
**Routine Program Change
to
State of Maryland Coastal Management Program**

**Draft Request for Concurrence
October 2003**

Chesapeake Bay and Atlantic Coastal Bays Critical Areas
Maryland Natural Resources Code, Title 8, Subtitle 18
Code of Maryland Regulations, Title 27, Subtitles 1 to 3

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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 State of Maryland's Coastal Management Program (CMP).

In Maryland Natural Resources Code Title 8, Subtitle 18, and Code of Maryland Regulations (COMAR) Title 27, Subtitles 1 to 3, the State of Maryland enacted legislative and regulatory changes to the State's enforceable policies for the Chesapeake Bay Critical Area Protection Program. The changes create the Atlantic Coastal Bays Critical Area within the State Critical Area Protection Program and make attendant changes for the management of Atlantic Coastal Bays. Although the changes designate an additional special management area of particular concern, the submitted changes fall under existing State authority within the CMP and are not so substantial as to require an Amendment is required.

In accordance with requirements for Routine Program Changes as set forth in 15 C.F.R. §923.84 and the guidelines for Routine Program Changes contained in OCRM's Program Change Guidance from July 1996, the State of Maryland has prepared the following analysis of the routine changes to Maryland Natural Resources Code Title 8, Subtitle 18, and COMAR Title 27, Subtitles 1 to 3. The analysis: (A) explains why the proffered changes to the State CMP are Routine Program Changes and not Amendments as described in 15 C.F.R. §923.80(d); and (B) identifies the enforceable policies to be added to the management program, describes the nature of each program change, and examines the impact the changes have on the existing management program.

ANALYSIS OF CHANGES

The submitted program changes amend the State's enforceable policies, permissible uses, and areas of particular concern for the Chesapeake Bay Critical Area Protection Program. The State submits these changes to Maryland Natural Resources Code Title 8, Subtitle 18, and COMAR Title 27, Subtitles 1 to 3, as Routine Program Changes. Pursuant to 15 C.F.R. §923.84, this analysis of the submitted changes notifies OCRM of the Routine Program Change action and explains why the program change will not result in an Amendment as described in 15 C.F.R. §923.80(d).

Under 15 C.F.R. §923.80(d), Amendments are defined as substantial changes in one or more of five listed coastal management program areas. Further, OCRM's Program Change Guidance from July 1996 states that a substantial change is a high threshold based on a case-by-case determination. Such determination is made by reviewing indicators of substantial change, such as whether new or revised enforceable policies address coastal uses or resources not previously managed or major changes in the way a state CMP manages coastal uses or resources. OCRM's Program Change Guidance also states that an explanation why a proposed change will not result in an Amendment should describe the elements of the State CMP that are affected.

The submitted routine changes to the Maryland CMP that appear in Maryland Natural Resources Code Title 8, Subtitle 18 address: the areas included in the Critical Area Protection Program; stormwater runoff requirements in critical areas; requirements on construction projects located on piers in critical areas; requirements for community piers and docks in critical areas; commercial timber harvest in critical areas; forest and woodland areas in critical areas; project approval in critical areas; enforcement procedures and remedies; additional penalties for violations of forestry provisions in critical areas; oil and gas production and exploration in critical areas; and definitions applicable to these provisions.

The submitted routine changes to the Maryland CMP that appear in COMAR Title 27, Subtitles 1 to 3 address: the general policies and prohibited activities in critical areas; intensely developed areas in critical areas; limited development areas in critical areas; resource conservation areas in critical areas; general criteria and prohibited activities for water dependant facilities in critical areas; limitations on permitting of industrial and port-related water dependant facilities in critical areas; permitting requirements for community piers and noncommercial boat dockings and storage facilities; permitting requirements for public beaches and public water-oriented recreation or education areas; permitting for state, federal, or local research areas in critical areas; fisheries activities and facilities in critical areas; and applicable definitions.

Under 15 C.F.R. §923.80(d) and OCRM's Guidance, these changes could be interpreted as affecting elements of the State CMP's permissible land and water uses, areas of particular concern, and enforceable policies within the State coastal zone. These changes, however, do not substantially change the uses subject to management, the special management areas, or the authorities and organization of the Maryland CMP. The submitted changes are a minor reorganization and clarification of existing CMP authority that NOAA and the U.S. Environmental Protection Agency (EPA) recommended in order to increase environmental protection within the State's coastal zone.

In 1984, after national studies revealed a decline in the water quality and productivity of the Chesapeake Bay, the State enacted legislation authorizing the Chesapeake Bay Critical Area Program. The program identified the Chesapeake Bay as the State's critical coastal area and included all land within 1,000 feet of the Bay and its tributaries and wetlands. Under the program, a statewide commission oversees the development and implementation of local land use programs in or directed towards the Chesapeake Bay Critical Area. The goals of the program are to minimize adverse impacts on water quality that result from pollutant runoff from surrounding lands and buildings; conserve fish, wildlife, and plant habitat in the Critical Area; and to establish land uses policies for development in the Critical Area that accommodate growth but also address the environmental impacts to the Critical Area. In 1986, the State incorporated the statutes and regulations enforcing the Chesapeake Bay Critical Area Program into the State CMP.

In 1990, Congress amended the Coastal Zone Management Act to require every state with a CMP to develop and submit a Coastal Nonpoint Pollution Control Program (CNP Program). In 1995, the State of Maryland submitted to NOAA and EPA its CNP Program. In 1997, after conducting an environmental assessment, NOAA conditionally approved the State's

CNP Program. In the conditional approval, NOAA and EPA encouraged the State to include the Atlantic Coastal Bays as a critical coastal area within the Chesapeake Bay Critical Area Protection Program. Acting on this encouragement, the State amended the statutes and regulations creating the Chesapeake Bay Critical Area Protection Program to create the Atlantic Coastal Bays Critical Area.

Although the State created the Atlantic Coastal Bays Critical Area at the behest of NOAA and EPA, the State CMP as it existed prior to and after the amendment adding the Chesapeake Bay Critical Areas Protection Program included State authority to create and manage critical coastal areas such as the Atlantic Coastal Bays. The State CMP includes the State Critical Areas Program, which allows the State to identify areas of critical State concern after consultation with and consideration of recommendations submitted by local subdivisions. (CMP. 296) These Critical Areas could be classified as critical areas suitable for preservation, conservation, or utilization depending on the characteristics and allowable uses of each area, and a management plan must be developed for the specific area. (CMP 296-297). An area designated a Critical Area would become a Geographic Area of Particular Concern (GAPC) under the State CMP if it is within the area of focus of the State CMP. (CMP 299). In a designated State Critical Area that becomes a GAPC, the management plan for the Critical Area becomes part of the State CMP. (CMP 300). The areas considered for designation as a GAPC include Resource Protection Areas, which consist of six different area types: vegetated tidal wetlands, upland natural areas, prime recreation areas, productive agricultural lands, areas of historical and archeological importance, and aquatic resources areas. (CMP 300-302). Vegetated tidal wetlands areas are those where the wetlands, due to significant natural value, warrant special attention. (CMP 300). Upland natural areas are non-tidal wetlands areas greater than five acres, with a specific emphasis on forested areas primarily unaffected by human activities. (CMP 301). Aquatic resource areas are those areas that contribute significantly to and provide suitable habitat for water dependent wildlife, fish, and shellfish. (CMP 302).

The State CMP also includes State authority to regulate the specific activities regulated within the Atlantic Coastal Bays Critical Area. The State CMP includes state authority directing that future development should be avoided in high risk shoreline erosion areas and that consideration should be given to reserving such areas as open space. (CMP 155). A setback consisting of a natural buffer shall also be required in such areas. (Id.) Moreover, the CMP includes the State prohibition on the construction of residential, industrial, or commercial buildings or structures in the 100-year flood plain of any non-tidal stream or body of water. (CMP 164) The State CMP also includes the State policy against development projects in coastal tidal and non-tidal floodplains that would create additional flooding that would have an adverse impact on water quality or other environmental factors. (Id.) The State also regulates development activities in tidal and non-tidal wetlands in order to maintain wetlands and protect coastal terrestrial areas of significant resource value. (CMP 145-146, 170-171). In addition, the CMP includes the State policy to manage state forests in order to provide for certain activities including watershed and wildlife protection. (CMP 185). In undertaking management to meet the State forestry policy, forestry practices shall be undertaken to insure the maintenance of healthy populations of animal life and to minimize the potential for water, air, or noise pollution. (Id.) Protection of such areas shall be given priority over development where proposed activities

would not adequately protect remaining resources, and natural methods of protection shall be favored over artificial protection methods for forests, watersheds, or floodplains. (Id.) Private forest lands are regulated under forestry districts that guide the use of such lands and forests. (CMP 186). Forestry districts are authorized to develop comprehensive forest management plans for conservation of soil resources and for control and prevention of soil erosion within the district. (Id.) The state also regulates soil erosion, stormwater runoff, and water pollution in order to protect the State's tidal waters and coastal areas of terrestrial significance to wildlife and ecosystem maintenance. (CMP 216-219).

The submitted routine changes fall within the existing State authority listed above and included in the CMP and do not substantially change uses subject to management, authorities and organization, or special management areas in the coastal zone. The inclusion of the Atlantic Coastal Bays Critical Area within the State Critical Area Protection Program falls under the existing State CMP authority to create critical areas and to manage those areas for their protection. Similarly, the submitted changes regulating construction and forestry within Critical Areas fall under the State authority in the CMP to regulate development in the coastal area and forestry in general. The submitted change requiring limitations on impervious surfaces in the Critical Areas in order to reduce stormwater runoff also falls within existing State authority in the CMP. The State possesses a comprehensive program to regulate stormwater and its impacts. The State incorporated this program into the CMP in 1983, and statutory and regulatory provisions of that program provide the State with authority to regulate stormwater runoff in the Critical Areas (See Md. Code Env. 4-204; COMAR 26.17.02.03 as incorporated into CMP).

In addition to falling within existing authority under the State CMP, the submitted changes fall within the CMP's consideration of national interests identified in the Coastal Zone Management Act §306(d)(8) as necessary to be considered in planning for and managing the coastal zone. The inclusion of the Atlantic Coastal Bays into the State Critical Areas Program will have a substantial beneficial impact on the national interest in the Chesapeake Bay and the Atlantic Coastal Bays. The Chesapeake Bay and Maryland's coastal bays make up one of the richest, most diverse estuaries in the world. More than 300 species of migratory waterfowl, songbirds, and birds of prey use the Chesapeake Bay and the shallow Atlantic Coastal Bays for food and shelter. Rare species of plants and animals join blue crabs, flounder, and clams in calling this estuary home. However, population trends indicate that several counties in the Maryland coastal region will double in size by the year 2020. Such population growth and the accompanying development would substantially stress the ecosystem of the Chesapeake Bay and the Atlantic Coastal Bays. The Chesapeake Bay currently is protected by federal law and the State Chesapeake Bay Critical Area Protection Program. The Atlantic Coastal Bays are included within the federal National Estuary Program (NEP), and the NEP will help prevent some of the adverse impacts of increased development, but it is not sufficient in and of itself. The U.S. Environmental Protection Agency established the NEP to improve the quality of the estuaries of national importance. The NEP achieves this goal by requiring each estuary within the program to create and implement a conservation and management plan that addresses all aspects of environmental protection for the estuary, including issues such as water quality, habitat, living resources, and land use. This plan establishes priorities for action, research, and funding, and serves as a blueprint to guide future decisions and activities related to the estuary. However, the

plan does not impose any requirements on development or resource management or use within the Atlantic Coastal Bays. Incorporation of the Atlantic Coastal Bays into the State Critical Areas Program affords such protection. By limiting development, moderating growth, and managing forest and wetlands use, the incorporation of the Atlantic Coastal Bays in the State Critical Areas Program will help improve the water quality of the estuaries, which, in turn, will help ensure the prolonged use of the Coastal Bays as a healthy thriving estuary.

The submitted routine change requiring completion of an environmental impact statement (EIS) prior to oil drilling in or through the Chesapeake Bay or Atlantic Coastal Bays Critical Areas also falls within existing CMP consideration of the national interest in energy development. The CMP includes authority under the Maryland Environmental Policy Act (MEPA) to prepare environmental effects reports for activities significantly effecting the environment. MEPA requires State agencies to consider the environment in decisionmaking, and it is State policy to protect the environment. (CMP 377). Moreover, the State participates in federal outer OCS oil and gas development by reviewing exploration and development plans and environmental reports for consistency with the CMP or to require an EIS. (CMP 127). Among criteria to determine if an EIS is needed, the State reviews structures located near marine sanctuaries, wildlife refuges, or areas of high ecological sensitivity. (Id.). The CMP also includes authority over construction of on shore facilities in the coastal zone. Oil and gas pipelines, terminals, refineries, storage facilities, operations bases, or fabrication yards must receive a State permit before construction. (CMP 232-238; 387). The State conducts an environmental, economic, and fiscal statement before issuing the permit. (Id.) Therefore, the EIS requirement for oil and gas exploration in the Chesapeake Bay and Atlantic Coastal Bays Critical Areas falls within existing State CMP consideration of the national interest in energy development through oil and gas drilling.

The following pages provide a description and analysis of each legislative and regulatory change submitted for incorporation into the State CMP. The description and analysis of each change is organized in chart format that identifies the enforceable policies to be added to the management program, describes the nature of each program change, and examines the impact the changes have on the existing management program.

STATUTORY CHANGES

Statutory Change	Status of Law in 1978	Change to Law Since 1978	Significance of Change
<p>Md. Code Nat. Res. §8-1802</p> <p>Definitions for Chesapeake Bay Critical Area Protection Program</p>	<p>Enacted in 1984.</p> <p>Incorporated into the CMP by Amendment in 1986.</p> <p>Amended in 1990, 1995, and 2002.</p>	<ul style="list-style-type: none"> • Added or redefined definitions applicable to Critical Areas Protection Program. • Added definitions for “Atlantic Coastal Bays” and “Atlantic Coastal Bays Critical Area.” Defined the “Chesapeake Bay Critical Area” in reference to Md. Code Nat. Res. §8-1807. Amended definition of “Commission” from “Critical Area Commission for the Chesapeake and Atlantic Coastal Bays” to the “Critical Area Commission for the Chesapeake and Atlantic Coastal Bays.” Included additional references to the Atlantic Coastal Bays and Critical Area Commission for the Chesapeake and Atlantic Coastal Bays. 	<ul style="list-style-type: none"> • Does not substantially change the uses subject to management, special management areas, or the authorities and organization in the coastal zone. • Under existing Critical Areas Program authority within the State CMP, the State could establish an Atlantic Coastal Bays Critical Area. • The Atlantic Coastal Bays Critical Area is also an extension of the Chesapeake Bay Critical Area Program requested by NOAA and EPA. • The State CMP includes authority to regulate development, construction, and forestry activities in coastal zones, including development restrictions and coastal buffer requirements. The definitions clarify application of this authority to the Atlantic Coastal Bays.
<p>Md. Code Nat. Res. §8-1807</p> <p>Areas included in the Chesapeake Bay Critical Area Program</p>	<p>Enacted in 1984.</p> <p>Incorporated into the CMP by Amendment in 1986.</p> <p>Amended in 1990, 1991, 2000, and 2002.</p>	<ul style="list-style-type: none"> • In 2002, established initial planning area for determination of the Atlantic Coastal Bays Critical Area. Redesignated previous §8-1807(b) as §8-1807(c). Added references to Atlantic Bays Critical Area. Also, added §8-1807(e) provision establishing the makeup of the Atlantic Coastal Bays Critical Area. • 2000 amendment made undefined minor nonsubstantive corrections to style and obsolete references as dictated by State legislative policy. 	<ul style="list-style-type: none"> • Although the Atlantic Coastal Bays Critical Area as defined by its initial planning area is an area of particular concern within the coastal zone, its creation does not substantially change the special management areas in the coastal zone. • The State CMP includes state authority to create Critical Areas and attendant management programs. In addition, the existing State CMP provides for specific regulation of development, construction, and forestry in the coastal zone. Thus, the Atlantic Coastal Bays Critical Area does not address previously unmanaged resources, nor does it significantly change how the State manages those resources and uses.

Statutory Change	Status of Law in 1978	Change to Law Since 1978	Significance of Change
<p>Md. Code Nat. Res. §8-1808.3</p> <p>Storm water runoff requirements in Chesapeake Bay Critical Area</p>	<p>Enacted in 1986.</p> <p>Incorporated into the CMP by Amendment in 1986.</p> <p>Amended in 1990, 1991, 1992, 1993, 1996, 1997, 2002, and 2003.</p>	<ul style="list-style-type: none"> • In 2003, corrected a stylistic error replacing the numeral 1 in §8-1808.3(d)(4) with the word “one.” • In 2002, added §8-1808.3(d)(2)-(4) references to Atlantic Coastal Bays Critical Area and the limitations on man-made impervious surfaces in the Atlantic Bays Critical Area. Also, included Atlantic Coastal Bays Critical Area in the 8-1808.3(e) exemption for trailer parks. • In 1997, corrected stylistic and typographical errors by replacing “onsite” with “on-site” in §8-1808.3(f)(5) and by deleting “in lieu” following “All fee” and preceding “collected” and by replacing “under subsection (f)(3)” with “under subsection f(5).” 	<ul style="list-style-type: none"> • Does not substantially change the uses subject to management, the special management areas, or the authorities and organization within the coastal zone. • The State CMP includes authority to regulate stormwater runoff from development. In 1982 and 1983, the State incorporated its stormwater management statutes and regulations into the State CMP. These policies require stormwater management plans for development (Md. Code Env. §4-204; COMAR 26.17.02.03); limit impervious surfaces for redevelopment (CMAR 26.17.02.05.05); and authorize the use of environmentally sensitive development measures (COMAR 26.17.02.08). Before incorporation of the State stormwater statutes and regulations, the 1978 State CMP also included authority to regulate stormwater runoff that caused or added to flooding hazards. (CMP 164-169).
<p>Md. Code Nat. Res. §8-1808.4</p> <p>Construction projects located on piers in the Chesapeake Bay Critical Area</p>	<p>Enacted in 1989.</p> <p>Amended in 1990, 1991, 1993, and 1996.</p>	<ul style="list-style-type: none"> • Prohibits local jurisdictions from issuing building permits for construction of piers in the Critical Areas for dwelling units and other non-dependant water uses unless certain conditions are met, including a showing that the pier will not have a long term adverse effect on an adjacent water body 	<ul style="list-style-type: none"> • Does not substantially change the uses subject to management, the special management areas, or the authorities and organization within the coastal zone. • The State CMP includes authority to regulate development and construction in the coastal zones, including restrictions on construction in floodplains and tidal wetlands.

Statutory Change	Status of Law in 1978	Change to Law Since 1978	Significance of Change
<p>Md. Code. Nat. Res. §8-1808.5</p> <p>Community piers and docks in Chesapeake Bay Critical Area</p>	<p>Enacted in 1994. Amended in 1995.</p>	<ul style="list-style-type: none"> • Provides for the permitting of a community pier and docking facilities in Critical Area buffers. Imposes certain conditions that must be met prior to permit issuance. 	<ul style="list-style-type: none"> • Does not substantially change the uses subject to management, the special management areas, or the authorities and organization within the coastal zone. • The State CMP includes authority to regulate development and construction in the coastal zones, including restrictions on construction in floodplains and tidal wetlands.
<p>Md. Code Nat. Res. §8-1808.7</p> <p>Commercial timber harvest in Chesapeake Bay Critical Area</p>	<p>Enacted in 1997.</p>	<ul style="list-style-type: none"> • Allows commercial harvesting within 50 feet of the landward edge of the mean high water line of tidal waters and tributary streams subject to certain conditions. • Required a buffer management plan for all commercial harvests within buffer zone. • Addresses the implementation of COMAR 27.01.09, which on its face, allows timber harvesting in critical areas, but such harvesting was never permitted. The amendment clarifies when such harvesting will be allowed. 	<ul style="list-style-type: none"> • Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. • The CMP includes state authority to regulate private forested land under local forest districts, which are authorized to develop safeguards, such as buffers, for proper forest use. (CMP 186).

Statutory Change	Status of Law in 1978	Change to Law Since 1978	Significance of Change
<p>Md. Code Nat. Res. §8-1808.8</p> <p>Forest and woodland areas in Chesapeake Bay Critical Area</p>	<p>Enacted in 2002.</p>	<ul style="list-style-type: none"> Replaced application of the State forestry laws, Md. Code Nat. Res. tit. 5, subtit. 16, in Atlantic Coastal Bays. Required local jurisdictions to adopt woodland cover requirements for Coastal Bays. Authorized forestry practices that local jurisdictions may include in their local critical area protection program. 	<ul style="list-style-type: none"> Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. The CMP includes state authority to regulate private forested land under local forest districts, which can develop soil management plans including forestry limits. (CMP 186). It is State policy to conserve and improve soil resources to preserve adequate sources of forest products. (CMP 185). It is also State policy to manage state forests to provide for certain activities including watershed and wildlife protection. (Id.) Regulated forestry in the Atlantic Coastal Bays Critical Area falls within the existing State CMP authority to regulate private and public forested lands. It also furthers state policy to conserve soil resources by reducing the increased soil erosion and sediment discharge from forestry.
<p>Md. Code Nat. Res. §8-1811</p> <p>Project approval in Chesapeake Bay Critical Area; and Atlantic Coastal Bays Critical Area</p>	<p>Enacted in 1984.</p> <p>Incorporated into the CMP in 1986</p> <p>Amended in 1990 and 2002.</p>	<ul style="list-style-type: none"> Included Atlantic Coastal Bays and Atlantic Coastal Bays Critical Area within the requirements for approval of projects that involve land located in the Critical Areas Program. 	<ul style="list-style-type: none"> Does not substantially change the uses subject to management, special management areas, or authorities and organization in the coastal zone. The CMP includes state authority to regulate development in shoreline areas. (CMP 155). The CMP also includes State authority under Critical Areas Program to identify and manage areas of critical State concern for preservation, conservation, or utilization. (CMP 296-297). The required project approval requirements for land in the Atlantic Coastal Bays falls under this existing authority.

Statutory Change	Status of Law in 1978	Change to Law Since 1978	Significance of Change
<p>Md. Code Nat. Res. §8-1815</p> <p>Enforcement procedures and remedies</p>	<p>Enacted in 1984.</p> <p>Incorporated into the CMP in 1986.</p> <p>Amended in 1989 and 1990.</p>	<ul style="list-style-type: none"> 1989 and 1990 amendments made minor changes to State enforcement authority and procedures in the Critical Areas. 	<ul style="list-style-type: none"> Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. The State CMP includes authority to regulate such activities as forestry, construction, and oil and gas drilling within the coastal zone.
<p>Md. Code Nat. Res. §8-1815.1</p> <p>Additional penalties for violations of forestry provisions in Chesapeake Bay Critical Area</p>	<p>Enacted in 2002.</p> <p>Amended in 2003.</p>	<ul style="list-style-type: none"> Section, as enacted, authorized additional penalties for violations of Atlantic Coastal Bays Critical Area program and authorized an additional remedy for violation of woodland requirements in Atlantic Coastal Bays Critical Area program. 2003 amendment corrected minor errors. 	<ul style="list-style-type: none"> Does not substantially change the uses subject to management or the enforceable authorities or organizational structure within the coastal zone. The State CMP includes state authority to regulate private forested land under local forest districts. (CMP 186). It is also State policy to manage state forests in order to provide for certain activities including watershed and wildlife protection. (Id.) Each forestry district under the CMP is authorized to enforce the State's forestry rules and regulations. (CMP 392). The penalties and remedies for forestry violations in the Atlantic Coastal Bays Critical Area fall within existing State CMP authority to regulate private and public forested lands.

Statutory Change	Status of Law in 1978	Change to Law Since 1978	Significance of Change
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<p>Md. Code Nat. Res. §8-1817</p> <p>Oil and gas production and exploration in the Chesapeake Bay Critical Area</p>	<p>Enacted in 1988.</p> <p>Amended in 1993, 1995, 1998, and 2002.</p>	<ul style="list-style-type: none"> • Requires that any applicant for production or exploratory drilling in or through the Critical Area shall complete an environmental impact study addressing the potential impacts of the drilling. • 2002 amendment deleted references to the “Chesapeake Critical Area Commission” and replaced it with the “Commission,” which includes the Atlantic Coastal Bays Critical Area as now defined by 8-1802. • 1998 amendment corrected a grammatical error in 8-1817(a) replacing “assures” with “assure.” 	<ul style="list-style-type: none"> • Does not substantially change the enforceable authorities or the national interest in oil and gas development in the costal zone. • The CMP includes authority under the Maryland Environmental Policy Act (MEPA) to prepare environmental effects reports for activities significantly effecting the environment. MEPA requires State agencies to consider the environment in decisionmaking, and it is State policy to protect the environment. (CMP 377). • The State participates in federal outer OCS oil and gas development by reviewing exploration and development plans and environmental reports for consistency with the CMP or to require an EIS. (CMP 127). Among criteria to determine if an EIS is needed, the State reviews structures located near marine sanctuaries, wildlife refuges, or areas of high ecological sensitivity. (Id.). • The CMP includes authority over construction of on shore facilities in the coastal zone. Oil and gas pipelines, terminals, refineries, storage facilities, operations bases, or fabrication yards must receive a State permit before construction. (CMP 232-238; 387). The State conducts an environmental, economic, and fiscal statement before issuing the permit. (Id.) • The EIS requirement for oil and gas exploration in the Atlantic Coastal Bays falls within State CMP authority to conduct MEPA environmental review and to review OCS and onshore oil and gas activities.
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REGULATORY CHANGES

Regulatory Change	Status of Law in 1978	Change to Law Since 1978	Significance of Change
COMAR 27.01.01.01 Definitions applicable to regulatory provisions for Chesapeake Bay Critical Area Program	Enacted in 1986. Incorporated into CMP in 1986.	<ul style="list-style-type: none"> No substantive changes since 1997 NOAA Conditional Approval. Recodified from COMAR 14.15.01.01 in 1992. 	<ul style="list-style-type: none"> Minor reorganization of regulatory authority.
COMAR 27.01.02.02 General policies for and prohibited activities in critical areas	Enacted in 1986. Incorporated into CMP in 1986.	<ul style="list-style-type: none"> No substantive changes since 1997 NOAA Conditional Approval. Recodified from COMAR 14.15.01.02 in 1992. 	<ul style="list-style-type: none"> Minor reorganization of regulatory authority.
COMAR 27.01.02.03 Requirements for intensely developed areas	Enacted in 1986. Incorporated into CMP in 1986.	<ul style="list-style-type: none"> No substantive changes since 1997 NOAA Conditional Approval. Recodified from COMAR 14.15.01.03 in 1992. 	<ul style="list-style-type: none"> Minor reorganization of regulatory authority.
COMAR 27.01.02.04 Requirements for limited development areas	Enacted in 1986. Incorporated into CMP in 1986.	<ul style="list-style-type: none"> No substantive changes since 1997 NOAA Conditional Approval. Recodified from COMAR 14.15.02.04 in 1992. 	<ul style="list-style-type: none"> Minor reorganization of regulatory authority.
COMAR 27.01.02.05 Requirements for resource conservation areas	Enacted in 1986. Incorporated into CMP in 1986.	<ul style="list-style-type: none"> No substantive changes since 1997 NOAA Conditional Approval. Recodified from COMAR 14.15.02.05 in 1992. 	<ul style="list-style-type: none"> Minor reorganization of regulatory authority.

Regulatory Change	Status of Law in 1978	Change to Law Since 1978	Significance of Change
COMAR 27.01.03.03 General criteria and prohibited activities for water dependant facilities in critical areas	Enacted in 1986. Incorporated into CMP in 1986.	<ul style="list-style-type: none"> No substantive changes since 1997 NOAA Conditional Approval. Recodified from COMAR 14.15.03.03 in 1992. 	<ul style="list-style-type: none"> Minor reorganization of regulatory authority.
COMAR 27.01.03.05 Limitations on permitting of industrial and port-related water dependant facilities in critical areas	Enacted in 1986. Incorporated into CMP in 1986.	<ul style="list-style-type: none"> No substantive changes since 1997 NOAA Conditional Approval. Recodified from COMAR 14.15.03.05 in 1992. 	<ul style="list-style-type: none"> Minor reorganization of regulatory authority.
COMAR 27.01.03.07 Permitting requirements for community piers and other noncommercial boat dockings and storage facilities	Enacted in 1986. Incorporated into CMP in 1986.	<ul style="list-style-type: none"> No substantive changes since 1997 NOAA Conditional Approval. Recodified from COMAR 14.15.03.07 in 1992. 	<ul style="list-style-type: none"> Minor reorganization of regulatory authority.
COMAR 27.01.03.08 Permitting requirements for public beaches and other public water-oriented recreation or education areas.	Enacted in 1986. Incorporated into CMP in 1986.	<ul style="list-style-type: none"> No substantive changes since 1997 NOAA Conditional Approval. Recodified from COMAR 14.15.03.08 in 1992. 	<ul style="list-style-type: none"> Minor reorganization of regulatory authority.
COMAR 27.01.03.09 Permitting for state, federal, or local research areas	Enacted in 1986. Incorporated into CMP in 1986.	<ul style="list-style-type: none"> No substantive changes since 1997 NOAA Conditional Approval. Recodified from COMAR 14.15.03.09 in 1992. 	<ul style="list-style-type: none"> Minor reorganization of regulatory authority.
Regulatory Change	Status of Law in 1978	Change to Law Since 1978	Significance of Change

COMAR 27.01.03.10 Fisheries activities and facilities in critical areas	Enacted in 1986. Incorporated into CMP in 1986.	<ul style="list-style-type: none">• No substantive changes since 1997 NOAA Conditional Approval. Recodified from COMAR 14.15.03.10 in 1992.	<ul style="list-style-type: none">• Minor reorganization of regulatory authority.
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CONCLUSION

Pursuant to Coastal Zone Management Act §306(e) and 15 C.F.R. 923.80, the DNR has reviewed the legislative and regulatory changes submitted for incorporation into the State CMP, and has concluded that the submitted changes are not Amendments. DNR believes that these changes will not substantially change the enforceable authorities of the CMP, uses subject to management under the State CMP, or national interests in the State's coastal zone. The DNR also believes that the submitted changes increase the ability of the State to manage, preserve, and sustain the coastal resources of the State of Maryland. Therefore, according to the standards set forth by 15 C.F.R. §923.80(d), 15 C.F.R. §923.84, and the OCRM's Program Change Guidance from July 1996, the State of Maryland submits these program changes as Routine Program Changes and requests and recommends the OCRM's concurrence with this action.