



Harford Soil Conservation District

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DATE: June 15, 2022

TO: Design Consultants, Engineers, Developers, etc.

FROM: Quintin J. A. Cornwell *QJC*
District Manager, Harford Soil Conservation District (HSCD)

Steven A. Walsh, P.E. *SAW*
Deputy Director, Harford County Department of Public Works (HC-DPW)

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) Update Memo**

The Dam Safety Division of the Maryland Department of the Environment (MDE) has revised the Code of Maryland Regulations (COMAR) 26.17.04.05 G. These changes were approved by the Maryland State Assembly in June, 2021. The previous regulations for 26.17.04.05 G reads as follows (what is noted in **red** has been removed and is no longer in effect):

*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).

The **new** (June 2021) regulations for 26.17.04.05 G reads as follows (what is noted in **red** has been added):

*G. Certain Small Ponds. Certain small ponds may be exempt from the permit requirements cited here if the plans and specifications are approved by either the appropriate soil conservation district **or the Administration designee**. The following shall apply to the approval of all ponds pursuant to Environment Article, §5-503(b), Annotated Code of Maryland:*

*(1) The **designs**, 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), **and the Administration policies and procedures**.*

With these regulation changes and consultation from MDE, HSCD and HC-DPW may now review small pond designs within Use III watersheds (aka, cold water watersheds). Therefore, our joint memo dated September 15, 2020 directing design consultants to submit stormwater management related small pond designs (within Use III watersheds in Harford County) to MDE – Dam Safety Division has been lifted.

In order for districts to comply with 26.17.04.05 G (1), MDE has drafted a “Policies and Procedures for Small Pond Approval” guidelines. This document has been distributed to local districts and jurisdictions for review and comment. Once this document and its appendices are finalized, we will distribute them to you accordingly.

Officially, MDE has advised HSCD/HC-DPW to adhere to four (4) specific guidelines when reviewing a small pond design within a cold water resource watershed. Those guidelines are as follows:

For any proposed construction, reconstruction, removal, change or repair of any small ponds located in Maryland cold water watersheds, as identified on the Cold Water Resources Mapping Tool, the following criteria will be strictly adhered to:

1. “wet” ponds will not be permitted.
2. Extended detention times for “dry” ponds will not exceed 12 hours.
3. The principals, concepts, and approaches detailed in the Maryland Stormwater Design Manual, Chapter 5.0, Environmental Site Design, Section 5.6, Special Criteria for Sensitive Waters, will be applied to all small ponds reviewed and approved by the District.
4. Additional thermal review guidance developed by MDE.

Regarding item #4 pertaining to “*additional thermal guidance by MDE*”, MDE is working with Maryland Department of Natural Resources (DNR) to establish specific guidelines to incorporate into small pond designs to minimize thermal impact in coldwater resource watersheds. While these additional guidelines are being determined, MDE has advised HSCD / HC-DPW to ensure that small pond designs are submitted to DNR Environmental Review for comment. This will give DNR the opportunity to make suggestions covering thermal impacts and allow our departments and the consultants to get acquainted with the best approaches/practices that DNR recommends and complies with their criteria.

Therefore, when a SWM small pond design is located in a designated cold water watershed, the consultant should submit designs to HC-DPW and DNR simultaneously for review. For more information regarding DNR review requirements and submissions, please contact the following:

Greg Golden
Environmental Review Program
Department of Natural Resources
580 Taylor Ave., B-3
Annapolis, Maryland 21401
greg.golden@maryland.gov
(410) 260-8331 (O)

(DNR general inbox for submissions may be found at environmentalreview.dnr@maryland.gov.)

Please contact HC- DPW, Bureau of Stormwater Management at 410-638-3545; and/or HSCD at 410-638-4828 with any questions.