

**RESOLUTION OF THE COUNTY COMMISSIONERS OF KENT COUNTY  
INVOKING ITS AUTHORITY TO ENGAGE FEDERAL AND STATE AGENCIES IN  
THE COORDINATION PROCESS ESTABLISHED AND MANDATED BY FEDERAL  
AND STATE STATUTES.**

The County Commissioners of Kent County (the “Commissioners”), which is the governing body of Kent County, Maryland (the “County”), does hereby Resolve to initiate the process of coordination by which it will engage federal and state agencies to coordinate with the County, government to government within the definition of coordination mandated by the Congress of the United States, and in support of the Resolution states as follows:

**I. FINDINGS**

The County Commissioners make the following findings in support of and as the base for this Resolution:

**A. Introduction**

1. State of Maryland departments such as the Department of Natural Resources (“DNR”), the Maryland Department of the Environment (“MDE”), and the Maryland Department of Agriculture (“MDA”) receive and heavily rely on federal funds; as a result when they initiate and implement the development of rules, regulations, plans, policies or management actions that mirror or assist in the implementation of federal statutes, rules and regulations, federal programs or policies or management actions, they are subject to the National Environmental Policy Act (“NEPA”), which includes coordination with local governments.

2. When a State department initiates development and implementation of a NEPA project, it is bound not only by NEPA itself but by the regulations issued by the Council on Environmental Quality (“CEQ”), the federal agency created by NEPA to oversee its implementation.

3. NEPA provides that human interests must be considered in making a balanced decision as to the advisability of the development of a plan, policy, rule or regulation or management action so that the action is taken only after coordination in order to assure that the action results in:

[C]onditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans. In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consist with other essential considerations of national policy, to improve and

coordinate Federal plans, functions, programs and resources.

42 USC § 4331.

4. The CEQ regulations include 40 CFR §§ 1508.14 and 1508.8 which define and insist that agencies protect the “human environment.” 40 CFR 1508.14 provides:

*Human environment* shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. (See the definition of “effects” (§1508.8).) This means that economic or social effects are not intended by themselves to require preparation of an environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment.

40 CFR 1508.8, which is the lynchpin of 40 CFR 1508.14 provides:

Effects and impacts as used in these regulations are synonymous. Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

5. The DNR, MDA and MDE have not engaged in the coordination of policy with Kent County regarding projects requiring compliance with NEPA. Those agencies are required to coordinate because they have been funded at least partially with federal dollars. Particularly hard hit by the failure to coordinate have been the commercial fishing industry and the farming industry of Kent County. Also adversely impacted are persons without access to publicly operated wastewater treatment works.

6. Economic development generally within the County has been significantly adversely impacted by new stormwater management and septic requirements and will be even more detrimentally impacted by proposed “accounting for growth” regulations.

**B. Commercial fishing economic disadvantage and harm to the County and its citizens**

1. The history and culture of Kent County is founded on the practice of economically viable farming and commercial fishing use of the Chesapeake Bay and tributaries feeding the Bay.

2. For many generations, families have run the family fishing business from docks in the County, and said businesses have provided fresh fish, crabs and oysters for Maryland and the world.

3. Kent County at one time was the home to numerous seafood processing businesses, seafood wholesale and seafood retail businesses which are an essential component of the County’s social, cultural and economic fiber.

4. The Kent County Comprehensive Plan (the “Comprehensive Plan”), Section A “Economy” establishes the goal of maintaining and strengthening natural resource-based industries, including fishing. The Comprehensive Plan observes that the commercial fishing industry is “deeply rooted in the County’s economy, history and culture.” The Comprehensive Plan discusses strategies for promoting and strengthening the County’s seafood industry including but not limited to the adoption of “right-to-fish” regulations. Adoption of a “right-to-fish” law is listed within the Comprehensive Plan as being of the “Highest Priority” within the County’s “New Initiatives”. Kent County Comprehensive Plan, Section V. “Implementation Strategies – Putting the Plan into Action”.

5. The County adopted a fishing and seafood operations ordinance to implement the policy of its Comprehensive Plan. See Chapter 89 of the Kent County Code. The County Commissioners have declared: “It is the policy of Kent County to conserve, protect, and encourage the development of seafood operations. It is in the public interest to promote a clearer understanding between seafood and fishing industry and the general public ... [and] it is also the policy to reduce the loss of the County’s fishing and seafood operations ....” Kent County Code §§ 89-1A & 89-1B.

6. The market for oysters, crabs, rockfish (aka striped bass), bluefish, red drum, perch and other species historically found in the Chesapeake Bay remains viable, and visitors and seasonal residents of the County, as well as year-round residents of the County patronize venues and establishments that provide seafood.

7. As of January 1, 2014, DNR will implement regulations that establish individual catch shares (aka "individual transferable quotas" or "ITQs") on County watermen that will restrict the poundage of rockfish a County waterman is permitted to catch.

8. In other jurisdictions where individual catch shares similar to the individual catch share system being implemented by DNR have been established, the commercial seafood industry has suffered significant economic detriment which is compounded by cultural and social detriment.

9. The Bay is teeming with rockfish. Kent County watermen have had to release large quantities of rockfish caught in the pounds nets that they maintain in the Bay. Other watermen and charter captains report reaching their catch allotments for rockfish within a couple hours of leaving the marina or harbor. Kent County watermen report and verify that the quantity of rockfish in the Bay is upsetting the Bay's biomass balance. County watermen report and verify that upwards to two dozen crabs regularly have been counted in the bellies of 20+ pound rockfish that have been caught in the Bay during the 2013 season.

10. DNR has regulated Maryland watermen in a disparate and discriminatory manner by imposing restrictive and expensive harvesting methods and catch shares on the harvesting of menhaden, oysters, crabs and rockfish that are not imposed by Virginia, which shares the Bay and Atlantic coastal waters with Maryland, in a manner that violates equal protection of the law guaranteed by the Maryland Declaration of Rights.

11. The State of Maryland has voluntarily placed rigid restrictions on fishing in Maryland to the detriment of its own citizens who reside, fish and live in Maryland and who contribute to the revenue from which vital County public health and safety services and vital County social, cultural and economic development services are funded.

**C. Agricultural economic disadvantage and harm to the County and its citizens**

1. Kent County is also blessed with a strong, rich farming tradition, which has brought economic prosperity to the County and has proven to be a reliable part of the tax base for the County.

2. The Agricultural Priority Preservation Area Element, Appendix D to the Comprehensive Plan, establishes goals to: maintain and strengthen natural resource-based industries, support agriculture as a permanent and preferred land use, maintain agriculture, and promote voluntary programs to permanently preserve agricultural lands.

3. The Comprehensive Plan establishes the County's commitment to support agriculture and promote working landscapes. The Comprehensive Plan recognizes that agriculture businesses within the County are economically viable and that maintaining the economic viability of agricultural businesses is important in the County's economic, social and cultural well-being. Section C of the Comprehensive Plan provides that "[a]griculture is the thread which runs through our economy, our culture, our history, and our everyday experiences. We cannot afford to have this thread unravel...In Kent County...we view agriculture as a permanent and preferred land use. In order to preserve farmland, we must enhance the economic viability of agriculture in the County and discourage non-agriculturally related uses of rural land...."

4. The County has a "Right to Farm" ordinance, the purpose of which "is to protect the right to farm or engage in agricultural interests within Kent County ... and to assist in the resolution of disputes between agricultural landowners and/or farmers and their neighbors ... by promoting a clearer understanding between agricultural operations and nonagricultural neighbors concerning the normal inconveniences of agricultural operations that follow standard and generally accepted agricultural practices ...." Kent County Code § 84-1A & 84-1C.

5. MDE and MDA, driven by the federal Environmental Protection Agency's 2010 Chesapeake Bay Total Maximum Daily Load ("TMDL"), have promulgated and proposed regulations regarding phosphorous used on farm fields and found on agricultural property that will threaten the economic viability of County agricultural businesses.

6. The regulatory agencies have created an asserted phosphorous problem in the farm fields in Kent County through past regulations and agency action that the agencies seek to address through the newly proposed phosphorus regulations.

7. Phosphorus in manures or fertilizers that is not absorbed by crops bonds with the ferric (iron) ions in the soil. Such bonding reduces the release of phosphorus into stormwater before it can be absorbed by agricultural crops.

8. MDA has discouraged such ionic bonding through the no-till practices that it has directed farmers to implement as a best management practice. When the earth is not turned by tilling, excess phosphorus cannot bind to the ferric ions in the soil because the bonding capacity of the top layer of the soil has been exhausted and the soil is not turned to recruit subsurface ferric ions for bonding. No-till farming has resulted in the saturation of the top layer of farm field soil with phosphorous.

9. Chicken farming is a component of the agricultural economy of the County. Chicken manure generally is higher in phosphorus concentration than nitrogen concentration. Farmers have been encouraged to use chicken manure to

fertilize their fields so the manure is spread on fields where, theoretically, the nutrients in the manure will be absorbed. Composting of manure has been discouraged. Nutrient management plans (“NMPs”) are based solely on nitrogen content without regard to phosphorus content. Farmers have been encouraged, to the point of intimidation, to apply significant quantities of chicken manure to the land so that such manure is “beneficially used” and disposed based only on the nitrogen content of manure and other soil additives. Through such best management practices, MDA and MDE encouraged the build-up of phosphorus in the farm fields by developing a NMP process that accounts only for nitrogen.

10. Such allegedly beneficial agricultural and environmental best management practices, which have been encouraged and required by MDA and MDE, have led to the build-up of the level of phosphorus in the fields of County farmers.

11. The combination of nitrogen run-off controls and the requirement of no-till farming by the State has put the farmers of Kent County in a direct catch-22 situation: Because nitrogen is severely restricted, farmers use more manures such as chicken manure which has a high phosphorous content and a lower nitrogen content; thus, there is less chance of nitrogen run-off when chicken manure is used. But, when the farmer is not allowed to till the soil, the higher free phosphorous content in the soil leads to more phosphorus stormwater runoff.

12. The beef, dairy and chicken commodities and products produced by farmers in Kent County feed the county, Maryland and the United States and provide essential sustenance to the nation. The businesses related to the production and refinement of such commodities and products are essential to sustaining a robust human environment in the County and beyond.

13. If left to develop their own best management practices, farmers would avoid the imbalance created by government regulations as they have traditionally and historically done so throughout our history.

14. None of the states neighboring Maryland apply such a convoluted regulatory scheme to hamper farming viability; this results in an uneven, non-viable competitive disadvantage for the farmers of our County who suffer much higher costs of production than farmers in the less severely regulated neighboring states. It results in a regulatory imbalance that deprives Kent County farmers of equal protection of the law and due process of law.

15. The proposed phosphorus regulations being pushed pursuant to the State WIP developed in conjunction with the Chesapeake Bay TMDL implementation program are in direct contravention of the Right to Farm policy of the County. County Code Chapter 84 guarantees to Kent County farmers the right to use their land in a manner engaging sound land management practices for agricultural production, and is a stated guarantee that has a nexus to sound public policy in a

field of land use law that traditionally has been with the purview of the state and local authority guaranteed by the Tenth Amendment to the U.S. Constitution.

16. There are no lawfully, constitutionally binding federal requirements that require MDA and MDE to impose the new phosphorus limitations that they are considering adopting in the County. The State of Maryland has voluntarily undertaken to place such rigid restrictions on farming to the detriment of its own citizens who reside, farm and live in and contribute to the revenue base of the County from which vital local police power protecting public health and safety services and vital social and cultural services are funded, contribute vital human resources to the County's human environment and lead to the preservation of rural and agricultural lands.

17. County history and investment in agriculture: Farming, including the production of dairy products, livestock grazing, poultry production, swine production and crop harvesting, has constituted an integral part of Kent County's agricultural heritage. From FY1985 through FY2014, Kent County has invested \$1,057,141.23 in local matching funds towards Maryland Agricultural Land Preservation Foundation (MALPF) easements, using the County's retained share of the Agricultural Transfer Tax. Since 1998, the County has included additional funds towards MALPF easements as a result of having a certified agriculture preservation program. The State has spent over \$31 million in the County, using federal funds from the Farmland and Ranchlands Protection Program, towards MALPF easements. For the lands dedicated under Maryland's Rural Legacy Program, approximately \$5.16 million of State and federal funds have been spent, with the federal portion coming from the Farmland and Ranchlands Protection Program. For the County lands protected under the Chesapeake Country National Scenic Byways Protection Program, more than \$1.5 million of federal funds (from an earmark in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users transportation bill) have been invested. Overall, the County has preserved more than 35,313 acres of its land in agricultural preservation programs, including: 16,734 acres through MALPF; 12,651 acres with the Maryland Environmental Trust and/or the Eastern Shore Land Conservancy; 3,300 acres with the Conservation Fund/American Farmland Trust; 2,046 acres with the Maryland's Rural Legacy Program; and 582 acres with the Chesapeake Country National Scenic Byway Protection Program. To protect this heritage and mainstay of Kent County's cultural, social and economic environment, the County seeks to preserve such investments and such farming/agricultural resources by precluding regulations and restrictions that jeopardize the ability of local farmers to economically and productively make use of their agricultural lands and farming/food production operations.

**D. Disparate and discriminatory impact on the human environment**

1. For over three decades, the State and Maryland local governments have adopted more stringent environmental standards to improve the water quality of the Chesapeake Bay and the State and Maryland local governments have spent more money to improve the water quality of the Bay than the other States in the Chesapeake Bay watershed.
2. The allowable limits of total nitrogen, phosphorus and total suspended solids (sediment) that MDE requires in Natural Pollution Discharge Elimination System (“NPDES”) permits that it issues to Maryland wastewater treatment plants in administration of the Federal Clean Water Act program for which MDE receives federal funding are much more stringent and substantially more expensive for Maryland local governments to fund and to implement than the limits required of local governments under the same Federal NPDES Clean Water Act programs being implemented in all of the other Bay watershed states.
3. The stormwater management requirements imposed by MDE under the Municipal Separate Storm Sewer System (“MS4”) permits that it issues in administration of the MS4 Federal Clean Water Act program are more onerous and substantially more expensive to fulfil than the MS4 permits required by parallel MS4 programs being implemented in the other Bay watershed states.
4. The stormwater management practices that MDE requires persons engaged in development and redevelopment in this State under the Federal Clean Water Act programs that are funded in part by the Federal government and implemented by MDE are much more stringent, restrictive and expensive to comply with than the stormwater management requirements imposed under the Clean Water Act program in other Bay watershed states.
5. The septic requirements and limitations that Maryland has imposed in its implementation of the 2010 Chesapeake Bay TMDL prepared by EPA are more onerous than the septic requirements of other Bay watershed states subject to the 2010 Chesapeake Bay TMDL.
6. MDE and EPA have declared Bay tributaries in the State of Maryland to be impaired that have significantly lower levels of total nitrogen, phosphorus and total suspended solids than the levels of nitrogen, phosphorus and total suspended solids found in tributaries in other Bay watershed states that have not been declared to be impaired by EPA or the state environmental agency that implements the Federal Clean Water Act programs in those Bay watershed states. The “impaired” status subjects Maryland local governments to more onerous and more expensive program implementation requirements than are imposed and funded in other Bay watershed states.



7. The disparate and discriminatorily applied Clean Water Act/2010 Chesapeake Bay TMDL requirements applicable in Maryland in comparison to the other Bay watershed states has precluded the County from successfully competing for economic development with such neighboring Bay watershed states. This inability to compete caused by the disparate and discriminatorily more severe and expensive requirements imposed on Maryland citizens has had a detrimental impact to the aesthetic, social, cultural, and economic environment of the County.

8. The Conowingo Dam (the "Dam") converted the lower Susquehanna River into a large stormwater management pond that Exelon Corporation, the Dam's owner, calls the "Conowingo Pond." The Dam widened the natural course of the river and increased the depth of the river. Widening and deepening the river slowed the rate of flow of water in the river, which allowed suspended solids in the river to settle (fall out of suspension) on the bottom of the reservoir and become "trapped" in the same manner that a stormwater management pond "traps" sediments.

9. Like all stormwater management ponds, the Dam has altered the otherwise normal or natural flow of water in the Susquehanna River. Like all stormwater management ponds that have not been maintained (i.e., periodically dredged of the sediments that accumulate in the artificially created reservoir), during significant storm events, accumulated sediments, laden with nutrients and other contaminants, have been scoured from the bottom of the Conowingo Pond and dumped in mass below the Dam, shocking the Maryland portion of the Chesapeake Bay with a blanket of deadly sediments.

<b>Sediment Scoured from the Conowingo Pond During Significant Storm Events<sup>1</sup></b>				
<u>Storm</u>	<u>Year</u>	<u>Month</u>	<u>Peak Flow Cu<sup>3</sup>/sec</u>	<u>Volume of Sediment Scoured into Bay (Million Tons)</u>
Hurricane Agnes	1972	June	1,130,000	20
Hurricane Eloise	1975	September	710,000	5
Unnamed	1993	April	442,000	2
Unnamed	1996	January	909,000	12
Hurricane Ivan	2004	September	620,000	3
Unnamed	2011	March	487,000	2
Hurricane Irene	2011	July	Unmeasured	Unmeasured
Tropical Storm Lee	2011	September	778,000	4
Hurricane Sandy	2012	October	Unreported	Unreported

10. Billions of taxpayer dollars have been spent to dredge the navigable shipping channels in the upper Bay and the channels into local marinas that have been clogged with sediments. The largest source, if not the sole source, of those sediments is the Susquehanna River, including scour from the bottom of the Conowingo Pond. Economically and environmentally, those sediments should be dredged from the reservoir behind the Dam where they have accumulated (approximately 9,000 acres or 3,600 hectares), not after they are dumped into the Bay and spread across approximately 4,479 square miles.

11. Exelon, a company with over \$30 billion in annual revenues, receives at least two benefits from the Dam: (1) it produces 572 megawatts of electricity, which is enough electricity to power an average of 572,000 or more homes; and (2) it receives renewable energy credits that may be used or sold to offset air emissions from power plants that burn fossil fuels.

<sup>1</sup> Jeffrey Brainard, *Big Year for Bay Storms, Bad Year for Bay Sediment?*, Chesapeake Quarterly Vol. 10 No. 4, Dec. 2011. See link: <http://www.mdsg.umd.edu/CQ/V10N4/main1/>. See also *The Impact of Sediment on the Chesapeake Bay and its Watershed*: U.S. Geological Survey, June 3, 2005. See link: <http://chesapeake.usgs.gov/SedimentBay605.pdf>.

<b>Sediment Loading from Storm Event Scour in Comparison to Average Annual Sediment Loading from Susquehanna River</b>				
<u>Storm</u>	<u>Year</u>	<u>Avg. Annual Sed. Load from Susquehanna River (Million Tons)</u>	<u>Sed. Load From Scour (Million Tons)</u>	<u>% of Avg. Annual Load from Scour</u>
Hurricane Agnes	1972	1.5	20	1,333%
Hurricane Eloise	1975	1.5	5	333%
Unnamed	1993	1.5	2	133%
Unnamed	1996	1.5	12	800%
Hurricane Ivan	2004	1.5	3	200%
Unnamed	2011	1.5	2	133%
Tropical Storm Lee	2011	1.5	4	266%
Hurricane Sandy	2012	1.5	Undetermined	Undetermined

12. The photographs below were taken within 2-4 days after Tropical Storm Lee in September 2011.



13. Scour during significant storm events occurs in less than one week. Thus, in a matter of days, scour from the Conowingo Pond during a significant storm has added anywhere from 133% to 1,333% more than the average annual sediment loading from the Susquehanna River. Such loading results in a big die-off of oysters and underwater grasses in the Bay north of the Choptank River. In 1972, up to a meter of sediments was added to the floor of the upper Bay; two-thirds of that sediment was attributed to scour from the floor of the lakes and reservoirs behind the three dams in the lower Susquehanna River. During Tropical Storm Lee, over two inches of sediments were deposited on the floor of the upper Bay. In short, the shock effect of this rapid loading of scoured sediments is devastating to all fauna that cannot flee (swim) to the lower Bay and to all Submerged Aquatic Vegetation (“SAV”) in the upper Bay. The oysters and SAV in the upper Bay and the upper Bay tributaries have never recovered from the devastation caused by the scour from Hurricane Agnes. SAV in the Susquehanna Flats was killed to pre-1985 levels (thousands of acres of SAV were killed) as a result of the two storm events in 2011.

14. The Dam traps the best sediment - sand - and releases the most damaging sediments - clay and silt - into the Bay. The Bay has thus been deprived of sand that is necessary: (1) to hold the roots of SAV during storm events; (2) to support the shell beds of oysters; (3) to fortify shorelines and thus reduce erosion; and (4) to cover and suppress the clays and silts that are washed into the Bay so that those clays and silts (a) do not continue to emit phosphorus and nitrogen bound to them in the Susquehanna estuary, (b) do not continue to agitate into suspension and cloud the Bay waters; and (c) do not deprive Bay flora and fauna of needed sunlight and habitat.

15. If the Conowingo Pond is not dredged and maintained, the Bay will never recover, and certain Bay restoration efforts and expenditures below the Dam will be in vain. The County, as a member of the Clean Chesapeake Coalition, has intervened in the relicensing of the Dam to urge the Federal Energy Regulatory Commission (FERC) to place conditions on the license to be issued that will require Exelon to dredge and maintain the stormwater management pond created by the Dam so that a blanket of deadly sediments cannot be scoured from the bottom of the reservoir and deposited in the Bay now with regularity and in devastating proportions during significant storm events.

16. The sediments that are scoured contain phosphorus that is bound to the sediments in the colder oxygenated, non-saline more pH neutral waters of the Susquehanna River but is released into the water in the Bay estuarine that is warmer, more saline, more acidic and less oxygenated. The nutrient and sediment loading from such scour events is substantially greater than the nutrient and sediment loading from activities in the County, including the agricultural activities in the County. Yet Exelon and the predecessor companies that have owned and operated the hydroelectric dams in the lower Susquehanna River have

not been required to spend one penny to reduce the nutrient and sediment loading and the damage to the Bay caused by scour and the lost trapping capacity of those dams. It is discriminatory to require home owners, farmers and small businesses in the County to expend proportionally much larger and more significant funds to remove a much smaller percentage of nutrient and/or sediment pollution to the Bay while allowing nutrient and sediment pollution to the Bay caused by Exelon's operation of the Dam to continue unabated.

17. Even though federal funds are heavily relied on by MDA, MDE and DNR, those agencies have not applied a Regulatory Flexibility Act inquiry and analysis as to whether the Data Quality Act has been complied with as to verification of the data and information used by those agencies prior to imposing the regulations and requirements. Those agencies have not coordinated with Kent County during the development of the regulations or requirements as is required under NEPA for regulations promulgated with use of federal funds.

18. Rules and regulations of MDA, MDE and the Maryland Department of Planning (MDP) implementing the 2010 Chesapeake Bay TMDL are adversely impacting the human environment of the County.

19. The rules and regulations of DNR with respect to oyster bed reclamation, restoration and harvesting are precluding the County and its watermen from engaging in activity that would improve the water quality of the Bay.

20. The "accounting for growth" regulations being promulgated by MDE and MDP will further disparately and discriminatorily impact the County and impede the County's ability to encourage economic development and compete with neighboring Bay states for economic development as those states do not have any similar requirements and EPA had not imposed any similar requirements under the 2010 Chesapeake Bay TMDL on such states. Ultimately, the County's human environment will be adversely, significantly and detrimentally impacted by such accounting for growth requirements.

## **II. THE RESOLUTION**

**A. WHEREFORE, based upon the above Findings, the County Commissioners of Kent County do hereby resolve as follows:**

1. BE IT RESOLVED THAT Kent County does formally establish the policy that all reasonable efforts be made by the County to protect the economic viability of commercial fishing and seafood operations for citizens of the County, and that regulations and restrictions on such fishing and seafood operations be developed and implemented only after all data used for their development has been subjected

to peer review under the standards set by the Data Quality Act and by this County policy.

2. **LIKEWISE BE IT RESOLVED THAT** Kent County does formally establish a policy that all reasonable efforts be made to protect the economic viability of agriculture engaged in by citizens of the County, and that regulations and restrictions on farming and farm practices be developed and implemented only after all data used for their development has been subjected to peer review under the standards set by the Data Quality Act, by this County policy, and after comparison of and analysis of disparate impact on Maryland commerce as compared with the practices of surrounding and competitive states.

3. **LIKEWISE BE IT RESOLVED THAT** Kent County does formerly establish a policy that all regulations and programs undertaken to implement the State's Watershed Implementation Plan and/or the 2010 Chesapeake Bay TMDL be developed and implemented only after all data used for their development has been subjected to peer review under the standards set by the Data Quality Act, by this County policy, and after comparison of and analysis of disparate impact on Maryland commerce as compared with the practices of surrounding and competitive states.

**IT IS RECOGNIZED BY** the County Commissioners of Kent County that these policies are age-old as far as reasonable protection of, and understanding the importance of, these two traditional economic and social mainstays of the Eastern Shore of Maryland and Kent County in particular. We should all be mindful of the fact that the Great Seal of the State of Maryland portrays a waterman and an agricultural harvester.

4. **LIKEWISE BE IT RESOLVED** that Kent County invokes the coordination authority provided for it by Maryland law and federal statutes beginning with the National Environmental Policy Act and including the Clean Water Act and the Magnuson-Stevens Act under which the above regulations are "justified." In enacting this Resolution, the County Commissioners of Kent County are mindful of the fact that no federal or State agency coordinated with the governing body of this County during the initiation of, development of or implementation of these regulations on natural resource industries. No attempt was made by any State or federal agency to work with Kent County to determine whether there was a better management practice available to affect the natural environment while protecting the human environment as required by the NEPA regulations of the Council on Environmental Quality or to seek consistency.

5. **LIKEWISE BE IT FURTHER RESOLVED** that Kent County hereby engages the Maryland Department of the Environment, the Maryland Department of Natural Resources, the Maryland Department of Agriculture and the Maryland Department of Planning to coordinate with the County Commissioners in an attempt to reach some consistency with the policies of the County enacted by this

Resolution and previously adopted by the County, including but not limited to the Right to Farm policy of the County, the Fishing and Seafood Operations policy of the County, the County Comprehensive Plan and the County Watershed Implementation Plan.

6. BE IT FINALLY RESOLVED THAT the Clerk to the County Commissioners serve on management of the Maryland Department of Environment, the Maryland Department of Natural Resources, the Maryland Department of Agriculture and the Maryland Department of Planning a copy of this Resolution, certified, and a letter from the local governing body inviting such departmental management to meet with the County Commissioners of Kent County to begin the process of coordination.

Adopted this 7<sup>th</sup> day of January, 2014

ATTESTED BY:



Sondra Blackiston  
Clerk


THE BOARD OF COUNTY  
COMMISSIONERS OF KENT COUNTY



Ronald H. Fithian, President



William W. Pickrum, Member



William A. Short, Member