

Nontidal Wetlands Regulations *and Development Activities*



Maryland Department of the Environment

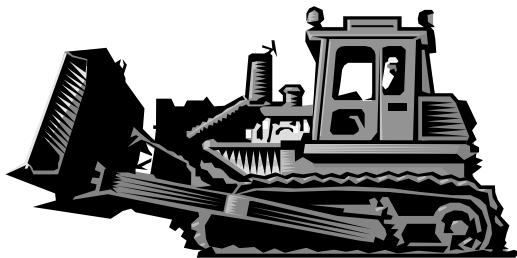
Which activities require a nontidal wetlands permit ?

Development activities in nontidal wetlands, 25-foot buffer or 100-foot expanded buffer, require permits, letters of exemption, or are exempted based on the degree of impact and type of nontidal wetland.

Development activities that will require permits and must fulfill mitigation requirements include:

- Filling
- Destroying or removing vegetation
- Changing existing drainage patterns
- Grading
- Excavating or dredging
- Disturbing the water level or water table

These activities are only regulated in farmed nontidal wetlands which are inundated for 15 or more consecutive days during the growing season.



The buffer may be expanded to 100 feet for steep slopes, highly erodible soils, or nontidal wetlands of special state concern. All nontidal wetland sites with 100-foot buffers have been designated by regulation, and are mapped on the nontidal wetlands guidance maps.

Which development activities are exempt from nontidal wetlands permits ?

Agricultural and forestry activities are not development activities and will not require permits, but must incorporate best management practices into soil conservation and water quality plans, and erosion and sediment control plans respectively. These plans are reviewed and approved by local Soil Conservation Districts.

Development activities that have minimal impacts on nontidal wetlands and are exempt from nontidal wetlands permit requirements include:

- Maintenance activities that do not drain, dredge, fill or convert additional nontidal wetlands
- Mowing or other forms of vegetation control in existing rights of way
- Construction of additions, outbuildings and accessories to existing structures within a landscape management area which impacts less than 1,000 square feet of nontidal wetlands
- Landscape management in nontidal wetlands, 25-foot buffer, or 100-foot expanded buffer
- Soil investigations
- Percolation tests
- Survey markers or survey monuments
- Other similar activities with minimal adverse impacts as approved by the Department of the Environment (MDE)

Which development activities require a Letter of Exemption ?

Development activities which require a letter of exemption from the Department of the Environment (MDE) are exempt from the permit and mitigation requirements of the Nontidal wetlands Regulations if the conditions of the Letter of Exemption are met. Activities that will require only a Letter of Exemption include:

(continued...)



- Repair of serviceable water control structures
- Activities in isolated nontidal wetlands of less than one acre and having no significant plant or wildlife value.
- Activities having a cumulative loss of less than 5,000 square feet of nontidal wetlands, and 25-foot buffer, containing no significant plant or wildlife value
- Installation of overhead and underground utility lines
- An entire and complete project that impacts less than two acres of farmed nontidal wetlands given that the nontidal wetlands are inundated for 15 or more consecutive days during the growing season.

What are the steps required to get a nontidal wetlands permit ?

First, the joint federal and state application is obtained from MDE's, Water and Science Administration. The application must be completed by an applicant and submitted to the Regulatory Services Coordination Office. The application will require submittal of information such as, site plans and a description of measures used to avoid and minimize losses of nontidal wetlands.

The Nontidal Wetlands Division will notify the applicant, within 45 days, if the application is complete. A Letter of Authorization can be issued within 21 days after this date, providing the project qualifies. When a permit is required, the Nontidal Wetlands & Waterways Division will issue a public notice which provides the public opportunity to submit written comments or request a public hearing. If requested, a public hearing will be held. The Wetlands & Waterways Program will grant, deny or issue a permit with conditions, within 60 days of determining that an application is complete, or within 45 days of a public hearing.

What are the criteria for reviewing nontidal wetlands permits ?

The following criteria will be used in reviewing permit applications:

- Is the activity water dependent and does it require access to a nontidal wetland as a central element of its basic function ?
- Do practicable alternatives exist ?
- Does the activity avoid and minimize impacts to nontidal wetlands ?
- Does the activity cause or contribute to degradation of groundwater or surface water?
- Is the activity consistent with any applicable comprehensive watershed management plan that has been approved by MDE ?



What is required if the project results in the loss of nontidal wetlands ?

The applicant will be required to mitigate nontidal wetlands that are destroyed. Mitigation is the creation, restoration or enhancement of nontidal wetlands. In order to meet mitigation requirements the following steps must be followed by an applicant:

Step 1: Submit a mitigation plan or monetary compensation proposal for review and approval. (Monetary compensation may be accepted if it is determined that mitigation is not feasible).

Step 2: Submit a mitigation bond to MDE. Bond is released after the mitigation project has been successfully constructed.

Step 3: Implement the approved mitigation plan.

Step 4: Monitor and report annually on the mitigation project for five years.

Step 5: Protect the mitigation project site in perpetuity.