

Critical Area Commission

STAFF REPORT

June 4, 2025

PROPOSAL:	Permission to Publish Proposed Regulations: Updates to Title 27.03, Critical Area Commission for the Chesapeake and Atlantic Coastal Bays
COMMISSION ACTION:	Vote
STAFF:	Lisa Hoerger
AFFECTED CHAPTERS OF COMAR:	COMAR 27.03.01 Notification of Project Applications
APPLICABLE LAW/ REGULATIONS:	Natural Resources Article, §8-1806

DISCUSSION:

At the direction of Chair Fisher, Commission staff are proposing to update COMAR 27.03.03, Notice Requirements for State Agency and Local Agency Development and COMAR 27.03.04, Categories of Applications to be Submitted to the Executive Director. The purpose of these amendments is to make updates due to changes in the Commission staff's reorganization of duties and priorities, the effectiveness of local government review of development applications, and changes to the Commission's meeting schedule. The proposed changes to the regulations can be categorized as follows:

- Update the notification regulations due to changes in the Commission's schedule; and
- Update the application regulations to reflect reorganization and local proficiencies.

At its April 23, 2025 meeting, Commission staff provided a presentation to the Critical Area Commission on changes to these regulations.

Necessity for Regulations

COMAR 27.03.01.03 - Notice Requirements for State Agency and Local Agency Development

The proposed amendment to 27.03.01.03 is minor in nature and was precipitated when the Commission and the Committees began meeting on different dates. The current regulation instructs State and Local government agencies to provide public notice for development activities proposed on State or local government lands.

The current regulation states, "At least 14 days were provided for public comment..." (COMAR 27.02.01.02B(1)(d)). This language was valid when a project was presented to the Project Committee and the full Commission for vote on the same day; however, since the Project Committee now meets

two weeks in advance of the full Commission, the language has to be clarified to ensure that the 14-day notice would be fulfilled prior to the meeting of the Project Committee.

27.03.01.04 - Categories of Applications to be Submitted to the Executive Director

The changes to COMAR 27.03.01.04 are proposed to streamline the volume of projects required for submission for Commission staff review. This will benefit both the planning staff from local jurisdictions and the Commission staff. Commission staff's review and guidance was vital when project review began in the early 1990s. Over time local planning staff became more proficient in applying the laws and regulations. In addition, the Commission staff has reorganized to focus on broader policy initiatives such as regulatory updates, local program updates, policy research, and education of various audiences (local government decision-makers, planning staff, state agencies, and the general public). Certain development applications will still be required to be submitted to Commission staff for comment; this abbreviated list is based on projects that potentially have the most impact on water quality and habitat, or those projects in which local jurisdictions still frequently seek additional support from Commission staff for review.

The following project application types will still require review by Commission staff:

- Variances in Intensely Developed Areas (IDA), Limited Development Areas (LDA), and Resource Conservation Areas (RCA);
- All subdivisions, site plans, lot consolidations or reconfigurations, zoning map amendments, special exceptions, and conditional approvals in the RCA;
- Subdivisions in the IDA or LDA, only if a habitat protection area is impacted or if the subdivision is associated with an approved growth allocation;
- Applications for major and minor solar energy generating projects in LDAs or RCAs; and
- Final approvals for:
 - Major solar energy generating systems;
 - Variances;
 - RCA development projects;
 - Subdivisions;
 - Buffer Management Plans associated with a shoreline stabilization measure; and
 - Major Buffer Management Plans, by request from the Executive Director.

The following project application types will no longer be required to be submitted to Commission staff; however, they will still require local government staff review and approval:

- Site plans, zoning map amendments, special exceptions, and conditional uses in the LDA; and
- Subdivisions and lot consolidations or reconfigurations in IDAs or LDAs **unless** there is a Habitat Protection Area impacted, or the subdivision is part of a growth allocation request.

STAKEHOLDER COMMENTS:

Commission staff provided the draft to the local governments and the environmental community for comment. Any comments received by staff will be provided at the June 4th, 2025 Critical Area Commission meeting.

COMMISSION ACTION:

The Commission will be asked to vote to forward the draft regulations to the Administrative, Executive, & Legislative Review Committee and subsequently to publish these regulations as proposed regulations in the Maryland Register.

If you have any questions or comments regarding the draft regulations prior to the meeting, please contact me at (410) 260-3478 or at lisa.hoerger@maryland.gov or Kate Durant at (410) 260-3477 or at kathryn.durant@maryland.gov.

3 **COMAR 27.03.01**

4 **.04 Categories of Applications to be Submitted to the Executive Director.**

5 **A. [Developments, Subdivisions, and Site Plans Requiring Project Approval.**

6 (1) The local approving authority shall electronically submit to the Executive Director each application for a
7 development, subdivision, and site plan that is located wholly or partially within the Critical Area, except those
8 specified in §A(2) of this regulation.

9 (2) The following types of developments, subdivisions, and site plans are exempted from §A(1) of this
10 regulation, if the proposed development, subdivision, or site plan does not result in a physical disturbance to the
11 buffer:

12 (a) The following developments, subdivisions, or site plans that would occur wholly or partially within
13 [the IDAs] an intensely developed area:

14 (i) A single family dwelling unit;

15 (ii) A structure which is necessary to a single family dwelling unit which may include a pool, garage,
16 porch, shed, or tennis courts;

17 (iii) Development in which the land disturbance does not exceed 15,000 square feet; and

18 (iv) Subdivisions resulting in up to ten lots or up to ten dwelling units;

19 (b) The following developments, subdivisions, or site plans that would occur wholly or partially within a
20 limited development area:

21 (i) Those listed in §A(2)(a)(i)—(iii) of this regulation; and

22 (ii) A subdivision resulting in up to three lots that does not affect the local jurisdiction's growth
23 allocation; and

24 (c) Developments, subdivisions, or site plans occurring wholly or partially within a resource conservation
25 area for which the land disturbance does not exceed 5,000 square feet.] *A local jurisdiction shall electronically*
26 *submit to the Executive Director each application for:*

27 *(1) A variance from the local Critical Area program;*

28 *(2) In the resource conservation area:*

29 *(i) A site plan;*

30 *(ii) A subdivision;*

31 *(iii) A lot consolidation or a reconfiguration;*

32 *(iv) A special exception;*

33 *(v) A conditional use; and*

34 *(vi) A zoning map amendment or a rezoning.*

35 *(3) In an intensely developed area or a limited development area, a subdivision or a lot consolidation or*
36 *reconfiguration :*

37 *(i) That proposes impacts to any habitat protection area, including the buffer; or*

38 *(ii) On a site that has received growth allocation ; and*

39 *(4) In accordance with COMAR 27.01.14 and COMAR 27.02.07, a major or minor solar energy generating*
40 *system that would be located wholly or partially in a limited development area or a resource conservation area.*

41 **B.[Other Applications. The local approving authority shall electronically submit to the Executive Director:**

1 (1) Each initial and subsequent application for a rezoning or a floating zone that would occur wholly or
2 partially within the resource conservation area or would result in a change to the Critical Area land classification;

3 (2) Each application for a special exception or a conditional use that would allow industrial, commercial,
4 institutional, nonresidential, or multifamily uses to be located wholly or partially within a limited development
5 area or a resource conservation area;

6 (3) Each application for a variance from the local Critical Area program; and

7 (4) In accordance with COMAR 27.01.14 and COMAR 27.02.07, each application for a major or minor solar
8 energy generating system that would be located wholly or partially in a limited development area or a resource
9 conservation area.

10 C. Approvals.] The local approving authority shall electronically submit to the Executive Director *final*
11 *approvals for*:

12 (1) [Each final approval of a] A major solar energy generating system;

13 (2) In accordance with COMAR 27.01.04.03 and 27.01.09.01-3, each category of application under §A(1)—
14 (3) of this regulation [and for each Critical Area variance application];

15 [(a) Each approved] (3) *Upon request by the Executive Director, a major buffer management plan; and*

16 [(b)] (4) As applicable, each [approved] completed Commission form entitled “Shoreline Stabilization
17 Measure Buffer Management Plan.”

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3 **DRAFT 5/5/2025**
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5 **COMAR 27.03.01**

6 **03 Notice Requirements for State Agency and Local Agency Development.**

7 A. (text unchanged)

8 B. Public Notice.

9 (1) Except as provided under §A of this regulation, a State agency or local agency that proposes development
10 in the Critical Area shall, as part of its project submittal to the Commission, provide evidence that:

11 (a) Public notice was published [for 1 business day in a newspaper of general circulation in the geographic
12 area in which the proposed development would occur];

13 (i) *At least 14 days prior to the date of the project committee meeting at which the project will be*
14 *presented for a vote; and*

15 (ii) *For one business day in a newspaper of general circulation in the geographic area in which the*
16 *proposed development would occur;*

17 (b) — (d) (text unchanged)

18 (2) (text unchanged)

19 C. — D. (text unchanged)
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