2/05/24

Testimony in <u>SUPPORT</u> of HB233–
Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Climate, Equity, and Administrative Provisions

To Chair Korman and Members of the Committee,

Thank you for this opportunity to submit testimony in **SUPPORT** of **HB233** on behalf of ShoreRivers. 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 state's—aptly named—Critical Area is a prime opportunity to increase public access and foster environmental stewardship for local residents. It is also the final barrier on our lands to abate polluted runoff bound for our rivers, and the first line of defense for our communities facing the growing impacts of climate change. However, 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 time to incorporate climate resilience and equity values into the Critical Area Program to ensure that future development projects sited along our tidal waters will:**

- Reduce nonpoint source pollution from stormwater runoff;
- Reduce negative environmental impacts to overburdened communities;
- Increase community and infrastructure resilience in the face of climate impacts;
- Increase the potential for equitable access so that no Marylander is left behind when it comes to enjoying the natural wonders of the Chesapeake Bay.

The state continues to recognize that the Critical Area has the highest potential for nutrient delivery[1]: "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." These nutrient loads can be further augmented from storm surge and rising tides. A recent study incorporated into the CESR report[2] estimated: "that the amount of dissolved inorganic N[itrogen] contributed during a seasonally high tide event in one Bay segment exceeded its annual N load allocation by 30%." Rising tides and increased storm surge due to climate impacts will continue to negatively affect our waterways, especially from nonpoint source land uses like urban stormwater runoff. That same stormwater runoff, and subsequent flooding, has great potential to impact communities within the Critical Area. Overburdened and underserved communities often occupy low-lying areas of a watershed, and stand to bear the brunt of those impacts. **As the state endeavors to update floodplain maps and evolve environmental justice**

[1] https://mde.maryland.gov/programs/pressroom/pages/1243.aspx
[2] A Comprehensive Evaluation of the Systems Response (Macías-Tapia et al., 2021).

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policies, the Critical Area Commission is appropriately positioning their department to utilize and implement those advancements when appropriate.

In addition to extending comprehensive review deadlines for local counties to afford local planers more flexibility, **HB233 will incorporate climate resilience values by**:

- Targeting portions of local grant funds to update for climate and equity;
- Adding coastal resilience into the finding goals and regulatory authorities of the Critical Area law;
- Identifying and resolving location and design conflicts between plans for new development and known climate hazards;
- Authorizing grants to local jurisdictions for coastal resilience into local critical area programs;
- Using coastal resilience considerations in locating new areas for growth allocation.

HB233 will incorporate equity values by:

- Requiring the commission to *consider* environmental justice as a factor when approving new development, including an assessment of environmental impacts and proposed mitigation on underserved or overburdened communities;
- Requiring access to inclusive public participation processes at the state and local levels;
- Requiring local jurisdictions to incorporate considerations for environmental justice into local critical area programs.

The Critical Area Program continues to be essential for protecting tidal waterways and wildlife habitat across Maryland. We commend the Critical Area Commission staff for bringing this important update before you, which will improve development siting along our waterways so that our infrastructure and our financial investments have better protection from climate impacts, and so development impacts to all communities can be evaluated more equitably. Thank you for your consideration, and we look forward to this Committee giving **HB233 a favorable report.**

Sincerely,
Annie Richards, Chester Riverkeeper on behalf of ShoreRivers.