



## **Submitting Public Comments to State Water Control Board (SWCB)**

The sole purpose of the written public comment period is for interested persons to submit technical comments and/or information for the MVP and ACP projects relevant to:

- the sufficiency of the Corps NWP 12 permit's general and regional conditions, as they relate to specific, wetland or stream crossing(s);
- the sufficiency of the Corps NWP 12 permit authorization for each project, as related to specific, wetland or stream crossing(s); and/or
- The sufficiency of the Commonwealth's § 401 water quality certification of NWP 12, as related to specific, wetland or stream crossing(s).

### Instructions

1. All written comments submitted must include the name(s), mailing address(es) and telephone number(s) of the person(s) commenting.
2. All written comments submitted must be to a specific wetland or stream crossing. Comments should reference exact wetlands and streams crossings by the identifiers found at the following links:
  - Crossing identifiers for the MVP project:
    - [Field Stream Impacts](#)
    - [Field Wetland Impacts Jurisdictional](#)
    - [Field Wet Impacts Non-Jurisdictional](#)
    - [Wetland Impacts](#)
  - Crossing identifiers for the ACP project:
    - [Impact Table of Waters](#)
3. Written comments may be submitted via hand-delivery to DEQ, [1111 East Main Street, Richmond, VA 23219](#); via postal mail to DEQ, P.O. Box 1105, Richmond, VA 23218; or via e-mail at the following email address(es) ONLY – emails and attachments sent to other email addresses or internet sites will not be considered:
  - [NWP12InfoOnMVP@deq.virginia.gov](mailto:NWP12InfoOnMVP@deq.virginia.gov)
  - [NWP12InfoOnACP@deq.virginia.gov](mailto:NWP12InfoOnACP@deq.virginia.gov)
4. After the comment period closes, DEQ will evaluate the comments; will submit to the board a summary of the relevant comments received; will concurrently provide the summary to the public by posting it; and will make the full text of the comments available to the board.
5. The board may consider, but is not required to consider, further actions that are consistent with its regulatory authority, without additional public comment on whether further action is warranted.

Written comments must be received between April 30, 2018 and 11:59 pm on May 30, 2018. For assistance with the instructions in this notice or issues with the DEQ web page(s), please contact the Office of Public Information & Outreach at [deqpublicinfo@deq.virginia.gov](mailto:deqpublicinfo@deq.virginia.gov) or 804-698-4000.



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Nationwide Permit 12 - Activities in Wetlands and Streams for both MVP and ACP

The U.S. Army Corps of Engineers (Corps) Nationwide Permit (NWP) 12 authorizes discharges of dredged or fill material into wetlands and streams during the construction of pipelines. On April 7, 2017, DEQ, acting in accordance with the State Water Control Board's (board) regulations, certified NWP 12 under the Corps' NWP program, including the Norfolk District Regional Conditions, will be conducted in a manner which will not violate applicable water quality standards.

The Corps granted coverage under NWP 12 to MVP on December 26, 2017, and to ACP on February 9, 2018.

At the April 12 meeting, some board members brought up for discussion whether NWP 12 is sufficiently protective of the Commonwealth's aquatic resources. DEQ advised the board that the protections established in NWP 12 were the same as those that would have been established in an individual VWP permit. During the discussions, the members raised no specific areas of concern and provided no technical information that NWP 12 was insufficient. The board also discussed possible processes and effects of any actions, if deemed appropriate under the board's regulations, to revisit certification of NWP 12 as it relates to MVP and ACP.

The board took no action to revisit certification of NWP 12 as it relates to MVP and ACP. The board decided to provide a 30-day written public comment opportunity. The sole purpose of the comment period is for interested persons to [submit crossing-specific technical information](#) to DEQ on the sufficiency of the Corps NWP 12 permit's general and regional conditions, the Corps NWP 12 permit authorization for MVP and ACP, and the Commonwealth's § 401 water quality certification of NWP 12 for specific stream crossings of both the MVP and ACP projects.

After the comment period closes, DEQ will evaluate the comments and submit a summary of the relevant comments to the board. The summary will concurrently be made available to the public by posting the report on DEQ's website. DEQ will also make the full text of the comments available to the board. No further action by the board is required. After review of the summary, the board may consider further actions, consistent with its regulatory authority, at its discretion without additional public comment on whether further action is warranted.

#### Future Update Reports to the Board

At the April 12 meeting the board heard concerns and requests on various aspects of the pipeline projects from several citizens. In response, the board requested that DEQ report to the board on several items discussed at the meeting. Among the items to be addressed are how DEQ will coordinate activities and complaints with FERC and the Corps; how DEQ will address citizen issues; how variances are processed; what variances have been approved; modifications to the blasting plan; guidance for stop work orders; and how complaints will be addressed. The report will be a compilation of factual information from DEQ; and, as such will not be the subject of public comment.

This is now up at <http://www.deq.virginia.gov/PipelineUpdates.aspx#PublicComment>

## Comments

The Atlantic Coast Pipeline (ACP) and Mountain Valley Pipeline (MVP) would involve pipeline construction, maintenance, and operation crossing potentially hundreds of waters of the U.S. that are spread along the pipeline route. Among these crossings are major waterways as well as numerous smaller rivers, streams, and creeks in the same watersheds or basins.

The Corps of Engineers Nationwide 12 permit regulates activities required for the construction, maintenance, repair, and removal of pipelines and associated facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project. For utility line activities, crossing a single waterbody is considered a single and complete project.

1. The purpose of Nationwide Permit 12 (NWP 12) is to streamline the permitting process to permit only small pipeline project crossings of streams and wetlands that have no more than “minimal” impacts. Permitting of the pipelines under NWP 12 is inappropriate because adverse environmental effects would be significantly greater than *minimal*. The pipeline projects in Virginia include more than 410 miles of gas pipeline that would cross more than 1,000 waterbodies.

- The large acreage impacted by pipeline crossings demonstrates the glaring discrepancy between the intended use of NWP 12 for minor projects and the proposed use for these massive interstate pipelines.
- Construction of the Atlantic Coast Pipeline alone would result in temporary impacts to 795.4 acres of wetland, and operation would result in permanent impacts to 243 acres of wetland.
- Coverage under NWP 12 is inappropriate for projects with the scale of impacts of the Pipelines, which under no reasonable interpretation can be classified as “minimal,” as required for coverage under a Clean Water Act section 404 general permit.
- The NWP program was not intended to be used to streamline major infrastructure projects.

2. Pipeline stream crossings and pipeline construction will alter stream channels, introduce large volumes of sediment into streams (both during construction and over the long term), impact water quality, impede movement of aquatic species, degrade habitat, and affect other important ecological functions. The removal of stream-side vegetation for the development of pipeline and road corridors will increase erosion and raise stream water temperatures.

3. To qualify for NWP 12 authorization, the permittee must comply with the following general condition:

Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction. The Atlantic Coast Pipeline and Mountain Valley Pipeline are proposed to be constructed in steep terrain. The severity of the slopes and the fragile geology throughout these regions make pipeline construction risky. Contributing to this risk is the lack of proven efficiency of erosion control measures. Even “best in class” pollution control measures are insufficient to prevent significant

damage to water resources from pipeline construction. Grading practices, vegetation removal, and other construction activities will induce high erosion rates.

Furthermore, there are likely to be significant adverse impacts that last beyond the construction phase. Erosion causes grave problems such as water pollution, increased flood hazard, loss of fish populations, degradation of habitat, and the general impairment of stream ecosystems.

- Ongoing impacts will occur due to increased surface runoff and erosion/sedimentation from cleared areas, disturbed steep slopes, surface compaction, access roads, and the proximity of the right-of-way and other features to streams.
- If sources of sedimentation result from stormwater runoff from access roads or the construction right-of-way, and are received by waterbodies, there is potential for substantial episodic impacts.
- Pipeline construction corridors are difficult to revegetate, especially in areas with steep slopes.
- Long-term impacts related to slope instability adjacent to streams have the potential to adversely impact water quality and stream channel geometry, in addition to downstream aquatic biota.

4. Waterbodies would be crossed using the open-cut, flume, dam and pump, HDD, and cofferdam methods. These activities will disturb and increase sediment pollution in waters that support fish and other wildlife and that people along the proposed route use for drinking, recreation, and agriculture.

5. Some extreme and unpredictable impacts from seasonal precipitation events could cause slope instability, flash flooding, and debris flow hazards along the right-of-way or access roads. Mass sediment/debris loading to streams results in substantial water quality impairments.

6. In the longer term, steep slopes adjacent to stream crossings will continue for years to be vulnerable to heavy precipitation events that will induce slope instability.

7. NWP 12 General Condition 3 protects spawning areas during spawning seasons. The pipeline routes crosses spawning areas for many types of fish, including important trout spawning areas. Because the pipelines “would cause substantial turbidity and smother important trout habitat,” an individual 404 permit is required.

8. The proximity of waterbody crossings to water supply intakes (General Condition 7) further demonstrates that NWP 12 verification is inappropriate.

9. Poor design and construction techniques will cause long-term stream channel instability.

10. Water quality parameters such as turbidity and water temperature will increase at site-specific stream crossings in the short term.

11. NWP 12 requirements for Water Quality Standards include recreational uses such as swimming, boating, wading, fishing, and simply aesthetic enjoyment. Utility line construction activities may eliminate certain recreational uses of the area. Impacts that affect recreational uses:

- Sediment released during crossing construction activities and after that will affect the appearance and viability of using the stream.
- Sediment deposition will interfere with the aesthetic value of the stream and with the habitat that supports fish and the insects.
- Changes to the banks and the bed of the stream will change the appearance of these waters and affect uses.

12. Slopes at the base of mountains next to stream crossings will be susceptible to natural landslides as well as to project-induced slope failures during and after construction.

13. Surface waters would experience impacts during construction activities as a result of potential blasting, trenching, installation of the pipeline, water withdrawals for HDD construction, hydrostatic testing, and dust control.

14. Water resource impacts from sedimentation are largely uncertain, and it is unclear if erosion control and rehabilitation measures meet NWP 12 water quality standards. Steep slopes, unstable soils and karst terrain significantly reduce the effectiveness of erosion control measures.