



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



**COASTAL ZONE CONSISTENCY DETERMINATION**

**Maryland State Programmatic General Permit-7, NAB-2024-00009, SPN-24-38**

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

**DETERMINATION DATE:** December 3, 2025

**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:** This Maryland State Programmatic General Permit-7 (MDSPGP-7) 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-7 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-7 require compliance with all terms and conditions of the MDSPGP-7, including general conditions, activity-specific impact thresholds, and descriptions set out further herein. In addition, the US Army Corps of Engineers (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 States so that the net adverse environmental effects are no more than minimal.

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**BASED ON THE FOLLOWING CONDITIONS, THE MARYLAND DEPARTMENT OF THE ENVIRONMENT (DEPARTMENT) HAS DETERMINED THAT THE REGULATED ACTIVITIES DESCRIBED IN THE PROPOSED MARYLAND STATE PROGRAMMATIC GENERAL PERMIT-7, DATED DECEMBER 12, 2024, ARE CONSISTENT WITH THE STATE'S FEDERALLY APPROVED COASTAL ZONE**

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**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-7 IN THE MARYLAND COASTAL ZONE SHALL COMPLY WITH ALL APPLICABLE ENFORCEABLE POLICIES (ATTACHMENT A) UNDER THE APPROVED MARYLAND COASTAL ZONE MANAGEMENT PROGRAM.**

**CONDITIONS**

- 1) Authorized activities associated with c(3) Utility Access Roads, e(9) Residential, Commercial, Institutional Development Activities and Recreational Facilities, and e(10) Stormwater Management Facilities, resulting in losses or permanent impacts exceeding the thresholds below, require a Federal Consistency Determination from Maryland:
  - a) 1,000 linear feet or ½ acre, whichever is less, of stream bed or stream bank of perennial or intermittent streams and tidal ditches that are considered permanent impacts and do not qualify as temporary impacts (as defined in COMAR 26.17.04.08 and COMAR 26.17.04.11(B)(5) ; or
  - b) ½ acre total of tidal wetland loss (as defined in COMAR 26.24.01.02.B(18)) and nontidal wetland loss (as defined in COMAR 26.23.01.01.B(56)).

*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*

- 2) Authorized activities under e(10) Stormwater Management Facilities or j(1) Retrofits of Existing 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;

The Permittee shall submit a plan to take actions within 60 days of violations, or a sooner time frame as specified by MDE in writing, to correct violations of (a) and (b) to MDE. Upon approval of the plan by MDE, the Permittee shall implement the corrective actions within the time period required by MDE.

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

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- 3) Discharges exceeding the Category A Impact Limits associated with f(1) Tidal Revetment and Other Tidal Shoreline Erosion Control Structures and f(3) New Bulkheads, Including Stone Toe Protection, require a Federal Consistency Determination unless a waiver from the requirement to use a non-structural shoreline stabilization method of shoreline protection is approved by the Department under COMAR 26.24.04.01. Shorelines where automatic waivers are granted for traditional hardened erosion control structures may be identified using the Maryland Shoreline Stabilization Mapper (<https://cmap22.vims.edu/MSSMTool/>).

*Enforceable Policy: 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*

- 4) Authorized activities under category j(1) Retrofits of Existing Stormwater Management Facilities may not alter approved existing compensatory mitigation within facilities, unless a new mitigation plan is approved by MDE and implemented by the Permittee.

*Enforceable Policies: 5.3.9 Development Policy 3 – Stormwater Management; 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) Discharges associated with j(2) Nontidal Stream And Wetland Restoration And Enhancement Activities Associated With An Acceptable TMDL/MS4 Watershed Strategy exceeding any of the thresholds below require a Federal Consistency Determination:

- a) ½ acre of conversion of forested wetland (excluding loblolly pine plantations and areas having significant plant or wildlife value as defined in COMAR 26.23.01B(80) which do not require a predominantly forested community) to another wetland type;
- b) 1 acre of tidal wetland loss (as defined in COMAR 26.24.01.02.B(18)) or nontidal wetland loss (as defined in COMAR 26.23.01.01.B(56)); or
- c) 1,000 linear feet of permanent impact of stream bed or bank of perennial or intermittent streams and tidal ditches (as defined in COMAR 26.17.04.11(B)(5)).

*Enforceable Policies: Flood Hazards & Community Resilience Policy 1 – No Adverse Impact. Projects in coastal tidal and non-tidal flood plains which would create additional flooding upstream or downstream, or which would have an adverse impact upon water quality or other environmental factors, are contrary to State policy; Flood Hazards & Community Resilience Policy 2b – Stability of Unlined Earth Channels. Proposed unlined earth channels may not change the tractive force associated with the 2-year and the 10-year frequency flood events, by more than 10 percent, throughout their length unless it*

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*can be demonstrated that the stream channel will remain stable; 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.*

- 6) The Permittee shall implement compensatory mitigation approved by the Department when new activities authorized under MDSPGP-7 result in wetland losses of acreage and function at existing compensatory mitigation sites.

*Enforceable Policy: 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.*

- 7) The Permittee conducting activities, not covered under a Corps Nationwide applicable to Removal of Lowhead Dams or impoundments, that otherwise qualify for authorization or mitigation under the MDSPGP-7 and involve the removal of the lowhead dam or structure shall:
- a) Submit to the Corps documentation that the Permittee 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. Testing of sediment size, distribution and potential pollutants based on past upstream land uses and discharges shall be conducted as appropriate.
  - c) Based on the sampling results, the Department may require the Permittee to submit an additional implementation and monitoring plan for review and approval that includes at a minimum:

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- i) Monitoring of the site of the impoundment and downstream areas during and post-removal of the lowhead dam; and
  - ii) Additional sediment and or water quality testing, a sediment removal plan, or other measures deemed necessary by the Department to meet water quality standards; and
- d) The Permittee shall implement the approved plan in Condition 7(c) as approved and required by the Department.

*Enforceable Policies: 5.1.1 Quality of Life Policy 10 – Erosion & Sediment Control, Water Resources Protection & Management Policy 2 – Protection of Designated Uses.*

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

*Enforceable Policy: Water Resources Protection & Management Policy 2 – Protection of Designated Uses.*

- 9) 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 Permittee 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.

*Enforceable Policies: 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; 5.2.3 Nontidal Wetlands – Policy 1; 5.3.9 Development – Policy 4 First Avoid then Minimize Wetland Impacts, Minimize Water Quality, Habitat & Forest Damage & Preserve Cultural Resources; 5.1.3 Water Resources Protection & Management – Policy 1 Pollution Discharge Permit; 5.1.3 Water Resources Protection & Management – Policy 3 Prohibition of Harmful Toxic Impacts*

- 10) The Permittee 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.

*Enforceable Policies: 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 Nontidal Wetlands – Policy 1; 5.3.9 Development – Policy*

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*4 First Avoid then Minimize Wetland Impacts, Minimize Water Quality, Habitat & Forest Damage & Preserve Cultural Resources; 5.1.3 Water Resources Protection & Management – Policy 1 Pollution Discharge Permit; 5.1.3 Water Resources Protection & Management – Policy 3 Prohibition of Harmful Toxic Impacts*

- 11) The Permittee 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.

*Enforceable Policy: Water Resources Protection & Management Policy 2 – Protection of Designated Uses*

- 12) Authorized activities that result in the loss of tidal or nontidal wetlands or waterways, shall implement compensatory mitigation in accordance with state issued authorizations and COMAR 26.23.04 or COMAR 26.24.05.

*Enforceable Policies: Enforceable Policies: 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*

- 13) Authorized 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.

*Enforceable Policies: 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*

- 14) Authorized activities including 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.

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

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- 15) Authorized activities that 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*

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

*Enforceable Policies: 5.1.1 Quality of Life Policy 10 – Erosion & Sediment Control, 5.1.3. Water Resources Protection & Management, Water Resources Protection & Management Policy 2 – Protection of Designated Uses. All waters of the State shall be protected for water contact recreation, fish, and other aquatic life and wildlife. Shellfish harvesting and recreational trout waters and waters worthy of protection because of their unspoiled character shall receive additional protection.*

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

*Enforceable Policies: Water Resources Protection & Management Policy 2 – Protection of Designated Uses*

- 18) 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 waters, or
- b) Passage of normal or expected high water flows.

*Enforceable Policies: Water Resources Protection & Management Policy 2 – Protection of Designated Uses; Flood Hazards & Community Resilience Policy 1 – No Adverse Impact. Projects in coastal tidal and non-tidal flood plains which would create additional flooding upstream or downstream, or which would have an adverse impact upon water quality or other environmental factors, are contrary to State policy.*

- 19) The Permittee 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;

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- b) If a bridge span 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: Water Resources Protection & Management Policy 2 – Protection of Designated Uses; Flood Hazards & Community Resilience Policy 1 – No Adverse Impact. Projects in coastal tidal and non-tidal flood plains which would create additional flooding upstream or downstream, or which would have an adverse impact upon water quality or other environmental factors, are contrary to State policy.*

20) The Permittee shall adhere to the following conditions:

- a) Prevent sidcasting of excavated material into a Water of the United States. Excavated or other fill material shall be placed in a location and manner that 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 Waters of the United States if it contains waste metal products, unsightly debris, toxic material, or any

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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, unless otherwise approved or required by MDE: 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 Permittee 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 Policies: 5.1.1 Quality of Life Policy 10 – Erosion & Sediment Control, 5.1.3. Water Resources Protection & Management, Water Resources Protection & Management Policy 2 – Protection of Designated Uses. All waters of the State shall be protected for water contact recreation, fish, and other aquatic life and wildlife. Shellfish harvesting and recreational trout waters and waters worthy of protection because of their unspoiled character shall receive additional protection; 5.2.3 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 Lost.*

- 21) For authorized activities in the Chesapeake Bay Critical Area, 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.

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

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- 22) The Permittee 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.

*Enforceable Policies: All Enforceable Policies*

- 23) 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*

- 24) 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 Corps, and its approved revisions.

*Enforceable Policies: All Enforceable Policies*

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

*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*

- 26) 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*

- 27) The Permittee 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 Determination.

*Enforceable Policies: All Enforceable Policies*

- 28) This Determination is valid for the MDSPGP-7 identified herein until such time that the MDSPGP-7 expires and is not modified or administratively extended.

*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

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Permittee to criminal and/or civil penalties or other enforcement action in accordance with applicable law.

**DETERMINATION ISSUED:**

A handwritten signature in black ink, appearing to read "Danielle Spendiff", is positioned above a solid horizontal line.

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Danielle Spendiff, Chief  
Regulatory and Customer Service Division  
Federal Consistency Coordinator  
Wetlands and Waterways Protection Program  
Water and Science Administration

Attachment A