

1 **Title 27 CRITICAL AREA COMMISSION FOR THE CHESAPEAKE**  
2 **AND ATLANTIC COASTAL BAYS**

3 **Subtitle 01 CRITERIA FOR LOCAL CRITICAL AREA PROGRAM DEVELOPMENT**

4 **Chapter 01 General Provisions**

5 Authority: Natural Resources Article, §§8-1806, 8-1808(c), 8-1808.4(a), and 8-1811, Annotated Code of Maryland

6  
7 **.01 Definitions.**

8 A. In this subtitle, the following terms have the meanings indicated.

9 B. Terms Defined.

10 (1) (text unchanged)

11 (2) Agricultural Best Management Practice.

12 (c) "Agricultural best management practice" does not include a shoreline [erosion control]  
13 *stabilization* measure authorized by the Department of the Environment under COMAR 26.24.04.

14 (2-1) — (62) (text unchanged)

15 (62-1) "Shoreline stabilization measure" includes:

16 (a) A nonstructural shoreline stabilization measure, as defined under COMAR 26.24.01.02; and

17 (b) A structural shoreline stabilization measure, as defined under COMAR 26.24.01.02.

18 (62) — (79) (text unchanged)

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20 **Chapter 02 Development in the Critical Area**

21 Authority: Natural Resources Article, §§8-1806, 8-1808(c), and 8-1811, Annotated Code of Maryland

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23 **.06-1 Growth Allocation Submittal Requirements.**

24 A. (text unchanged)

25 B. The conceptual site development plan and environmental features map required under §A(3) and  
26 (4) of this regulation shall each include:

27 (1)—(15) (text unchanged)

28 (16) A delineation of the [100-foot] buffer as measured from the mean high water line of tidal  
29 waters or the landward boundary of a tidal wetland or a tributary stream;

1 (17)—(24) (text unchanged)

2 (25) Location of any other proposed development feature, including an outlet, storm drain and  
3 outfall, utility connection, septic system, stormwater management system, [shore erosion control]  
4 *shoreline stabilization* measure, and pier;

5 (26)—(28) (text unchanged)

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7 **.06-3 Requirements for New Intensely Developed Areas and Limited Development Areas.**

8 A. Definition. In §§E, F, and G(1) of this regulation, “consistency with” or “consistent with” a  
9 jurisdiction’s adopted comprehensive plan means that a standard or factor will further, and not be  
10 contrary to:

11 (1) For a growth allocation application that is to be located in a priority funding [Area] *area*, in  
12 accordance with State Finance and Procurement Article, §§5-7B-02 and 5-7B-03, Annotated Code of  
13 Maryland, the following items in the plan:

14 (a) — (e) (text unchanged)

15 (2) (text unchanged)

16 B. (text unchanged)

17 C. Except as provided in §D of this regulation, a local jurisdiction may not use more than 1/2 of its  
18 total allotted growth allocation acreage to convert a resource conservation area into a new limited  
19 development area or a new intensely developed area.

20 D. [In] *A local jurisdiction may use a standard that varies from §C of this regulation if:*

21 (1) *The local jurisdiction is a municipal corporation; or*

22 (2) *In Calvert, Caroline, Cecil, Charles, Dorchester, Kent, Queen Anne’s, St. Mary’s, Somerset,*  
23 *Talbot, Wicomico, and Worcester Counties, [if the county is unable to utilize a portion of its growth*  
24 *allocation in accordance with §C of this regulation then these counties may use a standard that varies*  
25 *from §C of this regulation] if:*

26 [(1)] (a) *The county is unable to utilize up to ½ of its of its total allotted growth allocation*  
27 *acreage;*

28 (b)\_(text unchanged)

29 [(2)] (c) (text unchanged)

30 [(3)] (d) (text unchanged)

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32 **Chapter 04 [Shore Erosion Protection Works] *Shoreline Stabilization Measures***

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Authority: Natural Resources Article, [§8-1808(d)] §8-1808, Annotated Code of Maryland

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**.01 Definition.**

[A. "Shore erosion protection works" means those structures or measures constructed or installed to prevent or minimize erosion of the shoreline in the Critical Area] *In this chapter, "shoreline stabilization measure" has the meaning stated in COMAR 27.01.01.01.*

[B. The criteria below are not intended to apply to those structures necessarily associated with water-dependent facilities in COMAR 27.01.03.]

**.01-1 Applicability.**

*The provisions of this chapter do not apply to a structure that is, by necessity, associated with a water-dependent facility under COMAR 27.01.03.*

**.02 Policies.**

In developing [their] *and updating its* Critical Area [programs, local jurisdictions] *program, a local jurisdiction shall follow these policies [in regard to shore erosion protection works] when addressing shoreline stabilization measures:*

- A. *Encourage the preservation of the natural shoreline.*
- B. Encourage [the protection of rapidly] *public and private landowners to protect significantly eroding portions of the shoreline in the Critical Area [by public and private landowners]; and*

[B. Where such measures can effectively and practically reduce or prevent shore erosion, encourage the use of nonstructural shore protection measures in order to conserve and protect plant, fish, and wildlife habitat]

C. *In order to conserve and protect plant, fish, and wildlife habitat, encourage the use of appropriate shoreline stabilization measures that effectively and practically reduce shore erosion.*

**.03 Criteria.**

In developing [their] *and updating its* Critical Area [programs, local jurisdictions] *program, a local jurisdiction shall [use] satisfy these criteria when addressing shoreline stabilization measures:*

- A. [Local jurisdictions, with assistance from the State, shall designate and map the following shoreline areas:
  - (1) Shoreline areas where no significant shore erosion occurs,
  - (2) Other eroding areas where nonstructural measures would be a practical and effective method of erosion control, and
  - (3) Eroding areas where only structural measures would provide effective and practical erosion control;

1 B. Local jurisdictions shall adopt policies to be reflective of shoreline characteristics to accomplish the  
2 following objectives:

3 (1) Provide that structural control measures only be used in areas designated in §A(3), above,  
4 where nonstructural control measures would be impractical or ineffective,

5 (2) Provide that where structural erosion control is required, the measure that best provides for  
6 conservation of fish and plant habitat, and which is practical and effective shall be used,

7 (3) Provide that nonstructural measures be utilized in areas of erosion as described in §A(2), above,

8 (4) Provide that structural erosion measures not be encouraged in areas where no significant  
9 erosion occurs, and

10 (5) Provide that if significant alteration in the characteristics of a shoreline occurs, the measure that  
11 best fits the change may be used for sites in that area.

12 C. A local jurisdiction shall provide the Commission with the approved buffer management plan for a  
13 shore erosion control measure in accordance with COMAR 26.24.04.01-3 and 27.01.09.01-3] In  
14 accordance with COMAR 26.24.04.01-1, adherence to the structural shoreline stabilization maps  
15 developed and maintained by the Department of the Environment;

16 *B. In accordance with Environment Article, §16-201(c), Annotated Code of Maryland, and COMAR*  
17 *26.24.04.01, prohibition of the use of a structural shoreline stabilization measure in an area where no*  
18 *significant shore erosion occurs;*

19 *C. Performance of mitigation measures applicable to the type of shoreline stabilization measure to be*  
20 *undertaken, as specified in the Commission form entitled “Shoreline Stabilization Measure Buffer*  
21 *Management Plan”;* and

22 *D. In accordance with COMAR 26.24.04.01-3 and 27.01.09.01-3, delivery to the Commission of an*  
23 *approved buffer management plan for each approved shoreline stabilization measure.*

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### 25 **Chapter 09 Habitat Protection Areas in the Critical Area**

26 Authority: Natural Resources Article, §8-1806, Annotated Code of Maryland

#### 27 **.01 Buffer.**

28 A. — C. (text unchanged)

29 D. Authority of Secretary; Scope; Alternative Procedures and Requirements.

30 (1) (text unchanged)

31 (2) Except for a [shore erosion control project] *shoreline stabilization measure* in a modified buffer  
32 area, the provisions of this regulation through Regulation .01-7 of this chapter do not apply within a  
33 modified buffer area under Regulation .01-8 of this chapter.

34 (3) (text unchanged)

1 E. Buffer Standards.

2 (1) In conjunction with mitigation performed in accordance with an approved buffer management  
3 plan under Regulation .01-3 of this chapter, a local jurisdiction may authorize disturbance in the buffer  
4 for:

5 (a) (text unchanged)

6 (b) In accordance with COMAR 26.24.02, a [shore erosion control] *shoreline stabilization* measure  
7 under COMAR 27.01.04.

8 (2) —(8) (text unchanged)

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10 **.01-2 Mitigation and Planting Standards.**

11 A. — G. (text unchanged)

12 H. Permanent Disturbance. In accordance with the applicable activity, a local jurisdiction shall require  
13 the following ratios of mitigation for each permanent disturbance:

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Activity	Mitigation Ratio
Septic on a lot created before local program approval if located in existing grass or if clearing is not required	Not applicable
Septic system in a forest or developed woodland on a lot created before local program approval if clearing is required	1:1
[Shore erosion control] <i>A shoreline stabilization measure, unless otherwise authorized under COMAR 27.01.04.03</i>	1:1
Riparian water access	2:1
Development of a water-dependent facility or activity under COMAR 27.01.03	2:1
Variance	3:1
Violation	4:1

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16 I. —S. (text unchanged)

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18 **.01-3 Buffer Management Plans.**

- 1 A. (text unchanged)
- 2 B. A local jurisdiction shall require an applicant proposing a development activity to submit a buffer
- 3 management plan if:
  - 4 (1) (text unchanged)
  - 5 (2) Disturbance to the buffer will result from the issuance of *an authorization, including a:*
    - 6 (a) — (c) (text unchanged)
    - 7 (d) [Shore erosion control permit as required under COMAR 26.24.01] *Local approval of a*
    - 8 *shoreline stabilization measure, as authorized by the Board of Public Works or the Department of the*
    - 9 *Environment;*
    - 10 (e) — (h) (text unchanged)
- 11 C. — J. (text unchanged)

## 13 Chapter 14 Renewable Energy Generating Systems

14 Authority: Natural Resources Article, §8-1806(b), Annotated Code of Maryland

### 16 .06 Planting Plan Requirements.

17 A. Based on the constraints and opportunities presented by a project area, a local jurisdiction shall

18 select from the following options to address the requirements for a planting plan in Regulation .04D and

19 F of this chapter:

- 20 (1) (text unchanged)
- 21 (2) If a local jurisdiction has in [a] place an agreement with the Commission:
  - 22 (a) (text unchanged)
  - 23 (b) Create a wetland migration area, nonstructural shoreline [erosion control project]
  - 24 *stabilization measure*, or other nature-based practice that naturally adjusts to changing environmental
  - 25 conditions through the lifespan of the practice and is designed to address future sea level rise,
  - 26 precipitation-induced flooding, or other climate change impacts;
  - 27 (c) — (d) (text unchanged)
- 28 (3) (text unchanged)

29 B. — E. (text unchanged)

## 30 Subtitle 02 DEVELOPMENT IN THE CRITICAL AREA RESULTING FROM STATE AND

## 31 LOCAL AGENCY PROGRAMS

### 32 Chapter 01 General Provisions

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3 **.01 Definitions.**

4 A. (text unchanged)

5 B. Terms Defined.

6 (1) — (48) (text unchanged)

7 (48-1) “Shoreline stabilization measure” has the meaning stated in COMAR 27.01.01.01.

8 (49) — (65) (text unchanged)

9  
10 **Chapter 05 State Agency Actions Resulting in Development on State-Owned Lands**

11 Authority: Natural Resources Article, §§8-1806 and 8-1814, Annotated Code of Maryland

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13 **.05 [Shore Erosion Protection Works] Shoreline Stabilization Measures.**

14 A. Definition [and Scope].

15 [(1) “Shore erosion protection works” means those structures or measures constructed or installed to  
16 prevent or minimize erosion of the shoreline in the Critical Area] *In this regulation, “shoreline  
17 stabilization measure” has the meaning stated in COMAR 27.01.01.01.*

18 [(2) The criteria below are not intended to apply to those structures necessarily associated with  
19 water-dependent facilities in Regulation .04 of this chapter.]

20 B. [Criteria] *Applicability.*

21 [(1) If shore erosion protection is planned on State-owned lands, the agency proposing the  
22 protection shall determine which of the following characteristics describes the shoreline area:

23 (a) Shoreline areas where no significant shore erosion occurs;

24 (b) Other eroding areas where nonstructural measures would be a practical and effective method  
25 of erosion control; or

26 (c) Eroding areas where only structural measures would provide effective and practical erosion  
27 control.

28 (2) When shore erosion control is undertaken, the measures used shall be appropriate to  
29 accomplish the following objectives:

30 (a) Provide that structural control measures only be used in areas designated in §B(1)(c), above,  
31 where nonstructural control measures would be impractical or ineffective;

1 (b) Provide that where structural erosion control is required, the measure that best provides for  
2 conservation of fish and plant habitat, and which is practical and effective shall be used;

3 (c) Provide that nonstructural measures be utilized in areas of erosion as described in §B(1)(b),  
4 above;

5 (d) Provide that structural erosion control measures not be permitted in areas where no  
6 significant erosion occurs; and

7 (e) Provide that if significant alteration in the characteristics of a shoreline occurs, the measure  
8 that best fits the change may be used for sites in that area]

9 *The provisions of this regulation do not apply to a structure that is, by necessity, associated with a*  
10 *water-dependent facility under COMAR 27.02.05.04--.04-3.*

11 *C. Policies.*

12 *An agency planning or proposing a shoreline stabilization measure on State-owned land shall follow*  
13 *these policies:*

14 *(1) Prioritization of the preservation of the natural shoreline;*

15 *(2) Protection of significantly eroding portions of the shoreline in the Critical Area; and*

16 *(3) In order to conserve and protect plant, fish, and wildlife habitat, the use of appropriate shoreline*  
17 *stabilization measures that effectively and practically reduce shore erosion.*

18 *D. Criteria.*

19 *An agency planning or proposing a shoreline stabilization measure on State-owned land shall satisfy*  
20 *these criteria:*

21 *(1) In accordance with COMAR 26.24.04.01-1, adherence to the structural shoreline stabilization*  
22 *maps developed and maintained by the Department of the Environment;*

23 *(2) In accordance with Environment Article, §16-201(c), Annotated Code of Maryland, and COMAR*  
24 *26.24.04.01, prohibition of the use of a structural shoreline stabilization measure in an area where no*  
25 *significant shore erosion occurs; and*

26 *(3) Performance of mitigation measures applicable to the type of shoreline stabilization measure to*  
27 *be undertaken, as specified in the Commission form entitled "Shoreline Stabilization Measure Buffer*  
28 *Management Plan."*

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30 **.15-3 Planting Plan Requirements.**

31 A. Based on the constraints and opportunities presented by a project area, a State agency shall select  
32 from the following options to address the planting plan requirements of Regulation .15-1D and F of this  
33 chapter:

34 (1) (text unchanged)



- 1 (2) If approved by the Commission:
- 2 (a) (text unchanged)
- 3 (b) Create a wetland migration area, nonstructural shoreline [erosion control project]  
4 *stabilization measure*, or other nature-based practice that naturally adjusts to changing environmental  
5 conditions through the lifespan of the practice and is designed to address future sea level rise,  
6 precipitation-induced flooding, or other climate change impacts;
- 7 (c) Create, restore, or enhance a nontidal wetland that results in habitat and water quality  
8 benefits [provided] *if* it is authorized by the [Maryland] Department of the Environment; or
- 9 (d) (text unchanged)
- 10 B.—D. (text unchanged)

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