

Chesapeake Bay Updates from Virginia, with a focus on Coastal Resiliency

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HB 504 (approved April 22, 2020) Amended §62.1-44.15:72

- Added two items that the SWCB “... shall encourage and promote”
 - **“Preservation of mature trees or planting of trees** as a water quality protection tool and as a means of providing other natural resource benefits
 - **“Coastal resilience and adaptation to sea-level rise and climate change”**
- Governor’s amendments to the legislation - expedited regulatory process
 - Allowed DEQ to forgo the *Stakeholder Advisory Group* process customarily used to prepare regulations
 - 60-day public comment initially proposed

Regulatory History & Schedule (9VAC25-830)

- November 24, 2020: Proposed Regulations Published
- December 9, 2020: SWCB unanimously agreed to:
 - Extend the Public Comment Period to 90-day
 - Directed DEQ to convene a *Stakeholder Advisory Group* for one meeting
 - Present regulations to the SWCB no later than June 2021
- February 1, 2021: Public Comment Began
- **May 3, 2021: Public Comment Ends**
- May 13-14, 2021: SAG meetings
- June 2021: SWCB Hearing

Proposed Tree Amendments

- Existing Provisions
 - Indigenous vegetation to be preserved to the maximum extent practicable
 - Tree pruning and removal is allowed for sight lines, vistas, dead, dying & diseased trees
- Highlights of Proposed Provisions
 - No definition of “*mature trees*” (MTs)
 - Removal of MTs only where necessary – but no process provided
 - MTs protected during development to the “*maximum extent practicable*”
 - Road & Driveway alignment to minimize “*removal of mature trees*”
 - Buffer establishment by “*planting trees*” to the “*maximum extent practicable*”
 - IDAs- when restoring buffers, should consider trees “*as part of any such measure*”
 - No water quality credit/benefit accrued to parties protecting mature trees

Proposed Amendments for Coastal Resilience & Adaptation to Sea-level Rise and Climate Change

- Existing Provisions: None
- Highlights of Proposed Provisions:
 - Allows extension of the RPA Buffer without any limitations
 - Allows “*further restrictions on development*” without any limitations.
 - Allows local governments to “require the installation of additional measures or design features”
 - Creates a buffer-on-the-buffer: restricts activities “*within 100 feet*” of RPAs
 - Prohibits projects solely intended to raise the elevation of any portion of the RPA even when the area is already improved.
 - Prohibits encroachment in seaward 50’ of the RPA other than for adaptive measures and permitted modifications (neither are yet defined)
 - Local governments must consider “*future floodplain, water level, storm surge or other impacts*” diminishing water quality – no definitions/procedures provided
 - No grandfathering provision offered



Thank you