

Commission Meetings & Corresp.

Dec 1985

MSA - 51952 - 16

AGENDA FOR THE  
MEETING OF THE CHESAPEAKE BAY CRITICAL AREA COMMISSION

December 4, 1985 4:00p.m.

Maryland Department of Agriculture, 50 Harry S. Truman Parkway,  
Annapolis, Maryland

Approval of Minutes of 11/6/85 Solomon Liss, Chairman

Approval of Minutes of 11/13/85 Solomon Liss, Chairman

Questions on the Criteria Charlie Davis  
Lee Epstein  
Kevin Sullivan

Discussion of the Workshop Charlie Davis

Old Business Solomon Liss, Chairman

Grandfather Chart

New Business Solomon Liss, Chairman

Announcement of Workshop  
Briefing Packets for General Assembly  
Public Information Packets

Adjourn

*A packet of information was sent back in the mail because a label fell off. The packet had today's meeting announcement, the minutes from the 2 November meetings, and the Nov 22nd issue of the Md Register final regulations. Did everyone receive their packet?*

Chesapeake Bay Critical Area

Minutes of Meeting Held  
November 6, 1985

The Chesapeake Bay Critical Area Commission met at the Department of Agriculture in Annapolis. The meeting was called to order by Chairman Solomon Liss, with the following members in attendance:

Florence Beck Kurdle	Ardath Cade
Ann Sturgis Coates	Robert Price, Jr.
Albert W. Zahniser	John Luthy, Jr.
Parris Glendening	Lloyd Tyler, III
Mary Roe Walkup	William Eichbaum
J. Frank Raley, Jr.	Ernest Shea for
James E. Gutman	Wayne A. Cawley
John Griffin for	Barbara O'Neill
Torrey C. Brown	Robert S. Lynch
Samuel E. Turner	

The minutes from the October meeting were approved as written. Chairman Liss then informed the members of the death of Commission member Ronald Hickernell's mother and indicated that a letter of condolence would be sent on behalf of the Commission.

Chairman Liss then reviewed the status of action related to the criteria since the Commission had last met. He said that the Commission Subcommittee on grandfathering had met and directed the staff to prepare clarification language on the issue.

The Legislative Oversight Committee had met, as well as the AELR Committee. The Oversight Committee had expressed four areas of concern for the AELR Committee to consider. Those recommendations are as follows:

- 1) An average residential density limit in the Resource Conservation Area of 1 home per 8 acres should be adopted to replace the 1 home per 20 acre limit in the present (September 27, 1985 Maryland Register) proposed guidelines for development;
- 2) Means should be considered for allowing a family conveyance of buildable farmland parcels created within bulk farmland acreages;
- 3) Clarification should be made for the grandfather provisions; and
- 4) Further consideration should be given to allowing selective regulated tree harvesting within the water-facing 50 feet of the buffer strip.

Chairman Liss said that he and the staff appeared before the

AELR Committee and addressed a number of these issues and said that clarification language was being prepared. He then indicated that at the request of the AELR Committee, the Commission take tentative votes on action for today's meeting and that no formal vote be taken until the AELR Committee reviews the new language. A special meeting of the Commission is being called for November 13, 1985 at Wye Lodge at 9:30 a.m. for the purpose of taking a final vote. It is not anticipated that substantive changes will be made to the criteria.

The staff then proceeded to review proposed changes and clarifications to the criteria for Section 14.15.05 Forest and Woodland Protection. The Commission unanimously approved (17-0) inclusion of language regarding the managed Buffer.

Thomas Deming then indicated that there was no staff recommendation as to a change in the 1/20 density, even though the Legislative Oversight Committee had proposed a 1/8 density for the Resource Conservation Area. Ardath Cade asked if such a change would be substantial and what the effects would be. Mr. Deming indicated that if any changes were substantial, as this one would be, the criteria would need to be repropoed and the three-plus-months requirement for final promulgation would begin again. The statutory deadline of December 1 would not be met. He also indicated that he was not certain if substantial changes were made, that the criteria could be introduced in the General Assembly in time for consideration in the coming Session.

Ardath Cade then moved that the Commission give consideration to the recommendation of the Legislative Oversight Committee with regard to the 1 dwelling unit per 8/acre density. James Gutman pointed out that there was no rationale for the 1/8 density and therefore, in his opinion, the recommendation had no merit. Lloyd Tyler pointed out that a 1/8 density would mean 2½ houses per 20 acres and he thought that the Legislature might support such a move. Barbara O'Neill indicated that a yes vote will not help the Commission in accomplishing that which it has been assembled to do. J. Frank Raley indicated that he was in favor of the motion, but would vote against it because he felt that it was up to the Legislature to allow the process to take place which had been established, and that there would be an opportunity for change in the future. Florence Beck Kurdle pointed out that it was important to be clear that the Commission is not talking about "average" density. For the total Resource Conservation Area, it applies to a tract of land, but the use of Transfer of Development Rights are an available option dependent on the local jurisdiction. The motion to change the density of 1 du/20 acres to 1 du/8 acres was defeated (15-0)

Thomas Deming then raised the Legislative Oversight Committee's recommendation regarding intra-family conveyance. He indicated that the Secretary of the Department of Agriculture has explained that the wording in the Agricultural Preservation Program matches the density requirements in the Critical Area

criteria and that they were designed to be consistent. John Griffin asked whether it would be appropriate to add language in the criteria for clarification purposes indicating that the criteria are consistent with the Agricultural Preservation Program. Parris Glendening suggested that the wording indicate that nothing herein shall limit rights to convey under the Agricultural Preservation or Easement Programs. The Commission unanimously voted to add the clarification language on this issue (18-0). Thomas Deming then indicated that the third point of the Legislative Oversight Committee's letter with regard to forest management had already been addressed by the Commission.

The fourth point of the letter with regard to grandfathering was then discussed. The Commission was given an explanatory sheet on grandfathering which had also been prepared for the AELR Committee, and it then voted unainmously to support the three changes proposed on grandfathering by the Commission Subcommittee (16-0).

Other clarification issues were discussed and the Commission unanimously voted to tentatively accept all the amendments that had been proposed (16-0).

There was no old business.

#### NEW BUSINESS

James Gutman said that he had been disturbed by an article in the newspapers discribing a rush for land developement on the Eastern Shore. Judge Liss pointed out that there is no legal action that the Commission can take at this time since the criteria have not been passed.

Chairman Liss said that a number of local governments have indicated that they wish to begin mapping and developing there approaches to the grandfathering issue, and have asked the Comnmission staff to comment or help to provide guidance as they proceed with their work. He asked the Commission whether they thought that this was appropriate for staff to assist local governments prior to the approval of the criteria. It was suggested that a workshop be established for local governments, and that the Commission members also be invited, and that it would be important for the local governments to understand how they should proceed. Florence Beck Kurdle said that she would write a letter requesting such a workshop.

It was agreed that the Commission would go back to its original meeting schedule of the first Wednesday of each month. Chairman Liss then thanked Commission members, Anne Coates and Mary Walkup specifically, for their hard work and cooperation.

Mary Walkup then shared with the Commission, the activities of the Maryland Association of Counties. MACO's Legislative Committee originally had agreed not to vote on the criteria, but did eventually take a vote, asking that a vote by the General

Assembly be postponed for a year. At a meeting held earlier today, the Committee refused to change its mind with regard to postponement; however, it did agree to have another special meeting at which the Chairman of the Critical Area Commission and any Commissioners who were available could come to discuss the criteria. This meeting is set for Friday, November 22.

There being no further business, the meeting was adjourned.

These minutes were prepared by Helene Tenner.

*COMMISSION  
MTG*

CHESAPEAKE BAY CRITICAL AREA COMMISSION

Minutes of Meeting Held  
November 13, 1985

The Chesapeake Bay Critical Area Commission met at the Wye Lodge on the 13th of November to take a final vote on the clarifying amendments to the criteria, and to vote on the final criteria package (amendments and full text). The meeting was called to order by Vice Chairman Florence Beck Kurdle with the following members in attendance:

Robert S. Lynch  
J. Frank Raley, Jr.  
Shepard Krech, Jr.  
Barbara O'Neill  
Samuel E. Turner  
Lloyd S. Tyler, III  
Ardarth Cade  
William Eichbaum

Torrey C. Brown  
Albert W. Zahniser  
Thomas L. Jarvis  
Robert R. Price, Jr.  
William J. Bostian  
Wayne A. Cawley, Jr.  
Solomon Liss  
Ronald Hickernell

A presentation was made by Sarah Taylor to the Commission on the meeting held the day before with the Administrative, Executive and Legislative Review Committee (AELR). In summary, the AELR Committee agreed not to take a position on the criteria, but to forward the criteria to the standing committees of the General Assembly.

The clarifications to the criteria were then reviewed by Lee Epstein, questions were asked and answered, and a vote was taken to approve the clarifying amendments. The amendments were adopted unanimously.

A final vote was taken on the overall package of criteria with the clarifying amendments. The vote was 15 in favor, 2 opposed.

An announcement was made of the session with the Maryland Association of Counties to brief their legislative committee on the criteria and to answer questions. That meeting is scheduled for November 22nd, time and place to be announced. Judge Liss stated that as soon as the place and time are known, he will make sure that the Commission is informed.

There being no further business, the meeting was adjourned.

These minutes were prepared by Sarah Taylor

Proposed Changes for Clarification  
(BASED ON TABLOID)

CLARIFICATION

\* Changes do not reflect punctuation or spelling

14.15.01 GENERAL PROVISIONS

REASON

Add: new definition

(18) "Critical Area" means all lands and waters defined in § 8-1807 of the Natural Resources Article, Annotated Code of Maryland. They include:

- a) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetlands maps, and all State and private wetlands ~~and the heads of tides~~ designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland;
- b) All land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland; and
- c) Modifications to these AREAS through inclusions or exclusions proposed by local jurisdictions and approved by the Commission as specified in § 8-1807 of the Natural Resources Article, Annotated Code of Maryland.

Requested by the AELR Committee to complete the criteria package by including the definition here, thus eliminating the need to refer to the Act in order to understand the basic area of concern defined by the Act.

(32) "Hydrophytic vegetation"  
means those plants cited in "Vascular  
Plant Species Occurring in Maryland  
Wetlands" (Dawson, F. et al., 1985)

(p. 4)  
add:

which are described as growing in water or  
on a substrate that is at least periodically<sup>^</sup>  
deficient in oxygen as a result of exces-  
sive water content (plants typically  
found in water habitats).

To be same as definition in  
Dawson reference.

14.15.02 Development

p. 5 4th Column:

G. Certain new development activities or facilities, ~~because of their intrinsic nature, or because of their potential for adversely affecting habitat and water quality, may not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem.~~ These include:

add:  
or the expansion of certain existing facilities,

- (1) Solid or hazardous waste collection or disposal facilities; or
- (2) Sanitary landfills.

H. Existing, permitted facilities of the type noted in §G(1) and (2), above, ~~or expansion of these facilities, may be permitted if no environmentally acceptable alternative exists outside of the Critical Area,~~ subject to the standards and requirements of the Maryland Department of Health and Mental Hygiene, under COMAR Title 10.

Add:  
shall be  
delete

Within this limit of overall density, minimum lot sizes may be determined by the local jurisdiction.

which one, Sarah?

p. 7 2nd Column:

(4) Land within the Resource Conservation Area may be developed for residential uses at a density not to exceed one dwelling unit per 20 acres. Local jurisdictions are encouraged to consider such mechanisms as cluster development, transfer of development rights, maximum lot size provisions, and/or additional means to maintain the land area necessary to support the preferred uses.

or  
Minimum lot sizes may be determined by the local jurisdiction.

To respond to AELR Committee's suggestion that a jurisdiction be able to create pockets of higher density in the RCA provided that overall, a density of 1 du/20 acres remains for the RCA.

p. 7 2nd Column:

(2) When planning future expansion of Intensely Developed and Limited Development Areas, counties shall establish a process to accommodate the growth needs of municipalities.

Add:  
in coordination with affected municipalities,

Strengthen intent. Suggested by Maryland Municipal League and City of Annapolis.

the

14.15.02 continued

p. 7 Column 3 Grandfathering  
[Language sent in the mail]

B. Local jurisdictions shall establish grandfather provisions as part of their local Critical Area Programs, through which the following types of land may be developed in accordance with all local areal and density requirements in effect prior to the adoption of the local critical area program, notwithstanding the provisions of this Chapter:

Except as otherwise provided, local jurisdictions shall permit

described in the following subsections

density

A local jurisdiction shall permit a single lot or parcel of land that was legally of record on the date of program approval to be developed with a single family dwelling, if a dwelling is not already placed there, notwithstanding that such development may be inconsistent with the density provisions of the approved local program.

p. 7 Column 4

(b) If any such land has received a building permit subsequent to December 1, 1985 but prior to local program approval, and is located in a Resource Conservation Area, that land shall be counted by the local jurisdiction against the growth increment permitted in that area under COMAR 14.15.02.06,

unless the Commission determines at the time of program approval that steps had been taken to conform the development to the criteria in this Subtitle insofar as possible;

D. Nothing in this regulation may be interpreted as altering any requirements for development activities set out in COMAR 14.15.03 through 14.15.09 of this Subtitle.

and

To clearly state Commission's intent with regard to individual lots.

So that an automatic charge against the growth increment would not occur and to recognize local efforts to conform such lands to the criteria which is the intent of the Commission.

Chapters 4 through 8 do not address development activity affecting residential density. "D." is more accurate with this clarification.

14.15.03 Water Dependent Facilities

p. 7. Column 3 Definition

C. Excluded from this ~~definition~~ <sup>regulation</sup> are individual private piers installed or maintained by riparian landowners, and which are not part of a subdivision which provides community piers (see Regulation, .07 below).

Commission's intention  
To clarify that individual riparian piers (which are not part of a subdivision with Community piers) are excluded from this regulation. This was a mis-wording.

14.15.04 Shore Erosion Protection Wks.

p. 7 Column 4

.03 Criteria.

In developing their Critical Area Programs, local jurisdictions shall use these criteria:

A. Local jurisdictions, with assistance from the State, shall designate and map the following shoreline areas:

(1) Shoreline areas where no significant shore erosion occurs.

(2) Other eroding areas where non-structural measures would be a practical and effective method of erosion control, and

(3) Eroding areas where <sup>only</sup> structural measures would provide effective and practical erosion control;

B. Local jurisdictions shall adopt policies to be reflective of shoreline characteristics to accomplish the following objectives:

(1) Provide that structural control measures only be used in areas designated in §A(3), above, where non-structural control measures would be impractical or ineffective;

(2) Provide that where structural erosion control is required, the measure that best provides for conservation of fish and plant habitat, and which is practical and effective shall be used;

(3) Provide that non-structural measures be utilized in areas of erosion as describ-

As written, A(2) and (3) are not mutually exclusive. Therefore B(1) cannot be interpreted correctly because it is qualified by the phrase "where non-structural measures would be impractical and ineffective" and A(3) does not say that. The change noted in A(3) would correct this inconsistency.

14.15.05 Forest and Woodland Protect

p. 9. Column 2:

(1) A Forest Management Plan shall be required for all timber harvesting occurring within 1 year and affecting 1 or more acres in forests and developed woodland in the Critical Area. The Plans shall be prepared by a registered professional forester and be reviewed and approved by the Maryland Forest, Park and Wildlife Service through the District Forestry Boards and the project forester, and filed with an appropriate designated agency within the local jurisdiction. Plans shall include measures to protect surface and groundwater quality and identify whether the activities will disturb or affect Habitat Protection Areas as identified in COMAR 14.15.09, and incorporate protection measures for these areas as specified by the local jurisdictions. ~~These plans are not required for the private harvesting of timber.~~ To provide for the continuity of habitat, the plans shall address mitigation through forest management techniques which include scheduling size, timing and intensity of harvest cuts, afforestation, and reforestation.

any interval

Further  
To clarify the time frame and acreage size for which a Forest Mgt. Plan is required.

This sentence is not needed, as plans are required for all timber harvesting per (1) above. Timber harvesting is not limited to commercial harvesting which has a specific definition in the criteria. If this sentence is not deleted, then an inconsistency is created whereby commercial harvesting and timber harvesting are synonymous.

14.15.06 Agriculture

p. 9 Column 4:

(iv) Provisions ~~for~~ requiring Forest Management Plans for those farms which harvest timber to ~~address~~ the harvesting practices requirements in COMAR 14.15.05 and COMAR 14.15.09.

conform with

As it now stands, the language says that "If FMPs are required, they must address the requirements of 05 and 09. To be consistent with the criteria as a whole, the FMPs will need to conform to the criteria when being developed on farms which harvest timber, just as anywhere else."

14.15.07 Surface Mining  
p.10 Column 2:

C. Each plan and program shall consist of all of the following:  
(1) An identification and mapping of the undeveloped land in the Critical Area that should be kept in its undeveloped state until the land can be used to provide or assist in providing a continuous supply of minerals pursuant to Article 66B, §3.05, Annotated Code of Maryland, as amended. Surface mining areas which include Habitat Protection Areas under COMAR 14.15.09 shall also be identified.

(a)(X)(v),

clarify to cite reference.

14.15.08 Natural Parks - nothing

14.15.09 Habitat Protection Areas

14.15.09.01 Buffer ...

C.  
(5) ~~The~~ Cutting or clearing of trees within the Buffer shall be prohibited except that:  
(a) Commercial harvesting of trees by selection or by the clearcutting of Loblolly Pine and Tulip Poplar may be permitted to within 50 feet of the landward edge of the Mean High Water Line of tidal waters and perennial tributary streams, or the edge of tidal wetlands, provided that this cutting does not occur in the Habitat Protection Areas described in COMAR 14.15.09.02, .03, .04, and .05 and that the cutting is conducted pursuant to the requirements of COMAR 14.15.05 and in conformance with a buffer management plan prepared by a registered, professional forester and approved by the Maryland Forest, Park and Wildlife Service. The plan shall be required for all commercial harvests within the Buffer, regardless of the size of the area to be cut, and shall contain the following minimum requirements:

Add:  
"The Buffer shall be managed to achieve or enhance the functions stated in SB(1)(5) above."

through

~~through~~ and The AELR Committee requested clarification of the ability to manage in the Buffer.

14.15.09 ~~Habitat Protection - nothing~~

14.15.10 Directives for Prog. Dev.  
p. 18 Column 1:

(12) Areas suitable for water dependent facilities, and

(13) Intensely Developed, Limited Development, and Resource Conservation Areas as defined in COMAR 14.15.02.

B. Any such mapping shall be at a scale that is relevant to local jurisdictions and of sufficient detail to assess the potential impacts of proposed land-use changes on the quality and quantity of local water resources and on local wildlife and plant habitats.

C. Each program submission shall list the specific local program objectives and an expected time schedule for implementation.

D. Local permitting and approval processes shall be coordinated so that cumulative impacts of regulated activities can be readily assessed. Local jurisdictions shall maintain records of the area of land that converts from Resource Conservation Area to Intensely Developed or Limited Development Areas and that converts from Limited Development Areas to Intensely Developed Areas.

E. The local program document shall, if applicable, include, but not be limited to:

(1) A forest and woodland protection program;

(2) A mineral resources plan;

(3) An agricultural protection plan; and

(4) A habitat protection area plan;

(5) A water-dependent facilities planning process for identifying suitable areas.

There is no requirement in Chptr. 3 for such an inventory or mapping.

14.15.11 Variances - nothing

A planning process is required in Chapter 3, and should be reflected here.

SECTION

CHANGE

★ = housekeeping

SOURCE

14.15.01 General Provisions

.01 Definitions.

(11) "Colonial nesting water birds" means herons, egrets, and terns. For purposes of nesting, these birds congregata (that is "colonize") in relatively few areas, at which time, the regional populations of these species are highly susceptible to local disturbances.

Add additional species, e.g. glossy ibis

considering what is worthwhile to include

Staff

(20) "Development" means any activity that materially affects the condition or use of dry land, land under water, or any structure.

Definition, although taken from the Act, is too broad. Needs to be re-written. Staff will combine with (21) "Development activities"

MD Farm Bureau, forestry interests

(26) "Exemplary Plant Community" means any communities of plants which are considered, by the Maryland Natural Heritage Program, to be among the best Statewide examples of their kind, and designated by regulation by the Secretary of the Department of Natural Resources.

This term has not been adopted by MNH. Staff to meet with Boone to resolve. Is there enough substance there?

Comments from the W-2 meeting

(27) "Forest" means a biological community dominated by trees and other woody plants covering a land area of 5 acres or more. This also includes forests that have been cut, but not cleared.

Reduce minimum size to 2 acres?

Sen. Winegrad and some local governments

(44) "Non-tidal wetlands" means those lands in the Critical Area where the water table is usually at or near the surface, or lands where the soil or substrate is covered by shallow water at some time during the growing season, and which are usually characterized by one or both of the following:

(a) At least periodically, the lands support predominantly hydrophytic vegetation; and/or

(b) The substrate is predominantly undrained hydric soils.

MAJOR ITEM

Definition needs to be tightened and made understandable to lay person

Staff agricultur

(28) "Forest Interior Dwelling Birds" means species of birds which require relatively large forested tracts in order to breed successfully (for example, various species of flycatchers, warblers, vireos, and woodpeckers).

Need to have reference for these species. Staff is developing.

Agriculture Staff

"K" value

No current definition. Will be added.

Staff

Also Tributary stream.

CHANGES PROPOSED IN THE CAC CRITERIA

SECTION

CHANGE

SOURCE

General Provisions, cont.

Insert "Port Facilities" between (47) and (48)

Need to distinguish between marinas. The current text does not define these facilities.

L. Nabb  
Dorchester Co.

Chapter 02  
Development in the  
Critical Area

.02 General Policies

A. In order to recognize already existing development patterns in the Critical Area, the Commission recognizes these three types of development areas:

- (1) Intensely Developed Areas;
- (2) Limited Development Areas; and
- (3) Resource Conservation Areas.

B. Within each jurisdiction, intense development should be directed outside the Critical Area. Future development activities, when proposed in the Critical Area, shall be directed towards the Intensely Developed Areas.

How can future development be directed to IDA's when they are already developed? Won't the effect of the criteria be to have new development in the LDA's?

Staff; eastern Shore planners.

This issue could be addressed if the criteria described gross IDA's where infill would be possible.

(3) Sludge handling, storage, and disposal facilities.

Should Exclude sewage treatment plants from definitions, and provide for agricultural and horticultural uses of sludge?

L. Nabb, agriculture

.03 Intensely Developed Areas.

A. Intensely Developed Areas are those areas where residential, commercial, and/or industrial land uses predominate, and where relatively little natural habitat occurs. These areas shall have at least one of the following features:

- (1) Housing density is greater than four dwelling units per acre;
- (2) Average lot width per house is 100 feet or less;
- (3) Average shoreline length per lot is 100 feet or less;
- (4) Public sewer and water collection and distribution systems are currently serving the area;
- (5) Industrial or commercial uses are concentrated in the area.

Questions have been raised over (2) and (3). Should they be used to define the IDA?

Local planning staffs.

Re: (4) should it read public sewer or water? Should water distribution be deleted and the presence of sewers be the only criterion?

MD. Home Builders, local officials.

Should we eliminate the average lot size?

Calvert Co.

CHANGES PROPOSED IN THE  
CAC CRITERIA

SECTION

CHANGE

SOURCE

Development in the Critical Area, cont.

(a) Designating an appropriate amount of area to be used for future additional intense development, which in all jurisdictions except Baltimore and Anne Arundel Counties and Baltimore City may be up to 100 percent of the amount of existing Intensely Developed Areas. For Anne Arundel and Baltimore Counties and Baltimore City, the amount of future additional Intensely Developed Area shall not exceed an amount determined by the Commission to be consistent with the goals of these criteria. The jurisdiction may choose to designate some part of the future Intensely Developed Area in a Limited Development Area not adjacent to the existing Intensely Developed Area; or

(b) Designating up to 5 percent of the total Limited Development Area in Regulation .04 of this chapter, as one or more Intensely Developed Areas, if:

(i) The Intensely Developed Areas do not exceed the larger of §C(6) (a) or (b), above; and in Baltimore City, Baltimore County and Anne Arundel County shall not exceed the lesser of the above,

Many suggestions have been made on expanding the IDA; resolving application of the criteria to Anne Arundel and Baltimore Counties and Balt. City; providing for greater development in the rural counties. Staff will summarize these proposals and analyze their projected effects on the criteria.

Hearings, rural counties, various interest groups.

(b) In the case of redevelopment if these technologies do not reduce pollutant loadings by at least 10 percent below the level of pollution on the site prior to redevelopment, then offsets shall be provided.

How shall redevelopment pollutant loadings be determined? In IDA, <sup>does</sup> ~~not~~ enough land exist for offsets off the site?

staff, others.

(c) In the case of new development, offsets as determined by the local jurisdiction shall be used to reduce pollutant loadings by at least 10 percent of the predevelopment levels.

same as above

(d) Offsets may be provided either on or off site, provided that water quality benefits are equivalent, that their benefits are obtained within the same watershed, and that the benefits can be determined through the use of modelling, monitoring, or other computation of mitigation measures.

Can offsets be made outside the Critical Area but within the same watershed?

builders, developers

CHANGES PROPOSED IN THE  
CAC CRITERIA

SECTION

CHANGE

SOURCE

Chapter 02 Development  
in the Critical Area, cont.

(5) Ports and industries which use water for transportation and derive economic benefits from shore access, shall be located near existing port facilities.

Ports need to be defined; the requirement for location near existing ports may hinder such developments on the Eastern Shore.

Shore planners

.04 Limited Development Areas.

A. Limited Development Areas are those areas which are currently developed in low or moderate intensity uses. They also contain areas of natural plant and animal habitats, and the quality of run-off from these areas has not been substantially altered or impaired. These areas have at least one of the following features:

(1) Housing density ranging from one unit per 5 acres up to and including four units per acre; or

Density range is too broad; Areas of 4 units per acre probably can't be developed further - maybe they should be in IDA?

planners, developers

(c) That no more than 20 percent of any forest or developed woodland may be removed from forest use, except as provided in § C(4), below. The remaining 80 percent shall be maintained through restrictive covenants or similar instruments.

(d) Developed woodland vegetation shall be conserved to the greatest extent practicable.

In some cases, replacement is not possible on site. Provisions for replacement alternatives in the following section .04.C.(5)(d) are not apparent to readers. Needs to be re-organized.

forestry, developers, horse-builders

(4) For replacement of forest and developed woodland, if more than 20 percent is removed from forest use, the following formula shall apply: A developer may clear or develop more forest than otherwise permitted to be disturbed, if the total forest area removed from forest use is not increased by more than 50 percent of the area permitted to be disturbed in § C(3)(c) above, provided that the afforested area shall consist of 1.5 times the total surface acreage of the disturbed forest or developed woodland area, or both.

Same as above

Same as above

(6) Development on slopes greater than 15 percent, as measured before development, shall be prohibited unless the project can be shown to increase the stability of the slope.

This may promote, rather than deter, steep slope development. Needs rewording

NRA

CHANGES PROPOSED IN THE CAC CRITERIA

SECTION

CHANGE

SOURCE

Chapter 02 Development in the Critical Area, cont.

(2) For stormwater run-off (COMAR 08.05.05):

(a) Limitation on Stormwater Run-off. Development may not cause downstream property, watercourses, channels, or conduits to receive stormwater run-off at a higher volume or rate than would have resulted from the same storm event were the land in its natural, undeveloped state.

(b) Storage Capacity. All stormwater storage facilities shall be designed with sufficient capacity to achieve water quality goals and to accommodate all run-off caused by the development in excess of that which would have come from the site if it had been left in its natural, undeveloped condition.

(c) Each development shall provide for the on-site or off-site detention or retention of excess stormwater, or provide infiltration measures that reduce run-off resulting from that development within the Limited Development Area.

(d) Stormwater management measures shall be consistent with the requirements of Natural Resources Article, § 8-11A-01 et. seq., Annotated Code of Maryland.

Use 10-year storm; reference pre-development state rather than undeveloped state.

WRA

Delete entirely. It is already in the existing law.

only Home Builders at the hearing have commented on this

Delete. It is already in the existing law.

.05 Resource Conservation Areas.

A. Resource Conservation Areas are those areas characterized by nature-dominated environments (that is, wetlands, forests, abandoned fields) and resource-utilization activities (that is, agriculture, forestry, aquaculture), and having at least one of the following features:

- (1) Density is less than one dwelling unit per 5 acres;
- (2) No public sewer or water system; or
- (3) Dominant land use is in agriculture, wetland, forest, barren land, surface water, or open space.

Areas designated as RCA because density is less than 1 du/5 acres may already be above the target density of 1 du/20 acres. How should this be handled?

change to "all"

RCA's are defined and based on presence of wetlands; later in 2.05 C (4), the density specified at 1 du/20 acres is not clear as to whether these wetlands are to be used in calculating overall density.

only Home Builders thru the hearings

.02.05 B(1) Term biological heritage is unclear.

Can be dropped or the term biological kept and ~~biological~~ dropped.

Staff

CHANGES PROPOSED IN THE  
CAC CRITERIA

SECTION

CHANGE

SOURCE

(4) Residential uses within the Resource Conservation Area may not exceed a density of one dwelling unit per 20 acres. Local jurisdictions are encouraged to consider such mechanisms as cluster development, transfer of development rights, maximum lot size provisions, and/or additional means to maintain the land area necessary to support the preferred uses.

Increase density to 3 du/acre with use of development BMP's.

Home Builders

This density is not high enough to provide an economic incentive to install shore erosion protection devices, especially bulkheads.

Home Builders,  
Eastern Shore  
legislators.

**Chapter 03  
Water Dependent  
Facilities**

**.01 Definition.**

A. "Water dependent facilities" means those structures or works associated with industrial, maritime, recreational, educational, or fisheries activities that require location at or near the shoreline within the Buffer specified in COMAR 14.15.09.

B. An activity is water-dependent if it cannot exist outside the Buffer and is dependent on the water by reason of the intrinsic nature of its operation. These activities include, but are not limited to, ports, water-use industries, marinas and other boat docking structures, public beaches and other public water-oriented recreation areas, and certain fisheries and aquaculture operations.

C. Excluded from this definition are individual private piers installed or maintained by riparian landowners, and which are not part of a subdivision which provides community piers (see .03.07D below).



Should include coal fired power plants as well as other power plants?

Acid rain Coalition

**.04 Local Plan Requirements for Water-Dependent Facilities.**

B. The plan shall specify a process which utilizes the following guidance in approving areas suitable for water-dependent activities:

(1) That the activities will not significantly alter existing water circulation patterns or salinity regimes; \*

(2) That the water body upon which these activities are proposed has adequate flushing characteristics at the site; \*

(3) That disturbance to wetlands, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized; \*

(4) That adverse impacts to water quality that may occur as a result of these activities, such as non-point source run-off, sewage discharge from land activities or vessels, or from boat cleaning and maintenance operations is minimized; \*

(5) That shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting; \*



The starred items are out of the jurisdiction's realm and capability of handling. There should be reference made as to where coordination can be made with the State.

Local government

Item

Change/Comment

⑧

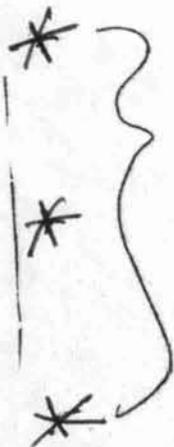
By Whom

Chpt 53 cont.

(6) That dredging shall be conducted in a manner, and using a method, which causes the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the Critical Area, generally;

(7) That dredged spoil, except for clean sand for beach nourishment, will not be placed within the Buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area; and

(8) That interference with the natural transport of sand will be minimized.



Out of the realm for local jurisdiction to handle. Include reference to the State. ✓

.10 Fisheries Activities.

A. Lands and water areas with high aquacultural potential should be identified by the local jurisdictions in cooperation with the State. These areas are encouraged for that use and if so used, should be protected from degradation by other types of land and water use or by adjacent land and water uses.

B. Commercial water-dependent fisheries facilities including structures for crab shedding, fish off-loading docks, shellfish culture operations, and shore-based facilities necessary for aquaculture operations, may be permitted in the Buffer, ~~subject to~~ the requirements of Regulation 03 ~~above~~.



Add language to encourage these in all 3 areas. ✓

Local govts.

MAJOR 1.5 slip RCA density

**Chapter 04  
Shore Erosion  
Protection Works**

**.01 Definition.**

A. "Shore erosion protection works" means those structures or measures constructed or installed to prevent or minimize erosion of the shoreline in the Critical Area.

B. The criteria below are not intended to apply to those structures necessarily associated with water-dependent facilities in COMAR 14.15.03.

**.02 Policies.**

In developing their Critical Area Programs, local jurisdictions shall follow these policies in regard to shore erosion protection works:

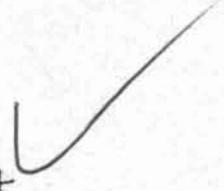
A. Encourage the protection of rapidly eroding portions of the shoreline in the Critical Area;

B. Encourage, where appropriate, the use of non-structural shore protection measures in order to conserve and protect plant, fish, and wildlife habitat; and

C. Discourage the use of ~~bulkheads or~~ other vertical erosion control structures, except where it can be shown that alternative methods would be ineffective or impractical in reducing or preventing shoreline erosion.



Re word so that it does not seem that bulkheads are being prohibited?



timber industry

# Chapter 05 Forest and Woodland Protection

## .01 Definition.

A. "Forests" means biological communities dominated by trees and other woody plants covering a land area of five or more acres.

Reduce 5 acres to 2 acres and eliminate the "developed woodlands"

Developers, Sen. Winograd planners.

Should this be done throughout the criteria?

B. "Developed woodlands" means those areas of 5000 square feet or more in size which predominantly contain trees and natural vegetation and which also include residential, commercial or industrial structures and uses.

## .02 Policies.

A. Maintain and increase the natural vegetation of the Critical Area;

should add language to reflect the need to maintain + increase "human-planted" vegetation?

staff

## .03 Criteria.

In developing their Critical Area Programs, local jurisdictions shall use the following criteria:

A. Local jurisdictions shall develop a Forest Preservation Plan as part of their Critical Area Program. These plans are to be developed in cooperation with the Maryland Forest, Park and Wildlife Service and other appropriate agencies, and submitted to the Commission for approval.

need language to reflect how follow-up on the plans will be made?

Local govts

B. Each Forest Preservation Plan shall consist of the following:

(1) Identification and mapping or otherwise designating forests and developed woodland occurring within the Critical Area;

Does not include areas that are periodically flooded, within the State wetlands line, below the tide. Need to determine what to do with this.

Local govts

(2) Identification of those forest areas and developed woodlands which include Habitat Protection Areas in COMAR 14.15.09; and

(3) Policies and programs to provide incentives for the conversion of other land uses to forested conditions.

C. Local policies and programs for tree cultural operations in the Critical Area shall adhere to all of the following:

Change "adhere to all of" to "include the following" because some jurisdictions do not have local policies for tree cultural operations.

Local govts

SECTION

CHANGES PROPOSED IN THE CAC CRITERIA

CHANGE

SOURCE

(1) The cutting of trees, where permitted within the Critical Area, shall be done according to an approved Forest Management Plan.



Move to 14.15.05.03.C(4).  
Make it a part of that sentence. As it now reads, it looks like all cutting, no matter what ~~area~~ extent or size will need a forest mgt. plan. The re-arrangement requires a plan for all cutting in the buffer which was the intent of this clause.

staff

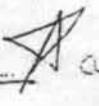
(2) A Forest Management Plan shall be required for all tree cultural operations of five contiguous acres or more in forests in the Critical Area. The Plans shall be reviewed and approved by the Maryland Forest, Park and Wildlife Service through the District Forestry Boards, and filed with an appropriate designated agency within their local jurisdiction. Plans shall identify whether the activities will disturb or affect Habitat Protection Areas as identified in COMAR 14.15.09, and incorporate protection measures for these areas as specified by the local jurisdictions ~~or the Commission.~~ *redundant*



Eliminate "or the Commission" as the local jurisdiction will be incorporating protection measures.

staff

(3) A Sediment Control Plan shall be required for all harvests in the Critical Area, including harvesting on agricultural lands. This plan shall be developed according to the State guidelines entitled: "Standard Erosion and Sediment Control Plan for Harvest Operations". The operations shall be implemented in accordance with specifications set out by the Maryland Forest Park and Wildlife Service.



add: "of 500 square feet ~~contiguous acres~~ or more in forests in the Critical Area. (Otherwise Plans are needed on every thing.)"

WRA

Need to reference enforcement of the Sediment Control Plans. By whom?

staff local government

CHANGES PROPOSED IN THE CAC CRITERIA

SECTION

CHANGE

SOURCE

(4) The cutting or clearing of trees within the 100-foot Buffer, as described in COMAR 14.15.09, shall be prohibited except that:

(a) Individual trees which are proximate to anadromous fish streams and in danger of falling may be removed to prevent the blockage of the streams;

(b) Trees may be cut or removed in accordance with the criteria for Water-Dependent Facilities in COMAR 14.15.03 and Shore Erosion Protection Measures in COMAR 14.15.04;

(c) Selection may be allowed where it can be shown that the water transpiration and the habitat value of the stand would be thereby enhanced; or

(d) Other cutting techniques may be undertaken within the Buffer and under the advice and guidance of the Departments of Agriculture and Natural Resources, if necessary to preserve the forest from extensive pest or disease infestation or threat from fire.



(COMAR 14.15.09) shall be conducted under an approved Forest Management Plan and shall occur for the following:

[ Provision for clear-cutting has been suggested for the buffer. The options are:

forestry interests

1) no clearcutting - keep as is.

2) provide for certain BMP's to allow clear-cutting but that the BMP's will conserve habitat and maintain water quality

3) allow for a loblolly pine exclusion only so that if clearing can be allowed in the buffer for loblolly

4) allow for a partial encroachment into the buffer say 50 feet for clear-cutting

Poplar trees?

Should staff work on the language for all options or only one?

CHANGES PROPOSED IN THE  
CAC CRITERIA

SECTION

CHANGE

SOURCE

Chapter 06  
Agriculture

.01 Definitions.

O.K. No comments

.02 Policies.

O.K. No comments

.03 Criteria.

(2) Each agricultural plan shall consist of the following:

(w) ←

Add to the list?  
A Forest Mgt. Plan  
be incorporated and  
included in a  
Soil Conservation and  
Water Quality Plan

Forestry  
interests  
Commission  
members

(6) Agricultural activities are permitted in the Buffer (COMAR 14.15.09) if as a minimum Best Management Practice, a 25-foot naturally vegetated filter strip, measured landward from the Mean High Water Line of tidal waters or the edge of tributary streams (excluding drainage ditches) or from the edge of tidal wetlands, whichever is further inland, is established, and further provided that:

(a) The 25-foot naturally vegetated filter strip shall be maintained until such time as the landowner is implementing, under an approved Soil Conservation and Water Quality Plan, a program of Best Management Practices for the specific purposes of improving water quality and protecting plant and wildlife habitat; and that the Soil Conservation and Water Quality Plan demonstrates that other measures can achieve the water quality and habitat protection objectives of the 25-foot filter strip;

(b) A required Best Management Practice in the Buffer shall be that the grazing, feeding, or watering of livestock may not be permitted within 25 feet of the Mean High Water Line of tidal water, and the edge of tributary streams, or from the edge of tidal wetlands, whichever is further inland;

← Suggested that the following options be considered:

- 1) eliminate this criterion
- 2) use Agr. cost sharing to pay for fencing costs
- 3) SCS is developing an alternative for consideration

Agric.  
interests

What are the Commission's preferences?

Agrie continued.

CHANGES PROPOSED IN THE CAC CRITERIA

SECTION

CHANGE

SOURCE

(c) Clearing of existing woodland or forest vegetation is not allowed; and

(d) Farming activities do not disturb stream banks, tidal shorelines, or areas of plant and wildlife habitat as described in COMAR 14.15.09.

B. In developing their Critical Area Programs, local jurisdictions shall refer to the following complementary State regulations: Pursuant to COMAR 15.05.01, applicators may not use, apply, or recommend use of a pesticide other than as specified by the product label unless allowed for under emergency use, or special local need as provided for by §§ 18 or 24C, respectively, of the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 135 et seq., as amended.

← definition of "non-tidal wetland" needs to be made more specific + understandable.

Sources and references for rare, threatened + endangered species, plants and wildlife interior birds etc. need to be placed in here.

Agrie. interests

Chapter 07 Surface Mining in the Critical Area

No comments

Chapter 08 Natural Parks

.01 Definition. A. "Natural parks" means areas of natural habitat that provide opportunities for those recreational activities that are compatible with the maintenance of natural conditions.



In certain E. Shore counties which already have vast acreages of parks or refuges, this requirement is unnecessary.

Local Gov. Linda Nabb

CHANGES PROPOSED IN THE  
CAC CRITERIA

SECTION

CHANGE

SOURCE

Chapter 09  
Habitat Protection  
Areas in the Critical  
Area

MAJOR

This definition was intended to define a Buffer as it presently exists. The criteria do not provide for its establishment; i.e. when land in agriculture is converted to residential, such a provision should be added. Is the Buffer required to be established on existing built lots? No, but criteria imply that alternative measures are needed and these are not spelled out.

General public, staff.

General public

.01 Buffer.

A. Definition

(1) "Buffer" means an existing, naturally vegetated area, or an area established or maintained to protect aquatic, wetlands, shoreline, and terrestrial environments from man-made disturbances.

Questions have been raised over the "naturally vegetated" requirement. Does this mean that the Buffer can't be "managed". Won't "junk species" eventually predominate?

Forestry interests and agriculture

MAJOR

C. Criteria. In developing their Critical Area Programs, local jurisdictions shall use all of the following criteria:

(1) Local jurisdictions shall establish a minimum 100-foot Buffer landward from the Mean High Water Line of tidal waters, tributary streams, and tidal wetlands. The Buffer is not required for agricultural drainage ditches if the adjacent agricultural land has in place Best Management Practices as required in COMAR 14.15.06.

(2) New development activities, including structures, roads, parking areas and other impervious surfaces, mining and related facilities, or septic systems, may not be permitted in the Buffer, except for those necessarily associated with water-dependent facilities, as set forth in COMAR 14.15.03.

Re: "Establish" - see above

Re: 100-foot - suggest 50 foot? Homebuilders propose 50 feet with use of BMP's on development.

Home Builders

→ If agricultural ditches are not subject to the Buffer, then such ditches in forested areas should also be excluded from this requirement. What is the Commission's thought on this?

Forestry interests

MAJOR

(3) Agricultural activities are permitted in the Buffer, if, as a minimum Best Management Practice, a 25-foot naturally vegetated filter strip measured landward from the Mean High Water Line of tidal waters or tributary streams (excluding drainage ditches), or from the edge of tidal wetlands, whichever is further inland, is established, and further provided that:

How should a naturally vegetated filter strip be managed? what about control of noxious weeds?

Agricultural interests.

Staff is trying to get management recommendations from S.C.S. on this point.

CHANGES PROPOSED IN THE  
CAC CRITERIA

16

hops, houses, other substitutes

SECTION

CHANGE

SOURCE

MAJOR

(b) The Best Management Practices shall include a requirement that the grazing, feeding, or watering of livestock, may not be permitted within 25 feet of the Mean High Water Line of tidal water and tributary streams, or from the edge of tidal wetlands, whichever is further inland;

Eliminate this requirement as it would put cattle farmers out of business.

Agricultural interests

Comment - U. of Maryland now working on a BMP for cattle grazing to recommend to the CAC. Other options include cost sharing to pay for fencing.

(4) The Buffer shall be maintained in natural vegetation, but may include planted vegetation where necessary to protect, stabilize, or enhance the shoreline.

Re: Natural vegetation - what does this mean?; can't the Buffer be managed for desirable species?

Forestry and agricultural interests

(5) The cutting or clearing of trees within the 100-foot Buffer shall be prohibited except that:

MAJOR

(a) Individual trees which are proximate to anadromous fish streams and in danger of falling, may be removed to prevent the blockage of the streams;

Clear cutting and selection for timber production purposes should be allowed with an approved Forest Management Plan.

Same

(b) Selection may be allowed where it can be shown that the water transpiration value and the habitat value of the stand would be thereby enhanced;

Comments: It may be possible to develop a specific Buffer Management Program as an element of the CAC Program. Staff is working on this.

(c) Cutting of trees or removal of natural vegetation may be permitted where necessary to install or construct a shore erosion protection device or measure, or a water-dependent facility, providing the device, measure, or facility has received all necessary State and federal permits; and

Can trees be cut to allow a homeowner to see the Bay or river?

Home owners, realtors and developers.

(d) Other cutting techniques may be undertaken within the Buffer and under the advice and guidance of the Departments of Agriculture and Natural Resources, if necessary to preserve the forest from extensive pest or disease infestation or threat from fire.

Comment: Staff ~~has~~ worked on this

CHANGES PROPOSED IN THE  
CAC CRITERIA

SECTION

CHANGE

SOURCE

.02 Non-Tidal Wetlands.

A. Definition. "Non-tidal wetlands" means those lands in the Critical Area where the water table is usually at or near the surface, or lands where the soil or substrate is covered by shallow water at some time during the growing season, and which are usually characterized by one or both of the following:

(a) At least periodically, the lands support predominantly hydrophytic vegetation;

(b) The substrate is predominantly undrained hydric soils.

(2) Excluded from these regulations are existing farm ponds and other existing man-made bodies of water whose purpose is to impound water for agriculture, water supply, recreation, or waterfowl habitat purposes.

→ Insert "non-tidal" here.

Definition needs clarification and simplification

MAJOR

D. Burke, DNR

Agriculture,  
General public

(a) Local programs shall identify non-tidal wetlands of importance to wildlife and water quality within the jurisdiction including:

(i) Non-tidal wetlands identified in the National Wetlands Survey as Palustrine Aquatic Bed, Palustrine Emergent, Palustrine Forested and Palustrine Scrub-shrub;

(ii) Other non-tidal wetlands, which may be found by site survey or other means to be hydrologically connected, through surface or subsurface flow, to streams, tidal wetlands, or tidal waters; and

(iii) Other non-tidal wetlands of special importance to fish, wildlife, or plant habitat as may be determined by the Maryland Natural Heritage Program, the Coastal Resources Division and the Maryland Forest, Park and Wildlife Service of the Department of Natural Resources, or other appropriate agencies.

Palustrine needs to be defined. Public

concept of degree of wetness needs to be added. Agriculture

→ This section may be redundant with (i) above. staff

→ Same as above.

Also, it has been suggested that only those wetlands of 1 acre or more should be addressed by criteria. Staff is evaluating this suggestion. Agriculture

CHANGES PROPOSED IN THE  
CAC CRITERIA

SECTION

CHANGE

SOURCE

(i) Maintain at least a 25-foot buffer around identified non-tidal wetlands where development activities or other activities which may disturb the wetlands or the wildlife contained therein, shall be prohibited unless it can be shown that these activities will not adversely affect the wetland.

*MAJOR*

Does this mean that these wetlands need to be fenced to keep cattle out?

Agriculture

(iii) If proposed development activities, agricultural operations, or other activities, as a result of their being water-dependent or of substantial economic benefit, shall cause unavoidable and necessary impacts to the wetlands, then a mitigation plan shall be prepared by the proposer of the activity. The plan shall specify mitigation measures that will provide water quality benefits and plant and wildlife habitat equivalent to the wetland destroyed or altered and shall be accomplished, to the extent possible, on-site or near the affected wetland.

*MAJOR*

These requirements are not consistent with those in the section on Agriculture (Chap. 02.02.C) where mitigation is only required for seasonally flooded or wetter wetlands. They are also not consistent with the proposed Agricultural Drainage Regulations where mitigation is required for all non-tidal wetlands.

Staff

(4) The determination of the existence and extent of non-tidal wetlands and the protection of these areas shall result from a cooperative effort between the local jurisdiction and public agencies or private organizations, but no designation of habitat and protective measures shall be accomplished unless the affected public is given an adequate opportunity to be heard at the local level. A local jurisdiction's public hearing on its proposed Critical Area Program may be used to satisfy this requirement, if full notice of the proposed habitat management program is included in the general notice of the hearing.

*★ Clarification*

State agencies should be responsible for these designations and for conducting the necessary hearings.

local planning officials.

.03 Rare, Threatened, and Endangered Species.

A. Definition.

(1) Rare species are those plants, fish, and wildlife whose continued existence as a part of the State's resources are in question. These species are designated by regulation by the Secretary of the Department of Natural Resources.

*MAJOR*

Currently there is no procedure for the Secretary of the DNR to designate rare <sup>plant</sup> species. If it is unlikely that such designations will be made, why include this section in the criteria?

DNR staff

Hearings

clarify the hearing process for existing designated species and those that may be designated in the future.

Local Gov.

CHANGES PROPOSED IN THE  
CAC CRITERIA

SECTION	CHANGE	SOURCE
<p>.04 Plant and Wildlife Habitat. A. Definition.</p> <p>(5) Protect Exemplary Plant Communities.</p>	<p>→ The Natural Heritage Program does not have such a designation at this time. staff will meet with MNHP to discuss.</p>	MNHP
<p>(2) Each Plant and Wildlife Habitat Protection Program shall consist of the following:</p> <p>(a) Identification of plant and wildlife habitat in the Critical Area including:</p> <p>(i) Colonial water bird nesting sites;</p> <p>(ii) Waterfowl staging and concentration areas in tidal waters, tributary streams, or tidal and non-tidal wetlands;</p> <p>(iii) Existing riparian forests (for example, those relatively mature forests of at least 300 feet in width which occur adjacent to streams, wetlands, or the Bay shoreline and which are documented breeding areas);</p> <p>(iv) Forested areas utilized as breeding areas by forest interior dwelling birds and other wildlife species (for example, relatively mature forested areas within the Critical Area of 100 acres or more, or forest connected with such areas);</p>	<p>→ Source materials and a list of the species involved should be provided. Also, management strategies for these habitats need to be clarified.</p>	Local Gov. Agriculture and forestry interests.
<p>(v) Require that, to the extent possible, corridors of existing forest or woodland vegetation be maintained to provide effective connections between wildlife habitat areas.</p>	<p>→ Is this the same corridor concept as provided for in the Limited Development Area criteria? Clarify.</p>	Local Gov.
<p>.05 Anadromous Fish Propagation Waters.</p>	<p>→ General comment: Are not most of the criteria already the responsibility of the state?</p>	Local Gov.



CHANGES PROPOSED IN THE  
CAC CRITERIA

SECTION

CHANGE

SOURCE

**Chapter 10  
General Implementa-  
tion Requirements for  
Local Program  
Development**

**.01 Criteria.**

In developing their Critical Area Pro-  
grams, local jurisdictions shall use the  
following general program criteria:

A. Each jurisdiction shall inventory or  
map or both, certain resources of its  
Critical Area. The inventory shall include  
the following resources (as defined in the  
appropriate foregoing chapters of this sub-  
title concerning specific criteria):

- (1) Agricultural lands;
- (2) Non-tidal wetlands;
- (3) Tidal wetlands;
- (4) Forest resources;
- (5) Sand and gravel resources;
- (6) Stream corridors;
- (7) Known rare, threatened, and en-  
dangered species habitats;
- (8) The watersheds of anadromous fish  
spawning streams;
- (9) Plant and wildlife habitats;
- (10) Steep slopes;
- (11) Soils with development constraints;
- (12) Areas suitable for water-dependent  
facilities;
- (13) Areas where topography prevents  
the direct or indirect flow of pollutants into  
tidal waters; and
- (14) Intensely Developed, Limited  
Development, and Resource Conservation  
Areas as defined in COMAR 14.15.02.

B. Any such mapping shall be at a scale  
that is relevant to local jurisdictions and  
of sufficient detail to assess the potential  
impacts of proposed land-use changes on  
the quality and quantity of local water  
resources and on local wildlife and plant  
habitats.

*if applicable  
language.*

*add reference to  
the State agencies  
who can help the  
local jurisdictions  
do this.*

*Local govt.*

*unclear, needs definition*

*Local govt.*

*a specific scale  
or scales should  
be recommended  
i.e., 1" = 200'  
1" = 600'*

*Local govt.*

CHANGES PROPOSED IN THE CAC CRITERIA

SECTION

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C. Each program submission shall list the specific local program objectives and an expected time schedule for implementation.

D. Local permitting and approval processes shall be coordinated so that cumulative impacts of regulated activities can be readily assessed.

E. The local program document shall, if applicable, include, but not be limited to:

- (1) A forest and woodland protection program;
- (2) A mineral resources plan;
- (3) An agricultural protection plan; and
- (4) A habitat protection area plan;

F. Jurisdictions shall review and revise local plans, programs, and regulations that are inconsistent with the intent of the policies and criteria in this subtitle. At a minimum, and if applicable, the review and revisions shall include:

- (1) Comprehensive or master plans;
- (2) Comprehensive water and sewer plans;
- (3) Comprehensive solid waste plans and any other health/environment-related plans and ordinances, for example, regulation for septic system placement;
- (4) Capital improvements programs and capital budgets;
- (5) Zoning ordinances and comprehensive zoning maps;
- (6) Subdivision regulations; and
- (7) Growth management ordinances, if applicable.

G. In each local program, the document shall include a statement of the local agencies involved, their responsibilities and their coordination with each other and appropriate State, Federal, or private organizations.

H. Local jurisdictions shall demonstrate that the local regulations and programs proposed to meet the criteria in this regulation are enforceable.

I. Capital program investments of local jurisdictions shall be consistent with Critical Area Commission policies and criteria.

clarify what is meant by this?

Local govts

Cross reference these back to the Chapter which is applicable

Local govts

re-word! so it does not look like the State is trying to control a local government's capital budget?

Local govts.

CHANGES PROPOSED IN THE CAC CRITERIA

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SOURCE

J. Each jurisdiction shall attempt to establish cooperative arrangements with adjacent jurisdictions and with State and Federal agencies concerning the policies and objectives for lands within and adjoining the jurisdiction's Critical Area.

K. Each jurisdiction is encouraged to extend the upland boundary of its Critical Area beyond the 1000 foot boundary prescribed by law. Local jurisdictions are encouraged to apply protection measures similar to those contained in their Critical Area Program to land disturbances beyond the Critical Area boundary in an effort to protect or enhance water quality and to conserve plant and animal habitats.

L. Local jurisdictions are encouraged to establish a program that provides tax benefits to landowners who wish to donate conservation easements, and consider other financial incentives as provided for in Maryland State law, and are encouraged to identify other appropriate protection measures which may include: acceptance of donations, acquisition of easements, or fee simple purchase. Funding mechanisms for this protection may include, but not be limited to, Federal and State programs, local bonding authority, or donations from private organizations.

M. Local jurisdictions are encouraged to establish an education program as a means by which landowners in the Critical Area may be informed of the intent of the law, the status of the local program, and sources of additional information and assistance.

N. Controls in a local program, beyond those required by other State programs or statutes, designed to prevent the flow of pollutants, need not be required on sites where the topography prevents run-off from either directly or indirectly entering the tidal waters.

O. The establishment of buffer areas around sites of special significance (that is, Habitat Protection Areas) is not intended

← Eliminate Not needed

Local govt.

← keep this as a Commission effort?

Local govt.

~~A~~ reference to the appropriate chapter

Local govt.

CHANGES PROPOSED IN THE CAC CRITERIA

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SOURCE

to restrict or affect, beyond any existing local, State, or Federal laws or regulations or on private land, any private restrictions, such activities as non-commercial passive recreation (for example, hiking and nature photography), educational pursuits, scientific observation, or hunting, trapping, or fishing.

Need to add in a waiver provision that allows local governments to take care of special cases and to give them flexibility with their programs?

local governments  
CRAC

P. Local jurisdictions shall provide for the grandfathering of development at the time the program is adopted or approved by the Commission, but, at a minimum, the following specific findings must be made by the local government for all development that could be grandfathered under such a local provision:

← the grandfathering needs to include wording in addition to the two points below to explain how the Commission will deal with old lots of record or other stages of development / pre-development

- (1) The proposed development will minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run-off from surrounding lands; and
- (2) The applicant has identified fish, wildlife, and plant habitat which may be adversely affected by the proposed development so as to protect those identified habitats whose loss would substantially diminish the continued ability of populations of affected species to sustain themselves.

e.g. Local governments shall be encouraged to provide appropriate grandfather provisions to legally buildable lots of record provided that wherever possible, these lots shall be required at a minimum to meet the provisions of the interim regulations.

CRAC  
Local govts

Grandfathering provisions shall also be created to provide for an orderly transition of subdivision and zoning submittals which are being processed when the local programs are adopted.

\* Overall - Need to organize that a jurisdiction can take to organize its program? Need to add a requirement for monitoring and enforcement?

Agri. } buffer cutting  
          } agric. -  
Pl + Wl. - listinep  
Forestry - N. tidal  
W. d. ✓ - Charlie  
S. e. - me  
          - me