



1/30/24

**Testimony in SUPPORT of SB268–
Chesapeake and Atlantic Coastal Bays Critical Area Program - Enforcement**

To Chair Feldman and Members of the Committee,

Thank you for this opportunity to submit testimony in **SUPPORT** of **SB268** on behalf of ShoreRivers, and the Chesapeake waterkeeper organizations signed below. ShoreRivers is a river protection group on Maryland’s Eastern Shore with more than 2,500 members. Our mission is to protect and restore our Eastern Shore waterways through science-based advocacy, restoration, and education.

The Critical Area Program continues to be essential for protecting tidal waterways and wildlife habitat across Maryland. With no major update in more than 15 years and concerns over inadequate pollution control highlighted by the recent [CESR Report](#), released by the Bay Program’s Science and Technical Advisory Committee, **it is timely to improve the program’s ability to quickly respond to and address violations that threaten habitat and water quality in tidal waters of the Chesapeake.** Waterkeepers, through routine monitoring of the waterways we work to protect and restore, are often on the frontlines to witness Critical Area violations. When violations occur, it is essential that our Counties and our State Commission’s enforcement actions are as responsive as possible—to abate the impacts of pollution and/or loss of habitat, and enhance a culture of enforcement for the environmental sector. **SB268** will:

- Clarify that the Program’s 2008 enforcement provisions and procedures are not solely administrative;
- Clarify that Program’s penalties are not exclusively administrative, civil, or criminal;
- Eliminate the 30 day response period for enforcement;
- Clarify the conditions under which the Attorney General may bring an enforcement action to include all Critical Area law and regulations.

The state continues to recognize that the Critical Area has the highest potential for nutrient delivery¹: “In accordance with the Chesapeake Bay Watershed Implementation Plan, the standard nitrogen rate used to determine the nitrogen delivery rate to surface water is as follows: (1) An 80% delivery rate in Critical Area; (2) a 50% delivery rate within 1,000 feet from any perennial surface water; and (3) a 30% delivery rate from distances greater than 1,000 feet from any perennial surface.” It is fitting that our methods of enforcement and oversight be evaluated and improved to match the potential environmental impacts from violations in the Critical Area. **This General Assembly has worked to prioritize tree retention, buffers, and shoreline resiliency—enhancing protections for the Critical Area is at the heart of those efforts.** We commend the Critical Area Commission Staff for bringing this important update before you, and we look forward to this Committee giving **SB268 a favorable report.**

Sincerely,

Annie Richards, Chester Riverkeeper on behalf of ShoreRivers and Maryland Waterkeeper organizations signed below:

¹ <https://mde.maryland.gov/programs/pressroom/pages/1243.aspx>

ShoreRivers

Isabel Hardesty, Executive Director

Annie Richards, Chester Riverkeeper | Matt Pluta, Choptank Riverkeeper
Ben Ford, Miles Wye Riverkeeper | Zack Kelleher, Sassafras Riverkeeper



This testimony is supported by the following Waterkeeper organizations across Maryland:

Arundel Rivers Federation
Blue Water Baltimore
Potomac Riverkeeper Network
Waterkeepers Chesapeake
Assateague Coastal Trust
The Severn Riverkeeper