



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

April 13, 2020

Operations Division

Ms. Denise Keehner, Program Manager  
Wetland and Waterway Program  
Maryland Department of the Environment  
1800 Washington Boulevard  
Baltimore, Maryland 21230

Dear Ms. Keehner:

I am writing in regard to the Chesapeake Bay Total Maximum Daily Load Regional General Permit (TMDL RGP), which is due to expire on June 30, 2020. On December 9, 2019, the U.S. Army Corps of Engineers issued Special Public Notice# 19-80, proposing to re-issue the TMDL RGP with modifications. The proposed, modified TMDL RGP would authorize activities in waters of the United States, including jurisdictional wetlands, which are part of an overall watershed strategy (e.g., Chesapeake Bay TMDL Watershed Implementation Plan (WIP)) for an additional five year period.

This letter serves as the Corps application for water quality certification (WQC) under Section 401 of the Clean Water Act for those TMDL RGP activities that would result in a discharge of dredged and/or fill material in waters of the United States within the State of Maryland. In addition, included in this letter is the Corps determination of Coastal Zone Management Act (CZMA) consistency, pursuant to Section 307(c)(1) of the CZMA for TMDL RGP activities within or affecting the coastal zone of the State of Maryland. A copy of the current draft of the TMDL RGP is enclosed.

By confirmation of this letter, I request your determination whether to issue, deny, or waive WQC for this TMDL RGP. With the inclusion of water quality-related general conditions Nos. 35, 36, 39 and 40, I believe the TMDL RGP meets Maryland water quality standards. Also, enclosed is documentation addressing the "Key Elements under Maryland Regulation for a Request/Application for a CWA 401 WQC." Applicants requesting Corps authorization under the TMDL RGP will apply through the Joint Permit Application process. Generally, I anticipate most projects proposed for authorization under the TMDL RGP will enhance water quality. However, I recognize in some cases you may need to require individual WQCs for some activities.

I ask for your final determination regarding WQC. As provided by Corps regulations at 33 CFR Part 325.2, your final determination on WQC for the TMDL RGP must be submitted within 60 days of this request. If a WQC certification is not issued or conditionally approved by that date, TMDL RGP permittees will be required to obtain an individual WQC or a case-specific WQC waiver.

I also ask for your final determination regarding CZMA consistency. As provided by applicable regulations at 15 CFR Part 930, your final determination on CZMA consistency for the TMDL RGP must be submitted within 90 days of this request. If you do not concur or object to CZMA consistency within 90 days, I will presume you agree with our CZMA consistency determination. As discussed in our public notice, the Corps does not believe actions undertaken under the TMDL RGP would have negative effects on the Coastal Zone. To the contrary, the TMDL RGP would help protect and preserve the State's coastal resources.

Please note the Corps will generally defer to the state regarding WQC and CZMA conditions. Any conditions of the WQC or CZMA become conditions of issued TMDL RGP authorizations. However, if the Corps believes conditions do not meet our permit conditioning policy at 33 CFR 325.4, the Corps may use its enforcement discretion regarding those conditions. Moreover, if a WQC or CZMA condition would impose an unacceptable level of additional work by the Corps, we will view the conditions as a denial without prejudice.

Thank you for your attention regarding this matter. I remain available to discuss issues or proposed conditions you may be considering for the TMDL RGP. I look forward to working with you in the near future. If you have any questions regarding this matter, please contact me at (410) 962-4562 or [daniel.p.swenson@usace.army.mil](mailto:daniel.p.swenson@usace.army.mil) or you may contact Ms. Erica Schmidt of my staff at (410) 962-6029 or [erica.schmidt@usace.army.mil](mailto:erica.schmidt@usace.army.mil).

Sincerely,

Dr. Daniel P. Swenson, D. Env.  
Chief, Regulatory Branch

Enclosures

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To identify how we can better serve you, we need your help. Please take the time to fill out our customer service survey at:

[http://corpsmapu.usace.army.mil/cm\\_apex/f?p=136:4:8845707609835](http://corpsmapu.usace.army.mil/cm_apex/f?p=136:4:8845707609835)