Department of Environmental Quality Proposed Amendment to the Chesapeake Bay Regulations

Land Use Policy Committee

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March 16, 2021

Input Sought

- Committee input on the State's proposed amendments

- Consideration of the provisions related to the preservation of mature trees

- Consideration of key provisions related to limiting County authority for Resource Protection Area (RPA) exceptions, and the funding for modeling impacts

- Permission for Land Development Services (LDS) and Department of Public Works and Environmental Services (DPWES) to submit comments to the Department of Environmental Quality (DEQ) on behalf of the county
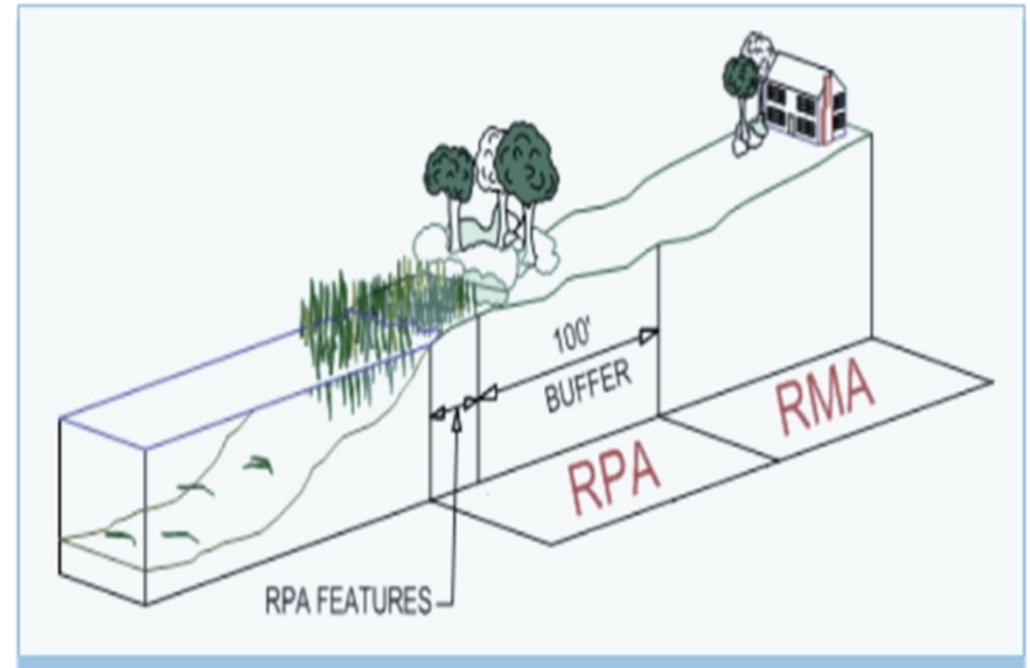
Background

2020 Legislation (Ch. 1207 of Acts of Assembly)

- Amended Virginia code §62.1-44.15:72 of the **Chesapeake Bay Preservation Act**

- Requires the State Water Control Board (SWCB) to amend the **Chesapeake Bay Regulations** (Regulations) to incorporate criteria:

  - preservation of mature trees

  - coastal resilience and adaptation to climate change

- Provides for a public comment periods

Chesapeake Bay Watershed

Proposed Mature Trees Amendment: Overview

- Amends Regulations sections 9VAC25-830-130 and 140

- Adds criteria to the Regulations for the preservation and protection of mature trees, and where removed, trees must be replanted to the maximum extent practicable

- Provides where RPA buffer is to be established, trees must be planted where practicable

Proposed Mature Trees Amendment: Considerations

- Support proposed amendment language related to incorporating natural features, planting trees and vegetation, preserving vegetation, and minimizing impervious area

- Seek clarity on specific language such as maximum extent practicable and other definitions to ensure the health and safety of trees through the preservation process
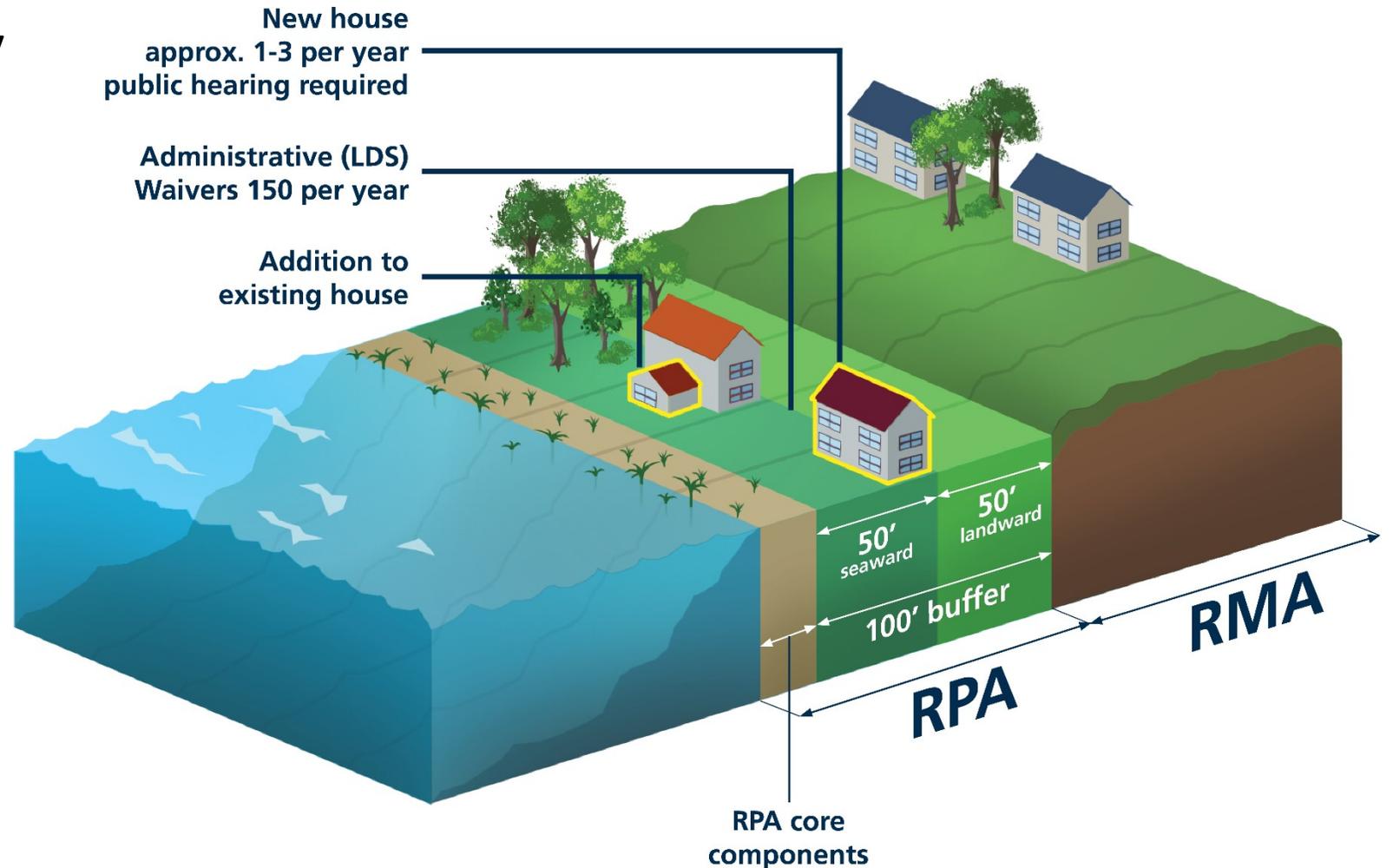
Proposed Climate Change Amendment: Overview

- Creates a new subsection in Regulations ([9VAC25-830-155](9VAC25-830-155))

- Requires consideration of the impacts of climate change, such as sea-level rise and storm surge, for land development in the RPA

- Allows localities to require conditions based on a consideration of the impacts, including the use of best management practices

- Permits adaptative measures within the RPA, subject to criteria

- Requires localities to adopt these provisions within 3 years

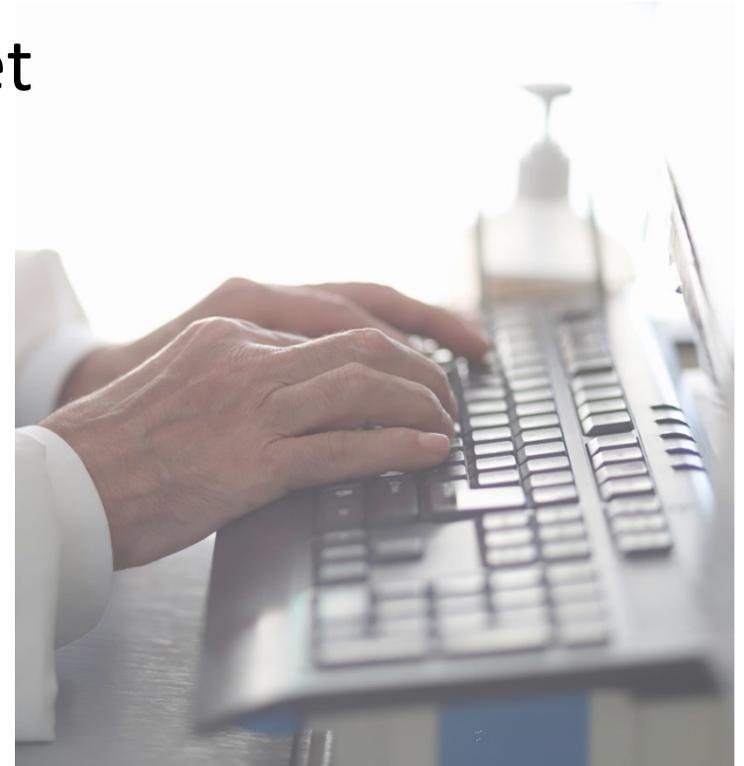# Proposed Climate Change Amendment: Key Considerations

1. Prohibits the County from granting exceptions for projects within 50 seaward feet of the buffer:
   - New building on pre-RPA lot
   - Minor addition to pre-RPA building

New house approx. 1-3 per year public hearing required

Administrative (LDS) Waivers 150 per year

Addition to existing house

50' seaward

50' landward

100' buffer

RPA core components

RPA

RMA

Proposed Climate Change Amendment: Key Considerations (Continued)

2. Restrictions on approval of fill projects, or other materials within RPA, or within 100 feet of the RPA

3. Mandates the model or forecast to be used when evaluating impacts. The technical guidance being provided by DEQ is under development and not available at this time.

Committee Input

Does the Committee Support:

1) Requesting clarity on definitions of trees and ensure language promotes the health and safety of trees throughout preservation?

2) Retaining current authority to grant exceptions of development within the 50 seaward feet of the buffer, or support adoption of the DEQ language as it is to support climate adaptation and resilience?

3) Retaining current authority or support adoption of language restricting "fill only" projects within the RPA, or within 100 feet of the RPA?

4) Requesting the state provide funding and technical input on statewide model or forecasts of climate change on hydrology and hydraulics?

Next Steps and Timing

- Next – Without objection, DPWES and LDS staff will finalize and submit comments on behalf of the county

- May 3, 2021 – Public comment periods close

- May 2021 – DEQ convenes Stakeholder Advisory Committee to discuss comments on the Climate change amendment

- June 2021 – Anticipated adoption by SWCB