



Public Notice

**U.S. Army Corps
of Engineers**

Special Public Notice SPN 20-57

Baltimore District

Date: September 4, 2020 to October 4, 2020

Philadelphia District

Pittsburgh District

The purpose of this 30-day Public Notice is to request comments on whether to issue, for a five year period, the Pennsylvania State Programmatic General Permit 6 (PASPGP-6). Comments are requested by October 4, 2020.

This Public Notice is issued jointly by the Baltimore, Philadelphia, and Pittsburgh Districts of the U.S. Army Corps of Engineers.

On July 1, 2016 the District Engineers for Baltimore, Philadelphia, and Pittsburgh Districts, issued the Pennsylvania State Programmatic General Permit - 5 (PASPGP-5) for a five year period. The PASPGP-5 will expire on June 30, 2021, unless a decision is made to suspend, or revoke the permit before that date.

The list below provides some of the proposed changes from PASPGP-5 to PASPGP-6. The proposed PASPGP-6 can be viewed on our web page at:

<https://www.nab.usace.army.mil/Missions/Regulatory/Public-Notices/>

A hard copy of the proposed PASPGP-6 may be obtained by contacting: Ms. Brenda Harrison, U.S. Army Corps of Engineers, State College Field Office, 1631 South Atherton Street, State College, Suite 101, Pennsylvania 16801, by telephone at (814) 235-1763 or by email at: Brenda.L.Harrison@usace.army.mil

Proposed Changes

1. Eligibility thresholds for PASPGP-6:
 - a. Single and complete projects reduced from 1-acre temporary and/or permanent impact to 0.5 acre permanent loss (permanent adverse effect) of waters of the U.S., including jurisdictional wetlands.
 - b. Unlimited acreage of temporary and/or non-adverse permanent impacts to waters of the U.S., including jurisdictional wetlands, provided the work is determined to result in no more than minimal impact.
2. Reporting threshold (the need for a Corps review of the application) for PASPGP-6 will be calculated based on impacts associated with Overall Project, not Single

and Complete Project. The eligibility threshold will remain based upon Single and Complete Project as determined by the Corps.

3. Some activities Reporting under PASPGP-5 are proposed to be removed as Reporting activities under PASPGP-6, including:
 - a. Single and Complete Projects that propose the permanent conversion of greater than 0.10 acre of forested and/or scrub-shrub wetland in association with the regulated activity.
 - b. Utility line applications that meet the following criteria:
 - i. Single and complete utility line crossings in waters of the United States, including jurisdictional wetlands exceeding 500 linear feet (excluding overhead lines). This applies to the length of the utility line itself in waters of the United States, including jurisdictional wetlands, at that Single and Complete Project location, and is not based on the amount of impacts, either temporary or permanent, associated with installation of the entire utility line; or
 - ii. Buried utility lines placed within a jurisdictional area (i.e., waters of the United States, including jurisdictional wetlands) whereby the utility line runs parallel to or along a stream bed that is within that jurisdictional area.
 - c. Activities Authorized at 25 PA Code § 105.131(c) – Maintenance of Reservoirs of Jurisdictional Dams: This work is associated with maintenance dredging of the reservoir's design storage capacity including the removal of accumulated sediments. This corresponds to activities authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated there under in the Pennsylvania Bulletin (codified at 25 PA. Code, Chapter 105, § 105.131(c)). Such activities are proposed to be Non-Reporting activities, however projects proposing greater than 0.10 acre of permanent impact to wetlands would be a Reporting activity.
4. Reporting activities under PASPGP-6 would be based on Overall Project with the following thresholds requiring that an application be sent to the Corps as a Reporting activity:
 - More than 1.0 acre of temporary impact;

- More than 0.25 acre of permanent impact, except for those activities identified in Activity 29(c), Activities Waived at 25 PA Code § 105.12(a)(16) – Waiver 16 – Restoration Activities: Other Restoration Activities, and Non-Reporting Activity 1, PADEP General Permit (GP)-1 for Fish and Habitat Enhancement Structures the permanent impact threshold is more than 0.50 acre; or
 - More than 250 linear feet of permanent impacts to streams, rivers, or other watercourses (excluding wetlands) with the following exceptions:
 - The permanent linear threshold of stream/river impact is more than 500 feet, regardless of drainage area, for those activities that involve stream restoration (rehabilitation and/or reestablishment); stream enhancement; bank stabilization; and/or gravel bar removal; including activities identified in Activity 29(c), Activities Waived at 25 PA Code § 105.12(a)(16) – Waiver 16 – Restoration Activities: Other Restoration Activities; and
 - No linear threshold of stream/river impact applies to those activities verified as Non-Reporting Activity 1, PADEP General Permit (GP)-1 for Fish and Habitat Enhancement Structures.
5. Section 10 waters within Pittsburgh, which were ineligible waters under PASPGP-5, are proposed to be added as waters eligible for authorization under PASPGP-6. Except for work that qualifies for authorization under Pennsylvania Department of Environmental Protection (PADEP) Waivers 10 and 12, any regulated work within these waters would be a Reporting activity.
6. Monitoring of Wetlands: The requirement under PASPGP-5 for the monitoring of all single and complete projects with temporary impacts greater than >0.10 acre is proposed to be removed as a requirement under PASPGP-6.

The Commonwealth's Dam Safety and Waterway Management Rules and Regulations establish a statewide permit program for protecting the waters of the Commonwealth. The Commonwealth's procedures for the granting of permits require the PADEP to apply evaluation criteria consisting of alternatives analysis (for nonwater dependent activities), avoidance techniques, the minimization of impacts, and if a permit is to be granted, compensatory mitigation. The evaluative criteria within the Commonwealth's program are similar to Federal criteria under Section 404(b)(1) of the Federal Clean Water Act.

The decision whether to issue the proposed PASPGP-6 with or without modifications, will be based on an evaluation of the probable impacts including cumulative impacts of the proposed PASPGP-6 on the public interest. That decision will reflect the national concern for the protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal will 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, economics, aesthetics, general environmental concerns, wetlands, cultural resources, fish and wildlife resources, flood hazards, floodplain functions, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; federally recognized Native American Nations; and other interested parties in order to consider and evaluate the impacts of this proposed PASPGP-6. Any comments received will be considered by the Corps of Engineers to determine whether to issue with modifications, issue without modifications, or not issue PASPGP-6. To make this decision, comments are used to assess impacts on endangered species, cultural resources, water quality, general environmental effects, and the other public interest factors listed above. Comments will be used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments will also be used to determine if the proposed permit is in the public interest.

A Water Quality Certification is required, in accordance with Section 401 of the Clean Water Act, for any activity that would be authorized by PASPGP-6 and involves the discharge of dredged and/or fill material into federally regulated waters of the United States, including wetlands. Coastal Zone Certification is also required in accordance with the Pennsylvania Coastal Zone Program.

A preliminary review of the PASPGP-6 indicates that processing procedures and conditions are sufficient such that authorized work may affect, but is not likely to adversely affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of the PASPGP-6 continues, additional information may become available which could modify this preliminary determination.

The PASPGP-6 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.

Section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278 et seq.) provides that no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. A preliminary review of the PASPGP-6 indicates that processing procedures and conditions are sufficient such that authorized work is not likely to have a direct and adverse effect on any designated Wild and Scenic River pursuant to the Wild and Scenic Rivers Act as amended. As the evaluation of the PASPGP-6 continues, additional information may become available which could modify this preliminary determination.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act 1996 (Public Law 104-267), requires all federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat. A preliminary review of the PASPGP-6 indicates that processing procedures and conditions are sufficient such that authorized work will likely result in no more than minimal adverse effects on Essential Fish Habitat pursuant to the Magnuson-Stevens Fishery Conservation and Management Act as amended. As the evaluation of the PASPGP-6 continues, additional information may become available which could modify this preliminary determination.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act. 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 by the District Engineer, within the comment period as specified above, to receive consideration. The request must clearly state the interest which may be adversely affected by the proposed PASPGP-6.

It is requested that you communicate the foregoing information to any persons known by you to be interested and not being known to this office who did not receive a copy of this notice.

Questions may be directed to Mr. Shawn Gill, Project Manager, U.S. Army Corps of Engineers, Tioga Field Office, 710 Ives Run Lane, Tioga, Pennsylvania 16946, by telephone (570) 835-4263, or by email: Shawn.R.Gill@usace.army.mil

Comments and/or hearing requests may be directed to the following email address: PASPGP6_comments@usace.army.mil with a subject line of "PASPGP-6 Comments", or mailed to U.S. Army Corps of Engineers, Baltimore District, 1631 South Atherton Street, Suite 101, State College, Pennsylvania 16801.

This public notice is issued by the Chief, Regulatory Branch, Baltimore District, for and on behalf of the Pittsburgh, Philadelphia, and Baltimore Districts.