



**STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER AND SCIENCE ADMINISTRATION**



COASTAL ZONE CONSISTENCY DETERMINATION

Maryland State Programmatic General Permit-6, NAB-2020-00415, SPN-20-66

ISSUED TO: U.S. Army Corps of Engineers, Baltimore District
2 Hopkins Plaza, Baltimore, MD 21201

DETERMINATION DATE: March 24, 2021

PROJECT LOCATION: Waters of the United States, including wetlands and navigable waters, within the State of Maryland except: 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 Road Bridge to the north, including adjacent and contiguous jurisdictional wetlands to these tidal waterways.

DESCRIPTION OF PROJECT: The Maryland State Programmatic General Permit-6 (MDSPGP-6) applies to the discharge of dredged or fill material and/or the placement of structures into waters of the United States as regulated by Section 404 of the CWA and/or Section 10 of the Rivers and Harbors Act of 1899. The MDSPGP-6 is proposed to provide 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. Activities authorized by the MDSPGP-6 must be components of a single and complete project, including all attendant features both temporary and permanent, which individually and cumulatively result in no more than minimal adverse environmental impacts. Activities authorized under the MDSPGP-6 require compliance with all terms and conditions of the MDSPGP-6, including general conditions, activity-specific impact thresholds, and descriptions set out further herein. In addition, the Corps may add project-specific conditions to ensure that the adverse environmental effects are no more than minimal. These can include permit conditions such as time-of-year restrictions, use of best management practices, or compensatory mitigation requirements to offset authorized losses of waters of the United State so that the net adverse environmental effects are no more than minimal.

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BASED ON THE FOLLOWING CONDITIONS, THE DEPARTMENT HAS DETERMINED THAT THE REGULATED ACTIVITIES DESCRIBED IN THE PROPOSED MARYLAND STATE PROGRAMMATIC GENERAL PERMIT-6 (ATTACHMENTS 1) ARE CONSISTENT WITH THE STATE'S FEDERALLY APPROVED COASTAL ZONE MANAGEMENT PROGRAM, AS REQUIRED BY SECTION 307 OF THE FEDERAL COASTAL ZONE MANAGEMENT ACT OF 1972, AS AMENDED, PROVIDED THAT A PERSON CONDUCTING AN ACTIVITY UNDER THE MARYLAND STATE PROGRAMMATIC GENERAL PERMIT-6 IN THE

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**MARYLAND COASTAL ZONE SHALL COMPLY WITH ALL APPLICABLE
ENFORCEABLE POLICIES (ATTACHMENT 2) UNDER THE APPROVED
MARYLAND COASTAL ZONE MANAGEMENT PROGRAM.**

CONDITIONS

1) The Department may require submission of a individual Coastal Zone Management Act consistency determination for any project that has been determined by the Department--within 35 days of receipt by Maryland of a JOINT FEDERAL/STATE APPLICATION FOR THE ALTERATION OF ANY FLOODPLAIN, WATERWAY, TIDAL OR NONTIDAL WETLAND IN MARYLAND-- to likely have a significant adverse effect upon water quality or degrade surface waters to ensure that existing and designated uses of the waterbody and downstream waters are not adversely impacts and the activities will not violate the approved enforceable policies of the Maryland Coastal Zone Management Program for the following activities in the MDSPGP-6:

- a(3) Piers- Commercial projects only
- a(5) Boat Ramp Construction, Repair, and Expansion- Commercial projects only
- a(9) Maintenance Dredging of Previously Authorized Dredged Areas in Tidal Waters
- a(10) New Minor Dredging in Tidal Waters
- b(3) Bulkhead Repair or Replacement, including Stone Toe Protection
- c(1) Utility Lines
- c(2) Foundations for Overhead Utility Line Towers, Poles, and Anchors
- c(3) Utility Access Roads
- d) Linear Transportation Activities
- e(1) Minor Nontidal Fills
- e(2) Agricultural Activities
- e(8) Outfall Structures and Associated Intake Structures
- e(9) Residential, Commercial, and Institutional Development Activities
- e(10) New Stormwater Management Facilities
- f(1) New Tidal Revetments and Tidal Shoreline Erosion Control Structures Other than Revetments
- f(2) Living Shorelines/Beach Nourishment
- f(3) New Bulkheads, including Stone Toe Protection
- g) Return Water from Upland Contained Disposal Areas

Enforceable Policies:

- 5.1.10 Core Policies Quality of Life -Erosion and Sediment Control;
- 5.1.3.2, Water Resources Protection & Management Policy 2 – Protection of Designated Uses

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2) The person conducting an activity under MDSPGP-6 (Permittee) shall meet all performance standards and conditions required by the Department for any state issued authorization for activities in tidal wetlands, nontidal waterways, their 100-year floodplains, nontidal wetlands, nontidal wetland buffers, or nontidal wetland expanded buffers to ensure that any discharges which may enter waters of this State or the United States will not result in a failure to comply with water quality standards in COMAR 26.08.02.; other water quality requirements of state law or regulation; and enforceable policies under the Maryland Coastal Zone Management Program; and local and State Critical Area Program approvals.

Enforceable Policies:

- 5.1.10 Core Policies Quality of Life -Erosion and Sediment Control;
- 5.1.3.2, Water Resources Protection & Management Policy 2 – Protection of Designated Uses;
- 5.1.4. Flood Hazards & Community Resilience Policies 1 -3
- 5.2.1 Coastal Uses, limited to MDSPGP-6 activities which occur in waters of the United States;
- 5.2.1.1 - 5.2.1.29 Chesapeake and Atlantic Coastal Bays Critical Area
- 5.2.2 Tidal Wetlands
- 5.2.3 Nontidal Wetlands
- 5.2.6 Living Aquatic Resources

3) The Permittee shall apply the following conditions to their project:

- a) Activities which result in the loss of tidal or nontidal wetlands or waterways, shall implement compensatory mitigation in accordance with state issued authorizations.
- b) Ensure that temporary impacts to nontidal and tidal wetlands are restored to pre-existing contours and elevations and previous conditions with at least the same nontidal and tidal wetland acreage and equivalent function as indicated by a return to the same wetland type and in accordance with state authorizations.

Enforceable Policies:

- 5.1.10 Core Policies Quality of Life -Erosion and Sediment Control;
- 5.1.3.2, Water Resources Protection & Management Policy 2 – Protection of Designated Uses;
- 5.1.4. Flood Hazards & Community Resilience Policies 1-3, Flood Hazards & Community Resilience Policy 1 – No Adverse Impact;
- 5.2.1 Coastal Uses, limited to MDSPGP-6 activities which in occur in waters of the United States;
- 5.2.1.1 - 5.2.1.29 Chesapeake and Atlantic Coastal Bays Critical Area
- 5.2.2 Tidal Wetlands
- 5.2.4 Forests Forest Policy 1 – Projects Impacting More Than 40,000 Square Feet Must Generally Identify & Protect Habitat & Mitigate for Impacts

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4) The Permittee conducting activities under a(9) Maintenance Dredging of Previously Authorized Dredged Areas in Tidal Waters of MDSPGP-6 shall comply with the following enforceable policies:

- 5.2.1 Critical Area Policy 2 - Buffer Disturbance
- 5.2.1 Critical Area Policy 17- Buffer Management Plan

5) The Permittee conducting activities under a(10) New Minor Dredging in Tidal Waters shall comply with the following enforceable policy:

- 5.2.1 Critical Area Policy 2 – Buffer Disturbance
- 5.2.1 Critical Area Policy 17- Buffer Management Plan

6) The Permittee conducting activities under b) Repair and Maintenance Activities shall comply with the following enforceable policies limited to those areas which are Waters of the United States in the Chesapeake and Atlantic Coastal Bays Critical Area:

- 5.2.1 Critical Area Policy 2 – Buffer Disturbance;
- 5.2.1 Critical Area Policy 5 -Restrictions on Stream Alterations;
- 5.2.1 Critical Area Policy 6 - Prohibition of Riprap and Artificial Surfaces;
- 5.2.1 Critical Area Policy 7 - Prohibition of Dams and Structures;
- 5.2.1 Critical Area Policy 8 - Restrictions on Stream Crossings and Impacts;
- 5.2.1 Critical Area Policy 10 - Avoid & Minimize Construction Impacts in Habitat Areas;
- 5.2.1 Critical Area Policy 17- Buffer Management Plan
- 5.2.1 Critical Area Policy 26 - Cutting or Clearing Trees in the Buffer

7) The Permittee conducting activities under c) Underground and Overhead Utility Lines shall comply with the following relevant enforceable policies:

- 5.1.1 Quality of Life Policy 10 – Erosion & Sediment Control;
- 5.1.3 Water Resources Protection & Management Policy 2 – Protection of Designated Uses;
- 5.1.4. Flood Hazards & Community Resilience Policies 1-3;
- 5.2.1 Critical Area Policy 5 -Restrictions on Stream Alterations;
- 5.2.1 Critical Area Policy 6 - Prohibition of Riprap and Artificial Surfaces;
- 5.2.1 Critical Area Policy 7 - Prohibition of Dams and Structures;
- 5.2.1 Critical Area Policy 8 - Restrictions on Stream Crossings and Impacts;
- 5.2.1 Critical Area Policy 10 - Avoid & Minimize Construction Impacts in Habitat Areas;

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- 5.2.2 Tidal Wetlands Tidal Wetlands Policy 1 – Projects That Alter Natural Character Shall Avoid Dredging & Filling, Be Water-Dependent and Provide Appropriate Mitigation;
- 5.2.3 Non-Tidal Wetlands; Non-Tidal Wetlands Policy 1 – Removal or Alteration is Generally Prohibited Unless There Is No Practicable Alternative, in Which Case, Impacts are First Minimized & Then Mitigated to Replace Ecological Values;
- 5.2.4 Forests Forest Policy 1 – Projects Impacting More Than 40,000 Square Feet Must Generally Identify & Protect Habitat & Mitigate for Impacts;
- 5.2.6 Living Aquatic Resources Policies 1-4 and 6-14;
- 5.3.4 Oil and Natural Gas Facilities Policies 4-6.

8) The Permittee conducting activities under e(1) Minor Nontidal Fills, in addition to conditions 2)-3) above, shall comply with the following enforceable policies limited to those areas which are Waters of the United States in the Chesapeake and Atlantic Coastal Bays Critical Area:

- 5.2.1 Critical Area Policy 1 – Scope of the Buffer;
- 5.2.1 Critical Area Policy 2 – Buffer Disturbance;
- 5.2.1 Critical Area Policy 5 -Restrictions on Stream Alterations;
- 5.2.1 Critical Area Policy 6 - Prohibition of Riprap and Artificial Surfaces;
- 5.2.1 Critical Area Policy 7 - Prohibition of Dams and Structures;
- 5.2.1 Critical Area Policy 8 - Restrictions on Stream Crossings and Impacts;
- 5.2.1 Critical Area Policy 10 - Avoid & Minimize Construction Impacts in Habitat Areas;
- 5.2.1 Critical Area Policy 11 – Intensely Developed Areas; and
- 5.2.1 Critical Area Policy 12 – Limited Development Areas & Resource Conservation Areas.
- 5.2.1 Critical Area Policy 17 – Buffer Management Plan; and

For mining activities, the additional enforceable policies:

- 5.2.1 Critical Area Policy 18 – Protection of Critical Area from Surface Mining Pollution
- 5.2.1 Critical Area Policy 19 – Reclamation Requirements for Mining;
- 5.2.1 Critical Area Policy 20 – Restrictions on Sand & Gravel Operations; and
- 5.2.1 Critical Area Policy 21 - Prohibition of Wash Plants in Buffer.

9) The Permittee conducting activities under e(2) Agricultural Activities shall comply with the following enforceable policy limited to those areas which have foreseeable coastal effect to waters of the United States in the Chesapeake and Atlantic Coastal Bays Critical Area:

- 5.2.1 Critical Area Policy 25 - Best Management Practices for Agriculture,

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10) The Permittee conducting activities under e(9) Residential, Commercial, and Industrial Development Activities shall comply with the following enforceable policies limited to those areas which have foreseeable coastal effect to Waters of the United States in the Chesapeake and Atlantic Coastal Bays Critical Area, and according to the applicable land use category:

- 5.2.1 Critical Area Policy 11 – Intensely Developed Areas; or
- 5.2.1 Critical Area Policy 12 – Limited Development Areas & Resource Conservation Areas

11) The Permittee conducting activities under e(10) New Stormwater Management Facilities shall obtain and comply with the appropriate stormwater management approval authority authorization and ensure that discharges from the constructed facility do not:

- (a) Violate water quality standards;
- (b) Result in erosive flows downstream; and
- (c) Fail to comply with the following enforceable policy;

5.1.3 Water Resources Protection & Management Policy 8 – Stormwater Management; and

- a) Comply with the following enforceable policies for activities in Waters of the United States in the Chesapeake and Atlantic Coastal Bays Critical Area, and according to the applicable land use category:

- 5.1.3 Water Resources Protection & Management Policy 8 – Stormwater Management;
- 5.2.1 Critical Area Policy 11 -Intensely Developed Areas;
- 5.2.1 Critical Policy 12 -Limited Development Areas & Resource Conservation Areas

12) The Permittee conducting activities under Aquatic Habitat Restoration, Enhancement, and Establishment Activities Associated with Compensatory Mitigation for Aquatic Resource Impacts authorized under the MDSPGP-6, and not covered under Nationwide Permit #53, Removal of Lowhead Dams, that otherwise qualify for authorization or mitigation under the MDSPGP-6 and involve the removal of lowhead dams shall:

- a) Submit to the Corps documentation that the Certification Holder has consulted with the Department to determine if a sediment sampling and testing work plan is necessary;

b) If the Department has determined that sampling and testing of sediment is required:

- i) Submit to the Corps a copy of the Department’s decision documenting that a sediment sampling plan has been reviewed and approved prior to commencing work, and a copy of the sediment sampling plan; and

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- ii) Implement the sediment sampling plan approved by the Department and any subsequent requirements of the Department, based on the sampling results, including monitoring or other measures deemed necessary by the Department to meet water quality standards to protect water quality based on the sampling results.
- c) Comply with the following Enforceable Policies:
 - 5.1.1 Quality of Life Policy 10 – Erosion & Sediment Control;
 - 5.1.3 Water Resources Protection & Management Policy 2 – Protection of Designated Uses;
 - 5.1.4. Flood Hazards & Community Resilience Policies 1-3;
 - 5.2.2 Tidal Wetlands Tidal Wetlands Policy 1 – Projects That Alter Natural Character Shall Avoid Dredging & Filling, Be Water-Dependent and Provide Appropriate Mitigation;
 - 5.2.3 Non-Tidal Wetlands; Non-Tidal Wetlands Policy 1 – Removal or Alteration is Generally Prohibited Unless There Is No Practicable Alternative, in Which Case, Impacts are First Minimized & Then Mitigated to Replace Ecological Values;
 - 5.2.4 Forests Forest Policy 1 – Projects Impacting More Than 40,000 Square Feet Must Generally Identify & Protect Habitat & Mitigate for Impacts; and
 - 5.2.6 Living Aquatic Resources Policies 1-4 and 6-14; and
- d) The Permittee conducting activities under e (11) Aquatic Habitat Restoration, Enhancement, and Establishment Activities Associated with Compensatory Mitigation for Aquatic Resource Impacts in addition to 12 a) – c) above, limited to those areas which have foreseeable coastal effect to Waters of the United States in the Chesapeake and Atlantic Coastal Bays Critical Area, shall comply with the following Enforceable Policies:
 - 5.2.1 Critical Area Policy 1 – Scope of the Buffer;
 - 5.2.1 Critical Area Policy 2 – Buffer Disturbance;
 - 5.2.1 Critical Area Policy 5 -Restrictions on Stream Alterations;
 - 5.2.1 Critical Area Policy 6 - Prohibition of Riprap and Artificial Surfaces;
 - 5.2.1 Critical Area Policy 7 - Prohibition of Dams and Structures;
 - 5.2.1 Critical Area Policy 8 - Restrictions on Stream Crossings and Impacts;
 - 5.2.1 Critical Area Policy 10 - Avoid & Minimize Construction Impacts in Habitat Areas; and
 - 5.2.1 Critical Area Policy 17 – Buffer Management Plan
- 13) The Permittee conducting activities under f) Shoreline and Stream Bank Stabilization Activities shall comply with the following enforceable policies:

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- 5.2.6 Living Aquatic Resources Policy 4 – Fish Passage;
- 5.2.6 Living Aquatic Resources Policy 8 – Protection & Management of Submerged Aquatic Vegetation (SAV);
- 5.2.6 Living Aquatic Resources Policy 9 – Protection of Natural Oyster Bars;
- 5.2.6 Living Aquatic Resources Policy 10 – Protection of Oyster Aquaculture Leases;
- 5.2.6 Living Aquatic Resources Policy 11 – Genetically Modified Organisms (GMOs) Are Prohibited in State Waters;
- 5.2.6 Living Aquatic Resources Policy 12 – Control of Nonnative Aquatic Organisms;
- 5.2.6 Living Aquatic Resources Policy 14 – Nonnative Oysters Prohibited in State Waters

14) The Permittee conducting activities under f(1) New Tidal Revetments and Tidal Shoreline Erosion Control Structures Other Than Revetments shall comply with the following enforceable policies:

- 5.2.1 Critical Area Policy 2- Buffer Disturbance
- 5.2.1 Critical Area Policy 17- Buffer Management Plan

15) The Permittee conducting activities under f(2) Living Shorelines/Beach Nourishment shall comply with the following enforceable policies:

- 5.2.1 Critical Area Policy 2- Buffer Disturbance
- 5.2.1 Critical Area Policy 17- Buffer Management Plan

16) The Permittee conducting activities under f) Shoreline and Stream Bank Stabilization Activities, limited to those areas which have foreseeable coastal effect to Waters of the United States in the Chesapeake and Atlantic Coastal Bays Critical Area, shall comply with the following enforceable policies in additions to enforceable policies in 13) above:

- 5.2.1 Critical Area Policy 2 – Buffer Disturbance; and
- 5.2.1 Critical Area Policy 17 – Buffer Management Plan;

17) Activities which result in an earth disturbance subject to the requirements in Annotated Code of Maryland, Environment Article, Title 4 and COMAR 26.17.01 shall have an erosion and sediment control plan approved by the appropriate approval authority, including following the stabilization requirements set forth in COMAR 26.17.01.07 and “2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control,” as may be amended.

Enforceable Policy:

- 5.1.1 Quality of Life Policy 10 – Erosion & Sediment Control

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18) The disturbance of the bottom of the water and sediment transport into adjacent State waters shall be minimized.

Enforceable Policies:

- 5.1.1 Quality of Life Policy 10 – Erosion & Sediment Control;
- 5.1.3 Water Resources Protection & Management Policy 2 – Protection of Designated Uses;
- 5.1.4. Flood Hazards & Community Resilience Policies 1-3;
- 5.2.1 Critical Area Policy 5 -Restrictions on Stream Alterations;
- 5.2.1 Critical Area Policy 6 - Prohibition of Riprap and Artificial Surfaces;
- 5.2.1 Critical Area Policy 7 - Prohibition of Dams and Structures;
- 5.2.1 Critical Area Policy 8 - Restrictions on Stream Crossings and Impacts;
- 5.2.1 Critical Area Policy 10 - Avoid & Minimize Construction Impacts in Habitat Areas;
- 5.2.2 Tidal Wetlands Tidal Wetlands Policy 1 – Projects That Alter Natural Character Shall Avoid Dredging & Filling, Be Water-Dependent and Provide Appropriate Mitigation;
- 5.2.3 Non-Tidal Wetlands; Non-Tidal Wetlands Policy 1 – Removal or Alteration is Generally Prohibited Unless There Is No Practicable Alternative, in Which Case, Impacts are First Minimized & Then Mitigated to Replace Ecological Values;
- 5.2.6 Living Aquatic Resources Policies 1-4 and 6-14;

19) The Certification Holder shall adhere to the time of year restrictions, unless waived or amended by the Department, as identified in a state authorization.

Enforceable Policies:

- 5.1.3 Water Resources Protection & Management Policy 2 – Protection of Designated Uses
- 5.2.1 Critical Area Policy 5 -Restrictions on Stream Alterations;
- 5.2.1 Critical Area Policy 6 - Prohibition of Riprap and Artificial Surfaces;
- 5.2.1 Critical Area Policy 7 - Prohibition of Dams and Structures;
- 5.2.1 Critical Area Policy 8 - Restrictions on Stream Crossings and Impacts;
- 5.2.1 Critical Area Policy 9 - Time of Year Restrictions for Construction in Streams
- 5.2.1 Critical Area Policy 10 - Avoid & Minimize Construction Impacts in Habitat Areas
- 5.2.6 Living Resources Policies 1-9

20) The Permittee conducting activities in Historic Waterfowl Concentration Areas as identified on the Maryland Department of Natural Resource's MERLIN Online website (<https://gisapps.dnr.state.md.us/MERLIN/index.html>) under the "Living Resources" layer and labeled " Waterfowl Areas", shall apply, unless otherwise determined by the Department, a time of year restriction of November 15-March 1, inclusive of any year, but may exclude certain projects from the November 15 - March 1 closure, including:

- (a) Pier construction that is 150 linear feet or less in length

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- (b) Riprap/revetment shoreline protection construction of 375 linear feet or less in length
- (c) Bulkhead construction or replacement that is 350 linear feet or less in length
- (d) Living shoreline construction that is 375 linear feet or less in length and has a maximum channelward extent of 35 feet or less
- (e) Reconfiguration of an existing marina when there is no dredging or increase in channelward encroachment beyond existing piers and associated structures

Enforceable Policies:

5.1.3 Water Resources Protection & Management Policy 2 – Protection of Designated Uses

- 5.2.1 Critical Area Policy 5 -Restrictions on Stream Alterations;
- 5.2.1 Critical Area Policy 6 - Prohibition of Riprap and Artificial Surfaces;
- 5.2.1 Critical Area Policy 7 - Prohibition of Dams and Structures;
- 5.2.1 Critical Area Policy 8 - Restrictions on Stream Crossings and Impacts;
- 5.2.1 Critical Area Policy 9 - Time of Year Restrictions for Construction in Streams
- 5.2.1 Critical Area Policy 10 - Avoid & Minimize Construction Impacts in Habitat Areas
- 5.2.6 Living Resources Policies 1-9

21) The regulated activity shall be conducted so as not to restrict or impede the:

- (a) Movement of wildlife indigenous to the nontidal wetlands or adjacent water, and
- (b) Passage of normal or expected high water flows.

Enforceable Policies:

- 5.1.3 Water Resources Protection & Management Policy 2 – Protection of Designated Uses
- 5.1.4. Flood Hazards & Community Resilience Policies 1-3
- 5.2.1 Critical Area Policy 5 -Restrictions on Stream Alterations;
- 5.2.1 Critical Area Policy 6 - Prohibition of Riprap and Artificial Surfaces;
- 5.2.1 Critical Area Policy 7 - Prohibition of Dams and Structures;
- 5.2.1 Critical Area Policy 8 - Restrictions on Stream Crossings and Impacts;
- 5.2.1 Critical Area Policy 9 - Time of Year Restrictions for Construction in Streams
- 5.2.1 Critical Area Policy 10 - Avoid & Minimize Construction Impacts in Habitat Areas
- 5.2.2 Tidal Wetlands Tidal Wetlands Policy 1 – Projects That Alter Natural Character Shall Avoid Dredging & Filling, Be Water-Dependent and Provide Appropriate Mitigation
- 5.2.3 Non-Tidal Wetlands Non-Tidal Wetlands Policy 1 – Removal or Alteration is Generally Prohibited Unless There Is No Practicable Alternative, in Which Case, Impacts are First Minimized & Then Mitigated to Replace Ecological Values Los
- 5.2.6 Living Resources Policies 1-9

22) Stream crossings shall design and implement stream crossings to meet, at a minimum, the following performance criteria:

- a. If practicable, a structure (for example, bridge or arched culvert) shall span the bank full wetted width and have additional headroom to provide semi-aquatic and terrestrial

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wildlife passage for species capable of movement through the pre-disturbance channel;

- b. If a bridge spanning in accordance with item a. is not feasible due to site constraints, then culvert bottoms, including footers, shall be embedded below the streambed a minimum of 2 feet and below the vertical adjustment potential of the streambed. Pipe culverts should be embedded at least 25%, or 2 feet, whichever is less;
- c. Water velocity and depth within the crossing structure shall match those observed at reference conditions within the stream under a variety of flows. Low-flow conditions may not result in reduced fish passage within the culvert, compared to upstream and downstream conditions;
- d. Substrate shall be placed within the structure, including both fine and coarse substrate, and should match the natural substrate found upstream and downstream of the crossing during normal flow conditions. Bank and other key bed structural elements and characteristics should be resilient to high-flow events and may require additional channel manipulation upstream and downstream of the structure (e.g., stream restoration, stabilization, etc.). Scour protection may not result in reduced fish passage and shall be avoided where possible;
- e. Culverts shall be aligned with the natural stream channel and skew should be minimized, not exceeding 30 degrees. The structure gradient shall be no steeper than the streambed gradient at either end of the crossing and should match the overall streambed gradient based on reference reach conditions. The culvert shall be designed and installed to retain transport rock and sediment to mimic natural bed conditions. When possible, crossing structures should be located at a pool feature; and
- f. Structures shall be designed and placed to avoid entanglement of other fish, aquatic life, and wildlife.

Enforceable Policies:

5.1.3 Water Resources Protection & Management Policy 2 – Protection of Designated Uses

5.1.4. Flood Hazards & Community Resilience Policies 1-3

5.2.1 Critical Area Policy 5 -Restrictions on Stream Alterations;

5.2.1 Critical Area Policy 6 - Prohibition of Riprap and Artificial Surfaces;

5.2.1 Critical Area Policy 7 - Prohibition of Dams and Structures;

5.2.1 Critical Area Policy 8 - Restrictions on Stream Crossings and Impacts;

5.2.1 Critical Area Policy 9 - Time of Year Restrictions for Construction in Streams

5.2.1 Critical Area Policy 10 - Avoid & Minimize Construction Impacts in Habitat Areas

5.2.2 Tidal Wetlands Tidal Wetlands Policy 1 – Projects That Alter Natural Character Shall Avoid Dredging & Filling, Be Water-Dependent and Provide Appropriate Mitigation

5.2.3 Non-Tidal Wetlands Non-Tidal Wetlands Policy 1 – Removal or Alteration is Generally Prohibited Unless There Is No Practicable Alternative, in Which Case, Impacts are First Minimized & Then Mitigated to Replace Ecological Values Los

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5.2.6 Living Resources Policies 1-9

23) The Permittee shall obtain and comply with all required authorizations or approvals, including self-certifying General Permits issued by MDE, and shall comply with all conditions of such authorizations.

Enforceable Policies:

- 5.1.1 Quality of Life Policy 10 – Erosion & Sediment Control;
- 5.1.3 Water Resources Protection & Management Policy 2 – Protection of Designated Uses;
- 5.1.4. Flood Hazards & Community Resilience Policies 1-3
- 5.2.1 Critical Area Policy 5 -Restrictions on Stream Alterations;
- 5.2.1 Critical Area Policy 6 - Prohibition of Riprap and Artificial Surfaces;
- 5.2.1 Critical Area Policy 7 - Prohibition of Dams and Structures;
- 5.2.1 Critical Area Policy 8 - Restrictions on Stream Crossings and Impacts;
- 5.2.1 Critical Area Policy 9 - Time of Year Restrictions for Construction in Streams
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- 5.2.6 Living Resources Policies 1-9

24) This Determination does not obviate the need to obtain and comply with required authorizations or approvals from State, federal or local agencies as required by law.

Enforceable Policies: All Enforceable Policies

25) The proposed project shall be constructed in accordance with the approved final plan by the Department, or, if Department approval is not required, the plan approved by the ACOE; and its approved revisions.

Enforceable Policies:

- 5.1.1 Quality of Life Policy 10 – Erosion & Sediment Control;
- 5.1.3 Water Resources Protection & Management Policy 2 – Protection of Designated Uses; 5.1.4. Flood Hazards & Community Resilience Policies 1-3;
- 5.2.1 Critical Area Policy 5 -Restrictions on Stream Alterations;
- 5.2.1 Critical Area Policy 6 - Prohibition of Riprap and Artificial Surfaces;
- 5.2.1 Critical Area Policy 7 - Prohibition of Dams and Structures;
- 5.2.1 Critical Area Policy 8 - Restrictions on Stream Crossings and Impacts;
- 5.2.1 Critical Area Policy 10 - Avoid & Minimize Construction Impacts in Habitat Areas;

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5.2.2 Tidal Wetlands Tidal Wetlands Policy 1 – Projects That Alter Natural Character Shall Avoid Dredging & Filling, Be Water-Dependent and Provide Appropriate Mitigation;

5.2.3 Non-Tidal Wetlands; Non-Tidal Wetlands Policy 1 – Removal or Alteration is Generally Prohibited Unless There Is No Practicable Alternative, in Which Case, Impacts are First Minimized & Then Mitigated to Replace Ecological Values;

5.2.4 Forests Forest Policy 1 – Projects Impacting More Than 40,000 Square Feet Must Generally Identify & Protect Habitat & Mitigate for Impacts;

5.2.6 Living Aquatic Resources Policies 1-4 and 6-14

26) All fill and construction materials not used in the project shall be removed and disposed of in a manner which will prevent their entry into waters of the United States.

5.1.3 Water Resources Protection & Management Policy 2 – Protection of Designated Uses;

5.1.4. Flood Hazards & Community Resilience Policies 1-3;

5.2.1 Critical Area Policy 5 -Restrictions on Stream Alterations;

5.2.1 Critical Area Policy 6 - Prohibition of Riprap and Artificial Surfaces;

5.2.1 Critical Area Policy 7 - Prohibition of Dams and Structures;

5.2.1 Critical Area Policy 8 - Restrictions on Stream Crossings and Impacts;

5.2.1 Critical Area Policy 10 - Avoid & Minimize Construction Impacts in Habitat Areas;

5.2.2 Tidal Wetlands Tidal Wetlands Policy 1 – Projects That Alter Natural Character Shall Avoid Dredging & Filling, Be Water-Dependent and Provide Appropriate Mitigation;

5.2.3 Non-Tidal Wetlands; Non-Tidal Wetlands Policy 1 – Removal or Alteration is Generally Prohibited Unless There Is No Practicable Alternative, in Which Case, Impacts are First Minimized & Then Mitigated to Replace Ecological Values;

5.2.6 Living Aquatic Resources Policies 1-4 and 6-14

27) This Determination does not authorize any injury to private property, any invasion of rights, or any infringement of federal, state, or local laws or regulations.

Enforceable Policies: All Enforceable Policies

28) The Permittee shall allow authorized representatives of the Department access to the site of authorized activities during normal business hours to conduct inspections and evaluations of the operations and records necessary to assure compliance with this Determination.

Enforceable Policies: All Enforceable Policies

29) This Determination is valid for the activities under MDSPGP-6 identified herein until such time that the MDSPGP-6 expires and is not administratively extended.

COASTAL ZONE CONSISTENCY DETERMINATION
Maryland State Programmatic General Permit, SPN-20-66

Enforceable Policies: All Enforceable Policies

Failure to comply with these conditions shall constitute reason for MDE to suspend or revoke the Permittee's authorization to conduct activities under this Determination and may subject the Permittee to criminal and/or civil penalties or other enforcement action in accordance with applicable law.

DETERMINATION ISSUED:



Heather L. Nelson, Program Manager
Federal Consistency Coordinator
Wetlands and Waterways Program
Water and Science Administration

Attachments (1, 2)