

**DEPARTMENT OF THE ARMY PROGRAMMATIC GENERAL PERMIT
STATE OF MARYLAND**

MDSPGP-2 TABLE OF CONTENTS

I. Authorities	
A. Federal Authorities	2
B. State Authorities	3
II. Scope of Activities	
A. Applicability	3
B. Activities Authorized by the MDSPGP-2	4
C. Activities Not Authorized by the MDSPGP-2	4
III. Procedures	
A. Federal, State and Local Approvals	5
B. MDSPGP-2 Verification Procedures	6
IV. MDSPGP-2 Categories	
A. MDSPGP-2 Category List Index	15
B. MDSPGP-2 Category List	17-72
V. Alternate Corps Permit Review	73
VI. General Conditions	
A. General Requirements	73
B. National Concern	75
C. Minimization of Environmental Impacts	78
D. Procedural Conditions	81
VII. Duration of Authorization	
A. Duration of Authorization	83
B. Previously Authorized Activities	84
C. Changes to State Statutes, Regulations or General Permits	85
D. Reporting and Evaluation	85
E. Modification, Suspension or Revocation	85

**DEPARTMENT OF THE ARMY PROGRAMMATIC GENERAL PERMIT
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The Baltimore District of the U.S. Army Corps of Engineers (Corps) hereby issues a revised State Programmatic General Permit that includes the revised Category List for activities in Waters of the United States, including wetlands and navigable waters, within Maryland except for the following which fall within the Corps' Philadelphia District: Back Creek (of the Chesapeake and Delaware Canal) and Herring Creek in Cecil County; and tidal waters in Cecil County, east of a line extending from Welch Point to Courthouse Point. Activities with minimal adverse environmental effects, as specified by the terms and conditions of this general permit (MDSPGP-2), are either non-reporting to the Corps (provided required State and local permits and required State certifications are received), or will be reviewed by the Corps, the resource agencies and, in certain cases the public, and may determine them to be eligible for authorization under the MDSPGP-2. This MDSPGP-2 will be used in Maryland to authorize most activities with only minimal individual and cumulative adverse effects on the environment. The Corps individual permit review process and activities exempt from Corps jurisdiction are not affected by the MDSPGP-2.

I. Authorities:

A. Federal Authorities:

1. Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401 and 403).
2. Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344).
3. Pursuant to Section 404 of the CWA and Section 10 of the Rivers and Harbors Act, the Corps has the authority to issue general permits, which can operate in conjunction with a State regulatory program that protects the aquatic environment in a manner equivalent to the Department of the Army (DA) regulatory program, provided that the activities authorized under the general permit are substantially similar in nature and result in no more than minimal individual or cumulative adverse effects on the environment.
4. Upon the recommendation of the Chief of Engineers, and under the provisions of Section 404 of the CWA, as amended, and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), the Secretary of the Army hereby authorizes the discharge of dredged, or fill material or the placement of structures into Waters of the United States including wetlands and navigable waters. These

discharges and structures must comply with all terms and conditions identified in the MDSPGP-2. Discharges or structures that do not meet the terms and conditions of Category I will be reviewed by the Corps to determine their eligibility for authorization under the MDSPGP-2.

5. Section 404(q) of the CWA states that agreements are to be entered to minimize to the maximum extent practicable, duplication, needless paperwork and delays in the issuance of permits. Memoranda of Agreements (MOAs) have been developed between U. S. Fish and Wildlife Service (FWS), National Marine Fisheries Service (NMFS), and Environmental Protection Agency (EPA) to outline the means for achieving these goals. The procedures established by these MOAs will be maintained, where applicable, in this permit.

B. State Authorities:

1. Nontidal Wetlands Protection Act, Annotated Code of Maryland, Environment Article, Section 5-901, et Seq.;
2. Appropriation or Use of Waters, Reservoirs, and Dams, Annotated Code of Maryland, Environment Article, Section 5-501 et Seq.;
3. Wetlands and Riparian Rights, Annotated Code of Maryland, Environment Article, Section 16-101;
4. Water Pollution Control, Annotated Code of Maryland, Environment Article, Sections 9-313 through 9-323; and
5. All applicable regulations.

II. Scope of Activities:

A. Applicability:

This general permit applies to the discharge of dredged or fill material or the placement of structures into Waters of the United States, including wetlands and navigable waters. Discharges of dredged or fill material or the placement of structures, as described in Category I of the MDSPGP-2 Category List, that comply with the terms and conditions contained in the MDSPGP-2 and have only minimal individual and cumulative adverse effects on the environment are authorized by the Corps. Discharges of dredged or fill material or the placement of structures, as described in Categories II and III of the MDSPGP-2 Category List, will be reviewed by the Corps and may be verified by the Corps under the MDSPGP-2. This

review under Categories II and III is a term or condition for use of the MDSPGP-2. Authorization under the MDSPGP-2 requires compliance with all the terms and conditions of the MDSPGP-2 and that the activities authorized have only minimal individual and cumulative adverse effects on the environment.

B. Activities Authorized by the MDSPGP-2:

Activities authorized by the MDSPGP-2 include all activities listed in Category I of the MDSPGP-2 Category List, and those activities in Categories II and III of the Category List that comply with all terms and conditions of the MDSPGP-2 and have no more than minimal individual and cumulative adverse environmental effects. For activities in Category III, the Corps will consult with the resource agencies and the public, as appropriate, before making a decision to verify eligibility of projects for authorization under the MDSPGP-2. As a condition of its use, the MDSPGP-2 requires verification in certain instances specified in the MDSPGP-2. Receipt of such verification does not eliminate the requirement that, to be authorized under the MDSPGP-2, the activity must comply with all its terms and conditions. The MDSPGP-2 provides authorization in accordance with Section 404 of the CWA and/or Section 10 of the Rivers and Harbors Act.

C. Activities Not Authorized by the MDSPGP-2:

1. Instances where EPA's Regional Administrator has notified the District Engineer and applicant in writing that he is exercising his authority under 404(c) of the CWA to prohibit, deny, restrict, or withdraw the use for specification, of any defined area for the discharge of dredged or fill material at the proposed site.
2. Activities that have been denied State authorization pursuant to the Maryland Nontidal Wetlands Protection Act or the Tidal Wetlands Act, or the Waterway Construction Act, or have been denied Water Quality Certification or a Coastal Zone Consistency determination. Activities that have been previously denied DA authorization under Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the CWA also are not authorized by the MDSPGP-2 without prior review and approval under the appropriate category of the MDSPGP-2, as determined by the Corps. Proposed activities that have not themselves been denied one of these authorizations, but are part of the same project or that occur on the same property as the denied project, may not be authorized by the MDSPGP-2 without prior approval by the Corps.

3. Activities that were initiated prior to the MDSPGP-2 without proper Federal authorization or without notification and approval by the State.
4. Activities that are proposed for MDSPGP-2 authorization for the purpose of resolving violations of the CWA or the Rivers and Harbors Act of 1899 may not be authorized by the MDSPGP-2 without prior approval by the Corps. Proposed activities that are not themselves violations, but that are part of the same project or that occur on the same property as the violation, may not be authorized by the MDSPGP-2 without prior verification by the Corps.
5. Activities that will result in more than one acre of impact, both direct and indirect, and both temporary and permanent, to Waters of the United States, including wetlands and navigable waters.
6. Activities that have more than minimal individual and cumulative adverse environmental effects.
7. Activities that do not comply with the terms and conditions of the MDSPGP-2, which includes the terms and activity-specific conditions of the MDSPGP-2 Category List.

III. Procedures:

Applicants who propose regulated activities must complete the Federal/State Joint Permit Application Form (application) in accordance with the application instructions, unless indicated otherwise. The delineation of wetland boundaries shall be accomplished in accordance with the current Federal manual for identifying jurisdictional wetlands and in accordance with appropriate guidance issued by the Corps. Applicants must submit the complete permit application to the Regulatory Services Coordination Office, Water Management Administration, Maryland Department of the Environment. General information and application forms can be obtained by calling the Regulatory Services Coordination Office at 1-800-876-0200. The complete application should be submitted by the applicant to the Regulatory Services Coordination Office at the earliest possible date. Submission of an application is not required for certain activities identified in Category I on the MDSPGP-2 Category List, pages 17 through 66. All terms and conditions of the MDSPGP-2 still apply to these activities.

A. Federal, State and Local Approvals:

Applicants are responsible for ensuring that all required Federal, State and local licenses, permits, and approvals are obtained for projects authorized under the MDSPGP-2. They include, but are not limited to, the following State approvals, issued by the Maryland Department of the Environment

(MDE), as applicable, which must be obtained in order for the MDSPGP-2 authorization to be valid.

1. Nontidal Wetlands authorization.
2. Waterway Construction authorization.
3. Tidal Wetlands authorization.
4. Water Quality Certification (WQC): A WQC has been issued for all Category I activities and projects that impact ephemeral streams, that meet the terms and conditions of the MDSPGP-2. WQC has also been issued for all Category III activities that meet the terms and conditions of the MDSPGP-2, subject to the condition that the applicants obtain all necessary permits and approvals from MDE. The exceptions to this certification are Federal projects occurring in tidal waters and/or vegetated tidal wetlands, and Category II and III activities that are exempt from the State's regulatory requirements, that meet the terms and conditions of the MDSPGP-2, and, therefore, will require individual or general WQC.
5. Coastal Zone Consistency (CZC): Category I activities and projects that impact ephemeral streams, that meet the terms and conditions of the MDSPGP-2, have been determined by MDE to be consistent with the Maryland Coastal Zone Management Program (CZMP). MDE has also certified that all Category III activities, that meet the terms and conditions of the MDSPGP-2 and are subject to the condition that the applicants obtain all necessary permits and approvals from MDE, are consistent with the CZMP. The exceptions to this determination are Federal projects occurring in tidal waters and/or vegetated tidal wetlands, and Category II and III activities that are exempt from the State's regulatory requirements, that meet the terms and conditions of the MDSPGP-2, and, therefore, will require individual CZC determinations.

B. MDSPGP-2 Verification Procedures:

1. **Category I (Corps review not required):** Proposed activities that are subject to Corps jurisdiction and that are part of a single and complete project that results in no more than minimal individual and cumulative adverse environmental effects, may proceed without review by the Corps, provided that all required State and local authorizations are obtained and the activities meet all terms and conditions of the MDSPGP-2, that includes the terms and

activity-specific conditions of the MDSPGP-2 Category List. Category I activities are shown on the MDSPGP-2 Category List, pages 17 through 66. NOTE: All Category I activities that meet one or more of the circumstances described below on page 8, III.B.2, require an application and review by the Corps under Category II, i.e., any activity that meets both Category I and Category II requires an application to the Corps, regardless of whether or not the Category I activity condition says “No Application Required.” In all cases where an application is required, ONE of the following notifications must occur:

- The project proponent may not begin work until the Corps or MDE provides written verification to the applicant that the activity is eligible for authorization under the MDSPGP-2 and that work can proceed as a Category I activity, provided all required State and local authorizations are obtained. Notwithstanding any such verification, the activities must still comply with all the terms and conditions of the MDSPGP-2, including activity-specific conditions in the MDSPGP-2 Category List and any special conditions imposed by the Corps.
- Alternatively, the Corps may provide notice to the applicant that the proposed work interferes with a Federally authorized civil works project, which includes Federal navigation projects. The Corps will coordinate with the applicant to avoid the interference. Should the project be revised to avoid the interference, the applicant will be provided written verification that the activity is eligible for authorization under the MDSPGP-2. Work can proceed, provided all required State and local authorizations are obtained. Notwithstanding any such verification, the activities must still comply with all the terms and conditions of the MDSPGP-2, including activity-specific conditions in the MDSPGP-2 Category List and any special conditions imposed by the Corps. If the project is not modified, the applicant will be notified in writing that an alternate Corps permit review is required.
- Otherwise, the Corps will provide written notice to the applicant that an alternate Corps permit review is required.

NOTE: Certain Category I activities require a public notice under State regulations, e.g. the project is located in Use III or IV waters or other sensitive habitats identified by State law or regulation. Under these circumstances, MDE will place the project on State

public notice, in response to which the Corps may either provide comments, or invoke discretionary authority to require an alternate Corps permit review because of concerns for the aquatic environment or for any other public interest factor. At the conclusion of MDE's review, MDE will provide written verification to the applicant that the activity is eligible for authorization under the MDSPGP-2 and the work can proceed as a Category I activity, provided all required State and local authorizations are obtained and the Corps is not requiring an alternate Corps permit review.

2. **Category II:** An application to the Corps is required for all Category I activities under any of the circumstances listed below in items a through f, in which case that activity will be processed as a Category II activity, i.e., any activity that meets both Categories I and II requires an application to the Corps, regardless of whether or not the Category I activity condition says "No Application Required." Category II activities are shown on the MDSPGP-2 Category List, pages 67 through 68.
 - a. The project is proposed within 150 feet of the horizontal limits of a Federal navigation project as described in Category II, IV.2.a(1);
 - b. The project is proposed in or adjacent to other proposed or existing Federally authorized civil works project, as described in Category II, IV.2.a(2);
 - c. The project is grandfathered by the State from MDE's permit requirements, as described in Category II, IV.2.b(1);
 - d. The project is exempt from MDE's permit requirements, as described in Category II, IV.2.c(1);
 - e. The project has been previously denied a Corps or MDE authorization as described in Category II, IV.2.d(1); or
 - f. The project is a violation of Section 404 of the CWA and/or Section 10 of the Rivers and Harbors Act of 1899 as described in Category II, IV.2.d.(2).

In these instances, the Corps will review the application to ensure that Corps interests and concerns are addressed. The project proponent must submit an application to the Regulatory Services Coordination Office to satisfy the application requirements of this category.

Upon receipt and review of the required application, ONE of the following notifications must occur:

- The project proponent may not begin work until the Corps or MDE provides written verification to the applicant that the activity is eligible for authorization under the MDSPGP-2 and that work can proceed as a Category I activity, provided all required State and local authorizations are obtained. Notwithstanding any such verification, the activities must still comply with all the terms and conditions of the MDSPGP-2, including activity-specific conditions in the MDSPGP-2 Category List and any special conditions imposed by the Corps.
- Alternatively, the Corps or MDE may provide notice to the applicant that the proposed work interferes with a Federally authorized civil works project, which includes Federal navigation projects. The Corps will coordinate with the applicant in order for the applicant to avoid the interference. Should the project be revised to avoid the interference, the applicant will be provided written verification that the activity is eligible for authorization under the MDSPGP-2. Work can proceed, provided all required State and local authorizations are obtained. Notwithstanding any such verification, the activities must still comply with all the terms and conditions of the MDSPGP-2, including activity-specific conditions in the MDSPGP-2 Category List and any special conditions imposed by the Corps. If the project is not modified, the applicant will be notified in writing that an alternate Corps permit review is required.
- Otherwise, the Corps will provide written notice to the applicant and MDE that an alternate Corps permit review is required.

3. **Category III:**

General. Applications for projects whose total impacts, both direct and indirect as well as temporary and permanent, exceed the Category I activity's impact limits and/or do not comply with the activity's specific terms and conditions, as specified on pages 17 through 66, and do not exceed one acre, will be reviewed by the Corps. These will be coordinated with Maryland Historical Trust (MHT), Maryland Department of Natural Resources (DNR),

Environmental Protection Agency (EPA), National Marine Fisheries Service (NMFS), U. S. Fish and Wildlife Service (FWS), U.S. Coast Guard (USCG) if appropriate, and in some cases the public, to determine eligibility for authorization under the MDSPGP-2. These are identified as Category III on the MDSPGP-2 Category List, page 69. If the Corps determines that the applicant's proposed project will result in no more than minimal individual and cumulative adverse environmental effects, meets the terms and conditions of the MDSPGP-2, and does not contain unresolved issues that would be of Federal interest (e.g., endangered or threatened species, wild and scenic rivers, etc.), then the Corps will notify MDE and/or the applicant that it has determined that the proposed project is eligible for authorization under the MDSPGP-2, provided the required State and local authorizations are obtained.

- a. **Category III.A (State Public Notice Not Required).** For Category III.A applications, that do not require a State public notice for a Maryland Tidal Wetland License or Permit or a Nontidal Wetlands and Waterways Permit, the Corps will provide MDE, MHT, DNR, EPA, NMFS, FWS and USCG, if appropriate, coordination notices for a 30-day review to comment upon whether authorization of the proposed projects under the MDSPGP-2 is appropriate. EPA, NMFS, FWS, DNR, MHT and USCG will provide their comments and recommendations, if any, to the Corps, with a copy to MDE. For each Category III.A project, the coordination notice will provide the following: project tracking number, description of the project and proposed impacts; location of work; project purpose; and the Corps contact person. MHT, DNR, EPA, NMFS, FWS and USCG may provide specific recommendations for special conditions, within their area of expertise and/or authority, to be included in the MDSPGP-2 verification. The Corps will review these proposed projects, including consideration of whether or not compensatory mitigation should be required to replace the functions and/or acreage of aquatic resources lost due to unavoidable permanent impacts to wetlands and/or streams. After considering recommendations by MHT, DNR, EPA, NMFS, FWS and USCG, the Corps will make one of the following determinations:
 - i) Additional information is required to review the proposed project;

- ii) Project is eligible for authorization under the MDSPGP-2;
- iii) Project is eligible for authorization under the MDSPGP-2, with special conditions; or
- iv) Project is ineligible for authorization under the MDSPGP-2 and therefore requires an alternate Corps permit review.

When the Corps has made its determination, it will notify MDE and the applicant. ONE of the following notifications must occur:

- The project proponent may not begin work until the Corps or MDE provides written verification to the applicant that the activity is eligible for authorization under the MDSPGP-2 and that work can proceed as a Category III activity, provided all required State and local authorizations are obtained. Notwithstanding any such verification, the activities must still comply with all the terms and conditions of the MDSPGP-2, including activity-specific conditions in the MDSPGP-2 Category List and any special conditions imposed by the Corps.
- Alternatively, the Corps may provide written notice to the applicant that the proposed work interferes with a Federally authorized civil works project, which includes Federal navigation projects. The Corps will coordinate with the applicant in order for the applicant to avoid the interference. Should the project be revised to avoid the interference, the applicant will be provided written verification that the activity is eligible for authorization under the MDSPGP-2. Work can proceed, provided all required State and local authorizations are obtained. Notwithstanding any such verification, the activities must still comply with all the terms and conditions of the MDSPGP-2, including activity-specific conditions in the MDSPGP-2 Category List and any special conditions imposed by the Corps. If the project is not modified, the applicant will be notified in writing that an alternate Corps permit review is required.
- Otherwise, the Corps will provide written notice to the applicant and MDE that an alternate Corps permit review is required.

b. **Category III.B (State Public Notice Required).** For Category III.B applications, for which a State public notice for a Maryland Tidal Wetland License or Permit or a Nontidal Wetlands and Waterways Permit is required, MDE will issue joint MDE/Corps public notices (JPNs) to EPA, NMFS, FWS, DNR, MHT, USCG, Corps and the public for a 30-day review to comment upon whether verification of the proposed projects under the MDSPGP-2 is appropriate. EPA, NMFS, FWS, USCG, DNR, MHT and the public will provide two copies of their comments and recommendations, if any; one copy to be sent directly to the Corps, and one copy to be sent directly to MDE. For each Category III.B project, the joint public notice will provide the following: project tracking number; description of the project and proposed impacts; location of the project; project purpose; MDE contact person; opportunity to request a hearing; and the opportunity to request additional information, including plans. Joint public notices for the agencies (i.e., EPA, NMFS, FWS, USCG, DNR and MHT) will include project plans. The Corps and the resource agencies may request an extension of the 30-day comment period, provided the extension is requested within the 30-day comment period. The Corps will review these proposed projects, including consideration of whether or not compensatory mitigation should be required to replace the functions and/or acreage of aquatic resources lost due to unavoidable permanent impacts to wetlands and/or streams. After considering recommendations by MHT, DNR, EPA, NMFS, FWS, USCG and the public, the Corps will make one of the following determinations:

- i) Additional information is required to review the proposed project;
- ii) Project is eligible for authorization under the MDSPGP-2;
- iii) Project is eligible for authorization under the MDSPGP-2, with special conditions; or
- iv) Project is ineligible for authorization under the MDSPGP-2 and therefore requires an alternate Corps permit review.

When the Corps has made its determination, it will notify MDE and the applicant. ONE of the following notifications must occur:

- The project proponent may not begin work until the Corps or MDE provides written verification to the applicant that the activity is eligible for authorization under the MDSPGP-2 and that work can proceed as a Category III activity, provided all required State and local authorizations are obtained. Notwithstanding any such verification, the activities must still comply with all the terms and conditions of the MDSPGP-2, including activity-specific conditions of the MDSPGP-2 Category List and any special conditions imposed by the Corps.
- Alternatively, the Corps may provide notice to the applicant that the proposed work interferes with a Federally authorized civil works project, which includes Federal navigation projects. The Corps will coordinate with the applicant to avoid the interference. Should the project be revised to avoid the interference, the applicant will be provided written verification that the activity is eligible for authorization under the MDSPGP-2. Work can proceed, provided all required State and local authorizations are obtained. Notwithstanding any such verification, the activities must still comply with all the terms and conditions of the MDSPGP-2, including activity-specific conditions in the MDSPGP-2 Category List and any special conditions imposed by the Corps. If the project is not modified, the applicant will be notified in writing that an alternate Corps permit review is required.
- Otherwise, the Corps will provide written notice to the applicant and MDE that an alternate Corps permit review is required.

4. **Agency Objection:**

The resource agencies may request individual permit review of a project by notifying the Corps within the 30-day agency notification or JPN comment period. If the Corps agrees that individual permit review of the project is appropriate, the Corps will notify MDE and the applicant. If the Corps disagrees with an agency's recommendation that individual permit review is appropriate, the Corps will notify the agency of its intent to verify eligibility for authorization of the proposed project under the

MDSPGP-2. The agency, at its discretion, may then pursue the agency objection procedures described below.

If FWS, EPA, or NMFS objects to the verification of a specific project under any Category of the MDSPGP-2, and if the Corps does not concur with the agency's objection, the agency has 15 calendar days from the close of the agency notification or joint public notice comment period, or from the date of the Corps notification that it does not concur with the agency's objection, whichever date is later, for a Regional Administrator/Director (EPA, FWS, NMFS) to express a formal objection, within the agency's area of expertise and/or authority, to verification for authorization under the MDSPGP-2. The Corps will attempt to resolve the objection, within 30 days of receipt of the Regional Administrator's/ Director's written objection. If the Corps cannot resolve an agency objection within 30 days, the application will not qualify for verification for authorization under the MDSPGP-2 and an alternate Corps permit review will be required. The Corps will notify MDE and the applicant that the project requires an alternate Corps permit review. However, should all objections be resolved, the project may be verified for authorization under the MDSPGP-2. This verification may include project specific special conditions to protect the public interest.

IV. MDSPGP-2 Categories:

A. MDSPGP-2 CATEGORY LIST INDEX

<u>Activity Type</u>	<u>Page Number</u>
1. CATEGORY I ACTIVITIES	
a. Agricultural Activities	
(1) Agricultural Production Improvement	17
(2) Building Construction	19
(3) Tide Gates	19
b. Scientific Measurement Devices and Survey Activities	
(1) Soil Investigations and Survey Activities	20
(2) Scientific Measurement Devices	22
c. Repair and Maintenance Activities	
(1) General Maintenance	24
(2) Armoring Bridges, Causeways, and Culverts	26
(3) Bulkhead Repair or Replacement	28
(4) Maintenance of Tidal Roadside Ditches	29
(5) Maintenance of Mosquito Control Ditches	30
d. Fill Activities	
(1) Minor Nontidal Fills	32
(2) Underground and Overhead Utility Lines	33
(3) Road Crossings	37
(4) Structural Discharges	39
(5) Dry Fire Hydrants	40
(6) Clearing Debris and Windfalls	41
(7) Special Area Management Plan (SAMP) Study Area Projects	42
(8) Temporary Stream Diversion for Construction	44
(9) Outfall Structures	45
e. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities	
(1) Dredging Seafood Products	46
(2) Fish and Wildlife Harvesting Devices	47
(3) Bass Spawning Boxes	48
f. Boating/Navigation-Related Activities	
(1) Channel and Harbor Navigation Aids	49
(2) State Regulatory Markers	49
(3) Piers	50
(4) Marina Reconfiguration	51
(5) Boat Ramp Construction, Repair and Expansion	52
(6) Mooring Buoys	53
(7) Structures in Fleeting and Anchorage Areas	53
(8) Temporary Recreational Structures	54
(9) Removal of Vessels	54

g.	Shoreline/Bank Stabilization Activities	
	(1) Revetment/Bulkhead Armoring	56
	(2) New Revetments	57
	(3) Tidal Marsh Creation	58
	(4) Tidal Shoreline Erosion Control Structures (Not Revetments)	59
	(5) Nontidal Bank Stabilization	60
h.	Return Water	
	(1) Return Water	63
i.	Cleanup of Oil and Hazardous and Toxic Waste	
	(1) Oil Spill Cleanup	64
	(2) Hazardous and Toxic Waste Cleanup	65
2.	CATEGORY II ACTIVITIES	
a.	Activities In or Near Federally Authorized Civil Works Projects	
	(1) Activities In or Near Federal Navigation Projects	67
	(2) Activities In or Near Other Federally Authorized Civil Works Projects	67
b.	Activities Grandfathered by MDE	
	(1) Grandfathered Activities	67
c.	Activities Exempt from MDE's Permit Requirements	
	(1) State Exempt Activities	68
d.	Denials and Violations	
	(1) Denials	68
	(2) Violations	68
3.	CATEGORY III ACTIVITIES	
a.	State Permit Public Notice Not Required	69
b.	State Permit Public Notice Required	69
4.	DEFINITIONS	70

NOTE: Any required application is to be submitted to **MDE's Regulatory Services Coordination Office.** In the following Category List, this has been abbreviated as **MDE.**

B. MDSPGP-2 CATEGORY LIST

1. CATEGORY I ACTIVITIES

a. Agricultural Activities

The following activities are authorized under the Maryland State Programmatic General Permit-2 (MDSPGP-2) provided the proposed regulated activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP-2 and the applicable Category I activity description(s) and condition(s).

Certain activities that otherwise meet the terms and conditions of Category I but that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special State concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, will generally not be authorized by the Maryland Department of the Environment (MDE) as a Letter of Authorization (LOA) or general permit (GP). These projects will be placed on State public notice, at which time the Corps, in addition to other agencies and the public, will have the opportunity to comment on the project. The Corps may invoke discretionary authority to require an alternate Corps permit review because of concerns for the aquatic environment or for any other public interest factor.

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), currently listed as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year. If necessary, project specific time-of-year restrictions can be placed on authorizations by the State and/or the Corps to protect aquatic resources, e.g., yellow perch and submerged aquatic vegetation.

(1) **Agricultural Production Improvement:**

This activity authorizes discharges of dredged or fill material into nontidal Waters of the United States for the purpose of improving agricultural production. Authorized activities include the installation, placement, or construction of drainage tiles, ditches, or levees; mechanized landclearing; land leveling; the relocation of existing serviceable drainage ditches constructed in Waters of the United States; and similar activities. All discharges authorized by this activity must comply with the activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. Discharges that do not meet the impact limits and/or conditions do not qualify for authorization under Category I and will be reviewed under Category III or alternate Corps permit review. (Section 404; **limited to all nontidal wetlands and certain streams as specified below**)

- a. **Impact Limits:** The total temporary and permanent impact to Waters of the United States, which includes nontidal wetlands, streams, and other open waters, is less than 5,000 square feet. Included in this areal limit, is a maximum distance impact limit to streams of no more than 300 linear feet, which is measured along the centerline of the stream. The stream width is measured bank to bank at the ordinary high water line. The acreage of impact

to all Waters of the United States includes the filled area, both temporary and permanent, plus those that are adversely affected by the project through permanent flooding, draining, or mechanized landclearing.

b. Conditions:

- i) Application must be submitted to MDE for Federal authorization.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent, on a single farm tract. A “farm tract” refers to a parcel of contiguous land under one ownership, which is operated as a farm or part of a farm and has been identified by the Farm Service Agency as such. (See General Condition VI.A.5 concerning “single and complete project.”)
- iii) For discharges into nontidal wetlands, if the permittee is a USDA program participant, they must:
 - obtain a categorical minimal effects exemption, minimal effect exemption, or mitigation exemption from NRCS in accordance with the provisions of the Food Security Act of 1985, as amended,
 - have a NRCS-certified wetland delineation, and
 - implement an NRCS-approved compensatory mitigation plan that fully offsets wetland losses, if required.
- iv) Any activity in Waters of the United States, other than wetlands, is limited to the relocation of no more than 300 linear feet of existing serviceable drainage ditches constructed in nontidal streams.
- v) This activity does not authorize any work in perennial streams except for those activities that meet condition b.(iv) above.
- vi) This activity does not regulate discharges associated with agricultural activities when the discharge qualifies for an exemption under Section 404(f) of the Clean Water Act, as described in Department of the Army (DA) regulations at 33 CFR 323.4.
- vii) The activity must not block or impede the movements of anadromous or resident fish species.

(2) **Building Construction:**

This activity authorizes discharges of dredged or fill material for construction of building pads for farm buildings. All discharges authorized by this activity must comply with the activity-specific impact limits and conditions listed below in addition to the general conditions of this permit. Discharges that do not meet the impact limits and/or conditions do not qualify for authorization under Category I and will be reviewed under Category III or alternate Corps permit review. (Section 404; **limited to all nontidal wetlands**)

- a. **Impact Limits:** Total temporary and permanent impact to Waters of the United States, which includes nontidal wetlands, is less than 5,000 square feet. The acreage of impact to all Waters of the United States includes the filled area, both temporary and permanent, plus those that are adversely affected by the project through permanent flooding, draining, or mechanized landclearing.
- b. **Conditions:**
 - i) Application must be submitted to MDE for Federal authorization.
 - ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent, on a single farm tract. A “farm tract” refers to a parcel of contiguous land under one ownership, which is operated as a farm or part of a farm and has been identified by the Farm Service Agency as such. (See General Condition VI.A.5 concerning “single and complete project.”)
 - iii) Only nontidal wetlands that were in agricultural production prior to December 23, 1985, (i.e., farmed wetlands) may be impacted.

(3) **Tide Gates:**

This activity authorizes construction of tide gates, designed to prevent the encroachment of salt water into agricultural drainage ditches. All work, including discharges, authorized by this activity must comply with the activity-specific conditions listed below in addition to the general conditions of this permit. Any work, including discharges, that does not meet these conditions does not qualify for authorization under Category I and will be reviewed under Category III or alternate Corps permit review. (Sections 10 and 404; **limited to all tidal wetlands and waters**)

Condition:

- i) Application must be submitted to MDE for Federal authorization.
- ii) Tide gates must be placed as close as possible to the affected agricultural field.

(CATEGORY I ACTIVITIES)

b. Scientific Measurement Devices and Survey Activities

The following activities are authorized under the Maryland State Programmatic General Permit-2 (MDSPGP-2) provided the proposed regulated activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP-2 and the applicable Category I activity description(s) and condition(s).

Certain activities that otherwise meet the terms and conditions of Category I but that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special State concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, will generally not be authorized by the Maryland Department of the Environment (MDE) as a Letter of Authorization (LOA) or general permit (GP). These projects will be placed on State public notice, at which time the Corps, in addition to the agencies and public, will have the opportunity to comment on the project. The Corps may invoke discretionary authority to require an alternate Corps permit review because of concerns for the aquatic environment or for any other public interest factor.

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), currently listed as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year. If necessary, project specific time-of-year restrictions can be placed on authorizations by the State and/or the Corps to protect aquatic resources, e.g., yellow perch and submerged aquatic vegetation.

(1) Soil Investigations and Survey Activities:

This activity authorizes discharges of dredged or fill material for soil investigations and survey activities, including core sampling, seismic exploratory operations, plugging of seismic shot holes and other exploratory-type bore holes, soil survey and sampling, percolation tests for sewage disposal fields, survey markers or survey monuments, piezometers and groundwater monitoring devices, and historic resources surveys. This activity also authorizes temporary road crossings for the purpose of accessing the test site. The discharge of drilling mud and cuttings may require a permit under Section 402 of the Clean Water Act. All work, including discharges, authorized by this activity must comply with the activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. Work, including discharges, that does not meet the impact limits and/or conditions, does not qualify for authorization under Category I and will require submission of an application for review under Category III. (Sections 10 and 404; **limited to all nontidal wetlands and streams, and tidal wetlands and certain waters, as specified below**)

- a. **Impact Limit:** The total temporary and permanent impact to Waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, navigable waters and other open waters, is limited to less than 5,000 square feet. Included in this areal limit, is a maximum distance impact limit to streams and other open waters of no more than 500 linear feet, which is

measured along the centerline of the waterway. The width of the waterway is measured bank to bank at the ordinary high water line or the mean high water line. For all temporary access road crossing construction, which can be multiple crossings, temporary impacts to streams are limited to a total (for all crossings) of no more than 200 linear feet in length of the allowable maximum 500 linear feet. The acreage of impact to all Waters of the United States includes the filled area, both temporary and permanent, plus those that are adversely affected by the project through permanent flooding, draining, or mechanized landclearing.

b. Conditions:

- i) No application is required for Federal authorization. (Refer to pages 67–68 for exceptions.)
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
- iii) This activity does not authorize discharges and structures associated with the recovery of historic resources.
- iv) This activity does not authorize drilling and the discharge of excavated material from test wells for oil and gas exploration. This activity does not authorize plugging these wells.
- v) This activity does not authorize discharges of fill placed for permanent roads, pads and other similar structures and activities.
- vi) This activity does not authorize any permanent structures, except survey markers or monuments.
- vii) Temporary road crossings are subject to the following requirements:
 - (1) Temporary road crossings of tidal waters are limited to those with a channel no more than 12 feet wide measured at the mean high water line.
 - (2) The width of the fill must be limited to the minimum necessary for the temporary crossing.
 - (3) The crossing must be constructed roughly perpendicular, if possible, to Waters of the United States, which includes streams and wetlands.

- (4) The crossing must be bridged, culverted, or designed in some other manner so that it will withstand, and not restrict, expected high flows and tidal flows.
- (5) Construction across a stream must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.
- (6) The crossing must not restrict low flows.
- (7) The crossing must not restrict the movement of aquatic organisms, including anadromous, estuarine and resident fish species.
- (8) The crossing must be removed within 14 calendar days after the structure is no longer needed, subject to any time-of-year restrictions, and no later than one year of the installation date.
- (9) The temporary crossing must be entirely removed and restored to pre-construction conditions and elevations upon completion of the investigation or survey work.

(2) **Scientific Measurement Devices:**

This activity authorizes discharges of dredged or fill material associated with devices whose purpose is to measure and record scientific data, such as staff gauges, tide gauges, water recording devices, water quality testing and improvement devices, small weirs and flumes constructed to record water quantity and velocity, and similar structures. This activity also authorizes temporary road crossings for the purpose of accessing the test site. All work, including discharges, authorized by this activity, must comply with the activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. All work, including discharges, that does not meet the impact limits and/or conditions, does not qualify for authorization under Category I and will be reviewed under Category III or alternate Corps permit review.

(Sections 10 and 404; **limited to all nontidal wetlands and streams, and tidal wetlands and certain waters as specified below**)

- a. **Impact Limits:** The temporary and permanent impact to Waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, navigable waters, and other open waters, is less than 5,000 square feet. Included in this areal limit is a maximum distance impact limit to streams and other open waters of no more than 500 linear feet, which is measured along the centerline of the waterway. The width of the waterway is measured bank to bank at the ordinary high water line or the mean high water line. For all temporary access road crossing construction, which can be multiple crossings, temporary impacts to streams are limited to a total (for all crossings) of no more than 200 linear feet in length of the allowable maximum 500 linear feet.

The acreage of impact to all Waters of the United States includes the filled area, both temporary and permanent, plus those that are adversely affected by the project through permanent flooding, draining, or mechanized landclearing.

b. Conditions:

- i) Application must be submitted to MDE for Federal authorization.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
- iii) Any temporary road crossings, or other in-stream structures (e.g., small weirs and flumes), must not restrict the movement of aquatic organisms, including anadromous, estuarine and resident fish species.
- iv) Temporary road crossings are subject to the following requirements:
 - (1) Temporary road crossings of tidal waters are limited to those with a channel no more than 12 feet wide measured at the mean high water line.
 - (2) The width of the fill must be limited to the minimum necessary for the temporary crossing.
 - (3) The crossing must be constructed roughly perpendicular, if possible, to Waters of the United States, including streams and wetlands.
 - (4) The crossing must be bridged, culverted or designed in some other manner so that it will withstand, and not restrict, expected high flows and tidal flows.
 - (5) In-stream work must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams
 - (6) The temporary crossing must not restrict low flows.
 - (7) The temporary crossing must be entirely removed and restored to pre-construction conditions and elevations upon completion of the investigation or survey work.
 - (8) The temporary crossing must be removed within 14 calendar days after the structure is no longer needed, subject to any time-of-year restrictions, and no later than one year of the installation date.

(CATEGORY I ACTIVITIES)

c. Repair and Maintenance Activities

The following activities are authorized under the Maryland State Programmatic General Permit-2 (MDSPGP-2) provided the proposed regulated activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP-2 and the applicable Category I activity description(s) and condition(s).

Certain activities that otherwise meet the terms and conditions of Category I but that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special State concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, will generally not be authorized by the Maryland Department of the Environment (MDE) as a Letter of Authorization (LOA) or general permit (GP). These projects will be placed on State public notice, at which time the Corps, in addition to the agencies and public, will have the opportunity to comment on the project. The Corps may invoke discretionary authority to require an alternate Corps permit review because of concerns for the aquatic environment or for any other public interest factor.

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), currently listed as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year. If necessary, project specific time-of-year restrictions can be placed on authorizations by the State and/or the Corps to protect aquatic resources, e.g., yellow perch and submerged aquatic vegetation.

(1) General Maintenance:

This activity authorizes discharges of dredged or fill material for the repair, rehabilitation or replacement of any previously authorized, currently serviceable structure or fill. This activity authorizes minor deviations in the configuration of the structure or filled area, including changes in materials, construction techniques, current construction codes or safety standards that are necessary to make the repair, rehabilitation or replacement. Currently serviceable means that the structure or fill is usable in its current condition, or with some maintenance. This activity also authorizes the removal of sediment in nontidal waters that is limited to the minimum necessary to restore the waterway within and in the immediate vicinity of the existing structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 50 feet in any direction from the structure. This activity also authorizes repair, rehabilitation or replacement in-kind of structures destroyed by storms, floods, fire or other discrete events. All work authorized by this activity, including discharges, must comply with all activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. All work, including discharges, that does not meet the impact limits and/or conditions does not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III or alternate Corps permit review. (Sections 10 and 404; **limited to all nontidal wetlands and streams, and all tidal wetlands and waters**)

a. **Impact Limits:** The total temporary (i.e., construction impacts including stream diversion devices) and permanent impact to Waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, navigable waters, and other open waters, is limited to less than 5,000 square feet. Included in this areal limit is a maximum distance impact limit to streams and other open waters of no more than 500 linear feet, which is measured along the centerline of the waterway, with the stipulation that permanent impacts (e.g., fill) to in-stream habitat are limited to the area of the existing footprint of the serviceable structure; or, to an area extending no more than 50 feet upstream or downstream from the existing structure's footprint, provided such encroachment beyond the existing footprint is the minimum necessary for repair, rehabilitation or replacement. The width of the waterway is measured bank to bank at the ordinary high water line or the mean high water line. The acreage of impact to all Waters of the United States includes the filled area, both temporary and permanent, plus those that are adversely affected by the project through permanent flooding, draining, or mechanized landclearing. Any impact to Waters of the United States, including wetlands, associated with this activity is to be minimized below these impact limits to the greatest extent possible.

b. **Conditions:**

- i) No application is required for Federal authorization. (Refer to pages 67-68 for exceptions.)
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning "single and complete project.")
- iii) Minor deviations in the configuration of the structure or filled area must not exceed the minimum necessary to make the repair, rehabilitation or replacement.
- iv) Repair, rehabilitation or replacement of an existing serviceable structure should not result in the displacement of in-stream habitats or features important to anadromous, estuarine and resident fish, such as plunge or scour pools.
- v) For replacement culvert crossings, the single culvert, or one of the multiple cells, must be depressed a minimum of one foot below the invert of the stream, or 20% of the diameter width for culverts less than 36 inches in diameter.
- vi) Work under this activity must not impede flow in the waterway, and/or must not block or impede the movements of anadromous and resident fish.

- vii) The structure or fill must not be put to uses differing from those uses specified or contemplated for it in the original permit or the most recent authorized modification.
- viii) In-stream work must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.
- ix) Areas impacted by temporary activities or structures must be returned to pre-construction conditions, which includes contours, elevations and revegetation with native, wetland species.
- x) Repair, rehabilitation or replacement of structures or fills destroyed or damaged by storms, floods, fire or other discrete events must be started or under contract to start within two years of the date that they were damaged or destroyed.
- xi) Maintenance of existing stormwater management facilities must be performed in accordance with any maintenance plan to restore to the design as originally approved and constructed, which includes limiting excavation to the original contours.
- xii) This activity does not authorize the discharge of dredged or fill material for the purpose of reclaiming land lost through gradual erosion processes.
- xiii) This activity does not authorize any maintenance dredging, beach restoration, stream restoration, stream relocation or channelization, and repair or replacement of bulkheads.
- xiv) This activity does not authorize blasting or other forms of uncontained in-water demolition.
- xv) All excavated materials must be deposited and retained in an upland (non-wetland) area.
- xvi) This activity does not authorize stationing equipment in nontidal streams. Work should be done from the stream bank or road crossing using the appropriate equipment, such as an excavator arm or boom.

(2) Armoring Bridges, Causeways and Culverts:

This activity authorizes discharges of dredged or fill material associated with armoring or strengthening of bridges or causeways, including excavation to construct a toe for placement of armoring. Only discharges associated with the stabilization of banks, which do not extend across the streambed, are authorized

for culverted crossings. All work authorized by this activity, including discharges, must comply with all activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. Work, including discharges, that does not meet the impact limits and/or conditions does not qualify for authorization under Category I and will be reviewed under Category III or alternate Corps permit review. (Sections 10 and 404; **limited to all nontidal streams and wetlands, and all tidal wetlands and waters**)

- a. **Impact Limits:** The total temporary and permanent impact to streams and wetlands is limited to 25 linear feet upstream and downstream of the existing structure, with a total impact to all Waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, navigable waters, and other open waters, of less than 5,000 square feet. The length of the waterway is measured along its centerline and the width of the waterway is measured bank to bank at the ordinary high water line or the mean high water line. The acreage of impact to all Waters of the United States, includes the filled area, both temporary and permanent, plus those that are adversely affected by the project through permanent flooding, draining, or mechanized landclearing.
- b. **Conditions:**
 - i) Application must be submitted to MDE for Federal authorization.
 - ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
 - iii) The armoring must not extend more than 6 feet channelward from the existing structure and no more than 25 linear feet upstream and downstream from the structure.
 - iv) Material used must be clean stone, grout bags, or broken concrete. If broken concrete is used for armoring, it must be clean and free of rebar or other protruding reinforcement.
 - v) This activity does not authorize dredging.
 - vi) A low-flow channel must be maintained through any discharges placed for armoring across the channel along the toe of any bridge or causeway, so as to not impede flow in the waterway, and/or not to block or impede the movements of anadromous, estuarine and resident fish.
 - vii) The armoring material must not extend into a marked, lighted, charted, or Federal navigation channel.

- viii) In-stream work must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.
- ix) This activity does not authorize stationing equipment in-stream. Work should be done from the stream bank or road crossing using the appropriate equipment, such as an excavation arm or boom.

(3) Bulkhead Repair or Replacement:

This activity authorizes discharges of dredged or fill material associated with repair or replacement of deteriorating or damaged bulkheads or other forms of vertical walls. This activity also authorizes the placement of broken concrete or riprap along the base of the bulkhead or other forms of vertical walls. All work authorized by this activity, including discharges, must comply with all activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. All work, including discharges, that does not meet the impact limits and/or conditions does not qualify for authorization under Category I and will be reviewed under Category III or alternate Corps permit review. (Sections 10 and 404; **limited to all tidal waters and wetlands, and nontidal waters and wetlands**)

- a. **Impact Limits:** For tidal work, the bulkhead repair or replacement must not extend more than 18 inches channelward of the existing structure, measured from the channelward face of the existing piling to the landward face of the proposed sheeting. For nontidal projects, discharges must not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark. In both tidal and nontidal waters, the work must not impact more than 10% of any adjacent marsh, wetland or submerged aquatic vegetation (SAV).
- b. **Conditions:**
 - i) Application must be submitted to MDE for Federal authorization.
 - ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
 - iii) No material may be placed in excess of the minimum needed for erosion protection.
 - iv) The linear length of the replacement bulkhead/wall may *not* extend along the shoreline beyond the ends of the existing bulkhead/wall.
 - v) The existing bulkhead/wall must be functional.

- vi) If the bulkhead repair or replacement includes placement of concrete along the base of the bulkhead, the concrete must be clean and free of rebar or other protruding reinforcement.
- vii) Concrete or stone placed along the base of the replacement bulkhead must not extend more than 10 feet channelward of the bulkhead in tidal waters.
- viii) For nontidal projects, the work is not to extend across the streambed and not to adversely modify the stream morphometry and hydrology.
- ix) In-stream nontidal work must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.
- x) This activity does not authorize stationing equipment in nontidal streams. Work should be done from the stream bank or road crossing using the appropriate equipment, such as an excavator arm or boom.

(4) Maintenance of Tidal Roadside Ditches:

This activity authorizes maintenance clean-out of tidally influenced roadside drainage ditches and their outlets. All work authorized by this activity, including discharges, must comply with all activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. All work, including discharges, that does not meet the impact limits and/or conditions does not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III or alternate Corps permit review. (Section 10, not subject to Section 404; **limited to all tidal wetlands and waters**)

- a. **Impact Limits:** The total temporary and permanent impact to all Waters of the United States, which includes tidal ditches and tidal wetlands, is limited to less than 5,000 square feet. Included in this areal limit is a maximum distance impact limit to tidal ditches of no more than 500 linear feet, which is measured along the centerline of the ditch. The ditch width is measured bank to bank at the mean high water line. The acreage of impact to tidal ditches and tidal wetlands includes the excavated area, plus ditches and wetlands that are adversely affected by the project through filling, permanent flooding, draining, and mechanized landclearing.
- b. **Conditions:**
 - i) No application is required for Federal authorization. (Refer to pages 67-68 for exceptions.)

- ii) This activity authorizes work only in roadside ditches and their outlets that are subject to the ebb and flow of the tide.
- iii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
- iv) This activity does not authorize stationing equipment in the ditch. Work should be done from the bank or road crossing using the appropriate equipment, such as an excavator arm or boom.
- v) The maintenance must not enlarge or change the length, width, depth, and shape of the ditch from its original design dimensions and configurations.
- vi) Excavated material must be placed in an upland disposal site, must be properly contained and stabilized, and placed where the material 1) will not wash back into the ditch and/or adjacent tidal waters; 2) will not wash into and/or fill adjacent wetlands; 3) will not adversely impact the function of the natural floodplain; and 4) will not create a restriction or impediment to the movement of aquatic species indigenous to the water, or to the passage of normal or expected high flows and tidal exchanges. Utilization of existing ditch banks/berms is acceptable.
- vii) Any adjacent wetlands temporarily disturbed during maintenance clean-out operations must be restored to their pre-existing elevations and contours to enhance reestablishment of wetlands. However, placement of the excavated materials in Waters of the United States, including wetlands, is not authorized by this activity.

(5) Maintenance of Mosquito Control Ditches:

This activity authorizes the maintenance clean-out of existing mosquito control tidal ditches and tidal ponds and their radial ditches. All work authorized by this activity, including discharges, must comply with all activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. All work, including discharges, that does not meet the impact limits and/or conditions does not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III or alternate Corps permit review. (Section 10 and Section 404 for the placement on marsh, in accordance with the activity specific conditions; **limited to all tidal ditches and wetlands**)

- a. **Impact Limit:** The total temporary and permanent impact to all Waters of the United States, which includes tidal ditches and tidal wetlands, is limited to less than 5,000 square feet. Included in this areal limit is a maximum distance

impact limit to tidal ditches of no more than 500 linear feet, which is measured along the centerline of the ditch. The ditch width is measured bank to bank at the mean high water line. The acreage of impact to tidal ditches and tidal wetlands includes the excavated area, plus areas filled above wetland elevations with sidecasting.

b. Conditions :

- i) No application is required for Federal authorization. (Refer to pages 67-68 for exceptions.)
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
- iii) The clean-out activities will be dug with suitable equipment that is not stationed in the ditch, preferably with a rotary ditcher. When a rotary ditcher is not available or cannot be used, other equipment types are acceptable provided that material taken from the ditches is graded to as near wetland level as possible. Material dug with crane or backhoe should be placed on alternate sides of the ditch so as not to form a continuous line of excavated material, which would impede water movement across the wetland surface.
- iv) The maintenance must not enlarge or change the length, width, depth, and shape of the ditch or pond from its original design dimensions and configurations.
- v) The excavated material must be placed in a manner to minimize disturbance to adjacent wetlands. Placement methods include spreading the material thinly on the wetland surface and grading the material as low as possible without undue disturbance to the nearby vegetated wetland, or placing the material in unvegetated mosquito-breeding low pockets.
- vi) The excavated material must be placed in locations where the material does not (1) wash back into the ditch; (2) restrict or impede the movement of aquatic species indigenous to waters or the passage of normal or expected high flows; and (3) adversely impact the functions of the natural floodplain.
- vii) Any adjacent wetlands temporarily disturbed during maintenance clean-out operations must be restored to their pre-existing elevations to enhance reestablishment of wetlands.

(CATEGORY I ACTIVITIES)

d. Fill Activities

The following activities are authorized under the Maryland State Programmatic General Permit-2 (MDSPGP-2) provided the proposed regulated activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP-2 and the applicable Category I activity description(s) and condition(s).

Certain activities that otherwise meet the terms and conditions of Category I but that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special State concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, will generally not be authorized by the Maryland Department of the Environment (MDE) as a Letter of Authorization (LOA) or general permit (GP). These projects will be placed on State public notice, at which time the Corps, in addition to the agencies and the public, will have the opportunity to comment on the project. The Corps may invoke discretionary authority to require an alternate Corps permit review because of concerns for the aquatic environment or for any other public interest factor.

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), currently listed as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year. If necessary, project specific time-of-year restrictions can be placed on authorizations by the State and/or the Corps to protect aquatic resources, e.g., yellow perch and submerged aquatic vegetation.

(1) **Minor Nontidal Fills:**

This activity authorizes discharges of dredged or fill material in nontidal wetlands and nontidal streams which are perennial, intermittent, or ephemeral in nature. All discharges authorized by this activity must comply with the activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. Discharges that do not meet the impact limits and/or conditions do not qualify for authorization under Category I and will be reviewed under Category III or alternate Corps permit review. (Section 404; **limited to nontidal wetlands and streams**)

- a. **Impact Limits:** The total temporary and permanent impact to Waters of the United States, which includes nontidal wetlands and streams, is limited to less than 5,000 square feet. Included in this areal limit, is a maximum distance impact limit to all nontidal streams of no more than 500 linear feet, which is measured along the centerline of the stream. The stream width is measured bank to bank at the ordinary high water line. The acreage of impact to all Waters of the United States includes the filled area, both temporary and permanent, plus those that are adversely affected by the project through permanent flooding, draining, or mechanized landclearing.

b. Conditions :

- i) Application must be submitted to MDE for Federal authorization.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
- iii) This activity authorizes work only in nontidal wetlands and nontidal streams. For the purposes of this activity, nontidal wetlands are defined as those jurisdictional wetlands that are located landward of the spring high tide line and that are not subject to the ebb and flow of the tide.
- iv) This activity does not authorize types of work for which there are specific Category I activities, such as road crossings, utility lines, etc.
- v) This activity does not authorize stream restoration projects. These must be reviewed under Category III or Nationwide Permit #27.
- vi) This activity does not authorize any channelizing of, or placement of any pipe in, perennial or intermittent streams.
- vii) This activity does not authorize the construction of berms for stormwater management facilities, permanent dikes, dams, water withdrawals, or water diversions. This does not authorize the construction of any kind of pond. It does authorize impacts for the purpose of enhancing farmed wetlands located in agriculture fields or restoring or enhancing hydrology to a prior-converted wetland.
- viii) This activity does not authorize the construction or expansion of golf courses or ski areas and associated facilities, which includes support buildings and residential development.
- ix) In-stream work must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.
- x) The activity must not restrict the movements of aquatic organisms including anadromous and resident fish species.

(2) Underground and Overhead Utility Lines:

This activity authorizes discharges of dredged or fill material associated with excavation, backfill and bedding for utility lines provided there is no change in preconstruction contours. A utility line is defined as any pipe or pipeline for the

transportation of any gaseous, liquid, liquefiable or slurry substance. Utility lines also include any cable, line or wire for the transmission of electricity, telephone and telegraph messages, radio, television or other communication. This activity also authorizes mechanized land clearing, construction of temporary and permanent access roads for the utility line, and foundations associated with overhead utility lines. In addition, one driveway crossing with the utility crossing may be authorized by this activity if the single and complete project is to provide access and utilities to a **single residential lot**, not part of a larger development and not requiring other impacts to wetlands and/or streams for the development of the lot. This discharge, as are all of the other cited discharges of this activity, is subject to the impact limits and activity-specific conditions listed below, in addition to the general conditions of this permit. Discharges that do not meet these impact limits and/or conditions do not qualify for authorization under Category I and will be reviewed under Category III or alternate Corps permit review. (Section 10 and 404; **limited to all nontidal wetlands and streams, and tidal wetlands and certain waters, as specified below**)

- a. **Impact Limits:** The total temporary and permanent impact to Waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, and other open waters, is less than 0.25 acre (10,890 square feet). Included in this areal limit, is a total maximum distance impact limit to streams and other open waters of no more than 500 linear feet, which is measured along the centerline of the waterway. The width of the water body is measured bank to bank at the ordinary high water line or the mean high water line. For all access road and/or single residential driveway crossings, total temporary and permanent impacts to all Waters of the United States, including wetlands and streams, are to be less than 5,000 square feet, and total stream impacts are limited to no more than 200 linear feet in length of the allowable maximum 500 linear feet. The acreage of impact to streams and wetlands includes the filled area, both temporary and permanent, plus streams and wetlands that are adversely affected by the project through permanent flooding, draining, or mechanized landclearing.
- b. **Conditions:**
 - i) Application must be submitted to MDE for Federal authorization.
 - ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
 - iii) Impacts shall be minimized by using directional drilling, jack and bore, missile, or similar methods when feasible.
 - iv) Pipe diameter for underground **water and sewer lines** must not exceed 8 inches.

- v) Pipe diameter for underground **natural gas lines** must not exceed 12 inches.
- vi) In some instances, a proposed water or sewer line will extend service to currently undeveloped residential lots that have been platted partially or totally in wetlands. In these cases, extension of sewer and/or water service to such lots may be the impetus for lot owners to propose to fill wetlands on the lots for construction of homes. Under these circumstances, the utility line does not qualify for authorization under Category I and will be reviewed under Category III.
- vii) For the single residential lot project that proposes both a driveway and a utility line crossing, the utility line should be placed within the driveway right-of-way where practicable to result in a single crossing of the Waters of the United States.
- viii) When underground utility lines are installed in streams and wetlands, bedding material must not promote drainage of the streams and wetlands. Clay plugs, impervious membranes, or other materials must be placed in the trenches to reduce drainage through the backfill material.
- ix) The top of the cable, encasement, or pipeline shall be located a minimum of three feet below the existing bottom elevation of the streambed and generally does not require any riprap protection in-stream. When the utility is placed in bedrock, a minimum depth of one foot from the lowest point in the natural contour of the streambed shall be maintained.
- x) In wetlands, the top 6 to 12 inches of the trench must be backfilled with the top 6 to 12 inches of topsoil removed from the trench.
- xi) Excavated material must be stabilized with straw bales, silt fence, or other erosion and sediment control measures to prevent reentry of soil into Waters of the United States.
- xii) Excavated material must not be stockpiled in wetlands for longer than 14 days.
- xiii) Limit-of-disturbance easements for the construction of utility lines within Waters of the United States, including wetlands, must be limited to the minimum width necessary and must not exceed 30 feet in width.

- xiv) Immediately after construction of the utility line is completed, excess material must be removed to upland areas and stabilized with straw bales, silt fence or other erosion and sediment control devices to prevent its reentry into Waters of the United States, including wetlands.
- xv) Exposed slopes and stream banks must be stabilized and revegetated, preferably with native, woody species, immediately after construction of the utility line is completed.
- xvi) Any utility line and road crossing of tidal waters is limited to man-made tidal ditches or channels (e.g., roadside and agricultural ditches) that are no more than 12 feet wide measured at the mean high water line. All other permanent road crossings of tidal waters are to be reviewed as Category III activities.
- xvii) The utility line and any road crossing must not cross in the location of a braided channel nontidal system.
- xviii) All utility line and temporary and permanent road crossings of waterbodies must not restrict low flows.
- xix) The utility line and any road crossing must be constructed roughly perpendicular to Waters of the United States, including streams and wetlands. If the utility line is placed within a jurisdictional area (i.e., a Water of the United States), and it runs parallel to a streambed that is within that jurisdictional area, the activity does not qualify for authorization under Category I and will be reviewed under Category III.
- xx) All temporary and permanent road crossings of waterbodies must be bridged, culverted or designed in some other manner so that they will withstand, but not restrict, expected high flows.
- xxi) All temporary and permanent road crossings must be the minimum width necessary for the crossing.
- xxii) For permanent culverted crossings, the single culvert, or one of the multiple cells, must be depressed a minimum of one foot below the invert of the stream, or 20% of the diameter width for culverts less than 36 inches in diameter.
- xxiii) For permanent culverted crossings, flow depth and velocity (not more than 3 to 4 ft./sec.) through the culvert and the slope of the culvert must be taken into consideration in the design of the crossing to ensure anadromous and resident fish passage. In addition, all utility line and

temporary and other types of permanent road crossings of waterbodies must not restrict the movement of aquatic organisms, including anadromous, estuarine and resident fish species.

- xxiv) Any temporary crossing must be removed within 14 calendar days after the structure is no longer needed, subject to any time-of-year restrictions, and no later than one year of the installation date.
- xxv) Areas in Waters of the United States impacted for installation of utility lines, temporary access roads, or other temporary activities or structures, must be returned to pre-construction conditions, which includes contours, elevations, stream substrate, and revegetation with native wetland species.
- xxvi) Utility line and road construction across streams must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.
- xxvii) When mechanized landclearing results in the permanent removal or conversion of a forested or scrub-shrub wetland to an herbaceous wetland in the permanently maintained utility right-of-way, mitigation is required to reduce the adverse effects of the project to the minimal level. This is in addition to the requirement to mitigate for permanent wetland impacts resulting from the discharge of dredged or fill material.

(3) Road Crossings:

This activity authorizes discharges of dredged or fill material associated with new construction of temporary and permanent roads, as well as widening of existing roads, which cross Waters of the United States, including streams and wetlands. All work authorized by this activity, including discharges, must comply with all activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. All work, including discharges, that does not meet the impact limits and/or conditions does not qualify for authorization under Category I and will be reviewed under Category III or alternate Corps permit review. (Sections 10 and 404; **limited to all nontidal wetlands and streams, and tidal wetlands and certain waters as specified below.**)

New road crossings will be reviewed based on the following order of preference: (a) bridge, (b) bottomless arch culvert, and (c) pipe or box culvert.

- a. **Impact Limits:** The total temporary and permanent impact to all Waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, and other open waters, is limited to less than 5,000 square feet. Included in this areal limit is a maximum distance impact limit to streams, rivers, and

other open water of 200 linear feet, which is measured along the centerline of the waterway. The waterway width is measured bank to bank at the ordinary high water line or the mean high water line. The acreage of impact to all Waters of the United States, both temporary and permanent, includes the filled area plus those that are adversely affected by the project through permanent flooding, draining, or mechanized landclearing. For a project that consists of widening an existing road crossing, this impact limit applies to those permanent impacts (area and waterway length) that occurred with the construction of the existing structure plus the temporary and permanent impacts (area and waterway length) resulting from the new work. This activity can authorize multiple road crossings, temporary and/or permanent, per project provided that the total temporary and permanent impact of all of the crossings meets the 5,000 square feet/200 linear feet limit as stated above.

b. **Conditions:**

- i) Application must be submitted to MDE for Federal authorization.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
- iii) Any permanent road crossing of tidal waters is limited to man-made tidal ditches or channels (e.g., roadside and agricultural ditches) that are no more than 12 feet wide measured at the mean high water line. All other permanent road crossings of tidal waters are to be reviewed as Category III activities.
- iv) The width of the fill must be limited to the minimum necessary for the crossing.
- v) The road crossing must be constructed roughly perpendicular, if possible, to Waters of the United States, including streams and wetlands.
- vi) The crossing must be bridged, culverted or designed in some other manner so that it will withstand, and not restrict, expected high flows and tidal flows.
- vii) Road construction across streams must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.
- viii) For permanent culverted crossings, the single culvert, or one of the multiple cells, must be depressed a minimum of one foot below the

invert of the stream, or 20% of the diameter width for culverts less than 36 inches in diameter.

- ix) For permanent culverted crossings, flow depth and velocity (not more than 3 to 4 ft./sec.) through the culvert and the slope of the culvert must be taken into consideration in the design of the crossing to ensure anadromous, estuarine and resident fish passage. In addition, all temporary and other types of permanent road crossings of waterbodies must not restrict the movement of aquatic organisms, including anadromous, estuarine and resident fish species.
- x) The crossing must not restrict low flows.
- xi) The crossing must not be used as a berm for a permanent impoundment.
- xii) Exposed slopes and stream banks must be stabilized and revegetated, preferably with native, woody species, immediately after construction of the road crossing is completed.
- xiii) Any temporary crossing must be removed within 14 calendar days after the structure is no longer needed, subject to any time-of-year restrictions, and no later than one year of the installation date.
- xiv) Any streams or wetlands impacted for temporary roads, or other temporary activities or structures, such as stream diversion devices, must be returned to pre-construction conditions, which includes contours, elevations, stream substrate, and revegetation with native, wetland species.

(4) Structural Discharges:

This activity authorizes discharges of clean material into tightly sealed forms or cells used as structural members for standard pile-supported structures, such as piers and docks, and minor projects, such as small components to existing bridges and walkways. All discharges authorized by this activity must comply with all activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. Discharges that do not meet the impact limits and/or conditions do not qualify for authorization under Category I and will be reviewed under Category III or alternate Corps permit review. (Section 404; **limited to all nontidal wetlands and streams.**)

- a. **Impact Limits:** The total temporary and permanent impact to Waters of the United States, which includes nontidal wetlands and streams is limited to less than 5,000 square feet. Included in this areal limit is a maximum distance impact limit to streams of no more than 500 linear feet, which is measured along the centerline of the waterway. The waterway's width is measured bank

to bank at the ordinary high water line. The acreage of impact to all waters of the United States includes the filled area plus those that are adversely affected by the project through permanent flooding, draining, or mechanized landclearing.

b. Conditions:

- i) Application must be submitted to MDE for Federal authorization.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
- iii) This activity does not authorize structural discharges in navigable Waters of the United States.
- iv) In-stream work must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.
- v) The structural discharges must not be used to support buildings, homes, parking areas, storage areas and other similar structures.

(5) Dry Fire Hydrants:

This activity authorizes discharges of dredged or fill material associated with installation and maintenance of dry hydrants. All work authorized by this activity, including discharges, must comply with all activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. All work, including discharges, that does not meet these impact limits and/or conditions does not qualify for authorization under Category I and will be reviewed under Category III or alternate Corps permit review. (Sections 10 and 404; **limited to all nontidal wetlands and streams, and all tidal wetlands and waters.**)

- a. **Impact Limits:** The total temporary and permanent impact to Waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, navigable waters, and other open waters, is limited to less than 5,000 square feet. Included in this areal limit, is a maximum distance impact limit to any waterway of no more than 500 linear feet, which is measured along the centerline of the waterway. The waterway’s width is measured bank to bank at the ordinary high water line or the mean high water line. The acreage of impact to all Waters of the United States, both temporary and permanent, includes the filled area plus those that are adversely affected by the project through permanent flooding, draining, or mechanized landclearing. Up to 25 cubic yards of sediment may be removed from the hydrant intake.

b. **Conditions:**

- i) Application must be submitted to MDE for Federal authorization.
- ii) The activity must not restrict the movements of aquatic organisms including anadromous and resident fish species.
- iii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
- iv) The dry hydrants must be installed for the purpose of providing water for fire fighting.
- v) Sediment removed from hydrant intakes must be deposited and retained in an upland (non-wetland) area.
- vi) This activity does not authorize sediment removal from wetlands or submerged aquatic vegetation beds.
- vii) In-stream work must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.

(6) **Clearing Debris and Windfalls:**

This activity authorizes discharges of dredged or fill material associated with removal of debris and windfalls from shorelines and banks. All work authorized by this activity, including discharges, must comply with all activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. Work, including discharges, that does not meet these impact limits and/or conditions does not qualify for authorization under Category I and will be reviewed under Category III or alternate Corps permit review. (Sections 10 and 404; **limited to all nontidal wetlands and streams, and all tidal wetlands and waters.**)

- a. **Impact Limits:** The total temporary and permanent impact to Waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, navigable waters, and other open water is limited to less than 5,000 square feet. Included in this areal limit is a maximum distance impact limit to streams, rivers, navigable waters, and other open waters of no more than 500 linear feet, which is measured along the centerline of the waterway. The waterway width is measured bank to bank at the ordinary high water line or the mean high water line. The acreage of impact to all Waters of the United States, both temporary and permanent, includes the filled area plus those that are adversely affected by the project through permanent flooding, draining, or mechanized landclearing.

b. Conditions:

- i) Application must be submitted to MDE for Federal authorization.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
- iii) This activity does not authorize stationing equipment in-stream. Work should be done from the bank or road crossing using the appropriate equipment, such as an excavator arm or boom.
- iv) In-stream work must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.
- v) This activity does not authorize dredging, shoal removal, or river bank snagging.

(7) Special Area Management Plan (SAMP) Study Area Projects :

This activity authorizes discharges of dredged or fill material in all nontidal wetlands and streams and all tidal wetlands and waters within a designated SAMP Study Area that have been determined to be eligible for impact, provided it meets the terms and conditions specified in the subject SAMP. The Corps of Engineers Regulatory Branch must be a collaborative member of the interagency team that developed the subject SAMP and a signatory to the SAMP. All work authorized by this activity, including discharges, must comply with all activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. Work, including discharges, that does not meet these impact limits and/or conditions, or are proposed in areas designated for protection by the subject SAMP, does not qualify for authorization under Category I and will be reviewed under Category III.A process if the project’s total impacts, both direct and indirect, as well as temporary and permanent, are one acre or less. Total impacts to more than one acre of Waters of the United States, will require an alternate Corps permit review. (Sections 10 and 404; **limited to all nontidal wetlands and streams, and all tidal wetlands and waters.**)

- a. **Impact Limits:** The total temporary and permanent impact to Waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, navigable waters, and other open water is limited to less than 5,000 square feet. Included in this areal limit is a maximum distance impact limit to streams, rivers, navigable waters, and other open waters of no more than 500 linear feet, which is measured along the centerline of the waterway. The waterway width is measured bank to bank at the ordinary high water line or the mean high water line. The acreage of impact to all Waters of the United States, both temporary and permanent, includes the filled area plus those that

are adversely affected by the project through permanent flooding, draining, or mechanized landclearing.

b. Conditions :

- i) Application must be submitted to MDE for Federal authorization. Use short form application, if developed for the subject SAMP Study Area.
- ii) Property on which the activity is proposed must have an approved jurisdictional determination of Waters of the United States, including jurisdictional wetlands, as shown in the final SAMP document for the subject Study Area.
- iii) This activity does not authorize any discharges of dredged or fill material in tidal wetlands for non-water dependent purposes.
- iv) Any permanent road crossing of tidal waters is limited to man-made tidal ditches or channels (e.g., roadside and agricultural ditches) that are no more than 12 feet wide measured at the mean high water line. All other permanent road crossings of tidal waters are to be reviewed as Category III activities.
- v) This activity does not authorize water withdrawals; channelization; pipe installation; and the construction of berms, dams, or any impoundments, including stormwater management facilities, in tidal wetlands or waters.
- vi) Best Management Practices (BMPs) developed/identified by the interagency team will be implemented as indicated in the subject SAMP document.
- vii) Mitigation for authorized impacts will be performed at the mitigation site(s) designated for this SAMP Study Area.
- viii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
- ix) For permanent culverted crossings, flow depth and velocity (not more than 3 to 4 ft./sec.) through the culvert and the slope of the culvert must be taken into consideration in the design of the crossing to ensure anadromous, estuarine and resident fish passage. In addition, all temporary and other types of permanent road crossings of waterbodies, and other types of in-stream structures, must not restrict the movement of aquatic organisms, including anadromous, estuarine and resident fish species.

- x) In-stream work must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.

(8) Temporary Stream Diversion for Construction:

This activity authorizes temporary discharges of dredged or fill material associated with stream diversion devices necessary for construction or repair, when there are no other impacts to Waters of the United States, including nontidal streams and wetlands, associated with the single and complete project. All work authorized by this activity, including discharges, must comply with all activity-specific conditions listed below, in addition to the general conditions of this permit. All work, including discharges, that does not meet these conditions does not qualify for authorization under Category I, will require submission of an application, and will be reviewed under Category III or alternate Corps permit review. (Section 404; **limited to all nontidal wetlands and streams.**)

- a. **Impact Limits:** The total temporary impact to Waters of the United States, which includes nontidal wetlands, streams and other open water, is limited to less than 5,000 square feet and no more than 500 linear feet of stream or other nontidal water. The impact area to streams and other open waters is determined by measuring bank to bank at the ordinary high water line along the length of stream, which is measured along the centerline. The acreage of temporary impact to all Waters of the United States includes the filled area plus those that are adversely affected by the project through flooding, draining, or mechanized landclearing. The entire length of diverted stream is considered impacted.
- b. **Conditions :**
 - i) No application is required for Federal authorization. (Refer to pages 67-68 for exceptions.)
 - ii) This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.
 - iii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
 - iv) The activity must not restrict the movements of aquatic organisms including anadromous and resident fish species.
 - v) Upon completion of the project, all temporary construction materials must be removed from Waters of the United States and the site returned to pre-construction conditions.

(9) **Outfall Structures:**

This activity authorizes discharges of dredged or fill material associated with the new construction of outfall structures and associated intake structures where the effluent from the outfall is authorized, conditionally authorized, or specifically exempted, or is otherwise in compliance with regulations issued under the National Pollutant Discharge Elimination System (NPDES) program. All work authorized by this activity, including discharges, must comply with all activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. All work, including discharges, that does not meet these impact limits and/or conditions does not qualify for authorization under Category I and will be reviewed under Category III or alternate Corps permit review. (Sections 10 and 404; **limited to all nontidal wetlands and streams, and all tidal wetlands and waters.**)

- a. **Impact Limits:** The total temporary and permanent impact to Waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, navigable waters, and other open water is limited to less than 800 square feet.
- b. **Conditions:**
 - i) Application must be submitted to MDE for Federal authorization.
 - ii) This activity does not authorize the construction of intake structures unless they are directly associated with an authorized outfall structure.
 - iii) In order to minimize the effects of intakes on anadromous fish eggs and larvae, and oyster larvae, intake structures should be equipped with screening (2 mm mesh is preferred of wedge wire or another material of equal or better performance). Intakes should be located where feasible away from spawning or nursery grounds, or to minimize the impingement on, or entrainment of, eggs or larvae. In addition, intake velocities should not exceed 0.5 ft./sec.
 - iv) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
 - v) In-stream work must be conducted “in the dry” whenever practicable. This should be accomplished by using stream diversion devices, other than earthen or stone cofferdams.
 - vi) The activity must not restrict the movements of aquatic organisms including anadromous and resident fish species.

(CATEGORY I ACTIVITIES)

e. Fish and Wildlife Harvesting, Enhancement and Attraction Devices and Activities

The following activities are authorized under the Maryland State Programmatic General Permit-2 (MDSPGP-2) provided the proposed regulated activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP-2 and the applicable Category I activity description(s) and condition(s).

Certain activities that otherwise meet the terms and conditions of Category I but that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special State concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, will generally not be authorized by the Maryland Department of the Environment (MDE) as a Letter of Authorization (LOA) or general permit (GP). These projects will be placed on State public notice, at which time the Corps, in addition to the agencies and the public, will have the opportunity to comment on the project. The Corps may invoke discretionary authority to require an alternate Corps permit review because of concerns for the aquatic environment or for any other public interest factor.

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), currently listed as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year. If necessary, project specific time-of-year restrictions can be placed on authorizations by the State and/or the Corps to protect aquatic resources, e.g., yellow perch and submerged aquatic vegetation.

(1) Dredging Seafood Products :

This activity authorizes discharges of dredged or fill material associated with dredging seafood products by any licensed operator including normal leased bottom activities permitted under Natural Resources Article, Title 4, Subtitle 11, Annotated Code of Maryland, and COMAR 08.02.08.12. All work authorized by this activity, including discharges, must comply with all activity-specific conditions listed below, in addition to the general conditions of this permit. All work, including discharges, that does not meet these conditions does not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III or alternate Corps permit review. (Sections 10 and 404; **limited to all tidal waters.**)

Conditions:

- i) No application is required for Federal authorization. (Refer to pages 67-68 for exceptions.)
- ii) Any dredging for seafood products must not occur in wetlands or sites that support submerged aquatic vegetation (including sites where

submerged aquatic vegetation is documented to exist, but may not be present in a given year).

- iii) This activity does not authorize the dredging and transplanting of oyster shell.

(2) Fish and Wildlife Harvesting Devices:

This activity authorizes discharges of dredged or fill material or structures associated with fish and wildlife harvesting devices and activities such as pound nets, crab traps, eel pots, lobster traps, duck blinds, clam and oyster digging, and small fish attraction devices such as open water fish concentrators (sea kites, etc.). This activity also authorizes shellfish seeding. All work authorized by this activity, including discharges, must comply with the activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. All work, including discharges, that does not meet these impact limits and/or conditions does not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III or alternate Corps permit review. (Sections 10 and 404; **limited to all nontidal wetlands and streams, and all tidal wetlands and waters.**)

- a. **Impact Limits:** The total temporary and permanent impact to Waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, navigable waters, and other open water is limited to less than 5,000 square feet. Included in this areal limit is a maximum distance impact limit to streams, rivers, navigable waters, and other open waters of no more than 500 linear feet, which is measured along the centerline of the waterway. The waterway width is measured bank to bank at the ordinary high water line or the mean high water line. The acreage of impact to all Waters of the United States, both temporary and permanent, includes the filled area plus those that are adversely affected by the project through permanent flooding, draining, or mechanized landclearing.
- b. **Conditions:**
 - i) No application is required for Federal authorization. (Refer to pages 67-68 for exceptions.)
 - ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
 - iii) This activity does not authorize net pens or other types of holding pens or impoundments.
 - iv) The harvesting devices must be legally permitted by the State.

- v) Shellfish seeding must not occur in wetlands or sites that support submerged aquatic vegetation (including sites where submerged aquatic vegetation is documented to exist, but may not be present in a given year).
- vi) This activity does not authorize artificial reefs.
- vii) This activity does not authorize impoundments and semi-impoundments of Waters of the United States for the culture or holding of motile species such as lobster, or the use of covered oyster trays or clam racks.
- viii) No structure may be installed in an anchorage area; a navigation fairway; or a marked, lighted, charted, or Federal navigation channel.

(3) Bass Spawning Boxes:

This activity authorizes temporary installation of bass spawning boxes in tidal waters. Spawning boxes authorized by this activity must comply with all activity-specific conditions listed below, in addition to the general conditions of this permit. Spawning boxes that do not meet these conditions do not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III or alternate Corps permit review. (Section 10; **limited to all tidal waters.**)

Conditions:

- i) No application is required for Federal authorization. (Refer to pages 67-68 for exceptions.)
- ii) Spawning boxes may be in place only from March 1 through June 15 annually.
- iii) Spawning boxes must be installed outside of any anchorage area; navigation fairway; or marked, lighted, charted, or Federal navigation channel.

(CATEGORY I ACTIVITIES)

f. Boating/Navigation-Related Structures and Activities

The following activities are authorized under the Maryland State Programmatic General Permit-2 (MDSPGP-2) provided the proposed regulated activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP-2 and the applicable Category I activity description(s) and condition(s).

Certain activities that otherwise meet the terms and conditions of Category I but that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special State concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, will generally not be authorized by the Maryland Department of the Environment (MDE) as a Letter of Authorization (LOA) or general permit (GP). These projects will be placed on State public notice, at which time the Corps, in addition to the agencies and the public, will have the opportunity to comment on the project. The Corps may invoke discretionary authority to require an alternate Corps permit review because of concerns for the aquatic environment or for any other public interest factor.

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), currently listed as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year. If necessary, project specific time-of-year restrictions can be placed on authorizations by the State and/or the Corps to protect aquatic resources, e.g., yellow perch and submerged aquatic vegetation.

(1) Channel and Harbor Navigation Aids :

This activity authorizes placement of aids to navigation and regulatory markers. All navigation aids authorized by this activity must comply with the activity-specific conditions listed below, in addition to the general conditions of this permit. Aids to navigation that do not meet these conditions do not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III or alternate Corps permit review. (Section 10; **limited to all tidal waters.**)

Conditions:

- i) No application is required for Federal authorization. (Refer to pages 67-68 for exceptions.)
- ii) Channel and harbor navigation aids must be approved by, and installed in accordance with, the requirements of the United States Coast Guard.

(2) State Regulatory Markers :

This activity authorizes placement, by the State of Maryland, of regulatory and informational markers that do not require approval by the United States Coast Guard. All regulatory and informational markers authorized by this activity must comply with the general conditions of this permit. Regulatory and informational

markers that do not meet these conditions do not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III or alternate Corps permit review. (Section 10; **limited to all tidal waters.**)

Condition: No application is required for Federal authorization. (Refer to pages 67-68 for exceptions.)

(3) **Piers :**

This activity authorizes private, non-commercial piers that meet the criteria in COMAR 26.24.04.02. Piers authorized by this activity must comply with all activity-specific conditions listed below, in addition to the general conditions of this permit. Piers that do not meet these conditions do not qualify for authorization under Category I and will be reviewed under Category III or alternate Corps permit review. (Section 10; **limited to all tidal waters.**)

Conditions:

- i) Application must be submitted to MDE for Federal authorization.
- ii) The project must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
- iii) This activity does not authorize the construction of a pier, or any addition, if its most channelward end is in water depths of 2 feet or less below mean low water.
- iv) This activity authorizes only 1 pier and 4 boat hoists or lifts per property.
- iv) The width of the main section of the pier must not exceed 6 feet.
- v) The total area of all fixed and floating auxiliary platforms including Ts, Ls, and step down platforms must not exceed 200 square feet and must not be located over vegetated wetlands.
- vi) Platforms must not be constructed within the landward 50% of the main pier section.
- vii) The project must not create more than 4 boat slips.
- viii) The project must not include more than 2 osprey poles per property.
- ix) The project must not include more than 2 three-pile dolphins.

- x) The project must not include more than two, 3-foot wide finger piers, and the finger piers must not exceed 50 % of the proposed slip length.
- xi) The finger piers must be constructed on the landward side of the end of a private pier.
- xii) The project must meet the minimum extended property line setback requirements established by the local jurisdictions in which the activity is proposed.
- xiii) In localities where there are no set back requirements, the structure(s) must be constructed in a manner that does not obstruct ingress and egress from adjacent properties.
- xiv) Piers over vegetated tidal wetlands must be constructed a minimum of 3 feet above the wetlands.
- xv) Piers must not extend within 100 feet of an MDE-approved ski course.
- xvi) Piers must not extend more than a distance of 25 % of the width of the waterway, channelward of the mean high water line and/or vegetated tidal wetlands; provided the pier does not come within 20 feet of a marked or commonly used channel (natural deep water) or within 150 feet of the horizontal limits of a Federal navigation channel.
- xvii) The project must not obstruct the flow of the tide.
- xviii) This activity does not authorize dredging.

(4) Marina Reconfiguration:

This activity authorizes reconfiguring an existing marina. Reconfigurations authorized by this activity must comply with all activity-specific conditions listed below, in addition to the general conditions of this permit. Reconfigurations that do not meet these conditions do not qualify for authorization under Category I and will be reviewed under Category III or alternate Corps permit review. (Section 10; **limited to all tidal waters.**)

Conditions:

- i) Application must be submitted to MDE for Federal authorization.
- ii) The work must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
- iii) This activity does not authorize dredging.

- iv) There must be no increase in the boundaries of the marina.
- v) There must be no increase in channelward encroachment beyond existing piers and associated structures.
- vi) This activity does not authorize construction of new buildings on pier.

(5) Boat Ramp Construction, Repair and Expansion:

This activity authorizes discharges of dredged or fill material associated with new construction, and repair and expansion of existing boat ramps. Work authorized by this activity, including discharges, must comply with the activity-specific impact limits listed below, in addition to the general conditions of this permit. Work, including discharges, that does not meet these impact limits and/or conditions does not qualify for authorization under Category I and will be reviewed under Category III or alternate Corps permit review. (Sections 10 and 404; **limited to all nontidal open water and tidal waters, but not wetlands.**)

- a. **Impact Limits:** The width of the boat ramp is limited to 12 feet or less, and cannot extend more than 30 feet channelward of the mean high water line.
- b. **Conditions:**
 - i) Application must be submitted to MDE for Federal authorization.
 - ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
 - iii) This activity authorizes the discharge of concrete, rock, crushed stone or gravel into forms, or placement of precast concrete planks or slabs. This material may be placed over base materials which must be crushed stone, gravel, or other suitable material. Total volume of material used for the ramp and base must not exceed 50 cubic yards.
 - iv) This activity does not authorize use of unsuitable material that causes unacceptable chemical pollution or that is structurally unstable.
 - v) Excavation must be limited to the area necessary for site preparation.
 - vi) All excavated material must be removed to upland (non-wetland) areas and stabilized with straw bales, silt fence, or other erosion and sediment control measures to prevent reentry of soil into Waters of the United States.

- vii) Boat ramps and associated discharges must not be placed in special aquatic sites, including wetlands.
- viii) This activity does not authorize dredging to provide access to the boat ramp.

(6) Mooring Buoys:

This activity authorizes placement of mooring buoys. All mooring buoys authorized by this activity must comply with the activity-specific conditions listed below, in addition to the general conditions of this permit. Mooring buoys that do not meet these conditions do not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III or alternate Corps permit review. (Section 10; **limited to all tidal waters.**)

Conditions:

- i) No application is required for Federal authorization. (Refer to pages 67-68 for exceptions.)
- ii) Only non-commercial, single-boat mooring buoys can be authorized by the activity.
- iii) Submerged aquatic vegetation beds must be avoided when placing the mooring buoy(s).
- iv) The mooring buoy(s) must not be placed in a marked navigation channel or block ingress or egress from adjacent properties.

(7) Structures in Fleeting and Anchorage Areas:

Structures, buoys, floats, and other devices placed within anchorage areas or fleeting areas to facilitate mooring vessels. All structures and devices authorized by this activity must comply with the activity-specific conditions listed below, in addition to the general conditions of this permit. Structures and devices that do not meet these conditions do not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III or alternate Corps permit review. (Section 10; **limited to all tidal waters.**)

Conditions:

- i) No application is required for Federal authorization. (Refer to pages 67-68 for exceptions.)
- ii) The anchorage or fleeting areas must be established for these purposes by the U. S. Coast Guard.

- iii) Submerged aquatic vegetation beds must be avoided when placing the mooring buoy(s).

(8) Temporary Recreational Structures:

This activity authorizes temporary recreational buoys, markers, small floating docks, and similar structures for seasonal recreational use or for recreational use during special events. All structures and devices authorized by this activity must comply with all activity-specific conditions listed below, in addition to the general conditions of this permit. Structures and devices that do not meet these conditions do not qualify for authorization under Category I and will be reviewed under Category III or alternate Corps permit review. (Section 10; **limited to all tidal waters.**)

Conditions:

- i) Application must be submitted to MDE for Federal authorization.
- ii) Submerged aquatic vegetation beds must be avoided when placing any buoys, markers and structures.
- iii) The buoys, markers and structures must be removed from the water within 30 days after the special event is concluded.
- iv) The buoys, markers and structures must be placed at least 50 feet, or a distance of three times the depth of the authorized channel, whichever is greater, from any Federal navigation projects.

(9) Removal of Vessels:

This activity authorizes temporary structures or minor discharges of dredged or fill material required for removal of wrecked, abandoned, or disabled vessels, or removal of man-made obstructions to navigation. All structures and discharges authorized by this activity must comply with the activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. Structures or discharges that do not meet these impact limits and/or conditions do not qualify for authorization under Category I, will require submission of an application and will be reviewed under Category III or alternate Corps permit review. (Sections 10 and 404; **limited to all tidal waters.**)

- a. **Impact Limits:** The total temporary and permanent impact to Waters of the United States, which includes tidal and navigable waters and wetlands, is limited to less than 5,000 square feet. Included in this areal limit is a maximum distance impact limit to streams of no more than 500 linear feet, which is measured along the centerline of the waterway. The waterway is measured bank to bank at the mean high water line. The acreage of impact to all Waters of the United States includes the filled area plus those that are

adversely affected by the project through permanent flooding, draining, or mechanized landclearing.

b. Conditions:

- i) No application is required for Federal authorization. (Refer to pages 67-68 for exceptions.)
- ii) This activity does not authorize removal of vessels listed or determined eligible for listing on the National Register of Historic Places.
- iii) This activity does not authorize maintenance dredging, shoal removal, or riverbank snagging.
- iv) Temporary structures and fills must be removed immediately when work is complete and restored to pre-construction condition which includes contours, elevations and revegetation with native wetland species.

(CATEGORY I ACTIVITIES)

g. Shoreline/Bank Stabilization Activities

The following activities are authorized under the Maryland State Programmatic General Permit-2 (MDSPGP-2) provided the proposed regulated activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP-2 and the applicable Category I activity description(s) and condition(s).

Certain activities that otherwise meet the terms and conditions of Category I but that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special State concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, will generally not be authorized by the Maryland Department of the Environment (MDE) as a Letter of Authorization (LOA) or general permit (GP). These projects will be placed on State public notice, at which time the Corps, in addition to the agencies and the public, will have the opportunity to comment on the project. The Corps may invoke discretionary authority to require an alternate Corps permit review because of concerns for the aquatic environment or for any other public interest factor.

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), currently listed as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year. If necessary, project specific time-of-year restrictions can be placed on authorizations by the State and/or the Corps to protect aquatic resources, e.g., yellow perch and submerged aquatic vegetation.

Shoreline and bank stabilization activities will be reviewed based on the following order of preference: a) nonstructural shoreline stabilization, including beach nourishment, marsh creation, root wads and other similar measures; b) shoreline revetments, breakwaters, groins, and similar structures designed to ensure establishment and long-term viability of nonstructural shoreline stabilization projects; c) shoreline revetments; d) breakwaters; e) groins; and f) bulkheads.

(1) Revetment/Bulkhead Armoring:

This activity authorizes addition of stone or broken concrete to an existing revetment or bulkhead. All work authorized by this activity, including discharges, must comply with all activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. All work, including discharges, that does not meet the impact limits and/or conditions does not qualify for authorization under Category I and will be reviewed under Category III and alternate Corps permit review. (Sections 10 and 404; **limited to all tidal waters and wetlands.**)

- a. **Impact Limits:** The work must not extend more than 10 feet channelward of the existing structure (i.e., revetment or bulkhead) and must not impact more than 10% of any adjacent marsh, wetland or submerged aquatic vegetation

(SAV) for each 500 foot section of armoring. Armoring is limited to the length of the existing bulkhead or revetment.

b. Conditions:

- i) Application must be submitted to MDE for Federal authorization.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
- iii) Material used must be clean stone or broken concrete. If broken concrete is used for armoring, it must be clean and free of rebar or other protruding reinforcement.
- iv) No material may be placed in excess of the minimum needed for erosion protection.
- v) The work must not involve reclaiming eroded land.
- vi) No material must be of the size or type, or placed in any location or in any manner, such that it impairs surface water flow into or out of any wetland area.

(2) New Revetments :

This activity authorizes placement of a revetment for shore erosion control. All work authorized by this activity, including discharges, must comply with all activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. Work, including discharges, that does not meet the impact limits and/or conditions does not qualify for authorization under Category I and will be reviewed under Category III and alternate Corps permit review. (Sections 10 and 404; **limited to all tidal waters and wetlands.**)

- a. **Impact Limits:** The revetment is limited to 500 linear feet in length along the shoreline, must not extend more than 10 feet channelward of the mean high water line and must not impact more than 10% of any adjacent marsh, wetland or submerged aquatic vegetation (SAV), with the total impact to Waters of the United States, including wetlands, less than 5,000 square feet.

b. Conditions:

- i) Application must be submitted to MDE for Federal authorization.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)

- iii) No material may be placed in excess of the minimum needed for erosion protection.
- iv) The revetment must be constructed parallel to the uplands.
- v) The revetment must be constructed as close to the uplands as structurally feasible.
- vi) This activity does not authorize reclaiming eroded land.
- vii) Material must not be of the size or type, or placed in any location or in any manner, such that it impairs surface water flow into or out of any wetland area.
- viii) Filter cloth must be used, or the project must otherwise be designed and constructed, to prevent soil from washing into the waterway.
- ix) Material used must be clean stone or broken concrete. If broken concrete is used for the revetment, it must be clean and free of rebar or other protruding reinforcement.

(3) Tidal Marsh Creation:

This activity authorizes discharges of fill material and the construction of stone containment structures such as groins or low profile stone sills, in unvegetated (i.e., no adjacent marsh, wetland or SAV) shallow water along shorelines to facilitate tidal marsh creation for the purpose of shoreline erosion control only. All work authorized by this activity, including discharges, must comply with all activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. Work, including discharges, that does not meet the impact limits and/or conditions does not qualify for authorization under Category I and will be reviewed under Category III and alternate Corps permit review. (Sections 10 and 404; **limited to all tidal waters and wetlands.**)

- a. **Impact Limits:** Total impact is limited to 500 linear feet of shoreline, with a total impact to unvegetated (i.e., no adjacent marsh, wetland or SAV) shallow waters less than 17,500 square feet.
- b. **Conditions:**
 - i) Application must be submitted to MDE for Federal authorization.
 - ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)

- iii) No material may be placed in excess of the minimum needed for erosion protection.
- iv) The fill and containment structures must not extend more than 35 feet channelward of the mean high water line.
- v) The fill must be placed parallel to the upland.
- vi) The fill material used must be clean substrate, no more than 10% of which shall pass through a standard number 100 sieve.
- vii) The marsh establishment area must be planted within one year following completion of the filling operation.
- viii) The marsh establishment area must be maintained as a wetland, with non-nuisance species aerial coverage of at least 85% for three consecutive years. If 85% coverage is not attained, the reasons for failure must be determined, corrective measures must be taken and the area must be replanted.
- ix) If an erosion and sediment control plan is required for clearing or grading of the existing bank, it must be obtained from the applicable erosion and sediment control agency before beginning the clearing or grading.

(4) Tidal Shoreline Erosion Control Structures (Not Revetments):

This activity authorizes discharges of dredged or fill material associated with construction of a shoreline erosion control structure. All work authorized by this activity, including discharges, must comply with all activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. Work, including discharges, that does not meet the impact limits and/or conditions does not qualify for authorization under Category I and will be reviewed under Category III and alternate Corps permit review. (Sections 10 and 404; **limited to all tidal waters and wetlands.**)

- a. **Impact Limits:** The erosion control structure is limited to 300 feet in length along the shoreline, must not exceed 10 feet channelward of the mean high water line and must not impact more than 10% of any adjacent marsh, wetland or submerged aquatic vegetation (SAV), with the total impact to Waters of the United States, including wetlands, less than 3,000 square feet.
- b. **Conditions:**
 - i) Application must be submitted to MDE for Federal authorization.

- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
- iii) No material may be placed in excess of the minimum needed for erosion protection.
- iv) Only shore erosion control structures other than revetments are authorized by this activity. Toe protection for new bulkheads is also authorized.
- v) The erosion control structure must be constructed parallel to the uplands.
- vi) The erosion control structure must be constructed as close to the uplands as structurally feasible.
- vii) This activity does not authorize reclaiming eroded land.
- viii) No material must be of the size or type or placed in any location or in any manner, so as to impair surface water flow into or out of any wetland area.
- ix) Filter cloth must be used or the project must otherwise be designed and constructed to prevent soil from washing into the waterway.

(5) Nontidal Bank Stabilization:

This activity authorizes discharges of dredged or fill material associated with installation of nontidal stream bank stabilization structures, not to extend across the streambed, that include in order of preference, non-structural/ bioengineering bank stabilization measures such as root wads; revetments, preferably imbricated riprap if practicable; bulkheads; and gabions. All work, including discharges, authorized by this activity must comply with all activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. Work, including discharges, that does not meet these impact limits and/or conditions does not qualify for authorization under Category I and will be reviewed under Category III and alternate Corps permit review. (Section 404; **limited to all nontidal wetlands and streams.**)

- a. **Impact Limits:** The erosion control structure itself is limited to 500 feet in total length and must not impact more than 10% of any adjacent marsh, wetland or submerged aquatic vegetation (SAV) and a total impact to all nontidal wetlands and streams of less than 5,000 square feet in area.

b. Conditions :

- i) Application must be submitted to MDE for Federal authorization.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
- iii) No material may be placed in excess of the minimum needed for erosion protection.
- iv) The material must cover only the minimum necessary for bank stabilization, and must have no more than minimal effect on the stream bottom and should not adversely modify stream hydrology and/or channel morphometry.
- v) Structural types of bank stabilization, such as revetments, must have voids/joints planted, e.g., live stakes, to provide additional bank stabilization and stream shading.
- vi) Direct displacement of woody riparian vegetation should not exceed 25% within a 25-foot wide strip measured landward of the ordinary high water line of the stream. Impacts to woody vegetation resulting from soil compaction around the root zone by heavy equipment should be minimized.
- vii) Stream restoration projects that involve reworking the streambed, such as placement of vortex rock weirs, creating step pools, etc., are not authorized by this activity. These must be reviewed as a Category III activity or under the Nationwide Permit #27 process.
- viii) Discharges must not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark.
- ix) No material must be of the size or type or placed in any location or in any manner, so as to impair surface water flow into or out of any wetland area.
- x) Filter cloth must be used or the project must otherwise be designed and constructed to prevent soil from washing into the waterway.

- xi) If stone revetment is used, the following additional conditions apply:
 - (1) Material used must be clean stone or, if broken concrete is used for the revetment, it must be clean and free of rebar or other protruding reinforcement.
 - (2) The revetment must be constructed with material of appropriate size or class to prevent it from being washed into the waterway.
- xii) The bank stabilization structure must be constructed as close to the bank as possible.
- xiii) The bank stabilization must not involve reclaiming eroded land.

(CATEGORY I ACTIVITIES)

h. Return Water

The following activities are authorized under the Maryland State Programmatic General Permit-2 (MDSPGP-2) provided the proposed regulated activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP-2 and the applicable Category I activity description(s) and condition(s).

Certain activities that otherwise meet the terms and conditions of Category I but that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special State concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, will generally not be authorized by the Maryland Department of the Environment (MDE) as a Letter of Authorization (LOA) or general permit (GP). These projects will be placed on State public notice, at which time the Corps, in addition to the agencies and the public, will have the opportunity to comment on the project. The Corps may invoke discretionary authority to require an alternate Corps permit review because of concerns for the aquatic environment or for any other public interest factor.

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), currently listed as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year. If necessary, project specific time-of-year restrictions can be placed on authorizations by the State and/or the Corps to protect aquatic resources, e.g., yellow perch and submerged aquatic vegetation.

(1) Return Water:

This activity authorizes the discharge of return water from upland, contained dredged material disposal areas into Waters of the United States. (Section 404 only.)

Conditions:

- i) Application must be submitted to MDE for Federal authorization.
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)

(CATEGORY I ACTIVITIES)

i. Cleanup of Oil and Hazardous and Toxic Waste

The following activities are authorized under the Maryland State Programmatic General Permit-2 (MDSPGP-2) provided the proposed regulated activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP-2 and the applicable Category I activity description(s) and condition(s).

Certain activities that otherwise meet the terms and conditions of Category I but that are proposed in nontidal wetlands with significant plant and wildlife value, as defined in COMAR 26.23.01.01 (80); or are proposed in nontidal wetlands of special State concern, as listed in COMAR 26.23.06.01; or are proposed in Use III (natural trout) or IV (stocked trout) waters, as defined in COMAR 26.08.02.08, will generally not be authorized by the Maryland Department of the Environment (MDE) as a Letter of Authorization (LOA) or general permit (GP). These projects will be placed on State public notice, at which time the Corps, in addition to the agencies and the public, will have the opportunity to comment on the project. The Corps may invoke discretionary authority to require an alternate Corps permit review because of concerns for the aquatic environment or for any other public interest factor.

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), currently listed as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year. If necessary, project specific time-of-year restrictions can be placed on authorizations by the State and/or the Corps to protect aquatic resources, e.g., yellow perch and submerged aquatic vegetation.

(1) Oil Spill Cleanup:

This activity authorizes discharges of dredged or fill material associated with activities required to contain and clean up oil and hazardous substances that are subject to the National Oil and Hazardous Substances Pollution Contingency Plan. All work authorized by this activity, including discharges, must comply with all activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. Work, including discharges, that does not meet the impact limits and/or conditions does not qualify for authorization under Category I, will require submission of an application, and will be reviewed under Category III and alternate Corps permit review. (Sections 10 and 404; **limited to all nontidal wetlands and streams, and all tidal wetlands and waters.**)

- a. **Impact Limits:** The total temporary and permanent impact to Waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, navigable waters, and other open water is limited to less than 5,000 square feet. Included in this areal limit is a maximum distance impact limit to streams, rivers, navigable waters, and other open waters of no more than 500 linear feet, which is measured along the centerline of the waterway. The waterway width is measured bank to bank at the ordinary high water line or the mean high water line. The acreage of impact to all Waters of the United States, both temporary and permanent, includes the filled area plus those that

are adversely affected by the project through permanent flooding, draining, or mechanized landclearing.

b. Conditions:

- i) No application is required for Federal authorization. (Refer to pages 67-68 for exceptions.)
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
- iii) The work must be conducted in accordance with the Spill Control and Countermeasure Plan and any State contingency plan.
- iv) The Regional Response Team, if one exists, must concur with the proposed containment and cleanup action.

(2) Hazardous and Toxic Waste Cleanup:

This activity authorizes discharges of dredged or fill material associated with activities required to contain, stabilize or remove hazardous or toxic waste materials. Activities undertaken entirely on a CERCLA site by authority of CERCLA, as approved or required by EPA, are not required to obtain Federal authorization under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act. All work authorized by this activity, including discharges, must comply with all activity-specific impact limits and conditions listed below, in addition to the general conditions of this permit. Work, including discharges, that does not meet the impact limits and/or conditions does not qualify for authorization under Category I, will require submission of an application, and will be reviewed under Category III and alternate Corps permit review. (Sections 10 and 404; **limited to all nontidal wetlands and streams, and all tidal wetlands and waters.**)

- a. **Impact Limits:** The total temporary and permanent impact to Waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, navigable waters, and other open water is limited to less than 5,000 square feet. Included in this areal limit is a maximum distance impact limit to streams, rivers, navigable waters, and other open waters of no more than 500 linear feet, which is measured along the centerline of the waterway. The waterway width is measured bank to bank at the ordinary high water line or the mean high water line. The acreage of impact to all Waters of the United States, both temporary and permanent, includes the filled area plus those that are adversely affected by the project through permanent flooding, draining, or mechanized landclearing.

b. Conditions:

- i) No application is required for Federal authorization. (Refer to pages 67-68 for exceptions.)
- ii) The discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. (See General Condition VI.A.5 concerning “single and complete project.”)
- iii) The activities must be performed, ordered or sponsored by a government agency with established legal or regulatory authority.
- iv) Court ordered remedial action plans or related settlements are also authorized by this activity.
- v) The work must be conducted in accordance with the National Contingency Plan.
- vi) This activity does not authorize establishment of new disposal sites or the expansion of existing sites used for the disposal of hazardous or toxic waste.

2. CATEGORY II ACTIVITIES

The following activities may be authorized under the Maryland State Programmatic General Permit-2 (MDSPGP-2) after review by the Corps provided the proposed regulated activities comply with all terms, conditions, best management practices and processing procedures identified and required by the MDSPGP-2.

For purposes of the MDSPGP-2, the discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. The acreage of temporary and permanent impacts to Waters of the United States includes the filled area plus Waters of the United States that are adversely affected by the project through permanent flooding, draining, or mechanized landclearing.

a. Activities In or Near Federally Authorized Civil Works Projects

(1) Activities In or Near Federal Navigation Projects:

This activity applies to Category I projects that extend closer than 150 feet of the horizontal limits of any Federal navigation project, which is considered to be a Federally authorized civil works project. Structures or work that exceed the Category I individual activities' impact limits and conditions and extend closer than 150 feet of the horizontal limits of any Federal navigation project will be reviewed under Category III.A or III.B or alternate Corps permit procedures, as appropriate. **Application must be submitted to MDE for Federal authorization.**

(2) Activities In or Near Other Federally Authorized Civil Works Projects:

This activity applies to Category I projects that are proposed in or adjacent to any proposed or existing Federally authorized civil works project other than a Federal navigation project. Structures or work that exceed the Category I individual activities' impact limits and conditions and that are proposed in or adjacent to any Federally authorized civil works project will be reviewed under Category III.A, III.B or alternate Corps permit procedures, as appropriate. **Application must be submitted to MDE for Federal authorization.**

b. Activities Grandfathered by MDE

(1) Grandfathered Activities:

This activity applies to Category I projects that are grandfathered from MDE's permit requirements. Grandfathered activities that exceed the Category I individual activities' impact limits and conditions will be reviewed under Category III.A or alternate Corps permit procedures, as appropriate. **Application must be submitted to MDE for Federal authorization.**

c. Activities Exempt from MDE's Permit Requirements

(1) State Exempt Activities:

This activity applies to Category I projects that require Federal authorization under Section 10 and/or 404 and that meet the impact limits and conditions of the Category I individual activities, but that are exempt under applicable State law. Activities that require Federal authorization under Section 10 and/or 404, but that do not meet the impact limits and conditions of Category I individual activities and are exempt from MDE's permit requirements, will be reviewed under Category III.A or alternate Corps permit procedures, as appropriate. **Application must be submitted to MDE for Federal authorization.**

d. Denials and Violations

(1) Denials:

This activity applies to Category I projects that have been denied State authorization pursuant to the Maryland Nontidal Wetlands Protection Act, the Tidal Wetlands Act, or the Waterway Construction Act, or that have been denied Water Quality Certification or a Coastal Zone Consistency Certification. This activity also applies to Category I projects that have been previously denied DA authorization under Section 10 of the River and Harbor Act of 1899 and/or Section 404 of the Clean Water Act. This activity also applies to projects that have not themselves been denied one of these authorizations, but that are part of a project that has been denied. Projects that exceed the Category I individual activities' impact limits and conditions and that have been denied one of these authorizations, or that are part of a project that has been denied, will be reviewed under Category III.A, III.B, or alternate Corps permit procedures, as appropriate. **Application must be submitted to MDE for Federal authorization.**

(2) Violations:

This activity applies to Category I projects that are proposed for authorization for the purpose of resolving violations of Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act, i.e., after-the-fact applications or completed or partially completed work that is discovered in the review of a Category I application. This activity also applies to Category I projects that are not themselves violations, but that are part of a project that is a violation, or that occur on the same property as a violation. Projects that exceed the Category I individual activities' impact limits and conditions and that are violations, are part of a project that is a violation, or that occur on the same property as a violation will be reviewed under Category III.A, III.B, or alternate Corps permit procedures, as appropriate. **Application must be submitted to MDE for Federal authorization for any of these violation instances.**

3. CATEGORY III ACTIVITIES

The following activities may be authorized under the Maryland State Programmatic General Permit-2 (MDSPGP-2) after review by the Corps and coordination with appropriate State and Federal resource agencies, provided the proposed activities comply with all terms, conditions, best management practices, and processing procedures identified and required by the MDSPGP-2.

For purposes of the MDSPGP-2, the discharge must be part of a single and complete project that includes all attendant features, both temporary and permanent. The acreage of temporary and permanent impacts to Waters of the United States includes the filled area plus Waters of the United States that are adversely affected by the project through permanent flooding, draining, or mechanized landclearing.

In-stream work will be evaluated with reference to certain time-of-year restrictions, as determined by the classification of the stream (COMAR 26.08.02.08), currently listed as follows: Use I and Use I-P: March 1 through June 15, inclusive, during any year; Use II: June 1 through September 30 and December 16 through March 14, inclusive, during any year; Use III and Use III-P: October 1 through April 30, inclusive, during any year; Use IV and Use IV-P: March 1 through May 31, inclusive, during any year. If necessary, project specific time-of-year restrictions can be placed on authorizations by the State and/or the Corps to protect aquatic resources, e.g., yellow perch and submerged aquatic vegetation.

a. State Permit Public Notice Not Required

State Permit Public Notice Not Required:

This activity authorizes work that does not meet the impact limits and/or the terms and conditions of any activity described in Categories I or II, and that impacts no more than one acre of nontidal or tidal Waters of the United States, including wetlands. A preliminary determination is made by MDE that a State permit public notice is not required based on the information and plans provided with the initial application submittal. The acreage of impact to Waters of the United States includes temporary and permanent impacts, as well as direct and indirect impacts associated with the activity. Work proposed under this activity requires a 30-day notification to the following agencies: EPA, FWS, NMFS, MHT, DNR, MDE, and USCG, when appropriate. **Application must be submitted to MDE for Federal authorization.**

b. State Permit Public Notice Required

State Permit Public Notice Required:

This activity authorizes work that does not meet the impact limits and/or the terms and conditions of any activity described in Categories I or II, and that impacts no more than one acre of nontidal or tidal Waters of the United States, including wetlands. A preliminary determination is made by MDE that a State permit public notice is required based on the information and plans provided with the initial application submittal. The acreage of impact to Waters of the United States includes temporary and permanent impacts, as well as direct and indirect impacts associated with the activity. Work proposed under this activity requires a 30-day joint Corps/MDE public notice and generally either a Tidal Wetlands license or permit or a Nontidal Wetlands and Waterways permit from MDE. **Application must be submitted to MDE for Federal authorization.**

4. **Definitions:** Terms are referenced in the Category I, II and/or III activities.

These definitions are excerpted from one of the following and are so noted:

- Final Rule for Regulatory Programs of the Corps of Engineers, 33 CFR Parts 320 through 330, as published in the November 13, 1986 Federal Register, Vol. 51, No. 219. (51 FR 219)
- Final Notice of Issuance and Modification of Nationwide Permits, as published in the March 9, 2000 Federal Register, Vol. 65, No. 47. (65 FR 47)
- Final Rule for Revisions to the Clean Water Act Regulatory Definition of “Discharge of Dredged Material,” as published in the May 10, 1999 Federal Register, Vol. 64, No. 89. (64 FR 89)
- “Final Rule for Further Revisions to the Clean Water Act Regulatory Definition of Discharge of Dredged Material,” as published in the January 12, 2001 Federal Register, Vol. 66, No. 11. (66 FR 11)

Best Management Practices: Best Management Practices (BMPs) are policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural. A BMP policy may affect the limits on a development. (65 FR 47, p.12897)

Discharge of dredged material: Means any addition of dredged material, including “redeposit of dredged material other than incidental fallback,” into the Waters of the United States. (51 FR 219, p. 41232 and 64 FR 89, p. 25123) (i) The Corps and EPA regard the use of mechanized earth-moving equipment to conduct landclearing, ditching, channelization, in-stream mining or other earth-moving activity in Waters of the United States as resulting a discharge of dredged material unless project-specific evidence shows that the activity results in only incidental fallback. (ii) Incidental feedback is the redeposit of small volumes of dredged material that is incidental to excavation activity in Waters of the United States when such material falls back to substantially the same place as the initial removal. Examples of incidental fallback include soil that is disturbed when dirt is shoveled and the back-spill that comes off a bucket when such small volume of soil or dirt falls into substantially the same place from which it was initially removed. (66 FR 11, p. 4575)

Fill material: The term “fill material” means any material used for the primary purpose of replacing an aquatic area with dry land or changing the bottom elevation of a waterbody. This term does not include any pollutant discharged into the water primarily to dispose of waste, as that activity is regulated under section 402 of the Clean Water Act. (51 FR 219, p. 41232) See this reference for definition of “discharge of fill material.”

Ephemeral stream: An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the ground water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow. (65 FR 47, p.12897)

Independent utility: A test to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases that would be constructed even if the other phases are not built can be considered as separate single and complete projects with independent utility. (65 FR 47, p.12898)

Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow. (65 FR 47, p.12898)

Nontidal wetland: A nontidal wetland is a wetland (i.e., a Water of the United States) that is not subject to the ebb and flow of tidal waters. The definition of a nontidal wetland can be found at 33 CFR 328.3(b). Nontidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., the spring high tide line). (65 FR 47, p.12898)

Open water: An area that, during a year with normal patterns of precipitation, has standing or flowing water for sufficient duration to establish an ordinary high water mark. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. The term “open water” includes rivers, streams, lakes and ponds. For the purposes of the NWP, this term does not include ephemeral waters. (65 FR 47, p.12898)

Ordinary high water mark: The line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. (51 FR 219, p. 41251)

Mean high water: In coastal areas, the line on the shore reached by the plane of the mean (average) high water. For precise determination, it must be established by survey with reference to the available tidal datum, preferably over a period of 18.6 years. Less precise methods, such as observation of the

“apparent shoreline” which is determined by reference to physical markings, lines of vegetation, or changes in type of vegetation, may be used for estimate purposes. (51 FR 219, p. 41253)

Navigable waters of the United States: 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. A determination of navigability, once made, applies laterally over the entire surface of the waterbody, and is not extinguished by later actions or events which impede or destroy navigable capacity. (51 FR 219, p. 41251)

Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the streambed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow. (65 FR 47, p.12898)

Special aquatic sites: Wetlands, mudflats, vegetated shallows, coral reefs, riffle and pool complexes, sanctuaries, and refuges under the 404(b)(1) Guidelines, as defined at 40 CFR 230.40 through 230.45.

Single and complete project: The term “single and complete” project is defined at 33 CFR 330.2(1) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers (see definition of independent utility). For linear projects, the “single and complete project” (i.e., a single and complete crossing) will apply to each crossing of a separate Water of the United States (i.e., a single waterbody) at that location. An exception is for linear projects crossing a single waterbody several times at separate and distant locations: each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly-shaped wetland or lake, etc., are not separate waterbodies. (65 FR 47, p. 12898)

Tidal wetland: A tidal wetland is a wetland (i.e., a Water of the United States) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line (i.e., spring high tide line) and are inundated by tidal waters two times per lunar month, during spring high tides. (65 FR 47, p. 12898)

V. **Alternate Corps Permit Review:**

Activities that require DA authorization, but that do not meet the terms and/or conditions of the MDSPGP-2 are ineligible for authorization/verification under the MDSPGP-2 and will be reviewed under alternate Corps permit procedures. However, during the alternate Corps permit review, the Corps may determine that the proposed adverse environmental effects have been reduced to minimal and the proposed project meets the terms and conditions of the MDSPGP-2. At that time, the Corps may verify MDSPGP-2 eligibility for the project.

If a project is ineligible under the terms and conditions of the MDSPGP-2, the Corps will notify MDE and the applicant that the project will require further evaluation under alternate Corps permit procedures, including a public interest review. All information submitted by the applicant for MDSPGP-2 review will also be used by the Corps for the alternate Corps permit review. Individual WQC and CZC determination may be required for projects alternatively reviewed. WQC and CZC may be included as part of MDE's tidal wetlands or nontidal wetlands and waterways authorizations.

VI. **General Conditions**

The following conditions apply to all activities authorized under the MDSPGP-2.

A. **General Requirements:**

1. **Other Permits.** Authorization under the MDSPGP-2 does not obviate the need to obtain other Federal, State, or local authorizations required by law.
2. **Applicability.** Applicability of the MDSPGP-2 shall be reviewed with reference to the Corps definition of Waters of the United States, including wetlands, and navigable Waters of the United States. Applicants are responsible for delineating boundaries of all Waters of the United States, including wetland boundaries. The delineation of wetland boundaries shall be accomplished in accordance with the current Federal manual for identifying jurisdictional wetlands and appropriate guidance issued by the Corps of Engineers.
3. **Minimal Effects.** Projects authorized by the MDSPGP-2 shall have no more than minimal individual and cumulative adverse environmental effects.
4. **Discretionary Authority.** Notwithstanding compliance with the terms and conditions of the MDSPGP-2, the Corps retains

discretionary authority to require an alternate Corps permit review for any project under all categories of the MDSPGP-2 based on concerns for the aquatic environment or for any other factor of the public interest. This authority may be invoked on a case-by-case basis during the review process for Category III activities whenever the Corps determines that, based on the concerns stated above, the potential consequences of the proposed project warrant individual review. In some rare instances, the Corps may have concerns for the aquatic environment or for any other public interest factor pertaining to a specific proposed project, which has received a case-specific verification as a Category I activity. In order to evaluate this project under an alternate Corps permit review, the verification must be suspended in accordance with VII.E on page 85 of the MDSPGP-2.

Whenever the Corps notifies an applicant that an alternate Corps permit may be required, authorization under the MDSPGP-2 is voided. No work may be conducted until the individual Corps permit is obtained, or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under the MDSPGP-2.

5. **Single and Complete Projects.** The MDSPGP-2 shall not be used for piecemeal work and shall be applied to single and complete projects, including maintenance activities. All components of a project shall be reviewed together as constituting one single and complete project. All planned phases of multi-phased projects shall be applied for and reviewed together as constituting one single and complete project. The MDSPGP-2 shall not be used for any activity or portion of a project, e.g., a pier or boat ramp, that is part of, or dependent on, an overall project, e.g., the dredging of a main navigation channel or a spur channel, for which an individual permit or some other alternate Corps permit is required.
6. **Stacking of Category I activities.** Activity d.(2) in Category I (e.g., Underground and Overhead Utility Lines) may not be stacked or combined with any other Category I activity. Any single and complete project with both utility line impact(s) and other Category I activity(s), will be reviewed as a Category III project in accordance with the Category III process specified on page 9, provided the total impact to Waters of the United States, including wetlands, is less than one acre. If any other Category I activities, except Activity d.(2), are stacked or combined to authorize a single and complete project, the total impact to Waters of the United States for all activities in the single and complete project must be less than or equal to the 500 linear feet limit and be

less than the 5,000 square feet impact limit (except for tidal marsh creation projects that have a limit of less than 17,500 square feet), **while complying with each activity-specific impact limit and conditions**. For example, total road crossing impacts are still limited to not exceed 200 linear feet.

7. **Authorized activities in navigable waters subject to Section 10 of the Rivers and Harbors Act of 1899.**

- a. If future operations by the United States require removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable water, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States on account of any such removal or alteration.
- b. The U.S. Code of Federal Regulations, Title 33, Part 64 states that all structures erected in navigable waters in depths in excess of three feet at mean low water (MLW) require obstruction lights unless the applicant is advised to the contrary by the Coast Guard District Commander. If the structures authorized by this permit are to be built in water depths in excess of three feet at MLW, the permittee must contact the Commander (AOWW), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia, 23704, to ascertain the need for obstruction lights.

B. National Concern:

1. **Historic Properties.** Any activity authorized by the MDSPGP-2 shall comply with Section 106 of the National Historic Preservation Act. MDE, in cooperation with the Maryland Historic Preservation Office, shall conduct an initial review and notify the Corps if any archaeological or other cultural resources are in the vicinity of the project. The Corps may require applicants to perform a survey of archaeological and historical resources in the project area. The Corps shall determine if consultation under Section 106 with MHT or the Advisory Council on Historic Preservation is required. The applicant must notify the Corps if the activity may affect any historic properties listed or eligible for listing, or that the applicant has reason to believe may be eligible

for listing on the National Register of Historic Places. If the permittee, during construction of work authorized herein, encounters a previously unidentified archaeological or other cultural resource within the permit area subject to DA jurisdiction that might be eligible for listing in the National Register of Historic Places, the permittee shall immediately stop work in the permit area and notify the District Engineer. The permittee shall not begin or continue work until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity may proceed. Information on the location and existence of historical resources can be obtained from the Maryland Historic Trust, Office of Preservation Services, and the National Register of Historic Places.

2. **National Lands.** Activities authorized by the MDSPGP-2 shall not impinge upon the value of any Federal land, including but not limited to, National Wildlife Refuges, National Forests, National Marine Sanctuaries or any area administered by the National Park Service (e.g., Assateague Island National Seashore).
3. **Endangered Species.** The MDSPGP-2 does not authorize any activity that may affect a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA); or which may destroy or adversely modify the critical habitat of such species unless and until appropriate coordination with the applicable resource agency(s) is complete and all such issues are resolved in accordance with the applicable regulations and the procedures outlined in the MDSPGP-2 Standard Operating Procedures. MDE, in cooperation with DNR, shall conduct an initial review and notify the Corps and FWS or NMFS if any federally listed species or critical habitat is likely to be in the vicinity of the project. The Corps shall determine if consultation with FWS or NMFS is required under Section 7 of the ESA. If consultation is required, the applicant, after notification, shall not begin or continue work until notified by the Corps that the requirements of the ESA have been satisfied and that the activity is eligible for authorization. Information on the location of threatened and endangered species and their critical habitat can be obtained from the FWS and NMFS.
4. **Essential Fish Habitat (EFH).** Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act requires an EFH consultation with the NMFS for any action or proposed action authorized, funded, or undertaken by a federal agency that may adversely affect EFH. EFH has been defined by Congress as “those waters and substrate necessary to fish for

spawning, breeding, feeding or growth to maturity.” The designation and conservation of EFH seeks to minimize adverse effects on habitat caused by fishing and non-fishing activities. NMFS, in consultation with the District, has determined that projects authorized under Category I (includes projects reviewed under Category II) of the MDSPGP-2 which comply with all terms and conditions of the MDSPGP-2 and all activity-specific impact limits and conditions, will not have an adverse effect on EFH. Projects that are proposed in areas designated as EFH and that do not qualify for MDSPGP-2 authorization under Category I, will require a case-by-case EFH effect determination.

5. **Wild and Scenic Rivers.** No activity is authorized under the MDSPGP-2 that occurs in a component of the National Wild and Scenic River System, including rivers officially designated by Congress as study rivers for possible inclusion in the system, while such rivers are in an official study status, unless the appropriate Federal agency, with direct management responsibility for the river, has determined in writing that the proposed activity will not adversely affect any National Wild and Scenic River, including study rivers. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U. S. Forest Service, Bureau of Land Management, or U. S. Fish and Wildlife Service.)

6. **Federally Authorized Civil Works Projects**

- a. **Federal Navigation Projects.** The MDSPGP-2 does not authorize interference with any Federal navigation project. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration. (See VI.A.7.a. above)
- b. **Other Federally Authorized Civil Work Projects (i.e., flood control, dams, and reservoirs).** The MDSPGP-2

does not authorize interference with any proposed or existing Federally authorized civil works project.

7. **Federal Liability.** In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project, or uses thereof, as a result of other permitted or unpermitted activities or from natural causes;
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest;
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit;
 - d. Design or construction deficiencies associated with the permitted work; and
 - e. Damage claims associated with any future modification, suspension or revocation of the MDSPGP-2 or any specific MDSPGP-2 verification.
8. **Navigation.** Projects authorized under the MDSPGP-2 shall not cause interference with navigation, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to projects authorized under the MDSPGP-2. Nothing in the MDSPGP-2 shall in any way restrict the District Engineer, U. S. Army Engineer District, Baltimore, from exercising his legal authority to protect the public interest in navigation or from exercising his authority under the Navigation Servitude of the United States. (See VI.A.7.a. above)

C. Minimization of Environmental Impacts:

1. **Minimization.** Discharges of dredged or fill material into Waters of the United States and adverse impacts of such discharges on the aquatic ecosystem shall be avoided and minimized to the maximum extent practicable on-site.
2. **Mitigation.** Generally, compensatory mitigation will be required for all permanent tidal or nontidal wetland impacts either through the State's tidal or nontidal wetland compensation fund or by the

permittee as required by the special condition of the MDSPGP-2 or the State authorization.

3. **Work in Wetlands.** Heavy equipment working in wetlands shall be avoided if possible and, if required, soil and vegetation disturbance shall be minimized by using techniques such as timber mats, geotextile fabric, and vehicles with low-pressure tires. Disturbed areas in wetlands shall be restored to preconstruction contours and elevations upon completion of the work.
4. **Temporary Fill and Mats.** Temporary fill and the use of mats are both considered a discharge of fill material and must be included in the quantification of impact area authorized by the MDSPGP-2. Temporary fill (e.g., access roads, cofferdams) in waters and wetlands authorized by the MDSPGP-2 shall be properly stabilized during use to prevent erosion. Temporary fill in wetlands shall be placed on geotextile fabric laid on the existing wetland grade. Upon completion of the work, all temporary fills shall be disposed of at an upland site, suitably contained to prevent erosion and transport to a waterway or wetland. Temporary fill areas shall be restored to their original contours and revegetated with comparable native species.
5. **Erosion and Sediment Control.** Adequate erosion and sediment control measures, practices and devices, such as vegetated filter strips, geotextile silt fences, phased construction, or other devices or methods, shall be used to reduce erosion and retain sediment on-site during and after construction. These devices and methods shall be capable of a) preventing erosion, b) collecting sediment and suspended and floating materials, and c) filtering fine sediment. Erosion and sediment control devices shall be removed when the work is complete and the site has been successfully stabilized. The sediment collected by these devices shall be removed and placed at an upland location, in a manner that will prevent its later erosion into a waterway or wetland. All exposed soil and other fills shall be permanently stabilized at the earliest practicable date.
6. **Water Crossings.**
 - a. All temporary and permanent crossings of waterbodies shall be suitably bridged, culverted or otherwise constructed to withstand and to prevent the restriction of high flows; to maintain existing low flows; and to prevent the obstruction of movement by aquatic life indigenous to the waterbody.

- b. No open trench excavation shall be conducted in-stream without use of adequate diversion structures.
 - c. Equipment shall cross streams only at suitably constructed permanent or temporary crossings.
 - d. Temporary structures and fills shall be removed and the area restored to its original contours and elevations, or to the conditions specified in the approved plans. The temporary structures and the areas of fill associated with these structures must be included in the total waterway/wetlands impacts.
7. **Utility Lines.**
- a. Impacts shall be minimized by using directional drilling, jack and bore, missile, or similar methods when feasible.
 - b. All in-stream work shall be conducted “in the dry” whenever practicable, by using stream diversion devices other than earthen or stone cofferdams.
8. **Discharge of Pollutants.** All activities that are authorized under the MDSPGP-2 and that involve any discharge or relocation of pollutants into Waters of the United States shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the CWA (33 U.S.C. 1251 et. Seq.), and applicable State and local laws and regulations.
9. **Spawning Areas.** Discharges in fish and shellfish spawning or nursery areas during spawning seasons shall be avoided. Impacts to these areas shall be avoided or minimized to the maximum extent practicable during all other times of year.
10. **Waterfowl Breeding and Wintering Areas.** Discharges into breeding and wintering areas for migratory waterfowl shall be avoided to the maximum extent practicable.
11. **Environmental Values.** The permittee shall make every reasonable effort to construct or operate the work authorized under the MDSPGP-2 in a manner that maintains as many environmental values as practicable, and that avoids or minimizes any adverse impacts on existing fish, wildlife and natural environmental values.

D. Procedural Conditions:

1. **Inspections.** The permittee shall permit the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary to ensure that the work is being performed in accordance with the terms and conditions of the MDSPGP-2. The District Engineer may also require post-construction engineering drawings (as-built plans) for completed work, and post-dredging survey drawings for any dredging work.
2. **Compliance Certification.** Every permittee who receives a written MDSPGP-2 verification shall submit a signed certification regarding the completed work and any required mitigation. The certification form will be forwarded to the permittee with the MDSPGP-2 verification. The completed form will include the following:
 - a. A statement that the authorized work either was or was not done in accordance with the MDSPGP-2 verification, including any general and/or specific conditions. If the activity was not done in accordance with the MDSPGP-2 verification, including any general and/or specific conditions, the permittee shall describe the specifics of the deviation from the authorized activity.
 - b. A statement that any required mitigation was or was not completed in accordance with the permit conditions. If the mitigation was not completed in accordance with the permit conditions, the permittee shall describe the specifics of the deviation from the permit conditions.
 - c. The signature of the permittee, certifying the completion of the work and compensatory mitigation.

After the project is completed, the certification shall be sent to the Baltimore District at the following address:

U. S. Army Corps of Engineers
Baltimore District
Attn: CENAB-OP-R
P. O. Box 1715
Baltimore, MD 21203-1715

3. **Maintenance.** The permittee shall maintain the work or structure authorized by the MDSPGP-2 in good condition and in compliance with the terms and conditions of the MDSPGP-2.

4. **Property Rights.** The MDSPGP-2 does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations.
5. **Modification, Suspension and Revocation.** The MDSPGP-2, or any verification under it, may be either modified, suspended, or revoked, in whole or in part, pursuant to DA policies and procedures and any such action shall not be the basis for any claim for damages against the United States.
6. **Restoration.** The permittee, upon receipt of a notice of revocation of authorization under the MDSPGP-2, shall restore the wetland or waterway to its former condition, without expense to the United States and as directed by the Secretary of the Army or his authorized representative. If the permittee fails to comply with such a directive, the Secretary or his designee may restore the wetland or waterway to its former condition, by contract or otherwise, and recover the cost from the permittee.
7. **Special Conditions.** The Corps may impose special conditions on any project authorized under the MDSPGP-2, in cases where the Corps determines that special conditions are necessary to avoid or minimize adverse effects on the environment or on any other factor of the public interest. Failure to comply with all conditions of the authorization/verification, including special conditions, will constitute a permit violation/unauthorized work and may subject the permittee to criminal, civil, or administrative penalties, and/or restoration.
8. **False or Incomplete Information.** If the Corps verifies a project under the MDSPGP-2 and subsequently discovers that it has relied on false, incomplete or inaccurate information provided by the permittee, the MDSPGP-2 verification may be revoked and the Government may institute appropriate legal proceedings.
9. **Compliance.** Any activity performed in Waters of the United States, including wetlands and navigable waters, that is not in compliance with all the terms and conditions of the MDSPGP-2 that includes the MDSPGP-2 Category List activity-specific conditions, constitutes unauthorized work and is subject to an enforcement action by the Corps or the EPA. Furthermore, the MDSPGP-2 does not delegate any Section 404 enforcement or regulatory authority. When unauthorized work occurs in Waters of the United States, including wetlands and navigable waters, it is

subject to one or more of the following responses by EPA and/or the Corps:

- a. A Cease and Desist order and/or an administrative compliance order requiring remedial action.
- b. Initiation and assessment of a Class I administrative penalty order pursuant to Section 309(g) of the CWA.
- c. Initiation and assessment of a Class II administrative penalty for continuing violation pursuant to Section 309(g) of the CWA.
- d. Referral of the case to the U. S. Attorney with a recommendation for a civil or criminal action.
- e. If the Corps determines that an after-the-fact application is appropriate, it will be reviewed following the appropriate procedures.
- f. Any other appropriate response.

VII. Duration of Authorization:

A. Duration of Authorization:

1. The MDSPGP-2 is authorized for a period of 5 years. For individual projects verified/authorized by the MDSPGP-2 the construction period expires within 3 years of the date of the project-specific MDSPGP-2 verification letter, or when the MDSPGP-2 expires, is suspended, or revoked, whichever date occurs sooner. The 3-year expiration date for construction of the project may be extended, with prior approval by MDE or the Corps, as appropriate, provided the permittee requests the extension prior to the expiration date of the verification letter. However, the extension may not be extended beyond the expiration date of the MDSPGP-2 itself, or its suspension or revocation.
2. If the MDSPGP-2 is not modified or reissued within five years of its effective date, it automatically expires and becomes null and void.
3. Activities authorized under the MDSPGP-2 that have commenced construction or that are under contract to commence construction, prior to the expiration, modification, or revocation date of the MDSPGP-2 itself, will remain authorized, provided the activity is

completed within 12 months of the date of the MDSPGP-2's expiration, modification, or revocation; or until the expiration date of the project-specific verification, whichever is sooner. If a specific MDSPGP-2 verification has been modified, suspended, or revoked, this provision does not apply.

B. Previously Authorized Activities:

1. Projects that were completed based on written verification from the Corps under the MDGP-1, MDSPGP-1, nationwide permit, regional general permit or letter of permission for applications made prior to the effective date of the MDSPGP-2, shall remain authorized, as specified in their original project-specific verification, and need no further reverification.
2. Projects that have received written, project-specific verification under the MDSPGP-1, based on applications made prior to the effective date of the MDSPGP-2, and have not been completed, but that meet the terms and conditions of the MDSPGP-2, including the applicable activity-specific impact limits and conditions, remain authorized until the expiration of the associated MDE authorization, not to exceed three years from the date of the project specific MDSPGP-1 authorization. Conversely, projects that have received written, project-specific verification under the MDSPGP-1, based on applications made prior to the effective date of the MDSPGP-2, but that have not been completed and that do not meet the terms and conditions of the MDSPGP-2, including the applicable activity-specific impact limits and conditions, have 12 months from the effective date of the MDSPGP-2 to complete the work under the terms and conditions of the MDSPGP-1. If the work cannot be completed within 12 months from the effective date of the MDSPGP-2, the project must receive written reauthorization under the MDSPGP-2 from the Corps or MDE, as appropriate. If the project is grandfathered by MDE, the request for reauthorization will be forwarded to the Corps for review under Category II or III procedures.
3. Activities authorized pursuant to 33 CFR part 330.3 (activities occurring before certain dates) are not affected by the MDSPGP-2.

C. Changes to State Statutes, Regulations or General Permits:

The Corps will review proposed changes to the State program statutes and regulations, including development of State general permits, to determine whether, and to what extent, the proposed changes will affect the MDSPGP-2. The Corps will determine whether or not to continue use of the MDSPGP-2 under the modified State statutes, regulations or general permits based on the considerations outlined in 33 CFR 325.7(a). The Corps review may result in immediate suspension or revocation of the MDSPGP-2, in accordance with DA Regulations.

D. Reporting and Evaluation:

1. MDE will provide quarterly and a more comprehensive yearly report to the Baltimore District Engineer describing its implementation of the MDSPGP-2. These reports shall include information on the types and numbers of activities authorized under the MDSPGP-2, including specific types and numbers of activities authorized under Categories III.A and III.B, the impacts authorized, evaluation times, mitigation required and completed, State enforcement and compliance activities, and other data, as required. These reports will be available to the public.
2. Every two and one-half years, the Corps, with recommendations from the resource agencies will evaluate the MDSPGP-2, including its terms and conditions, and will determine if: (1) the MDSPGP-2 has met its intended goal of reducing duplication; (2) authorizations/verifications comply with applicable laws and regulations; and (3) only projects with minimal adverse environmental effects were verified. Every two and one-half years, coordinated with the required 5-year cycle of MDSPGP-2 reissuance, based on this review and evaluation, the Corps will further determine whether modification, suspension, or revocation of the MDSPGP-2 is appropriate. These determinations will be in writing, will include the basis for each determination, and will be available to the public.

E. Modification, Suspension, or Revocation:

The Corps District may suspend, modify, or revoke MDSPGP-2 authorization for any specific geographic area, class of activities, class of Waters, or any case-specific verification under the MDSPGP-2, within the State of Maryland, by issuing a public notice or notifying the MDE and the permittee involved. The MDSPGP-2 will expire on September 31, 2006.

By Authority of the Secretary of Army:

/s/

Charles J. Fiala, Jr.
Colonel, Corps of Engineers
District Engineer, Baltimore