

Maryland State Programmatic General Permit (MDSPGP)



Overview

■ Statewide general permit

- | Successor to MDGP-1
- | Used to authorize all types of work in all waters, including wetlands
- | Replaces Nationwide Permits (NWPs) and Regional General Permits (RGPs) for most types of work



Overview

- Based on partnership with Maryland Department of the Environment (MDE)
 - Maryland Tidal and Nontidal Wetland Protection Acts
- Activity based
- Threshold limits
 - Tidal waters and wetlands - 3 acres
 - Nontidal waters and wetlands - 5 acres



Overview

■ Goals

- Equal or enhanced environmental protection
 - | State Tidal and Nontidal Wetland Protection Acts
- Reduced duplication
 - | Joint federal/state permit application
 - | Shared jurisdictional determination and delineation responsibilities



Overview

- | State-only review for most applications
- | Concurrent review for all other applications
- | One authorization package
 - State permits
 - Federal permit (MDSPGP)

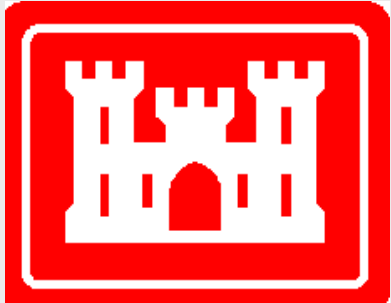


Structure

■ Four categories of activities

■ Category I

- | 41 activity descriptions
- | Minimal impact activities
- | Includes piers, shore erosion control, and minor fill activities
- | MDE is sole reviewer
 - Corps reviews programmatically through monitoring



Structure

I Category II

I Activities that qualify for Category I **but** require Corps review

- Potential interference with Corps navigation or civil works project
- Projects grandfathered from MDE's proces



Structure

I Category III

- | Activities that do not qualify for Category I
- | Activities that may be more than minimal
 - Concurrent Corps/MDE review
 - Agency and/or public coordination
- | Divided into three Subcategories based on State public notice requirements
 - IIIA - State permit public notice not required
 - IIIB - State permit public notice required
 - IIIC - State permit public notice required and activity is complex and/or controversial



Structure

■ Category IV

- Activities that exceed the impact thresholds of the MDSPGP
 - | Greater than 3 acres in tidal waters and wetlands
 - | Greater than 5 acres in nontidal waters and wetlands
- Corps individual permit (IP) required



Category I Process

■ Category I

- Application received by MDE
- Screened for endangered species and cultural resources
- Delineation verified, if applicable
- MDE determines whether project qualifies for Category I MDSPGP
- MDE issues State authorization and attaches Federal authorization (MDSPGP)



Category II Process

- Category I - activities that may interfere with a Corps navigation or civil works project
 - Application received by MDE
 - | Screened for endangered species and cultural resources
 - | Delineation verified, if applicable
 - MDE categorizes as Category II
 - MDE forwards application to Corps



Category II Process

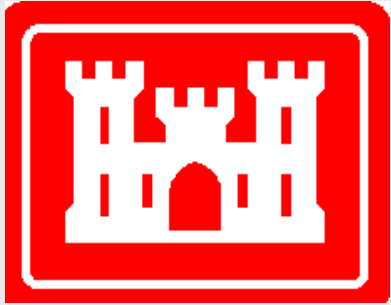
- Corps coordinates with other District elements to determine whether project interferes with navigation or civil works project
 - 30-day coordination
- Corps determines whether project qualifies for Category I MDSPGP
- Corps notifies MDE of eligibility for MDSPGP
 - Authorized by MDSPGP, with or without special conditions



Category II Process

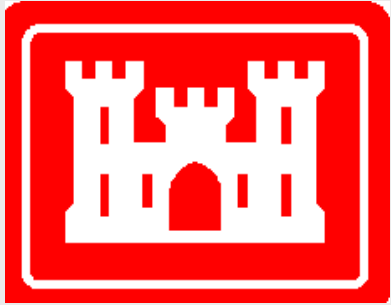
- | MDE issues State authorization and MDSPGP

- Category II - activities grandfathered from MDE's permit requirements
 - | Application received by MDE
 - | Screened for endangered species and cultural resources
 - | Delineation verified, if applicable



Category II Process

- MDE categorizes as Category II
- MDE forwards application to Corps
- Corps determines whether application qualifies for Category I MDSPGP
 - Corps issues MDSPGP authorization with copy to MDE



Category III Process

- Category III
 - Activities that do not qualify for Category I
 - Application received by MDE
 - Screened for endangered species and cultural resources
 - Delineation verified, if applicable
 - MDE categorizes as Category IIIA, IIIB, or IIIC
 - MDE forwards application to Corps



Category IIIA Process

■ Category IIIA

- Application received by Corps
- Corps issues agency coordination notice
 - | 30-day comment period
 - | EPA, FWS, NMFS, DNR, MHT
- Within 10 days after comment period, Corps notifies MDE whether project is eligible for MDSPGP authorization



Category IIIA Process

- | Joint Application Information (JAI) form
 - Activity qualifies for MDSPGP
 - Activity qualifies for MDSPGP with special conditions
 - Special condition letter attached
 - Activity does not qualify for MDSPGP - Category IV, IP required
- | MDE issues State authorization and MDSPGP, with or without special conditions



Category IIIB Process

- Category IIIB
 - Application received by Corps
 - MDE issues joint Corps/MDE public notice
 - | Issued twice monthly (1st and 15th)
 - | Multiple projects listed in notice
 - | 30-day comment period
 - | EPA, FWS, NMFS, DNR, MHT, and the public
 - Within 10 days after comment period, Corps notifies MDE whether project is eligible for MDSPGP authorization



Category IIIB Process

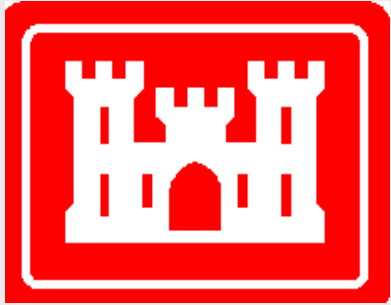
- | Joint Application Information (JAI) form
 - Activity qualifies for MDSPGP
 - Activity qualifies for MDSPGP with special conditions
 - Special condition letter attached
 - Activity does not qualify for MDSPGP - Category IV, IP required
- | MDE issues State authorization and MDSPGP, with or without special conditions



Category IIIC Process

■ Category IIIC

- Application received by Corps
- Corps or MDE issues joint Corps/MDE public notice
 - | Issued as needed
 - | One project on notice
 - | 30-day comment period
 - | EPA, FWS, NMFS, DNR, MHT, and the public



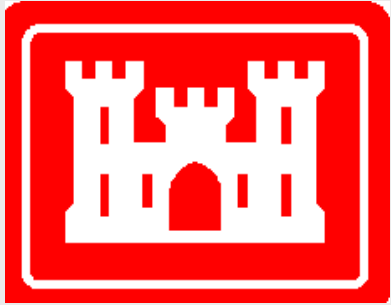
Category IIIC Process

- Within 10 days after comment period, Corps notifies MDE whether project is eligible for MDSPGP authorization
 - | Joint Application Information (JAI) form
 - Activity qualifies for MDSPGP
 - Activity qualifies for MDSPGP with special conditions
 - Special condition letter attached
 - Activity does not qualify for MDSPGP - Category IV, IP required



Category IIIC Process

- MDE issues State authorization and MDSPGP, with or without special conditions



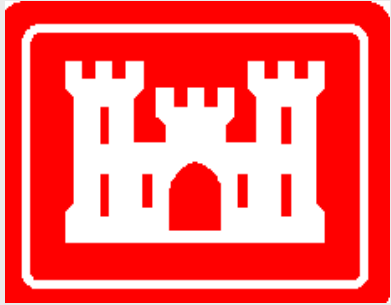
Agency Objection Process

- Analogous to 404(q) elevation process
- Process applies to Category IIIA, IIIB, and IIIC activities
- Agency receives notice
 - Agency notification - Category IIIA
 - Joint public notice - Category IIIB
 - Joint individual public notice - Category IIIC



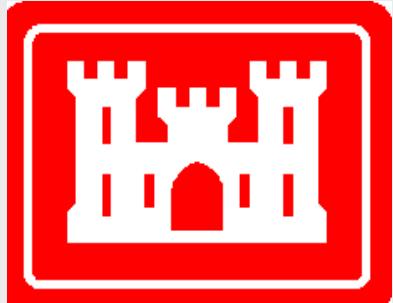
Agency Objection Process

- Agency makes recommendation within 30-day comment period
 - Special conditions for MDSPGP, or
 - MDSPGP not appropriate (IP required)
- Corps has 10 days from close of comment period to notify agency of Corps decision
 - Concur with agency recommendation
 - Does not concur



Agency Objection Process

- Agency has 15 days from date of Corps notification to send formal objection from Regional Administrator/Director
- If agency objections are resolved within 30 days of Corps receipt of formal objection, Corps notifies MDE and applicant that:
 - Project is authorized by MDSPGP, or



Agency Objection Process

- Project is authorized by MDSPGP with special conditions, or
 - Project requires IP review
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- If agency objections are not resolved within 30 days of Corps receipt of formal objection
 - Project requires IP review



Category IV Process

- MDE forwards application to Corps
 - Separate Corps and MDE review
- Corps follows IP review process
- Corps issues IP to applicant with a copy to MDE



Nationwide Permits (NWP)

- Most NWPs suspended in Maryland on August 15, 1997 (see public notice hand-out)
 - Suspended all that are duplicated by the MDSPGP
 - Retained 6, not duplicated by the MDSPGP



Replacement NWPs

- NWPs issued to replace NWP 26
 - Final Rule published in Federal Register on March 9, 2000
 - | Issued 5 new NWPs
 - | Modified 6 existing NWPs
 - | Modified 9 existing general conditions
 - | Added 2 new general conditions
 - Baltimore District expects to suspend the replacement NWPs