

Nontidal Wetlands Regulations *and Mitigation Bonding*



Maryland Department of the Environment

What is mitigation?

Mitigation is the creation, restoration, or enhancement of, nontidal wetlands that were, or will be lost, due to regulated or agricultural activities. Creation is the establishment of nontidal wetlands on an upland site. Restoration is establishing nontidal wetlands on former nontidal wetlands sites. Enhancement is the additional protection of, or functional improvement of a nontidal wetland.



Maryland has adopted the goal of achieving no net loss of its nontidal wetland resources. Thus, any loss of nontidal wetlands after December 31, 1990, regulated under state law, must be offset by mitigation. The Department of the Environment (MDE) may accept monetary compensation if it determines that mitigation is not a feasible alternative.

Why is a mitigation bond required ?

A mitigation bond is required to insure that a mitigation project is satisfactorily completed. If construction of the mitigation project is not satisfactorily completed, the mitigation bond may be forfeited, and the Department will use the bond money to complete the project.

Who has to get a mitigation bond ?

Anyone who is required by the Department to mitigate for the loss of nontidal wetlands caused by a regulated activity or agricultural activity must file a mitigation bond, or other form of security, with the Department. Government agencies are not required to file mitigation bonds.

Mitigation bonds are also not required when a permittee or person conducting an agricultural activity fulfills their mitigation requirements before initiating the permitted activity or before the soil conservation and water quality plan is approved.

What other kinds of security are acceptable, other than a mitigation bond ?

Any one of the following kinds of security are acceptable:

1. A deposit of cash or negotiable bonds of the U.S. Government.
2. A certificate of deposit.



How do I get a bond ?

You can apply for a mitigation bond with an insurance agent who handles what are called "surety bonds." You can contact your bank for information on certificates of deposit and letters of credit. The Department has a list of surety agents and samples of acceptable forms for bonds, cash deposits, certificates of deposit, and irrevocable letters of credit available for your use.

When is the bond released ?

The Department will release the bond when it determines that the mitigation project has been successfully completed according to the approved mitigation plan.

How is the amount of the bond, or other kind of security, determined ?

The amount of the bond is \$20,000 per acre of nontidal wetland mitigation required under the permit or soil conservation and water quality plan. For example, if you are required to mitigate for the loss of two acres of emergent nontidal wetlands, you must file a bond, or other type of security, for \$40,000. The premium amount of the bond or fee charged by a lending institution or surety may vary. You will need to check with your insurance agent for bond rates. Generally, the premium on a permit bond is approximately 1% of the bond amount. In this example, the cost for a bond could be as low as \$400.

Can this amount be reduced by the Department ?

Yes. You can make a written request to the Department to reduce the bond amount. The Department will determine whether a lesser amount would be sufficient to cover the cost of mitigation in your particular case, taking into account the number of acres to be mitigated, the cost of land, the likelihood of success of the project, and any other relevant factors.



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 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? -