



Special Public Notice

**U.S. Army Corps of Engineers
of Engineers**
Baltimore District
SPN-23-37

Announcing The Maryland Stream Mitigation
Framework, Version 1 Final

Date: September 20, 2023

The purpose of this special public notice is to inform the public on the official release of the Maryland Stream Mitigation Framework Version 1 (MSMF V.1. Final) for use in the quantification of stream impacts for unavoidable impacts to Waters of the United States (WOTUS) and compensatory mitigation requirements associated with such impacts within the Baltimore District boundaries for the state of Maryland.

BACKGROUND:

Impacts to WOTUS must be avoided and minimized to the greatest extent practicable during the Clean Water Act Section 404 permit application review process. The United States Army Corps of Engineers (Corps) may require compensatory mitigation to offset losses of aquatic resource function resulting from permitted activities (40 CFR 230, 404(b)(1) Guidelines). Mitigation may be accomplished through the restoration, enhancement, establishment, or preservation of aquatic resources (33 CFR 332, 2008 Mitigation Rule). During the Corps evaluation of Department of the Army permit applications, potential individual and cumulative adverse impacts to the aquatic environment are evaluated and the requirement for compensatory mitigation is determined on a case-by-case basis.

MSMF V.1. Final provides a consistent and transparent process for stream impact and mitigation quantification where unavoidable impacts occur to WOTUS. The Framework was established primarily as a tool for Corps, Baltimore District, regulators in Maryland to promote minimization and avoidance of impacts to streams and provide a process for determining compensatory mitigation requirements for unavoidable impacts. Additionally, the Framework has utility for project planners and mitigation providers in forecasting stream credit mitigation requirements, or stream credits generated by various activities where unavoidable impacts to streams occur. The framework promotes impact minimization and avoidance, as well as strategic mitigation planning by allowing for distinction between stream habitats of different quality, landscape position, and sensitivity. The MSMF V.1. considers not only the linear extent of WOTUS impacted, but also the changes in functional and conditional quality as recommended in the Final Mitigation Rule (33 CFR 332, 2008 Mitigation Rule).

The MSMF V.1. Final was created through collaboration between the Corps and agency partners, with valuable feedback provided from the regulated public including public comments received on the Draft MSMF V.1. Public Notice (February 28-March 30, 2022).

The Corps is requesting comments from the public regarding MSMF V.1. Final. The Corps intends to make adjustments based on public comments and observations with an intention to release MSMF V.2. in the later part of 2024.

THE MARYLAND STREAM MITIGATION FRAMEWORK VERSION 1 Final:

MSMF V.1. Final provides a user manual and a Calculator Workbook (including several tabs: A Summary Tab, Stream Impact Calculation, Stream Mitigation in Stream Channels Calculation, Stream Mitigation in Stream Buffers Calculation, and two calculation worksheets for scenarios specific to mitigation banks (credit bundling)). The package also includes several appendices that inform the calculation sheets including stream assessments and stream buffer assessments.

The Baltimore District has posted MSMF V.1. Final and appendices to the Regulatory webpage (<https://www.nab.usace.army.mil/Missions/Regulatory/Mitigation/>). The MSMF V.1. Final and associated documents are listed below with a brief description of each item. A hardcopy of this public notice and associated documents is available upon request to email nab-regulatory@usace.army.mil.

MSMF V.1. Final:

MSMF V.1. Manual:

The MSMF V.1. Final Manual provides detailed instructions on the MSMF V.1. process including entries into the MSMF V.1. and how appendices listed below are applied in the process.

Appendix A1/A2 (MSMF V.1. Final Calculator):

An excel workbook that provides calculation tabs for quantifying stream impacts, stream mitigation in stream channels, stream mitigation in stream buffers, a summary of mitigation, and two option tabs that are specific to mitigation banks and advanced mitigation. Appendix A1 provides a clean workbook with no entries. Appendix A2 provides the same workbook with examples.

Appendix B (The Environmental Protection Agency Rapid Bioassessment Habitat Forms and Instructions):

The Environmental Protection Agency Rapid Bioassessment Protocol habitat forms (EPA RBP) provides assessments to estimate stream quality, which is applied in MSMF V.1. All four EPA RBP habitat sheets for different stream types and gradients are included in a single document with instructions attached. Details on when to apply specific forms is included in the MSMF V.1. Manual. Public comments are not requested regarding use of EPA RBP assessments.

Appendix C1/C2/C3 The Function Based Rapid Stream Assessment (FBRSA) with Numeric Scoring:

The FBRSA provides a process for estimating stream quality, which is applied in MSMF V.1. Final. The Corps is currently working on revisions to the FBRSA with the assistance of the Environmental Protection Agency, Region 3 and other agencies and private industry partners. The Corps plans to implement the revised FBRSA in 2024, and it will likely be released when MSMF V.2. is completed. Appendix C1 provides the assessment, Appendix C2 provides the user manual, and Appendix C3 provides the same assessment but formatted to capture post-construction monitored conditions.

Appendix D1/D2/D3 Stream Buffer Quality Assessment (SBQA):

The Stream Buffer Quality Assessment provides an assessment for stream buffer quality and compares existing and proposed conditions on mitigation sites only. It applies directly to the Tab 4 of the MSMF V.1. Final Calculator “Stream Mitigation in Stream Buffers” to populate the “Buffer Quality” field. Appendix D1 provides the SBQA, Appendix D2 provides the SBQA manual, and Appendix D3 provides a SBQA that has been formatted for post-construction monitoring on mitigation sites.

Appendix E1/E2 Site Evaluation Report and Site Sensitivity Grid:

The Site evaluation report provides a method to determine suitability and favorability of a proposed mitigation site (Appendix E1). Appendix E2 applies the Site Evaluation Report (E1) to estimate a “site sensitivity” value for Stream Mitigation in Stream Channels and Stream Mitigation in Stream Buffers as found in the MSMF V.1. Final Calculator. Appendices E1/E2 apply to mitigation calculations only, and do not apply to stream impact calculations.

Appendix F1/F2 MSMF Fish Passage Beta Tool:

These two appendices have not yet been released by the Baltimore District. They will be released to the public when completed. The MSMF Fish Passage Beta Tool provides a method to estimate stream mitigation credits (functional feet) for fish passage barrier removal. Appendix F1 will provide the Fish Passage Calculation Tool, and Appendix F2 will provide the associated manual.

For specific questions regarding implementation of MSMF V.1. Final, please contact Mr. Nick Ozburn, Senior Project Manager, USACE-Baltimore District by email at nicholas.r.ozburn@usace.army.mil or by phone at (410) 395-4662.

This public notice is issued by the Baltimore District Chief, Regulatory Branch.