



Special Public Notice

U.S. Army Corps
of Engineers
Baltimore District
SPN-24-38

NAB-2024-00009 Maryland State Programmatic General
Permit (MDSPGP)-7

Comment Period: December 16, 2024, to January 30, 2025

THE PURPOSE OF THIS PUBLIC NOTICE IS TO INFORM INTERESTED PARTIES AND TO SOLICIT COMMENTS ON A PROPOSAL TO REISSUE, FOR A FIVE-YEAR PERIOD, THE MARYLAND STATE PROGRAMMATIC GENERAL PERMIT-7 (MDSPGP-7). NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED AT THIS TIME.

SUBJECT:

The United States Army Corps of Engineers, Baltimore District, is proposing to reissue the existing Maryland State Programmatic General Permit-6 (MDSPGP-6) and associated general conditions and definitions, as the Maryland State Programmatic General Permit-7 (MDSPGP-7), with some modifications, for a five-year period.

The United States Army Corps of Engineers is requesting comment on the proposed modifications that would be incorporated into a new MDSPGP-7. A copy of the proposed MDSPGP-7 is attached and can be viewed on our web page at <http://www.nab.usace.army.mil/Missions/Regulatory/PublicNotices.aspx>.

The MDSPGP-6 went into effect on October 1, 2021, and will expire on September 30, 2026, unless a decision is made to suspend or revoke it by or before that date. A copy of the current version of the MDSPGP-6 can be viewed on our web page at <https://www.nab.usace.army.mil/Portals/63/MDSPGP-6%20Permit20201120DraftFinal.pdf>

In accordance with 33 CFR 325.5(c), MDSPGP-7 would authorize the various categories of activities described herein, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and/or Section 404 of the Clean Water Act (33 U.S.C. 1344).

The Baltimore District issued Special Public Notices #21-08 and #22-02 announcing the final regional conditions and suspensions of specific 2021 Nationwide Permits (NWP) in Maryland that are duplicated by the MDSPGP-6. The proposed modified MDSPGP-7 is designed to continue to authorize certain categories of activities formerly covered by those NWP activities that are suspended. Information on the 2021 NWPs, including the final regional conditions and suspensions can be viewed on our web page at <https://www.nab.usace.army.mil/Missions/Regulatory/Nationwide-Permits/>.

LOCATION OF AUTHORIZED ACTIVITIES:

This MDSPGP-7 applies to activities in waters of the United States, including wetlands and navigable waters, within the State of Maryland.

EXCLUDED WATERS:

Back Creek (of the Chesapeake and Delaware Canal), east of a line extending from Welch Point to Courthouse Point to the Delaware line and to the Second Street Bridge to the south; Herring Creek east of the line extending from Welch Point to Courthouse Point to the dam that crosses Herring Creek; and Long Branch to the Boat Yard Bridge to the north, including adjacent and contiguous jurisdictional wetlands to these tidal tributaries are excluded from the authority of this MDSPGP-7. These listed areas fall within the United States Army Corps of Engineers Philadelphia District's Regulatory geographic boundaries.

PURPOSE:

The modified MDSPGP-7 is proposed to provide a streamlined form of Department of the Army authorization for certain categories of activities that are similar in nature, have minimal individual and cumulative adverse effects on the aquatic environment, and satisfy other public interest review factors. The State of Maryland's Tidal Wetlands Protection Act, Nontidal Wetlands Protection Act, and Waterway Construction Act establish a state-wide permit program for protecting Maryland's aquatic resources. Maryland's procedures for the granting of permits and licenses require Maryland Department of the Environment to apply evaluation criteria consisting of alternatives analyses (for nonwater dependent activities), avoidance techniques, the minimization of impacts, and if a permit is to be granted, compensatory mitigation for wetland impacts. The evaluative criteria within Maryland's programs are similar to federal criteria under Section 404(b)(1) of the Federal Clean Water Act. Programmatic general permits are authorized for a five-year period at which time they must be re-evaluated for their impacts on the aquatic environment.

NOTABLE MODIFICATIONS TO THE MDSPGP-7:

Below is a list of some of the notable changes from the MDSPGP-6 to the MDSPGP-7:

General Revisions and Procedural Changes:

I. **Category B Eligibility Thresholds:** The United States Army Corps of Engineers is proposing to remove the linear foot limit for losses of stream channel from certain Category B activities and instead use acres or square feet (i.e., an area-based metric)

to quantify losses of streams, wetlands, and other aquatic resources (i.e. b(2), c(2), c(3), d, e(1), e(2), e(3), e(4), e(5), e(8), e(9), and e(10)). These activities have a 0.5-acre limit for losses of waters of the United States, including wetlands and streams. These Category B activities will require review on a case-by-case basis to determine whether the proposed activities will result in no more than minimal adverse environmental effect. This change is better aligned with the current United States Army Corps of Engineers NWP's.

II. Category B Waiver Criteria and Coordination Procedures: Proposes the addition of an activity-specific Category B waiver process for certain thresholds for (a(5), b(1), b(3), b(4), f(1), f(2), f(3), f(4) and i. For these Category B activities, an applicant may request a waiver for a particular limit specified in the activity's terms and conditions. If the applicant requests a waiver of a Category B limit, and the district engineer determines, after coordinating with the resource agencies, that the proposed Category B activity will result in no more than minimal adverse environmental effects, the district engineer may grant such a waiver upon a written determination that the Category B activity will result in only minimal individual and cumulative adverse environmental effects.

III. Stream loss threshold for compensatory mitigation: Proposes to change mitigation limit for stream losses from 200 linear feet to 3/100 acre. This change is better aligned with the current United States Army Corps of Engineers NWP's.

IV. Authorities: Added list of related laws as provided for under 33 CFR 320.3 for clarification.

V. Scope of Activities: Provides language to clarify after-the-fact authorization for unauthorized activities under the MDSPGP-7. Language was also added to clarify that MDSPGP-7 will not apply when any portion of a project is subject to enforcement action by the United States Army Corps of Engineers or EPA. An after-the-fact MDSPGP authorization may be used for resolution of a violation following certain considerations by the United States Army Corps of Engineers.

VI. Criteria Requiring Category B Review: Provides clarification for applications that require United States Army Corps of Engineers notification and review as a reporting Category B activity, i.e. regulated activities that are not wholly located within the state of Maryland, regulated activities associated with the construction of mitigation banks, reasonably related applications, and applications containing a request for a United States Army Corps of Engineers jurisdictional determination.

VII. Application Procedures: Clarifies that delays may occur if the United States Army Corps of Engineers is requested to conduct a delineation of special aquatic sites, wetlands, and other waters. Language was added for Endangered Species, Historic

Properties, United States Army Corps of Engineers Federally Authorized Civil Works Projects, Existing Site Protection Instruments and Proposed Encroachments, and Linear Projects; all of which should be identified in the application, if applicable. Clarifies Activity Specific Category B Waiver Process for certain activities under the MDSPGP-7.

VIII. Category B General Agency Coordination Procedures: Proposes to change the agency coordination process to better align with the agency coordination process of the current United States Army Corps of Engineers NWP, i.e. the United States Army Corps of Engineers will not coordinate with all federal and state agencies for every Category B activity. Federal and state agency coordination will be conducted for all MDSPGP-7 activities that require a Category B review and result in the loss of greater than 0.25 acres of waters of the United States. Federal and state agency coordination will also be conducted for Category B activities where an applicant requests a specific waiver of an applicable limit (a(5) b(1), b(3), b4, f1, f2, f3, f4, i). The United States Army Corps of Engineers can only grant these waivers after conducting agency coordination and an activity-specific evaluation, and making a written determination that the proposed activity will result in no more than minimal individual and cumulative adverse environmental effects. The United States Army Corps of Engineers will continue to coordinate all Category B activities with appropriate federal and/or state agencies that require Endangered Species Act section 7 consultation, National Historic Preservation Act section 106 consultation, Magnuson Stevens Act Essential Fish Habitat consultation, and other federal laws. Proposes to restructure the agency coordination comment period to better align with timeframes for United States Army Corps of Engineers review. These changes are better aligned with the current United States Army Corps of Engineers NWP.

IX. MDSPGP-7 Verification Procedures: Clarifies that written general permit verifications may include a requirement for a mitigation plan to be submitted prior to initiation of the authorized work.

Revisions to Existing Activities and Conditions:

I. Activity a(3) Piers: Proposes additional terms and conditions for piers that are to be located in areas of mapped submerged aquatic vegetation under Category B, i.e. piers must not exceed 4 feet wide and must be constructed a minimum elevation of four (4) feet above mean low water.

II. Activity a(5) Boat Ramp Repair, Expansion, etc.: Proposes two criteria under Category B that are eligible for written waivers: boat ramps exceeding 24 feet in width and/or those that exceed 50 cubic yards of fill.

III. Activity a(9) Maintenance Dredging of Previously Authorized Dredging in Tidal Waters: Clarifies terms and conditions of beneficial re-use under Category A.

IV. Activity b(1) General Maintenance: Provides clarification on activities that are authorized under general maintenance and clarifies that maintenance activities for the discharge of grout paving material associated with repairs to degraded pipe and box culverts that were previously authorized under a separate maintenance activity, Activity b(5) Culvert Pipe Grouting/Sealing and Joint Repairs, are authorized under Activity b(1) General Maintenance. This activity authorizes general maintenance activities that do not qualify for the Clean Water Act Section 404(f) exemption. Proposes additional terms and conditions for both Category A and Category B activities, notably related to tide gate replacements and removal of accumulated sediments and debris. Proposes two criteria under Category B that are eligible for written waivers: blasting and/or the removal of sediments extending further than 500 linear feet from a structure.

V. Activity b(2) Armoring Bridges, Causeways, and Culverts: Proposes to remove the linear foot stream channel loss limits for eligibility under Category B. Proposes to use acres or square feet (i.e., an area-based metric) instead of linear feet to quantify losses of stream channel for Category B. Impacts for Category B are not to exceed a total 0.5 acre loss of tidal and nontidal waters of the United States.

VI. Activity b(3) Bulkhead Repair or Replacement, Including Stone Toe Protection: Proposes two criteria under Category B that are eligible for written waivers: bulkhead repair or replacement that extends further than three (3) feet channelward and/or the amount of special aquatic sites which may be filled or excavated.

VII. Activity b(4) Maintenance of Existing Drainage Ditches: Proposes to combine a(4) Tidal Roadside Ditch Maintenance and a(5) Maintenance of Mosquito Control Ditches into a single activity. Provides clarification on activities that are authorized under this activity. Proposes additional terms and conditions for Category A activities, i.e. no impacts to submerged aquatic vegetation are authorized and no excavated material may be placed into waters of the United States. Proposes additional terms and conditions for Category B activities, notably, the single and complete project will result in no more than a total of 0.5-acre loss of waters, requirements for placement of excavated/dredged material into adjacent wetlands, and waiver criteria for placement of excavated material into waters of the United States.

VIII. Activity b(5) Maintenance of Mosquito Control Ditches: Activity has been removed and combined with a(4).

IX. Activity b(6) Culvert Pipe Grouting/Sealing and Joint Repairs: Activity has been removed. These activities are covered under b(1) and/or 404(f) exemption.

X. Underground and Overhead Utility Line Activities: For Utility Line Activities c(2) and c(3), proposes to remove the linear foot stream channel loss limits for eligibility under Category B. Proposes to use acres or square feet (i.e., an area-based metric)

instead of linear feet to quantify losses of stream channel for Category B. Impacts for Category B are not to exceed a total 0.5-acre loss of tidal and nontidal waters of the United States.

XI. Linear Transportation Activities: Proposes to remove the linear foot stream channel loss limits for eligibility under Category B. Proposes to use acres or square feet (i.e., an area-based metric) instead of linear feet to quantify losses of stream channel for Category B.

XII. Fill Activities: For Fill Activities, e(1), e(2), e(3), e(4), e(5), e(6), e(8), and e(9), proposes to remove the linear foot stream channel loss limits for eligibility under Category B. Proposes to use acres or square feet (i.e., an area-based metric) instead of linear feet to quantify losses of stream channel for Category B. Impacts for Category B are not to exceed a total 0.5 acre loss of tidal and nontidal waters of the United States.

XIII. Activity e(1) Minor Nontidal Fills: Clarifies that Category A does not authorize work in nontidal navigable waters under Section 10 of the Rivers and Harbors Act of 1899.

XIV. Activity (3) Agricultural Activities: Clarifies that work in navigable waters under Section 10 of the Rivers and Harbors Act of 1899 is not authorized by this activity (Section 404 only).

XV. Activity e(7) Temporary Construction, Access, Stream Diversions, and Dewatering for Construction: Proposes removal of acreage loss limits for eligibility under Category B because this activity does not authorize losses to water of the United States. Language was added to clarify that temporary impacts must be restored to original contours and replanted.

XVI. Activity e(9) Residential, Commercial, and Institutional Development and Recreational Facilities: Recreational Facilities was added to the activity title to clarify that this activity provides for authorization of these types of projects.

XVII. Activity e(10) Stormwater Management Facilities: Proposes the removal of "New" from the activity title to allow for authorization of solid waste management facilities not limited to only new, i.e. maintenance, low impact development and green infrastructure. Clarifies that the activity does not authorize discharges into tidal wetlands, tidal waters, nontidal wetlands adjacent to tidal waters, and perennial streams by moving language into Category A and B limits and requirements. Proposes additional terms and conditions for Category A and B activities.

XVIII. Activity e(11) Aquatic Habitat Restoration Enhancement, and Establishment Activities Associated with Compensatory Mitigation Requirements for Aquatic Resource Impacts Authorized under the MDSPGP-7: Clarifies conversion activities. Added language and requirements for tidal control structures, e.g. tide gates.

XIX. Shoreline and Stream Bank Stabilization Activities: Proposes removal of order of preference for tidal shoreline stabilization activities in the interest of providing flexibility to address variations in site-specific settings in which the MDSPGP-6 shoreline and stream bank stabilization activities are conducted. Proposes shoreline and stream bank stabilization activities will be evaluated on a site-specific basis and a determination made whether they qualify for MDSPGP-6 authorization. Proposes removal of language stating that nonstructural shoreline and bank stabilization are preferred over structural.

XX. Activity f(1) New Tidal Revetments and Tidal Shoreline Erosion Control Structures other than Revetments: Proposes the removal of acreage threshold for eligibility under Category B because the MDSPGP-6 acreage threshold of 0.5 acre (21,780 square feet) was not consistent with the maximum square foot area provided by the 2,000 linear foot length along the shoreline and the maximum 25 foot channelward extent from the mean high water shoreline (50,000 square feet = 2,000 feet x 25 feet). Proposes two criteria under Category B that are eligible for written waivers: the activity shall not be more than 2,000 linear feet in length along the shoreline and/or must not extend more than 25 feet channelward of the mean high-water shoreline.

XXI. Activity f(2) Living Shorelines: Language was added to clarify design criteria and standard requirements for the construction and maintenance of living shorelines. Proposes additional terms and conditions for Category A and Category B activities. Notably, updated design parameters, language related to beneficial re-use and updated monitoring requirements. Proposes waiver process for channelward extent under Category B. Proposes additional terms and conditions applicable to both Category A and B activities. Notably, measures to avoid and minimize impacts to the constructed tidal marsh and addressing upland sources of erosion.

XXII. Activity f(3) New Bulkheads, including Stone Toe Protection: Proposes three criteria under Category B that are eligible for written waivers, channelward extent of new bulkheads and replacement of serviceable bulkheads; loss and linear length; and channelward extent of stone toe protection.

XXIII. Activity f(4) Nontidal Bank Stabilization Activities: Proposes waiver process for projects that would exceed the eligibility thresholds for Category B.

XXIV. Activity h. Private Landowner Oyster Gardening: Proposes change to Department of Natural Resources contact for report submittal.

New Activities

Activity c(4) Utility Substations: This activity authorizes the construction, maintenance, or expansion of substation facilities associated with a utility line in nontidal waters of the United States. This activity was formally verified using the e(1) minor nontidal fill action, the new activity provides more specific guidelines that only apply to utility substations.

Category A: The total temporary and permanent impacts to waters of the United States, which includes nontidal wetlands, streams, rivers, and other nontidal open waters, are not to exceed 5,000 square feet and/or 200 linear feet of nontidal streams, rivers, and other nontidal open waters.

Category B: The single and complete project, in combination with all other activities included in one single and complete project, will result in no more than a total 0.5-acre loss to nontidal waters of the United States, to include nontidal stream channel, wetlands, and other nontidal open waters.

Activity i. Emergency Situations: This activity authorizes permanent and temporary structures or work in or affecting navigable waters of the United States and the permanent and temporary discharge of dredged or fill material into waters of the United States, including wetlands, necessary for emergency response and post-storm recovery activities where an imminent threat to life or property exists due to unforeseen events during an emergency situation, State of Maryland Emergency Declaration, or Federal Emergency Management Agency Declared Disaster.

Activity j. Previously Verified Category A Activities: Provides a streamlined activity for previously authorized actions that were not able to be completed within the expiration date of the MDSPGP-6. Those permittees seeking authorization under this activity is contingent upon meeting all criteria and adherence to all Category A MDSPGP-7 activity-specific and general conditions.

Category A: Activities that received previous written verification that the proposed activity is authorized by a Category A MDSPGP-6 Activity and comply with the same Category A activity, including all the terms, conditions, limits and best management practices (BMPs) identified and required by the modified reissued MDSPGP-7, would continue to qualify for the Category A MDSPGP-7. That previous written Category A MDSPGP-6 verification letter continues to be in effect until September 30, 2026, unless the United States Army Corps of Engineers specified a different expiration date in the Category A MDSPGP-6 verification letter. As long as the previously verified Category A MDSPGP-6 activity continues to comply with all the terms, limits, BMPs, and conditions,

including all general and activity-specific conditions of the same Category A MDSPGP-7 activity issued in this final MDSPGP-7, those activities continue to be authorized by the applicable MDSPGP-7 Category A activity. No application is required for United States Army Corps of Engineers authorization.

Category B: This Category B activity is solely for the purpose of requiring an application for those projects that previously received a Category A written verification under the MDSPGP-6, and that no longer comply with that same Category A activity under the MDSPGP-7.

Activity k(1) Retrofits of Existing Stormwater Management Facilities: This activity authorizes the discharges of dredged or fill material into nontidal water of the United States for the retrofit of existing stormwater management facilities. Stormwater management retrofit refers to those activities that modify an existing stormwater management facility for the purpose of improving nutrient and sediment removal by the existing structural stormwater management facility that currently has little or no treatment. This new activity is to replace the stormwater retrofit actions that were previously authorized under the Chesapeake Bay Total Maximum Daily Load (TMDL) Regional General Permit which expires on August 31, 2025.

Category A: The total permanent impacts to nontidal waters of the United States, which includes nontidal wetlands, streams, rivers, and other nontidal open waters, are not to exceed one acre and/or 2,000 linear feet of streams, rivers, and other nontidal open waters. The loss or conversion of streams, rivers and/or wetlands and other open waters is not authorized under Category A.

Category B: The total permanent impacts to nontidal waters of the United States, which includes nontidal wetlands, streams, rivers, and other nontidal open waters are not to exceed three acres and/or 3,000 linear feet of nontidal streams, rivers, and other nontidal open waters. The conversion from nontidal streams or rivers (excluding wetlands) to open water or wetlands must not exceed 5,000 square feet or 200 linear feet of nontidal streams and/or rivers.

Activity k(2) Nontidal Stream and Wetland Restoration and Enhancement Activities associated within an acceptable TMDL/MS4 Watershed Strategy: This activity authorizes stream and wetland restoration and enhancement activities in nontidal waters of the United States, which includes nontidal wetlands, streams, rivers, and other nontidal open waters. The activity must be part of an acceptable TMDL/MS4 watershed strategy to reduce nutrients and sediment pollution and produces functional lift within the project site. This new activity is to replace the nontidal stream and wetland restoration activities that were previously authorized under the Chesapeake Bay TMDL Regional General Permit which expires on August 31, 2025.

Category A: The total permanent and temporary impacts to nontidal waters of the United States, which includes nontidal wetlands, streams, rivers, and other nontidal open waters, are not to exceed 0.5 acre and/or 1,000 linear feet of streams, rivers, and other nontidal waters. The discharge will not result in permanent loss or conversion of any type of waters of the United States, which includes wetlands, streams, rivers, and other nontidal open waters.

Category B: The total permanent impacts to nontidal waters of the United States, which includes nontidal wetlands, streams, rivers, and other nontidal open waters are not to exceed three (3) acres and/or 5,000 linear feet of nontidal streams, rivers, and other nontidal open waters. The total permanent loss or conversion must not exceed 10,000 square feet of waters of the United States, which includes nontidal wetlands, streams, rivers, and other nontidal open waters. Of this, no more than 200 linear feet of nontidal streams, rivers, open waters, or a combination thereof, may be permanently lost or converted.

Revisions to General Conditions (GC):

- I. **GC 3. Single and Complete Projects:** Added clarification for phased projects.
- II. **GC 4. Use of Multiple MDSPGP-7 Activities:** Lists restrictions for better clarification.
- III. **GC 8. Historic Properties:** Added clarification to the Section 106 review process, added requirement for applicant to identify any historic properties that might be affected or include a vicinity map, and added condition for Section 110K of National Historic Preservation Act.
- IV. **GC 14. BMPs for Pile Driving Activities:** Revised title to clarify that BMPs are for both Category A and B activities within the MDSPGP-7, added requirement for ramp-up with vibratory pile installations, and added requirement for soft start at the beginning of the workday and at any time following cessation of pile driving for 30 minutes or longer.
- V. **GC 18. Section 408:** Clarifies that written verification under MDSPGP-7 will not be issued prior to the decision on the Section 408 permission request.
- VI. **GC 29. Mitigation Standards:** Revised language to include “individual and cumulative” effects to align with NWP standards; mitigation limits for stream losses were changed from 200 linear feet to 3/100 acre (1,307 square feet); added that minimum stream mitigation requirements shall be determined using the current United States Army Corps of Engineers endorsed methodology (Maryland Stream Mitigation

Framework); added condition for use of watershed basis in determining the appropriate compensatory mitigation (stream, riparian areas, wetland compensation); clarified that mitigation bank or in-leu-fee credits are preferred mechanism for providing compensatory mitigation, added condition that when the activity will result in the loss of greater than 5,000 sq ft of wetland or 3/100 acre of stream bed, and a Category B review is required, the prospective permittee is required to submit a mitigation statement or mitigation plan or an explanation why mitigation should not be required; and added clarification for prior approval of final mitigation plan and examples of mitigation requirements that can be addressed through permit conditions rather than through components of a mitigation plan.

VII. GC 30. Work in Wetlands: Removed duplicative language which is included in GC 32.

VIII. GC 31. Work in Special Aquatic Sites & Shallow Water: Added new condition that all construction vessels/barges should float at all tide stages and should avoid operation in special aquatic sites to minimize adverse impacts.

IX. GC 32. Removal of Temporary Fill, Structures, and Mats: Added “and structures” for clarification.

Definitions: The following terms were defined and/or re-defined for clarity:

Navigable waters of the United States and Single and Complete Project (Non-Linear Projects).

LEAD FEDERAL AGENCY:

The United States Army Corps of Engineers, as the lead federal agency, is responsible for all coordination pursuant to applicable federal authorities.

UNITED STATES ARMY CORPS OF ENGINEERS EVALUATION REQUIREMENTS:

This proposed programmatic general permit will be evaluated pursuant to United States Army Corps of Engineers Regulatory Program Regulations (33 CFR Parts 320-332). The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economic, aesthetics, general

environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, and consideration of property ownership and in general, the needs and welfare of the people. The evaluation of the impact of this proposed programmatic general permit will also include application of the Clean Water Act Section 404(b)(1) Guidelines promulgated by the Administrator, United States Environmental Protection Agency.

ENDANGERED SPECIES:

The Endangered Species Act of 1973 (ESA), as amended, requires all federal agencies to consult with the National Marine Fisheries Service (NMFS)/National Oceanic Atmospheric Administration and/or United States Fish and Wildlife Service, pursuant to Section 7 of the ESA, on any action, or proposed action, permitted, funded, or undertaken by the agency that may affect a species listed as threatened or endangered under the ESA, or its designated critical habitat. The United States Army Corps of Engineers will be initiating consultation under the Endangered Species Act on this programmatic general permit and any conditions from that consultation will be inserted into the MDSPGP-7. A

preliminary review indicates that the proposed procedures and conditions are sufficient such that authorized work may affect but is not likely to adversely affect federal listed threatened or endangered species or their critical habitat, pursuant to Section 7 of the Endangered Species Act, as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

ESSENTIAL FISH HABITAT:

The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 04-267), requires all federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH), including species of concern, life cycle habitat, or Habitat Areas of Particular Concern. If the project site lies in or adjacent to EFH as described under MSFCMA for managed species under the MSFCMA, the United States Army Corps of Engineers will coordinate with NMFS. The Baltimore District has made a preliminary determination that the proposed programmatic general permit conditions and processing procedures are sufficient such that authorized work will likely not have a substantial adverse effect on EFH. The Baltimore District has made a preliminary determination that mitigative measures are required to minimize adverse effects on EFH at this time. As the evaluation of the MDSPGP-7 continues, this determination may be modified if additional information indicates otherwise.

HISTORIC RESOURCES:

The United States Army Corps of Engineers has made the preliminary determination that the proposed programmatic general permit is conditioned to assure that on a case-by-case basis, cultural resources listed in the latest published version of the National Register of Historic Places or properties listed as eligible or potentially eligible for inclusion therein will be given the consideration required by Section 106 of the National Historic Preservation Act. The United States Army Corps of Engineers final eligibility and effect determination will be based on coordination with the State Historic Preservation Office as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the United States Army Corps of Engineers' identified permit area.

TRIBAL RESOURCES:

Section 106 of the National Historic Preservation Act also requires federal agencies to consult with federally recognized American Indian tribes that attach religious and cultural significance to historic properties that may be affected by the agency's undertaking. United States Army Corps of Engineers Tribal Consultation Policy mandates an open, timely, meaningful, collaborative, and effective deliberative communication process that emphasizes trust, respect, and shared responsibility. The policy further emphasizes that, to the extent practicable and permitted by law, consultation works toward mutual consensus and begins at the earliest planning stages, before decisions are made, and actions taken. The United States Army Corps of Engineers final eligibility and effect determination will be based on coordination with interested tribes, in accordance with the United States Army Corps of Engineers current tribal standard operating procedures as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on tribal resources.

MODIFICATION OF CIVIL WORKS PROJECTS: 33 USC 408 (SECTION 408):

All Section 408 proposals will be coordinated internally at USACE. The Section 408 decision will be issued along with the Section 404 and/or Section 10 decision. Please see the following link for more information regarding Section 408:
<https://www.nab.usace.army.mil/section408/>.

WATER QUALITY CERTIFICATION:

The United States Army Corps of Engineers is required to obtain a water quality certification in accordance with Section 401 of the Clean Water Act from Maryland Department of the Environment prior to issuance of the MDSPGP-7.

COASTAL ZONE MANAGEMENT (CZM) PROGRAMS:

A CZM consistency concurrence is required in accordance with the Maryland CZM that the proposed activity complies with and will be conducted in a manner consistent with the approved CZM Program.

SUBMISSION OF COMMENTS:

The United States Army Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the United States Army Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments provided will become part of the public record for this action and are subject to release to the public through the Freedom of Information Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written comments must be received by the United States Army Corps of Engineers, Baltimore District within the comment period specified above through postal mail at the address below or electronic submission to the project manager email address below. Written comments should reference the United States Army Corps of Engineers file number NAB-2024-00009.

PUBLIC HEARING REQUESTS:

Any person who has an interest which may be adversely affected by the issuance of this permit may request a public hearing. The request, which must be in writing, must be received within the comment period as specified above to receive consideration. Also, it must clearly set forth the interest which may be adversely affected by this activity and the manner in which the interest may be adversely affected. The public hearing request may be submitted by electronic mail or mailed to the following address:

April E. Sparkman
april.e.sparkman@usace.army.mil
U.S. Army Corps of Engineers, Baltimore District
Regulatory Branch
2 Hopkins Plaza
Baltimore, MD 21201

It is requested that you communicate this information concerning the proposed work to any persons known by you to be interested, who did not receive a copy of this notice.

General information regarding the United States Army Corps of Engineers' permitting process can be found on our website at <https://www.nab.usace.army.mil/Missions/Regulatory.aspx>. This public notice has been prepared in accordance with United States Army Corps of Engineers implementing regulations at 33 CFR 325.3. If you have any questions concerning this specific project or would like to request a paper copy of this public notice, please contact Ms. April E. Sparkman at: 410-962-0148 or by email at april.e.sparkman@usace.army.mil. This public notice is issued by the Chief, Regulatory Branch.