

Chesapeake Bay Preservation Act Amendments

MARCH 3, 2021

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AMENDMENTS

HB504 (2020) adds two new considerations to the regulations that implement the Chesapeake Bay Preservation Act

“Coastal resilience and adaptation to sea level rise and climate change”

“Preservation of mature trees or planting of trees as a water quality protection tool and as a means of providing other natural resource benefits”



REGULATORY TIMELINE

December 9, 2020 - DEQ staff present draft regulations to State Water Control Board. SWCB authorizes DEQ to submit proposed regulations for 90-day public comment period and requires DEQ staff to convene a stakeholder meeting after comment period concludes.

February 1, 2021 - Proposed regulations posted to Virginia Townhall for 90-day comment period.

May 3, 2021 - Comments on proposed regulations due.



IMPORTANCE

Local Governments must implement CBPA programs.

Potentially significant increase in staff time to consider climate change.

May be controversial especially if not consistently applied across region.

New Framework for development near the shoreline.

How will regulations balance water quality and flood protection?

Should permits be based on projected future conditions?

PERSPECTIVES

Flood Prone Property Owners

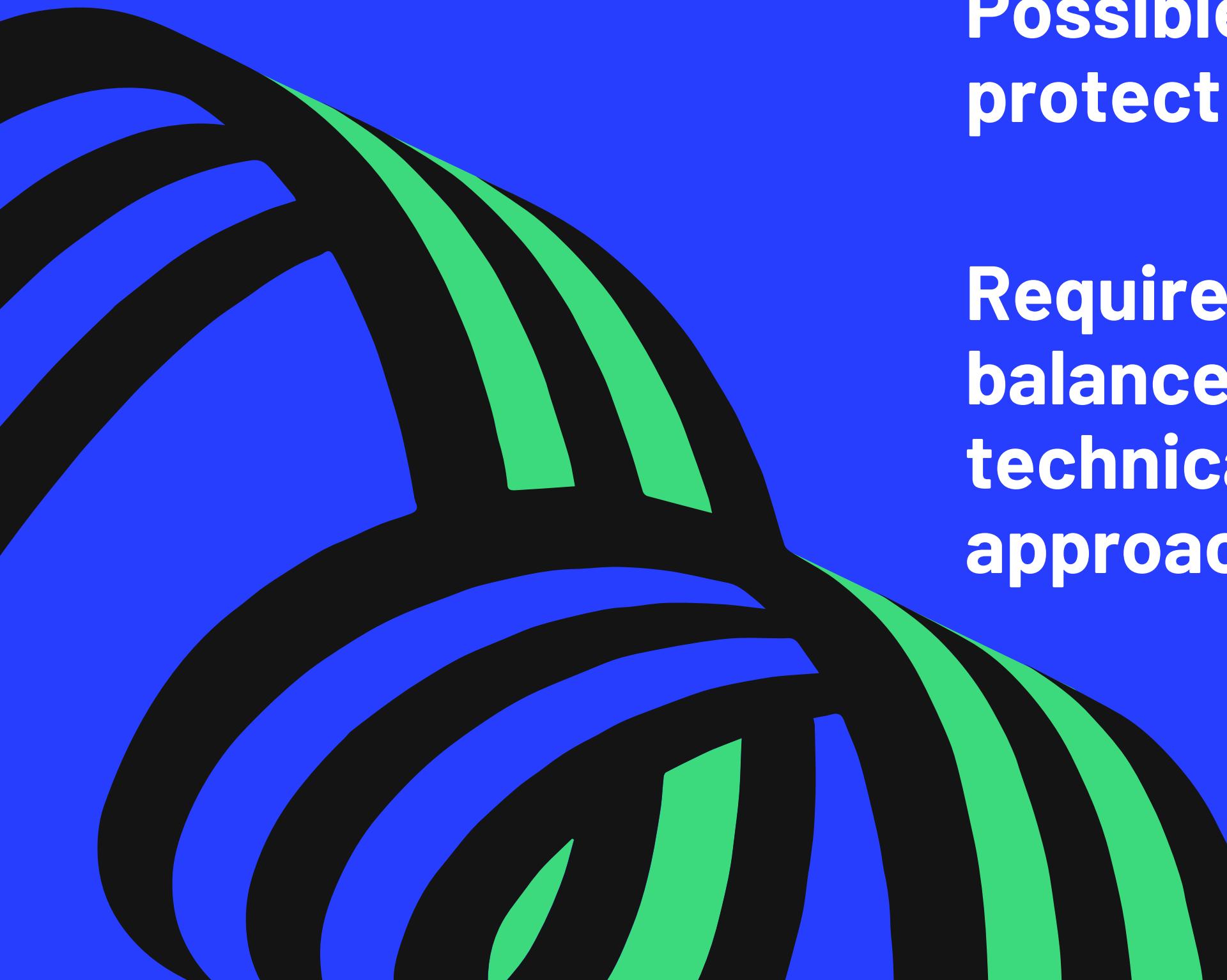
As high tides and storms inundate more land, property owners want to add fill to elevate their properties. County attorneys say CBPA doesn't allow fill in RPA. Push DEQ to address this problem.

If regulations don't provide path for fill, then they will build a wall one foot inland of RPA and wetlands will drown if sea level rises.

Water Quality Advocates

Wetlands and buffers are essential to maintaining water quality. Fill should not be allowed. Regulations should allow space for wetlands to migrate inland as sea level rises.





Hampton Roads locality staffs discussions:

Possible to add flood protection and protect water quality.

Requires staff time and expertise to balance. State doesn't provide tools or technical assistance for nuanced approach.

CBPA MIGHT BE THE WRONG TOOL

Advocate for the regulations to be put on hold.

Setup traditional regulatory advisory panel to develop regulatory language.

Existing, funded study through Virginia Coastal Zone program originally meant to work through these issues. Coordinated by DEQ. Involves VIMS, W&M Coastal Policy Clinic, and Coastal PDCs.



CONCERNS WITH DRAFT

Clarity

- What are flood mitigation practices?
- What climate change impacts should be considered?

Tools

How to assess future impacts of sea level rise, storm surge, and precipitation at a parcel scale?

Unintended Consequences

- Impacts to Community Rating System scores.
- Limiting use of Water Quality Impact Assessments.

HRPDC SCHEDULE



- March 3 Briefing to CAOs
- March 4 Briefing to Regional Environmental Committee. Feedback on initial draft comment letter.
- March 9 Revised draft letter sent to localities for review.
- March 22 Comments due from localities.
- March 26 Briefing to Coastal Resiliency Committee
- March 31 Briefing to Planning Directors
- April 1 Regional Environmental Committee votes on endorsing comment letter.
HRPDC board votes on submitting letter to State Water Control Board.
- April 15