



December 9, 2024

Maryland Transportation Authority (MDTA)  
c/o Brian Wolfe  
Director of Project Development  
2310 Broening Highway  
Baltimore, MD 21224

Via email to: [bwolfe3@mdta.state.md.us](mailto:bwolfe3@mdta.state.md.us)

Re: Federal Consistency Determination Request Under 15 C.F.R. Part 930, Subpart D – Francis Scott Key Bridge Rebuild

Dear Mr. Wolfe:

The Maryland Department of the Environment (MDE) received your request for a Federal Consistency determination for the Francis Scott Key Bridge Rebuild Project. This project requires federal permits from the U.S. Army Corps of Engineers (USACE), NAB-2024-61017, and the United States Coast Guard (USCG) Bridge Permit, P(1-25-5), and is located within Maryland's Coastal Zone, and is therefore subject to federal consistency review under the Federal Coastal Zone Management Act of 1972 (CZMA), as amended. The request for a Federal Consistency determination under 15 C.F.R. Part 930, Subpart D (Federal Licenses or Permits) was received on July 18, 2024, for the following project located in Baltimore City, Baltimore County, and Anne Arundel County, Maryland:

*Rebuild the Francis Scott Key Bridge along the same alignment within the Maryland Transportation Authority's (MDTA's) existing right-of-way (ROW), extending approximately 2.4 miles including approximately 1 mile over the Patapsco River. The bridge will be constructed to current design standards and will result in temporary and permanent impacts to State tidal wetlands, nontidal wetlands, the 25-foot nontidal wetland buffer, and nontidal waterways, including the 100-year nontidal floodplain. Activities in nontidal wetlands, the 25-foot wetland buffer, and nontidal wetlands including the 100-year floodplain may include erosion and sediment control placement, roadway demolition, bridge demolition, clearing, grubbing, grading, pile driving, bridge construction, paving, roadway construction, constructing roadway drainage, stormwater management best management practices construction, seeding, and planting. Activities in State tidal wetlands may include bridge demolition, pier demolition, dredging, temporary pile driving, production/permanent pile driving, tremie concrete pours for bridge foundation, bridge construction, temporary pile removal or cutting, barge spudding, marine loading, and off-loading.*

A public notice and comment period was provided from August 30, 2024, to October 1, 2024, with notices also published in the Baltimore Sun on August 29, 2024, the Capital Gazette on August 30,

2024, and the Dundalk Eagle on September 5, 2025. A public informational hearing was held on Tuesday, September 17, 2024, providing the public with the opportunity to provide comments in person.

Based on our review of the information provided, the above activities are consistent to the maximum extent practicable with the enforceable coastal policies of the Maryland Coastal Zone Management Program, subject to the following conditions:

- Activities in tidal wetlands to construct or reconstruct structures, or to dredge or fill a State or private tidal wetland, require a tidal wetlands license from the Maryland Board of Public Works (BPW) or a permit from MDE. MDE is currently reviewing application 24-WL-0757 and will provide a Report and Recommendation to BPW for their use in making a decision to grant or deny a license for proposed work over, on, in, or under State tidal wetlands for this project. MDTA shall comply with the terms and conditions of any tidal wetlands license or permit and any subsequent modifications to ensure that the proposed activities are consistent with Maryland's enforceable policies. Mitigation is required for impacts related to the permanent fill placed in State tidal wetlands. MDTA shall present the proposed mitigation package to MDE, the USACE, and resource agencies once the final design has been determined and the final permanent impacts have been identified.

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

- Authorization from MDE is required for any impacts to nontidal wetlands. MDE regulates the following activities in nontidal wetlands and their 25-foot or expanded 100-foot buffers: (i) Removal, excavation, or dredging of soil, sand, gravel, minerals, organic matter, or materials of any kind; (ii) Changing existing drainage characteristics, sedimentation patterns, flow patterns, or flood retention characteristics; (iii) Disturbance of the water level or water table by drainage, impoundment, or other means; (iv) Dumping, discharging of material, or filling with material, including the driving of piles, and placing of obstructions; (v) Grading or removal of material that would alter existing topography; and (vi) Destruction or removal of plant life that would alter the character of a nontidal wetland. Compensatory mitigation may be required for unavoidable wetland losses. MDE is currently reviewing application 24-NT-0163 for temporary impacts to nontidal wetlands and their buffers due to construction access and permanent impacts due to grading the modified roadway approaches to the replacement bridge. MDTA shall comply with the terms and conditions of any nontidal wetlands authorization and any subsequent modifications to ensure that the proposed activities are consistent with Maryland's enforceable policies.

*Enforceable policies: Enforceable Policy 5.2.3 Nontidal Wetlands – Policy 1; Enforceable Policy 5.3.9 Development – Policy 4 First Avoid then Minimize Wetland Impacts, Minimize Water Quality, Habitat & Forest Damage & Preserve Cultural Resources*

- Authorization from MDE is required for the construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction or any change of the course, current, or cross-section of a stream or body of water within the State, including any changes to the 100-year frequency floodplain of free-flowing waters. MDE is currently reviewing application 24-NT-0163 for waterway impacts associated with construction. MDTA shall comply with the terms and conditions of any waterway construction authorization and any subsequent modifications to ensure that the proposed activities are consistent with Maryland's enforceable policies.

*Enforceable policies: Enforceable Policy 5.2.6 Living Aquatic Resources – Living Aquatic Resources Policy 7 – Non-Tidal Habitat Protection & Mitigation; Enforceable Policy 5.1.4 Flood Hazards & Community Resilience – Flood Hazards & Community Resilience Policy 2f – Prohibition of Construction or Substantial Improvements in 100-Year Floodplain.*

- All Critical Area requirements shall be followed and all necessary authorizations from the Critical Area Commission (Commission) shall be obtained. This concurrence does not constitute authorization for disturbance in the 100-foot Critical Area buffer. "Disturbance" in the buffer means clearing, grading, construction activities, or removal of any size of tree vegetation. The Commission and MDTA have developed a Memorandum of Understanding approving the Key Bridge Rebuild and requiring Commission review prior to buffer disturbance. In accordance with the MOU, any anticipated buffer disturbance shall be reviewed by the Commission per the requirements of linear projects in an Intensely Developed Area before the commencement of land-disturbing activity.

*Enforceable Policies: Enforceable Policy 5.2.1 The Chesapeake and Atlantic Coastal Bays Critical Area – Critical Area Policy 1 – Scope of the Buffer; Enforceable Policy 5.2.1 The Chesapeake and Atlantic Coastal Bays Critical Area – Critical Area Policy 2 – Buffer Disturbance; Enforceable Policy 5.2.1 The Chesapeake and Atlantic Coastal Bays Critical Area – Critical Area Policy 11 – Intensely Developed Areas*

- Development or redevelopment of land for residential, commercial, industrial, or institutional use shall include stormwater management compliant with the Environmental Site Design sizing criteria recharge, volume, water quality volume, and channel protection storage volume criteria. MDE (C9) COMAR 26.17.02.01-.06

*Enforceable Policy: Enforceable Policy 5.3.9 Development – Development Policy 3 – Stormwater Management*

- Activities that result in an earth disturbance subject to the requirements in the 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 26.17.07 and "2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control," as may be amended. MDTA shall strictly manage and maintain all in-water BMPs to minimize sedimentation during construction activities.

*Enforceable Policies: Enforceable Policy 5.3.9 Development – Development Policy 1 – Sediment & Erosion Control; Enforceable Policy 5.3.9 Development – Development Policy 2 – Erosion & Sediment Control Plan; Enforceable Policy 5.1.1 Quality of Life – Quality of Life Policy 10 – Erosion & Sediment Control*

- The MDTA shall submit a General Discharge Permit application (Maryland General Permit No. 15-MM) to the Water and Science Administration, Industrial Discharge Permits Division for review and approval, as determined necessary, prior to the commencement of work at the facility related to the use of any on-site concrete batch facility. MDTA shall send confirmation of the application to MDE, Tidal Wetlands Division.

*Enforceable Policies: Enforceable Policy 5.1.3 Water Resources Protection & Management – Water Resources Protection & Management Policy 1 – Pollution Discharge Permit; Enforceable Policy 5.1.3 Water Resources Protection & Management – Water Resources Protection & Management Policy 4 – Pre-Development Discharge Permit Requirement*

- The safety, order, and natural beauty of historical monuments shall be preserved. MDTA shall consult with the Maryland Historical Trust as needed to ensure the Project is consistent with the Historical and Archaeological Site's enforceable policies. MDP (C8) Md. Code Ann., State Fin. & Proc. §§ 5A-325 and 5A-326.

*Enforceable Policy: Enforceable Policy 5.1.1 Quality of Life – Quality of Life Policy 4 – Protection of State Lands and Cultural Resources*

Please note that this determination does not obviate the applicant's responsibility to obtain any other State or local approvals that may be necessary for the project. Notwithstanding the issuance of this Certification, the full environmental impact of the March 26, 2024 allision and collapse of the Key Bridge, and subsequent activities, remains subject to further investigation and ongoing litigation. If you have any questions or if I can be of assistance, please contact me at 410-537-4023 or [danielle.spendiff1@maryland.gov](mailto:danielle.spendiff1@maryland.gov).

Sincerely,



Danielle Spendiff  
Federal Consistency Coordinator  
Maryland Department of the Environment

(by electronic mail)

Cc: Joseph DaVia, Baltimore District, U.S. Army Corps of Engineers  
Hal Pitts, U.S. Coast Guard  
Laura Canton, Coastal Policy Coordinator, Maryland DNR