



Public Notice

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

Baltimore District
ATTN: CENAB-OPR
P.O. Box 1715
Baltimore, MD 21203-1715

**Date: July 01, 2015
Action ID: NAB-2014-00602
Special Public Notice# 15-43**

SUBJECT: Issuance of the Chesapeake Bay Total Maximum Daily Load Regional General Permit (Bay TMDL RGP) for a five year period

The purpose of this special public notice is to inform you that the Baltimore District, U.S. Army Corps of Engineers is issuing the Chesapeake Bay Total Maximum Daily Load Regional General Permit (Bay TMDL RGP) authorizing activities in waters of the U.S., including jurisdictional wetlands, that are part of an acceptable watershed strategy, such as a Chesapeake Bay TMDL Watershed Implementation Plan (WIP), whose purpose is to identify implementation activities needed to meet nutrient and sediment load reduction targets in accordance with the Chesapeake Bay TMDL. For a full description of the types of activities authorized by the Bay TMDL RGP, the applicable waters, and the permit conditions, please see the attached Bay TMDL RGP.

In accordance with 33 CFR 325.5(c), the proposed Bay TMDL RGP authorizes the work 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 (CWA) (33 U.S.C. 1344). Applicable waters include nontidal waters and nontidal wetlands in the Chesapeake Bay watershed within the State of Maryland, the District of Columbia, and certain military installations in northern Virginia within the regulatory geographic boundaries of the Corps (i.e., Fort Belvoir, Fort Myer, and the Pentagon).

All activities eligible for authorization under the Bay TMDL RGP must meet all terms and eligibility criteria, limitations, and general conditions specified in the Bay TMDL RGP. In order for the Bay TMDL RGP to be valid, a person or entity seeking verification under the Bay TMDL RGP must obtain all other Federal, state and/or local authorizations required by law prior to commencement of such work in waters of the U.S. Activities that do not comply with the provisions of the Bay TMDL RGP may require authorization under an alternative permit type (e.g., State Programmatic General Permit, Nationwide Permit, or Individual Permit).

The Bay TMDL RGP provides a streamlined form of Department of the Army authorization for certain recurring activities that are similar in nature, have minimal individual and cumulative adverse effects on the aquatic environment, and satisfy other public interest review factors. A copy of the Bay TMDL RGP is attached and may also be found on the Baltimore District Regulatory website at:

<http://www.nab.usace.army.mil/Missions/Regulatory.aspx>

The Bay TMDL RGP is effective as of July 01, 2015. The Bay TMDL RGP will expire on June 30, 2020 unless suspended or revoked.

On May 16, 2014, the Baltimore District issued Special Public Notice #14-28, requesting comments on whether to issue, for a 5-year period, the proposed draft Bay TMDL RGP. Following a thorough review of all comments received in response to the special public notice and the public hearing held on June 19, 2014, the Corps has decided to issue the Bay TMDL RGP. The decision to issue the Bay TMDL RGP was made after a thorough evaluation of the probable impacts including cumulative impacts of the proposed Bay TMDL RGP on the public interest. This decision reflects the national concern for the protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal was balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal were 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.

After evaluating the comments received in response to the May 16, 2014 proposal, we have made a number of changes to the Bay TMDL RGP to further clarify the permit, general conditions, and definitions; facilitate its administration; and strengthen environmental protection. Examples of improved environmental protection include: imposing a total conversion limit for all types of conversion on an overall project; requiring streams proposed for restoration or enhancement to meet a minimum of two function-based stream degradation criteria; and adding general conditions to protect aquatic species indigenous to coldwater stream systems and ensure compliance with Federal Aviation Administration Advisory Circular 150/5200-33. The final Bay TMDL RGP includes additional details on the information that must be included with the function-based assessment and general conditions clarifying post-construction as-built reporting of Bay TMDL RGP Category II projects and 5-year project monitoring of Bay TMDL RGP Category III projects. Furthermore, definitions for bankfull discharge, conversion, ephemeral stream, floodplain disconnection, intermittent stream, permanent impact, perennial stream, relocation, stormwater management facilities, and stream restoration and enhancement were added or clarified to facilitate implementation.

The Maryland Department of the Environment, District Department of the Environment, and Virginia Department of Environmental Quality have certified compliance of the activities authorized by Bay TMDL RGP, individually and cumulatively, with the State's Clean Water Act Section 401 water quality standards provided the applicant obtains all necessary State permits and approvals. The Corps or State may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

The Corps has determined that all activities authorized by the Bay TMDL RGP will be carried out in a manner consistent with the enforceable policies of the Maryland Coastal Zone Management Program and the Virginia Coastal Zone Management Program pursuant to Section 307 of the Federal Coastal Zone Management Act of 1972, as amended. The Maryland Department of the Environment and Virginia Department of Environmental Quality have concurred with the Corps' determination provided that the applicant obtains all necessary State permits and approvals. The Corps or State may require additional measures to ensure that the authorized activity is consistent with state



coastal zone management requirements.

All other State or local authorizations, required by law, must be obtained for the Bay TMDL RGP authorization to be valid. A review of the Bay TMDL RGP indicates that terms and conditions are sufficient such that authorized work will not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. The Baltimore District has determined in consultation with the National Marine Fisheries Service that there are no effects of this Bay TMDL RGP on Essential Fish Habitat (EFH) pursuant to the Magnuson-Stevens Fishery Conservation and Management Act as amended. The Bay TMDL RGP is conditioned to ensure that all authorized activities must comply with the requirements of Section 106 of the National Historic Preservation Act. The applicant must submit a pre-construction notification and a permit application for any activity that may affect Federally listed or proposed threatened or endangered species or designated or proposed critical habitat, or that has the potential to cause effects to historic properties listed, determined to be eligible for listing in, or potentially eligible for listing in the National Register of Historic Places, including previously unidentified properties.

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 Ms. Beth Bachur, U.S. Army Corps of Engineers, Baltimore District, Regulatory Branch, P.O. Box 1715, Baltimore, Maryland 21203.

A webinar for the Bay TMDL RGP will be held on July 23, 2015 from 10 a.m. to 12 p.m. Please monitor the Baltimore District web site at: <http://www.nab.usace.army.mil/Missions/Regulatory.aspx> for further details and updates on the Bay TMDL RGP and this upcoming webinar. In addition, once completed, the Bay TMDL RGP webinar content will be posted on the Baltimore District web site.

This Public Notice is available on the Baltimore District website at: <http://www.nab.usace.army.mil/Missions/Regulatory/PublicNotices.aspx>


 WILLIAM P. SEIB
Chief, Regulatory Branch