



DEQ Proposes Revisions to CBPA Regulations

May 2021

In February 2021, the SWCB issued a notice of proposed amendments to the Chesapeake Bay Preservation Area (CBPA) Designation and Management Regulation. VAMSA submitted [comments](#) on the proposed changes and will serve on the Stakeholder Advisory Group DEQ is convening in May. DEQ developed the proposed amendments pursuant to 2020 General Assembly legislation requiring that “coastal resilience and adaptation to sea-level rise and climate change” be added to the criteria requirements implemented by localities under the Bay Act. Many VAMSA Members have Bay Act programs; the proposed regulatory changes will mean significant changes, from updating ordinances to implementing new rules for development meant to address climate change concerns.

The proposed amendments provide that: (1) localities shall consider climate change impacts on proposed land development projects within the resource protection area (RPA) (“Local governments shall consider the impacts of climate change or sea level rise on any development” in the RPA) and (2) in so doing, localities shall consider certain things during this review (for example, “Consider a potential impact range of no less than 30 years...”). Moreover, they allow localities to incorporate or require conditions based on a consideration of these impacts, including the use of BMPs. To allow for activities that are necessary to address climate change impacts, the amendments provide an allowance for these activities with certain requirements that apply in lieu of the performance criteria found in 9 VAC 25-830-130 and 9 VAC 25-830-140.

Consistent with other performance criteria, local governments will include these provisions in their ordinances and incorporate the requirements into their programs. The proposed regulations would give localities three years from the effective date to make changes. DEQ also proposed to incorporate requirements for the preservation of mature trees in the regulations. Other changes would require tree plantings in buffer areas to the maximum extent practicable.

After DEQ adopts the regulations, the Virginia Institute of Marine Science (VIMS) and the Virginia Coastal Policy Center (CPC) will begin work on implementation guidance. In fact, DEQ chose a three-year effective period to allow VIMS and the CPC to issue substantive guidance. DEQ envisions a Stakeholder Advisory Group for this work and at least one guidance document, with the potential for revisions to existing guidance documents.

VAMSA will submit comments in response to DEQ’s proposed regulatory changes on May 12, 2021.