

PUBLIC NOTICE

PROPOSED REISSUANCE OF THE U.S. ARMY CORPS OF ENGINEERS CHESAPEAKE
BAY TOTAL MAXIMUM DAILY LOAD REGIONAL GENERAL PERMIT
(BAY TMDL RGP)

REQUEST FOR WATER QUALITY CERTIFICATION and COASTAL ZONE
CONSISTENCY DETERMINATION

20-WQC-0029/202060616

DATE: April 22, 2020

Pursuant to COMAR 26.08.02, Regulation .10 Water Quality Certification, and 15 C.F.R. Section 930.42 Subpart C of the Coastal Zone Management Act, the Maryland Department of the Environment is required to give public notice of this application. Section 401 of the federal Clean Water Act prohibits the issuance of a federal license or permit for any activity that will result in any discharge into navigable waters unless the State certifies that the activity will not violate State water quality standards and limitations. The purpose of this public notice is to solicit comments from the public regarding the work described below.

Background:

On April 13, 2020, the Department received the U.S. Army Corps of Engineers (Corps) request for a state Water Quality Certification and concurrence with their consistency determination under the Coastal Zone Management Act for the reissuance of the Chesapeake Bay Total Maximum Daily Load Regional General Permit (Bay TMDL RGP) for activities in waters of the U.S., including jurisdictional wetlands, that are 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 in accordance with the Chesapeake Bay TMDL. Activities authorized by this Bay TMDL RGP include the retrofit of existing stormwater management facilities, the retrofit and stabilization of existing outfalls, and the restoration and enhancement of non-tidal streams and non-tidal wetlands.

Description:

The Water and Science Administration is reviewing the following request for a State Water Quality Certification and concurrence with the Coastal Zone Management Act Consistency Determination. Pursuant to COMAR 26.08.02, Regulation .10 Water Quality Certification and 15 C.F.R. Section 930.42 Subpart C of the Coastal Zone Management Act., the Maryland

Department of the Environment is required to give public notice. Section 401 of the Clean Water Act requires the State of Maryland to issue a Water Quality Certification for any federally permitted project which may result in the discharge of dredged or fill material to waters or wetlands of the State. The purpose of the water quality certification is to advise the federal agency as to whether the permitted activity will or will not comply with Maryland's water quality standards. The purpose of the consistency determination is to advise the federal agency as to whether the federal activity will be consistent with Maryland Enforceable Policies approved under Maryland's Coastal Zone Management Program. The purpose of this public notice is to solicit comments from the public regarding the work described below.

The applicant proposes reissuance of the Chesapeake Bay Total Maximum Daily Load Regional General Permit (Bay TMDL RGP) effective July 1, 2020 and expiring June 30, 2025. The Bay TMDL RGP is for activities in waters of the U.S., including jurisdictional wetlands that are 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 in accordance with the Chesapeake Bay TMDL. Activities authorized by this Bay TMDL RGP include the retrofit of existing stormwater management facilities, the retrofit and stabilization of existing outfalls, and the restoration and enhancement of non-tidal streams and non-tidal wetlands. This Bay TMDL RGP provides a streamlined form of Department of the Army (DA) authorization for activities that provide nutrient and sediment reductions. The development of permit streamlining measures under Section 404 of the Clean Water Act (CWA) for TMDL implementation activities, including stream restoration activities, supports Chesapeake Bay Executive Order (EO) 13508 strategy goals for restoring clean water and recovering habitat and EO 13563, Improving Regulation and Regulatory Review. The substantive proposed modifications consist of inclusion of activity-specific limits and requirements for stormwater management facilities, outfall structures, and stream and wetland restoration projects to reduce confusion over threshold and reporting requirements; minor changes to thresholds for individual activities and elimination of thresholds for temporary impacts, clarification of activities requiring U.S Army Corps of Engineers verification with agency coordination; and a requirement for post construction reporting for all activities.

Waterways:

Chesapeake Bay, nontidal waters of the United States, including nontidal wetlands in the Chesapeake Bay watershed within the State of Maryland, District of Columbia, and Fort Meyer, the Pentagon, and Fort Belvoir in Virginia. Excluded waters include the Coastal Bays in Worcester County, Maryland, and the waters located in the Ohio River drainage in Western Maryland. Additional excluded waters of Maryland include adjacent and contiguous jurisdictional wetlands to 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. All these areas above are excluded as they are located within the regulatory geographic boundary of the Corps Philadelphia District.

The Corps request for the WQC and CZMA Consistency determination and supporting information is available on the Department's website at the following link:
<https://mde.maryland.gov/programs/Water/WetlandsandWaterways/Pages/index.aspx>

A copy of the current version of the Bay TMDL RGP that expires on June 30, 2020 can be viewed at the U.S. Army Corps of Engineers webpage
<https://www.nab.usace.army.mil/Missions/Regulatory/Bay-TMDL/>

Any comments on the water quality and coastal zone impacts of this project, requests for a public informational hearing or requests to be included on the interested persons list must be received by **May 22, 2020** to the Maryland Department of the Environment Attn: Denise Clearwater, Wetlands and Waterways Program, Water and Science Administration, 1800 Washington Boulevard, Suite 430, Baltimore, MD 21230, or email comments to denise.clearwater@maryland.gov. Please send questions to denise.clearwater@maryland.gov or by phone at (410) 537-3781.