



MARYLAND

Original Wetland Acreage	Remaining Wetland Acreage	Acreage Lost	% Lost
1,650,000	440,000	1,210,000	-73%

Maryland Wetlands: Palustrine wetlands comprise most of the wetlands in Maryland and the District of Columbia, followed by estuarine wetlands.

Summary	Individual Features	Regulation	Water Quality Standards	Mitigation	Monitoring and Assessment	Restoration	Public/Private Partnerships
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SUMMARY

Overall Program

Maryland comprehensively regulates both coastal and freshwater wetlands pursuant to a series of statutes. There are also numerous non-regulatory programs for wetland planning, preservation, and restoration, as well as other initiatives that include wetland conservation as part of overall ecosystem management. These initiatives include a goal for the voluntary restoration of 60,000 acres of wetlands, commitments under the Chesapeake Bay Agreement and Comprehensive Conservation and Management plan for the Maryland Coastal Bays.

Innovative Features and New Programs/Initiatives

The State has received a revised "state general permit" from the U.S. Army Corps of Engineers (Corps). The state receives, distributes, and tracks all applications for all state and federal wetland regulatory approvals. A State wetland conservation plan is under development to develop a comprehensive and integrated approach to wetland management. There is extensive tracking of voluntary wetland restoration projects.

State Wetland Conservation Plan

A State Wetland Conservation Plan was completed in 2002.

No Net Loss/Net Gain Goal

The goal is part of the nontidal wetland statute and regulations, and in tidal wetland regulations.

INDIVIDUAL FEATURES:

Regulation

Wetland Regulatory Statutes and Administrative Rules

All wetlands in Maryland are regulated under various State statutes:

Tidal Wetlands Act. Environment Article, Ann. Code of Maryland, sec. 16-101-16-503: Permits are required for filling or dredging in private tidal wetlands from the Maryland Department of Natural Resources (DNR); licenses are required for filling or dredging state-owned wetlands from the Board of Public Works.

Nontidal Wetlands Act. Environment Article Ann. Code of Maryland, sec. 5-901-5—911: Permits required for activities, which alter nontidal wetlands and a 25-foot buffer area. Regulations effective January 1, 1991 (COMAR 26.23.01-06.).

Chesapeake Bay Critical Area Act. Natural Resources Article, Ann. Code of Maryland, sec. 8-1808: Local jurisdictions must adopt zoning regulations for lands within 1000 feet of the Chesapeake. Tidal and freshwater wetland areas, among other natural resource features, are managed as “habitat protection areas.”

Water Pollution, Environmental Article, sec. 9-313—9-316, 9-319, 9-320, and 9-325, Ann. Code of Maryland: Contains water quality standards and 401 certification provisions. The state has adopted Section 401 Water Quality Certification Program. Certifications are integrated in reviews of activities under tidal and nontidal wetland permit applications.

“Water Quality Performance Standards” are required to be met through nontidal wetland regulations.

Wetland Definition and/or Delineation; Comparability With Federal Definition

The Federal Section 404 definition of wetland is the adopted reference in the Nontidal Wetland Act and regulations.

“State” tidal wetlands are lands below the mean high tide affected by the rise and fall of the tide. “Private” wetlands include lands bordering on or lying beneath tidal waters, which is subject to regular or periodical tidal action and supports aquatic growth.

Evaluation Methodology

Best professional judgment is used for small projects. A combination of the New Hampshire method and Evaluation of Planned Wetlands is used by State Highway Administration. No approved HGM models are in use in Maryland.

Regulated and Exempted Activities

Tidal Wetlands Act: Filling and dredging on state or private wetlands are regulated.

Exemptions for state and private wetlands include drainage of agricultural land, dredging of seafood products, mosquito control activities, and repair of existing shore erosion control structures.

Property rights for state wetlands include exercise of riparian rights, reclamation of “fastland”, and protection of property from erosion.

Nontidal Wetlands Act: Agriculture and forestry activities are exempt. Maintenance of serviceable structures and fills, perk tests, mowing existing rights-of-way and other minor activities are exempt. All other alterations are regulated.

Special Provisions for Agriculture and Forestry

Yes. Both agriculture and forestry are regulated under the Nontidal Wetlands Act but no permits are required. Mitigation is required for new agricultural activities. Both agriculture and forestry practices must implement Best Management Practices (BMP's)

Penalties and Enforcement

Civil and criminal penalties are provided for in various laws. Most compliance enforcement is the responsibility of the Maryland Department of the Environment (MDE) and/or the Corps.

Permit Tracking

All regulatory actions are tracked with the Corps Regulatory Analysis Management System (RAMS). Nightly exchange of database between Maryland with the Corps, U.S. Fish and Wildlife Service, and local governments who also subscribe. Additional databases in FoxPro also track regulatory gains and losses and non-regulatory wetland gains. In addition to RAMS, reports are generated to track no net loss by watershed, losses and gains by regions, authorization type, wetland type, mitigation required, etc. Voluntary wetland gains are generally recorded by county.

State General Permit (PGP or SPGP) for 404

The state programmatic general permit for Maryland generally covers activities with up to one acre of impact.

Assumption of Section 404 Powers

Legislation was introduced twice and failed to pass.

Joint Permitting

A joint State/Federal application is used. A Section 404 general permit is authorized for certain activities that receive State approval.

Special Area Management Plans and Advanced Identification Plans

There are several draft plans under development with the Corps. Other watershed plans with wetland components are also being prepared. "Nontidal Wetlands of Special State Concern" are identified in regulations.

Role of Local Governments

Local governments are principally responsible for implementing the Chesapeake Bay Critical Area Act. Local governments may be delegated authority under the Nontidal Wetlands Act. There are no currently delegated programs. Coordinated reviews between State, federal, and local governments exist in several counties.

Staffing (Regulatory Staff)

Nontidal Wetlands Division - 30; Tidal Wetlands Division - 8; Enforcement Division - 24. Staffing includes engineers reviewing impacts to waterways and floodplains, water quality certification staff,

mitigation staff, planning staff, and administrative support. The Enforcement Division is responsible for evaluating compliance of numerous other water management permits.

Water Quality Standards

Wetlands and Water Quality Standards

Wetlands are included as “waters of the State,” and subject to same requirements as other waters.

Wetland Definition

Designated Uses

Designated uses include: water contact recreation; fishing; propagation of fish, other aquatic life, and wildlife; agricultural and industrial water supply.

Narrative and/or Numeric Criteria

No specific criteria for wetlands exists that differs for other criteria for waters. General water quality criteria exist for substances that are unsightly or odorous, produce a taste, change existing color, create a nuisance, or change other chemical or physical conditions.

Numeric criteria are in place for toxic substances and fecal coliform, dissolved oxygen, temperature, and turbidity.

Antidegradation Policy

No policy for wetlands as distinct from other waters.

Other

None.

Staffing (Wetland Water Quality Staff)

See above. Water quality certification and standards are reviewed by same Program staff evaluating wetland and waterway permits.

Mitigation

Mitigation Policy

Yes. An overall no net loss policy is applied for tidal and nontidal wetlands. However, the state generally mitigates for nontidal wetlands loss less than 5,000 square feet.

Mitigation Banks

Public banking (State Highway Administration) and private consolidated mitigation sites exist. There are approximately 10 consolidated mitigation sites. Mitigation banks require multi agency approval of agreement and concept plans and use of bank. Long-term protection, monitoring, and bonding are

required. Mitigation banking requirements are more stringent and increase amount of mitigation required of permittees by 50%, in comparison to constructing an individual mitigation projects.

In Lieu Fee Program

In lieu fee is accepted for tidal and nontidal wetlands. The program is administered by the MDE. It generally accepts in lieu fees for impacts less than one-half acre for which onsite mitigation is not feasible. The fee schedule is established by county. Money paid into fund is used by MDE for wetland creation, restoration, and enhancement.

Ad Hoc Arrangements

None.

Mitigation Database

Yes.

Staffing (Mitigation Staff)

Four staff people, part of Wetlands and Waterways Program above.

Monitoring and Assessment

Mapping /Inventory

There are Statewide National Wetland Inventory maps; partial re-mapping on digital orthophoto quarter quads. Status and trends reports exist for part of the State. There are also regulatory maps of tidal wetlands.

Wetland Classification and Assessment

No classification system exists for Maryland. Certain wetlands are designated as nontidal wetlands of special state concern with more stringent permit review and expanded 100 foot buffers. Assessments are generally done by State Highway Administration for their proposed projects. An assessment using best professional judgment is performed by staff for most sites visited in the field.

Overall Wetland Gain and Loss Tracking System

Yes. MDE has databases for regulatory gains and losses and voluntary wetland creation, restoration, and enhancement.

Staffing (Monitoring and Assessment Staff)

None. Mitigation staff oversees monitoring of mitigation sites.

Restoration

Program Description

Numerous State, federal, and private funding programs exist.

Restoration Program Goals

There is a statewide goal for restoring 60,000 acres of wetlands. An interim goal exists to restore 15,000 acres in Maryland's Chesapeake Bay watershed by 2010 under the Chesapeake Bay Agreement. There is also a goal of restoring 10,000 acres in the Coastal Bays watershed by 2010.

Eligibility Criteria

Most federal programs (CRP, CREP, WRP) are targeted to restoration/conservation projects on agricultural land. Other funding is available for a variety of land uses, including urban water quality improvement.

Restoration Database

Information is tracked by county, project type, and major tributary basin. More detailed information is available for some projects-wetland type, sponsor or funding program, watershed.

Staffing (Wetland Restoration Program Staff)

No staff are dedicated exclusively to wetland restoration. Several staff exist in Departments of Environment, Natural Resources, and Agriculture involved in restoration on a part time basis.

Public/Private Partnerships

Acquisition Program

DNR acquires land for conservation and recreation, and accepts easement donations. Lands or easements may contain wetlands.

Public Outreach/Education

Departments of Environment and Natural Resources have public outreach efforts.

Tax Incentives

No specific programs. A reduction of property taxes may result from a re-assessment of land due to the existence of a conservation easement.

Technical Assistance

Department of Environment offers assistance in wetland management issues. Some assistance is also provided by DNR.

Other Nonregulatory Incentives for Private Landowners

None identified.

Wetland Training and Education

Yes. A variety of training sessions are held each year.

Watershed Planning

There are several draft plans under development with the Corps. Other watershed plans with wetland components are also being prepared. Assistance is provided to local governments to develop "Watershed Management Plans." Consistency with plans is required by nontidal wetlands regulations. A State Wetland Conservation Plan is expected to be complete in 2002.

Chesapeake Bay Agreement 2000 includes a commitment for developing watershed plans in 2/3 of Bay watershed by 2010. Plans will include conservation of wetlands. Plans for managing Total Maximum Daily Loads "TMDLs" may also include wetland management provisions.

Special Problems

Staff shortages. Outdated tidal wetland regulatory maps.

Coordination

There is a State/Federal interagency team developing new mitigation guidance. Improved coordination is expected between agencies.

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Contact Points

www.mde.state.md.us

Guidebooks, Brochures, Websites, Other Educational Materials

Contained on website www.mde.state.md.us/wetlands.

Chesapeake Bay Critical Area Commission. 1987. Guidelines for Protecting Non-Tidal Wetlands in the Critical Area.

Henderson, T.R., W. Smith and D.G. Burke. 1983. Non-Tidal Wetlands Protection: A Handbook for Maryland Local Governments. Tidewater Administration, Dept. of Natural Resources.

Maryland Department of Natural Resources, WRA, Nontidal Wetlands Division, Annapolis, Maryland. Brochures and Fact Sheets:

- Nontidal Wetlands Regulations and Agriculture
- 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 Classification
- The Values of Nontidal Wetlands
- The Nontidal Wetlands Protection Program
- Are There Wetlands On My Farm?
- Are There Wetlands On My Property? A Guide for the Developer
- How to Recognize a Nontidal Wetland
- Nontidal Wetlands Regulations and Mitigation Bonding

McCormick, J. 1982. The Coastal Wetlands of Maryland. Maryland Department of Natural Resources.

Sipple, W.S. 1978. A Bibliography of Maryland's Tidal Wetlands (Marshes-Swamps). Wetlands Permit Division, Water Resources Administration, Maryland Department of Natural Resources.

Tiner, R.W. 1988. Field Guide to Nontidal Wetland Identification. U.S. Fish and Wildlife Service, Maryland Department of Natural Resources.

Tiner, R.W. 1987. Mid-Atlantic Wetlands A Disappearing Natural Treasure. U.S. Fish and Wildlife Service. Newton Corner.