

3.20 WATERWAY AND 100-YEAR FLOODPLAIN (NONTIDAL WETLANDS AND WATERWAYS PERMIT)

- ❑ *Question: Does your project require work to be performed in a waterway or a 100-year floodplain?*

Why do I need this approval?

Waterway construction regulations assure that activities in a waterway or its floodplain do not create flooding on upstream or downstream property, maintain fish habitat and migration, and protect waterways from erosion. Authorization is required for construction or repair of the following projects in a waterway or a 100-year floodplain:

- Dams and reservoirs
- Bridges and culverts
- Excavation, filling or construction
- Channelization
- Changing the course, current or cross-section of any stream
- Temporary construction (e.g. utility lines)
- Any other similar project.

Ponds and dams require a separate review. See Dam Safety.

What laws or regulations give MDE the legal authority to issue this approval?

STATE: Environment Article, §§1-404, [5-501—514](#), Annotated Code of Maryland;

COMAR [26.17.04](#)

What is the process to get this approval?

1) Complete a "[Joint Federal/State Application for the Alteration of any Floodplain, Waterway, Tidal or Nontidal Wetland in Maryland](#)" application.

2) Mail the original plus six (6) copies of the application, plans, vicinity maps and any supporting documentation to:

Regulatory Services Coordination Office (RSC)
MDE, Water & Science Administration
Washington Boulevard, Suite 430
Baltimore, Maryland 21230-1708

For applications that require a \$750 application fee, the application fee along with a copy of the first page of the application should be sent to:

MDE
PO Box 2057
Baltimore, Maryland 21203-2057

3) Upon receipt of the application package, the RSC will enter and screen the application and will forward the application to the appropriate Divisions and governmental agencies. The RSC receives applications for the Nontidal Wetlands Division, Tidal Wetlands Division, Waterway Construction Division, and the Dam Safety Division of the Maryland Department of the Environment, as well as the U.S. Army Corps of Engineers. The Department conducts the application review in cooperation with local, State and federal agencies.

4) Depending on the nature of the project, it may be advertised for comment and an opportunity for a public informational hearing. The applicant may be required to notify adjacent property owners.

5) The Department may perform a site evaluation.

6) At the conclusion of the review process, the Department will make a decision on the application. Upon receipt of final construction plans, a permit, authorization to proceed or letter of authorization may be issued by the Department.

WATER QUALITY CERTIFICATION

A State Water Quality Certification (WQC), which insures the protection of waters of the State, is necessary for activities requiring a U.S. Army Corps of Engineers Section 404 permit. When an activity is approved by a nontidal wetlands and waterways authorization (3.19 and/or 3.20), the WQC is incorporated into that authorization. When an activity is exempt from the requirement to obtain a nontidal wetlands and waterways authorization, an individual WQC is issued by the Department.

Is this approval directly related or contingent on other approvals?

Erosion/sediment control and stormwater management plan approvals; Local building permits, and FEMA National Flood Insurance Program (NFIP) requirements.

Are there any other requirements?

A person is required to obtain a permit from the Department in order to change the course, current, or cross-section of a nontidal stream or body of water,

including the 100-year floodplain. Activities are evaluated for impacts on the floodplain, public safety and welfare, and natural resources. An engineering analysis is required for bridges, culverts, filling, and other construction. In addition, environmental impacts associated with the proposed project, including impacts to nontidal wetlands, in-stream fisheries, wildlife, endangered species and their critical habitat, and alternatives to reduce or eliminate adverse impacts are required to be submitted with the application. Site location and design criteria are contained in the regulations.

How long should I expect it to take to get this approval once I submit a complete application?

Type of Project *	Turnaround Time
Minor projects	6 months (180 days)
Major projects	12 months (360 days)

* Minor Projects: Projects that involve: minor repair or maintenance; temporary construction; clearing and grading activities in the 100-year floodplain that involve less than 100 cubic yards of disturbance; or, minor changes or modifications to existing permits. Minor projects are not placed on public notice.

Major Projects: Projects that propose permanent impacts to: construct, reconstruct a reservoir, dam or other waterway obstruction; construct a waterway; or permanently impact more than 5,000 square feet of the 100-year floodplain. Major projects are placed on public notice.

Once I get this approval, how long will it last?

Permits may be issued for a maximum of five years and may be extended. Construction must be initiated within two years.

Is there a fee?

Yes, refer to our website for more information.
<https://mde.maryland.gov/programs/Water/WetlandsandWaterways/Documents/FeeSchedule.pdf>

Do I need to know any additional information?

Contact the Department at (410) 537-3456 for technical assistance and guidance on the preparation of a complete application. For permit application status, call 1-800-633-6101.

Who do I contact with additional questions?

William Seiger, Chief
Waterway Construction Division
William.Seiger@maryland.gov
(410) 537-3821