



**DEPARTMENT OF THE ARMY**  
BALTIMORE DISTRICT, CORPS OF ENGINEERS  
REGULATORY BRANCH  
2 HOPKINS PLAZA  
BALTIMORE, MD 21201-2930

Operations Division

Enclosure 1: Key Elements under Maryland Regulation for a Request/Application for a CWA 401 WQC

**(a) Name, address, phone number, email address of the applicant and as applicable the authorized agent.**

U.S. Army Corps of Engineers, Baltimore District 2 Hopkins Plaza, Baltimore, MD 21201-2930.

**(b) The project site address, including coordinates in degrees, minutes, seconds, 12 digit HUC no., Watershed name:**

U.S. Army Corps of Engineers, Baltimore District Bay TMDL Regional General Permit (RGP) re-verification is for multiple applicants at multiple location within the Chesapeake Bay drainage area over a five year period. In Maryland, excluded waters include the Coastal Bays in Worcester County, Maryland, and the waters located in the Ohio River drainage in Western Maryland.

**(c) The name(s) and address(es) of adjacent property owners:**

U.S. Army Corps of Engineers, Baltimore District Bay TMDL RGP re-verification is for multiple applicants at multiple location within the Chesapeake Bay drainage area over a five year period.

**(d) Signed Public Notice Billing Form:**

N/A government agency.

**(e) Description of the facility or activity:**

As with the existing Bay TMDL RGP, the proposed re-verification of the Bay TMDL RGP will evaluate and, if appropriate, authorize three TMDL-related activities:

Retrofits of Existing Stormwater Management Facilities: This activity authorizes the discharge of dredged or fill material into waters of the U.S., including jurisdictional wetlands, where the activity is part of an acceptable watershed strategy, such as a Chesapeake Bay TMDL Watershed Implementation Plan (WIP), whose purpose is to identify implementation activities needed to meet nutrient and sediment load reduction targets. Discharge of dredged or fill material into nontidal waters of the United States for the retrofit of existing, currently serviceable stormwater management facilities, which were originally designed and are currently being used for the treatment of stormwater. Activities authorized by this Bay TMDL activity may include, but are not limited to, changing the existing riser structure, creation of forebays, changing pond elevations, or creation of wetland benches.

Retrofit and Stabilization of Outfalls: This activity authorizes the discharge of dredged or fill material into waters of the U.S., including jurisdictional wetlands, where the activity is part of an acceptable watershed strategy, such as a Chesapeake Bay TMDL Watershed Implementation Plan (WIP), whose purpose is to identify implementation activities needed to meet nutrient and sediment load reduction targets. Discharges of dredged or fill material into nontidal waters of the United States for retrofit and stabilization of outfall activities in waters of the U.S., including jurisdictional wetlands, where the outfall retrofit activities seek to comply with the Bay TMDLs by minimizing accelerated channel erosion to reduce pollutant loading.

Restoration Activities in Nontidal Streams and Wetlands: This activity authorizes stream and wetland restoration and enhancement activities in waters of the U.S., including jurisdictional wetlands, where the activity is part of an acceptable watershed strategy to reduce nutrients and sediments and produces functional lift within the project site. An example of an acceptable watershed strategy is the Chesapeake Bay TMDL Watershed Implementation Plan (WIP), whose purpose is to identify implementation activities needed to meet nutrient and sediment load reduction targets.

Additional details concerning the proposed activities impact thresholds and general and activity specific conditions can be found in the re-verification Bay TMDL RGP (Attachment 1).

**(f) A plan showing the proposed activities to scale including:**

**The location(s) and boundaries of the activities;**

**The location(s), name(s), identification number(s), and extent of all potentially affected surface water bodies, including wetlands.**

The proposed re-verification of the Bay TMDL RGP is a federal general permit for categories of activities over a five year period; therefore, at this time it is not possible to provide the plans, locations, and descriptions in advance of the actual applications. The three activities are repair, retrofit, and restoration/enhancement in nature and the existing Bay TMDL RGP has been in place for over four years. It is expected that the activities proposed under the re-verified RGP would be similar in nature taking in to account the proposed revisions to the activities. The proposed revisions are meant to increase the efficiency of the RGP and streamline review and approval of inherently beneficial activities while continuing to assure the authorized activities are minimal in nature both individually and cumulatively. As with the existing Bay TMDL RGP, plans and descriptions for activities proposed to be authorized under the re-verified Bay TMDL RGP will be included in a Joint Permit Application (JPA). The JPA will be provided to the Maryland Department of the Environment (MDE) for review and approval for any required state authorizations.

**(g) A description of any discharge which may result from the conduct of any activity including:**

**(i) Biological, chemical, thermal or other characteristics of the potential discharge;**

**(a) A description of any other aspect of associated with construction and operation of the activity that would affect the chemical composition, temperature, flow, or physical aquatic habitat of the surface water.**

**(b) The characteristics of the discharge**

- Flow rate (cfs)
- Potential chemical, physical, biological constituents
- Frequency (e.g., daily, hourly,)
- Duration
- Temperature (Celsius)

**(ii) The location or locations at which any discharge may enter navigable waters;****(a) Latitude and longitude (dd:mm:ss)****(b) An original or color copy/reproduction of a United States Geological Survey**

The proposed re-verification of the Bay TMDL RGP is a federal general permit for categories of activities over a five year period; therefore, at this time it is not possible to provide the characteristics of the discharge in advance except to say that the three activities are repair, retrofit, and restoration/enhancement and, in general, the activities will not change the characteristics of the flow. Any proposed construction would adhere to approved sediment and erosion control BMPs including time of year restrictions and working in the dry. The existing Bay TMDL RGP has been in place for over four years. It is expected that the activities proposed under the re-verified RGP would be similar in nature taking in to account the proposed revising to the activities. As with the existing Bay TMDL RGP, plans and descriptions for activities proposed to be authorized under the re-verified Bay TMDL RGP will be included in a Joint Permit Application (JPA). The JPA will be provided to the Maryland Department of the Environment (MDE) for review and approval for any required state authorizations.

**(h) A description, if applicable, of the function and operation of any equipment or facilities to treat any discharge and the degree of treatment to be attained. A description of any other aspect of associated with construction and operation of the activity that would affect the chemical composition, temperature, flow, or physical aquatic habitat of the surface water.**

The proposed re-verification of the Bay TMDL RGP is a federal general permit for categories of activities over a five year period; therefore, at this time it is not possible to provide the a description of the function and operation of any equipment or facilities to treat any discharge and the degree of treatment to be attained in advance except to say that the three activities are intended to meet nutrient and sediment load reduction targets in accordance with the Chesapeake Bay TMDL (in accordance with an acceptable watershed strategy). To be granted TMDL nutrient and sediment reduction credit, any proposed retrofit, repair, and restoration/enhancement of any equipment or facility would seek to provide water quality improvements. The existing Bay TMDL RGP has been in place for over four years. It is expected that the activities proposed under the re-verified RGP would be similar in nature taking in to account the proposed revising to the activities. As with the existing Bay TMDL RGP, plans and descriptions for activities proposed to be authorized under the re-verified Bay TMDL RGP will be

included in a Joint Permit Application (JPA). The JPA will be provided to the Maryland Department of the Environment (MDE) for review and approval for any required state authorizations. Some proposed activities might result in a temporary increase of water temperature; however, the Bay TMDL RGP requires work proposed in Use III, Use IV, and other cold water resources identified in mapped waterways (Code of Maryland Regulations (COMAR) Section 26.08.02.02)

(<https://maryland.maps.arcgis.com/apps/webappviewer/index.html?id=dc5100c0266d4ce89df813f34678944a>) (and Tier II watersheds) will be reviewed and, as appropriate, coordinated with the resources agencies to assure the proposed activity impacts are minimal.

As with the existing Bay TMDL RGP, plans and descriptions for activities proposed to be authorized under the re-verified Bay TMDL RGP will be included in a Joint Permit Application (JPA). The JPA will be provided to the Maryland Department of the Environment (MDE) for review and approval for any required state authorizations.

(i) The date on which the activity will begin or end, if known, and the date or dates on which any discharge may occur.

The proposed re-verification of the Bay TMDL RGP is for five years, July 1, 2020-June 20, 2025. Work authorized under the Bay TMDL RGP would occur during this time period. In addition, work under contract and/or under construction at the expiration date would have up to twelve months to complete the project.

**(j) A description, if applicable, of the methods proposed or employed to monitor the quality and characteristics of any discharge.**

The proposed re-verification of the Bay TMDL RGP includes the following requirement for all authorized work activities:

Within 30 days of completion of the authorized work all temporary work within the waters of the U.S., including nontidal wetlands must be restored to preconstruction contours and stabilized. Areas that require planting must be planted within first year growing season of completion of the project. Within 90 days of completion of the authorized work surveyed as-built drawings, to scale, with control (latitude/longitude) depicting the final work including the restoration of the temporary impacts. By December 31 of the project completion year the permittee must provide the documentation identified in the Year 1 Post Construction Report.

In addition, proposed/authorized restoration/enhancement activities must provide the following information:

- a. Document that the existing (pre-construction) stream reach is in a degraded condition using a Corps approved Functional or Conditional Assessment Methodology (FCAM) or BIBI Score in combination with geomorphic evidence of stream quality degradation. The applicant must also provide rationale for stream site selection and the proposed design approach using applicable evidence, prioritization tools, and literature.

1. New FCAMS may be approved by the Corps on a case-by-case basis and must measure parameters in at least two of the following five categories: Hydrology, Hydraulics, Geomorphology, Water Chemistry, and Biology.
  2. Degradation is determined by the specific FCAM chosen. For example, if using the EPA Rapid Bioassessment Protocol-Habitat Assessment Form a score of marginal to poor would be degraded.
- b. Forecast functional lift by: evaluating existing vs projected functional lift using a Corps approved FCAM in combination with citing applicable research supporting the restoration approach if appropriate.
  - c. Activity must result in functional lift as documented in Existing vs Projected FCAM and Geomorphological/Hydraulic Function-Based parameter.
  - d. The permittee must demonstrate functional lift and stability by comparing pre-construction and post-construction functions and conditions using an FCAM for three (3) years following construction completion. Post-construction monitoring must document:
    1. Documentation of performance criteria in regards to design objectives as compared to baseline values
    2. Photographic documentation of structural stability and channel stability.
    3. Documentation of functional lift (which may include scientific literature in combination with a FCAM)
    4. Documentation of the performance of the riparian vegetation
    5. Documentation of the reestablishment of impacted or relocated wetlands.
    6. The permittee must also provide a waters and wetland delineation to ensure that there has been no additional loss or conversion. If additional loss or conversion is determined the applicant may need to provide compensatory mitigation.
    7. The permittee must provide to the Corps, a detailed description of any necessary corrective measures, including maintenance and repair, or alteration in any way, of the permitted work no later than 15 days prior to performance of such corrective measures for review and approval.
  - e. If it determined by the monitoring that a project is not trending towards success in meeting the project goals and objectives adaptive management may be required and/or the monitoring may be extended on a case by case basis.

As with the existing Bay TMDL RGP, plans and descriptions for activities proposed to be authorized under the re-verified Bay TMDL RGP will be included in a Joint Permit Application (JPA). The JPA will be provided to the Maryland Department of the Environment (MDE) for review and approval for any required state authorizations.

**(k) A specific and detailed mitigation plan as applicable for projects requiring mitigation**

The proposed re-verification of the Bay TMDL RGP is a federal general permit for categories of activities over a five year period; therefore, at this time it is not possible to provide a specific and detailed mitigation plan as applicable for projects requiring mitigation in advance except to say that the three activities are intended to meet nutrient and sediment load reduction targets in accordance with the Chesapeake Bay TMDL (in accordance with an acceptable watershed strategy). The Bay TMDL RGP is primarily meant to authorize beneficial projects that do not require compensatory mitigation due to the nature of the impacts since to be granted TMDL nutrient and sediment reduction credit, any proposed retrofit, repair, and restoration/enhancement project would seek to provide water quality improvements. The existing Bay TMDL RGP has been in place for over four years. It is expected that the activities proposed under the re-verified RGP would be similar in nature taking in to account the proposed revising to the activities. As with the existing Bay TMDL RGP, plans and descriptions for activities proposed to be authorized under the re-verified Bay TMDL RGP will be included in a Joint Permit Application (JPA). The JPA will be provided to the Maryland Department of the Environment (MDE) for review and approval for any required state authorizations.

**(2) Other related permits issued or required (Individual 404 Permit, Nationwide Permit No., Section 10 Permit, Erosion and Sediment Control Plan Approval, NPDES permit (including Stormwater Permits), Regional Permit**

The proposed re-verification of the Bay TMDL RGP is a federal general permit for categories of activities over a five year period. Permittees are required to obtain all appropriate federal, state, and local approvals and permits prior to commencing work. The existing Bay TMDL RGP has been in place for over four years. It is expected that the activities proposed under the re-verified RGP would be similar in nature taking in to account the proposed revising to the activities. As with the existing Bay TMDL RGP, plans and descriptions for activities proposed to be authorized under the re-verified Bay TMDL RGP will be included in a Joint Permit Application (JPA). The JPA will be provided to the Maryland Department of the Environment (MDE) for review and approval for any required state authorizations.

**(3) Any other information for evaluation of the impact of the activity on water quality. This may include quantitative analysis to demonstrate that the proposed activity may not violate State water quality standards.**

As with the existing Bay TMDL RGP, plans and descriptions for activities proposed to be authorized under the re-verified Bay TMDL RGP will be included in a Joint Permit Application (JPA). The JPA will be provided to the Maryland Department of the Environment (MDE) for review and approval for any required state authorizations. All authorized work will adhere to the appropriate time of year restrictions and followed approved sediment and erosion control best management practices. Areas where MDE typically does not exert jurisdiction (e.g., ephemeral streams and online stormwater management retrofits) may also not be subject to Corps evaluation by the proposed implementation date of the re-verification. Work in upland areas, including riparian buffers, are not subject to Corps jurisdiction. Under the proposed re-verification, temporary impacts (e.g., construction access on matting) will be restored to preconstruction conditions and therefore the Bay TMDL RGP has not proposed

temporary impact limit. Similarly, the re-verification of the Bay TMDL RGP is seeking to increase activity thresholds for stormwater management retrofits and wetland and stream restoration/enhancement since both activities provide benefits to aquatic resources, including water quality. Terms and general and activity-specific conditions of the RGP re-verification assure the proposed activity impacts are minimal individually and cumulatively.