

Buffer Management Plans

A scenic view of a lake with a grassy shoreline in the foreground and a forested background under a blue sky with clouds. The foreground shows tall grasses and some rocks. The middle ground features a calm body of water reflecting the sky. The background is a dense line of trees.

Stakeholder's Meeting on the
Application Process for Shore
Erosion Control Projects

House Bill 973

Living Shoreline Protection Act

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

WHEREAS, 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

- 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.**

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

**NOTICE TO SHORE EROSION CONTROL APPLICANTS
CRITICAL AREA BUFFER NOTIFICATION FORM
Submittal Requirements**

WHEN submitting a shore erosion control application to the Maryland Department of the Environment (MDE), the owner or their representative shall submit the following:

- The proposed Buffer Management Plan
- This Critical Area Buffer Notification Form

Examples of Buffer Management Plans can be obtained by contacting the local government or the Critical Area Commission. This information is also available on the Commission's website. See contact information at the bottom of this form.

Notice

- 1) If this form is not included in the application it may result in the delay or denial of the tidal wetlands application by MDE.
- 2) In addition to a Federal or State authorization, a local government approval is required before you begin your project.
- 3) Before beginning any work, including site preparation and stockpiling of materials, the owner or their representative must obtain:

- An authorization from MDE to construct and install a shore erosion control measure;
- Approval of the Buffer Management Plan from the local jurisdiction, **AND**
- Any other required local permits.

4) Buffer disturbance without a locally approved Buffer Management Plan or buffer disturbance that is not consistent with a locally approved Buffer Management Plan is a violation of State and local laws.

Certification

I have read and understand the requirements described in this Notification Form. I will abide by these requirements and the conditions of any State authorization or local approval. I will not begin work without all proper authorizations. Upon reasonable notice, I authorize the right to enter for periodic on-site evaluation by official representatives of the local Critical Area permitting authority.

SIGNATURE OF PROPERTY OWNER OR REPRESENTATIVE:

PRINTED NAME: _____ DATE: _____

ADDRESS OF SHORE EROSION
CONTROL PROJECT:

Critical Area Commission for the Chesapeake and Atlantic Coastal Bays 1804 West Street, Suite 100
Annapolis, MD 21401 (410) 260-3460 See www.dnr.state.md.us/criticalarea/ for a list of local Critical
Area permitting authorities.

Rev. 1/15/14

Buffer Management Plans

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





Buffer Management Plans

Simplified Buffer Management Plan

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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

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

- 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:	

2. Work site address if different than above:

Address:		
City:	State:	Zip:

3. Bulkhead replacement description:

- a. How many linear feet of bulkhead replacement? _____
- b. How far channelward will the new bulkhead be located? _____
- c. What is the construction and anchoring method? _____
- d. Access to bulkhead via (circle one) Land Water
- e. Describe vegetation to be disturbed and approximate area (sq. feet), excluding turf grass: _____

4. List mitigation provided for removal of trees and shrubs, as indicated by local government. Please provide a sketch on back of this form, showing trees and shrubs being removed (X), and where new plantings will be located – (T) for tree, (S) for shrub.

5. Certification:

I will abide by this plan if approved and will not conduct any work beyond the limits of this plan and the corresponding MDE authorization. I understand that municipal or county staff may contact me and arrange to inspect the work. Disturbance within the Buffer beyond what is described herein 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**

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



Revetment and Living Shoreline Buffer Management Plans

- Will likely require the following
 - Photographs of the Site Area
 - Access information (barge/land/other)
 - Will vegetation be removed/cleared?
 - 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

