

Chesapeake Bay Preservation Act Compliance Review Elements

Requirement	Regulatory Citation	Description	Review Strategy	Compliance Standard	
1	<i>Current CBPA Map</i>	9VAC25-830-60 1	Localities must have a current, accurate CBPA map.	Review map and verify it is consistent with local ordinance.	Map must show at least the general location of CBPAs. At a minimum, location of streams and adjacent RPAs must be based on stream features as shown on USGS quadrangle maps. If other than jurisdiction-wide map must show RMA limits. Map may be of any format, so long as it, along with the requirements in the CBPA ordinance, enables identification of CBPAs.
2	<i>Current CBPA Ordinance</i>	9VAC25-830-60 2, 4, 5 9VAC25-830-240 5 a & b	Ordinance and any modifications must be approved the Board.	Verify no changes have been made to ordinance since last Board approval.	Last CBLAB approved ordinance must be in place. Generally, a locality must be able to provide or direct us to a clean copy of the current ordinance.
3	<i>Current CBPA Comprehensive Plan</i>	9VAC25-830--60 3 9VAC25-830 -170 9VAC25-830 -240 2	<ul style="list-style-type: none"> • Requires localities to adopt specific data, maps, policy discussions and action items within Comprehensive Plans that address water quality protection. • Requires that all of this information be maintained. • Minimum requirements: <ul style="list-style-type: none"> i. summary of data collection; ii. analysis and policy discussion; iii. land use plan map; iv. implementing measures including objectives and time frame. 	<ul style="list-style-type: none"> • Verify that the information base is sufficiently current to inform Comprehensive Plan policy regarding land use and development relative to the protection of the quality of State waters. • Determine if required Phase II elements are still in the Comprehensive Plan, consistent with what was approved by the Board. • Identify any revisions to other elements of the local comprehensive plan that differ or are in conflict with the approved Phase II provisions. Determine if there are any consistency issues. • Localities to provide a report describing how policies adopted pursuant to the Phase II requirements are reviewed and updated as needed to ensure they remain current. 	<ul style="list-style-type: none"> • The Comprehensive Plan must contain the content originally approved by the Board. The data and information required in the Regulations should be sufficiently current in order to inform Comprehensive Plan policy regarding land use and development as they relate to the protection of the quality of State waters. If the data/information and related Comprehensive Plan policies are outdated and no longer relevant, the applicable data, information and policy must be updated in a period of time consistent with State Code requirements and the locality's Comprehensive Plan update process. • Locality must be able to provide a report describing how they are ensuring that the policies adopted pursuant to Phase II requirements are reviewed and updated as needed to ensure they remain current.
4	<i>Site Specific Refinement of</i>	9VAC25-830-110	Requires site-specific evaluations for delineation of RPA on plans.	Review plans and files to verify locality requires/ receives site specific	The locality must either show proof in files that they are requiring the site-specific evaluations or if issue has not

Chesapeake Bay Preservation Act Compliance Review Elements

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	<i>CBPA Boundaries</i>		delineations.	arisen, explain how they would do it.
5	<i>Performance Criteria Implementation - Minimization of Land Disturbance</i>	9VAC25-830-130 1 Localities must be able to demonstrate that no more land shall be disturbed than is necessary to provide for the proposed use or development.	Determine if existing ordinance provisions and other procedures are being implemented and sufficient to enable implementation of this criterion. This will be accomplished by using the results of the Checklist for Advisory Review of Local Ordinances, other information provided by the locality, and by the review of approved development plans evaluating pre-development and post development condition.	Locality must: <ul style="list-style-type: none"> ▪ have adopted specific standards for the implementation of this criterion ▪ implement existing ordinances and requirements for this criterion ▪ show how they are achieving this criterion
6	<i>Performance Criteria Implementation - Preserving Indigenous Vegetation</i>	9VAC25-830-130 2 Localities must be able to demonstrate that indigenous vegetation shall be preserved to the maximum extent practicable, consistent with the use or development proposed.	Determine if existing ordinance provisions and other procedures are being implemented and sufficient to enable implementation of this criterion. This will be accomplished by using the results of the Checklist for Advisory Review of Local Ordinances, other information provided by the locality, and by the review of approved development plans evaluating pre-development and post development condition.	Locality must: <ul style="list-style-type: none"> ▪ have adopted specific standards for the implementation of this criterion ▪ implement existing ordinances and requirements for this criterion ▪ show how they are achieving this criterion
8	<i>Performance Criteria Implementation - Plan of Development Review Process</i>	9VAC25-830-130 3 Localities must have a POD process that meets the requirements of the Regulations.	Obtain written or verbal description of POD review process to ensure locality continues to administer the process in a manner consistent with the regulations.	Localities must continue to have a process for reviewing development in CBPAs consistent with the requirements of the Regulations.

Chesapeake Bay Preservation Act Compliance Review Elements

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9	<i>Performance Criteria Implementation - Minimize Impervious Cover</i>	9VAC25-830-1304	Localities must be able to demonstrate that impervious cover is minimized for approved developments.	Determine if existing ordinance provisions and other procedures are being implemented and sufficient to enable implementation of this criterion. This will be accomplished by using the results of the Checklist for Advisory Review of Local Ordinances, other information provided by the locality, and by the review of approved development plans evaluating pre-development and post development condition.	Locality must: <ul style="list-style-type: none"> ▪ have adopted specific standards for the implementation of this criterion ▪ implement existing ordinances and requirements for this criterion ▪ show how they are achieving this criterion
10	<i>Performance Criteria Implementation - Control Erosion and Sediment for > 2,500 sq. ft.</i>	9VAC25-830-130 5	Localities must be adequately implementing an erosion and sediment control program for land disturbances of more than 2,500 square feet. E&S program must be in compliance with ESC program requirements.	CBLA staff will check with Regional staff for status of local ESC program. The program must have been found consistent. Selected plan review must verify compliance with E&S requirements. As part of site visits, verify existence and functionality of E&S measures and their condition.	Locality's E & S program must have been found consistent with state requirements.
11	<i>Performance Criteria Implementation - Septic Pump-out</i>	9VAC25-830-130 6	Requires five year pump-out, inspection, or filter and reserve drainfield site.	<ul style="list-style-type: none"> • Verify owners of all systems have been notified; locality has a follow-up process; determine level of compliance. • Verify that reserve drainfields are required for new development. 	<ul style="list-style-type: none"> • Locality has been sending notices as scheduled • Locality can demonstrate they undertake some follow-up for non-respondents (2nd notice minimum) • Locality has a mechanism for doing future follow-ups & enforcement beyond the 2nd notice • Locality can document notices have been sent out to 100% of tank owners required to comply • Locality has completed the notification cycle
13	<i>Performance Criteria Implementation - Agricultural Activities</i>	9VAC25-830-130 7	Requires land upon which agricultural activities are being conducted to have a soil & water conservation assessment that evaluates the effectiveness of existing practices (ESC, nutrient management, pesticide management) is completed. When a Conservation Assessment reveals that additional practices are necessary to ensure water quality	Verify that the locality has a plan for addressing the regulatory requirement of ensuring all active CBPA agricultural lands will have a current soil and water quality conservation assessment	Locality must provide a plan for ensuring compliance with the requirement and undertake appropriate initial steps in implementing the plan.

Chesapeake Bay Preservation Act Compliance Review Elements

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		protection, requires localities to ensure that a plan is completed to ensure water quality protection is being accomplished; Local SWCDB are named as the plan approval authority for assessments and plans.			
14	<i>Performance Criteria Implementation - Silvicultural Activities</i>	9VAC25-130 8	Allows a conditional exemption for properties where silvicultural activities are occurring provided that the operations adhere to Virginia Dept. of Forestry (DOF) Streamside Management Zone (SMZ) standards. The current MOU between DCR and DOF requires notification of DCR-CBLA and the locality of SMZ violations.	Verify that the locality has a process in place for properly enforcing RPA requirements in instances where the SMZ criteria have not been adhered to (as notified by DOF).	Locality must demonstrate that they follow up with an enforcement action upon receipt of a copy of a Notice or other documentation from DOF. Where no notices have been received, locality must be able to describe how they would address the enforcement requirement.
15	<i>Performance Criteria Implementation - Wetlands Permits</i>	9VAC25-830-130 9	Requires wetlands permits to be obtained prior to development.	File review.	In cases where a wetlands permit is required, copies or equivalent documentation must be in the files.
16	<i>RPA Development Criteria - Permitted Uses and Activities</i>	9VAC25-140 11	Development in RPA must meet the provisions specified in the regulations.	File and plan review; field visits where needed.	Plans and WQIAs reviewed must provide evidence that development activities approved in RPAs have met the required criteria.
17	<i>RPA Development Criteria - Exempt Activities</i>	9VAC25-830-140 2	Localities must have administrative procedures for exemptions and require E&S for > 2500 ft. sq.	Review of written procedures; review of exemptions if tracked.	Localities must be able to provide copies of administrative procedures.
18	<i>RPA Development Criteria - Land Use Conversion (From Agriculture and Silviculture)</i>	9VAC25-830-140 3 b	Requires establishment of the 100' RPA when land is converted from agricultural or silvicultural to other uses.	Plan and file review and field visits as needed.	Plan reviews and site visits must provide evidence of adequate buffer establishment.
19	<i>RPA Development Criteria - Permitted Encroachments</i>	9VAC25-830- 4	Allows for encroachments to be administratively approved.	File review of recently approved administrative encroachments.	File review of approved encroachments must show that permitted RPA encroachments met the requirements referenced in the regulations.

Chesapeake Bay Preservation Act Compliance Review Elements

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20	<i>RPA Development Criteria - Permitted Modifications (Vegetation Removal)</i>	9VAC25-830-140 5 a	Localities may permit the removal of RPA vegetation in specified instances provided that certain criteria are met.	<ul style="list-style-type: none"> Review selected approved modification applications for consistency with the requirements. Field visits may be necessary to verify the information. Shoreline erosion projects will be reviewed to ensure that the local review required the proper protection of the RPA and re-establishment of vegetation. Verify locality has a mechanism for approving vegetation removal. 	<ul style="list-style-type: none"> Where vegetation removal has been approved, must meet the requirements of the regulations. Localities must have a process for reviewing and approving buffer modifications.
21	<i>RPA Development Criteria - Permitted Modifications (Encroachments for Agriculture)</i>	9VAC25-830-1405 b 1 & 2	Agricultural activities may encroach into the landward 50'/75' of the 100' RPA Buffer when agricultural BMPs as approved by the SWCD are provided.	Verify that recently approved agricultural buffer encroachments were required to install the proper BMPs	Locality must maintain adequate documentation regarding the existence of agricultural practices required for such encroachments
22	<i>RPA Development Criteria - Permitted Modifications (Active Agricultural Pollution)</i>	9VAC25-1405 b 4	Requires that when agricultural activities are causing pollution of a nearby perennial water body or violating the performance standards of the buffer, a compliance schedule shall be developed by the local governments and the SWCDs for the landowner.	<ul style="list-style-type: none"> Verify the process that the local government uses to determine when violations are occurring and ensure that they are requiring compliance schedules. Request a list of violations/complaints and verify violations are properly addressed. Verify that the locality has a mechanism in place for implementing this component of the regulations (eg. an MOU). Verify that the mechanism is up-to-date and properly functioning. 	Where complaint exists (or a violation is identified) the locality must have determined if 'pollution' occurred and a compliance schedule was forwarded to the land owner.
23	<i>RPA Development Criteria - Permitted</i>	9VAC25-830-140 5 b 5	Requires the SWCDs to report to the locality farmers that refuse assistance from the District	<ul style="list-style-type: none"> Verify that local governments when notified are requiring conformance 	Local government needs to have undertaken follow-up and enforcement action as described in the Regulations.

Chesapeake Bay Preservation Act Compliance Review Elements

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<i>Modifications (Landowner Refusal of Assistance)</i>		in complying or documenting compliance with the Bay Act agricultural requirements. Local government must undertake enforcement action and develop a compliance schedule, in cooperation with the District, for the landowner.	within the required 18 month period for compliance. <ul style="list-style-type: none"> Verify that the locality has a mechanism in place for implementing this component of the regulations (eg. an MOU). Verify that the mechanism is up-to-date and properly functioning. 		
24	<i>RPA Development Criteria - Water Quality Impact Assessment</i>	9VAC25-830-140 6	Requires a WQIA for development in the RPA.	<ul style="list-style-type: none"> Review locality's procedures to ensure WQIAs are being required. Review files to determine adequacy of WQIAs. 	Adequate documentation of a WQIA must be found in files for all projects requiring one.
25	<i>RPA Development Criteria - IDA Buffers</i>	9VAC25-830- 7	Provides localities discretion in requiring buffers in IDAs.	Where applicable, review buffer establishment requirements; review files to confirm localities are adhering to their own requirements.	No specific standard.
26	<i>Nonconforming Uses and Noncomplying Structures</i>	9VAC25-830-150 A	Allows localities to permit the continued use, but not necessarily the expansion of, nonconforming structures and provides an administrative process for their review, provided certain criteria are met.	Review files to ensure administrative approvals meet required conditions.	If locality has chosen to use an administrative review process for nonconforming uses, approvals must be consistent with ordinance requirements.
27	<i>Public Utilities, Railroads, Public Roads, and Facilities Exemptions</i>	9VAC25-830-150 B	Allows localities to provide for exemptions of certain facilities, provided specific criteria are met.	<ul style="list-style-type: none"> Obtain information regarding the local exemptions process Review files of selected approved exemptions to ensure that they meet the required criteria. Field visits as needed. 	Utilities approved by a locality must be developed/installed consistent with requirements of the Regulations.
28	<i>Exceptions</i>	9VAC25-830-150 C	Requires localities to establish processes by which exceptions can be granted. Establishes required findings and process for granting exceptions.	<ul style="list-style-type: none"> Obtain information regarding the local exceptions process. Review files to ensure that exceptions meet the required criteria. Field visits as needed. 	Documentation must exist in case files that exceptions granted meet all the necessary findings, that the locality has appropriate processes for the administration of exceptions and that all requirements of the regulations have been applied.

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29	<i>Plat and Site Plan Requirements</i>	9VAC25-830 190 A 4, 5	Through local land development ordinances localities must require certain information and notations on plats and site plans.	<ul style="list-style-type: none"> • Using the results of the advisory reviews as noted by completion of the <i>Plan and Plat Requirement Checklist</i>, verify whether the local ordinances contain the necessary information. • Review files to ensure that such information is provided on selected approved plats and site plans. 	<ul style="list-style-type: none"> • Site plans reviewed in files must have the required elements. • Approved plats must have required elements. • Requirements to do so must be in ordinances.
30	<i>Delineation of Buildable Areas</i>	9VAC25-830-190 A 5	Requires local governments to require, through the plan of development review process, the delineation of buildable areas on lots.	Review selected plans to ensure that buildable areas are delineated.	Approved site plans must show buildable area or equivalent.
31	<i>Comprehensive Plan Implementation</i>	9VAC25-830-170	Requires that compliance evaluations ensure implementation of local programs, which includes the Bay Act Phase II elements of comprehensive plans per 9 VAC 10-20-60.	Localities will be requested to provide a report describing how they implement the Phase II components of the Comprehensive Plan, and the status of implementation.	Locality must be able provide a report describing how they implement the Phase II components of the Comprehensive Plan, and the status of implementation.