

SENATE BILL 247

Unofficial Copy  
M1

2002 Regular Session  
(2r0185)

**ENROLLED BILL**

-- Education, Health, and Environmental Affairs/Environmental Matters --

Introduced by **The President (Administration)**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

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; requiring

1 ~~certify certain local programs to classify certain areas as intensely developed areas; of~~  
2 ~~this Act; requiring each local jurisdiction under this Act to submit certain~~  
3 ~~information to the Commission on or before a certain date providing for the~~  
4 ~~calculation and utilization of certain growth allocations by certain local~~  
5 ~~jurisdictions under certain circumstances; requiring local jurisdictions in the~~  
6 ~~Atlantic Coastal Bays Critical Area to include certain elements a certain~~  
7 ~~element in their local program; authorizing local jurisdictions in the Atlantic~~  
8 ~~Coastal Bays Critical Area to include certain elements in their local program;~~  
9 ~~requiring the Department of Natural Resources to provide certain assistance to~~  
10 ~~local jurisdictions in the preparation of certain maps or studies; clarifying that~~  
11 ~~agricultural activities are allowed in certain areas in accordance with certain~~  
12 ~~requirements under a certain circumstance; establishing certain requirements~~  
13 ~~for the Commission and for a local jurisdiction located in the Atlantic Coastal~~  
14 ~~Bays watershed but not in the Atlantic Coastal Bays Critical Area relating to~~  
15 ~~minimum stream buffers; requiring a certain local jurisdiction to submit certain~~  
16 ~~information to the Commission on or before a certain date; establishing certain~~  
17 ~~requirements for a local jurisdiction in the Atlantic Coastal Bays Critical Area~~  
18 ~~relating to the development of a local critical area program; requiring certain~~  
19 ~~local jurisdictions to submit to the Commission on or before a certain date~~  
20 ~~certain information relating to the jurisdiction's intent to establish a local~~  
21 ~~critical area program; requiring certain public hearings during program~~  
22 ~~development by a local jurisdiction and during program development or~~  
23 ~~approval by the Commission; requiring that a local jurisdiction review its~~  
24 ~~program within a certain time period and providing that within that certain~~  
25 ~~time period, certain changes may only be made under certain circumstances;~~  
26 ~~requiring programs in the Atlantic Coastal Bays Critical Area to be approved or~~  
27 ~~adopted by the Commission and in effect on or before a certain date; providing~~  
28 ~~that the authority, powers, and responsibilities of the chairman of the~~  
29 ~~Commission apply to the Atlantic Coastal Bays Critical Area; requiring certain~~  
30 ~~local authorities to make certain findings relative relating to certain~~  
31 ~~applications for certain land use approvals on or after a certain date and prior to~~  
32 ~~an approved program becoming effective; requiring certain local jurisdictions to~~  
33 ~~permit certain uses of land in the Atlantic Coastal Bay Critical Area under~~  
34 ~~certain circumstances; authorizing the development of a planned unit~~  
35 ~~development under certain circumstances; authorizing a local jurisdiction to~~  
36 ~~include in its local program, subject to approval by the Commission, an~~  
37 ~~alternative buffer provision for a planned unit development under certain~~  
38 ~~circumstances; prohibiting certain extensions of improvements improvements~~  
39 ~~from extending more than a certain distance over certain wetlands under~~  
40 ~~certain circumstances; authorizing a person to extend improvements more than~~  
41 ~~a certain distance over certain wetlands in accordance with a plan submitted by~~  
42 ~~a local jurisdiction and approved by the Department of the Environment and the~~  
43 ~~Commission; establishing certain requirements for the plan; requiring a certain~~  
44 ~~local jurisdiction to include certain provisions regarding land use in the critical~~  
45 ~~area and certain tributaries of the Atlantic Coastal Bays; providing for the~~  
46 ~~construction of this Act; providing for the termination of certain provisions of this~~  
47 ~~Act; altering a certain definition certain definitions; prohibiting certain~~  
48 ~~applications of this Act; providing for a certain calculation of a certain growth~~

1 *allocation in a certain area; providing for certain development conditions for*  
 2 *certain planned unit developments under a certain circumstance;* and generally  
 3 relating to establishment and enforcement of a comprehensive State and local  
 4 resource management program for certain land areas critical to the quality and  
 5 productivity of the tidal waters of the Atlantic Coastal Bays and its tributaries.

6 BY repealing and reenacting, with amendments,  
 7 Article - Natural Resources  
 8 Section 8-1801, 8-1802, 8-1803, 8-1804, 8-1806, 8-1807, 8-1808, 8-1808.1,  
 9 8-1808.2, 8-1808.3, 8-1809, 8-1810, 8-1811(a), 8-1812(a), 8-1813,  
 10 8-1815.1, and 8-1817  
 11 Annotated Code of Maryland  
 12 (2000 Replacement Volume and 2001 Supplement)

13 BY adding to  
 14 Article - Natural Resources  
 15 Section 8-1808.8, 8-1808.9, and 8-1813.1  
 16 Annotated Code of Maryland  
 17 (2000 Replacement Volume and 2001 Supplement)

18 ~~BY repealing and reenacting, with amendments,~~  
 19 ~~Article - Environment~~  
 20 ~~Section 16-201 and 16-304~~  
 21 ~~Annotated Code of Maryland~~  
 22 ~~(1996 Replacement Volume and 2001 Supplement)~~

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

25 **Article - Natural Resources**

26 8-1801.

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

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

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

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

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

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

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

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

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

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

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

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

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

33 8-1802.

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

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

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

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

3 [(2)] (5) "Commission" means the [Chesapeake Bay] Critical Area  
4 Commission FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS established in this  
5 subtitle.

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

8 [(3)] (7) "Development" means any activity that materially affects the  
9 condition or use of dry land, land under water, or any structure.

10 [(4)] (8) "Growth allocation" means the number of acres of land in the  
11 Chesapeake Bay Critical Area OR ATLANTIC COASTAL BAYS CRITICAL AREA that a  
12 local jurisdiction may use to create new intensely developed areas and new limited  
13 development areas.

14 [(5)] (9) "Includes" means includes or including by way of illustration  
15 and not by way of limitation.

16 [(6)] (10) "Land classification" means the designation of land in the  
17 Chesapeake Bay Critical Area OR ATLANTIC COASTAL BAYS CRITICAL AREA in  
18 accordance with the criteria adopted by the Commission as an intensely developed  
19 area or district, a limited development area or district, or a resource conservation  
20 area or district.

21 [(7)] (11) "Local jurisdiction" means a county, or a municipal corporation  
22 with planning and zoning powers, in which any part of the Chesapeake Bay Critical  
23 Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA, as defined in this subtitle, is  
24 located.

25 [(8)] (12) (i) "Program" means the Critical Area Protection Program of  
26 a local jurisdiction.

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

28 [(9)] (13) (i) "Program amendment" means any change to an adopted  
29 program that the Commission determines will result in a use of land or water in the  
30 Chesapeake Bay Critical Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA in a  
31 manner not provided for in the adopted program.

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

35 [(10)] (14) (i) "Program refinement" means any change to an adopted  
36 program that the Commission determines will result in a use of land or water in the  
37 Chesapeake Bay Critical Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA in a  
38 manner consistent with the adopted program.

1 (ii) "Program refinement" includes:

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

4 2. The use of the growth allocation in accordance with an  
5 adopted program.

6 [(11)] (15) (i) "Project approval" means the approval of development,  
7 other than development by a State or local government agency, in the Chesapeake  
8 Bay Critical Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA by the  
9 appropriate local approval authority.

10 (ii) "Project approval" includes:

11 1. Approval of subdivision plats and site plans;

12 2. Inclusion of areas within floating zones;

13 3. Issuance of variances, special exceptions, and conditional  
14 use permits; and

15 4. Approval of rezoning.

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

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

22 8-1803.

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

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

26 (1) To approve, alter, or amend the policies or programs of the  
27 Commission;

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

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

31 8-1804.

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

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

3           (2)    (II)    [11] 13 individuals, appointed with the advice and consent of  
4 the Senate, each of whom is a resident and an elected or appointed official of a local  
5 jurisdiction. At least 1 of these [11]13 individuals must be an elected or appointed  
6 official of a municipality. These individuals shall serve on the Commission only while  
7 they hold local office. Each shall be selected from certain counties or from  
8 municipalities within the counties as follows, and only after the Governor has  
9 consulted with elected county and municipal officials:

10                   (+)    1.     1 from each of Baltimore City and Anne Arundel,  
11 Baltimore, and Prince George's counties;

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

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

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

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

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

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

19                   (viii) 8.     2 FROM WORCESTER COUNTY, 1 OF WHOM SHALL BE A  
20 RESIDENT OF THE CHESAPEAKE BAY WATERSHED AND THE OTHER OF WHOM SHALL  
21 BE A RESIDENT OF THE ATLANTIC COASTAL BAYS WATERSHED;

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

28           (4)    (IV)    The Secretaries of Agriculture, Business and Economic  
29 Development, Housing and Community Development, the Environment,  
30 Transportation, [and] Natural Resources, and [the Director of] Planning, ex officio,  
31 or the designee of the Secretaries [or the Director].

32           (2)    OF THE 2 WORCESTER COUNTY MEMBERS FROM THE ATLANTIC  
33 COASTAL BAYS WATERSHED, ONLY 1 MAY BE A RESIDENT 1 SHALL BE THE CHIEF  
34 ELECTED OFFICIAL OR THE OFFICIAL'S DESIGNEE OF A MUNICIPAL CORPORATION  
35 LOCATED WITHIN THE COASTAL BAYS WATERSHED MAYOR OF OCEAN CITY.

36       (b)     A member of the Commission who does not hold another office of profit at  
37 the State or local level shall be entitled to compensation as provided in the budget.

1 Members of the Commission shall be entitled to reimbursement for expenses as  
2 provided in the budget.

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

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

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

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

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

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

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

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

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

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

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

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

31 (i) A quorum is present; and

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

1 8-1806.

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

4 (1) To adopt regulations and criteria in accordance with Title 2, Subtitle  
5 5 (Joint Committee on Administrative, Executive and Legislative Review) and Title  
6 10, Subtitle 1 (Administrative Procedure Act) of the State Government Article;

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

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

10 (4) TO ESTABLISH AN ADVISORY COMMITTEE, COMPOSED OF MEMBERS  
11 OF THE COMMISSION AND LOCAL CITIZENS AND LOCAL STAKEHOLDER GROUPS, TO  
12 MAKE RECOMMENDATIONS TO THE COMMISSION WITH RESPECT TO ATLANTIC  
13 COASTAL BAYS CRITICAL AREA PROGRAMS.

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

17 8-1807.

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

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

23 (2) All land and water areas within 1,000 feet beyond the landward  
24 boundaries of State or private wetlands and the heads of tides designated under Title  
25 [9] 16 of the Environment Article.

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

28 (1) ALL WATERS OF AND LANDS UNDER THE COASTAL BAYS AND THEIR  
29 TRIBUTARIES TO THE HEAD OF TIDE AS INDICATED ON THE STATE WETLANDS MAPS,  
30 AND ALL STATE AND PRIVATE WETLANDS DESIGNATED UNDER TITLE 16 OF THE  
31 ENVIRONMENT ARTICLE; AND

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

35 [(b)] (C) (1) (i) In determining the Chesapeake Bay Critical Area OR THE  
36 ATLANTIC COASTAL BAYS CRITICAL AREA within its boundaries, a local jurisdiction

1 may exclude those portions of the planning area designated in subsection (a) OR (B) of  
2 this section which the local jurisdiction finds to be:

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

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

11                               (ii)       A portion of urban area to be excluded shall be at least 50%  
12 developed and may not be less than 2,640,000 square feet in contiguous area or the  
13 entire initial planning area located within the boundaries of a municipality,  
14 whichever is less.

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

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

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

24                               (ii)      Arbitrary or capricious.

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

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

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

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

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

34                               (1)       THOSE AREAS DESIGNATED IN SUBSECTION (B) OF THIS SECTION,  
35 EXCEPT ANY AREAS EXCLUDED IN ACCORDANCE WITH SUBSECTION (C) OF THIS  
36 SECTION; AND

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

3 8-1808.

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

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

10 (II) Each local jurisdiction shall submit to the Governor by October  
11 31, 1984 a detailed request for funds that are equivalent to the additional costs  
12 incurred in developing the program under this section.

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

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

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

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

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

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

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

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

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

- 1           (3)     As necessary, new or amended provisions of the jurisdiction's:
- 2                   (i)     Subdivision regulations;
- 3                   (ii)    Comprehensive or master plan;
- 4                   (iii)  Zoning ordinances or regulations;
- 5                   (iv)   Provisions relating to enforcement; and
- 6                   (v)   Provisions as appropriate relating to grandfathering of  
7 development at the time the program is adopted or approved by the Commission;
- 8           (4)     Provisions requiring that project approvals shall be based on findings  
9 that projects are consistent with the standards stated in subsection (b) of this section;
- 10           (5)    Provisions to limit the amount of land covered by buildings, roads,  
11 parking lots, or other impervious surfaces, and to require or encourage cluster  
12 development, where necessary or appropriate;
- 13           (6)    Establishment of buffer areas along shorelines within which  
14 agriculture will be permitted only if best management practices are used, provided  
15 that structures or any other use of land which is necessary for adjacent agriculture  
16 shall also be permitted in any buffer area;
- 17           (7)    Requirements for minimum setbacks for structures and septic fields  
18 along shorelines;
- 19           (8)    Designation of shoreline areas, if any, that are suitable for parks,  
20 hiking, biking, wildlife refuges, scenic drives, public access or assembly, and  
21 water-related recreation such as boat slips, piers, and beaches;
- 22           (9)    Designation of shoreline areas, if any, that are suitable for ports,  
23 marinas, and industries that use water for transportation or derive economic benefits  
24 from shore access;
- 25           (10)   Provisions requiring that all harvesting of timber in the Chesapeake  
26 Bay Critical Area OR THE ATLANTIC COASTAL BAYS CRITICAL AREA be in accordance  
27 with plans approved by the district forestry board;
- 28           (11)   Provisions establishing that the controls in a program which are  
29 designed to prevent runoff of pollutants will not be required on sites where the  
30 topography prevents runoff from directly or indirectly reaching tidal waters; and
- 31           (12)   Provisions for reasonable accommodations in policies or procedures  
32 when the accommodations are necessary to avoid discrimination on the basis of  
33 physical disability, including provisions that authorize a local jurisdiction to require  
34 removal of a structure that was installed or built to accommodate a physical disability  
35 and require restoration when the accommodation permitted by this paragraph is no  
36 longer necessary.

1 (d) (1) The Commission shall adopt by regulation on or before December 1,  
 2 1985 criteria for program development and approval, which are necessary or  
 3 appropriate to achieve the standards stated in subsection (b) of this section. Prior to  
 4 developing its criteria and also prior to adopting its criteria, the Commission shall  
 5 hold at least 6 regional public hearings, 1 in each of the following areas:

- 6 (i) Harford, Cecil, and Kent counties;
- 7 (ii) Queen Anne's, Talbot, and Caroline counties;
- 8 (iii) Dorchester, Somerset, and Wicomico counties;
- 9 (iv) Baltimore City and Baltimore County;
- 10 (v) Charles, Calvert, and St. Mary's counties; and
- 11 (vi) Anne Arundel and Prince George's counties.

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

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

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

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

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

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

28 8-1808.1.

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

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

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

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

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

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

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

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

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

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

32 ~~(D) (1) THE GROWTH ALLOCATION FOR A LOCAL JURISDICTION BASED ON~~  
 33 ~~5% OF THE TOTAL RESOURCE CONSERVATION AREA IN THE CHESAPEAKE BAY~~  
 34 ~~CRITICAL AREA IN A LOCAL JURISDICTION IN THE CHESAPEAKE BAY CRITICAL AREA~~  
 35 ~~UNDER SUBSECTION (C)(5) OF THIS SECTION SHALL BE UTILIZED WITHIN THE~~  
 36 ~~CHESAPEAKE BAY CRITICAL AREA.~~

37 ~~(2) THE GROWTH ALLOCATION FOR A LOCAL JURISDICTION BASED ON~~  
 38 ~~5% OF THE TOTAL RESOURCE CONSERVATION AREA IN THE ATLANTIC COASTAL BAYS~~  
 39 ~~CRITICAL AREA IN A LOCAL JURISDICTION IN THE ATLANTIC COASTAL BAYS~~  
 40 ~~CRITICAL AREA UNDER SUBSECTION (C)(5) OF THIS SECTION SHALL BE UTILIZED~~  
 41 ~~WITHIN THE ATLANTIC COASTAL BAYS CRITICAL AREA.~~

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

8 (2) A LOCAL JURISDICTION'S PROGRAM MAY NOT UTILIZE THE GROWTH  
9 ALLOCATION FROM ANOTHER CRITICAL AREA UNLESS THE GROWTH ALLOCATION  
10 REMAINING IN EITHER CRITICAL AREA IS INSUFFICIENT TO ALLOW APPROVAL OF A  
11 GROWTH ALLOCATION PROPOSAL ASSOCIATED WITH A PROGRAM AMENDMENT FOR  
12 WHICH THE LOCAL PROGRAM SEEKS COMMISSION APPROVAL.

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

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

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

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

23 8-1808.2.

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

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

28 (3) "Immediate family" means a father, mother, ~~BROTHER, SISTER,~~ son,  
29 daughter, grandfather, grandmother, grandson, or granddaughter.

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

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

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

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

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

9 (e) (1) A local jurisdiction:

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

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

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

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

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

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

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

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

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

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

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

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

8 8-1808.3.

9 (a) This section applies notwithstanding:

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

11 (2) Any criteria or guideline of the Commission adopted under this  
12 subtitle.

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

16 (c) On or before December 31, 1996, a local jurisdiction shall amend its local  
17 Critical Area Protection Program to meet the provisions of this section.

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

20 (2) If a parcel or lot one-half acre or less in size existed on or before  
21 December 1, 1985 ~~IN THE CHESAPEAKE BAY CRITICAL AREA OR ON OR BEFORE APRIL~~  
22 ~~17, 2001~~ JUNE 1, 2002 ~~IN THE ATLANTIC COASTAL BAYS CRITICAL AREA~~, then  
23 man-made impervious surfaces are limited to 25% of the parcel or lot.

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

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

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

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

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

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

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

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

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

19 (g) All fees collected by a local jurisdiction under subsection (f)(5) of this  
 20 section must be used to fund projects that improve water quality within the critical  
 21 area consistent with the jurisdiction's local Critical Area Protection Program.

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

26 8-1808.8.

27 ~~(A) EACH LOCAL JURISDICTION IN THE ATLANTIC COASTAL BAYS CRITICAL~~  
 28 ~~AREA SHALL INCLUDE THE FOLLOWING ELEMENTS IN THE JURISDICTION'S LOCAL~~  
 29 ~~CRITICAL AREA PROTECTION PROGRAM:~~

30 ~~(1) A PROVISION REQUIRING THE USE OF BIORETENTION AND OTHER~~  
 31 ~~NONSTRUCTURAL STORMWATER BEST MANAGEMENT PRACTICES FOR~~  
 32 ~~REDEVELOPMENT IN INTENSELY DEVELOPED AREAS WHERE THE COST OF~~  
 33 ~~REDEVELOPMENT EXCEEDS 50% OF THE ASSESSED VALUE OF THE PROPERTY,~~  
 34 ~~UNLESS THE APPLICANT FOR PROJECT APPROVAL DEMONSTRATES THAT USE OF~~  
 35 ~~SUCH MEASURES IS NOT FEASIBLE;~~

36 ~~(1) AS PART OF COMPLIANCE WITH THE STORMWATER MANAGEMENT~~  
 37 ~~REQUIREMENTS OF TITLE 27 OF THE CODE OF MARYLAND REGULATIONS AND TITLE~~  
 38 ~~4, SUBTITLE 2 OF THE ENVIRONMENT ARTICLE, A PROVISION ENCOURAGING THE~~  
 39 ~~USE OF BIORETENTION FOR REDEVELOPMENT IN INTENSELY DEVELOPED AREAS;~~

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

7           (3)     (2)     (A)     EXCEPT AS PROVIDED IN SUBSECTION (B)(2) OF THIS  
 8 SECTION, EACH LOCAL JURISDICTION IN THE ATLANTIC COASTAL BAYS CRITICAL  
 9 AREA SHALL INCLUDE IN ITS LOCAL CRITICAL AREA PROTECTION PROGRAM  
 10 PROVISIONS REQUIRING PROPOSED DEVELOPMENT SITES IN INTENSELY  
 11 DEVELOPED AREAS TO PROVIDE A FOREST OR DEVELOPED WOODLAND COVER OF AT  
 12 LEAST 15% AFTER DEVELOPMENT OR A FEE-IN-LIEU PAYMENT IF THE FEE IS  
 13 ADEQUATE TO ENSURE THE RESTORATION OR ESTABLISHMENT OF AN EQUIVALENT  
 14 FOREST AREA; AND

15           (4)     (3)     A PROVISION REQUIRING A MINIMUM BUFFER OF 25 FEET AND  
 16 APPLYING THE BUFFER REQUIREMENTS OF TITLE 27 OF THE CODE OF MARYLAND  
 17 REGULATIONS TO TRIBUTARY STREAMS LOCATED OUTSIDE THE CRITICAL AREA AND  
 18 WITHIN THE ATLANTIC COASTAL BAYS WATERSHED THAT ARE NOTED AS PERENNIAL  
 19 AND INTERMITTENT STREAMS IN THE ATLANTIC COASTAL BAYS WATERSHED WHICH  
 20 ARE SO NOTED ON THE MOST RECENT U.S. GEOLOGICAL SURVEY 7 1/2 MINUTE  
 21 TOPOGRAPHIC QUADRANGLE MAPS (SCALE 1:24,000) OR ON MORE DETAILED MAPS OR  
 22 STUDIES AT THE DISCRETION OF THE LOCAL JURISDICTIONS.

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

27           (2)     SUBSECTION ~~(A)(2)~~ (A) OF THIS SECTION AND PARAGRAPH (1) OF THIS  
 28 SUBSECTION DO NOT APPLY TO:

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

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

36           (3)     FOR PURPOSES OF SUBSECTION ~~(A)(2)~~ (A) OF THIS SECTION, FOREST  
 37 OR DEVELOPED WOODLAND COVER MAY INCLUDE TREES, WOODY PLANTS, AND  
 38 SHRUBS, AND ANY LANDSCAPING UNDER AN APPROVED LANDSCAPING PLAN.

39           (C)     THE DEPARTMENT SHALL ASSIST A LOCAL JURISDICTION IN THE  
 40 PREPARATION OF ANY MORE DETAILED MAPS OR STUDIES NECESSARY TO MEET THE  
 41 REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.

1 ~~(D) IN ACCORDANCE WITH TITLE 27 OF THE CODE OF MARYLAND~~  
2 ~~REGULATIONS, AGRICULTURAL ACTIVITIES ARE PERMITTED IN THE BUFFER~~  
3 ~~OUTSIDE THE CRITICAL AREA AND IN THE ATLANTIC COASTAL BAYS WATERSHED~~  
4 ~~UNDER AN APPROVED SOIL CONSERVATION AND WATER QUALITY PLAN.~~

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

7 (1) AS PART OF COMPLIANCE WITH THE STORMWATER MANAGEMENT  
8 REQUIREMENTS OF TITLE 27 OF THE CODE OF MARYLAND REGULATIONS AND TITLE  
9 4, SUBTITLE 2 OF THE ENVIRONMENT ARTICLE, A PROVISION ENCOURAGING THE  
10 USE OF BIORETENTION FOR REDEVELOPMENT IN INTENSELY DEVELOPED AREAS;

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

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

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

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

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

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

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

1 8-1808.9.

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

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

8 (1) TO ADOPT PROVISIONS REQUIRING A MINIMUM APPLYING A BUFFER  
9 OF 25 FEET AND APPLYING THE REQUIREMENTS OF TITLE 27 OF THE CODE OF  
10 MARYLAND REGULATIONS TO PERENNIAL AND INTERMITTENT STREAMS THAT ARE  
11 WITHIN THE BOUNDARIES OF THE LOCAL JURISDICTION AND ARE NOTED ON THE  
12 MOST RECENT U.S. GEOLOGICAL SURVEY 7-1/2 MINUTE TOPOGRAPHIC QUADRANGLE  
13 MAPS (SCALE 1:24,000) OR ON MORE DETAILED MAPS OR STUDIES AT THE DISCRETION  
14 OF THE LOCAL JURISDICTION; OR

15 (2) NOT TO ADOPT THE PROVISIONS.

16 (C) IF A LOCAL JURISDICTION STATES THE LOCAL JURISDICTION'S INTENT  
17 NOT TO ADOPT PROVISIONS MEETING THE REQUIREMENTS OF THIS SECTION OR  
18 FAILS TO SUBMIT A TIMELY STATEMENT OF INTENT, THE COMMISSION SHALL  
19 PREPARE AND ADOPT THE PROVISIONS FOR THE LOCAL JURISDICTION.

20 ~~(D)~~ IF A LOCAL JURISDICTION STATES THE LOCAL JURISDICTION'S INTENT TO  
21 ADOPT PROVISIONS MEETING THE REQUIREMENTS OF THIS SECTION, THE LOCAL  
22 JURISDICTION SHALL SUBMIT THE PROVISIONS TO THE COMMISSION AND ADOPT  
23 THE PROVISIONS IN ACCORDANCE WITH THE SCHEDULE OF SUBMISSIONS FOR THE  
24 ATLANTIC COASTAL BAYS CRITICAL AREA PROGRAM SET FORTH UNDER § 8-1809 OF  
25 THIS SUBTITLE.

26 8-1809.

27 (a) (1) Within 45 days after the criteria adopted by the Commission under §  
28 8-1808 of this subtitle become effective, each local jurisdiction shall submit to the  
29 Commission a written statement of its intent either:

30 [(1)] (I) To develop a Critical Area Protection Program to control the use  
31 and development of that part of the Chesapeake Bay Critical Area located within its  
32 territorial limits; or

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

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

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

4 (II) NOT TO DEVELOP SUCH A PROGRAM.

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

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

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

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

36 (2) (I) Within 90 days after the Commission receives a proposed  
37 CHESAPEAKE BAY CRITICAL AREA program from a local jurisdiction, the Commission  
38 shall approve the proposal or notify the local jurisdiction of specific changes that must  
39 be made in order for the proposal to be approved. If the Commission does neither, the  
40 proposal shall be deemed approved.

41 (II) WITHIN 60 DAYS AFTER THE COMMISSION RECEIVES A  
42 PROPOSED ATLANTIC COASTAL BAYS CRITICAL AREA PROGRAM FROM A LOCAL

1 JURISDICTION, THE COMMISSION SHALL APPROVE THE PROPOSAL OR NOTIFY THE  
2 LOCAL JURISDICTION OF SPECIFIC CHANGES THAT MUST BE MADE IN ORDER FOR  
3 THE PROPOSAL TO BE APPROVED. IF THE COMMISSION DOES NEITHER, THE  
4 PROPOSAL SHALL BE DEEMED APPROVED.

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

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

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

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

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

32 (1) A statement certifying that the required review has been  
33 accomplished;

34 (2) Any necessary requests for program amendments, program  
35 refinements, or other matters that the local jurisdiction wishes the Commission to  
36 consider;

37 (3) An updated resource inventory; and

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

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

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

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

11 1. Are wholly consistent with the land classifications in the  
12 adopted program; or

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

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

17 (j) The Commission shall approve programs and program amendments that  
18 meet:

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

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

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

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

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

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

31 (2) Within 90 days after being notified of any deficiency under  
32 paragraph (1) of this subsection, the local jurisdiction shall submit to the  
33 Commission, as program amendments or program refinements, any proposed changes  
34 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 for:

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

23 (2) Exploration or production of oil or natural gas on any lands in the  
24 critical area.

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

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

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

1

**Article—Environment**2 ~~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 75 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               (3)     ~~(I)     A PERSON IN THE ATLANTIC COASTAL BAYS CRITICAL AREA~~  
 21 ~~MAY EXTEND IMPROVEMENTS MORE THAN 75 FEET OVER STATE WETLANDS~~  
 22 ~~PURSUANT TO A PLAN SUBMITTED BY A LOCAL JURISDICTION AND APPROVED BY~~  
 23 ~~THE DEPARTMENT AND THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE~~  
 24 ~~AND ATLANTIC COASTAL BAYS.~~

25               ~~(II)     ANY PLAN APPROVED UNDER SUBPARAGRAPH (I) OF THIS~~  
 26 ~~PARAGRAPH SHALL INCLUDE CRITERIA FOR THE PROTECTION OF WATER QUALITY~~  
 27 ~~AND FISH, WILDLIFE, AND PLANT HABITATS AND SHALL COMPREHENSIVELY~~  
 28 ~~ADDRESS THE USE AND CONSTRUCTION OF PRIVATE AND COMMUNITY PIERS IN THE~~  
 29 ~~LOCAL JURISDICTION.~~

30               ~~(III)    THE DEPARTMENT SHALL ASSIST A LOCAL JURISDICTION IN~~  
 31 ~~THE PREPARATION OF THE PLAN REQUIRED UNDER SUBPARAGRAPH (I) OF THIS~~  
 32 ~~PARAGRAPH.~~

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

36 ~~16-304.~~

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

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

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

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

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

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

13        ~~(B)     A PERSON EXERCISING THEIR RIGHT TO MAKE IMPROVEMENTS INTO THE  
14 WATER IN FRONT OF THE LAND TO PRESERVE THAT PERSON'S ACCESS TO THE  
15 NAVIGABLE WATER UNDER SUBSECTION (A)(3) OF THIS SECTION MAY NOT EXTEND  
16 THE IMPROVEMENTS MORE THAN 25 75 FEET OVER VEGETATED PRIVATE WETLANDS  
17 IN THE ATLANTIC COASTAL BAYS CRITICAL AREA AS DEFINED UNDER TITLE 8,  
18 SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE.~~

19        ~~(C)     (1)     A PERSON IN THE ATLANTIC COASTAL BAYS CRITICAL AREA MAY  
20 EXTEND IMPROVEMENTS MORE THAN 75 FEET OVER STATE PRIVATE WETLANDS  
21 PURSUANT TO A PLAN SUBMITTED BY A LOCAL JURISDICTION AND APPROVED BY  
22 THE DEPARTMENT AND THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE  
23 AND ATLANTIC COASTAL BAYS.~~

24        ~~(2)     ANY PLAN APPROVED UNDER PARAGRAPH (1) OF THIS SUBSECTION  
25 SHALL INCLUDE CRITERIA FOR THE PROTECTION OF WATER QUALITY AND FISH,  
26 WILDLIFE, AND PLANT HABITATS AND SHALL COMPREHENSIVELY ADDRESS THE USE  
27 AND CONSTRUCTION OF PRIVATE AND COMMUNITY PIERS IN THE LOCAL  
28 JURISDICTION.~~

29        ~~(3)     THE DEPARTMENT SHALL ASSIST A LOCAL JURISDICTION IN THE  
30 PREPARATION OF THE PLAN REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

31        ~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

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

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

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

- 1                                    2. at least 3 of the following State permits:
- 2                                    A. groundwater discharge or surface water discharge;
- 3                                    B. nontidal wetlands;
- 4                                    C. water quality certification; and
- 5                                    D. water appropriation; and
- 6                                    (ii) which is subdivided into recorded and legally buildable lots.

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

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

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

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

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

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

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

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

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

29                                    SECTION 5. AND BE IT FURTHER ENACTED, That this Act may not be  
 30 construed to apply to the initial development of the Young Men's Christian Association  
 31 facility located as follows: Starting at a point in Worcester County at the intersection of  
 32 Gum Point Road and the Wilkerson-Steen property line, proceeding north to the  
 33 Caffi-Steen line, following on to the Park-Steen line, on to the Chamberlain-Steen  
 34 line, to the Parsons-Steen line, to the Wyatt-Steen line, at which point the line turns  
 35 east on the Wyatt-Steen line, turning north at the Wyatt-Steen boundary line to the  
 36 Ocean Pines Association-Steen southern boundary line with Ocean Pines, then

1 turning east along the Ocean Pines-Steen line to the northern stream and ditch at  
2 Mud Creek, then follows the stream and ditch to Gum Point Road, then along Gum  
3 Point Road to the starting point.

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

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

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

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

9 1. groundwater discharge or surface water discharge;

10 2. nontidal wetlands;

11 3. water quality certification; and

12 4. water appropriation; and

13 (2) If the events described under paragraph (1) of this section do not occur on or  
14 before July 1, 2003, with no further action required by the General Assembly, Section  
15 5 of this Act shall be abrogated and of no further force and effect after July 1, 2003.

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

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