

CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS
1804 West Street, Suite 100
Annapolis, Maryland 21401

MEMORANDUM

To: Erik Fisher, Chair
Critical Area Commissioners

From: Lisa Hoerger, Regulations Manager

Date: October 21, 2026

Subject: Draft Solar Regulations

Commission staff are currently developing draft updates to the Renewable Energy chapter in COMAR. The updates pertain to the siting of small residential solar installations. This memorandum summarizes those changes and a draft will be distributed to the Commission in the coming weeks.

Background

In 2021 the Critical Area Commission promulgated renewable energy regulations. The reasons for the regulations were twofold. One reason was that the General Assembly increased the Renewable Energy Portfolio Standards (RPS)¹ in the statute, which meant the potential for more renewable energy in the Critical Area. The other reason was based on a Court of Appeals ruling in 2019 (*Washington County v. Perennial Solar*) which preempted local zoning authority over certain renewable projects. While the Commission supported renewable projects, there was a concern that certain sized projects developed under current regulations in the Resource Conservation Area (RCA) may not be consistent with the intent and character of the RCA. For example, a 2 megawatt solar installation could span a minimum of 10 acres and result in substantial impacts on forests, the Buffer, and other Habitat Protection Areas. Similarly, using growth allocation to address solar energy in the RCA raised concerns about creating anchors for future permanent intense growth adjacent to this use, which may cease once the site was decommissioned.

Working with multiple stakeholders over a period of several years, COMAR 27.01.14, Renewable Energy Generating Systems, was promulgated. The regulations addressed solar energy projects, with the possibility of addressing other renewable sources, if deemed necessary. The research at the time suggested that wind was not likely in the coastal areas of Maryland, except for offshore wind.

The main focus of the regulations was for major energy generating systems (2 megawatts (MW) or greater). Provisions were included to prohibit growth allocation from being used for major solar energy generating systems. In addition, forest clearing is more limited in the RCA, lot coverage can be reduced by planting under solar panels, systems are prohibited in the Buffer, and a reservation of development rights is required to limit residential development on parcels where these systems are proposed. Additional limited provisions were provided for minor energy generating systems (less than 2MW) and small systems on residential lots.

¹ In 2019 the RPS was increased so that 50% of the State's energy needs would be met with renewables, and solar had a 14.5% carveout by 2028, which at the time was only at 2.5%. Since that time, the carve out has remained at 14.5%, but now extends out to 2030 and the RPS is now 52.5%.

Discussion

The current draft is focused on minor revisions to those regulations that address small residential energy systems on residential lots. The intent was and still is to allow residential lot owners to employ solar technologies where the only feasible location, on a smaller lot, is in the Buffer or an MBA.

The current regulations allow for this use in the Buffer based on lot size and locational standards. The proposed draft allows for slightly larger lots, subject to certain standards, to have solar panels located in the 100-foot Buffer or in a Modified Buffer Area (MBA). Specifically, a proposal must be located on a lot:

- That existed prior to local program approval;
- Is $\frac{1}{4}$ or less in a Buffer; or
- Is up to $\frac{3}{4}$ acre in an MBA.

The proposal can only be approved if:

- There is no alternative location for the panels;
- No clearing of trees is required to site the panels;
- The panels are sited outside the minimum setback for an MBA, but no less than 10 feet from tidal waters or tidal wetlands; and
- Mitigation is provided at a 1:1 ratio for the area of the panels.

Stakeholder Outreach

The draft will be distributed in the coming weeks to both the Commission and local governments for feedback. Consequently, these draft regulations are presented for discussion purposes only and will not be voted on at the November meeting. Staff encourage questions or comments prior to the meeting date.

If you have any questions, please contact Lisa Hoerger at (410) 260-3478 or lisa.hoerger@maryland.gov.