



Public Notice

U.S. Army Corps
of Engineers
Baltimore District

**ANNOUNCING THE DRAFT MARYLAND STREAM MITIGATION
FRAMEWORK, VERSION 1**

Special Public Notice SPN-22-05 Comment Period: February 28, 2022 – March 30, 2022

The purpose of this special public notice is to provide the opportunity for public comment on the Draft Maryland Stream Mitigation Framework Version 1 (MSMF V.1.) for use in the quantification of stream impacts for unavoidable impacts to Waters of the U.S. and compensatory mitigation requirements associated with such impacts.

BACKGROUND: Impacts to Waters of the United States (WOTUS) must be avoided and minimized to the greatest extent practicable during the Clean Water Act (CWA) Section 404 permit application review process. The U.S. 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.

The Maryland Stream Mitigation Framework Version 1 (MSMF V.1.) 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 USACE (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, with the goal of achieving “no net loss” of stream functions in Maryland. Additionally, the Framework has utility for project planners and mitigation providers in forecasting stream credit mitigation requirements, or stream credits generated by various activities. 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 Draft MSMF V.1. was created through collaboration between the Corps and agency partners, with valuable feedback provided from the regulated public. An acknowledgments section is provided in the Draft MSMF V.1. Manual.

THE MARYLAND STREAM MITIGATION FRAMEWORK VERSION 1: MSMF V.1. provides two calculation worksheets (The Stream Impact Calculator and The Stream Mitigation Calculator).

The Baltimore District has posted the Draft MSMF V.1. and associated documents on the Regulatory webpage under this public notice. The Draft MSMF V.1. 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 NAB-regulatory@usace.army.mil.

Draft MSMF V.1.:

Public comments are requested on the Draft MSMF V.1 Stream Impact Calculator and Stream Mitigation Calculator. Both calculators are enclosed within the file as separate tabs.

Draft MSMF V.1. Manual:

The Draft MSMF V.1. Manual provides detailed instructions on the MSMF V.1. process including entries into the MSMF V.1. and how other enclosures listed below are applied in the process. Public comments are requested on the MSMF V.1. Manual regarding improvements for clarity, additional figures that may be needed, and comments regarding general process.

The Function Based Rapid Stream Assessment with Numeric Scoring:

Public comments are requested on the Function Based Rapid Stream Assessment with Numeric Scoring (FBRSA) document. The FBRSA provides a process for estimating stream quality, which is applied in MSMF V.1. The Corps is currently working on revisions to the FBRSA with the assistance of the Environmental Protection Agency (EPA), Region 3 and other agency and private industry partners. Additional public outreach will be conducted on this document at a later date and will help inform future changes to MSMF V.2.

The EPA Rapid Bioassessment Habitat Forms and Instructions:

Public comments are not requested for The EPA Rapid Bioassessment Habitat Assessment (EPA RBP). The EPA RBP provides forms to estimate stream quality, which is applied in MSMF V.1. All four EPA RBP habitat forms 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 Draft MSMF V.1. Manual.

Draft MSMF V.1. Stream Buffer Quality Assessment:

Public comments are requested on the Draft MSMF V.1. Stream Buffer Quality Assessment. The assessment provides a process to estimate the quality of stream buffers associated with mitigation activities. This assessment is only applied to the Stream Mitigation Calculator and is not used in the Stream Impact Calculator in the Draft MSMF V.1.

Draft MSMF V.1. Instructions for The Stream Buffer Quality Assessment:

Public comments are requested on the “Instructions for The Stream Buffer Quality Document.”

Following the public comment period, the Baltimore District will revise the Draft MSMF V.1., producing a Final MSMF V.1. informed by public comment. A Public Notice will be issued upon completion and implementation of the Final MSMF V.1. Any additional comments received after the comment period will be considered in the creation of future versions of the MSMF.

For specific questions regarding how to provide helpful comments, 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.