

Outline for HRPDC Regional Comment Letter – Proposed Amendments to the CBPA Regs
February 24, 2021

- I. Priority Concern – Process
 - A. Abbreviated regulatory process; will advocate for a traditional Regulatory Advisory Panel process

- II. 9VAC25-830-155 Climate Change Resilience and Adaptation Criteria
 - A. Section C – Local governments shall “consider” the “impacts of climate change”
 - a. Need clarification of impacts and consideration requirements
 - b. Need tools/resources to assist localities with Section C3 – How to consider future floodplain, water level, storm surge? How to evaluate the “diminishing impact” to water quality?
 - B. Sections C4 and E1a, E2a, and E3 – Defining BMPs
 - a. Is the intent to identify flood mitigation practices that have been recognized or approved by a state or federal agency or water quality BMPs that would offset the impacts of flood mitigation practices?
 - C. Section D – Shall not grant exceptions where...
 - a. Instead of eliminating exceptions, should instead list the conditions for the exceptions
 - b. “Solely for the use of fill” – localities don’t allow anyway, would require stabilization/plantings
 - D. Sections D and E - Expansion of RPA
 - a. New requirements for areas where property owners have generally had more flexibility to balance development with water quality protection
 - b. RPA is defined in the Bay Act, cannot change in reg
 - E. Section E3 – Adaptation measures that are also BMPs are not required to submit a WQIA, but localities prefer to have the option to require them
 - F. Section E4 – It is not clear if living shoreline projects that do not require a VMRC permit but have local approval would be required to submit a WQIA
 - G. Guidance Needs and Training
 - a. Riparian Buffer Manual – needs updating
 - b. VIMS tool – may not be appropriate to use at the parcel scale
 - c. Training for local staff to use new tools and how to determine impacts of adaptation measures on water quality
 - d. Model ordinance to be developed?
 - H. Unintended consequences with CRS/NFIP

- I. Alternative concept - Instead of adding a new regulatory section for the resiliency provisions, should add adaptation measures as a permitted modification with conditions
- III. Mature Tree Preservation
 - A. Applicability to entire CBPA (RMA + RPA + IDA)
 - B. Define “mature tree” and how to determine if removal is necessary
 - C. No timeline specified for ordinance update