

Committee Meetings & Correspondence August 1987

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JUDGE SOLOMON LISS  
CHAIRMAN

STATE OF MARYLAND  
**CHESAPEAKE BAY CRITICAL AREAS COMMISSION**  
DEPARTMENT OF NATURAL RESOURCES  
TAWES STATE OFFICE BUILDING, D-4  
ANNAPOLIS, MARYLAND 21401  
301-269-2418 or 269-2426

SARAH J. TAYLOR, PhD  
EXECUTIVE DIRECTOR

COMMISSIONERS

July 21, 1987

- William Bostian  
Wicomico Co.
- Ann Sturgis Coates  
Town of Snow Hill
- Clarence Du Burns  
Baltimore City
- James E. Gutman  
Anne Arundel Co.
- Parris Glendening  
Prince George's Co.
- Ronald Hickernell  
Baltimore Co.
- Shepard Krech, Jr.  
Talbot Co.
- Florence Beck Kurdle  
Anne Arundel Co.
- Thomas L. Jarvis  
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- John Luthy, Jr.  
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- Robert S. Lynch  
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- Barbara W. O'Neill  
Cecil Co.
- Robert R. Price, Jr.  
Queen Anne's Co.
- J. Frank Raley, Jr.  
St. Mary's Co.
- Harry T. Utine  
Charles Co.
- Samuel E. Turner, Sr.  
Talbot Co.
- Lloyd S. Tyler, III  
City of Crisfield
- Mary Faye Walkup  
Kent Co.
- Albert W. Zahniser  
Calvert Co.

Dear Commission Member:

The August meeting of the Chesapeake Bay Critical Area Commission is scheduled for the 5th at the Department of Agriculture, 50 Harry S. Truman Parkway, Annapolis, from 4:00 - 6:00 p.m. The minutes of the July 1st meeting are enclosed.

An important item for discussion and decision at this meeting will be the policy to be adopted by the Commission in dealing with those local Programs which have not been submitted by the August 6th deadline. There will undoubtedly be several suggestions proposed, and the staff will need your guidance and authorization in dealing with this difficult issue.

There are a number of other issues to be discussed at the August meeting, and we sincerely urge your attendance.

I look forward to seeing you on the 6th.

Sincerely,

*Solomon Liss*  
Solomon Liss  
Chairman

CABINET MEMBERS

- Torrey C. Brown, M.D.  
Natural Resources
- Wayne A. Cawley, Jr.  
Agriculture
- William Eichbaum  
Health and Mental Hygiene
- Ardath Cade  
Economic and Community Development
- Constance Lieder  
Planning

SL/jjd

Enclosures

AGENDA

CHESAPEAKE BAY CRITICAL AREA COMMISSION

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

August 5, 1987

4:00 - 6:00 p.m.

1. Approval of the Minutes of July 1, 1987  
Solomon Liss  
Chairman
2. Presentation and Discussion of "A Guide to the Conservation and Management of Forest Resources in the Critical Area - Guidance Paper #4". (To Be Distributed at the Meeting).  
Dr. Kevin Sullivan
3. Status of Local Program Submittals  
Dr. Sarah Taylor
4. Formulation of Policy Regarding Late Local Program Submittals  
Solomon Liss  
Chairman
5. Process for Program Review  
Dr. Sarah Taylor
6. Old Business  
*Regulations.*
  - a) Workshop on Supreme Court Decisions Co-Sponsored by Department of State Planning/Attorney General's Office/Critical Area Commission  
Secretary Lieder
  - b) Appointment of Panels for:  
Baltimore County  
Prince George's County  
Betterton  
Easton  
Greensboro  
Millington  
Oxford  
*Kent Co.*  
Solomon Liss  
Chairman
7. New Business  
Solomon Liss  
Chairman
  - a) Response to Local Jurisdictions Who Notify the Commission of Late Submittal - St. Michael's Letter, Talbot Co. Letter, Calvert Co. Letter  
~~Howard Co. Letter~~
  - b) *Federalsburg Status*  
*Chestertown Status*  
Charles Davis
8. Next Commission Meeting

*Closed Session*

*c) 1987 Interim Sub-Committee Envtl. Matters*

*d) MCRM 8/11 p-1-5, 8/12 10-1, 8/25 1-5, 8/26 10-1*

CHESAPEAKE BAY CRITICAL AREA COMMISSION

Minutes of Meeting Held  
July 1, 1987

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

Ronald Adkins	Samuel E. Turner, Sr.
Victor Butanis	G. Steele Phillips
Ronald Hickernell	Samuel Bowling
Robert Price, Jr.	Thomas Jarvis
Albert W. Zahniser	Kathryn Langner
William Bostian	James Gütman
Thomas Osborne	Asst. Secretary Cade
Ronald Karasic for Judge Brown	Louise Lawrence for Secretary Cawley
Secretary Lieder	Secretary Brown

The minutes of June 3rd meeting were approved as written.

Under Old Business

Dr. Sullivan was asked to complete the presentation and draft of proposed changes in the publication of the State Regulations. He said that Maryland Port Authority and the City of Baltimore are presently working on a Memorandum of Understanding regulating development on MPA sites, pursuant to the proposed Baltimore City Critical Area Program. A motion to accept the proposed changes in the Regulations to be submitted to the Maryland Register was made and seconded, and all were in favor.

Ms. Watson was then asked to give a status report on the proposed regulations governing the Classes of Applications for Project Approval of which the Commission wishes to receive notice. Ms. Watson said that the regulations were to be published in the July 16th edition of the Maryland Register, and that AELR Chairman Delegate Larry Young may want to hold a hearing after their publication and receipt of any comments in response to the publication.

Under New Business

Mr. Epstein was asked to clarify the Supreme Court's decision regarding the recent 1st Evangelical Church case. He said that the Supreme Court's decision would not, in itself, adversely affect the Commission's Critical Area Program. That case only provided that if a "taking" is found, the remedy of money damages may be available, but it didn't change the strict standard for measuring whether there has been a taking.

Mr. Adkins asked if the Habitat Areas might be a possibility for leading to a law suit. Mr. Epstein answered that unless a particular local program created a "taking" in an individual situation--which was the case before, as well as after, 1st Evangelical Church--that case would not provide any new basis for a lawsuit. He noted that the Commission tried to prevent takings by providing for flexible local habitat protection programs that do not prevent all reasonable use, and by providing for such things as TDRs, grandfathering, and variances.

Secretary Lieder reported that State Planning would like to hold workshops and regional meetings to help allay and answer concerns regarding the several recent Supreme Court cases. State Planning might well do so in cooperation with the Attorney General and the Commission.

Chairman Liss then asked Dr. Taylor to give a report of the local program submittal status. Dr. Taylor said that approximately half of the municipalities and Prince George's, Calvert, Baltimore, Harford, Cecil, Kent, Caroline, Queen Anne's, and Dorchester Counties, and Baltimore City should be submitting their programs on time. In September or October, St. Mary's, Charles, Anne Arundel, Talbot, Somerset, Wicomico, Worcester Counties, and the remainder of the municipalities would be submitting their programs to the Commission.

Chairman Liss said that there may be some groups who want to take the Commission to court to require that the jurisdictions maintain the August 6th deadline. The statute is clear with regard to that date, but he asked whether the Commission should take over local Programs if the Commission finds that the jurisdictions are acting in good faith and will be submitting shortly thereafter?

Assistant Secretary Eichbaum agreed that the Commission should give the jurisdictions more time to develop their Programs, but that the Commission needs a finding from the Commission staff that the jurisdictions are acting in good faith.

Mr. Gutman asked if there were some type of submission that could be given to the Commission from these jurisdictions by the due date?

Chairman Liss answered that it would not be helpful for them to submit to the Commission something that was incomplete.

Mr. Price asked if the Commission staff is monitoring the consultants through the jurisdictions, or directly?

Critical Area Commission  
Minutes - 7/1/87  
Page Three

Dr. Taylor answered that the monitoring is done both through the consultants and the jurisdictions themselves, and that the staff receives quarterly reports.

Chairman Liss said that a status report of jurisdiction submittals will be made available to the Commission by the August 5th meeting, and the Commission will then decide what action, if any, should be taken in the cases where the Programs have not been submitted by August 6th. He then introduced correspondence from Baltimore County Executive Dennis Rasmussen. Mr. Hickernell explained the status of Baltimore County's Critical Area Program.

Chairman Liss explained how he wanted to reply to Baltimore County, and there was no objection from the Commission.

Mr. Eichbuam said that July 1 marks the first day of operation of the new Department of the Environment, and that the new Department will be run, in the interim, by Health Secretary Adele Wilzack.

There being no further business, the meeting was adjourned.

PROGRAM ELEMENTS- WHAT IS A CRITICAL AREA PROGRAM REQUIRED TO CONTAIN WHEN IT IS SUBMITTED?

Content will be based upon Section 8-1808 of the Critical Area Law - the minimum elements - and the criteria particularly, 14.15.10 and 11.

MUST HAVE:

1. map designating critical area;
2. comprehensive zoning map for critical area;
3. new or amended provisions of jurisdictions' subdivision regulations, comprehensive or master plan, zoning ordinances or regulations, enforcement provisions, grandfathering provisions as applicable;
4. an inventory or map or both as appropriate for agricultural lands, non-tidal wetlands, tidal wetlands, forest resources, sand and gravel resources, tributary streams, threatened and endangered species and species in need of conservation that are known of, anadromous fish spawning streams, plant and wildlife habitat, soils with development constraints, steep slopes, the delineation of IDA, LDA and RCA lands;
5. maps at a scale relevant to the local jurisdiction for which impacts and changes in land use can be easily followed;
6. objectives and time schedule to implement the program; including statements as to the coordination of local permitting and approval agencies and their processes and how they will assess cumulative impacts;
7. recordation of land conversions RCA to IDA or LDA and LDA to IDA as of December 1, 1985;
8. protection plans as necessary for forests and woodlands, mineral resources, agriculture, habitat, and a water dependent facilities planning process;
9. documentation of local agencies involved, their responsibilities and their coordination with each other and appropriate State, federal and private organizations;
10. demonstration that the local government can enforce the program ( regulations, organization);
11. variance provisions

OTHER MUST HAVES WHICH IF THE CRITERIA ARE FOLLOWED WILL NATURALLY BE MET:

1. statement that project approvals are based on the interim findings ( goals of the Law);
2. provisions limiting the amount of land covered by buildings, roads, parking lots, impervious surfaces, and encouraging cluster development;
3. establishment of buffer areas where agriculture can be permitted if BMPs are used;
4. minimum set-back requirements for structures and septic fields;
5. designation of shoreline areas if any that are suitable for parks, hiking, biking, wildlife refuges, scenic drives, public access, water-related recreation such as boat slips, piers and beaches;
6. designation of shoreline areas, if any suitable for ports, marinas, and industries that use water for transportation or get economic benefit from access;

7. all harvesting of timber to be in accord with management plans approved by district forestry boards;

8. topography and runoff situations that do not contribute directly or indirectly to the ww pollution of the water

REVIEW PROCEDURES FOR LOCAL  
PROGRAM SUBMITTALS

(Distributed at August 5, 1987 Commission Meeting)

A. IN GENERAL

1. As of August 10, 1987, the Commission staff will be meeting twice a week, first to review local programs for completeness and second, for content.
2. As of September, the Commission will need to meet 2 times a month to review and to approve or disapprove local programs. These meetings may be all-day sessions.
3. The Judge will appoint the panels at the Commission meetings. It is imperative that Commissioners who agree to serve on a panel, attend the specific hearing to which they have been assigned. Any Commissioner may attend any additional hearing if they choose.
4. Staff people reviewing the programs and working with the Commission panels will be: Carolyn Watson, Marcus Pollock, Charles Davis and Ed Phillips. Two additional "overflow" people will be Kevin Sullivan and Sarah Taylor. The reason for the additional staff is to prevent any one person from having to review more than 5 local programs at once. Lee Epstein will review the implementation (ordinances, codes, etc.) portion of the Programs. Eran Feitelson will review economic instruments in the Programs as needed.

B. THE PROCESS

1. Once submitted, a local Program will be reviewed for completeness, that is, according to the minimum elements stated in Section 8-1808 of the Law and according to 14.15.10 Directives for Local Program Development of the criteria. This review will take no more than 3 days for a municipality and 4 days for a county.
2. If the Program is not complete, a letter will be sent to the local jurisdiction stating that fact, as well as what is needed to make the Program complete. The 90-day period will not start for submittals in this category until the Program is resubmitted and is determined to be complete.
3. If the Program is complete, a letter will be sent to the local jurisdiction stating that fact and outlining the process that will occur for the 90-day time period. The process is as follows:

- a) within 30 days of the date of the letter mentioned in "B 3" above, a public hearing will be scheduled in the affected jurisdiction. Jennifer will make all of the arrangements and will maintain a schedule of these hearings.
- b) 1-1½ weeks prior to the hearing, the panel will be sent the local Program for review by one of the people mentioned in "A 4" above. That person will also arrange a field trip for the panel members during the afternoon of the public hearing if that is desired. That person will work with the panel to assist them in developing their comments and position(s), to arrange for future meetings, and to arrange for meetings with the local jurisdiction as needed. All panel questions and questions of Commission members with respect to the Program, are to be handled only by the staff person responsible to the panel. This will provide for consistency of response and reduce confusion.
- c) the Departments will each be sent a copy of the Program for review prior to the public hearing. A 30-day review and reply time will be adhered to for departmental comments. Sarah Taylor will coordinate that review.



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CHAIRMAN

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Calvert Co.

July 21, 1987

The Honorable Richard E. Brown  
Commission President  
P O Box 206  
St. Michaels, Maryland 21663-0206

Dear President Brown:

This will acknowledge the receipt of your letter dated July 13, 1987, in which you inform the Commission that you have completed the Critical Area Program for the municipality of St. Michaels. You advise us that since the Program is scheduled for public hearing during the first week of August, you will not be able to meet the August 6th deadline.

You have also indicated that as a result of the initial hearing, it may be necessary to hold another public hearing to address modifications to accommodate appropriate input. This, of course, would only be necessary if some substantial changes were required.

While we appreciate your notifying us in advance of your inability to meet the August 6th deadline, we sincerely believe an extension to October 1st is not warranted. We point out that the staff is required to check your Program as submitted for sufficiency and appropriateness, and to arrange for the Commission's public hearing on approval. We propose to submit the Program to the Commission for its final approval no

CABINET MEMBERS

- Torrey C. Brown, M.D.  
Natural Resources
- Wayne A. Cawley, Jr.  
Agriculture
- William Eichbaum  
Health and Mental Hygiene
- Ardath Cade  
Economic and Community Development
- Constance Lieder  
Planning

President Brown  
July 21, 1987  
Page Two

later than at the November meeting of the Commission. Under the circumstances, we cannot approve the submission of the St. Michaels's Program beyond September 15th, 1987.

If either Chairman Liss, staff supervisor Charles Davis, or I can be of assistance to you as you proceed with the approval of your Program at the local level, please do not hesitate to let us know.

Sincerely,

Sarah J. Taylor, Ph.D.  
Executive Director

SJT/jjd

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# The Commissioners of Saint Michaels

P. O. BOX 206

ST. MICHAELS, MARYLAND 21663-0206

SETTLED 1670-80  
INCORPORATED 1804

745-9535

July 13, 1987

Dr. Sarah Taylor, Executive Director  
Chesapeake Bay Critical Areas Commission  
Department of Natural Resources  
Tawes State Office Building, D-4  
Annapolis, Md 21401

Dear Dr. Taylor:

The municipality of St. Michaels with its consultant, a land use planning company, has concerned itself with development of a Critical Area Local Program. At this time we have in hand an essentially complete program, which will be presented to our citizens in a public hearing during the first week in August. Following that hearing it will be necessary to modify the plan to accommodate appropriate inputs and to formally adopt the plan. I anticipate that a Critical Area Local Program for St. Michaels will be adopted and forwarded to you for consideration of the Critical Area Commission on or before October 1st. I trust that this slippage in the deadline for submission of municipal programs can be accommodated.

Very truly yours,



Richard E. Brown  
President

REB/jrw  
cc- Redman/Johnston Associates



JUDGE SOLOMON LISS  
CHAIRMAN

STATE OF MARYLAND  
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August 4, 1987

The Honorable John M. Gott, Sr.  
Board of County Commissioners  
Courthouse  
Prince Frederick, Maryland 20678

Dear President Gott and Calvert County Commissioners:

This is to acknowledge receipt of your letter dated July 14, 1987, in which you advise us of your inability to comply with the August 6th deadline for the submission of your Critical Area Program.

We submitted your correspondence to the Commission, and after full discussion, the Executive Director, Dr. Sarah Taylor, and I were instructed to investigate the several issues raised by your letter. After full discussion, Dr. Taylor and I are authorized to take whatever action is necessary to assure prompt submission of the local Program and to report to the Commission at its next meeting for ratification of the actions taken. It was suggested that a meeting be arranged for a thorough discussion of the problems, if any, which exist, and at which an understanding as to a final date for submission may be agreed upon.

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Planning

President Gott  
August 4, 1987  
Page Two

We suggest that the meeting should include Dr. Taylor and I, your County Commissioners, the County Attorney, other County staff as you deem appropriate, our Regional Planner, and the Assistant Attorney General assigned to the Commission.

We are ready to meet with you at your convenience, and await your suggestion for appropriate dates. Please be assured of our willingness to cooperate and assist in any manner possible.

Sincerely,

Solomon Liss  
Chairman

SL/jjd



CALVERT COUNTY  
BOARD OF COUNTY COMMISSIONERS

Courthouse  
Prince Frederick, Maryland 20678  
(301) 535-2160 / 855-1243 (DC)

July 14, 1987

*Carolyn*

*Board of Commissioners*  
William T. Bowen  
Mark R. Frazer, D.D.S.  
John M. Gott, Sr.  
Barbara A. Stinnett  
Joyce L. Terhes

The Honorable Solomon Liss, Chairman  
Chesapeake Bay Critical Areas Commission  
Department of Natural Resources  
Tawes State Office Building  
Annapolis, MD 21401

Dear Judge Liss:

Although Calvert County has made substantial progress on its Critical Area Program, we are not going to be able to meet the August 6, 1987 deadline set by the Critical Areas Law.

Our staff working draft has been reviewed in-house by the Environmental Commission and the Planning Commission and has been discussed with the County Attorney. The maps are 90% complete.

The in-house review turned up a number of problems:

- 1) The first and the most crucial problem is the legal one. We have been advised by our County Attorney that if it were adopted as written, the County would be exposed to considerable liability, especially in view of the recent Supreme Court decision.
- 2) There are several policy issues raised in the draft which must be resolved before the draft goes to public hearing.
- 3) It was felt that the draft, as written, would be difficult for the public to understand.
- 4) Most of the public has accepted the Critical Areas legislation and is prepared for local regulations to be adopted implementing the legislation. Some of the things proposed in the plan may create a ground swell of opposition to the plan at the State level.

The Honorable Solomon Liss, Chairman  
July 14, 1987  
Page Two

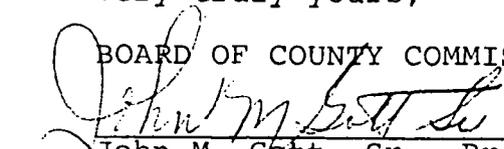
This plan represents probably the most far reaching land use controls since zoning was adopted in 1967. For this reason the County needs to be extremely careful about what it does. We need more time to resolve all the problems with the plan.

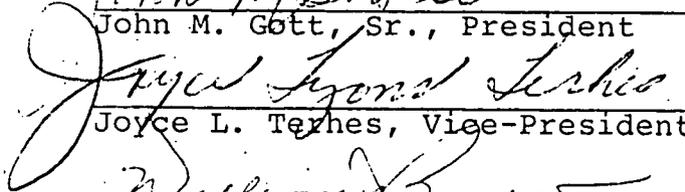
We would like very much to have the plan ready by the August 6, 1987 deadline but, realistically, there is no way that we can do it. The net effect of a delay will not be too serious because of the moratorium. The moratorium expires the end of August. We plan to hold a public hearing on extending the moratorium and on the rewritten plan before the end of August.

We regret the necessity of postponing the submittal of our plan but feel that the benefits derived far outweigh the consequences of submitting a plan that still has such serious potential legal problems.

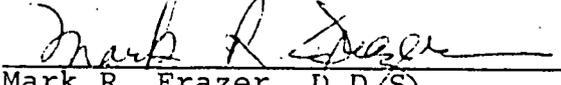
Very truly yours,

BOARD OF COUNTY COMMISSIONERS

  
John M. Gott, Sr., President

  
Joyce L. Terhes, Vice-President

  
William T. Bowen

  
Mark R. Frazer, D.D(S)

  
Barbara A. Stinnett



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August 4, 1987

Mr. Daniel R. Cowee  
Planning Officer  
Talbot County Planning Office  
Court House  
Easton, Maryland 21601

Dear Mr. Cowee

Mr. Charles Davis has referred your letter on July 7, 1987, to me for reply, particularly with respect to the request for an extension to the deadline as November 1, 1987 for the County to submit its local Program.

As you are aware, the deadlines for Program development were established by the Legislature as part of the Critical Area Law. The initial deadline was in February 1987, with an extension provided for August 1987. The Law did not, however, give the Critical Area Commission the authority to extend the August deadline. While I anticipate that the Commission will establish a policy that will provide for additional submittal time, I can assure you that there will probably be an unwillingness on the part of the Commission to extend the submittal time into November. Therefore, I suggest that you speak with your consultants, Wiles Dailey Kane and Associates, and request that they submit the first draft of the Critical Area Program by no later than October 1, 1987. With that date in mind, the Commission could

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Daniel Cowee  
August 4, 1987  
Page Two

expect to receive the local Program at its November meeting for its consideration and possibly its approval.

In your letter, you raised a second point, that of people being under the impression that as soon as the County submits its Program, then people are bound by the 100-foot setback and all other provisions of the Program. To respond, the elements of the Talbot County's Program become effective only after Talbot County officially adopts the specific elements of the proposed Program after it has been approved by the Critical Area Commission. Section 8-1809(e) of the Law explains the procedure that the County will need to follow in order to implement the Program.

We call your attention to the fact that in "grandfathering" situations, the interim provisions of the Law apply even before the local Program has been adopted and persons seeking to qualify under the Program must comply with the criteria "insofar as possible".

I hope that this addresses your concerns. Please do not hesitate to contact me if you have additional questions.

Sincerely,

Solomon Liss,  
Chairman

SL/jjd

cc: Charles Davis



TALBOT COUNTY PLANNING OFFICE

COURT HOUSE

EASTON, MARYLAND 21601

PHONE 301-822-2030

DEBORAH A. BAUER  
Planning Director

R. ANDREW HOLLIS  
Assistant Planning Director

July 7, 1987

Charlie Davis  
Chesapeake Bay Critical Areas Commission  
Department of Natural Resources  
Tawes State Office Building D-4  
Annapolis Maryland 21401

RE: Critical Area Program  
Deadline

Dear Charlie:

As you know Talbot County has recently received a six month extension for fiscal year 1986/87 with respect to spending the critical area funds. You may also be aware that because of unforeseen delays as a result of this office being understaffed and all the problems associated with that situation, we are not going to be able to meet the August 6, 1987 critical areas deadline for submittal of Talbot County's Critical Area Program.

I have discussed this situation with Joe Mensch from Wiles Dailey Kane and Associates and it appears that November 1, 1987 will be the new date that we will receive the first draft of the critical area program. I am not particularly elated over the new date but at this point I believe our hands are tied. We are striving for a quality product and in this case if it takes a little longer then I think it's worth the wait, therefore Talbot County is requesting an extension to November 1, 1987 for submission of our critical area program. I believe that there is ample time for both the Critical Area Commission and the County governing body to review the program and hold regional public hearings and still have the program under way within the 760 day period.

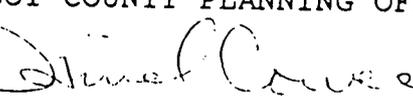
In light of this change one question has come up that you may be of some help in answering.

Everyone seems to be under the impression that as soon as we submit our program to the Critical Area Commission, then we are bound by the 100 foot setback and all other provisions of the program. I am assuming, unless this state operates differently, that none of the new rules become effective until public hearings are held by the Commission and the local governing body at which time the program (rules and regulations) become effective. Are you promulgating retroactive administration of the programs and if so, is it legal under the Maryland Code?

If you have any questions please call me.

Sincerely,

TALBOT COUNTY PLANNING OFFICE

  
Daniel R. Cowee  
Planning Officer

DRC/jc  
c.c. Blenda Armistead  
County Manager

**.02 Complaint Filing Procedure.**

A. — C. (text unchanged)

D. All complaints and grievances of inmates confined in any institution within the Division of Correction or the Patuxent Institution, except appeals from the Inmate Administrative Remedy Procedure to the Commission, shall be filed in accordance with this regulation within 1 year from the date of occurrence being grieved or within 1 year after the grievant knew of or should have known of the occurrence. This time limitation may be waived for a grievance which represents a continuing problem. Appeals from the Inmate Administrative Remedy Procedure to the Commission shall be filed within 30 days from the inmate's receipt of a response from the Commissioner of Correction, or *within 30 days of the date the Commissioner of Correction's response was due.*

BISHOP L. ROBINSON  
Secretary of Public Safety and Correctional Services

## Title 14 INDEPENDENT AGENCIES

### Subtitle 01 STATE LOTTERY AGENCY

#### 14.01.03 Types of Lottery Games

Authority: State Government Article, Title 9, Subtitle 1,  
Annotated Code of Maryland

##### Notice of Proposed Action

[87-221-P]

The Director of the State Lottery Agency, in conjunction with and with the approval of the State Lottery Commission, proposes to amend Regulation .03 under COMAR 14.01.03 Types of Lottery Games.

The purpose of this action is to allow the Director to use unclaimed prize monies to fund bonus prizes in Instant games. This addition would bring Instant games in line with already existing regulations allowing these "Bonus" prizes in the Pick 3, Pick 4, and Lotto games. The unclaimed prize fund must be returned to Lottery players according to State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland.

##### Estimate of Economic Impact

I. Summary of Economic Impact. The only economic impact would be to the Lottery's unclaimed prize fund.

II. Types of Economic Impacts.	Revenues (+) Expenses (-)	Magnitude
A. On issuing agency:	NONE	
B. On other State or local agencies affected:		
	Benefit (+) Cost (-)	Magnitude
C. On regulated industries or trade groups:	NONE	
D. On other industries or trade groups affected:	NONE	
E. Direct and indirect effects on public:	(+)	Indeterminate

III. Assumptions. (Identified by Impact Letter and Number from Section II):

E. Unclaimed prize money will revert to public in form of Bonuses.

#### Opportunity for Public Comment

Comments, suggestions, or objections should be submitted in writing to William F. Rochford, Director, Maryland State Lottery Agency, Plaza Office Center, Suite 204, 6776 Reisterstown Road, Baltimore, Maryland 21215, postmarked not later than September 1, 1987.

Any member of the public who wishes to express opinions on the proposed action verbally may do so on September 1, 1987 at 10 a.m. in the Director's Office, State Lottery Agency, Plaza Office Center, Suite 204, 6776 Reisterstown Road, Baltimore, Maryland 21215. Any hearing impaired person may request an interpreter to be present at the hearing by giving 5 working days' notice to the Director's Office.

For additional information or copies of the proposal, please contact William F. Rochford, Director, State Lottery Agency, at the above address.

#### .03 Instant Lottery Game.

A. — D. (text unchanged)

E. Bonus Prizes. The Director may institute bonus prizes using funds from the unclaimed prize fund of the Lottery. Bonus prizes are at the discretion of the Director without prior approval through the Administrative Procedure Act.

WILLIAM F. ROCHFORD  
Director  
State Lottery Agency

### Subtitle 20 CHESAPEAKE BAY CRITICAL AREA COMMISSION

#### 14.20.01 Applications for Project Approval

Authority: Natural Resources Article, §8-1811,  
Annotated Code of Maryland

##### Notice of Proposed Action

[87-216-P]

The Chesapeake Bay Critical Area Commission proposes to adopt new Regulations .01 — .04 under a new chapter, COMAR 14.20.01 Applications for Project Approval.

Section 8-1811 of the Critical Area Law requires the Commission to establish regulations identifying those classes of applications for local project approval of which it wishes to receive notification. The following are the proposed Commission regulations governing the standards for the selection of those projects which the Commission will want to review once the local Critical Area Programs have been approved. These regulations apply to applications for project approval on privately-owned lands within the Critical Area, and are expected to become effective on or before October 1, 1987.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.**

These regulations will benefit the State by affording the Commission a way in which to oversee local program implementation. They will also provide a mechanism to keep the Chairman of the Commission apprised of proposed development within the Critical Area, and to allow the Chairman to initiate or intervene in any administrative, judicial, or other original proceeding or appeal in this State concerning a project approval in the Chesapeake Bay Critical Area, pursuant to Natural Resources Article §8-1812.

Some increased costs may be incurred by the applicant, the local jurisdiction, and the Chesapeake Bay Critical Area Commission. The applicant will be affected minimally with the responsibility for producing one additional copy of the application for development. The local jurisdiction will need to allocate staff time for the submittal of applications to the Commission, and for the preparation of quarterly summaries. It is expected that the Chesapeake Bay Critical Area Commission will be most affected with its need to delegate staff time for the review of and response to all submitted applications, and for the review of the required quarterly summaries.

**II. Types of Economic Impacts.**

	Revenue (+) Expense (-)	Magnitude
A. On issuing agency: Review of development applications and quarterly summaries	(-)	\$25,000 — \$30,000
B. On other State or local agencies affected: Submittal of applications and preparation of quarterly reports	(-)	\$240,000 — \$360,000
	Benefit (+) Cost (-)	Magnitude
C. On regulated industries or trade groups:	(-)	\$0 — 5,000
D. On other industries or trade groups affected:	NONE	
E. Direct and indirect effects on public:	NONE	

**III. Assumptions.** (Identified by Impact Letter and Number from Section II):

A. The amount indicated will be a budget enhancement request to review and process submitted applications for project approval and quarterly reports. While most of these reviews can be handled by existing staff, it is anticipated that some will be beyond the ability of current staff to evaluate and will be done on a contractual basis.

B. The amount indicated reflects the fact that the 60 jurisdictions will each have a staff person spend up to 20 percent of work time in the submittal of applications to the Commission and in the preparation of quarterly reports. It is expected that, pursuant to Chapter 794, Laws of 1987, the FY 89 budget will contain monies to assist the local jurisdictions in implementing their critical area programs. The amounts indicated above are not an enhancement, but rather would be a portion of the monies that should be allocated to jurisdictions for their program implementation under the regular budgeting process.

C. The regulated groups (applicants) will be affected minimally with the responsibility for producing one additional application for development.

**Opportunity For Public Comment**

Written comments may be sent to Dr. Sarah Taylor, Executive Director, Chesapeake Bay Critical Area Commission, 580 Taylor Avenue, D-4, Annapolis, Maryland 21401, or telephone (301) 974-2426, Monday through Friday, 9 a.m. to

4 p.m. Public comment must be received not later than September 16, 1987, at 4 p.m.

If sufficient interest is shown, a public hearing will be held. Copies of these proposed regulations are available from Dr. Taylor at the address given above.

**.01 Definitions.**

A. As used in this chapter, the following terms have the meanings indicated.

**B. Terms Defined.**

**(1) Application.**

(a) "Application" means whatever initial forms, documents, plats, or other materials that are officially submitted to the local authority for the approval of subdivision plats, site plans, grading permits, rezoning (including the consideration of areas within floating zones), the issuance of zoning permits, special exceptions, and conditional use permits.

(b) "Application" includes substantial changes to the items in §B(1)(a), above.

(c) "Application" does not include those materials submitted for the approval of building permits.

(2) "Buffer" means all lands and waters defined by the local jurisdiction's approved Critical Area Program pursuant to COMAR 14.15.09.01.

(3) "Business unit" means a non-residential building used for office space, wholesale, or retail marketing.

(4) "Chairman" means the Chairman of the Chesapeake Bay Critical Area Commission.

(5) "Commission" means the Chesapeake Bay Critical Area Commission.

(6) "Critical area" means all lands and waters defined by the local jurisdiction's approved Critical Area Program pursuant to Natural Resources Article, §8-1807, Annotated Code of Maryland.

(7) "Development" means any construction, reconstruction, modification, extension, or expansion of buildings or structures, land excavation, land clearing for non-agricultural or non-forestry purposes, land improvements, or any combination of these.

(8) "Executive Director" means the Executive Director of the Chesapeake Bay Critical Area Commission.

(9) "IDA" means those properties that were designated by the local jurisdiction and approved by the Critical Area Commission as intensely developed areas.

(10) "LDA" means those properties that were designated by the local jurisdiction and approved by the Critical Area Commission as limited development areas.

(11) "RCA" means those properties that were designated by the local jurisdiction and approved by the Critical Area Commission as resource conservation areas.

(12) "Residential use" means the use of a structure by one or more persons for the purpose of maintaining a common household. The cooking or sanitary facilities of the structure are only for the use of the occupants of the structure.

(13) "Subdivision" means the division of a parcel of land into two or more lots for the purpose of transfer of ownership or for development. This includes subdivision pursuant to Natural Resources Article, §8-1808.2, Annotated Code of Maryland, and the creation of a condominium regime pursuant to Real Property Article, §11-101 et seq., Annotated Code of Maryland.

**.02 Application Requirements.**

A. The applicant or local approving authority shall submit a copy of a local application to the Executive Director for all categories set forth in Regulation .03 of this Chapter.

B. The application shall be accompanied by a completed cover sheet on a form to be developed by the staff of the Commission. This form may be revised by the staff at any time with the approval of the Chairman or the Executive Director.

C. The Chairman or Executive Director may, at any time, request additional information from either the local approving authority or the applicant if it is necessary for accurate evaluation of the proposed action.

D. Once an application is submitted to the Executive Director pursuant to these regulations, the Chairman, Executive Director, and staff may, after notifying and obtaining approval of the property owner, inspect the subject property.

E. After receipt of a copy of an application from the applicant or local approving authority, the Commission shall send written notice of receipt to the applicant and to the local approving authority before the close of the next business day. A failure of the Commission to send a timely notice shall render §F of this regulation inapplicable as to that application.

F. The local approving authority may not process an application, a copy of which shall be sent to the Commission, until it has received notice of receipt from the Commission, and any action of the local approving authority in violation of this section shall be void.

**.03 Categories of Applications of Which the Commission Wishes to Receive Notification.**

A. Developments, Subdivisions, and Site Plans Requiring Project Approval.

(1) The local approving authority, or the applicant, shall send copies of applications for all developments, subdivisions, and site plans wholly or partially within the critical area, except those specified in §A(2), below.

(2) The following types of developments, subdivisions, and site plans are exempted from §A(1), above, if the proposed development, subdivision, or site plan does not result in a physical disturbance to the buffer:

(a) The following developments, subdivisions, or site plans that would occur wholly or partially within IDAs:

(i) A single family dwelling unit;

(ii) A structure which is accessory to a single family dwelling unit which may include, but is not limited to, a pool, garage, porch, shed, or tennis courts;

(iii) Development in which the land disturbance does not exceed 15,000 square feet;

(iv) Subdivisions resulting in 10 lots or less, or 10 dwelling units or less.

(b) The following developments, subdivisions, or site plans that would occur wholly or partially within LDAs:

(i) Those listed in §A(2)(a)(i) — (iii), above.

(ii) A subdivision resulting in three lots or less which does not affect the local jurisdiction's growth allocation.

(c) Developments, subdivisions, or site plans occurring wholly or partially within RCAs for which the land disturbance does not exceed 5,000 square feet.

B. Rezoning, Including Floating Zones. The local approving authority, or the applicant, shall submit a copy of all initial and subsequent applications for rezoning and floating zones that would occur wholly or partially within the critical area.

C. Special Exceptions, Conditional Uses, or Zoning Variances. The local approving authority, or the applicant, shall submit a copy of all applications for special exceptions or conditional uses which allow industrial, commercial, institutional, non-residential, or multifamily uses that would occur wholly or partially within an LDA or an RCA.

D. Variances. The local approving authority, or the applicant, shall submit a copy of all applications for variances from the local critical area program.

**.04 Requirements for Quarterly Information on Developments and Subdivisions Within the Critical Area.**

A. The local jurisdiction shall submit to the Executive Director, on a quarterly basis, a summary of all applications which have been approved for developments or subdivisions within the critical area, including those developments and subdivisions which are exempted in Regulation .03A(2) of this chapter.

B. The summary in §A shall include at least the following information for each:

(1) Development on an existing parcel:

(a) Name and address of property owner;

(b) Address of property;

(c) Parcel and tax map ID number of development property;

(d) Designation of property before development (IDA, LDA, RCA);

(e) Designation of property after development (IDA, LDA, RCA);

(f) Total acreage of property;

(g) Total acreage of land disturbed on developed property;

(h) Type of development proposed which may include, but is not limited to, residential, business, industrial, redevelopment, or mixed.

(2) Subdivision for development purposes where buildable lots are created:

(a) Name and address of property owner;

(b) Name and address of developer;

(c) Address of property before subdivision;

(d) Parcel and tax map ID number of property before subdivision;

(e) Designation of property before subdivision (IDA, LDA, RCA);

(f) Designation of property after subdivision (IDA, LDA, RCA);

(g) Total acreage of property before subdivision;

(h) Total number of lots created;

(i) Total number of building lots created;

(j) Total number of dwelling units to be developed;

(k) Range of lot sizes (acres);

(l) Average size of building lots (acres);

(m) Linear waterfrontage, in feet, of property before subdivision;

(n) Type of development proposed which may include, but is not limited to, residential, business, industrial, or mixed;

(o) Total number of acres disturbed or to be disturbed as a result of development.

(3) Subdivision for non-development purposes where building lots are not created:

(a) Name and address of property owner;

(b) Address of property before subdivision;

(c) Parcel and tax map ID number of property before subdivision;

(d) Designation of subject property (IDA, LDA, RCA);

- (e) Total acreage of property before subdivision;
  - (f) Total number of lots created as a result of subdivision;
  - (g) Range of lot sizes.
- C. The local jurisdiction shall indicate which developments and subdivisions affect its growth allocation. Information shall be given on how many acres are involved for each project and how many acres of growth are remaining.

SARAH J. TAYLOR  
Executive Director  
Chesapeake Bay Critical Area Commission

## Title 15 DEPARTMENT OF AGRICULTURE

### Subtitle 09 MEAT INSPECTION

#### 15.09.02 General Regulations

Authority: Agriculture Article, §§2-103 and 4-107,  
Annotated Code of Maryland

#### Notice of Proposed Action [87-196-P]

The Secretary of Agriculture proposes to amend Regulation .03 under COMAR 15.09.02 General Regulations. The purpose of this action is to adjust the dollar amount of meat products that an exempted retail dealer may process and sell to a restaurant, hotel, or institution without requiring to be inspected under the Wholesome Meat Products Act. The change in the dollar amount is from \$28,800 to \$30,500 for meat products for calendar year 1987. This change is to compensate for the deflation in the price of meat products.

#### Estimate of Economic Impact

**I. Summary of Economic Impact.** This action will allow retail dealers who are exempt from the Wholesome Poultry Products Act to sell \$30,500 worth of meat products to a restaurant, hotel, or institution without inspection.

II. Types of Economic Impacts.	Revenue (+) Expense (-)	Magnitude
A. On issuing agency:	NONE	
B. On other State or local agencies affected:	NONE	
	Benefit (+) Cost (-)	Magnitude
C. On regulated industries or trade groups:	NONE	
D. On other industries or trade groups affected:		
Exempt retail dealers	(+)	\$30,500
E. Direct and indirect effects on public:	NONE	

**III. Assumptions.** (Identify by Impact Letter and Number from Section II):

D. Allows exempted retail dealers to sell more meat products without complying with inspection requirements. This reduces the cost of doing business. However, these retail dealers are still subject to State sanitary requirements.

#### Opportunity for Public Comment

Written comments may be sent to Robert E. Siemek, Acting Chief, Meat and Poultry Inspection Section, Maryland Department of Agriculture, 50 Harry S. Truman Parkway, Annapolis, Maryland 21401 or call (301) 841-5830. These comments must be received by August 18, 1987.

#### .03 Exemptions.

- A. — B. (text unchanged)
- C. The requirements of the Act and these regulations apply to retail stores and restaurants in accordance with the following:
  - (1) (text unchanged)
  - (2) For purposes of §C(1), above:
    - (a) — (b) (text unchanged)
    - (c) [Retail Store.]
      - [(i)] A retail store is any place of business where:
        - [(aa)] (i) (text unchanged)
        - [(bb)] (ii) At least 75 percent, in terms of dollar value, of total sales of product represents sales to household consumers and the total dollar value of sales of product to consumers other than household consumers does not exceed [\$28,800] \$30,500 per calendar year — that is, January 1 — December 31.
          - [(cc)] (iii) — [(ff)] (vi) (text unchanged)
          - [(ii)] (d) (text unchanged)
          - [(d)](e)[Restaurant.]
            - [(i)] (text unchanged)
            - [(aa)](i) — [(dd)](iv) (text unchanged)
            - [(ii)] This (f) The definition "restaurant" includes a caterer which delivers or serves product in meals or as entrees only to individual consumers, and otherwise meets the requirements of [this paragraph] §C(2)(e) — (g).
              - [(iii)](g) (text unchanged)
              - [(e)](h) — [(f)](i) (text unchanged)
    - (3) (text unchanged)
  - D. — E. (text unchanged)

WAYNE A. CAWLEY, JR.  
Secretary of Agriculture

### Subtitle 10 POULTRY INSPECTION

#### 15.10.06 Exemptions

Authority: Agriculture Article, §§2-103 and 4-216,  
Annotated Code of Maryland

#### Notice of Proposed Action [87-197-P]

The Secretary of Agriculture proposes to amend Regulation .10 under COMAR 15.10.06 Exemptions. The purpose of this action is to adjust the dollar amount of poultry products that an exempted retail dealer may process and sell to a restaurant, hotel, or institution without requiring to be inspected under the Wholesome Poultry Products Act. The change in dollar amount is from \$28,200 to \$31,000 for poultry products for calendar year 1987. This change is to compensate for the inflation in the price of poultry products.

PROGRAM SUBMITTALS	JURISDICTIONS	LOCAL GOV'T ANTICIPATED DATE	DATE BEING ENCOURAGED BY STAFF
Anne Arundel Co. (includes Highland Beach)		September	September
Annapolis		October	October
Baltimore City		August	August
Baltimore Co.		August	August
Calvert Co.		Unknown	October
Chesapeake Beach		September	September
North Beach		Unknown	October
Caroline Co.		September	September
Denton		September	September
Federalsburg		Commission To Do	
Greensboro		August	August
Hillsboro		Commission Is Doing	
Cecil Co.		September	September
Perryville		October	October
Charlestown		October	October
Port Deposit		October	October
North East		October	October
Chesapeake City		September	September
Elkton		September	September
Charles Co. (includes Port Tobacco)		Nov./Dec.	October
Indian Head		Nov./Dec.	October
Dorchester Co.		September	September
Church Creek		September	September
Brookview		September	September
Vienna		September	September
Secretary		September	September
El Dorado		September	September
Cambridge		October	October

Cont.

PROGRAM SUBMITTALS JURISDICTIONS	LOCAL GOV'T. ANTICIPATED DATE	DATE BEING ENCOURAGED BY STAFF
Harford Co. (includes Aberdeen)	September	September
Havre De Grace	September	September
Kent Co.	September	September
Chestertown	Commission To Do	
Betterton	August	August
Millington	August	August
Rock Hall	September	September
Prince George's Co.	August	August
Queen Anne's Co.	October	October
Centreville	September	September
Church Hill	September	September
Queen Anne's	Commission Is Doing	
Queenstown	September	September
St. Mary's Co.	September	September
Leonardtwn	September	September
Somerset Co.	November	October
Crisfield	November	October
Princess Anne	November	October
Talbot Co.	Nov./Dec.	October
Easton	August	August
Oxford	August	August
St. Michael's	November	October
Wicomico Co.	Unknown	October
Mardella Springs, Sharptown	Unknown	October
Galestown, Salisbury	Unknown	October
Worcester Co.	September	September
Pocomoke City	October	October
Snow Hill	September	September