



WETLANDS AND WATERWAYS PROGRAM FUND REPORT

Fiscal Year 2025

Maryland Department of Environment

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**WETLANDS AND WATERWAYS PROGRAM FUND
FISCAL YEAR 2025
July 1, 2024 – June 30, 2025**

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WETLANDS AND WATERWAYS PROGRAM FUND

REQUIREMENT

Subsection 5-203.1(d) of the Environment Article, Annotated Code of Maryland, states, “On or before December 31 of each year, in accordance with § 2–1246 of the State Government Article, the Department shall prepare and submit an annual report to the House Environmental Matters Committee, the House Appropriations Committee, the Senate Education, Health, and Environmental Affairs Committee, and the Senate Budget and Taxation Committee on the Wetlands and Waterways Program Fund, including an accounting of financial receipts deposited into the Fund and expenditures from the Fund”. This report covers the period from July 1, 2024, through June 30, 2025.

CHAPTER 142 OF THE 2008 LAWS OF MARYLAND

Chapter 142 of the 2008 Laws of Maryland (House Bill 1056) established application fees to fund the State’s Wetlands and Waterways Regulatory Program (Program) administered by the Maryland Department of the Environment (MDE). This Program administers three distinct, but inter-related statutes within the Environment Article: Title 5, Subtitle 5 (Waterway Construction); Title 5, Subtitle 9 (Nontidal Wetlands), and Title 16 (Tidal Wetlands and Riparian Rights). Each of these statutes plays a vital role in maintaining the health of the Chesapeake and Atlantic Coastal Bays. The functions and values of the natural resources protected by these statutes include water quality enhancement; fish and wildlife habitat and migration; natural shoreline protection; flood protection; recreational opportunities and aesthetics.

The law establishes application fees for permits and licenses issued by MDE or the Board of Public Works (Board), as well as exemptions from the application fees for specific activities. The law also establishes a refund process for certain applications that are not processed according to specified time periods. Revenue generated by these fees is deposited into the Wetlands and Waterways Program Fund, a special fund created by the law and dedicated to the administration of MDE’s Wetlands and Waterways Regulatory Program. Specific uses of the Fund include:

- The issuance of authorizations by the Department under §§ 5–503, 5–906, 16–202, 16–302, and 16–307 of the Environment Article, Annotated Code of Maryland;
- The issuance of wetlands licenses by the Board under § 16–202 of the Environment Article, Annotated Code of Maryland;
- The management, conservation, protection, and preservation of the State’s wetlands and waterway resources; and
- Program development associated with Title 5 and Title 16 of the Environment Article, Annotated Code of Maryland, as provided by the State budget.

The law requires MDE to prioritize the use of the Wetlands and Waterways Program Fund to improve the level of service to the regulated community, and identify and implement measures to reduce delays and duplication in the administration of the wetlands and waterways permit application review process.

WETLANDS AND WATERWAYS FUNDING WORK GROUP

As required by HB 1056, MDE convened a Work Group of interested stakeholders representing a broad spectrum of interests in 2011 to assess whether the Wetlands and Waterways Protection Program successfully improved the level of service to the regulated community. Over a period of 11 weeks, the Wetlands and Waterways Funding Work Group reviewed MDE's accomplishments in the context of the criteria established in the law. The consensus of the Work Group was that MDE successfully met the intent of the law. The Work Group also analyzed the funding needs of the Wetlands and Waterways Protection Program and determined that the revenues generated by HB 1056 did not fully support the 34 positions envisioned by the legislation. Furthermore, the Work Group determined that the structure of the fee schedule was problematic and the amount of the fees was not adequate to support an effective program. Based on the programmatic review required by HB 1056, the Wetlands and Waterways Funding Work Group recommended that MDE pursue legislation to amend the law, including the fee structure.

CHAPTER 722 OF THE 2012 LAWS OF MARYLAND

House Bill 1411 (HB 1411), entitled Wetlands and Waterways Program Fees, was signed into law on May 22, 2012. Chapter 722 of the 2012 Laws of Maryland made significant changes to the fees being charged by MDE for applications for Tidal Wetlands Licenses and Permits and Nontidal Wetlands and Waterways Letters of Authorization and Permits. The modified fee schedule became effective July 1, 2012.

In general, HB 1411: 1) changed the definition of a major project; 2) defined the terms "Residential Activity" and "Noncommercial Activity"; 3) specified that all noncommercial residential activities meet the definition of a minor project; 4) established a special category of noncommercial, residential activities assessed a reduced fee; and 5) established a minimum compensation rate of \$2.50 per linear foot for cables, pipelines, or similar structures crossing State wetlands. Some of the benefits associated with HB 1411 include reducing the financial burden on residential property owners; eliminating the additional charge for major projects impacting rare, threatened or endangered species, historical and archeological resources, and natural and recreational trout waters; and significantly reducing the number of applications that are classified as a "major project."

CHAPTER 604 BUDGET RECONCILIATION AND FINANCING ACT OF 2025

House Bill 352 (HB352), entitled Budget Reconciliation and Financing Act of 2025, was signed into law on May 20, 2025. Chapter 604 of the Budget Reconciliation and Financing Act of 2025 made changes to the fees being charged by MDE for applications for Tidal Wetlands Licenses and Permits and Nontidal Wetlands and Waterways Letters of Authorization and Permits. The modified fee schedule became effective June 1, 2025.

In general, HB352: 1) Increased the fees in Subsection 5-203.1 of the Maryland Environment Article to reflect changes in the consumer price index for all "urban consumers" for the expenditure category "all items not seasonally adjusted", and for all regions utilizing the Annual Consumer Price Index for the period ending each December, as published by the Bureau of Labor Statistics of the U.S. Department of Labor; 2) Incorporated new fees for all applications

for activities proposed in a Tier II High Quality Watershed; 3) allows uses for the Wetlands and Waterways Program Fund for activities related to Tier II High Quality Waters and Tier II High Quality Watersheds for management, conservation, protection, and preservation; and 4) Requirements for the Department to issue a public notice of adjusted fees at least 90 days before the new fee rate take effect.

FEE STRUCTURE

The major tenet of the regulatory program is the avoidance and minimization of impacts associated with a project. Through its permit application review process, MDE attempts to first prevent wetland loss by requiring an applicant to evaluate project designs that will avoid wetland impacts. Based on this evaluation of alternatives, if MDE finds that impacts are unavoidable, the applicant is required to utilize the project design that will minimize the wetland impacts and provide appropriate mitigation for those impacts.

The application fee schedule attempts to further reduce impacts by providing financial incentives to the applicant. As proposed impacts increase, an escalating application fee schedule has been established to ensure that each applicant exercises every opportunity to avoid impacts to the State’s wetland and waterway resources. On June 1, 2025, the fees were adjusted as noted above based on the Consumer Price Index as of December 2022 and calculated based on the original or modified fee establishment dates. Through May 31, 2025, in general, all applications require a minimum application fee of \$750, which was increased to \$980 on June 1, 2025. Major projects (i.e., those that involve 5,000 square feet or more of permanent impact, are located in an area identified as potentially impacting a Nontidal Wetland of Special State Concern or require a public notice) are assessed an additional fee of \$750, increased to \$980 on June 1, 2025, or more based on the impact area in acres. An additional fee for all applications for activities proposed in a Tier II High Quality Watershed is assessed at \$400 for a Minor project and \$1,600 for a Major Project. The Pre and Post June 1, 2025 actual fee schedules are presented in the following tables:

EFFECTIVE PRE-JUNE 1, 2025

PRE-JUNE 1, 2025 FEE SCHEDULE A WETLANDS AND WATERWAYS PROGRAM APPLICATION FEES FOR MINOR AND MAJOR PROJECTS		
TYPE OF APPLICATION	AREA OF PERMANENT IMPACT	APPLICATION FEE (Dollars)
MINOR PROJECT OR GENERAL PERMIT	<5,000 SQUARE FEET	750
MINOR MODIFICATION	<5,000 SQUARE FEET	250
MAJOR PROJECT	< 1/4 ACRE	1,500
	≥ 1/4 ACRE TO < 1/2 ACRE	3,000
	≥ 1/2 ACRE TO < 3/4 ACRE	4,500
	≥ 3/4 ACRE TO < 1 ACRE	6,000
	≥ 1 ACRE	7,500/ACRE
MAJOR MODIFICATION	≥ 5,000 SQUARE FEET	1,500

**PRE-JUNE 1, 2025
FEE SCHEDULE B
WETLANDS AND WATERWAYS PROGRAM
APPLICATION FEES FOR CERTAIN MINOR PROJECTS⁽¹⁾**

PERMIT TYPE	PROJECT DESCRIPTION	APPLICATION FEE (Dollars)
Tidal Wetlands	Installation of a boatlift on existing pilings	0
	Installation of an individual boatlift with 2 pilings	300
	Installation of a maximum of 6 pilings	300
	In-kind repair and replacement of structures ⁽²⁾	300
	Installation of a fixed or floating platform, including finger piers, where the total platform (fixed and floating) and finger pier area does not exceed 200 square feet	300
	Replacement of an existing bulkhead where the replacement bulkhead does not exceed more than 18 inches channelward of the existing structure	500
Nontidal Wetlands and Waterways	Construction of a non-habitable structure that permanently impacts less than 1,000 square feet, such as a driveway, deck, pool, shed or fence	300
	In-kind repair and replacement of existing infrastructure	500

Notes:

- (1) Schedule B fees are not additive, but must be calculated on a complete and entire project. If a project consists of multiple activities, the higher application fee is applicable.
- (2) If the existing structure is functional and there is no increase in the original length, width, height, or channelward encroachment, then the routine maintenance, repair, or replacement of a highway structure, pier, boathouse, structure on a pier, bulkhead, revetment, tidal impoundment dike, water control structure, above ground transmission facility, agricultural drainage ditch or highway drainage ditch is exempt from the application fee. A property owner that is uncertain about the regulatory requirements can contact MDE and schedule a pre-application meeting for guidance. If a property owner is uncomfortable proceeding with a project without an authorization from the Department, then the property owner can file an application and pay a \$300 application fee.

EFFECTIVE JUNE 1, 2025

EFFECTIVE JUNE 1, 2025
FEE SCHEDULE A (NONTIDAL)

With the exception of the Tier II Review fee, **fees are not additive**; use the highest fee for the activity(ies) proposed. If the proposed nontidal wetland and waterway activity is not listed in this table, then use **Fee Schedule C**.

An additional Tier II Review fee applies to activities in this FEE SCHEDULE A if the activity is at least partially located in a Tier II watershed. Please note that the Tier II Review fee (see **Fee Schedule D**) will be invoiced only after MDE reviews the initial application and determines that the fee applies.

NONTIDAL WETLAND AND WATERWAY PROJECTS

<u>Activity</u>	<u>Activity Parameters</u>	<u>Application Required</u>	<u>Application Fee Required</u>
Non-habitable structures <i>Including but not limited to; Driveways, Decks, Pools, Sheds, Fences</i>	Permanent impacts ≤ 1,000 square feet	YES	\$390.00
In-kind repair and replacement of existing infrastructure in nontidal wetlands <i>(Infrastructure is defined as: the structures such as roads, bridges, culverts, utilities, etc. that supports the general public and do not meet the definition of a residential activity)</i>		YES	\$650.00
Structural shoreline stabilization, including in-kind repair or replacement of existing infrastructure, located on or adjacent to a <u>State-owned Lake</u>		YES	\$290.00

Effective June 1, 2025

FEE SCHEDULE B (TIDAL)

Feas are not additive; use the highest fee for the activity(ies) proposed.
 If the proposed tidal wetland activity is not listed in this table, then use **Fee Schedule C**

TIDAL WETLAND PROJECTS

<u>Activity</u>	<u>Activity Parameters</u>	<u>Application Required</u>	<u>Application Fee Required</u>
Replacement Bulkhead	Replacement bulkhead is proposed ≤ 18 inches channelward of the existing, functional ⁽¹⁾ bulkhead	YES	\$650.00
Platform and/or finger pier	<u>Platform</u>	YES	\$390.00
	Fixed or floating on an existing functional ⁽¹⁾ pier		
	Total area of all proposed platform(s) ⁽²⁾ and finger pier(s) is ≤ 200 square feet.		
Mooring piles	Installation of a maximum of 6 piles	YES	\$390.00

Boat lift/hoist or Personal Watercraft (PWC) Lift	Installation of pilings associated with lift	YES	\$385.00
Installation of a boatlift or Personal Watercraft (PWC) lift on existing pilings	No new outer piling to be installed	YES	NO FEE
Construction of a Living Shoreline ⁽³⁾		YES	NO FEE
In-kind repair (RIK) and replacement of functional structures located within jurisdictional tidal wetlands. ⁽⁴⁾	Applications for RIK projects do not require an application. Applications received for RIK will be charged a project review fee	NO	\$390

Notes:

¹ “Functional” means performing at least 85 percent of the action that a structure was originally designed to perform (COMAR 26.24.01.02(20)).

² COMAR 26.24.04.02B(3). Total platform space of existing and proposed platforms must be ≤ 200 square feet.

³ Construction of a Living Shoreline must be the only activity proposed on the application; otherwise, the appropriate fee for the other proposed activities shall apply.

⁴ Must adhere to the definitions found in COMAR 26.24.01.02B(20)(24)(45). No increase of width, length, or height of the existing, previously authorized or “grandfathered”, functional structure.

EFFECTIVE JUNE 1, 2025

Fee Schedule C

An additional Tier II Review fee applies to the activities in this Fee Schedule if the activity is at least partially located in a Tier II watershed. Tier II Review fee (**see Fee Schedule D**) will be invoiced only after MDE reviews the initial application and determines that the fee applies.

Activities not exempted or described in Fee Schedule A or B	Area of Impact	Application Fee Required
Minor Project ⁽¹⁾⁽³⁾ <i>(Including but not limited to; Tidal Geotechnical Sampling, Beach Nourishment, Revetments etc.)</i>	<5,000 Square Feet	\$980.00
Major Project ⁽²⁾⁽³⁾	<1/4 Acre	\$1,950.00
	≥ 1/4 Acre To < 1/2 Acre	\$3,890.00
	≥ 1/2 Acre To < 3/4 Acre	\$5,830.00
	≥ 3/4 Acre To < 1 Acre	\$7,780.00
	≥ 1 Acre	\$9,720.00/ Acre
Minor Modification ⁽³⁾ <i>(State Authorization has been issued and is currently active, the complete project meets the definition of minor project)</i>	<5,000 Square Feet	\$330.00
Major Modification ⁽³⁾ <i>(State Authorization has been issued and is currently active, the complete project meets the definition of major project)</i>	≥5,000 Square Feet	\$1,950.00

Notes:

¹ **Minor projects** include the following:

1. Projects proposing to impact less than 5,000 square feet of wetlands, waterways, including the 100-year floodplain.
2. **A project that proposes residential activities:**
 - a. **Residential Activity** means a noncommercial activity that is conducted on residential property
 - i. **Residential Property** means improved property that is used primarily as a residence or unimproved property that is zoned for use as a residence. Includes:

Notes Continued:

1. Property owned by a homeowner's association
2. A condominium
- ii. A **Residential Property** does not include:
 1. A commercial building
 2. A marina
 3. A residential apartment complex or building
3. Mining Activities

² **Major Projects** include the following:

1. A project that proposes to permanently impact 5,000 square feet or more of wetlands or waterways, including the 100 year floodplain.
2. A project that is located in an area identified as potentially impacting a nontidal wetland of special State concern.
3. A project that requires the issuance of a public notice by the Department.

³ **Maintenance** of previously authorized activities or structures that are not already exempted are not considered new permanent impacts for purposes of the application fees and are not subject to fees above the minimum for Minor or Major Project categories (\$750 or \$1,500). Modification fees apply.

EFFECTIVE JUNE 1, 2025

Fee Schedule D

Applicants should not submit payment until receiving an invoice from MDE

An additional Tier II Review fee applies to the activities in FEE SCHEDULE A and C if the activity is at least partially located in a Tier II watershed⁽¹⁾.

Tier II Review fee will be invoiced only after MDE reviews the initial application and determines that the fee applies.

<u>Activities not Fee Exempted or Described in Fee Schedule B</u>	<u>Tier II Review Application Fee Required Upon Invoice from MDE⁽²⁾</u>
Minor Project or Minor Modification (as defined above)	\$400.00
Major Project or Major Modification (as defined above)	\$1,600.00

Notes:

¹ These fees apply if any portion of the proposed activity's footprint is within a Tier II watershed as identified on MDE's map located at: <https://mdewin64.mde.state.md.us/WSA/TierIIWO/index.html>.

² This fee is in addition to those fees specified in FEE SCHEDULE A and C.

The law also identifies the following activities as being exempt from the requirement to pay application fees:

- Regulated activities conducted by the State, a municipal corporation, county, bicounty, or multicounty agency under Article 28 of the Code or Division II of the Public Utilities Article, or a unit of the State, a municipal corporation, or a county;
- Performance of agricultural best management practices contained in a soil conservation and water quality plan approved by the appropriate soil conservation district;
- Performance of forestry best management practices contained in an erosion and

sediment control plan prepared by a registered forester and approved by the appropriate soil conservation district;

- Stream restoration, vegetative shoreline stabilization, wetland creation, or other project in which the primary effect is to enhance the State's wetland or water resources;
- Aquaculture activities for which the Department of Natural Resources has issued a permit under § 4-11A-02 of the Natural Resources Article;
- Installation of a boatlift, hoist, or personal watercraft lift on existing pilings; and
- If the existing structure is functional and there is no increase in the original length, width, height, or channelward encroachment, the routine maintenance, repair, or replacement of a pier, boathouse, structure on a pier, bulkhead, revetment, tidal impound dike, water control structure, aboveground transmission facility, agricultural drainage ditch, or highway drainage ditch.

WETLANDS AND WATERWAYS PROGRAM FUND REVENUES

The law establishes the Wetlands and Waterways Program Fund, which is administered by MDE. The Program Fund consists of:

- Application fees collected by the Department;
- Monetary compensation paid to the State in conjunction with a Wetlands License other than that compensation specified in § 16-205(c)(2) of the Environment Article, Annotated Code of Maryland;
- Money appropriated in the State budget to the Fund; and
- Investment earnings, interest, and any other money from any other source accepted for the benefit of the fund.

WETLANDS AND WATERWAYS PROGRAM FUND EXPENDITURES

The law establishes a funding mechanism that complements a general fund appropriation to adequately support the State's Wetlands and Waterways Regulatory Program administered by MDE. This funding strategy enabled MDE to restore the Program's workforce to historical levels necessary to effectively serve the public. This strategy also enhances MDE's resource management and conservation capabilities and strengthens existing levels of constituent service, ensuring a more efficient and effective application review process for the regulated community. When the original law was enacted in 2008, it was estimated that the revenue generated by the application fees would fund 34 positions.

SUMMARY

The Wetlands and Waterways Program Fund is a special fund created by Chapter 142 of the 2008 Laws of Maryland (House Bill 1056). The Fund began receiving revenue on July 1, 2008, the effective date of the law. Chapter 604 of the Budget Reconciliation and Financing Act of 2025 made changes to the fees being charged by MDE for applications for Tidal Wetlands Licenses and Permits and Nontidal Wetlands and Waterways Letters of Authorization and Permits. The modified fee schedule became effective June 1, 2025. The major sources of revenue for the Fund are application fees collected by MDE and monetary compensation paid to the State in

conjunction with Tidal Wetlands Licenses. Variable year-end fund balances may occur due to a number of factors. Expenditures can be affected by staffing changes (i.e., vacancies and recruitment) and contractual project delays. The main factor affecting revenue is the number of permit applications received during the fiscal year. Consequently, the Department carefully monitors revenue and expenses. The following table provides an accounting of revenues and expenditures in the Fund for the period July 1, 2024, through June 30, 2025.

STATEMENT OF REVENUES AND EXPENDITURES

STATEMENT OF REVENUES AND EXPENDITURES	
FISCAL YEAR 2024	
July 1, 2024 - June 30, 2025	
REVENUES	
Adjusted Fund Balance as of June 2024	1,746,441.86
Wetlands Applications	1,740,488.30
Nontidal Wetlands Compensation Utility Billing	70,892.25
Maryland Marine Contractors Wetlands	81,475.00
Tidal Wetlands Compensation Utility Billing	1,990,733.78
Total Fiscal Year 2025 Revenues	\$ 3,883,589.33
Reduction of Revenue for Indirect Cost (19.93%)	\$ (801,450.68)
Total Revenue and Adjusted Fund Balance	\$ 3,082,138.65
EXPENDITURES	
Total Fiscal Year 2025 Expenditures	4,021,328.07
Total Fiscal Year 2025 Encumbrances	1,276.28
WETLANDS & WATERWAYS PROGRAM FUND BALANCE AS OF JUNE 30, 2025	\$ 805,976.16