

**TITLE 3. PROTECTION OF WATER QUALITY,
STREAMS, WETLANDS, AND FLOODPLAINS**

Section

- 33-3-101. Definitions
- 33-3-102. Legislative findings of fact
- 33-3-103. Legislative intent
- 33-3-104. Scope
- 33-3-105. Authority of the Department — In general
- 33-3-106. Same — Variances
- 33-3-107. Prohibition, correction, and abatement of water pollution
- 33-3-108. Plan information
- 33-3-109. Approval of permits
- 33-3-110. Plats and protective covenants
- 33-3-111. Design standards for forest buffers and building setbacks
- 33-3-112. Management requirements for forest buffers
- 33-3-113. Conflict with other law and regulations
- 33-3-114. Public and private improvements of development
- 33-3-115. Enforcement procedures
- 33-3-116. Civil monetary penalties
- 33-3-117. [Reserved]
- 33-3-118. Criminal penalties
- 33-3-119. Liability for expenses caused by violation
- 33-3-120. Additional remedies for violation

§ 33-3-101. DEFINITIONS.

(a) *In general.* In this title the following words have the meanings indicated.

(b) *Agricultural operation.* “Agricultural operation” means properties used for the production of agricultural products in accordance with a soil conservation and water quality plan approved by the County Soil Conservation District.

(c) *Agriculture.*

(1) "Agriculture" means all methods of production, processing, storage, and management of livestock, crops, vegetation, and soil.

(2) "Agriculture" includes:

(i) The related activities of tillage, fertilization, pest control, harvesting, and marketing; and

(ii) The activities of feeding, housing, maintaining animals, including cattle, dairy cows, sheep, goats, hogs, horses, and poultry and handling their by-products.

(d) *Applicant.*

(1) "Applicant" means a person requesting approval of development under this title or Article 32, Title 4 of the Code.

(2) "Applicant" includes an owner, contract purchaser, or the legally authorized representative of either.

(e) *Best management practices (bmps).* "Best management practices (BMPs)" means conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by nutrients, animal wastes, toxins, sediment, and runoff.

(f) *Department.* "Department" means the Department of Environmental Protection and Sustainability.

(g) *Development.* "Development" means:

(1) The improvement of property for any purpose involving building;

(2) Subdivision;

(3) The combination of any two or more lots, tracts, or parcels of property for any purpose;

(4) Subjecting property to the provisions of the Maryland Condominium Act; and

(5) The preparation of land for any of the purposes listed in items (1) through (4) of this subsection.

(h) *Forest buffer.*

(1) "Forest buffer" means a wooded area that exists or is established to protect a stream system.

(2) "Forest buffer" includes trees, shrubs, and herbaceous vegetation.

(i) *Plan*. "Plan" means a written and graphic representation of all proposed development, forest harvesting operations, surface mining operations, agricultural operations, and other land use activities not otherwise exempt from the provisions of this title that is prepared in accordance with § 33-3-108 of this title.

(j) *Pollutant*. "Pollutant" means:

(1) Any waste or wastewater that is discharged from:

- (i) Any publicly-owned treatment works, or
- (ii) An industrial source; or

(2) Any other liquid, gaseous, solid, or other substance that will pollute any waters of this state.

(k) *Public improvement*. "Public improvement" means any improvement, facility, or service together with its associated public site or right-of-way necessary to provide transportation, drainage, public or private utilities, energy, or similar essential services.

(l) *Waste*. "Waste" means industrial waste and all other liquid, gaseous, solid, and other substances that will pollute any waters of this state.

(m) *Wastewater*. "Wastewater" means:

(1) Liquid waste substance derived from industrial, commercial, municipal, residential, agricultural, recreational, or other operations or establishments; or

(2) Other liquid waste substance containing liquid, gaseous, or solid matter and having characteristics that will pollute any waters of this state.

(1988 Code, § 14-336) (Bill No. 224, 1990, § 1; Bill No. 10-96, § 3, 3-23-1996; Bill No. 94-02, § 2, 7-1-2004; Bill No. 122-10, § 13, 1-16-2011)

§ 33-3-102. LEGISLATIVE FINDINGS OF FACT.

(a) *Federal policy*.

(1) Section 101(a) of the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500), as amended by the Clean Water Act of 1977 (P.L. 95-217), declares that the objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the nation's waters.

(2) In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act:

(i) It is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985;

(ii) It is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983;

(iii) It is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited;

(iv) It is the national policy that federal financial assistance be provided to construct publicly owned waste treatment works;

(v) It is the national policy that areawide waste treatment management planning processes be developed and implemented to assure adequate control of sources of pollutants in each state;

(vi) It is the national policy that a major research and demonstration effort be made to develop technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and the oceans; and

(vii) It is the national policy that programs for the control of nonpoint source pollution be developed and implemented in an expeditious manner so as to enable the goals of this Act to be met through the control of both point and nonpoint source pollution.

(b) *COMAR*. COMAR 26.08.02 prohibits:

(1) Pollution of the waters of this state; and

(2) Degradation of the quality of certain waters of this state.

(c) *Chesapeake Bay Agreement*. The state is:

(1) Committed to the 1987 Chesapeake Bay Agreement, the goal of which is to reduce nutrient loads entering the Chesapeake Bay by 40% by the year 2000; and

(2) Initiating implementation of Maryland's Chesapeake Bay Nutrient Reduction Plan 1985--2000, which calls for the establishment of forested buffer strips along stream channels adjoining cropland.

(d) *Department to administer*. The Department has received delegation from the state for the administration of environmental programs.

(e) *Master plan.* The County Master Plan 1979--1995 calls for the protection of the natural functions of stream valleys and the County Master Plan 1989--2000 states that wetland and riparian vegetation play an essential role in the natural functioning of stream systems.

(f) *Hydrogeological studies and environmental effects reports.* Section 34-1-101 of the Code provides for hydrogeological studies and environmental effects reports and authorizes the disapproval of any subdivision within the watershed of a public water supply reservoir if the studies, reports, or both show that disapproval is required in the interest of the protection of the watershed and the public health, safety, and welfare.

(g) *Floodplain and wetland restrictions.* Section 32-4-414 of the Code:

- (1) Restricts construction in or alteration of any riverine floodplain;
- (2) Prohibits dredging, filling, or construction in any wetland; and
- (3) Requires that any wetland must be adequately protected from contamination.

(h) *Preservation of natural features.* Section 32-4-416 of the Code requires that natural features, including watercourses and significant vegetation, must be preserved.

(i) *Nuisances.* Section 13-7-112 of the Code provides for abatement of nuisances affecting health or the environment.

(j) *Watershed Management Agreement.* The county is a signatory to the 1984 Reservoir Watershed Management Agreement and the 1990 Reaffirmation Agreement, which calls for the county to adopt policies to maintain vegetated buffers along streams in new subdivisions.

(k) *Water Quality Steering Committee.* The County Water Quality Steering Committee has determined that forest buffers are necessary to protect water quality, streams, wetlands, and riverine floodplains and has recommended that regulations concerning the same be enacted. (1988 Code, § 14-331) (Bill No. 224, 1990, § 1; Bill No. 94-02, § 2, 7-1-2004)

§ 33-3-103. LEGISLATIVE INTENT.

(a) *In general.* The purpose of the County Council in adopting this title is to:

- (1) Protect the county's streams, wetlands, and riverine floodplains;
- (2) Protect the water quality of the county's watercourses, reservoirs, lakes, and the Chesapeake Bay;
- (3) Protect the county's riparian and aquatic ecosystems; and

(4) Provide environmentally sound use of the county's land resources.

(b) *Forest buffers.*

(1) Multiple environmental protection and resource management values are provided by forest buffers.

(2) Forest buffers enhance and protect the natural ecology of stream systems; water quality; wildlife habitat; the aesthetic and scenic qualities of natural features; environmentally sensitive areas, such as aquifer recharge areas; and flora and fauna preservation sites.

(3) Forest buffers adjacent to stream systems:

(i) Restore and maintain the chemical, physical, and biological integrity of the water resources;

(ii) Filter nutrients and toxins;

(iii) Reduce erosion and control sedimentation;

(iv) Stabilize stream banks;

(v) Provide infiltration of stormwater runoff;

(vi) Maintain base flow of streams;

(vii) Provide the organic matter that is the source of food and energy for the aquatic ecosystem;

(viii) Provide tree canopy to shade streams and encourage trout and other desirable aquatic species;

(ix) Provide riparian wildlife habitat;

(x) Provide scenic value and recreational opportunity; and

(xi) Minimize public investment in waterway restoration, stormwater management, and other water resource expenditures.

(1988 Code, § 14-332) (Bill No. 224, 1990, § 1; Bill No. 94-02, § 2, 7-1-2004)

§ 33-3-104. SCOPE.

(a) *Development.*

- (1) This title applies to all proposed development.
- (2) Section 33-3-111 of this title does not apply to developments that, before January 1, 1991:
 - (i) Have been issued building permits;
 - (ii) Have been issued grading permits and an executed public works agreement whenever required; or
 - (iii) Have had substantial construction begun during the period before January 1, 1991 and thereafter the construction is pursued to completion with reasonable diligence.

(b) *Forest harvesting.*

- (1) This title applies to all forest harvesting operations.
- (2) Section 33-3-111 of this title does not apply to forest harvesting operations that are implementing a forest management plan approved by the Department, the State Department of Natural Resources, the County Forest Conservancy District Board, or the County Soil Conservation District.

(c) *Surface mining operations.*

- (1) This title applies to all surface mining operations.
- (2) Section 33-3-111 of this title does not apply to active surface mining operations that are operating in compliance with a state surface mining permit.
- (3) Reclamation of the affected land shall include:
 - (i) The reestablishment of the original stream system to the degree possible, including the reestablishment of the stream channel, riverine floodplain and wetlands; and
 - (ii) The establishment of forest buffers in accordance with §§ 33-3-111 and 33-3-112 of this title.

(d) *Forest buffers.*

- (1) The basic purposes of the forest buffer standards and requirements outlined in this title apply to all agricultural operations.

(2) The County Soil Conservation District shall administer forest buffer standards and requirements through the implementation of an approved soil conservation and water quality plan which includes the application of best management practices, such as the establishment of vegetative buffers and other water quality and stream protection measures.

(e) *Pollution, erosion, and degradation.* Except as provided in subsection (d) f this section and § 33-3-107(d) f this title, this title applies to all parcels of land, structures, and activities that are causing or contributing to:

(1) Pollution, including nonpoint source pollution, of the waters of this state within the county;

(2) Erosion and sedimentation of stream channels; or

(3) Degradation of aquatic and riparian habitat.

(1988 Code, § 14-333) (Bill No. 224, 1990, § 1; Bill No. 94-02, § 2, 7-1-2004; Bill No. 75-03, § 45, 7-1-2004)

§ 33-3-105. AUTHORITY OF THE DEPARTMENT — IN GENERAL.

(1) The Department is responsible for enforcing the provisions of this title.

(2) The Director may adopt policies and regulations as necessary to implement the provisions of this title.

(1988 Code, § 14-335) (Bill No. 224, 1990, § 1; Bill No. 94-02, § 2, 7-1-2004)

§ 33-3-106. SAME — VARIANCES.

(a) *Authority to grant.* The Director of the Department may grant a variance:

(1) For those projects or activities where strict compliance with the requirements of this title would result in practical difficulty or unreasonable hardship;

(2) For those public improvement projects or activities where no feasible alternative is available;

(3) For the repair and maintenance of public improvements where avoidance and minimization of adverse impacts to nontidal wetlands and associated aquatic ecosystems have been addressed; or

(4) For developments that have had stream buffers/forest buffers applied in conformance with the requirements outlined in the county water quality management policy (February 1, 1986) or the County Executive order for the protection of water quality, streams, wetlands, and floodplains (June 4, 1989) and for which the potential for water quality and aquatic resource degradation is minimal.

(b) *Application.*

- (1) The applicant shall submit a written request for a variance to the Director of the Department.
- (2) The application shall include specific reasons justifying the variance and any other information necessary to evaluate the proposed variance request.
- (3) The Department may require an alternatives analysis that clearly demonstrates that no other feasible alternative exists and that minimal impacts will occur as a result of the proposed project, activity, or development.

(c) *Conditions.* In granting a request for a variance, the Director of the Department may require site design, landscape planting, fencing, the placement of signs, and the establishment of water quality best management practices in order to reduce adverse impacts on water quality, streams, wetlands, and riverine floodplains.

(1988 Code, § 14-334) (Bill No. 224, 1990, § 1; Bill No. 94-02, § 2, 7-1-2004)

§ 33-3-107. PROHIBITION, CORRECTION, AND ABATEMENT OF WATER POLLUTION.

(a) *In general.* The Department shall manage and regulate the waters of this state within the county according to the surface water quality standards and stream segment designations set forth in COMAR 26.08.02.

(b) *Pollution prohibited.* The waters of this state within the county may not be polluted by:

- (1) Substances attributable to sewage, industrial waste, or other waste that will settle to form sludge deposits that:
 - (i) Are unsightly, putrescent, or odorous, and create a nuisance; or
 - (ii) Interfere directly or indirectly with surface water designated uses;
- (2) Any material, including floating debris, oil, grease, scum, sludge, and other floating materials attributable to sewage, industrial waste, or other waste in amounts sufficient to:
 - (i) Be unsightly;
 - (ii) Produce taste or odor;
 - (iii) Change the existing color;
 - (iv) Change other chemical or physical conditions in the surface waters;

(v) Create a nuisance; or

(vi) Interfere directly or indirectly with surface water designated uses;

(3) High-temperature, or corrosive substances attributable to sewage, industrial waste, or other waste in concentrations or combinations that:

(i) Interfere directly or indirectly with surface water designated uses; or

(ii) Are harmful to human, animal, plant, or aquatic life;

(4) Acute toxicity from any discharge; or

(5) Toxic substances attributable to sewage, industrial wastes, or other wastes in concentrations outside designated mixing zones, that:

(i) Interfere directly or indirectly with surface water designated uses; or

(ii) Are harmful to human, plant, or aquatic life.

(c) *Abatement.* The Director of the Department may order:

(1) The abatement and correction of any pollution, including nonpoint source pollution, of the waters of this state within the county;

(2) The abatement and correction of any erosion and sedimentation of stream channels, including the abatement of runoff that contributes to erosion and sedimentation of stream channels; and

(3) The abatement and correction of any degradation of aquatic and riparian habitat.

(d) *Agriculture.* If there are stream degradation problems resulting from agricultural practices in agricultural operations or the basic purposes of the forest buffer standards and requirements are not being met in agricultural operations, the Department shall pursue correction of these stream degradation problems in conjunction with the State Department of the Environment and the County Soil Conservation District according to the memorandum of understanding between the State Departments of Agriculture, Health and Mental Hygiene, and Natural Resources regarding enforcement procedures in cases of water pollution caused by agriculture (December 29, 1986) or subsequent memoranda.

(1988 Code, § 14-337) (Bill No. 224, 1990, § 1; Bill No. 10-96, § 3, 3-23-1996; Bill No. 94-02, § 2, 7-1-2004)

§ 33-3-108. PLAN INFORMATION.

(a) *Required.* In accordance with § 33-3-104 of this title or Article 32, Title 4 of the Code, a plan approved by the Department is required for all development, forest harvesting operations, surface mining operations, and agricultural operations.

(b) *Details of plan — In general.* The plan shall include an informative, conceptual, and schematic representation of the proposed activity by means of maps, graphs, charts, or other written or drawn documents to enable the Department to make a reasonably informed decision regarding the proposed activity.

(c) *Same — Specific requirements.* The plan shall contain the following information:

- (1) A location or vicinity map;
- (2) Property lines;
- (3) Existing structures or facilities, including buildings, roads, wells, and sewage disposal systems (include 100 feet into adjacent properties where possible);
- (4) Existing and proposed contour lines;
- (5) Proposed sewage disposal areas;
- (6) Field delineated, marked, and surveyed streams, springs, seeps, bodies of water, and wetlands (include 200 feet into adjacent properties where possible);
- (7) Field delineated, marked, and surveyed forest buffers;
- (8) Department of Public Works approved riverine floodplain limits;
- (9) Soils mapped and labeled in accordance with the soil survey of the county;
- (10) (i) Slopes greater than 10% for areas adjacent to and within 500 feet of streams, wetlands, or other bodies of water; and
(ii) Slopes greater than 25% for all other areas;
- (11) Rare species, threatened species, or endangered species habitat;
- (12) Existing vegetation;
- (13) Location and type of stormwater management devices and practices;

(14) Building envelopes;

(15) Existing and proposed utility lines and easements;

(16) Historical and archaeological sites;

(17) A note indicating: "There shall be no clearing, grading, construction or disturbance of vegetation in the forest buffer, except as permitted by the Baltimore County Department of Environmental Protection and Sustainability"; and

(18) Supporting documentation for variance requests, including alternatives analyses and conceptual mitigation plans.
(1988 Code, § 14-338) (Bill No. 224, 1990, § 1; Bill No. 94-02, § 2, 7-1-2004; Bill No. 122-10, § 13, 1-16-2011)

§ 33-3-109. APPROVAL OF PERMITS.

(a) Before the Department of Permits, Approvals and Inspections may issue any grading permit or building permit or before the approval of any sediment control plan, the Director of Environmental Protection and Sustainability or the Director's designee shall determine that the proposed development is in compliance with the provisions of this title.

(b) A permit may not be issued without compliance with this title.
(1988 Code, § 14-339) (Bill No. 224, 1990, § 1; Bill No. 94-02, § 2, 7-1-2004; Bill No. 122-10, §§ 13, 30, 1-16-2011)

§ 33-3-110. PLATS AND PROTECTIVE COVENANTS.

(a) *In general.*

(1) (i) Any plat submitted to the county in accordance with Article 32, Title 4 of the Code shall be accompanied by irrevocable offers of dedication to the county of all forest buffer areas in fee or easements, in a form approved by the Bureau of Land Acquisition and the County Attorney.

(ii) The plat shall be marked with a notation indicating the offers of dedication.

(2) (i) The applicant may determine the scope of the dedication.

(ii) The dedication shall include at a minimum a right of access by the county for the purpose of inspecting and maintaining the forest buffer and providing for the abatement and correction of water pollution, erosion, and sedimentation of stream channels, wetlands, and riverine floodplains.

(b) *Protective covenants.*

(1) If an applicant retains any forest buffer, the applicant shall be required to submit for approval by the Office of Law a declaration of protective covenants.

(2) (i) The County Bureau of Land Acquisition may draft the declaration.

(ii) The declaration shall include at minimum the management requirements for forest buffers listed in § 33-3-112 of this title.

(3) The protective covenants shall be recorded in the land records of the county, and shall run with the land and continue in perpetuity.

(c) *Requirements for recorded plats.* In addition to the provisions of the development regulations concerning plats, all plats prepared for recording and all right-of-way plats shall clearly:

(1) Show the extent of any forest buffer on the subject property by metes and bounds;

(2) Label the forest buffer;

(3) Provide a note to reference any forest buffer stating: "There shall be no clearing, grading, construction or disturbance of vegetation in the forest buffer except as permitted by the Baltimore County Department of Environmental Protection and Sustainability"; and

(4) Provide a note to reference protective covenants governing any forest buffer stating: "Any forest buffer shown hereon is subject to protective covenants which may be found in the land records of Baltimore County and which restrict disturbance and use of these areas."

(d) *No public access implied.* An offer of dedication of a forest buffer area to the county may not be construed to convey automatically to the general public the right-of-access to the area.

(1988 Code, § 14-340) (Bill No. 224, 1990, § 1; Bill No. 94-02, § 2, 7-1-2004; Bill No. 122-10, § 13, 1-16-2011)

§ 33-3-111. DESIGN STANDARDS FOR FOREST BUFFERS AND BUILDING SETBACKS.

(a) *In general.*

(1) (i) A forest buffer for a stream system shall consist of a forested strip of land extending along both sides of a stream and its adjacent wetlands, riverine floodplain, and slopes.

(ii) The forest buffer width shall be adjusted to include contiguous, sensitive areas, such as steep slopes or erodible soils, where development or disturbance may adversely affect water quality, streams, wetlands, or other bodies of water.

(iii) The adjustment required under subparagraph (ii) of this paragraph shall be accomplished by evaluating the potential of a site for impacts that result from runoff, soil erosion, and sediment transport.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, for those sites where forest vegetation does not exist, it is acceptable to allow the forest buffer to succeed naturally to a wooded state.

(ii) If channel erosion, stream pollution, or habitat degradation exists at that site or has been caused downstream from that site, the Director may require planting of the forest buffer and any additional water quality protection measures.

(3) The Department may post the forest buffer.

(b) *Forest buffer standards for streams, wetlands, and floodplains.*

(1) In this subsection, "stream order" is a classification system of streams based on stream hierarchy. The smaller the stream, the lower its numerical classification. A first order stream does not have tributaries and normally originates from springs, seeps, or both. At the confluence of two first order streams, a second order stream begins. A third order stream begins at the confluence of two second order streams and so on.

(2) (i) For a first or second order stream, the forest buffer shall be measured from the centerline.

(ii) For all higher order streams, the forest buffer shall be measured from the stream bank of the active channel (bank-full flow).

(3) For a surface water designated use I or I-P stream, the forest buffer shall be the greater of the following:

(i) 75 feet;

(ii) 25 feet from the outer wetland boundary; or

(iii) 25 feet from the riverine floodplain reservation or easement boundary.

(4) For a surface water designated use III, III-P, IV or IV-P stream (natural and recreational trout waters), the forest buffer shall be the greater of the following:

(i) 100 feet;

(ii) 25 feet from the outer wetland boundary; or

(iii) 25 feet from the riverine floodplain reservation or easement boundary.

(c) *Adjusted forest buffer standards and requirements for streams and wetlands with adjacent steep slopes and erodible soils.*

(1) A steep slope and erodible soils evaluation shall be conducted in accordance with the evaluation procedures and criteria specified in this subsection or a comparable method approved by the Director for sites containing or adjacent to streams, wetlands, or other bodies of water where:

- (i) Slopes exceed 10% within 500 feet of the streams, wetlands, or bodies of water;
- (ii) Soil erodibility K values exceed .24 within 500 feet of the streams, wetlands, or bodies of water; or
- (iii) The vegetative cover type within 100 feet of the streams, wetlands, or bodies of water is: bare soil; fallow land; crops; active pasture in poor or fair condition; orchard-tree farm in poor or fair condition; brush-weeds in poor condition; or woods in poor condition.

(2) An evaluation report shall be submitted for review to the Department, which shall include, at a minimum, the following:

- (i) A plan, at a scale not smaller than 1" = 100', that shows:
 - 1. Existing topography with contour intervals no greater than 5 feet (county photogrammetric maps are an acceptable source for preparing existing topography);
 - 2. Mapped soils as shown in the county soil survey;
 - 3. Field delineated, marked, and surveyed streams and wetlands;
 - 4. Existing vegetation;
 - 5. Existing subdrainage areas of the site; and
 - 6. Slopes in each subdrainage area segmented into sections of slopes less than or equal to 10%, 11% to 19%, and equal to or greater than 20%;
- (ii) All slope analysis data forms;
- (iii) A summary of findings including information pertinent to the evaluation of the site; and
- (iv) A mitigation plan that describes the proposed additional protective measures for those areas where development is allowed with restrictions.

(3) (i) The site shall be evaluated by assessing each segment of each subdrainage area using the evaluation criteria in Table 1.

(ii) Each segment shall be given a score for slope, slope length, soil erodibility, vegetative cover type, and sediment delivery.

(iii) A total score shall be assigned for each segment.

(iv) A segment of a subdrainage area with a total score of 35 or greater shall be designated as part of the forest buffer and no development shall be approved in that segment.

(v) 1. A segment with a total score of 25 or 30 shall require the application of additional protective measures.

2. Development may not be prohibited and that area is not required to be part of the forest buffer.

(vi) A segment with a score of 20 or less shall be developed with standard protective measures and that area is not required to be part of the forest buffer.

Table 1
Evaluation Criteria for Steep Slopes and Erodible Soils

<i>Factors</i>	<i>Scores</i>		
	<i>High (10)</i>	<i>Medium (5)</i>	<i>Low (0)</i>
Slope (S)	$S \geq 20\%$	$10\% < S < 20\%$	$S \geq 10\%$
Slope length (SL)	$SL \geq 200'$	$50' < SL < 200'$	$SL \geq 50'$
Soil erodibility (K)	$K \geq 0.32$	$0.24 < K < 0.32$	$K < 0.24$
Vegetative cover type	Bare soil, fallow land, crops, active pasture in poor condition, orchard-tree farm in poor condition	Active pasture in fair condition, brush-weeds in poor condition, orchard-tree farm in fair condition, woods in poor condition	Active pasture in good condition, undisturbed meadow, brush-weeds in fair condition, orchard-tree farm in good condition, woods in fair condition
Sediment delivery (distance from downslope limit of disturbance to outer edge of wetlands or top of streambank)	Adjacent to watercourses or wetlands (<100' buffer)	Adjacent to watercourses or wetlands (100'--300' buffer)	Not adjacent to watercourses or wetlands (>300' buffer)

(d) *Standards for building setbacks.*

(1) At a minimum, the primary or principal structure on a parcel or lot shall be set back from the outer edge of the forest buffer as follows:

- (i) Residential dwellings, 35 feet; and
- (ii) Commercial structures and industrial structures, 25 feet.

(2) The setback may include private land, public land, or both.

(3) Appurtenant or accessory structures, including roads and driveways, utilities, recreational facilities, and patios, are allowed within the setback area.

(1988 Code, §§ 14-336, 14-341) (Bill No. 224, 1990, § 1; Bill No. 10-96, § 3, 3-23-1996; Bill No. 94-02, § 2, 7-1-2004)

§ 33-3-112. MANAGEMENT REQUIREMENTS FOR FOREST BUFFERS.

(a) *In general.*

(1) The forest buffer, including wetlands and riverine floodplains, shall be managed to enhance and maximize the unique value of these resources.

(2) Management includes specific limitations on alteration of the natural conditions of these resources.

(b) *Prohibited practices.*

(1) The practices and activities that are restricted within the forest buffer under paragraph (2) of this subsection, are restricted except as provided for:

(i) Forest harvesting operations that are implementing a forest management plan approved by the Department, the State Department of Natural Resources, the County Forest Conservancy District Board, or the County Soil Conservation District;

(ii) Surface mining operations that are operating in compliance with a state surface mining permit; and

(iii) Agricultural operations in accordance with a soil conservation and water quality plan approved by the County Soil Conservation District.

(2) (i) The following practices and activities are restricted within the forest buffer.

(ii) Except as provided in subsection (c) of this section, the existing vegetation within the forest buffer may not be disturbed, including disturbance by tree removal, shrub removal, clearing, mowing, burning, spraying, and grazing.

(iii) Soil disturbance may not take place within the forest buffer by grading, stripping of topsoil, plowing, cultivating, or other practices.

(iv) Filling or dumping may not occur within the forest buffer.

(v) Except as authorized by the Department, the forest buffer may not be drained by ditching, underdrains, or other drainage systems.

(vi) Pesticides may not be stored, used, or applied within the forest buffer, except for the spot spraying of noxious weeds consistent with the recommendations of the University of Maryland Cooperative Extension Service.

(vii) Animals may not be housed, grazed, or otherwise maintained within the forest buffer.

(viii) Motorized vehicles may not be stored or operated within the forest buffer, except for maintenance and emergency use approved by the Department.

(ix) Materials may not be stored within the forest buffer.

(c) *Authorized structures, practices, and activities.*

(1) The following structures, practices, and activities are permitted in the forest buffer.

(2) (i) Roads, bridges, trails, storm drainage, stormwater management devices and practices, and utilities approved by the Department are authorized within the forest buffer provided that an alternatives analysis has clearly demonstrated that no other feasible alternative exists and that minimal disturbance will take place.

(ii) The alternatives analysis shall be submitted to the Department in accordance with § 33-3-106 of this title.

(iii) These structures shall be located, designed, constructed, and maintained to:

1. Provide maximum erosion protection;
2. Have the least adverse effects on wildlife, aquatic life, and their habitats; and
3. Maintain hydrologic processes and water quality.

(iv) Following any disturbance, the impacted area shall be restored.

(3) Stream restoration projects, facilities, and activities approved by the Department are authorized within the forest buffer.

(4) Scientific studies approved by the Department, including water quality monitoring and stream gauging, are authorized within the forest buffer.

(5) Horticulture practices may be used to maintain the health of individual trees in the forest buffer.

(6) Individual trees in the forest buffer that are in danger of falling, causing damage to dwellings or other structures, or causing the blockage of streams may be removed.

(7) Other timber cutting techniques approved by the Department may be undertaken within the forest buffer under the advice and guidance of the State Departments of Agriculture and Natural Resources, if necessary to preserve the forest from extensive pest infestation, disease infestation, or threat from fire. (1988 Code, § 14-342) (Bill No. 224, 1990, § 1; Bill No. 94-02, § 2, 7-1-2004)

§ 33-3-113. CONFLICT WITH OTHER LAW AND REGULATIONS.

(a) *In general.* If the standards and management requirements for forest buffers are in conflict with other laws, regulations, and policies regarding streams, steep slopes, erodible soils, wetlands, riverine floodplains, forest harvesting, surface mining, land disturbance activities, development in the Chesapeake Bay Critical Area, or other environmental protection measures, the more restrictive standards and management requirements shall apply.

(b) *Compliance with other regulations.* In addition to compliance with this title, all proposed activities, projects, and developments within a riverine floodplain or one-hundred-year tidal flood area shall also comply with the regulations and requirements of the Department of Public Works and the Department of Permits, Approvals and Inspections.

(1988 Code, § 14-343) (Bill No. 224, 1990, § 1; Bill No. 94-02, § 2, 7-1-2004; Bill No. 122-10, §§ 13, 30, 1-16-2011)

§ 33-3-114. PUBLIC AND PRIVATE IMPROVEMENTS OF DEVELOPMENT.

(a) *Required improvements.*

(1) In addition to complying with Article 32, Title 4 of the Code and § 33-3-107 of this title, the applicant shall provide improvements to the forest buffer and stream system in order to abate and correct:

(i) Water pollution;

(ii) Erosion and sedimentation of stream channels; and

(iii) Degradation of aquatic and riparian habitat.

(2) The county may participate in the cost of any improvement referenced in this subsection.

(b) *Forest buffer.* For any forest buffer or forest buffer easement:

(1) The applicant shall dedicate access easements to the county, the number, locations, and design standards of which shall be determined by the Department; and

(2) On request of the Department, the applicant shall install permanent boundary markers, in the form of monuments.

(1988 Code, § 14-344) (Bill No. 224, 1990, § 1; Bill No. 94-02, § 2, 7-1-2004)

§ 33-3-115. ENFORCEMENT PROCEDURES.

(a) *In general.* The Director may enforce the provisions of this title in accordance with Article 3, Title 6 of the Code.

(b) *Revocation or suspension of approval or permit.* The county may revoke or suspend any approval or permit issued by the county after written notice to the permittee for the following reasons:

(1) Any violation of the conditions of the permit or approved plans;

(2) Construction, grading, timber harvesting, tree cutting, clearing, or grubbing that is not in accordance with the approved plans;

(3) Noncompliance with a correction notice or stop-work order;

(4) Changes in site characteristics upon which plan approvals and permit issuance was based; or

(5) Any violation of this title or any regulations adopted under this title.

(Bill No. 82-06, § 4, 8-24-2006)

§ 33-3-116. CIVIL MONETARY PENALTIES.

The Director of the Department may impose all civil monetary penalties established in this title, giving due consideration to:

(1) The business of the person being charged;

(2) The gravity of the violation;

(3) The good faith of the person; and

(4) The person's history of previous violations.

(1988 Code, § 14-346) (Bill No. 224, 1990, § 1; Bill No. 49-96, § 6, 7-1-1996; Bill No. 94-02, § 2, 7-1-2004; Bill No. 82-06, § 3, 8-24-2006)

§ 33-3-117. [RESERVED].

§ 33-3-118. CRIMINAL PENALTIES.

(a) *In general.* A person who violates any provision of this title, or an order or permit condition promulgated or issued in accordance with this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 90 days or both.

(b) *Separate offenses.* Each day of a violation shall constitute a separate offense.

(1988 Code, § 14-348) (Bill No. 224, 1990, § 1; Bill No. 94-02, § 2, 7-1-2004; Bill No. 82-06, § 3, 8-24-2006)

§ 33-3-119. LIABILITY FOR EXPENSES CAUSED BY VIOLATION.

A person who violates any provision of this title, or an order or permit condition promulgated or issued under this title may be liable for any costs or expenses incurred by the county as a result of the violation. (1988 Code, § 14-349) (Bill No. 224, 1990, § 1; Bill No. 94-02, § 2, 7-1-2004)

§ 33-3-120. ADDITIONAL REMEDIES FOR VIOLATION.

(a) *In general.* In addition to any other sanction under this title, a person who fails to comply with the provisions of this title, orders, or permit conditions promulgated or issued under this title relating to forest buffers, stream systems, and water pollution shall be liable to the county in a civil action for damages in an amount equal to twice the cost of restoring the forest buffer, stream system, and water quality as determined by the Department.

(b) *Use of recovered damages.* Any damages that are recovered under this section shall be used:

(1) For the restoration of forest buffers, stream systems, and water quality; or

(2) For the administration of the Department's program for the protection and restoration of water quality, streams, wetlands, and riverine floodplains.

(1988 Code, § 14-350) (Bill No. 224, 1990, § 1; Bill No. 94-02, § 2, 7-1-2004)

