

3.19 NONTIDAL WETLANDS (NONTIDAL WETLANDS AND WATERWAYS PERMITS)

- ❑ *Question: Does your project require work to be performed in a nontidal wetland or the nontidal wetland buffer?*

Why do I need this approval?

Nontidal wetlands are commonly known as marshes, swamps, bogs, wet meadows and bottomland forests. They are inland, freshwater areas usually covered or saturated with water for long periods during the growing season. Nontidal wetlands help protect the Chesapeake and Coastal Bays and streams by filtering phosphorus, nitrogen, and other pollutants from upland runoff. They form natural flood retention areas able to store floodwater and slowly release them downstream, reducing flood damages. Nontidal wetland vegetation helps stabilize streambanks and reduce streambank erosion. They also provide habitat for fish and wildlife, including many rare, threatened and endangered species, and organic material for the food chain. Nontidal wetlands are also areas of scenic beauty and provide recreational opportunities.

The goal of the Nontidal Wetlands Division is to manage nontidal wetlands and to provide essential resource protection by authorizing only necessary and unavoidable impacts. To accomplish this goal, the following activities are regulated by the Department:

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

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

STATE: Environment Article Title 5, Subtitle [5-901 through 5-911](#), Annotated Code of Maryland;

[COMAR 26.23](#).

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
1800 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. If requested, a public informational hearing is conducted by the Department.

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 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 for a nontidal wetlands and waterways authorization, 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?

Chesapeake Bay Critical Area Protection Program; Erosion/sediment control and stormwater management plan approvals; and Local building permits.

Are there any other requirements?

An authorization is required for any activity that alters a nontidal wetland or its 25-foot buffer. The 25-foot buffer is expanded to 100-feet for wetlands of special State concern as defined in COMAR 26.23.06. Applicants are required to demonstrate that proposed impacts to nontidal wetlands are

necessary and unavoidable. The application review process first assesses the project need, and then whether impacts can be avoided. For impacts that cannot be avoided, opportunities for minimization of impacts are evaluated. An alternatives analysis is required for major projects may be required as part of this process. Mitigation is required for all authorized impacts. Wetland mitigation monitoring is required and will extend beyond construction of an approved mitigation project.

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 Project: Generally, projects that involve permanent impacts of less than 5,000 square feet to nontidal wetlands, or less than one acre of isolated nontidal wetlands. These projects do not require an alternative site analysis, public notice or mitigation by the applicant.

Major Project: Projects with permanent impacts to nontidal wetlands equal to or greater than 5,000 square feet; or projects with less than 5,000 square feet but within the Critical Area, a Nontidal Wetland of Special State Concern, or within a Use III or IV watershed. An alternative site analysis, public notice, including the opportunity for the public to request a public informational hearing, and mitigation by the applicant are required.

Once I get this approval, how long will it last?
Maximum of five years and may be extended for an additional five years.

Is there a fee?

Yes, refer to our website for more information.
<http://mde.maryland.gov/programs/Water/WetlandsandWaterways/Documents/Fee-Schedule-July2017.pdf>

Do I need to know any additional information?

Contact the Department at (410) 537-3571 for technical assistance and guidance on the preparation of a complete application. For permit application status call (410) 537-3762 or 1-800-876-0200.

Who do I contact with additional questions?

Amanda Sigillito, Chief
Nontidal Wetlands Division
Amanda.Sigillito@maryland.gov
(410) 537-3766