

PROPOSED ACTION ON REGULATIONS

1740

manufactured outside U.S.

C. On local governments:	NONE	Indeterminable
(2) 5% premium on items manufactured outside U.S.	(E+)	
Benefit (+)	Cost (-)	Magnitude

D. On regulated industries or trade groups:

E. On other industries or trade groups:

F. Direct and indirect effects on public:

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

B(1). Impact may be minimal depending on the availability of items manufactured in the U.S. that meet agencies' requirements.

C(2). Impact may be minimal depending on the availability of items manufactured in the U.S. that meet local requirements.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

To the extent small businesses provide uniforms and safety equipment manufactured in the United States that are competitively priced and meet the government's requirements, the proposed actions should result in increased sales for small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Mary Jo Childs, Procurement Advisor, Board of Public Works, 80 Calvert Street, Room 117, Annapolis, MD 21401, or call 410-260-7335, or email to mchild@comp.state.md.us, or fax to 410-974-5240. Comments will be accepted through January 17, 2012. A public hearing has not been scheduled.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (7) (text unchanged)

(7-1) "Public employer" means:

(a) A unit;

(b) A county;

(c) A municipality in the State;

(d) A school district in the State; or

(e) Any special district in the State.

(7-2) "Reasonably available quantities" means at least 90 percent of the items procured by the public employer are available within the employer's delivery schedule.

(8) — (9) (text unchanged)

(10) "Substantially less quality" means not in compliance with applicable safety and durability standards.

(11) "Unreasonable amount" means more than 5 percent over the lowest bid offering items manufactured outside the United States.

.12 Employee Uniforms and Equipment – Country of Manufacture.

A. A public employer may not knowingly buy, furnish, or require an employee to buy or acquire for use while on duty the following

items if those items are manufactured outside of the United States:

(1) A uniform or any other item of apparel, the selection of which is not within the employee's discretion except for the proper size of the item; or

(2) Safety equipment and protective accessories.

B. A public employer may buy, furnish, or require an employee to buy or acquire for use while on duty the items listed in §A of this regulation that are manufactured outside of the United States if:

(1) The items or similar items are not manufactured or available for purchase in the United States;

(2) The items or similar items are not manufactured or available for purchase in the United States in reasonably available quantities;

(3) The price of the items or similar items manufactured in the United States exceeds the price of similar, available items that are not manufactured in the United States by an unreasonable amount; or

(4) The quality of the items or similar items manufactured in the United States is substantially less than the quality of comparably priced, similar and available items not manufactured in the United States.

C. In each bid or proposal subject to the requirements of this regulation, a bidder or offeror shall certify whether the offered items are manufactured in the United States. If a bid or proposal offers items that are manufactured in the United States and outside the United States, the bid or proposal shall distinguish which items are manufactured in the United States.

SHEILA McDONALD
Executive Secretary
Board of Public Works

Title 27 **CRITICAL AREA** **COMMISSION FOR THE** **CHESAPEAKE AND** **ATLANTIC COASTAL BAYS**

Subtitle 01 CRITERIA FOR LOCAL CRITICAL AREA PROGRAM DEVELOPMENT

Notice of Proposed Action

[11-364-P]

The Critical Area Commission for the Chesapeake and Atlantic Coastal Bays proposes to:

(1) Amend Regulation .01 under COMAR 27.01.01 General Provisions; and

(2) Amend existing Regulations .01 — .01-3, adopt new Regulation .01-4, and recodify existing Regulations .01-4 — .01-7 to be Regulations .01-5 — .01-8 under COMAR 27.01.09 Habitat Protection Areas in the Critical Area.

This action was considered by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays at an open meeting held on November 2, 2011 pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to address some of the challenges experienced by local governments and various other stakeholder groups since the implementation of the buffer regulations in March 2010. The amendments will lower the cost of implementation of buffer management plans and provide greater flexibility to local governments and applicants in meeting the requirements. The changes proposed to address these issues include: providing flexibility to the agricultural community regarding the timing of buffer establishment; reducing the cost and amount of buffer mitigation by changing the calculation method to the area of canopy coverage removed rather than using the sum of the diameter of all trees removed; providing flexibility to allow a greater percentage of shrubs and herbaceous plantings; eliminating the mitigation requirement for the removal of dead trees; providing greater flexibility for the use of natural regeneration by increasing the percentage allowed and by increasing the distance to a seed source; adjusting the minimum size of trees and shrubs to lower cost and increase availability; allowing for credit to be given to applicants who remove impervious surface from the buffer; changing the size of signs based on feedback from this stakeholder group; clarifying certain terms like "permanent disturbance" and "temporary disturbance" to allow local governments to require less mitigation for temporary disturbance to the buffer; clarifying that septic systems require no or 1:1 mitigation rather than 3:1 mitigation; and including storm damage under a simplified buffer management plan.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Lisa Hoerger, Regulations Coordinator, Critical Area Commission, 1804 West Street, Suite 100, Annapolis, MD 21401, or call 410-260-3478, or email to lhoerger@dnr.state.md.us, or fax to 410-974-5338. Comments will be accepted through January 17, 2012. A public hearing has not been scheduled.

27.01.01 General Provisions

Authority: Natural Resources Article, §8-1806, Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (7) (text unchanged)

(8) Buffer.

(a) (text unchanged)

(i) Based on conditions present at the time of development, is immediately landward from mean high water of tidal waters, the edge of each bank of a tributary stream, or the landward edge of a tidal wetland; and

(ii) (text unchanged)

(b) (text unchanged)

(8-1) — (29) (text unchanged)

(29-1) Habitat Protection Area.

(a) (text unchanged)

(b) "Habitat Protection Area" includes:

- (i) The Buffer as described in COMAR [27.01.09.01A] 27.01.01.01B(8);
- (ii)—(viii) (text unchanged)
- (30)—(78) (text unchanged)

27.01.09 Habitat Protection Areas in the Critical Area

Authority: Natural Resources Article, §8-1806, Annotated Code of Maryland

.01 Buffer.

A. (text unchanged)

B. Terms Defined.

(1) — (6) (text unchanged)

(6-1) "Fully established" means the buffer contains as much diverse, native vegetation as necessary to support a firm and stable riparian habitat capable of self-sustaining growth and regeneration.

(6-2) Hazardous Tree.

(a) "Hazardous tree" means:

(i) A tree with a structural defect, such as a crack, canker, weak branch union, decay, dead wood, root damage, or root disease, that decreases the structural integrity of the tree and which, because of its location, is likely to fall and cause personal injury or property damage, including acceleration of soil erosion; or

(ii) Based on its location in the landscape, a healthy tree that, with continued normal growth, will damage an existing permanent structure or significantly increase the likelihood of soil erosion.

(b) "Hazardous tree" does not include a tree for which the likelihood of personal injury, property damage, or soil erosion can reasonably be eliminated or significantly diminished:

(i) With routine and proper arboricultural practices, such as regular watering, application of fertilizer or mulch, and pruning; or

(ii) By relocation of property that is likely to be damaged.

(7) — (10) (text unchanged)

(10-1) "Limit of disturbance" means the area of a development or redevelopment activity that includes temporary disturbance and permanent disturbance.

(11) — (14) (text unchanged)

(14-1) Permanent Disturbance.

(a) "Permanent disturbance" means a material, enduring change in the topography, landscape, or structure that occurs as part of a development or redevelopment activity.

(b) "Permanent disturbance" includes:

(i) Construction or installation of any material that will result in lot coverage;

(ii) Construction of a deck;

(iii) Except under §B (18-2)(b)(iii) of this regulation, grading; and

(iv) Except under §B (18-2)(b)(ii) of this regulation, clearing of a tree, forest, or developed woodland.

(c) "Permanent disturbance" does not include a septic system on a lot created before local program approval if the septic system is located in existing grass or clearing is not required.

(15) — (16) (text unchanged)

(17) ["Structure" means building materials that are purposely joined together on or over land or water, including those that do not result in lot coverage.] Structure.

(a) "Structure" means building or construction materials, or a combination of those materials, that are purposely assembled or joined together on or over land or water.

PROPOSED ACTION ON REGULATIONS

1742

(b) "Structure" includes a temporary or permanent fixed or floating pier, piling, deck, walkway, dwelling, building, boathouse, platform, gazebo, or shelter for the purpose of marine access, navigation, working, eating, sleeping, or recreating.

(18) (text unchanged)

(18-1) "Supplemental planting plan" means a description and landscape schedule that shows the proposed species type, quantity, and size of plants to be located within a buffer if natural regeneration does not meet the required stem density.

(18-2) *Temporary Disturbance.*

(a) "Temporary disturbance" means a short-term change in the landscape that occurs as part of a development or redevelopment activity.

(b) "Temporary disturbance" includes:

(i) Storage of materials that are necessary for the completion of the development or redevelopment activity;

(ii) Construction of a road or other pathway that is necessary for access to the site of the development or redevelopment activity, if the road or pathway is removed immediately after completion of the development or redevelopment activity and the area is restored to its previous vegetative condition; and

(iii) Grading of a development site, if the area is restored to its previous vegetative condition immediately after completion of the development or redevelopment activity.

(c) "Temporary disturbance" does not include:

(i) A septic system in a forest or developed woodland on a lot created before local program approval, if clearing is required; and

(ii) A violation.

(19) — (20) (text unchanged)

C. Policies. In developing their Critical Area programs, local jurisdictions shall use the following policies with regard to the [Buffer] buffer:

(1) — (5) (text unchanged)

D. Authority of Secretary; Scope; Alternative Procedures and Requirements.

(1) (text unchanged)

(2) The provisions of Regulations .01-1 through [.01-6] .01-7 of this chapter do not apply to an area of the buffer that is designated as a buffer exemption area under Regulation [.01-7] .01-8 of this chapter.

(3) (text unchanged)

E. Buffer Standards.

(1) [A] In conjunction with mitigation performed in accordance with an approved buffer management plan under Regulation .01-3 of this chapter, a local jurisdiction may authorize disturbance in the buffer for:

(a) A new development activity or a redevelopment activity:

(i) (text unchanged)

(ii) [Located in an approved buffer exemption area under Regulation .01-7 of this chapter; or

(iii)] Authorized under a variance;

(iv) In accordance with §E(8) of this regulation; or

(v) In accordance with Regulation .01-3B of this chapter;

or

(b) (text unchanged)

(2) (text unchanged)

(3) Except for the minimum buffer widths under §E(5)—(8) of this regulation and based on existing field conditions, a local jurisdiction shall [establish] require the delineation of a buffer of at least 100 feet landward from:

(a) — (c) (text unchanged)

(4) For purposes related to the calculation of the minimum buffer widths under §E(5)—(8) of this regulation, a local jurisdiction

shall [measure] require the measurement of the buffer landward from the points specified under §E(3) [and (4)] of this regulation.

(5) Except as provided under §E(6) of this regulation, and in accordance with [§E(4)] §E(3) of this regulation, if a local jurisdiction grants final local approval for a subdivision or a site plan in the Resource Conservation Area on or after July 1, 2008, the local jurisdiction shall establish:

(a) — (b) (text unchanged)

(6) (text unchanged)

(7) If a buffer is contiguous to a steep slope, a nontidal wetland, a nontidal wetland of special State concern under COMAR 26.23.06.01, a hydric soil, or a highly erodible soil, a local jurisdiction shall expand the minimum buffer required under §E(3) or (5) of this regulation and shall calculate the extent of that expansion in accordance with the following requirements:

(a) — (c) (text unchanged)

(d) A highly erodible soil on a slope less [that] than 15 percent or a hydric soil, to the lesser of:

(i) — (ii) (text unchanged)

(8) If a buffer is contiguous to a hydric soil or to a highly erodible soil on a slope less than 15 [% or a hydric soil] percent and that buffer is located on a lot or parcel that was created before January 1, 2010, a local jurisdiction may authorize a development activity in the expanded buffer, if:

(a) (text unchanged)

(b) The buffer, including expansion for a highly erodible soil on a slope less than 15 percent or a hydric soil, occupies at least 75 percent of the lot or parcel; and

(c) (text unchanged)

.01-1 Buffer Establishment

A. Applicability.

(1) The requirements of this regulation are applicable to:

(a) A development or redevelopment activity that occurs on a lot or parcel that includes a buffer to tidal waters, a tidal wetland, or a tributary stream if that development or redevelopment activity is located outside the buffer; [or] and

(b) The approval of a [new] subdivision that includes a buffer to tidal waters, a tidal wetland, or a tributary stream.

(2) If an applicant for a subdivision of a lot under §A(1)(b) of this regulation uses or leases the lot for an agricultural purpose, the applicant:

(a) In accordance with local land recordation requirements, shall record an approved buffer management plan under Regulation .01-3 of this chapter; and

(b) If authorized by the local jurisdiction, may delay implementation of the buffer management plan until the use of the lot is converted to a nonagricultural purpose.

[(2)] (3) The requirements of this regulation are not applicable to [:

(a) An] an in-kind replacement of a [principal] structure [; or

(b) Land that remains in agricultural use after subdivision in accordance with a buffer management plan under Regulation .01-3 of this chapter].

B. A local jurisdiction shall require an applicant to establish the buffer in vegetation in accordance with §C of this regulation and Regulation .01-2 of this chapter and to provide a buffer management plan under Regulation .01-3 of this chapter when an applicant applies for:

(1) Approval of a [new] subdivision [or a new lot];

(2) — (3) (text unchanged)

C. [At the time of application if] When the buffer is not fully forested or is not fully established in existing, naturally occurring

woody or wetland vegetation, an applicant shall establish the buffer to the extent required in the following table:

Development Category	Lot Created Before Local Program Adoption	Lot Created After Local Program Adoption
[New development] <i>Development on a vacant lot</i>	Establish the buffer based on total <i>square footage of lot coverage outside the buffer</i>	Fully establish the buffer
[New subdivision or new lot] <i>Subdivision</i>	Fully establish the buffer	
New lot with an existing dwelling unit	Establish the buffer based on total <i>square footage of lot coverage outside the buffer</i>	
Conversion of a land use on a parcel or lot to another land use	Fully establish the buffer	
Addition [or], accessory structure, or redevelopment	Establish the buffer based on net <i>square footage increase in lot coverage outside the buffer</i>	
Substantial alteration	Establish the buffer based on total <i>square footage of lot coverage outside the buffer</i>	

[D.] For a buffer management plan required under Regulation .01-3J of this chapter that is related to the establishment of more than 1 acre, a local jurisdiction may approve natural regeneration up to 50 percent of the area required for establishment if:

(1) The plan does not include any new managed lawn or turf;

(2) All of the natural regeneration area is within 50 feet of a mature forest that contains a seed bank of native species adequate for natural regeneration;

(3) The plan includes a supplemental planting plan for subsequent implementation if the natural regeneration does not succeed; and

(4) The financial assurance provided for implementing the buffer management plan:

(a) Is sufficient to cover the cost of planting an equivalent area; and

(b) Specifies that release of the financial assurance may not occur until the later of 5 years after the date of plan approval or the areal coverage of the buffer is at least 300 native woody stems, on a per-acre basis, that are at least 4 feet in height.

E. At the end of 5 years after the date of approval of a natural regeneration plan, an applicant shall implement a supplemental planting plan for at least 2 years if the areal coverage of the buffer is not, on a per-acre basis, at least 300 native woody stems of at least 4 feet in height.]

D. A local jurisdiction may authorize an applicant to deduct from the total establishment requirement an area of lot coverage removed from the buffer if:

(1) The lot coverage existed before the date of local program adoption or was allowed by local procedures; and

(2) The total area is stabilized with native vegetation.

.01-2 Mitigation and Planting Standards.

A. (text unchanged)

B. As applicable to a site, a local jurisdiction shall require that a buffer management plan in accordance with Regulation .01-3 of this chapter satisfy the planting and mitigation standards of this regulation and satisfy the buffer establishment standards required under Regulation .01-1 of this chapter so as to:

(1) (text unchanged)

(2) Ensure the planting of native species in compliance with the amounts specified under §§C, [G, and H] D, H, J, and K of this regulation;

(3) Ensure coverage of the buffer with mulch or *native* ground cover or both until buffer plantings are established; and

(4) Ensure [planting is evenly] *plantings are* distributed throughout the [entire buffer; and

(5) Provide] *buffer to provide* optimum habitat and water quality benefits.

C. *Permanent Disturbance.* As applicable to a site, a local jurisdiction shall calculate the cumulative amount of buffer mitigation required for *permanent disturbance* in accordance with the following standards:

[(1) For a development activity within the buffer, mitigation shall be based on the limits of disturbance and calculated in accordance with the ratios under §G of this regulation;

(2) Except for the mitigation required under §C(3) of this regulation, for the removal of an individual tree with a diameter of at least 2 inches when measured at 4.5 feet above the ground surface, mitigation shall be at a rate of 100 square feet for every 1 inch of diameter; and

(3) For removal of a dead, diseased, or dying tree, mitigation shall be at least one 1-inch caliper tree for each tree removed]

(1) Except as specified under §§C(2) and (3) of this regulation, mitigation for a development or redevelopment activity in the buffer or for the removal of an individual tree, developed woodland, or forest shall be calculated:

(a) According to the ratios under §H of this regulation; and

(b) Based on the square footage of the area of the canopy coverage removed.

(2) For removal of a diseased, dying, invasive, or hazardous tree:

(a) Mitigation shall be one tree of at least a $\frac{1}{4}$ -inch caliper for each tree removed; or

(b) The affected area shall be stabilized in native woody vegetation, if a tree cannot be replanted due to space constraints.

(3) For removal of a dead tree, the affected area shall be stabilized with native groundcover or other native vegetation as necessary.

D. *Temporary Disturbance.* As applicable to a site, a local jurisdiction shall calculate mitigation for temporary disturbance according to the ratios under §H of this regulation.

[D.] E. Except as authorized under [§E] §F of this regulation, if mitigation planting cannot be located on-site within the buffer because of site constraints, a local jurisdiction shall require planting in the following order of priority:

(1) — (2) (text unchanged)

[E.] F. A local jurisdiction may authorize payment of a fee in lieu of buffer mitigation under Regulation [.01-4] .01-5 of this chapter, but only if there is no feasible alternative

[F.] G. (text unchanged)

[G.] H. In accordance with the applicable activity, a local jurisdiction shall require the following ratios of mitigation:

(table proposed for repeal)

Activity	Mitigation Ratio	
	Permanent Disturbance	Temporary Disturbance
Septic on a lot created before local program approval if located in existing grass or if clearing is not required	Not applicable	0
Septic system in a forest or developed woodland on a lot created before local program approval if clearing is required	1:1	Not applicable
Shore erosion control	1:1	1:1
Riparian water access	2:1	1:1

PROPOSED ACTION ON REGULATIONS

1744

<i>Development or redevelopment of a water-dependent facility</i>	2:1	1:1
<i>Variance</i>	3:1	1:1
<i>Violation</i>	4:1	<i>Not applicable</i>

I. A local jurisdiction may authorize an applicant to deduct from the total mitigation requirement an area of lot coverage removed from the buffer if:

(1) *The lot coverage existed before the date of local program adoption or was allowed by local procedures; and*

(2) *The total area is stabilized with native vegetation.*

[H.] (proposed for repeal)

J. A local jurisdiction may authorize a combination of plantings for buffer mitigation in accordance with the following table:

Total Mitigation Requirement	Options
Less than 1 acre	Landscaping stock according to §L of this regulation for the entire area
1 acre or greater	At least 50 percent of area in landscaping stock according to §L of this regulation, with the remainder according to §N of this regulation

K. A local jurisdiction may authorize a combination of plantings and natural regeneration for buffer establishment in accordance with the following table:

Total Establishment Requirement	Options
Less than 1/4 acre	Landscaping stock according to §L of this regulation for the entire area
1/4 acre to 1 acre	At least 25 percent landscaping stock according to §L of this regulation, with the remainder a combination according to §N of this regulation or natural regeneration according to Regulation .01-4 of this chapter
Greater than 1 acre	At least 10 percent landscaping stock according to §L of this regulation, with the remainder a combination according to §N of this regulation or natural regeneration according to Regulation .01-4 of this chapter

[I.] *L. A local jurisdiction shall apply the following planting credits for the type and size of the vegetation proposed:*

Vegetation Type	Minimum Size Eligible for Credit	Maximum Credit Allowed (Square Feet)	Maximum Percent of Landscape Stock Credit
Canopy tree	2-inch caliper [and 8 feet high]	200	Not applicable
Canopy tree	[1-inch caliper and 6 feet high] 3/4- inch caliper	100	Not applicable
Understory tree	[1-inch caliper and 6 feet high] 3/4 -inch caliper	75	Not applicable
Large shrub	[1 gallon and 4] 3 feet high	50	30
Small shrub	[1 gallon and] 18 inches high	25	20
Herbaceous	1 quart or based on	2	10

perennial[*]	<i>the area covered by plugs or seed mix</i>		
Planting Cluster [1*] for buffer establishment or mitigation of less than 1/2 acre	1 canopy tree; and 3 large shrubs or 6 small shrubs of sizes listed above	300	Not applicable
Planting Cluster [2*] for buffer establishment or mitigation of less than 1/2 acre	2 understory trees; and 3 large shrubs or 6 small shrubs of sizes listed above	350	Not applicable

[* These options are available only for buffer establishment and buffer mitigation of less than 1 acre.]

M. A local jurisdiction may authorize an applicant to increase the percentage of large shrubs, small shrubs, or herbaceous perennials in a buffer management plan if:

(1) *The buffer has existing canopy coverage of at least 50 percent; or*

(2) *Site constraints that preclude canopy planting, including severely eroding slopes, salt water intrusion, predominately sandy soils, or unconsolidated fill.*

[J.] *N. All landscaping stock planted in accordance with [§I] §L of this regulation shall be 100 percent guaranteed for at least 2 years after planting is completed.*

[K.] *O. A local jurisdiction may use the following table to allow flexible stocking size when authorized under [§H] §§J and K of this regulation:*

Stock Size of Trees Only	Required Number of Stems Per Acre	Survivability Requirement	Minimum Financial Assurance Period After Planting
Bare-root seedling or whip	700	50 percent	5 years
1/2-inch to 1-inch container grown trees	450	75 percent	2 years
More than 1-inch container grown trees	350	90 percent	2 years

[L.] *P. (text unchanged)*

[M.] *Q. Before recordation of a final subdivision or final approval of a site plan for a multifamily, commercial, industrial, or institutional use, an applicant shall:*

(1) *(text unchanged)*

(2) *Design each sign required under [§M(1)] §Q(1) of this regulation so that it:*

(a) *Is at least [11] 6 inches in width and [15] 8 inches in height;*

(b)—(c) *(text unchanged)*

[N.] *R. Concurrent with the recordation of a final plat and in accordance with Regulation .01-3 of this chapter, an applicant shall record [a protective measure in] an easement or similar instrument for a buffer management plan [in accordance with Regulation .01-3 of this chapter].*

[O.] *S. A local jurisdiction may not approve a final subdivision application until the jurisdiction has reviewed and approved the*

buffer management plan submitted under Regulation .01-3 of this chapter.

.01-3 Buffer Management Plans.

A. (text unchanged)

B. A local jurisdiction shall require an applicant proposing a development activity to submit a buffer management plan if:

(1) (text unchanged)

(2) Disturbance to the buffer will result from the issuance of a:

(a) — (e) (text unchanged)

(f) Grading permit; [or]

(g) Special exception; or

(h) Permit by a local health department for the installation, repair, or replacement of a septic system.

C. (text unchanged)

D. A local jurisdiction may not approve a buffer management plan unless:

(1) (text unchanged)

(2) Appropriate measures are in place for the [long-term] protection and maintenance of all buffer areas established under this regulation.

E. — F. (text unchanged)

G. A local jurisdiction may not issue a permit [on] or other approval of a development activity for a property that is the subject of a violation under §F of this regulation.

H. Simplified Buffer Management Plan.

(1) Before the performance of an activity under this section in the buffer, a local jurisdiction shall require the applicant to submit a simplified buffer management plan as part of the application associated with any of the following activities:

(a) — (b) (text unchanged)

(c) Filling to maintain an existing grass lawn; [or]

(d) Managing storm damage;

(e) Repairing or replacing a septic system; or

[(d)] (f) Except for an emergency situation under §H(2) of this regulation, cutting [a tree that is in imminent danger of falling and causing damage to a dwelling or other structure, causing blockage to a stream, or accelerating shore erosion] up to five dead, diseased, dying, invasive, or hazardous trees.

(2) — (3) (text unchanged)

I. Minor Buffer Management Plan.

(1) (text unchanged)

(2) A minor buffer management plan shall include:

(a) — (b) (text unchanged)

(c) A maintenance plan for the control of invasive species, pests, and predation that shows invasive species and pest control practices, the provision of at least 2 years of monitoring, and a reinforcement planting provision if survival rates fall below the standards in Regulation [.01-2J and K] .01-2M and N of this chapter;

(d) — (g) (text unchanged)

J. Major Buffer Management Plan.

(1) (text unchanged)

(2) A major buffer management plan shall include:

(a) — (b) (text unchanged)

(c) A maintenance plan for the control of invasive species, pests, and predation that shows invasive species and pest control practices, the provisions of at least 2 years of monitoring, and a reinforcement planting provision if survival rates fall below the standards in Regulation [.01-2J and K] .01-2 M and N of this chapter;

(d) A long-term protection plan that includes evidence of financial assurance that adequately covers the planting and survivability requirement, a provision for at least 2 years of monitoring as required in Regulation [.01-2J and K] .01-2 M and N of this chapter, and if planting, an anticipated planting date before construction or the sale of the lot;

(e) — (h) (text unchanged)

(3) For a major buffer management plan [:

(a) A] a single species may not exceed 20 percent of the total planting requirement[; and

(b) Shrubs may not exceed 50 percent of the total planting requirement].

.01-4 Natural Regeneration Requirements.

A. The provisions of this regulation are:

(1) Applicable to a buffer management plan that includes natural regeneration; and

(2) In addition to the requirements under Regulation .01-3 of this chapter.

B. A local jurisdiction shall ensure that:

(1) The buffer management plan does not include any new managed lawn or turf;

(2) The natural regeneration area is within 300 feet of a mature forest of at least 1 acre that contains a seed bank of native species adequate for natural regeneration; and

(3) The buffer management plan includes all of the information identified in §C of this regulation.

C. The natural regeneration component of a buffer management plan shall consist of:

(1) A site plan that includes:

(a) Delineation of the proposed area within 300 feet of a mature forest that contains a seed bank of native species adequate to support natural regeneration;

(b) The soil type; and

(c) In accordance with Regulation .01-2P of this chapter, signage that delineates the natural regeneration area at one sign per 200 linear feet along the boundary of the area; and

(2) A description in narrative form of:

(a) Nearby seed sources of mature tree species;

(b) Presence or absence of invasive species in the proposed natural regeneration area and in the nearby forest, and, if applicable, control practices for those invasive species;

(c) Soil texture, soil moisture regime, sunlight exposure, and soil amendments of the proposed natural regeneration area;

(d) Site preparation methods and timing;

(e) A monitoring plan; and

(f) A supplemental planting plan to be implemented in accordance with §D of this regulation; and

(3) Financial assurance for at least 5 years that:

(a) Is sufficient to cover the cost of planting an area equivalent to the area of proposed natural regeneration; and

(b) Specifies that release of the financial assurance may not occur until the natural regeneration area, through natural growth and, if necessary, implementation of the supplemental planting plan, contains at least 300 live trees on a per acre basis that are at least 4 feet tall.

D. Report, Inspection, and Procedures for Release of Financial Assurance.

(1) Five years after the date of approval of a buffer management plan that includes natural regeneration, the party responsible for the development or redevelopment activity and the survival of the planting associated with that activity shall submit to the local jurisdiction a report for the natural regeneration area that contains:

(a) Photographs of the natural regeneration area;

(b) Based on standard sampling practices, an estimate of the number and average size of trees growing within the natural regeneration area on a per acre basis; and

(c) A list of all plant species found within the natural regeneration area.

(2) Upon receipt of the report, the local jurisdiction shall inspect the natural regeneration site.

(3) If the natural regeneration area does not contain at least 300 live trees on a per acre basis that are at least 4 feet tall, the local jurisdiction may:

(a) Extend the term of the natural regeneration and financial assurance to allow for up to 5 additional years of growth, if the report and inspection indicate viable progress toward natural regeneration; or

(b) Require implementation of the supplemental planting plan provided in the natural regeneration component of the buffer management plan.

(4) If the local jurisdiction extends the term of the natural regeneration and financial assurance to allow for additional growth under §D(3)(a) of this regulation, the local jurisdiction may increase the amount of financial assurance required.

(5) Upon expiration of the time provided under an extension of the term of natural regeneration and financial assurance or under a supplemental planting plan:

(a) The party responsible shall submit to the local jurisdiction an updated report that contains all the information required under §D(1) of this regulation; and

(b) Upon receipt of the report, the local jurisdiction shall re-inspect the natural regeneration site.

(6) At the end of 5 years after the date of approval of a buffer management plan that includes natural regeneration, at the end of a term extension provided under §D(3)(a) of this regulation, or at the end of the implementation of a supplemental planting plan required under §D(3)(b) of this regulation, if the natural regeneration area:

(a) Contains at least 300 live trees on a per acre basis that are at least 4 feet tall, the local jurisdiction shall release the financial assurance; or

(b) Does not contain at least 300 live trees on a per acre basis that are at least 4 feet tall, the local jurisdiction may not release the financial assurance.

(7) At any time during the course of performance of a buffer management plan under this regulation, if a local jurisdiction determines that natural regeneration is not likely in the time anticipated in the buffer management plan and that the party responsible is no longer available to complete performance of the buffer management plan, the local jurisdiction may apply the financial assurance to the implementation of the supplemental planting plan.

MAGARET G. McHALE

Chair

Critical Area Commission for the
Chesapeake and Atlantic Coastal Bays

Title 33

STATE BOARD OF ELECTIONS

Subtitle 13 CAMPAIGN FINANCING

33.13.11 Electronic Contributions

Authority: Election Law Article, §§2-102(b)(4), 13-234, and 13-304(b), Annotated Code of Maryland

Notice of Proposed Action

[11-365-P]

The State Board of Elections proposes to adopt new Regulations .01 — .04 under a new chapter, **COMAR 33.13.11 Electronic Contributions**. This action was considered by the State Board of Elections at its October 27, 2011, meeting, notice of which was given in accordance with State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to establish methods by which a campaign account may receive an electronic contribution.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Nikki Baines Trella, Election Reform Director, State Board of Elections, P.O. Box 6486, Annapolis MD 21401-0486, or call 410-269-2843, or email to ntrella@elections.state.md.us, or fax to 410-974-2019. Comments will be accepted through January 17, 2011. A public hearing has not been scheduled.

.01 Scope.

A. This chapter applies to all electronic contributions received by a political committee.

B. For the purposes of this regulation, a credit card contribution made by a person to a political committee is not an electronic contribution.

.02 Definitions.

A. In this subtitle, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Common short code" means a unique text message number that may be accessed by an individual through the use of SMS on a wireless communication device or computer.

(2) "Short message service" or "SMS" means a service that allows the exchange of short text messages between or among wireless communication devices or computers.