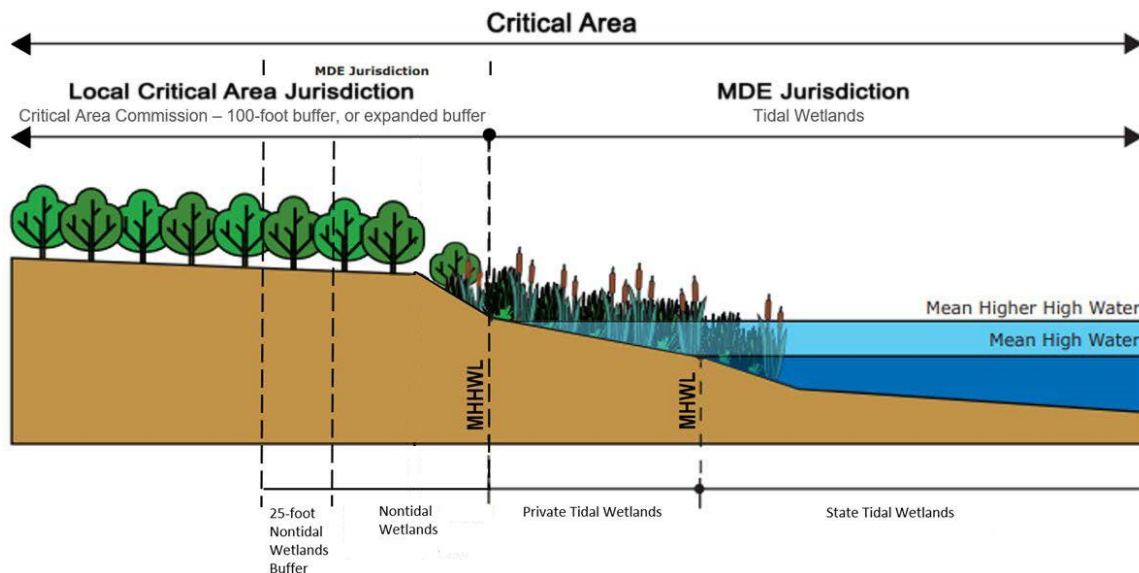




Maryland
Department of
the Environment



Regulatory Authorities in Maryland's Critical Area



MDE Jurisdiction

The Maryland Department of the Environment Tidal Wetlands Division ("MDE") regulates most dredging, filling or construction activities conducted in, on, over, or under state and private tidal wetlands. State tidal wetlands are held in a proprietary capacity, in trust for the benefit of the people of Maryland. State tidal wetlands include all lands beneath tidal waters up to the Mean High Water Line (MHWL; i.e., average high tide elevation). The MHWL may be delineated by surveying for surface elevations, or inferred from indicators such as rack lines, water staining, barnacle lines, and changes in vegetation composition.

All tidal wetlands which are subject to regular or periodic tidal actions and support aquatic growth (i.e., wetland vegetation) occurring landward of the MHHWL are considered private tidal wetlands. Private tidal wetlands are privately-owned but are still regulated by MDE. The landward extent of private tidal wetlands is typically consistent with the landward extent of tidal wetland vegetation. However, if their extent is not obvious from the vegetative community, it may be delineated by finding the elevation of the Mean Higher High Water Line (MHHWL), which is the average of the higher high water height of each tidal day observed over the national tidal datum epoch, including a spring tide. The average mean higher high water elevation can be found using a NOAA tide station or delineated on site. The on-site delineation of the MHHW line in conjunction with identifying the landward extent of tidal vegetation will identify those wetlands that lie landward of the MHWL and channelward of the MHHWL as private tidal wetlands.

State and private tidal wetlands are regulated similarly; however they require different types of authorizations for proposed impacts. Some impacts to state tidal wetlands require direct authorization by the MD Board of Public Works, while all private tidal wetlands are authorized by MDE.

Additionally, nontidal wetlands landward of the MHHWL that are regularly or periodically influenced by tidal waters can be classified as having significant plant or wildlife value and any impacts would require a nontidal wetlands permit and mitigation.

The MHHW delineation method identifies existing field conditions of tidal and nontidal wetlands and in many cases will minimize the extent of area regulated as nontidal wetlands. Any impacts to regulated nontidal wetlands and 25-foot nontidal wetlands buffer further landward would need to receive an authorization or a permit.

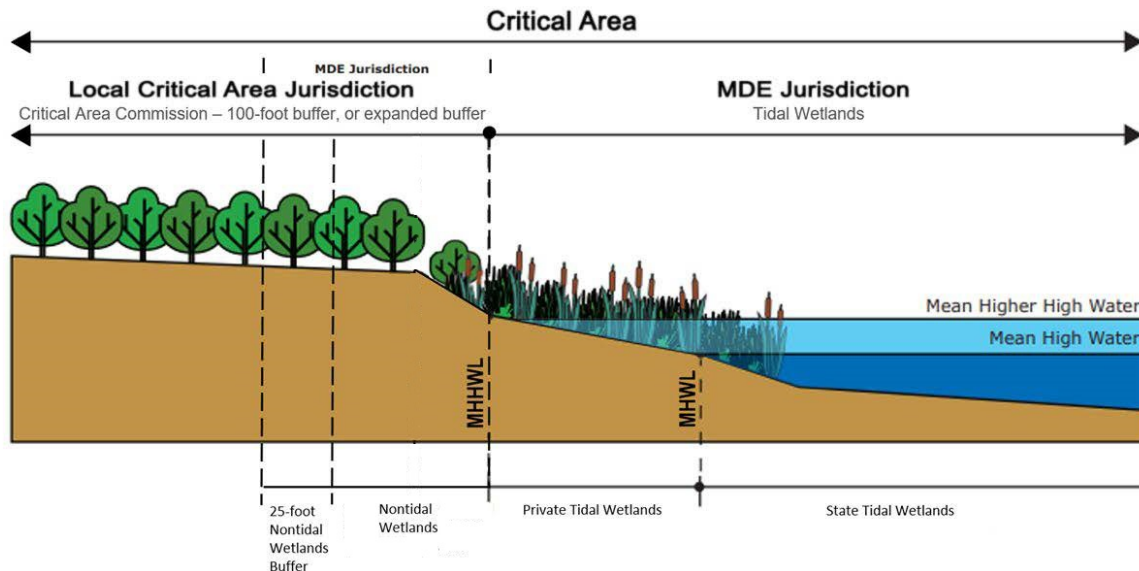
For more information, please visit <https://mde.maryland.gov/programs/water/wetlandsandwaterways/pages/index.aspx>



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Regulatory Authorities in Maryland's Critical Area



Critical Area Jurisdiction

Maryland's Critical Area is often considered to be just the first 1,000-foot strip of land adjacent to tidal waters. However, under [Natural Resources Article 8-1807](#), the Critical Area is defined as all waters of and lands under the Chesapeake and Atlantic Coastal Bays, including state and private tidal wetlands, to the head of tide; as well as all land and water within 1,000 feet of the landward boundaries of state and private tidal wetlands and the heads of tide. While the Critical Area by definition includes state and private tidal wetlands, as well as tidal waters and lands under tidal waters, the Maryland Department of Environment (MDE) regulates and authorizes activities within these areas. Please see the reverse side of this fact sheet for more information on acquiring appropriate authorizations from MDE.

The Buffer

An important component of the Critical Area law is the regulation and protection of the [Buffer](#), which is established to be an area of natural vegetation to protect a stream, tidal wetland, tidal waters, or terrestrial environment from human disturbance. The Buffer is defined as the area immediately landward from the mean high water of tidal waters, the edge of each bank of a tributary stream, or the landward boundary of a tidal wetland—regardless of whether that wetland has been determined to be state or private. The Buffer is measured to a minimum of 100-feet and is expanded for contiguous sensitive areas such as hydric soils, highly erodible soils, nontidal wetlands, and steep slopes.

Disturbance in the Buffer is generally prohibited. However, authorization for Buffer disturbance may be permitted by a local jurisdiction for development associated with a water dependent facility under COMAR 27.01.03, for development within a Modified Buffer Area, and for development associated with riparian access or shoreline stabilization. Any other proposed development within the Buffer requires a variance authorization from the local jurisdiction. For any development activity proposed on a lot or parcel with a Buffer, including shore erosion control activities, a field delineation of the Buffer is required by the property owner. Additional information on the Critical Area Buffer may be found [here](#).

Coordination with Local Critical Area Programs

The Critical Area law guides how and where development occurs within the 1,000 foot landward boundary through the establishment of County or Town Critical Area programs, which are approved by the Critical Area Commission. Each local jurisdiction uses its own Critical Area Program to implement and enforce the State Critical Area Law and Regulations. Because of this, there can be variations between local Critical Area programs, so it is important to coordinate closely with local jurisdictions when proposing development within the Critical Area to ensure appropriate authorizations and permits are acquired. Contact information for your local Critical Area program may be found [here](#).

For more information about the Critical Area, please visit the Commission's [website](#).