

HOUSE BILL 233

M1

(4lr0314)

ENROLLED BILL

— *Environment and Transportation/Education, Energy, and the Environment* —

Introduced by **Chair, Environment and Transportation Committee (By Request – Critical Area Commission)**

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.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Chesapeake and Atlantic Coastal Bays Critical Area Protection Program**

3 **– Climate, Equity, and Administrative Provisions**

4 FOR the purpose of altering the standards for membership on the Critical Area
5 Commission; repealing a certain advisory committee on the Atlantic Coastal Bays
6 Critical Area Program; authorizing the Commission to adopt regulations governing
7 the transfer of development rights, fee in lieu payments, the assessment of and
8 adaption ~~to climate change relevant to~~ *of* the critical area *for climate resiliency*,
9 enhancing resilience in the critical area, and environmental justice and equity
10 initiatives; establishing certain considerations of climate change, *climate* resiliency,
11 and equity as general principles and minimum elements of local programs; requiring
12 a local program to give consideration to underserved communities when assessing
13 the suitability of critical areas for certain recreation; requiring local jurisdictions to
14 consider climate change when approving growth allocation decisions; requiring the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 Commission to consider environmental impacts on underserved or overburdened
2 communities when reviewing growth allocation map amendments; altering certain
3 resource conservation area density standards and requirements; authorizing the
4 purchase of transferable development rights for certain intrafamily transfers;
5 authorizing a certain increase in lot coverage limits under certain circumstances;
6 altering the process for performing the required local jurisdiction comprehensive
7 reviews of critical area programs; establishing standards under which a critical area
8 designation may be changed on proof of mistake and under which a zoning map
9 amendment may be granted; authorizing the Commission to direct a local
10 jurisdiction to correct a program deficiency; establishing a certain remedial process
11 if a local jurisdiction fails to update its critical area program; repealing certain
12 requirements on oil or natural gas production or exploration in the critical area;
13 establishing a process for the preparation, distribution, review, refinement, and
14 formal adoption of the periodic update of statewide base maps; and generally relating
15 to the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program.

16 BY repealing and reenacting, without amendments,
17 Article – Business Regulation
18 Section 19–106(a)(1) and (5)
19 Annotated Code of Maryland
20 (2015 Replacement Volume and 2023 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article – Environment
23 Section 1–701(a)(1), (5), (7), and (8)
24 Annotated Code of Maryland
25 (2013 Replacement Volume and 2023 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article – Natural Resources
28 Section 8–1801, 8–1802(a), 8–1804(a)(1) and (c), 8–1805(b)(1) and (2) and (c),
29 8–1806(a) and (b)(1)(ii), (iii), (x), (xiv)4., (xv), and (xvi)6., 8–1808(a), (b), and
30 (c)(1)(iii)3., 6., 8., 13., 14., and 15. and (4), 8–1808.1(c)(2) and (4)(vi) and (vii)
31 and (e), 8–1808.2(f), 8–1808.3(b) and (f), 8–1808.10(b)(1), 8–1809(g) through
32 (j) and (l) through (s), 8–1811(b)(2), 8–1812, 8–1813.1(d)(5), 8–1814(a) ~~and (b)~~,
33 8–1815(a)(2)(i)1. and (3)(ii), (b), and (e), and 8–1815.1(b) through (e)
34 Annotated Code of Maryland
35 (2023 Replacement Volume and 2023 Supplement)

36 BY adding to
37 Article – Natural Resources
38 Section 8–1806(b)(1)(xvii), (xviii), and (xix), 8–1808(c)(1)(iii)16. through 19.,
39 8–1808.1(c)(4)(viii), 8–1809(h), (i), and (k), and 8–1810(e)
40 Annotated Code of Maryland
41 (2023 Replacement Volume and 2023 Supplement)

42 BY repealing

1 Article – Natural Resources
2 Section 8–1806(c), 8–1809(k), and 8–1817
3 Annotated Code of Maryland
4 (2023 Replacement Volume and 2023 Supplement)

5 Preamble

6 WHEREAS, Following extensive research and the issuance of a report by the U.S.
7 Environmental Protection Agency that clearly demonstrated the alarming extent of
8 degradation of the Chesapeake Bay, in significant part because of prominent land use and
9 growth patterns, the Critical Area Commission was created in 1984 in order to preserve
10 and restore water quality in the State, to maintain valued wildlife habitat, and to
11 accommodate inevitable growth, and these same legislative concerns were addressed in
12 2002 when the protections of the Critical Area Program were expanded to include the
13 Atlantic Coastal Bays and in 2008 with the comprehensive update to the Critical Area
14 Program; and

15 WHEREAS, The critical area, which comprises approximately 11% of Maryland’s
16 land mass, includes the majority of the State’s most ecologically fragile and valuable
17 properties; and

18 WHEREAS, From its inception, partnership between State and local government
19 has been a cornerstone of the Critical Area Program; and

20 WHEREAS, To date local critical area programs are operative in Baltimore City, 16
21 counties, and 47 other municipalities, and critical area issues directly impact at least seven
22 State departments; and

23 WHEREAS, After nearly 40 years of operation, the Critical Area Program has
24 effectively influenced thousands of land use decisions, addressed and minimized the
25 adverse impacts of growth associated with hundreds of requests for growth allocation, and
26 represented a comprehensive effort between the State and local governments to enforce a
27 variety of water quality and habitat protection standards; and

28 WHEREAS, Despite these efforts, additional measures are necessary to enhance a
29 cooperative land use and natural resource management program that will restore the
30 quality and productivity of the Chesapeake Bay, the Atlantic Coastal Bays, their tidal
31 tributaries, and associated land-based ecosystems; and

32 WHEREAS, As a member of the Maryland Commission on Climate Change, the
33 Critical Area Commission is charged with recommending short and long-term strategies
34 and initiatives to better mitigate, prepare for, and adapt to the consequences of climate
35 change; and

36 WHEREAS, Particularly in light of the ongoing, accelerating decline of the State’s
37 water quality resources and the loss of valuable shoreline areas due to erosion, sea level
38 rise, and climate change, the Critical Area Commission has a significant role in ensuring

1 the adaptation of Maryland’s tidal waters, developed shorelines, and their adjacent
2 resource lands and wildlife habitats to the rapidly evolving climate realities; and

3 WHEREAS, To address the increasing effects on water quality from more frequent
4 and higher–intensity storms, to adjust conservation programs and techniques to the
5 shifting realities of species and habitats, and to accommodate appropriate levels and
6 locations for growth within the critical area, improvements to the Critical Area Program
7 are in order at this time; and

8 WHEREAS, It is in the interest of the citizens of Maryland that the Critical Area
9 Commission ensure the equitable distribution of the environmental benefits and burdens
10 of development, restoration, and mitigation within the critical area and, in doing so, the
11 Commission must also ensure equitable representation and participation in its processes;
12 now, therefore,

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

15 **Article – Business Regulation**

16 19–106.

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

18 (5) “Underrepresented community” means a community whose members
19 self–identify:

20 (i) as Black, African American, Hispanic, Latino, Asian, Pacific
21 Islander, Native American, Native Hawaiian, or Alaska Native; or

22 (ii) with one or more of the racial or ethnic groups listed in item (i)
23 of this paragraph.

24 **Article – Environment**

25 1–701.

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

27 (5) “Environmental justice” means equal protection from environmental
28 and public health hazards for all people regardless of race, income, culture, and social
29 status.

30 (7) “Overburdened community” means any census tract for which three or
31 more of the following environmental health indicators are above the 75th percentile
32 statewide:

- 1 (i) Particulate matter (PM) 2.5;
- 2 (ii) Ozone;
- 3 (iii) National Air Toxics Assessment (NATA) diesel PM;
- 4 (iv) NATA cancer risk;
- 5 (v) NATA respiratory hazard index;
- 6 (vi) Traffic proximity;
- 7 (vii) Lead paint indicator;
- 8 (viii) National Priorities List Superfund site proximity;
- 9 (ix) Risk Management Plan facility proximity;
- 10 (x) Hazardous waste proximity;
- 11 (xi) Wastewater discharge indicator;
- 12 (xii) Proximity to a Concentrated Animal Feeding Operation (CAFO);
- 13 (xiii) Percent of the population lacking broadband coverage;
- 14 (xiv) Asthma emergency room discharges;
- 15 (xv) Myocardial infarction discharges;
- 16 (xvi) Low-birth-weight infants;
- 17 (xvii) Proximity to emitting power plants;
- 18 (xviii) Proximity to a Toxic Release Inventory (TRI) facility;
- 19 (xix) Proximity to a brownfields site;
- 20 (xx) Proximity to mining operations; and
- 21 (xxi) Proximity to a hazardous waste landfill.

22 (8) “Underserved community” means any census tract in which, according
23 to the most recent U.S. Census Bureau Survey:

- 24 (i) At least 25% of the residents qualify as low-income;

- 1 (ii) At least 50% of the residents identify as nonwhite; or
- 2 (iii) At least 15% of the residents have limited English proficiency.

3 **Article – Natural Resources**

4 8–1801.

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

6 (1) The Chesapeake and the Atlantic Coastal Bays and their tributaries
7 are natural resources of great significance to the State and the nation, and their beauty,
8 their ecological value, and their economic impact all reach far beyond any one local
9 jurisdiction;

10 (2) The shoreline and adjacent lands, particularly the buffer areas,
11 constitute a valuable, fragile, and sensitive part of this estuarine system, where human
12 activity can have a particularly immediate and adverse impact on water quality and
13 natural habitats;

14 (3) The capacity of these shoreline and adjacent lands to withstand
15 continuing demands, **INCLUDING CLIMATE CHANGE**, without further degradation to
16 water quality and natural habitats is limited;

17 (4) Human activity is harmful in these shoreline areas, where the new
18 development of nonwater–dependent structures **AND USES** or an increase in lot coverage
19 is presumed to be contrary to the purpose of this subtitle, because these activities may
20 cause **OR AMPLIFY** adverse impacts, of both an immediate and a long–term nature, to the
21 Chesapeake and the Atlantic Coastal Bays, and thus it is necessary ~~to~~ **to** ~~maintain~~
22 maintain a buffer of at least 100 feet landward from the mean high water line of tidal
23 waters, tributary streams, and tidal wetlands;

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

29 (6) Those portions of the Chesapeake and the Atlantic Coastal Bays and
30 their tributaries within Maryland are particularly stressed by the continuing population
31 growth and development activity concentrated in the Baltimore–Washington metropolitan
32 corridor and along the Atlantic Coast;

33 (7) The quality of life for the citizens of Maryland is enhanced through the
34 restoration of the quality and productivity of the waters of the Chesapeake and the Atlantic

1 Coastal Bays[,] and their tributaries **IN A MANNER IN WHICH BURDENS AND BENEFITS**
2 **ARE DISTRIBUTED EQUITABLY;**

3 (8) The restoration of the Chesapeake and the Atlantic Coastal Bays and
4 their tributaries is dependent, in part, on minimizing further adverse impacts to the water
5 quality and natural habitats of the shoreline and adjacent lands, **AND ENHANCING THE**
6 ~~RESILIENCY OF~~ **NATURAL RESOURCES IN THE CRITICAL AREA**, particularly in the
7 buffer;

8 (9) The cumulative impact of current development and of each new
9 development activity in the buffer is inimical to these purposes, and it is therefore
10 imperative that State law protect irreplaceable State buffer resources from unpermitted
11 activity; [and]

12 (10) There is a critical and substantial State interest for the benefit of
13 current and future generations in fostering more sensitive development and more effective
14 enforcement in a consistent and uniform manner along shoreline areas of the Chesapeake
15 and the Atlantic Coastal Bays and their tributaries so as to minimize damage to water
16 quality and natural habitats;

17 **(11) THERE IS A CRITICAL AND SUBSTANTIAL STATE INTEREST IN**
18 **DEVELOPING POLICIES AND STRATEGIES TO BETTER MITIGATE, PREPARE FOR, AND**
19 **ADAPT TO THE CONSEQUENCES OF CLIMATE CHANGE ALONG THE STATE'S**
20 **SHORELINES, INCLUDING SEA LEVEL RISE, STORM SURGE,**
21 **PRECIPITATION-INDUCED FLOODING, AND OTHER EXTREME WEATHER EVENTS AND**
22 **TO ENHANCE THE RESILIENCE OF THE STATE'S SHORELINES BY IDENTIFYING,**
23 **RESTORING, CREATING, AND CONSERVING EXISTING NATURAL AND NATURE-BASED**
24 **FEATURES;**

25 **(12) THERE IS A CRITICAL AND SUBSTANTIAL STATE INTEREST IN**
26 **ENSURING THE EQUITABLE DISTRIBUTION OF THE BENEFITS AND BURDENS OF**
27 **DEVELOPMENT, RESTORATION, MITIGATION, AND CONSERVATION ALONG THE**
28 **STATE'S SHORELINES AND IN ENSURING EQUITABLE REPRESENTATION AND**
29 **PARTICIPATION IN THESE PROCESSES; AND**

30 **(13) THE INCLUSION OF INCENTIVE-BASED PROGRAMS TO ENSURE**
31 **DEVELOPMENT IS COMPATIBLE WITH PROJECTED CLIMATE IMPACTS AND COASTAL**
32 **HAZARDS IS VITAL TO THE STATE'S GOAL OF ADDRESSING CLIMATE RESILIENCY.**

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

34 (1) To establish a Resource Protection Program for the Chesapeake and the
35 Atlantic Coastal Bays and their tributaries by fostering more sensitive development
36 activity for certain shoreline areas so as to minimize damage to water quality and natural
37 habitats; and

(2) To implement the Resource Protection Program on a cooperative basis between the State and affected local governments, with local governments establishing and implementing their programs in a [consistent and] **CONSISTENT**, uniform, **AND EQUITABLE** manner subject to State and local leadership, criteria, and oversight.

8–1802.

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

(2) “Atlantic Coastal Bays” means the Assawoman, Isle of Wight, Sinepuxent, Newport, and Chincoteague Bays.

(3) “Atlantic Coastal Bays Critical Area” means the initial planning area identified under § 8–1807 of this subtitle.

(4) “Buffer” means an existing, naturally vegetated area, or an area established in vegetation and managed to protect aquatic, wetlands, shoreline, and terrestrial environments from manmade disturbances.

(5) “Chesapeake Bay Critical Area” means the initial planning area identified under § 8–1807 of this subtitle.

(6) ***(I) “CLIMATE RESILIENCY” MEANS THE CAPACITY OF A NATURAL SYSTEM TO MAINTAIN FUNCTION IN THE FACE OF STRESSES IMPOSED BY CLIMATE CHANGE AND TO ADAPT THE NATURAL SYSTEM TO BE BETTER PREPARED FOR FUTURE CLIMATE IMPACTS.***

(II) “CLIMATE RESILIENCY” INCLUDES ADAPTING A NATURAL SYSTEM TO BE BETTER PREPARED FOR FUTURE CLIMATE IMPACTS INCLUDING SEA LEVEL RISE, SALTWATER INTRUSION, WETLAND MIGRATION, STORM SURGE, PRECIPITATION–INDUCED FLOODING, AND OTHER EXTREME WEATHER EVENTS.

(7) “Commission” means the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays established in this subtitle.

~~[(7)]~~ (8) “Critical Area” means the Chesapeake Bay Critical Area and the Atlantic Coastal Bays Critical Area.

~~[(8)]~~ (9) “Developer” means:

(i) A person who undertakes development as defined in this section;
or

(ii) A person who undertakes development activities as defined in the criteria of the Commission.

1 [(9)] (10) “Development” means any activity that materially affects the
2 condition or use of dry land, land under water, or any structure.

3 [(10)] (11) (i) “Dwelling unit” means a single unit providing complete,
4 independent living facilities for at least one person, including ~~permanent~~ provisions for
5 sanitation, cooking, eating, sleeping, and other activities routinely associated with daily
6 life.

7 (ii) “Dwelling unit” includes a living quarters for a domestic or other
8 employee or tenant, an in-law or accessory apartment, a guest house, or a caretaker
9 residence.

10 (12) “ENVIRONMENTAL JUSTICE” HAS THE MEANING STATED IN §
11 1-701 OF THE ENVIRONMENT ARTICLE.

12 (13) (I) “EQUITY” MEANS PROMOTION OF JUSTICE, IMPARTIALITY,
13 AND FAIRNESS WITHIN THE PROCEDURES, PROCESSES, AND DISTRIBUTION OF
14 RESOURCES BY INSTITUTIONS OR SYSTEMS.

15 (II) “EQUITY” INCLUDES CONSIDERATION OF ENVIRONMENTAL
16 BURDENS AND BENEFITS, IDENTIFICATION OF IMPACTS AND MITIGATION
17 OPPORTUNITIES, INCREASED REPRESENTATION IN PUBLIC PARTICIPATION, AND
18 PROVISIONS FOR PUBLIC ACCESS TO WATERWAYS.

19 [(11)] (14) “Growth allocation” means the number of acres of land in the
20 Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area that a local
21 jurisdiction may use to create new intensely developed areas and new limited development
22 areas.

23 [(12)] (15) “Includes” means includes or including by way of illustration and
24 not by way of limitation.

25 [(13)] (16) (i) “Intensely developed area” means an area of at least 20
26 acres or the entire upland portion of the critical area within a municipal corporation,
27 whichever is less, where:

28 1. Residential, commercial, institutional, or industrial
29 developed land uses predominate; and

30 2. A relatively small amount of natural habitat occurs.

31 (ii) “Intensely developed area” includes:

32 1. An area with a housing density of at least four dwelling
33 units per acre;

1 2. An area with public water and sewer systems with a
2 housing density of more than three dwelling units per acre; or

3 3. A commercial marina redesignated by a local jurisdiction
4 from a resource conservation area or limited development area to an intensely developed
5 area through a mapping correction that occurred before January 1, 2006.

6 **[(14)] (17)** “Land classification” means the designation of land in the
7 Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in accordance with
8 the criteria adopted by the Commission as an intensely developed area or district, a limited
9 development area or district, or a resource conservation area or district.

10 **[(15)] (18)** (i) “Limited development area” means an area:

11 1. That is developed in low or moderate intensity uses and
12 contains areas of natural plant and animal habitat; and

13 2. Where the quality of runoff has not been substantially
14 altered or impaired.

15 (ii) “Limited development area” includes an area:

16 1. With a housing density ranging from one dwelling unit per
17 five acres up to four dwelling units per acre;

18 2. With a public water or sewer system;

19 3. That is not dominated by agricultural land, wetland,
20 forests, barren land, surface water, or open space; or

21 4. That is less than 20 acres and otherwise qualifies as an
22 intensely developed area under paragraph **[(13)] (16)** of this subsection.

23 **[(16)] (19)** “Local jurisdiction” means a county, or a municipal corporation
24 with planning and zoning powers, in which any part of the Chesapeake Bay Critical Area
25 or the Atlantic Coastal Bays Critical Area, as defined in this subtitle, is located.

26 **[(17)] (20)** (i) “Lot coverage” means the percentage of a total lot or parcel
27 that is:

28 1. Occupied by a structure, accessory structure, parking
29 area, driveway, walkway, or roadway; or

30 2. Covered with gravel, stone, shell, **[impermeable]** decking,
31 a paver, permeable pavement, or any manmade material.

1 (ii) “Lot coverage” includes the ground area covered or occupied by a
2 stairway or impermeable deck.

3 (iii) “Lot coverage” does not include:

4 1. A fence or wall that is less than 1 foot in width that has
5 not been constructed with a footer;

6 2. A walkway in the buffer or expanded buffer, including a
7 stairway, that provides direct access to a community or private pier;

8 3. A wood mulch pathway; or

9 4. A PERMEABLE deck [with gaps to allow water to pass
10 freely].

11 **(21) “NATURAL FEATURES” MEANS COMPONENTS AND PROCESSES**
12 **PRESENT IN OR PRODUCED BY NATURE, INCLUDING SOIL TYPES, GEOLOGY, SLOPES,**
13 **VEGETATION, SURFACE WATER, DRAINAGE PATTERNS, AQUIFERS, RECHARGE**
14 **AREAS, CLIMATE, FLOODPLAINS, AQUATIC LIFE, AND WILDLIFE.**

15 **(22) (I) “NATURE-BASED FEATURES” MEANS THOSE SMALL-SCALE**
16 **NONSTRUCTURAL FEATURES THAT MIMIC CHARACTERISTICS OF NATURAL**
17 **FEATURES AND ARE CREATED BY HUMAN DESIGN, ENGINEERING, AND**
18 **CONSTRUCTION TO PROVIDE SPECIFIC SERVICES, INCLUDING COASTAL RISK**
19 **REDUCTION.**

20 **(II) “NATURE-BASED FEATURES” INCLUDES LIVING**
21 **SHORELINES, OYSTER REEFS, MARSH RESTORATION, AND BUFFERS.**

22 **(23) “OVERBURDENED COMMUNITY” HAS THE MEANING STATED IN §**
23 **1-701 OF THE ENVIRONMENT ARTICLE.**

24 **[(18)] (24) (i) “Program” means the critical area protection program of a**
25 **local jurisdiction.**

26 **(ii) “Program” includes any amendments to the program.**

27 **[(19)] (25) (i) “Program amendment” means any change or proposed**
28 **change to an adopted program that is not determined by the Commission [chairman]**
29 **CHAIR to be a program refinement.**

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

4 [(20)] (26) (i) "Program refinement" means any change or proposed
5 change to an adopted program that the Commission [chairman] CHAIR determines will
6 result in a use of land or water in the Chesapeake Bay Critical Area or the Atlantic Coastal
7 Bays Critical Area in a manner consistent with the adopted program, or that will not
8 significantly affect the use of land or water in the critical area.

9 (ii) "Program refinement" may include:

- 10 1. A change to an adopted program that results from State
11 law;
- 12 2. A change to an adopted program that affects local
13 processes and procedures;
- 14 3. A change to a local ordinance or code that clarifies an
15 existing provision; and
- 16 4. A minor change to an element of an adopted program that
17 is clearly consistent with the provisions of this subtitle and all of the criteria of the
18 Commission.

19 [(21)] (27) (i) "Project approval" means the approval of development,
20 other than development by a State or local government agency, in the Chesapeake Bay
21 Critical Area or the Atlantic Coastal Bays Critical Area by the appropriate local approval
22 authority.

23 (ii) "Project approval" includes:

- 24 1. Approval of **PRELIMINARY AND FINAL** subdivision plats
25 and site plans;
- 26 2. Inclusion of areas within floating zones;
- 27 3. Issuance of variances, special exceptions, and conditional
28 use permits; and
- 29 4. Approval of rezoning.

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

~~(28) “RESILIENCY” MEANS THE ABILITY TO ADAPT TO CHANGING CONDITIONS AND WITHSTAND AND RAPIDLY RECOVER FROM DISRUPTION DUE TO EMERGENCIES.~~

[(22)] ~~(29)~~ **(28)** (i) “Resource conservation area” means an area that is characterized by:

1. Nature dominated environments, such as wetlands, surface water, forests, and open space; and

2. Resource-based activities, such as agriculture, forestry, fisheries, or aquaculture.

(ii) “Resource conservation area” includes an area with a housing density of less than one dwelling per five acres.

[(23)] ~~(30)~~ **(29)** “Tributary stream” means a perennial stream or an intermittent stream within the critical area that has been identified by site inspection or in accordance with local program procedures approved by the Commission.

~~(31)~~ **(30)** “UNDERREPRESENTED COMMUNITY” HAS THE MEANING STATED IN § 19-106 OF THE BUSINESS REGULATION ARTICLE.

~~(32)~~ **(31)** “UNDERSERVED COMMUNITY” HAS THE MEANING STATED IN § 1-701 OF THE ENVIRONMENT ARTICLE.

8-1804.

(a) (1) The Commission consists of 29 voting members who **REFLECT THE DIVERSITY OF THE STATE AND** are appointed by the Governor, as follows:

(i) A full-time [chairman] **CHAIR**, appointed with the advice and consent of the Senate, who shall serve at the pleasure of the Governor;

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

1. 1 from each of Baltimore City and Anne Arundel, Baltimore, and Prince George’s counties;

2. 1 from Harford County or Cecil County;

1 3. 1 from Kent County or Queen Anne's County;

2 4. 1 from Caroline County;

3 5. 1 from Talbot County or Dorchester County;

4 6. 1 from Wicomico County or Somerset County;

5 7. 2 from Calvert County, Charles County, or St. Mary's
6 County, both of whom may not be from the same county; and

7 8. 2 from Worcester County, 1 of whom shall be a resident of
8 the Chesapeake Bay Watershed and the other of whom shall be a resident of the Atlantic
9 Coastal Bays Watershed;

10 (iii) 8 individuals, appointed with the advice and consent of the
11 Senate, who shall represent diverse interests, **INCLUDING UNDERREPRESENTED**
12 **COMMUNITIES**, and among whom shall be a resident from each of the 5 counties that are
13 listed and from which an appointment has not been made under item (ii) of this paragraph
14 and 3 of the 8 members appointed under this item shall be at large members, 1 of whom
15 shall be a private citizen and resident of the Atlantic Coastal Bays Watershed; and

16 (iv) The Secretaries of Agriculture, Commerce, Housing and
17 Community Development, the Environment, Transportation, Natural Resources, and
18 Planning, ex officio, or the designee of the Secretaries.

19 (c) Except for the [chairman] **CHAIR** and ex officio State officers or their
20 representatives:

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

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

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

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

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

29 (6) Any member of the Commission appointed by the Governor who shall
30 fail to attend at least 60% of the meetings of the Commission during any period of 12
31 consecutive months shall be considered to have resigned, and the [chairman] **CHAIR** shall
32 forward the member's name to the Governor, not later than January 15 of the year following

1 the nonattendance with the statement of the nonattendance, and the Governor shall
2 appoint a successor for the remainder of the term. If the member has been unable to attend
3 meetings as required by this subtitle for reasons satisfactory to the Governor, the Governor
4 may waive the resignation if the reasons are made public.

5 8–1805.

6 (b) (1) The [chairman] **CHAIR** with the approval of the Commission shall
7 appoint an Executive Director for the Commission.

8 (2) The Executive Director serves at the pleasure of the [chairman] **CHAIR**
9 and is entitled to the salary provided in the State budget.

10 (c) The Attorney General shall designate an assistant Attorney General to advise
11 and represent the [chairman] **CHAIR** and the Commission.

12 8–1806.

13 (a) The Commission has all powers necessary for carrying out the purposes of this
14 subtitle, including the following:

15 (1) In accordance with Title 2, Subtitle 5 (Joint Committee on
16 Administrative, Executive and Legislative Review) and Title 10, Subtitle 1 (Administrative
17 Procedure Act) of the State Government Article, to adopt and amend regulations as
18 authorized under this subtitle for the administration and enforcement of the State and local
19 programs;

20 (2) To conduct hearings in connection with policies, proposed programs,
21 and proposed regulations or amendments to regulations; **AND**

22 (3) To contract for consultant or other services[; and

23 (4) To establish an advisory committee, composed of members of the
24 Commission and local citizens and local stakeholder groups, to make recommendations to
25 the Commission with respect to Atlantic Coastal Bays Critical Area programs].

26 (b) Regulations adopted or amended under subsection (a)(1) of this section shall:

27 (1) Establish comprehensive standards and procedures for:

28 (ii) [Buffer exemption areas] **MODIFIED BUFFER AREAS;**

29 (iii) Impacts of [shore erosion control] **SHORELINE STABILIZATION**
30 activities on the buffer;

31 (x) Development in the critical area, with respect to:

- 1 1. Clearing, grading, and construction activity;
- 2 2. Clustering to promote conservation of natural site
3 features;
- 4 3. **THE TRANSFER OF DEVELOPMENT RIGHTS;**
- 5 4. Flexibility for redevelopment;
- 6 [4.] 5. Stormwater management;
- 7 [5.] 6. Application of the 10% pollutant reduction rule;
- 8 [6.] 7. Forest and developed woodlands protections;
- 9 [7.] 8. Clearing of natural vegetation;
- 10 [8.] 9. Lot coverage standards;
- 11 [9.] 10. Commission review of local provisions for lot
12 consolidation; and
- 13 [10.] 11. The exclusion of State tidal wetlands from
14 calculations of density, forest and developed woodlands protections, limitations on clearing
15 natural vegetation, and lot coverage standards;
- 16 (xiv) Directives for local program development and implementation,
17 with respect to:
- 18 4. Reporting requirements, **INCLUDING ACCOUNTING OF**
19 **FEE IN LIEU FUNDS;**
- 20 (xv) In consultation with the Department of the Environment,
21 surface mining in the critical area; [and]
- 22 (xvi) The application for and processing of a variance, with respect to:
- 23 6. Notice of a variance decision; [and]
- 24 **(XVII) ASSESSING AND ADAPTING THE CRITICAL AREA TO**
25 **~~CLIMATE RELATED CHANGES INCLUDING SEA LEVEL RISE, WETLAND MIGRATION,~~**
26 **~~STORM SURGE, PRECIPITATION INDUCED FLOODING, AND OTHER EXTREME~~**
27 **~~WEATHER EVENTS~~ FOR CLIMATE RESILIENCY;**

1 (XVIII) ENHANCING THE RESILIENCE OF THE CRITICAL AREA
 2 BY PROTECTING, CREATING, AND RESTORING NATURAL AND NATURE-BASED
 3 FEATURES; AND

4 (XIX) ENVIRONMENTAL JUSTICE AND EQUITY INITIATIVES THAT:

5 1. ADDRESS DISPARATE IMPACTS OF DEVELOPMENT;
 6 AND

7 2. ENSURE THE BENEFITS OF DEVELOPMENT,
 8 RESTORATION, MITIGATION, AND CONSERVATION ARE SHARED EQUITABLY; AND

9 [(c) The members of the Commission who reside in the Atlantic Coastal Bays
 10 Watershed shall serve on any committee established under subsection (a)(4) of this section.]

11 8-1808.

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

15 (2) [(i) The Governor shall include in the budget a sum of money to be
 16 used for grants to reimburse local jurisdictions for the reasonable costs of developing a
 17 program under this section.

18 (ii) Each local jurisdiction shall submit to the Governor a detailed
 19 request for funds that are equivalent to the additional costs incurred in developing the
 20 program under this section.

21 (iii) The Governor shall include in the fiscal year 2003 budget a sum
 22 of money to be used for grants to reimburse local jurisdictions in the Atlantic Coastal Bays
 23 Critical Area for the reasonable costs of developing a program under this section.

24 (3) The Governor shall include in the budget annually a sum of money to
 25 be used for grants to assist local jurisdictions with the reasonable costs of implementing
 26 AND UPDATING a program under this section. Each local jurisdiction shall submit to the
 27 Governor by May 1 of each year a detailed request for funds to assist in the implementation
 28 AND UPDATING of a program under this section.

29 (3) (I) FOR EACH FISCAL YEAR, THE GOVERNOR SHALL INCLUDE
 30 IN THE ANNUAL BUDGET BILL AN APPROPRIATION TO PROVIDE GRANTS TO ASSIST
 31 LOCAL JURISDICTIONS TO INCORPORATE CLIMATE ~~RESILIENCY AND EQUITABLE~~
 32 ~~PLANNING AND EQUITY PROVISIONS REQUIRED UNDER SUBSECTION (C)(1)(III)16~~
 33 AND 17 OF THIS SECTION INTO AN UPDATED LOCAL PROGRAM.

1 **(II) BY MAY 1 OF EACH YEAR, A LOCAL JURISDICTION SHALL**
2 **SUBMIT TO THE COMMISSION A DETAILED REQUEST FOR FUNDING UNDER THIS**
3 **PARAGRAPH.**

4 **(III) ON THE REQUEST OF A LOCAL JURISDICTION, THE CHAIR**
5 **MAY EXTEND THE DEADLINE UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH.**

6 (b) A program shall consist of those elements which are necessary or appropriate
7 **TO:**

8 (1) **[To minimize] MINIMIZE** adverse impacts on water quality that result
9 from pollutants that are discharged from structures or conveyances or that have run off
10 from surrounding lands;

11 (2) **[To conserve] CONSERVE** fish, wildlife, and plant habitat; **[and]**

12 (3) **[To establish] ESTABLISH** land use policies for development in the
13 Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area which
14 accommodate growth and also address the fact that, even if pollution is controlled, the
15 number, movement, and activities of persons in that area can create adverse environmental
16 impacts;

17 **(4) REDUCE VULNERABILITY TO THE IMPACTS OF CLIMATE CHANGE**
18 **AND INCORPORATE MEASURES TO IMPROVE THE *CLIMATE* RESILIENCY OF THE**
19 **CHESAPEAKE AND ATLANTIC COASTAL BAYS AND ITS TRIBUTARIES; AND**

20 **(5) ENSURE AN EQUITABLE DISTRIBUTION OF THE BURDENS AND**
21 **BENEFITS OF DEVELOPMENT, MITIGATION, RESTORATION, CONSERVATION, AND**
22 **ADAPTATION TO CLIMATE CHANGE WITHIN THE CRITICAL AREA.**

23 (c) (1) (iii) At a minimum, a program shall contain all of the following
24 elements, including:

25 3. As necessary, new or amended provisions of the
26 jurisdiction's:

27 A. Subdivision regulations;

28 B. Comprehensive or master plan;

29 C. **[Zoning ordinances] ORDINANCES** or regulations **THAT**
30 **AFFECT DEVELOPMENT IN THE CRITICAL AREA;**

31 D. Provisions relating to enforcement; and

1 E. Provisions as appropriate relating to [grandfathering of]
2 development [at the time] **RIGHTS THAT PREDATE** the program [is] **AS** adopted or
3 approved by the Commission, including provisions for bringing lands into conformance with
4 the Program as required under item 12 of this subparagraph;

5 6. Establishment of buffer areas along shorelines within
6 which agriculture will be permitted only if **AN AGRICULTURAL** best management
7 [practices are] **PRACTICE IS** used, provided that structures or any other use of land which
8 is necessary for adjacent agriculture shall also be permitted in any buffer area;

9 8. [Designation] **ASSESSMENT AND MAPPING** of shoreline
10 areas, if any, that are suitable for parks, hiking, biking, wildlife refuges, scenic drives,
11 public access or assembly, and water-related recreation such as boat slips, piers, and
12 beaches, **WITH CONSIDERATION GIVEN TO UNDERSERVED COMMUNITIES**;

13 13. Except as provided in subsection (d) of this section,
14 provisions for granting a variance to the local jurisdiction's critical area program, in
15 accordance with regulations adopted by the Commission concerning variances set forth in
16 **[COMAR 27.01.11] COMAR 27.01.12**;

17 14. Penalty provisions establishing that, in addition to any
18 other penalty applicable under State or local law, each person who violates a provision of
19 this subtitle or of a program, including a contractor, property owner, or any other person
20 who committed, assisted, authorized, or participated in the violation is subject to a fine not
21 exceeding \$10,000; **[and]**

22 15. Administrative enforcement procedures in accordance
23 with due process principles, including notice and an opportunity to be heard, and
24 establishing that:

25 A. Each violation of this subtitle or of a regulation, rule,
26 order, program, or other requirement adopted under the authority of this subtitle
27 constitutes a separate offense;

28 B. Each calendar day that a violation continues constitutes a
29 separate offense;

30 C. For each offense, a person shall be subject to separate
31 fines, orders, sanctions, and other penalties;

32 D. Civil penalties for continuing violations shall accrue
33 without a requirement for an additional assessment, notice, or opportunity for hearing for
34 each separate offense;

1 E. On consideration of all the factors included under this
2 subsection and any other factors in the local jurisdiction's approved program, the local
3 jurisdiction shall impose the amount of the penalty;

4 F. Satisfaction of all conditions specified under paragraph (4)
5 of this subsection shall be a condition precedent to the issuance of any permit, approval,
6 variance, or special exception for the affected property; and

7 G. Unless an extension of time is appropriate because of
8 adverse planting conditions, within 90 days of the issuance of a permit, approval, variance,
9 or special exception for the affected property, any additional mitigation required as a
10 condition of approval for the permit, approval, variance, or special exception shall be
11 completed;

12 **16. PROVISIONS FOR:**

13 **A. IDENTIFYING AREAS VULNERABLE TO CLIMATE**
14 **CHANGE;**

15 **B. MITIGATION AND ADAPTATION MEASURES THAT**
16 **ADDRESS SEA LEVEL RISE, STORM SURGE, PRECIPITATION-INDUCED FLOODING,**
17 **OTHER EXTREME WEATHER EVENTS, MIGRATING WETLANDS, AND COASTAL**
18 **FORESTS; AND**

19 **C. ENHANCING THE CLIMATE RESILIENCY OF THE**
20 **CRITICAL AREA BY IDENTIFYING, RESTORING, AND CREATING AND CONSERVING**
21 **EXISTING AND PROJECTED FUTURE NATURAL AND NATURE-BASED FEATURES;**

22 **17. PROVISIONS FOR:**

23 **A. IDENTIFYING UNDERSERVED AND OVERBURDENED**
24 **COMMUNITIES WITHIN THE CRITICAL AREA;**

25 **B. MEASURES TO ENSURE THE EQUITABLE**
26 **DISTRIBUTION OF THE BENEFITS AND BURDENS OF DEVELOPMENT, RESTORATION,**
27 **AND MITIGATION WITHIN THE CRITICAL AREA; AND**

28 **C. ENSURING EQUITY IN THE PUBLIC PARTICIPATION**
29 **PROCESS;**

30 **18. PROVISIONS TO ENSURE PUBLIC ACCESS TO THE**
31 **WATER, SHORELINE, AND OTHER NATURAL AREAS FOR UNDERSERVED OR**
32 **OVERBURDENED COMMUNITIES; AND**

1 **19. METHODS TO ENSURE EFFECTIVE ALLOCATION,**
2 **ACCOUNTING, AND REPORTING OF FEE IN LIEU FUNDS.**

3 (4) A local jurisdiction may not issue a permit, approval, variance, or
4 special exception **THAT IS SUBJECT TO THE VIOLATION**, unless the person seeking the
5 permit, approval, variance, or special exception has:

6 (i) Fully paid all administrative, civil, and criminal penalties
7 imposed under paragraph (1)(iii)15 of this subsection;

8 (ii) Prepared a restoration or mitigation plan, approved by the local
9 jurisdiction, to abate impacts to water quality or natural resources as a result of the
10 violation; and

11 (iii) Performed the abatement measures in the approved plan in
12 accordance with the local critical area program.

13 8–1808.1.

14 (c) (2) When locating new intensely developed or limited development areas,
15 local jurisdictions shall use the following standards:

16 (i) Locate a new intensely developed area in a limited development
17 area or adjacent to an existing intensely developed area;

18 (ii) Locate a new limited development area adjacent to an existing
19 limited development area or an intensely developed area;

20 (iii) Locate a new limited development area or an intensely developed
21 area in a manner that minimizes impacts to a habitat protection area as defined in COMAR
22 27.01.09, and in an area and manner that optimizes benefits to water quality;

23 (iv) Locate a new intensely developed area or a limited development
24 area in a resource conservation area at least 300 feet beyond the landward edge of tidal
25 wetlands or tidal waters, unless the local jurisdiction proposes, and the Commission
26 approves, alternative measures for enhancement of water quality and habitat that provide
27 greater benefits to the resources;

28 (v) Locate new intensely developed areas and limited development
29 areas in a manner that minimizes their impacts to the defined land uses of the resource
30 conservation area;

31 (vi) **LOCATE NEW INTENSELY DEVELOPED AREAS AND LIMITED**
32 **DEVELOPMENT AREAS OUTSIDE OF AREAS VULNERABLE TO CLIMATE CHANGE**
33 **UNLESS THE LOCAL JURISDICTION PROPOSES AND THE COMMISSION APPROVES:**

1 **1. AREAS IDENTIFIED BY THE LOCAL JURISDICTION AS**
 2 **VULNERABLE TO CLIMATE CHANGE AS REQUIRED UNDER § 8-1808(C)(1)(III)16 OF**
 3 **THIS SUBTITLE; AND**

4 **2. MEASURES THAT:**

5 **A. ASSESS CLIMATE RESILIENCY AND VULNERABILITY;**
 6 **AND**

7 **B. INCORPORATE SITING, DESIGN, CONSTRUCTION, AND**
 8 **OTHER NATURAL FEATURES TO SIGNIFICANTLY ENHANCE CLIMATE RESILIENCY**
 9 **AND REDUCE VULNERABILITY;**

10 **(VII)** Except as provided in item **[(viii)] (IX)** of this paragraph, no more
 11 than one-half of the expansion allocated in the criteria of the Commission may be located
 12 in resource conservation areas;

13 **[(vii)] (VIII)** New intensely developed or limited development areas
 14 involving the use of growth allocation shall conform to all criteria of the Commission and
 15 shall be designated on the comprehensive zoning map submitted by the local jurisdiction
 16 as part of its application to the Commission for program approval or at a later date in
 17 compliance with § 8-1809(g) of this subtitle; and

18 **[(viii)] (IX)** In Calvert, Caroline, Cecil, Charles, Dorchester, Kent,
 19 Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester counties, if the
 20 county is unable to utilize a portion of the growth allocated to the county in items (i) and
 21 (ii) of this paragraph within or adjacent to existing intensely developed or limited
 22 development areas as demonstrated in the local plan approved by the Commission, then
 23 that portion of the allocated expansion which cannot be so located may be located in the
 24 resource conservation area in addition to the expansion allocated in item **[(vi)] (VII)** of this
 25 paragraph. A developer shall be required to cluster any development in an area of
 26 expansion authorized under this paragraph.

27 (4) In reviewing map amendments or refinements involving the use of
 28 growth allocation, the Commission shall consider the following factors:

29 (vi) Environmental impacts associated with wastewater and
 30 stormwater management practices and wastewater and stormwater discharges to tidal
 31 waters, tidal wetlands, and tributary streams; **[and]**

32 (vii) Environmental impacts associated with location in a coastal
 33 hazard area or an increased risk of severe flooding attributable to the proposed
 34 development; **AND**

1 (VIII) ENVIRONMENTAL IMPACTS ON UNDERSERVED OR
2 OVERBURDENED COMMUNITIES.

3 (e) (1) Except as authorized under paragraph (2) of this subsection, in
4 calculating the 1-in-20 acre density of development that is permitted on a parcel located
5 within the resource conservation area, a local jurisdiction:

6 (i) Shall count each dwelling unit; and

7 (ii) May permit the area of any private wetlands located on the
8 property to be included, under the following conditions:

9 1. [The density of development on the upland portion of the
10 parcel may not exceed one dwelling unit per 8 acres] **ONLY WHEN USING TRANSFER OF**
11 **DEVELOPMENT RIGHTS**; and

12 2. The area of private wetlands shall be [estimated on the
13 basis of vegetative information as designated on the State wetlands maps] **FIELD**
14 **DELINEATED WHEN CERTIFYING DEVELOPMENT RIGHTS FOR TRANSFER.**

15 (2) (i) Within a resource conservation area, a local jurisdiction may
16 consider one additional dwelling unit per lot or parcel as part of a primary dwelling unit
17 for the purpose of the density calculation under this subsection if the additional dwelling
18 unit:

19 1. **DOES NOT REQUIRE A VARIANCE TO ANY CRITICAL**
20 **AREA DEVELOPMENT STANDARDS; AND**

21 2. A. I. Is located within the primary dwelling unit
22 or its entire perimeter is within 100 feet of the primary dwelling unit; AND

23 [B.] II. Does not exceed 900 square feet in total enclosed
24 area; ~~and~~ OR

25 ~~[C.] III. Is served by the same sewage disposal system as the~~
26 ~~primary dwelling unit; or~~

27 [2. A.] B. I. Is located within the primary dwelling unit;
28 ~~OR~~ AND

29 [B.] II. By its construction, does not increase the amount of
30 lot coverage already attributed to the primary dwelling unit **BY GREATER THAN 900**
31 **SQUARE FEET**; ~~and~~

1 ~~primary dwelling unit. [C.] III. Is served by the same sewage disposal system as the~~
 2 ~~primary dwelling unit.~~

3 (ii) The provisions of this paragraph may not be construed to require
 4 a local jurisdiction to consider an additional dwelling unit as part of a primary dwelling
 5 unit for the purpose of the density calculation under this subsection.

6 (iii) An additional dwelling unit meeting all the criteria under
 7 subparagraph (i) of this paragraph that is separate from the primary dwelling unit may not
 8 be subdivided or conveyed separately from the primary dwelling unit.

9 (3) [The provisions of this subsection:

10 (i) Apply to density calculations only; and

11 (ii) May not be construed to authorize a local jurisdiction to grant a
 12 variance, unless the variance is granted in accordance with the requirements of § 8-1808(d)
 13 of this subtitle] **AN ADDITIONAL DWELLING UNIT THAT EXCEEDS 900 SQUARE FEET**
 14 **SHALL COUNT TOWARDS THE DENSITY CALCULATION.**

15 8-1808.2.

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

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

20 (ii) A lot created by a bona fide intrafamily transfer may not be
 21 conveyed subsequently to any person other than a member of the owner's immediate family,
 22 except under procedures established pursuant to subsection (g) of this section **OR**
 23 **THROUGH THE PURCHASE OF A TRANSFERABLE DEVELOPMENT RIGHT.**

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

26 8-1808.3.

27 (b) Lot coverage in the buffer may not exceed the minimum amount necessary for
 28 water-dependent [facilities] **USES**, regardless of the critical area classification or the size
 29 of the parcel or lot, except:

30 (1) For a [buffer exemption area] **MODIFIED BUFFER AREA**, as mapped
 31 or established under an approved local program;

32 (2) For a variance granted in accordance with this subtitle; or

1 (3) As provided in a waterfront revitalization area or a waterfront
2 industrial area under a local program.

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

5 (1) Lot coverage associated with new development activities on the
6 property has been minimized;

7 (2) For a lot or parcel one-half acre or less in size, total lot coverage does
8 not exceed lot coverage limits in subsection (d)(2) of this section by more than 25% or 500
9 square feet, whichever is greater;

10 (3) For a lot or parcel greater than one-half acre and less than one acre in
11 size, total lot coverage does not exceed lot coverage limits in subsection (d)(3) of this section
12 or 5,445 square feet, whichever is greater;

13 (4) Water quality impacts associated with runoff from new development
14 activities that contribute to lot coverage can be and have been minimized through site
15 design considerations or use of best management practices approved by the local
16 jurisdiction to improve water quality; [and]

17 (5) The property owner performs on-site mitigation as required by the local
18 jurisdiction to offset potential adverse water quality impacts from the new development
19 activities that contribute to lot coverage, or the property owner pays a fee to the local
20 jurisdiction in lieu of performing the on-site mitigation; AND

21 **(6) FOR DEVELOPMENT THAT USES PERVIOUS MATERIALS THAT**
22 **HAVE BEEN APPROVED BY THE COMMISSION AS PART OF A LOCAL PROGRAM, THE**
23 **LIMITS ESTABLISHED IN ITEMS (2) AND (3) OF THIS SUBSECTION MAY BE EXCEEDED**
24 **BY UP TO 500 SQUARE FEET.**

25 8-1808.10.

26 (b) (1) Except as provided under subsection (c) of this section, the minimum
27 buffer shall be:

28 (i) 200 feet **LANDWARD** from tidal waters or a tidal wetland; and

29 (ii) 100 feet **LANDWARD** from a tributary stream.

30 8-1809.

31 (g) Each local jurisdiction shall [review]:

1 **(1) REVIEW** its entire program and propose any necessary amendments to
 2 its entire program, including local zoning maps, at least every [6 years. Each local
 3 jurisdiction shall send] **10 YEARS; AND**

4 **(2) SEND** in writing to the Commission, within 60 days after the
 5 completion of its review, the following information:

6 [(1)] **(I)** A statement certifying that the required review has been
 7 accomplished;

8 [(2)] **(II)** Any necessary requests for program amendments, program
 9 refinements, or other matters that the local jurisdiction wishes the Commission to consider;

10 [(3)] **(III)** An updated resource inventory; and

11 [(4)] **(IV)** A statement quantifying acreages within each land
 12 classification, the growth allocation used, and the growth allocation remaining.

13 **(H) ON REQUEST OF A LOCAL JURISDICTION ~~AND FOR GOOD CAUSE~~, THE**
 14 **COMMISSION ~~MAY~~ SHALL EXTEND THE DEADLINE UNDER SUBSECTION (G) OF THIS**
 15 **SECTION FOR THAT LOCAL JURISDICTION BY ~~NOT MORE THAN TWO 6 MONTH~~**
 16 **~~EXTENSIONS~~ 1 YEAR.**

17 **(I) ~~A~~ ON OR AFTER JANUARY 1, 2028, A LOCAL JURISDICTION THAT DOES**
 18 **NOT MEET THE DEADLINE UNDER SUBSECTION (G)(1) OF THIS SECTION OR AFTER**
 19 **THE EXPIRATION OF ANY EXTENSION GRANTED UNDER SUBSECTION (H) OF THIS**
 20 **SECTION MAY NOT PROPOSE AN AMENDMENT OR REFINEMENT UNDER SUBSECTION**
 21 **(J) OF THIS SECTION.**

22 [(h)] **(J) (1)** As often as necessary but not more than 4 times per calendar
 23 year, each local jurisdiction may propose program amendments and program refinements
 24 to its adopted program.

25 (2) [(i)] Except for program amendments or program refinements
 26 developed during program review under subsection (g) of this section, a zoning map
 27 amendment may be granted by a local approving authority only on proof of a mistake in
 28 the existing zoning.

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

32 1. Are wholly consistent with the land classifications in the
 33 adopted program; or

1 2. Propose the use of a part of the remaining growth
2 allocation in accordance with the adopted program] **A CHANGE TO A CRITICAL AREA**
3 **DESIGNATION MAY BE GRANTED BY A LOCAL APPROVING AUTHORITY ON PROOF OF**
4 **MISTAKE IF THE PROPOSED CRITICAL AREA CLASSIFICATION:**

5 **(I) CONFORMS TO THE STATE CRITICAL AREA MAPPING**
6 **CRITERIA;**

7 **(II) 1. IS BASED ON LAND USES OR NATURAL FEATURES IN**
8 **EXISTENCE AS OF DECEMBER 1, 1985; OR**

9 **2. FOR AREAS INCLUDED IN THE CRITICAL AREA DUE TO**
10 **REMAPPING, IS BASED ON LAND USES OR NATURAL FEATURES IN EXISTENCE AT THE**
11 **TIME OF THE REMAPPING; ~~AND~~**

12 **(III) FOLLOWS THE LOCAL JURISDICTION'S DOCUMENTED**
13 **MAPPING METHODOLOGY FOR CRITICAL AREA CLASSIFICATIONS AT THE TIME OF**
14 **ORIGINAL PROGRAM ADOPTION; AND**

15 **(IV) IS CONSISTENT WITH THE PURPOSES, POLICIES, AND GOALS**
16 **OF THIS SUBTITLE AND ALL CRITERIA OF THE COMMISSION.**

17 **(K) A ZONING MAP AMENDMENT MAY BE GRANTED IF THE ZONING MAP**
18 **AMENDMENT:**

19 **(1) IS WHOLLY CONSISTENT WITH THE LAND CLASSIFICATIONS IN**
20 **THE ADOPTED PROGRAM;**

21 **(2) PROPOSES THE USE OF A PART OF THE REMAINING GROWTH**
22 **ALLOCATION IN ACCORDANCE WITH THE ADOPTED PROGRAM; OR**

23 **(3) PROPOSES TO CHANGE THE LAND CLASSIFICATION FROM EITHER**
24 **AN INTENSELY DEVELOPED AREA TO A LIMITED DEVELOPMENT AREA OR A**
25 **RESOURCE CONSERVATION AREA, OR A LIMITED DEVELOPMENT AREA TO A**
26 **RESOURCE CONSERVATION AREA.**

27 **[(i)] (L)** A program may not be amended except with the approval of the
28 Commission.

29 **[(j)] (M)** The Commission shall approve programs and program amendments
30 that meet:

31 **(1)** The standards set forth in § 8-1808(b)(1) through **[(3)] (4)** of this
32 subtitle; and

1 (2) The criteria adopted by the Commission under § 8–1808 of this subtitle.

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

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

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

8 (ii) [Request] **DIRECT** that the jurisdiction submit a proposed
9 program amendment or program refinement to correct the deficiency.

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

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

17 [(m) (O) (1) The Commission may adopt regulations that prescribe the
18 procedures and information requirements for program amendments and program
19 refinements.

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

23 (i) [Mail a notification to] **NOTIFY IN WRITING** the local
24 jurisdiction that the proposal has been accepted for processing; or

25 (ii) Return the proposal as incomplete.

26 [(n) (P) A local jurisdiction may specify whether it intends a proposed change
27 to be a program amendment or program refinement. However, the Commission shall treat
28 a proposed change as a program amendment unless the [chairman] **CHAIR** determines that
29 the proposed change is a program refinement.

30 [(o) (Q) (1) (I) For proposed program amendments, a Commission panel
31 shall hold a public hearing in the local jurisdiction, and the Commission shall act on the
32 proposed program amendment within 130 days of the Commission's acceptance of the

1 proposal **UNLESS THE LOCAL JURISDICTION REQUESTS, AND THE CHAIR APPROVES,**
2 **AN EXTENSION.**

3 **(II) [If] UNLESS THE LOCAL JURISDICTION REQUESTS, AND THE**
4 **CHAIR APPROVES, AN EXTENSION, IF** action by the Commission is not taken within 130
5 days, the proposed program amendment is deemed approved.

6 (2) The Commission shall determine if the proposed amendment is
7 consistent with the purposes, policies, goals, and the provisions of this subtitle, and all
8 criteria of the Commission.

9 (3) In accordance with the Commission's determination in paragraph (2) of
10 this subsection, the Commission shall:

11 (i) Approve the proposed program amendment and notify the local
12 jurisdiction;

13 (ii) Deny the proposed program amendment;

14 (iii) Approve the proposed program amendment subject to one or
15 more conditions; or

16 (iv) Return the proposed program amendment to the local
17 jurisdiction with a list of the changes to be made.

18 (4) If the Commission approves a proposed program amendment subject to
19 one or more conditions under item (3)(iii) of this subsection, the local jurisdiction shall
20 notify the Commission within 60 days of its intent to adopt the conditions.

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

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

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

30 **(II) THE CHAIR** shall notify the Commission of that determination
31 **AT THE NEXT MEETING OR A SUBSEQUENT MEETING IF THE LOCAL JURISDICTION**
32 **REQUESTS, AND THE CHAIR APPROVES, AN EXTENSION.**

1 [(ii) (III)] If a proposed change that was specifically submitted as a
2 program refinement is not acted on by the [chairman] CHAIR within the 30-day period,
3 the Commission shall notify the appropriate local jurisdiction that the proposed change has
4 been deemed to be a program amendment.

5 (3) (i) The Commission may vote to override the [chairman's] CHAIR'S
6 determination only at the first Commission meeting where a quorum is present following
7 the [chairman's determination] CHAIR'S NOTIFICATION TO THE COMMISSION.

8 (ii) If the [chairman's] CHAIR'S determination is overridden, the
9 proposed change is deemed a program amendment, which shall be decided by the
10 Commission in accordance with the procedures for program amendments provided in this
11 section, except that the Commission shall act on the program amendment within [60] 90
12 days after a vote to override the [chairman] CHAIR.

13 (iii) If the [chairman's] CHAIR'S determination is not overridden,
14 within 10 working days after the opportunity to override the [chairman's] CHAIR'S decision
15 under item (i) of this paragraph, the [chairman, on behalf of the Commission,] CHAIR shall:

16 1. Determine if the program refinement is consistent with
17 the purposes, policies, goals, and provisions of this subtitle, and all criteria of the
18 Commission; and

19 2. A. Approve the proposed program refinement and
20 notify the local jurisdiction;

21 B. Deny the program refinement;

22 C. Approve the proposed program refinement subject to one
23 or more conditions; or

24 D. Return the proposed program refinement back to the local
25 jurisdiction with a list of the changes to be made.

26 (iv) If the [Commission] CHAIR approves a proposed program
27 refinement subject to one or more conditions under item (iii)3 of this paragraph, the local
28 jurisdiction shall notify the Commission within 60 days of its intent to adopt the conditions.

29 (4) A local jurisdiction shall incorporate an approved program refinement
30 and any required conditions into its adopted program within 120 days of receiving notice
31 from the [chairman] CHAIR that the program refinement has been approved.

32 [(q) (S)] (1) (i) As necessary, a local jurisdiction may combine any or all
33 proposed program amendments or program refinements required for a specific project
34 approval into a single request to the Commission for program amendment, program
35 refinement, or both.

1 (ii) The Commission shall ensure that any requests received in
 2 accordance with this paragraph are consistent with the purposes, policies, goals, and
 3 provisions of this subtitle, and all criteria of the Commission.

4 (2) A project for which a local jurisdiction requests growth allocation may
 5 be submitted as a proposed program amendment, program refinement, or both.

6 (3) Approval by the Commission of a program amendment, program
 7 refinement, or both does not affect the Commission's authority to receive notice of or
 8 intervene in a project approval that was not specifically approved by the Commission as
 9 part of its approval of a program amendment or program refinement.

10 [(r)] (T) Within 6 months after the adoption of amended criteria, a local
 11 jurisdiction shall send to the Commission:

12 (1) Proposed program amendments or program refinements that address
 13 the amended criteria; or

14 (2) A statement describing how the adopted program conforms to the
 15 amended criteria and certifying that the adopted program is consistent with the amended
 16 criteria.

17 [(s)] (U) If the Commission adopts a regulation concerning the use of the growth
 18 allocation, any use of the growth allocation must be in accordance with that regulation for
 19 the change to be considered a program refinement.

20 8-1810.

21 (E) ~~IF A LOCAL JURISDICTION HAS FAILED TO UPDATE AN ADOPTED~~
 22 ~~PROGRAM IN ACCORDANCE WITH § 8-1809(G) OF THIS SUBTITLE;~~

23 ~~(1) THE LOCAL JURISDICTION SHALL ADOPT AN UPDATE TO THE~~
 24 ~~LOCAL PROGRAM WITHIN 1 YEAR OF NOTICE FROM THE COMMISSION; OR~~

25 ~~(2) (1) THE COMMISSION MAY UPDATE THE LOCAL PROGRAM IF A~~
 26 LOCAL JURISDICTION FAILS TO UPDATE AN ADOPTED PROGRAM AFTER THE
 27 DEADLINE UNDER § 8-1809(G)(1) OF THIS SUBTITLE OR AFTER THE EXPIRATION OF
 28 AN EXTENSION GRANTED UNDER § 8-1809(H) OF THIS SUBTITLE, THE COMMISSION
 29 SHALL MAKE A GOOD FAITH EFFORT TO NOTIFY THE LOCAL JURISDICTION THAT ITS
 30 PROGRAM NEEDS TO BE UPDATED BY AT LEAST 4 DOCUMENTED NOTIFICATION
 31 ATTEMPTS OVER A 3-YEAR PERIOD.

1 **(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE**
2 **LOCAL JURISDICTION SHALL ADOPT AN UPDATE TO THE PROGRAM WITHIN 2 YEARS**
3 **OF THE LAST NOTICE FROM THE COMMISSION.**

4 **(II) THE COMMISSION MAY UPDATE THE PROGRAM IF THE**
5 **LOCAL JURISDICTION FAILS TO UPDATE ITS PROGRAM WITHIN THE 2-YEAR PERIOD.**

6 8-1811.

7 (b) (2) From the date designated by the Commission in approving or adopting
8 a program, an applicant for project approval or the local agency authorized to grant project
9 approval on an application in any of the identified classes shall send to the Commission in
10 accordance with the regulations and any other instructions of the Commission, a copy of
11 every pending or new application for approval that is in any of the identified classes. Before
12 the close of the fifth business day after receipt of a copy of an application from [the applicant
13 or] the local approving authority, the Commission shall send written notice of receipt to the
14 applicant and to the local approving authority. A failure of the Commission to send a timely
15 notice shall render paragraph (3) of this subsection inapplicable as to that application.

16 8-1812.

17 (a) After the Commission has approved or adopted a program, the [chairman]
18 **CHAIR** of the Commission has standing and the right and authority to initiate or intervene
19 in any administrative, judicial, or other original proceeding or appeal in this State
20 concerning a project approval in the Chesapeake Bay Critical Area or the Atlantic Coastal
21 Bays Critical Area. The [chairman] **CHAIR** may exercise this intervention authority
22 without first obtaining approval from the Commission, but the [chairman] **CHAIR** shall
23 send prompt written notice of any intervention or initiation of action under this section to
24 each member of the Commission. The [chairman] **CHAIR** shall withdraw the intervention
25 or action initiated if, within 35 days after the date of the [chairman's] **CHAIR'S** notice, at
26 least 13 members indicate disapproval of the action, either in writing addressed to the
27 [chairman] **CHAIR** or by vote at a meeting of the Commission. A member representing the
28 local jurisdiction affected by the [chairman's] **CHAIR'S** intervention or action may request
29 a meeting of the Commission to vote on the [chairman's] **CHAIR'S** intervention or action.

30 (b) Except as stated in this subtitle, the [chairman] **CHAIR** is subject to general
31 laws and rules of procedure that govern the time within and manner in which the authority
32 granted in subsection (a) of this section may be exercised.

33 (c) The [chairman] **CHAIR** may appeal an action or decision even if the
34 [chairman] **CHAIR** was not a party to or is not specifically aggrieved by the action or
35 decision.

36 8-1813.1.

1 (d) A local jurisdiction may include in the jurisdiction's local critical area
2 protection program, to be approved by the Commission, an alternative buffer provision for
3 the development of a planned unit development in accordance with the planned unit
4 development's Step III approval, provided that:

5 (5) At least 75% of the dwelling units in the planned unit development
6 comply with the buffer requirements in COMAR 27.01.09.01 and no dwelling unit has a
7 buffer of less than 50 feet **LANDWARD** from existing or proposed tidal waters, tidal
8 wetlands, or tributary streams.

9 8-1814.

10 (a) After 760 days have elapsed from the date upon which criteria adopted by the
11 Commission become effective, any State or local agency that proposes development which
12 has not been subject to project approval by the local jurisdiction under an approved
13 program, including buildings, treatment plants, roads, railroads, and airports, in the
14 Chesapeake Bay Critical Area **AND ATLANTIC COASTAL BAYS CRITICAL AREA** shall,
15 before the State or local agency begins the development, receive the approval of the
16 Commission in accordance with procedures or exceptions set forth in regulations adopted
17 by the Commission using the standards set forth in § 8-1808(b)(1) through (3) of this
18 subtitle. These regulations shall be adopted on or before September 1, 1987, and only after
19 consultation with affected State and local agencies.

20 ~~(b) The Secretary **AND THE SECRETARY OF THE ENVIRONMENT** shall consult~~
21 ~~with the Commission in making consistency determinations under the Federal Coastal~~
22 ~~Zone Management Program.~~

23 8-1815.

24 (a) (2) (i) A person who violates a provision of an order, permit, plan, local
25 program, this subtitle, or regulations adopted, approved, or issued under the authority of
26 this subtitle shall be:

27 1. Subject to prosecution or suit in circuit court or District
28 Court by the [chairman] **CHAIR** or local authorities, who may invoke the sanctions and
29 remedies afforded by State or local law;

30 (3) A local authority may request:

31 (ii) That the [chairman] **CHAIR** refer an enforcement action to the
32 Attorney General.

33 (b) Whenever the [chairman] **CHAIR** has reason to believe that a local jurisdiction
34 is failing to enforce the requirements of a program applicable to a particular development,
35 the [chairman] **CHAIR** shall serve notice upon the local enforcement authorities. If within
36 30 days after service of the notice, the local authorities have failed to initiate an action to

1 remedy or punish the violation, the [chairman] CHAIR may refer the matter to the Attorney
2 General.

3 (e) Notwithstanding any other provision of this section, whenever a development
4 in the **CHESAPEAKE BAY CRITICAL AREA OR ATLANTIC COASTAL BAYS** Critical Area
5 is proceeding in violation of approved project plans and threatens to immediately and
6 irreparably degrade the quality of tidal waters or fish, wildlife, or plant habitat, the
7 Attorney General, upon request of the [chairman] CHAIR, may bring an action to restrain
8 the violation and, as appropriate, to compel restoration of any land or water areas affected
9 by the development.

10 8–1815.1.

11 (b) If a person cuts or clears or plans to cut or clear trees within the Chesapeake
12 Bay Critical Area or Atlantic Coastal Bays Critical Area in violation of an approved local
13 critical area program or of regulations adopted by the Commission, the [chairman] CHAIR
14 may bring an action, or the local jurisdiction may bring an action or request that the
15 [chairman] CHAIR of the Commission refer the matter to the Attorney General to bring an
16 action:

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

20 (2) To restrain the planned violation; or

21 (3) For damages:

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

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

26 (c) If the [chairman] CHAIR of the Commission has reason to believe that the
27 local jurisdiction is failing to enforce the requirements of subsection (b) of this section, the
28 [chairman] CHAIR shall refer the matter to the Attorney General as provided under §
29 8–1815(b) of this subtitle.

30 (d) On the [chairman] CHAIR of the Commission's referral of an alleged violation
31 under subsection (c) of this section to the Attorney General, the Attorney General may
32 invoke the remedies available to the local jurisdiction under subsection (b) of this section
33 in any court of competent jurisdiction in which the local jurisdiction would be authorized to
34 prosecute or sue.

1 (e) On the request of a local jurisdiction or the [chairman] CHAIR of the
2 Commission, the State Forester, a registered professional forester, or a registered
3 landscape architect may prepare, oversee, and approve the final implementation of a plan
4 to:

5 (1) Replant trees in any part of the Chesapeake Bay Critical Area where
6 trees in the Chesapeake Bay Critical Area are cut or cleared in violation of subsection (b)
7 of this section; and

8 (2) Replant trees in any part of the Atlantic Coastal Bays Critical Area
9 where trees in the Atlantic Coastal Bays Critical Area are cut or cleared in violation of
10 subsection (b) of this section.

11 [8-1817.

12 (a) By January 1, 1994, the Commission shall adopt criteria that assure the
13 protection of land and water resources in the Critical Area and that shall apply throughout
14 the Critical Area for:

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

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

19 (b) (1) In addition to other applicable provisions of law, an applicant for any
20 production or exploratory drilling that will occur on, in, under, or through the Critical Area,
21 including wells drilled outside the Critical Area by a method known as slant drilling that
22 will pass through the Critical Area, shall complete and submit with the application an
23 environmental impact study that addresses the potential for any adverse environmental
24 effects on the Critical Area as a result of the drilling.

25 (2) (i) The Department shall forward a copy of the permit application
26 and the environmental impact study referred to in paragraph (1) of this subsection to the
27 Commission for its review and comment.

28 (ii) The Department shall consider and comment in writing on the
29 objections and concerns of the Commission before issuing a permit under this subsection.]

30 SECTION 2. AND BE IT FURTHER ENACTED, That on completion of the statewide
31 base map project, as specified under Section 3 of Chapter 119 of the Acts of the General
32 Assembly of 2008, the process for updating the map shall proceed as follows:

33 (1) in accordance with the following requirements and conditions, the
34 Critical Area Commission, with the assistance of the Department of Natural Resources and
35 the Department of the Environment, shall prepare an update to the statewide base map at

1 appropriate intervals, but not less than every 8 years, that includes a State-determined
2 shoreline and landward boundary of tidal wetlands and a digitally generated, georeferenced
3 1,000-foot critical area boundary, as appropriate for integration into a Geographic
4 Information System, under the following standards:

5 (i) the best available imagery of comparable scale shall be used to
6 identify the shoreline and landward boundary of tidal wetlands as part of the map update;

7 (ii) the boundary shall be accurate to a scale of 1:1200; and

8 (iii) the mapped shoreline and landward boundary of tidal wetlands
9 may not be construed to represent an official wetland delineation or to change in any way
10 any statutory provision under Title 16 of the Environment Article, any regulatory provision
11 under Title 26, Subtitle 24 of the Code of Maryland Regulations, or any other provision
12 related to a project-specific wetland delineation that may be necessary and appropriate;

13 (2) a local jurisdiction shall formally adopt its updated critical area map
14 based on the statewide base map within 6 months of its receipt from the Department of
15 Natural Resources and the Commission and may request an extension of time for an
16 additional 6 months if evidence of reasonable progress has been made and is satisfactory
17 to the Commission;

18 (3) the Commission, with the assistance of each local jurisdiction, shall:

19 (i) designate unclassified areas that were not within the original
20 critical area boundary in accordance with the mapping standards set forth under COMAR
21 27.01.02.03 through 27.01.02.05 and COMAR 27.01.11.05; and

22 (ii) identify areas where there appear to be inconsistencies between
23 the statewide base map and the local jurisdiction's critical area map;

24 (4) a local jurisdiction shall apply the updated State-determined shoreline
25 and landward boundary of tidal wetlands and a digitally generated, georeferenced
26 1,000-foot critical area boundary once it is officially transferred from the Department of
27 Natural Resources and the Commission and shall apply the updates notwithstanding any
28 local approval process; and

29 (5) each local jurisdiction shall ensure that, where applicable, each project
30 submittal uses the updated digitally generated, georeferenced critical area boundary.

31 SECTION 3. AND BE IT FURTHER ENACTED, That:

32 (a) The Department of Natural Resources shall notify the Department of
33 Legislative Services in writing on the date of official completion of the statewide base map
34 project, as required under Section 3 of Chapter 119 of the Acts of the General Assembly of
35 2008.

1 (b) Section 2 of this Act shall take effect 7 days after the Department of Natural
2 Resources provides notice of the official completion of the statewide base map project under
3 subsection (a) of this section.

4 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section
5 3 of this Act, this Act shall take effect October 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.