

Nontidal Wetlands Regulations *and Agriculture*



Maryland Department of the Environment

How is agriculture affected by the regulations?

Agricultural activities include aquaculture and farming activities such as plowing, tillage, planting, cultivating, grazing and harvesting for productions of food and fiber products (excluding forest products).

These activities do not require permits, but must incorporate best management practices into an approved soil conservation and water quality plan. The plan must be consistent with the regulations if the activity occurs in a nontidal wetland not previously used for agriculture. The regulations became effective January 1, 1991.



Which agricultural activities are exempt from the regulations ?

- Any ongoing agricultural activities conducted in accordance with public drainage regulations
- Any new agricultural activity that is not in a nontidal wetland
- Changing from one agricultural activity to another, provided that additional nontidal wetlands are not converted
- Agricultural activities on areas that have lain fallow for any reason. The exemption may not apply if agricultural activities have not taken place for five consecutive years
- Agricultural activities in nontidal wetlands that were under a set-aside program, provided that activities resume within five years after the expiration of the time limit specified in the set aside contract
- Agricultural activities having a minimal impact on forested wetlands provided the wetland is not converted to upland by filling, dredging or drainage; the tree canopy is maintained, and water quality is not degraded
- Agricultural activities impacting isolated nontidal wetlands less than one acre in size or less than 5,000 square feet of wetland, if the wetlands have no significant plant or wildlife value
- Repair and maintenance of structures used for agriculture

What are best management practices (BMP's)?



Best Management Practices:

- Control soil loss
- Reduce water quality degradation of nontidal wetlands

Examples of BMP's include filter strips, field borders, conservation cropping sequences, nutrient and pesticide management, and irrigation water management.

What are the requirements if nontidal wetlands are lost due to agricultural activities ?

Mitigation or monetary compensation is required for losses of nontidal wetlands due to agriculture. Mitigation includes creation, restoration and enhancement of nontidal wetlands. Monetary compensation may be accepted in lieu of mitigation only when the Maryland Department of the Environment (MDE) determines mitigation is not a feasible alternative. The benefits provided by bmp's are considered by MDE when determining the extent of mitigation. Mitigation may be deferred when the Secretary of the Department of Agriculture determines that mitigation would cause an economic hardship.

The farmer shall submit annual monitoring reports for five years from the completion of the construction of the mitigation project, unless they receive written notice from MDE that the monitoring requirements have been fulfilled in less than five years.

What is the procedure for conducting agricultural activities in nontidal wetlands ?

In order to conduct activities in nontidal wetlands a farmer must:

1. Contact the Soil Conservation Service (SCS) to identify or verify the extent of nontidal wetlands.
2. Submit a soil conservation and water quality plan with bmp's to the NRCS for approval before beginning the activity.
3. Submit the mitigation components of the soil conservation and water quality plan to MDE, Wetlands and Waterways Program, Regulatory Services Coordination Office. 60 days from receipt, MDE shall determine whether or not the mitigation component is consistent with the regulations.
4. Receive NRCS approval of a soil conservation and water quality plan that is consistent with the regulations.



Is more information available ?

The following brochures and information sheets are available, free, from the Water and Science Administration, Nontidal Wetlands & Waterways Division, 1800 Washington Blvd. Baltimore, MD 21230, (410) 537-3768.

- Nontidal Wetlands Regulations and Agriculture
- Nontidal Wetlands Regulations and Aquaculture
- Nontidal Wetlands Regulations and Forestry
- Nontidal Wetlands Regulations and Development Activities
- Nontidal Wetlands Regulations and the Property Owner
- Nontidal Wetlands Regulations and Mitigation
- Nontidal Wetlands Regulations and Mitigation Bonding
- Nontidal Wetlands Classifications
- The Values of Nontidal Wetlands
- The Nontidal Wetlands Protection Program
- Nontidal Wetlands of Special State Concern
- Nontidal Wetlands Documents
- Are There Wetlands On My Farm?
- How to Recognize a Nontidal Wetland
- Are There Wetlands On My Property? - A Guide For the Developer