

# Nontidal Wetlands Regulations *and the Property Owner*



Maryland Department of the Environment

## Is my lot affected by state and federal nontidal wetlands regulations ?

Yes, if nontidal wetlands are located on your property and you want to build a home, driveway or make other improvements.

Since January 1, 1991 the Maryland Nontidal Wetlands Protection Act has required a state nontidal wetlands permit or letter of authorization from the Nontidal Wetlands & Waterways Division for activities in a nontidal wetland or within a 25-foot buffer or 100-foot expanded buffer around a nontidal wetland.

You may also need a federal permit, too. However, only one application is necessary and may be submitted to the Maryland Department of the Environment (MDE), which will forward it to other agencies if necessary.



## If nontidal wetlands are on my lot, is it still buildable ?

Yes, if you obtain a nontidal wetlands letter of authorization or permit under state or federal law or if your activity is exempted by regulation.

## Under what conditions are nontidal wetlands permits granted?

- For both state and federal law, the same general requirements apply:
- Practical alternatives to building in a nontidal wetlands do not exist
  - The activities avoid and minimize impacts to nontidal wetlands
  - The activities will not cause or contribute to degradation of ground water or surface water

## How can I avoid and minimize impacts to nontidal wetlands?

A lot owner can avoid and minimize impacts to nontidal wetlands by maximizing the use of available uplands (non-wetlands, if any) for construction. In addition, the size or design of a house, driveway or lawn could be modified to reduce impacts (e.g. minimize extent of fill for a lawn, and removal of vegetation) to nontidal wetlands.



## When must I apply for a nontidal wetlands permit ?

Prior to any grading, filling, clearing, or construction on the lot.

## If I have local building permits, do I also need a nontidal wetlands permit ?

Yes.

## How do I apply for a permit ?

Joint state and federal applications are available from MDE's Water and Science Administration, Nontidal Wetlands and Waterways Division. The application must be completed and submitted to the Regulatory Service 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.

After submitting a complete application to MDE, a Letter of Authorization may be issued if the total impact to nontidal wetlands is less than 5,000 square feet and there is no significant plant or wildlife value.

The total impact would include structures, grading, clearing, filling or other associated improvements. A 5,000 square-foot area is large enough in most instances to allow for the construction of a single family home typically found in subdivisions served by public water and sewer systems.

A Letter of Authorization may be issued for activities in isolated wetlands of less than one acre and having no significant plant or wildlife. The Nontidal Wetlands & Waterways Division will determine if the lot has significant plant or wildlife value.

## Do I need a permit to sell my lot ?

**No.** A nontidal wetlands permit is required only when you are planning to build on the lot in a way that affects nontidal wetlands. Selling a lot does not, in and of itself, affect nontidal wetlands.



## Must I delineate wetlands on my lot before I sell it ?

A wetlands delineation is not required in order to sell property under state or federal wetlands law. Whether a wetlands delineation should be done is up to you and the prospective buyer.

## How can I tell if there are nontidal wetlands on my lot ?

Some nontidal wetlands are easily identified by observation. They may have water on the surface for most of the year and support familiar plants such as cattails. Many wetlands are quite difficult to distinguish from upland areas. They may have surface water or high ground water for only brief periods during the spring, and have plants that are found in many wooded areas.

Lot owners who want to be certain whether nontidal wetlands are on their property should consult a professional to do a field survey to identify wetlands. The consultant should identify wetlands according to a technical manual published by the federal government called the Corps of Engineers Wetland Delineation Manual.

The following information sources may be helpful to the property owner who would like to know more about whether wetlands exist on his lot:

**(a)** Soil surveys of your area are available at your local Natural Resources Conservation Service (NRCS) office, MDE in Annapolis, or your local library.

Soil described as poorly or very poorly drained, swamp, peat, or mixed alluvial are usually "hydric soils" (one of the three important characteristics of nontidal wetlands.) A list of hydric soils is also available at your county Natural Resources Conservation Service office or from MDE in Annapolis (410) 974-3841.

**(b)** The Corps of Engineers Wetland Delineation Manual which is available at \$26.00 a copy (plus \$3.00 shipping and handling per order) from:

National Technical Information Service  
285 Port Royal Road  
Springfield, VA 22161 (703) 487-4650  
Stock No. ADA 176734

**(c)** National Wetlands Inventory Maps. (for Maryland)  
Available on CD-ROM.

Cost: \$25.79/each.

Or, visit the NWI internet site at:  
<http://www.nwi.fws.gov/nwi.htm>

## Is more information available ?

Several brochures and fact sheets are available to assist property owners in identifying nontidal wetlands. 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 Regulations and Mitigation Bonding
- Nontidal Wetlands Classifications
- The Values of Nontidal Wetlands
- The Nontidal Wetlands Protection Program
- Nontidal Wetlands of Special State Concern
- Nontidal Wetlands Documents
- How to Recognize a Nontidal Wetland