

Routine Program Change

Update and Clarification of Maryland Coastal Management Program Enforceable Policies

**Request for Concurrence
November 2010**

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INTRODUCTION

The following constitutes a request by the State of Maryland for the National Oceanic and Atmospheric Administration (NOAA) Office of Ocean and Coastal Resource Management (OCRM) to concur in the incorporation of routine program changes to the Maryland Coastal Management Program (CMP). In accordance with requirements for Routine Program Changes set forth in 15 C.F.R. §923.84, the guidelines for Routine Program Changes contained in OCRM's Program Change Guidance from July 1996, and working sessions with OCRM staff, the State of Maryland has prepared the following submission of enforceable policy changes and analysis.

This document is divided into the following sections:

- An analysis of Maryland's enforceable policies and the proffered Routine Program Change;
- A copy of the public notice to be published in the November 19, 2010 issue of the *Maryland Register*;
- A list of proposed enforceable policies; and
- A chart identifying and analyzing the proffered changes.

ANALYSIS OF ENFORCEABLE POLICIES

The purpose of this Routine Program Change (RPC) is to address a Necessary Action from the 2007 Section 312 Assessment of Maryland’s Coastal Program. The Assessment requires Maryland to update and clarify its enforceable policies and make them publicly accessible.

Maryland is addressing this Necessary Action with the proffered Routine Program Change. The changes noted in this submission are the result of a comprehensive review and update of the policies in Chapter III of the State of Maryland Coastal Management Program Document and past program changes. Maryland’s enforceable policies, whether contained in Chapter III of the State of Maryland Coastal Management Program Document, other program changes, or represented in state law but not heretofore adopted as a part of the Program, are identified in a single list of enforceable policies. The enforceable policies are based on current legally binding provisions of Maryland law and articulate clear standards for federal consistency determinations and certifications. While Maryland’s federal consistency process will continue to be guided by a number of considerations, any objections to a federal action will be based on the enforceable policies proposed in this RPC. Maryland hopes that by clearly articulating its enforceable policies, proponents of an action subject to federal consistency will be encouraged to engage in more meaningful early consultation with the Maryland Coastal Program.

Explanation of the Chart

This RPC includes a chart of proffered program changes, divided into five sections and organized to mirror Chapter III of the State of Maryland Coastal Management Program Document. Each section of the chart is described briefly below.

Current Enforceable Policy	Enforceable Mechanism (1978)	Proposed Change	Proposed Language*	Enforceable Mechanism (2010)
Maryland’s enforceable policies that have been incorporated into the Program, whether in the 1978 program document or in a program change.	The law or laws in 1978 that the enforceable policies contained in Chapter III of the State of Maryland Coastal Management Program Document were based.	A brief description of the proposed change and the rationale for the change.	The proposed enforceable policy with a parenthetical cite to the policy’s location in the list of proposed policies.	The current law that an enforceable policy is based on with a parenthetical cite to the date the law was last amended.

* Explanation of the Coding in the Proposed Language Column of the Chart

At the end of each policy statement contained in the fourth column, labeled “Proposed Language,” an alphanumeric expression (A-2-2) describes the position of that policy statement within the list of enforceable policies, whereby:

A = General Policies
B = Coastal Resources
C = Coastal Uses

The first number corresponds to the subsection or Policy Area, i.e., 2 = Water Quality. The second number refers to the policy number within the Policy Area.

For instance, policy (A-2-2) is policy 2 in the policy area Water Quality under General Policies.

Deletions

A number of the policies articulated in Chapter III of the State of Maryland Coastal Management Program Document have been deleted because the policies:

1. Do not provide a useful standard for federal consistency determinations either because the policies are vague and overly aspirational, or directed at State Government;
2. Are not based on current state law, and thus unenforceable;
3. Are not relevant to the federal consistency process; or
4. Are duplicative of new or revised enforceable policies.

While this Routine Program Change clarifies that a number of policies contained in Chapter III of the State of Maryland Coastal Management Program Document are not enforceable policies and thus inapplicable to the federal consistency process, these policies are not being deleted from the Maryland Coastal Management Program. The policies that are deleted are only deleted for federal consistency purposes.

Revisions

A number of policies in the State of Maryland Coastal Management Program Document have been revised to:

1. Reflect current state law; or
2. Contain newly identified enforceable mechanisms.

The Addition of Past Program Changes

Many of the Maryland Coastal Management Program's enforceable policies have been incorporated into the Program through program changes. Enforceable policies from earlier program changes were never drafted as narrative statements based on state law like the enforceable policies in Chapter III State of Maryland Coastal Management Program Document. The proffered RPC fills this gap, by adding narrative statements derived from the current version of the Maryland law that was incorporated into the Maryland Coastal Management Program through past program changes.

Consolidation, Reorganization and Simplification

The proffered Routine Program Change would consolidate all of Maryland's enforceable policies into a single, easily accessible, easy-to-read document that will be available on the Chesapeake and Coastal Program's website. The proposed enforceable policies are reorganized and grouped into 19 policy areas. The policy areas are not new. These areas have been regulated by the Maryland Coastal Management Program and are described in Chapter III of the State of Maryland Program Document and subsequent program changes. **The section below that explains why this RPC is not an Amendment lists the sections of Chapter III of the State of Maryland Program Document and subsequent program changes that the proposed policy areas are derived from.**

The Proffered Routine Program Change is Not an Amendment

The proffered Routine Program Change updates and clarifies the Maryland Coastal Management Program's enforceable policies. The changes will not result in an Amendment as described in 15 C.F.R. §923.80(d), since the changes do not substantially change the uses subject to management; special management areas; boundaries; authorities and organization; or coordination, public involvement, and national interest of Maryland's Coastal Program.

OCRM's Program Change Guidance from July 1996 states that a substantial change is a high threshold. Indicators of substantial change include new or revised enforceable policies that address coastal uses or resources not previously managed. While there are a number of new and revised enforceable policies proposed in this RPC, the proposed policies do not expand the scope of the Program. All proposed enforceable policies address coastal uses or resources currently subject to management. Many of the new and significantly revised enforceable policies are derived from the broad enforceable policies in Chapter III of the State of Maryland Coastal Management Program Documents and are explained in greater detail below.

A. General Policies

1. Core Policies

There are three new policies in the policy area Core Policies. The policies deal with public participation and hazardous substances. As explained below, these policies are derived from current policies in Chapter III the State of Maryland Coastal Management Program Document, and therefore do not change any uses or resources subject to management.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Program Document

(A3) Dredging and Disposal of Dredged Material

The new policy derived from the section of Chapter III of the State of Maryland Coastal Management Document titled Dredging and Disposal of Dredged Material deals with public participation during the planning process for certain shoreline altering activities. Chapter VII of the State of Maryland Coastal Program Document details the public role in Coastal Zone Management and explains, “the public role in coastal zone management entails participation in the ways existing laws are presently carried out in the coastal zone.” The new policy explains the public participation requirements associated with certain activities that alter the shoreline and mirrors existing Maryland law.

(A4) Activities Associated with Living Aquatic Resources

(B1) Use of Beach Areas

(C4) Use of Agricultural Lands

(C7) Activities Associated with the Provision of Sufficient Recreational, Open Space and Natural Areas

(C9) Shoreland Activities in General

(D3) Ports

Policy 10 in the Section of Chapter III of the State of Maryland Coastal Management Document titled Activities Associated with Living Aquatic Resources prohibits the disposal of hazardous substances in any manner if the disposal would cause sub-lethal alterations to the aquatic ecosystem. The new policy derived from the section of Chapter III of the State of Maryland Coastal Management Document titled Ports prohibits the introduction of hazardous substance into Baltimore harbor unless the substance is properly labeled. The new policy is derived from and adds greater specificity to Policy 10, because it will help ensure that hazardous substances are handled

appropriately and do not cause sub-lethal alterations to the aquatic ecosystem when transported through certain ports.

(D4) Industrial Parks

Policy 10 in Activities Associated with Living Aquatic Resources prohibits the disposal of hazardous substances in any manner if the disposal would cause sub-lethal alterations of the aquatic ecosystem. The new policy is derived from Policy 10. By requiring the proper storage and treatment of hazardous substances, the new policy ensures that such substances do not cause sub-lethal alterations to the aquatic ecosystem.

2. Water Quality

There are six new policies in the policy area Water Quality. The new policies add greater specificity to existing policies concerning the protection of water quality. Water quality protection is addressed in several sections of Chapter III of the State of Maryland Coastal Management Program Document. The new water quality protection policies pertain to discharges, toxic pollutants, oil pollution, and water quality education. While the new policies relate to a number of coastal uses and resources currently subject to management, the new policies are ultimately derivative of Policy 6 in the section of Chapter III of the State of Maryland Coastal Management Program Document titled Recreational Boating. Policy 6 broadly states, “all waters of the state shall be protected for use as water contact recreation, for fish, other aquatic life and wildlife.” The new water quality protection policies add greater specificity to Policy 6.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Program Document

(A2) Commercial Shipping (Oil Spill Containment and Prevention)

(A4) Activities Associated with Living Aquatic Resources

(A5) Ocean Dumping

(C4) Use of Agricultural Lands

(C9) Shoreland Activities in General

(D4) Industrial Parks

(D6) Large-Scale Residential Facilities

3. Flood Hazards

There are no new policies in the policy area Flood Hazards. One of the proposed policies has been significantly revised to provide greater specificity on permissible

activities in non-tidal waters and floodplains. While this policy is significantly changed, it is derived from Policy # 2 in the section of Chapter III of the State of Maryland Coastal Management Program Document titled Activities in Coastal Tidal and Non-Tidal Floodplains which discusses the alteration of non-tidal waters and floodplains.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Document

(C2) Activities in Coastal Tidal and Non-Tidal Flood Plains

Policy Areas Currently Subject to Regulation under Program Changes

Stormwater Management Program—Incorporated into the MCMP as a RPC in December of 2004

B. Coastal Resources

1. The Chesapeake and Atlantic Coastal Bays Critical Area

All the policies in the policy area The Chesapeake and Atlantic Coastal Bays Critical Area are derived from the latest versions of the laws establishing and implementing The Chesapeake and Atlantic Coastal Bays Critical Area Protection Program. The Critical Area Protection Program was originally incorporated into the Coastal Program in 1984. Updates were incorporated into the Maryland Coastal Management Program in 1987 and 2003. Since the Critical Area is currently subject to management under the Coastal Program and all the policies in this section regulate the Critical Area, none of the policies in the policy area The Chesapeake and Atlantic Coastal Bays Critical Area change the uses or resources subject to management by the Coastal Program.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Document

(C4) Use of Agricultural Land

(C5) Use of Forested Land

(C9) Shoreland Activities in General

(D1) Onshore OCS/Oil/Natural Gas Facilities

(D5) Mineral Extraction Facilities

Policy Areas Currently Subject to Regulation under Program Changes

Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003

2. Tidal Wetlands

There is one significantly revised policy in the policy area Tidal Wetlands. The revised policy is derived from policies in the section of Chapter III of the State of Maryland Coastal Management Document titled Activities in Tidal Wetlands. The revised policy is primarily derived from the policy on page 147 of Chapter III of the State of Maryland Coastal Program Document that pertains to Water Dependent Activities. The revised policy is also derived from the General Policies on tidal wetlands articulated on page 146. General Policy 2 on page 146 lists the factors to be considered when granting or denying a tidal wetlands license. The revised policy is derived from these policies and the current Maryland law articulating the factors to be considered when granting a tidal wetlands license or permit.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Document

(B2) Activities Occurring in Tidal Wetlands

3. Non-Tidal Wetlands

In the policy area Non-Tidal Wetlands there is 1 significantly revised policy. The revised policy in this section prohibits the alteration of non-tidal wetlands unless certain conditions apply. The revised policy is derived from policies 5 and 6 in the section of Chapter III of the State of Maryland Coastal Management Document titled Activities in Non-Tidal Wetlands. Policies 5 and 6 pertain to non-tidal wetlands protection. The revised policy on non-tidal wetlands adds further detail on how non-tidal wetlands will be protected.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Document

(C3) Activities in Non-Tidal Wetlands

4. Forests

There are two new policies in the policy area Forests. As explained below, these policies are derived from current policies in Chapter III of the State of Maryland Coastal Management Program Document, and therefore do not change any uses or resources subject to management.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Document

(C3) Activities in Non-Tidal Wetlands

The new policy derived from the section of Chapter III of the State of Maryland Coastal Management Document titled Activities in Non-Tidal Wetlands pertains to forestry activities in non-tidal wetlands. The new policy is derived from policies 5 and 6 in the section of Chapter III of the State of Maryland Coastal Management Document titled Activities in Non-Tidal Wetlands. Policies 5 and 6 pertain to non-tidal wetlands protection. The new policy adds further detail on how non-tidal wetlands will be protected.

(C5) Use of Forested Lands

The new policy derived from the section of Chapter III of the State of Maryland Coastal Management Document titled Use of Forested Lands pertains to the conservation of certain tree species during commercial harvest. Policy 1 in the section Use of Forested Lands states: “It is the policy of the state to encourage economic management and scientific development of its forests and to conserve and improve soil resources to preserve an adequate source of forest products.” The new policy is derived from Policy 1, because the new policy explains how the state will conserve certain economically valuable tree species so there will continue to be an adequate source of forest products from Maryland forests.

Policy Areas Currently Subject to Regulation under Program Changes

Forest Conservation Programs- Incorporated into the MCMP in October 2004

5. Historical and Archaeological Sites

There are three new policies in the policy area Historical and Archeological Sites. These policies pertain to the protection of certain historical areas, historical objects, human remains, and funerary objects. The new policies are derived from Policy 3 in the section of Chapter III of the State of Maryland Coastal Management Program Document titled Activities Affecting Coastal Historical, Cultural and Archeological Resources. Policy 3 provides for the protection of historic, archeological, and scientific information. By providing specific mechanisms for the protection of this information, the new policies implement Policy 3.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Document

(C8) Activities Affecting Coastal, Historical, Cultural and Archeological Resources

6. Living Aquatic Resources

There are several new policies in the policy area Living Aquatic Resources. These policies are derived from current policies in Chapter III of the State of Maryland Coastal Management Program Document, and therefore do not change any uses subject to management. The policy derivations are explained below.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Document

(A4) Activities Associated with Living Aquatic Resources

The new policies derived from the section of Chapter III of the State of Maryland Coastal Management Program Document titled Activities Associated with Living Aquatic Resources can be grouped into three categories; submerged aquatic vegetation (SAV) protection, controlling the introduction of undesirable species, and oyster protection. The new policies pertaining to oyster protection are derivative of Policies 5 and 7 in Activities Associated with Living Aquatic Resources which also pertain to oyster protection. SAV is an important habitat for young fish. The new policy pertaining to SAV protection is derived from Policy 11 in Activities Associated with Living Aquatic Resources which discusses the conservation of state waters for the propagation of fish and wildlife. While there are no existing policies that specifically pertain to controlling the introduction of undesirable species, these policies are derived from Policy 1 in Activities Associated with Living Aquatic Resources, which requires management plans for the conservation and preservation of Maryland's living aquatic resources.

(C2) Activities in Coastal Tidal and Non-Tidal Flood Plains

There are two new policies derived from the section of Chapter III of the State of Maryland Coastal Management Program Document titled Activities in Coastal Tidal and Non-Tidal Flood Plains. One of the policies prohibits in-stream construction in non-tidal waters during certain times of year and under certain circumstances. This policy is derived from policies 6 and 11 in Activities Associated with Living Aquatic Resources. These existing policies pertain to the conservation and propagation of fish and activities that impede fish passage.

The second policy derived from the section of Chapter III of the State of Maryland Coastal Management Program Document titled Activities in Coastal Tidal and Non-Tidal Flood Plains pertains to the protection of aquatic and terrestrial habitat adjacent to non-tidal waters. This policy is derived from Policy 11 in Activities Associated with Living Aquatic Resources which deals with the conservation of fish and wildlife.

(C5) Use of Forested Land

There is one new policy in the proposed policy area Living Resources derived from the section of Chapter III of the State of Maryland Coastal Management Program Document titled Use of Forested Land. This policy deals with the protection of trout habitat and is derived from Policy 6 in the section of Chapter III of the State of Maryland Coastal Management Program Document titled Recreational Boating. Policy 6 specifically discusses the protection of recreational trout waters.

C. Coastal Uses

1. Mineral Extraction

There are a number of new or significantly revised policies in the policy area Mineral Extraction. All the proposed policies are derived from Policy 2 in the section of Chapter III of the State of Maryland Coastal Program Document titled Mineral Extraction (Sand and Gravel). While this section of the Program Document primarily pertains to sand and gravel extraction, Policy 2 broadly states:

While the extraction of minerals by mining is a basic and essential activity contributing to the economic well-being of Maryland, mining must be conducted in a way which minimizes its effects on the surrounding environment. Proper reclamation of mined land is necessary to prevent undesirable land and water impacts that are detrimental to the general welfare, safety, beauty, and property rights of Maryland residents.

All the policies in the Mineral Extraction policy area provide greater detail on how to minimize the impacts of mineral extraction on the environment and properly reclaimed mined land. Therefore, the new policies are derived from Policy 2.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Document

(D5) Mineral Extraction Facilities (Sand and Gravel)

(D8) Land Transportation Facilities

2. Electrical Generation and Transmission

There are 3 new policies in the policy area Electric Generation and Transmission. The new policies pertain to electric transmission lines and cooling water intake structures. The new transmission line policies require transmission lines to be constructed at a height which will not interfere with sailing and an economic analysis of alternate transmission line routes for certain projects. These policies are derived from Policy 2 in the section of Chapter III of the State of Maryland Coastal Management Plan Document titled Electric Generating Facilities. Policy 2 lists the factors to be evaluated when reviewing an application to construct transmission lines (Certificate of Public Convenience and Necessity) and requires the state to consider the economic and recreational impacts of proposed transmission lines.

The cooling water intake structure policy is derived from Policy 6 in the section of Chapter III of the State of Maryland Coastal Management Program Document titled Recreational Boating. Policy 6 broadly states, “all waters of the state shall be protected for use as water contact recreation, for fish, other aquatic life and wildlife.” The new cooling water intake policy adds greater specificity to Policy #6 and does not expand the

uses or resources subject to management by the program, because electricity generation is currently subject to management by the Maryland Coastal Program.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Document

(D2) Electrical Generating Facilities

3. Tidal Shore Erosion Control

There are three new policies in the policy area Tidal Shore Erosion Control. The new policies require the use of appropriate materials for beach nourishment and structural shore erosion control, and non-structural shore erosion control where possible. All three policies are derived from Policy 7 in the section of Chapter III of the State of Maryland Coastal Management Project titled Activities in Area Undergoing Significant Shore Erosion, which states, “shore erosion control measures shall be undertaken in a manner that has the minimum adverse effect upon the ecological, economic, hydrological, aesthetic, historical, and recreational values in the area.” The new policies are derived from and add greater detail to Policy 7, because the new policies articulate specific standards for assuring compliance with Policy 7.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Document

Activities in Area Undergoing Significant Shore Erosion

4. Oil and Natural Gas Facilities

There are no new or significantly revised policies in the policy area Oil and Natural Gas Facilities.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Document

(A2) Commercial Shipping (Oil Spill Containment and Prevention)

(D1) Onshore OCS/Oil/Natural Gas Facilities

Policy Areas Currently Subject to Regulation under Program Changes

Coastal Facilities Review Act—Incorporated into the MCMP as a RPC in August of 2005

Oil Pollution Management Law—Incorporated into the MCMP as a RPC in December of 2004

5. Dredging and Disposal of Dredged Material

There are a number of new policies in the policy area Dredging and Disposal of Dredged Material. The new policies pertain to the conditions when dredging will be allowed and the disposal of dredged material. As explained below, all new policies are derived from existing policies in Chapter III of the State of Maryland Coastal Management Document.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Document

(A3) Dredging and Disposal of Dredged Material

The new policies derived from the section of Chapter III of the State of Maryland Coastal Management Document titled Dredging and Disposal of Dredged Material pertain to conditions for dredging and the disposal of dredged material. As explained in Policy 1 in the section of Chapter III of the State of Maryland Coastal Management Document titled Dredging and Disposal of Dredged Material, “dredging or filling will not be permitted in state or private wetlands without state approval.” The new policies pertaining to dredging conditions are derived from this broad policy and articulate more useful standards for federal consistency. The new policies on the proper disposal of dredged material are derived from Policy 5 in the section of Chapter III of the State of Maryland Coastal Management Document titled Dredging and Disposal of Dredged Material which states, “development of a method for choosing spoil disposal sites which is acceptable to state and federal regulatory agencies is necessary for use by counties.” The new disposal policies implement Policy 5.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Document

(B2) Activities in Tidal Wetlands

(C6) Channelization (and Small Watershed Projects)

Policy Areas Currently Subject to Regulation under Program Changes

Chesapeake Bay and Tributaries Law—Incorporated into the MCMP as a RPC in July of 2005

6. Navigation

There are no new or significantly revised policies in the policy area Navigation.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Document

(A1) Recreational Boating

(B2) Activities in Tidal Wetlands

7. Transportation

There are four new policies in the policy area Transportation. Three of the new policies pertain to transportation integration. The other new policy in this policy area deals with public participation. As explained below, all new policies are derived from existing policies in Chapter III of the State of Maryland Coastal Management Document.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Document

(D8) Land Transportation Facilities

The three new policies that address transportation integration deal with integrating public and private transportation projects, removing impediments for the free movement from one type of transportation facility to another, and integrating bicycle riders and pedestrians into the broader transportation system. These new policies are derived from provision of Policy 2 in the section of Chapter III of the State of Maryland Coastal Management Document titled Land Transportation Facilities. Policy 2 specifically encourages, “energy-efficient use of all means of transportation and shall encourage such energy-saving measures as car-pooling, use of public transportation, bikeways, and traffic operations improvements.” The new policies dealing with transportation integration will encourage energy efficient transportation facilities, thus implementing existing Policy 2 in Land Transportation Facilities.

The new policy that addresses public participation during transportation projects is also derived from Policy 2. Policy 2 goes on to provide:

Transportation service improvements shall be planned and designed to allow for early, continuous and two-way communication with all segments of the public prior to selection of a course of action. Specific mechanisms for public involvement shall be established for each major project prior to undertaking substantial planning activities.

8. Agriculture

There are three new policies and one significantly revised policy in the policy area Agriculture. These policies address certain agricultural activities’ effects on water quality; such as, fertilizer and manure use, livestock access to surface water, agricultural activities in non-tidal wetlands, and discharges from agricultural lands. While the new policies relate to at least 2 coastal uses or resources subject to management (agricultural land and non-tidal wetlands), the new policies are ultimately derivative of Policies 6 and 7 in the section of Chapter III of the State of Maryland Coastal Management Program

Document titled use of Agricultural Lands. Policies 6 and 7 both specifically address water quality issues associated with agricultural activities.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Document

(C3) Activities in Non-Tidal Wetlands

(C4) Use of Agricultural Lands

9. Development

There are several new policies in the policy area Development. As explained below, all new policies are derived from existing policies in Chapter III of the State of Maryland Coastal Management Document.

Four of the new policies in this policy area are based on Maryland's smart growth principles. These principles are embodied in current Maryland law and generally relate to protecting existing community character, fostering citizen participation in the development process, creating compact communities that are walkable, and locating development near existing transportation, business and population centers. The smart growth policies are derivative of existing policies contained in Chapter III of the State of Maryland Coastal Management Program Document. Specifically, Policy 1 in Ports states:

Maryland will plan, develop, maintain, operate, and regulate - in cooperation with local jurisdictions and as a supplement to the facilities and services provided by private enterprise - a transportation system which adequately meets the need for movement of people and goods while: supporting local, regional, state and national goals; providing for and facilitating a pattern of physical development which can be efficiently served by transportation; preserving the unique qualities of Maryland's historical and natural resources; maintaining fiscal integrity, and strengthening the economy of Maryland.

Policy 1 in Large Scale Residential Facilities also states:

Large-scale residential development must 1) be consistent with state and local plans and regulations; 2) minimize impacts on water quality, tidal and non-tidal wetlands, state critical areas, productive agricultural or forested lands, and historical/cultural/ archeological resources; 3) avoid creating or aggravating natural hazard conditions; 4) avoid placing undue burdens on public services or fiscal, economic, or social conditions.

The smart growth policies are derivative of and implement these existing policies.

The remaining new policies in the Development policy area pertain to water quality protection. These new policies specifically address erosion and nutrient pollution in the Severn River and the adequacy of development and construction activities' water supplies and sewage treatment facilities. These policies are derived from Policy 6 in the section of Chapter III of the State of Maryland Coastal Management Program Document titled Recreational Boating. Policy 6 broadly states, "all waters of the state shall be protected for use as water contact recreation, for fish, other aquatic life and wildlife." The new policies implement and add greater specificity to Policy 6 and do not expand the uses or resources subject to management by the program, because water supply, sewage treatment, large-scale residential facilities, electricity generation, industrial parks, and land transportation are currently subject to management under the Maryland Coastal Program.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Document

(C1) Activities in Areas Undergoing Significant Erosion

(C4) Use of Agricultural Lands

(C9) Shoreland Activities in General

(D4) Industrial Parks

(D6) Large-Scale Residential Facilities

Policy Areas Currently Subject to Regulation under Program Changes

Chesapeake Bay and Tributaries Law—Incorporated into the MCMP as a RPC in July of 2005

10. Sewage Treatment

There are several new policies in the policy area Sewage Treatment. These policies pertain to sewage sludge sewage treatment standard, sewage facility standards, and septic systems. All of these policies are derivative of Policy 2 in the section of Chapter III of the State of Maryland Coastal Management Document titled Sewage Treatment. Policy 2 states, "It is state policy to provide that no waste is discharged into any waters of the state without first receiving adequate treatment to be consistent with effluent limitations and the maintenance of water quality standards." All the new policies in this policy area are derived from and implement this general policy. Policies 15 and 18 also specifically address individual sewerage systems and sewage sludge. Therefore, none of the new policies in the policy area Sewage Treatment address new coastal uses or resources.

Policy Areas Currently Subject to Regulation under Chapter III of the State of Maryland Coastal Management Document

(A1) Recreational Boating

(D7) Sewage Treatment Facilities

Policy Areas Currently Subject to Regulation under Program Changes

Marine Sanitation Devices Law—Incorporated into the MCMP as a RPC in December of 2004

DEPARTMENT OF NATURAL RESOURCES/COASTAL MANAGEMENT PROGRAM

Subject: Public Notice of Proposed Change to the Maryland Coastal Management Program

Add'l Info: Maryland's Draft Enforceable Coastal Policies

Pursuant to 15 C.F.R. §923.84(b), the Maryland Department of Natural Resources (DNR) has submitted to the Office of the Ocean and Coastal Resource Management (OCRM) of the National Oceanic and Atmospheric Administration program changes to the Maryland Coastal Management Program (CMP). Maryland considers these program changes to be routine and has requested OCRM's concurrence in this determination.

The submitted routine program changes fall within existing State authority and do not substantially change permissible uses in the coastal zone. This submission is a comprehensive update and listing of all of the Maryland Coastal Program's enforceable policies. The proposed changes include the deletion of outdated, unenforceable, vague, and irrelevant enforceable policies; revision of existing enforceable policies to reflect current State law and newly-identified enforceable mechanisms; and the addition of narrative policy statements derived from current state laws that were previously incorporated into the Program.

A copy of the Routine Program Change, which includes a complete list of the proposed enforceable policies, including any new enforceable policies, is available at http://dnr.maryland.gov/ccp/coastal_policy.asp. A copy of the Routine Program Change may also be obtained by calling Joe Abe at (410) 260-8740.

The OCRM is now reviewing this request for concurrence. Comments regarding whether the incorporation of these changes to the CMP constitute a routine program change under the Coastal Zone Management Act and its regulations may be submitted to:

NOAA Contact Name: Mr. John King
NOAA Title and Address: Chief, Coastal Programs Division, OCRM/NOAA (N/ORM3)
1305 East-West Highway, 11th Floor, Silver Spring, MD 20910

Comments may be submitted to OCRM through December 10, 2010. If you have any questions regarding this notice, please contact Joe Abe, Coastal Policy and Project Review Specialist, Maryland Department of Natural Resources, at (410) 260-8740.

Contact: Joe Abe (410) 260-8740

[This notice will be published on November 19, 2010 in the *Maryland Register*.]

MARYLAND'S ENFORCEABLE COASTAL POLICIES

Prior to the creation of this document, Maryland's enforceable coastal policies have not been available to federal agencies and others involved in the federal consistency process in a consolidated, user-friendly format. Subsequent to the approval of Maryland's Program in 1978, additional enforceable policies have been approved by NOAA in previous program changes. Consequently, Maryland's enforceable policies are contained in numerous documents that are not readily available or easily accessible to federal agencies, others involved in the federal consistency process, or the general public. One of the goals of this Routine Program Change is to make Maryland's enforceable policies publicly accessible in a clear, concise format.

Key to Policy Document

Each policy contained in this document is followed by a reference expression such as "MDE (C9) Md. Code Ann., Envir.. § 2-102". In this instance,

"MDE" refers to the implementing agency, the Maryland Department of the Environment

"(C9)" refers to Section "C Shoreland Areas" and "9. Shoreland Activities in General" of the original Maryland Coastal Management Program Document. This parenthetical citation explains where the policy can be found in the chart included with this Routine Program Change, and also explains the section of Chapter III of the State of Maryland Coastal Management Program Document or the program change that the proposed policy is derived from.

"Md. Code Ann." refers to the Maryland Code Annotated,

Envir. refers to the Environment Article, and

"§ 2-102" refers to Section 2-102.

In many instances, a regulatory reference is included, such as "COMAR 26.02.03.01" rather than a statutory reference, such as "Md. Code Ann., Envir.. § 2-102." "COMAR 26.02.03 refers to the Code of Maryland Regulations, Title 26, Subtitle 02, Chapter 03, Regulation .01.

A. General Policies

1. Core Policies

1. It is State policy to maintain that degree of purity of air resources which will protect the health, general welfare, and property of the people of the State. MDE (C9) Md. Code Ann., Envir. §§ 2-102 to -103.
2. The environment shall be free from noise which may jeopardize health, general welfare, or property, or which degrades the quality of life. MDE (C9) COMAR 26.02.03.02.
3. The unique ecological, geological, scenic, and contemplative aspects of State wild lands shall not be affected in a manner that would jeopardize the future use and enjoyment of those lands as wild. DNR (C7) Md. Code Ann., Nat. Res. §§ 5-1201, -1203.
4. The safety, order, and natural beauty of State parks and forests, State reserves, scenic preserves, parkways, historical monuments and recreational area shall be preserved. DNR (B1) Md. Code. Ann., Nat. Res. § 5-209.
5. Any water appropriation must be reasonable in relation to the anticipated level of use and may not have an unreasonable adverse impact on water resources or other users of the waters of the State. MDE (C9) COMAR 26.17.06.02.
6. The natural character and scenic value of a river or waterway must be given full consideration before the development of any water or related land resources including construction of improvements, diversions, roadways, crossings, or channelization. MDE/DNR (C7) Md. Code Ann., Nat. Res. § 8-405; COMAR 26.17.04.11.
7. A dam or other structure that impedes the natural flow of a scenic or wild river may not be constructed, operated, or maintained, and channelization may not be undertaken, without the specific approval of the Secretary of the Department of Natural Resources or his designee. MDE/DNR (C7) Md. Code Ann., Nat. Res. § 8-406; COMAR 26.17.04.11.
8. Permanent structures that do not have a clear environmental benefit are prohibited east of the dune line along the Atlantic Coast. MDE/DNR (B1) Md. Code Ann., Nat. Res. § 8-1102.
9. Activities which will adversely affect the integrity and natural character of Assateague Island will be inconsistent with the State's Coastal Management Program, and will be prohibited. MDE/DNR (B1) Md. Code. Ann., Nat. Res. §§ 5-209, 8-1102.
10. An opportunity for a public hearing shall be provided for projects in non-tidal waters that dredge, fill, bulkhead, or change the shoreline; construct or reconstruct a dam; or create a waterway, except in emergency situations. MDE (A3) COMAR 26.17.04.13A.

11. Soil erosion shall be prevented to preserve natural resources and wildlife; control floods; prevent impairment of dams and reservoirs; maintain the navigability of rivers and harbors; protect the tax base, the public lands, and the health, safety and general welfare of the people of the State, and to enhance their living environment. MDA (C4) Md. Code Ann., Agric. § 8-102(d).

12. Controlled hazardous substances may not be stored, treated, dumped, discharged, abandoned, or otherwise disposed anywhere other than a permitted controlled hazardous substance facility or a facility that provides an equivalent level of environmental protection. MDE (D4) Md. Code Ann., Envir. § 7-265(a).

13. A person may not introduce in the Port of Baltimore any hazardous materials, unless the cargo is properly classed, described, packaged, marked, labeled, placarded, and approved for highway, rail, or water transportation. MDOT (D3) COMAR 11.05.02.04A.

14. Operations on the Outer Continental Shelf must be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or property, or which may endanger life or health. (B2) Md. Code Ann., Envir. §§ 17-101 to -403; COMAR 26.24.01.01; COMAR 26.24.02.01, .03; COMAR 26.24.05.01.

2. Water Quality

1. No one may add, introduce, leak, spill, or emit any liquid, gaseous, solid, or other substance that will pollute any waters of the State without State authorization. MDE (A5) Md. Code Ann., Envir. §§ 4-402, 9-101, 9-322.

2. All waters of the State shall be protected for water contact recreation, fish, and other aquatic life and wildlife. Shellfish harvesting and recreational trout waters and waters worthy of protection because of their unspoiled character shall receive additional protection. MDE (A1) COMAR 26.08.02.02.

3. The discharge of any pollutant in toxic amounts into surface waters is prohibited. This prohibition includes substances which accumulate to toxic amounts during the expected life of aquatic organisms and substances which produce deleterious behavioral effects on aquatic organisms. MDE (A4) COMAR 26.08.03.01.

4. Before constructing, installing, modifying, extending, or altering an outlet or establishment that could cause or increase the discharge of pollutants into the waters of the State, the proponent must hold a discharge permit issued by the Department of the Environment or provide an equivalent level of water quality protection. MDE (D6) Md. Code Ann., Envir. § 9-323(a).

5. The use of best available technology is required for all permitted discharges into State waters, but if this is insufficient to comply with the established water quality standards, additional treatment shall be required and based on waste load allocation. MDE (D4) COMAR 26.08.03.01C.
6. Thermal discharges shall be controlled so that the temperature outside the mixing zone (50 feet radially from the point of discharge) meets the applicable water quality criteria or discharges comply with the thermal mixing zone criteria. MDE (D4) COMAR 26.08.03.03C.
7. Pesticides shall be stored in an area located at least 50 feet from any water well or stored in secondary containment approved by the Department of the Environment. MDA (C4) COMAR 15.05.01.06.
8. Any development or redevelopment of land for residential, commercial, industrial, or institutional purposes shall use small-scale non-structural stormwater management practices and site planning that mimics natural hydrologic conditions, to the maximum extent practicable. Development or redevelopment will be consistent with this policy when channel stability and 100 percent of the average annual predevelopment groundwater recharge are maintained, nonpoint source pollution is minimized, and structural stormwater management practices are used only if determined to be absolutely necessary. MDE (C9) Md. Code Ann., Envir. § 4-203; COMAR 26.17.02.01, .06.
9. Unless otherwise permitted, used oil may not be dumped into sewers, drainage systems, or any waters of the State or onto any public or private land. MDE (D4) Md. Code Ann., Envir. § 5-1001(f).
10. If material being dumped into Maryland waters or waters off Maryland's coastline has demonstrated actual toxicity or potential for being toxic, the discharger must perform biological or chemical monitoring to test for toxicity in the water. MDE (A5) COMAR 26.08.03.07(D); COMAR 26.08.04.01.
11. Public meetings and citizen education shall be encouraged as a necessary function of water quality regulation. MDE (A2) COMAR 26.08.01.02E(3).

3. Flood Hazards

1. Projects in coastal tidal and non-tidal flood plains which would create additional flooding upstream or downstream, or which would have an adverse impact upon water quality or other environmental factors, are contrary to State policy. MDE (C2) Md. Code Ann., Envir. § 5-803; COMAR 26.17.05.04A.
2. The following policies apply to projects in non-tidal waters and non-tidal floodplains, but not non-tidal wetlands.

- Proposed floodplain encroachments, except for roadways, culverts, and bridges, shall be designed to provide a minimum of 1 foot of freeboard above the elevation of the 100-year frequency flood event. In addition, the elevation of the lowest floor of all new or substantially improved residential, commercial, or industrial structures shall also be at least 1 foot above the elevation of the 100-year frequency flood event.
- Proposed unlined earth channels may not change the tractive force associated with the 2-year and the 10-year frequency flood events, by more than 10 percent, throughout their length unless it can be demonstrated that the stream channel will remain stable.
- Proposed lined channels may not change the tractive force associated with the 2-year and the 10-year frequency flood events, by more than 10 percent, at their downstream terminus unless it can be demonstrated that the stream channel will remain stable.
- Category II, III, or IV dams may not be built or allowed to impound water in any location where a failure is likely to result in the loss of human life or severe damage to streets, major roads, public utilities, or other high value property.
- Projects that increase the risk of flooding to other property owners are prohibited, unless the area subject to additional risk of flooding is purchased, placed in designated flood easement, or protected by other means acceptable to the Maryland Department of the Environment.
- The construction or substantial improvement of any residential, commercial, or industrial structure in the 100-year frequency floodplain and below the water surface elevation of the 100-year frequency flood is not permitted. Minor maintenance and repair may be permitted. The modifications of existing structures for flood-proofing purposes may be permitted. Flood-proofing modifications shall be designed and constructed in accordance with specifications approved by the Maryland Department of the Environment.
- Channelization shall be the least favored flood control technique.
- Multiple purpose use shall be preferred over single purpose use, the proposed project shall achieve the purposes intended, and, at a minimum, project shall provide for a 50 percent reduction of the average annual flood damages.

MDE (C2) COMAR 26.17.04.01, .07, .11.

3. Development may not increase the downstream peak discharge for the 100-year frequency storm event in the following watersheds and all their tributaries:

- Carroll Creek in Frederick City and Frederick County;

- Gwynns Falls in Baltimore City and Baltimore County; and
- Jones Falls in Baltimore City and Baltimore County.

MDE (C2) COMAR 26.17.02.07.

B. Coastal Resources

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.

1. Colonial water bird nesting sites in the Critical Area may not be disturbed during breeding season. CAC (C9) COMAR 27.01.09.04.
2. New facilities in the Critical Area shall not interfere with historic waterfowl concentration and staging areas. CAC (C9) COMAR 27.01.09.04.
3. Physical alterations to streams in the Critical Area shall not affect the movement of fish. CAC (C9) COMAR 27.01.09.05.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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.

9. 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 upland boundary 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 best management practices that protect water quality. The buffer is not required if existing patterns of development prevent the buffer from protecting ecological quality and functions, in which case, alternative means of protecting ecological quality and functions are required. CAC (C9) COMAR 27.01.09.01, .01-5, .01-7.

10. Disturbance to a buffer in the Critical Area is only authorized for a shore erosion control measure, new development, or redevelopment that is: water-dependent; meets a recognized private right or public need; minimizes the adverse effects on water quality and fish, plant, and wildlife habitat; and, insofar as possible, locates nonwater-dependent structures or operations associated with water-dependent projects or activities outside the buffer. Mitigation of impacts to the buffer and a buffer management plan must be developed in accordance with standards adopted by the Critical Area Commission when a development or redevelopment activity occurs within the buffer. CAC (C9) COMAR 27.01.03.03; COMAR 27.01.09.01, .01-2, .01-3.

11. 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 long-term protection and maintenance of the buffer. CAC (C9) COMAR 27.01.09.01-1, .01-3.

12. Public beaches or other public water-oriented recreation or education areas including, but not limited to, publicly owned boat launching and docking facilities and fishing piers may be permitted in the buffer in portions of the Critical Area not designated as intensely developed areas only if adequate sanitary facilities exist; 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 minimized. CAC (C9) COMAR 27.01.03.08.

13. Water-dependent research facilities or activities may be permitted in the buffer, if nonwater-dependent structures or facilities associated with these projects are, to the extent possible, located outside the buffer. CAC (C9) COMAR 27.01.03.09.

14. Industrial and port-related facilities may only be sited in the portions of areas of intense development that are exempted from buffer designation. CAC (C9) COMAR 27.01.03.05.
15. Agricultural activities are permitted in the buffer, if, as a minimum best management practice, a 25-foot vegetated filter strip measured landward from the mean high water line of tidal waters or tributary streams (excluding drainage ditches), or from the edge of tidal wetlands, whichever is further inland, is established in trees with a dense ground cover or a thick sod of grass. CAC (C4) COMAR 27.01.09.01-5.
16. The feeding or watering of livestock is not permitted within 50 feet of the mean high water line of tidal waters and tributaries. CAC (C4) COMAR 27.01.09.01-5.
17. In the Critical Area, the creation of new agricultural lands shall not be accomplished by diking, draining, or filling of nontidal wetlands; by clearing of forests or woodland on soils with a slope greater than 15 percent or on soils with a "K" value greater than 0.35 and slope greater than 5 percent; by clearing that will adversely affect water quality or will destroy plant and wildlife habitat; or by clearing existing natural vegetation within the 100-foot buffer. CAC (C4) COMAR 27.01.06.02C.
18. Agricultural activity permitted within the Critical Area shall use best management practices in accordance with a soil conservation and water quality plan approved or reviewed by the local soil conservation district. CAC (C4) COMAR 27.01.06.02G.
19. 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 27.01.09.01-6.
20. 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 27.01.09.01-6.
21. 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.

22. All available measures must be taken to protect the Critical Area from all sources of pollution from surface mining operations, including but not limited to sedimentation and siltation, chemical and petrochemical use and spillage, and storage or disposal of wastes, dusts, and spoils. CAC (D5) COMAR 27.01.07.02A.

23. In the Critical Area, mining must be conducted in a way that allows the reclamation of the site as soon as possible and to the extent possible. CAC (D5) COMAR 27.01.07.02B.

24. Sand and gravel operations shall not occur within 100 feet of the mean high water line of tidal waters or the edge of streams or in areas with scientific value, important natural resources such as threatened and endangered species, rare assemblages of species, or highly erodible soils. Sand and gravel operations also may not occur where the use of renewable resource lands would result in the substantial loss of forest and agricultural productivity for 25 years or more or would result in a degrading of water quality or a loss of vital habitat. CAC (D5) COMAR 27.01.07.03D.

25. Wash plants including ponds, spoil piles, and equipment may not be located in the 100-foot buffer. CAC (D5) COMAR 27.01.07.03E.

26. A soil erosion and sedimentation control plan shall be required whenever development within the Critical Area will involve any clearing, grading, transporting, or other form of disturbance to land by the movement of earth. This plan shall be appropriately designed to reduce adverse water quality impacts. CAC (C9) COMAR 27.01.02.04.

27. All stormwater storage facilities shall be designed with sufficient capacity to eliminate all runoff caused by the development in excess of that which would have come from the site if it were in its predevelopment state. CAC (C9) COMAR 27.01.02.04.

28. 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.

29. 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.

- Nonmaritime 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.

30. 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.
- If practicable, permeable areas shall be established in vegetation.
- 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.
- To the extent practicable, 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.

31. 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 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.

2. Tidal Wetlands

1. Any action which alters the natural character in, on, or over tidal wetlands; tidal marshes; and tidal waters of Chesapeake Bay and its tributaries, the coastal bays adjacent to Maryland's coastal barrier islands, and the Atlantic Ocean shall avoid dredging and filling, be water-dependent, and provide appropriate mitigation for any necessary and unavoidable adverse impacts on these areas or the resources associated with these areas.

A proponent of an action described above shall explain the actions impact on:

- Habitat for finfish, crustaceans, mollusks, and wildlife of significant economic or ecologic value;
- Potential habitat areas such as historic spawning and nursery grounds for anadromous and semi-anadromous fisheries species and shallow water areas suitable to support populations of submerged aquatic vegetation;

- Marine commerce,
- Recreation, and aesthetic enjoyment;
- Flooding;
- Siltation;
- Natural water flow, water temperature, water quality, and natural tidal circulation;
- Littoral drift;
- Local, regional, and State economic conditions;
- Historic property;
- Storm water runoff;
- Disposal of sanitary waste;
- Sea level rise and other determinable and periodically recurring natural hazards;
- Navigational safety;
- Shore erosion;
- Access to beaches and waters of the State;
- Scenic and wild qualities of a designated State scenic or wild river; and
- Historic waterfowl staging areas and colonial bird-nesting sites.

MDE (B2) COMAR 26.24.01.01, COMAR 26.24.02.01, .03; COMAR 26.24.05.01.

3. Non-Tidal Wetlands

1. Removal, excavation, grading, dredging, dumping, or discharging of, or filling a non-tidal wetland with materials of any kind, including the driving of piles and placing of obstructions; changing existing drainage characteristics, sedimentation patterns, flow patterns, or flood retention characteristics; disturbing the water level or water table; or removing or destroying plant life that would alter the character of a non-tidal wetland is prohibited unless:

- The proposed project has no practicable alternative;

- Adverse impacts are first avoided and then minimized based on consideration of existing topography, vegetation, fish and wildlife resources, and hydrological conditions;
- Comprehensive watershed management plans are considered; and
- The proposed project does not cause or contribute to an individual or cumulative effect that degrades:
 - Aquatic ecosystem diversity, productivity, and stability,
 - Plankton, fish, shellfish, and wildlife,
 - Recreational and economic values, and
 - Public welfare;
 - Surface water quality; or
 - Ground water quality.

Mitigation measures are required to replace the ecological values associated with non-tidal wetlands that are impaired by activities described above. MDE (C3) COMAR 26.23.01.01; COMAR 26.23.02.04, .06; COMAR 26.23.04.02.

4. Forests

1. The Forest Conservation Act and its implementing regulations, as approved by NOAA, are enforceable policies. Generally, before developing an area greater than 40,000 square feet, forested and environmentally sensitive areas must be identified and preserved whenever possible. If these areas cannot be preserved, reforestation or other mitigation is required to replace the values associated with them. This policy does not apply in the Critical Area. DNR (C5) Md. Code Ann., Nat. Res. §§ 5-1601 to -1613; COMAR 08.19.01-.06.

2. Forestry activities shall provide for adequate restocking, after cutting, of trees of desirable species and condition; provide for reserving, for growth and subsequent cutting, a sufficient growing stock of thrifty trees of desirable species to keep the land reasonably productive; and prevent clear-cutting, or limit the size of a tract to be clear-cut in areas where clear-cutting will seriously interfere with protection of a watershed. DNR (C5) Md. Code Ann., Nat. Res. § 5-606.

3. When any timber is cut for commercial purposes from five acres or more of land on which loblolly pine, shortleaf pine, or pond pine, singly or together occur and constitute 25 percent or more of the live trees on each acre, the person conducting the cutting or the landowner shall leave uncut and uninjured at least eight well distributed, cone-bearing,

healthy, windfirm, loblolly, shortleaf, or pond pine trees on each acre cut for the purpose of reseeded. DNR (C5) Md. Code Ann., Nat. Res. §§ 5-501, -504.

4. Any highway construction project may only cut or clear the minimum amount of trees and other woody plants necessary to be consistent with sound design principles. If over an acre of forest is lost as a result of the project, an equivalent area of publicly owned property shall be reforested. DNR/MDOT (C5) Md. Code Ann., Nat. Res. § 5-103.

5. Roadside trees should not be cut down, trimmed, mutilated, or injured unless the activity will eliminate a hazard to property, public safety, or health; improve or prevent tree deterioration; or improve the general aesthetic appearance of the right-of-way. DNR (C5) COMAR 08.07.02.05.

6. A person conducting a forestry activity in non-tidal wetlands shall develop and implement a sediment and erosion control plan. MDE (C3) COMAR 26.23.05.02.

5. Historical and Archaeological Sites

1. Unless permission is granted by the Maryland Historical Trust, activities that excavate, remove, destroy, injure, deface, or disturb submerged archaeological historic property are generally prohibited. MDP (C8) Md. Code Ann., State Fin. & Proc. §§ 5A-341, -333.

2. Unless permission is granted by the Maryland Historical Trust, activities that excavate, remove, destroy, injure, deface, or disturb cave features or archeological sites under State control are generally prohibited. MDP (C8) Md. Code Ann., State Fin. & Proc. §§ 5A-342 to -343.

3. Neither human remains nor funerary objects may be removed from a burial site or cemetery, unless permission is granted by the local State's Attorney. Funerary objects may not be willfully destroyed, damaged, or defaced. MDP (C8) Md. Code Ann., Crim. Law §§ 10-401 to -404.

6. Living Aquatic Resources

1. Unless authorized by an Incidental Take Permit, no one may take a State listed endangered or threatened species of fish or wildlife. DNR (A4) Md. Code Ann., Nat. Res. §§ 4-2A-01 to -09; Md. Code Ann., Nat. Res. §§ 10-2A-01 to -09.

2. Fisheries shall be sustainably harvested. DNR (A4) Md. Code Ann., Nat. Res. § 4-215.

3. Any land or water resource acquired by the State to protect, propagate, or manage fish shall not be damaged. DNR (A4) Md. Code Ann., Nat. Res. § 4-410.

4. No activity will be permitted that impedes or prevents the free passage of any finfish, migratory or resident, up or down stream. DNR (A4) Md. Code Ann., Nat. Res. § 4-501 to -502.

5. All in-stream construction in non-tidal waters is prohibited from October through April, inclusive, for natural trout waters and from March through May, inclusive, for recreational trout waters. In addition, the construction of proposed projects, which may adversely affect anadromous fish spawning areas, shall be prohibited in non-tidal waters from March 15 through June 15, inclusive. MDE (C2) COMAR 26.17.04.11B(5).

6. Riparian forest buffers adjacent to waters that are suitable for the growth and propagation of self-sustaining trout populations shall be retained whenever possible. MDE (C5) COMAR 26.08.02.03-3F.

7. Projects in or adjacent to non-tidal waters shall not adversely affect aquatic or terrestrial habitat unless there is no reasonable alternative and mitigation is provided. MDE (C2) COMAR 26.17.04.11B(5).

8. The harvest, cutting, or other removal or eradication of submerged aquatic vegetation may only occur in a strip up to 60 feet wide surrounding a pier, dock, ramp, utility crossing, or boat slip to point of ingress in a marina, otherwise the activity must receive the approval of the Department of Natural Resources. No chemical may be used for this purpose, and the timing and method of the activity shall minimize the adverse impact on water quality and on the growth and proliferation of fish and aquatic grasses. MDE (A4) Md. Code Ann., Nat. Res. § 4-213.

9. Natural oyster bars in the Chesapeake Bay shall not be destroyed, damaged, or injured. DNR (A4) Md. Code Ann., Nat. Res. § 4-1118.1.

10. A person, other than the leaseholder, may not willfully and without authority catch oysters on any aquaculture or submerged land lease area, or willfully destroy or transfer oysters on this land in any manner. DNR (A4) Md. Code Ann., Nat. Res. § 4-11A-15(a).

11. An organism into which genetic material from another organism has been experimentally transferred so that the host acquires the genetic traits of the transferred genes may not be introduced into State waters. DNR (A4) COMAR 08.02.19.03.

12. Vectors for the introduction of nonnative aquatic organisms must be appropriately controlled to prevent adverse impacts on aquatic ecosystems. DNR (A4) Md. Code Ann., Nat. Res. § 4-205.1.

13. Except as authorized by federal law, any live snakehead fish or viable eggs of snakehead fish of the Family Channidae may not be imported, transported, or introduced into the State. DNR (A4) COMAR 08.02.19.06.

14. Nonnative oysters may not be introduced into State waters. DNR (A4) Md. Code Ann., Nat. Res. § 4-1008.

C. Coastal Uses

1. Mineral Extraction

1. Habitats of unique value for fish, wildlife, and other related environmental values shall be identified prior to commencing coal prospecting activities and shall be protected during those activities. MDE (D5) COMAR 26.20.08.04.

2. Surface mining activities must be conducted in a manner that protects birds and wildlife; decreases soil erosion; prevents pollution of rivers, streams, and lakes; prevents loss or waste of valuable mineral resources; and prevents and eliminates hazards to health. MDE (D5) Md. Code Ann., Envir. §§ 15-802, -807(d), -822(c), -828(b).

3. Surface mining activities must not have an unduly adverse effect on wildlife or freshwater, estuarine, or marine fisheries; constitute a substantial physical hazard to a neighboring house, school, church, hospital, commercial or industrial building, public road, or other public or private property in existence at the time of application for the permit; or significantly adversely affect the uses of a publicly owned park, forest, or recreation area in existence at the time of application for the permit. MDE (D5) Md. Code Ann., Envir. §§ 15-802(a), -810(b).

4. Surface coal mining activities shall use the best available technology to minimize disturbances and adverse impacts on fish, wildlife, and related environmental values, and shall achieve enhancement of the resources when practicable. MDE (D5) COMAR 26.20.23.02A.

5. A surface coal mining activity may not be conducted in a way that is likely to jeopardize the continued existence of endangered or threatened species listed by the federal or state government. MDE (D5) COMAR 26.20.23.02B.

6. Coal mining operations shall be conducted to minimize water pollution, and, where necessary, treatment methods shall be used to control water pollution. MDE (D5) COMAR 26.20.13.05B; COMAR 26.20.21.01.

7. Coal mining may not adversely affect any publicly owned park or place recorded in the National Register of Historic Sites without approval from the appropriate agency and is prohibited in the Youghiogheny River scenic corridor; within 100 feet of a cemetery, a perennial or intermittent stream, or the outside right-of-way line of any public road; and in areas designated unsuitable for certain types of surface coal mining. MDE (D5) Md. Code Ann., Envir. §§ 15-505(b), -506(e); COMAR 26.20.20.03.

8. Underground coal mining activities may not be conducted beneath or adjacent to any perennial stream or impoundment having a storage volume of 20 acre-feet or more. Underground coal mining activities beneath any aquifer that serves as a significant source of water supply to any public water system shall be conducted so as to avoid disruption

of the aquifer and consequent exchange of ground water between the aquifer and other strata. MDE (D5) COMAR 26.20.13.10.

9. Surface mining shall not occur within 25 feet of any property line or 100 feet of any scenic or wild river or its tributaries or any parcel of land that has been designated an area of critical State concern. MDE (D5) COMAR 26.21.01.17.

10. Coal prospect pits may not be more than 1 acre in size or affect more than 10 acres and shall be backfilled, seeded, and mulched within 30 days after it is opened. MDE (D5) COMAR 26.20.08.04.

11. Coal project proponents must draft a mining and reclamation plan, including a description of the natural resources, geology, and cultural and historical resources within the proposed permit and adjacent areas and the methods for road construction, removing topsoil, controlling drainage, backfilling, and revegetating the affected area, as well as identify baseline hydrologic information and determine the probable hydrologic consequences of the mining and reclamation operations upon surface and ground waters on and off the permit area and plan remedial and reclamation activities. MDE (D5) Md. Code Ann., Envir. §§ 15-505(c), -822; COMAR 26.20.02.05-.09; COMAR 26.20.02.14.

12. A mining and reclamation plan for a mineral extraction activity must outline mining methods, intended reclamation practices, land uses before and after mining, areas to be affected by the mining, and measures to protect other uses and the environment. MDE (D5) Md. Code Ann., Envir. §§ 15-807(d), -808(d), -822, -828(b).

13. Prior to the commencement of a mineral extraction activity, the appropriate county must issue a written statement that the proposed land use conforms to all applicable county zoning and land use requirements. MDE (D5) Md. Code Ann., Envir. § 15-810(c).

14. If the probable hydrologic consequences of the proposed coal mining operation are contamination, diminution, or interruption of an underground or surface source of water that is used for domestic, agricultural, industrial, or other legitimate purpose, the project proponent shall analyze the availability of water and alternative water sources. MDE (D5) COMAR 26.20.02.08.

15. Underground coal mining activities shall be planned and conducted so as to prevent subsidence from causing material damage to the extent technologically and economically feasible. MDE (D5) COMAR 26.20.13.07A.

16. Sediment control measures shall be designed, constructed, and maintained using the best technology currently available to prevent additional contributions of sediment to stream flow or runoff outside an area where coal mining is permitted. MDE (D5) COMAR 26.20.21.05A.

17. Diversions shall be designed, constructed, and maintained to minimize adverse impacts, including preventing the contribution of suspended solids to stream flow and

runoff outside an area where coal mining permitted, to the extent possible using the best technology currently available. MDE (D5) COMAR 26.20.21.03.

18. Pits, cuts, and other mine excavations or disturbances for coal mining shall be located, designed, constructed, and utilized in such a manner as to prevent adverse impacts, including the discharge of acid, toxic, or otherwise harmful mine drainage waters into ground water systems. MDE (D5) COMAR 26.20.20.01B.

19. Transportation facilities constructed for surface coal mining purposes shall be located, designed, constructed or reconstructed, and maintained, and the area restored, in a manner that prevents damage to fish, wildlife, or their habitat and related environmental values; prevents additional contributions of suspended solids to stream flow or runoff outside the permit area; minimizes diminution or degradation of water quality and quantity; minimizes erosion, siltation, and attendant air pollution; and prevents damage to public and private property. MDE (D8) COMAR 26.20.19.01D, .08.

20. The removal of vegetation, topsoil, and overburden before surface mining must be minimized, and erosion and sediment control devices must be constructed and maintained. MDE (D5) COMAR 26.21.01.10.

21. An area exposed for surface coal mining shall be protected and stabilized to effectively control erosion and air pollution attendant to erosion. MDE (D5) COMAR 26.20.23.01A.

22. During surface mining, topsoil shall be removed, segregated, and stockpiled on-site for reclamation and protected by a vegetative cover or by other methods demonstrated to provide protection. MDE (D5) COMAR 26.21.01.11.

23. The discharge of water from coal mining areas shall be conducted so as to reduce erosion, prevent deepening or enlargement of stream channels, and minimize disturbance of the hydrologic balance. MDE (D5) COMAR 26.20.21.07.

24. All surface drainage from coal mining and discharge of water from underground coal mining to surface waters shall be passed through a sedimentation pond, a series of sedimentation ponds, or a treatment facility before leaving the permit area. MDE (D5) COMAR 26.20.13.06.

25. Storage piles of overburden, mine waste, and rock from surface mining must be stabilized and may not restrict any natural drainage without an approved diversion. MDE (D5) COMAR 26.21.01.12.

26. An ephemeral, intermittent, or perennial stream may not be diverted during coal prospecting activities. Overland flow of water shall be diverted only in a manner that prevents erosion and, to the extent possible using best available technology, additional contributions of suspended solids to streamflow or runoff outside the prospecting area. MDE (D5) COMAR 26.20.08.04.

27. During any coal mining activities, changes in the depth to ground water, in water quality and quantity, and in the location of surface water drainage channels shall be minimized. MDE (D5) COMAR 26.20.21.01.
28. The operator of a coal mine shall replace the water supply of an owner of interest in real property who obtains all or part of the owner's supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where the supply has been affected by contamination, diminution, or interruption proximately resulting from the mining operations. MDE (D5) Md. Code Ann., Envir. §§ 15-524(b), -608(b); COMAR 26.20.13.05D; COMAR 26.20.20.11.
29. If water is pumped out of a pit located in karst terrain in Baltimore, Carroll, Frederick, and Washington counties, the project proponent shall replace a water supply if it fails as a result of declining ground water levels and pay compensation for property damage from land subsidence. MDE (D5) Md. Code Ann., Envir. § 15-813.
30. Surface coal mining activities and restoration efforts shall be conducted so as to maintain the recharge capacity of surface mining areas and support the approved post mining land use, minimizes disturbances to the hydrologic balance in the mine plan area and in adjacent areas, and provides a rate of recharge that approximates the pre-mining recharge rate. MDE (D5) COMAR 26.0.20.02; COMAR 26.20.21.01A.
31. Promptly after coal prospecting activities are completed, all areas disturbed during prospecting operations, including roads, shall be returned to the approximate original contour. MDE (D5) COMAR 26.20.08.04.
32. Mined land must be properly reclaimed, including rehabilitating settling ponds; restoring or establishing stream channels and stream banks to a condition that minimizes erosion, siltation, and other pollution; and creating final slopes in all excavations at an angle that minimizes the possibility of slides and is consistent with the future use of the land. MDE (D5) Md. Code Ann., Envir. §§ 15-802(a), -807(d), -822, -828(b).
33. The placement of backfilled materials shall be done in a way that minimizes contamination and other adverse effects of coal mining on ground water systems outside the permit area and supports approved postmining land uses. MDE (D5) COMAR 26.20.20.01A.
34. Vegetative cover shall be established on all areas disturbed by surface coal mining in a manner that is compatible with the approved post-mining land use. MDE (D5) COMAR 26.20.29.01A.
35. Surface mining reclamation shall be completed in accordance with the mining and reclamation plan within 2 years after mineral extraction has terminated.. MDE (D5) COMAR 26.21.01.16.

2. Electrical Generation and Transmission

1. Power plants shall be sited, constructed, and operated in a manner which minimizes their impacts on tidal wetlands, aquatic resources, terrestrial resources, significant wildlife habitat, public open space, recreational, and natural areas, air and water quality, and the public health, safety, and welfare. DNR/PSC (D2) Md. Code Ann., Nat. Res. §§ 1-302, 3-303, 3-304, 3-306; Md. Code Ann., Pub. Util. Cos. § 7-208.
2. Proposals for new power plants and transmission lines must account for their impact on the physical, biological, aesthetic, and cultural features of the site and adjacent areas; identify contributions to air and water pollution; recommend mitigation opportunities; and adequately consider recommendations of local government. PSC (D2) Md. Code Ann., Pub. Util. Cos. § 7-207(e); COMAR 20.79.03.02(B); COMAR 20.79.04.04.
3. Proposals for new transmission lines must estimate the capital and annual operating costs of each alternative route considered and explain why each alternative route was rejected. PSC (D2) COMAR 20.79.04.03.
4. Utilities shall maintain the vertical clearances of overhead electric supply lines that cross water surfaces suitable for sailing. PSC (D2) COMAR 20.50.02.05(B).
5. The location, design, construction, and capacity of cooling water intake structures shall reflect the best technology available for minimizing adverse environmental impact, specifically impingement and entrainment losses. MDE (D4) COMAR 26.08.03.05.

3. Tidal Shore Erosion Control

1. Structural erosion control measures shall be designed to use materials such as stone or broken concrete, wood, metal, plastic, or other similar materials that are of adequate size, weight, and strength to function as intended; free of protruding objects; and selected because they minimize impacts to water quality and plant, fish, and wildlife habitat. MDE (C1) COMAR 26.24.04.01.
2. Tidal shore erosion control projects shall not use junk, metal, tree stumps, logs, or other unsuitable materials for backfill. MDE (C1) COMAR 26.24.04.01
3. Beach nourishment projects shall meet the following requirements:
 - The fill material grain size shall be equal to or greater in grain size and character to the existing beach material, or determined otherwise to be compatible with existing site conditions and acceptable to the Department;
 - The fill material shall be relatively free of organic material, floating debris, or other objects;

- Silt and clay fills that change the sandy nature of the existing beach materials are not acceptable;
- Gravel fill may be acceptable, if particle sizes are equal to or greater than the existing beach materials; and
- Fill material shall be placed above the mean high water line before final grading to achieve the desired beach profile, unless site conditions prohibit the placement of fill material above the mean high water line and specific measures are designed to prevent material from washing away from the site.

MDE (C1) COMAR 26.24.03.06D.

4. Improvements to protect property bounding on navigable water against erosion shall consist of nonstructural shoreline stabilization measures that preserve the natural environment, such as marsh creation, except in areas designated by Department of the Environment as appropriate for structural shoreline stabilization measures, including areas of excessive erosion, areas subject to heavy tides, and areas too narrow for effective use of nonstructural shoreline stabilization measures. MDE (C1) Md. Code Ann., Envir. § 16-201.

5. Encroachment into state tidal wetlands for shore erosion control shall be limited to that which is structurally necessary. Bulkheads that encroach into tidal wetlands in excess of 3 feet beyond the mean high water line are prohibited, unless a design report verifies the necessity for the encroachment, and that other structural and nonstructural alternatives have been considered and determined to be impractical. The design report shall distinguish between shore erosion and bank stabilization requirements. MDE (C1) COMAR 26.24.04.01.

6. Tidal shore erosion control measures are listed below beginning with measures that are most consistent with State policy and ending with measures that are least consistent with State policy.

- No action and relocation of structure
- Nonstructural shoreline stabilization, including beach nourishment, marsh creation, and other measures that encourage the preservation of the natural environment
- Shoreline revetments, breakwaters, groins, and similar structures designed to ensure the establishment and long-term viability of nonstructural shoreline stabilization projects
- Shoreline revetments
- Breakwaters

- Groins
- Bulkheads

MDE (C1) COMAR 26.24.04.01C.

7. Tidal shore erosion control projects shall not occur when:

- There is no evidence of erosion;
- Existing tidal wetlands are adequately serving as a buffer against erosion;
- Adjacent properties may be adversely affected by the proposed method of erosion control;
- Navigation may be adversely affected by the project and the applicant has not made provisions to offset these impacts;
- Threatened or endangered species, species in need of conservation, or significant historic or archaeological resources may be adversely affected by the project; or
- Natural oyster bars or private oyster leases may be adversely affected by the project.

MDE (C1) COMAR 26.24.04.01.

4. Oil and Natural Gas Facilities

The Coastal Facilities Review Act (CFRA) and its implementing regulations, as approved by NOAA, serve as overarching enforceable policies for oil and natural gas facilities.

1. Facilities covered by the provisions of the Coastal Facilities Review Act (CFRA) are subject to comprehensive State review prior to permit decisions on their siting, construction, and operation within Maryland. CFRA facilities are defined as:

- Pipelines carrying crude oil or natural gas ashore from offshore sources.
- Intermediate production terminals or refineries.
- Crude oil storage facilities; natural gas transmission, processing or storage facilities; operation bases; or fabrication yards.

MDE (D1) Md. Code Ann., Envir. §§ 14-501 to -511; COMAR 26.22.01.

2. No CFRA facility certification will be granted in a coastal county unless:

- The facility meets all applicable air, water, noise, and solid waste laws of the State.
- The facility conforms with county or local land use planning, and with the official county or local comprehensive zoning map, the State Development Plan, and the Coastal Zone Management Program.
- The facility would have no significant adverse upon the natural environment of the area, its scenic or natural beauty, its rare or irreplaceable natural resources, or its unique historic sites.
- The facility would not be located or constructed so that adverse effect upon the public health, safety, or welfare would result.
- The facility would not pose an undue burden on the water supply of the site or region.
- The facility would not contribute to undue environmental degradation or resource exhaustion.
- The facility would have no adverse affect upon areas identified and designated as State Critical Areas.
- The facility would not impose a burden on existing State regional or county public facilities beyond their respective capacities.
- New public facilities, if required as a result of the construction and operation of the facility:
 - Would be completed in time to serve the facility, or
 - Would be adequate to serve the facility without causing over-loading or the public facilities.
- There are fewer undesirable environmental, economic, fiscal, and cultural consequences in its proposed location than in other locations.

MDE (D1) Md. Code Ann., Envir. §§ 14-501 to -511; COMAR 26.22.01.

3. To detect and control oil spills, all private tank vessels transporting oil in the State must either be equipped with a cargo level monitoring system, have double hulls, have a plan for inspecting load lines approved by the Department of the Environment, or be accompanied by an all-weather escort vessel for the purpose of continuously checking for evidence of an oil discharge from the escorted tank vessel. MDE (A2) Md. Code Ann., Envir. § 4-405 (b)(1); COMAR 26.10.01.23B.

4. Through bond or other form of security, the operator of a private tank vessel transporting more than 25 barrels of oil as cargo must be able to prove the financial ability to cover the cost of oil spill cleanup and recovery before entering waters of the State. MDE (A2) COMAR 26.10.01.24A.
5. No person may discharge oil in any manner, including through bilge and ballast water, or deposit it in an area where it may enter waters of the State. MDE (A2) Md. Code Ann., Envir. § 4-410(a); COMAR 26.10.01.02B.
6. Above-ground oil storage sites shall prevent movement of oil into the waters of the State. MDE (D1) COMAR 26.10.01.12B(1).
7. The construction of above-ground oil storage tanks, dikes, or walls within the tidal wetlands or within the 100-year flood plain is prohibited without first obtaining a State Wetlands Permit or providing an equivalent level of environmental protection. MDE (D1) COMAR 26.10.01.12B(3).

5. Dredging and Disposal of Dredged Material

1. A person may not dredge for projects that are non-water-dependent unless there is no practicable alternative. MDE (A3) Md. Code Ann., Envir. § 5-907(a); COMAR 26.24.03.02D
2. Dredging for sand, gravel, or fill material, including material for beach nourishment, is prohibited unless an environmental analysis determines that there will be no adverse impact on the environment and no alternative material is available. MDE (A3) COMAR 26.24.03.02C.
3. Dredging of channels, canals, and boat basins shall be designed to provide adequate flushing and elimination of stagnant water pockets, and channel alignment shall make maximum use of natural or existing channels and bottom contours. MDE (B2) COMAR 26.24.03.02.
4. The alignment of a channel shall first avoid and then minimize impacts to shellfish beds, submerged aquatic vegetation, and vegetated tidal wetlands. When feasible, the alignment shall be located the maximum distance feasible from shellfish beds, submerged aquatic vegetation, and other vegetated tidal wetlands. MDE (C6) COMAR 26.24.03.02.
5. Dredging is prohibited from February 15 through June 15 in areas where yellow perch have been documented to spawn and from March 1 through June 15 in areas where other important finfish species have been documented to spawn. MDE (A3) COMAR 26.24.02.06G.
6. Dredging is prohibited within 500 yards of submerged aquatic vegetation from April 15 through October 15. MDE (A3) COMAR 26.24.02.06H.

7. Within 500 yards of shellfish areas, mechanical and hydraulic dredging is prohibited from June 1 through September 30 and mechanical dredging is also prohibited from December 16 through March 14. MDE (A3) COMAR 26.24.02.06E.

8. New disposal sites for dredged material shall be selected based on the following hierarchy of criteria: (i) beneficial use and innovative reuse of dredged material; (ii) upland sites and other environmentally sound confined capacity; (iii) expansion of existing dredged material disposal capacity other than the Hart-Miller Island Dredged Material Containment Facility and areas collectively known as Pooles Island. MDE (A3) Md. Code Ann., Envir. § 5-1104.2(d).

9. Disposal facilities for dredged material shall be designed to have the least impact on public safety, adjacent properties, and the environment. MDE (A3) COMAR 26.24.03.04A.

10. Prior to disposing of dredged material on upland areas, a sediment and erosion control plan must be developed and approved by the local soil conservation district or the Department of the Environment and the methods for protecting water quality and quantity must be identified in detail. MDE (A3) COMAR 26.24.03.03B.

11. A person may not redeposit in an unconfined manner dredged material into or onto any portion of the water or bottomland of the Chesapeake Bay or of the tidewater portion of any of the Chesapeake Bay's tributaries except when the project is undertaken to restore islands or underwater grasses, stabilize eroding shorelines, or create or restore wetlands or fish and shellfish habitats. MDE (A3) Md. Code Ann., Envir. § 5-1101(a), 5-1102.

12. A person may not redeposit in an unconfined manner dredged material into or onto any portion of the bottomlands or waters of the Chesapeake Bay known as the deep trough. MDE (A3) Md. Code Ann., Envir. §§ 5-1101(a), -1102.

13. No material dredged from Baltimore Harbor shall be disposed of in an unconfined manner in the open water portion of Chesapeake Bay, or the tidal portions of its tributaries outside of Baltimore Harbor. MDE (A3) Md. Code Ann., Envir. § 5-1102(a).

6. Navigation

1. Navigational access projects shall when possible be designed to use piers to reach deep waters rather than dredging. MDE (B2) COMAR 26.24.03.02.

2. Navigational access channels to serve individual or small groups of riparian landowners shall be designed to prevent unnecessary channels. A central access channel with short spur channels shall be considered over separate access channels for each landowner. MDE (B2) COMAR 26.24.03.02.

3. Navigational access channels shall be designed to minimize alteration of tidal wetlands and underwater topography. MDE (B2) COMAR 26.24.03.02.

4. New or expanded facilities for the mooring, docking, or storing of more than ten vessels on tidal navigable waters shall be located on waters with strong flushing characteristics and may not be located in areas where the natural depth is 4.5 feet or less at mean low water, and any of the following will be adversely affected: aquatic vegetation, productive macroinvertebrate communities, shellfish beds, fish spawning or nursery areas, rare, threatened, or endangered species, species in need of conservation, or historic waterfowl staging areas. Expansion of existing facilities is favored over new development. MDE (A1) COMAR 26.24.04.03.

5. The location of buoys for the mooring of boats shall not be located in designated private or public shellfish areas, cable-crossing areas, navigational channels, in other places in where general navigation would be impeded or obstructed, or public ship anchorage. The location of mooring buoys should not obstruct the riparian access of adjacent property owners or hinder the orderly access to or use of the waterways by the general public. DNR (A1) COMAR 08.04.13.02.

6. Vessels operated on state waters should not exceed a noise level of 90dB(a). DNR (A1) COMAR 08.18.03.03.

7. Transportation

1. The social, economic, and environmental effects of proposed transportation facilities projects must be identified and alternative courses of action must be considered. MDOT (D8) COMAR 11.01.06.02B.

2. The public must be involved throughout the process of planning transportation projects. MDOT (D8) Md. Code Ann., Transp. § 7-304(a); COMAR 11.01.06.02B.

3. Transportation development and improvement projects must support the integrated nature of the transportation system, including removing impediments to the free movement of individuals from one mode of transportation to another. MDOT (D8) Md. Code Ann., Transp. § 2-602.

4. Private transit facilities must be operated in such a manner as to supplement facilities owned or controlled by the State to provide a unified and coordinated regional transit system without unnecessary duplication or competing service. MDOT (D8) Md. Code Ann., Transp. § 7-102.1(b).

5. Access to and use of transportation facilities by pedestrians and bicycle riders must be enhanced by any transportation development or improvement project, and best engineering practices regarding the needs of bicycle riders and pedestrians shall be employed in all phases of transportation planning. MDOT (D8) Md. Code Ann., Transp. § 2-602.

8. Agriculture

1. Agricultural land management practices may not add, introduce, leak, spill, or otherwise emit soil or sediment into waters of the State unless a plan is being implemented on the property that is designed to conserve soil and protect water quality. MDA (C4) Md. Code Ann., Envir. § 4-213.
2. A person conducting an agricultural activity shall implement best management practices to protect non-tidal wetlands. MDE (C3) COMAR 26.23.05.02.
3. Animal feeding operations shall use best management practices designed and approved by a local soil conservation district to limit livestock access to surface water. MDA (C4) COMAR 26.08.03.09.
4. An agricultural operation with \$2500 a year in gross income or more than 8000 pounds of livestock that uses chemical fertilizers, sludge, or animal manure shall use these nutrients in a way that minimizes impacts on water quality. MDA (C4) Md. Code Ann., Agric. § 8-803.1.
5. Agricultural drainage projects shall provide substantial agricultural benefits, prevent direct over bank flow into the ditch, be truncated as far upstream as possible, minimize adverse environmental impacts, and implement and maintain approved soil conservation district conservation plans. MDE (C3) COMAR 26.17.04.11.
6. Mosquitoes should not be allowed to breed or develop on any property where the Secretary of Agriculture and local health officials believe the mosquitoes could pose a threat to public health. MDA (B2) Md. Code Ann., Agric. § 5-406.

9. Development

1. Any development shall be designed to minimize erosion and keep sediment onsite. MDE (C4) COMAR 26.17.01.08.
2. Development must avoid and then minimize the alteration or impairment of tidal and non-tidal wetlands; minimize damage to water quality and natural habitats; minimize the cutting or clearing of trees and other woody plants; and preserve sites and structures of historical, archeological, and architectural significance and their appurtenances and environmental settings. MDE/DNR/CAC (D6) Md. Code Ann., Envir. §§ 4-402, 5-907(a), 16-102(b); Md. Code Ann., Nat. Res. §§ 5-1606(c), 8-1801(a); Md. Code Ann., Art. 66B § 8.01(b); COMAR 26.24.01.01(A).
3. Any proposed development may only be located where the water supply system, sewerage system, or solid waste acceptance facility is adequate to serve the proposed construction, taking into account all existing and approved developments in the service area and any water supply system, sewerage system, or solid waste acceptance facility described

in the application and will not overload any present facility for conveying, pumping, storing, or treating water, sewage, or solid waste. MDE (C9) Md. Code Ann., Envir. § 9-512.

4. A proposed construction project must have an allocation of water and wastewater from the county whose facilities would be affected or, in the alternative, prove access to an acceptable well and on-site sewage disposal system. The water supply system, sewerage system, and solid waste acceptance facility on which the building or development would rely must be capable of handling the needs of the proposed project in addition to those of existing and approved developments. MDE (D6) Md. Code Ann., Envir. § 9-512.

5. Any residence or commercial establishment that is served or will be served by an on-site sewage disposal system or private water system must demonstrate that the system or systems are capable of handling the existing and reasonably foreseeable sewage flows or water demand prior to construction or alteration of the residence or commercial establishment. MDE (D6) COMAR 26.04.02.02D.

6. Proponents of grading or building in the Severn River Watershed must create a development plan and have it approved by the soil conservation district. The plan shall include a strategy for controlling silt and erosion and must demonstrate that any septic or private sewer facility will not contribute to the pollution of the Severn River. MDE (D4) Md. Code Ann., Envir. § 4-308(a).

7. Industrial facilities must be sited and planned to insure compatibility with other legitimate beneficial water uses, constraints imposed due to standards of air, noise and water quality, and provision or availability of adequate water supply and waste water treatment facilities. MDE (D4) Md. Code Ann., Envir. §§ 2-102, 4-402, 9-224(b), 9-512(b); COMAR 26.02.03.02; COMAR 26.11.02.02B.

8. Local citizens shall be active partners in planning and implementation of development. MDP (D6) Md. Code Ann., St. Fin. & Proc. §§ 5-7A-01 to -02.

9. Development shall protect existing community character and be concentrated in existing population and business centers, growth areas adjacent to these centers, or strategically selected new centers. MDP (D6) Md. Code Ann., St. Fin. & Proc. §§ 5-7A-01 to -02.

10. Development shall be located near available or planned transit options. MDP (D6) Md. Code Ann., St. Fin. & Proc. §§ 5-7A-01 to -02.

11. Whenever possible, communities shall be designed to be compact, contain a mixture of land uses, and be walkable. MDP (D6) Md. Code Ann., St. Fin. & Proc. §§ 5-7A-01 to -02.

12. To meet the needs of existing and future development, communities must identify adequate drinking water and water resources and suitable receiving waters and land areas

for stormwater management and wastewater treatment and disposal. MDE (D6) Md. Code Ann., Art. 66B § 3.05.

10. Sewage Treatment

1. The quality of state waters shall be protected, maintained, and improved for public supplies, propagation of wildlife, fish and aquatic life, and domestic, agricultural, industrial, recreational, and other legitimate beneficial uses. MDE (D7) Md. Code Ann., Envir. §§ 4-402, 9-302(b), 9-323(a).

2. No waste shall be discharged into any waters of the State without first receiving necessary treatment or other corrective action to protect the legitimate beneficial uses of the State's waters. MDE (D7) Md. Code Ann., Envir. §§ 9-302(b), -323(a).

3. Unless permitted by Maryland law, sewage or sewage effluent, treated or non-treated, or industrial wastes may not be disposed of in any manner that will create a nuisance or cause contamination of potable water supply systems, the waters of the State, or the ground surface. MDE (D7) COMAR 26.04.02.02.

4. A person may not discharge raw sewage or any other waste into the Patuxent River, the Severn River, or any of their tributaries. MDE (D7) Md. Code Ann., Envir. § 4-307.

5. A person may not dump, deposit, scatter, or release sewage sludge by any means, including discharge from a sewer or pipe, into or onto any portion of the water or bottomland of the Chesapeake Bay or of the tidewater portions of any of the Chesapeake Bay's tributaries within 5 miles of the Hart-Miller-Pleasure Island chain in Baltimore County. MDE (D7) Md. Code Ann., Envir. § 5-1102(e).

6. Before constructing, installing, modifying, extending, altering, or operating a sewage treatment facility that could cause or increase the discharge of pollutants into the waters of the State, the proponent must hold a discharge permit issued by the Department of the Environment or provide an equivalent level of water quality protection. MDE (D7) Md. Code Ann., Envir. § 9-323(a).

7. Before attempting to construct or alter an on-site sewage disposal system or cause it to receive any increase in flow, the proponent must receive a permit from the Department of the Environment or provide an equivalent level of water quality protection. MDE (D7) COMAR 26.04.02.02.

8. New sewage treatment plants shall be constructed so as to meet the State effluent water quality standards, including those for bacteriological values, dissolved oxygen, pH, and temperature conditions, which may require advanced waste treatment. MDE (D7) Md. Code Ann., Envir. § 4-303.

9. Secondary treatment is required as a minimum for sewage treatment works discharging into any waters of the State. MDE (D7) COMAR 26.08.04.04C.

10. If compliance with the established water quality standards or nutrient control requirements cannot be achieved through secondary treatment for all sewage discharges within a specific river segment or water region, the sewage treatment facilities are subject to additional restrictions. MDE (D7) COMAR 26.08.01.02C.

11. Advanced waste treatment is required for all sewage treatment works with a design capacity exceeding 1 million gallons per day and discharging into water quality limited waters. Advanced waste treatment may also be required for smaller sewage treatment works where the Department of the Environment determines that this level of treatment is necessary. MDE (D7) COMAR 26.08.04.04C.

12. An effluent limitation of 2 milligrams/liter total phosphorus is required for all facilities discharging more than: 500,000 gallons per day to the Chesapeake Bay and its tributaries above the Baltimore Harbor and 10 million gallons per day in the vicinity of Baltimore Harbor to the Bay Bridge. MDE (D7) COMAR 26.08.04.04C.

13. If discharging into shellfish harvesting waters, sewage treatment must be sufficient to protect shellfish harvesting, potentially requiring advanced waste treatment, and the treatment plant must have a bypass control system, including a minimum 24-hour emergency holding facility. MDE (D7) COMAR 26.08.04.04C.

14. Holding tanks shall be watertight and sized to hold at least 7 days effluent from a septic tank. MDE (D7) COMAR 26.04.02.03C.

15. Sewerage systems must conform to the county plan or revision or amendment of the county plan. MDE (D7) Md. Code Ann., Envir. § 9-511.

16. Unless sewage sludge is disposed of in a manner that precludes potential health hazards due to the presence of pathogens, all sewage sludge shall be treated by a process to significantly reduce pathogens or a process to further reduce pathogens. MDE (D7) COMAR 26.04.06.08A.

17. Sewage sludge utilization is prohibited if it cannot be done without causing an undue risk to the environment or public health, safety, or welfare or if the sewage sludge was generated in a state that does not apply sewage sludge to land. MDE (D7) Md. Code Ann., Envir. § 9-245; COMAR 26.04.06.10A.

18. Prior to utilizing sewage sludge in Maryland, a person shall obtain a sewage sludge utilization permit from the Maryland Department of the Environment or provide an equivalent level of environmental protection. MDE (D7) Md. Code Ann., Envir. § 9-231.

19. A user of sewage sludge may not interfere with any inspection of a sewage sludge utilization site, including prohibiting access to any representative of the Department of the Environment, to a local health official, or to the local health official's designee who

requests access to insure compliance with the appropriate rules and regulations. MDE (D7) Md. Code Ann., Envir. § 9-243; COMAR 26.04.06.06.

20. Sewage sludge composting or storage facilities must meet all zoning and land use requirements of the county in which the facility is to be located. MDE (D7) Md. Code Ann., Envir. § 9-233

21. The public shall be given an opportunity to present its views prior to any final decision being made on the siting of sewage sludge or a sewage sludge storage or distribution facility. MDE (D7) Md. Code Ann., Envir. §§ 9-234, -238(c); COMAR 26.04.06.05.

22. On-site sewage disposal systems are prohibited:

- If they may pollute well water supplies, water supply reservoirs, shellfish growing waters, bathing beaches, lakes, or tidewater areas, including within 25 feet of drainage and spring seeps, flood plain soils, gullies, rock outcroppings, or slopes in excess of 25 percent; 50 feet from water well systems in confined aquifers;
- 100 feet from water well systems in unconfined aquifers, water bodies not serving as potable water supplies, and a stream bank when further than 3,000 feet upstream of an intake for a potable water supply; and
- 200 feet from a stream bank when closer than 3,000 feet upstream of such an intake.

MDE (D7) COMAR 26.04.02.04.

23. Facilities capable of berthing vessels 22 feet or larger with more than 10 slips must have a wastewater collection and treatment system and an on-site pump-out station adequate to handle existing and increased flow and increased sewage capacity, respectively. MDE (D7) Md. Code Ann., Env. § 9-333.

24. A vessel 65 feet in length and under with an installed toilet shall have a Type I, II, or III marine sanitation device. A vessel over 65 feet in length with an installed toilet shall have a Type II or III marine sanitation device. While in Maryland waters, all means of overboard discharge from a vessel with a Type III marine sanitation device must be blocked or secured so as to prevent discharge.

Marine Sanitation Devices:

- A Type I marine sanitation device produces an effluent having a fecal coliform bacteria count not greater than 1,000 per 100 milliliters and no visible floating solids.

- A Type II marine sanitation device produces an effluent having a fecal coliform bacteria count not greater than 200 per 100 milliliters and suspended solids not greater than 150 milligrams per liter.
- A Type III marine sanitation device does not discharge effluent.

DNR/MDE (A1) Md. Code Ann., Natural Res. § 8-741.

CHART OF PROPOSED CHANGES

A. COASTAL WATERS				
1. RECREATIONAL BOATING				
Current Enforceable Policy	<u>Enf. Mech.</u> <u>(1978)</u>	<u>Proposed</u> <u>Change</u>	<u>Proposed Language</u>	<u>Enf. Mech.</u> <u>(2010)</u>
1. To foster the development, use, and enjoyment of the waters of Maryland, the Department of Natural Resources, in cooperation with other government agencies, will develop plans; will conduct educational programs, will improve waterways by deepening channels, acquiring and developing access areas, and clearing waterways of debris; will adopt regulations to promote safety; and will designate and mark channels.	Natural Resources Article, Sections 8-702, 8-703	Deletion- This policy is directed at state government and is not relevant for federal consistency.	N/A	N/A
2. State funds will not be awarded for the siting of boating facilities in locations which would cause congestion, jeopardize safety, necessitate excessive dredging, interfere with other types of recreational activities, or entail any adverse impact on water quality of aquatic resources.	Natural Resources Article, Sections 1-302, 8-703, 8-707, Regulations Section 08.05.04.02	The proposed change accurately reflects current regulations on the location of boating facilities. Since current policies 2-4 are all related to boating facilities, the policies are combined into one new policy.	New or expanded facilities for the mooring, docking, or storing of more than ten vessels on tidal navigable waters shall be located on waters with strong flushing characteristics and may not be located in areas where the natural depth is 4.5 feet or less at mean low water, and any of the following will be adversely affected: aquatic vegetation, productive macroinvertebrate communities, shellfish beds, fish spawning or nursery areas, rare, threatened, or endangered species, species in need of conservation, or historic waterfowl staging areas. Expansion of existing facilities is favored over new development. (C-6-4)	COMAR 26.24.04.03 (1994)
3. Location of a boating facility in the lower portions of a tidal tributary, where there is better flushing and access to open water and less need for dredging, is preferable and encouraged over a location in the headwater areas. Similarly, the development of boating facilities within the upper reaches of existing artificial (canal) systems is discouraged.	Natural Resources Article, Sections 1-302, 1-303, 8-703, 9-102, DNR Regulation Section 08.05.04.02			

<p>4. The following criteria will be used (in addition to impacts on State and private wetlands, aquatic resources, and navigation) in establishing regulations (including revised regulations on wetlands, boating use, boat waste discharge, and mooring buoys) and in making state and federal permit decisions on recreational boating activities. The potential for creating or aggravating: (1) congestion and safety problems, (2) turbidity or other adverse water quality impacts, (3) shore erosion problems, (4) other adverse environmental impacts, (5) interference with recreational and commercial fishing, (6) interference with other types of recreational activities, and (7) impacts on the aesthetic qualities of the shoreline.</p>	<p>National Resources Article, Sections 1-302, 1-303, 4-202, 8-703, 9-102, 9-501; federal Water Pollution Control Act Amendments of 1972 Sections 402, 404</p>			
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<p>5. Regarding projects undertaken to obtain riparian access, the public policy of the state is to preserve wetlands and protect water quality while providing for the riparian land owners right of access to navigable waters. Thus:</p> <p>a. Where reasonable access for a riparian property owner can be provided directly from fast land, creation of a channel through vegetated wetlands, filling for access, or extension of a channel inland shall be prohibited.</p> <p>b. Where access is to be provided to a subdivision or other multi-home development of community, a centralized boating access channel is preferable to multiple piers or channels. For isolated single family dwellings, a pier from fast land to open water shall normally fulfill the right of responsible riparian access.</p> <p>c. The ownership of land bordering upon tidal waters does not carry with automatic right to create channels to extend boat access.</p>	<p>Natural Resources Article, Sections 1-302, 9-102, 9-202, 9-306; pending revised DNR wetlands regulations</p>	<p>Deletion- This policy is not supported by current state law.</p>	<p>N/A</p>	<p>N/A</p>
<p>6. All waters of the State shall be protected for use as water contact recreation, for fish, other aquatic life and wildlife. Additional protection shall be given for shellfish harvesting and recreational trout waters and waters worthy of protection because of their unspoiled character.</p>	<p>Natural Resources Article, Sections 8-1402, 8-1405; pending revised DNR water quality registration and titling</p>	<p>Minor grammatical change</p>	<p>All waters of the state shall be protected for water contact recreation, fish, and other aquatic life and wildlife. Shellfish harvesting and recreational trout waters and waters worthy of protection because of their unspoiled character shall receive additional protection. (A-2-2)</p>	<p>COMAR 26.08.02.02</p>
<p>7. Boats shall be operated:</p>	<p>Natural</p>	<p>The proposed</p>	<p>Vessels operated on State waters should not</p>	<p>COMAR 08.18.03.03</p>

<p>a. In observance of State regulations regarding boating registration and titling.</p> <p>b. In observance of the Inland Rules of the Road set forth in Coast Guard pamphlet USCG-169 dated May 1, 1977.</p> <p>c. In observance of speed limits and restricted skiing areas, as set forth in DNR Regulations 08.04.04.03 and 08.04.04.04.</p> <p>d. In avoidance of any fishing net lawfully placed and marked.</p> <p>e. With engines muffled in accordance with State noise standards.</p> <p>f. Without motors in State wild lands (unless allowed because of traditional use).</p> <p>g. In accordance with other rules and regulations that may be established by the state to protect public safety and welfare, water quality or aquatic resources.</p>	<p>Resources Article, Section 8-704 (b), pending DNR mooring buoy regulations)</p>	<p>change removes policies that are unnecessary for federal consistency and focuses on noise control.</p>	<p>exceed a noise level of 90dB (a). (C-6-6)</p>	<p>(1997)</p>
<p>8. The location of buoys for the mooring of boats will be consistent with state policy if the mooring location is not:</p> <p>a. In designated private or public shellfish areas.</p> <p>b. In cable-crossing areas.</p> <p>c. In navigational channels or in other places in which</p>	<p>Natural Resources Article, Section 8-704 (b) pending DNR mooring buoy regulations</p>	<p>The minor change accurately reflects current state mooring regulations.</p>	<p>The location of buoys for the mooring of boats shall not be located in designated private or public shellfish areas, cable-crossing areas, navigational channels, in other places in where general navigation would be impeded or obstructed, or public ship anchorage. The location of mooring buoys should not obstruct the riparian</p>	<p>COMAR 08.04.13.02 (1979)</p>

<p>general navigation would be impeded or obstructed.</p> <p>d. In any public ship anchorage.</p> <p>e. Interfering with the operation of or access through any bridge.</p> <p>f. Within 200 yards of a public or private commercial bathing beach.</p> <p>g. Impeding or obstructing the riparian access of adjacent property owners.</p> <p>h. Hindering the orderly access to or use of the waterways by the general public</p>			<p>access of adjacent property owners or hinder the orderly access to or use of the waterways by the general public. (C-6-5)</p>	
<p>9. Moorings are to be marked and maintained in accordance with federal regulations and such additional requirements as may be imposed by State regulations.</p>	<p>Natural Resources Article, Section 8-704 (b); pending DNR mooring buoy regulations</p>	<p>Deletion- State mooring requirements are described in proposed policy (C-6-5) in this section of the Chart. Federal requirements cannot be part of an enforceable policy.</p>	<p>N/A</p>	<p>N/A</p>
<p>10. It shall be consistent with State policy for local governments to establish additional ordinances and regulations to address problems associated with recreational boating facilities an activities, providing they</p>	<p>Natural Resources Article, Section 8-703, 8-707;</p>	<p>Deletion- A local law cannot form the basis of an enforceable</p>	<p>N/A</p>	<p>N/A</p>

<p>are consistent with State rules and regulations.</p>	<p>Article 25, Section 5; Article 66B</p>	<p>policy unless it is incorporated into the Program and approved by NOAA.</p>		
<p>Marine Sanitation Devices Law—Incorporated into the MCMP as a RPC in December of 2004</p>	<p>N/A</p>	<p>This policy is derived from the current version of the Marine Sanitation Devices Law.</p>	<p>A vessel 65 feet in length and under with an installed toilet shall have a Type I, II, or III marine sanitation device. A vessel over 65 feet in length with an installed toilet shall have a Type II or III marine sanitation device. While in Maryland waters, all means of overboard discharge from a vessel with a Type III marine sanitation device must be blocked or secured so as to prevent discharge.</p> <p>Marine Sanitation Devices:</p> <p>A Type I marine sanitation device produces an effluent having a fecal coliform bacteria count not greater than 1,000 per 100 milliliters and no visible floating solids.</p> <p>A Type II marine sanitation device produces an effluent having a fecal coliform bacteria count not greater than 200 per 100 milliliters and suspended solids not greater than 150 milligrams per liter.</p> <p>A Type III marine sanitation device does not discharge effluent. (C-10-24)</p>	<p>Md. Code Ann., Nat. Res. § 8-741 (1994)</p>

2. COMMERCIAL SHIPPING (OIL SPILL CONTAINMENT AND PREVENTION)				
Current Enforceable Policy	<u>Enf. Mech.</u> (1978)	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech.</u> (2010)
1. The Department of Natural Resources shall act for the State to develop needed navigational aids and improvements on waterways on the Chesapeake Bay and other tidal waters of the State.	Natural Resources Article, Section 8-203	Deletion – This policy is directed at State government and does not provide a useful standard for federal consistency.	N/A	N/A
2. The Maryland Port Administration may: a. Provide for the preservation of navigation and the protection of the public health within its territorial jurisdiction, by such means as the establishment of lines beyond which piers, bulkheads, wharves, pilings, structures, obstructions, or extensions may not be made to extended and by the construction, maintenance and repair of such structures. b. Establish regulations covering the handling of the dangerous materials, the anchoring and moving of watercraft, and the discharge of refuse or similar material into navigable waters, in order to foster and facilitate navigation and prevent injury to persons or property. c. Make surveys or charts of navigable waters within its territorial jurisdiction and ascertain the depth and course of the channels of these waters.	Transportation Article, Section 6-206	Deletion – This policy is directed at State government and does not provide a useful standard for federal consistency.	N/A	N/A

3. No person may discharge or cause to be deposited into the waters of the State, oil or other matter containing oil or bilge or ballast water which will pollute these waters, or which will violate the water quality standards of the State.	(none listed)	The change accurately reflects the broad prohibition against discharging oil embodied in current State law.	No person may discharge oil in any manner, including through bilge and ballast water, or deposit it in an area where it may enter waters of the State. (C-4-5)	Md. Code Ann., Envir. § 4-410(a) (1992) COMAR 26.10.01.02B (1985)
4. Any person discharging or permitting the discharge of oil into the waters of the State from a land-based installation, from vehicle in transit, or from a vessel, ship or boat of any kind, must report the incident immediately to the appropriate Federal authority and to the Administration, and must remain available until clearance to leave is given by the appropriate officials.	Natural Resources Article, Section 8-1410(b), Water Resources Administration Rules and Regulations, Section 08.05.04.07	Deletion – This policy is not relevant for federal consistency.	N/A	N/A
5. No one may engage in any commercial or industrial operation involving methods, facilities, standards, and devices for transfer, handling, transport storage, separation, removal, treatment, or disposal of oil or other unctuous substances, unless he has obtained a permit from the Department of Natural Resources indicating that the activities are in conformity with the prescribed rules and regulations to prevent pollution of the State’s waters.	Natural Resources Article 8-1405, 8-1413, DNR Regulation 08.05.04.07	The proposed change accurately reflects the policy as relevant to shipping.	To detect and control oil spills, all private tank vessels transporting oil in the State must either be equipped with a cargo level monitoring system, have double hulls, have a plan for inspecting load lines approved by the Department of the Environment, or be accompanied by an all-weather escort vessel for the purpose of continuously checking for evidence of an oil discharge from the escorted tank vessel. (C-4-3)	Md. Code Ann., Envir. § 4-405 (b)(1) (2006) COMAR 26.10.01.23B (1989)
6. The Department of Natural Resources and the Maryland Port Administration, in conjunction with the U.S. Coast Guard, shall develop and implement a program to prevent	Natural Resources Article 8-1405, 8-1406,	The proposed change focuses on the aspect of	Through bond or other form of security, the operator of a private tank vessel transporting more than 25 barrels of oil as	COMAR 26.10.01.24A (1989)

or respond to emergency oil spills, including requiring bonds for vessels transporting oil products and requiring persons responsible for oil spills to provide adequate compensation.	8-1408, 8-1410, 8-1411, 8-1415, 8-1417; DNR Regulation 08.05.04.07	the original policy embodied in current law and relevant for federal consistency.	cargo must be able to prove the financial ability to cover the cost of oil spill cleanup and recovery before entering waters of the State. (C-4-4)	
7. All new facilities involved with the handling, storage, transfer, or processing of petroleum or natural gas products must be located where the potential for adverse impacts on aquatic resources is minimized, and must be built in a manner which assures compliance with State water quality standards.	Natural Resources Article, Section 6-508	Deletion- This policy is reflected in several policies in the proposed policy area Oil and Natural Gas Facilities.	N/A	N/A
8. Generally, the use of pipelines will be encouraged for the transporting ashore of any petrochemicals produced in the Atlantic Outer Continental Shelf Area.	Natural Resources Article, Sections 1-302, 1-303, 6-502, and 6-508	Deletion – The policy is not supported by State law.	N/A	N/A
New Policy	N/A	N/A	Public meetings and citizen education shall be encouraged as a necessary function of water quality regulation. (A-2-10)	COMAR 26.08.01.02E(3) (1974)

3. DREDGING AND DISPOSAL OF DREDGED MATERIAL				
Current Enforceable Policy	<u>Enf. Mech.</u> (1978)	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech.</u> (2010)
1. Dredging or filling will not be permitted in State or private wetlands without State approval. (See Section <u>Activities Occurring in Tidal Wetlands</u> for conditions under which dredging and filling will be allowed).	Natural Resources Article, Sections 9-202 and 9-306	Deletion – This policy does not articulate a useful standard for federal consistency.	N/A	N/A
2. No dredged material containing designated hazardous substances shall be disposed of in any manner that would lethally or sublethally affect terrestrial or aquatic ecosystems.	Natural Resources Article, Section 8-1413.2, Department of Natural Resources Rules and Regulations, Section 08.05.05	Deletion- This policy is embodied in proposed policy (A-2-3) in the proposed policy area Water Quality.	N/A	N/A
3. A system must be devised to minimize undesirable cumulative impacts of dredging, disposal, and related activities in the coastal zone.	Natural Resources Article, Sections 1-302, 8-1413.1 and 8-1601	Deletion – This policy is not supported by State law.	N/A	N/A
4. Continued intensive monitoring of large dredging projects, particularly those involving disposal of material in open water, is required.	Natural Resources Article, Section 81413.1	Deletion – This policy is not supported by State law.	N/A	N/A
5. The development of a method for choosing spoil disposal sites, which is acceptable to State and Federal regulatory agencies, is necessary for use by counties,	Natural Resources Article, Sections	Deletion – The policy is not supported by	N/A	N/A

municipalities, and other local dredging interests.	1-302, 1303, 8-1413.1 and 8-1601	State law.		
6. No material dredged from Baltimore Harbor shall be disposed of in an unconfined manner in the open water portion of Chesapeake Bay, or the tidal portions of its tributaries outside of Baltimore Harbor.	Natural Resources Article, Sections 8-1602	No change	N/A (C-5-13)	Md. Code Ann., Envir. § 5-1102(a) (2001)
7. The proposed Hart and Miller Island diked disposal facility for material dredged from the Federal channels in Baltimore Harbor and its approaches is required.	Natural Resources Article, Sections 1-302, 1-303, and 8-1601	Deletion – The policy is not supported by State law.	N/A	N/A
8. Further selection and development of the most feasible of the potential containment sites identified in Baltimore Harbor is required.	Natural Resources Article, Sections 1-302, 1-303, and 8-1601	Deletion – The policy is not relevant for federal consistency.	N/A	N/A
9. The economic and environmental feasibility of alternative uses of dredged material, such as transport to an inland reclamation site or production of lightweight aggregates, must be determined as part of the development of a long-term dredged material disposal plan.	Natural Resources Article, Sections 1-302, 1-303, and 8-1601	Deletion – The policy is not supported by State law.	N/A	N/A
10. Adequate notification of proposals for navigational channel maintenance and improvement must be provided to the State by the U.S. Army Corps of Engineers, and the responsibility of the various State agencies involved in such projects must be clearly defined.	Natural Resources Article, Sections 1-101, 1-104, 1-302, 1-303, 8-1402, 8-1405, 81413.1, 8-1601, 9-102, 9-202; Transportation	Deletion – The policy is not relevant for federal consistency.	N/A	N/A

	Article 2-103, 6-102, 6-204, 6-206)			
New Policy	N/A	N/A	A person may not dredge for projects that are non-water-dependent unless there is no practicable alternative. (C-5-1)	Md. Code Ann., Envir. § 5-907(a) (1989) COMAR 26.24.03.02D (1994)
New Policy	N/A	N/A	Within 500 yards of shellfish areas, mechanical and hydraulic dredging is prohibited from June 1 through September 30 and mechanical dredging is also prohibited from December 16 through March 14. (C-5-7)	COMAR 26.24.02.06E (1994)
New Policy	N/A	N/A	Dredging is prohibited from February 15 through June 15 in areas where yellow perch have been documented to spawn and from March 1 through June 15 in areas where other important finfish species identified by the Department have been documented to spawn. (C-5-5)	COMAR 26.24.02.06G (1994)
New Policy	N/A	N/A	Dredging is prohibited within 500 yards of submerged aquatic vegetation from April 15 through October 15. (C-5-6)	COMAR 26.24.02.06H (1994)
New Policy	N/A	N/A	Dredging for sand, gravel, or fill material, including material for beach nourishment, is prohibited unless an environmental analysis determines that there will be no adverse impact on the environment and no alternative material is available. (C-5-2)	COMAR 26.24.03.02C (1994)
New Policy	N/A	N/A	10. An opportunity for a public hearing	COMAR 26.17.04.13A

			shall be provided for projects in non-tidal waters that dredge, fill, bulkhead, or change the shoreline; construct or reconstruct a dam; or create a waterway, except in emergency situations. (A-1-10)	(1986)
Chesapeake Bay and Tributaries Law—Incorporated into the MCMP as a RPC in July of 2005	N/A	This policy is derived from the current version of the Chesapeake Bay and Tributaries Law.	A person may not redeposit in an unconfined manner dredged material into or onto any portion of the water or bottomland of the Chesapeake Bay or of the tidewater portion of any of the Chesapeake Bay's tributaries except when the project is undertaken to restore islands or underwater grasses, stabilize eroding shorelines, or create or restore wetlands or fish and shellfish habitats. (C-5-11)	Md. Code Ann., Envir. § 5-1101(a) (2001) Md. Code Ann., Envir. § 5-1102 (2001)
Chesapeake Bay and Tributaries Law—Incorporated into the MCMP as a RPC in July of 2005	N/A	This policy is derived from the current version of the Chesapeake Bay and Tributaries Law.	A person may not redeposit in an unconfined manner dredged material into or onto any portion of the bottomlands or waters of the Chesapeake Bay known as the deep trough. (C-5-12)	Md. Code Ann., Envir. § 5-1101(a) (2001) Md. Code Ann., Envir. § 5-1102 (2001)
New Policy	N/A	N/A	Prior to disposing of dredged material on upland areas, a sediment and erosion control plan must be developed and approved by the local soil conservation district or the Department of the Environment and the methods for protecting water quality and quantity must be identified in detail. (C-5-10)	COMAR 26.24.03.03B (1994)
New Policy	N/A	N/A	New disposal sites for dredged material	Md. Code Ann., Envir.

			shall be selected based on the following hierarchy of criteria: (i) beneficial use and innovative reuse of dredged material; (ii) upland sites and other environmentally sound confined capacity; (iii) expansion of existing dredged material disposal capacity other than the Hart-Miller Island Dredged Material Containment Facility and areas collectively known as Pooles Island. (MDE C-5-8)	§ 5-1104.2(d) (2001)
New Policy	N/A	N/A	Disposal facilities for dredged material shall be designed to have the least impact on public safety, adjacent properties, and the environment. (MDE C-5-9)	COMAR 26.24.03.04A (1994)
4. ACTIVITIES ASSOCIATED WITH LIVING AQUATIC RESOURCES				
Current Enforceable Policy	<u>Enf. Mech.</u> (1978)	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech.</u> (2010)
1. Management plans for the conservation and preservation of the living aquatic resources of Maryland's coastal areas will be developed and implemented.	Natural Resources Article, Section 4-202, Section 4-602, Section 8-203	Deletion- The policy is directed at State government and does not provide a useful standard for federal consistency.	N/A	N/A
2. Programs for conservation and restoration of (state and federally recognized) endangered or threatened species of fish, including the acquisition of land or aquatic habitat or interests therein, will be developed and implemented to insure their continued existence.	Natural Resources Article, Section 4-2A-01 <i>et. seq.</i>	The change accurately reflects the protections afforded endangered and threatened species	Unless authorized by an Incidental Take Permit, no one may take a State listed endangered or threatened species of fish or wildlife. (B-6-1)	Md. Code Ann., Natural Res. §§ 4-2A-01 to -09 (1989) Md. Code Ann., Nat. Res. §§ 10-2A-01 to

		under current State law.		-09 (1989)
3. The Department of Natural Resources shall acquire title to or control of areas of water or land in the State, as necessary to protect, propagate, or manage fish as State fish refuges	Natural Resources Article, Section 4-401	The change accurately reflects the broad protection given to resources in state fish refuges by state law.	Any land or water resource acquired by the State to protect, propagate, or manage fish shall not be damaged. (B-6-3)	Md. Code Ann., Nat. Res. § 4-410 (1973)
4. The commercial and recreational harvest of hard shell clams, soft shell clams, crabs, oysters, finfish, and lobsters shall be regulated so that the size of the population of the particular species involved will not fall below the level necessary to provide the optimum sustained yield.	Natural Resources Article, Sections 4401 et seq., 4-601 et seq., 4-701 et seq., 4-801 et seq., 4-901 et seq., 4-1008 et seq., 4-1021 et seq., 41032 et seq.	This policy is amended to accurately reflect the goals of State fisheries management plans.	Fisheries shall be sustainably harvested. (B-6-2)	Md. Code Ann., Nat. Res. § 4-215 (2009)
5. Measures will be taken to increase the productivity and utility of the State's natural oyster bars.	Natural Resources Article, Section 4-207, 4-1103	Deletion- The policy is directed at State government and does not provide a useful standard for federal consistency.	N/A	N/A
6. No activity will be permitted that impedes or prevents the free passage of any finfish, migratory or resident, up or down stream.	Natural Resources Article, Section	No change	N/A (B-6-4)	Md. Code Ann., Nat. Res. § 4-501 to -502. (1973)

	4-501			
7. Dredging through an oyster bar or clam bed which causes adverse impacts to the aquatic resource located on the bar or bed will not be permitted.	Natural Resources Article, Section 1-302, 1-303, 8-802, 9-102, 9-202	This change is made to reflect current law which focuses on the protection of natural oyster bars.	Natural oyster bars in the Chesapeake Bay shall not be destroyed, damaged, or injured. (B-6-9)	Md. Code Ann., Nat. Res. § 4-1118.1 (1985)
8. No activity to appropriate or use state waters in a manner which will adversely affect living aquatic resources will be permitted.	Natural Resources Article, Section 8-802	This change is made to reflect current State law on water use appropriations.	5. Any water appropriation must be reasonable in relation to the anticipated level of use and may not have an unreasonable adverse impact on water resources or other users of the waters of the State. (A-1-5)	COMAR 26.17.06.02 (1988)
9. Improvement, conservation, and management of living aquatic resources shall be carried out cooperatively by State and Federal agencies.	Natural Resources Article, Section 8-1402	Deletion- This policy is already implied by the federal consistency process.	N/A	N/A
10. No substance classified as a designated hazardous substance (DNR Reg. 08.05.05) shall be disposed of in any manner that would cause lethal or sublethal alterations to the aquatic ecosystem.	Natural Resources Article, Section 8-1413.2	The proposed change accurately reflects current State law prohibiting the discharge of certain toxic pollutants.	The discharge of any pollutant in toxic amounts into surface waters is prohibited. This prohibition includes substances which accumulate to toxic amounts during the expected life of aquatic organisms and substances which produce deleterious behavioral effects on aquatic organisms. (A-2-3)	COMAR 26.08.03.01 (2002)
11. It is State policy to improve, conserve and manage the	Natural	Deletion- This	N/A	N/A

quality of the State's waters for the propagation of wildlife, fish, and wildlife resources.	Resources Article, Section 8-1402	policy is directed at State government and does not provide a useful standard for federal consistency.		
12. No material dredged from Baltimore Harbor shall be disposed of in an unconfined manner in the open water portion of Chesapeake Bay or the tidal portions of its tributaries outside of Baltimore Harbor.	Natural Resources Article, Section 8-1602	Deletion- this policy is reflected in proposed policy (3-5-13), in the proposed policy area Dredging and Disposal of Dredged Material.	N/A	N/A
New Policy	N/A	N/A	The harvest, cutting, or other removal or eradication of submerged aquatic vegetation may only occur in a strip up to 60 feet wide surrounding a pier, dock, ramp, utility crossing, or boat slip to point of ingress in a marina, otherwise the activity must receive the approval of the Department of Natural Resources. No chemical may be used for this purpose, and the timing and method of the activity shall minimize the adverse impact on water quality and on the growth and proliferation of fish and aquatic grasses. (B-6-8)	Md. Code Ann., Nat. Res. § 4-213 (2000)
New Policy	N/A	N/A	A person, other than the leaseholder, may not willfully and without authority catch	Md. Code Ann., Nat. Res. § 4-11A-15(a)

			oysters on any aquaculture or submerged land lease area, or willfully destroy or transfer oysters on this land in any manner. (B-6-10)	(2009)
New Policy	N/A	N/A	An organism into which genetic material from another organism has been experimentally transferred so that the host acquires the genetic traits of the transferred genes may not be introduced into State waters. (B-6-11)	COMAR 08.02.19.03 (2009)
New Policy	N/A	N/A	Nonnative oysters may not be introduced into State waters. (B-6-14)	Md. Code Ann., Nat. Res. § 4-1008 (2009)
New policy	N/A	N/A	Vectors for the introduction of nonnative aquatic organisms must be appropriately controlled to prevent adverse impacts on aquatic ecosystems. (B-6-12)	Md. Code Ann., Nat. Res. § 4-205.1 (2008)
New Policy	N/A	N/A	Except as authorized by federal law, any live snakehead fish or viable eggs of snakehead fish of the Family Channidae may not be imported, transported, or introduced into the State. (B-6-13)	COMAR 08.02.19.06 (2009)

5. OCEAN DUMPING

<u>Current Enforceable Policy</u>	<u>Enf. Mech. (1978)</u>	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech. (2010)</u>
1. It shall be inconsistent to dump material which may adversely affect Maryland waters or coastal resources in the Atlantic Ocean within three miles of Maryland's coastline.	Natural Resources Article, Section 1-101, 1-104, 8-1402, 9-202	The change accurately reflects the broad protection afforded by current State law.	No one may add, introduce, leak, spill, or emit any liquid, gaseous, solid, or other substance that will pollute any waters of the state without State authorization. (A-2-1)	Md. Code Ann., Envir. § 4-402 (1980) Md. Code Ann., Envir. § 9-101 (1992) Md. Code Ann., Envir. § 9-322 (1982)
2. The State shall actively participate in Federal proceedings on ocean dumping in order to obtain early phase out of ocean dumping activities.	Marine Protection, Research and Sanctuaries Act: 33 USC Section 1401 et seq.; federal rules and regulations pertaining to Ocean Dumping: 40 CFR 222-227; Federal Administrative Procedures Act 5 USC Section 560; Natural Resources Article Sections 1-101, 1-104, 1-302, 8-	Deletion – The policy is directed at State government and is not relevant for federal consistency.	N/A	N/A

	208, 8-1402)			
<p>3. It is the policy of the State of Maryland that the Ocean Dumping of materials which may adversely affect Maryland waters shall be consistent with the following:</p> <p>a. The process for selecting alternative disposal methods for waste materials should include a consideration of recycling techniques that will yield useful end products. For example, Du Pont has developed a process to recycle their acid wastes (from titanium dioxide production) to produce a product that they will sell at a profit by 1980. Sewage sludge can also be treated in several ways to create soil conditioners.</p> <p>b. When potentially harmful contaminants (e.g., heavy metals, disease causing organisms) cannot be removed from waste or recycled materials, then disposal or application techniques must provide for control over the fate of those contaminants.</p> <p>c. The applicant for an ocean dumping permit must demonstrate that his proposed actions are in compliance with the Ocean Dumping Act and the rules and regulations promulgated by EPA pursuant to the Act (40 CFR 220-227, 330 SC 1401 et seq.).</p> <p>d. Where ocean dumping is the only feasible alternative, dumping should be permitted only at previously used sites and at the site where the least environmental impact, threat to the public health, and loss of fishery resources is anticipated.</p>	<p>Natural Resources Article, Sections 1-101, 1-104, 1-302, 1-303, 8-208, 8-1402</p>	<p>Deletion – The policy is not supported by State law.</p>	<p>N/A</p>	<p>N/A</p>

<p>e. Where an ocean dumping permit must be granted, it must contain, as a condition of compliance, a detailed schedule of deadlines leading to the implementation of an alternative disposal method and the total phase-out of ocean dumping by the earliest date feasible.</p> <p>f. Both research and monitoring must be conducted at each ocean disposal site, and must be coordinated with all other scientific programs in the Mid-Atlantic Bight. Both studies shall continue until all disposal activities are terminated, and until adverse impacts are dissipated or stabilized.</p>				
<p>New Policy</p>	<p>N/A</p>	<p>N/A</p>	<p>If material being dumped into the Atlantic Ocean within three miles of Maryland's coastline has demonstrated actual toxicity or potential for being toxic, the discharger must perform biological or chemical monitoring to test for toxicity in the water. (A-2-10)</p>	<p>COMAR 26.08.03.07D (1993) COMAR 26.08.04.01 (2009)</p>

6. OCS OIL AND GAS EXPLORATION, PRODUCTION AND TRANSPORTATION

Current Enforceable Policy	Enf. Mech. (1978)	Proposed Change	Proposed Language	Enf. Mech. (2010)
1. The State of Maryland will actively participate in Federal governmental proceedings concerning OCS developments to ensure that the State's interests are adequately considered.	Natural Resources Article 1-101, 1-104	Deletion – The policy is directed at State government and is not relevant for federal consistency.	N/A	N/A
2. Maryland supports the Federal leasing initiative, while seeking safeguards to ensure that pollution of its coast is prevented, and that onshore support operations neither disrupt local communities nor disregard State plans, policies and programs. Maryland seeks involvement in the administration of OCS lands to ensure that the safest, cleanest technologies are always employed on the Atlantic OCS.	Natural Resources Article, Sections 1-302, 1-303, 6-501, et seq.	Deletion – The policy does not provide a useful standard for federal consistency and is not supported by Maryland law.	N/A	N/A
3. Maryland will review OCS exploration plans, development plans, and associated environmental reports to determine if federal license or permit activities associated with such plans are consistent with the Maryland Coastal Zone Management Program. In the case of development plans and their associated environmental reports, the State may, within 60 days of a development EIS be prepared in order to supplement data and information the State needs to make a consistency determination. The criteria that Maryland will use in determining the need	Natural Resources Article, Sections 1-104, 1-302, 1-303, 8-203 and 8-1402; Final Regulation 30 CFR Parts 251 and 252, 15 CFR Part 930 Sub-part E under the OCS Lands Act of	Deletion – The policy is not supported by Maryland law.	N/A	N/A

<p>for an EIS include:</p> <ul style="list-style-type: none"> a. Location of structures near high seismic risk areas; b. Location of structures near marine sanctuaries, wildlife refuges or areas of high ecological sensitivity; c. Location of bottom founded structures in areas of potentially hazardous natural bottom conditions; d. Use of new and or unusual technology; e. Onshore impacts from planned and or existing processing storage, treatment, or transportation facilities that were not adequately considered in a previous development EIS or differ significantly in magnitude, duration an nature of impact; and f. Information contained in Summary Reports for the Mid and North Atlantic resource province do not provide sufficient detail by which Maryland may make a judgment concerning impacts. 	<p>1953, the National Environmental Policy Act of 1969 and the Federal Coastal Zone Management act of 1972 respectively.</p>			
<p>4. Since exploration and exploitation of the mineral resources of the Outer Continental Shelf will have significant impacts on Maryland as well as on other affected States, and in recognition of both the State and national interests in the effective management of the marine, coastal, and human environments, it is the policy of the State of Maryland that the following factors be recognized in federal decisions regarding OCS exploration and development:</p>	<p>Natural Resources Article, Sections 1-104, 1-302, 1-303, 8-203, 8-1402; Proposed Amendments to the Federal OCS Lands Act of</p>	<p>Deletion – This policy is not supported by Maryland law.</p>	<p>N/A</p>	<p>N/A</p>

<p>a. The State of Maryland may require assistance in protecting its coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts; and</p> <p>b. The State of Maryland is entitled to participate, in order to protect its interests, in federal policy and planning decisions relating to exploration for, and development and production of, mineral resources of the Outer Continental Shelf.</p>	1953.			
<p>5. It is the policy of the State of Maryland that the right and responsibility of the State of Maryland to preserve and protect its human, marine, and coastal environments through such means as regulation of land, and air, and water uses, through safety regulations, and through regulation of related development and activity, be recognized in federal decisions regarding OCS developments.</p>	<p>Natural Resources Article, Sections 1-104, 1-302, 1-303, 6-501 et seq., 8-203, 8-1402; Proposed Amendments to the Federal OCS Lands Act of 1953</p>	<p>Deletion – This policy is not supported by Maryland law.</p>	N/A	N/A
<p>6. Operations in the Outer Continental Shelf must be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or property, or which may endanger life or health.</p>	<p>Federal OCS Lands Act of 1953; Natural Resources Article, Sections 1-104, 1-302, 1-303, 8-203, 8-1402</p>	No Change	N/A (A-1-14)	<p>Md. Code Ann. Env. 17-101 to -403 (2010)</p> <p>COMAR 26.24.01.01 (1994)</p> <p>COMAR 26.24.02.01 (1994)</p>

				COMAR 26.24.02.03 (1994)
				COMAR 26.24.05.01 (1994)

B. INTERTIDAL AREAS

1. USE OF BEACH AREAS

Current Enforceable Policy (1978)	<u>Enf. Mech.</u> (1978)	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech.</u> (2010)
1. The Department of Natural Resources shall, in the name of the State, purchase and manage lands suitable for state parks, scenic preserves, historic monuments, parkways, state recreational areas forest culture, forest reserves, watershed protection, water conservation, open space, the protection, propagation or management of wildlife resources, and hunting.	Natural Resources Article, Sections 5-207, 5-901, <u>et seq.</u> , to 10-208, 10-2A01 <u>et seq.</u> , 10-801	Deletion – The policy is directed at State government and is not relevant for federal consistency.	N/A	N/A
2. It is State policy to make funds available to local governments for the acquisition of outdoor recreation and open space areas and for the development of recreation facilities. The acquisition and development of land for recreation purposes with such funds shall be consistent with local comprehensive plans, and shall meet a need in whole or part identified in the State Outdoor Recreation Plan.	Natural Resources Article, Section 5-904 <u>et seq.</u>	Deletion – This policy is not relevant for federal consistency.	N/A	N/A
3. The Department of Natural Resources, upon request, shall assist other State units, counties, towns, corporations, and individuals in preparing plans for acquisition and development of park recreation and natural areas, acquisition of multiple-use areas including protection of watersheds, management, and replacement of trees woodlots, and timber tracts.	Natural Resources Article, Section 5-201	Deletion – The policy is directed at State government and is not relevant for federal consistency.	N/A	N/A

<p>4. It is the State policy to encourage land owners to make their land available to the public for recreational use by limiting their liability towards persons using their land in accordance with Natural Resources Article, Section 5-110 <u>et seq.</u></p>	<p>Natural Resources Article, Section 5-1101 <u>et seq.</u></p>	<p>Deletion – The policy is not relevant for federal consistency.</p>	<p>N/A</p>	<p>N/A</p>
<p>5. The recreational and conservation policies of the State of Maryland shall:</p> <p>a. Encourage low intensity recreation on open tracts such as flood plains, wooded areas, steep slopes, and other significant natural features provided proper safeguards are established to protect local government.</p> <p>b. Encourage the use of utility easements as outdoor recreation and open space areas.</p> <p>c. Encourage the use of scenic easements of land as a visual part of open space and outdoor recreation.</p> <p>d. Explore the recreation potential of water bodies, agricultural research centers, and wildlife management areas.</p> <p>e. Acquire title to or control of land with conservation or recreation value, before encroaching development and rising land values preclude this possibility.</p> <p>f. Provide public access to estuaries, the Chesapeake Bay, and every major river in Maryland.</p> <p>g. Analyze surplus State and Federal properties to determine whether they can be used for recreation.</p>	<p>Article 88c Natural Resources Article, Section 5-901 <u>et seq.</u>; Maryland Outdoor Recreation and Open Space Plan, Phase III- Action Plan pp. 9-10</p>	<p>Deletion- This policy is unnecessary in light of a number of proposed enforceable policies that address recreational issues. The aspects of this policy that are directed at State government are not relevant for federal consistency.</p>	<p>N/A</p>	<p>N/A</p>

<p>h. Provide corridors for limited recreation uses such as bicycling, hiking, and others which relate to streams, shorelines and unique resource and historic areas.</p> <p>i. Emphasize county and local development of community parks and school/park complexes to maximize local recreational opportunities.</p> <p>j. Control land use adjacent to parks and major scenic or historic sites to prevent encroachment and to preserve the surrounding aesthetics.</p> <p>k. Protect free-flowing streams and rivers, and carefully evaluate proposed impoundments.</p> <p>l. Encourage the preservation of submerge lands for wildlife and fish habitats.</p> <p>m. Control shoreline development along the Bay and the ocean through state and local legislation.</p> <p>n. Develop and implement a state-wide river and stream preservation program.</p> <p>o. Encourage the recreational use of the Chesapeake Bay by acquiring public access points, particularly at the confluence of stream valleys and the bay.</p> <p>p. Preserve outstanding natural and scenic areas, and irreplaceable historic sites and structures, and incorporate them into an open space system.</p>				
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<p>q. Utilize excessive slopes, flood plains, poorly drained lands and other unique natural resources as major sources of open space.</p> <p>r. Continue to emphasize nature interpretation and nature-oriented facilities.</p> <p>s. Emphasize the acquisition of development rights where feasible in rural areas, along stream valleys, bay and river or ocean shorelines, and discourage development incompatible with recreation opportunities associated with these resources.</p> <p>t. Continue implementing legislation and protection program for the Chesapeake Bay and inland wetlands, with emphasis on appropriate land development regulations, conservation zoning land donations and purchase of development rights in lieu of outright acquisition.</p> <p>u. Regulate and preserve all islands in the bay and all rivers wherever feasible for conservation and limited recreation use.</p> <p>v. Create more wildlife sanctuaries and management areas in places that provide areas of unusual flora and fauna.</p> <p>w. Encourage stewardship through the development of State and local policies and guidelines on tax abatements, tax credits, and special assessments for privately held open space.</p> <p>x. Utilize scenic or conservation easements, purchase and leaseback agreements and subdivision regulations.</p>				
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<p>y. Preserve the best agricultural lands and geologic resource areas for continued production, or preservation as rural landscape</p> <p>z. Encourage the use of both public and private lands for outdoor recreation, including the purchase of public recreation rights and scenic easements to expand open space beyond publicly owned land, and the provision by land owners of recreational opportunities for the public under multiple-use income producing arrangements.</p> <p>aa. Establish an interconnecting system of trails for walking, hiking, and bicycling along the ocean beaches, bays, estuaries, rivers and streams, linking activity centers.</p>				
<p>6. With the exception of beach erosion, sediment control, storm control, and maintenance projects approved by both the Department of Natural Resources and the Worcester Soil Conservation District, it is State policy to prohibit the construction or placement of permanent structures east the dune line along Maryland's Atlantic Coast.</p>	<p>Natural Resources Article, Section 1-302, 8-1105.1, 5-201</p>	<p>This policy is simplified and the prohibition is couched in more general terms to account for limited exceptions contained in current State law.</p>	<p>Permanent structures that do not have a clear environmental benefit are prohibited east of the dune line along the Atlantic Coast. (A-1-8)</p>	<p>Md. Code Ann., Nat. Res. § 8-1102 (1998)</p>
<p>7. Activities which will adversely affect the integrity and natural character of Assateague Island will be inconsistent with the State's Coastal Zone Management Program, and will be prohibited.</p>	<p>Natural Resources Article, Section 1-302, 8-1105.1, 5-201</p>	<p>No Change</p>	<p>N/A (A-1-9)</p>	<p>Md. Code. Ann., Nat. Res. § 5-209 (2005)</p> <p>Md. Code Ann., Nat. Res. § 8-1102 (1998)</p>

<p>8. Dredging, filling, and other activities which adversely affect the integrity of beach areas on Chesapeake Bay and its tributaries will be inconsistent with the State's Coastal Zone Management Program, and will be prohibited.</p>	<p>Natural Resources Article, Section 9-102, 9-202</p>	<p>Deletion- This policy is reflected in several more detailed policies in the proposed policy areas Tidal Wetlands and Tidal Shore Erosion Control.</p>	<p>N/A</p>	<p>N/A</p>
<p>9. It is State policy to acquire additional beach areas and to provide additional beach access on Chesapeake Bay and its tributaries as part of the State's Outdoor Recreation Program.</p>	<p>Natural Resources Article, Section 5-903, Maryland Outdoor Recreation and Open Space Plan - Action Plan III page 9;</p>	<p>Deletion – The policy is directed at State government and is not relevant for federal consistency.</p>	<p>N/A</p>	<p>N/A</p>

2. ACTIVITIES IN TIDAL WETLANDS				
Current Enforceable Policies (1978)	<u>Enf. Mech.</u> (1978)	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech.</u> (2010)
<u>General</u>				
1. All vegetated tidal wetlands are Geographic Areas of Particular Concern.	Natural Resources Article, Section 9-102	Deletion - Geographic Areas of Particular Concern are not relevant for federal consistency under Maryland's Coastal Program.	N/A	N/A
2. In granting, denying or limiting any wetlands permit or license, the State shall consider the effect of the proposed work on the public health and welfare, marine fisheries, shellfisheries, wildlife, economic benefits, the protection of life and property from flood, hurricane and other natural disasters, and the public policy set forth in Section 9-102 of the Natural Resources Article to protect wetlands and prevent their despoliation and destruction.	Natural Resource Article, Section 9-202, 9-306	Deletion – The policy is not relevant for federal consistency.	N/A	N/A
3. Dredging and filling of tidal wetlands, either state or private, is allowed only to the extent necessary to provide reasonable riparian access, to provide necessary shore erosion control, or to carry out necessary water-dependent activities, the public benefit of which clearly outweighs any harm done. All activities allowed on State or private wetlands shall be undertaken in such a manner as to minimize adverse environmental effects.	Natural Resources Article, Sections 1-302, 9-102, 9-201, 9-306	Deletion - This policy is not supported by State law.	N/A	N/A

<u>Hunting, Fishing, Trapping, Etc.</u>				
1. The dredging of seafood products by any licensed operator, harvesting of seaweed, mosquito control and abatement as approved by the Department of Agriculture, improvement of wildlife habitat approved by the Department of Natural Resources, and maintenance of drainage ditches approved by the appropriate Soil Conservation District do not require a State wetlands license.	Natural Resources Article, Section 9-202	Deletion – The policy is not relevant for federal consistency.	N/A	N/A
2. The following are lawful uses of private wetlands: a. Conservation of soil, vegetation, water, fish, shellfish and wildlife. b. Trapping, fishing, and catching shellfish if otherwise legally permitted.	Natural Resources Article, Section 9-303	Deletion – The policy is not relevant for federal consistency.	N/A	N/A

<u>Riparian Access</u>				
<p>The public policy of the State is to preserve wetlands and protect water quality while providing for the riparian land owner's right of access to navigable waters. Thus,</p> <p>1. Whenever reasonable access can be provided directly from fast land, creation of a channel through vegetated wetlands, filling for access, or extending access inland with artificial channels shall be prohibited.</p> <p>2. In those cases where access is to be provided to a subdivision or other multi-home development or community, a centralized boating access channel or pier is preferable to multiple piers or channels. In the case of isolated single family dwellings, a pier from fast land to open water shall normally fulfill the right of reasonable riparian access.</p> <p>3. The ownership of land bordering upon tidal waters does not carry with it the automatic right to create channels to extend boat access.</p>	<p>Natural Resources Article, Sections 1-302, 9-102, 9-202, 9-306; pending revised DNR wetlands regulations</p>	<p>The policy is divided into 4 separate policies to more clearly reflect current State law on channelization and navigational access projects.</p>	<p>Dredging of channels, canals, and boat basins shall be designed to provide adequate flushing and elimination of stagnant water pockets, and channel alignment shall make maximum use of natural or existing channels and bottom contours. (C-5-3)</p> <p>Navigational access channels to serve individual or small groups of riparian landowners shall be designed to prevent unnecessary channels. A central access channel with short spur channels shall be considered over separate access channels for each landowner. (C-6-2)</p>	<p>COMAR 26.24.03.02 (1994)</p> <p>COMAR 26.24.03.02 (1994)</p>

			<p>Navigational access projects shall when possible be designed to use piers to reach deep waters rather than dredging. (C-6-1)</p>	<p>COMAR 26.24.03.02 (1994)</p>
			<p>Navigational access channels shall be designed to minimize alteration of tidal wetlands and underwater topography. (C-6-3)</p>	<p>COMAR 26.24.03.02 (1994)</p>
<u>Shore Erosion Control</u>				
<p>The policy of the State is to preserve wetlands while allowing the riparian owner to exercise his right to protect his shore against documented erosion.</p>	<p>Natural Resources Article, Sections 9-102, 9-201, 9-303 (4) (see also the section on <u>Activities Occurring in Areas Undergoing Significant Shore Erosion</u>)</p>	<p>Deletion- This policy does not provide a useful standard for federal consistency.</p>	<p>N/A</p>	<p>N/A</p>
<u>Water Dependent Activities</u>				
<p>Dredging and filling is allowed only for water-dependent activities on State or private wetlands, and the filling of State or private wetlands for the purpose of creating fast land is generally considered contrary to the public interest. Water-dependent facilities, such as boat facilities, are those which cannot function in an area away from the shoreline. Non-</p>	<p>Natural Resources Article, Sections 1-302, 1-303, 9-102, 9-202, 9-306;</p>	<p>This policy is amended to reflect current State law.</p>	<p>Any action which alters the natural character in, on, or over tidal wetlands; tidal marshes; and tidal waters of Chesapeake Bay and its tributaries, the coastal bays adjacent to Maryland's coastal barrier islands, and the Atlantic Ocean shall avoid</p>	<p>COMAR 26.24.01.01 (1994)</p> <p>COMAR 26.24.02.01 (1994)</p>

<p>water dependent facilities include (but are not limited to) restaurants and businesses, residences, apartments, motels, hotels, trailer parks, parking lots, offices, spoil and dump sites, lagoons for sewage or industrial waste, industries and factories, storage areas for small boats, recreational areas requiring filling above tidal level such as athletic fields, parking areas and picnic areas. In those cases where the public interest justifies approval of projects involving the filling of Private or State wetlands, including those involving the creation of fast land, approval may be considered if the following conditions are satisfied:</p> <ul style="list-style-type: none"> - The project cannot feasibly be undertaken on an adjacent or nearby fast land location. - It is not feasible to provide the project's intended service by an alternative means not involving the filling of wetlands. - The creation of fast land shall occur only in those areas adjoining existing fast lands. - No ecologically productive submerged wetlands, such as finfish and shellfish spawning and habitat shall be destroyed. - No areas important for the feeding, nesting, or resting of waterfowl or other valuable wildlife habitat shall be destroyed. - Fill utilized for the creation of fast land shall be obtained from an appropriate land-based source and not dredged from adjacent Private or State wetlands. 	<p>pending revised DNR wetlands regulations</p>		<p>dredging and filling, be water-dependent, and provide appropriate mitigation for any necessary and unavoidable adverse impacts on these areas or the resources associated with these areas.</p> <p>A proponent of an action described above shall explain the actions impact on:</p> <ul style="list-style-type: none"> ○ Habitat for finfish, crustaceans, mollusks, and wildlife of significant economic or ecologic value; ○ Potential habitat areas such as historic spawning and nursery grounds for anadromous and semi-anadromous fisheries species and shallow water areas suitable to support populations of submerged aquatic vegetation; ○ Marine commerce, ○ Recreation, and aesthetic enjoyment; ○ Flooding; ○ Siltation; ○ Natural water flow, water temperature, water quality, and 	<p>COMAR 26.24.02.03 (1994)</p> <p>COMAR 26.24.05.01 (1994)</p>
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<p>- The creation of fast land shall not obstruct navigational channels, adversely affect the public's right to navigation and fisheries, significantly affect major current patterns, or significantly alter the existing contour of the shoreline.</p> <p>- In all projects involving the filling of State wetlands, compensation for fast land created in the public domain shall generally be provided to the State in an amount determined by the State Board of Public Works. (See <u>Board of Public Works v. Larmar Corp.</u> 262 Md. 64, 277A2d.427 (1971))</p>			<p>natural tidal circulation;</p> <ul style="list-style-type: none"> ○ Littoral drift; ○ Local, regional, and State economic conditions; ○ Historic property; ○ Storm water runoff; ○ Disposal of sanitary waste; ○ Sea level rise and other determinable and periodically recurring natural hazards; ○ Navigational safety; ○ Shore erosion; ○ Access to beaches and waters of the State; ○ Scenic and wild qualities of a designated State scenic or wild river; and ○ Historic waterfowl staging areas and colonial bird-nesting sites. 	
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			(B-2-1)	
<u>Construction and Maintenance of Drainage Ditches</u>				
Drainage ditches for mosquito control or agricultural drainage are generally allowed if they conform to the drainage standards and specifications of the Soil Conservation Service, if they are approved by the Department of Agriculture, and if they are constructed to minimize adverse environmental impacts. Construction of ditches and seeps on private wetlands for the purpose of allowing irrigation water to flow to fast land are permitted if they are constructed in a minimally disruptive manner.	Natural Resources Article, Sections 1-202(d), 9-303	Deletion- Aspects of this policy that address agricultural drainage are embodied in proposed policy (C-8-5) in the policy area Agriculture. Aspects of this policy relevant to mosquito control have been revised to reflect current state law.	Mosquitoes should not be allowed to breed or develop on any property where the Secretary of Agriculture and local health officials believe the mosquitoes could pose a threat to public health. (C-8-6)	Md. Code Ann., Agric. § 5-406

C. SHORELAND AREAS

1. ACTIVITIES IN AREAS UNDERGOING SIGNIFICANT SHORE EROSION

Current Enforceable Policy (1978)	<u>Enf. Mech.</u> (1978)	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech.</u> (2010)
<p>1. The Department of Natural Resources shall:</p> <p>a. Develop and implement a public education program on shore and bank erosion, its causes and effects, the locations where it is a problem, and steps to control it.</p> <p>b. Provide technical assistance to individual property owners, municipalities and counties having specific shore and bank erosion problems.</p>	Natural Resources Article, Section 8-1002	Deletion- This policy is directed at State government and is not relevant for federal consistency.	N/A	N/A
<p>2. In general, financial assistance for the installation of shore erosion control measures from the Shore Erosion Construction will be available only in cases where existing structures are endangered by severe erosion problems. The distribution of financial assistance from the Shore Erosion Control Construction Loan Fund will be based on the following factors: (1) the cost of the project, (2) the threat to existing number of property owners affected by the erosion, (3) the severity of the erosion, (4) the number of property owners affected by the erosion, (5) and the length of the eroding shoreline. The Department of Natural Resources shall supervise the design and erection on shore erosion protective devices financed by the State Erosion Control Construction Loan Fund and design, or cause to be designed, shore erosion control structures, including vegetative cover, in shore erosion control districts, and on State-owned lands.</p>	Natural Resources Article, Sections 8-1002-8-1004	Deletion- The policy is not relevant for federal consistency.	N/A	N/A
<p>3. In undeveloped shorefront areas that have been identified as</p>	Natural	Deletion- This	N/A	N/A

<p>high-risk erosion areas the State will not provide funding for the provision of public services (water and sewer services, etc.) unless such provision would result in a significant public benefit. However the State will provide technical assistance to local governments for the development of programs to reduce the danger to life and property through non-structural measures rather than measures which interfere with on-going natural process.</p>	<p>Resources Article, Sections 1-302, 1-303, 8-1002, 8-9A02; Governor's Executive Order 01.01.1978.05 (dated March 8, 1978); President's Executive Order 11988 (dated May 24, 1977); Water Resources Council Guidelines for Implementing Executive Order 11988 (dated February,1978); HUD Flood Insurance Program Regulations, Section 1910.5)</p>	<p>policy is not supported by State law.</p>		
<p>4. In the development of comprehensive plans and regulations regarding shoreline areas, future development should be directed away from high risk erosion areas, and consideration should be given to reserving such areas for</p>	<p>Natural Resources Article, Sections 1-302, 1-303, 8-</p>	<p>Deletion- This policy is not supported by State law.</p>	<p>N/A</p>	<p>N/A</p>

<p>open space purposes through acquisition and other measures. In addition, a setback consisting of a natural buffer shall be required in such areas. The width of these buffers shall be based upon the erosion rate, the anticipated useful life of shoreline buildings, and the geologic, hydrologic, topographic and climatic characteristics of the areas in which they are located.</p>	<p>1002, 89A02, HUD Flood Insurance Program Regulations, Section 1910.5</p>			
<p>5. For the purposes of maintaining the Atlantic Coast beaches of the State and Beach Erosion Control District, the integrity and continuity of the dunal system and assuring adequate maintenance thereof, to provide for shore erosion and sediment control and storm protection, and to minimize structural interference with the littoral drift of sand and any anchoring vegetation, any land clearing, construction activity, or the construction or placement of permanent structures within the Beach Erosion Control District is prohibited. This prohibition does not apply to any project or activity approved by the Department and the appropriate soil conservation district specifically for storm control, beach erosion and sediment control, and maintenance projects designed to benefit the Beach Erosion Control District.</p>	<p>Natural Resources Article Section 1105.1) (Please refer to subsection 2, Atlantic Coast Beach Protection and Restoration Measures under <u>Management Procedures</u> for the definition of the Beach Erosion Control District)</p>	<p>Deletion- This policy is reflected in proposed policy (A-1-8) the proposed policy area Core Policies.</p>	<p>N/A</p>	<p>N/A</p>
<p>6. Because of their possible detrimental effect, shoreline protective structures shall not be approved or recommended for approval in the following cases, unless there is no alternative means to achieve a necessary public benefit, the need for which significantly outweighs the potential harm of the proposed project:</p>	<p>Natural Resources Article, Sections 1-302, 9-102, and 9-306, pending revised</p>	<p>The minor change is designed to more clearly articulate a useful standard for federal consistency and</p>	<p>Tidal shore erosion control projects shall not occur when:</p> <ul style="list-style-type: none"> ○ There is no evidence of erosion; ○ Existing tidal wetlands are adequately serving as a buffer 	<p>COMAR 26.24.04.01 (1994)</p>

<p>a. Where marshland will be filled or otherwise destroyed.</p> <p>b. Where surface drainage channels will be filled or occluded.</p> <p>c. Where navigation will be adversely affected.</p> <p>d. Where unique or rare and endangered flora or fauna will be affected.</p> <p>e. Where important historical or archeological sites will be adversely affected.</p> <p>f. Where oyster bars or clam beds in adjacent open waters will be affected.</p>	<p>wetlands regulations</p>	<p>accurately reflect State law.</p>	<p>against erosion;</p> <ul style="list-style-type: none"> ○ Adjacent properties may be adversely affected by the proposed method of erosion control; ○ Navigation may be adversely affected by the project and the applicant has not made provisions to offset these impacts; ○ Threatened or endangered species, species in need of conservation, or significant historic or archaeological resources may be adversely affected by the project; or ○ Natural oyster bars or private oyster leases may be adversely affected by the project. <p>(C-3-7)</p>	
<p>7. Shore erosion control measures shall be undertaken in a manner that has the minimum adverse effect upon the ecological, economic, hydrological, aesthetic, historical, and recreational values in the area.</p>	<p>Natural Resources Article, Sections 1-302, 9-102, 9-202, and 9-306</p>	<p>Deletion - This policy is not supported by State law.</p>	<p>N/A</p>	<p>N/A</p>
<p>8. Where site conditions permit, the use of a sloping bank stabilized with vegetation, with or without riprap, is encouraged as an economical solution which preserves the natural</p>	<p>Natural Resources Article,</p>	<p>The proposed change accurately reflects State law</p>	<p>Tidal shore erosion control measures are listed below beginning with measures that are most consistent with State policy and ending</p>	<p>COMAR 26.24.04.01C (1994)</p>

<p>conditions.</p>	<p>Sections 8-1002 and 9-306</p>	<p>regarding shore protection measures.</p>	<p>with measures that are least consistent with State policy.</p> <p>No action and relocation of structure</p> <p>Nonstructural shoreline stabilization, including beach nourishment, marsh creation, and other measures that encourage the preservation of the natural environment</p> <p>Shoreline revetments, breakwaters, groins, and similar structures designed to ensure the establishment and long-term viability of nonstructural shoreline stabilization projects</p> <p>Shoreline revetments</p> <p>Breakwaters</p> <p>Groins</p> <p>Bulkheads (C-3-6)</p>	
<p>9. The construction of bulkheads or other shore protection measures shall include only filling necessary to ensure the effectiveness of the structure, and shall be located at the mean high water line, or not further channelward than needed for proper tie-back emplacement, or in cases of a steep bank or cliff, to further channelward than needed to obtain a stable slope.</p>	<p>Natural Resources Article, Sections 9-202 and 9-306</p>	<p>The proposed change accurately reflects State law regarding shore protection measures.</p>	<p>Encroachment into state tidal wetlands is limited to that which is structurally necessary. Bulkheads that encroach into tidal wetlands in excess of 3 feet beyond the mean high water line are prohibited, unless a design report verifies the necessity for the encroachment, and that other structural and nonstructural alternatives have been considered and determined to be impractical. The design</p>	<p>COMAR 26.24.04.01 (1994)</p>

			report shall distinguish between shore erosion and bank stabilization requirements. (C-3-5)	
10. Where shore protection is needed and marsh exists in front of an applicant's land, it shall be provided by a structure placed behind the marsh or by a low-level riprap or similar structure placed at the seaward edge of the marsh, so that normal tidal flow into the marsh will be maintained.	Natural Resources Article, Sections 1-302, 9-120, and 9-306; pending revised regulations	Deletion- This policy is not supported by State law.	N/A	N/A
11. Permits or licenses shall not be granted for protective structures or filling unless adequate provision is made for drainage for inland areas. The construction of bulkheads and other protective structures shall involve only such filling as is necessary for the effective operation of the shore protection work, and shall not be used for the creation of fast land from wetlands unless: 1) the proposed activity is water-dependent, and 2) the filling complies with other wetland policies (see <u>Activities in Tidal Wetlands</u>).	Natural Resources Article, Sections 9-102, 9-202, and 9-306	Deletion- This policy is not supported by State law.	N/A	N/A
12. Dredging for fill for the efficient operation of shore erosion control work shall be allowed only where 1) access to deposit land source material is not feasible or costs are excessive, <u>and</u> 2) the project is determined not to have an extended bulkhead will alter the graduated bottom depth that helps dissipate wave energy. If dredging is used for fill, adequate compensation may be required by the state for this material. Examples of cases where dredging to obtain backfill material may be permitted are: a. Where a steep bank or cliff exists and the nearshore water depths are shallow, so that trucking-in or barging-in fill	Natural Resources Article, Sections 1-302, 9-202, 9-306; pending revised Wetlands regulations; Board Works vs. Lamar Corp., 277A2d427,	Deletion-This policy is not supported by State law.	N/A	N/A

<p>material is not feasible.</p> <p>b. Where large trees or buildings prevent trucking-in fill material is not feasible.</p> <p>In both situations, however, if grading is to be done, trucking-in fill material usually becomes feasible. The fact that dredged material may be less expensive than trucked-in fill is not a justification for dredging.</p>	202 Md. (1971)			
<p>13. Shore protection measures must satisfy the following criteria regarding quality and performance:</p> <p>a. No material that contains or will create pollutions shall be used in shore erosion control.</p> <p>b. Junk metal, tires, tree stumps or other such material that is not part of an approved interlocking structure shall not be used in any shore protection measures.</p> <p>c. If jetties or groins are used, they must be designed at a minimum length and height to serve the purpose intended and must be placed only in locations not harmful to navigation or to nearby land. Such work shall be approved only if it does not interfere with public access, create adverse sand transport patterns or adversely disturb the aquatic ecosystem.</p>	Natural Resources Article, Sections 1-303, 8-1402, 9-102, and pending revised Wetlands regulations	The minor change is designed to more clearly articulate a useful standard for federal consistency.	Tidal shore erosion control projects shall not use junk, metal, tree stumps, logs, or other unsuitable materials for backfill. (C-3-2)	COMAR 26.24.04.01 (1994)
New Policy	N/A	N/A	Structural erosion control measures shall be designed to use materials such as stone or broken concrete, wood, metal, plastic, or other similar materials that are of adequate size, weight, and strength to function as intended; free of protruding objects; and	COMAR 26.24.04.01 (1994)

			selected because they minimize impacts to water quality and plant, fish, and wildlife habitat. (C-3-1)	
New Policy	N/A	N/A	Improvements to protect property bounding on navigable water against erosion shall consist of nonstructural shoreline stabilization measures that preserve the natural environment, such as marsh creation, except in areas designated by Department of the Environment as appropriate for structural shoreline stabilization measures, including areas of excessive erosion, areas subject to heavy tides, and areas too narrow for effective use of nonstructural shoreline stabilization measures. (C-3-4)	Md. Code Ann., Envir. § 16-201 (2008)
New Policy	N/A	N/A	3. Beach nourishment projects shall meet the following requirements: <ul style="list-style-type: none"> ○ The fill material grain size shall be equal to or greater in grain size and character to the existing beach material, or determined otherwise to be compatible with existing site conditions and acceptable to the Department; ○ The fill material shall be relatively free of organic material, floating debris, or other objects; 	COMAR 26.24.03.06D (1994)

			<ul style="list-style-type: none">○ Silt and clay fills that change the sandy nature of the existing beach materials are not acceptable;○ Gravel fill may be acceptable, if particle sizes are equal to or greater than the existing beach materials; and○ Fill material shall be placed above the mean high water line before final grading to achieve the desired beach profile, unless site conditions prohibit the placement of fill material above the mean high water line and specific measures are designed to prevent material from washing away from the site.	
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(C-3-3)

2. ACTIVITIES IN COASTAL TIDAL AND NON-TIDAL FLOOD PLAINS

Current Enforceable Policy (1978)	<u>Enf. Mech.</u> (1978)	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech.</u> (2010)
1. Projects in coastal tidal and non-tidal flood plains which would create additional flooding upstream or downstream, or which would have an adverse impact upon water quality or other environmental factors, are contrary to State policy.	Natural Resources Article, Sections 1-302, 1-303, 8-9A-02; pending revised watershed permit regulations	No change	N/A (A-3-1)	Md. Code Ann., Envir. § 5-803 (2000) COMAR 26.17.05.04A (1981)
2. The alteration of the cross-section of any non-tidal stream or body of water, including the 100-year flood plain, is, in general, contrary to State policy.	Natural Resources Article, Section 8-801, 8-803; pending revised watershed permit regulations	The proposed change accurately reflects State law regarding changes to stream channels and floodplains.	2. The following policies apply to projects in non-tidal waters and non-tidal floodplains, but not non-tidal wetlands. <ul style="list-style-type: none"> ○ Proposed floodplain encroachments, except for roadways, culverts, and bridges, shall be designed to provide a minimum of 1 foot of freeboard above the elevation of the 100-year frequency flood event. In addition, the elevation of the lowest floor of all new or substantially improved residential, commercial, or industrial structures shall also be at least 1 foot above the elevation of the 100-year frequency flood event. ○ Proposed unlined earth channels may not change the tractive force associated with the 2-year and the 	COMAR 26.17.04.01 (1978) COMAR 26.17.04.07 (1978) COMAR 26.17.04.11 (1989)

			<p>10-year frequency flood events, by more than 10 percent, throughout their length unless it can be demonstrated that the stream channel will remain stable.</p> <ul style="list-style-type: none"> ○ Proposed lined channels may not change the tractive force associated with the 2-year and the 10-year frequency flood events, by more than 10 percent, at their downstream terminus unless it can be demonstrated that the stream channel will remain stable. ○ Category II, III, or IV dams may not be built or allowed to impound water in any location where a failure is likely to result in the loss of human life or severe damage to streets, major roads, public utilities, or other high value property. ○ Projects that increase the risk of flooding to other property owners are prohibited, unless the area subject to additional risk of flooding is purchased, placed in designated flood easement, or protected by other means acceptable to the Maryland Department of the 	
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			<p>Environment.</p> <ul style="list-style-type: none"> ○ The construction or substantial improvement of any residential, commercial, or industrial structure in the 100-year frequency floodplain and below the water surface elevation of the 100-year frequency flood is not permitted. Minor maintenance and repair may be permitted. The modifications of existing structures for flood-proofing purposes may be permitted. Flood-proofing modifications shall be designed and constructed in accordance with specifications approved by the Maryland Department of the Environment. ○ Channelization shall be the least favored flood control technique. ○ Multiple purpose use shall be preferred over single purpose use, the proposed project shall achieve the purposes intended, and, at a minimum, project shall provide for a 50 percent reduction of the average annual flood damages. <p>(A-3-2)</p>	
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3. In general, construction of residential, industrial, commercial buildings or other structures will not be permitted within the 100-year flood plain of any non-tidal stream of body of water.	Natural Resources Article, Section 8-801, 8-803; pending revised watershed permit regulations	Deletion- This policy is reflected in policy (A-3-2) in the proposed policy area Flood Hazards.	N/A	N/A
4. Before construction of any project planned or financed by the State, the Department of Natural Resources shall determine whether the project creates surface water runoff which may cause or add to flooding hazards on-site or downstream. The Department of Natural Resources will take into consideration natural conditions, existing storm drainage, future development of the watershed and flood control structures. If the Department determines that any flooding hazard will be created by a project, and that the hazard cannot be eliminated by natural features, the Department shall require storm water management and/or retention measures to be included in the project.	Natural Resources Article, Section 8-9H01 et seq. , 8-905, 8-9A06	Deletion- This policy is directed at State government and is not relevant for federal consistency.	N/A	N/A
5. Dredging channels is generally the least preferable means of accomplishing stormwater management and flood control.	Natural Resource Article, Section 1-302, 1-303, 8-801, 8-303, 8-1101; Maryland Interim Watershed Management Policy Nov. 1977	Deletion- This policy is reflected in policy (A-3-2) in the proposed policy area Flood Hazards.	N/A	N/A
6. In the development and implementation of flood plain	Natural Resource	Deletion- This	N/A	N/A

<p>management programs, including the adoption of rules and regulations by local governments to meet the requirements of HUD flood insurance regulations and the Flood Control Watershed Management Act of 1976 (Section 8-9A01 et seq.) all new or expanded developments (residential, commercial, and industrial) in a 100-year tidal flood plain shall be restricted to minimize danger to life and property, to prevent increased flooding, and to insure against adverse effects on water quality biological resources, or other environmental factors. Decisions regarding whether an activity will be allowed in the 100-year tidal flood plain will be based on the following factors:</p> <ul style="list-style-type: none"> a. The availability of alternate locations for the activity. b. The permanence of the activity. c. The effect of the activity on planned development of the area adjacent to it. d. Whether good husbandry practices common to normal and efficient agricultural production will be production will be followed. e. Whether adequate drainage will be provided. f. Whether support systems for the activity, such as water and sewerage facilities, road, and other utilities, will be adequately flood-proofed. g. Whether the activity will increase the surface water elevation of the 100-year flood event. 	<p>Article, Sections 8-9A02, 8-9A05</p>	<p>policy is not supported by State law.</p>		
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<p>h. Whether all permanent structures associated with the activity will be flood-proofed to withstand a 100-year flood.</p> <p>i. Other relevant factors.</p>				
<p>7. The Department of Natural Resources and local units of government shall coordinate activities undertaken to meet the provisions of Flood Control/Watershed Management Act (Natural Resources Article, Section 8-9A01 et seq.) with those undertaken to meet the requirements of all related programs including the national flood insurance program, the sediment control program, and the State water pollution control and abatement programs.</p>	<p>Natural Resources Article, Sections 8-9A05</p>	<p>Deletion- This policy is not supported by State law.</p>	<p>N/A</p>	<p>N/A</p>
<p>8. The Department of Natural Resources shall provide technical assistance to subdivisions in the interpretation of flood information and the drafting of local regulatory measures of flood control and watershed management.</p>	<p>Natural Resources Article, Section 8-9A04.</p>	<p>Deletion- This policy is directed at State government and is not relevant to federal consistency.</p>	<p>N/A</p>	<p>N/A</p>
<p>New Policy</p>	<p>N/A</p>	<p>N/A</p>	<p>All in-stream construction in non-tidal waters is prohibited from October through April, inclusive, for natural trout waters and from March through May, inclusive, for recreational trout waters. In addition, the construction of proposed projects, which may adversely affect anadromous fish spawning areas, shall be prohibited in non-tidal waters from March 15 through June 15, inclusive. (B-6-5)</p>	<p>COMAR 26.17.04.11B(5) (1989)</p>
<p>New Policy</p>	<p>N/A</p>	<p>N/A</p>	<p>Projects in or adjacent to non-tidal waters</p>	<p>COMAR</p>

			shall not adversely affect aquatic or terrestrial habitat unless there is no reasonable alternative and mitigation is provided. (B-6-7)	26.17.04.11B(5) (1989)
Stormwater Management Program—Incorporated into the MCMP as a RPC in December of 2004	N/A	This policy is derived from the current version of the Stormwater Management Program and its implementing regulations.	3. Development may not increase the downstream peak discharge for the 100-year frequency storm event in the following watersheds and all their tributaries: <ul style="list-style-type: none"> ○ Carroll Creek in Frederick City and Frederick County; ○ Gwynns Falls in Baltimore City and Baltimore County; and ○ Jones Falls in Baltimore City and Baltimore County. (A-1-3)	COMAR 26.17.02.07 (1983)
3. ACTIVITIES IN NON-TIDAL WETLANDS				
Current Enforceable Policy (1978)	<u>Enf. Mech. (1978)</u>	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech. (2010)</u>
1. The alteration of the cross section of any non-tidal stream or body of water, including the 100-year flood plain is, in general, contrary to State policy.	Natural Resources Article, Section 8-101, 8-803; pending revised DNR watershed permit regulations	Deletion- This policy is generally reflected in policies in the proposed policy areas Non-Tidal Wetlands, Core Policies, and Flood Hazards.	N/A	N/A
2. It is in the public interest to preserve the biological values of	Natural	Deletion - This	N/A	N/A

the land and water resources of the 100-year flood plain.	Resources Article, Section 8-801, 8-9A02	policy does not provide a useful standard for federal consistency.		
3. As part of the State flood management program, the Department of Natural Resources and local governments shall undertake cooperative efforts to provide for comprehensive watershed management and for the biological and environmental quality of the watersheds of the State.	Natural Resources Article, Sections 8-801 and 8-9A02	Deletion - This policy is directed at State government and does not provide a useful standard for federal consistency.	N/A	N/A
4. The Department of Natural Resources is responsible for the conservation and management of the State's wildlife, wildlife resources, fish, fish resources, and aquatic life including (1) the acquisition of areas as wildlife management areas, wildlife refuges, and fish refuges that are necessary to protect, propagate or manage fish or wildlife, (2) the acquisition of non-tidal wetland areas which warrant preservation, (3) the undertaking of fish restoration projects in accordance with PL81-681 (The Dingell-Johnson Act) and wildlife restoration projects in accordance with PL75-415 (The Pittman-Robertson Act); and (4) the undertaking, in conjunction with other State agencies, of programs necessary for the conservation and protection nongame threatened or endangered wildlife, plants, and fish, including the acquisition of land or aquatic habitat or interests therein.	Natural Resources Article, Sections 1-302, 1-303, 4-202, 4-405, 4-406, 4-2A06, 5-207, 5-801, 5-805, 5-902, 10-202, 10-208, 10-209, 10-801, 10-805, 10-2A06	Deletion- This policy is directed at State government and does not provide a useful standard for federal consistency.	N/A	N/A
5. The filling and dredging of non-tidal wetland areas of biological and/or hydrological value within the 100-year flood plain will not be permitted, unless no feasible alternative for accomplishing a necessary public good exists and measures are	Natural Resources Article, Sections 1-302, 1-303, 8-	The proposed change accurately reflects State law regarding certain	Removal, excavation, grading, dredging, dumping, or discharging of, or filling a non-tidal wetland with materials of any kind, including the driving of piles and placing of	COMAR 26.23.01.01 (1996) COMAR 26.23.02.04

<p>taken to minimize adverse environmental impacts.</p>	<p>801 and 8-803; pending watershed permit regulations</p>	<p>activities in non- tidal wetlands.</p>	<p>obstructions; changing existing drainage characteristics, sedimentation patterns, flow patterns, or flood retention characteristics; disturbing the water level or water table; or removing or destroying plant life that would alter the character of a non-tidal wetland is prohibited unless:</p> <ul style="list-style-type: none"> ○ The proposed project has no practicable alternative; ○ Adverse impacts are first avoided and then minimized based on consideration of existing topography, vegetation, fish and wildlife resources, and hydrological conditions; ○ Comprehensive watershed management plans are considered; and ○ The proposed project does not cause or contribute to an individual or cumulative effect that degrades: <ul style="list-style-type: none"> ○ Aquatic ecosystem diversity, productivity, and stability, ○ Plankton, fish, shellfish, and wildlife, 	<p>(1996) COMAR 26.23.02.06 (1996) COMAR 26.23.04.02 (1996)</p>
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			<ul style="list-style-type: none"> ○ Recreational and economic values, and ○ Public welfare; ○ Surface water quality; or ○ Ground water quality. <p>Mitigation measures are required to replace the ecological values associated with non-tidal wetlands that are impaired by activities described above.</p> <p>(B-3-1)</p>	
6. All biologically and hydrologically significant non-tidal wetland areas should be given high priority for designation as Areas of Critical State Concern for conservation and preservation.	Natural Resources Article, Sections 1-302 and 1-303; Article 88C Section 2(b)(3)	Deletion- This policy is directed at State government and does not provide a useful standard for federal consistency.	N/A	N/A
7. Dredging channels is generally the least preferable means of accomplishing storm water and flood control management.	Natural Resources Article, Sections 1-302, 1-303, 8-801, 8-803, and 8-1101; Maryland Interim	Deletion- This policy is incorporated into proposed policy (A-3-2) in the policy area Flood Hazards.	N/A	N/A

	Watershed Management Policy, Nov. 1977			
8. Agricultural drainage shall be permitted only to the extent it provides substantial agricultural benefits, and shall be carried out in ways which minimize environmental damage, Each project must meet the following requirements: - There must be a demonstrated need for the project. - The lower end of the system must be as far upstream as possible. - Good conservation practices must be used during construction. - Sediment transport must be minimized through sound conservation practices. - Construction must not occur during spawning time when such restriction is deemed inappropriate. - Provisions must be made for continued maintenance. - Environmental impacts must be considered.	Natural Resources Article, Sections 1-302, 1-303, 8-801, 8-803, 8-1402, 8-1405: Maryland Interim Watershed Management Policy, Nov. 1977	The proposed change accurately embodies the State's current law regarding agricultural drainage.	Agricultural drainage projects shall provides substantial agricultural benefits, prevent direct over bank flow into the ditch, be truncated as far upstream as possible, minimize adverse environmental impacts, and implement and maintain approved soil conservation district conservation plans. (C-8-5)	COMAR 26.17.04.11 (1989)
9. Proposed activities and development involving the discharge of dredged or fill material in or affecting the nation's waters and wetlands shall: a. Involve the minimum possible amount of discharge into wetlands or the waters of the United States with any amount of discharge avoided wherever possible. b. Avoid preventable significant damage to fish, wildlife and /or other environmental resources. c. Avoid jeopardizing the continued existence of threatened or endangered species, or destroying or modifying the habitat	40 CFR 230.5(b) 40 FR 41295-6 September 5, 1975; 40 FR 55813-17 December 1, 1975; (33 CFR 323.4(b)) 42 FR 37146 July 14, 1977	Deletion- This policy is reflected in several policies in the proposed policy areas Dredging and Disposal of Dredged Material Tidal Wetlands, and Living Aquatic Resources	N/A	N/A

<p>of those species determined to be critical in accordance with the federal Endangered Species Act.</p> <p>d. Avoid disruptions of fish spawning and nursery areas. Dredging and disposal operations should be scheduled to avoid interference with fish spawning cycles and to minimize interference with migration patterns and routes.</p> <p>e. Avoid restricting or impeding the movement of aquatic species indigenous to the waters, hampering the passage of normal or expected high flows, or causing the relocation of the waters (unless the primary purpose of the fill is to impound waters). If the discharge creates an impoundment water, adverse impacts on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow must be minimized. Discharges into breed and nesting areas for migratory waterfowl must be avoided.</p> <p>f. Avoid (individually or cumulatively with other developments on a waterway or group of related waterways) unnecessarily destroying, damaging or degrading fish, wildlife, naturally functioning aquatic and wetland ecosystems and/or the dependent human satisfaction.</p>				
New Policy	N/A	N/A	A person conducting a forestry activity in non-tidal wetlands shall develop and implement a sediment and erosion control plan. (B-4-6)	COMAR 26.23.05.02 (1994)
New Policy	N/A	N/A	A person conducting an agricultural activity shall implement best management practices to protect non-tidal wetlands. (C-8-2)	COMAR 26.23.05.01 (1994)

4. USE OF AGRICULTURAL LANDS				
Current Enforceable Policy (1978)	<u>Enf. Mech.</u> (1978)	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech.</u> (2010)
1. It is State policy to preserve agricultural land and forest land in order to provide sources of agricultural products for the citizens of the State, to control urban expansion which is consuming agricultural land and woodland of the State, to curb the spread of urban blight and deterioration, and to protect agricultural land and woodland as open space land. A principal preservation mechanism shall be the establishment of agricultural districts and the acquisition of agricultural land preservation easements.	Agriculture Article, Section 2-501 et seq.	Deletion- This policy is directed at State government and is not relevant to federal consistency.	N/A	N/A
2. It is State policy to provide for the conservation of the soil, water and related resources, and for the control and prevention of soil erosion, in order to preserve natural resources, control floods, to prevent impairment of dams and reservoirs, to assist in maintaining the navigability of rivers and harbors, to preserve wildlife, to protect the tax base, the public lands, and the health, safety and general welfare of the people of the State, and to enhance their living environment.	Agriculture Article, Section 8-102 (d)	The minor change is designed to provide a more useful standard for federal consistency.	Soil erosion shall be prevented to preserve natural resources and wildlife; control floods; prevent impairment of dams and reservoirs; maintain the navigability of rivers and harbors; protect the tax base, the public lands, and the health, safety and general welfare of the people of the State, and to enhance their living environment. (A-1-11)	Md. Code Ann., Agric. § 8-102(d) (1974)
3. It is State policy that to conserve soil resources and to control and prevent soil erosion, it is necessary that land-use practices contributing to soil waste and soil erosion be discouraged and discontinued. Appropriate, soil conserving, land-use practices should be adopted and carried out.	Agriculture Article, Section 8-102(c)	The minor change is designed to provide a more useful standard for federal consistency and reflect current Maryland law.	Any development shall be designed to minimize erosion and keep sediment onsite. (C-9-1)	COMAR 26.17.01.08 (1995)
4. It is State policy that a soil conservation district constitutes a political subdivision of the State and that it exercises public powers. In carrying out the responsibilities of a district, district	Agriculture Article, Sections 8-306	Deletion- This policy is not relevant for	N/A	N/A

<p>supervisor are authorized to:</p> <p>a. Conduct surveys, investigations, and research relating to the character of soil erosion, the prevention and control measures needed; disseminate information concerning preventive and control measures; conduct soil conservation and soil erosion control demonstration projects within the district, and provide financial and other assistance to land owners for erosion control and prevention operations.</p> <p>b. Carry out preventive and control measures within the district, including engineering operations, cultivation methods, and growing of vegetation, changes in land use, and similar measures on State-owned or controlled land, with the cooperation of the agency administering and having jurisdiction over them, or any other land within the district, with the cooperation of the owner.</p> <p>c. Develop comprehensive plans for conserving soil resources and controlling and preventing soil erosion within the district, including the specification of engineering operations, cultivation methods, the growing of vegetation, cropping programs, tillage practices, and changes in land use; and encourage their adoption by land owners within the district.</p> <p>d. Approve or disapprove plans for clearing, grading, transportation, or otherwise distributing soil pursuant to Section 8-1104(a) of the Natural Resources Article, and to adopt general criteria and specific written recommendations concerning the control of erosion and siltation of pollution associated with these activities.</p>	<p>and 8-307</p>	<p>federal consistency.</p>		
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<p>e. Adopt rules and regulations governing land use in the district in order to conserve soil and prevent and control soil erosion. Such regulations may require necessary engineering operations, including the construction of terraces and other necessary structures; observance of particular methods of cultivation such as contour cultivating and planting, planting of water-conserving and erosion-preventing plants, trees, and grasses; forestation and reforestation; observation of specific cropping programs and tillage practices; and retirement from cultivation of any highly erosive area on which erosion may not be controlled adequately if it is cultivated.</p> <p>f. Provide for other means, measures, operations, and programs that may assist conservation of soil resources and prevent or control soil erosion in the district, with due regard to the legislative findings set forth in Section 8-102.</p>				
<p>5. It is State policy that no one may discharge any liquid, gaseous or solid substances in such concentration which, when applied, discharged, or deposited in the waters of the State may exert a poisonous effect detrimental to man or to the propagation, cultivation or conservation of animals, fish or other aquatic life.</p>	<p>Natural Resources Article, Section 8-1405, Department of Natural Resource Rules and Regulations, Section 08.05.04.01 and .06</p>	<p>Deletion- This policy is reflected in policy (A-2-3) in the proposed policy area Water Quality.</p>	<p>N/A</p>	<p>N/A</p>
<p>6. It is State policy to set rules and regulations regarding the sale, offer, use or storage of pesticides (including herbicides) and other articles which constitute a water quality problem, in</p>	<p>Natural Resources Article, Section</p>	<p>The change accurately reflects current</p>	<p>Pesticides shall be stored in an area located at least 50 feet from any water well or stored in secondary containment approved</p>	<p>COMAR 15.05.01.06 (2003)</p>

order to protect public health, safety and welfare and to protect present and future use of the waters for public water supply, the propagation of fish and other aquatic life and wildlife, recreational purposes, and agricultural, industrial and other legitimate uses. The Department of Natural Resources shall defer this responsibility the Department of Agriculture, as long as it regulates these uses adequately.	8-1405, Department of Natural Resources, Rules and Regulations, Section 08.05.04.08; Agriculture Article 5-204 and 5-209.	regulations regarding pesticide storage and water quality.	by the Department of the Environment. (A-2-7)	
7. It is State policy that the Water Resources Administration regulate agricultural waste discharge in order to prevent the waters of the State from falling below water quality standards.	Natural Resources Article, Section 8-1413	The change reflects specific aspects of current State law regarding animal waste discharged from farms.	Animal feeding operations shall use best management practices designed and approved by a local soil conservation district to limit livestock access to surface water. (C-8-3)	COMAR 26.08.03.09 (2009)
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	Agricultural activity permitted within the Critical Area shall use best management practices in accordance with a soil conservation and water quality plan approved or reviewed by the local soil conservation district. (B-1-18)	COMAR 27.01.06.02G (1986)
New Policy	N/A	N/A	An agricultural operation with \$2500 a year in gross income or more than 8000 pounds of livestock that uses chemical fertilizers, sludge, or animal manure shall use these nutrients in a way that minimizes impacts on water quality. (C-8-4)	Md. Code Ann., Agric. § 8-803.1 (2004)

New Policy	N/A	N/A	Agricultural land management practices may not add, introduce, leak, spill, or otherwise emit soil or sediment into waters of the State unless a plan is being implemented on the property that is designed to conserve soil and protect water quality. (C-8-1)	Md. Code Ann., Envir. § 4-213 (1990)
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	15. Agricultural activities are permitted in the buffer, if, as a minimum best management practice, a 25-foot vegetated filter strip measured landward from the mean high water line of tidal waters or tributary streams (excluding drainage ditches), or from the edge of tidal wetlands, whichever is further inland, is established in trees with a dense ground cover or a thick sod of grass. (B-1-15)	COMAR 27.01.09.01-5 (2010)
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	16. The feeding or watering of livestock is not permitted within 50 feet of the mean high water line of tidal waters and tributaries. (B-1-16)	COMAR 27.01.09.01-5 (2010)
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its	17. In the Critical Area, the creation of new agricultural lands shall not be accomplished by diking, draining, or filling of nontidal wetlands; by clearing of forests or woodland on soils with a slope greater than 15 percent	COMAR 27.01.06.02C (1986)

		implementing regulations.	or on soils with a "K" value greater than 0.35 and slope greater than 5 percent; by clearing that will adversely affect water quality or will destroy plant and wildlife habitat; or by clearing existing natural vegetation within the 100-foot buffer. (B-1-17)	
5. USE OF FORESTED LANDS				
Current Enforceable Policy (1978)	<u>Enf. Mech. (1978)</u>	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech. (2010)</u>
1. Forests, timberlands, woodlands and soil resources of the state are basic asset and preservation of these resources is essential. It is the policy of the State to encourage economic management and scientific development of its forests and to conserve and improve soil resources to preserve an adequate source of forest products.	Natural Resources Article, Section 5-602, Agricultural Article, Section 2-501	Deletion - This policy does not provide a useful standard for federal consistency.	N/A	N/A
2. Where the objectives of the State can be achieved through cooperative efforts of the private landowners, with the assistance of the State, it is the policy of the State to encourage and assist the private ownership and management of forest lands. Where private ownership cannot achieve the objectives of the State, it is the State's policy to acquire forested lands as rapidly as the financial resources of the State permit.	Natural Resources Article, Section 5-602	Deletion -The State's policy to encourage private ownership of forested land is not relevant to federal consistency.	N/A	N/A
3. It is State policy to protect woodland areas through the conservation easement program of the Maryland Environmental Trust and State agricultural land preservation efforts which include the establishment of agricultural	Natural Resources Article, Section 3-301 et seq.,	Deletion- The State's land acquisition policy is not relevant to	N/A	N/A

districts and acquisition of agricultural easements.	Agricultural Article, Section 2-501, et seq.	federal consistency.		
<p>4. It is the State’s policy to comprehensively manage State forests in order to provide for the following activities: watershed protection, wildlife protection, hiking and general recreation, natural beauty appreciation, wilderness protection, protection of significant natural, historical or archeological features, and timber harvesting. In undertaking such comprehensive management, the following practices shall be followed:</p> <p>a. “All timber harvesting activities shall be thoroughly reviewed to minimize adverse environmental effects. Selective cutting shall be practiced in designated natural beauty and recreational areas. Clearcutting, where necessary, shall be modified to protect and improve watershed and wildlife habitat values.”</p> <p>b. Practices shall be undertaken to insure the maintenance of healthy populations of animal life.</p> <p>c. Carrying capacity limits on recreational uses will be established when needed to protect resources or to maintain the quality of recreational experience.</p> <p>d. All activities are to be undertaken in a manner which minimizes the potential for water, air or noise pollution, including the use of alternative areas if necessary.</p> <p>e. Protection shall be given priority over development where</p>	<p>Natural Resources Article, Section 5-102, 5-207, 5-602; <u>Maryland Forest Service Handbook</u></p>	<p>Deletion- This policy is not supported by State law.</p>	<p>N/A</p>	<p>N/A</p>

<p>the proposed activities would not adequately protect remaining resources. Natural methods shall be favored over artificial protection methods for forests, watersheds, or floodplains.</p> <p>f. Aesthetics will be given full consideration in the planning and implementing of all forest operations.</p> <p>g. Forest management goals and policies will be applied to resolve potential conflicts in the various forest zones. Resolution will entail an examination of the conflicts between alternative uses of a forest area. Consideration will be given to all potential locations of each conflicting use in the forest, and to the possibility of meeting the needs of conflicting uses in other forests.</p>				
<p>5. The Department of Natural Resources shall establish Forestry Districts to guide the use of private woodlands and forests. The powers and duties of the district board shall include (but not limited to) efforts to:</p> <p>a. Promote private forestry by assisting landowners in forest management, tree planting, conservation and development of tree crops, and protection of forests from fires, insects, and diseases.</p> <p>b. Assist private owners of forest land with advice on construction of flood control measures, seeding and planning of waste slopes, abandoned or eroded lands, and development of wildlife by planting trees, bushes, and shrubs which produce food or cover.</p>	<p>Natural Resources Article, Section 5-606</p>	<p>The aspects of this policy that do not provide a sufficient standard for federal consistency have been deleted. The proposed policy is derived from section (f) of the current policy.</p>	<p>Forestry activities shall provide for adequate restocking, after cutting, of trees of desirable species and condition; provide for reserving, for growth and subsequent cutting, a sufficient growing stock of thrifty trees of desirable species to keep the land reasonably productive; and prevent clear-cutting, or limit the size of a tract to be clear-cut in areas where clear-cutting will seriously interfere with protection of a watershed. (B-2-4)</p>	<p>Md. Code Ann., Nat. Res. § 5-606 (2009)</p>

<p>c. Enter into agreements with landowners within its county or district for a specific period of years.</p> <p>d. Cooperate with other government agencies to achieve forest conservation, better forest growth and public education on forest conservation and management measures.</p> <p>e. Develop comprehensive forest management plans for conservation of soil resources and for control and prevention of soil erosion within the county or district.</p> <p>f. Promulgate safeguards for proper forest land use, such as those intended to:</p> <p>(i) Provide for adequate restocking, after cutting, or trees of desirable species and condition.</p> <p>(ii) Provide for reserving, for growth and subsequent cutting, a sufficient growing stock of thrifty trees of desirable species to keep the land reasonably production.</p> <p>(iii) Prevent clear-cutting, or limit the size of a tract to be clear-cut in areas where clear-cutting will seriously interfere with protection of a watershed, or in order to maintain a suitable growing stock to insure natural reproduction. However, any rule dealing with clear-cutting shall establish a procedure by which any operator of forest land may secure a permit to clear-cut particular lands upon proof that he has a bona fide intention to devote the land to use other than forest use; that the lands are appropriate for the proposed use; and that devoting the lands to the new use will not seriously interfere with the protection of the watershed.</p>				
<p>6. The Department of Natural Resources, upon request shall assist other state units, counties, towns, corporations, and</p>	<p>Natural Resources</p>	<p>Deletion- This policy is not</p>	<p>N/A</p>	<p>N/A</p>

individuals preparing plans for park, recreation and natural are acquisition and development, acquisition of multiple use areas, including protection of watersheds, and the management and replacement of trees.	Article, Section 5-201	relevant for federal consistency		
7. In order to promote the conservation of forest resources, it is State policy to allow landowners of five or more acres to place their land under the forest conservation and management program.	Natural Resources Article, Section 5-302	Deletion- This policy is not relevant for federal consistency	N/A	N/A
8. The Department of Natural Resources shall promote a program of roadside tree planting, maintenance and control to maintain beneficial road stabilizations, visual aesthetics, and buffers from agricultural and open space.	Natural Resources Article, Section 5-402, 5-602	The change accurately reflects the protection afforded roadside trees by current Maryland law.	Roadside trees should not be cut down, trimmed, mutilated, or injured unless the activity will eliminate a hazard to property, public safety, or health; improve or prevent tree deterioration; or improve the general aesthetic appearance of the right-of-way. (B-4-5)	COMAR 08.07.02.05 (2005)
Forest Conservation Law—Incorporated into the MCMP as a RPC in December of 2004	N/A	This policy is derived from the current version of the Forest Conservation Law.	1. The Forest Conservation Act and its implementing regulations, as approved by NOAA, are enforceable policies. Generally, before developing an area greater than 40,000 square feet, forested and environmentally sensitive areas must be identified and preserved whenever possible. If these areas cannot be preserved, reforestation or other mitigation is required to replace the values associated with them. This policy does not apply in the Critical Area. (B-4-1)	Md. Code Ann., Nat. Res. §§ 5-1601 to -1613. (2009) COMAR 08.19.01-.06 (2009)
Forest Conservation Law—Incorporated into the MCMP as a RPC in December of 2004	N/A	This policy is derived from the	Any highway construction project may only cut or clear the minimum amount of trees	Md. Code Ann., Nat. Res. § 5-103 (2007)

		current version of the Forest Conservation Law.	and other woody plants necessary to be consistent with sound design principles. If over an acre of forest is lost as a result of the project, an equivalent area of publicly owned property shall be reforested. (B-4-4)	
New Policy	N/A	N/A	When any timber is cut for commercial purposes from five acres or more of land on which loblolly pine, shortleaf pine, or pond pine, singly or together occur and constitute 25 percent or more of the live trees on each acre, the person conducting the cutting or the landowner shall leave uncut and uninjured at least eight well distributed, cone-bearing, healthy, windfirm, loblolly, shortleaf, or pond pine trees on each acre cut for the purpose of reseedling. (B-4-3)	Md. Code Ann., Nat. Res. § 5-501 (1977) Md. Code Ann., Nat. Res. § 5-504 (1977)
New Policy	N/A	N/A	Riparian forest buffers adjacent to waters that are suitable for the growth and propagation of self-sustaining trout populations shall be retained whenever possible. (B-6-6)	COMAR 26.08.02.03-3F (2005)
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	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	Md. Code Ann., Nat. Res. § 8-1808.7 (1997) COMAR 27.01.09.01-6 (2010)

			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. (B-1-19)	
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	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. (B-1-20)	Md. Code Ann., Nat. Res. § 8-1808.7 (1997) COMAR 27.01.09.01-6 (2010)
6. CHANNELIZATION (AND SMALL WATERSHED PROJECTS)				
Current Enforceable Policy (1978)	<u>Enf. Mech.</u> (1978)	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech.</u> (2010)
1. The Department of Natural Resources is responsible for conservation and management of wildlife, wildlife resources, fish resources and aquatic life within the State.	Natural Resources Article, Sections 4-202, 10-202	Deletion- This policy is not relevant for federal consistency.	N/A	N/A
2. The Department of Natural Resources will cooperate with federal, state, and local agencies in water resources projects and projects affecting the waters of the State, including approve projects under PL 566 (the federal Watershed Protection and	Natural Resources Article, Section 8-903	Deletion- This policy is directed at State government and	N/A	N/A

Flood Prevention Act).		is not relevant to federal consistency		
3. It is the public policy of the State (taking into account varying ecological, economic, developmental , recreational, and aesthetic values) to preserve tidal wetlands, including tidal waters to the seaward limit of the State's jurisdiction, and to prevent their despoliation and destruction.	Natural Resources Article, Section 9-102, 9-202	Deletion- This policy is reflected in policy (B-2-1) in the proposed policy area Tidal wetlands	N/A	N/A
4. It is the public interest to preserve the biological values associated with the land and water resources of the 100-hundred year flood plain.	Natural Resources Article, Sections 8-801 and 8-9A02	Deletion- This policy does not provide a useful standard for federal consistency determinations.	N/A	N/A
5. The filling and dredging of non-tidal wetland areas of biological and/or hydrological value within the 10-year riverine flood plain will not be permitted, unless no feasible alternative for accomplishing a necessary public good exists and measures are taken to minimize adverse environmental impacts.	Natural Resources Article, Section 1-302, 1-303, 8-801, and 8-803; pending revised watershed permit regulations)	Deletion- This policy is reflected in policy (B-3-1) in the proposed policy area Non-Tidal Wetlands.	N/A	N/A
6. Wherever possible non-structural measures to reduce flood hazards will be utilized. Similarly, non structural practices will be utilized to increase agricultural drainage wherever feasible.	Natural Resources Article, Sections 1-302, 1-303, 8-801, 8-803, and	Deletion - This policy is unnecessary in light of duplicative	N/A	N/A

	8-9A02; Maryland Interim Watershed Management Policy, November 1977	policies in the proposed policy areas Water Quality, Tidal Shore Erosion Control, and Agriculture.		
7. Channelization in areas where adverse impacts would be created upon water quality, aquatic resources, non-tidal wetlands, and wildlife habitat is generally not consistent with State policy.	(Natural Resources Article, Sections 1-302, 1-202, 8-801, 8-803, and 8-9A02; Maryland Interim Watershed Management Policy, November, 1977)	The policy is amended to reflect current state law on channelization.	The alignment of a channel shall first avoid and then minimize impacts to shellfish beds, submerged aquatic vegetation, and vegetated tidal wetlands. When feasible, the alignment shall be located the maximum distance feasible from shellfish beds, submerged aquatic vegetation, and other vegetated tidal wetlands. (C-5-4)	COMAR 26.24.03.02 (1994)
8. Dredging channels is generally the least preferable means of accomplishing stormwater and flood control management.	Natural Resources Article, Sections 1-302, 1-303, 8-801, 8-803, and 8-1101; Maryland Interim Watershed Management Policy, November, 1977	Deletion- This policy is reflected in policy (A-3-2) in the proposed policy area Flood Hazards.	N/A	N/A
9. Agricultural drainage shall be permitted only to the extent it provides substantial benefits, and shall be carried out in ways	Natural Resources	Deletion- This policy is reflected	N/A	N/A

<p>which minimize environmental damage. Each project must meet the following guidelines:</p> <ul style="list-style-type: none"> - There must be a demonstrated need for the project. - The lower end of the system must be as far upstream as possible. - Good conservation practices must be used during construction - Sediment transport must be minimized through sound conservation practices. - Construction must not occur during spawning time when such restriction is deemed appropriate. - Provisions must be made for continued maintenance. - Environmental impacts must be considered. 	<p>Article, Sections 1-302, 1-303, 8-801, 8-803, 8-1402, 8-1405; Maryland Interim Watershed Management Policy, November, 1977</p>	<p>in policy (C-8-5) in the proposed policy area Agriculture.</p>		
<p>10. The natural values of affected floodplain forests and non-tidal wetlands will be considered in the siting of impoundments and these areas will be avoided if possible. Such impoundments shall provide a minimum flow release for downstream users.</p>	<p>Natural Resources Article, Sections 1-302, 1-303, 8-801, 8-803, and 8-9A02</p>	<p>Deletion- This policy is not supported by State law.</p>	<p>N/A</p>	<p>N/A</p>
<p>7. ACTIVITIES ASSOCIATED WITH THE PROVISION OF SUFFICIENT RECREATIONAL OPEN SPACE AND NATURAL AREAS</p>				
<p>Current Enforceable Policy (1978)</p>	<p><u>Enf. Mech. (1978)</u></p>	<p><u>Proposed Change</u></p>	<p><u>Proposed Language</u></p>	<p><u>Enf. Mech. (2010)</u></p>
<p>1. The Department of Natural Resources is responsible for conservation and management of wildlife resources of the State.</p>	<p>Natural Resources Article, Section 10-202</p>	<p>Deletion- This policy is not relevant to federal consistency.</p>	<p>N/A</p>	<p>N/A</p>
<p>2. It is State policy a) to conserve species of wildlife for human enjoyment, for scientific purposes, and to insure their perpetuation as viable components of their ecosystems, b) to protect threatened and endangered plant and wildlife species</p>	<p>Natural Resources Article, Sections 10-2A-02 and</p>	<p>Deletion- The aspects of this policy relevant to federal</p>	<p>N/A</p>	<p>N/A</p>

by prohibiting the taking, possession, transportation, exportation, processing, sale, offer for sale, or shipment within this State of endangered species, and by carefully regulating these activities with regard to the threatened species, and c) to establish programs, including the acquisition of land or aquatic habitat or interests therein, necessary for the conservation of non-game threatened or endangered species of wildlife or plants.	10-2A-06	consistency are embodied in policy (B-6-1) in the proposed policy area Living Aquatic Resources		
3. The Department of Natural Resources shall, in the name of the State, purchase and manage lands suitable for State parks, scenic preserves, historic monuments, parkways, State recreation areas, forest culture, forest reserves, watershed protection, water conservation, open spaces, the protection, propagation or management of wildlife resources, and hunting.	Natural Resources Article, Sections 5-207, 5-901 <u>et seq.</u> , to 10-208, 10-2A01 <u>et seq.</u> , 10-801	The change accurately reflects State law regarding the management of certain protected State lands.	The safety, order, and natural beauty of State parks and forests, State reserves, scenic preserves, parkways, historical monuments and recreational area shall be preserved. DNR (A-1-4) Md. Code Ann., Natural Res. § 5-209.	Md. Code Ann., Nat. Res. § 5-209 (2005)
4. The Department of Natural Resources shall establish a State wild lands system on State-owned lands which shall be administered for the use and enjoyment of the people of Maryland, in a manner that will leave them unimpaired for the future use and enjoyment of wild lands, will provide for their protection and preservation of their wild land character, and will promote the gathering and dissemination of information regarding their use and enjoyment as wild lands.	Natural Resources Article, Section 5-1203	The policy has been simplified and aspects of this policy that are not relevant to the federal consistency process have been deleted.	The unique ecological, geological, scenic, and contemplative aspects of State wild lands shall not be affected in a manner that would jeopardize the future use and enjoyment of those lands as wild. (A-1-3)	Md. Code Ann., Nat. Res. § 5-1201 (1991) Md. Code Ann., Nat. Res. § 5-1203 (2002)
5. It is State policy to protect, through a scenic and wild rivers program, those rivers of Maryland (or portions of them) and related adjacent land areas that possess outstanding resources of scenery, fish, wildlife, and other valuable recreation resources of existing and potential benefit to the citizens of the State. The Program, to be administered by the Department of Natural	Natural Resources Article, Section 8-401 <u>et seq.</u>	This policy is reworded and divided into two separate policies to more simply describe the	The natural character and scenic value of a river or waterway must be given full consideration before the development of any water or related land resources including construction of improvements, diversions, roadways, crossings, or channelization. (A-1-6)	Md. Code Ann., Nat. Res. § 8-405 (1975) COMAR 26.17.04.11 (1989)

<p>Resources, shall provide for wise management of resources on the land and preservation of their scenic, agricultural, and wild qualities. Development will be limited to fishing, hunting, hiking, horseback riding, natural and geological interpretation, scenic interpretation, and other activities in which the general public can appreciate and enjoy the value of these areas as scenic and wild rivers in a setting natural solitude.</p> <p>Before specific plans for use and development of water and related land resources are approved, including construction of improvements, diversions, roadways, crossings, channelizations, locks, Canals or other features which change the character of a river or waterway or destroy its scenic value, full consideration and evaluation of the river as a scenic and wild resource shall be given. A dam or other structure impeding the natural flow of a scenic and wild river may not be constructed, operated, or maintained, and channelization may not be undertaken without the specific approval of the Secretary of the Department of Natural resources.</p> <p>Every State unit shall recognize the intent of the Scenic and Wild Rivers Program and take whatever Action is necessary to protect and enhance the scenic and wild rivers system. The Department shall utilize the scenic and wild rivers system and all related information to assist and cooperate with any other State and local unit which exercises jurisdiction and authority over land use planning and management.</p>		<p>requirements of the Scenic and Wild River Act that are relevant to federal consistency.</p>	<p>A dam or other structure that impedes the natural flow of a scenic or wild river may not be constructed, operated, or maintained, and channelization may not be undertaken, without the specific approval of the Secretary of the Department of Natural Resources or his designee. (A-1-7)</p>	<p>Md. Code Ann., Nat. Res. § 8-406 (1984)</p> <p>COMAR 26.17.04.11 (1989)</p>
<p>6. It is State policy to make funds available to local governments for the acquisition of outdoor recreation and open space areas and for the development of recreational facilities. The acquisition and development of land for</p>	<p>Natural Resources Article, Section 5-904 <u>et seq.</u></p>	<p>Deletion- This policy is not relevant for federal</p>	<p>N/A</p>	<p>N/A</p>

recreation purposes with such funds shall be consistent with local comprehensive plans, and shall meet a need in whole or part identified in the State Outdoor Recreation Plan.		consistency.		
7. The Department of Natural Resources, upon request, shall assist other State units, counties, towns, corporations, and individuals in preparing plans for acquisition and development of park recreation and natural areas, acquisition of multiple-use areas including protection of watersheds, management, and replacement of trees, woodlots, and timber tracts.	Natural Resources Article, Section 5-201	Deletion- This policy is not relevant for federal consistency.	N/A	N/A
8. It is the State policy to encourage land owners to make their land available to the public for recreational use by limiting their liability towards persons using their land in accordance with Natural Resources Article, Section 5-1101 <u>et seq.</u>	Natural Resources Article, Section 5-1101 <u>et seq.</u>	Deletion- This policy is not relevant for federal consistency.	N/A	N/A
9. It is the State policy to a. Sponsor, assist, conduct or otherwise cause to be undertaken, comprehensive programs of research and education pertaining to the aesthetic, natural, health and welfare, scenic, or cultural qualities of the State environment, including the provision of financial grants to public and private agencies, organizations, and persons engaged in consulting and other special participation in the programs; and to b. Acquire property or any interest therein which is of natural, environmental, aesthetic, scenic or cultural significance, or of significance to the health and welfare of the public.	Natural Resources Article, Sections 3-201 and 3-203	Deletion- This policy is directed at State government and is not relevant for federal consistency.	N/A	N/A
10. The recreational and conservation policies of the State of	Article 88C	Deletion- This		

<p>Maryland shall:</p> <ul style="list-style-type: none"> a. Encourage low intensity recreation on open tracts such as flood plains, wooded areas, steep slopes, and other significant natural features, provided proper safeguards are established to protect the local environment. b. Encourage the use of utility easements as outdoor recreation and open space areas. c. Encourage the use of scenic easements of land as a visual part of open space and outdoor recreation. d. Explore the recreation potential of water bodies, agricultural research centers, and wildlife management areas. e. Acquire title to or control of land with conservation or recreation value, before encroaching development and rising land values preclude this possibility. f. Provide public access to estuaries, the Chesapeake Bay, and every major river in Maryland. g. Analyze surplus State and Federal properties to determine whether they can be used for recreation. h. Provide corridors for limited recreation uses such as bicycling, hiking, and others which relate to streams, shorelines and unique resource and historic areas. i. Emphasize county and local development of community parks and school/park complexes to maximize local recreational opportunities. j. Control land use adjacent to parks and major scenic or historic sites to prevent encroachment and to preserve the surrounding aesthetics. k. Protect free-flowing streams and rivers, and carefully evaluate proposed impoundments. l. Encourage the preservation of submerged lands for wildlife 	<p>Natural Resources Article, Section 5-901 et seq.; Maryland Outdoor Recreation and Open Space Plan, Phase III-Action Plan pp. 9-10.</p>	<p>policy is unnecessary in light of a number of proposed enforceable polices that address recreational issues. The aspects of this policy that are directed at State government are not relevant for federal consistency.</p>		
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<p>and fish habitats.</p> <p>m. Control shoreline development along the Bay and the ocean through State and local legislation.</p> <p>n. Develop and implement a State-wide river and stream preservation program.</p> <p>o. Encourage the recreational use of the Chesapeake Bay by acquiring public access points, particularly at the confluence of stream valleys and the Bay.</p> <p>p. Preserve outstanding natural and scenic areas, and irreplaceable historic sites and structures, and incorporate them into an open space system.</p> <p>q. Utilize excessive slopes, flood plains, poorly drained lands and other unique natural resources and incorporate them into an open space system.</p> <p>r. Continue to emphasize nature interpretation and nature-oriented facilities.</p> <p>s. Emphasize the acquisition of development rights where feasible in rural areas, along stream valleys, bay and river or ocean shorelines, and discourage development incompatible with the recreation opportunities associated with these resources.</p> <p>t. Continue implementing legislation and protection programs for the Chesapeake Bay and inland wetlands, with emphasis on appropriate land development regulations, conservation zoning, land donations and purchase of development rights in lieu of outright acquisitions.</p> <p>u. Regulate and preserve all islands in the Bay and all rivers wherever feasible for conservation and limited recreation use.</p> <p>v. Create more wildlife sanctuaries and management areas in places that provide areas of unusual flora and fauna.</p>				
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<p>w. Encourage stewardship through the development of State and local policies and guidelines on tax abatements, tax credits, and special assessments for privately held open space.</p> <p>x. Utilize scenic and conservation easements, purchase and leaseback agreements and subdivision regulations.</p> <p>y. Preserve the best agricultural lands and geologic resource areas for continued production or preservation as rural landscape.</p> <p>z. Encourage the use of both public and private lands for outdoor recreation, including the purchase of public recreation rights and scenic easements to expand open space beyond publicly owned land, and the provision by land owners of recreational opportunities for the public under multiple-use income-producing arrangements.</p> <p>aa. Establish an interconnecting system of trails for walking, hiking, and bicycling along the ocean beaches, bays, estuaries, rivers and streams, and linking activity centers.</p>				
8. ACTIVITIES AFFECTING COASTAL, HISTORICAL, CULTURAL AND ARCHAEOLOGICAL RESOURCES				
Current Enforceable Policy (1978)	<u>Enf. Mech.</u> (1978)	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech.</u> (2010)
1. State agencies are required to conduct their affairs with an awareness that they are stewards of air, land, water, living and historic resources.	Natural Resources Article, Section 1-302	Deletion- This policy is directed at State government and does not provide a useful standard for federal consistency.	N/A	N/A
2. The Division of Archaeology of the Maryland Geological	Natural	Deletion- This	N/A	N/A

Survey in the Department of Natural Resources shall, in cooperation with other government agencies both in state and out-of-state, preserve and protect the State's archaeological resources and further archaeological knowledge through research, education, excavation projects, and the retrieval and preservation of significant objects, both generally and in conjunction with public construction projects, and through regulation of archaeological activities on State owned or controlled lands.	Resources Article, Section 2-703	policy is not relevant for federal consistency.		
3. It is State policy to protect and preserve historical, archaeological, and scientific information, and to protect objects found on privately owned lands in the State. Archaeological excavations on privately owned lands are discouraged except when approved by the State archaeologist.	Natural Resources Article, Section 2-301	Deletion- This policy is not supported by State law.	N/A	N/A
4. Historic areas of the State are considered basic assets, and their proper use and preservation through State action, including acquisition, promotion of action by others, and educational activities, are necessary to protect and promote the health, safety, economy, and general welfare of the people of the State.	Natural Resources Article 5-102, 5-207; Article 41, Section 181E	Deletion- This policy is directed at state government and is not relevant for consistency.	N/A	N/A
5. Local government may establish historic districts in accordance with the provisions of Article 66B section 8.01 <u>et seq.</u> to preserve structures of historic and architectural value.	Article 66B; Section 8.01 <u>et seq.</u>	Deletion- This policy is not relevant for federal consistency.	N/A	N/A
New Policy	N/A	N/A	Unless permission is granted by the Maryland Historical Trust, activities that excavate, remove, destroy, injure, deface, or disturb submerged archaeological historic property are generally prohibited. (B-5-1)	Md. Code Ann., State Fin. & Proc. §§ 5A-333, -341 (2005)
New Policy	N/A	N/A	Unless permission is granted by the	Md. Code Ann., State

			Maryland Historical Trust, activities that excavate, remove, destroy, injure, deface, or disturb cave features or archeological sites under State control are generally prohibited. (B-5-2)	Fin. & Proc. §§ 5A-342 to -343 (2005)
New Policy	N/A	N/A	Neither human remains nor funerary objects may be removed from a burial site or cemetery, unless permission is granted by the local State's Attorney. Funerary objects may not be willfully destroyed, damaged, or defaced. (B-5-3)	Md. Code Ann., Crim. Law §§ 10-401 to -404 (2009)
9. SHORELAND ACTIVITIES IN GENERAL				
Current Enforceable Policy (1978)	<u>Enf. Mech.</u> <u>(1978)</u>	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech.</u> <u>(2010)</u>
1. It is State policy to maintain that degree of purity of air resources which will protect the health, general welfare, and property of the people of the State.	Article 43, Section 690	No change	N/A (A-1-1)	Md. Code Ann., Envir.. § 2-102 (1982) Md. Code Ann., Envir.. § 2-103 (1957)
2. It is State policy that the people of the state have the right to an environment free from noise which may jeopardize their health, general welfare, and property, or which degrades the quality of life. Therefore, environmental noise standards should be established to protect public health and the general welfare with an adequate margin of safety based on knowledge of the adverse effects of excessive noise, including temporary or permanent hearing loss, interference with sleep, oral communication, work, or other activities, adverse physiological responses or psychological distress, adverse effects on animal life, devaluation or damage of property,	Article 43, Section 822, and 828	This policy has been amended to provide a clearer standard for federal consistency. Aspects of this policy directed at State government have been deleted.	The environment shall be free from noise which may jeopardize health, general welfare, or property, or which degrades the quality of life. MDE (A-1-2)	COMAR 26.02.03 (2004)

and unreasonable interference with the enjoyment of life or property.				
3. It is State policy that no construction of any plant, building or structure, and no appropriation or use of any water of the state can begin unless an appropriate permit has been issued by the Water Resources Administration, based upon submittal of satisfactory proof by the applicant that the granting of the permit will not violate water quality or jeopardize its natural resources, by overdrawing water supplies, or by the other unacceptable configurations.	Natural Resources Article, Section 8-80	Deletion- This policy is unnecessary in light of broader policies in the proposed policy areas Core Policies and Water Quality.	N/A	N/A
4. It is State policy to improve, conserve, and manage the quality of the waters of the state and to protect, maintain, and improve the quality of water for public supplies, for propagation of wildlife, for fish and aquatic life, and for domestic agricultural, industrial, recreational, and other legitimate beneficial uses. It is also State policy to provide that no waste is discharged into any waters of this State without first receiving necessary treatment or other corrective action to protect the legitimate beneficial uses of this State's waters, and to provide for prevention, abatement and control of new or existing water pollution. All domestic sewage shall be disposed of by an approved method of collection, treatment, and effluent discharge that means the requirement that it does not cause pollution of the ground surface, ground water, bathing area, lake, pond, watercourse, or tidewater, or create a nuisance.	Natural Resources Article, Section 8-1402; Article 43, Section 387C, Department of Health and Mental Hygiene Rules and Regulations, Section 10.03.27.47	Deletion- This policy is unnecessary for federal consistency in light of policies in proposed policy areas Development, Sewage Treatment, and Water Quality.	N/A	N/A
5. County water and sewer plans shall provide for the orderly expansion and extension of community and multi-use water supply systems, community and multi-use	Article 43, Section 387C	Deletion- This policy is unnecessary for	N/A	N/A

<p>sewerage systems and solid waste disposal systems, in a manner consistent with all applicable county and local comprehensive land use plans. Sizing and staging of facilities construction shall also be consistent with these plans. Adequate facilities shall be provided for to prevent the discharge of untreated or inadequately treated sewage or other liquid waste and to ensure that treatment, recovery, or disposal of solid wastes complies with State laws relating to air pollution water pollution, and land use.</p>		<p>federal consistency in light of broader policies in the proposed policy areas Development and Sewage Treatment.</p>		
<p>6. No building permit, subdivision plan, map or plat, providing for individual or community water supply or sewerage system, or for solid waste acceptable facilities, shall be allowed if it is not in conformance with a county water or sewer plan. Thus,</p> <p>a. No building permit shall be approved (i) where existing facilities are inadequate to serve the proposed development, taking into consideration all other existing and approved developments in the service area, or (ii) which will cause facilities for conveyance, pumping, storage or treatment of water, sewage or solid waste to be overloaded.</p> <p>b. No subdivision plat shall be approved in areas where facilities for conveyance, pumping, storage, or treatment of water, sewage, and solid waste to serve the proposed development, (i) would not be completed in time to serve the development, or (ii) if completed, would not be adequate to serve the development without overloading of the facilities.</p>	<p>Article 43, Section 387C</p>	<p>The proposed change is designed to accurately reflect State law.</p>	<p>Any proposed development may only be located where the water supply system, sewerage system, or solid waste acceptance facility is adequate to serve the proposed construction, taking into account all existing and approved developments in the service area and any water supply system, sewerage system, or solid waste acceptance facility described in the application and will not overload any present facility for conveying, pumping, storing, or treating water, sewage, or solid waste. (C-9-3).</p>	<p>Md. Code Ann., Envir. § 9-512 (1988)</p>
<p>7. In order to prevent soil erosion and sediment transport</p>	<p>Natural Resources</p>	<p>Deletion- This</p>	<p>N/A</p>	<p>N/A</p>

<p>from polluting and despoiling State waters to such a degree that fish, marine life, and recreational use of the waters are affected adversely, the Department of Natural Resources shall establish criteria and procedures for the counties and the local soil conservation districts to implement soil and shore erosion control programs. These procedures may provide for departmental review and approval of major grading, sediment, an erosion control plans.</p>	<p>Article, Section 8-1101</p>	<p>policy is directed at State government and is not relevant for federal consistency.</p>		
<p>8. It is the policy of the Water Resources Administration (a) to minimize loss of life and property from flood damage by promoting State and local programs which prevent the development of new damageable property, (b) to assist in the development and construction of sound, cost-effective flood control structures, (c) to implement a storm water management program which will effectively prevent an increase in the magnitude and frequency of flood flows, thus preventing an increase in flood hazard, (d) to maintain the integrity of the natural steam channel geometry, and (e) to encourage the design and implementation of storm water management systems which minimize the entrainment of pollutants and / or provide a reasonable degree of control of storm water before runoff reaches the stream system. Flood control structures are considered the least desirable of the available management methods of handling runoff- related problems.</p>	<p>Natural Resources Article, Title 8, Subtitles 8, 9, 9A, 11 and 14, 56 Attorney General Opinions 478 (1971); Maryland Interim Watershed Management Policy (November, 1977)</p>	<p>Deletion- This policy is directed at State government and is not relevant to the federal consistency process.</p>	<p>N/A</p>	<p>N/A</p>
<p>9. Storm Water runoff collection, storage and /or conveyance systems should simulate as closely as possible the features and functions of the natural drainage system which are largely free of capital, energy, and maintenance</p>	<p>Natural Resources Article, Title 8, Subtitles 8, 9, 9A, 11 and 14, 56 Attorney</p>	<p>The change accurately embodies the aspects of the</p>	<p>Any development or redevelopment of land for residential, commercial, industrial, or institutional purposes shall use small-scale non-structural stormwater management</p>	<p>Md. Code Ann., Envir. § 4-203 (2007) COMAR 26.17.02.01</p>

<p>cost. The system selected should strike a balance among capital costs, operations and maintenance costs, public convenience, risk of significant water- related damage, pollution prevention, fish and wildlife habitat preservation, environmental protection or enhancement and other community objectives. When engineering a site for a storm water management, two overall concepts must be considered: (a) perviousness of the system should be maintained or enhanced, and (b) the rate of runoff should be slowed. Methods which tend to reduce the volume of runoff are preferred over methods which tend to increase the volume of runoff. When considering possible solutions, preference should be given to vegetation and porous systems over non-vegetative or impervious choices.</p>	<p>General Opinions 478 (1971); Maryland Interim Watershed Management Policy (November, 1977)</p>	<p>policy relevant to federal consistency and reflects current state law.</p>	<p>practices and site planning that mimics natural hydrologic conditions, to the maximum extent practicable. Development or redevelopment will be consistent with this policy when channel stability and 100 percent of the average annual predevelopment groundwater recharge are maintained, nonpoint source pollution is minimized, and structural stormwater management practices are used only if determined to be absolutely necessary. (A-2-8)</p>	<p>(2010) COMAR 26.17.02.06 (2009)</p>
<p>Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003</p>	<p>N/A</p>	<p>This policy is derived from the current version of the Critical Area Act and its implementing regulations.</p>	<p>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.</p> <ul style="list-style-type: none"> ○ Nonmaritime 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. 	<p>COMAR 27.01.02.02 (1986)</p>

			<ul style="list-style-type: none"> o 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. 	
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	(B-1-29) 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. (B-1-22)	COMAR 27.01.02.02 (1986)
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	A soil erosion and sedimentation control plan shall be required whenever development within the Critical Area will involve any clearing, grading, transporting, or other form of disturbance to land by the movement of earth. This plan shall be appropriately designed to reduce adverse	COMAR 27.01.02.04 (2010)

			water quality impacts. (B-1-26)	
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	All stormwater storage facilities shall be designed with sufficient capacity to eliminate all runoff caused by the development in excess of that which would have come from the site if it were in its predevelopment state. (B-1-27)	COMAR 27.01.02.04 (2010)
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	<p>The following policies apply in those areas of the Critical Area that are determined to be areas of intense development.</p> <ul style="list-style-type: none"> ○ 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 	COMAR 27.01.02.03 (2010)

			<p>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.</p> <ul style="list-style-type: none"> ○ If practicable, permeable areas shall be established in vegetation. ○ 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 indentified 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. 	
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			<ul style="list-style-type: none"> ○ To the extent practicable, development shall be clustered to reduce lot coverage and maximize areas of natural vegetation. ○ Development shall minimize the destruction of forest and woodland vegetation. <p>(B-1-30)</p>	
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	<p>The following policies apply in those portions of the Critical Area that are not areas of intense development.</p> <ul style="list-style-type: none"> ○ 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. 	COMAR 27.01.02.04 (2010)

			<ul style="list-style-type: none"> ○ All forests 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. 	
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its	(B-1-31) 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	COMAR 27.01.02.04 (2010)

		implementing regulations.	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. (B-1-6)	
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	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. (B-1-8)	COMAR 27.01.02.03C (2010) COMAR 27.01.02.04(C) (2010) COMAR 27.01.02.05(C) (2010)
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	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 upland boundary 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 best management practices that protect water	COMAR 27.01.09.01 (2010) COMAR 27.01.09.01-5 (2010) COMAR 27.01.09.01-7 (2010)

			quality. The buffer is not required if existing patterns of development prevent the buffer from protecting ecological quality and functions, in which case, alternative means of protecting ecological quality and functions are required. (B-1-9)	
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	Disturbance to a buffer in the Critical Area is only authorized for a shore erosion control measure, new development, or redevelopment that is: water-dependent; meets a recognized private right or public need; minimizes the adverse effects on water quality and fish, plant, and wildlife habitat; and, insofar as possible, locates nonwater-dependent structures or operations associated with water-dependent projects or activities outside the buffer. Mitigation of impacts to the buffer and a buffer management plan must be developed in accordance with standards adopted by the Critical Area Commission when a development or redevelopment activity occurs within the buffer. (B-1-10)	COMAR 27.01.09.01 (2010) COMAR 27.01.09.01-2 (2010) COMAR 27.01.09.01-3 (2010) COMAR 27.01.03.03 (1986)
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical	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	COMAR 27.01.09.01-1 (2010) COMAR 27.01.09.01-3

		Area Act and its implementing regulations.	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 long-term protection and maintenance of the buffer. (B-1-11)	(2010)
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	Public beaches or other public water-oriented recreation or education areas including, but not limited to, publicly owned boat launching and docking facilities and fishing piers may be permitted in the buffer in portions of the Critical Area not designated as intensely developed areas only if adequate sanitary facilities exist; 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 minimized. (B-1-12)	COMAR 27.01.03.08 (1986)
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its	Water-dependent research facilities or activities may be permitted in the buffer, if nonwater-dependent structures or facilities associated with these projects are, to the extent possible, located outside the buffer.	COMAR 27.01.03.09 (1986)

		implementing regulations.	(B-1-13)	
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	Industrial and port-related facilities may only be sited in the portions of areas of intense development that are exempted from buffer designation. (B-1-14)	COMAR 27.01.03.05 (1986)
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations	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. (B-1-4)	COMAR 27.01.09.05 (1986)
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	Physical alterations to streams in the Critical Area shall not affect the movement of fish. (B-1-3)	COMAR 27.01.09.05 (1986)
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	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. (B-1-5)	COMAR 27.01.09.05 (1986)

Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	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. (B-1-7).	COMAR 27.01.09.05 (1986)
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	Colonial water bird nesting sites in the Critical Area may not be disturbed during breeding season. (B-1-1)	COMAR 27.01.09.04 (1986)
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	New facilities in the Critical Area shall not interfere with historic waterfowl concentration and staging areas. (B-1-2)	COMAR 27.01.09.04 (1986)

D. MAJOR FACILITIES

1. ONSHORE / OCS / OIL / NATURAL GAS FACILITIES

Current Enforceable Policy (1978)	<u>Enf. Mech.</u> (1978)	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech.</u> (2010)
<p>1. Facilities covered by the provisions of the Coastal Facilities Review Act (CFRA) are subject to comprehensive State review prior to permit decisions on their siting, construction, and operation within Maryland. CFRA facilities are defined as:</p> <ul style="list-style-type: none"> - Pipelines carrying crude oil or natural gas ashore from offshore sources. - Intermediate production terminals or refineries. - Crude oil storage facilities; natural gas transmission, processing or storage facilities; operation bases; or fabrication yards. 	<p>Natural Resources Article 6-508</p>	<p>No Change</p>		<p>Md. Code Ann., Envir. §§ 14-501 to -511 (1997) COMAR 26.22.01 (1977)</p>
<p>2. No CFRA facility certification will be granted in a coastal county unless:</p> <ul style="list-style-type: none"> a. The facility meets all applicable air, water, noise, and solid waste laws of the State. b. The facility confirms with county or local land use planning, and with the official county or local comprehensive zoning map, the State Development Plan, and the State Coastal Zone Management Program. c. The facility would have no significant adverse effect upon the natural environment of the area, its scenic or natural beauty, its rare or irreplaceable natural resources, or its unique 	<p>Natural Resources Article 6-508</p>	<p>No Change</p>		<p>Md. Code Ann., Envir. §§ 14-501 to -511 (1997) COMAR 26.22.01 (1977)</p>

<p>historic sites.</p> <p>d. The facility would not be located or constructed so that adverse effect upon the public health, safety, or welfare would result.</p> <p>e. The facility would not pose an undue burden on the water supply of the site or region.</p> <p>f. The facility would not contribute to undue environmental degradation or resource exhaustion.</p> <p>g. The facility would have no adverse effect upon areas identified and designated as State Critical Areas.</p> <p>h. The facility would not impose a burden on existing State regional or county public facilities beyond their respective capacities.</p> <p>i. New public facilities, if required as a result of the construction and operation of the facility:</p> <ol style="list-style-type: none"> 1. Would be completed in time to serve the facility , or 2. Would be adequate to serve the facility without causing over-loading or the public facilities. <p>j. There are fewer undesirable environmental, economic, fiscal, and cultural consequences in its proposed location than in other locations.</p>				
<p>Oil Pollution Management Law—Incorporated into the MCMP as a RPC in December of 2004</p>	<p>N/A</p>	<p>This policy is derived from the current version of</p>	<p>The construction of above-ground oil storage tanks, dikes, or walls within the tidal wetlands or within the 100-year flood</p>	<p>COMAR 26.10.01.12B(3) (2002)</p>

		the Oil Pollution Management Law and its implementing regulations.	plain is prohibited without first obtaining a State Wetlands Permit or providing an equivalent level of environmental protection. (C-4-7)	
Oil Pollution Management Law—Incorporated into the MCMP as a RPC in December of 2004	N/A	This policy is derived from the current version of the Oil Pollution Management Law and its implementing regulations.	Above-ground oil storage sites shall prevent movement of oil into the waters of the State. (C-4-6)	COMAR 26.10.01.12B(1) (1989)
2. ELECTRIC GENERATING FACILITIES				
Current Enforceable Policy (1978)	<u>Enf. Mech. (1978)</u>	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech. (2010)</u>
1. It is the State's policy to ensure that adequate electric power is provided on a reasonable schedule, at reasonable costs and with the least possible depreciation of the quality of Maryland's environment.	Natural Resources Article, Section 3-304	Deletion – The policy is no longer supported by Maryland law.	N/A	N/A
2. In reviews of applications for certificates of public convenience and necessity, the following criteria will be considered in evaluating power plant sites and transmission lines. a. The recommendations of local governments and State agencies; b. Present and future power demands; c. Impact upon system stability and reliability; d. Economic impact (including fiscal and employment impacts and impacts on public services); irretrievable	Natural Resource Article, Section 3 304	The change succinctly and accurately reflects the policy as relevant to the approval and siting of electrical utility facilities.	2. Proposals for new power plants and transmission lines must account for their impact on the physical, biological, aesthetic, and cultural features of the site and adjacent areas; identify contributions to air and water pollution; recommend mitigation opportunities; and adequately consider recommendations of local government. (C-2-2)	Md. Code Ann., Pub. Util. Cos. § 7-207(e) (2007) COMAR 20.79.03.02B (1997) COMAR 20.79.04.04 (1997)

<p>commitments of resources;</p> <p>e. Environmental impact on air and water quality;</p> <p>f. Impact upon wetland areas;</p> <p>g. Impact upon fish and wildlife resources and habitats;</p> <p>h. Radiological impacts;</p> <p>i. Noise impacts;</p> <p>j. Aviation safety;</p> <p>k. Potential impacts on aesthetics and on historic and archeological sites;</p> <p>l. Potential impacts on public open space, recreational, and natural areas; and</p> <p>m. Potential impacts on state Critical areas.</p>				
<p>3. Power plants shall be sited, constructed, and operated in a manner which minimizes their impacts on tidal wetlands, aquatic resources, terrestrial resources, significant wildlife habitat, public open space, recreational, and natural areas, air and water quality, and the public health, safety, and welfare.</p>	<p>Natural Resources Article, Sections 1-302, 1-303, 3-301 <u>et seq.</u>, 8-1402, 8-1405, 8-1413, 9-202, and 9-306</p>	<p>No change</p>	<p>N/A (C-2-1)</p>	<p>Md. Code Ann., Nat. Res. § 1-302 (1996)</p> <p>Md. Code Ann., Nat. Res. § 3-303 (1991)</p> <p>Md. Code Ann., Nat. Res. § 3-304 (1998)</p> <p>Md. Code Ann., Nat. Res. § 3-306 (1995)</p> <p>Md. Code Ann., Pub. Util. Cos. § 7-208 (2001)</p>
<p>4. A certificate of public convenience and necessity will not be granted to any facility which would violate federal or state air or water quality standards.</p>	<p>Natural Resources Article, Sections 1-103,</p>	<p>Deletion – The policy is not relevant for federal</p>	<p>N/A</p>	<p>N/A</p>

	3-304, 8-1413, Article 78, Section 54A, 54B, 57 Attorney General Opinions 439 (1972)	consistency.		
5. The State will utilize its power plant monitoring and research programs to determine how power plants affect human health and welfare and vitality of the State's natural resources.	Natural Resources Article, Section 3-303, 3-304	Deletion – The policy is not relevant for federal consistency.	N/A	N/A
6. The State will identify, evaluate and acquire 4 to 8 power plant sites.	Natural Resources Article, Section 3-305	Deletion – The policy is not relevant for federal consistency.	N/A	N/A
New Policy	N/A	N/A	3. Proposals for new transmission lines must estimate the capital and annual operating costs of each alternative route considered and explain why each alternative route was rejected. (C-2-3)	COMAR 20.79.04.03 (2004)
New Policy	N/A	N/A	4. Utilities shall maintain the vertical clearances of overhead electric supply lines that cross water surfaces suitable for sailing. (C-2-4)	COMAR 20.50.02.05B (2006)

Current Enforceable Policy (1978)	<u>Enf. Mech.</u> (1978)	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech.</u> (2010)
3. PORTS				
<p>1. Maryland will plan, develop, maintain, operate, and regulate - in cooperation with local jurisdictions and as a supplement to the facilities and services provided by private enterprise - a transportation system which adequately meets the need for movement of people and goods while: supporting local, regional, state and national goals; providing for and facilitating a pattern of physical development which can be efficiently served by transportation; preserving the unique qualities of Maryland's historical and natural resources; maintaining fiscal integrity, and strengthening the economy of Maryland. In order to develop and operate such a transportation system, Maryland will develop and maintain a continuing comprehensive and integrated transportation planning process, including a State Master Plan for Transportation.</p>	<p>Transportation Article, Section 2-103; Maryland Transportation Action Plan</p>	<p>Deletion – The policy is not relevant for federal consistency.</p>	<p>N/A</p>	<p>N/A</p>
<p>2. The development of port facilities in existing port areas by the private sector is in the public interest. However, private operators in port areas have a responsibility to provide modern port and harbor facilities suited to the public that they serve. Therefore, if private facilities are inadequate or inadequately operated at any time, the Maryland Port Administration may construct and operate any supplementary public facilities that are required to meet the public interest.</p>	<p>Transportation Article, Section 2-103</p>	<p>Deletion – The policy is not relevant for federal consistency.</p>	<p>N/A</p>	<p>N/A</p>
<p>3. In carrying out its duties, the Maryland Port Administration may acquire, construct, reconstruct, rehabilitate, improve, maintain lease, repair, and operate port facilities within its territorial jurisdiction, including the dredging of ship channels</p>	<p>Transportation Article, Section 6-204, 6-501)</p>	<p>Deletion- The policy is directed at state government and</p>	<p>N/A</p>	<p>N/A</p>

<p>and turning basins and the filling and grading of land. It may designate the location and character of all port facilities and improvements and regulate all matters related to the location and character of these facilities and improvements. However, the Maryland Port Administration must comply with all local planning and development regulations, State and Federal standards to the same extent as a private commercial or industrial enterprise.</p>		<p>is not relevant federal consistency.</p>		
<p>4. The expenditure of public funds requested for port construction and operation, including the dredging of ship channels and turning basins, and the filling and grading of land, will be evaluated on the bases of a) existing and projected business conditions, freight rates and port services, b) physical surveys of channel conditions and structures, c) need for port facilities to develop, improve, and more speedily handle commerce, d) economic impact of these funds on existing public facilities, e) beneficial effects of the project on the environment, f) measures such as monitoring, maintenance, and replacement that might minimize potential adverse environmental effects and maximize potential beneficial environmental effects; and g) reasonable alternatives to the project that might have fewer adverse environmental effects or greater beneficial environmental effects (including the alternative of no action). Loan to local subdivisions for the acquisition or construction of port facilities shall be based on such considerations.</p>	<p>(Transportation Article, Sections 6-204, 6-307; Natural Resources Article Section 1-302, 1-303)</p>	<p>Deletion – The policy is not relevant for federal consistency.</p>	<p>N/A</p>	<p>N/A</p>
<p>5. Location and regulation of private port facilities necessary to service OCS exploration, development, and production will be evaluated pursuant to the Coastal Facilities Review Act.</p>	<p>Natural Resources Article, Section 6-501</p>	<p>Deletion – This policy is unnecessary in light of a collection of</p>	<p>N/A</p>	<p>N/A</p>

		proposed enforceable policies in the policy area Oil and Natural Gas Facilities.		
<p>6. The Governor shall ensure that state interests are adequately represented in federal decisions regarding deep-water port applications. The State's position shall be based upon a comprehensive analysis of the proposed project by the Department of Natural Resources, subject to review by the State Legislature. The following factors shall be considered in the development of the state's position:</p> <p>a. Environmental factors including: the effect on the marine environment; the effect of land-based developments related to deepwater port development; the effect on human health and welfare; the effect on the State's Coastal Zone Management Program under Sections 301 (A) and (B) of the Federal Coastal Zone Management Act of 1972 and the effect of other considerations that the Secretary of the federal Department of Transportation may deem appropriate.</p> <p>b. Economic, social and cultural factors.</p> <p>c. Impacts on existing and future State and local public facilities and services.</p> <p>d. Evidence presented at public hearings held within the State, either required under the Federal Act or conducted by the State.</p>	Natural Resources Article, Section 3-501 et seq.	Deletion – The policy is not relevant for federal consistency.	N/A	N/A

<p>e. The findings of any statement prepared pursuant to Section 6-506 of the Coastal Facilities Review Act, and the status of any permit action pursuant to that Act.</p> <p>f. Views, of all interested State agencies, and county or local governments.</p>				
<p>7. Baltimore Harbor is the State's primary maritime commercial and industrial center. Consequently, new privately operated port facilities designed to open new areas of the coastal zone will be discouraged unless a port-related development is necessary to serve a specific necessary industrial use requiring water access.</p>	<p>Transportation Article Section 2-403, 6-102, 6-204, 6-606; Natural Resources Article, Section 1-302, 1-303, 8-203, 8-1402, 8-1405, 9-102, 9-306</p>	<p>Deletion – The policy is not relevant for federal consistency.</p>	<p>N/A</p>	<p>N/A</p>
<p>8. Commercial port facilities must be adequately sited, constructed and operated pursuant to a) local comprehensive plans, zoning ordinances, and performance contracts, b) all applicable air, water, noise and solid waste laws of Maryland, c) the Maryland Coastal Zone Management Program, d) the State Development Plan, e) the State Critical Areas Program, and f) the Coastal Facilities Review Act. Commercial port facilities which cause congestion problems, safety problems, excessive dredging, adverse impacts on water quality and aquatic resources are not consistent with the public interest.</p>	<p>Transportation Article Section 2-103, 6-102, 6-204, 6-206, 6-304, 6-305, 6-309; Natural Resources Article, Section 1-302, 1-303, 6-501 et seq., 8-1402, 8-1405, 9-102, 9-202, 9-306</p>	<p>Deletion – The enforceable policy is not supported by current Maryland law.</p>	<p>N/A</p>	<p>N/A</p>

New Policy	N/A	N/A	A person may not introduce in the Port of Baltimore any hazardous materials, unless the cargo is properly classed, described, packaged, marked, labeled, placarded, and approved for highway, rail, or water transportation. (A-1-13)	COMAR 11.05.02.04A(1995)
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4. INDUSTRIAL PARKS

Current Enforceable Policy (1978)	<u>Enf. Mech.</u> (1978)	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech.</u> (2010)
1. It is State policy to provide for the economic welfare of the State's residents through programs and activities that develop properly the State's natural resources and economic opportunities. The State promotes and encourages the location of new industries and businesses in Maryland as well as the expansion of existing industries.	Article 41, Section 258	Deletion – The policy is not relevant for federal consistency.	N/A	N/A
2. The acquisition and preservation of industrial sites can best be accomplished by cooperative programs between the State and its political subdivisions, including loans to local governments. A decision on a loan to a local government will be based on the following considerations: a. Whether the project may reasonably be expected to attract industry and create new employment opportunities. b. The amount of benefit, in terms of economic development and employment opportunities, which the project may reasonably be expected to generate in relation to similar benefits of other proposed projects, and in the context of the total funds available for lending.	Natural Resources Article, Section 1-302, 1-303, 1-304 and Article 41, Section 439, 440, and 441	Deletion – The policy is not relevant for federal consistency.	N/A	N/A

<p>c. Whether the project, as planned, will be in compliance with zoning, sanitary, and other laws of regulations applicable to the project.</p> <p>d. Whether and to what extent federal or other funds are available or are likely to become available for the project.</p> <p>e. The positive and negative effects of the proposed project on the environment, including environmental effects that are likely if the proposal is implemented, and effects that are likely if it is not implemented.</p> <p>f. Measures that might be taken to minimize potential adverse environmental effects and maximize potential beneficial environmental effects, including monitoring, maintenance, replacement, operation, and other follow-up activities.</p> <p>g. Reasonable alternatives to the proposed action (including the alternative of no action) that might have fewer adverse environmental effects or more beneficial environmental effects.</p>				
<p>3. Industrial parks will be carefully sited and planned to insure compatibility with surrounding land and water uses, constraints imposed due to standards of air, noise and water quality, minimization of other environmental impacts, and provision or availability of adequate water supply, waste water treatment, and transportation facilities.</p>	<p>Natural Resources Article, Section 1-302, 1-303, 8 1405, 9-102; Article 88C</p>	<p>The change accurately reflects the policy as relevant to federal consistency.</p>	<p>Industrial facilities must be sited and planned to insure compatibility with other legitimate beneficial water uses, constraints imposed due to standards of air, noise and water quality, and provision or availability of adequate water supply and waste water treatment facilities. (C-9-7)</p>	<p>Md. Code Ann., Envir. § 2-102 (1957)</p> <p>Md. Code Ann., Envir. § 4-402 (1980)</p> <p>Md. Code Ann., Envir. § 9-224(b) (1987)</p> <p>Md. Code Ann., Envir.</p>

				§ 9-512(b) (1988) COMAR 26.02.03.02 (1982) COMAR 26.11.02.02(B) (1995)
4. Industrial park areas identified within State critical areas designated for utilization purposes will be given priority for state or federal funds used for acquisition or construction of industrial parks.	Article 88C 2 (g); Article 41, Section 440, 441	Deletion – The policy is not relevant for federal consistency.	N/A	N/A
New Policy	N/A	N/A	Unless otherwise permitted, used oil may not be dumped into sewers, drainage systems, or any waters of the State or onto any public or private land. (A-2-9)	Md. Code Ann., Envir. § 5-1001(f) (1988)
New Policy	N/A	N/A	Controlled hazardous substances may not be stored, treated, dumped, discharged, abandoned, or otherwise disposed anywhere other than a permitted controlled hazardous substance facility or a facility that provides an equivalent level of environmental protection. (A-1-12)	Md. Code Ann., Envir. § 7-265(a) (1986)
New Policy	N/A	N/A	The use of best available technology is required for all permitted discharges into State waters, but if this is insufficient to comply with the established water quality standards, additional treatment shall be required and based on waste load allocation.	COMAR 26.08.03.01C (1988)

			(A-2-5)	
New Policy	N/A	N/A	Thermal discharges shall be controlled so that the temperature outside the mixing zone (50 feet radially from the point of discharge) meets the applicable water quality criteria or discharges comply with the thermal mixing zone criteria. (A-2-6)	COMAR 26.08.03.03(C) (2004)
New Policy	N/A	N/A	The location, design, construction, and capacity of cooling water intake structures shall reflect the best technology available for minimizing adverse environmental impact, specifically impingement and entrainment losses. (C-2-5)	COMAR 26.08.03.05 (1990)
New Policy	N/A	N/A	Proponents of grading or building in the Severn River Watershed must create a development plan and have it approved by the soil conservation district. The plan shall include a strategy for controlling silt and erosion and must demonstrate that any septic or private sewer facility will not contribute to the pollution of the Severn River. (C-9-6)	Md. Code Ann., Envir. § 4-308(a) (1989)

5. MINERAL EXTRACTION FACILITIES (SAND AND GRAVEL)

Current Enforceable Policy (1978)	<u>Enf. Mech.</u> (1978)	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech.</u> (2010)
<p>1. While the extraction of minerals by mining is a basic and essential activity contributing to the economic well-being of Maryland, mining must be conducted in a way which minimizes its effects on the surrounding environment. Proper reclamation of mined land is necessary to prevent undesirable land and water impacts that are detrimental to the general welfare, safety, beauty, and property rights of Maryland residents.</p>	<p>Natural Resources Article, Title 7-6A02</p>	<p>The change accurately reflects the policy as relevant to federal consistency.</p>	<p>Surface mining activities must be conducted in a manner that protects birds and wildlife; decreases soil erosion; prevents pollution of rivers, streams, and lakes; prevents loss or waste of valuable mineral resources; and prevents and eliminates hazards to health. (C-1-2)</p>	<p>Md. Code Ann., Envir. § 15-802(b) (1993)</p> <p>Md. Code Ann., Envir. § 15-807(d) (1992)</p> <p>Md. Code Ann., Envir. § 15-822(c) (1993)</p> <p>Md. Code Ann., Envir. § 15-828(b) (1985)</p>
		<p>The change accurately reflects the policy as relevant to federal consistency.</p>	<p>Mined land must be properly reclaimed, including rehabilitating settling ponds; restoring or establishing stream channels and stream banks to a condition that minimizes erosion, siltation, and other pollution; and creating final slopes in all excavations at an angle that minimizes the possibility of slides and is consistent with the future use of the land. (C-1-32)</p>	<p>Md. Code Ann., Envir. § 15-802(a) (1993)</p> <p>Md. Code Ann., Envir. § 15-807(d) (1992)</p> <p>Md. Code Ann., Envir. § 15-822 (1993)</p> <p>Md. Code Ann., Envir. § 15-828(b) (1985)</p>
<p>2. Permits for surface mining operations will not be granted if:</p> <p>a. The operation will have an unduly adverse effect on wildlife of fresh water, estuarine, or marine fisheries.</p>	<p>Natural Resources Article, Sections 1-302, 1-303, 1-304, 7-</p>	<p>The change accurately reflects the policy as relevant to federal</p>	<p>Surface mining activities must not have an unduly adverse effect on wildlife or freshwater, estuarine, or marine fisheries; constitute a substantial physical hazard to a neighboring house, school, church, hospital,</p>	<p>Md. Code Ann., Envir. § 15-802(a) (1993)</p> <p>Md. Code Ann., Envir. § 15-810(b) (2005)</p>

<p>b. The operator has failed to provide applicable permits from all State and local regulatory agencies responsible for air and water pollution and sediment control.</p> <p>c. The operation will constitute a substantial physical hazard to a neighboring house, school, church, hospital, commercial or industrial building, public road, or other public or private property existing at the time of application for the permit.</p> <p>d. The operation will have significantly adverse effect on the uses of a publicly owned park, forest, or recreation areas existing at the time of application for the permit.</p> <p>e. The operation does not possess a valid surface mine operator's license or is subject of action brought against by the Department of Natural Resources.</p> <p>f. Inadequate consideration has been given to:</p> <ol style="list-style-type: none"> 1. The effects of the proposed action on the environment, including adverse and beneficial environmental effects that are reasonably likely if the proposal is implemented or if it is not implemented. 2. Measures that might be taken to minimize potential adverse environmental effects, including monitoring, maintenance, replacement, operation, and other follow-up activities. <p>g. Previous experience with similar operations indicates a significant probability that the operation will result in substantial deposits of sediment in stream beds or lakes,</p>	<p>6A06, 7-6A07, 7-6A09</p>	<p>consistency.</p>	<p>commercial or industrial building, public road, or other public or private property in existence at the time of application for the permit; or significantly adversely affect the uses of a publicly owned park, forest, or recreation area in existence at the time of application for the permit. (C-1-3)</p>	
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landslides, or will cause other water pollution.				
3. No surface mining permit will be issued unless it is conditioned upon compliance with an approved mining and reclamation plan	Natural Resources Article, Section 7-6A10	The change accurately reflects the policy as relevant to federal consistency.	A mining and reclamation plan for a mineral extraction activity must outline mining methods, intended reclamation practices, land uses before and after mining, areas to be affected by the mining, and measures to protect other uses and the environment. (C-1-12)	Md. Code Ann., Envir. § 15-807(d) (1992) Md. Code Ann., Envir. § 15-808(d) (1991) Md. Code Ann., Envir. § 15-822 (1993) Md. Code Ann., Envir. § 15-828(b) (1985)
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	In the Critical Area, mining must be conducted in a way that allows the reclamation of the site as soon as possible and to the extent possible. (B-1-23)	COMAR 27.01.07.02B (1986)
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	All available measures must be taken to protect the Critical Area from all sources of pollution from surface mining operations, including but not limited to sedimentation and siltation, chemical and petrochemical use and spillage, and storage or disposal of wastes, dusts, and spoils. (B-1-22)	COMAR 27.01.07.02A (1986)
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its	Sand and gravel operations shall not occur within 100 feet of the mean high water line of tidal waters or the edge of streams or in areas with scientific value, important natural resources such as threatened and	COMAR 27.01.07.03D (1986)

		implementing regulations.	endangered species, rare assemblages of species, or highly erodible soils. Sand and gravel operations also may not occur where the use of renewable resource lands would result in the substantial loss of forest and agricultural productivity for 25 years or more or would result in a degrading of water quality or a loss of vital habitat. (B-1-24)	
Critical Area Act and Regulations—Incorporated into the MCMP in August of 1984, July of 1987, and October 2003	N/A	This policy is derived from the current version of the Critical Area Act and its implementing regulations.	Wash plants including ponds, spoil piles, and equipment may not be located in the 100-foot buffer. (B-1-25)	COMAR 27.01.07.03E (1986)
New Policy	N/A	N/A	Prior to the commencement of a mineral extraction activity, the appropriate county must issue a written statement that the proposed land use conforms to all applicable county zoning and land use requirements. (C-1-13)	Md. Code Ann., Envir. § 15-810(c) (2005)
New Policy	N/A	N/A	The removal of vegetation, topsoil, and overburden before surface mining must be minimized, and erosion and sediment control devices must be constructed and maintained. (C-1-20)	COMAR 26.21.01.10 (1989)
New Policy	N/A	N/A	During surface mining, topsoil shall be removed, segregated, and stockpiled on-site for reclamation and protected by a vegetative cover or by other methods	COMAR 26.21.01.11 (1989)

			demonstrated to provide protection. (C-1-22)	
New Policy	N/A	N/A	Storage piles of overburden, mine waste, and rock from surface mining must be stabilized and may not restrict any natural drainage without an approved diversion. (C-1-25)	COMAR 26.21.01.12 (1989)
New Policy	N/A	N/A	Surface mining reclamation shall be completed in accordance with the mining and reclamation plan within 2 years after mineral extraction has terminated. (C-1-35)	COMAR 26.21.01.16 (1989)
New Policy	N/A	N/A	Surface mining shall not occur within 25 feet of any property line or 100 feet of any scenic and wild river or its tributaries or any parcel of land that has been designated an area of critical State concern. (C-1-9)	COMAR 26.21.01.17 (1989)
New Policy	N/A	N/A	If water is pumped out of a pit located in karst terrain in Baltimore, Carroll, Frederick, and Washington counties, the project proponent shall replace a water supply if it fails as a result of declining ground water levels and pay compensation for property damage from land subsidence. (C-1-29)	Md. Code Ann., Envir. § 15-813 (1991)
New Policy	N/A	N/A	Coal mining may not adversely affect any publicly owned park or place recorded in the National Register of Historic Sites without approval from the appropriate agency and is prohibited in the Youghiogheny River scenic corridor; within 100 feet of a cemetery, a perennial or	Md. Code Ann., Envir. § 15-505(b) (1988) Md. Code Ann., Envir. § 15-506(e) (1981) COMAR 26.20.20.03

			intermittent stream, or the outside right-of-way line of any public road; and in areas designated unsuitable for certain types of surface coal mining. (C-1-7)	(1995)
New Policy	N/A	N/A	Underground coal mining activities may not be conducted beneath or adjacent to any perennial stream or impoundment having a storage volume of 20 acre-feet or more. Underground mining activities beneath any aquifer that serves as a significant source of water supply to any public water system shall be conducted so as to avoid disruption of the aquifer and consequent exchange of ground water between the aquifer and other strata. (C-1-8)	COMAR 26.20.13.10 (1995)
New Policy	N/A	N/A	Coal mining operations shall be conducted to minimize water pollution, and, where necessary, treatment methods shall be used to control water pollution. (C-1-6)	COMAR 26.20.13.05(B) (1980) COMAR 26.20.21.01 (1995)
New Policy	N/A	N/A	During any coal mining activities, changes in the depth to ground water, in water quality and quantity, and in the location of surface water drainage channels shall be minimized. (C-1-27)	COMAR 26.20.21.01 (1995)
New Policy	N/A	N/A	Underground coal mining activities shall be planned and conducted so as to prevent subsidence from causing material damage to the extent technologically and economically feasible. C-1-15)	COMAR 26.20.13.07(A) (2005)

New Policy	N/A	N/A	Surface coal mining activities shall use the best available technology to minimize disturbances and adverse impacts on fish, wildlife, and related environmental values, and shall achieve enhancement of the resources when practicable. (C-1-4)	COMAR 26.20.23.02(A) (1992)
New Policy	N/A	N/A	A surface coal mining activity may not be conducted in a way that is likely to jeopardize the continued existence of endangered or threatened species listed by the federal or state government. (C-1-5)	COMAR 26.20.23.02(B) (1992)
New Policy	N/A	N/A	Coal project proponents must draft a mining and reclamation plan, including a description of the natural resources, geology, and cultural and historical resources within the proposed permit and adjacent areas and the methods for road construction, removing topsoil, controlling drainage, backfilling, and revegetating the affected area, as well as identify baseline hydrologic information and determine the probable hydrologic consequences of the mining and reclamation operations upon surface and ground waters on and off the permit area and plan remedial and reclamation activities. (C-1-11)	Md. Code Ann., Envir. § 15-505(c) (1987) Md. Code Ann., Envir. § 15-822 (1993) COMAR 26.20.02.05-.09 (1982) COMAR 26.20.02.14 (1982)
New Policy	N/A	N/A	If the probable hydrologic consequences of the proposed coal mining operation are contamination, diminution, or interruption of an underground or surface source of	COMAR 26.20.02.08 (1982)

			water that is used for domestic, agricultural, industrial, or other legitimate purpose, the project proponent shall analyze the availability of water and alternative water sources. (C-1-14)	
New Policy	N/A	N/A	The operator of a coal mine shall replace the water supply of an owner of interest in real property who obtains all or part of the owner's supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where the supply has been affected by contamination, diminution, or interruption proximately resulting from the mining operations. (C-1-28)	Md. Code Ann., Envir. § 15-524(b) (1988) Md. Code Ann., Envir. § 15-608(b) (1989) COMAR 26.20.13.05D (2005) COMAR 26.20.20.11 (1980)
New Policy	N/A	N/A	Surface coal mining activities and restoration efforts shall be conducted so as to maintain the recharge capacity of surface mining areas and support the approved post mining land use, minimizes disturbances to the hydrologic balance in the mine plan area and in adjacent areas, and provides a rate of recharge that approximates the pre-mining recharge rate. (C-1-30)	COMAR 26.20.20.02 (1980) COMAR 26.20.21.01A (1980)
New Policy	N/A	N/A	All surface drainage from coal mining and discharge of water from underground coal mining to surface waters shall be passed through a sedimentation pond, a series of sedimentation ponds, or a treatment facility before leaving the permit area. (C-1-24)	COMAR 26.20.13.06 (1980)

New Policy	N/A	N/A	Diversions shall be designed, constructed, and maintained to minimize adverse impacts, including preventing the contribution of suspended solids to streamflow and runoff outside an area where coal mining permitted, to the extent possible using the best technology currently available. (C-1-17)	COMAR 26.20.21.03 (1995)
New Policy	N/A	N/A	Sediment control measures shall be designed, constructed, and maintained using the best technology currently available to prevent additional contributions of sediment to streamflow or runoff outside an area where coal mining is permitted. (C-1-16)	COMAR 26.20.21.05(A) (1980)
New Policy	N/A	N/A	The discharge of water from coal mining areas shall be conducted so as to reduce erosion, prevent deepening or enlargement of stream channels, and minimize disturbance of the hydrologic balance. (C-1-23)	COMAR 26.20.21.07 (1980)
New Policy	N/A	N/A	The placement of backfilled materials shall be done in a way that minimizes contamination and other adverse effects of coal mining on ground water systems outside the permit area and supports approved postmining land uses. (C-1-33)	COMAR 26.20.20.01(A) (1980)
New Policy	N/A	N/A	Pits, cuts, and other mine excavations or disturbances for coal mining shall be located, designed, constructed, and utilized in such a manner as to prevent adverse	COMAR 26.20.20.01(B) (1980)

			impacts, including the discharge of acid, toxic, or otherwise harmful mine drainage waters into ground water systems. (C-1-18)	
New Policy	N/A	N/A	An area exposed for surface coal mining shall be protected and stabilized to effectively control erosion and air pollution attendant to erosion. (C-1-21)	COMAR 26.20.23.01(A) (1994)
New Policy	N/A	N/A	Vegetative cover shall be established on all areas disturbed by surface coal mining in a manner that is compatible with the approved post-mining land use. (C-1-34)	COMAR 26.20.29.01(A) (1992)
New Policy	N/A	N/A	An ephemeral, intermittent, or perennial stream may not be diverted during coal prospecting activities. Overland flow of water shall be diverted only in a manner that prevents erosion and, to the extent possible using best available technology, additional contributions of suspended solids to streamflow or runoff outside the prospecting area. (C-1-26)	COMAR 26.20.08.04 (1983)
New Policy	N/A	N/A	Habitats of unique value for fish, wildlife, and other related environmental values shall be identified prior to commencing coal prospecting activities and shall be protected during those activities. (C-1-1)	COMAR 26.20.08.04 (1983)
New Policy	N/A	N/A	Coal prospect pits may not be more than 1 acre in size or affect more than 10 acres and shall be backfilled, seeded, and mulched within 30 days after it is opened. (C-1-10)	COMAR 26.20.08.04 (1983)
New Policy	N/A	N/A	Promptly after coal prospecting activities	COMAR 26.20.08.04

			are completed, all areas disturbed during prospecting operations, including roads, shall be returned to the approximate original contour. (C-1-31)	(1983)
6. LARGE-SCALE RESIDENTIAL FACILITIES				
Current Enforceable Policy (1978)	<u>Enf. Mech.</u> (1978)	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech.</u> (2010)
1. Large-scale residential development must 1) be consistent with state and local plans and regulations; 2) minimize impacts on water quality, tidal and non-tidal wetlands, State critical areas, productive agricultural or forested lands, and historical/cultural/ archeological resources; 3) avoid creating or aggravating natural hazard conditions; 4) avoid placing undue burdens on public services or fiscal, economic, or social conditions.	Article 88C; Article 66B; Article 25; Article 43, Section 387C: Article 45, Section 882 et seq; Natural Resources Article; Section 1-302, 1-303, 8-9A04, 8-1101, 8-1103, 8-1104, 8-1402, and 8-1405, 9-102, 9-202, 9-306	The change accurately reflects current State law relevant to federal consistency.	Development must avoid and then minimize the alteration or impairment of tidal and non-tidal wetlands; minimize damage to water quality and natural habitats; minimize the cutting or clearing of trees and other woody plants; and preserve sites and structures of historical, archeological, and architectural significance and their appurtenances and environmental settings. (C-9-2)	Md. Code Ann., Envir. § 4-402 (1980) Md. Code Ann., Envir. § 5-907(a) (1989) Md. Code Ann., Envir. § 16-102(b) (1973) Md. Code Ann., Nat. Res. § 5-1606(c) (1991) Md. Code Ann., Nat. Res. § 8-1801(a) (2008) Md. Code Ann., Art. 66B § 8.01(b) (2000) COMAR 26.24.01.01(A) (1994)
2. It is State policy to utilize the intervention powers of the Department of State planning to ensure that large-scale	Article 88c, Section 2 (q);	Deletion – This policy is not	N/A	N/A

residential developments are sited, constructed and maintained in a manner which fully considers State interests.	Natural Resources Article, Section 1-101, 1-104, 1-302, 1-303	relevant for federal consistency.		
New Policy	N/A	N/A	A proposed construction project must have an allocation of water and wastewater from the county whose facilities would be affected or, in the alternative, prove access to an acceptable well and on-site sewage disposal system. The water supply system, sewerage system, and solid waste acceptance facility on which the building or development would rely must be capable of handling the needs of the proposed project in addition to those of existing and approved developments. (C-9-4)	Md. Code Ann., Envir. § 9-512 (1988)
New Policy	N/A	N/A	Any residence or commercial establishment that is served or will be served by an on-site sewage disposal system or private water system must demonstrate that the system or systems are capable of handling the existing and reasonably foreseeable sewage flows or water demand prior to construction or alteration of the residence or commercial establishment. (C-9-5)	COMAR 26.04.02.02(D) (1992)

New Policy	N/A	N/A	Before constructing, installing, modifying, extending, or altering an outlet or establishment that could cause or increase the discharge of pollutants into the waters of the State, the proponent must hold a discharge permit issued by the Department of the Environment or provide an equivalent level of water quality protection. (A-2-4)	Md. Code Ann., Envir.. § 9-323(a) (1982)
New Policy	N/A	N/A	Local citizens shall be active partners in planning and implementation of development. (C-9-8)	Md. Code Ann., St. Fin. & Proc. § 5-7A-01 (2009) Md. Code Ann., St. Fin. & Proc. § 5-7A-02 (1992)
New Policy	N/A	N/A	Development shall protect existing community character and be concentrated in existing population and business centers, growth areas adjacent to these centers, or strategically selected new centers. (C-9-9)	Md. Code Ann., St. Fin. & Proc. § 5-7A-01 (2009) Md. Code Ann., St. Fin. & Proc. § 5-7A-02 (1992)
New Policy	N/A	N/A	Development shall be located near available or planned transit options. (C-9-10)	Md. Code Ann., St. Fin. & Proc. § 5-7A-01 (2009) Md. Code Ann., St. Fin. & Proc. § 5-7A-02 (1992)

New Policy	N/A	N/A	Whenever possible, communities shall be designed to be compact, contain a mixture of land uses, and be walkable. (C-9-11)	Md. Code Ann., St. Fin. & Proc. § 5-7A-01 (2009) Md. Code Ann., St. Fin. & Proc. § 5-7A-02 (1992)
New Policy	N/A	N/A	To meet the needs of existing and future development, communities must identify adequate drinking water and water resources and suitable receiving waters and land areas for stormwater management and wastewater treatment and disposal. (C-9-12)	Md. Code Ann., Art. 66B § 3.05 (2006)
7. SEWAGE TREATMENT FACILITIES				
Current Enforceable Policy (1978)	<u>Enf. Mech. (1978)</u>	<u>Proposed Change</u>	<u>Proposed Language</u>	<u>Enf. Mech. (2010)</u>
1. It is State policy to improve, conserve and manage the quality of the State's waters for public supplies, propagation of wildlife, fish and aquatic life and domestic, agricultural, industrial, recreational and other legitimate beneficial uses.	Natural Resources Art. Section 8-1402; Art. 43, Section 388	The change accurately reflects current State law relevant to federal consistency.	The quality of state waters shall be protected, maintained, and improved for public supplies, propagation of wildlife, fish and aquatic life, and domestic, agricultural, industrial, recreational, and other legitimate beneficial uses. (C-10-1)	Md. Code Ann., Envir. § 4-402 (1980) Md. Code Ann., Envir. § 9-302(b) (2002) Md. Code Ann., Envir. § 9-323(a) (1982)
2. It is State policy to provide that no waste is discharged into any waters of the State without first receiving adequate treatment to be consistent with effluent limitations and the maintenance of water quality standards.	Natural Resources Article, Section 8-1402, 8-1405, and 8-1413	The change accurately reflects current State law relevant to federal consistency.	No waste shall be discharged into any waters of the State without first receiving necessary treatment or other corrective action to protect the legitimate beneficial uses of the State's waters. (C-10-2)	Md. Code Ann., Envir. § 9-302(b) (2002) Md. Code Ann., Envir. § 9-323(a) (1982)

3. In the proposed formulation of State water quality management plans, including the designation of scenic areas and sewerage facilities, consideration shall be given to areas of critical state concern.	Natural Resources Art. Section 8-1402, 8-1404, 8-1405, Art. 88C	Deletion – This policy is not relevant for federal consistency.	N/A	N/A
4. It is State policy not to fund or authorize the construction of sewage treatment plants which are not consistent with the State's 208 Water Quality Management Plan.	Art. 43, Section 394; Natural Resources Art. 8-1402, 8-1404, 8-1405	Deletion – The policy is no longer supported by Maryland law.	N/A	N/A
5. Sewage treatment plants must not be located in tidal or non-tidal wetlands, or in Areas of Critical State Concern designated for the purpose of preservation or conservation.	Natural Resources Article, Section 9-101 et seq.; Article 88C, Section 2 (b)	Deletion – The policy is no longer supported by Maryland law.	N/A	N/A
6. In order to minimize shellfish bed closures, sewage treatment plant outfalls must not be located where they impinge upon the commercial harvest of seafood, unless no feasible alternative exists.	Natural Resources Article, Sections 1-302, 1-303, 8-1402, 8-1413	The change accurately reflects current state law relevant to federal consistency.	If discharging into shellfish harvesting waters, sewage treatment must be sufficient to protect shellfish harvesting, potentially requiring advanced waste treatment, and the treatment plant must have a bypass control system, including a minimum 24-hour emergency holding facility. (C-10-13)	COMAR 26.08.04.04C (1990)
7. Sewage treatment plants must not be located in flood plains unless no feasible alternative exists. When sewage treatment plants are located in flood plains, they must be adequately flood-proofed.	Natural Resources Article, Sections 8-801, 8-803, 8-807	Deletion – The policy is no longer supported by Maryland law.	N/A	N/A
8. The effects of treated effluent materials on the aquatic	Natural	Deletion – This	N/A	N/A

resources of the Bay must be determined through research. Results of this research must be used to set water quality and effluent standards and to establish permit limitations.	Resources Article, Section 8-1405	policy is not relevant for federal consistency.		
9. Plans for new sewage treatment plants must consider the need for advanced wastewater treatment, nutrient removal, and other alternatives to meet State water quality standards and effluent limitations.	Natural Resources Article, Section 8-1402, 8-1405, and 8-1413	The change accurately reflects the policy as relevant to federal consistency.	New sewage treatment plants shall be constructed so as to meet the State effluent water quality standards, including those for bacteriological values, dissolved oxygen, pH, and temperature conditions, which may require advanced waste treatment. (C-10-8)	Md. Code Ann., Envir. § 4-303 (1980)
10. Before construction can begin on installation or extension of any system of water supply, sewerage, or refuse disposal, the project must be approved by the Department of Health and Mental Hygiene in accordance with the Department's responsibility to protect public health, safety and welfare. In addition, the Department of Health and Mental Hygiene shall examine all existing public water supplies, sewerage systems and refuse disposal plants, and shall have power to complete their operation in a manner which shall protect the public health and comfort, or to order their alteration, extension, or replacement by other structures when deemed necessary.	Article 43, Sections 388 and 394	The change accurately embodies the policy as relevant to federal consistency and reflects current state law.	A user of sewage sludge may not interfere with any inspection of a sewage sludge utilization site, including prohibiting access to any representative of the Department of the Environment, to a local health official, or to the local health official's designee who requests access to insure compliance with the appropriate rules and regulations. (C-10-19)	Md. Code Ann., Envir. § 9-243 (1993) COMAR 26.04.06.06 (1986)
11. Each county shall develop water and sewer plans which provide for the orderly expansion and extension of community and multi-use water supply, sewerage and solid waste disposal systems. Such plans shall be consistent with applicable county and local land use plans, and shall consider related aspects of land use, zoning, population estimates, engineering and economic factors, and all governmental, industrial, and other plans for privately owned facilities for water and sewerage at any level. The	Article 43, Section 387C)	Deletion – This policy is not relevant for federal consistency.	N/A	N/A

<p>construction and operation of water supply systems and sewerage systems shall not be undertaken unless they are included in water and sewer plans approved by the Department of Health and Mental Hygiene, after consultation with the Department of Natural Resources (on matters pertaining to water allocation, adequacy of industrial waste treatment, and the effect of proposed withdrawals and waste discharges on waters of the State), the Department of State Planning (on the plan's adequacy, including its consistency with the local master plan), and the Department of Agriculture (on the impact of water and sewerage service on production or potentially productive agricultural land).</p>				
<p>12. Sewage treatment plants with significant excess capacity will not be approved unless they are consistent with the 208 Plan for the service area, and with population projections of the Department of State Planning.</p>	<p>Federal Water Pollution Control Act Amendments of 1972, Section 201; Article 43, Sections 387C, 394</p>	<p>Deletion – The policy is no longer supported by Maryland law.</p>	<p>N/A</p>	<p>N/A</p>
<p>13. It must be demonstrated that any proposed sewage treatment facility represents the most cost-effective means of meeting established effluent and water quality goals, recognizing social and environmental considerations.</p>	<p>Federal Water Pollution Control Act Amendment of 1972, Section 301; Article 43, Sections 387C, 394</p>	<p>Deletion – The policy is no longer supported by Maryland law.</p>	<p>N/A</p>	<p>N/A</p>
<p>14. In the development of facility plans for new publicly owned treatment works, the utilization of land treatment processes to reclaim and recycle municipal wastewater should be given first consideration. If a method that</p>	<p>EPA Policy Memorandum, October 3, 1977.</p>	<p>Deletion – The policy is not supported by Maryland law.</p>	<p>N/A</p>	<p>N/A</p>

encourages water conservation, wastewater reclamation and reuse is not recommended, the application for construction funds should be required to provide complete justification for the rejection of land treatment.				
15. It is State policy to ensure that sewage sludge is managed and disposed of in such a way as to protect the public health and the environment from the hazards associated with this material, due to the presence of pathogenic organisms, parasites and heavy metals, or other toxic materials which may have adverse effects on humans or which may contaminate crops, groundwater, or surface water. No individual, corporation, municipality, county, district, or institution may engage in collection, handling, burning, storage or transportation of sewage sludge without first obtaining a permit from the Secretary of Health and Mental Hygiene.	Article 43, Section 394 (b); Department of Health and Mental Hygiene, Regulation 10.03.48	The change accurately reflects the policy as relevant to federal consistency.	18. Prior to utilizing sewage sludge in Maryland, a person shall obtain a sewage sludge utilization permit from the Maryland Department of the Environment or provide an equivalent level of environmental protection. (C-10-18)	Md. Code Ann., Envir. § 9-231 (1987)
16. Both the State and its political subdivisions have the legal authority to restrict access to sewage treatment systems in order to control growth, so that it is phased with the construction of associated public services, including sewage treatment facilities and other capital improvements.	Natural Resources Article, Section 8-1402, 8-1405, 8-1413; Article 43, Section 387, 394; 60 Op Att'y Gen. 508 (1975)	Deletion – This policy is not relevant for federal consistency.	N/A	N/A
17. No building permit, subdivision plan, map or plat; providing for individual or community water supply or sewerage system, shall be allowed unless it is in conformance with a county water or sewer plan. Thus: a. No building permit shall be approved (i) where existing facilities are inadequate to serve the proposed development,	Article 43, Section 387C	The change accurately reflects the policy as relevant to federal consistency.	Sewerage systems must conform to the county plan or revision or amendment of the county plan. (C-10-15)	Md. Code Ann., Envir. § 9-511 (1983)

<p>taking into consideration all other existing and approved developments in the service area, or (ii) which will cause facilities for conveyance, pumping, storage or treatment of water, sewage or solid water to be overloaded.</p> <p>b. No subdivision plat shall be approved in areas where, taking into account all existing and approved subdivision plats and building permits in the service area, facilities for conveyance, pumping, storage, or treatment of water, sewage, and solid waste to serve the proposed development would (i) not completed, in time to serve the development, or (ii) if completed, would not be adequate to serve the development without causing overloading of the facilities.</p>				
<p>18. In determining the acceptability of individual sewerage systems, the Department of Health and Mental Hygiene shall consider present and future population density, lot size, contour of the land, porosity and absorbancy of the soil, groundwater conditions, community sewer systems and proposed development.</p>	<p>Article 43, Section 387C</p>	<p>Deletion – This policy is not relevant for federal consistency.</p>	<p>N/A</p>	<p>N/A</p>
<p>19. State law on the development and approval of county water and sewer plans shall not limit or supercede any State, county, or municipal zoning ordinance, subdivision regulation, building code or the law or regulation which establish standards that provide greater protection to the public health, safety and welfare of the community.</p>	<p>60 Op. Attn'y Gen. 508 (1975)</p>	<p>Deletion – This policy is not relevant to federal consistency.</p>	<p>N/A</p>	<p>N/A</p>
<p>New Policy</p>	<p>N/A</p>	<p>N/A</p>	<p>Unless permitted by Maryland law, sewage or sewage effluent, treated or non-treated, or industrial wastes may not be disposed of in any manner that will create a nuisance or cause contamination of potable water supply systems, the waters of the State, or</p>	<p>COMAR 26.04.02.02 (1992)</p>

			the ground surface. (C-10-3)	
New Policy	N/A	N/A	A person may not discharge raw sewage or any other waste into the Patuxent River, the Severn River, or any of their tributaries. (C-10-4)	Md. Code Ann., Envir. § 4-307 (1987)
New Policy	N/A	N/A	Secondary treatment is required as a minimum for sewage treatment works discharging into any waters of the State. (C-10-9)	COMAR 26.08.04.04C (1990)
New Policy	N/A	N/A	Advanced waste treatment is required for all sewage treatment works with a design capacity exceeding 1 million gallons per day and discharging into water quality limited waters. Advanced waste treatment may also be required for smaller sewage treatment works where the Department of the Environment determines that this level of treatment is necessary. (C-10-11)	COMAR 26.08.04.04C (1990)
New Policy	N/A	N/A	An effluent limitation of 2 milligrams/liter total phosphorus is required for all facilities discharging more than: 500,000 gallons per day to the Chesapeake Bay and its tributaries above the Baltimore Harbor and 10 million gallons per day in the vicinity of Baltimore Harbor to the Bay Bridge. (C-10-12)	COMAR 26.08.04.04C(1990)
New Policy	N/A	N/A	Before constructing, installing, modifying, extending, altering, or operating a sewage treatment facility that could cause or increase the discharge of pollutants into the	Md. Code Ann., Envir. § 9-323(a) (1982)

			waters of the State, the proponent must hold a discharge permit issued by the Department of the Environment or provide an equivalent level of water quality protection. (C-10-6)	
New Policy	N/A	N/A	Before attempting to construct or alter an on-site sewage disposal system or cause it to receive any increase in flow, the proponent must receive a permit from the Department of the Environment or provide an equivalent level of water quality protection. (C-10-7)	COMAR 26.04.02.02 (1992)
New Policy	N/A	N/A	If compliance with the established water quality standards or nutrient control requirements cannot be achieved through secondary treatment for all sewage discharges within a specific river segment or water region, the sewage treatment facilities are subject to additional restrictions. (C-10-10)	COMAR 26.08.01.02C (1980)
New Policy	N/A	N/A	Unless sewage sludge is disposed of in a manner that precludes potential health hazards due to the presence of pathogens, all sewage sludge shall be treated by a process to significantly reduce pathogens or a process to further reduce pathogens. (C-10-16)	COMAR 26.04.06.08A (1986)
New Policy	N/A	N/A	Sewage sludge utilization is prohibited if it cannot be done without causing an undue risk to the environment or public health, safety, or welfare or if the sewage sludge	Md. Code Ann., Envir. § 9-245 (1988) COMAR 26.04.06.10A

			was generated in a state that does not apply sewage sludge to land. (C-10-17)	(1986)
Chesapeake Bay and Tributaries Law—Incorporated into the MCMP as a RPC in July of 2005	N/A	This policy is derived from the current version of the Chesapeake Bay and Tributaries Law.	A person may not dump, deposit, scatter, or release sewage sludge by any means, including discharge from a sewer or pipe, into or onto any portion of the water or bottomland of the Chesapeake Bay or of the tidewater portions of any of the Chesapeake Bay's tributaries within 5 miles of the Hart-Miller-Pleasure Island chain in Baltimore County. (C-10-5)	Md. Code Ann., Envir. § 5-1102(e) (1991)
New Policy	N/A	N/A	Sewage sludge composting or storage facilities must meet all zoning and land use requirements of the county in which the facility is to be located. MDE (D7) Md. Code Ann., Envir. § 9-233 (C-10-20)	Md. Code Ann., Env. § 9-233 (1999)
New Policy	N/A	N/A	The public shall be given an opportunity to present its views prior to any final decision being made on the siting of sewage sludge or a sewage sludge storage or distribution facility. (C-10-21)	Md. Code Ann., Envir. § 9-234 (1987) Md. Code Ann., Envir. § 9-238(c) (1989) COMAR 26.04.06.05 (1986)
New Policy	N/A	N/A	On-site sewage disposal systems are prohibited: ○ If they may pollute well water supplies, water supply	COMAR 26.04.02.04 (1994)

			<p>reservoirs, shellfish growing waters, bathing beaches, lakes, or tidewater areas, including within 25 feet of drainage and spring seeps, flood plain soils, gullies, rock outcroppings, or slopes in excess of 25 percent; 50 feet from water well systems in confined aquifers;</p> <ul style="list-style-type: none"> ○ 100 feet from water well systems in unconfined aquifers, water bodies not serving as potable water supplies, and a stream bank when further than 3,000 feet upstream of an intake for a potable water supply; and ○ 200 feet from a stream bank when closer than 3,000 feet upstream of such an intake. <p>(C-10-22)</p>	
New Policy	N/A	N/A	<p>Holding tanks shall be watertight and sized to hold at least 7 days effluent from a septic tank. (C-10-14)</p>	COMAR 26.04.02.03C (1996)
New Policy	N/A	N/A	<p>Facilities capable of berthing vessels 22 feet or larger with more than 10 slips must have a wastewater collection and treatment system and an on-site pump-out station</p>	Md. Code Ann., Env. § 9-333 (1994)

			adequate to handle existing and increased flow and increased sewage capacity, respectively. (C-10-23)	
8. LAND TRANSPORTATION FACILITIES				
Current Enforceable Policy (1978)	Enf. Mech. (1978)	Proposed Change	Proposed Language	Enf. Mech. (2010)
1. Maryland will plan, develop, maintain, operate, and regulate - in cooperation with local jurisdictions, and as a supplement to facilities and services provided by private enterprise - a transportation system which adequately meets the needs for movement of people and goods while: supporting local, regional, and state goals; facilitating a pattern of physical development which can be served efficiently by transportation; preserving the unique qualities of Maryland's historical and natural resources; maintaining fiscal integrity; and strengthening the economy of Maryland. In order to develop and operate such a transportation system, Maryland will develop and maintain a continuing comprehensive and integrated transportation planning process, including the creation and promulgation of a State Master Plan for Transportation.	Transportation Article Section 2-103; Maryland Transportation Action Plan	Deletion – The policy is not relevant for federal consistency.	N/A	N/A
2. Maryland will follow and implement procedure contained in Policy Procedure Memorandum 90-4 issued December 20, 1974, by the U.S. Department of Transportation, Federal Highway Administration, to insure that all relevant factors and interests are considered in any transportation improvement.	Transportation Article 2-103; Maryland Transportation Action Plan	Deletion – The policy is not relevant for federal consistency.	N/A	N/A
3. In planning for transportation improvements, Maryland will adhere to the following policies, which are further detailed in the Maryland State Transportation Plan and the	Transportation Article 2-103, Natural	Deletion – The policy is not relevant for	N/A	N/A

<p>Maryland Department of Transportation Executive Plan.</p> <p>a. Transportation services supported by the State of Maryland shall be based on a comprehensive assessment of the transportation function they are intended to serve.</p> <p>b. The State shall assess carefully the social, economic and environmental impacts of proposed improvements in transportation service and shall consider the relationships between these impacts, improved service and the cost of implementation. In developing plans and programs, the state will consider and document the impact of alternative modes, locations and operations, through each phase of the decision-making process. To improve Maryland's ability to anticipate the effects of proposed actions, a monitoring and evaluation program will be initiated to determine the actual impacts of facilities and programs.</p> <p>c. The State will not commit itself to any specific improvement or location until after completion of detailed evaluations of the transportation, economic, and environmental effects of alternate improvements and locations (including the "no-build" alternative, and including the alternative of improving existing facilities in lieu of new construction).</p> <p>d. The State will finance only those transportation service improvements which are consistent with approved comprehensive transportation plans and programs.</p> <p>e. Wherever feasible, the State will meet transportation</p>	<p>Resources Article 1-302, 1-303; Maryland Preliminary Transportation Plan; Maryland Department of Transportation Executive Plan</p>	<p>federal consistency.</p>		
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<p>needs through improvement of existing facilities rather than through the construction of new ones.</p> <p>f. Where needed and appropriate, the Department shall facilitate use of alternatives to the automobile for interregional travel.</p> <p>g. The State shall encourage energy-efficient use of all means of transportation and shall encourage such energy-saving measures as car-pooling, use of public transportation, bikeways, and traffic operations improvements.</p> <p>h. Transportation service improvements shall be planned and designed to allow for early, continuous and two-way communication with all segments of the public prior to selection of a course of action. Specific mechanisms for public involvement shall be established for each major project prior to undertaking substantial planning activities.</p> <p>i. The State shall work with local governments to plan and design transportation facilities such as airports and major highways, to the compatibility of future development.</p> <p>j. The State shall increase and facilitate accessibility among the five regions of Maryland and between these regions and other states and countries.</p> <p>k. The State supports continuation of essential commuter and rail freight service in all regions of Maryland.</p> <p>l. The State shall provide and maintain an efficient, safe</p>				
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<p>Maryland Primary Highway System linking the State's major population and industrial centers, recreation sites, and transportation terminals.</p> <p>m. The State shall promote the development of Baltimore-Washington International Airport as one of the major domestic and international air facilities serving the Mid-Atlantic Region.</p> <p>n. To maintain consistency with State development goals and to enhance the economic development potential of Maryland, the State shall promote an appropriate balance between land development and each component of the interregional transportation system.</p> <p>o. The State supports private enterprise in maintaining and strengthening the system of moving goods in Maryland.</p>				
<p>4. Decisions to proceed with a transportation project will be based on factors including (but not limited to) the following:</p> <p>a. Volume as a present capacity.</p> <p>b. Construction and operation cost.</p> <p>c. Accident data.</p> <p>d. Socio-economic impact.</p> <p>e. Environmental impact.</p> <p>f. Contribution to state and local development goals and</p>	<p>Transportation Article 2-103, Maryland Transportation Action Plan</p>	<p>The change accurately reflects the policy as relevant to transportation facilities projects and is derived from current State law.</p>	<p>1. The social, economic, and environmental effects of proposed transportation facilities projects must be identified and alternative courses of action must be considered. (C-7-1)</p>	<p>COMAR 11.01.06.02B (1995)</p>

objectives.				
g. Consistent evaluation of all alternatives, including the no-build alternative.				
h. Mitigation measures that can be incorporated into design, construction, and operation of the project.				
New Policy	N/A	N/A	2. The public must be involved throughout the process of planning transportation projects. (C-7-2)	Md. Code Ann., Transp. § 7-304(a) (1997) COMAR 11.01.06.02B (1995)
New Policy	N/A	N/A	3. Transportation development and improvement projects must support the integrated nature of the transportation system, including removing impediments to the free movement of individuals from one mode of transportation to another. (C-7-3)	Md. Code Ann., Transp. § 2-602 (2000)
New Policy	N/A	N/A	Access to and use of transportation facilities by pedestrians and bicycle riders must be enhanced by any transportation development or improvement project, and best engineering practices regarding the needs of bicycle riders and pedestrians shall be employed in all phases of transportation planning. (C-7-5)	Md. Code Ann., Transp. § 2-602 (2000)
New Policy	N/A	N/A	Private transit facilities must be operated in such a manner as to supplement facilities	Md. Code Ann., Transp. § 7-102.1(b)

			owned or controlled by the State to provide a unified and coordinated regional transit system without unnecessary duplication or competing service. (C-7-4)	(1977)
New Policy	N/A	N/A	Transportation facilities constructed for surface mining purposes shall be located, designed, constructed or reconstructed, and maintained, and the area restored, in a manner that prevents damage to fish, wildlife, or their habitat and related environmental values; prevents additional contributions of suspended solids to stream flow or runoff outside the permit area; minimizes diminution or degradation of water quality and quantity; minimizes erosion, siltation, and attendant air pollution; and prevents damage to public and private property. (C-1-19)	COMAR 26.20.19.01(D) (1983) COMAR 26.20.19.08 (1983)