



Harford Soil Conservation District

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DATE: September 15, 2020

TO: Design Consultants, Engineers, Developers, etc.

FROM: Quintin J. A. Cornwell *QC*
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Steven A. Walsh, P.E. *SAW*
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SUBJECT: **Stormwater Management/Small Pond (MD-378) Approvals/Permits (within Use III Watersheds - Bynum Run, Little Gunpowder Falls, and portions of Deer Creek - Deep Run)**

The Dam Safety Division of the Maryland Department of the Environment (MDE) has previously offered local discretion regarding Harford Soil Conservation District/Harford Department of Public Works approvals of small ponds in Use III watersheds (trout streams). However, the Code of Maryland Regulations as written does not allow for this flexibility. While MDE works toward revising COMAR to address this issue, MDE has been advised that Dam Safety Division must strictly adhere to the laws/regulations as written. Accordingly, small ponds within those watersheds are not eligible for local review and approval must be submitted to the Department for Dam Safety permitting.

Effective immediately, all planned wet and dry pond designs which fall within Use III watersheds shall require an MDE permit, per Code of Maryland Regulations (COMAR) 26.17.04.05 G, which states as follows:

G. Certain Small Ponds. Except for those ponds which are to be located in natural trout waters or those which are temporary and which are intended solely to trap sediment during construction operations, certain small ponds may be exempt from the permit requirements cited here if the plans and specifications are approved by the appropriate soil conservation district. The following shall apply to the approval of all ponds pursuant to Environment Article, §5-503(b), Annotated Code of Maryland:

(1) The plans and specifications shall be reviewed for technical compliance with the requirements in USDA, Natural Resource Conservation Service, Maryland Conservation

Practice, Standard Pond Code 378 (January, 2000), which is incorporated by reference in COMAR 26.17.02.01-1B(2).

In addition, per the “2000 Maryland Stormwater Design Manual Volumes I & II”, Chapter 3, section 3.1.1, (page 3.9) states the following:

A pond structure requires review and approval by the MDE Dam Safety Division if any of the following conditions apply:

- a) the proposed embankment is twenty feet or greater in height from the upstream toe to the top of dam, or*
- b) the contributing drainage area is a square mile (640 acres) or greater, or*
- c) the structure is classified as “high” or “intermediate” hazard, according to the MD Dam Safety Manual, or*
- d) the proposed pond is in USE III waters.*

Therefore, small pond design drawings within Use III watersheds shall require the review of Dam Safety Division. Applicants must file for a Maryland Joint Permit Application when submitting the small pond design for review with MDE. To determine whether or not your site falls within a designated Use III watershed, please use the following link:

<https://mde.maryland.gov/programs/water/tmdl/.../designatedusesmaps.aspx>

The Joint Federal/State permit application may be found at:

https://mde.maryland.gov/.../PermitsandApplications/.../nontidal_permits.aspx

EXCAVATED POND EXEMPTION (In Use III Watersheds)

If a small (class “a”/low hazard) pond design is determined to meet excavated pond criteria, that facility will be exempt from “small pond” approval and not require a Dam Safety Division permit. Excavated ponds must comply with NRCS MD-378 “Exemptions” section (page Pond MD-378-1) which states:

1. Ponds or other structures have less than four (4) feet of embankment, or
2. The Storage at emergency spillway design high water elevation according to Table 1 (Pond MD-378-11) does not exceed 40,000 cubic feet, and the height of the embankment is 6 feet or less.

STORMWATER MANAGEMENT REVIEW PROCESS

Design consultants shall adhere to Harford County Department of Public Works (DPW) requirements for stormwater concept plan, site development, and final stormwater management plan reviews as referenced under Harford County, MD Code Chapter 214 “Sediment Control and Stormwater Management” § 214-32 **Stormwater management plans** [Amended by Bill No. 10-11].

Upon submission of the final stormwater management (SWM) “small pond” plan (i.e., project site within a Use III watershed), design consultants shall concurrently submit SWM/small pond drawing(s) to MDE via the joint Federal/State permitting process. (At the discretion of Dam Safety Division, consultants may submit electronic files of small pond design drawings and associated computations to facilitate the SWM/small pond review process.)

When submitting electronically to MDE, please refer to “Electronically Accepted Permit Applications” on MDE website at <https://mde.maryland.gov/programs/permits/Pages/e-accepted.aspx>. Here is an excerpt under “Water – Sediment, Stormwater, and Dam Safety Program” which states:

- Dam Safety Permits after formal Joint Permit Application (JPA) process (Applications) - Applications are accepted through the [formal JPA through the Wetlands and Waterways Program](#). However, additional supporting information may be submitted using the following email address: mde.dampermits@maryland.gov.

Small pond designs which are subject to Dam Safety Division’s review must comply with dam breach/hazard classification criteria established by Dam Safety Division. Please refer to “**Dam Breach Analysis and Hazard Classification Resources**” link at:

<https://mde.maryland.gov/programs/.../DamSafety/.../dambreakguidelines.aspx>

During the concurrent review process through Harford County DPW and Dam Safety Division, design consultants are responsible to address and coordinate their responses to satisfy the comments/remarks by both agencies.

Please contact Harford County DPW, Bureau of Stormwater Management at 410-638-3545; Maryland Department of the Environment (Dam Safety Division, Mr. John Roche, P.E., Chief) at 410-537-3552; and/or Harford Soil Conservation District at 410-638-4828 with any questions.