



DEPARTMENT OF THE ARMY
U. S. ARMY CORPS OF ENGINEERS, BALTIMORE DISTRICT
ATTN: REGULATORY DIVISION
2 HOPKINS PLAZA
BALTIMORE, MARYLAND 21201-2930

MDSPGP-7
Activity e(9)

Residential, Commercial, Institutional Development Activities and Recreational Facilities

The authorized Residential, Commercial, Institutional Development Activities and Recreational Facilities activities must comply with the following applicable activity specific conditions, all general conditions of this permit, and any project-specific special conditions.

This activity authorizes the discharges of dredged or fill material into nontidal waters of the United States associated with residential, commercial, and institutional development activities, including the construction or expansion of residential, commercial, or institutional building foundations, building pads, and attendant features that are necessary for the use and maintenance of the structures. This activity also authorizes temporary structures, work, and discharges of dredged or fill material necessary for construction activities including but not limited to stream diversion devices, access fills, structures and/or fills for dewatering of construction sites, and placement of construction matting. Attendant features may include, but are not limited to, roads, parking lots, garages, yards, sidewalks, utility lines, stormwater management facilities, and recreational facilities such as playgrounds, playing fields, trails, and golf courses (provided the golf course is an integral part of the residential development). Residential developments include a single residence, multiple and single unit developments, and/or a residential subdivision. Examples of commercial developments include retail stores, industrial facilities, restaurants, business parks, and shopping centers. Examples of institutional developments include schools, libraries, hospitals, places of worship, and municipal buildings (e.g., fire and police department buildings, judicial buildings, public works buildings, government office buildings, etc.). The construction of new golf courses (unless an integral part of a residential development), new ski areas, or oil and gas wells are not authorized by this activity. (Sections 10 and/or 404, limited to all nontidal waters).

New crossings of all waters of the United States should be designed and constructed based on the following order of preference: (a) bridge, (b) bottomless arch culvert, and (c) pipe or box culvert. Written documentation and justification is required to deviate from the order of preference.

Category A Impact Limits and Requirements:

(i) The total temporary and permanent impacts to nontidal waters of the United States, which includes nontidal wetlands, streams, rivers, and other open waters, are not to exceed 5,000 square feet of waters of the United States including no more than 200 linear feet of nontidal streams, rivers, or other open waters.

(ii) Category A does not authorize the discharge of fill into streams for the construction of berms for in-line (i.e., in-stream) stormwater management facilities, permanent dikes, weirs, dams, water withdrawals, or water diversions. It also does not

authorize the construction of any kind of pond that would impound water into a stream or wetland. Category B or alternate Corps permit review procedures are required for construction of such ponds or stormwater management facilities.

(iii) Limit-of-disturbance for the construction of utility lines within nontidal waters of the United States, including wetlands, must be limited to the minimum width necessary and not to exceed 30 feet in width.

(iv) Open-cut utility installation within adjacent jurisdictional wetlands must not parallel a stream channel for more than 100 feet along the ordinary high-water mark.

(v) The top of the cable, encasement, or pipeline shall be located a minimum of 3 feet below the existing bottom elevation of the streambed. When the utility is placed in bedrock, a minimum depth of 1 foot from the lowest point in the natural contour of the streambed shall be maintained.

(vi) This Category A activity does not authorize work under Section 10 of the Rivers and Harbors Act of 1899 in navigable waters, tidal wetlands, and nontidal wetlands adjacent to tidal waters. Work in tidal waters and wetlands and nontidal wetlands adjacent to tidal waters must be reviewed under Category B or alternate Corps permit review procedures, as appropriate.

Category B Impact Limits and Requirements:

(i) The single and complete project will result in no more than a total 0.5-acre loss to nontidal waters of the United States.

(ii) For all submerged utility lines across nontidal navigable waters of the United States, the cross-sectional view drawing submitted with the application shall show the utility line crossing from bank to bank in relationship to the waterway bottom. In addition, the location and depth of any federally authorized navigation channel shall be shown in relation to the proposed utility line.

(iii) As built drawings: Where structures or work are authorized in navigable waters of the United States (i.e., Section 10 waters) the permittee must furnish a copy of the 'as-built drawings' and the geographic coordinate system used in the 'as-built drawings' to the Corps and the NOAA NOS, within 60 days of completing the activity, to inform updates to nautical charts and Coast Pilot corrections. The information should be transmitted via email to ocs.ndb@noaa.gov.

Requirements Applicable to Both Category A and Category B Activities:

(i) Application must be submitted to MDE for Corps authorization.

(ii) Directional drilling, jack and bore, missile, or similar methods are the preferred method of installation.

(iii) Clearing of wetlands and fragmentation of large tracts of forested wetlands shall be minimized by routing utility lines outside forested wetlands and forested tracts, or on the edges of forested tracts.

(iv) When underground utility lines are installed in streams and wetlands, the trench cannot be constructed or backfilled in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a French drain effect). Clay plugs, impervious membranes, or other materials may be placed in the trenches to ensure that the trench does not drain the waters of the United States through which the utility line is installed.

(v) For utility lines installed in wetlands, the top six (6) to 12 inches of the trench must be backfilled with the top six (6) to 12 inches of topsoil removed from the trench.

(vi) Exposed slopes and stream banks must be stabilized and revegetated, preferably with native, woody species, immediately after construction of the utility line is completed.

(vii) When mechanized land clearing results in the permanent removal or conversion of a forested or scrub-shrub wetland to an herbaceous wetland in the permanently maintained utility right-of-way, the permittee shall submit a compensatory mitigation statement describing how the mitigation requirement will be satisfied or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. This is in addition to the requirement to mitigate for other permanent wetland and nontidal stream impacts resulting from the discharge of dredged or fill material. Stream relocation using nature-based techniques and establishment of previously existing aquatic resource functions in the new stream channel is generally considered to be self-mitigating.

(viii) If not using the preferred crossing options such as use of a bridge or bottomless arch, the applicant must provide a narrative with their joint permit application that documents the measures evaluated to minimize impacts to waters of the United States, as well as specific documentation concerning site conditions and limitations on utilizing the preferred options including cost, and engineering factors and site-specific limiting factors. This documentation must also include photographs documenting site conditions.

(ix) For energy production and transmission projects involving tall structures such as wind turbines, solar power towers, overhead electrical transmission utility and power lines and other energy systems including geothermal and solar panels, coordination with the DoD Military siting clearing house is required. Prior to the approval of the application, permittees must submit the Informal Review Response Letter from the DoD military siting clearinghouse (<https://www.dodclearinghouse.osd.mil/Project-Review>) to the reviewing agencies.

(x) For utility line activities completed by horizontal directional drilling or boring methods that require an application submittal, a remediation plan to address, to the extent that a Department of the Army authorization is required, any anticipated temporary structures, fills or work within waters of the United States necessary for the

remediation of inadvertent returns of drilling fluids to waters of the United States through sub-soil fissures or fractures. If an inadvertent return occurs, and the remediation requires work within waters of the United States that extends beyond the limits of work authorized by the originally approved remediation plan, then the permittee must notify the Corps immediately and submit a revised remediation plan as soon as possible. The remediation plan must include a detailed narrative of methods to contain and remediate impacts associated with inadvertent returns of drilling fluids, information on equipment kept on site to handle inadvertent returns, and coordination procedures with the Corps and MDE in the event of inadvertent returns of drilling fluids.