

United States Army Corps of Engineers, Norfolk District

Wetlands Permitting Workshop for Local Governments

May 31, 2018

Hampton Roads Planning District Commission Boardroom
723 Woodlake Drive, Chesapeake, VA 23320

Time	Subject	Presenter
0830-0900	Sign-in and Refreshments	
0900-0915	Welcoming Remarks: Introductions Topics to Cover	Tom Walker and Whitney Katchmark
0915-1000	Regulatory Branch Background and Organization Current Application Process	Tom Walker and Melissa Nash
1000-1030	Best Practices for Wetland Permit Applications Tips	George Janek
1030-1045	Break	
1045-1115	Coordination with Other Agencies Who does what? USACE VMRC DEQ	Audrey Cotnoir
1115-1145	New Regional General Permit Fall 2018	Tucker Smith and Emily Brooks
1145-1215	Questions and Answers	All

Waters of the US

Legal Basis:

1776 US Constitution

Enumerated powers: Article I, Section 8, Clause 3

The United States Congress shall have power "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."



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Waters of the US

Legal Basis:

River and Harbors Act (1899)

It shall not be lawful to excavate or fill, or in any manner to alter or modify the course, location, condition, or capacity of, any...navigable water of the United States, unless the work has been recommended by the Chief of Engineers..."(Navigable waters of the United States are those waters that are subject to the ebb and flow of the **tide** and/or are presently used, or have been used in the past, or may be susceptible for use to **transport interstate or foreign commerce**.)

Clean Water Act (1972)

" The **Secretary** may issue permits, after notice and opportunity for public hearings for the discharge of dredged or fill material into **navigable waters**..."(The term "navigable waters" means the waters of the United States including the territorial seas.)



Waters of the US

Rivers and Harbors Act

Lateral limits:

Jurisdiction extends shoreward to the mean high tide line in tidal waters or the ordinary high water mark in non-tidal waters and waterward to 3 nautical miles.



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Waters of the US

Clean Water Act

Lateral limits:

Wetland

Hydrology: The area must be saturated or inundated for at least 5% of the growing season.

Hydrophytic Vegetation: At least 50% of the dominant vegetation must be hydrophytic.

Hydric Soil: The area must be underlain with hydric soil.



Open waters and Tributaries

Ordinary High Water Mark: line on the shore established by the fluctuations of water and indicated by physical characteristics

High Tide Line: maximum height reached by a rising tide. Includes Spring tides and other regularly occurring higher tides but not storm surge.



Waters of the US

Clean Water Act

33 CFR 328.3 (a)(1-7) included waters

- All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce.
- All interstate waters.
- All intrastate waters where the use, degradation or destruction of which could affect interstate or foreign commerce.
- All impoundments of waters of the United States.
- Tributaries of waters identified in (1)-(4).
- The territorial seas.
- Wetlands adjacent to waters identified in (1)-(6).



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Waters of the US

Clean Water Act

33 CFR 328.3 (a)(8) excluded waters

- Waters of the United States do not include prior converted cropland.
- Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA

1986 33 CFR 320-330 Preamble

- Non-tidal drainage ditches excavated in dry land
- Artificially irrigated area
- Artificial lakes and ponds created in dry land
- Artificial reflecting or swimming pools created in dry land
- Waterfilled depressions created in dry land incidental to construction activities



6

Waters of the US

Clean Water Act

Legal Action:

SWANCC

“Isolated” Waters

1986 33 CFR 320-330 Preamble:

- Waters which are or would be used as habitat by birds protected by Migratory Bird Treaties
- Waters which are or would be used as habitat by other migratory birds which cross state lines
- Used to irrigate crops sold in interstate commerce

Pursuant to Supreme Court decision in SWANCC v USACE, the Migratory Bird Rule can no longer be used to assert jurisdiction.



Waters of the US

Clean Water Act

Legal Action:

Rapanos

Always Jurisdictional:

- Traditional navigable waters (TNW)
- Wetlands adjacent to TNW
- Non-navigable tributaries of TNW that are relatively permanent waters (RPW)
- Wetlands that directly abutt RPW

May Be Jurisdictional:

- Non-navigable tributaries that are not relatively permanent waters
- Wetlands adjacent to non-navigable tributaries that are not relatively permanent waters
- Wetlands adjacent to but not directly abutting RPW

Not Typically Jurisdictional:

- Swales or erosional features
- Ditches excavated wholly in and draining only uplands and that do not carry a relatively permanent flow of water



Norfolk Districts Regulatory Branch



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Wetlands



Streams



Perennial



Intermittent



Ephemeral(?)

**Stormwater
Ditches
(Built in
Uplands)**



**Stormwater
Management
Facilities
(Built in
Uplands)**



HAMPTON ROADS PLANNING DISTRICT COMMISSION WORKSHOP WETLANDS PERMITTING FOR LOCAL GOVERNMENTS

Regulatory Branch Organization and
Current Application Process
Prepared by Melissa Nash
31 May 2018

"The views, opinions and findings contained in this report are those of the author(s) and should not be construed as an official Department of the Army position, policy or decision, unless so designated by other official documentation."



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Agency Acronyms

Agencies:

EPA – Environmental Protection Agency

NMFS – National Marine Fisheries Service

FWS – Fish and Wildlife Service (Service)

VMRC – Virginia Marine Resources Commission

VDEQ – Virginia Department of Environmental Quality

VDCR – Virginia Department of Conservation and Recreation

VDGIF – Virginia Department of Game and Inland Fisheries

VDHR – Virginia Department of Historic Resources

VIMS – Virginia Institute of Marine Science



Frequently Used Acronyms

JPA – Joint Permit Application

PCN – Pre-Construction Notification

JD – Jurisdictional Determination (PJD and AJD)

PN – Public Notice

RP – Regional Permit

NWP – Nationwide Permit

IP – Individual Permit

FOIA – Freedom of Information Act

ROD – Regulator of the Day

CorpsMap – Regulatory GIS tool

VCRIS – Virginia Cultural Resources Information System

IPAC – Information for Planning and Consultation (FWS Database)

NLAA – Not Likely to Adversely Affect

CZMA – Coastal Zone Management Act



References to Regulations

Section 10 (Portion of the Rivers and Harbors Act of 1899 that we operate under)

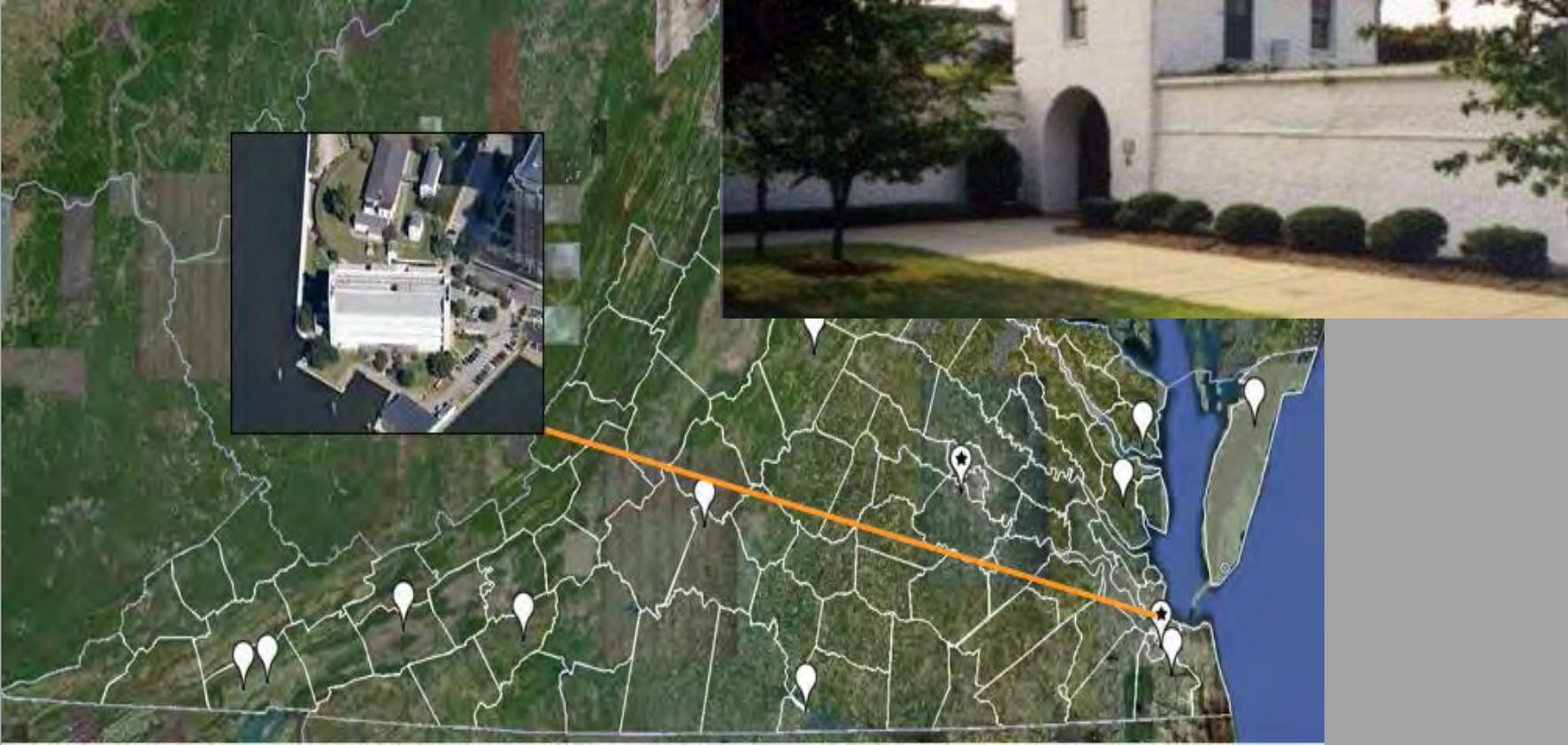
Section 404 (Portion of the Clean Water Act that we operate under)

Section 408 (33 USC 408, Process for evaluating work near USACE Civil Works Projects)

Section 106 (Reference to the National Historic Preservation Act)

Section 7 (Reference to the Endangered Species Act)

USACE NORFOLK DISTRICT 803 FRONT STREET, NORFOLK



REGULATORY BRANCH ORGANIZATION

Current District Engineer is Colonel Jason Kelly

Branch Chief-Tom Walker

Deputy Branch Chief-Kimberly Prisco-Baggett

Five Sections with Field Offices throughout Virginia





Corps Contacts by Locality

Eastern Section

Peter Kube

Chesapeake

Franklin

Isle of Wight County

Norfolk

Portsmouth

Smithfield

Southampton County

Suffolk

Surry County

Virginia Beach

Southern Section

Todd Miller/
George Janek

Hampton

James City County

Newport News

Poquoson

Williamsburg

York County

Northern Section

Tucker Smith

Gloucester County

REGULATORY BRANCH WEBPAGE

Contact Information

Regulatory Branch

803 Front Street
Norfolk, VA 23508

Submitting a Joint Permit Application?

Email your JPA directly to VMRC by clicking here.
JPA instructions and documents are here.

All other requests

Email the regulator of the day at cenao-reg_rod@usace.army.mil
Exception:

Richmond Field Office projects can be sent directly to the Richmond Field Office. See our contacts page for the list of affected counties.

Include a Preapplication Request Form with your request

Need Assistance?

Call the Regulator of the Day
757-201-7652

[Find your local regulator](#)

Regulatory Branch

The Norfolk District Regulatory Office is dedicated to protecting the nation's aquatic resources while allowing reasonable and necessary development, as wetlands filter pollutants from runoff, help store and slow floodwaters during storm events, and provide habitat for many different types of plants and animals.

The office issues permits for regulated activities proposed throughout the state of Virginia. Areas that the Norfolk District regulates include, but are not limited to, tidal marshes, seasonally saturated forested and non-forested wetlands, swamps, rivers, bays, and streams.

Regulatory issues permits under the authority of Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.

Regulatory Links

- [Public Notices](#)
- [FOIA Requests](#)
- [Joint Permit Application ...](#)
- [General Information](#)
- [Regulatory Info Pamphlet ...](#)
- [Regional Permits ...](#)
- [Printable Nationwide Permits](#)
- [Issued Permits ...](#)
- [Appeals](#)
- [Jurisdictional Determinations](#)
- [Commonly Requested Information](#)
- [Tidewater JPA ...](#)
- [Standard JPA ...](#)

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



Helpful Information

Need assistance?
Call the **Regulator of the Day**
757-201-7652

Email the regulator of the day at
cenao-reg_rod@usace.army.mil

Submit a [Preapplication Request Form](#) to start
the process

Regulatory Branch WebPage

Contact Information

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Pre-application Request Form



NORFOLK DISTRICT REGULATORY OFFICE PRE-APPLICATION AND/OR JURISDICTIONAL WATERS DETERMINATION REQUEST FORM

This form is used when you want to determine if areas on your property fall under regulatory requirements of the U.S. Army Corps of Engineers (USACE). Please supply the following information and supporting documents described below. This form can be filled out online and/or printed and then mailed, faxed, or e-mailed to the Norfolk District. Submitting this request authorizes the US Army Corps of Engineers to field inspect the property site, if necessary, to help in the determination process. **THIS FORM MUST BE SIGNED BY THE PROPERTY OWNER TO BE CONSIDERED A FORMAL REQUEST.**

The printed form and supporting documents should be mailed to:

U.S. Army Corps of Engineers, Norfolk District
Regulatory Office
803 Front Street
Norfolk, Virginia 23510-1096

Or faxed to (757) 201-7678

Or sent via e-mail to: CENAO.REG_ROD@usace.army.mil



Tips for filling out a Preapplication Request Form

- Include enough information about the site, so we can find it on aerial photos and other maps
- Include GPIN, latitude and longitude, physical address
- We need the property owner's signature on the form
- Send to CENAO.REG_ROD@usace.army.mil

Current Application Process

The Joint Permit Application links are on our website

Contact Information

Regulatory Branch

803 Front Street
Norfolk, VA 23508

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Regulatory Links

[Public Notices](#)

[FOIA Requests](#)

[Joint Permit Application ...](#)

[General Information](#)

[Regulatory Info Pamphlet ...](#)

[Regulatory Permits ...](#)

[Permit Nationwide Permits](#)

[Issuance of Permits ...](#)

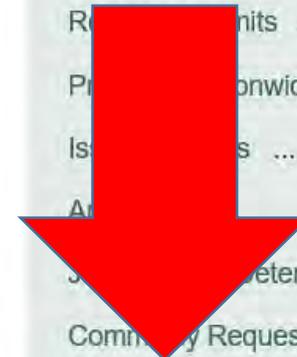
[Application Process ...](#)

[Permit Determinations](#)

[Community Requested Information](#)

[Tidewater JPA ...](#)

[Standard JPA ...](#)



WHICH JPA SHOULD YOU USE?

Tidewater Joint Permit Application (JPA)
For Projects Involving Tidal Waters, Tidal Wetlands
and/or Dunes and Beaches in Virginia



STANDARD JPA



United States Army Corps of Engineers (USACE) - Norfolk District
803 Front Street, ATTN: CENAO-WR-R
Norfolk, Virginia 23510-1011
Phone: (757) 201-7652, Fax: (757) 201-7678
Website: <http://www.nao.usace.army.mil/Missions/Regulatory.aspx>



Virginia Marine Resources Commission (VMRC)
Habitat Management Division
2600 Washington Avenue, 3rd Floor
Newport News, Virginia 23607-0756
Phone: (757) 247-2200, Fax: (757) 247-8062
Website: <http://www.mrc.virginia.gov/hmac/hmoverview.shtm>



Virginia Department of Environmental Quality (DEQ)
Virginia Water Protection Permit Program
Post Office Box 1105
Richmond, Virginia 23218
Phone: (804) 698-4000
Websites: <http://www.deq.virginia.gov/>
<http://www.deq.virginia.gov/Locations.aspx>



JPA Process

- Submit JPA to VMRC
- VMRC sends the application to the Corps, DEQ and Wetlands Board
- Our Administrative staff project adds the project to our database
- The JPA is assigned to a Project Manager by the Chief for the section that reviews projects in the locality where project is located
- Project Manager contacts applicant or agent to notify them that project has been received

[Norfolk District Regulatory Branch](#)

THE CORPS IS NEITHER A PROPONENT NOR OPPONENT OF ANY PERMIT PROPOSAL. THE CORPS BELIEVES THAT APPLICANTS ARE DUE A TIMELY DECISION.





Summary

[Norfolk District Regulatory Branch](#)

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

Our website contains:

JPA links, the NWP and RP Enclosures

Contact information and Territory Map

Public Notices

List of Agents and Consultants

FOIA link

When you have questions- call the ROD 757-201-7652

HAMPTON ROADS PLANNING DISTRICT COMMISSION WORKSHOP WETLANDS PERMITTING FOR LOCAL GOVERNMENTS

Tips for Wetland Permit Applications

Prepared by George Janek

31 May 2018

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Good Practices for Permit Actions

- Schedule a pre-application meeting with the Corps and other agencies.
- An opportunity to discuss permitting issues before you submit a permit application.
- May discuss wetlands, avoidance and minimization, 408 permission, and permitting pathways.

Pre-Application Meeting



Application – delineation or sketch of wetland and streams



Preconstruction Notification

- Check Corps website to see if NWP may be non-reporting.
- Joint Permit Application (JPA) or check PCN requirements in Nationwide permits.
- Use the PCN requirements as a checklist; it may help streamline your permit review.



Preconstruction Notification

- Applicant name, address, telephone number
- Location of proposed activity (decimal degrees)
- Identify the specific NWP, if known
- A description of the proposed activity with project purpose
- Delineation of wetlands, streams, special aquatic sites
- If impacts > 1/10 of an acre, mitigation statement
- Threatened and Endangered Species (check IPAC)

PCN (continued)

- Wild and Scenic Rivers (not a concern yet)
- 408 impacts – levees, oyster reefs, federal navigation channels.
- Double check the list of 10 items in the back of each of the NWPs.

PCN – Project Location



PCN – project description



PCN – wetland delineation



PCN contents – T&E species





PCN contents (continued)



Joint Permit Application

STANDARD JOINT PERMIT APPLICATION

 United States Army Corps of Engineers (USACE) - Norfolk District 803 Front Street, ATTN: CENAO-WR-R Norfolk, Virginia 23510-1011 Phone: (757) 201-7652 Fax: (757) 201-7878 Website: http://www.nao.usace.army.mil/Missions/Regulatory.aspx	 Virginia Marine Resources Commission (VMRC) Habitat Management Division 2000 Washington Avenue, 3 rd Floor Newport News, Virginia 23607-0755 Phone: (757) 247-2200, Fax: (757) 247-9052 Website: http://www.vmr.com/virginia.gov/vmrc/marineview.shtml
 Virginia Department of Environmental Quality (DEQ) Virginia Water Protection Permit Program Post Office Box 1105 Richmond, Virginia 23218 Phone: (804) 698-4000 Websites: http://www.deq.virginia.gov/ http://www.coc.virginia.gov/locations.asp	

The following instructions and information are designed to assist you in applying for permits from federal, state, and local regulatory agencies for work in waters and/or wetlands within the Commonwealth of Virginia. The intent is to provide general information on the permit process, not to act as a complete legal and technical reference. Refer to the applicable laws, regulations, and/or guidance materials of each agency for a complete understanding of each agency's application requirements.

JOINT PERMIT APPLICATION PROCESS

The Joint Permit Application (JPA) process and Standard JPA form are used by the United States Army Corps of Engineers (USACE), the Virginia Marine Resources Commission (VMRC), the Virginia Department of Environmental Quality (DEQ), and the Local Wetlands Boards (LWB) for permitting purposes involving water, wetlands, and dune/beach resources, including water supply and water withdrawals projects (as defined in DEQ Regulation 9 VAC 25.2-10).

The Tidewater Joint Permit Application form is used for proposed private or commercial aquaculture projects and most commercial and noncommercial projects in **tidal waters, tidal wetlands, and coastal primary sand dunes and beaches in Virginia** that require the review and/or authorization by the LWB, the VMRC, the DEQ, and/or the USACE. The Tidewater JPA may be downloaded from the same Web page on which the Standard JPA is located: <http://www.nao.usace.army.mil/Missions/Regulatory/JPA.aspx>. If using the Tidewater JPA, follow the instructions provided with that form.

Please note that some health departments and local agencies, such as local building officials and erosion and sediment control authorities, do not use the Joint Permit Application process or forms and may have different informational requirements. The applicant is responsible for contacting these agencies for information regarding those permitting requirements.

REGULATORY AUTHORITIES OF PARTICIPATING AGENCIES: The USACE regulates activities in Waters of the United States, including wetlands, under Section 404 of the Clean Water Act (33 U.S.C. §1344), Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403), and Section 103 of the Marine Protection Research and Sanctuaries Act of 1972 (33 U.S.C. §1413).

Joint Permit Application

- Online at VMRC and Corps websites.
- Check the PCN box at the top.
- Latitude and longitude at center of project (helpful for each impact site too).
- What type of pilings, vibratory or impact installation, construction vessels, turbidity curtains, etc.
- Tree removal.
- Alternatives or design measures considered



Nationwide Permits

- Check Regional Conditions
- IPaC and VCRIS
- Countersinking of drainage pipes.
- Compensation for almost all transportation projects.

Five Commonly Used NWPs

- NWP 3 – maintenance activities.
- NWP 12 – utility line activities.
- NWP 13 – bank stabilization.
- NWP 18 – minor discharges.
- NWP 27 – aquatic habitat restoration.

Nationwide permit 3

- Repair/replacement of previously authorized serviceable structures and fills.
- 200 foot limit, new or additional riprap, limits stream channel modifications.
- Countersinking regional condition.



Countersunk pipes





Countersunk pipe





NWP 12 – Utility Crossings





Nationwide 13 – Bank Stabilization





NWP 18 – Minor Discharges





Nationwide 27 – Aquatic Habitat Restoration





Nationwide 54 – Living Shoreline



Summary

- Request a pre-application site visit if you think it's needed.
- Fill out the preconstruction notice/JPA as completely as possible.
- Discuss alternatives considered and mitigation measures.
- Timely response to additional information requests

HAMPTON ROADS PLANNING DISTRICT COMMISSION WORKSHOP WETLANDS PERMITTING FOR LOCAL GOVERNMENTS

Coordination with Other Agencies

Prepared by Audrey Cotnoir

31 May 2018

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COORDINATION WITH OTHER AGENCIES

1. Other Permitting Agencies
2. Internal Coordination
3. Other Federal Laws requiring coordination





Other Permitting Agencies using Joint Permit Application (JPA)

Virginia Marine Resources Commission (VMRC)

- Code of Virginia Title 28.2
- State-owned submerged bottom lands- mean low water mark

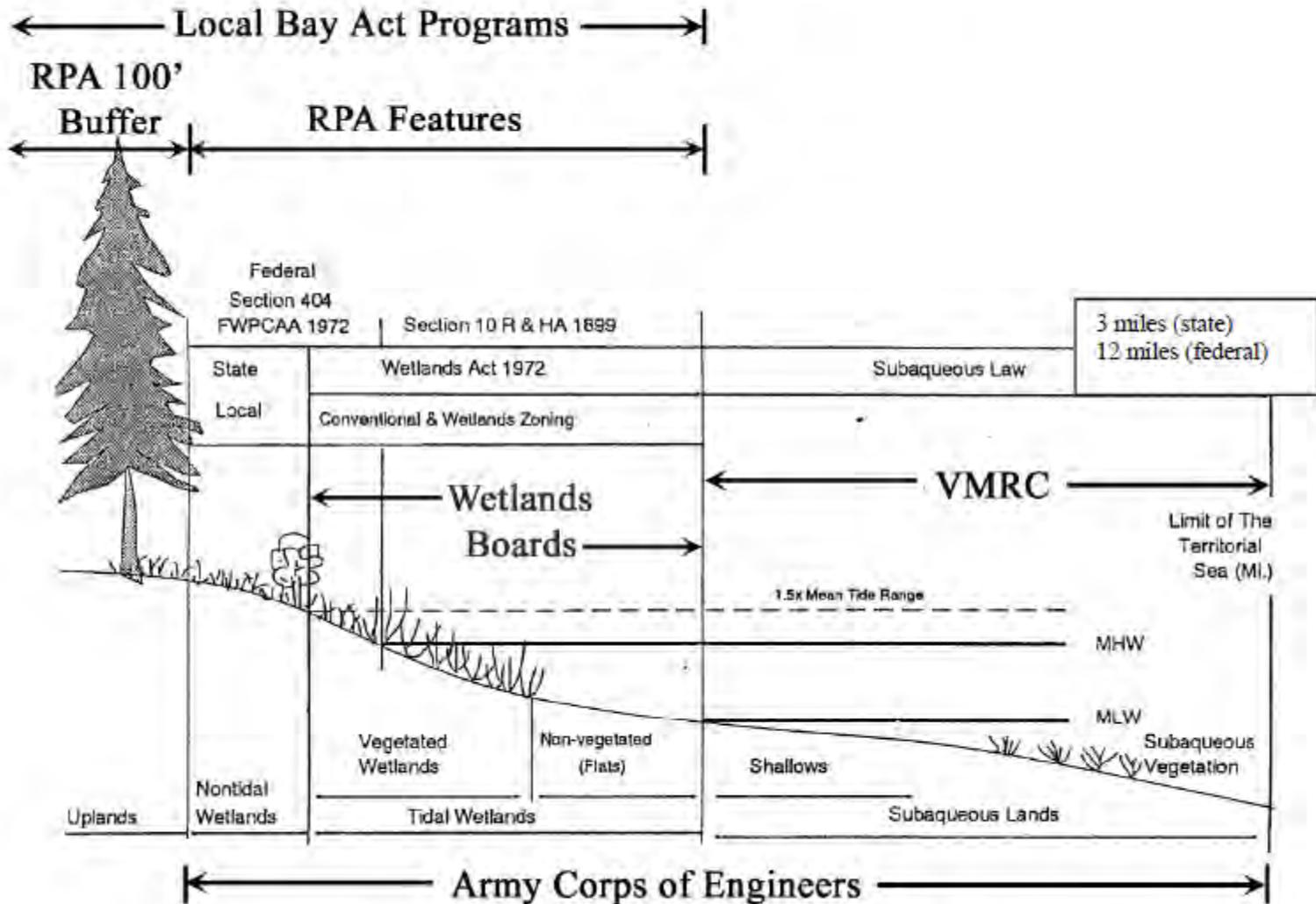
Local Wetlands Board

- Virginia Wetlands Act, Chesapeake Bay Preservation Act, local ordinances
- Tidal wetlands (vegetated and non-vegetated) mean low water to one and one-half times the mean tide range

Virginia Department of Environmental Quality (DEQ)

- Section 401 of the Federal Clean Water Act and Virginia Wetlands Act
- Coastal Zone Management Act (CZMA) consistency certification
- Tidal, Non-tidal wetlands, Isolated wetlands

JURISDICTIONAL BOUNDARIES



and DEQ (including isolated wetlands)



Coordination with other Permitting Agencies

- Coordination is very project specific
- Arrange Joint Site Visits
- Communicate on actions – additional information requests
- Provide copies of permit
- VMRC website documents
- Wetlands Board Hearings



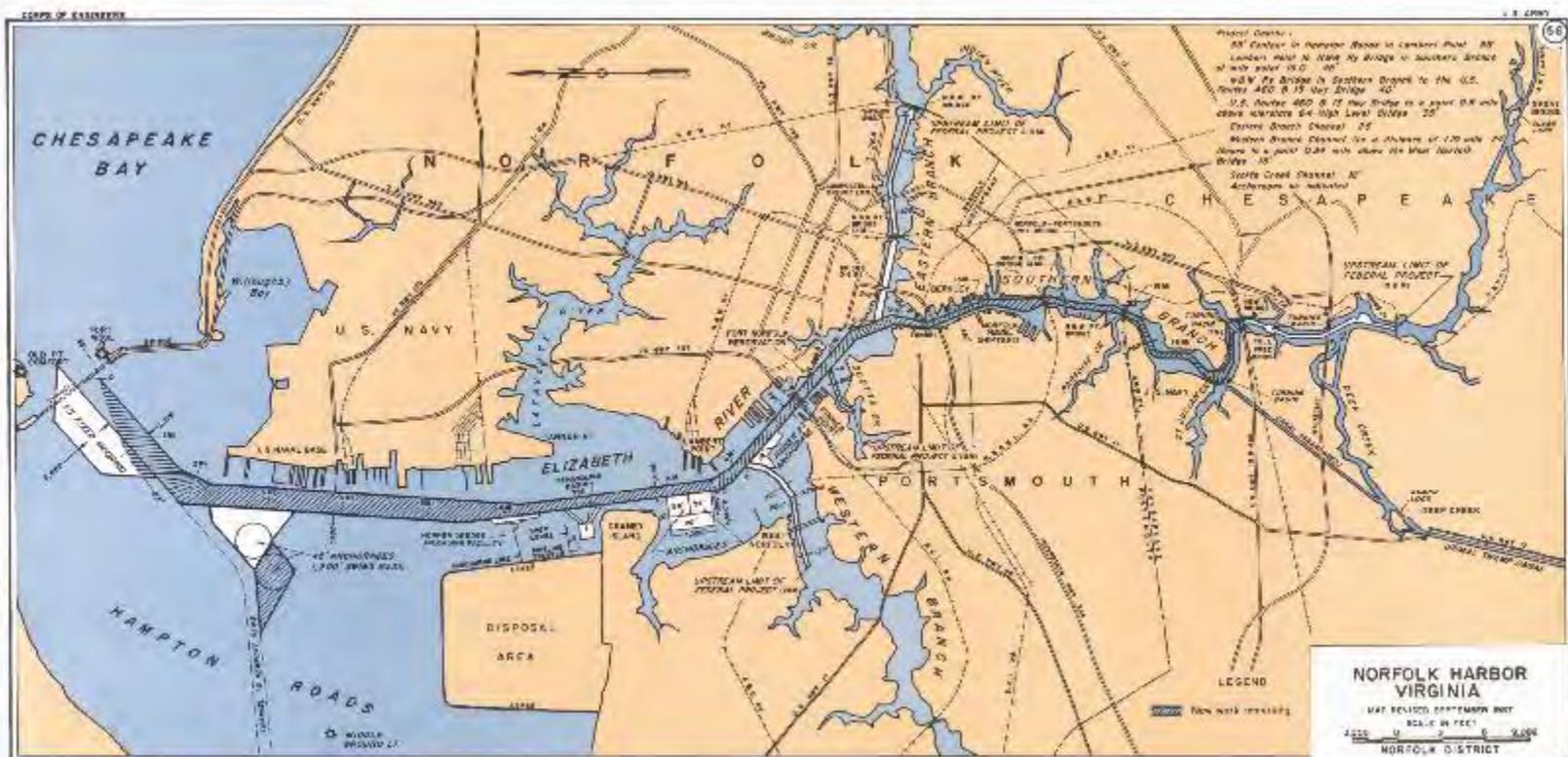
COORDINATION WITH OTHER AGENCIES

Internal Coordination



Internal Coordination “Section 408”

33 USC 408: Authorizes the Secretary of the Army to permit alterations/modifications to existing Corps projects in certain circumstances.





Regulatory Role in Section 408

- Not a permit action handled by Regulatory
- Regulatory reviews CorpsMap to determine if the proposed permit action intersects with a Federal Project
- Regulatory must coordinate with Section 408 personnel (Operations, Real Estate)
- Regulatory permit cannot be issued until a decision on the Section 408 request
- Section 408 permission letter is attached to the permit and is a special condition of the permit

CorpsMap GIS Tool

FEEDBACK HELP REPORTING TOOL HELP

General Navigation Environmental Flood Risk Management **Regulatory** Emergency Management Project Specific Maps

Regulatory

Layers

- Regulatory Report Layers
 - CCB Bald Eagle Nest (2016)
 - CCB Bald Eagle Nest (2016) - 660'
 - FEMA Flood Hazard Area
 - NAO Dredged Material Placement Area
 - NAO Federal Navigation Channel
 - NAO Federal Navigation Channel S
 - NAB Federal Navigation Channels
 - NAO Flood Risk Management Proj
 - NAO Oyster Reefs
 - NAO Reference Well Site
 - NAO Section 408 Boundary (DRAF
 - NAO Tribal Interests
 - NMFS Atlantic Sturgeon Critical Ha
 - NMFS Atlantic Large Whales
 - NMFS Essential Fish Habitat
 - NMFS Sea Turtles
 - NRCS Wetlands Determination (WI
 - RIBITS Bank List
 - USACE Recreation Areas
 - USACE Reservoirs
 - USFWS Critical Habitat
 - VDCR Endangered Species
 - VDGIF Bald Eagle Concentration A
 - VDGIF Anadromous Fish Use Wate
 - VDGIF TE Waters
 - VDGIF Cold Water Stream Survey
 - VDGIF Colonial Water Birds
 - VDGIF Federal & State Listed Spec
 - VDGIF NLEB Roost Trees
 - VDGIF NLEB Winter Habitat
 - VDHR Archaeological Resources
 - VDHR Architectural Resources
 - VIMS SAV Beds (2016)
 - VIMS SAV Beds (2015)

Legend

Search

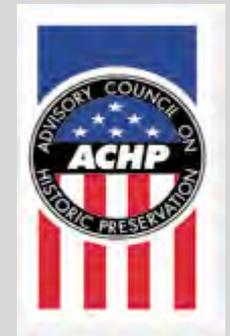
Print Map

Map Ready

RI AR Off SV Off OV Off TF Off CS Dist Area **NAO Dredged Material Placement Area** -76.42905, 36.90905 Lat/Long (WGS 1984)

COORDINATION WITH OTHER AGENCIES

Other Federal Laws requiring coordination



VIRGINIA INDIANS



DHR | Virginia Department of Historic Resources

Other Laws

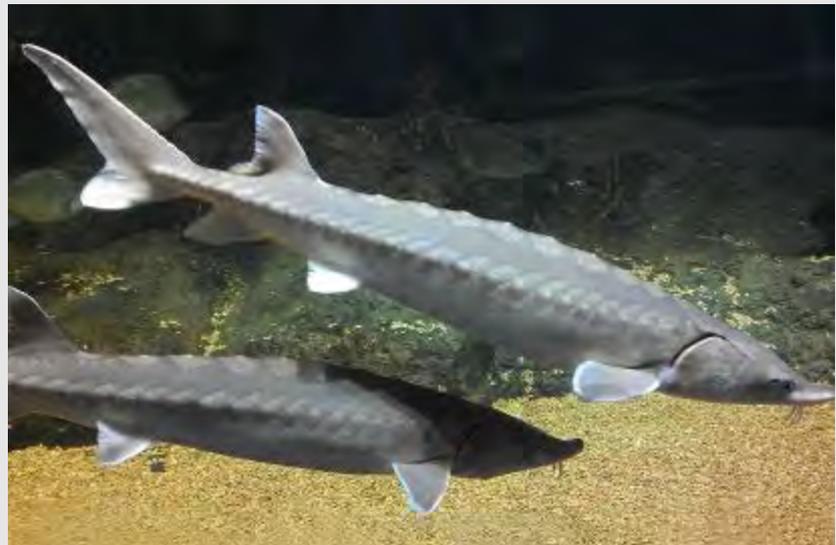
For permit decisions, we must not only follow the procedures of the Rivers and Harbors Act (Section 10) and the Clean Water Act (Section 404) but must also ensure compliance with many other laws including (but not limited to):

- Section 401, Clean Water Act (DEQ)
- Coastal Zone Management Act (DEQ)
- National Environmental Policy Act (NEPA)
- Endangered Species Act (ESA)
- Magnuson-Stevens Act (Essential Fish Habitat)
- Fish and Wildlife Coordination Act
- National Historic Preservation Act (NHPA)

Endangered Species Act (ESA) Section 7(a)(2) “Interagency Cooperation”

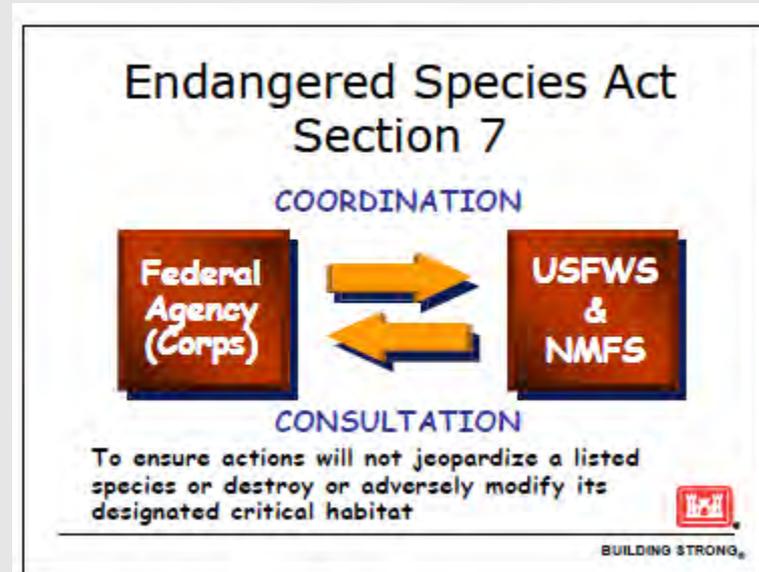
Two Federal Agencies-

- Fish and Wildlife Service (F&WS)- terrestrial and freshwater organisms
- National Marine Fisheries Service (NOAA NMFS)- marine wildlife (sea turtles, anadromous fish such as Atlantic sturgeon)



ESA Section 7(a)(2)

- Purpose- insure Federal actions do not jeopardize the continued existence of protected resources
- Effect Determinations:
 - ❖ No Effect
 - ❖ Not Likely to Adversely Affect (NLAA)
 - ❖ Likely to Adversely Effect
- Consult with F&WS or NMFS (Programmatic, Informal, Formal)
- F&WS “Information for Planning and Consultation (IPaC)” website
- NMFS “NLAA Program Verification Form”



ESA Section 7 Species Information and Maps

U.S. Fish & Wildlife Service
IPaC Information for Planning and Consultation
Powered by ECOS - the Environmental Conservation Online System

IPaC is a project planning tool which streamlines the USFWS environmental review process

[GET STARTED](#) [LOG IN](#)

[Need an updated species list?](#)

Integrate the environmental review process into your project design

Quickly and easily identify USFWS managed resources and suggested conservation measures for your project.

- Explore species and habitat**
See if any listed species, critical habitat, migratory birds or other natural resources may be impacted by your project.
Using the map tool, explore other resources in your location, such as wetlands, wildlife refuges, C&D land areas.
- Conduct a regulatory review**
Log in and define a project to get an official species list and evaluate potential impacts on resources managed by the U.S. Fish and Wildlife Service.
Follow IPaC's Endangered Species Review process—a streamlined, step-by-step consultation process available to select
- Perform an impact analysis**
For projects or species not covered by the step-by-step consultation process, get a list of potential impacts from your specified project activities to use when making effect determinations.
Receive conservation measures recommended by U.S. Fish and Wildlife

NOAA HOME WEATHER OCEANS FISHERIES CHARTING SATELLITES CLIMATE RESEARCH COASTS CAREERS Search NMFS Site ... GO!

NOAA FISHERIES | Greater Atlantic Region
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

GARFO | [Section 7 Program](#) | [Species Information and Maps](#) | [Technical Guidance](#) | [Biological Opinions](#) | [Reporting](#) | [Contact Us](#)

Programs | [Science Center](#) | [Councils & Commission](#) | [Contact Us](#)

Commercial Fishing | [Recreational Fishing](#) | [Managed Species](#) | [Aquaculture](#) | [Tribal Relations](#) | [Regulations](#) | [Quotas, Landings](#) | [Outreach](#) | [Resources](#) | [Section 7 Consultation](#) | [Community Resilience](#)

Species Information and Maps

ESA Section 7 Mapper

New 4/19/18 We have created a new App, the Section 7 Mapper, to assist Federal action agencies in identifying the ESA-listed species and critical habitat in their project action areas.

Access the ESA Section 7 Mapper

Within the Section 7 Mapper, we have included data layers that represent our best estimate of the spatial and temporal range of listed species' life stages, behaviors, and critical habitat in our Region. Use of this App **does NOT** replace the section 7 consultation process. We are providing the Section 7 Mapper as a technical assistance tool and expect action agencies will use it as a first step in determining if a proposed Federal action overlaps with listed species or critical habitat.

Access the User Guide for the Section 7 Mapper

For GIS users: to download the most up-to-date data informing the App, visit the "Section 7 Consultations (ESA)" tab on our GIS Data Download page.

We want to hear from you! Contact Us at NMFS.GAR.ESA.Section7@Noaa.gov to provide feedback!

ESA Listed Species Tables

These species presence tables are intended to aid Federal action agencies during their ESA section 7 consultation responsibilities within the GARFO region (e.g., Maine to North Carolina) and with their determination regarding whether activities authorized, funded, or carried out by a Federal agency overlap with our listed species. These tables can assist the Federal action agencies, as well as applicants and the general public, with an easy to navigate representation of the current, best available information of presence of listed species based on geographic factors, time of year, behavior and life stage.

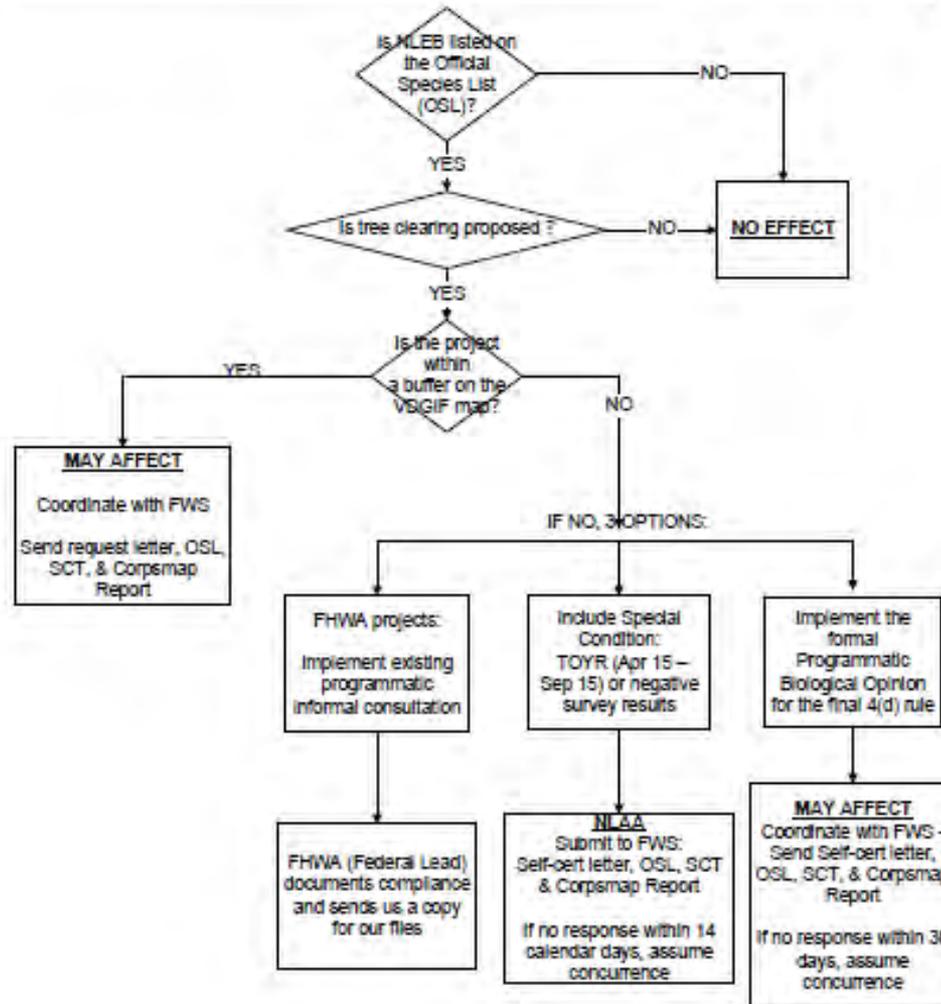
These tables do NOT replace the section 7 consultation process, but help determine if listed species may be located in an area that may be affected by proposed Federal actions. Even if the table indicates a species is not present in or near the vicinity of the proposed Federal action, the Federal action agency must still consider the nature of the proposed activity to determine if consultation is needed (i.e., do indirect effects from the proposed project extend into areas where species are likely to be present?). In cases where the species are not present and the action is extremely unlikely to extend into an area of species presence, the Federal action agency may conclude the consultation process with a No Effect determination. In that case, no further consultation with NMFS is necessary.

For widely ranging species such as whales, sea turtles, and sturgeon, the tables summarize the current, best available information on the presence of these listed species in the GARFO region offshore, nearshore and in rivers from Hamilton Inlet, Labrador, Canada to Cape Canaveral, Florida, USA. Rivers not included in the tables are those for which no targeted sampling has occurred or no other information on the use of the river is available. The Gulf of Maine DPS of Atlantic salmon is located in solely in the Gulf of Maine as described in the tables. The glossary page is intended to clarify certain terms used in the Species Presence Tables.

When referencing these tables for your environmental documentation or request for concurrence, please indicate the date the page

ESA Section 7 Process for Northern Long Eared Bat (NLEB)

Tuesday, March 08, 2016



Send coordination requests to: VirginiaFieldOffice@fws.gov
And include acreage of tree clearing (or number of trees being cleared).

VEGIF Map

<http://dgl-virginia.maps.arcgis.com/apps/webappviewer/index.html?id=32ea4ee293542c02e413dd319e5ec5>

GARFO ESA Section 7: 2017 NLAA Program Verification Form

(Please submit a signed version of this form, together with any project plans, maps, supporting analyses, etc., to nmfs.gar.esa.section7@noaa.gov with "2017 NLAA Program" in the subject line)

Section 1: General Project Details

Application Number:			
Applicant(s):			
Permit Type (e.g. NWP, LOP, RGP, IP, Permit Modification):			
Anticipated project start date (e.g., 9/1/2017)			
Anticipated project end date (e.g., 3/14/2018 – if there is no permit expiration date, write "N/A")			
Project Type/Category (check all that apply to entire action):			
<input type="checkbox"/>	Aquaculture (shellfish) and artificial reef creation	<input type="checkbox"/>	Transportation and development (e.g., culvert construction, bridge repair)
<input type="checkbox"/>	Routine maintenance dredging and disposal/beach nourishment	<input type="checkbox"/>	Mitigation (fish/wildlife enhancement or restoration)
<input type="checkbox"/>	Piers, ramps, floats, and other structures	<input type="checkbox"/>	Bank stabilization and dam maintenance
<input type="checkbox"/>	If other, describe project type/category:		
Project/Action Description and Purpose (include town/city/state and water body where project is occurring; relevant permit conditions that aren't captured elsewhere on form):			



Magnuson-Stevens Act and Fish & Wildlife Coordination Act (NOAA NMFS):

Essential Fish Habitat (EFH)

(all tidal portions of the Chesapeake Bay and tributaries)

- General concurrence for many projects- no consultation needed
- Individual Permits and General Permits with impacts to Submerged Aquatic Vegetation- coordination required

Anadromous fish:

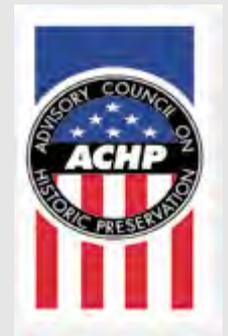
- If present, a time-of-year restriction on work in the water (No work February 15 to June 30 during spawning season) must be added as a permit condition.
- A waiver on the time-of-year restriction may be requested via coordination with NOAA NMFS

National Historic Preservation Act (NHPA)



National Historic Preservation Act (NHPA)

- Section 106 of the NHPA
- Virginia Department of Historic Resources (VDHR)
 - ❖ Virginia Cultural Resources Information System (VCRIS)
 - ❖ Electronic Project Information Exchange (ePIX)
- Programmatic Expedited Review Process
- Advisory Council on Historic Preservation (ACHP)
- Consulting Parties



Virginia Department of Historic Resources
Electronic Project Information Exchange (ePIX)



Tribal Consultation

Federally Recognized Tribes located in Virginia:

- Chickahominy Indian Tribe
- Chickahominy Indian Tribe-Eastern Division
- Monacan Nation
- Nansemond Indian Tribe
- Pamunkey Tribe
- Rappahannock Tribe
- Upper Mattaponi Tribe

Interested Tribes located outside Virginia:

- Absentee-Shawnee Tribe of Indians of Oklahoma
- Catawba Indian Tribe
- Cherokee Nation
- Delaware Nation
- Delaware Tribe of Indians
- Eastern Band of Cherokee Indians
- Eastern Shawnee
- Oneida Nation of New York
- Oneida Nation of Wisconsin
- United Keetoowah Band of Cherokee Indians



Tribal Issues- Consultation Triggers

- National Historic Preservation Act (NHPA) *
- Native American Graves Protection and Repatriation Act (NAGPRA)
- Archaeological Resources Protection Act (ARPA)
- Executive Order 13007 (Sacred Sites)
- Executive Order 12898 (Environmental Justice)
- Executive Order 13175 (Consultation w/Tribal Governments)
- Trust and Treaty Obligations (Tribal Specific)
- Department of Army American Indian & Alaska Native Policy*
- USACE Tribal Consultation Policy*
- USACE Tribal Policy Principles*

Questions/Discussions?



2018 Regional Permit Reissuance

Tucker Smith

Emily Brooks

NAO WRD-R

May 17, 2018



Norfolk District's Regional Permits

A type of general permit that authorizes activities that are similar in nature and cause only minimal individual and cumulative environmental impacts.

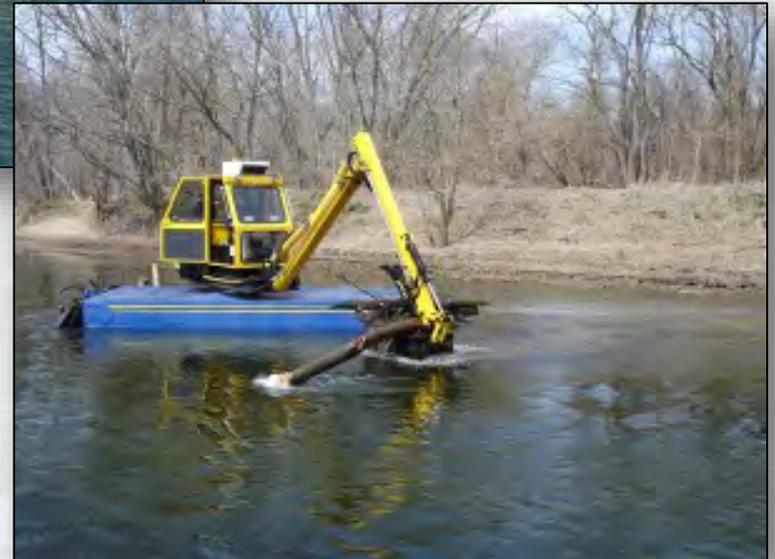
- **RP-01:** VDoT
- **RP-02:** Dredging
- **RP-11:** VDoT
- **RP-15:** Ditch Maintenance
- **RP-17:** Private Piers/Structures
- **RP-18:** Non-Private Piers/Structures
- **RP-19:** Shoreline Stabilization, Aquaculture, Boat Ramps



Regional Permit 02



New and maintenance dredging (channels and basins) for certain navigation-related recreational and commercial dredging projects, by either mechanical or hydraulic method.



https://mucksuckers.com/wp-content/uploads/2015/05/pond_dredging_barge.jpg



Regional Permit 15



Picture retrieved from <https://www.co.accomack.va.us/departments/environmental-programs/ditch-maintenance>.

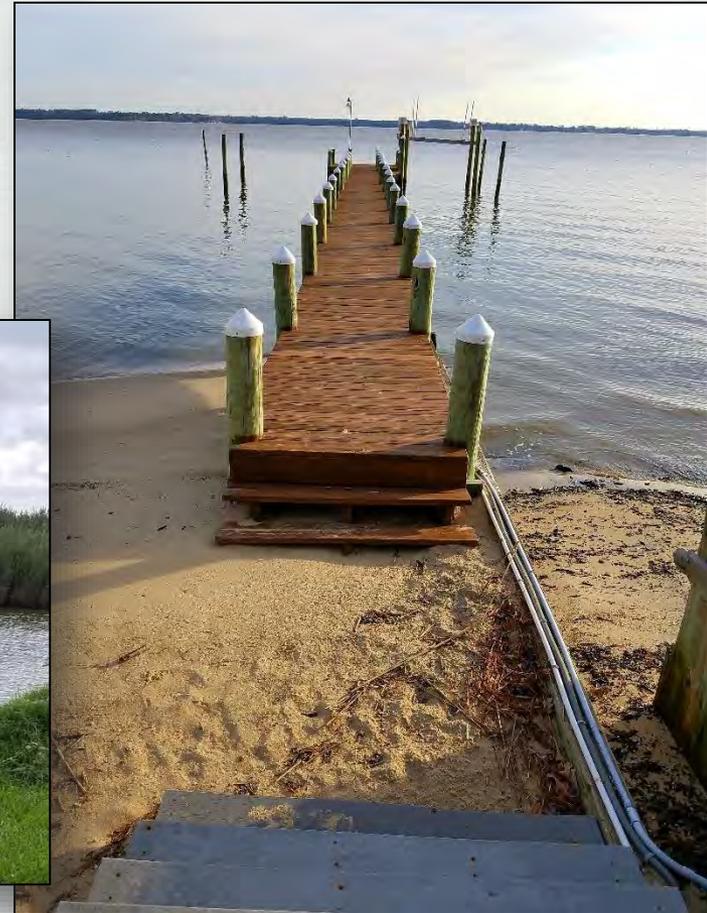
The maintenance of existing drainage ditches originally constructed in and previously authorized in navigable waters and waters of the United States for either mosquito control purposes or to maintain drainage from upland areas for the purposes of storm water management.





Regional Permit 17

The installation of open-pile piers, mooring piles, certain covered boat houses/lifts, osprey poles/ platforms, and devices associated with shellfish gardening, for private use.



Regional Permit 17

Non-Reporting Checklist

Please obtain and read a copy of the 18-RP-17 prior to completion of this form. Copies can be obtained by contacting the U.S. Army Corps of Engineers Regulatory Branch (Corps) at (757) 201-7 or on our website at: <http://www.nao.usace.army.mil/Missions/Regulatory/RBRegional.aspx>.

- YES NO Is the proposed pier and/or mooring structure(s) for private use ONLY?
- YES NO Does the proposed pier and/or mooring structure(s) extend LESS than 74 the width of the waterway as measured from MHW to MHW or OHW to OHW (including channelward wetlands) based on the narrowest distance across the waterway regardless of the orientation of the proposed pier (MHW = mean high water line; OHW = ordinary high water line)?
- YES NO Does the proposed pier and/or mooring structure(s) extend LESS than 300 feet from the mean high water line or ordinary high water line?
- YES NO N/A If the proposed structure crosses wetland vegetation, is it of an open-pile design that has a MAXIMUM width of five (5) feet and a MINIMUM height of four (4) feet between the decking and the wetland substrate?
- YES NO N/A Does the proposed pier include no more than two (2) bostlifts and/or no more than two (2) boat slips?
- YES NO N/A If the proposed pier is to include an attached open-sided shelter roof, is the cumulative roof square footage LESS than 700 square feet?
- YES NO Are all piles non-steel and ≤12" in diameter, and will ≤ 25 piles be installed below MHW?
- YES NO Have you confirmed that project will NOT effect a federally listed threatened or endangered species or designated critical habitat? See Notification Requirement #1 for more information.
- YES NO All work will occur behind cofferdams, turbidity curtains, or other methods to control turbidity will be utilized when operationally feasible.
- YES NO Have you confirmed that the proposed project will NOT occur in areas that contain submerged aquatic vegetation (SAV)? See Notification Requirement #2 for direction.
- YES NO Have you determined whether the proposed project will take place in an anadromous fish use area? If the proposed project will take place in an anadromous fish use area, will you adhere to the anadromous fish use area TOYR preventing in-water work from February 15 to June 30 of any given year? See Notification Requirement #3 for direction.
- YES NO Have you confirmed that the project will not take place in one of the Federal Navigation Channels, and/or does not meet any of the requirements listed in the "V. NOTIFICATION REQUIREMENTS #1-8" section of this permit?

IF YOU HAVE ANSWERED "NO" TO ANY OF THE QUESTIONS ABOVE, THE NON-REPORTING REGIONAL PERMIT 17 (18-RP-17) DOES NOT APPLY AND YOU ARE REQUIRED TO OBTAIN WRITTEN APPROVAL FROM THE CORPS PRIOR TO PERFORMING THE WORK.

Always Reporting

- Lower North Landing River from Blackwater Creek to the North Carolina State Line (Atlantic Intracoastal Waterway)
- Hampton Roads (Channel to Newport News, Norfolk Harbor and anchorages)
- Elizabeth River, E. Branch of Elizabeth River to the Norfolk and Western Railroad Bridge,
- S. Branch of Elizabeth River to a point 0.8 miles upstream of the I-64 Bridge
- W. Branch of Elizabeth River to a point 0.34 miles upstream of the West Norfolk Bridge
- Little River (Creek) except the Northwest Branch and Pretty Lake.
- Norfolk Harbor Channel, all reaches
- The York River from the Poropotank River to the Virginia Highway 33 Bridge at West Point
- The James River from Richmond to Hopewell and including Richmond Harbor and the Richmond Deepwater Terminal
- BROAD CREEK in Middlesex County
- FISHERMAN'S COVE in Norfolk
- SALT PONDS in Hampton



Regional Permit 17



VII. SPECIAL CONDITIONS:

1. Piers may not extend more than one-fourth of the distance across the waterway measured from either the mean high water mark to the mean high water mark (including all channelward wetlands) or the ordinary high water mark to the ordinary high water mark (including all channelward wetlands). **The measurement should be based on the narrowest distance across the waterway regardless of the orientation of the proposed pier.** Authorizing this encroachment assumes that the deep water is located in the center of the waterway. When this is not the case, the RP will not apply and the Corps' RP-18 may be used in lieu of this permit. Those proposed piers that will extend more than 300 feet from mean high water or ordinary high water will not qualify for this RP and the Corps' RP-18 may be used in lieu of this permit.



Regional Permit 18

The installation of open-pile piers, mooring piles, mooring dolphins, fender piles, mooring camels, covered boathouses, boatlifts, osprey pilings/platforms, and devices associated with shellfish gardening, for private, commercial, community, and government use.



Photo obtained from the Indian Creek Yacht and Vacation Club website.





Regional Permit 19

Construction and/or installation of living shoreline projects, low breakwaters, bulkheads, riprap, groins, jetties, spurs and/or baffles, associated beach nourishment, boat ramps, and aquaculture/mariculture activities.



Regional Permit 22

Certain activities within the Virginia portion of Lake Gaston including: construction of piers, boat docks, boat ramps and boathouses; excavation of boat slips and channels; construction and backfilling of bulkheads and placement of riprap; and installation of submerged and aerial power lines and utility lines.



Photo obtained from <https://lake-gaston.mosquitosquad.com/service-areas/lake-gaston-mosquito-tick-spider-control-treatment/>



Questions/Comments?

