



Name of Project:

5.2 COASTAL RESOURCES

5.2.1 The Chesapeake and Atlantic Coastal Bays Critical Area

In addition to the policies in this section, the laws approved by NOAA implementing the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program are enforceable policies.

Critical Area Policy 1 – Scope of the Buffer. In the Critical Area, a minimum 100-foot vegetated buffer shall be maintained landward from the mean high water line of tidal waters, the edge of each bank of tributary streams, and the landward edge of tidal wetlands. The buffer shall be expanded in sensitive areas in accordance with standards adopted by the Critical Area Commission. The buffer is not required for agricultural drainage ditches if the adjacent agricultural land has in place a soil conservation and water quality plan. Mitigation or other measures for achieving water quality and habitat protection objectives may be necessary in buffer areas for which the Critical Area Commission has modified the minimum applicable requirements due to the existing pattern of development. CAC (C9) COMAR 27.01.09.01, .01-6, .01-8.

Select appropriate response:

Project will be consistent with the Scope of Buffer policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Critical Area Policy 2 – Buffer Disturbance. Disturbance to a buffer in the Critical Area is only authorized for a shoreline stabilization measure or for a facility or activity that is water-dependent; meets a recognized private right or public need; avoids or, if unavoidable, minimizes the adverse impacts on water quality and fish, wildlife, and plant habitat; is limited to the minimum lot coverage necessary to accommodate the facility or activity; and, insofar as possible, locates nonwatery-dependent projects associated with water-dependent facilities or activities outside the buffer. Disturbance to a buffer may only be authorized in conjunction with mitigation performed in accordance with an approved buffer management plan. CAC (C9) COMAR 27.01.03.03; COMAR 27.01.09.01, .01-2, .01-3.

Select appropriate response:

Project will be consistent with the Buffer Disturbance policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



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Critical Area Policy 3 – Protection of Bird Nesting Areas. Colonial water bird nesting sites in the Critical Area may not be disturbed during breeding season. CAC (C9) COMAR 27.01.09.04.

Select appropriate response:

Project will be consistent with the Protecting Bird Nesting Areas policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Critical Area Policy 4 – Protection of Waterfowl. New facilities in the Critical Area shall not interfere with waterfowl concentration and staging areas. CAC (C9) COMAR 27.01.09.04.

Select appropriate response:

Project will be consistent with the Protection of Waterfowl policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Critical Area Policy 5 – Restrictions on Stream Alterations. Channelization or other physical alterations to streams in the Critical Area shall not affect the movement of fish. CAC (C9) COMAR 27.01.09.05.

Select appropriate response:

Project will be consistent with the Restrictions on Stream Alterations policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Critical Area Policy 6 – Prohibition of Riprap and Artificial Surfaces. The installation or introduction of concrete riprap or other artificial surfaces onto the bottom of natural streams in the Critical Area is prohibited unless water quality and fisheries habitat will be improved. CAC (C9) COMAR 27.01.09.05.

Select appropriate response:

Project will be consistent with the Prohibition of Riprap and Artificial Surfaces policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



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Critical Area Policy 7 – Prohibition of Dams and Structures. The construction or placement of dams or other structures in the Critical Area that would interfere with or prevent the movement of spawning fish or larval forms in streams is prohibited. CAC (C9) COMAR 27.01.09.05.

Select appropriate response:

Project will be consistent with the Prohibition of Dams and Structures policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Critical Area Policy 8 – Restrictions on Stream Crossings and Impacts. Development may not cross or affect a stream in the Critical Area, unless there is no feasible alternative and the design and construction of the development prevents increases in flood frequency and severity that are attributable to development; retains tree canopy and maintains stream water temperature within normal variation; provides a natural substrate for affected streambeds; and minimizes adverse water quality and quantity impacts of stormwater. CAC (C9) COMAR 27.01.02.04.

Select appropriate response:

Project will be consistent with the Restrictions on Stream Crossings and Impacts policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Critical Area Policy 9 – Time of Year Restrictions for Construction in Streams. The construction, repair, or maintenance activities associated with bridges or other stream crossings or with utilities and roads, which involve disturbance within the buffer or which occur in stream are prohibited between March 1 and May 15. CAC (C9) COMAR 27.01.09.05.

Select appropriate response:

Project will be consistent with the Time of Year Restriction for Construction in Streams policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



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Critical Area Policy 10 – Avoid & Minimize Construction Impacts in Habitat Areas. Roads, bridges, or utilities may not be constructed in any areas designated to protect habitat, including buffers, in the Critical Area, unless there is no feasible alternative and the road, bridge, or utility is located, designed, constructed, and maintained in a manner that maximizes erosion protection; minimizes negative impacts to wildlife, aquatic life, and their habitats; and maintains hydrologic processes and water quality. CAC (C9) COMAR 27.01.02.03C, .04C, .05C.

Select appropriate response:

Project will be consistent with the Avoid & Minimize Construction Impacts in Habitat Areas policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Critical Area Policy 11 – Intensely Developed Areas. The following policies apply in those areas of the Critical Area that are determined to be areas of intense development.

- To the extent possible, fish, wildlife, and plant habitats should be conserved.
- Development and redevelopment shall improve the quality of runoff from developed areas that enters the Chesapeake or Atlantic Coastal Bays or their tributary streams.
- At the time of development or redevelopment, appropriate actions must be taken to reduce stormwater pollution by 10%. Retrofitting measures are encouraged to address existing water quality and water quantity problems from stormwater.
- Development activities may cross or affect a stream only if there is no feasible alternative, and those activities must be constructed to prevent increases in flood frequency and severity attributable to development, retain tree canopy, maintain stream water temperatures within normal variation, and provide a natural substrate for affected streambeds.
- Areas of public access to the shoreline, such as foot paths, scenic drives, and other public recreational facilities, shall be maintained and, if possible, are encouraged to be established.
- Ports and industries which use water for transportation and derive economic benefits from shore access, shall be located near existing port facilities or in areas identified by local jurisdictions for planned future port facility development and use if this use will provide significant economic benefit to the State or local jurisdiction.
- Development shall be clustered to reduce lot coverage and maximize areas of natural vegetation.
- Development shall minimize the destruction of forest and woodland vegetation. CAC (C9) COMAR 27.01.02.03.

Select appropriate response:

Project will be consistent with the Intensely Developed Areas policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



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Critical Area Policy 12 – Limited Development Areas & Resource Conservation Areas. The following policies apply in those portions of the Critical Area that are not areas of intense development.

- Development shall maintain, and if possible, improve the quality of runoff and ground water entering the Chesapeake and Coastal Bays.
- To the extent practicable, development shall maintain existing levels of natural habitat.
- All development sites shall incorporate a wildlife corridor system that connects undeveloped vegetated tracts onsite with undeveloped vegetated tracts offsite.
- All forests and developed woodlands that are cleared or developed shall be replaced on not less than an equal area basis.
- If there are no forests on a proposed development site, the site shall be planted to provide a forest or developed woodland cover of at least 15 percent.
- Development on slopes equal to or greater than 15 percent, as measured before development, shall be prohibited unless the project is the only effective way to maintain the slope and is consistent with other policies.
- To the extent practicable, development shall be clustered to reduce lot coverage and maximize areas of natural vegetation.
- Lot coverage is limited to 15 percent of the site. CAC (C9) COMAR 27.01.02.04.

Select appropriate response:

Project will be consistent with the Limited Development Areas & Resource Conservation Areas policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Critical Area Policy 13 – Public Facilities Allowed With Restrictions in Buffer. Public beaches or other public water-oriented recreation or education areas or activities may be permitted in the buffer in portions of the Critical Area not designated as intensely developed areas only if adequate sanitary facilities exist; sanitary and service facilities are, to the extent possible, located outside the buffer; permeable surfaces are used to the extent practicable, if no degradation of ground water would result; and disturbance to natural vegetation is first avoided or, if unavoidable minimized. CAC (C9) COMAR 27.01.03.08.

Select appropriate response:

Project will be consistent with the Public Facilities Allowed With Restriction in Buffer policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



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Critical Area Policy 14 – Water-Dependent Research Facilities. Research-associated water-dependent facilities or activities may be permitted in the buffer if associated nonwater-dependent projects are located outside the buffer. CAC (C9) COMAR 27.01.03.09.

Select appropriate response:

Project will be consistent with the Water-Dependent Research Facilities policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Critical Area Policy 15 – Siting Industrial & Port-Related Facilities. Water-dependent industrial and port-related facilities may only be located in the portions of areas of intense development designated as modified buffer areas. CAC (C9) COMAR 27.01.03.05.

Select appropriate response:

Project will be consistent with the Siting Industrial & Port-Related Facilities policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Critical Area Policy 16 – Restrictions on Waste Facilities. Solid or hazardous waste collection or disposal facilities and sanitary landfills are not permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these facilities are needed in order to correct an existing water quality or wastewater management problem. CAC (C9) COMAR 27.01.02.02.

Select appropriate response:

Project will be consistent with the Restrictions on Waste Facilities policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



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Critical Area Policy 17 – Buffer Management Plan. If a development or redevelopment activity occurs on a lot or parcel that includes a buffer or if issuance of a permit, variance, or approval would disturb the buffer, the proponents of that activity must develop a buffer management plan that clearly indicates that all applicable planting standards developed by the Critical Area Commission will be met and that appropriate measures are in place for the protection and maintenance of the buffer. CAC (C9) COMAR 27.01.09.01-1, .01-3.

Select appropriate response:

Project will be consistent with the Buffer Management Plan policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Critical Area Policy 18 – Protection of Critical Area from Adverse Effects of Surface Mining. When locating a surface mining activity, substantial loss of renewable resource land and degradation of water quality must be avoided or, in the alternative, minimized. When conducting a surface mining activity, all available measures must be utilized to protect the Critical Area from all sources of pollution resulting from that activity, including sedimentation and siltation, chemical and petrochemical use and spillage, and storage or disposal of waste, dust, or spoil. CAC (D5) COMAR 27.01.07.02.

Select appropriate response:

Project will be consistent with the Protection of Critical Area from Adverse Effects of Surface Mining policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Critical Area Policy 19 – Reclamation Requirements for Surface Mining. In the Critical Area, surface mining activities must be conducted in a way that facilitates site reclamation, including renewable resource land, as soon as possible and to the maximum extent possible. CAC (D5) COMAR 27.01.07.02B.

Select appropriate response:

Project will be consistent with the Reclamation Requirements for Surface Mining policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



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Critical Area Policy 20 – Areas that are Unsuitable for Surface Mining. Surface mining is prohibited in a habitat protection area, in an area where highly erodible soils exist, and within 100 feet immediately landward from mean high water of tidal waters or from the edge of a bank of a tributary stream. CAC (D5) COMAR 27.01.07.03B.

Select appropriate response:

Project will be consistent with the Areas that are Unsuitable for Surface Mining policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Critical Area Policy 21 – Prohibition of Wash Plants in Buffer. Wash plants, including stockpiles, wash ponds, and related washing equipment, may not be located in the 100-foot buffer. CAC (D5) COMAR 27.01.07.01, .03D.

Select appropriate response:

Project will be consistent with the Prohibition of Wash Plants in Buffer policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Critical Area Policy 22 – Requirements for Agriculture in the Buffer. Agriculture is authorized in the buffer if, as a minimum agricultural best management practice, a vegetated filter strip of at least 25 feet measured landward from the mean high water line of tidal waters or tributary streams or from the edge of tidal wetlands, whichever is further inland, is established in trees, shrubs, grass, or mixed vegetation. CAC (C4) COMAR 27.01.09.01-6.

Select appropriate response:

Project will be consistent with the Requirements for Agriculture in the Buffer policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



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Critical Area Policy 23 – Geographical Limits for Feeding or Watering Livestock. The feeding or watering of livestock is not permitted within 50 feet of the mean high water line of tidal waters or tributary streams or from the edge of tidal wetlands, whichever is further inland. CAC (C4) COMAR 27.01.09.01-6.

Select appropriate response:

Project will be consistent with the Geographical Limits for Feeding or Watering Livestock policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Critical Area Policy 24 – Creating New Agricultural Lands. In the Critical Area, the creation of new agricultural lands shall not be accomplished by diking, draining, or filling of a nontidal wetland, without appropriate mitigation; by clearing of forest or developed woodland on soil with a slope greater than 15 percent or on soil with a K factor greater than 0.35 and a slope greater than 5 percent; by clearing that will adversely affect water quality or will destroy plant or wildlife habitat; or by clearing existing natural vegetation within the 100-foot buffer. CAC (C4) COMAR 27.01.06.03C.

Select appropriate response:

Project will be consistent with the Creating New Agricultural Lands policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Critical Area Policy 25 – Best Management Practices for Agriculture. Agricultural operations within the Critical Area shall have in place and be implementing a current soil conservation and water quality plan and nutrient management plan prepared by a certified nutrient management consultant or certified farm operator. CAC (C4) COMAR 27.01.06.03C.

Select appropriate response:

Project will be consistent with the Best Management Practices for Agriculture policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



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Critical Area Policy 26 – Cutting or Clearing Trees in the Buffer. Cutting or clearing of trees within the buffer is prohibited except that commercial harvesting of trees by selection or by the clearcutting of loblolly pine and tulip poplar may be permitted to within 50 feet of the landward edge of the mean high water line of tidal waters and perennial tributary streams, or the edge of tidal wetlands if the buffer is not subject to additional habitat protection. Commercial harvests must be in compliance with a buffer management plan that is prepared by a registered professional forester and is approved by the Department of Natural Resources. CAC (C5) Md. Code Ann., Nat. Res. § 8-1808.7; COMAR 27.01.09.01-7

Select appropriate response:

Project will be consistent with the Cutting or Clearing Trees in the Buffer policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Critical Area Policy 27 – Requirements for Commercial Tree Harvesting in the Buffer. Commercial tree harvesting in the buffer may not involve the creation of logging roads and skid trails within the buffer and must avoid disturbing stream banks and shorelines as well as include replanting or allowing regeneration of the areas disturbed or cut in a manner that assures the availability of cover and breeding sites for wildlife and reestablishes the wildlife corridor function of the buffer. CAC (C5) Md. Code Ann., Nat. Res. § 8-1808.7; COMAR 27.01.09.01-7

Select appropriate response:

Project will be consistent with the Requirements for Commercial Tree Harvesting in the Buffer policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:

Critical Area Policy 28 – General Restrictions to Intense Development. Intense development should be directed outside the Critical Area. Future intense development activities, when proposed in the Critical Area, shall be directed towards the intensely developed areas. CAC (D1) Md. Code Ann., Natural Res. § 8-1807(b); COMAR 27.01.02.02B.

Select appropriate response:

Project will be consistent with the General Restrictions to Intense Development policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy:



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Critical Area Policy 29 – Development Restrictions in Critical Area. The following development activities and facilities are not permitted in the Critical Area except in intensely developed areas and only after the activity or facility has demonstrated that there will be a net improvement in water quality to the adjacent body of water.

- Non-maritime heavy industry
- Transportation facilities and utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters
- Permanent sludge handling, storage, and disposal facilities, other than those associated with wastewater treatment facilities. However, agricultural or horticultural use of sludge when applied by an approved method at approved application rates may be permitted in the Critical Area, but not in the 100-foot Buffer.
- CAC (C9) COMAR 27.01.02.02.

Select appropriate response:

Project will be consistent with the Development Restriction in Critical Area policy.

Not Applicable.

Describe situation and/or actions to make project or activity consistent with the above policy: