



Public Notice

U.S. Army Corps
of Engineers

Date: September 29, 2015

Special Public Notice # SPN 15-60

Baltimore District

Philadelphia District

Pittsburgh District

The purpose of this 30-day Public Notice is to request comments on whether to issue, for a 5-year period, the Pennsylvania State Programmatic General Permit (PASPGP-5). Comments are requested by October 29, 2015.

This Public Notice is issued jointly by the Baltimore, Philadelphia, and Pittsburgh Districts of the U.S. Army Corps of Engineers.

Section 404(e) of the Clean Water Act (CWA) (33 U.S.C. §1344) provides for the issuance of Department of the Army (DA) general permits (GP) on a statewide basis, which operate in conjunction with a State regulatory program that protects the aquatic environment in a manner equivalent to the DA regulatory program, provided that the activities permitted under each category of such GPs are similar in nature and result in no more than minimal individual or cumulative adverse effects on the aquatic environment.

The Commonwealth of Pennsylvania's Dam Safety and Waterway Management Rules and Regulations establish a statewide permit program for protecting the waters of the Commonwealth. The Commonwealth's procedures for the granting of permits require the PADEP to apply evaluation criteria consisting of alternatives analysis (for non-water dependent activities), avoidance techniques, the minimization of impacts, and if a permit is to be granted, compensatory mitigation. The evaluative criteria within the Commonwealth's program are similar to Federal criteria under Section 404(b)(1) of the Federal Clean Water Act.

On July 1, 2011 the District Engineers for Baltimore, Philadelphia, and Pittsburgh Districts, issued the Pennsylvania State Programmatic General Permit - 4 (PASPGP-4) for a five year period. The PASPGP - 4 will expire on June 30, 2016, unless a decision is made to suspend, or revoke the permit before that date.

The below list identifies some of the changes from the PASPGP-4 that are proposed to be incorporated into the PASPGP-5. The proposed PASPGP-5 can be viewed on the Baltimore District's web page at www.nab.usace.army.mil/Regulatory/Public_notices.htm

A hard copy of the proposed PASPGP-5 may be obtained by contacting: Mrs. Patricia Strong, U.S. Army Corps of Engineers, Baltimore District, P.O. Box 1715, Baltimore, Maryland 21203, telephone (410) 962-1847, or by email at Pat.Strong@usace.army.mil

Proposed Changes

1. Activities NOT eligible for PASPGP-5:
 - a. Single and complete projects that will result in a permanent loss of more than 1,000 linear feet of a stream (Part III, (A)(4)).
2. In general, Category I and II Activities under PASPGP-4 are called Non-Reporting Activities under PASPGP-5 and Category III Activities under PASPGP-4 are called Reporting Activities under PASPGP-5.
3. The following Category III Activities under PASPGP-4 are proposed to be Non-Reporting Activities under PASPGP-5 (Part IV, (A)(14)):
 - a. Activities Waived at 25 PA Code § 105.12(a)(2) - Waiver 2. Waiver 2 includes water obstructions in a stream or floodway with a drainage area of 100 acres or less, and does not apply to wetlands within the floodway. A Waiver 2 activity that impacts greater than 250 linear feet of stream channel would require a Corps review.
4. Reporting Activities – Activities where the single and complete project involves at least one of the following: (Part IV, (B)(2)):
 - a. Greater than 0.50 acre of temporary and/or permanent impact to waters or wetlands;
 - b. A utility line crossing of waters and/or wetlands that exceeds 500 linear feet – excluding overhead lines;
 - c. Greater than 0.10 acre of forested and/or scrub shrub wetland permanent conversion;
 - d. A utility line placed within a jurisdictional area and the utility line runs parallel to or along the stream; and
 - e. Greater than 250 linear feet of permanent stream impact, except for:
 - i. The linear threshold is 500 feet or less, of stream channel for those activities that involve stream bank stabilization, rehabilitation, protection and/or enhancement; and
 - ii. No linear threshold applies for those activities verified under Non-Reporting Activity 1, below, (PADEP GP-1 for Fish and Habitat Enhancement Structures), and/or Non-Reporting Activities 20(b), below, (Activities Waived at 25 PA Code § 105.12(a)(16) – Waiver 16 – Restoration Activities: Other Restoration Activities).

5. Monitoring required for temporary impacts to wetlands that exceed 0.10 acre. Monitoring would be completed using a standardized monitoring report developed by the Corps and made available through the Corps website. The monitoring requirement may be waived in writing by the Corps if requested by the applicant, or may be superseded if more stringent monitoring is required by the Corps as a Special Condition of a PASPGP-5 verification, (Part VI, (A)(23)).
6. PADEP will review permit application(s) and identify single and complete project(s) to determine if the application(s) is Reporting or Non-Reporting to the Corps. Threshold calculations to determine if a Corps review is required are based on the impacts of a single and complete project, and not on the overall project as utilized in the PASPGP-4. If an application consists of multiple single and complete projects, and any one of the single and complete projects requires a Corps review, then the entire application is sent to the Corps as a Reporting Activity, (Part V, (B)(3)).
7. Applications received by PADEP that depend on another application being reviewed by the Corps as a Reporting Activity to function and meet its intended purpose will be sent to the Corps as a Reporting Activity. Likewise, if PADEP receives a Reporting application which is dependent on a Non-Reporting application they are reviewing to function or meet its intended purpose, then both applications will be sent to the Corps as a Reporting Activity, (Part IV, (B)(16)).

The decision whether to issue the proposed PASPGP-5, with or without modifications, will be based on an evaluation of the probable impacts including cumulative impacts of the proposed PASPGP-5 on the public interest. That decision will reflect the national concern for the protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal will be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Federally recognized Native American Nations; and other interested parties in order to consider and evaluate the impacts of this proposed PASPGP-5. Any comments received will be considered by the Corps of Engineers to determine whether to issue with modifications, issue without modifications, or not issue PASPGP-5. To make this decision, comments are used to assess impacts on endangered species, cultural resources, water quality, general environmental effects, and the other public interest factors listed above. Comments will be used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA). Comments will also be used to determine the overall public interest of the proposed permit.

A Water Quality Certification is required, in accordance with Section 401 of the Clean Water Act, for any activity that would be authorized by PASPGP-5 and involves the discharge of

dredged and/or fill material into Federally regulated waters of the United States, including wetlands. Coastal Zone Certification is also required in accordance with the Pennsylvania Coastal Zone Program. The PADEP will be issuing a joint notice in the Pennsylvania Bulletin regarding issuance of 401 Water Quality Certification and Coastal Zone Consistency for activities authorized PASPGP-5 if issued.

A preliminary review of the PASPGP-5 indicates that processing procedures and conditions are sufficient such that authorized work will be not likely to adversely affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of the PASPGP-5 continues, additional information may become available which could modify this preliminary determination.

The PASPGP-5 is conditioned to assure that on a case-by-case basis, cultural resources listed in the latest published version of the National Register of Historic Places or properties listed as eligible or potentially eligible for inclusion therein will be given the consideration required by Section 106 of the National Historic Preservation Act.

To insure compliance with Executive Order 13175, the PASPGP-5 is conditioned such that the Corps will coordinate with Tribal Nations. Coordination shall be performed in accordance with the applicable Corps District's tribal coordination procedures.

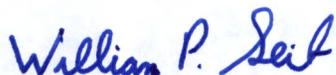
Section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278 et seq.) provides that no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. A preliminary review of the PASPGP-5 indicates that processing procedures and conditions are sufficient such that authorized work is not likely to have a direct and adverse effect on any designated Wild and Scenic River pursuant to the Wild and Scenic Rivers Act as amended. As the evaluation of the PASPGP-5 continues, additional information may become available which could modify this preliminary determination.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act 1996 (Public Law 104-267), requires all Federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). A preliminary review of the PASPGP-5 indicates that processing procedures and conditions are sufficient such that authorized work will likely result in no more than minimal adverse effects on EFH pursuant to the Magnuson-Stevens Fishery Conservation and Management Act as amended. As the evaluation of the PASPGP-5 continues, additional information may become available which could modify this preliminary determination.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act. Any person who has an interest which may be adversely affected by the issuance of this permit may request a public hearing. The request, which must be in writing, must be received by the District Engineer, U.S. Army

Corps of Engineers, Baltimore District, P.O. Box 1715, Baltimore, Maryland 21203-1715, within the comment period as specified above, to receive consideration. Also, it must clearly state forth the interest which may be adversely affected by this activity and the manner in which the interest may be adversely affected.

It is requested that you communicate the foregoing information to any persons known by you to be interested and not being known to this office who did not receive a copy of this notice. Questions and comments may be directed to Mrs. Patricia Strong, U.S. Army Corps of Engineers, Baltimore District, Pennsylvania Section, P.O. Box 1715, Baltimore, Maryland 21203. Comments are requested by October 29, 2015.



William P. Seib
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Baltimore District