
By: ~~Delegates Morhaim, and Weir, and The Speaker (Administration)~~
(Administration), and Delegates Hurson, Billings, Oaks, D. Davis, Stern,
Sher, Hammen, Owings, Nathan-Pulliam, Hubbard, Frush, and
Klausmeier

Introduced and read first time: January 23, 2002
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted with floor amendments
Read second time: April 5, 2002

CHAPTER _____

1 AN ACT concerning

2 **Atlantic Coastal Bays Protection Act**

3 FOR the purpose of preserving, protecting, and improving the water quality and
4 natural habitats of the Atlantic Coastal Bays and certain tributaries and
5 streams by designating certain lands and waters as critical areas that require
6 especially sensitive consideration with regard to development; making certain
7 legislative findings; renaming the Chesapeake Bay Critical Area Commission to
8 be the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays;
9 ~~defining certain terms; adding members representing the Atlantic Coastal Bays~~
10 ~~watershed to altering the membership of the Critical Area Commission for the~~
11 Chesapeake and Atlantic Coastal Bays; authorizing the Commission to establish
12 a certain Advisory Committee; designating certain areas of lands and waters to
13 be included in the Atlantic Coastal Bays Critical Area, subject to exclusion of
14 certain types of land after certain findings are made; ~~requiring that every part~~
15 ~~of the Atlantic Coastal Bays Critical Area be subject to an approved critical area~~
16 ~~protection program by a certain date; requiring the Governor of Maryland to~~
17 ~~include a certain amount of funds in the budget for certain purposes of this Act;~~
18 ~~requiring each local jurisdiction under this Act to submit certain information to~~
19 ~~the Commission on or before a certain date; requiring certain local programs to~~
20 classify certain areas as intensely developed areas; providing for the calculation
21 and utilization of certain growth allocations by certain local jurisdictions under
22 certain circumstances; requiring local jurisdictions in the Atlantic Coastal Bays
23 Critical Area to include a certain element in their local program; authorizing
24 local jurisdictions in the Atlantic Coastal Bays Critical Area to include certain
25 elements in their local program; requiring the Department of Natural Resources

1 to provide certain assistance to local jurisdictions in the preparation of certain
2 maps or studies; clarifying that agricultural activities are allowed in certain
3 areas in accordance with certain requirements under a certain circumstance;
4 establishing certain requirements for the Commission and for a local
5 jurisdiction located in the Atlantic Coastal Bays watershed but not in the
6 Atlantic Coastal Bays Critical Area relating to minimum stream buffers;
7 requiring a certain local jurisdiction to submit certain information to the
8 Commission on or before a certain date; establishing certain requirements for a
9 local jurisdiction in the Atlantic Coastal Bays Critical Area relating to the
10 development of a local critical area program; requiring certain local jurisdictions
11 to submit to the Commission on or before a certain date certain information
12 relating to the jurisdiction's intent to establish a local critical area program;
13 requiring certain public hearings during program development by a local
14 jurisdiction and during program development or approval by the Commission;
15 requiring that a local jurisdiction review its program within a certain time
16 period and providing that within that certain time period, certain changes may
17 only be made under certain circumstances; requiring programs in the Atlantic
18 Coastal Bays Critical Area to be approved or adopted by the Commission and in
19 effect on or before a certain date; providing that the authority, powers, and
20 responsibilities of the chairman of the Commission apply to the Atlantic Coastal
21 Bays Critical Area; requiring certain local authorities to make certain findings
22 relative relating to certain applications for certain land use approvals on or after
23 a certain date and prior to an approved program becoming effective; requiring
24 certain local jurisdictions to permit certain uses of land in the Atlantic Coastal
25 Bay Critical Area under certain circumstances; authorizing the development of a
26 planned unit development under certain circumstances; authorizing a local
27 jurisdiction to include in its local program, subject to approval by the
28 Commission, an alternative buffer provision for a planned unit development
29 under certain circumstances; ~~prohibiting certain extensions of improvements~~
30 ~~under certain circumstances;~~ requiring a certain local jurisdiction to include
31 certain provisions regarding land use in the critical area and certain tributaries
32 of the Atlantic Coastal Bays; providing for the construction of this Act; providing
33 for the termination of certain provisions of this Act; altering certain definitions;
34 prohibiting certain applications of this Act; providing for a certain calculation of
35 a certain growth allocation in a certain area; providing for certain development
36 conditions for certain planned unit developments under a certain circumstance;
37 and generally relating to establishment and enforcement of a comprehensive
38 State and local resource management program for certain land areas critical to
39 the quality and productivity of the tidal waters of the Atlantic Coastal Bays and
40 its tributaries.

41 BY repealing and reenacting, with amendments,
42 Article - Natural Resources
43 Section 8-1801, 8-1802, 8-1803, 8-1804, 8-1806, 8-1807, 8-1808, 8-1808.1,
44 8-1808.2, 8-1808.3, 8-1809, 8-1810, 8-1811(a), 8-1812(a), 8-1813,
45 8-1815.1, and 8-1817
46 Annotated Code of Maryland
47 (2000 Replacement Volume and 2001 Supplement)

1 BY adding to
2 Article - Natural Resources
3 Section 8-1808.8, 8-1808.9, and 8-1813.1
4 Annotated Code of Maryland
5 (2000 Replacement Volume and 2001 Supplement)

6 ~~BY repealing and reenacting, with amendments,~~
7 ~~Article - Environment~~
8 ~~Section 16-201 and 16-304~~
9 ~~Annotated Code of Maryland~~
10 ~~(1996 Replacement Volume and 2001 Supplement)~~

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article - Natural Resources**

14 8-1801.

15 (a) The General Assembly finds and declares that:

16 (1) The Chesapeake [Bay and its] AND THE ATLANTIC COASTAL BAYS
17 AND THEIR tributaries are natural resources of great significance to the State and the
18 nation;

19 (2) The shoreline and adjacent lands constitute a valuable, fragile, and
20 sensitive part of this estuarine system, where human activity can have a particularly
21 immediate and adverse impact on water quality and natural habitats;

22 (3) The capacity of these shoreline and adjacent lands to withstand
23 continuing demands without further degradation to water quality and natural
24 habitats is limited;

25 (4) National studies have documented that the quality and productivity
26 of the waters of the Chesapeake Bay and its tributaries have declined due to the
27 cumulative effects of human activity that have caused increased levels of pollutants,
28 nutrients, and toxics in the Bay System and declines in more protective land uses
29 such as forestland and agricultural land in the Bay region;

30 (5) Those portions of the Chesapeake [Bay and its] AND THE ATLANTIC
31 COASTAL BAYS AND THEIR tributaries within Maryland are particularly stressed by
32 the continuing population growth and development activity concentrated in the
33 Baltimore-Washington metropolitan corridor AND ALONG THE ATLANTIC COAST;

34 (6) The quality of life for the citizens of Maryland is enhanced through
35 the restoration of the quality and productivity of the waters of the Chesapeake [Bay
36 and its] AND THE ATLANTIC COASTAL BAYS, AND THEIR tributaries;

1 (7) The restoration of the Chesapeake [Bay and its] AND THE ATLANTIC
2 COASTAL BAYS AND THEIR tributaries is dependent, in part, on minimizing further
3 adverse impacts to the water quality and natural habitats of the shoreline and
4 adjacent lands;

5 (8) The cumulative impact of current development is inimical to these
6 purposes; and

7 (9) There is a critical and substantial State interest for the benefit of
8 current and future generations in fostering more sensitive development activity in a
9 consistent and uniform manner along shoreline areas of the Chesapeake [Bay and
10 its] AND THE ATLANTIC COASTAL BAYS AND THEIR tributaries so as to minimize
11 damage to water quality and natural habitats.

12 (b) It is the purpose of the General Assembly in enacting this subtitle:

13 (1) To establish a Resource Protection Program for the Chesapeake [Bay
14 and its] AND THE ATLANTIC COASTAL BAYS AND THEIR tributaries by fostering more
15 sensitive development activity for certain shoreline areas so as to minimize damage to
16 water quality and natural habitats; and

17 (2) To implement the Resource Protection Program on a cooperative
18 basis between the State and affected local governments, with local governments
19 establishing and implementing their programs in a consistent and uniform manner
20 subject to State criteria and oversight.

21 8-1802.

22 (a) (1) In this subtitle the following words have the meanings indicated.

23 (2) "ATLANTIC COASTAL BAYS" MEANS THE ASSAWOMAN, ISLE OF
24 WIGHT, SINEPUXENT, NEWPORT, AND CHINCOTEAGUE BAYS.

25 (3) "ATLANTIC COASTAL BAYS CRITICAL AREA" MEANS THE INITIAL
26 PLANNING AREA IDENTIFIED UNDER § 8-1807 OF THIS SUBTITLE.

27 (4) "CHESAPEAKE BAY CRITICAL AREA" MEANS THE INITIAL PLANNING
28 AREA IDENTIFIED UNDER § 8-1807 OF THIS SUBTITLE.

29 [(2)] (5) "Commission" means the [Chesapeake Bay] Critical Area
30 Commission FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS established in this
31 subtitle.

32 (6) "CRITICAL AREA" MEANS THE CHESAPEAKE BAY CRITICAL AREA AND
33 THE ATLANTIC COASTAL BAYS CRITICAL AREA.

34 [(3)] (7) "Development" means any activity that materially affects the
35 condition or use of dry land, land under water, or any structure.

1 [(4)] (8) "Growth allocation" means the number of acres of land in the
2 Chesapeake Bay Critical Area OR ATLANTIC COASTAL BAYS CRITICAL AREA that a
3 local jurisdiction may use to create new intensely developed areas and new limited
4 development areas.

5 [(5)] (9) "Includes" means includes or including by way of illustration
6 and not by way of limitation.

7 [(6)] (10) "Land classification" means the designation of land in the
8 Chesapeake Bay Critical Area OR ATLANTIC COASTAL BAYS CRITICAL AREA in
9 accordance with the criteria adopted by the Commission as an intensely developed
10 area or district, a limited development area or district, or a resource conservation
11 area or district.

12 [(7)] (11) "Local jurisdiction" means a county, or a municipal corporation
13 with planning and zoning powers, in which any part of the Chesapeake Bay Critical
14 Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA, as defined in this subtitle, is
15 located.

16 [(8)] (12) (i) "Program" means the critical area protection program of a
17 local jurisdiction.

18 (ii) "Program" includes any amendments to the program.

19 [(9)] (13) (i) "Program amendment" means any change to an adopted
20 program that the Commission determines will result in a use of land or water in the
21 Chesapeake Bay Critical Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA in a
22 manner not provided for in the adopted program.

23 (ii) "Program amendment" includes a change to a zoning map that
24 is not consistent with the method for using the growth allocation contained in an
25 adopted program.

26 [(10)] (14) (i) "Program refinement" means any change to an adopted
27 program that the Commission determines will result in a use of land or water in the
28 Chesapeake Bay Critical Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA in a
29 manner consistent with the adopted program.

30 (ii) "Program refinement" includes:

31 1. A change to a zoning map that is consistent with the
32 development area designation of an adopted program; and

33 2. The use of the growth allocation in accordance with an
34 adopted program.

35 [(11)] (15) (i) "Project approval" means the approval of development,
36 other than development by a State or local government agency, in the Chesapeake
37 Bay Critical Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA by the
38 appropriate local approval authority.

- 1 (ii) "Project approval" includes:
- 2 1. Approval of subdivision plats and site plans;
- 3 2. Inclusion of areas within floating zones;
- 4 3. Issuance of variances, special exceptions, and conditional
5 use permits; and
- 6 4. Approval of rezoning.

7 (iii) "Project approval" does not include building permits.

8 (b) Wherever this subtitle requires Prince George's County to exercise any
9 power or authority Prince George's County shares with the Maryland-National
10 Capital Park and Planning Commission, the obligation imposed by this subtitle rests
11 on both the county and the Maryland-National Capital Park and Planning
12 Commission in accordance with their respective powers and authorities.

13 8-1803.

14 (a) There is a [Chesapeake Bay] Critical Area Commission FOR THE
15 CHESAPEAKE AND ATLANTIC COASTAL BAYS in the Department.

16 (b) The Secretary has no authority under Title 1 of this article:

17 (1) To approve, alter, or amend the policies or programs of the
18 Commission;

19 (2) To transfer, assign, or reassign statutory functions or activities to or
20 from the Commission; or

21 (3) To adopt, approve, or revise regulations of the Commission.

22 8-1804.

23 (a) (1) The Commission consists of [27] 29 voting members who are
24 appointed by the Governor, as follows:

25 ~~(+)~~ (I) A full-time chairman, appointed with the advice and consent of
26 the Senate, who shall serve at the pleasure of the Governor;

27 ~~(+)~~ (II) [11] 13 individuals, appointed with the advice and consent of
28 the Senate, each of whom is a resident and an elected or appointed official of a local
29 jurisdiction. At least 1 of these [11] 13 individuals must be an elected or appointed
30 official of a municipality. These individuals shall serve on the Commission only while
31 they hold local office. Each shall be selected from certain counties or from
32 municipalities within the counties as follows, and only after the Governor has
33 consulted with elected county and municipal officials:

1 ~~(i)~~ 1. 1 from each of Baltimore City and Anne Arundel,
 2 Baltimore, and Prince George's counties;

3 ~~(ii)~~ 2. 1 from Harford County or Cecil County;

4 ~~(iii)~~ 3. 1 from Kent County or Queen Anne's County;

5 ~~(iv)~~ 4. 1 from Caroline County [or Worcester County];

6 ~~(v)~~ 5. 1 from Talbot County or Dorchester County;

7 ~~(vi)~~ 6. 1 from Wicomico County or Somerset County; [and]

8 ~~(vii)~~ 7. 2 from Calvert County, Charles County, or St. Mary's
 9 County, both of whom may not be from the same county; AND

10 ~~(VIII)~~ 8. 2 FROM WORCESTER COUNTY, 1 OF WHOM SHALL BE A
 11 RESIDENT OF THE CHESAPEAKE BAY WATERSHED AND THE OTHER OF WHOM SHALL
 12 BE A RESIDENT OF THE ATLANTIC COASTAL BAYS WATERSHED;

13 ~~(3)~~ (III) 8 individuals, appointed with the advice and consent of the
 14 Senate, who shall represent diverse interests, and among whom shall be a resident
 15 from each of the [6] 5 counties that are listed and from which an appointment has
 16 not been made under paragraph (2) of this subsection and [2] 3 of the 8 members
 17 appointed under this item shall be at large members, 1 OF WHOM SHALL BE A
 18 PRIVATE CITIZEN AND RESIDENT OF THE ATLANTIC COASTAL BAYS WATERSHED; and

19 ~~(4)~~ (IV) The Secretaries of Agriculture, Business and Economic
 20 Development, Housing and Community Development, the Environment,
 21 Transportation, [and] Natural Resources, and [the Director of] Planning, ex officio,
 22 or the designee of the Secretaries [or the Director].

23 (2) OF THE 2 WORCESTER COUNTY MEMBERS FROM THE ATLANTIC
 24 COASTAL BAYS WATERSHED, 1 SHALL BE THE MAYOR OF OCEAN CITY.

25 (b) A member of the Commission who does not hold another office of profit at
 26 the State or local level shall be entitled to compensation as provided in the budget.
 27 Members of the Commission shall be entitled to reimbursement for expenses as
 28 provided in the budget.

29 (c) Except for the chairman and ex officio State officers or their
 30 representatives:

31 (1) The term of a member is 4 years;

32 (2) The terms of members are staggered as required by the terms
 33 provided for members of the Commission on July 1, 1984;

34 (3) At the end of a term, a member continues to serve until a successor is
 35 appointed and qualifies;

1 (4) A member who is appointed after a term is begun serves for the rest
2 of the term and until a successor is appointed and qualifies;

3 (5) A member may serve no more than 2 terms; and

4 (6) Any member of the Commission appointed by the Governor who shall
5 fail to attend at least 60% of the meetings of the Commission during any period of 12
6 consecutive months shall be considered to have resigned, and the chairman shall
7 forward the member's name to the Governor, not later than January 15 of the year
8 following the nonattendance with the statement of the nonattendance, and the
9 Governor shall appoint a successor for the remainder of the term. If the member has
10 been unable to attend meetings as required by this subtitle for reasons satisfactory to
11 the Governor, the Governor may waive the resignation if the reasons are made public.

12 (d) If a vacancy arises other than by the expiration of a term, the Governor
13 shall appoint within 30 days, with the advice and consent of the Senate, a successor of
14 like qualification to serve the remainder of the term.

15 (e) (1) A quorum of the Commission consists of 1 member more than a
16 majority of the full authorized membership of the Commission.

17 (2) A quorum of a panel of the Commission consists of 3 members.

18 (3) The Commission or a panel of the Commission may not hold a public
19 hearing unless a quorum is present.

20 (4) The Commission or a panel of the Commission may not take any
21 official action unless:

22 (i) A quorum is present; and

23 (ii) A majority of the members who are present and eligible to vote
24 concur in or vote for the action.

25 8-1806.

26 (A) The Commission has all powers necessary for carrying out the purposes of
27 this subtitle, including the following:

28 (1) To adopt regulations and criteria in accordance with Title 2, Subtitle
29 5 (Joint Committee on Administrative, Executive and Legislative Review) and Title
30 10, Subtitle 1 (Administrative Procedure Act) of the State Government Article;

31 (2) To conduct hearings in connection with policies, proposed programs,
32 and proposed regulations or amendments to regulations; [and]

33 (3) To contract for consultant or other services; AND

34 (4) TO ESTABLISH AN ADVISORY COMMITTEE, COMPOSED OF MEMBERS
35 OF THE COMMISSION AND LOCAL CITIZENS AND LOCAL STAKEHOLDER GROUPS, TO

1 MAKE RECOMMENDATIONS TO THE COMMISSION WITH RESPECT TO ATLANTIC
2 COASTAL BAYS CRITICAL AREA PROGRAMS.

3 (B) THE MEMBERS OF THE COMMISSION WHO RESIDE IN THE ATLANTIC
4 COASTAL BAYS WATERSHED SHALL SERVE ON ANY COMMITTEE ESTABLISHED
5 UNDER SUBSECTION (A)(4) OF THIS SECTION.

6 8-1807.

7 (a) The initial planning area for determination of the Chesapeake Bay Critical
8 Area consists of:

9 (1) All waters of and lands under the Chesapeake Bay and its tributaries
10 to the head of tide as indicated on the State wetlands maps, and all State and private
11 wetlands designated under Title 16 of the Environment Article; and

12 (2) All land and water areas within 1,000 feet beyond the landward
13 boundaries of State or private wetlands and the heads of tides designated under Title
14 [9] 16 of the Environment Article.

15 (B) THE INITIAL PLANNING AREA FOR DETERMINATION OF THE ATLANTIC
16 COASTAL BAYS CRITICAL AREA CONSISTS OF:

17 (1) ALL WATERS OF AND LANDS UNDER THE COASTAL BAYS AND THEIR
18 TRIBUTARIES TO THE HEAD OF TIDE AS INDICATED ON THE STATE WETLANDS MAPS,
19 AND ALL STATE AND PRIVATE WETLANDS DESIGNATED UNDER TITLE 16 OF THE
20 ENVIRONMENT ARTICLE; AND

21 (2) ALL LAND AND WATER AREAS WITHIN 1,000 FEET BEYOND THE
22 LANDWARD BOUNDARIES OF STATE OR PRIVATE WETLANDS AND THE HEADS OF
23 TIDES DESIGNATED UNDER TITLE 16 OF THE ENVIRONMENT ARTICLE.

24 [(b)] (C) (1) (i) In determining the Chesapeake Bay Critical Area OR THE
25 ATLANTIC COASTAL BAYS CRITICAL AREA within its boundaries, a local jurisdiction
26 may exclude those portions of the planning area designated in subsection (a) OR (B) of
27 this section which the local jurisdiction finds to be:

28 1. Part of a developed, urban area in which, in view of
29 available public facilities and applicable laws and restrictions, the imposition of a
30 program would not substantially improve protection of tidal water quality or
31 conservation of fish, wildlife, or plant habitats; or

32 2. Located at least 1,000 feet from open water and separated
33 from open water by an area of wetlands which it is found will serve to protect tidal
34 water quality and fish, wildlife, or plant habitats from adverse impacts of
35 development in the excluded area.

36 (ii) A portion of urban area to be excluded shall be at least 50%
37 developed and may not be less than 2,640,000 square feet in contiguous area or the

1 entire initial planning area located within the boundaries of a municipality,
2 whichever is less.

3 (2) A local jurisdiction shall include in any program submitted to the
4 Commission under § 8-1809 of this subtitle a designation of those portions of the
5 Chesapeake Bay Critical Area OR ATLANTIC COASTAL BAYS CRITICAL AREA proposed
6 for exclusion under paragraph (1) of this subsection, together with all factual
7 information and expert opinion supporting its findings under this subsection.

8 (3) The Commission shall approve a local jurisdiction's designation of
9 portions to be excluded unless the Commission finds, based on stated reasons, that
10 the decision of the local jurisdiction was:

11 (i) Not supported by competent and material evidence; or

12 (ii) Arbitrary or capricious.

13 (4) If the Commission develops the program to be applied in a local
14 jurisdiction, the Commission shall exclude areas as appropriate to meet the intent of
15 paragraph (1) of this subsection.

16 [(c)] (D) The Chesapeake Bay Critical Area shall consist of:

17 (1) Those areas designated in subsection (a) of this section, except any
18 areas excluded in accordance with subsection [(b)] (C) of this section; and

19 (2) Additional areas proposed for inclusion by local jurisdictions and
20 approved by the Commission.

21 (E) THE ATLANTIC COASTAL BAYS CRITICAL AREA SHALL CONSIST OF:

22 (1) THOSE AREAS DESIGNATED IN SUBSECTION (B) OF THIS SECTION,
23 EXCEPT ANY AREAS EXCLUDED IN ACCORDANCE WITH SUBSECTION (C) OF THIS
24 SECTION; AND

25 (2) ADDITIONAL AREAS PROPOSED FOR INCLUSION BY LOCAL
26 JURISDICTIONS AND APPROVED BY THE COMMISSION.

27 8-1808.

28 (a) (1) It is the intent of this subtitle that each local jurisdiction shall have
29 primary responsibility for developing and implementing a program, subject to review
30 and approval by the Commission.

31 (2) (I) The Governor shall include in the budget a sum of money to be
32 used for grants to reimburse local jurisdictions for the reasonable costs of developing
33 a program under this section.

34 (II) Each local jurisdiction shall submit to the Governor by October
35 31, 1984 a detailed request for funds that are equivalent to the additional costs
36 incurred in developing the program under this section.

1 (III) THE GOVERNOR SHALL INCLUDE IN THE FISCAL YEAR 2003
2 BUDGET A SUM OF MONEY TO BE USED FOR GRANTS TO REIMBURSE LOCAL
3 JURISDICTIONS IN THE ATLANTIC COASTAL BAYS CRITICAL AREA FOR THE
4 REASONABLE COSTS OF DEVELOPING A PROGRAM UNDER THIS SECTION.

5 (3) The Governor shall include in the budget annually a sum of money to
6 be used for grants to assist local jurisdictions with the reasonable costs of
7 implementing a program under this section. Each local jurisdiction shall submit to
8 the Governor by May 1 of each year a detailed request for funds to assist in the
9 implementation of a program under this section.

10 (b) A program shall consist of those elements which are necessary or
11 appropriate:

12 (1) To minimize adverse impacts on water quality that result from
13 pollutants that are discharged from structures or conveyances or that have run off
14 from surrounding lands;

15 (2) To conserve fish, wildlife, and plant habitat; and

16 (3) To establish land use policies for development in the Chesapeake Bay
17 Critical Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA which accommodate
18 growth and also address the fact that, even if pollution is controlled, the number,
19 movement, and activities of persons in that area can create adverse environmental
20 impacts.

21 (c) At a minimum, a program sufficient to meet the goals stated in subsection
22 (b) of this section includes:

23 (1) A map designating the critical area in a local jurisdiction;

24 (2) A comprehensive zoning map for the critical area;

25 (3) As necessary, new or amended provisions of the jurisdiction's:

26 (i) Subdivision regulations;

27 (ii) Comprehensive or master plan;

28 (iii) Zoning ordinances or regulations;

29 (iv) Provisions relating to enforcement; and

30 (v) Provisions as appropriate relating to grandfathering of
31 development at the time the program is adopted or approved by the Commission;

32 (4) Provisions requiring that project approvals shall be based on findings
33 that projects are consistent with the standards stated in subsection (b) of this section;

1 (5) Provisions to limit the amount of land covered by buildings, roads,
2 parking lots, or other impervious surfaces, and to require or encourage cluster
3 development, where necessary or appropriate;

4 (6) Establishment of buffer areas along shorelines within which
5 agriculture will be permitted only if best management practices are used, provided
6 that structures or any other use of land which is necessary for adjacent agriculture
7 shall also be permitted in any buffer area;

8 (7) Requirements for minimum setbacks for structures and septic fields
9 along shorelines;

10 (8) Designation of shoreline areas, if any, that are suitable for parks,
11 hiking, biking, wildlife refuges, scenic drives, public access or assembly, and
12 water-related recreation such as boat slips, piers, and beaches;

13 (9) Designation of shoreline areas, if any, that are suitable for ports,
14 marinas, and industries that use water for transportation or derive economic benefits
15 from shore access;

16 (10) Provisions requiring that all harvesting of timber in the Chesapeake
17 Bay Critical Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA be in accordance
18 with plans approved by the district forestry board;

19 (11) Provisions establishing that the controls in a program which are
20 designed to prevent runoff of pollutants will not be required on sites where the
21 topography prevents runoff from directly or indirectly reaching tidal waters; and

22 (12) Provisions for reasonable accommodations in policies or procedures
23 when the accommodations are necessary to avoid discrimination on the basis of
24 physical disability, including provisions that authorize a local jurisdiction to require
25 removal of a structure that was installed or built to accommodate a physical disability
26 and require restoration when the accommodation permitted by this paragraph is no
27 longer necessary.

28 (d) (1) The Commission shall adopt by regulation on or before December 1,
29 1985 criteria for program development and approval, which are necessary or
30 appropriate to achieve the standards stated in subsection (b) of this section. Prior to
31 developing its criteria and also prior to adopting its criteria, the Commission shall
32 hold at least 6 regional public hearings, 1 in each of the following areas:

33 (i) Harford, Cecil, and Kent counties;

34 (ii) Queen Anne's, Talbot, and Caroline counties;

35 (iii) Dorchester, Somerset, and Wicomico counties;

36 (iv) Baltimore City and Baltimore County;

37 (v) Charles, Calvert, and St. Mary's counties; and

1 (vi) Anne Arundel and Prince George's counties.

2 (2) During the hearing process, the Commission shall consult with each
3 affected local jurisdiction.

4 (e) Nothing in this section shall impede or prevent the dredging of any
5 waterway in a critical area. However, dredging in a critical area is subject to other
6 applicable federal and State laws and regulations.

7 (F) IN ADOPTING THE INITIAL LAND CLASSIFICATION FOR THE ATLANTIC
8 COASTAL BAYS CRITICAL AREA, THE LOCAL PROGRAM:

9 (1) OF THE TOWN OF OCEAN CITY SHALL CLASSIFY AS AN INTENSELY
10 DEVELOPED AREA THAT AREA THAT IS WITHIN THE MUNICIPAL BOUNDARIES OF
11 OCEAN CITY AS OF JANUARY 1, 2002; AND

12 (2) OF WORCESTER COUNTY SHALL CLASSIFY AS AN INTENSELY
13 DEVELOPED AREA THAT AREA LOCATED ON THE WESTERN MAINLAND THAT IS EAST
14 OF GOLF COURSE ROAD, SOUTH OF CHARLES STREET, AND NORTH OF ROUTE 707
15 (OLD BRIDGE ROAD).

16 ~~(F)~~ (G) THE PROVISIONS OF THIS SUBTITLE AND TITLE 27 OF THE CODE OF
17 MARYLAND REGULATIONS APPLY TO THE ATLANTIC COASTAL BAYS CRITICAL AREA.

18 8-1808.1.

19 (a) This section is intended to establish conditions for development in the
20 Chesapeake Bay Critical Area AND THE ATLANTIC COASTAL BAYS CRITICAL AREA in
21 addition to those established in criteria of the Commission. However, in the event of
22 any inconsistency between the criteria and the provisions of this section, this section
23 shall control.

24 (b) The growth allocation for a local jurisdiction shall be calculated based on 5
25 percent of the total resource conservation area in [the] A local jurisdiction:

26 (1) IN THE CHESAPEAKE BAY CRITICAL AREA at the time of the original
27 approval of the local jurisdiction's program by the Commission, not including tidal
28 wetlands or land owned by the federal government; OR

29 (2) IN THE ATLANTIC COASTAL BAYS CRITICAL AREA AT THE TIME OF
30 THE ORIGINAL APPROVAL OF THE LOCAL JURISDICTION'S PROGRAM BY THE
31 COMMISSION, NOT INCLUDING TIDAL WETLANDS OR LAND OWNED BY THE FEDERAL
32 GOVERNMENT.

33 (c) When locating new intensely developed or limited development areas, local
34 jurisdictions shall use the following guidelines:

35 (1) New intensely developed areas should be located in limited
36 development areas or adjacent to existing intensely developed areas;

1 (2) New limited development areas should be located adjacent to existing
2 limited development areas or intensely developed areas;

3 (3) Except as provided in paragraph (5) of this subsection, no more than
4 one-half of the expansion allocated in the criteria of the Commission may be located
5 in resource conservation areas;

6 (4) New intensely developed or limited development areas to be located
7 in the resource conservation area shall conform to all criteria of the Commission for
8 intensely developed or limited development areas and shall be designated on the
9 comprehensive zoning map submitted by the local jurisdiction as part of its
10 application to the Commission for program approval or at a later date in compliance
11 with § 8-1809(g) of this subtitle; and

12 (5) In Calvert, Caroline, Cecil, Charles, Dorchester, Kent, Queen Anne's,
13 St. Mary's, Somerset, Talbot, Wicomico, and Worcester counties, if the county is
14 unable to utilize a portion of the growth allocated to the county in paragraphs (1) and
15 (2) of this subsection within or adjacent to existing intensely developed or limited
16 development areas as demonstrated in the local plan approved by the Commission,
17 then that portion of the allocated expansion which cannot be so located may be
18 located in the resource conservation area in addition to the expansion allocated in
19 paragraph (3) of this subsection. A developer shall be required to cluster any
20 development in an area of expansion authorized under this paragraph.

21 ~~(D) (1) THE GROWTH ALLOCATION FOR A LOCAL JURISDICTION BASED ON~~
22 ~~5% OF THE TOTAL RESOURCE CONSERVATION AREA IN THE CHESAPEAKE BAY~~
23 ~~CRITICAL AREA IN A LOCAL JURISDICTION IN THE CHESAPEAKE BAY CRITICAL AREA~~
24 ~~UNDER SUBSECTION (C)(5) OF THIS SECTION SHALL BE UTILIZED WITHIN THE~~
25 ~~CHESAPEAKE BAY CRITICAL AREA.~~

26 ~~(2) THE GROWTH ALLOCATION FOR A LOCAL JURISDICTION BASED ON~~
27 ~~5% OF THE TOTAL RESOURCE CONSERVATION AREA IN THE ATLANTIC COASTAL BAYS~~
28 ~~CRITICAL AREA IN A LOCAL JURISDICTION IN THE ATLANTIC COASTAL BAYS~~
29 ~~CRITICAL AREA UNDER (C)(5) OF THIS SECTION SHALL BE UTILIZED WITHIN THE~~
30 ~~ATLANTIC COASTAL BAYS CRITICAL AREA.~~

31 (D) (1) SUBJECT TO THE CONDITIONS UNDER PARAGRAPHS (2) AND (3) OF
32 THIS SUBSECTION, IF A JURISDICTION HAS WITHIN ITS TERRITORIAL LIMITS AN
33 AREA THAT IS SUBJECT TO THE CHESAPEAKE BAY CRITICAL AREA PROGRAM AND AN
34 AREA THAT IS SUBJECT TO THE ATLANTIC COASTAL BAYS CRITICAL AREA PROGRAM,
35 THE GROWTH ALLOCATION FOR THAT JURISDICTION MAY BE UTILIZED WITHIN
36 EITHER CRITICAL AREA, AS THE JURISDICTION'S LOCAL PROGRAM CONSIDERS
37 APPROPRIATE.

38 (2) A LOCAL JURISDICTION'S PROGRAM MAY NOT UTILIZE THE GROWTH
39 ALLOCATION FROM ANOTHER CRITICAL AREA UNLESS THE GROWTH ALLOCATION
40 REMAINING IN EITHER CRITICAL AREA IS INSUFFICIENT TO ALLOW APPROVAL OF A
41 GROWTH ALLOCATION PROPOSAL ASSOCIATED WITH A PROGRAM AMENDMENT FOR
42 WHICH THE LOCAL PROGRAM SEEKS COMMISSION APPROVAL.

1 (3) A LOCAL JURISDICTION'S PROGRAM MAY NOT TRANSFER MORE
2 THAN 150 ACRES OF GROWTH ALLOCATION TO ANOTHER CRITICAL AREA.

3 [(d)] (E) In calculating the 1-in-20 acre density of development that is
4 permitted on a parcel located within the resource conservation area, a local
5 jurisdiction may permit the area of any private wetlands located on the property to be
6 included, under the following conditions:

7 (1) The density of development on the upland portion of the parcel may
8 not exceed 1 dwelling unit per 8 acres; and

9 (2) The area of private wetlands shall be estimated on the basis of
10 vegetative information as designated on the State wetlands maps.

11 8-1808.2.

12 (a) (1) In this section the following words have the meanings indicated.

13 (2) "Bona fide intrafamily transfer" means a transfer to a member of the
14 owner's immediate family of a portion of the owner's property for the purpose of
15 establishing a residence for that family member.

16 (3) "Immediate family" means a father, mother, son, daughter,
17 grandfather, grandmother, grandson, or granddaughter.

18 (b) Notwithstanding density limitations established in criteria of the
19 Commission, as part of its local program, a local jurisdiction may submit provisions by
20 which an owner of a parcel of land in the resource conservation area may be permitted
21 to make bona fide intrafamily transfers.

22 (c) If a local jurisdiction includes provisions for bona fide intrafamily transfers
23 as part of its local program, the local jurisdiction shall permit a bona fide intrafamily
24 transfer to be made only from parcels of land that:

25 (1) Were of record on March 1, 1986 IN THE CHESAPEAKE BAY CRITICAL
26 AREA OR ON ~~APRIL 17, 2001~~ JUNE 1, 2002 IN THE ATLANTIC COASTAL BAYS CRITICAL
27 AREA; and

28 (2) Are 7 acres or more and less than 60 acres in size.

29 (d) A bona fide intrafamily transfer from a parcel of land shall be a
30 subdivision of the parcel of land that is subject to local approval under the
31 "Subdivision Control" subtitle of Article 66B of the Code, under Title 7 of Article 28 of
32 the Code, or under any subdivision control provisions of a charter county.

33 (e) (1) A local jurisdiction:

34 (i) May approve the subdivision of a parcel of land into the number
35 of lots indicated in this subsection by means of a bona fide intrafamily transfer; and

1 (ii) May not approve any greater subdivision of the parcel of land or
2 any portion of the parcel of land.

3 (2) A parcel that is 7 acres or more and less than 12 acres in size may be
4 subdivided into 2 lots.

5 (3) A parcel that is 12 acres or more and less than 60 acres in size may be
6 subdivided into 3 lots. The lots may be created at different times.

7 (f) (1) As a condition of approval, a local jurisdiction shall require that:

8 (i) Any deed for a lot that is created by a bona fide intrafamily
9 transfer shall contain a covenant stating that the lot is created subject to the
10 provisions of this section; and

11 (ii) A lot created by a bona fide intrafamily transfer may not be
12 conveyed subsequently to any person other than a member of the owner's immediate
13 family, except under procedures established pursuant to subsection (g) of this section.

14 (2) This subsection does not prevent the conveyance of the lot to a third
15 party as security for a mortgage or deed of trust.

16 (g) If a local jurisdiction includes provisions for bona fide intrafamily transfers
17 as part of the local jurisdiction's local program, the local jurisdiction shall establish
18 standards and procedures, subject to the approval of the Commission, by which the
19 local jurisdiction will permit the subsequent conveyance of lots to persons other than
20 immediate family members. The standards and procedures shall assure that:

21 (1) The lot was created as part of a bona fide intrafamily transfer and
22 not with the intent of subdividing the original parcel of land for purposes of ultimate
23 commercial sale; and

24 (2) (i) A change in circumstances has occurred since the original
25 transfer was made that is not inconsistent with this subtitle and that warrants an
26 exception; or

27 (ii) Other circumstances that are consistent with this subtitle and
28 with the Commission's criteria to maintain land areas necessary to support the
29 protective uses of agriculture, forestry, open space, and natural habitats in resource
30 conservation areas warrant an exception.

31 8-1808.3.

32 (a) This section applies notwithstanding:

33 (1) Any other provision of this subtitle; or

34 (2) Any criteria or guideline of the Commission adopted under this
35 subtitle.

1 (b) This section controls over any other requirement concerning impervious
2 surfaces limitations in limited development areas and resource conservation areas in
3 the critical area.

4 (c) On or before December 31, 1996, a local jurisdiction shall amend its local
5 critical area protection program to meet the provisions of this section.

6 (d) (1) Except as otherwise provided in this subsection for stormwater
7 runoff, man-made impervious surfaces are limited to 15% of a parcel or lot.

8 (2) If a parcel or lot one-half acre or less in size existed on or before
9 December 1, 1985 IN THE CHESAPEAKE BAY CRITICAL AREA OR ON OR BEFORE ~~APRIL~~
10 ~~17, 2001~~ JUNE 1, 2002 IN THE ATLANTIC COASTAL BAYS CRITICAL AREA, then
11 man-made impervious surfaces are limited to 25% of the parcel or lot.

12 (3) If a parcel or lot greater than one-half acre and less than one acre in
13 size existed on or before December 1, 1985 IN THE CHESAPEAKE BAY CRITICAL AREA
14 OR ON OR BEFORE ~~APRIL 17, 2001~~ JUNE 1, 2002 IN THE ATLANTIC COASTAL BAYS
15 CRITICAL AREA, then man-made impervious surfaces are limited to 15% of the parcel
16 or lot.

17 (4) If an individual lot 1 acre or less in size is part of a subdivision
18 approved after December 1, 1985 IN THE CHESAPEAKE BAY CRITICAL AREA OR
19 AFTER ~~APRIL 17, 2001~~ JUNE 1, 2002 IN THE ATLANTIC COASTAL BAYS CRITICAL AREA,
20 then man-made impervious surfaces of the lot may not exceed 25% of the lot.
21 However, the total of the impervious surfaces over the entire subdivision may not
22 exceed 15%.

23 (e) This section does not apply to a trailer park that was in residential use on
24 or before December 1, 1985 IN THE CHESAPEAKE BAY CRITICAL AREA OR ON OR
25 BEFORE ~~APRIL 17, 2001~~ JUNE 1, 2002 IN THE ATLANTIC COASTAL BAYS CRITICAL AREA.

26 (f) A local jurisdiction may allow a property owner to exceed the impervious
27 surface limits provided in subsection (d)(2) and (3) of this section if the following
28 conditions exist:

29 (1) New impervious surfaces on the property have been minimized;

30 (2) For a lot or parcel one-half acre or less in size, total impervious
31 surfaces do not exceed impervious surface limits in subsection (d)(2) of this section by
32 more than 25% or 500 square feet, whichever is greater;

33 (3) For a lot or parcel greater than one-half acre and less than one acre
34 in size, total impervious surfaces do not exceed impervious surface limits in
35 subsection (d)(3) of this section or 5,445 square feet, whichever is greater;

36 (4) Water quality impacts associated with runoff from the new
37 impervious surfaces can be and have been minimized through site design
38 considerations or use of best management practices approved by the local jurisdiction
39 to improve water quality; and

1 (5) The property owner performs on-site mitigation as required by the
2 local jurisdiction to offset potential adverse water quality impacts from the new
3 impervious surfaces, or the property owner pays a fee to the local jurisdiction in lieu
4 of performing the on-site mitigation.

5 (g) All fees collected by a local jurisdiction under subsection (f)(5) of this
6 section must be used to fund projects that improve water quality within the critical
7 area consistent with the jurisdiction's local critical area protection program.

8 (h) A local jurisdiction may grant a variance from the provisions of this section
9 in accordance with regulations adopted by the Commission concerning variances as
10 part of local program development set forth in COMAR 27.01.11 and notification of
11 project applications set forth in COMAR 27.03.01.

12 8-1808.8.

13 ~~(A) EACH LOCAL JURISDICTION IN THE ATLANTIC COASTAL BAYS CRITICAL~~
14 ~~AREA SHALL INCLUDE THE FOLLOWING ELEMENTS IN THE JURISDICTION'S LOCAL~~
15 ~~CRITICAL AREA PROTECTION PROGRAM:~~

16 ~~(1) A PROVISION REQUIRING THE USE OF BIORETENTION AND OTHER~~
17 ~~NONSTRUCTURAL STORMWATER BEST MANAGEMENT PRACTICES FOR~~
18 ~~REDEVELOPMENT IN INTENSELY DEVELOPED AREAS WHERE THE COST OF~~
19 ~~REDEVELOPMENT EXCEEDS 50% OF THE ASSESSED VALUE OF THE PROPERTY,~~
20 ~~UNLESS THE APPLICANT FOR PROJECT APPROVAL DEMONSTRATES THAT USE OF~~
21 ~~SUCH MEASURES IS NOT FEASIBLE;~~

22 ~~(2) A PROVISION REQUIRING AN APPLICANT FOR PROJECT APPROVAL~~
23 ~~WHO IS NOT SUBJECT TO THE PROVISIONS OF ITEM (1) OF THIS SUBSECTION OR WHO~~
24 ~~DEMONSTRATES THAT USE OF THE MEASURES SPECIFIED IN ITEM (1) OF THIS~~
25 ~~SECTION ARE NOT FEASIBLE SHALL COMPLY WITH THE STORMWATER~~
26 ~~MANAGEMENT PROVISIONS OF TITLE 27 OF THE CODE OF MARYLAND REGULATIONS~~
27 ~~AND TITLE 4, SUBTITLE 2 OF THE ENVIRONMENT ARTICLE;~~

28 ~~(3) (A) EXCEPT AS PROVIDED IN SUBSECTION (B)(2) OF THIS SECTION,~~
29 ~~EACH LOCAL JURISDICTION IN THE ATLANTIC COASTAL BAYS CRITICAL AREA SHALL~~
30 ~~INCLUDE IN ITS LOCAL CRITICAL AREA PROTECTION PROGRAM PROVISIONS~~
31 ~~REQUIRING PROPOSED DEVELOPMENT SITES IN INTENSELY DEVELOPED AREAS TO~~
32 ~~PROVIDE A FOREST OR DEVELOPED WOODLAND COVER OF AT LEAST 15% AFTER~~
33 ~~DEVELOPMENT OR A FEE-IN-LIEU PAYMENT IF THE FEE IS ADEQUATE TO ENSURE~~
34 ~~THE RESTORATION OR ESTABLISHMENT OF AN EQUIVALENT FOREST AREA; AND~~

35 ~~(4) A PROVISION APPLYING THE BUFFER REQUIREMENTS OF TITLE 27 OF~~
36 ~~THE CODE OF MARYLAND REGULATIONS TO TRIBUTARY STREAMS LOCATED~~
37 ~~OUTSIDE THE CRITICAL AREA AND WITHIN THE ATLANTIC COASTAL BAYS~~
38 ~~WATERSHED THAT ARE NOTED AS PERENNIAL AND INTERMITTENT STREAMS IN THE~~
39 ~~ATLANTIC COASTAL BAYS WATERSHED WHICH ARE SO NOTED ON THE MOST RECENT~~
40 ~~U.S. GEOLOGICAL SURVEY 7 1/2 MINUTE TOPOGRAPHIC QUADRANGLE MAPS (SCALE~~
41 ~~1:24,000) OR ON MORE DETAILED MAPS OR STUDIES AT THE DISCRETION OF THE~~
42 ~~LOCAL JURISDICTIONS.~~

1 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
2 PROVISIONS OF THIS SUBTITLE REPLACE THE REQUIREMENTS OF THE FOREST
3 CONSERVATION ACT PROVIDED UNDER TITLE 5, SUBTITLE 16 OF THIS ARTICLE
4 WITHIN THE ATLANTIC COASTAL BAYS CRITICAL AREA.

5 (2) SUBSECTION (A) OF THIS SECTION AND PARAGRAPH (1) OF THIS
6 SUBSECTION DO NOT APPLY TO:

7 (I) DEVELOPMENT OF A SINGLE LOT FOR THE PURPOSE OF
8 CONSTRUCTING A DWELLING INTENDED FOR THE USE OF THE OWNER, OR A CHILD
9 OR GRANDCHILD OF THE OWNER, IF THE DEVELOPMENT DOES NOT RESULT IN THE
10 CUTTING, CLEARING, OR GRADING OF MORE THAN 40,000 SQUARE FEET OF FOREST,
11 AND THE LOT WAS LEGALLY RECORDED PRIOR TO JULY 31, 1994; OR

12 (II) A SINGLE LOT THAT IS PART OF A PROJECT THAT HAS
13 OTHERWISE COMPLIED WITH THE FOREST CONSERVATION ACT.

14 (3) FOR PURPOSES OF SUBSECTION (A) OF THIS SECTION, FOREST OR
15 DEVELOPED WOODLAND COVER MAY INCLUDE TREES, WOODY PLANTS, AND
16 SHRUBS, AND ANY LANDSCAPING UNDER AN APPROVED LANDSCAPING PLAN.

17 (C) EACH LOCAL JURISDICTION IN THE ATLANTIC COASTAL BAYS CRITICAL
18 AREA MAY INCLUDE IN ITS LOCAL CRITICAL AREA PROTECTION PROGRAM:

19 (1) AS PART OF COMPLIANCE WITH THE STORMWATER MANAGEMENT
20 REQUIREMENTS OF TITLE 27 OF THE CODE OF MARYLAND REGULATIONS AND TITLE
21 4, SUBTITLE 2 OF THE ENVIRONMENT ARTICLE, A PROVISION ENCOURAGING THE
22 USE OF BIORETENTION FOR REDEVELOPMENT IN INTENSELY DEVELOPED AREAS;

23 (2) A PROVISION APPLYING BUFFER REQUIREMENTS TO TRIBUTARY
24 STREAMS LOCATED OUTSIDE THE CRITICAL AREA AND WITHIN THE ATLANTIC
25 COASTAL BAYS WATERSHED THAT ARE NOTED AS PERENNIAL AND INTERMITTENT
26 STREAMS IN THE ATLANTIC COASTAL BAYS WATERSHED AND THAT ARE SO NOTED
27 ON THE MOST RECENT U.S. GEOLOGICAL SURVEY 7-1/2 MINUTE TOPOGRAPHIC
28 QUADRANGLE MAPS (SCALE 1:24,000) OR ON MORE DETAILED MAPS OR STUDIES AT
29 THE DISCRETION OF THE LOCAL JURISDICTION; AND

30 (3) TO THE EXTENT OTHERWISE PERMITTED BY LAW, A PROVISION
31 REGARDING IMPROVEMENTS OVER STATE OR PRIVATE WETLANDS, INCLUDING
32 CRITERIA FOR THE PROTECTION OF WATER QUALITY AND FISH, WILDLIFE, AND
33 PLANT HABITATS, AND THE USE AND CONSTRUCTION OF PRIVATE AND COMMUNITY
34 PIERS IN THE LOCAL JURISDICTION.

35 (D) ON REQUEST, THE DEPARTMENT SHALL ASSIST A LOCAL JURISDICTION IN
36 THE PREPARATION OF:

37 (1) ANY MORE DETAILED MAPS OR STUDIES NECESSARY TO IMPLEMENT
38 THE BUFFER PROVISIONS UNDER SUBSECTION (C)(2) OF THIS SECTION; AND

1 (2) THE WETLAND PROTECTION PROVISIONS UNDER SUBSECTION (C)(3)
2 OF THIS SECTION.

3 (E) IF A LOCAL JURISDICTION ADOPTS PROVISIONS CONSISTENT WITH
4 SUBSECTION (C)(2) OF THIS SECTION, AGRICULTURAL ACTIVITIES ARE PERMITTED IN
5 THE BUFFER OUTSIDE THE CRITICAL AREA AND IN THE ATLANTIC COASTAL BAYS
6 WATERSHED THAT ARE IN ACCORDANCE WITH TITLE 27 OF THE CODE OF MARYLAND
7 REGULATIONS UNDER AN APPROVED SOIL CONSERVATION AND WATER QUALITY
8 PLAN.

9 ~~(B) THE PROVISIONS UNDER SUBSECTION (A) OF THIS SECTION SHALL BE IN~~
10 ~~ADDITION TO THE STORMWATER MANAGEMENT REQUIREMENTS OF TITLE 27 OF THE~~
11 ~~CODE OF MARYLAND REGULATIONS AND TITLE 4, SUBTITLE 2 OF THE ENVIRONMENT~~
12 ~~ARTICLE.~~

13 8-1808.9.

14 (A) THE PROVISIONS OF THIS SECTION APPLY TO A LOCAL JURISDICTION
15 THAT IS LOCATED IN THE ATLANTIC COASTAL BAYS WATERSHED AND NOT IN THE
16 ATLANTIC COASTAL BAYS CRITICAL AREA.

17 (B) ON OR BEFORE JULY 15, 2002, A LOCAL JURISDICTION SUBJECT TO THE
18 PROVISIONS OF THIS SECTION SHALL SUBMIT TO THE COMMISSION A WRITTEN
19 STATEMENT OF ITS INTENT EITHER:

20 (1) TO ADOPT PROVISIONS APPLYING A BUFFER TO PERENNIAL AND
21 INTERMITTENT STREAMS THAT ARE WITHIN THE BOUNDARIES OF THE LOCAL
22 JURISDICTION AND ARE NOTED ON THE MOST RECENT U.S. GEOLOGICAL SURVEY
23 7-1/2 MINUTE TOPOGRAPHIC QUADRANGLE MAPS (SCALE 1:24,000) OR ON MORE
24 DETAILED MAPS OR STUDIES AT THE DISCRETION OF THE LOCAL JURISDICTION; OR

25 (2) NOT TO ADOPT THE PROVISIONS.

26 (C) IF A LOCAL JURISDICTION STATES THE LOCAL JURISDICTION'S INTENT TO
27 ADOPT PROVISIONS MEETING THE REQUIREMENTS OF THIS SECTION, THE LOCAL
28 JURISDICTION SHALL SUBMIT THE PROVISIONS TO THE COMMISSION AND ADOPT
29 THE PROVISIONS IN ACCORDANCE WITH THE SCHEDULE OF SUBMISSIONS FOR THE
30 ATLANTIC COASTAL BAYS CRITICAL AREA PROGRAM SET FORTH UNDER § 8-1809 OF
31 THIS SUBTITLE.

32 8-1809.

33 (a) (1) Within 45 days after the criteria adopted by the Commission under §
34 8-1808 of this subtitle become effective, each local jurisdiction shall submit to the
35 Commission a written statement of its intent either:

36 [(1)] (I) To develop a critical area protection program to control the use
37 and development of that part of the Chesapeake Bay Critical Area located within its
38 territorial limits; or

1 [(2)] (II) Not to develop such a program.

2 (2) ON OR BEFORE JULY 15, 2002, EACH LOCAL JURISDICTION IN THE
3 ATLANTIC COASTAL BAYS CRITICAL AREA SHALL SUBMIT TO THE COMMISSION A
4 WRITTEN STATEMENT OF ITS INTENT EITHER:

5 (I) TO DEVELOP A CRITICAL AREA PROTECTION PROGRAM TO
6 CONTROL THE USE AND DEVELOPMENT OF THAT PART OF THE ATLANTIC COASTAL
7 BAYS CRITICAL AREA LOCATED WITHIN ITS TERRITORIAL LIMITS; OR

8 (II) NOT TO DEVELOP SUCH A PROGRAM.

9 (b) If a local jurisdiction states the local jurisdiction's intent not to develop a
10 program or fails to submit a timely statement of intent, the Commission shall prepare
11 and adopt a program for the part of the Chesapeake Bay Critical Area OR ATLANTIC
12 COASTAL BAYS CRITICAL AREA in that local jurisdiction.

13 (c) (1) If a local jurisdiction states the local jurisdiction's intent to develop a
14 CHESAPEAKE BAY CRITICAL AREA program, the local jurisdiction shall prepare a
15 proposed program and submit the program to the Commission within 270 days after
16 the effective date of the criteria adopted under § 8-1808 of this subtitle. However, if
17 the local jurisdiction submits evidence satisfactory to the Commission that the local
18 jurisdiction is making reasonable progress in the development of a program, the
19 Commission may extend this period for up to an additional 180 days. Before
20 submission of a program to the Commission within the time allowed by this
21 subsection, a local jurisdiction shall hold at least 1 public hearing on the proposed
22 program, for which 2 weeks notice shall be published in a newspaper of general
23 circulation in the local jurisdiction.

24 (2) IF A LOCAL JURISDICTION STATES THE LOCAL JURISDICTION'S
25 INTENT TO DEVELOP AN ATLANTIC COASTAL BAYS CRITICAL AREA PROGRAM, THE
26 LOCAL JURISDICTION SHALL PREPARE A PROPOSED PROGRAM MEETING THE
27 REQUIREMENTS OF THE CRITERIA ADOPTED UNDER § 8-1808 OF THIS SUBTITLE AND
28 SUBMIT THE PROGRAM TO THE COMMISSION ON OR BEFORE JANUARY 1, 2003.
29 HOWEVER, IF THE LOCAL JURISDICTION SUBMITS EVIDENCE SATISFACTORY TO THE
30 COMMISSION THAT THE LOCAL JURISDICTION IS MAKING REASONABLE PROGRESS
31 IN THE DEVELOPMENT OF A PROGRAM, THE COMMISSION MAY EXTEND THIS PERIOD
32 FOR UP TO AN ADDITIONAL 30 DAYS. BEFORE SUBMISSION OF A PROGRAM TO THE
33 COMMISSION WITHIN THE TIME ALLOWED BY THIS SUBSECTION, A LOCAL
34 JURISDICTION SHALL HOLD AT LEAST 1 PUBLIC HEARING ON THE PROPOSED
35 PROGRAM, FOR WHICH 2 WEEKS' NOTICE SHALL BE PUBLISHED IN A NEWSPAPER OF
36 GENERAL CIRCULATION IN THE LOCAL JURISDICTION.

37 (d) (1) Within 30 days after a program is submitted, the Commission shall
38 appoint a panel of 5 of its members to conduct, in the affected jurisdiction, a public
39 hearing on the proposed program.

40 (2) (I) Within 90 days after the Commission receives a proposed
41 CHESAPEAKE BAY CRITICAL AREA program from a local jurisdiction, the Commission
42 shall approve the proposal or notify the local jurisdiction of specific changes that must

1 be made in order for the proposal to be approved. If the Commission does neither, the
2 proposal shall be deemed approved.

3 (II) WITHIN 60 DAYS AFTER THE COMMISSION RECEIVES A
4 PROPOSED ATLANTIC COASTAL BAYS CRITICAL AREA PROGRAM FROM A LOCAL
5 JURISDICTION, THE COMMISSION SHALL APPROVE THE PROPOSAL OR NOTIFY THE
6 LOCAL JURISDICTION OF SPECIFIC CHANGES THAT MUST BE MADE IN ORDER FOR
7 THE PROPOSAL TO BE APPROVED. IF THE COMMISSION DOES NEITHER, THE
8 PROPOSAL SHALL BE DEEMED APPROVED.

9 (3) A changed proposal shall be submitted to the Commission in the
10 same manner as the original proposal, within 40 days after the Commission's notice.
11 Unless the Commission approves a changed proposal or disapproves a changed
12 proposal and states in writing the reasons for the Commission's disapproval within 40
13 days, the changed proposal shall be deemed approved.

14 (e) Within 90 days after the Commission approves a proposed CHESAPEAKE
15 BAY CRITICAL AREA program OR A PROPOSED ATLANTIC COASTAL BAYS CRITICAL
16 AREA PROGRAM, the local jurisdiction shall hold hearings and adopt the program in
17 accordance with legislative procedures for enacting ordinances. If the governing body
18 of the local jurisdiction wishes to change any part of the approved proposal before
19 adoption, the governing body shall submit the proposed change to the Commission for
20 approval. Unless the Commission approves the change or disapproves the change and
21 states in writing the reasons for the Commission's disapproval within 30 days after
22 the Commission receives the change, the change shall be deemed approved. A changed
23 part may not be adopted until the changed part is approved by the Commission.

24 (f) (1) Within 760 days after criteria adopted by the Commission become
25 effective, there shall be in effect throughout the Chesapeake Bay Critical Area
26 programs approved or adopted by the Commission.

27 (2) ON OR BEFORE SEPTEMBER 29, 2003, THERE SHALL BE IN EFFECT
28 THROUGHOUT THE ATLANTIC COASTAL BAYS CRITICAL AREA PROGRAMS APPROVED
29 OR ADOPTED BY THE COMMISSION.

30 (g) Each local jurisdiction shall review its entire program and propose any
31 necessary amendments to its entire program, including local zoning maps, at least
32 every 4 years beginning with the 4-year anniversary of the date that the program
33 became effective and every 4 years after that date. Each local jurisdiction shall send
34 in writing to the Commission, within 60 days after each 4-year anniversary, the
35 following information:

36 (1) A statement certifying that the required review has been
37 accomplished;

38 (2) Any necessary requests for program amendments, program
39 refinements, or other matters that the local jurisdiction wishes the Commission to
40 consider;

41 (3) An updated resource inventory; and

1 (4) A statement quantifying acreages within each land classification, the
2 growth allocation used, and the growth allocation remaining.

3 (h) (1) As often as necessary but not more than 4 times per calendar year,
4 each local jurisdiction may propose program amendments and program refinements
5 to its adopted program.

6 (2) (i) Except for program amendments or program refinements
7 developed during program review under subsection (g) of this section, a zoning map
8 amendment may be granted by a local approving authority only on proof of a mistake
9 in the existing zoning.

10 (ii) The requirement in paragraph (2)(i) of this subsection that a
11 zoning map amendment may be granted only on proof of a mistake does not apply to
12 proposed changes to a zoning map that:

13 1. Are wholly consistent with the land classifications in the
14 adopted program; or

15 2. Propose the use of a part of the remaining growth
16 allocation in accordance with the adopted program.

17 (i) A program may not be amended except with the approval of the
18 Commission.

19 (j) The Commission shall approve programs and program amendments that
20 meet:

21 (1) The standards set forth in § 8-1808(b)(1) through (3) of this subtitle;
22 and

23 (2) The criteria adopted by the Commission under § 8-1808 of this
24 subtitle.

25 (k) Copies of each approved program, as the program is amended or refined
26 from time to time, shall be maintained by the local jurisdiction and the Commission
27 in a form available for public inspection.

28 (l) (1) If the Commission determines that an adopted program contains a
29 clear mistake, omission, or conflict with the criteria or law, the Commission may:

30 (i) Notify the local jurisdiction of the specific deficiency; and

31 (ii) Request that the jurisdiction submit a proposed program
32 amendment or program refinement to correct the deficiency.

33 (2) Within 90 days after being notified of any deficiency under
34 paragraph (1) of this subsection, the local jurisdiction shall submit to the
35 Commission, as program amendments or program refinements, any proposed changes
36 that are necessary to correct those deficiencies.

1 (3) Local project approvals granted under a part of a program that the
2 Commission has determined to be deficient shall be null and void after notice of the
3 deficiency.

4 (m) (1) The Commission may adopt regulations that prescribe the procedures
5 and information requirements for program amendments and program refinements.

6 (2) In the absence of regulations under paragraph (1) of this subsection,
7 a local jurisdiction may propose changes to adopted programs. Within 10 working
8 days of receiving a proposal under this paragraph, the Commission shall:

9 (i) Mail a notification to the local jurisdiction that the proposal has
10 been accepted for processing; or

11 (ii) Return the proposal as incomplete.

12 (n) A local jurisdiction may specify whether it intends a proposed change to be
13 a program amendment or program refinement. However, the Commission shall treat
14 a proposed change as a program amendment unless the chairman determines that the
15 proposed change is a program refinement.

16 (o) (1) For proposed program amendments, a Commission panel shall hold a
17 public hearing in the local jurisdiction, and the Commission shall act on the proposed
18 program amendment within 90 days of the Commission's acceptance of the proposal.
19 If action by the Commission is not taken within 90 days, the proposed program
20 amendment is deemed approved.

21 (2) The local jurisdiction shall incorporate the approved program
22 amendment into the adopted program within 120 days of receiving notice from the
23 Commission that the program amendment has been approved.

24 (p) (1) Proposed program refinements shall be determined as provided in this
25 subsection.

26 (2) (i) Within 30 days of the Commission's acceptance of a proposal to
27 change an adopted program, the chairman, on behalf of the Commission, may
28 determine that the proposed change is a program refinement. Immediately upon
29 making a determination under this paragraph, the chairman shall notify the
30 Commission of that determination.

31 (ii) If a proposed change that was specifically submitted as a
32 program refinement is not acted on by the chairman within the 30-day period, the
33 Commission shall notify the appropriate local jurisdiction that the proposed change
34 has been deemed to be a program amendment.

35 (3) (i) The Commission may vote to override the chairman's
36 determination only at the first Commission meeting where a quorum is present
37 following the chairman's determination.

1 (ii) If the chairman's determination is overridden, the proposed
2 change is deemed a program amendment, which shall be decided by the Commission
3 in accordance with the procedures for program amendments provided in this section,
4 except that the Commission shall act on the program amendment within 60 days
5 after a vote to override the chairman.

6 (iii) If the chairman's determination is not overridden, within 10
7 working days after the opportunity to override the chairman's decision under item (i)
8 of this paragraph, the chairman, on behalf of the Commission, shall:

9 1. Approve the proposed program refinement and notify the
10 local jurisdiction;

11 2. Deny the program refinement; or

12 3. Send the proposed program refinement back to the local
13 jurisdiction with a list of specific changes to be made.

14 (iv) Within 10 working days of receiving a changed program
15 refinement changed in accordance with item (iii)3 of this paragraph, the chairman
16 shall approve or deny the program refinement.

17 (4) A local jurisdiction shall incorporate an approved program
18 refinement into its adopted program within 120 days of receiving notice from the
19 chairman that the program refinement has been approved.

20 (q) As necessary, a local jurisdiction may combine any or all proposed program
21 amendments or program refinements required for a specific project approval into a
22 single request to the Commission for program amendment, program refinement, or
23 both. Approval by the Commission of a program amendment, program refinement, or
24 both does not affect the Commission's authority to receive notice of or intervene in a
25 project approval that was not specifically approved by the Commission as part of its
26 approval of a program amendment or program refinement.

27 (r) Within 6 months after the adoption of amended criteria, a local jurisdiction
28 shall send to the Commission:

29 (1) Proposed program amendments or program refinements that address
30 the amended criteria; or

31 (2) A statement describing how the adopted program conforms to the
32 amended criteria and certifying that the adopted program is consistent with the
33 amended criteria.

34 (s) If the Commission adopts a regulation concerning the use of the growth
35 allocation, any use of the growth allocation must be in accordance with that
36 regulation for the change to be considered a program refinement.

1 8-1810.

2 (a) If a local jurisdiction fails to notify the Commission that the local
3 jurisdiction will develop a program, fails to submit a proposed program or changed
4 proposal on time, or fails to obtain Commission approval of a proposed program or
5 changed proposal that is submitted, the Commission shall prepare and adopt a
6 program that satisfies the criteria adopted under § 8-1808 of this subtitle for the part
7 of the Chesapeake Bay Critical Area OR ATLANTIC COASTAL BAYS CRITICAL AREA in
8 that local jurisdiction.

9 (b) Where a local jurisdiction failed to adopt or obtain Commission approval of
10 a program, the Commission shall adopt a program for that jurisdiction by adopting
11 regulations in accordance with Title 2, Subtitle 5 (Joint Committee on Administrative,
12 Executive, and Legislative Review) and Title 10, Subtitle 1 (Administrative Procedure
13 Act) of the State Government article. Before the full Commission adopts a program
14 under this subsection, the Commission shall appoint a panel of 3 of the Commission's
15 members to conduct in the affected jurisdiction at least 2 public hearings at least 10
16 days apart on the proposed program, for which 2 weeks notice shall be published in a
17 newspaper of general circulation in the local jurisdiction. A program adopted by the
18 Commission under this subsection shall supersede any inconsistent local laws,
19 ordinances, or plans.

20 (c) If the Commission adopts a program for a local jurisdiction, the program
21 shall be implemented and enforced by local authorities in the same manner as if the
22 program had been adopted by the local jurisdiction itself.

23 (d) If, at any time after the Commission has adopted a program for a local
24 jurisdiction, the local jurisdiction submits an alternative program of its own that
25 satisfies the criteria adopted under § 8-1808 this subtitle and is approved by the
26 Commission, the alternative program supersedes the program adopted by the
27 Commission.

28 8-1811.

29 (a) From the effective date of a program approved or adopted by the
30 Commission, a project approval that involves land located in the Chesapeake Bay
31 Critical Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA may not be granted
32 unless the project approval is consistent and complies with the program.

33 8-1812.

34 (a) After the Commission has approved or adopted a program, the chairman of
35 the Commission has standing and the right and authority to initiate or intervene in
36 any administrative, judicial, or other original proceeding or appeal in this State
37 concerning a project approval in the Chesapeake Bay Critical Area OR THE ATLANTIC
38 COASTAL BAYS CRITICAL AREA. The chairman may exercise this intervention
39 authority without first obtaining approval from the Commission, but the chairman
40 shall send prompt written notice of any intervention or initiation of action under this
41 section to each member of the Commission. The chairman shall withdraw the
42 intervention or action initiated if, within 35 days after the date of the chairman's

1 notice, at least 13 members indicate disapproval of the action, either in writing
2 addressed to the chairman or by vote at a meeting of the Commission. A member
3 representing the local jurisdiction affected by the chairman's intervention or action
4 may request a meeting of the Commission to vote on the chairman's intervention or
5 action.

6 8-1813.

7 (a) From June 1, 1984 with regard to any subdivision plat approval or
8 approval of a zoning amendment, variance, special exemption, conditional use permit,
9 or use of a floating zone, affecting any land or water area located within the initial
10 planning area identified in § 8-1807(a) of this subtitle, for which application is
11 completed after that date, the approving authority of the local jurisdiction in
12 rendering its decision to approve an application shall make specific findings that:

13 (1) The proposed development will minimize adverse impacts on water
14 quality that result from pollutants that are discharged from structures or
15 conveyances or that have run off from surrounding lands; and

16 (2) The applicant has identified fish, wildlife, and plant habitat which
17 may be adversely affected by the proposed development and has designed the
18 development so as to protect those identified habitats whose loss would substantially
19 diminish the continued ability of populations of affected species to sustain
20 themselves.

21 (B) ON OR AFTER JUNE 1, 2002, WITH REGARD TO ANY SUBDIVISION PLAT
22 APPROVAL OR APPROVAL OF A ZONING AMENDMENT, VARIANCE, SPECIAL
23 EXEMPTION, CONDITIONAL USE PERMIT, OR USE OF A FLOATING ZONE, AFFECTING
24 ANY LAND OR WATER AREA LOCATED WITHIN THE INITIAL PLANNING AREA
25 IDENTIFIED IN § 8-1807(B) OF THIS SUBTITLE, FOR WHICH APPLICATION IS
26 COMPLETED AFTER THAT DATE, THE APPROVING AUTHORITY OF THE LOCAL
27 JURISDICTION IN RENDERING ITS DECISION TO APPROVE AN APPLICATION SHALL
28 MAKE SPECIFIC FINDINGS THAT:

29 (1) THE PROPOSED DEVELOPMENT WILL MINIMIZE ADVERSE IMPACTS
30 ON WATER QUALITY THAT RESULT FROM POLLUTANTS THAT ARE DISCHARGED
31 FROM STRUCTURES OR CONVEYANCES OR THAT HAVE RUN OFF FROM
32 SURROUNDING LANDS; AND

33 (2) THE APPLICANT HAS IDENTIFIED FISH, WILDLIFE, AND PLANT
34 HABITAT WHICH MAY BE ADVERSELY AFFECTED BY THE PROPOSED DEVELOPMENT
35 AND HAS DESIGNED THE DEVELOPMENT SO AS TO PROTECT THOSE IDENTIFIED
36 HABITATS WHOSE LOSS WOULD SUBSTANTIALLY DIMINISH THE CONTINUED ABILITY
37 OF POPULATIONS OF AFFECTED SPECIES TO SUSTAIN THEMSELVES.

38 [(b)] (C) With regard to any application for project approval described in
39 [subsection (a)] SUBSECTION (A) OR (B) of this section, a local approving authority
40 shall require any additional information from an applicant as is necessary in order to
41 make the findings required by [subsection (a)] SUBSECTION (A) OR (B) of this section.

1 [(c)] (D) This section shall remain in effect in a local jurisdiction until such
2 time as an approved program becomes effective.

3 [(d)] (E) This section does not apply to any application IN THE CHESAPEAKE
4 BAY CRITICAL AREA initially filed prior to March 1, 1984 OR ANY APPLICATION IN
5 THE ATLANTIC COASTAL BAYS CRITICAL AREA FILED PRIOR TO JUNE 1, 2002.

6 8-1813.1.

7 (A) EXCEPT AS PROVIDED IN ~~SUBSECTION (B)~~ SUBSECTIONS (B), (C), AND (D)
8 OF THIS SECTION, A LOCAL JURISDICTION IN THE ATLANTIC COASTAL BAYS
9 CRITICAL AREA SHALL PERMIT A SINGLE LOT OR PARCEL OF LAND THAT WAS
10 LEGALLY OF RECORD ON THE DATE OF PROGRAM APPROVAL TO BE DEVELOPED
11 WITH A SINGLE FAMILY DWELLING, IF A DWELLING IS NOT ALREADY PLACED THERE,
12 NOTWITHSTANDING THAT SUCH DEVELOPMENT MAY BE INCONSISTENT WITH THE
13 APPROVED DENSITY PROVISIONS OF THE APPROVED LOCAL PROGRAM, ~~AND~~
14 PROVIDED THAT:

15 (1) THE LOCAL JURISDICTION DEVELOPS, AS PART OF ITS PROGRAM,
16 PROCEDURES TO BRING ~~THESE THE LOTS OR LANDS~~ INTO CONFORMANCE WITH THE
17 LOCAL CRITICAL AREA PROGRAM ~~AS FAR AS TO THE EXTENT~~ POSSIBLE, INCLUDING
18 THE CONSOLIDATION OR RECONFIGURATION OF LOTS NOT INDIVIDUALLY OWNED;
19 ~~AND THESE; AND~~

20 (2) THE PROCEDURES DEVELOPED IN ACCORDANCE WITH ITEM (1) OF
21 THIS SUBSECTION ARE APPROVED BY THE COMMISSION.

22 (B) LAND THAT WAS SUBDIVIDED INTO RECORDED AND LEGALLY BUILDABLE
23 LOTS FOR WHICH THE SUBDIVISION RECEIVED THE LOCAL JURISDICTION'S FINAL
24 APPROVAL AFTER ~~APRIL 17, 2001~~ JUNE 1, 2002 BUT PRIOR TO PROGRAM APPROVAL
25 MAY BE DEVELOPED WITH A SINGLE FAMILY DWELLING, IF A SINGLE FAMILY
26 DWELLING IS NOT ALREADY PLACED THERE, PROVIDED THAT:

27 (1) DEVELOPMENT OF THE LAND CONFORMS TO THE REQUIREMENTS
28 OF THIS TITLE AND TITLE 27 OF THE CODE OF MARYLAND REGULATIONS; OR

29 (2) THE AREA OF LAND IS ~~COUNTED BY~~ DEDUCTED FROM THE LOCAL
30 JURISDICTION AGAINST THE GROWTH INCREMENT JURISDICTION'S GROWTH
31 ALLOCATION IN ACCORDANCE WITH § 8-1808.1(B) OF THIS ~~TITLE~~ SUBTITLE AND
32 COMAR 27.01.02.06.

33 (C) (1) (I) IN THIS SUBSECTION AND SUBSECTION (D) OF THIS SECTION
34 THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

35 (II) "BAYSIDE MIXED USE DISTRICT" MEANS A DISTRICT OF
36 EXISTING LARGE BAYSIDE PARCELS THAT:

37 1. ARE ESSENTIALLY UNDEVELOPED WITH PERMANENT
38 STRUCTURES;

1 (3) THE AREA IS DEDUCTED FROM THE LOCAL JURISDICTION'S GROWTH
 2 ALLOCATION IN ACCORDANCE WITH § 8-1808.1(B) OF THIS SUBTITLE AND COMAR
 3 27.01.02.06, IF APPLICABLE;

4 (4) THE PROVISION INCLUDES MEASURES THAT PROTECT WATER
 5 QUALITY AND FISH, WILDLIFE, AND PLANT HABITATS IN ACCORDANCE WITH THE
 6 INTENT OF TITLE 8, SUBTITLE 18 OF THIS ARTICLE AND TITLE 27 OF THE CODE OF
 7 MARYLAND REGULATIONS; AND

8 (5) AT LEAST 75% OF THE DWELLING UNITS IN THE PLANNED UNIT
 9 DEVELOPMENT COMPLY WITH THE BUFFER REQUIREMENTS IN COMAR 27.01.09.01
 10 AND NO DWELLING UNIT HAS A BUFFER OF LESS THAN 50 FEET FROM EXISTING OR
 11 PROPOSED TIDAL WATERS, TIDAL WETLANDS, OR TRIBUTARY STREAMS.

12 ~~(C)~~ (E) FOR PURPOSES OF IMPLEMENTING THIS SUBTITLE, A LOCAL
 13 JURISDICTION IN THE ATLANTIC COASTAL BAYS CRITICAL AREA SHALL HAVE
 14 DETERMINED, BASED ON LAND USES AND DEVELOPMENT IN EXISTENCE ON ~~APRIL~~
 15 ~~17, 2001~~ JUNE 1, 2002, WHICH LAND AREAS FALL INTO THE THREE TYPES OF
 16 DEVELOPMENT AREAS IN ACCORDANCE WITH TITLE 27 OF THE CODE OF MARYLAND
 17 REGULATIONS.

18 8-1815.1.

19 (a) (1) The provisions of this section are in addition to any other sanction,
 20 remedy, or penalty provided by law.

21 (2) This section does not apply to any cutting or clearing of trees that is
 22 allowed under regulations adopted by the Commission under this subtitle.

23 (b) If a person cuts or clears or plans to cut or clear trees within the
 24 Chesapeake Bay critical Area OR ATLANTIC COASTAL BAYS CRITICAL AREA in
 25 violation of regulations adopted by the Commission, the local jurisdiction may bring
 26 an action:

27 (1) To require the person to replant trees where the cutting or clearing
 28 occurred in accordance with a plan prepared by the State Forester, a registered
 29 professional forester, or a registered landscape architect;

30 (2) To restrain the planned violation; or

31 (3) For damages:

32 (i) To be assessed by a circuit court in an amount equal to the
 33 estimated cost of replanting trees; and

34 (ii) To be paid to the Department by the person found to have
 35 violated the provisions of this subsection.

36 (c) If the Chairman of the Commission has reason to believe that the local
 37 jurisdiction is failing to enforce the requirements of subsection (b) of this section, the

1 Chairman shall refer the matter to the Attorney General as provided under § 8-1815
2 (b) of this subtitle.

3 (d) On the Chairman of the Commission's referral of an alleged violation
4 under subsection (c) of this section to the Attorney General, the Attorney General may
5 invoke the remedies available to the local jurisdiction under subsection (b) of this
6 section in any court of competent jurisdiction in which the local jurisdiction would be
7 authorized to prosecute or sue.

8 (e) On the request of a local jurisdiction or the Chairman of the Commission,
9 the State Forester, a registered professional forester, or a registered landscape
10 architect may prepare, oversee, and approve the final implementation of a plan to:

11 (1) [replant] REPLANT trees in any part of the Chesapeake Bay Critical
12 Area where trees IN THE CHESAPEAKE BAY CRITICAL AREA are cut or cleared in
13 violation of subsection (b) of this section; AND

14 (2) REPLANT TREES IN ANY PART OF THE ATLANTIC COASTAL BAYS
15 CRITICAL AREA WHERE TREES IN THE ATLANTIC COASTAL BAYS CRITICAL AREA ARE
16 CUT OR CLEARED IN VIOLATION OF SUBSECTION (B) OF THIS SECTION.

17 8-1817.

18 (a) By January 1, 1994, the [Chesapeake Bay Critical Area] Commission
19 shall adopt criteria that assure the protection of land and water resources in the
20 Critical Area and that shall apply throughout the [Chesapeake Bay] Critical Area
21 for:

22 (1) Production of oil or natural gas on lands or waters leased by the
23 State; and

24 (2) Exploration or production of oil or natural gas on any lands in the
25 Critical Area.

26 (b) (1) In addition to other applicable provisions of law, an applicant for any
27 production or exploratory drilling that will occur on, in, under, or through the
28 [Chesapeake Bay] Critical Area, including wells drilled outside the Critical Area by a
29 method known as slant drilling that will pass through the Critical Area, shall
30 complete and submit with the application an environmental impact study that
31 addresses the potential for any adverse environmental effects on the Critical Area as
32 a result of the drilling.

33 (2) (i) The Department shall forward a copy of the permit application
34 and the environmental impact study referred to in paragraph (1) of this subsection to
35 the [Critical Area] Commission for its review and comment.

36 (ii) The Department shall consider and comment in writing on the
37 objections and concerns of the [Critical Area] Commission before issuing a permit
38 under this subsection.

1

Article—Environment2 ~~16-201.~~

3 (a) (1) A person who is the owner of land bounding on navigable water is
 4 entitled to any natural accretion to the person's land, to reclaim fast land lost by
 5 erosion or avulsion during the person's ownership of the land to the extent of provable
 6 existing boundaries. The person may make improvements into the water in front of
 7 the land to preserve that person's access to the navigable water or protect the shore of
 8 that person against erosion. After an improvement has been constructed, the
 9 improvement is the property of the owner of the land to which the improvement is
 10 attached. A right covered in this subtitle does not preclude the owner from developing
 11 any other use approved by the Board. The right to reclaim lost fast land relates only
 12 to fast land lost after January 1, 1972, and the burden of proof that the loss occurred
 13 after this date is on the owner of the land.

14 (2) ~~A PERSON EXERCISING THEIR RIGHT TO MAKE IMPROVEMENTS INTO~~
 15 ~~THE WATER IN FRONT OF THE LAND TO PRESERVE THAT PERSON'S ACCESS TO THE~~
 16 ~~NAVIGABLE WATER UNDER SUBSECTION (A)(1) OF THIS SECTION MAY NOT EXTEND~~
 17 ~~THE IMPROVEMENTS MORE THAN 25 FEET OVER VEGETATED STATE WETLANDS IN~~
 18 ~~THE ATLANTIC COASTAL BAYS CRITICAL AREA AS DEFINED UNDER TITLE 8,~~
 19 ~~SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE.~~

20 (b) The rights of any person, as defined in this subtitle, which existed prior to
 21 July 1, 1973 in relation to natural accretion of land are deemed to have continued to
 22 be in existence subsequent to July 1, 1973 to July 1, 1978.

23 ~~16-304.~~

24 (A) Notwithstanding any regulation adopted by the Secretary to protect
 25 private wetlands, the following uses are lawful on private wetlands:

26 (1) Conservation of soil, vegetation, water, fish, shellfish, and wildlife;

27 (2) Trapping, hunting, fishing, and catching shellfish, if otherwise
 28 legally permitted;

29 (3) Exercise of riparian rights to improve land bounding on navigable
 30 water, to preserve access to the navigable water, or to protect the shore against
 31 erosion;

32 (4) Reclamation of fast land owned by a natural person and lost during
 33 the person's ownership of the land by erosion or avulsion to the extent of provable
 34 preexisting boundaries. The right to reclaim lost fast land relates only to fast land lost
 35 after January 1, 1972. The burden of proof that the loss occurred after this date is on
 36 the owner of the land; and

37 (5) Routine maintenance and repair of existing bulkheads, provided that
 38 there is no addition or channelward encroachment.

~~1 (B) A PERSON EXERCISING THEIR RIGHT TO MAKE IMPROVEMENTS INTO THE
2 WATER IN FRONT OF THE LAND TO PRESERVE THAT PERSON'S ACCESS TO THE
3 NAVIGABLE WATER UNDER SUBSECTION (A)(3) OF THIS SECTION MAY NOT EXTEND
4 THE IMPROVEMENTS MORE THAN 25 FEET OVER VEGETATED PRIVATE WETLANDS IN
5 THE ATLANTIC COASTAL BAYS CRITICAL AREA AS DEFINED UNDER TITLE 8,
6 SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE.~~

7 SECTION 2. AND BE IT FURTHER ENACTED, That:

8 (a) (1) Except as provided in subsection (b) of this section, this Act may not
9 be construed to apply to the initial development of a planned unit development, as
10 defined in § 5-1601 of the Natural Resources Article, and including a residential
11 planned community:

12 (i) for which the following are issued prior to June 1, 2002:

13 1. a valid Step III approval in accordance with the current
14 Worcester County Zoning and Subdivision Control Ordinance; and

15 2. at least 3 of the following State permits:

16 A. groundwater discharge or surface water discharge;

17 B. nontidal wetlands;

18 C. water quality certification; and

19 D. water appropriation; and

20 (ii) which is subdivided into recorded and legally buildable lots.

21 (2) The growth allocation for Worcester County's Atlantic Coastal Bays
22 resource conservation area shall be reduced by an amount equal to the total acreage
23 exempted under this subsection that is or would be located in a resource conservation
24 area multiplied by 25%.

25 (b) (1) Except as provided in paragraph (2) of this subsection, if a planned
26 unit development described in subsection (a) of this section includes an inland marina
27 built after April 8, 2002:

28 (i) at least 85% of the dwelling units in the planned unit
29 development shall comply with the buffer requirements in COMAR 27.01.09.01; and

30 (ii) no dwelling unit may have a buffer of less than 50 feet from
31 existing or proposed tidal waters, tidal wetlands, or tributary streams.

32 (2) Paragraph (1) of this subsection may not apply to those dwelling
33 units immediately adjacent to tidal waters in an inland marina built after April 8,
34 2002.

1 SECTION 3. AND BE IT FURTHER ENACTED, That, for the purpose of
2 making improvements, this Act may not be construed to apply to a property:

3 (1) that, as of January 1, 2002, has received a valid special exception for
4 fairground or racetrack use in an agricultural district; and

5 (2) is used consistently with that special exception.

6 SECTION 4. AND BE IT FURTHER ENACTED, That this Act may not be
7 construed to apply to the initial development of the undeveloped property in Ocean
8 City, Maryland, known locally as "Holland's Island," in accordance with the final site
9 plan approval received on March 27, 2002.

10 SECTION 5. AND BE IT FURTHER ENACTED, That this Act may not be
11 construed to apply to the initial development of the Young Men's Christian
12 Association facility located as follows: Starting at a point in Worcester County at the
13 intersection of Gum Point Road and the Wilkerson-Steen property line, proceeding
14 north to the Caffi-Steen line, following on to the Park-Steen line, on to the
15 Chamberlain-Steen line, to the Parsons-Steen line, to the Wyatt-Steen line, at
16 which point the line turns east on the Wyatt-Steen line, turning north at the
17 Wyatt-Steen boundary line to the Ocean Pines Association-Steen southern boundary
18 line with Ocean Pines, then turning east along the Ocean Pines-Steen line to the
19 northern stream and ditch at Mud Creek, then follows the stream and ditch to Gum
20 Point Road, then along Gum Point Road to the starting point.

21 SECTION 6. AND BE IT FURTHER ENACTED, That:

22 (1) Section 5 of this Act shall take effect only if, on or before July 1, 2003:

23 (i) the property described under Section 5 of this Act has been acquired
24 by the Young Men's Christian Association; and

25 (ii) three of the four following State permits are issued to the YMCA:

26 1. groundwater discharge or surface water discharge;

27 2. nontidal wetlands;

28 3. water quality certification; and

29 4. water appropriation; and

30 (2) If the events described under paragraph (1) of this section do not occur on
31 or before July 1, 2003, with no further action required by the General Assembly,
32 Section 5 of this Act shall be abrogated and of no further force and effect after July 1,
33 2003.

34 (3) If the events described under paragraph (1) of this section occur, the
35 property remains subject to the growth allocation provisions of the Critical Area law
36 and regulations.

1 SECTION ~~2.~~ 5. 7. AND BE IT FURTHER ENACTED, That this Act shall take
2 effect June 1, 2002.