

Virginia Regulatory Town Hall Agency Background Document Proposed Regulation

Agency Name: Chesapeake Bay Local Assistance Board
VAC Number: 9 VAC 10-20
Regulation Title: Chesapeake Bay Preservation Area Designation and Management Regulations
Action Title: Proposed Regulation Amendment
Date: Today's Date: 9/19/2000

Summary:

This regulation was adopted to accomplish a directive set forth in the Chesapeake Bay Preservation Act (' 10.1-2100 et seq. of the Code of Virginia), as described in the section immediately following, entitled **Basis**. Generally, the changes being made are those described in the section following, entitled **Purpose**. A more detailed explanation of changes can found in the attached document (Appendix A) entitled, **Explanation of Proposed Amendments: Chesapeake Bay Preservation Area Designation and Management Regulations**. It should be noted that since this regulation amendment process began, a recodification of all Virginia regulations into the new **Virginia Administrative Code** took place, resulting in a change in the system of numbering sections of this regulation. A second attached document (Appendix B), entitled **CBLAB Regulation Numbering Matrix**, cross-references the old numbers with the new ones.

Basis:

A statement identifying the source(s) of the state and/or federal legal authority to promulgate the contemplated regulation, including a description of the scope of the authority provided, the extent to which the authorized rulemaking provisions are mandatory or discretionary, and an indication of the relationship between the cited authority and the specific regulation being proposed. Legal citations should include web site addresses if available for locating the text of the cited authority.

Statutory Authority: ' ' 10.1-2103 and 10.1-2107 of the Code of Virginia (Chesapeake Bay Preservation Act, Attachment 2, hereinafter referred to as **the Act**)

Basis: Section 10.1-2103 of the Act sets forth the powers and duties of the Board. Subsection 4 authorizes the Board to promulgate regulations pursuant to the Administrative Process Act, and subsection 5 authorizes the Board to develop, promulgate and keep current the criteria required by ' 10.1-2107 of the Act. Section 10.1-2107 of the Act states that **In order to implement the provisions of this chapter and to assist counties, cities and towns in regulating the use and development of land and in protecting the quality of state waters, the Board shall promulgate regulations which establish criteria for use by local governments to determine the ecological and geographic extent of Chesapeake Bay**

Preservation Areas. The Board shall also promulgate regulations which establish criteria for use by local governments in granting, denying, or modifying requests to rezone, subdivide, or to use and develop land in these areas.®

Purpose:

A specific rather than conclusory statement setting forth the reasoning by which the agency has determined that the proposed regulation is essential to protect the health, safety or welfare of citizens or for the efficient and economical performance of an important governmental function, including a discussion of the problems the regulation-s provisions are intended to solve.

Essential Nature of Regulation: Water is one of the basic components of life on the earth. Maintaining high quality state waters in general, and of the Chesapeake Bay and its tributaries in particular, is essential to protect the health of the Bay and its living resources, as well as the citizens of Virginia who come into contact with these waters. Restoring good water quality to the Bay and its tributaries is also essential to the welfare of Virginia citizens in that Bay water quality affects the economic productivity generated by sport and commercial fishing, recreational boating, swimming, hunting of waterfowl, and tourism in general. These regulations are also important for the efficient and economical performance of an important governmental function: carrying out Virginia's commitments under the 1987 Chesapeake Bay Agreement and subsequent amendments of that Agreement, signed by the Governors of Virginia, Maryland and Pennsylvania, the Mayor of Washington, D.C., and the Administrator of the U.S. Environmental Protection Agency.

Purpose: The purpose of the proposed regulation is to amend the existing regulation to accomplish the following:

1. Achieve greater clarity in all regulatory language to minimize confusion and misinterpretation.
2. Eliminate any conflicts and unnecessary redundancies between the requirements in the regulations and those in other related state and federal laws and regulations, while still providing for maximum water quality protection. Specific issues under consideration where conflicts or redundancies are perceived to exist are as follows:
 - a. Stormwater management criteria;
 - b. Erosion and Sediment Control criteria;
 - c. Septic system criteria;
 - d. Agricultural criteria;
 - e. Silvicultural criteria; and
3. Improve vegetative buffer area criteria to provide greater clarity as well as consistency with the riparian forest buffer policy developed by the Executive Council of the Regional Chesapeake Bay Program.

4. Improve agricultural conservation criteria to correct the inability to meet the existing conservation plan approval deadline, reduce administrative overhead and result in more water quality protection practices on the land.
5. Add criteria regarding a board/department process to review local program implementation for consistency with the regulations.
6. Accomplish numerous technical amendments necessitated by changes in terminology and numbering protocols. A regulation numbering matrix is attached to cross-reference the old regulation numbering with the Virginia Administrative Code (VAC) numbering protocol of the existing regulations and of the proposed amended regulation (Attachment 3).

Substance:

A statement detailing any changes, other than strictly editorial changes, that the proposed regulation will implement, along with citations to the appropriate sections of the regulation, including cross-referenced citations when the proposed regulation is intended to replace an existing regulation.

Substance: The following is a brief overview of key provisions:

1. Language is amended at several places to clarify the intended meaning of vegetative buffer criteria, both for purposes of designation of Resource Protection Areas and for purposes of determining appropriate uses and encroachments within the buffer. These changes are in response to numerous questions from local governments regarding clarifications or interpretations of the buffer requirements.
2. Language is added setting forth the Board's policy regarding the sufficient extent of designation of local Resource Management Areas.
3. Three general performance criteria are being clarified, replacing ambiguous terms consistently with more concrete terms of art.
4. Septic system performance criteria are being amended to add some flexibility and compliance options for local governments and, ultimately, landowners.
5. The stormwater management performance criteria are being amended to reference the water quality provisions of the DCR stormwater management regulations, for the purpose of consistency. The several agencies of the Natural Resources Secretariat have been working for several years to develop a set of stormwater management standards that all of the agencies

could agree to use in their separate programs. This process has involved oversight from the General Assembly and several advisory committees composed of representatives of all affected interest groups. The goal has been to eliminate any conflicts and confusion generated by having different standards and criteria in each agency. The reconciled water quality standard being proposed by DCR is the result of a consensus reached by all interested parties and agencies after considerable public comment. All of the agencies have agreed that the Virginia Stormwater Management Regulations, under the authority of the Department of Conservation and Recreation, should be the location of these new standards and that the other agencies will stipulate their stormwater management requirements by reference to the DCR regulations. DCR is in the process of amending its regulations at this time and is slightly ahead of the CBLAB amendment process.

Also, flood control and stormwater management facilities are added as a new use by right in Resource Protection Areas, provided necessary permits can be obtained from the relevant state and federal agencies.

6. The unattainable deadline for completion and approval of all required agricultural conservation plans is being rescinded and replaced with location priorities for agricultural planning. As well, the mandatory conservation plan requirement is being replaced with a conservation assessment process, recognizing that many farmers are already implementing conservation practices and do not need plans developed for these measures. One new agricultural criterion is being added, requiring soil tests for the development of needed nutrient management plans, based on these assessments.
7. Language and requirements regarding nonconformities, exemptions, and exceptions is clarified.
8. For clarity and to improve understanding, the language that currently constitutes Part V of the regulations, addressing criteria for local comprehensive plans, subdivision ordinances, and zoning ordinances, is being subdivided into separate parts and additional criteria and guidance is provided regarding subdivision and zoning ordinances.
9. Language governing local program adoption and implementation is being amended to more accurately reflect the Board's current three-phase process, and the original adoption deadlines are being rescinded, since the last of the 84 localities in Tidewater Virginia is poised to adopt its local program.
10. Language is added to clarify that local governments may use civil penalties to enforce requirements of their local Bay Act programs.

11. New language is being added in Part VIII (Enforcement) describing the Board's process for reviewing the consistency of local program implementation with the requirements in the regulations.

Issues:

The primary advantages and disadvantages for the public of implementing the new regulatory provisions should be identified, and the advantages and disadvantages to the agency or the Commonwealth shall be identified.

Issues: The list of general issues described in the APurpose@section is the result of several sequential reviews of the regulations conducted by the Board. The Board desires to accomplish a comprehensive amendment of the regulations to clarify the meaning of various provisions, provide greater implementation flexibility, and reduce costs for both local governments and members of the public who must comply with the state/local requirements. The advantages to the public are as follows:

1. The additional clarity provided by the amendments should prevent confusion about what is intended and result in more straightforward implementation of the regulations, achieving greater water quality protection;
2. The conformity of the stormwater management requirements of this regulations with the stormwater management requirements of two other state agencies, DCR in particular, will eliminate the potential for regulatory conflicts.
3. The added compliance options provided through some of the changes should provide greater implementation flexibility, lowering both administrative and implementation costs in some cases
4. Proposed procedural changes (e.g., agricultural conservation plan requirements) will result in greater implementation efficiencies, allowing the agency to accomplish greater water quality protection using available resources.

Disadvantages to the public are as follows:

1. Local resources will need to be expended to modify local ordinances to incorporate these changes.
2. The public is generally aware of what this program requires and how it works. Any changes will disrupt that understanding and cause a need for additional information and education to restore the level of equilibrium currently existing.

Advantages to the agency are as follows:

1. Advantages #1, #2, and #4 listed above for the public also benefit the agency.
2. With the clarifications of intent provided in these amendments, the agency should have reduced expenditures of staff time and effort attending to recurring interpretations and enforcement issues.

Disadvantages to the agency are as follows:

1. Staff resources will have to be expended to revisit all local Bay Act ordinances to ensure they are correctly amended to reflect these amendments.
2. Staff resources will have to be expended to update the agency's Local Assistance Manual and other guidance documents, as necessary to reflect these amendments.

Alternatives:

A specific rather than conclusory statement describing the process by which the agency has considered less burdensome and less intrusive alternatives for achieving the essential purpose, the alternatives considered, and the reasoning by which the agency has rejected such alternatives.

Alternatives: The Board could leave the current regulation in place without change. However, this would result in continued confusion regarding certain definitions and requirements and continued conflict or unnecessary redundancies with some provisions of certain related state and federal laws and regulations.

Public Comment:

A summary of public comment received during the NOIRA comment period, along with any agency discussion.

This amendment process was begun prior to the requirement by Executive Order that the agency summarize public comments and agency discussion and provide them as input to the public participation process. The agency received 204 distinct comments during the NOIRA process, either written through the mail, presented orally at two public information meetings, or both. These comments addressed many parts of the regulations, including definitions, designation criteria, performance criteria, and programmatic and ordinance issues, as well as addressing general concerns such as fairness and equity, flexibility and equivalency, incentives, local program oversight and enforcement, implementation procedures, program participation and effectiveness, and regulatory conflicts. Rather than attempting to summarize all these comments herein, the agency will make its summary of comments document available to anyone who requests a copy. Those interested may request a copy of the document,

ACBLAB NOIRA Process Public Comments (Summer-Fall 1996)@from the Regulatory Coordinator, Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia 23219-1924.

Clarity of the Regulation:

A statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The Chesapeake Bay Local Assistance Board, upon examination of this regulation and relevant public comments and upon subjecting the regulation to review, discussion and recommendations by an advisory committee composed of representatives of principal stakeholders, considers the regulation, as amended, to be clearly written and easily understandable by the individuals and entities affected.

Periodic Review:

A schedule setting forth when, no later than three years after the proposed regulation is expected to be effective, the agency will initiate a review and re-evaluation of the regulation to determine if it should be continued, amended, or terminated, and the specific and measurable goals the proposed regulation is intended to achieve.

The Chesapeake Bay Local Assistance Board and Department will initiate a review and reevaluation of this regulation approximately six (6) months prior to the third anniversary of the effective date of this proposed amendment. The purpose of the review and reevaluation will be to determine if the regulation should be continued, amended, or terminated.

The Board and Department have two potential mechanisms available that may be used to measure success regarding this regulation. The first is a ten-year long water quality monitoring project being conducted in a developing watershed in Caroline County, Virginia. By that point in time the data from the study may reveal whether or not the performance criteria in the regulation are effective in protecting the quality of that stream (as a surrogate for other Tidewater Virginia waters) from the impacts of land development. The goal of this project is to demonstrate that through implementation of the local Bay Act program in a developing watershed, the water quality of the stream system will be protected and will not decline, thus accomplishing the purpose for which the regulations were adopted.

The second potential measurement mechanism is the Board's local program implementation review process. This process is conducted to determine the level of program implementation success and effectiveness among Tidewater localities, with the ideal goal that all local Bay Act programs would be correctly and effectively implemented. The process consists of reports and grant deliverables provided

by the local governments; field visits, questionnaires and interviews conducted by implementation review staff of the agency; site plan reviews, field visits and other technical assistance provided by agency staff at the request of local governments; and citizen complaints and agency enforcement actions related to local program implementation. The goal of these measures is to assure that Tidewater local governments are effectively implementing the regulations.

Fiscal Impacts:

A statement identifying anticipated regulatory impacts that includes (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; and (d) the agency's best estimate of the number of such entities that will be affected.

Estimated Fiscal Impacts for Implementation and Enforcement:

The cost to CBLAD to comply with these procedures is estimated to include the following:

(1) publication of the NOPC in local newspapers and the *Virginia Register of Regulations*; (2) printing and distributing the NOPC to interested parties; (3) printing and distributing copies of the regulations to interested parties; (4) conducting public meetings to solicit comments regarding the proposed regulations; (5) printing and distributing to commenters a list of the public comments and agency responses; (6) necessary modifications to the *Local Assistance Manual*, the agency's document which provides guidance and interpretations regarding the regulations; and, (7) staff and Board review of local program changes to assure compliance with the regulations.

The total cost of these procedures is estimated to be approximately **\$119,493**. The actual or estimated costs are dependent on the number of public meetings and the level of interest expressed by the public. At this time, we anticipate that four public meetings will be held, one each in Northern Virginia (Prince William County or Fredericksburg), Richmond, Tidewater (Chesapeake or Virginia Beach) and the Eastern Shore.

The estimated costs are itemized as follows:

1. Publication of the NOPC in newspapers and the Virginia Register: **\$ 2,000**

This figure is based on previous costs for publishing and the anticipated length of the NOPC. This would include publication in the major newspapers which serve Tidewater Virginia: The Richmond Times-Dispatch (est. \$400), the Richmond Free Press (200), the Virginia Pilot (\$400), and either the Washington Post (\$1,000) or a distribution of smaller regional newspapers (equivalent total cost). There is no anticipated cost for publishing in the *Virginia Register of Regulations*.

2. Printing and distributing the NOPC to interested parties: **\$900**

The NOPC is assumed to be several pages in length for the purposes of printing and postage. All copying will most likely be done in-house an approximate cost of \$0.02 per copy. First class postage (\$0.32) is assumed to be adequate for the estimated size of the NOPC. CBLAD will mail the NOPC to its entire mailing list of approximately 2,000 persons, asking them to notify the agency if they want a copy of the proposed amendments or other information.

3. Printing and distributing copies of the regulation to interested parties: **\$670**

We assume approximately 10 percent (200 individuals) of those on our mailing list will want to obtain a copy of the proposed regulations and support documents. We assume that these documents will also be printed by a commercial vendor. Based on the size of these documents, we anticipate the total copying costs will be approximately \$190 and the postage for each package will cost approximately \$2.40 (total mailing cost of \$480).

4. Conducting public meetings to solicit comments regarding the proposed regulation:
\$ 6,203

We will prepare 200 copies of the proposed regulation and support documents as handouts for each of four public meetings. The cost estimate (copying, collating and stapling) provided by a local printer is \$745.

The exact location of each meeting has yet to be determined. In the past, CBLAD has been able to secure meeting rooms in public (state or county-owned) facilities at no cost to the Department. We anticipate the same arrangements for these meetings. The other factors included in the cost of public meetings is associated with CBLAD staff salaries and travel costs. The staffing needs for these meetings is assumed to be four CBLAD staff: the Executive Director, the Regulatory Coordinator, the Chief of Local Planning Assistance, and one other support staff member. In addition, we expect the Board Chairperson, Vice-Chairperson, and two or three additional Board members to attend each meeting, depending upon where it is held. The breakdown of these costs is provided below. Please note that the staff costs include the full cost to CBLAD (salary and benefits) for the number of hours indicated for each meeting. Board costs reflect the per diem rate they are allowed for attending meetings. The meeting cost also includes travel time, meeting set-up and breakdown time. Furthermore, for the Eastern Shore meeting, the cost includes lodging and meals, as provided in the State Travel Regulations.

Meeting location: Richmond (4 hours*): \$ 798

Staff costs		\$ 548
Board Per Diem (5 members @ \$50/meeting)	250	
Travel*	0	
Lodging		0

Meals 0

* Local proximity eliminates the need for additional time for travel or mileage.

Meeting location: Northern Virginia (8 hours): \$ 1,382

Staff costs	\$ 1,094
Board Per Diem (5 members @ \$50/meeting)	250
Travel (200 miles round trip @ .19/mile)	38
Lodging	0
Meals	0

Meeting location: Chesapeake (8 hours): \$ 1,382

Staff costs	\$ 1,094
Board Per Diem (5 members @ \$50/meeting)	250
Travel (200 miles round trip @ .19/mile)	38
Lodging	0
Meals	0

Meeting location: Eastern Shore (12 hours): \$ 2,641

Staff costs	\$ 1,642
Board Per Diem (5 members @ \$50/meeting)	250
Travel (300 miles round trip @ .19/mile)	57
Chesapeake Bay Bridge Tunnel Tolls *	100
Lodging (4 Staff + 4 Board* = 8 x \$55)	440
Meals (4 Staff + 4 Board = 8 x \$19 (dinner/breakfast)*	152

* One of these Board members lives on the Eastern Shore, so lodging and meals would only apply to the other four members attending.

5. Printing and distributing to commenters a list of the public comments and agency responses: \$ **800**

Based on past experience, we anticipate receiving comments from approximately 150-200 individuals or organizations, either in written form or provided verbally at the public meetings. We anticipate that the documentation of these comments and the agency responses will comprise approximately 75-80 pages, or 40 pages printed on both sides. The copying of these documents will be done in-house at the rate of approximately .02 per page. Therefore, the total copying cost is estimated at approximately \$320. Postage would be approximately \$2.40 per set, totaling \$480.

6. Necessary modifications to the *Local Assistance Manual*: \$ **15,680**

The *Local Assistance Manual* is currently provided to anyone upon request at a cost of \$18 unbound, or \$30 with a D-Ring Binder. The needed modifications will involve various members of the agency's program staff from both the Division of Environmental Engineering and the Division of Local Planning Assistance with procurement assistance from one member of the Administrative Division. The tasks will involve editing existing copy and graphics, writing new copy, creating new graphics, reviewing the changes, setting up the copy with Desktop Publishing software, and procuring printing services. As well, copies of the changes will need to be mailed to the approximately 1,000 current owners of the *Local Assistance Manual* as a free update. In addition, sets of these changes must be printed to be mailed with CBLAD's existing inventory of *Manuals* (approximately 20 copies). We are estimating that the changes will involve approximately 50 pages, printed on both sides. Printing, collating, hole-punching costs are estimated to be \$750. Postage for mailing these updates to current owners is estimated at approximately \$2.40 per package, for a total mailing cost of approximately \$2,400. Future printing costs will be absorbed into the regular costs of reprinting the *Manual* for distribution upon request.

Staff costs for the *Manual* revisions are averaged, as follows, for a total of: \$ 12,530

Program Division Managers @ \$32.10/hour each x 5 weeks total = \$ 6,420

Program Staff Members @ \$24.58/hour each x 6 weeks total = \$ 5,900

Fiscal Staff Member @ \$26.28/hour x 1 day = \$ 210

- 7. Review of local program changes to assure compliance with the regulations:
\$ 93,240

As local programs are amended to reflect the changes in the state regulations, the local governments will be submitting the changes to CBLAD for review. Various members of the Division of Local Planning Assistance perform this review function as part of their liaison responsibilities. Each review results in a report and recommendation to one of two Committees of the Board which meet monthly to consider various local program elements (designations, comprehensive plan amendments, ordinance amendments, etc.) submitted by localities implementing the program. These Board Committees then make recommendations to the full Board whether the local program changes are consistent, provisionally consistent (with conditions), or inconsistent with the regulations. The full Board considers these recommendations as a routine part of the agenda of each quarterly meeting.

We estimate that, on average, that the following costs will be involved in the re-review of *each* of the 84 adopted local programs in Tidewater Virginia.

Staff review, report writing, and committee time @ \$23.00/hour x 40 total hours = \$ 920

Planning Division Chief oversight @ \$26.00/hour x 4 total hours = \$ 104

Executive Director oversight @ \$43.00/hour x 2 total hours = \$ 86

* There will be no additional cost of Board time, since these meetings are held regularly anyway.

Average total review cost of each program @ \$ 1,110 x 84 programs = \$ 93.240.

APPENDIX A

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

EXPLANATION OF PROPOSED AMENDMENTS

Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 10-20 et seq., Virginia Administrative Code)

GENERAL NOTE: The reader will note that, besides specific amendment language proposed in numerous sections of the regulations, the regulations are proposed to be reorganized to increase clarity and improve one's ability to understand them. The reorganization is focused on (1) locating language pertaining to the same general issues in the same part of the regulations, and (2) more clearly describing the processes involved in local adoption of Bay Act program elements, review of those elements and their implementation for consistency with the provisions of the Act and regulations, and the provision of guidance and assistance by the board and department. The initial VAC numbers for each citation/explanation are the numbers from the current regulation, followed by references to the original numbering system (for those who have copies of the regulation using that system) and to the newly proposed numbering.

' 9 VAC 10-20-30 (Originally ' 1.3, will continue to be ' 9 VAC 10-20-30) (Page 1)

The language of this section previously focused on local governments incorporating the criteria in these regulations into their comprehensive plans, zoning ordinances and subdivision ordinances, as directed in the Act. However, the Act also directs local governments to employ those measures to ensure water quality is protected from the impacts of various uses and development. While this additional requirement is implied in the regulations, various commenters have recommended that it be more clearly stated. Furthermore, the Virginia Code Commission has recommended that the two paragraphs be enumerated for reference purposes.

' 9 VAC 10-20-40 (Originally ' 1.4, will continue to be ' 9 VAC 10-20-40) (Pages 2-5)

This section includes the definitions of key terms used in the Regulation.

- !** **Chesapeake Bay Preservation Area (Page 2) B** The Virginia Code Commission has requested that a specific section reference be inserted whenever a reference is made to a Part of the regulation.
- !** **Highly erodible soils (Page 2) B** This amendment removes the reference to the federal guideline manual from the stated formula was originally derived. The formula used in federal and state agricultural conservation programs has since been changed, so this reference is no longer applicable. However, this formula was used to create erodibility maps that Tidewater localities

used to designate their RMAs. Therefore, changing to the new formula, by reference, might have the effect of compromising those original soil maps and determinations. Therefore, the amendment proposes to keep the original formula for the definition and eliminate the reference to the federal manual.

- ! **Highly permeable soils (Page 3) B** This is a technical amendment to reflect the revision of the referenced ~~A~~National Soils Handbook~~@~~. The reference has been changed to the date of the updated edition.
- ! **Intensely Developed Areas (Page 3) C** This is a technical amendment to delete the trailing reference ~~A~~of this chapter~~@~~. This is being done to be consistent with the new formatting preferences of the Virginia Code Commission for the VAC.
- ! **Redevelopment (Page 4) C** This language is added to clarify the meaning of the term, consistent with guidance and interpretations issued by the board and department since the original regulations were adopted.
- ! **Shoreline (Page 4) C** The definition for this term is added as recommended by commenters in several reviews and evaluations of the regulations. The term applies to determining the seaward boundary of the Resource Protection Area (RPA), but could be interpreted in various ways. Therefore, it is important for the regulations to indicate the intended meaning.
- ! **Tributary stream (Page 4) C** This amendment is intended to provide local governments and applicants for permits to use or develop land with additional options for identifying tributary streams, around which Chesapeake Bay Preservation Areas must be designated. Since the language is optional, local governments will not have to redesignate their Chesapeake Bay Preservation Areas. However, most local governments use the plan of development review process as an opportunity to refine the boundaries of the RPA, in particular, using more complete and site-specific information than may have been used in the original, more general designation process. This amendment provides an ~~A~~administrative~~@~~ option to use a specified drainage area as a threshold for determining which streams are to be considered ~~A~~tributary streams~~@~~, and thus must have CBPAs designated around them. This acreage number is consistent with a number considered for use by the U.S. Army Corps of Engineers and the Virginia Department of Environmental Quality as a threshold for determining perennality in their water protection permitting programs. The regulation advisory committee agreed that a drainage area of this size is probably conservative. That is, it is small enough that it is not likely to eliminate many streams that are truly perennial and, therefore, should be subject to the RPA criteria. The building industry representatives on the committee agreed that their industry would be willing to accept this number and the risk that some intermittent streams might be included, because they are satisfied that this option for designating tributary (perennial) streams should speed the permitting process and, thus, save them time and money.

! ' 9VAC 10-20-50 (Originally ' 2.1, will continue to be ' 9 VAC 10-20-50) (Page 5)

This change incorporates into the goals of local programs the Chesapeake Bay Program's riparian forest buffer initiative to which the Governor of Virginia, as a member of the Chesapeake Bay Executive Council, committed the Commonwealth in October 1996. Vegetated buffer areas have been an integral part of Chesapeake Bay Preservation Areas since the program's inception. This change merely links the existing buffer requirement to the Commonwealth's commitment to promote forest buffers.

! ' 9 VAC 10-20-60 (Originally ' 2.2, will continue to be ' 9 VAC 10-20-60) (Page 5)

This change eliminates the original local program adoption deadlines, which are no longer necessary since functional local programs have been adopted and at least conditionally approved by the board for all 84 Tidewater Virginia localities. Furthermore, the board has divided program development into three distinct phases. Given this approach, applying the existing deadline to the completion of all three phases is unworkable for localities and the department, and the original deadline is no longer meaningful.

! ' 9 VAC 10-20-60 B (Originally ' 2.2.B, will continue to be ' 9 VAC 10-20-60 B) (Page 5)

This is a technical amendment. The Virginia Code Commission has requested that a specific section reference be inserted whenever a reference is made to a [Part](#) of the regulation.

! ' 9 VAC 10-20-60 C (Originally ' 2.2.C, will continue to be ' 9 VAC 10-20-60 C) (Page 5)

This is a clarification amendment, simply referring the reader to the part of the regulations that include criteria pertaining to changes in local comprehensive plans that address water quality protection. This change provides better internal consistency to the regulations on this subject.

! ' 9 VAC 10-20-60 D (Originally ' 2.2.D, will continue to be ' 9 VAC 10-20-60 D) (Page 5)

This is a clarification amendment, simply referring the reader to the parts of the regulations that include criteria pertaining to changes in local zoning ordinances and the performance criteria that provide for water quality protection. This change provides better internal consistency among the requirements related to this subject. The Virginia Code Commission has requested that a specific section reference be inserted whenever a reference is made to a [Part](#) of the regulation.

! ' 9 VAC 10-20-60 E (Originally ' 2.2.E, will continue to be ' 9 VAC 10-20-60 E) (Pages 5-6)

This is a clarification amendment, simply referring the reader to the parts of the regulations that include criteria pertaining to changes in local subdivision ordinances and the performance criteria that provide

for water quality protection. This change provides better internal consistency among the requirements related to this subject. The Virginia Code Commission has requested that a specific section reference be inserted whenever a reference is made to a **Part** of the regulation.

! ' 9 VAC 10-20-60 F (Originally ' 2.2.F, will continue to be ' 9 VAC 10-20-60 F) (Page 6)

This is a technical amendment. The Virginia Code Commission has requested that a specific section reference be inserted whenever a reference is made to a **Part** of the regulation.

! ' 9 VAC 10-20-70 (Originally ' 3.1, will continue to be ' 9 VAC 10-20-70) (Page 6)

This is a technical amendment. The Virginia Code Commission has requested that specific section reference be inserted whenever a reference is made to a **Part** of the regulation.

! ' 9 VAC 10-20-80 B 4 (Originally ' 3.2.B.4, will continue to be ' 9 VAC 10-20-80 B 4) (Page 7)

This language is changed as a clarification, consistent with the board's Guidance Policy Paper entitled **Board Determination of Consistency Regarding Local Designation of Resource Protection Areas**, dated February, 1992.

! ' 9 VAC 10-20-80 B 5 (Originally ' 3.2.B.5, will continue to be ' 9 VAC 10-20-80 B 5) (Page 7)

This language is changed to clarify the types of activities that are permitted in the buffer area. The department's review of the application of this section by localities revealed that clarification is needed. The buffer area serves two purposes: (1) it defines the furthest landward extent of the Resource Protection Area as a management area where certain requirements apply; and (2) it serves as a performance based water quality best management practice that protects the integrity of the other Resource Protection Area features. This section of the regulation is about how to correctly designate the particular management area, not about what performances are required within the area. Language has been deleted to clarify that the buffer area, when used to define the extent of the locally designated Resource Protection Area, is always 100 feet wide and cannot be **reduced** by any site specific delineation or application of a best management practice. That is, 100 feet is always 100 feet as used to define the area where Resource Protection Area performance standards apply. However, the ultimate location of the furthest landward extent of the Resource Protection Area may be affected by in-the-field refinements of the extent of *other* Resource Protection Area features like nontidal and tidal wetlands, and tidal shores. Language has been added to confirm that certain activities are still permitted in the Resource Protection Area and to describe the nature of these activities, reflecting guidance provided in several department Information Bulletins regarding modifications of buffer areas.

! ' 9 VAC 10-20-80 C (*New subdivision*) (Page 7)

This language is intended to clarify conditions for adjusting the delineation of specific components of a locally designated Resource Protection Area through field evaluation.

! ' 9 VAC 10-20-90 B (*Originally ' 3.3.B, will continue to be ' 9 VAC 10-20-90 B*) (Page 7)

This language is intended to provide clarification of requirements for designating Resource Management Areas (RMAs), consistent with the board's Guidance Policy Paper entitled "Board Determination of Consistency Regarding Local Designation of RMA," dated July 24, 1991.

! ' 9 VAC 10-20-90 B 5 (*Originally ' 3.3.B.5, will continue to be ' 9 VAC 10-20-90 B 5*) (Page 7)

This language is intended to provide clarification of requirements for designating Resource Management Areas (RMAs), consistent with the board's Guidance Policy Paper entitled "Board Determination of Consistency Regarding Local Designation of RMA," dated July 24, 1991.

! ' 9 VAC 10-20-90 C (*Originally ' 3.3.C, will continue to be ' 9 VAC 10-20-90 C*) (Pages 7-8)

This is a technical amendment. The Virginia Code Commission has requested that a specific section reference be inserted whenever a reference is made to a "Part" of the regulation.

! ' ' 9 VAC 10-20-90 C 1 through 9 VAC C10-20-80 C 5 (*New subdivisions*) (Pages 8-9)

This language is intended to provide clarification of requirements for designating Resource Management Areas (RMAs), consistent with the board's Guidance Policy Paper entitled "Board Determination of Consistency Regarding Local Designation of RMA," dated July 24, 1991.

! ' 9 VAC 10-20-100 (*Originally ' 3.4, will continue to be ' 9 VAC 10-20-100*) (Page 9)

First, the Virginia Code Commission has recommended that the two leading paragraphs of this section be enumerated for reference purposes. Second, the Code Commission has requested that a specific section reference be inserted whenever a reference is made to a "Part" of the regulation. The last change, in the last sentence of the second paragraph, is intended to clarify that the conditions for designating local Intensely Developed Areas must have existed at the time of the local program's adoption.

! ' 9 VAC 10-20-100 A (Originally ' 3.4.A, will be ' 9 VAC 10-20-100 1) (Page 9)

The numbering is changed here to be consistent with the new enumeration of the first two paragraphs of this section.

! ' 9 VAC 10-20-100 B (Originally ' 3.4.B, will be ' 9 VAC 10-20-100 2) (Page 9)

The numbering is changed here to be consistent with the new enumeration of the first two paragraphs of this section. Also, an additional condition (constructed stormwater drainage system) is added here upon the recommendation of various commenters during earlier reviews of the regulations. Finally, the words Alocal program adoption date@are substituted for the words Aeffective date@to provide for more specificity, consistent with the Virginia Code Commission's style conventions and guidelines.

! ' 9 VAC 10-20-100 C (Originally ' 3.4.C, will be ' 9 VAC 10-20-100 3) (Page 9)

The numbering is changed here to be consistent with the new enumeration of the first two paragraphs of this section.

! ' 9 VAC 10-20-105 (New subdivision, originally at ' 4.1.B, then ' 9 VAC 10-20-110 B) (Page 9)

This language was moved to this location from its former location at ' 9 VAC 10-20-110 B. The cross-reference at the end of the paragraph has been changed to reference the amended location of the referenced language.

! ' 9 VAC 10-20-110 (Originally ' 4.1, will be ' 9 VAC 10-20-110 A and B) (Page 10)

First, the Code Commission has recommended that all of the paragraphs in this section be enumerated for clarity in referencing them. Therefore, the first two paragraphs are being enumerated as AA@and AB.@ Second, several instances of the term Anon-point@are being corrected to read Anonpoint.@ Then, the language in this section is being changed to be consistent with proposed changes in the stormwater management and agricultural criteria. The stormwater management criteria (' 9 VAC 10-20-120 8) applied to redevelopment sites are different, depending on whether or not there were water quality protection BMPs installed originally.

! ' 9 VAC 10-20-110 A (Originally ' 4.1.A, will be ' 9 VAC 10-20-110 C) (Page 10)

This is a technical amendment. The numbering is changed here to be consistent with the new enumeration of the first two paragraphs of this section.

! ' 9 VAC 10-20-110 B (Originally ' ' 4.1.B and new language was 4.4, then new language was ' 9 VAC 10-20-140; will be ' 9 VAC 10-20-110 D) (Page 10)

The numbering is changed here to be consistent with the new enumeration of the first two paragraphs of this section. Also, the language formerly at this subsection was moved to the new ' 9 VAC 10-20-105. The new language was moved here from its former location at ' 9 VAC 10-20-140. Finally, the Virginia Code Commission has requested that a specific section reference be inserted whenever a reference is made to a **Part** of the regulation.

! ' 9 VAC 10-20-120 (Originally ' 4.2, will continue to be ' 9 VAC 10-20-120) (Page 10)

Commenters and CBLAD's counsel at the Attorney General's office have noted that the language needs to make it clear that these regulations apply to local governments, not directly to landowners and other individuals. In this instance, the regulations need to specifically hold local governments responsible for ensuring compliance with all the requirements.

! ' 9 VAC 10-20-120 1 (Originally ' 4.2.1, will continue to be ' 9 VAC 10-20-120 1) (Page 10)

This (minimize land disturbance) is the first of what are commonly referred to in this program as **the three general criteria**, which have been the source of considerable confusion because of the way the criteria have been worded. This change is consistent with commenters' recommendations to clarify the meaning of these three criteria, which use different ambiguous terms such as **allowable**, **desired**, and **possible**. The regulation advisory committee discussed these issues at length, agreeing that (1) a certain amount of local discretionary review is appropriate for this program, and (2) the regulation amendments should not disrupt the opportunity for such discretionary review. However, the committee also agreed that the ambiguity of meaning of these terms leads to varying interpretations, and that amendments should clarify the board's intent and, to the degree possible, stabilize their meaning, so that they are interpreted and applied more consistently from one locality to another. The committee agreed that wherever the words **allowable** or **desired** appeared, they should be replaced with the term **proposed**, which has a clearer and more consistent meaning. The committee also agreed that the terms **where possible** and **maximum extent possible** should be replaced with **where practicable** and **maximum extent practicable**.

! ' 9 VAC 10-20-120 2 (Originally ' 4.2.2, will continue to be ' 9 VAC 10-20-120 2) (Page 11)

This (preserve existing vegetation) is the second of **the three general criteria**, which have been the source of considerable confusion because of the way the criteria have been worded. This change is also consistent with commenters' recommendations to clarify the meaning of these three criteria, which use different ambiguous terms such as **allowable**, **desired**, and **possible**. The regulation advisory committee discussed these issues at length, agreeing that (1) a certain amount of local discretionary review is appropriate for this program, and (2) the regulation amendments should not disrupt the

opportunity for such discretionary review. However, the committee also agreed that the ambiguity of meaning of these terms leads to varying interpretations, and that amendments should clarify the board's intent and, to the degree possible, stabilize their meaning. The committee agreed that wherever the words *allowable* or *desired* appeared, they should be replaced with the term *proposed*, which has a clearer and more consistent meaning. The committee also agreed that the terms *where possible* and *maximum extent possible* should be replaced with *where practicable* and *maximum extent practicable*.

! ' 9 VAC 10-20-120 4 (Originally ' 4.2.4, will continue to be ' 9 VAC 10-20-120 4) (Page 11)

Title 15.1 of the Code of Virginia has been recodified as Title 15.2, and parts of that Title have been reorganized. The Code reference here has been changed to reflect this recodification. Also, since the specific plan-of-development process criteria have been relocated within the regulations, the reference here is changed to reflect that new location.

! ' 9 VAC 10-20-120 5 (Originally ' 4.2.5, will continue to be ' 9 VAC 10-20-120 5) (Page 11)

This (minimize impervious cover) is the third of *the three general criteria*, which have been the source of considerable confusion because of the way the criteria have been worded. This change is also consistent with commenters recommendations to clarify the meaning of these three criteria, which use different ambiguous terms such as *allowable*, *desired*, and *possible*. The regulation advisory committee discussed these issues at length, agreeing that (1) a certain amount of local discretionary review is appropriate for this program, and (2) the regulation amendments should not disrupt the opportunity for such discretionary review. However, the committee also agreed that the ambiguity of meaning of these terms leads to varying interpretations, and that amendments should clarify the board's intent and, to the degree possible, stabilize their meaning. The committee agreed that wherever the words *allowable* or *desired* appeared, they should be replaced with the term *proposed*, which has a clearer and more consistent meaning. The committee also agreed that the terms *where possible* and *maximum extent possible* should be replaced with *where practicable* and *maximum extent practicable*.

! ' 9 VAC 10-20-120 6 (Originally ' 4.2.6, will continue to be ' 9 VAC 10-20-120 6) (Page 11)

When the regulations were first adopted, the Virginia Erosion and Sediment Control Law and Regulations exempted single-family homes separately built from subdivisions from having to comply with that law. However, the board recognized that construction of a home without proper erosion control adjacent to a stream, river, or bay could **C** and often did **C** result in sediment pollution. Therefore, they included such single-family home construction under the erosion and sediment control criteria of this

program. However, the Erosion and Sediment Control Law and Regulations have since been amended to no longer exempt single-family homes. Since this subsection ties erosion control compliance to that state law and regulation, single-family homes no longer need to be listed here and are, thus, deleted.

**! ' 9 VAC 10-20-120 7 a (Originally ' 4.2.7.a, will continue to be ' 9 VAC 10-20-120 7 a)
(Page 11)**

The requirement to have septic systems pumped out at least once every five years has been controversial throughout the program's history. Various commenters have recommended that the septic system requirements should be repealed from these regulations and deferred to the Virginia Health Department's septic system regulations, since the VDH is the natural authority for such issues. However, the VDH is currently completing a regulation amendment process and has elected not to include any requirements for mandatory inspections or pump-out. Therefore, the regulation advisory committee was reluctant to repeal the pump-out requirement altogether, because there is significant evidence that failing septic systems can be a source of water pollution, especially in coastal areas, and that routine maintenance, including pump-out, is one of the most effective ways to prevent system failures.

The committee agreed that the pump-out requirement could be made more flexible by providing local governments the option of allowing septic system owners to install a filtering device in the outflow pipe from the septic tank, as suggested by the VDH and proposed in this subdivision. The VDH intends to include this filter option, with an accompanying performance standard for such filters, in its own regulations. Therefore, the proposed language refers to the VDH standard, for the sake of consistency. The following is the pertinent proposed VDH language for the effluent filter performance standard:

E. Effluent filters.

Purpose: An effluent filter may have one or more of the following purposes:

1. *Manage solids and provide greater service life to pump components of an onsite system;*
2. *Reduce the total suspended solids (TSS) passed to the absorption field, potentially enhancing absorption field life;*
3. *Provide for a "soft" system failure, at an appropriate maintenance interval; or*
4. *Other purposes recognized as beneficial by the [VDH].*

A "soft" failure is a warning that the septic tank needs to be pumped, indicated by the slow draining of plumbing or other indications that allow the plumbing to remain functional for weeks or months before becoming completely clogged.

An appropriate maintenance interval is one that closely approximates routine maintenance cycles for the specific system where the filter is installed. For example, septic tanks should be pumped when solids fill one-third of the liquid depth of the tank. In residential situations this is expected to occur every three to five years; however, there will be many instances when more or less frequent pumping may be appropriate. High strength wastes, typically from commercial sources, will require shorter service intervals.

All effluent filters shall comply with at least one of the following standards:

Prescriptive: A filter shall have an open filter area not less than one square foot comprised of openings no greater than one eighth (1/8) inch in any dimension unless slotted openings are used, in which case the maximum width of any slot shall be one eighth (1/8) inch. The filter shall be constructed of PVC, or an equivalent material, which will withstand the corrosive environment of a septic tank.

Performance: A filter shall be tested by a third party organization for not less than 90 days. The testing shall indicate total suspended solids are reduced by not less than 25% and that maintenance intervals will be appropriate for the intended use. The filter shall be constructed of a material which will withstand the corrosive environment of a septic tank.

**! ' 9 VAC 10-20-120 7 b (Originally ' 4.2.7.b, will continue to be ' 9 VAC 10-20-120 7 b)
(Page 11-12)**

The requirement to have a 100 percent reserve area of land for a septic system drainfield has also been controversial throughout the program's history. Various commenters have recommended that the septic system requirements should be repealed from these regulations and deferred to the Virginia Health Department's septic system regulations, since the VDH is the natural authority for such issues. However, the VDH is currently completing a regulation amendment process and has elected not to make any changes in its limited reserve drainfield requirements. Therefore, the regulation advisory committee was reluctant to repeal the reserved drainfield requirement altogether, because there is significant evidence that failing septic systems can be a source of water pollution, especially in coastal areas, and that a sufficient area of land that percolates adequately needs to be available in case a drainfield must be replaced.

The committee agreed that the reserve drainfield requirement could be made more flexible by providing local governments the option of allowing septic system owners to install two somewhat smaller than normal drainfields with a diversion valve, as has been practiced for many years in Fairfax County, Virginia. The diversion valve alternative proposed in this subdivision is based on the requirements of the Fairfax County Health Department for such systems.

! ' ' 9 VAC 10-20-120 7 b (1) through 9 VAC 10-20-120 7 b (9) (New subdivisions) (Pages 12-13)

These are the new conditions that must be met if local governments allow homeowners to use the option of alternating drainfields, based on the Fairfax County Health Department=s regulations.

! ' 9 VAC 10-20-120 8 (Originally ' 4.2.8, will continue to be ' 9 VAC 10-20-120 8) (Page 13)

The several agencies of the Natural Resources Secretariat have been working for several years to develop a set of stormwater management standards that all of the agencies could agree to use in their separate programs. This process has involved oversight from the General Assembly and several advisory committees composed of representatives of all affected interest groups. The goal has been to eliminate any conflicts and confusion generated by having different standards and criteria in each agency. The reconciled water quality standard adopted by DCR last year is the result of a consensus reached by all interested parties and agencies after considerable public comment. All of the agencies have agreed that the Virginia Stormwater Management Regulations, under the authority of the Department of Conservation and Recreation, should be the location of these new standards and that the other agencies will stipulate their stormwater management requirements by reference to the DCR regulations.

These regulations reference only the water quality protection provisions of the DCR Regulations. The following is the pertinent proposed DCR language, including additional definitions needed to understand the reconciled (DCR) stormwater quality standard:

Percent impervious means the impervious area within the site divided by the area of the site multiplied by 100.

Site means the boundaries of the parcel or the planning area in which the project is located.

Planning Area means a designated portion of the parcel on which the land development project is located. Planning areas shall be established by delineation on a master plan. Once established, planning areas shall be applied consistently for all future projects.

Compliance with the water quality criteria may be achieved by employing the performance-based criteria or the technology-based criteria to either the site or a planning area.

A. Performance-based Criteria C For land development, the calculated post-development nonpoint source pollutant runoff load shall be compared to the calculated pre-development load based upon the average land cover condition or the existing site condition. A BMP(s) shall be located, designed, and maintained to achieve the target pollutant removal efficiencies specified in Table 1 to effectively reduce the pollutant load to the required level, based upon the following four applicable land development situations for which performance criteria apply:

1. Situation 1: This consists of land development where the existing impervious cover is less than or equal to the average land cover condition and the proposed improvements will create a total impervious cover which is less than the average land cover condition. Requirement C No reduction in the post-development pollutant discharge is required.

2. Situation 2: This consists of land development where the existing impervious cover is less than or equal to the average land cover condition and the proposed improvements will create a total impervious cover which is greater than the average land cover condition.

Requirement C The pollutant discharge after development shall not exceed the existing pollutant discharge based on the average land cover condition.

3. Situation 3: This consists of land development where the existing impervious cover is greater than the average land cover condition.

Requirement C The pollutant discharge after development must not exceed either (1) the pollutant discharge based on the existing conditions less ten (10) percent; or (2) the pollutant discharge based on the average land cover condition, whichever is greatest.

4. Situation 4: This consists of land development where the existing impervious cover is served by an existing stormwater management BMP(s) that addresses water quality.

Requirement C The pollutant discharge after development shall not exceed the existing pollutant discharge based on the existing impervious cover while served by the existing water quality BMP. The existing water quality BMP must be shown to have been designed and constructed in accordance with proper design standards and specifications, and to be in proper functioning condition.

B. Technology-based Criteria C For land development, the post developed stormwater runoff from the impervious cover shall be treated by an appropriate BMP(s) as required by the post-developed condition impervious cover as specified in Table 1. The selected BMP(s) shall be located, designed, and maintained to perform at the target removal efficiency specified in

Table 1. Design standards and specifications for the BMPs in Table 1 which meet the required target pollutant removal efficiency will be available from the Virginia Department of Conservation and Recreation.

Table 1

<i>Water Quality BMP*</i>	<i>Target Pollutant Removal Efficiency</i>	<i>Percent Impervious</i>
<i>Vegetated filter strip</i> <i>Grassed swale</i>	<i>10%</i> <i>15%</i>	<i>16-21%</i>
<i>Constructed wetlands</i> <i>Extended detention (2x WQ Vol)</i> <i>Retention basin I (3 x WQ Vol)</i>	<i>30%</i> <i>35%</i> <i>40%</i>	<i>22-37%</i>
<i>Bioretention basin</i> <i>Bioretention filter</i> <i>Extended detention-enhanced</i> <i>Retention basin II (4 x WQ Vol)</i> <i>Infiltration (1 x WQ Vol)</i>	<i>50%</i> <i>50%</i> <i>50%</i> <i>50%</i> <i>50%</i>	<i>38-66%</i>
<i>Sand Filter</i> <i>Infiltration (2 x WQ Vol)</i> <i>Retention basin III (4 x WQ Vol)</i> <i>w/ aquatic bench)</i>	<i>65%</i> <i>65%</i> <i>65%</i>	<i>67-100%</i>

** Innovative or alternate BMPs not included in this table may be allowed at the discretion of the local government or the department.*

It is important to note that this new, reconciled stormwater standard continues to use the no-net increase (for new development) and 10 percent decrease (for redevelopment-type projects) performance standards currently used in the Bay Act regulations. The reconciled standard is also based on the average land cover condition, used in the Bay Act regulations, with the same default condition (16 percent impervious). Furthermore, local governments will continue to have the option to calculate more accurate average imperviousness for their communities or watersheds, based on existing conditions. One improvement in the reconciled standard is that developers may use the technology approach, selecting BMPs from the table, which will be a quicker and simpler process for many projects.

! ' 9 VAC 10-20-120 8 a (1) [Originally ' 4.2.8.a(1), will continue to be ' 9 VAC 10-20-120 8 a (1)] (Page 13)

This is a clarification change only.

! ' 9 VAC 10-20-120 8 a (2) [Originally ' 4.2.8.a(2), will continue to be ' 9 VAC 10-20-120 8 a (2)] (Page 13)

This change expands the scope of regional stormwater management programs that might qualify as an alternative/equivalent method of complying with the stormwater management requirement. Previously, the only type of regional program allowed for in the Code of Virginia was the provision referenced in the current regulation, pertaining to ~~A~~pro rata share@programs. However, other alternatives are available now, expanding flexibility. The key to using this provision is that the board will have to approve the local regional program prior to its being available for local compliance.

! ' 9 VAC 10-20-120 8 a (3) [Originally ' 4.2.8.a(3), will continue to be ' 9 VAC 10-20-120 8 a (3)] (Page 13)

This change is needed to account for the changes in the referenced EPA water quality permitting program. When this regulation was originally adopted, there was only one type of permit that qualified for this equivalency provision ~~B~~ an ~~A~~individual@industrial discharge (e.g., a factory discharge or a wastewater treatment plant discharge) permit. However, during the intervening years, communities are now required to obtain permits for their stormwater drainage systems, and numerous activities are eligible for ~~A~~general@permits, involving minimal, if any, review and oversight.

The board considers it important to have assurance that if some alternative method of compliance is to be recognized as equivalent to this regulation, there must be a sufficient level of assurance that, in fact, equivalent results will be achieved. The intent of this change is to place the burden of proof of such equivalency on the local government.

! ' 9 VAC 10-20-120 8 a (4) [Originally ' 4.2.8.a(3), will be deleted] (Page 13)

In view of the reference to the DCR stormwater quality regulations, this provision is no longer needed to be specifically set forth.

! ' 9 VAC 10-20-120 9 (Originally ' 4.2.9, will be ' 9 VAC 10-20-120 9) (Pages 14)

The agricultural criteria in the regulations have been much criticized, and many recommendations of changes have been made over the years. Perhaps the most notable problem with the agricultural requirements is that the board, based on the best advice of the various agricultural conservation agencies, set a deadline of January 1, 1995 for the completion of all the agricultural soil and water quality conservation plans required to be developed by these regulations. In setting that deadline, the board did not anticipate that so many Tidewater localities would include their entire jurisdictions in the designations of their Chesapeake Bay Preservation Areas. As a result of such broad designations,

especially in key agricultural counties, much more agricultural land was made subject to the conservation plan requirement.

The board provides funding assistance to local Soil and Water Conservation Districts to provide assistance to farmers in developing these plans. However, in many cases the farmers are not required to implement the plans once they are developed and approved. When the regulations were originally being debated, the cooperating agricultural conservation agencies convinced the board that they would be able to exert persuasive influence to convince farmers to implement the plans without the need to require implementation in the regulations. There is anecdotal evidence that this has, indeed, happened in many cases.

It is clear that agriculture is responsible for a large volume of the pollution that gets into state waters from nonpoint source runoff. However, it has become evident that (1) the board has insufficient technical assistance resources to provide assistance to all the farmers who are required to comply; and (2) requiring plans that may not be implemented is an inefficient use of available resources. For several years, department staff has been working with local districts, the staffs of the cooperating agricultural agencies, and farmer representatives to develop a more efficient and effective way to accomplish agricultural conservation through these regulations. There is a consensus among those groups that the proposed amendments herein should accomplish that.

The main changes in the agricultural criteria are as follows:

1. Conservation plans will no longer be required for their own sake. Instead, assessments will be conducted of all farm fields within CBPAs to determine what conservation practices are currently being used and what others may be needed. Plans will only be developed for those practices that are needed, which will save considerable time.
2. This subsection clearly states that the assessments will address soil erosion, nutrient management, and the management of pesticides, three plan components that districts have been addressing throughout the program's history.
3. The deadline for completion of this process is proposed to be deleted as impractical and meaningless, given the level of resources available for technical assistance. To date, the existing resources have only been sufficient to reach about 15 percent of the fields and tracts that must comply. Based on currently available resources, the department estimates that all farmland required to have plans developed would not be reached and in compliance before the year 2015 or later. Instead, the amendments include a provision (subdivision 9VAC10-20-120.9.b below) for targeting fields and tracts nearest the water first and, secondarily, larger fields and tracts before smaller ones. The goal is to provide water quality protection to the lands nearest the water and on larger acreages first.

4. An original requirement for the Department of Conservation and Recreation (DCR) to report on the effectiveness of existing state and federal agricultural conservation programs is proposed to be deleted. Cooperating agricultural conservation agencies assured the board, through testimony and public comments, that the agricultural provisions in the Bay Act regulations would be sufficient in conjunction with all other existing agricultural programs. This requirement was included to provide reassurance to the board that claims being made by these agencies were true. The required report by DCR was intended to be a one-time event, and the report confirmed the earlier claims. Therefore, this provision is no longer needed.

! ' 9 VAC 10-20-120 9 a (New subdivision) (Page 14)

As discussed above, this subdivision provides for greater flexibility regarding the standards used for various agricultural BMPs, where cost-sharing with government agencies is not involved.

! ' 9 VAC 10-20-120 9 a (1) (New subdivision) (Pages 14-15)

This subdivision provides specific standards for the erosion control component of the required conservation assessments and any plans that are developed as a result of the assessments. This provision will provide more flexibility than before, while still assuring water quality protection. In doing so, the provision assures consistency with the erosion control standards of the USDA-NRCS, which is the lead agricultural agency for erosion control planning and protection.

! ' 9 VAC 10-20-120 9 a (2) (New subdivision) (Page 15)

This subdivision requires soil test information for any full nutrient management plans. While this is a new requirement, the public comment and advisory committee processes have made a number of facts clear regarding nutrient management:

1. Nutrient pollution has been identified as the most important pollution problem impacting the Chesapeake Bay and its tributaries.
2. Agriculture is responsible for a large volume of the nutrient pollution that gets into state waters and the Bay from nonpoint source runoff and groundwater leaching.
3. Nutrient management is perhaps the most important agricultural water quality protection practice that farmers can implement.
4. It is impossible to write an effective nutrient management plan without soil test information.
5. It is impractical for a farmer to expect to effectively manage nutrients without soil test information.

6. Soil tests indicate the levels of various nutrients existing in the soil. When compared with the nutrient needs for planned crops, nutrient application rates can be determined, saving the farmer money and minimizing the risk of nutrients not being used by the plants but, instead, running off or leaching into surface waters or groundwater.
7. Farmers have complained that they cannot afford the cost of soil tests, which are no longer free. However, the overwhelming amount of testimony indicates that, in most cases, the savings derived from careful implementation of a nutrient management plan **C** incorporating soil test information **C** saves far more money than the tests cost. Furthermore, DCR is currently considering including the cost of soil tests among the practices that will be eligible for the new tax credit program recently adopted by the General Assembly.

Therefore, this proposal requires soil test information when full nutrient management plans are needed.

! ' 9 VAC 10-20-120 9 a (3) (New subdivision) (Pages 15)

This subdivision merely codifies the current practice regarding the provision of pest management technical assistance, which is typically provided by distribution of Virginia Cooperative Extension pest management guidance or referrals to local extension specialists.

! ' 9 VAC 10-20-120 9 b (New subdivision) (Page 15)

As a substitute for the earlier conservation plan completion deadline, this subdivision requires targeting fields and tracts nearest the water first for conservation assessments and plan development and, secondarily, larger fields and tracts before smaller ones. The goal is to provide water quality protection to the lands nearest the water and on larger acreages first.

! ' 9 VAC 10-20-120 9 c (New subdivision) (Page 15)

This subdivision continues to assign to local Soil and Water Conservation Districts the responsibility and of approving conservation plans developed through the assessment process. Districts have made it clear through public comment and the advisory committee process that they consider themselves the appropriate authority for this and desire to continue in this role.

! ' 9 VAC 10-20-120 10 (Originally ' 4.2.10, will continue to be ' 9 VAC 10-20-120 10) (Page 15)

Changes to this subsection are primarily technical. The state name is inserted before **A**Department of Forestry**@** to clarify that the state agency is being referenced. The term **A**instream**@** is grammatically corrected to **A**in-stream**@**. Finally, since the Department of Forestry and the Forestry Industry were just

beginning implementation of a voluntary forestry BMP program when the Bay Act regulations were being developed, the board included a requirement **B** similar to the one for DCR **B** that the DOF report the effectiveness of that program in 1991, after a couple of years of implementation. The DOF made the report, indicating that the majority of loggers were using BMPs and that no additional requirements needed to be applied through these regulations. Since that report was a one-time event, there is no further need for the language requiring it.

! ' 9 VAC 10-20-130 (Originally ' 4.3, will continue to be ' 9 VAC 10-20-130) (Page 16)

The changes in this section title and introduction are for clarification only and change nothing substantively.

! ' 9 VAC 10-20-130 A (Originally ' 4.3.A, will be ' 9 VAC 10-20-130 I) (Pages 16)

The numbering is changed to be consistent with the new VAC formatting style. The catch line is changed to more accurately reflect the content of the section. The water quality impact assessment requirement is deleted here and moved to the first subdivision of this section. The remaining changes in this subsection are clarifications of the uses currently permitted by the regulations and the inclusion of an additional permitted use. All appropriate existing citations regarding uses permitted in the Resource Protection Area not previously referenced here are now referenced and aggregated under this section. These changes are intended to clarify that within the Resource Protection Area, land uses are to be limited to those specified in this regulation. The following is a review of each change:

1. (i) water dependent uses **B** this has not been changed and water dependent uses as defined in the regulations are permitted in the Resource Protection Area;
2. (ii) redevelopment **B** this use has been clarified to indicate that redevelopment activities *and* uses established legally prior to local adoption may continue as nonconforming uses;
3. (iii) new uses **B** this is a new reference to a use always permitted by the regulations but not previously referenced here relating to the establishment of new uses on nonconforming lots that predated the original enactment of these regulations;
4. (iv) roads and driveways **B** this is a new reference to a use permitted previously by the regulations but not previously referenced here relating to road and driveway crossings;
5. (v) flood control and stormwater management facilities **B** this is a new reference resulting from this regulatory revision that acknowledges that certain best management practices may need to be suitably located in Resource Protection Areas in order to function at their highest level.

! ' 9 VAC 10-20-130 1 a (New subdivision) (Page 16)

This new subdivision picks up the water quality impact assessment requirement deleted in the previous subsection and puts it in its most logical location. The water quality impact assessment is a submission standard for all development activities in the Resource Protection Area.

! ' 9 VAC 10-20-130 A 1 (Originally ' 4.3.A.1, will be ' 9 VAC 10-20-130 1 b) (Page 16)

This subdivision is renumbered to be consistent with the new VAC numbering style, and a phrase is added to clarify but not change the meaning.

! ' 9 VAC 10-20-130 A 1 a [Originally ' 4.3.A.1.a, will be ' 9 VAC 10-20-130 1 b (1)] (Page 16)

This subdivision is renumbered to be consistent with the new VAC numbering style, and the language is amended to clarify but not change the meaning.

! ' 9 VAC 10-20-130 A 1 b [Originally ' 4.3.A.1.b, will be ' 9 VAC 10-20-130 1 b (2)] (Page 16)

This subdivision is renumbered to be consistent with the new VAC numbering style, and the language is amended to provide a more specific reference to another section of the regulations, using the new numbering.

! ' 9 VAC 10-20-130 A 1 c [Originally ' 4.3.A.1.c, will be ' 9 VAC 10-20-130 1 b (3)] (Page 16)

This subdivision is renumbered to be consistent with the new VAC numbering style, and the word **and** is added at the end, consistent with the VAC style, to lead to the completion of a sequence of criteria..

! ' 9 VAC 10-20-130 A 1 d [Originally ' 4.3.A.1.d, will be ' 9 VAC 10-20-130 1 b (4)] (Page 16)

This subdivision is renumbered to be consistent with the new VAC numbering style, and the language is amended to clarify but not change the meaning. Furthermore, as discussed earlier (' 9 VAC 10-20-120 2, etc.), the term **wherever possible** is changed to **wherever practicable**.

! ' 9 VAC 10-20-130 A 2 (Originally ' 4.3.A.2, will be ' 9 VAC 10-20-130 1 c) (Page 16)

This subdivision is renumbered to be consistent with the new VAC numbering style, and the language is amended to provide a more specific reference to other subsections of the regulations, using the new numbering, and to reference the similar applicable requirements of other agencies. The order of the references to *Erosion and sediment control* and *Stormwater management* criteria has been reversed to track the order they appear, respectively, in this regulation.

! ' 9 VAC 10-20-130 A 3 (Originally ' 4.3.A.3, will be ' 9 VAC 10-20-130 1 d) (Pages 16-17)

This subdivision is renumbered to be consistent with the new VAC numbering style, and the language is amended to clarify but not change the meaning.

! ' ' 9 VAC 10-20-130 A 3 a through 9 VAC 10-20-130 A 3 d [Originally ' ' 4.3.A.3.a through 4.3.A.3.d, will be ' ' 9 VAC 10-20-130 1 d (1) through 9 VAC 10-20-130 1 d (4)] (Page 17)

These subdivisions are renumbered to be consistent with the new VAC numbering style.

! ' 9 VAC 10-20-130 1 e (New subdivision) (Page 17)

This language is added to address recommendations to include ponds and lakes in the definition of *Water-dependent facilities*. While ponds and lakes must be located in the landscape in a position that assures a certain amount of water flow from rainfall or other sources to sustain their water storage volume, the board and department have consistently taken the position that they do not necessarily have to be located at the shoreline or within state waters, as is true for things defined in these regulations as *Water-dependent facilities*. However, there may indeed be times where it is acceptable or even preferable to locate a pond or lake within the boundaries of a Resource Protection Area. This language specifies the conditions under which that may be permitted.

! ' ' 9 VAC 10-20-130 A 2 through 9 VAC 10-20-130 A 2 b (New subdivision; originally ' ' 4.5.C through 4.5.C.2, then was ' ' 9 VAC 10-20-150 C through 9 VAC 10-20-150 C 2) (Page 17)

This new subdivision is merely previous language regarding exemptions from the Resource Protection Area criteria that was reorganized to this location in the regulations from the sections specified above. The only change in the language is added at the request of the Virginia Code Commission, to provide a more specific reference applicable to the beginning section of the referenced *Part* of the regulation.

! ' 9 VAC 10-20-130 B (Originally ' 4.3.B, will be ' 9 VAC 10-20-130 3) (Pages 17-18)

The language added at the beginning of this subsection is a clarification of the role of the buffer area as it defines the furthest landward extent of the Resource Protection Area which is a clarification of previous departmental interpretations. Furthermore, this establishes that permissibility of uses and development activities does not change the extent of the Resource Protection Area. There have been confusion and questions about whether encroachments that are allowed into the buffer result in an actual movement of the upland RPA/buffer boundary. The department and board have interpreted this to mean that the Resource Protection Area boundary line does not move, even though certain uses may be permitted within the buffer and, under certain conditions, encroachments into the buffer portion of the Resource Protection Area are allowed. This amendment is being added to clarify the board's interpretation. As in cases of other regulation guidance and interpretations provided by the board and department, many commenters and members of various evaluation and advisory committees have urged the board to incorporate such guidance and interpretive language into the body of the regulations for the purpose of clarification.

Also in this subsection, the word "wide" is added twice to clarify that the 100-foot dimension applies to buffer width, and the term "run-off" is corrected grammatically to the word "runoff."

Finally, the last sentence in this subsection is proposed to be deleted because it has caused significant confusion about the board's intent regarding modifications of buffer areas. Following considerable evaluation of scientific data available at the time regarding buffers, the board determined that a 100-foot wide buffer, preferably vegetated with trees, should be required adjacent to all tributary streams and landward of other RPA features. However, the board recognized that there would be some situations where narrower vegetated buffer areas might be necessary, such as on small pre-existing residential lots and agricultural fields where the land is used to produce crops/income annually. Provisions were incorporated into the regulations to allow for encroachments in such cases. Furthermore, an exception clause was provided in the regulations to address unforeseen circumstances.

Another issue the board was addressing was a request by commenters to allow for "equivalent" measures to be used in complying with the water quality performance presumed to be achieved by the buffer. The board did not intend to reduce the extent of the Resource Protection Area (resulting from encroachments into or modifications of the buffer). Instead, the board intended to provide flexibility in meeting the water quality benefits achieved by a fully vegetated 100-foot buffer. To provide flexibility in the plan of development review process for local government officials to make such decisions administratively, and to prevent the need for an applicant to always have to apply for an exception to authorize a buffer modification, the board inserted the following sentence at this point in the regulations:

Except as noted in this subsection, a combination of a buffer area not less than 50 feet in width and appropriate best management practices located landward of the buffer area which collectively achieve water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-foot buffer area may be employed in lieu of the 100-foot buffer.

The board did not intend that this provision would authorize uniform 50-foot wide buffers with accompanying BMPs in new development projects. However, some local governments have interpreted it that way. Guidance issued in the *Local Assistance Manual* and in the department's *Chesapeake Bay Preservation Area Overlay District* model ordinance state that lots shall have sufficient area *outside* the RPA to accommodate the intended development. The board intended that there should be 100-foot wide buffers in all new developments, and other parts of the regulations provide a means of relief for pre-1989 lots (specifically allowed modifications, encroachments, and exceptions). Encroachments that are considered necessary and that can be offset by the use of BMPs achieving equivalent water quality protection can be applied for through the exception process. Therefore, this sentence is proposed to be deleted, and language is proposed to be changed in other sections of the regulations dealing with buffers, to clarify the board's intent.

! ' ' 9 VAC 10-20-130 B 1 through 9 VAC 10-20-130 B 1 d [Originally ' ' 4.3.B.1 through 4.3.B.1.d, will be ' ' 9 VAC 10-20-130 5 a through 9 VAC 10-20-130 5 a (4)] (Page 18)

As part of the reorganization of this subsection for clarity, these subdivisions are deleted here and moved to a new location with the numbers indicated above. As well, language was added at the new location to clarify that maintenance is allowed within the buffer to prevent upland erosion and concentrated stormwater flows.

! ' 9 VAC 10-20-130 B 2 (Originally ' 4.3.B.2, will be ' 9 VAC 10-20-130 4) (Page 18)

This subdivision is renumbered to be consistent with the new VAC numbering style. As well, the intent is clarified by shifting the terminology from buffer width ~~modifications~~ to ~~encroachments~~ within the buffer.

! ' 9 VAC 10-20-130 B 2 a (Originally ' 4.3.B.2.a, will be ' 9 VAC 10-20-130 4 a) (Page 18)

This subdivision is renumbered to be consistent with the new VAC numbering style. As well, the intent is clarified by shifting the terminology from buffer ~~modifications~~ to ~~encroachments~~ within the buffer.

! ' 9 VAC 10-20-130 B 2 b (Originally ' 4.3.B.2.b, will be ' 9 VAC 10-20-130 4 b) (Page 18)

This subdivision is renumbered to be consistent with the new VAC numbering style. As discussed earlier, the term ~~where possible~~ is replaced with the term ~~where practicable~~. Also, the language here is reorganized and supplemented for clarification of intent, without changing its substance.

! ' 9 VAC 10-20-130 B 2 c (Originally ' 4.3.B.2.c, will be ' 9 VAC 10-20-130 4 c) (Page 19)

This subdivision is renumbered to be consistent with the new VAC numbering style. As well, the intent is clarified by shifting the terminology from buffer A reductions@ to A encroachments@ into the buffer.

! ' 9 VAC 10-20-130 B 3 (Originally ' 4.3.B.3, will be ' 9 VAC 10-20-130 7) (Page 19)

This subdivision is deleted here and moved to the location shown above. The language at the new location is also changed somewhat so as not to treat this provision as an exemption, but rather to give local governments more discretion about how to deal with buffers within Intensely Developed Areas and isolated redevelopment and in-fill sites.

! ' 9 VAC 10-20-130 5 (New subdivision) (Page 19)

This subdivision gathers together all language in the regulations regarding specifically authorized modifications of vegetated buffer areas.

! ' ' 9 VAC 10-20-130 5 a through 9 VAC 10-20-130 5 a (4) (New subdivisions; originally ' ' 4.3.B.1 through 4.3.B.1.d and ' ' 9 VAC 10-20-130 B 1 through 9 VAC 10-20-130 B 1 d) (Page 19)

The language here has been reorganized to this location in the regulations for clarification. The only change is in subdivision 5 a (4), adding that noxious weeds may be removed from the buffer.

! ' 9 VAC 10-20-130 B 4 (Originally ' 4.3.B.4, will be ' 9 VAC 10-20-130 5 b) (Page 19)

This subdivision is renumbered to be consistent with the new VAC numbering style. As well, the intent is clarified by shifting the terminology from buffer A reductions@ to A encroachments@ into the buffer. The language has also been changed to allow the permissive prevention of noxious weeds rather than requiring such maintenance.

! ' 9 VAC 10-20-130 B 4 a [Originally ' 4.3.B.4.a, will be ' 9 VAC 10-20-130 5 b (1)] (Pages 19-20)

The language is changed in this subdivision for the sake of clarification and to provide more flexibility by linking the condition for encroachment in the landward 50 feet of the buffer area to implementation of at least one appropriate BMP focused on the predominant water quality problem, rather than a generalized enrollment in a government-funded BMP program.

! ' ' 9 VAC 10-20-130 5 b (1) (a) through 9 VAC 10-20-130 5 b (1) (b) (New subdivisions) (Page 20)

These two new subdivisions set forth the specific conditions that must be satisfied for a farmer to qualify for encroachment into the landward 50 feet of the buffer area. Subdivision (a) sets the requirement if nutrient management is the predominant water quality issue, and subdivision (b) sets the requirement if erosion control is the predominant water quality issue. This language resulted from extensive discussions between department staff and representatives of Soil and Water Conservation District Boards and staff and agricultural industry organizations, as well as from a consensus of the members of the board's Regulation Advisory Committee.

**! ' 9 VAC 10-20-130 B 4 b [Originally ' 4.3.B.4.b, will be ' 9 VAC 10-20-130 5 b (2)]
(Pages 20-21)**

The language is changed in this subdivision for the sake of clarification and to provide more flexibility by linking the condition for encroachment in the landward 75 feet of the buffer area to implementation of appropriate BMPs addressing all water quality issues (erosion control, nutrient management, and pesticide chemical management), rather than to generalized implementation of a conservation plan (an assessment may demonstrate that the farmer is already doing all that is necessary, with or without an existing plan). Specific requirements for addressing each water quality issue are set forth. This language resulted from extensive discussions between department staff and representatives of Soil and Water Conservation District Boards and staff and agricultural industry organizations, as well as from a consensus of the members of the board's Regulation Advisory Committee.

**! ' 9 VAC 10-20-130 B 4 c [Originally ' 4.3.B.4.c, will be ' 9 VAC 10-20-130 5 b (3)]
(Page 21)**

The language in this subdivision has been changed to clarify the conditions under which buffers will *not* be required for agricultural drainage ditches (NOTE: Otherwise, buffers would only apply to ditches that have perennial flow in them). The new language provides greater flexibility, because it links the condition to implementation of one or more BMPs addressing the predominant water quality issue (erosion or nutrient management) rather than to a conservation plan.

The following table is a comparison of what was previously required in the regulations and what is now proposed to be required for a farmer to satisfy the agricultural requirements in the regulations and qualify for approval to encroach into the buffer:

Type CBPA or Buffer	Current Requirement	Proposed Requirement
RMA tract	A full conservation plan, addressing soil erosion, nutrient management, and pest management must be developed	An assessment of the existing operation and conservation practices must be conducted, including soil erosion control, nutrient management, and pest management. If current practices are adequate, those practices will be documented and nothing more needs to be done. If not, recommendations appropriate for each field and operation will be made regarding additional conservation practices

Type CBPA or Buffer	Current Requirement	Proposed Requirement
	<p>and approved by the SWCD for each tract, but the plan does not have to be implemented.</p>	<p>needed or beneficial.</p> <p>The recommendations would not be required to be implemented on RMA tracts, just as conservation plans are not currently required to be implemented. However, information would be provided and persuasive influence exerted to encourage implementation, just as is done currently. (Anecdotally, SWCD staff indicate they have a pretty good success record in persuading farmers to implement appropriate BMPs, especially since, in many cases, the BMPs make economic sense as well as conservation sense.)</p> <p>If the person conducting the assessment determines that additional nutrient management measures are needed, then a full nutrient management plan will be developed, consistent with the plan content and development procedures in the Virginia Nutrient Management Training and Certification Regulations.</p> <p>If the person conducting the assessment determines that additional erosion control measures are needed, then an erosion control plan will be developed. The goal for soil erosion control recommendations should be to keep soil loss to AT@but to allow flexibility up to a maximum loss consistent with an Alternative Conservation System, as defined by the USDA-NRCS in the FOTG. This is consistent with USDA-NRCS practice in planning for highly erodible lands and will assure uniformity across programmatic lines.</p> <p>If the person conducting the assessment determines that additional pest management measures are needed, IPM sheets appropriate for the particular operation will be provided to the operator, as is currently done. The operator will be referred to Cooperative Extension for a more specific plan or recommendations, as is currently done.</p>
<p>RPA tract with full 100-foot buffer</p>	<p>Same as above. Also, a full 100-foot wide vegetated buffer must be in place between the field and the stream of other RPA components.</p>	<p>Same as above. However, if specific erosion or other problems are identified which, in the opinion of the local SWCD board, are causing or may cause a direct negative impact to the RPA, buffer performance, or water quality of the nearby stream or associated wetlands, such problems must be corrected within specified period of time, consistent with the time frames and conditions specified in the Agricultural Stewardship Act implementation guidelines. Referrals will be made, as appropriate, to the USDA-NRCS for free assistance with engineering practice design and installation and, where applicable, cost-share assistance. Alternatively, the owner/operator may, at his or her own cost, hire a private consultant for this assistance. The local government will be notified of any problems requiring correction for the purposes of follow-up, further consideration and, if necessary, enforcement.</p>
<p>RPA tract with modified 50-foot buffer</p>	<p>At least one BMP must be implemented on the field, which, in combination with the modified buffer area,</p>	<p>At least one BMP must be implemented which, in the opinion of the local SWCD board, addresses the predominant water quality issue for the field B either erosion control or nutrient management B and, in combination with the modified buffer area, achieves water quality protection, pollution removal, and water resource conservation at least the equivalent of the 100-foot wide buffer.</p>

Type CBPA or Buffer	Current Requirement	Proposed Requirement
	<p>achieves water quality protection, pollution removal, and water resource conservation at least the equivalent of the 100-foot wide buffer.</p>	<p>If nutrient management is determined to be the predominant water quality issue, a full nutrient management plan must be developed and implemented consistent with the plan content and development procedures in the Virginia Nutrient Management Training and Certification Regulations. Soil test will be required for such plans.</p> <p>If soil erosion is determined to be the predominant water quality issue, an erosion control plan must be developed to reduce soil loss to T, but the plan may allow up to an Alternative Conservation System (ACS) where it may not be feasible to attain T. This is consistent with current USDA-NRCS practice in planning for highly erodible lands and assures consistency across programmatic lines.</p> <p>In addition to implementation of the BMP(s), if specific erosion or other problems are identified which, in the opinion of the local SWCD board, are causing or may cause a direct negative impact to the RPA, buffer performance, or water quality of the nearby stream or associated wetlands, such problems must be corrected within specified period of time, consistent with the time frames and conditions specified in the Agricultural Stewardship Act implementation guidelines. Referrals will be made, as appropriate, to the USDA-NRCS for free assistance with engineering practice design and installation and, where applicable, cost-share assistance. Alternatively, the owner/operator may, at his or her own cost, hire a private consultant for this assistance. The local government will be notified of any problems requiring correction for the purposes of follow-up, further consideration and, if necessary, enforcement.</p>
<p>RPA tract with modified 25-foot buffer</p>	<p>The complete conservation plan must be implemented on the field, addressing soil erosion control, nutrient mgmt., and pest mgmt., and which, in combination with the modified buffer, achieves water quality protection, pollution removal, and water resource conservation at least the equivalent of the 100-foot wide buffer.</p>	<p>Conservation measures must be implemented addressing all three water quality issues B erosion control (the field must meet T meet T if possible or, alternatively, up to an ACS), nutrient management (a full nutrient management plan, including soil tests, must be developed and implemented, consistent with the plan content and development procedures contained in the Virginia Nutrient Management Training and Certification Regulations), and pest management (IPM sheets will be provided and referral will be made to the local Extension Agent). All recommendations resulting from the assessment must be implemented on the tract, including correction of any identified pollution problems, as described above, within a specified time period, consistent with the time frames and conditions specified in the Agricultural Stewardship Act implementation guidelines.</p> <p>It is presumed that implementation of BMPs and other conservation measures addressing all three components will, in combination with the modified buffer area, achieve water quality protection, pollution removal, and water resource conservation at least the equivalent of the 100-foot wide buffer.</p>

! ' ' 9 VAC 10-20-130 6 through 9 VAC 10-20-130 6 b (New subdivision; originally ' ' 5.6.E through 5.6.E.2, then ' ' 9 VAC 10-20-220 E through 9 VAC 10-20-220 E 2) (Pages 21-22)

This language was moved to this location in the regulations from the section indicated above because it relates to a submission standard for developing within the RPA. The language has not been changed, except for the insertion of a specific section reference for the beginning of the referenced **Part** of the regulation, as requested by the Virginia Code Commission.

! ' 9 VAC 10-20-130 7 (New subdivision; originally ' 4.3.B.3, then ' 9 VAC 10-20-130 B 3) (Page 22)

As noted earlier, on page 22 of this document, this language was reorganized to this location in the regulations. It is changed somewhat so as not to treat this provision as an exemption, but rather to give local governments more discretion about how to deal with buffers within Intensely Developed Areas and isolated redevelopment and in-fill sites.

! ' 9 VAC 10-20-140 (Originally ' 4.4, will be ' 9 VAC 10-20-110 B) (Page 22)

This language was reorganized from this location in the regulations to a position early in Part IV because the content is more appropriate in that position. The language was amended there to add references to the two newly created Parts of the regulations, specifically addressing comprehensive plans (now the exclusive focus of Part V), zoning and subdivision ordinances (new Part VI), and the local assistance/consistency review processes (new Part VII).

! ' ' 9 VAC 10-20-150 through 9 VAC 10-20-150 A (Originally ' ' 4.5 through 4.5.A, will continue to be ' ' 9 VAC 10-20-150 through 9 VAC 10-20-150 A) (Page 22)

The title of this section and the catch line of the first subsection are being changed to more accurately reflect their contents.

! ' 9 VAC 10-20-150 B (Originally ' 4.5.B, will continue to be ' 9 VAC 10-20-150 B) (Page 22)

The word **Roads** is added to the catch line since roads are addressed among the listed exemptions.

! ' 9 VAC 10-20-150 B 1 (Originally ' 4.5.B.1, will continue to be ' 9 VAC 10-20-150 B 1) (Pages 22-23)

Fiber-optic cable transmission lines, a new technology since this regulation was originally adopted, are being added to the list of exempt utilities, which are regulated separately by the State Corporation Commission.

! ' 9 VAC 10-20-150 B 2 (Originally ' 4.5.B.2, will continue to be ' 9 VAC 10-20-150 B 2) (Page 23)

The word **local** is proposed to be moved in the sentence in order to clarify that all the listed exempt utilities are local utilities. Also, cable television and fiber-optic cable lines are added to the list of conditionally exempt local utilities.

! ' 9 VAC 10-20-150 B 2 b (Originally ' 4.5.B.2, will continue to be ' 9 VAC 10-20-150 B 2 b) (Page 23)

As discussed earlier (' 9 VAC 10-20-120 2, etc.), the term **desired** is changed to **proposed**.

! ' ' 9 VAC 10-20-150 C through 9 VAC 10-20-150 C 2 (Originally ' ' 4.5.C through 4.5.C.2, will be ' ' 9 VAC 10-20-130 2 through 9 VAC 10-20-130 2 b) (Pages 23-24)

The language of this section is proposed to be moved to a more appropriate position in the regulations, as noted above. The only changes are technical in nature, where the enumeration at the new location is changed to match the new VAC numbering of this amendment.

! ' 9 VAC 10-20-150 C (New subdivision; originally ' 4.6, then ' 9 VAC 10-20-160) (Page 24)

Rather than being treated as a separate section, this language is reorganized to become part of this section, dealing with nonconformities, exemptions, and exceptions. An additional condition for an exception has been added by reference to the Code of Virginia. This links exceptions to statutory conditions that have previously been applicable implicitly because of the link of local Bay Act programs with police and zoning powers. Finally, the last sentence has been modified to correct the references to the new applicable section numbers.

! ' 9VAC10-20-160 (Originally ' 4.6) (Page 24)

As noted immediately above, this section is proposed to be repealed, and the language relocated to the end of the previous section.

! Part V (Originally Part V, will continue to be Part V) (Page 24)

The title of this part of the regulations is proposed to be changed to focus specifically on criteria applying to local comprehensive plans, which are now proposed to be the only subject of this part. Previously, this part included criteria now divided among this part and the new Parts VI and VII.

! ' 9 VAC 10-20-170 (Originally ' 5.1, will continue to be ' 9 VAC 10-20-170) (Page 24)

The language is being changed to focus on the specific content of this part, which is comprehensive plans as they pertain to the Bay Act.

! ' ' 9 VAC 10-20-180 through 9 VAC 10-20-210 (Originally ' ' 5.2 through 5.5) (Pages 24-26)

All of these sections are repealed in their entirety (including subsections and subdivisions) in their current positions. The language is reorganized into other more relevant positions in the regulations to improve clarity and understanding. Those relocations will be described below as each section is addressed independently.

! ' 9VAC10-20-220 (Originally ' 5.6, will be ' 9 VAC 10-20-231) (Page 26)

This section originally addressed criteria regarding local comprehensive plans, zoning ordinances, plan-of-development review processes, subdivision ordinances, water quality impact assessments (already explained at its new location, discussed above), and board review of local programs. The lead paragraph, with this section number, is proposed to be repealed at this location and reorganized to the position indicated above. Remaining subsections and subdivisions originally in this section are proposed to be reorganized and/or renumbered (consistent with the new, more relevant, positions and the VAC numbering style). Those proposed changes will be described below as each section is addressed independently.

! ' 9 VAC 10-20-220 A (Originally ' 5.6.A, will be ' 9 VAC 10-20-171) (Page 26)

The language in this section is proposed to be changed to reflect more accurately the comprehensive planning process and what information is needed by the board to evaluate consistency of a comprehensive plan or plan component adopted pursuant to the requirements in this regulation. The word *should* is proposed to be changed to *shall*, because the listed elements are standard components of the comprehensive planning process, and this information is needed to understand the water quality issues that follow.

! ' 9 VAC 10-20-220 A 1 (Originally ' 5.6.A.1, will be ' 9 VAC 10-20-171 1) (Page 26)

The changes in this subdivision include some minor word changes and additions for clarity. Previously the regulations stated that the local governments *should* collect the information on the topics listed, because the list included the topics that might not apply to all localities. This amendment proposes to add to the end of the paragraph the words *as applicable to the locality.* Therefore, the word *should*

is proposed to be changed to *shall* because, where these items do apply, the local government must evaluate them to develop an effective water quality component of the comprehensive plan.

! ' 9 VAC 10-20-220 A 1 a (*Originally ' 5.6.A.1.a, will be ' 9 VAC 10-20-171 1 a*) (Page 26)

All Tidewater local governments have designated their CBPAs, so this subdivision is proposed to be changed to identify the location and extent of the designated Preservation Areas rather than the information upon which the designations were based.

! ' 9 VAC 10-20-220 A 1 b (*Originally ' 5.6.A.1.b, will be ' 9 VAC 10-20-171 1 b*) (Page 26)

Information regarding marine resources is proposed to be deleted here because collecting such information is difficult for local governments and the relationship between these resources and land use management is not clearly understood. This topic is proposed to be replaced with information regarding physical constraints to development, which is important information previously missing from this list of basic environmental planning information. In addition, local physical constraints to development are already being evaluated in the board's Phase II review process through its incorporation into the board's approved review checklist.

! ' 9 VAC 10-20-220 A 1 c (*Originally ' 5.6.A.1.c, will be ' 9 VAC 10-20-171 1 c*) (Page 26)

The location of shoreline erosion control structures is proposed to be deleted because the relationship between the location of such structures and water quality impacts is not clearly understood. The information on these structures is not as relevant to the water quality component of a comprehensive plan as is the location of shoreline erosion problems. This amendment proposes to add the words *and streambank* as descriptors of the erosion problems, because the term *shoreline erosion* alone connotes open tidal waters, whereas *streambank erosion* includes smaller streams and nontidal settings. Erosion problems as a whole are important impacts to be identified and addressed because they are known to be direct sources of nonpoint source pollution.

! ' 9 VAC 10-20-220 A 1 d (*Originally ' 5.6.A.1.d, will be ' 9 VAC 10-20-171 1 d*) (Page 26)

The concept of conflicts between existing and proposed land uses and water quality protection implies a process of analysis rather than the collection of basic information. Therefore, this subdivision is proposed to be changed to focus on the information necessary for such an analysis, that is, identification of existing and proposed land uses.

! ' ' 9 VAC 10-20-171 1 e through 9 VAC 10-20-171 1 f (*New subdivision*) (Page 26)

These two items were previously missing from this list but are considered necessary information for developing an effective water quality protection component of a local comprehensive plan and are

already being evaluated as part of the board's review checklist. Therefore this is proposed to be added.

! ' 9 VAC 10-20-220 A 1 e (Originally ' 5.6.A.1.e, will be ' 9 VAC 10-20-171 1 g) (Page 26)

This is a technical amendment to renumber this subdivision in sequence. The language is not changed.

! ' 9 VAC 10-20-220 A 2 (Originally ' 5.6.A.2, will be ' 9 VAC 10-20-171 2) (Page 27)

This subdivision is proposed to be amended for clarification, to establish a clear link between local water quality protection policy in the comprehensive plan and the information collected relevant to water quality protection issues.

! ' 9 VAC 10-20-220 A 2 a (Originally ' 5.6.A.2.a, will be ' 9 VAC 10-20-171 2 a) (Page 27)

This subdivision is merely renumbered in sequence. The language is not changed.

! ' 9 VAC 10-20-220 A 2 b (Originally ' 5.6.A.2.b, will be ' 9 VAC 10-20-171 2 b) (Page 27)

Previously this subdivision stated that the local governments *should* prepare policy statements on a list of issues, because the list included issues that might not exist in all localities. This amendment proposes to add to the end of the paragraph the words *as applicable to the locality.* Therefore, the word *should* is proposed to be changed to *shall* because, where these issues do exist, the local government must develop related policy statements to have an effective water quality component of the comprehensive plan.

! ' 9 VAC 10-20-220 A 2 b (1) [Originally ' 5.6.A.2.b(1), will be ' 9 VAC 10-20-171 2 b (1)] (Page 27)

This subdivision is changed for clarification of meaning.

! ' 9 VAC 10-20-220 A 2 b (2) [Originally ' 5.6.A.2.b(2), will be ' 9 VAC 10-20-171 2 b (2)] (Page 27)

This subdivision is proposed to be changed to add context to the connection between threats to groundwater and water supply from existing pollution sources. This is the context within which the board's current review process evaluates this issue.

! ' ' 9 VAC 10-20-220 A 2 b (3) through 9 VAC 10-20-220 A 2 b (4) [Originally ' ' 5.6.A.2.b(3) - 5.6.A.2.b(4)] (Page 27)

These two subdivisions are considered beyond the scope of the department and local governments and are no longer considered relevant or necessary issues to be required for inclusion in the water quality components of local comprehensive plans. There are no known land use standards for addressing these issues satisfactorily at the local level. In Virginia this is largely within the purview of other agencies. Therefore, both subdivisions are proposed to be deleted.

! ' 9 VAC 10-20-220 A 2 b (5) [Originally ' 5.6.A.2.b(5), will be ' 9 VAC 10-20-171 2 b (3)] (Page 27)

This subdivision is merely renumbered in the new sequence. The language is not changed.

! ' 9 VAC 10-20-220 A 2 b (6) [Originally ' 5.6.A.2.b(6)] (Page 27)

This subdivision is proposed to be deleted, because the issue of existing pollution is proposed to be included below in old subdivision (7), newly numbered as subdivision (5).

! ' 9 VAC 10-20-171 2 b (4) (New subdivision) (Page 27)

This subdivision is proposed to be added because shoreline and streambank erosion are considered by the board to be relevant subjects of policy statements in the water quality protection component of a local comprehensive plan.

! ' 9 VAC 10-20-220 A 2 b (7) [Originally ' 5.6.A.2.b(7), will be ' 9 VAC 10-20-171 2 b (5)] (Page 27)

This subdivision is proposed to be expanded to address existing pollution sources (deleted above), which present a more significant problem as associated with previously developed land, where water quality protection measures probably were not installed as part of the original development process. Language is proposed to be added to the end of the sentence to include redevelopment areas, such as in-fill lots, in addition to locally designated Intensely Developed Areas.

! ' 9 VAC 10-20-220 A 2 c (Originally ' 5.6.A.2.c, will be ' 9 VAC 10-20-171 2 c) (Page 27)

While alternative policies are important for consideration and discussion during the process of deciding upon final plan policies, this amendment proposes to delete reference to their inclusion in the plan. Discussion of alternative policies is not commonly included in adopted comprehensive plans, and it is not necessary to be considered as part of the board's consistency review.

! ' 9 VAC 10-20-220 A 2 d (Originally ' 5.6.A.2.d, will be ' 9 VAC 10-20-171 2 d) (Page 27)

The changes proposed in this subdivision are for clarification. The intention is that the listed elements are, and should be, interrelated, and it is important that policies addressing each element should be consistent with one another, both in their statement and in their implementation. Without such internal consistency local efforts will work at cross-purposes and risk failing to achieve the water quality goals.

! Part VI [New Part] (Page 28)

This is a new part, incorporating the original criteria, as amended, addressing local zoning and subdivision ordinances.

! ' 9 VAC 10-20-181 [New section] (Page 28)

This is an introductory section for this new part of the regulations, stating the purpose of the part.

! ' 9 VAC 10-20-220 B (Originally ' 5.6.B, will be ' 9 VAC 10-20-191 A) (Page 28)

When the regulations were originally adopted, the criteria addressing zoning ordinance and subdivision ordinance standards needed to address water quality protection concerns and be consistent with the Act were minimal, in large part because local governments were facing the complex tasks of designating their CBPAs and adopting the performance criteria of the program. The board did not intend for the local adoption of the performance criteria to satisfy the zoning and subdivision requirements. The board committed to provide more complete criteria regarding zoning and subdivision ordinances when the regulations were amended. However, for numerous reasons, the board has been unable to amend the regulations until now.

The changes throughout this new part of the regulations fulfill the board's commitment to provide more specific criteria regarding local zoning and subdivision ordinances while still allowing for local flexibility. This introductory paragraph of this section of the regulations sets forth specific elements that must be evaluated and incorporated into each local zoning ordinance to achieve consistency with the Act and regulations.

Section 10.1-2109 of the Act requires Tidewater local governments to amend their local zoning and subdivision ordinances to incorporate the protection of water quality. Most localities, after focusing earlier efforts on designating CBPAs, adopting the performance standards, implementing a plan of development review process, and amending their comprehensive plans, are awaiting direction from the board on what regulatory standards they will have to comply with to complete Phase III of their local Bay Act programs. Given the nature of the proposed standards, many localities will be able to demonstrate significant progress toward meeting the new standards through their existing zoning and subdivision ordinances.

! ' 9 VAC 10-20-220 B 1 (Originally ' 5.6.B.1, will be ' 9 VAC 10-20-191 A 1) (Page 28)

The word *by* is added at the end of this sentence to introduce the next two subdivisions, which are new and set forth specific ways the ordinances can provide for water quality protection.

! ' ' 9 VAC 10-20-191 A 1 a through 9 VAC 10-20-191 A 1 b (*New subdivisions*) (Page 28)

These two new subdivisions set forth specific ways local zoning ordinances can provide for water quality protection.

! ' 9 VAC 10-20-220 B 2 (*Originally ' 5.6.B.2, will be ' 9 VAC 10-20-191 A 2*) (Page 28)

This subdivision is proposed to be expanded to set forth minimum expectations regarding the incorporation of implementation mechanisms for certain Bay Act regulation performance criteria into local zoning ordinances. The intent is to develop local implementation mechanisms for the *three* general performance standards that will address local concerns and conditions while still promoting development designs that minimize water quality impacts.

! ' 9 VAC 10-20-220 B 3 (*Originally ' 5.6.B.3, will be ' 9 VAC 10-20-191 A 3*) (Page 28)

This subdivision is proposed to be changed to include a better link between local comprehensive plans and their local zoning requirements.

! ' 9 VAC 10-20-191 B (*New subsection*) (Page 29)

This is a new subsection encouraging local governments to identify and eliminate any obstacles or inconsistencies in their various land management ordinances and review processes that would prevent the achievement of the water quality goals of the Act and these regulations.

! ' 9 VAC 10-20-220 C (*Originally ' 5.6.C, will be ' 9 VAC 10-20-231 1 e*) (Page 29)

This subsection is proposed to be deleted here and reorganized to a more appropriate position in the regulations, as indicated above.

! ' 9 VAC 10-20-220 D (*Originally ' 5.6.D, will be ' 9 VAC 10-20-201*) (Page 29)

This is language from the original regulation inserted at the beginning of this new section, specifically addressing subdivision ordinances. The only change is that the word *shall* is added at the end of this sentence to introduce the next two subdivisions, which are new and set forth specific ways these ordinances must provide for water quality protection.

! ' ' 9 VAC 10-20-201 1 through 9 VAC 10-20-201 1 b (*New subsection and subdivisions*) (Page 29)

As noted above, the board committed to provide more complete criteria regarding zoning and subdivision ordinances when the regulations were amended. This new subsection and subdivisions identify specific kinds of standards local governments must incorporate into their subdivision ordinances to protect water quality.

! ' 9 VAC 10-20-220 D 1 (*Originally ' 5.6.D.1, will be ' 9 VAC 10-20-201 2*) (Page 29)

This subsection is proposed to be expanded in order to set forth specific requirements that can be added to local subdivision ordinances to ensure the integrity of CBPAs. It is critical that the property restrictions placed on future buyers are clearly identified on recorded plats, deeds, and other land records.

! ' 9 VAC 10-20-220 D 2 (*Originally ' 5.6.D.2, will be ' 9 VAC 10-20-201 3*) (Page 29)

This subsection is proposed to be expanded in order to elaborate on specific things to be set forth in local subdivision ordinances to address the performance standards in these regulations.

! ' 9 VAC 10-20-201 3 a (*New subdivision*) (Page 30)

This new subdivision is proposed to be added to provide further clarification of how local subdivision ordinances are to be changed to adequately reflect the implementation of certain performance standards in these regulations.

! ' 9 VAC 10-20-201 4 (*New subdivision*) (Page 30)

This new subdivision tracks language under the zoning ordinance section, requiring consistency among the various local land management ordinances and procedures toward the goal of protecting water quality.

! ' ' 9 VAC 10-20-220 E through 9 VAC 10-20-220 E 2 (*Originally ' ' 5.6.E through 5.6.E.2, will be ' ' 9 VAC 10-20-130 6 through 9 VAC 10-20-130 6 b*) (Page 30)

This language was deleted here and moved to the location in the regulations indicated above, because it relates to a submission standard for developing within the RPA. The language at the new location has not been changed, except for the insertion of a specific section reference for the beginning of the referenced APart@ of the regulation, as requested by the Virginia Code Commission.

! ' 9 VAC 10-20-220 F (*Originally ' 5.6.F, will be ' 9 VAC 10-20-130 7*) (Page 30)

This language is being deleted here and being reorganized to the location in the regulations indicated above. At the new location, it is changed somewhat so as not to treat this provision as an exemption, but rather to give local governments more discretion about how to deal with buffers within Intensely Developed Areas and isolated redevelopment and in-fill sites.

! Part VII (*New part*) (Page 31)

This new part incorporates all the material from the original Part V that dealt with local assistance and local program consistency determinations.

! ' 9 VAC 10-20-211 (*New section*) (Page 31)

This new section establishes the purpose of this new part of the regulations.

! ' ' 9 VAC 10-20-215 through 9 VAC 10-20-215 C (*New section, originally ' ' 5.2 through 5.2.C, then ' ' 9 VAC 10-20-180 through 9 VAC 10-20-180 C*) (Page 31)

This language, pertaining to development of the *Local Assistance Manual*, was merely reorganized to this position in the regulations. The only change in the wording is the deletion at the end of subsection B relating to timely completion of guidance for the first year requirements of the program. Since that period is passed and the work has already been done, that language is no longer needed.

! ' 9 VAC 10-20-221 (*New section, originally ' 5.3, then ' 9 VAC 10-20-190*) (Page 31)

This new section is merely the original language from the above referenced original section, reorganized to a more appropriate position in the regulations. The language has not been changed.

! ' 9 VAC 10-20-225 (*New section, originally ' 5.4, then ' 9 VAC 10-20-200*) (Page 31)

This new section is merely the original language from the above referenced original section, reorganized to a more appropriate position in the regulations. The language has not been changed.

! ' 9 VAC 10-20-230 (*Originally ' 5.7, will be ' 9 VAC 10-20-250 2*) (Page 31)

This section is proposed to be repealed in this location and reorganized to the more appropriate position in the regulations indicated above.

! ' 9 VAC 10-20-231 (*New section, originally ' 5.6, then ' 9 VAC 10-20-220*) (Page 32)

This new section proposes to more accurately and clearly reflect the way the program is being implemented by the board. Local program development and adoption has been divided into three phases, which are explained in the following subsections and subdivisions. The language at the beginning of this new section is merely moved to this position in the regulations from the above referenced original location. The only changes in this paragraph are that (1) the reference to adoption within 12 months of the adoption date of this chapter has been deleted, since that time has passed and the local adoptions have all taken place; and (2) the word *guidelines* at the beginning of the last sentence has been changed to the word *criteria* for consistency in the use of terms.

! ' ' 9 VAC 10-20-231 1 through 9 VAC 10-20-231 1 d (New subsection and subdivisions, originally ' ' 5.5 through 5.5.A.4, then ' ' 9 VAC 10-20-210 through 9 VAC 10-20-210 A 4) (Page 32)

This new subsection and related subdivisions establish that Phase I of local program implementation consists of designating CBPAs and adopting the performance criteria . The remaining language is moved to this position in the regulations from the above referenced locations with only minor word changes, for the sake of integration, but no change in meaning.

! ' ' 9 VAC 10-20-231 1 e (New subdivision, originally ' 5.6.C, then ' 9 VAC 10-20-220 C) (Page 32)

The language of this new subdivision, relating to local adoption of a plan of development review process **B** to review use and development applications for consistency with the performance criteria **B** is moved to this position in the regulations from the above referenced location with only minor word changes, for the sake of integration, but no change in meaning. In addition, Title 15.1 of the Code of Virginia has been recodified as Title 15.2, and parts of that Title have been reorganized. The Code reference here has been changed to reflect this recodification.

! ' ' 9 VAC 10-20-231 1 f through 9 VAC 10-20-231 1 g (New subdivisions, originally ' 5.5.C, then ' 9 VAC 10-20-210 C) (Page 32)

The language of these two new subdivisions is derived from the above referenced original subsection. However, it is proposed to be changed to more accurately reflect the actual adoption process. The single original subsection is proposed to be divided here into two subdivisions to reflect the separate steps in the process.

! ' ' 9 VAC 10-20-231 2 through 9 VAC 10-20-231 3 (New subsections) (Page 33)

These two new subsections are proposed to be added to articulate what is expected in Phase II (comprehensive plan updates) and Phase III (zoning and subdivision ordinance amendments) of the local program development process.

! ' 9 VAC 10-20-231 4 (*New subsection*) (Page 33)

This new subsection articulates the link to other enabling authority provided by 10.1-2108 of the Act, allowing local governments, under certain conditions, to use civil penalties to enforce requirements of their local Bay Act programs.

! ' ' 9 VAC 10-20-231 5 through 9 VAC 10-20-231 5 a (*New subsection and subdivision, originally ' 5.5.B, then ' 9 VAC 10-20-210 B*) (Page 33)

This language is derived from the above referenced original subsection. However, it is proposed to be changed to more accurately reflect the actual board consistency review process and for better integration into the context of this part of the regulations. The language was split into a subsection heading and a subdivision, because an additional subdivision is added afterwards, as discussed next.

! ' 9 VAC 10-20-231 5 b (*New subsection*) (Page 33)

This language is proposed to be added to reference the board review process described in the next part.

! Part VIII (*New part, originally Part VI*) (Page 33)

The numbering of this part is changed to adjust for sequencing, and the title is proposed to be changed to reflect its focus on local program implementation as well as enforcement.

! ' ' 9 VAC 10-20-250 1 through 9 VAC 10-20-250 1 b (2) (*New subsection and subdivisions*) (Page 34)

These new subsections and subdivisions are proposed to be added to set forth a more specific description of the board's process to review the consistency of local program implementation with provisions of the Act and regulations.

! ' 9 VAC 10-20-250 2 (*New subsection, originally ' 5.7, then ' 9 VAC 10-20-220 F*) (Page 34)

The language of this new subdivision is derived from the above referenced original subsection. However, it is being expanded to more clearly describe the certification process and its relationship to consistent local implementation.

! ' 9 VAC 10-20-260 (*Originally ' 6.3, will continue to be ' 9 VAC 10-20-260*) (Pages 34-35)

A phrase is added making it clear that the board will exhaust all administrative remedies related to enforcement before ever taking legal action.

! ' 9 VAC 10-20-270 (*Originally ' 6.4*) (Page 35)

This section is being repealed because the new VAC no longer includes the adoption date language in the body of a regulation. However, the Registrar of Regulations does maintain a record of the original adoption date of these regulations and all subsequent actions, including the adoption of amendments. At the conclusion of the administrative process, the board will take action by resolution to adopt the final amendment language, and that adoption date will become a part of the board's and the Virginia Code Commission's official records.

! ' 9 VAC 10-20-280 (*Originally ' 6.5*) (Page 35)

This section is being repealed because the new VAC no longer includes effective date language in the body of a regulation. However, according to the Administrative Process Act, regulations (or, in this case, amendments) become effective thirty days after they are published as final regulations in the *Virginia Register of Regulations*. Furthermore, the board will specify an effective date when it takes action to adopt the final amendment language and will communicate that date to the Registrar of Regulations on the forms required to be submitted.

APPENDIX B**CBLAB REGULATION NUMBERING MATRIX**

Draft Amendments		Current Reg=s (VAC Numbers)	CBLAB Regulations (Orig. Numbering)
Section No.	Page #	Section No.	Section No.
9 VAC 10-20-10 Application	1	9 VAC 10-20-10	1.1
9 VAC 10-20-20 Authority for chapter	1	9 VAC 10-20-20	1.2
9 VAC 10-20-30 Purpose of chapter	1	9 VAC 10-20-30	1.3
9 VAC 10-20-40 Definitions	2-5	9 VAC 10-20-40	1.4
9 VAC 10-20-50 Local program development	5	9 VAC 10-20-50	2.1
9 VAC 10-20-60 Elements of program	5	9 VAC 10-20-60	2.2
9 VAC 10-20-60 A Map	5	9 VAC 10-20-60 A	2.2 A
9 VAC 10-20-60 B Performance criteria	5	9 VAC 10-20-60 B	2.2 B
9 VAC 10-20-60 C Comprehensive plan or revision	5	9 VAC 10-20-60 B	2.2 C
9 VAC 10-20-60 D Zoning ordinance or revision	5	9VAC10-20-60 C	2.2 D
9 VAC 10-20-60 E Subdivision ordinance or revision	5-6	9VAC10-20-60 E	2.2 E
9 VAC 10-20-60 F Erosion and sediment control ordinance or revision	6	9 VAC 10-20-60 F	2.2 F
9 VAC 10-20-60 G Plan of development process	6	9 VAC 10-20-60 G	2.2 G
9 VAC 10-20-70 Purpose	6	9 VAC 10-20-70	3.1
9 VAC 10-20-80 - 9 VAC 10-20-80 A	6	9 VAC 10-20-80 - 9 VAC 10-20-80 A	3.2 - 3.2 A

Draft Amendments		Current Reg-s (VAC Numbers)	CBLAB Regulations (Orig. Numbering)
Section No.	Page #	Section No.	Section No.
Resource Protection Areas			
9 VAC 10-20-80 B - 9 VAC 10-20-80 B 1 Tidal wetlands	6	9 VAC 10-20-80 B - 9 VAC 10-20-80 B 1	3.2 B - 3.2 B 1
9 VAC 10-20-80 B 2 Nontidal wetlands	6	9 VAC 10-20-80 B 2	3.2 B 2
9 VAC 10-20-80 B 3 Tidal shores	6	9 VAC 10-20-80 B 3	3.2 B 3
9 VAC 10-20-80 B 4 Other lands	7	9 VAC 10-20-80 B 4	3.2 B 4
9 VAC 10-20-80 B 5 Buffer area	7	9 VAC 10-20-80 B 5	3.2 B 5
9 VAC 10-20-80 C Buffer reduction (new subdivision)	7		
9 VAC 10-20-90 - 9 VAC 10-20-90 A Resource Management Areas	7	9 VAC 10-20-90 - 9 VAC 10-20-90 A	3.3 - 3.3 A
9 VAC 10-20-90 B	7	9 VAC 10-20-90 B	3.3 B
9 VAC 10-20-90 B 1 Floodplains	7	9 VAC 10-20-90 B 1	3.3 B 1
9 VAC 10-20-90 B 2 Highly erodible soils	7	9 VAC 10-20-90 B 2	3.3 B 2
9 VAC 10-20-90 B 3 Highly permeable soils	7	9 VAC 10-20-90 B 3	3.3 B 3
9 VAC 10-20-90 B 4 Nontidal wetlands	7	9 VAC 10-20-90 B 4	3.3 B 4
9 VAC 10-20-90 B 5 Other lands	7	9 VAC 10-20-90 B 5	3.3 B 5
9 VAC 10-20-90 C	7-8	9VAC10-20-90.C	3.3.C
9 VAC 10-20-90 C 1-5 (new subdivisions)	8-9		
9 VAC 10-20-100 -			

Draft Amendments		Current Reg-s (VAC Numbers)	CBLAB Regulations (Orig. Numbering)
Section No.	Page #	Section No.	Section No.
9 VAC 10-20-100 B Intensely Developed Areas	9	9 VAC 10-20-100	3.4
9 VAC 10-20-100 B 1 50% impervious	9	9 VAC 10-20-100 A	3.4 A
9 VAC 10-20-100 B 2 Public sewer and water	9	9 VAC 10-20-100 B	3.4 B
9 VAC 10-20-100 B 3 Four dwelling units/acre	9	9 VAC 10-20-100 C	3.4 C
9 VAC 10-20-105 Site-specific refinement of CBPAs (Moved here from orig. 9 VAC 10-20-110 B)	9	9 VAC 10-20-110 B	4.1 B
9 VAC 10-20-110 - 9 VAC 10-20-110 B Purpose	10	9 VAC 10-20-110	4.1
9 VAC 10-20-110 C	10	9 VAC 10-20-110 A	4.1 A
9 VAC 10-20-110 B (orig.) (Deleted here; moved to 9 VAC 10-20-105)		9 VAC 10-20-110 B	4.1 B
9 VAC 10-20-110 D (Moved here from 9 VAC 10-20-140)	10	9 VAC 10-20-140	4.4
9 VAC 10-20-120 General performance criteria	10	9 VAC 10-20-120	4.2
9 VAC 10-20-120.1 Minimize land disturbance	10	9 VAC 10-20-120.1	4.2.1
9 VAC 10-20-120.2 Preserve existing vegetation	11	9 VAC 10-20-120.2	4.2.2
9 VAC 10-20-120.3 BMP maintenance	11	9 VAC 10-20-120.3	4.2.3
9 VAC 10-20-120.4 Plan of development process	11	9 VAC 10-20-120 4	4.2.4
9 VAC 10-20-120.5 Minimize impervious cover	11	9 VAC 10-20-120.5	4.2.5
9 VAC 10-20-120.6	11	9 VAC 10-20-120.6	4.2.6

Draft Amendments		Current Reg=s (VAC Numbers)	CBLAB Regulations (Orig. Numbering)
Section No.	Page #	Section No.	Section No.
Expanded erosion control			
9 VAC 10-20-120.7 Septic system criteria	11	9 VAC 10-20-120.7	4.2.7
9 VAC 10-20-120.7 a Five-year pump-out	11	9 VAC 10-20-120.7 a	4.2.7 a
9 VAC 10-20-120.7 b Reserve drainfield site	11-12	9 VAC 10-20-120.7 b	4.2.7 b
9 VAC 10-20-120.7 b (1) - 9 VAC 10-20-120.7 b (9) Alternating drainfields (new subdivisions)	12-13		
9 VAC 10-20-120.8 Stormwater management	13	9 VAC 10-20-120.8	4.2.8
9 VAC 10-20-120.8 a	13	9 VAC 10-20-120.8 a	4.2.8 a
9 VAC 10-20-120.8 a (1)	13	9 VAC 10-20-120.8 a (1)	4.2.8 a (1)
9 VAC 10-20-120.8 a (2)	13	9 VAC 10-20-120.8 a (2)	4.2.8 a (2)
9 VAC 10-20-120.8.a (3)	13	9 VAC 10-20-120.8 a (3)	4.2.8 a (3)
9 VAC 10-20-120.8 a (4) (deleted)	13	9 VAC 10-20-120.8 a (4)	4.2.8 a (4)
9 VAC 10-20-120.8 b	14	9 VAC 10-20-120.8 b	4.2.8 b
9 VAC 10-20-120.8 c	14	9 VAC 10-20-120.8 c	4.2.8 c
9 VAC 10-20-120.9 Agricultural conservation	14	9 VAC 10-20-120.9	4.2.9
9 VAC 10-20-120.9 a - 9 VAC 10-20-120.9 c (new subdivisions)	14-15		
9 VAC 10-20-120.10 Silvicultural conservation	15	9 VAC 10-20-120.10	4.2.10
9 VAC 10-20-120.11 Wetlands permits	15	9 VAC 10-20-120.11	4.2.11
9 VAC 10-20-130 Use and development criteria	16	9 VAC 10-20-130 Performance criteria for	4.3

Draft Amendments		Current Reg-s (VAC Numbers)	CBLAB Regulations (Orig. Numbering)
Section No.	Page #	Section No.	Section No.
for RPAs		RPAs	
9 VAC 10-20-130.1 Permitted uses	16	9 VAC 10-20-130 A Allowable development	4.3 A
9 VAC 10-20-130.1 a Water quality impact assessment (new subdivision)	16		
9 VAC 10-20-130.1 b Water dependent facilities	16	9 VAC 10-20-130 A 1	4.3 A 2
9 VAC 10-20-130.1 b (1)	16	9 VAC 10-20-130 A 1 a	4.3 A 2 a
9 VAC 10-20-130.1 b (2)	16	9 VAC 10-20-130 A 1 b	4.3 A 2 b
9 VAC 10-20-130.1 b (3)	16	9 VAC 10-20-130 A 1 c	4.3 A 2 c
9 VAC 10-20-130.1 b (4)	16	9 VAC 10-20-130 A 1 d	4.3 A 2 d
9 VAC 10-20-130.1 c Redevelopment	16	9 VAC 10-20-130 A 2	4.3 A 3
9 VAC 10-20-130.1 d Roads and driveways	16-17	9 VAC 10-20-130 A 3	4.3 A 4
9 VAC 10-20-130.1 d (1) - 9 VAC 10-20-130.1 d (4)	17	9 VAC 10-20-130 A .3 a -9 VAC 10-20-130 A .3 d	4.3 A 4 a - 4.3 A 4 d
9 VAC 10-20-130.1 e Flood control and stormwater management facilities (new subdivision)	17		
9 VAC 10-20-130.2 - 9 VAC 10-20-130.2 b Exemptions in RPAs (moved here from 9VAC10-20-150 C - 9VAC10-20-150 C 2)	17	9 VAC 10-20-150 C - 9 VAC 10-20-150 C 2	4.5 C - 4.5 C 2
9 VAC 10-20-130.3 Buffer area requirements	17-18	9 VAC 10-20-130 B	4.3 B
9 VAC 10-20-130 B 1 Vegetation removal criteria (Deleted here and moved to 9VAC10-20-130.5 - 9VAC10- 20-130.5.a)	18	9 VAC 10-20-130 B 1	4.3 B 1

Draft Amendments		Current Reg-s (VAC Numbers)	CBLAB Regulations (Orig. Numbering)
Section No.	Page #	Section No.	Section No.
9 VAC 10-20-130 B 1 a Sight lines [deleted here and moved to 9 VAC 10-20-130.5 a (1)]	18	9 VAC 10-20-130 B 1 a	4.3 B 1 a
9 VAC 10-20-130 B 1 b Paths [Deleted here and moved to 9 VAC 10-20-130.5 a (2)]	18	9 VAC 10-20-130 B 1 b	4.3 B 1 b
9 VAC 10-20-130 B 1 c Woodlot management [Deleted here; moved to 9 VAC 10-20-130.5 a (3)]	18	9 VAC 10-20-130 B 1 c	4.3 B 1 c
9 VAC 10-20-130 B 1 d Shoreline erosion control [Deleted here; moved to 9 VAC 10-20-130.5 a (4)]	18	9 VAC 10-20-130 B 1 d	4.3 B 1 d
9 VAC 10-20-130.4 Permitted encroachments into the buffer area	18	9 VAC 10-20-130 B 2 Special conditions for parcels recorded prior to October 1, 1989	4.3 B 2
9 VAC 10-20-130.4 a Minimum necessary	18	9 VAC 10-20-130 B 2 a	4.3 B 2 a
9 VAC 10-20-130.4 b Replace vegetation elsewhere	18	9 VAC 10-20-130 B 2 b	4.3 B 2 b
9 VAC 10-20-130.4 c No encroachments in seaward 50 feet of buffer	19	9 VAC 10-20-130 B 2 c Buffer never less than 50 feet wide	4.3 B 2 c
9 VAC 10-20-130 B 3 Buffers in IDAs [Deleted here; moved to 9 VAC 10-20-130.7]	19	9 VAC 10-20-130 B 3	4.3 B 3
9 VAC 10-20-130.5 - 9 VAC 10-20-130.5 a (4) Buffer modifications (Moved here from 9 VAC 10-20-130 B 1 - 9 VAC 10-20-130 B 1 d)	19	9 VAC 10-20-130 B 1 - 9 VAC 10-20-130 B 1 d	4.3 B 1 - 4.3 B 1 d

Draft Amendments		Current Reg=s (VAC Numbers)	CBLAB Regulations (Orig. Numbering)
Section No.	Page #	Section No.	Section No.
9 VAC 10-20-130.5 b Agricultural buffers	19	9 VAC 10-20-130 B 4	4.3 B 4
9 VAC 10-20-130.5 b (1) - 9 VAC 10-20-130.5 b (1) (b) 50-foot buffer modification	19-20	9 VAC 10-20-130 B 4 a	4.3 B 4 a
9 VAC 10-20-130 5 b (2) 25-foot buffer modification	20-21	9 VAC 10-20-130 B 4 b	4.3 B 4 b
9 VAC 10-20-130.5 b (3) Buffers at agricultural ditches	21	9 VAC 10-20-130 B 4 c	4.3 B 4 c
9 VAC 10-20-130.6 - 9 VAC 10-20-130.6 b Water quality impact assessment (moved here from 9 VAC 10-20-220 E - 9 VAC 10-20-220 E 2)	21-22	9 VAC 10-20-220 E - 9 VAC 10-20-220 E 2	5.6 E - 5.6 E 2
9 VAC 10-20-130.7 Buffer areas in IDAs (moved here from 9 VAC 10-20-130 B 3)	22	9 VAC 10-20-130 B 3 Redevelopment within IDAs	4.3 B 3
9 VAC 10-20-140 (Repealed here; moved to 9VAC10-20-110 D)	22	9 VAC 10-20-140 Local program development	4.4
9 VAC 10-20-150 - 9 VAC 10-20-150 A Nonconformities, exemptions and exceptions	22	9 VAC 10-20-150 Administrative waivers and exemptions	4.5
9 VAC 10-20-150 A 1 - 9 VAC 10-20-150 A 2 Nonconforming uses and noncomplying structures	22	9 VAC 10-20-150 A 1 - 9 VAC 10-20-150 A 2 Nonconforming use and development waivers	4.5 A 1 - 4.5 A 2
9 VAC 10-20-150 B Public utilities . . . exemptions	22	9 VAC 10-20-150 B	4.5 B
9 VAC 10-20-150 B 1 - 9 VAC 10-20-150 B 1 b	22-23	9 VAC 10-20-150 B 1 - 9 VAC 10-20-150 B 1 a	4.5 B 1 - 4.5 B 1 b
9 VAC 10-20-150 B 2	23	9 VAC 10-20-150 B 2	4.5 B 2

Draft Amendments		Current Reg=s (VAC Numbers)	CBLAB Regulations (Orig. Numbering)
Section No.	Page #	Section No.	Section No.
Local utilities			
9 VAC 10-20-150 B 2 a - 9 VAC 10-20-150 B 2 d	23	9 VAC 10-20-150 B 2 a - 9 VAC 10-20-150 B 2 d	4.5 B 2 a - 4.5 B 2 d
9 VAC 10-20-150 C Exemptions in RPAs (Deleted here and moved to 9 VAC 10-20-130.2)	23	9 VAC 10-20-150 C	4.5 C
9 VAC 10-20-150 C 1 Administrative review of exemptions (Deleted here and moved to 9 VAC 10-20-130.2 a)	23	9 VAC 10-20-150 C 1	4.5 C 1
9 VAC 10-20-150 C 2 Erosion control required for certain exemptions (Deleted here and moved to 9 VAC 10-20-130.2 b)	24	9 VAC 10-20-150 C 2	4.5 C 2
9 VAC 10-20-150 C Exceptions to the criteria (Moved here from 9 VAC 10-20-160)	24	9 VAC 10-20-160	4.6
9 VAC 10-20-160 Exceptions to the criteria (Repealed here and moved to 9 VAC 10-20-150 C)	24	9 VAC 10-20-160	4.6
9 VAC 10-20-170 Purpose	24	9 VAC 10-20-170	5.1
9 VAC 10-20-180 - 9 VAC 10-20-180 A Local Assistance Manual (Repealed here and moved to 9 VAC 10-20-215 - 9 VAC 10-20-215 A)	24	9 VAC 10-20-180 - 9 VAC 10-20-180 A	5.2 - 5.2 A
9 VAC 10-20-180 B (Deleted here and moved to 9VAC10-20-215.B)	24-25	9 VAC 10-20-180 B	5.2 B
9 VAC 10-20-180 C	25	9 VAC 10-20-180 C	5.2 C

Draft Amendments		Current Reg=s (VAC Numbers)	CBLAB Regulations (Orig. Numbering)
Section No.	Page #	Section No.	Section No.
(Deleted here and moved to 9 VAC 10-20-215 C)			
9 VAC 10-20-190 Board to establish liaison (Repealed here and moved to 9 VAC 10-20-221)	25	9 VAC 10-20-190	5.3
9 VAC 10-20-200 Planning district comments (Repealed here and moved to 9 VAC 10-20-225)	25	9V AC 10-20-200	5.4
9 VAC 10-20-210 - 9 VAC 10-20-210 A Designation of CBPAs (Repealed here and moved to 9 VAC 10-20-231 1)	25	9 VAC 10-20-210 - 9 VAC 10-20-210 A	5.5 - 5.5 A
9 VAC 10-20-210 A 1 - 9 VAC 10-20-210 A 4 (Deleted here; moved to 9 VAC 10-20-231 1 a - 9 VAC 10-20-231 1 d)	25	9 VAC 10-20-210 A 1 - 9 VAC 10-20-210 A 4	5.5 A 1 - 5.5 A 4
9 VAC 10-20-210 B Review by the board (Deleted here; moved to 9 VAC 10-20-231 5 - 9 VAC 10-20-231 5 a)	25	9 VAC 10-20-210 B	5.5 B
9 VAC 10-20-210 C Adoption of . . . criteria (Deleted here; moved to 9 VAC 10-20-231 1 f - 9 VAC 10-20-231 1 g)	25-26	9 VAC 10-20-210 C	5.5 C
9 VAC 10-20-220 Preparation and submission of management program (Repealed here; moved to 9 VAC 10-20-231)	26	9 VAC 10-20-220	5.6
9 VAC 10-20-171 Comprehensive plans	26	9 VAC 10-20-220 A	5.6 A
9 VAC 10-20-171.1 Information	26	9 VAC 10-20-220 A 1	5.6 A 1

Draft Amendments		Current Reg=s (VAC Numbers)	CBLAB Regulations (Orig. Numbering)
Section No.	Page #	Section No.	Section No.
base			
9 VAC 10-20-171.1 a CBPAs	26	9 VAC 10-20-220 A 1 a Designation information	5.6 A 1 a
9 VAC 10-20-171.1 b Physical constraints to development	26	9 VAC 10-20-220 A 1 b Other marine resources	5.6 A 1 b
9 VAC 10-20-171.1 c Shoreline and streambank erosion	26	9 VAC 10-20-220 A 1 c Shoreline erosion	5.6 A 1 c
9 VAC 10-20-171.1 d Existing and proposed land uses	26	9 VAC 10-20-220 A 1 d Conflicts . . .	5.6 A 1 d
9 VAC 10-20-171.1 e Existing pollution sources (new subdivision)	26		
9 VAC 10-20-171.1 f Waterfront access areas (new subdivision)	26		
9 VAC 10-20-171.1 g Maps	26	9 VAC 10-20-220 A 1 e	5.6 A 1 e
9 VAC 10-20-171.2 Policy statements	27	9 VAC 10-20-220 A 2	5.6 A 2
9 VAC 10-20-171.2 a Discussion	27	9 VAC 10-20-220 A 2 a	5.6 A 2 a
9 VAC 10-20-171.2 b List of specific policy statements	27	9 VAC 10-20-220 A 2 b	5.6 A 2 b
9 VAC 10-20-171.2 b (1) Physical constraints to development	27	9 VAC 10-20-220 A 2 b (1)	5.6 A 2 b (1)
9 VAC 10-20-171.2 b (2) Protection of water supply/ groundwater	27	9 VAC 10-20-220 A 2 b (2)	5.6 A 2 b (2)
9 VAC 10-20-220 A 2 b (3) Fisheries (Deleted)	27	9 VAC 10-20-220 A 2 b (3)	5.6 A 2 b (3)
9 VAC 10-20-220 A 2 b (4)	27	9 VAC 10-20-220 A 2 b (4)	5.6 A 2 b (4)

Draft Amendments		Current Reg=s (VAC Numbers)	CBLAB Regulations (Orig. Numbering)
Section No.	Page #	Section No.	Section No.
Density of docks and piers (Deleted)			
9 VAC 10-20-171.2 b (3) Waterfront access	27	9 VAC 10-20-220 A 2 b (5)	5.6 A 2 b (5)
9 VAC 10-20-220 A 2 b (6) Existing pollution sources (Deleted)	27	9 VAC 10-20-220 A 2 b (6)	5.6 A 2 b (6)
9 VAC 10-20-171.2 b (4) Shoreline and streambank erosion (new subdivision)	27		
9 VAC 10-20-171.2 b (5) Redevelopment of IDAs	27	9 VAC 10-20-220 A 2 b (7)	5.6 A 2 b (7)
9 VAC 10-20-171.2 c Policy discussion	27	9 VAC 10-20-220 A 2 c	5.6 A 2 c
9 VAC 10-20-171.2 d Internal programmatic consistency	27	9 VAC 10-20-220 A 2 d	5.6 A 2 d
9 VAC 10-20-181 Purpose (new section)	28		
9 VAC 10-20-191 - 9 VAC 10-20-191 A Zoning ordinances	28	9 VAC 10-220 B	5.6 B
9 VAC 10-20-191 A 1 Protection of state waters	28	9 VAC 10-20-220 B 1	5.6 B 1
9 VAC 10-20-191 A 1 a Design considerations (new subdivision)	28		
9 VAC 10-20-191 A 1 b Encouraging compact, efficient development (new subdivision)	28		
9 VAC 10-20-191 A 2 Incorporation of performance criteria	28	9 VAC 10-20-220 B 2	5.6 B 2
9 VAC 10-20-191 A 3	28	9 VAC 10-20-220 B 3	5.6 B 3

Draft Amendments		Current Reg-s (VAC Numbers)	CBLAB Regulations (Orig. Numbering)
Section No.	Page #	Section No.	Section No.
Consistency with comprehensive plan			
9 VAC 10-20-191 B (new subsection)	29		
9 VAC 10-20-220 C Plan of development review process (Deleted here; moved to 9 VAC 10-20-231 1 e)	29	9 VAC 10-20-220 C	5.6 C
9 VAC 10-20-201 Subdivision ordinances	29	9 VAC 10-20-220 D	5.6 D
9 VAC 10-20-201.1 - 9 VAC 10-20-201.1 b (new subsection and subdivisions)	29		
9 VAC 10-20-201.2 Ensure integrity of CBPA's	29	9 VAC 10-20-220 D 1	5.6 D 1
9 VAC 10-20-201.3 Incorporate performance criteria	29-30	9 VAC 10-20-220 D 2	5.6 D 2
9 VAC 10-20-201 3 a (new subdivision)	30		
9 VAC 10-20-201 4 (new subdivision)	30		
9 VAC 10-20-220 E - 9 VAC 10-20-220 E 2 Water quality impact assessment (Deleted here; moved to 9 VAC 10-20-130.6 - 9 VAC 10-20-130.6 b)	30	9 VAC 10-20-220 E - 9 VAC 10-20-220 E 2	5.6 E - 5.6 E 2
9 VAC 10-20-220 F Review by the board (Deleted here; moved to 9 VAC 10-20-231.5 - 9 VAC 10-20-231.5 a)	30	9 VAC 10-20-220 F	5.6 F
9 VAC 10-20-211	31		

Draft Amendments		Current Reg=s (VAC Numbers)	CBLAB Regulations (Orig. Numbering)
Section No.	Page #	Section No.	Section No.
Purpose (new section)			
9 VAC 10-20-215 - 9 VAC 10-20-215 C Local Assistance Manual (Moved here from 9 VAC 10-20-180 - 9 VAC 10-20-180 C)	31	9 VAC 10-20-180 - 9 VAC 10-20-180 C	5.2 A - 5.2 C
9 VAC 10-20-221 Board to establish liaison (Moved here from 9 VAC 10-20-190)	31	9 VAC 10-20-190	5.3
9 VAC 10-20-225 Planning District comments (Moved here from 9 VAC 10-20-200)	31	9 VAC 10-20-200	5.4
9 VAC 10-20-230 Certification of local program (Repealed here and moved to 9 VAC 10-20-250.2)	31	9 VAC 10-20-230	5.7
9 VAC 10-20-231 Preparation and submission of management program (Moved here from 9 VAC 10-20-220)	32	9 VAC 10-20-220	5.6
9 VAC 10-20-231.1 Designation of CBPAs (Moved here from 9 VAC 10-20-210 - 9 VAC 10-20-210 A)	32	9 VAC 10-20-210 - 9 VAC 10-20-210 A	5.5 - 5.5 A
9 VAC 10-20-231.1 a - 9 VAC 10-20-231.1 d (Moved here from 9 VAC 10-20-210 A 1 - 9 VAC 10-20-210 A 4)	32	9 VAC 10-20-210 A 1 - 9 VAC 10-20-210 A 4	5.5 A 1 - 5.5 A 4
9 VAC 10-20-231.1 e (Moved here from 9 VAC 10-20-220 C)	32	9 VAC 10-20-220 C Plan of development review	5.6 C
9 VAC 10-20-231.1 f -	32	9 VAC 10-20-210 C	5.5 C

Draft Amendments		Current Reg-s (VAC Numbers)	CBLAB Regulations (Orig. Numbering)
Section No.	Page #	Section No.	Section No.
9 VAC 10-20-231.1 g (Moved here from 9 VAC 10-20-210 C)		Adoption of criteria	
9 VAC 10-20-231.2 Phase II (new subsection)	33		
9 VAC 10-20-231.3 Phase III (new subsection)	33		
9 VAC 10-20-231.4 Use of civil penalties (new subsection)	33		
9 VAC 10-20-231.5 - 9 VAC 10-20-231.5 a Review by board (Moved here from 9 VAC 10-20-220 F)	33	9 VAC 10-20-220 F	5.6 F - 5.6 F 1
9 VAC 10-20-231.5 b (new subdivision)	33		
9 VAC 10-20-240 Applicability	33	9 VAC 10-20-240	6.1
9 VAC 10-20-250 Administrative proceedings	33-34	9 VAC 10-20-250	6.2
9 VAC 10-20-250.1 - 9 VAC 10-20-250.1 b (2) (new subsections and subdivisions)	34		
9 VAC 10-20-250.2 Certification of local program	34	9 VAC 10-20-230	5.7
9 VAC 10-20-260 Legal proceedings	34-35	9 VAC 10-20-260	6.3
9 VAC 10-20-270 Adoption date (Repealed)	35	9 VAC 10-20-270	6.4
9 VAC 10-20-280 Effective date (Repealed)	35	9 VAC 10-20-280	6.5