

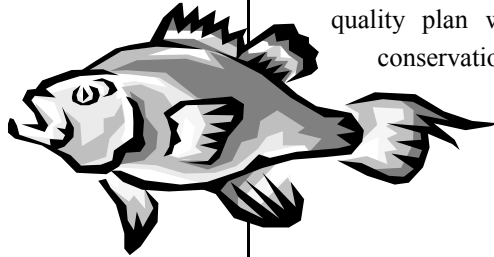
Nontidal Wetlands Regulations *and Aquaculture*



Maryland Department of the Environment

What is aquaculture ?

Aquaculture is the production of aquatic plants or animals as part of a recognized commercial enterprise. Maryland farmers are successfully raising finfish, shellfish and various aquatic plants for different purposes.



How is aquaculture affected by the regulations ?

Since aquaculture is recognized as an agricultural activity, aquaculture does not require a nontidal wetlands permit from the State. However, a prospective aquafarmer may need to satisfy other requirements of the Nontidal Wetlands Protection Regulations. If aquaculture is planned in nontidal wetlands that were not previously used for agriculture, the aquafarmer must implement best management practices (bmp's) to protect nontidal wetlands and provide mitigation for any loss of nontidal wetlands. This is achieved through the development of a soil conservation and water quality plan which is submitted to and approved by a local soil conservation district after December 31, 1991.

When is aquaculture exempt from the regulations ?

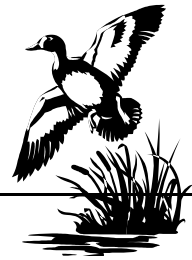
- Any new aquacultural activity that is not in a nontidal wetland.
- Changing from another agricultural activity to aquaculture, provided that additional nontidal wetlands are not converted.
- Aquaculture activities on areas that have lain fallow for any reason. The exemption may not apply if agricultural activities have not taken place for five consecutive years.
- Aquaculture 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.
- Aquaculture activities having a minimal impact on forested wetlands, provided the wetland is not converted to upland by filling, dredging or drainage; the tree canopy if maintained and water quality is not degraded.
- Aquaculture 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. The local Soil Conservation District makes this determination and notifies the Maryland Department of the Environment (MDE). MDE either verifies or rejects the determination within 60 days of notification.
- Repair and maintenance of structures used for aquaculture.

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

Mitigation or monetary compensation is required for losses of nontidal wetlands due to aquaculture. 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 aquafarmer 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 aquacultural activities in nontidal wetlands ?

In order to conduct aquaculture activities in nontidal wetlands, a person must:

1. Meet with the Aquaculture Office of the Maryland Department of Agriculture to develop a plan for the proposed aquaculture operation.
2. Location of the facility is an important consideration when planning ponds or structures for aquaculture. The following locations minimize nontidal wetland adverse impacts in decreasing order of preference: uplands, isolated farmed nontidal wetlands, other farmed nontidal wetlands, emergent nontidal wetlands, scrub-shrub nontidal wetlands and forested nontidal wetlands. Contact the Soil Conservation District (SCD) to determine site suitability and to delineate or verify the extent of nontidal wetlands on your property.
3. Prepare and submit a soil conservation and water quality plan with best management practices to the SCD for approval before beginning the activity.
4. Submit the mitigation components of the soil conservation and water quality plan to MDE Nontidal Wetlands & Waterways Division. Within 60 days of receipt, MDE shall determine whether or not the mitigation component is consistent with the regulations.
5. Receive SCD approval of the soil conservation and water quality plan which is consistent with the regulations.
6. Construct the mitigation project or obtain a surety bond which guarantees the construction of the mitigation project.
7. Obtain an Aquaculture Permit from the Tidewater Administration of the Department of Natural Resources. The purpose of the Aquaculture permit is to provide protection of the aquaculturist against disease, environmental losses, and protection of public resources and other wildlife resources. They are also used to monitor the success and impact of the industry.
8. Obtain all other necessary State and federal permits (Army Corps of Engineers) before beginning construction.