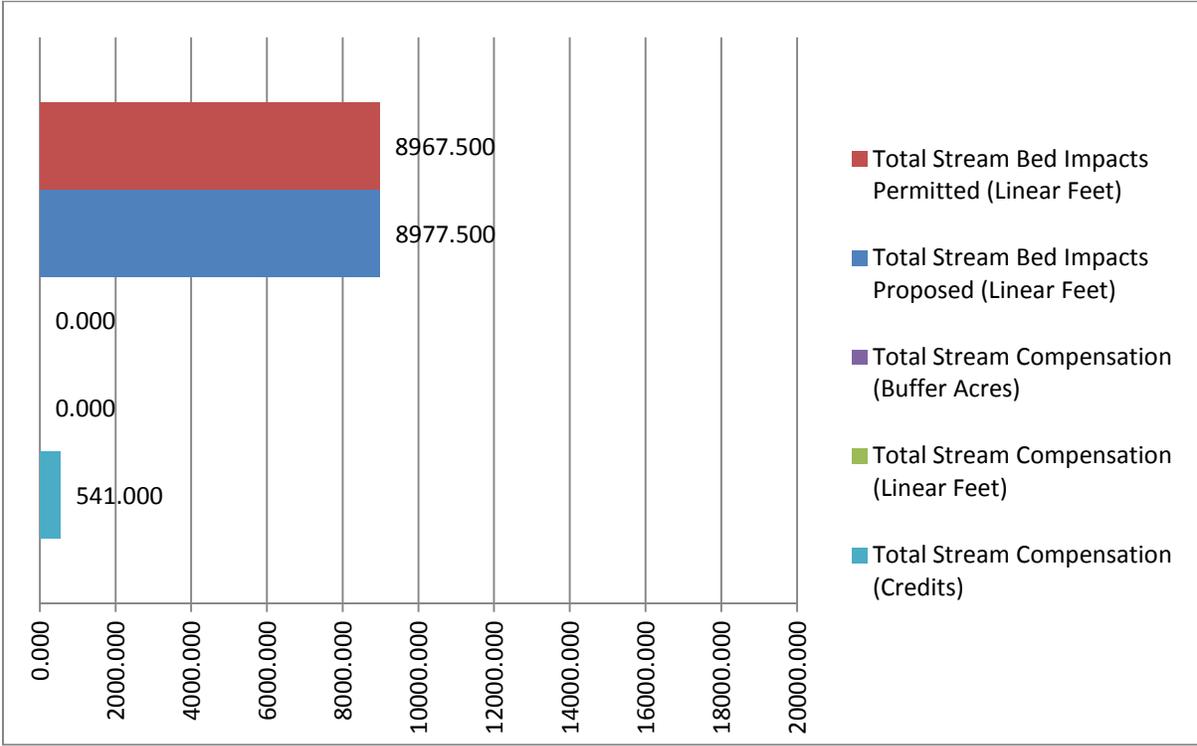


Figure 4. Stream impacts requested, authorized, and compensated under 12-SPGP-01 for linear transportation activities

Tables 2 and 8 summarize the amount of wetland and stream impacts requested/proposed, and the amount of wetland and stream impacts permitted/authorized for this Reporting Period, organized by drainage area as defined by the 8-digit U.S. Geological Survey (USGS) Hydrologic Unit Code (HUC8). Impacts for residential, commercial, or institutional activities were authorized in 28 out of the 46, 8-digit HUC drainage areas in Virginia (Table 2). Impacts for linear transportation activities were authorized in 24 out of the 46, 8-digit HUC (Table 8). Total (rounded) wetland and stream impacts *proposed* by applicants for residential, commercial, or institutional activities were approximately 52 acres and 65,224 linear feet, respectively, and total impacts *authorized* were approximately 51 acres and 61,928 linear feet, respectively. Total (rounded) linear feet of stream impacts *proposed* by applicants for linear transportation activities were approximately 2 acres and 8,978 linear feet, respectively, and total impacts *authorized* were approximately 2 acres and 8,968 linear feet, respectively.

The authorized wetland and stream impacts were about the same as those requested by applicants for residential, commercial, or institutional activities or by applicants for linear transportation activities. The difference between impacts requested by the applicant and impacts authorized by DEQ does not reflect all of the avoidance and minimization obtained, as DEQ and the Corps work with 12-SPGP-01 applicants to avoid and minimize surface water impacts through a pre-application process. Further, our database for individual permits has not yet been updated to track avoidance and minimization electronically. DEQ and the Corps have also provided guidance to the public on ways to demonstrate avoidance and minimization efforts on projects.

Tables 3 and 9 summarize the compensation actions for this Reporting Period, organized into the following categories: Bank, Creation, Restoration, Enhancement, Preservation, and Fund. Only individual permits (1) or general permit authorizations (230) that required compensation were included. Bank totals include mitigation credits for wetland acres impacted or stream linear feet impacted. Fund totals include acreage, linear feet, and more recently, credits, as a result of the Virginia Aquatic Resources Trust Fund converting from a dollar-based management system to a credit-based management system in July 2012^{iv}. While one credit or unit does not always equal one acre of wetland or one linear foot of stream, the goal is for one credit or unit to assimilate the functional value provided by one acre or linear foot. Buffer compensation (acres) for stream impacts is separated from other stream compensation types.

Wetland compensation for residential, commercial, or institutional activities (VWP general permit authorizations and VWP individual permits) was provided using the following mechanisms:

- 71 mitigation bank credits and 13.7 acres at banks;
- 2.5 acres of wetland creation;
- 29.3 acres of wetland preservation; and
- 0.289 acre of wetland compensation through Funds.
- Additionally, 4 acres of upland buffer preservation were received.

^{iv} For this reporting period, DEQ made assumptions for Fund totals due to the manner in which contributions are tracked in the CEDS database. The database may contain a dollar amount of the contribution; may contain a dollar amount and a compensation total (acres/linear feet); may contain a compensation total (acres/linear feet); and/or may include a credit amount. Data entry procedures for DEQ staff have since been revised to use credits as units, but the database has not been functionally revised to date.

Wetland compensation for linear transportation activities (VWP general permit authorizations) was provided using the following mechanisms (rounded):

- 2 mitigation bank credits;
- 0.2 acres of wetland creation; and
- 0.399 acre of wetland compensation through Funds.

Stream compensation for residential, commercial, or institutional activities (VWP general permit authorizations and VWP individual permits) was provided using the following mechanisms (rounded):

- 51,076 mitigation bank credits and 981 linear feet at banks;
- 1,347 linear feet of stream enhancement;
- 67 acres of stream buffer enhancement;
- 2,353 linear feet of stream restoration;
- 7 acres of stream buffer restoration;
- 64,037 linear feet of stream preservation;
- 258 acres of stream buffer preservation; and
- 1,229 linear feet and 1,706 credits of stream compensation through Funds.

Stream compensation for linear transportation activities (VWP general permit authorizations) was provided using the following mechanisms (rounded):

- 541 mitigation bank credits

The data summarized above and included in the report appendices demonstrates that the 12-SPGP-01 meets or exceeds the federally recommended goal, and the Commonwealth's statutory goal, of no net loss of aquatic functions and values for those impacts that are required to be compensated on a cumulative basis. No effort was made to determine the ratio on each individual permit or permit authorization.

- Not considering preservation, DEQ required approximately a 1.7:1 wetland impact/credit ratio for residential, commercial, or institutional activities. For streams under these activities, ratios were derived for both credits and buffer acres: 1.1:1 stream impact/credit ratio. DEQ required approximately a 1.2:1 wetland impact/credit ratio for linear transportation activities. For streams under this activity, a ratio was only derived for credits, as no buffer acres applied: 0.6:1 stream impact-to-linear foot/credit ratio.

Cultural Resource Screening Activities

Tables 5 and 10 presents the Cultural Resource Initial Screening data for 12-SPGP-01 applications for residential, commercial, or institutional activities and linear transportation activities, respectively, during the Reporting Period; Table 6 provides a summary of cultural resource screening activity by DEQ region for residential, commercial, or institutional activities; and Table 7 provides a summary of cultural resource data based on project size for residential, commercial, or institutional activities. Region and size for screenings of certain linear transportation projects are not recorded by DEQ per the requirements established by 2012 Cultural Resource Review Programmatic Agreement (PA) between DEQ and the U.S. Army Corps of Engineers.

The data presents the results of the initial screening for those projects sent to the Corps for further review or those where a No Effect Determination was made by the CRS. The CRS performed initial screening of 196 12-SPGP-01 applications for residential, commercial, or institutional activities. The CRS forwarded 147 applications to the Corps for additional review and made a No Historic Properties Effectuated Determination on 49 applications. A map of DEQ regions can be found at <http://www.deq.virginia.gov/Locations.aspx>. For the current reporting period, 58% of the projects were less than 20 acres in size.

The CRS also provided review and a no historic resources review for 71 Virginia Department of Transportation (VDOT) projects.

In conclusion, the data summarized above demonstrates that DEQ is conducting activities in compliance with the PA.

Appendix A

Residential, Commercial, or Institutional Activities

Table 1. 12-SPGP-01 permitting activities (residential, commercial, or institutional) June 1, 2012 through August 31, 2013

	SPGP issued in conjunction with VWP General Permit	SPGP issued in conjunction with VWP Individual Permit	Total
Approximate number of permits authorized for residential, commercial, or institutional activities	171	1	172
Approximate number of permits requiring wetland compensation	132	1	133
Approximate number of permits requiring stream compensation	83	1	84
Average number of calendar days between initial receipt of application and permit issuance	77	NA	
Average number of calendar days between receipt of complete application and permit issuance	29	313	
SPGP permit modifications	24	NA	
SPGP permit extensions	0	NA	
Number of projects found to be in compliance with permit conditions	230	NA	
Number of projects found to be in non-compliance with permit conditions	43	NA	
Number of non-compliance activities resolved within reporting period	38	NA	

Table 2. 12-SPGP-01 / VWP Actions (residential, commercial, or institutional) June 1, 2012 through August 31, 2013, Organized by 8-Digit Hydrologic Unit Code (HUC)

HUC8	Number of Permit Authorizations	Total Wetland Acres Proposed	Total Wetland Acres Permitted	Total Stream Bed Linear Feet Proposed	Total Stream Bed Linear Feet Permitted
02040303	1	0.056	0.056	0	0
02070005	5	0.731	0.721	1827	1827
02070008	54	8.798	9.036	19442	18588
02070010	70	9.657	11.177	20839.7	20454.7
02070010*	1	0.013	0.013	2117	2117
02070011	14	1.187	1.102	3265.39	2999
02080102	3	1.013	1.012	0	0
02080103	3	1.42	1.42	2109	2109
02080104	13	0.397	0.397	2001	2001
02080105	2	2.24	1.27	785	785
02080106	3	0.391	0.384	95	95
02080107	1	0.776	0.776	206	206
02080108	3	1.26	1.26	0	0
02080203	4	0.18	0.18	258	258
02080204	2	0	0	598	598
02080205	7	1.274	0.821	792	692
02080206	24	6.322	6.169	2351	2316
02080207	12	3.908	3.615	3248	3229
02080208	9	5.136	4.004	0	0
03010101	3	0.16	0.2	352	352
03010103	1	0	0	752	752
03010104	1	0.169	0.093	1012	0
03010202	1	0.415	0.415	0	0
03010203	1	0.026	0.026	0	0
03010204	1	0.416	0.416	0	0
03010205	11	5.78	5.794	0	0
05050001	2	0.07	0.03	932	308
05050002	2	0.351	0.278	782	782
06010102	1	0	0	1460	1460
<i>Total</i>	<i>255</i>	<i>52.146</i>	<i>50.665</i>	<i>65,224.09</i>	<i>61,928.7</i>

*VWP individual permit

Table 3. Compensatory Mitigation Authorized (residential, commercial, or institutional) June 1, 2012 through August 31, 2013			
Wetland Mitigation Action	Wetland Acres	Upland Buffer Acres	Wetland Credits
Bank	13.7		70.872
<i>Bank*</i>			0.03
Creation	2.511	0	
Preservation	29.291	4.06	
Fund	0.289		0.472
Stream Mitigation Action	Stream LF	Stream Buffer Acres	Stream Credits
Bank	981		48,506.322
<i>Bank*</i>			2,570
Enhancement	1,347	67.16	
Restoration	2,353	7.08	
Preservation	64,037	257.74	
Fund	1,229	0	1,706

*VWP individual permit

Table 4. Initial screening activities performed (residential, commercial, or institutional) June 1, 2012 through August 31, 2013		
Type of Cultural Resources Screening	Action	Number
12-SPGP-01 Application	<i>Applications sent to the Corps for further cultural resources review or Section 106 coordination</i>	147
12-SPGP-01 Application	<i>No Historic Properties Effected Determination made by DEQ CRS</i>	49
12-SPGP-01 Application	<i>Projects forwarded to the NPS for official comments</i>	0
Total DEQ Screened		196

Table 5. Cultural resource screenings per DEQ Region (residential, commercial, or institutional) June 1, 2012 through August 31, 2013			
DEQ Regional Office	Total Screened	Sent to the Corps for Review	No Effect Determination by CRS
Blue Ridge	17	11	6
Central	1	0	1
Northern	76	64	12
Piedmont	50	38	12
Southwest	6	5	1
Tidewater	39	23	16
Valley	7	6	1
Total	196	147	49

Table 6. Number of projects based on size (residential, commercial, or institutional) June 1, 2012 through August 31, 2013	
Project Size	Number
Projects less than 5 acres	48
Projects between 5 acres and 9 acres	34
Projects between 10 acres and 19 acres	32
Projects between 20 acres and 49 acres	40
Projects between 50 acres and 99 acres	23
Projects 100 acres or greater	19
Total	196

Appendix B

Linear Transportation Activities

Table 7. 12-SPGP-01 permitting activities (linear transportation) June 1, 2012 through August 31, 2013

	SPGP issued in conjunction with VWP General Permit	SPGP issued in conjunction with VWP Individual Permit	Total
Approximate number of permits authorized for linear transportation activities	75	NA	75
Approximate number of permits requiring wetland compensation	9	NA	9
Approximate number of permits requiring stream compensation	1	NA	1
Average number of calendar days between initial receipt of application and permit issuance	12	NA	
Average number of calendar days between receipt of complete application and permit issuance	10	NA	
SPGP permit modifications	0	NA	
SPGP permit extensions	0	NA	
Number of projects found to be in compliance with permit conditions	NA	NA	
Number of projects found to be in non-compliance with permit conditions	NA	NA	
Number of non-compliance activities resolved within reporting period	NA	NA	

Table 8. 12-SPGP-01 / VWP General Authorizations (linear transportation) June 1, 2012 through August 31, 2013, Organized by 8-Digit Hydrologic Unit Code (HUC)

HUC8	Number of Permits Authorized	Total Wetland Acres Proposed	Total Wetland Acres Permitted	Total Stream Bed Linear Feet Proposed	Total Stream Bed Linear Feet Permitted
02070004	2	0	0	262	262
02070005	3	0	0	226	216
02070006	6	0	0	690	690
02070007	1	0	0	212	212
02070008	1		0.08	0	0
02070010	2	0	0	305	305
02070011	2	0.693	0.693	605	605
02080102	1	0.068	0.068	0	0
02080103	3	0.094	0.094	80	80
02080104	1	0	0	55.5	55.5
02080105	2	0.026	0.026	0	0
02080106	1	0.014	0.014	122	122
02080111	1	0.003	0.003	35	35
02080201	12	0	0	1414	1414
02080202	6	0	0	483	483
02080203	3	0	0	295	295
02080204	1	0	0	70	70
02080206	3	0.192	0.11	0	0
03010101	9	0	0	1299	1299
03010103	2	0	0	510	510
03010105	1	0.032	0.032	130	130
05050001	8	0	0	1608	1608
06010101	1	0	0	420	420
06010102	1	0.39	0.39	156	156
<i>Total</i>	<i>73</i>	<i>1.512</i>	<i>1.51</i>	<i>8,977.5</i>	<i>8,967.5</i>

Table 9. Compensatory Mitigation Authorized (linear transportation) June 1, 2012 through August 31, 2013			
Wetland Mitigation Action	Wetland Acres	Upland Buffer Acres	Wetland Credits
Bank			1.597
Creation	0.22	0	
Preservation	0	0	
Fund	0.399		
Stream Mitigation Action	Stream LF	Stream Buffer Acres	Stream Credits
Bank			541
Enhancement	0	0	
Restoration	0	0	
Preservation	0	0	
Fund	0	0	0

Table 10. Initial screening activities performed (linear transportation) June 1, 2012 through August 31, 2013		
Type of Cultural Resources Screening	Action	Number
Virginia Department of Transportation (VDOT) Projects with Preliminary Review by VDOT Staff	Total No Historic Properties Effected Determination reviewed by DEQ CRS	71