

House Bill 973 Living Shoreline Protection Act

- Signed into law by Governor O'Malley on April 24, 2008
- Goals include:
 - Retention of the natural shoreline, including its habitat and ecological function
 - Mandates the use of wetland creation and habitat enhancement projects where technologically and ecologically appropriate.

Ch. 304

CHAPTER 304

(House Bill 973)

AN ACT concerning

Water Management Administration - Living Shoreline Protection Act of 2008

FOR the purpose of requiring certain erosion protection projects to include certain nonstructural shoreline stabilization measures, with a certain exception certain exceptions; requiring the Department of the Environment, in consultation with the Department of Natural Resources, to adopt certain regulations; requiring certain regulations to include a certain waiver process; and generally relating to the regulation of shore erosion control projects.

BY repealing and reenacting, with amendments, Article – Environment Section 16–201 Annotated Code of Maryland (2007 Replacement Volume and 2007 Supplement)

Preamble

WHERFAS, The State of Maryland and its people, property, natural resources, and public investments will be significantly impacted by climate change and sea level rise; and

WHEREAS, Sea level rise contributes to the erosion of approximately 580 acres of shoreline per year along Maryland's Chesapeake Bay, Atlantic coastal bays, and Atlantic Ocean coast; and

WHEREAS, The Maryland Commission on Climate Change has recommended that the State begin to actively address the impacts on the natural environment of shore erosion induced by sea level rise; and

WHEREAS, Current shore protection practices used to control shore erosion and protect upland properties range from "hard" techniques such as bulkheads, retaining walls, and riprap, to more "soft" alternatives such as "living shorelines" that combine marsh plantings with sills, groin fields, or breakwaters; and

WHEREAS, "Living shorelines" are the preferred method of shore protection as they trap sediment, filter pollution, and provide important aquatic and terrestrial habitat: and

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House Bill 973 Living Shoreline Protection Act

- □ The Bill required MDE to:
 - (1) Map areas appropriate for structural shoreline stabilization measures;
 - (2) Establish a waiver process for individuals that can demonstrate that nonstructural shoreline stabilization is not feasible; and
 - (3) Adopt regulations to implement the provisions of the law in cooperation with the Maryland Department of Natural Resources.

New Regulations – COMAR 26.24.04 Effective February 4, 2013

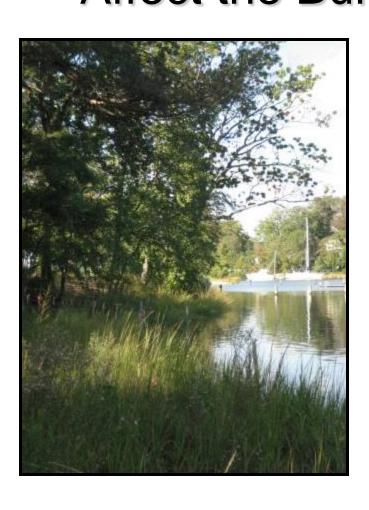
- 26.24.04.01-3(A)(4) & (5) Requires:
 - Submittal at the time of application:
 - A proposed Buffer Management Plan
 - A signed Buffer Notification Form
 - The local government issues final approval of a Buffer Management Plan for all shore erosion control projects.



Why Coordination is So Important

- MDE regulates wetlands and waterways (below MHW)
- Local governments with CAC oversight regulate the 100-foot Buffer (Buffer is measured from MHW or the landward edge of tidal wetlands, whichever is further landward)
- Unified, consistent, and coordinated review process needed to determine the best design for wetland, waterways, and Buffer resources and functions

How Erosion Control Measures Affect the Buffer

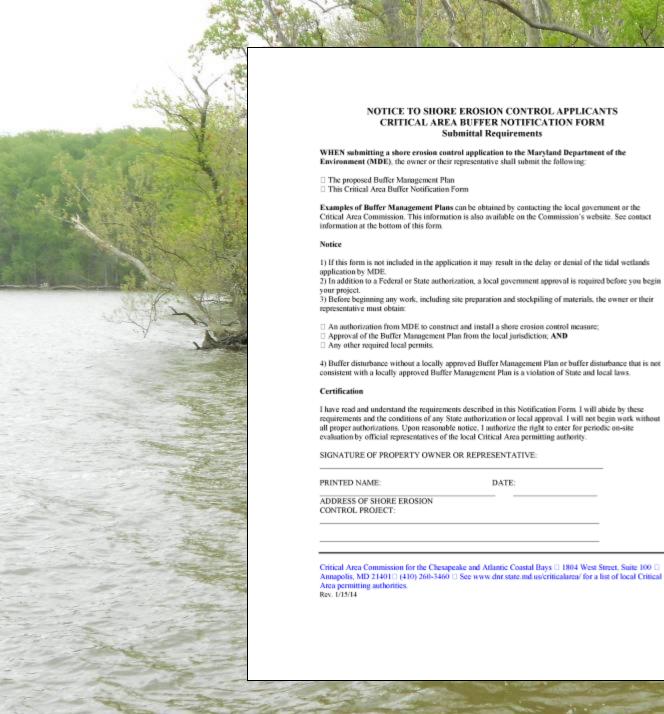


- Buffer is almost always affected either for:
 - Access
 - Slope stabilization
 - Vegetative Management
 - Shoreline erosion control tie-in

Buffer Notification Form



- Gives applicant and owner notice of Buffer requirements
- Requires a signature





Buffer Management Plans

- Offshore Work Form
- Bulkhead Replacem
- Revetment Form (in)
- Living Shoreline For





Buffer Management Plans





Buffer Management Plan for Offshore Work

- Recognizes that no Buffer impacts will occur
 - □ No grading, clearing, disturbance, or stockpiling
- Typical projects: breakwaters, marsh edging, stone in front of an existing bulkhead
- Can only be used for projects done offshore/by barge
- A Buffer Notification Form is still required



- OFFSHORE WORK ONLY -SHORE EROSION BUFFER MANAGEMENT PLAN

This form is to be used to address the requirement for a Buffer Management Plan for projects which do not involve clearing, grading, disturbance or stockpiling on land. Such projects may include offshore breakwaters or placement of stone in front of an existing bulkhead.

Mitigation (planting) is not required in such instances, but a Buffer Notification Form and this Buffer Management Plan must be submitted.

1. Applicant Information

Name:		
Address:		
City:	State: Zip:	
Telephone: ()	E-mail address:	

2. Work site address if different than above

Address:		
City:	State:	Zip:

3. Certification:

I certify that all proposed work associated with the tidal wetlands application at the above property will be performed from the water. There is adequate depth of water to gain access to the site. No clearing, grading, disturbance or stockpiling will occur on the land. I understand that authorization for the project proposed, if granted, will contain a special condition that requires that all work be conducted from the water. I understand that municipal or county staff may contact me and arrange to inspect the work. I will abide by the MDE authorization and will not conduct any work outside of the scope of the authorization. I understand that if work does occur on the land, I must apply to MDE for a modification and submit an updated Buffer Management Plan. Failure to do so is a violation of State and local laws. I certify that the information on this form is true and accurate to the best of my knowledge and belief.

**PROPERTY OWNER SIGNATURE:	
DATE:	

NOTE:
**PLAN IS INVALID WITHOUT A PROPERTY OWNER SIGNATURE

11-25-2013, Version 1.4



Buffer Management Plan for Bulkheads



- Recognizes that not all bulkhead replacements impact the Buffer
- Mitigation is required for removal of trees and shrubs
 - Local Governments may require mitigation for Limits of Disturbance in the Buffer as well
- A Buffer Notification Form is still required



Form 2

- BULKHEAD REPLACEMENT - SHORE EROSION BUFFER MANAGEMENT PLAN

This form is to be used to address the requirement for a Buffer Management Plan for bulkhead replacement projects which involve minimal clearing, grading, disturbance or stockpiling on land.

1. Applicant Information:		
Name:		
Address:		
City:	State:	Zip:
Telephone: ()	E-mail address	B:
2. Work site address if differe	ent than above:	
Address:		
City:	State:	Zip:
List mitigation provided for government. Please provide a	or removal of trees and shru	a (sq. feet), excluding turf grass:
this plan and the correspond county staff may contact me Buffer beyond what is descri	ing MDE authorization. I un and arrange to inspect the bed herein is a violation of is true and accurate to the	any work beyond the limits of iderstand that municipal or work. Disturbance within the State and local laws. I certify that best of my knowledge and belief.
DATE:		
	NOTE: ID WITHOUT A PROPERTY	OWNER SIGNATURE

12-19-2013, Version 1.5

Buffer Management Plan for Revetments

- In development
- Step-by-step process for creating a Buffer Management Plan for revetments
- 1:1 mitigation required for Limits of Disturbance in the Buffer
- Additional 1:1 mitigation required for tree canopy clearing
- A Buffer Notification Form must also be submitted

Buffer Management Plan for Revetments

 Developing criteria for reduced mitigation requirements under certain circumstances





Buffer Management Plan for Living Shorelines

- In development
- Step-by-step process for creating a Buffer Management Plan for Living Shorelines
- 1:1 mitigation required for Limits of Disturbance in the Buffer
- Additional 1:1 mitigation required for tree canopy clearing
- A Buffer Notification Form must also be submitted

Buffer Management Plan for Living Shorelines

 Developing criteria for reduced mitigation requirements under certain circumstances





- Will likely require the following
 - □ Photographs of the Site Area
 - Access information (barge/land/o
 - □ Will vegetation be removed/clear
 - □ Is Buffer grading proposed?



Revetment and Living Shoreline Buffer Management Plans

- Other requirements:
 - Site Plan showing Limits of Disturbance
 - Mitigation Chart
 - □ Landscape Schedule (species, type, quantity, size of plantings)
 - □ Signature Block





Revetment and Living Shoreline Buffer Management Plans

- Other requirements:
 - Monitoring and Maintenance Plan (two years)
 - Inspection agreement
 - Long-term protection plan, including a financial assurance (for Major Buffer Management Plans only)

Buffer Management Plans



- Improves multi-agency review process
- Will provide clear standards
- Will facilitate clear and effective implementation
- Needed to ensure that aquatic, wetland, and riparian resources are protected, restored, and enhanced

Commission's Website www.dnr.state.md.us/criticalarea

- Includes Links to:
 - Buffer Management Plan Information (Green Book)
 - Buffer Notification Form
 - □ Offshore BMP
 - □ Bulkhead BMP
 - Revetment and Living Shoreline BMP (coming soon)
 - MDE's website

