



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



WATER QUALITY CERTIFICATION

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

CERTIFICATION NUMBER: 20-WQC-0051

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

EFFECTIVE 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 CERTIFIED PROJECT: This 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. 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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UNDER AUTHORITY OF SECTION 401 OF THE FEDERAL WATER POLLUTION CONTROL ACT AND ITS AMENDMENTS AND IN ACCORDANCE WITH § 9-313 THROUGH § 9-323, INCLUSIVE, OF THE ENVIRONMENT ARTICLE, ANNOTATED CODE OF MARYLAND, THE MARYLAND DEPARTMENT OF THE ENVIRONMENT, WATER AND SCIENCE ADMINISTRATION HAS DETERMINED THAT THE REGULATED ACTIVITIES DESCRIBED IN THE REQUEST FOR CERTIFICATION FOR THE MARYLAND STATE PROGRAMMATIC GENERAL PERMIT-6 (MDSPGP-6) (ATTACHMENT 1) WILL NOT VIOLATE MARYLAND'S WATER

QUALITY STANDARDS AND WATER QUALITY REQUIREMENTS, IF CONDUCTED IN ACCORDANCE WITH THE CONDITIONS OF THIS CERTIFICATION AND THE MDSPGP-6 PERMIT CONDITIONS .

This Water Quality Certification (Certification) is issued under authority of Section 401 of the Federal Water Pollution Control Act and its Amendments, Title 9, Subtitle 3 of the Environment Article, and Code of Maryland Regulations (COMAR) 26.08.02.10. The Maryland Department of the Environment (MDE or Department) has determined from a review of the request application file that the project activities described in the above will not violate Maryland's water quality standards and water quality requirements, provided that the following conditions are satisfied. This Certification does not relieve any person conducting activities under this Certification and the MDSPGP-6 (Certification Holder) from the responsibility to obtain any other approvals, licenses, or permits in accordance with federal, State, or local requirements.

The Certification Holder subject to this Certification shall comply with the following conditions:

SPECIAL CONDITIONS

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

- (a) Violate water quality standards; and
- (b) Result in erosive flows downstream;

Statement of Necessity for Condition: Construction of stormwater facilities in waters of the United States typically results in alteration of existing waters as these facilities and are designed to receive pollutants. Discharges from a facility may contribute additional concentrated pollutants, heated waters, and erosion to downstream waters without proper design of the facility. Effects may result in waters failing to meet designated uses and/or water quality criteria.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitle 3 and 4; Md. Ann. Code, Md. Ann. Code Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; COMAR 26.23.02.06; COMAR 26.23; COMAR 26.17; COMAR 26.08.02.03B

2) The Certification Holder conducting activities, 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
- 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.

Statement of Necessity for Condition: Removal of material or other remediation may be required prior to removal of a dam to address potential releases of toxic materials in toxic amounts which may adversely impact designated uses and result in violations of downstream water quality standards.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.08, COMAR 26.08.02.03-3 A (5), 26.08.02.03-3B (1); 26.08.02.03-3D (5); COMAR 26.08.02.03-3E (2); COMAR 26.08.02.03-3F (5); COMAR 26.08.02.02B(1); COMAR 26.08.02.03-3G (1); COMAR 26.08.02.03B(1)(b); COMAR 26.08.02.03B(2)(e); COMAR 26.08.02.02B(4); COMAR 26.08.02.03B(2); COMAR 26.08.02.03-3C (7); COMAR 26.08.02.03B(5); COMAR 26.08.02.03A(1); COMAR 26.23.02.06

- 3) The Certification Holder shall use a screen having a nominal mesh size of 1mm and an intake velocity not to exceed 0.5 ft/sec.during the Time of Year Restriction specified in the applicable MDE authorization when operating an intake structure.

Statement of Necessity for Condition: Movement of aquatic life and passage of flows is essential for growth and propagation of aquatic life, fish, and other wildlife to meet these designated uses.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10E; COMAR 26.08.02.02B(1); 26.08.02.03B(1)(b); 26.08.02.03B(2)(e); COMAR 26.17.01; COMAR 26.23.02.06; COMAR 26.23; COMAR 26.24; COMAR 26.17.04

- 4) The drilling fluid used in trenchless technology operations shall consist of water and bentonite clay. No additives are permitted without prior approval from the Department. The Certification Holder may submit to the Department for pre-approval a list of thickening additives to be stored on site in order to prevent delays in the drilling operation. Any additive must be

certified in conformance with ANSI/NSF Standard 60 (Drinking Water Treatment Chemicals - Health Effects) and used in the manner indicated in the certification of the additive.

Statement of Necessity for Condition: The condition is necessary to ensure that water quality standards are met under unique circumstances for discharges which may otherwise qualify under the MDSPGP-6 and that designated uses of waters are maintained. Releases of significant amounts of bentonite, similar to sediment, can impact aquatic environments and if unchecked can alter them to an uninhabitable state. Discharges must be managed to protect drinking water supplies.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 & 4; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.09C(3) COMAR 26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.23.02.06, COMAR 26.08, COMAR 26.08.02.10E; COMAR 26.08.02.03B(1)(b); COMAR 26.08.02.03B(2) COMAR 26.08.02.03-3; COMAR 26.08.02.02B(2); COMAR 26.08.02.02B(4); COMAR 26.08.02.02B(6); COMAR 26.08.02.02B(8)

5) The Certification Holder shall notify the Department within 24 hours of any inadvertent returns from trenchless technology use and shall:

- (a) Cease operations; and
- (b) Implement an inadvertent return contingency plan approved by the Department.

Statement of Necessity for Condition: The condition is necessary to ensure that water quality standards are met under unique circumstances for inadvertent discharges which may otherwise qualify under the MDSPGP-6 and that designated uses of waters are maintained. Releases of significant amounts of bentonite, similar to sediment, can impact aquatic environments and if unchecked can alter them to an uninhabitable state. Discharges must be managed to protect drinking water supplies.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 & 4; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.23.02.06, COMAR 26.08, COMAR 26.08.02.10E; COMAR 26.08.02.09C(3); COMAR 26.08.02.03B(1)(b); COMAR 26.08.02.03B(2); COMAR 26.08.02.03-3; COMAR 26.08.02.02B(2); COMAR 26.08.02.02B(4); COMAR 26.08.02.02B(6); COMAR 26.08.02.02B(8)

6) The Certification Holder shall implement any plans and other requirements of the Department in the event of inadvertent return of drilling fluids or discharges of material transported by the utility line into waters of the United States.

Statement of Necessity for Condition: The condition is necessary to ensure that water quality standards are met under unique circumstances for discharges which may otherwise qualify under the MDSPGP-6 and that designated uses of waters are maintained. Releases of significant amounts of bentonite, similar to sediment, can impact aquatic environments and if unchecked can alter them to an uninhabitable state. Discharges must be managed to protect drinking water supplies.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 & 4; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.23.02.06, COMAR 26.08, COMAR 26.08.02.10E; COMAR 26.08.02.09C(3); COMAR 26.08.02.03B(1)(b); COMAR 26.08.02.03B(2); COMAR 26.08.02.03-3; COMAR 26.08.02.02B(2); COMAR 26.08.02.02B(4); COMAR 26.08.02.02B(6); COMAR 26.08.02.02B(8)

7) The Certification Holder 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
- (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

Statement of Necessity for Condition: Restrictions on water construction are necessary to protect designated uses for propagation and growth of fish, other aquatic life, and wildlife. A time of year restriction is necessary to allow for wintering waterfowl to move from breeding areas to seasonally use suitable winter habitat. Breeding and wintering habitat are both essential to support waterfowl populations. Breeding habitat alone would not sustain waterfowl during winter. Disturbance during the closure period beyond stated thresholds would interfere directly or indirectly with designated uses for growth and propagation of fish, other aquatic life, and wildlife.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.03.03B(1)(b); 26.08.02.03.03B(2); COMAR 26.23.02.06; COMAR 26.08.02.03B(2)(e); 26.08.02.02B(3); COMAR 26.08.02.02B(1)(d)

- 8) The Certification Holder may not conduct blasting for utility line installation unless authorized by the Department.

Statement of Necessity for Condition: The condition is necessary to ensure that water quality standards are met under unique circumstances for discharges which may otherwise qualify under the MDSPGP-6 and that designated uses of waters are maintained. Blasted materials may enter waters of the United States or waters of the State and interfere with designated uses, including surface and groundwater flows necessary for support of drinking waters and growth and propagation of fish, other aquatic life, and wildlife.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 & 4; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.23.02.06, COMAR 26.08, COMAR 26.08.02.10E; COMAR 26.08.02.09C(3); COMAR 26.08.02.03B(1)(b); COMAR 26.08.02.03B(2); COMAR 26.08.02.03-3; COMAR 26.08.02.02B(2); COMAR 26.08.02.02B(4); COMAR 26.08.02.02B(6); COMAR 26.08.02.02B(8)

GENERAL CONDITIONS

- 1) The Department may require submission of a formal request for an individual water quality certification 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 impacted 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

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- 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

Statement of Necessity for Condition: The condition is necessary to ensure that water quality standards and water quality requirements are met under unique circumstances for discharges which may otherwise qualify under the certified MDSPGP-6. This condition is necessary for projects where the ACOE is the lead agency, and where the WQC needs to consider post construction operations.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; 33 U.S.C. § 1344, 33 U.S.C. § 1413, 33 U.S.C. § 401, 33 C.F.R. 320.3 (a), 33 C.F.R. 320.4 (d), Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.23.02.06

- 2) The Certification Holder shall meet all water quality-related performance standards and conditions required by the Department in 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 will not result in a failure to comply with water quality standards in COMAR 26.08.02. or other water quality requirements of state law or regulation.

Statement of Necessity for Condition: The condition is necessary to ensure that water quality standards and water quality-related requirements are met under unique circumstances for discharges which may otherwise qualify under the MDSPGP-6 and that designated uses of waters are maintained.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.08.02.10E; COMAR 26.23.02.06

3) The Certification Holder conducting activities which result in the loss of tidal or nontidal wetlands or waterways, shall implement compensatory mitigation in accordance with state issued authorizations.

Statement of Necessity for Condition: The above condition is required to ensure that waters continue to meet designated uses, as losses of wetlands or waterways in a location-- if not addressed through compensatory mitigation in the same watershed, may result in water quality degradation in another water of the United States. Wetlands provide essential habitat, water quality, food, and movement corridors for wildlife. Losses exceeding these limits may result in discharges which interfere with designated uses in other waters, including growth and propagation of fish, other aquatic life, and wildlife through loss of stream channel habitat and wetlands. Required mitigation and loss limits will maintain the designated uses.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 & 4; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Code Ann., Env. Article, Title 9, Subtitle 3; Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.08; COMAR 26.08.02.01B(2)(c); COMAR 26.08.02.02B(1)(d); COMAR 26.08.02.02B(2)(a); COMAR 26.08.02.02B(5); COMAR 26.08.02.02B(6)(a); COMAR 26.08.02.02B(7); COMAR 26.08.02.02B(8); COMAR 26.08.02.07 E (1)-(3); COMAR 26.23.02.06

Statement of Necessity for Condition: Discharges resulting in losses of forested wetlands adjacent to trout streams may result in increases in water temperature above criteria necessary to support trout. Forested wetland losses adjacent to trout waters shall be minimized for losses for which there is no practicable alternative, and compensatory mitigation shall be provided. In addition, temperature increases from loss of shade may result in the lowering of dissolved oxygen in the water below criteria for trout streams.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.23.02.06; COMAR 26.08, COMAR 26.08.02.03-3D-G

Statement of Necessity for Condition: Wetland soils are often acidic and their disturbance may result in a failure to meet numeric standards for pH. Limits to losses and mitigation will maintain the designated uses.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann.

Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.08, COMAR 26.08.02.03-3A(4); COMAR 26.08.02.03-3B(1); COMAR 26.08.02.03-3C(4); 26.08.02.03-3C-1(1); COMAR 26.08.02.03-3D(4); COMAR 26.08.02.03-3E(2)(a); COMAR 26.08.02.03-3F(4); COMAR 26.08.02.03-3G(1); COMAR 26.23.02.06

Statement of Necessity for Condition: Activities may result in discharges which interfere with the designated use of public water supply through loss or alteration of natural channel and adjacent wetlands. Required mitigation and loss limits will maintain the designated uses.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.08, COMAR 26.08.02.02B(2)(b); 26.08.02.02B(4)(b); 26.08.02.02B(6)(b); 26.08.02.02B(8)(b); COMAR 26.23.02.06

Statement of Necessity for Condition: Temporary disturbances of nontidal wetlands must be conducted in a specific manner to ensure that the area remains a nontidal wetland with at least the same extent and characteristics to maintain designated uses.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.08; COMAR 26.08.02.03B(1)(b); COMAR 26.08.02.03.03B(2); COMAR 26.08.02.01B(2)(c); COMAR 26.08.02.02B(1)(d); COMAR 26.08.02.02B(2)(a); COMAR 26.08.02.02B(5); COMAR 26.08.02.02 B(6)(a); COMAR 26.08.02.02 B(7); COMAR 26.08.02.02B(8); COMAR 26.23.02.06

- 4) The Certification Holder conducting activities with temporary impacts to nontidal and tidal wetlands shall ensure that such 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 issued authorizations.

Statement of Necessity for Condition: The above condition is required to ensure that waters continue to meet designated uses. Wetlands provide essential habitat, water quality, food, and movement corridors for wildlife. Losses exceeding these limits may result in discharges which interfere with designated uses, including growth and

propagation of fish, other aquatic life, and wildlife through loss of stream channel habitat and wetlands. Required mitigation and loss limits will maintain the designated uses.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 & 4; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Code Ann., Env. Article, Title 9, Subtitle 3; Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.08; COMAR 26.08.02.01B(2)(c); COMAR 26.08.02.02B(1)(d); COMAR 26.08.02.02B(2)(a); COMAR 26.08.02.02B(5); COMAR 26.08.02.02B(6)(a); COMAR 26.08.02.02B(7); COMAR 26.08.02.02B(8); COMAR 26.08.02.07 E (1)-(3); COMAR 26.23.02.06

Statement of Necessity for Condition: Discharges resulting in losses of forested wetlands adjacent to trout streams may result in increases in water temperature above criteria necessary to support trout. Forested wetland losses adjacent to trout waters shall be minimized for losses for which there is no practicable alternative, compensatory mitigation shall be provided. In addition, temperature increases from loss of shade may result in the lowering of dissolved oxygen in the water below criteria for trout streams.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.23.02.06; COMAR 26.08, COMAR 26.08.02.03-3D-G

Statement of Necessity for Condition: Wetland soils are often acidic and their disturbance may result in a failure to meet numeric standards for pH. Limits to losses and mitigation will maintain the designated uses.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.08, COMAR 26.08.02.03-3A(4); COMAR 26.08.02.03-3B(1); COMAR 26.08.02.03-3C(4); 26.08.02.03-3C-1(1); COMAR 26.08.02.03-3D(4); COMAR 26.08.02.03-3E(2)(a); COMAR 26.08.02.03-3F(4); COMAR 26.08.02.03-3G(1); COMAR 26.23.02.06

Statement of Necessity for Condition: Activities may result in discharges which interfere with the designated use of public water supply through loss or alteration of natural channel and adjacent wetlands. Required mitigation and loss limits will maintain the designated uses.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.08, COMAR 26.08.02.02B(2)(b); 26.08.02.02B(4)(b); 26.08.02.02B(6)(b); 26.08.02.02B(8)(b); COMAR 26.23.02.06

Statement of Necessity for Condition: Temporary disturbances of nontidal wetlands must be conducted in a specific manner to ensure that the area remains a nontidal wetland with at least the same extent and characteristics to maintain designated uses.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.08; COMAR 26.08.02.03B(1)(b); COMAR 26.08.02.03.03B(2); COMAR 26.08.02.01B(2)(c); COMAR 26.08.02.02B(1)(d); COMAR 26.08.02.02B(2)(a); COMAR 26.08.02.02B(5); COMAR 26.08.02.02 B(6)(a); COMAR 26.08.02.02 B(7); COMAR 26.08.02.02B(8); COMAR 26.23.02.06

- 5) The Certification Holder shall comply with monitoring required by any Department authorization to ensure that water quality standards and water quality requirements for waters of this State are met, in addition to monitoring required in the MDSPGP-6.

Statement of Necessity for Condition: Activities which discharge into regulated waters must be conducted according to certain procedures to maintain water quality and meet designated uses. Monitoring the quality, characteristics, effects, and compensatory offsets may be necessary to ensure that water quality standards are met. In addition, oversight of mitigation and rectification of temporary impacts to meet performance standards may require monitoring to ensure that regulated water quality is established, enhanced, or restored to meet designated uses and other water quality standards.

Citation: COMAR 26.08.02.10B(1)(f); COMAR 26.08.02.10B(1)(g); COMAR 26.02.02B(1); COMAR 26.08.02.03B(1)(b); COMAR 26.08.02.03B(2)(e); COMAR 26.24; COMAR 26.17.04; COMAR 26.23

- 6) 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.

Statement of Necessity for Condition: Earth disturbance within or adjacent to regulated resources or other earth disturbance may result in discharges that result in impacts to

water quality, clarity, growth and propagation of fish, other aquatic life, wildlife, potable water; and other designated uses.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10E; COMAR 26.08.02.02B(1); 26.08.02.03B(1)(b); 26.08.02.03B(2)(e); COMAR 26.17.01; COMAR 26.23.02.06; COMAR 26.23; COMAR 26.24

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

Statement of Necessity for Condition: Sidecasting of material or other earth disturbance within or adjacent to regulated resources may result in discharges that result in impacts to water quality and designated uses, including growth and propagation of fish, other aquatic life, and wildlife.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10E; COMAR 26.08.02.02B(1); 26.08.02.03B(1)(b); 26.08.02.03B(2)(e); COMAR 26.23.02.06

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

Statement of Necessity for Condition: Restrictions on instream construction are necessary to protect designated uses for propagation and growth of fish, other aquatic life, and wildlife.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.03.03B(1)(b); 26.08.02.03.03B(2); COMAR 26.23.02.06

- 9) 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, or
- (b) Passage of normal or expected high water flows;

Statement of Necessity for Condition: Movement of aquatic life and passage of flows is essential for growth and propagation of aquatic life, fish, and other wildlife to meet these designated uses.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10E; COMAR 26.08.02.02B(1); 26.08.02.03B(1)(b); 26.08.02.03B(2)(e); COMAR 26.17.01; COMAR 26.23.02.06; COMAR 26.23; COMAR 26.24; COMAR 26.17.04

- 10) The Certification Holder 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 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.

Statement of Necessity for Condition: Movement of aquatic life and passage of flows is essential for growth and propagation of aquatic life, fish, and other wildlife to meet these designated uses.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10E; COMAR 26.08.02.02B(1); 26.08.02.03B(1)(b); 26.08.02.03B(2)(e); COMAR 26.17.01; COMAR 26.23.02.06; COMAR 26.23; COMAR 26.24; COMAR 26.17.04;

11) The Certification Holder shall apply the following conditions to its project:

- a. Prevent sidecasting of excavated material into a Water of the United States. Excavated or other fill material shall be placed in a location and manner which does not adversely impact surface or subsurface water flow into or out of nontidal wetlands, tidal wetlands, or nontidal waterways;
- b. Excavated material as backfill shall not be placed in the Water of the United States if it contains waste metal products, unsightly debris, toxic material, or any other deleterious substance. If additional backfill is required, use clean material free of waste metal products, unsightly debris, toxic material, or any other deleterious substance;
- c. All stabilization in the nontidal wetland and nontidal wetland buffer shall consist of the following species: Perennial Ryegrass (*Lolium perenne*), Millet (*Setaria italica*), Barley (*Hordeum sp.*), Oats (*Avena sp.*), and/or Rye (*Secale cereale*). These species will allow for the stabilization of the site while also allowing for the voluntary revegetation of natural wetland species. Other non-persistent vegetation may be acceptable, but must be approved by the Maryland Department of Environment, Nontidal Wetlands Division. Kentucky 31 fescue shall not be utilized in wetland or buffer areas. The area should be seeded and mulched to reduce erosion after construction activities have been completed in accordance with Annotated Code of Maryland, Environment Article, Title 4 and COMAR 26.17.01, the Certification Holder 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;

Statement of Necessity for Condition: Sidecasting of material within or adjacent to regulated resources may result in discharges that result in impacts to water quality and designated uses.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR

26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.23.02.06; COMAR 26.08, COMAR 26.08.02.10E(2), COMAR 26.08.02.02B(1)(d), COMAR 26.17.01, 26.17.01.07

Statement of Necessity for Condition: The above conditions are required to ensure that waters continue to meet designated uses. Wetlands provide essential habitat, water quality, food, and movement corridors for wildlife. Losses exceeding these limits may result in discharges which interfere with designated uses, including growth and propagation of fish, other aquatic life, and wildlife through loss of stream channel habitat. Required mitigation and loss limits will maintain the designated use.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.23.02.06; COMAR 26.08, COMAR 26.08.02.02B(1)(d); COMAR 26.08.02.03.03B(2); COMAR 26.08.02.01B(2)(c); COMAR 26.08.02.02B(1)(d); COMAR 26.08.02.02B(2)(a); COMAR 26.08.02.02B(5); COMAR 26.08.02.02 B(6)(a); COMAR 26.08.02.02 B(7); COMAR 26.08.02.02B(8); COMAR 26.23.04; COMAR 26.24.05

Statement of Necessity for Condition: Discharges of toxic materials in toxic amounts violate water quality standards.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitle 3 & 4, Md. Ann. Code, Env. Article, Title 9, Md. Ann. Code Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code Env. Article, Title 16; COMAR 26.08, COMAR 26.08.02.03A(1)(a)(i); COMAR 26.08.02.03A(1)(b)(i); COMAR 26.23.02.06; COMAR 26.23; COMAR 26.24; COMAR 26.17.04

12) The Certification Holder shall follow remedial measures required by the Department to ensure that the project is in compliance with water quality standards when:

- a) Conditions or performance standards required under this Certification or any Departmental authorizations are not met; or
- b) The Department determines that water quality standards may not be met at the project site.

Statement of Necessity for Condition: Discharges may be found to violate or potentially violate water quality standards during and after the discharge. Compensatory actions which fail to meet performance criteria may also result in a failure of the water to meet designated uses. Remedial measures are necessary to ensure that water quality standards and water quality-related requirements are met.

Citation: MD Env Code § 1-301 (2019); COMAR 26.02.02B(1); COMAR 26.08.02.03B(1)(b); COMAR 26.08.02.03B(2)(e); COMAR 26.24; COMAR 26.17.04; COMAR 26.23; COMAR 26.08.02.09A

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

Statement of Necessity for Condition: The condition is necessary to ensure that water quality standards are met under unique circumstances for discharges which may otherwise qualify under the MDSPGP-6 and to maintain designated uses of waters.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.23.02.06; COMAR 26.17.01; COMAR 26.23; COMAR 26.24

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

Statement of Necessity for Condition: The condition is necessary to ensure that water quality standards are met under unique circumstances for discharges which may otherwise qualify under the certified MDSPGP-6 and to maintain designated uses of waters.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.08.02.06; COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.23.02.06

- 15) 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.

Statement of Necessity for Condition: The condition is necessary to ensure that water quality standards are met and designated uses are maintained under unique circumstances for discharges which may otherwise qualify under the certified MDSPGP-6 and to maintain designated uses of waters.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env.

Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.08.02.02B(1); 26.08.02.03B(1)(b); 26.08.02.03B(2)(e); COMAR 26.23.02.06; COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.23.02.06

- 16) 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.

Statement of Necessity for Condition: Fill and construction material within or adjacent to regulated resources may result in discharges that result in impacts to water quality and designated uses. The condition is necessary to ensure that water quality standards are met under unique circumstances for discharges which may otherwise qualify under the MDSPGP-6 including growth and propagation of fish, other aquatic life, and wildlife, and meets water quality standards for turbidity.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.08.02.03.03B(1)(b); COMAR 26.08.02.03.03B(2); COMAR 26.08.02.03-3 A(5); COMAR 26.08.02.03-3B(1); COMAR 26.08.02.03-3D(5); COMAR 26.08.02.03-3E(2); COMAR 26.08.02.03-3F(5); COMAR 26.08.02.03-3G(1); COMAR 26.08.02.02B(1); COMAR 26.08.02.03B(1)(b); COMAR 26.08.02.03B(2)(e); COMAR 26.08.02.03-3C(5) COMAR 26.08.02.03-3A(5); COMAR 26.23.02.06; COMAR 26.17.04; COMAR 26.23; COMAR 26.24

Statement of Necessity for Condition: Material within or adjacent to regulated resources may result in discharges that result in impacts to water quality and designated uses.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.02B(1); 26.08.02.03B(1)(b); 26.08.02.03B(2)(e); COMAR 26.23.02.06; COMAR 27.17.04; COMAR 26.23; COMAR 26.24

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

Statement of Necessity for Condition: The condition is necessary to clarify the scope of this certification to ensure compliance with water quality regulations, without limiting restrictions through other requirements.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5,

Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08, COMAR 26.08.02.10E; COMAR 26.23.02.06; COMAR 26.17.04; COMAR 26.23; COMAR 26.24

18) The Certification Holder 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 Certification.

Statement of Necessity for Condition: Conditions of certification involve precise actions to comply with water quality standards. Site inspection may be necessary to ensure that limits, methods, and other requirements are met to ensure that water quality standards are met and designated uses are maintained.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.23.02.06; COMAR 26.23; COMAR 26.24; COMAR 26.17.04

19) This Certification is valid for the MDSPGP-6 identified herein until such time that the MDSPGP-6 expires and is not modified or administratively extended.

Statement of Necessity for Condition: This condition is necessary to qualify the period of applicability of the terms and conditions of this Certification to be protective of Maryland water quality standards.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; 40 C.F.R. 121, 15 C.F.R. 930, Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.23.02.06; COMAR 26.23; COMAR 26.24; COMAR 26.17.04

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

CERTIFICATION APPROVED:



D. Lee Currey
Director
Water and Science Administration
Attachment (1)