

**VWP General Permit TAC**  
**October 14, 2005**

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**Attendees:**

Catherine Harold, Ellen Gilinsky, Burt Parolari, Brenda Winn, David Davis, Tony Cario, Rene Hypes, Pat O'Hare, Bruce Williams, Ricky Woody, David Mergen, Todd Herbert, Lynwood Butner, John Bailey, Mike Kelly, Mike Rolband, Phil Abraham, Joan Crowther, Andy Zadnik, Tracey Harmon

**Review from previous meeting**

**Thresholds**

- Eliminating perennial and nonperennial designation in exchange for streambed.
- Clarifying State waters, open water, streams and wetlands. Open water and wetland; and a certain amount of streambed.
- DEQ recommends 1,500 linear feet. This appears to be a fair compromise since it is an increase in perennial stream impact and an increase in wetland acreage (stream acreage is removed from acreage threshold).
- To address resource agencies concerns about reporting stream type, we are going to require the information in the application.
- Morgan – requested something to require close coordination with localities in the application.
- Harold – The application requires the RPA areas shown on the map.
- Gilinsky – We could add that if the county requires the information it is required (approval of perenniality).
- Further discussion on thresholds, repeat of previous discussions. Consultants, VDOT, and applicants want 2,000 and resource agencies want 500.
- Abraham – recommends an increase to 2,000.
- Harold – VDOT uses this threshold per crossing.
- O'Hare – supports 2,000 as well and recommends it for VDOT especially
- Hypes and Zadnik – reiterated their support of smaller thresholds to protect NHR and T&E, and recommend a lower threshold for required mitigation.

**Incomplete application**

- Placing a 1-year limit on incomplete applications. Used "MAY" to give us leeway.
- Rolband – recommends a 90 day limit
- Parolari – Supports a shorter period
- Kelly – supports shorter time period, 90 days.
- Rayfield – we don't want a bunch of different permit numbers
- Cario – may require additional paperwork
- Harmon – VDOT supports the use of MAY
- Harold – asked TAC to agree on Six Months

- Consensus on Six Months
- Parolari – recommends switching the last two sentences.
- Woody – concerns regarding the requirement for survey’s may take longer than 6 months. [Permits can be suspended and permit writer would be understanding in this situation]

**Increase in amount for notice of planned change**

- Increase notice of planned change to 100 linear feet of streams.
- Parolari – What if the notice of planned change results in an increase of impacts to greater than “reporting only”
- O’Hare – do it the same as if someone exceeded the general permit thresholds, reapply for correct permit.
- Harmon – requested that we use the same language for T&E review here as before.
- Woody – clarification – If a new impact adversely impacts fish and wildlife resources, a GP is not applicable, then an IP is required for that impact.
- Herbert – denied noticed of planned change not permit. Distinction.
- Gilinsky – we will clarify this and send out an email.

**Deed restricted wetlands**

- Rolband – some deed restrictions say that no impacts are allowed unless you get a permit.
- Rayfield – we could just say that the applicant must disclose if there is a deed restriction so that it can be assessed for denial or additional mitigation.
- Harmon – likes this idea since they are usually small impacts.
- Herbert – May need public notice.
- Rolband – sewer lines are the typical reason that he needs to impact deed restricted wetlands
- Williams – COE requires someone to come to them if it is not specifically listed in the restriction. Then the COE may deny or approve it by vacating a portion of the deed restriction.
- Woody – they often have to go before the outdoor foundation to get approval. The deed restriction isn’t lifted and this is done at the end.
- Crowther – it shouldn’t be an IP because DEQ can require additional mitigation in the GP.
- Parolari – shouldn’t be in section 30 but should be informational requirement.
- O’Hare – There may be private deed restrictions where it would look bad for DEQ if we issue.
- Two issues, no reporting only approvals for impacts to deed restricted wetlands, and we need to know if there is a deed restriction.

**Definition for phased development**

- Rolband – make definition consistent with Corps.
- Williams – recommends providing guidance.
- Gilinsky – Can’t issue guidance, because the definition of person is in the Code.

- DEQ will request an official opinion from AG's office (Davis is responsible for doing this).

#### **Revisions to draft regs based on IPs**

- Definition of open water, streambeds
- Hypes - IWOMEV – some sensitive communities that are not forested.
- Gilinsky – it was not in the NOIRA and can't be changed. Suggested that Hypes submit her comments anyway.
- Harmon – definition of riprap, excludes uses of riprap. Strike purpose and embankment slope.

#### **Terms of Authorization**

- Increase authorization to 7 years (WP1) and WP2-4 for 10 years.
- Delete the word maximum
- VDOT supports 7 years
- Bailey – supports 7
- Kelly – supports 7

#### **Time of expiration**

- Increase regulation expiration date to 10 years.
- VDOT supports 10 years.

### **ADDED TRANSITION SECTION**

#### **Additional Questions**

- Parolari - Is the TAC done if there are no more questions?
- Harold – DEQ will address comments today and then send the regs back out for comment.
- Parolari – the regs were received last night or this morning by most of us. Can we have a few days to review and then decide if there is a need for another meeting? [Yes]

#### **After the fact permits**

- Williams – After the Fact Permit – he's heard that DEQ can't do this.
- Gilinsky – its not clear, we typically go through enforcement and a consent order.
- Crowther – its not clear
- Winn – it's a main regulation thing.
- Gilinsky – we'll review this.

#### **Preservation**

- Williams – COE encourages applicants to preserve the avoided wetlands as mitigation and gives them some credit. Would like DEQ to be consistent.
- Gilinsky - DEQ only approves high ratio mitigation for preservation only if its back 40 not avoided wetlands.
- Williams – avoided wetlands are not protected unless they are a deed restriction.

- Parolari – same issue with buffers
- Crowther – case by case. COE talks to people much earlier than DEQ, and its hard to know what is said. Last time we took out the language that says that the avoided wetlands must be preserved.

**Compensation ratios shall be at a MINIMUM (word minimum should be added).**

### **Stream Methodology**

Rolband – Regs state: assessment methodology approved by the board. Right now there is one recommendation in there. One factor that we can't use.

VDOT – supports Rolband comments

Rayfield – Add language that says the stream mitigation shall be appropriate to replace the functions and values lost.

Gilinsky – take out approved by the board.

Rolband – based on a methodology that replaces the functions and values.

Gilinsky – add acceptable to DEQ.

**Rolband - Ratios should state “on an aerial basis”. Agreeable.**

DEQ will send out the revised regs, TAC members will be able to review and then we will decided if another meeting is needed.