



JOINT PUBLIC NOTICE

U.S. Army Corps of Engineers, Norfolk District and Virginia Department of Environmental Quality

Unified Stream Methodology for Use in Virginia: Final Draft for Implementation

The U.S. Army Corps of Engineers, Norfolk District (Corps) and the Virginia Department of Environmental Quality (DEQ) have issued a Joint Public Notice regarding the Unified Stream Methodology. The Public Notice provides a single methodology that replaces the Corps' Stream Attribute and Assessment Methodology (SAAM) and the DEQ's Stream Impact and Compensation Methodology (SICAM) and builds upon both previous methods and lessons learned.

The final draft is effective on February 1, 2007. The public comment period expires on March 19, 2007.

Note: The private-sector has not directly been involved, nor applied the USM to date. WEG is diligently working to understand the effect on our clients.

Implementation:

1. For projects that have already been authorized by both the Corps and DEQ:
 - a. If authorized construction in streams has already been initiated (or completed), those projects remain authorized and the permittees remain subject to all of the terms and conditions of their permits.
 - b. If authorized construction in streams has not yet been initiated, permittees may choose whether to proceed subject to the terms and conditions (and mitigation requirements) of their permits, or they may request permit modifications to address their mitigation requirements under the USM.

WEG: We need to fully evaluate the ramifications of the USM compared to the previous SAAM and SICAM mitigation requirements. A comparison of said methodologies and requirements will be required to complete the cost-benefit analysis. In addition, a critical balance between the amount of potential mitigation required under the USM vs. the additional time required to obtain the permit modification needs to be clearly understood. For example, if the USM provides more credit (i.e. less compensation required), how does a reduction in compensation compare to the uncertain timeline necessary to obtain the permit modification?

2. For all other projects that are currently under review by one or both agencies, including those received by the agencies between January 19 and January 31, 2007, applicants have the option of using either the USM, or the more restrictive SAAM or SICAM.

WEG: We suggest that a comparison of methodologies be completed prior to submission of a permit during this timeframe, unless extenuating circumstances warrant otherwise.

3. All permit applications for stream work that are received by both agencies after January 31, 2007 will be reviewed using the USM.

WEG: We will be required to utilize the USM for projects that have not been submitted. This may require that previous stream assessments/mitigation evaluations be redone to reflect the terms and conditions set forth by the USM.

4. Any mitigation bank prospectus submitted after January 31, 2007 will be reviewed using the USM. All other banks that have been approved have the option of reassessing their stream credits using the USM upon coordination and approval by the Mitigation Banking Review Team (MBRT).

WEG: Please reference Item 1(b).

5. All Trust Fund estimates made after January 31, 2007 will be based on a review using the USM.

WEG: We are currently requesting from the Corps the “breakdown” of the USM as it relates to the value of trust fund estimates. Please note that WEG is still required, under the Section 404 Permit review Process Act, to complete the sequencing process that evaluates avoidance and minimization, mitigation onsite, mitigation offsite, and/or the use of an approved wetland bank, or the Trust Fund.

What does this mean to the regulated public?

1. At this early stage, we do not have a full understanding of the potential advantages and disadvantages of the USM. However, it does appear upon cursory review that the amount of mitigation credits provided by the USM, when compared to SICAM, is greater; therefore less mitigation may be required than mandated by the previous methods.
2. Applicants in the permitting process will likely need to apply the USM to obtain their permit.
3. Stream mitigation costs (construction, monitoring and reporting, Bank, Trust Fund, etc...) continue to increase rapidly and commonly surpass \$500 per linear foot of impact.
4. Stream impacts to higher quality streams will require much more mitigation than impacts to more degraded streams. Therefore, it is critical that the applicant understand the relative stream “value” very early in the process, as this will promote a more cost-effective, ecologically-sound development and stream compensation strategy.
5. **Bottom Line: There’s a new sheriff in town!**

Comments received will be considered by the Corps and DEQ to determine what, if any, changes need to be made to the USM before it is finalized. WEG will provide an additional update as details unfold regarding the “nuts and bolts” and overall effect of the USM on our clients. Stay tuned!

For more information, please contact any one of our WEG offices: Williamsburg (757) 220-6869; Richmond (804) 267-3474; Herndon (703) 437-3096; Fredericksburg (540) 785-5544; or email info@wegnet.com