

MARYLAND

Summary Table of Agency Authorities:

State Agency	Scope of Authority	Explicit Authority to Enter Private Land without Consent	Process Required	Relevant provisions
Department of Natural Resources	Nuisance organisms	Enter and inspect to determine if “state of nuisance” exists.	Notice to property owner of intent to enter; owner cannot refuse access.	MD. CODE ANN., NAT. RES. § 4-205.1
		Abate nuisance organisms not presenting imminent danger to healthy balance of ecosystem.	Abatement order to person responsible; court order required for DNR to carry out control action upon noncompliance.	MD. CODE ANN., NAT. RES. § 4-205.1
		Abate nuisance organisms presenting imminent danger.	Abatement order to person responsible; DNR can summarily abate on failure to comply with order.	MD. CODE ANN., NAT. RES. § 4-205.1
Department of Agriculture	Noxious weeds	No explicit authority to enter private property to eradicate and control.	N/A	MD. CODE ANN., AGRIC. §§ 9-402 to 405
	Plant pests	Inspect, destroy, treat, or experiment with dangerously injurious plant pests.	Property owner may not deny access. Treatment order issued if control possible without destroying plant; MDA can control upon failure to comply.	MD. CODE ANN., AGRIC. §§ 5-302, 5-306

Explanatory Notes:

The Maryland Department of Natural Resources bears primary responsibility for aquatic invasive species control and management in the state. The Maryland Department of Agriculture has responsibility for management of invasive plants, noxious weeds, and plant pests.

Maryland Department of Natural Resources

To prevent an adverse impact on an aquatic ecosystem or the productivity of state waters, the Maryland Department of Natural Resources (MDNR) may adopt regulations prohibiting the importation, possession, or introduction into state waters of a nonnative aquatic organism.²⁶ The MDNR regulations

²⁶ MD. CODE ANN., NAT. RES. § 4-205.1(b)(1)(i).

classify listed nonnative aquatic organisms in three categories with varying levels of regulatory restrictions.²⁷

The MDNR may also adopt regulations to “manage the sale, transport, purchase, importation, possession, harvest, season, size limits, open area, catch devices, and introduction of nuisance organisms.”²⁸ A nuisance organism is defined as a “nonnative aquatic organism that will foreseeably alter and threaten to harm the ecosystem or the abundance and diversity of native or naturalized fish and other organisms.”²⁹

MDNR staff may enter and inspect property to determine if a nuisance organism has created a state of nuisance that will “foreseeably alter and threaten to harm the ecosystem or the abundance and diversity of native or naturalized fish or other organisms.”³⁰ The MDNR is required to give a landowner, occupant, or tenant reasonable notice of intent to enter the property.³¹

If a state of nuisance presents an “imminent danger to the healthy balance of an ecosystem,” MDNR may enter private property to abate it or require the responsible party to abate it.³² If the occupant of the property is reasonably believed to have caused the nuisance, the MDNR must serve an abatement order prior to taking action to abate the nuisance.³³ The MDNR may also serve an abatement notice on a person believed to have caused the state of nuisance or on an unoccupied property where the owner cannot be found.³⁴ The abatement order must set forth a time period for abatement of the nuisance (not less than 24 hours from the time of service), as well as the work and materials necessary to abate the state of nuisance.³⁵ The abatement is to be at the expense of the any person determined to have willfully or negligently caused the state of nuisance and at the expense of the MDNR if the owner, occupant, or tenant did not cause the state of nuisance.³⁶

Where the nuisance does not present an imminent danger, the MDNR may order the responsible party to abate the nuisance within a certain time period.³⁷ Should that party refuse to take action, the MDNR may obtain a court order to enter private property to abate the nuisance.³⁸ The MDNR may either reimburse reasonable costs of the abatement or do the work and provide the materials necessary to abate the nuisance.³⁹ The MDNR is required to repair any property damage caused by abatement activities or to reimburse the property owner for these costs.⁴⁰

Maryland Department of Agriculture

²⁷ MD. CODE REGS. 08.02.19.04.

²⁸ MD. CODE ANN., NAT. RES. § 4-205.1(b)(1)(ii).

²⁹ *Id.* § 4-205.1(a)(8).

³⁰ *Id.* § 4-205.1.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

The Maryland Department of Agriculture (MDA) has management responsibility for invasive plants, noxious weeds, and plant pests in the state, but these authorities will rarely be used for aquatic invasive plant control. The definition of “invasive plant” is “a terrestrial plant species that: (1) Did not evolve in the State; and (2) If introduced within the State, will cause or is likely to cause, as determined by the Secretary: (i) Economic harm; (ii) Ecological harm; (iii) Environmental harm; or (iv) Harm to human health.”⁴¹ The scope of Maryland’s noxious weed and plant pest laws could be extended to aquatic plants, but the MDA has not done so at this time.

If an aquatic plant were to be listed as a noxious weed, the MDA could survey for and undertake control actions for the plant on private land under an agreement with a county as the MDA deems “advisable.”⁴² The MDA and counties may provide technical assistance to landowners in a cooperative control or eradication program, and “may effect a program of mowing, spraying, or other control or eradication practices on any road right-of-way, drainage ditch bank, park, playground, and any other public or private land.”⁴³

The MDA also has the authority to enter any public or private land or property, vehicle, vessel or aircraft in the State to inspect, destroy, treat, or experiment with dangerously injurious plant pests.⁴⁴ It is unlawful to deny access to, offer any resistance to, hinder, misrepresent or conceal facts from the MDA in the performance of its duties.⁴⁵ The MDA may order treatment if the dangerously injurious plant pest can be controlled without destroying the plant.⁴⁶ If the person notified fails to comply with the order, the department will apply the control measures and the owner must pay the cost.⁴⁷ The MDA may treat any suspicious plant found in dangerous proximity to those infested or infected in order to prevent dissemination.⁴⁸

⁴¹ MD. CODE ANN., AGRIC. § 9.5-101

⁴² *Id.* § 9-403.

⁴³ *Id.*

⁴⁴ MD. CODE ANN., AGRIC. § 5-306. “Plant pest” is defined as “any insect, snail, nematode, fungus, virus, bacteria, weed, or any other form of terrestrial or aquatic plant or microorganism which is normally considered to be a plant pest or which the Secretary declares to be a plant pest.” MD. CODE REGS. 15.06.02.01.

⁴⁵ MD. CODE ANN., AGRIC. § 5-306.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*