

CHAPTER 21

WATERS OF THE UNITED STATES, STATE WATERS, AND WETLANDS

21.1 INTRODUCTION

Waters of the United States are surface bodies of waters, including bays, rivers, perennial and intermittent streams, ponds, lakes, and tidal and non-tidal wetlands. State Waters include all areas of waters of the United States plus isolated wetland areas. Wetlands are those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

These jurisdictional areas are determined by using the U.S. Army Corps of Engineers Wetland Delineation Manual (Technical Report Y-87-1, January 1987) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Eastern Mountain and Piedmont Region. Activities in these areas are regulated by the U. S. Army Corps of Engineers (USCOE), the Virginia Marine Resources Commission, and/or the Virginia Department of Environmental Quality. Contact information for these agencies is included at the end of this section.

21.2 APPLICABILITY

In accordance with Sec. 10-32 of the Henrico County Code, the requirements of this chapter apply to all regulated land-disturbing activities described in Chapter 3.

21.3 REQUIREMENTS

The following requirements must be addressed for all regulated land-disturbing activities:

- All waters of the United States, State Waters, and wetlands (waters/wetlands) must be clearly identified on the Environmental Compliance Plan (ECP).
- All waters/wetlands to remain must be clearly identified on the ECP.
- All waters/wetlands to be impacted must be clearly identified and quantified on the ECP.

- Evidence of authorization (including accompanying mapping) from all applicable agencies or an engineer's certification (non-notification) must be provided prior to ECP approval. An example of a letter with acceptable content and form can be found in the Appendix of this Manual.
- All impacts shown on the ECP must correspond to impacts (location and acreage) that are identified on the evidence of authorization that has been provided.
- Non-tearable yellow and black barricade tape or orange barricade fencing must be shown on the ECP along the limits of disturbance adjacent to or within waters/wetlands. This tape or fencing must be installed prior to a pre-construction meeting for the project as described in Chapter 17.

The following comments also apply to residential subdivisions:

- Lots that contain waters/wetlands that are not to be impacted must be identified on the ECP with a double asterisk (**) and the following note:

*Lots marked with ** may contain waters and/or wetlands as determined at the time of recordation of the plat. Disturbance outside of designated water and wetland impact areas will require approval from the U. S. Army Corps of Engineers and/or the Virginia Department of Environmental Quality. Additional requirements may be imposed on these lots prior to the issuance of building permits.*
- Lots that contain waters/wetlands, that are not to be impacted must be identified on the record plat with a double asterisk (**) and the following note:

*Lots marked with ** may contain waters and/or wetlands as determined at the time of recordation of the plat. Disturbance outside of designated water and wetland impact areas will require approval from the U. S. Army Corps of Engineers and/or the Virginia Department of Environmental Quality. Additional requirements may be imposed on these lots prior to the issuance of building permits. See construction plans on file in the Planning Office for additional details.*
- There must be a minimum separation between the rear of the buildable area and waters/wetlands to remain in the rear yard that is equivalent to the rear yard setback as determined by the Planning Department.
- There must be a 25-foot minimum separation between the side of the buildable area and waters/wetlands to remain (even if the waters/wetlands are not located on the lot).
- Waters/wetlands located in front yards and side yards must be considered as impacted and shown accordingly on the plans unless:
 - the waters/wetlands convey runoff from 100 acres or more of drainage, or

- evidence is provided from the appropriate federal or state agency stating that they will not authorize the proposed impacts. In this case, a 25 feet wide Natural Buffer Area that is measured from the jurisdictional channel is required on both sides of the channel. This natural area is to remain undisturbed and must be delineated on the ECP and clearly marked in the field. As with jurisdictional areas such as waters/wetlands to remain, RPA buffers, and SPA buffers, building setbacks must be measured from the Natural Area Buffer limits.
- Environmental Protection Area signs are required to be installed on residential lots containing waters/wetlands in accordance with Section 6.10 of this Manual. The signs must be installed prior to a pre-construction meeting for the project as described in Chapter 17.

21.4 CONTACTS

Agencies regulating activities in waters/wetlands:

U.S. Army Corps of Engineers
803 Front Street, Fort Norfolk
Norfolk, Virginia 23510
(757) 201-7727
Contact Name: Ms. Lynette Rhodes

Virginia Marine Resources Commission
Habitat Management Division
2600 Washington Avenue
Newport News, Virginia 23607
(757) 247-8028
Contact Name: Ms. Juliette Giordano

Virginia Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060
(804) 527-5086
Contact Name: Ms. Allison Dunaway