

NOTABLE MODIFICATIONS TO THE MDSPGP-6

Revisions to Existing Activities and Conditions:

Subject/Activity	MDSPGP-5 PERMIT	MDSPGP-6 PERMIT
CAT B Eligibility Thresholds	<p>CAT B: Thresholds based on total temporary AND permanent impact.</p> <p>For most activities, the total temporary and permanent impact to WOUS are not to exceed 0.5 acre and/or 2,000 lf of stream channel.</p>	<p>CAT B: Thresholds based on loss only, not total temporary and permanent impact.</p> <p>For most activities, the single and complete project will result in no more than 0.5 acre of loss of tidal and nontidal waters of the United States, to include stream channel, wetlands, and open waters and the loss of stream channel may not exceed 1,000 linear feet.</p>
Piers (Individual floating piers) a(3)	CAT A does not authorize individual floating piers.	CAT A does allow individual floating piers; however, no floating piers or auxiliary pier platforms shall be permitted in areas of mapped SAV shown on composite mapping of the five most recent years of verified SAV data (derived from VIMS aerial surveys).
Piers (Pier width over SAV) a(3)	CAT A: Piers with 6-foot-wide decking that cross open waters must have their decking constructed a minimum of 4-feet above mean low water to minimize shading of Submerged Aquatic Vegetation (SAV). Alternatively, decking of a pier over open tidal waters must be constructed no lower than 3 feet above mean low water if the deck width does not exceed 5 feet.	CAT A: No substantial change.
Mooring Buoys a(6)	CAT A: No restriction on placing mooring buoys in SAV.	CAT A: No mooring buoy(s) will be placed in, or within 25 feet of, areas mapped by the Virginia Institute of Marine Science to contain SAV within the previous five years of verified data.
New Dredging a(10)	CAT B: Required all dredge material to be deposited into an upland site (no beneficial re-use)	<p>CAT B: Does not require all dredge material to be deposited into an upland site (allows beneficial re-use if tested to be clean)</p> <p>The discharge of dredged material for beneficial re-use must be</p>

		authorized under MDSPGP-6 Category B Activity f(2) Living Shorelines/Beach Nourishment or alternative Corps permit review process as appropriate.
General Maintenance b(1)	<p>CAT A: Authorizes multiple culverts in a single perennial non-tidal stream channel.</p> <p>Cat B: The total temporary and permanent impacts to WOTUS are not to exceed 1.0 acre and/or 2,000 linear feet of streams, rivers, and other open waters.</p>	<p>CAT A: Does not authorize more than one permanent culvert at a single location (side by side) in a single perennial non-tidal stream channel.</p> <p>Cat B: No threshold.</p>
Maintenance of Tidal Roadside Ditches b(4)	CAT B: The total temporary and permanent impacts to tidal ditches and tidal wetlands are not to exceed 1.0 acre and/or 2,000 linear feet of drainage ditch being maintained.	CAT B: No limit on maintenance dredging as long as the proposed dredge area does not exceed the dredging depths and footprint that was previously authorized.
Maintenance of Mosquito Control ditches b(5)	CAT B: The total temporary and permanent impacts to tidal ditches and tidal wetlands are not to exceed 1.0 acre and/or 2,000 linear feet of drainage ditch being maintained.	CAT B: The single and complete project will result in no more than a total 0.5 acre loss of tidal waters of the United States, to include stream channel, wetlands, and open waters and the loss of stream channel may not exceed 1,000 linear feet.
Utility Lines c(1)	CAT B: The total temporary and permanent impacts to WOUS are not to exceed 1.0 acres and/or 2,000 linear feet of stream channel.	CAT B: This activity does not authorize any losses of WOTUS. No limit on temporary impacts; however, temporary impacts must be reduced to the maximum extent practicable.
Habitat Restoration for Compensatory Mitigation e(11)	Not present.	New activity to be used for compensatory mitigation. Not authorized for general restoration projects. For general stream and wetland restoration, use NWP-27.
Living Shorelines/Beach Nourishment f(2)	CAT A: No SAV or marsh impact.	CAT A: No SAV impact. The total amount of vegetated wetlands which may be filled, graded, or excavated, in square feet, may not exceed 1 square foot per linear foot of the activity along the shoreline.

	<p>CAT B: No SAV or marsh impact.</p> <p>CAT A and B: No beneficial reuse (discharge of dredge material).</p>	<p>CAT B: No specific limit on SAV impact, but must reduce impact to SAV as much as possible. Tidal waters impact limited to 0.5 acre loss, but there can be no net loss of wetlands.</p> <p>CAT A: No beneficial reuse (discharge of dredge material).</p> <p>CAT B: Allows for beneficial re-use of dredge material. The dredged material must be equal to or larger in grain size and character than the existing beach material, or determined otherwise to be compatible with existing site conditions acceptable to the Corps. The dredged material may not contain more than 10 percent silts and clays, or control measures such as breakwaters, groins or similar structures should be used to control movement. If activity requires beneficial reuse of dredge material, see General Condition 38.</p>
Activity Specific/General Conditions	Many activity specific conditions are redundant.	<p>Activity specific conditions that apply to all or several activities were moved to the general conditions.</p> <p>For example: Anadromous fish TOY restriction</p>
Permanent Wetland Conversion	Considered a temporary impact with a permanent loss of function when the site is restored to pre-existing contours; however, the vegetation type is permanently converted to another type. For example, PFO wetland permanently converted to PEM wetland to maintain utility line ROW. This type of permanent conversion would count toward CAT B thresholds as it is considered a temporary impact with a permanent loss of function.	Considered a temporary impact. Would NOT count toward CAT B loss thresholds. The Corps could require compensatory mitigation for loss of function.
Multiple Culverts	CAT A and B authorize permanent multiple culverts at a single location (side by side) in a single perennial nontidal stream channel	CAT A does not authorize permanent multiple culverts at a single location (side by side) in a single perennial nontidal stream channel. Applicable to all activities.

New Project Criteria Requiring Category B Review

Subject/Activity	MDSPGP-5 PERMIT	MDSPGP-6 PERMIT
New project criteria requiring Cat B review	Not present.	CAT B: A project that involves temporary fill in place greater than one year, does not meet culvert countersinking general condition requirements, or involves more than one (1) permanent culvert is proposed to be installed at a single location (side by side) within a perennial non-tidal stream channel will be forwarded to the Corps for Category B review (See General Condition 31. Removal of Temporary Fill Structures and Mats and 34. Countersinking Pipes and Culverts).
New project criteria requiring Cat B review	Not present.	CAT B: A project that includes proposed work located in an area encumbered by an existing site protection instrument such as a conservation easement, deed restriction, or declaration of restrictive covenants required as a condition of a prior Corps, MDE, or EPA authorization, the project will be sent to the Corps for Category B review.

New and Revised General Conditions:

Subject/Activity	MDSPGP-5 PERMIT	MDSPGP-6 PERMIT
New General Condition: Critical Habitat	Not present.	Any work proposed in designated or proposed critical habitat requires a case-by-case Category B review by the Corps. Current designated Critical Habitat within the State of Maryland includes: <ul style="list-style-type: none"> a. Potomac River from the mouth of the Chesapeake Bay to the Little Falls Dam, including Breton Bay and St. Clements Bay; b. Nanticoke River from the mouth of the Chesapeake Bay to the Route 313 bridge; and c. Marshyhope Creek from the confluence with the Nanticoke River to the Route 318 bridge.

<p>New General Condition: Designated Critical Resource Waters</p>	<p>Not present.</p>	<p>Any activity proposed in the designated National Estuarine Research Reserves, including wetlands adjacent to those waters must be reviewed by the Corps under a MDSPGP-6 Category B activity or other Department of the Army permit. The designated National Estuarine Research Reserves in Maryland are:</p> <ul style="list-style-type: none"> a. Jug Bay b. Otter Point Creek c. Monie Bay
<p>Revised Condition: Mitigation Standards</p>	<p>Mitigation requirements were not outlined for projects that would result in conversion of aquatic resources.</p>	<p>Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.</p>
<p>New General Condition: Removal of Temporary Fill and Mats</p>	<p>Not present.</p>	<p>When temporary fills in waters of the United States will not be removed within the 12-month period, an application must be submitted, and the activity reviewed by the Corps under a Category B or alternate permit review process. Compensatory mitigation may be required to offset any adverse temporal effects. Additional conditions for the removal of temporary fill, structures, and mats were added to this general condition.</p>
<p>New General Condition: Depressing Pipes and Culverts</p>	<p>Not present.</p>	<p>Outlines conditions for culverted crossings of intermittent and perennial waterbodies, to include the following: Countersinking Pipes and Culverts, Hydraulic opening, pipes and culverts on bedrock or above existing buried utility lines or pipes, extensions of existing pipes and culverts, and when Category B review is required.</p>
<p>Revised Condition: Water Crossings</p>	<p>No restriction on the number of culverts used at a single location within a perennial non-tidal stream channel.</p>	<p>Category B review is now required for any new culvert installation or culvert replacement where more than one (1) permanent culvert is proposed to be installed at a single location (side by side) within a perennial non-tidal stream channel. (Please note that this condition does not apply to intermittent or ephemeral stream channels, temporary crossings, tidal crossings, or culverts installed in the floodplain). Please note that a single culvert may not be placed in each stream braid within the same channel under CAT A.</p>

New General Condition: Anadromous TOY restriction	Not present.	Consolidated activity specific conditions to create new General Condition that states: This condition applies to activities b(1), b(2), b(4), b(5), b(6), c(1), c(2), c(3), e(1), e(5), e(7), e(9), and f(4): To ensure that activities do not impact spawning habitat or a migratory pathway for anadromous fish, all in-water work is prohibited during February 15 to June 15 each year to protect sensitive life states of anadromous fish in all tidal and nontidal coastal plain streams within the State of Maryland, and all piedmont streams in Harford and Cecil Counties, Maryland, unless specifically waived by the Corps in consultation with the National Marine Fisheries Service – Habitat and Ecosystem Services Division.
New General Condition: Beneficial Reuse of Dredged Material	Not present.	Applicant must identify the intent to use dredge material for fill activities within waters of the United States at the proposed placement site. Applicants must provide the exact location and quantities of dredge material placement within waters of the United States to the Corps and MDE. Material testing is required at the dredging and placement sites prior to placement and must comply with the Evaluation of Dredged Material Proposed for Discharge in waters of the United States-Testing Manual: Inland Testing Manual https://www.epa.gov/sites/production/files/2015-08/documents/inland_testing_manual_0.pdf . At minimum, Tier 1 testing as outlined in Section 3.1 must be applied for all projects proposing beneficial reuse of dredge material within waters of the United States. Any temporary storage of dredge material must be placed in uplands in accordance with federal, state, and local regulations.
New General Condition: Poured Concrete into Forms	Not present.	Activities that involve the discharge of poured concrete must be contained within cells or watertight forms until the concrete is set.

Changes to SOP:

Subject	MDSPGP-5 SOP	MDSPGP-6 SOP
Return Procedure	Corps PM may return MDSPGP-6 to MDE that have been miscategorized. If MDE has already issued the permit, Corps must process.	No Change. Just wanted to re-emphasize as this may have been previously misinterpreted.

401 WQC Procedure	MDE does not have ability to request individual WQC for certain activities.	MDE has 35 days from receipt of application to request individual WQC for specific activities (listed in 401 WQC).
Annual Cumulative Impacts Reporting to NMFS	Reported cumulative impacts to NMFS every 5 years.	NMFS requested that the Corps provide annual cumulative impact data.
Cat B Reporting Checklist	Not present. Difficult to determine why applications were categorized as CAT B.	MDE will indicate the reason for Categorizing as CAT B on the checklist, which will be sent to with Corps with the application.
ATF Applications	All ATF applications sent to the Corps.	Corps will only receive ATF applications that would be CAT B.
Transmittal Form	No MDE project manager listed on transmittal form. Corps would not know who to coordinate with at MDE.	MDE will add MDE PM to transmittal form. Corps RPA will copy MDE PM when sending initial notification e-mail. Corps PM will know who to coordinate with at MDE.
Self-Cert Form	Both Corps and MDE sent Self-Cert form with verifications.	MDE will no longer send Self Cert form. Corps will no longer send the self-cert form, but will include a link to the form that applicants may use when required to report project completion. Need to update language in templates.
POC List	No available and current list of agency POCs.	Current list of agency POCs will be posted on Corps website.
Reauthorization Procedure	Requests for modifications of previously authorized work under the MDSPGP-4 and/or special conditions are not grandfathered, and must be submitted in writing for written reauthorization under the MDSPGP-5 or alternate Corps permit review procedures.	<p>Category A: No written re-authorization is required for previously verified Category A MDSPGP permits as long as the proposed project meets the MDSPGP-6 terms and conditions AND impacts to jurisdictional aquatic resources have not changed. If the project no longer meets the Category A terms and conditions of MDSPGP-6 OR exceeds established MDSPGP-6 thresholds, authorization under an alternative permit will be required.</p> <p>Category B: Written re-authorization is required for previously verified Category B MDSPGP permits. If the project no longer meets the Category B terms and conditions of MDSPGP-6 OR exceeds established MDSPGP-6 thresholds, authorization under an alternative permit will be required.</p>

		<p>*Note that this requirement applies to projects that have a valid State authorization that has not expired.</p> <p>The MDSPGP-6 does not authorize any activity that might directly or indirectly affect a threatened or endangered species or a species proposed for such designation, as identified under the federal ESA. In accordance with General Condition 11 of the MDSPGP-6, applicants may conduct a review for ESA resources, including FWS and/or NMFS species and critical habitat, utilizing the appropriate website(s) provided below:</p> <p>Information on threatened and endangered species and their critical habitat can be obtained from the offices of the FWS and NMFS or their web pages at: FWS: https://ecos.fws.gov/ipac/ NMFS: https://www.greateratlantic.fisheries.noaa.gov/protected/section7/guidance/Maps/index.html</p>
Enforcement Procedure	All Enforcement actions were reporting to the Corps as Category B.	Only violations that exceed Category A thresholds will need to be sent the Corps for Category B review. NOTE: The Corps has discretion to request any Category A after-the-fact permit applications