FEDERAL CONSISTENCY INFORMATION PACKAGE For VIRGINIA COASTAL ZONE MANAGEMENT PROGRAM

Prepared by
DEPARTMENT OF ENVIRONMENTAL QUALITY
Office of Environmental Impact Review

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CONTENTS	Page
Introduction	1
Regulatory Framework	1
Federal Consistency Requirement	2
Definition of Federal Actions	3
Federal Agency Activities	3
Federal Licenses and Permits	4
Outer Continental Shelf Plans	5
Federal Assistance to State and Local Gov'ts	5
Authority	5
Virginia's Designated Coastal Management Area	6
Enforceable Policies	6
Advisory Policies	7
Review Procedure	10
Federal Agency and Development Projects Federal Permit, License, and Approval Federal Assistance Outer Continental Shelf	10 11 12 13
Public Participation	13
Project Submittals	13
Federal Consistency Determination Outline	13
Federal Consistency Certification Outline	14
Appendix A…….. CZM Authorization Letter	
Appendix B…….. Map of Virginia Coastal Zone	
Appendix C…….. Enforceable Policies (2020)	

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INTRODUCTION

The Federal Consistency Information Package for the Virginia Coastal Zone Management (CZM) Program is intended to help federal agencies, applicants for federal permits, licenses, or approvals, and recipients of federal assistance to comply with the federal consistency requirements of the Coastal Zone Management Act (CZMA), as amended. This version of the Federal Consistency Information Package provides updated information related to the program change approved by the National Oceanic and Atmospheric Administration (NOAA) on October 2, 2020 and provides clarifications based on frequently asked questions.

Pursuant to the CZMA, NOAA approved the Virginia CZM Program in 1986. Accordingly, federal activities which are reasonably likely to affect any land or water use or natural resources of Virginia's designated coastal resources management area must be consistent with the enforceable policies of the CZM Program. The CZM Program is a networked program with several agencies administering the enforceable policies. Virginia also has several advisory policies that were established to serve as a discretionary guide during project planning. As the lead agency for the CZM Program, the Department of Environmental Quality (DEQ) is responsible for coordinating the Commonwealth's review of federal consistency determinations and certifications with cooperating agencies and responding to the appropriate federal agency or applicant. At the federal level, NOAA, through its Office for Coastal Management (OCM), oversees DEQ's use of consistency, mediates consistency disputes, and processes appeals to the Secretary of Commerce.

REGULATORY FRAMEWORK

Effective January 8, 2001, NOAA revised the regulations implementing the federal consistency provisions of the CZMA of 1972 (see link **Coastal Zone Management Act** or go to **https://coast.noaa.gov/czm/act/).**

The revisions were necessary based on new provisions in the 1990 Coastal Zone Act Reauthorization Amendments (CZARA) and the 1996 Coastal Zone Protection Act. Among the amendments were revisions to the federal consistency requirement contained in section 307 of the CZMA. The 1990 CZMA amendments clarified that all federal agency activities meeting the "effects" standard are subject to CZMA consistency and that there are no exceptions, exclusions or categorical exemptions from the requirement. The regulations

were further revised in 2006 in response to *The National Energy Policy Development Group's Report* (May 2001) (Energy Report) and the *Energy Policy Act of 2005*. Section 319 of the CZMA was amended by Section 381 of the Energy Policy Act of 2005 (Pub. L. No. 109-58) to mandate deadlines for decisions on appeals of consistency determination under the CZMA. Section 382 specified that the initial record to be used for CZMA appeals of energy projects is the record consolidated by the lead federal permitting agency.

FEDERAL CONSISTENCY REQUIREMENT

The federal consistency regulations implement the CZMA requirement that federal actions (regardless of location) that have reasonably foreseeable effects on any land or water use or natural resource of the coastal zone (also referred to as coastal uses or resources, or coastal effects) must be consistent with the enforceable policies of a coastal state's federally approved coastal management program, before they can occur. Effects include both direct effects which result from the activity and occur at the same time and place as the activity, and indirect (cumulative and secondary) effects which result from the activity and are later in time or farther removed in distance, but are still reasonably foreseeable. Cumulative effects are effects resulting from the incremental impact of the federal action when added to other past, present, and reasonably foreseeable actions, regardless of what person(s) undertake(s) such actions. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

Some examples of coastal uses include such activities as: public access, recreation, fishing, historic or cultural preservation, development, energy infrastructure and use, hazards management, marinas, floodplain management, scenic and aesthetic enjoyment, and resource creation or restoration. Coastal resources include biological or physical resources that are found within a state's coastal zone on a regular or cyclical basis. Biological and physical resources include, but are not limited to, air, tidal and non-tidal wetlands, ocean waters, estuaries, rivers, streams, lakes, aquifers, submerged aquatic vegetation, land, plants, trees, minerals, fish, shellfish, invertebrates, amphibians, birds, mammals, and reptiles, etc.

The official 2007 version of the CZMA federal consistency regulations is available at this link: **Federal Consistency Regulations – 15 C.F.R. part 930** or go to **https://coast.noaa.gov/data/czm/consistency/media/15CFRPart930_2007.pdf**

DEFINITION OF FEDERAL ACTIONS

There are four types of federal actions: Federal agency activities (including federal financial assistance to individuals), federal license or permit activities, outer continental shelf (OCS) plans, and federal financial assistance to state and local governments.

1. *Federal agency activities* (15 C.F.R. part 930, subpart C) - activities and development projects performed by a Federal agency, or a contractor for the benefit of a Federal agency. All federal development projects inside the coastal zone are automatically subject to consistency and require a consistency determination. The following federal agency actions are listed in Virginia's program:

- National Marine Fisheries Service – Fishery Management Plans
- Army Corps of Engineers – Public works projects including but not limited to dredging, breakwaters, navigation aids, reservoirs, beach nourishment, etc.
- Air Force, Army, or Navy – Location, acquisition, and design of new or expanded defense installations and related activities
- Fish and Wildlife Service – Acquisition and management, including development of master plans for National Wildlife Refuges
- National Park Service – Acquisition and management, including development of Master Plans for National Parks and Seashores
- Coast Guard – Location, acquisition, and design of new or expanded facilities as well as closure of existing facilities
- Federal Aviation Administration – Construction, maintenance, and demolition of federal aids to navigation
- General Services Administration – Disposal of surplus federal land, property acquisition, and building construction

Examples are Fisheries Plans by the National Marine Fisheries Service, Naval exercises, the disposal of federal land by the General Services Administration, a U.S. Army Corps of Engineers (Corps) breakwater or beach nourishment project, an OCS oil and gas lease sale by the Bureau of Ocean Energy Management (BOEM), formerly Minerals Management Service (MMS), improvements to a military base, Naval disposal of radioactive or hazardous waste performed by a private contractor, activities in National Parks such as installation of mooring buoys or road construction, and projects submitted under the residual category pursuant to 15 CFR 930.31(c). This residual category under subpart C is reserved for "other federal agency activity" which the federal agency determines will have reasonably foreseeable coastal effects, but which does not fall under 15 C.F.R. part 930, subpart D (federal license or permit), subpart E (OCS plans), or subpart F (federal assistance to state agency or local government). For example, if a federal agency is providing funds to a private

citizen for disaster relief from a hurricane, and the funds will be used for an activity with coastal effects, then the federal agency follows the requirements for federal agency activities and provides DEQ with a federal consistency determination (FCD). HUD submits FCDs under this residual category for mortgage insurance provided for private development projects.

2. Federal license or permit activities (15 C.F.R. part 930, subpart D) - activities performed by a non-federal entity requiring federal permits, licenses or other forms of federal authorization. The following licenses and permits are listed in the Virginia CZM program:

- Army Corps of Engineers
  - Section 9 or 10 permits pursuant to the Rivers and Harbors Act
  - Section 404 permit pursuant to the Clean Water Act
  - Section 103 permit pursuant to the Marine Protection, Research, and Sanctuaries Act
- Federal Energy Regulatory Commission
  - Licenses for non-federal hydroelectric projects pursuant to Section 4 of the Federal Power Act
  - Abandonment of gas pipelines pursuant to Section 7 of the Natural Gas Act
  - Certificates authorizing construction and operation of facilities for the transportation and/or storage of natural gas pursuant to Section 7 of the Natural Gas Act
- Department of Energy Office of Fossil Energy (formerly Economic Regulatory Commission)
  - Options for permission to deliver or receive imported liquefied natural gas
- Bureau of Ocean Energy Management (formerly Bureau of Land Management and Minerals Management Service)
  - Permits for pipeline rights-of-way for oil and gas transmission on the Outer Continental Shelf
- Coast Guard
  - Licenses for the construction and operation of deepwater ports pursuant to the Deepwater Port Act
  - Permit for construction and modification of bridge structures across navigable waters of the United States
- Federal Aviation Administration
  - Permits and licenses for the construction, operation, or alteration of airports
- Environmental Protection Agency
  - National Pollutant Discharge Elimination System permits pursuant to sections 402 and 403 of the Clean Water Act
  - Ocean dumping permits

    - Section 102 permits, designation of ocean dumping and incineration sites, pursuant to the Marine Protection, Research, and Sanctuaries Act
- Nuclear Regulatory Commission
    - Permits and licenses required for the construction and operation of nuclear power plants
- Interstate Commerce Commission (now the Surface Transportation Board)*
    - Abandonment of rail lines
- National Park Service
    - Expenditures of Land and Water Conservation Funds and National Historic Preservation Funds

* The NOAA-approved list contains the names of federal agencies that no longer exist or whose authorities have been transferred to other agencies.

Applicants for these licenses or permits within Virginia's coastal management zone must submit a federal consistency certification before the federal agency can issue these licenses or permits.

3. ***Outer Continental Shelf (OCS) plans*** for exploration, development, and production activities (15 C.F.R. part 930, subpart E) – BOEM approvals for OCS plans, pursuant to the Outer Continental Shelf Lands Act. The CZMA process is similar to federal license or permit activities; and

4. ***Federal assistance to state and local governments*** (15 C.F.R. part 930, subpart F) - ***There are no federal assistance programs listed in the Virginia CZM program, and therefore, federal consistency review is not required under this subpart. However, many federal agencies providing federal assistance to local or state governments require this review as part of the application process. DEQ will respond to any request for consistency review that it receives.***

Commonly received federal assistance submittals include Federal Highway Administration funds to state and local governments, construction grants for wastewater treatment works, and HUD grants.

AUTHORITY

The Virginia CZM Program was originally authorized by Virginia Executive Order (EO) Number Thirteen in 1986, and continued by subsequent Executive Orders every four years. In a letter to NOAA OCM dated September 4, 2018, the Governor of Virginia authorized the CZM Program in perpetuity (Appendix A).

VIRGINIA'S DESIGNATED COASTAL MANAGEMENT AREA

Virginia's Coastal Management Area includes most of Tidewater Virginia, as defined by ***Virginia Code §28.2-100*** (Appendix B), and all coastal waters of the United States territorial sea, extending to the three-mile limit of Virginia sovereignty, including all of Virginia's Atlantic coast watershed as well as parts of the Chesapeake Bay and Albemarle - Pamlico Sound watersheds. Virginia coastal zone includes 5,000 miles of shoreline, four tidal rivers reaching as far as 100 miles inland - the Potomac, Rappahannock, York, and James Rivers. There are at least 88 jurisdictions in the coastal management area. The following 29 counties are located in the coastal management area (42 towns within these counties are also included):

Accomack	Isle of Wight	Northumberland
Arlington	James City	Prince George
Caroline	King George	Prince William
Charles City	King and Queen	Richmond
Chesterfield	King William	Spotsylvania
Essex	Lancaster	Stafford
Fairfax	Mathews	Surry
Gloucester	Middlesex	Westmoreland
Hanover	New Kent	York
Henrico	Northampton	

The following 17 cities are located in Virginia's coastal management area:

Alexandria	Hampton	Portsmouth
Chesapeake	Hopewell	Richmond
Colonial Heights	Newport News	Suffolk
Fairfax	Norfolk	Virginia Beach
Falls Church	Petersburg	Williamsburg
Fredericksburg	Poquoson	

Federal Lands: federal lands**,** the use of which is by law subject solely to the discretion of or which is held in trust by the federal government, its officers or agents, are excluded from Virginia's coastal management area. However, activities on federal lands with any reasonably foreseeable coastal effects must be consistent with the Virginia CZM Program.

ENFORCEABLE POLICIES COMPRISING VIRGINIA'S COASTAL ZONE MANAGEMENT PROGRAM

NOAA approved a program change to the Virginia CZM Program by letter dated October 2, 2020. This program change revised the existing

enforceable policies into a narrative format. These narrative statements summarize, in plain language, the requirements of the underlying statutory and regulatory requirements of the Virginia CZM Program.

Additionally, the requested program change includes the incorporation of the following new enforceable policies, in a narrative format, into the Virginia CZM Program: Wildlife and Threatened and Endangered Species and Nonindigenous Aquatic Nuisance, Predatory, or Undesirable Species as subsections in (VI) Wildlife and Inland Fisheries; and (VII) Plant Pests and Noxious Weeds.

There are 12 enforceable policy categories in the NOAA-approved Virginia CZM Program, each containing several enforceable policies. The agencies administering these policies review each project submitted through federal consistency in light of these policies to determine if the project is consistent. It only on the basis of these enforceable policies that Virginia can object to a project.

I. Tidal and Non-Tidal Wetlands

II. Subaqueous Lands

III. Dunes and Beaches

IV. Chesapeake Bay Preservation Areas

V. Marine Fisheries

VI. Wildlife and Inland Fisheries

VII. Plant Pests and Noxious Weeds

VIII. Commonwealth Lands

IX. Point Source Air Pollution

X. Point Source Water Pollution

XI. Nonpoint Source Water Pollution

XII. Shoreline Sanitation

The full list of enforceable policies can be found in Appendix C.

ADVISORY POLICIES OF VIRGINIA'S COASTAL ZONE MANAGEMENT PROGRAM

Advisory Policies for Geographic Areas of Particular Concern

Although not required for the purposes of consistency, in accordance with 15 CFR §930.39(c), the federal agency should consider the advisory policies (recommendations) of the CZM Program as well.

a. Coastal Natural Resource Areas - These areas are vital to estuarine and marine ecosystems and/or are of great importance to areas immediately inland of the shoreline. Such areas receive special attention from the Commonwealth because of their conservation, recreational, ecological, and aesthetic values. These areas are worthy of special consideration in any planning or resources management process and include the following resources:

i) Wetlands
ii) Aquatic Spawning, Nursery, and Feeding Grounds
iii) Coastal Primary Sand Dunes
iv) Barrier Islands
v) Significant Wildlife Habitat Areas
vi) Public Recreation Areas
vii) Sand and Gravel Resources
viii) Underwater Historic Sites.

b. Coastal Natural Hazard Areas - This policy covers areas vulnerable to continuing and severe erosion and areas susceptible to potential damage from wind, tidal, and storm related events including flooding. New buildings and other structures should be designed and sited to minimize the potential for property damage due to storms or shoreline erosion. The areas of concern are as follows:

i) Highly Erodible Areas
ii) Coastal High Hazard Areas, including flood plains.

c. Waterfront Development Areas - These areas are vital to the Commonwealth because of the limited number of areas suitable for waterfront activities. The areas of concern are as follows:

i) Commercial Ports
ii) Commercial Fishing Piers
iii) Community Waterfronts

Although the management of such areas is the responsibility of local government and some regional authorities, designation of these areas as Waterfront Development Areas of Particular Concern (APC) under the CZM Program is encouraged. Designation will allow the use of federal CZMA funds to be used to assist in planning for such areas and in the implementation of such plans. The CZM Program recognizes two broad classes of priority uses for waterfront development APC:

i) water access-dependent activities;
ii) activities significantly enhanced by the waterfront location and complementary to other existing and/or planned activities in a given waterfront area.

Advisory Policies for Shorefront Access Planning and Protection

a. Virginia Public Beaches - Approximately 25 miles of public beaches are located in the cities, counties, and towns of Virginia exclusive of public beaches on state and federal land. These public shoreline areas will be maintained to allow public access to recreational resources.

b. Virginia Outdoors Plan - Planning for coastal access is provided by the DCR in cooperation with other state and local government agencies. The Virginia Outdoors Plan (VOP), which is published by the Department, identifies recreational facilities in the Commonwealth that provide recreational access. The VOP also serves to identify future needs of the Commonwealth in relation to the provision of recreational opportunities and shoreline access. Prior to initiating any project, consideration should be given to the proximity of the project site to recreational resources identified in the VOP.

c. Parks, Natural Areas, and Wildlife Management Areas - Parks, Wildlife Management Areas, and Natural Areas are provided for the recreational pleasure of the citizens of the Commonwealth and the nation by local, state, and federal agencies. The recreational values of these areas should be protected and maintained.

d. Waterfront Recreational Land Acquisition - It is the policy of the Commonwealth to protect areas, properties, lands, or any estate or interest therein, of scenic beauty, recreational utility, historical interest, or unusual features that may be acquired, preserved, and maintained for the citizens of the Commonwealth.

e. Waterfront Recreational Facilities - This policy applies to the provision of boat ramps, public landings, and bridges which provide water access to the citizens of the Commonwealth. These facilities shall be designed, constructed, and maintained to provide points of water access when and where practicable.

f. Waterfront Historic Properties - The Commonwealth has a long history of settlement and development, and much of that history has involved both shorelines and near-shore areas. The protection and preservation of historic shorefront properties is primarily the responsibility of the Department of Historic Resources. Buildings, structures, and sites of historical, architectural, and/or archaeological interest are significant resources for the citizens of the Commonwealth. It is the policy of the Commonwealth and the CZM Program to enhance the protection of buildings, structures, and sites of historical,

architectural, and archaeological significance from damage or destruction when practicable.

VIRGINIA'S REVIEW PROCEDURE

1. Federal Agency Activities and Development Projects (15 CFR Part 930, Subpart C)

All federal development projects inside the coastal zone are automatically subject to the consistency regulations and require a federal consistency determination. Also, any federal action outside the coastal zone which has the potential to affect Virginia's coastal uses and resources is subject to consistency review since there are no geographical boundaries. Consistency is triggered by the "reasonably foreseeable effects" test.

Step 1. The federal agency determines whether coastal effects are reasonably foreseeable. Effects can be direct, indirect, cumulative, or secondary. Also, effects are not limited to environmental impacts but include coastal uses such as public access and recreational uses. It is beneficial if the federal agency consults with agencies administering the enforceable policies early in the planning process to determine potential impacts of a proposal.

Step 2. (a) If there are no effects, the federal agency provides the DEQ with a negative determination at least 90 days prior to final approval (15 CFR § 930.35). (b) If there are effects, the federal agency submits a consistency determination to the DEQ at least 90 days prior to final approval.

The Commonwealth has 60 days to review both consistency determinations and negative determinations and reserves the right, when necessary, to request additional review time to complete its review. Federal agencies shall approve one request for an extension period of 15 days or less but may approve a longer extension period if appropriate. The 60-day review period begins when DEQ receives the consistency determination and sufficient supporting information as described in 15 CFR Part 930, §930.39(a).

Step 3. DEQ determines if the necessary information, as required by 930.39(a), is included in the submittal. If the necessary information is not included, DEQ will request additional information from the federal agency and will not start the 60-day review period until the necessary information is received.

Step 4. If the necessary information is provided, DEQ coordinates the project with various state resource agencies and locality personnel and publishes a public notice. Public notices are placed on the DEQ website and are distributed

in the OEIR Program Newsletter. Depending on the number and content of public comments, DEQ may hold a public hearing.

Step 5. Reviewers send comments on federal agency determinations to DEQ. If reviewers indicate that the information is inadequate, DEQ attempts to obtain the additional information within the 60-day review period. If the federal agency is unable to provide the necessary information in a timely manner, DEQ may object based on insufficient information (15 CFR §930.43(b)). In this case, DEQ's objection would describe the information necessary to determine consistency of the federal action with the enforceable policies of the CZM Program. A copy of each objection is sent to the Director of OCM.

Step 6. After agencies have completed their reviews, DEQ prepares the Commonwealth's coordinated response to the federal agency. DEQ resolves any conflicts in reviewers' comments or seeks clarifications from reviewers before responding to the federal agency. DEQ requests time extensions when needed for agencies to complete their review.

Step 7. If there are effects, the federal agency must conduct the activity in a manner that is consistent with the CZM Program to the maximum extent practicable as defined in 15 CFR §930.32.

Step 8. If there is a dispute, DEQ will attempt to resolve the differences between the federal agency and state agencies within the remaining portion of the 60-day notice period. At the end of the 60-day period, if a resolution has not been reached, DEQ or the federal agency can request mediation by the Secretary of Commerce or OCM.

National Environmental Policy Act (NEPA). In instances where a project is subject to the requirements of NEPA, DEQ encourages the federal agency to include its consistency determination in the NEPA document as a matter of administrative convenience as well as to provide environmental information to support the consistency determination. See 15 CFR §930.37.

2. Review Procedure for Federal Permit, License, and Approval Activities (15 CFR Part 930, Subpart D)

All activities located within Virginia's designated coastal management area (Tidewater) requiring a listed federal permit, license, or approval must be consistent with Virginia's Coastal Zone Management Program.

Step 1. Virginia, with OCM approval, determines activities with coastal effects:

a. listed versus unlisted activity
b. inside versus outside coastal zone

Step 2. For a listed activity (see above, page 4) occurring in Tidewater, the applicant must submit a federal consistency certification (FCC) to the responsible federal agency and the DEQ. The applicant must provide DEQ with the necessary data and information (15 CFR §930.58) to allow the agencies administering the enforceable policies to assess the project's effects. The review of listed activities outside of the coastal zone and unlisted activities inside or outside the coastal zone will be reviewed on a case-by-case basis following the procedures for unlisted activities pursuant to 15 CFR §930.54.

Step 3. DEQ establishes deadlines and distributes the documents to reviewers. If there are applicable enforceable policies, DEQ will coordinate a consistency review for those activities. The six-month review begins upon receipt of the required information. If the only applicable enforceable policies are permit programs under the jurisdiction of Virginia's laws, and the applicant has received all the applicable permits or approvals, DEQ may decide to do an in-house review of the consistency certification. To facilitate this uncoordinated or limited review, the applicant must attach the pertinent approvals to the FCC.

Step 4. DEQ publishes a public notice and makes the consistency document available for public review. Public notices are placed on the DEQ website and are distributed in the OEIR Program Newsletter pursuant to 15 CFR §930.61. In some instances, DEQ requires that the applicant publishes the notice or may combine the notice with the notice by the federal agency (if the federal agency agrees). Public participation may include public hearings.

Step 5. DEQ responds within 90 days either concluding the review or providing an update of the status of the review (15 CFR §930.62). No further action is necessary if the Commonwealth concurs. For projects still under review, DEQ will notify the federal agency and the applicant of the status of the review and the basis for further delay. DEQ will respond within the 6-month legal deadline.

Step 6. The federal agency cannot issue its approval if Virginia objects (15 CFR §930.64).

Step 7. The applicant may work with DEQ and state agencies administering the enforceable policies to remove the Commonwealth's objection or appeal the objection to the Secretary of Commerce within 30 days of the objection. If the Secretary overrides Virginia's objection, the federal agency may approve the project.

3. Review Procedure for Federal Assistance Projects (15 CFR Part 930, Subpart F)

There are no federal assistance programs listed in the Virginia CZM program, and therefore, federal consistency review is not required under this subpart. However, many federal agencies providing federal assistance to local or state

governments require this review as part of the application process. DEQ will respond to any request for consistency review that it receives.

Step 1. Virginia, with OCM approval, determines activities with coastal effects.

Step 2. Applicants for federal assistance submit adequate information on the project so that DEQ can complete a review. This includes the application for federal assistance and a brief evaluation of any reasonably foreseeable effects on the enforceable policies.

Step 3. In most cases, DEQ conducts an internal review (no coordination or public notice) and provides a response to the applicant and federal agency as to whether the project is consistent with the Virginia CZM Program.

4. Review Procedure for Outer Continental Shelf Activities (15 CFR Part 930, Subpart E)

Any OCS plan submitted to the Secretary of the Interior, or designee, which describes in detail federal license or permit activities affecting any coastal use or resource must ensure that such activities will be conducted in a manner which is consistent with Virginia's Coastal Zone Management Program. The procedure for reviewing OCS plans is similar to the procedure for reviewing Federal Permit, License, and Approval Activities (see Pages 11-12 above).

PUBLIC PARTICIPATION

DEQ ensures that consistency reviews comply with the public participation requirements of Section 306(d)(14) of the Coastal Zone Management Act of 1972, as amended, and 15 CFR §930.2, §930.42, §930.61, and §930.77(b). Virginia utilizes several different procedural options to notify the public of projects under review. These options include: joint federal/state notices, publications in local newspapers, electronic notices published on DEQ's web site, publication in the OEIR Program Newsletter and Federal agencies' websites, and joint federal/state public hearings.

PROJECT SUBMITTALS

Federal Consistency Determination Outline

This document is an outline for Federal agencies to use when making a Consistency Determination under the Coastal Zone Management Act, sections

307(c)(1) and (2). Although not required for the purposes of consistency, in accordance with 15 CFR §930.39(c), the federal agency should consider the advisory policies (recommendations) of the CZM Program as well.

Coastal Zone Management Act (CZMA) Consistency Determination

This document provides the Commonwealth of Virginia with the [name of applicant's] Consistency Determination under CZMA section 307(c)(1) [or (2)] and 15 CFR Part 930, subpart C, for the [name of federal activity]. The information in this Consistency Determination is provided pursuant to 15 CFR §930.39. This activity includes:

> [Describe the Federal agency activity or reference relevant pages of National Environmental Policy Act (NEPA) document].

The [name of Federal agency] has determined that the [activity] affects the land or water uses or natural resources of Virginia in the following manner:

> [Provide analysis of effects or reference relevant pages of NEPA document].

The Virginia Coastal Zone Management Program contains the following applicable enforceable policies:

> [List and/or briefly describe all of the State's applicable enforceable policies and describe any reasonably foreseeable effect on each enforceable policy].

Based upon the following information, data, and analysis, the [name of Federal agency] finds that the [activity] is consistent to the maximum extent practicable with the enforceable policies of the Virginia Coastal Zone Management Program. [Provide information, comprehensive data, and analysis supporting the determination of consistency with the applicable enforceable policies.].

Pursuant to 15 CFR Section 930.41, the Virginia Coastal Zone Management Program has 60 days from the receipt of this letter in which to concur with or object to this Consistency Determination, or to request an extension under 15 CFR section 930.41(b). Virginia's concurrence will be presumed if its response is not received by the [name of Federal agency] on the 60th day from receipt of this determination. The State's response should be sent to:

> [Provide Federal agency contact information].

Federal Consistency Certification Outline

This document is an outline for non-federal applicants to use when making a consistency certification under the Coastal Zone Management Act, Sections 307(c)(3)(A) and 307(d). Although applicants are not required to make findings with respect to the coastal effects of the advisory policies, applicants shall demonstrate adequate consideration of policies that are in the nature of recommendations (see 15 CFR 930.58(a)(3).

Coastal Zone Management Act (CZMA) Consistency Certification

This document provides the Commonwealth of Virginia with the [name of applicant's] Consistency Certification and necessary data and information under CZMA Section 307(c)(3)(A) and 15 CFR Part 930, subpart D, for the [name of activity].

Certification:

> [Name of applicant] certifies that the proposed activity complies with the enforceable policies of Virginia's Coastal Zone Management Program (CZM Program) and will be conducted in a manner consistent with the CZM Program.

Necessary Data and Information:

1. [Describe the federal license or permit activity or reference relevant pages of the federal application, any associated facilities, and coastal effects. Provide materials which will facilitate evaluation of coastal effects.]

2. [Provide additional information required by the State pursuant to 15 CFR Section 930.58(a)(2) and 930.58(a)(3). For example, the location of the project must be clearly identified on a U.S. Geological Survey topographic map or its equivalent and a site plan provided for development projects. The certification must fully describe the project and, in particular, aspects of the project that may cause direct or indirect environmental impacts. Description of the site must be thorough and include information on existing conditions. The purpose of this section is to make the reviewer aware of what is being proposed, important design features, how the facility will be operated, and the purpose of the facility.

3. [Provide an evaluation that includes a set of findings relating to the probable coastal effects of the proposed project and its associated facilities to the relevant enforceable policies of the Virginia Coastal Zone Management Program.]

   [Contact appropriate agencies administering the enforceable policies of the CZM Program to help determine relevant enforceable policies.]

By this certification that the [project] is consistent with the Virginia Coastal Zone Management Program, Virginia is notified that it has six months from the receipt of this letter and accompanying information in which to concur with or object to [applicant's name] certification. Pursuant to 15 CFR Section 930.63(b), if Virginia has not issued a decision within three months following commencement of State agency review, it shall notify [name of applicant] and the federal agency of the status of the matter and the basis for further delay. The State's concurrence, objection, or notification of review status shall be sent to: [provide applicant and federal agency's contact information].

Appendix A

CZM Authorization Letter

COMMONWEALTH of VIRGINIA

Office of the Governor

Ralph S. Northam
Governor

September 4, 2018

Dr. Jeffrey L. Payne, Director
Office for Coastal Management
National Oceanic and Atmospheric Administration
1305 East West Highway
Silver Spring, MD 20910

Dear Dr. Payne:

The Virginia Coastal Zone Management Program ("Program") was established in June 1986 through an Executive Order of then Governor Gerald Baliles and approved by the National Oceanic and Atmospheric Administration (NOAA) under the federal Coastal Zone Management Act (CZMA) in September 1986 (see attached "Findings of Paul M. Wolff" regarding approval of the Program). Given that Virginia governors may serve only one four-year term, this Executive Order was continued every four years by each new governor.

In order to streamline this process, I submit this transmittal letter to NOAA's Office for Coastal Management, pursuant to NOAA's regulations at 15 CFR § 923.48, to be the document that establishes the Virginia Coastal Zone Management Program in perpetuity. An executive order will no longer be used as the transmittal document to meet 15 CFR § 923.48. I attest that: a) I have reviewed and approved the Program as state policy, b) have designated a single lead agency to receive and administer implementation grants, c) the Commonwealth of Virginia has the authorities necessary to implement the Program, and d) the Commonwealth is organized to implement the Program.

The Virginia Coastal Zone Management Program's mission is to create more vital and sustainable coastal communities and ecosystems. The Department of Environmental Quality serves as the lead agency for this networked program and will be responsible for allocation and assignment of all federal funds received for the Virginia Coastal Zone Management Program grants.

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Section 2.2-103 of the *Code of Virginia,* and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby continue the Virginia Coastal Zone Management Program in perpetuity.

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POLICY GOALS

State agencies having responsibility for the Commonwealth's coastal resources shall promote the Coastal Zone Management Program consistent with the following goals:

Coastal and Ocean Resource Protection

Goal 1: To protect and restore coastal and ocean resources, habitats, and species of the Commonwealth. These include, but are not limited to, rivers, tidal and non-tidal wetlands, bays, subaqueous lands and vegetation, beaches, sand dune systems, barrier islands, underwater or maritime cultural resources, riparian forested buffers, and endangered or threatened species.

Goal 2: To restore and maintain the quality of all coastal and ocean waters for human and ecosystem health through protection from adverse effects of excess nutrients, toxics, pathogens, and sedimentation.

Goal 3: To protect air quality including reduction of air deposition of nitrogen and carbon dioxide which can lead to hypoxia and acidification of our coastal and ocean waters.

Goal 4: To reduce or prevent losses of coastal habitat, life, and property caused by shoreline erosion, storms, relative sea level rise, and other coastal hazards in a manner that integrates environmental and economic considerations.

Coastal and Ocean Resource Sustainable Use

Goal 5: To provide for sustainable wild fisheries and aquaculture.

Goal 6: To promote sustainable ecotourism and to increase and improve public access to coastal waters and shorefront lands compatible with resource protection goals.

Goal 7: To promote renewable energy production and provide for appropriate extraction of energy and mineral resources consistent with proper environmental practices.

Coastal and Ocean Management Coordination

Goal 8: To ensure sustainable development on coastal lands and support access for water-dependent development through effective coordination of governmental planning processes. To enhance coastal resiliency for Virginia's natural and built environments in the face of anticipated impacts of climate change and sea level rise.

Goal 9: To avoid and minimize coastal and ocean resource use conflicts through research, planning, and a forum for coordination and facilitation among local, regional, state, and federal government agencies, interest groups, and citizens.

Goal 10: To promote informed decision-making by maximizing the availability of up-to-date educational information, technical advice, and scientific data including the use of new tools such as marine spatial planning.

IMPLEMENTATION AND ENFORCEMENT

The following agencies, in cooperation with local governments, as appropriate, shall have primary responsibility for implementing the enforceable policies of Virginia's Coastal Zone Management Program as approved by NOAA:

Responsible Agencies

Department of Environmental Quality (DEQ)

Point source water pollution management and non-tidal wetlands management
Air pollution
Nonpoint source pollution management
Coastal lands management

Marine Resources Commission (MRC)

Primary sand dunes management
Tidal wetlands management
Subaqueous lands management
Fisheries management (shared with DGIF)

Department of Game and Inland Fisheries (DGIF)

Fisheries management (shared with MRC)

Department of Health

Shoreline sanitation

The following agencies are responsible for assisting with the program:

Department of Conservation & Recreation
Department of Agriculture and Consumer Services
Department of Forestry
Department of Historic Resources
Department of Mines, Minerals & Energy
Department of Transportation
Virginia Economic Development Partnership
Virginia Institute of Marine Science
Virginia Department of Emergency Management

In addition, other agencies that conduct activities that may affect coastal resources shall conduct such activities in a manner consistent with and supportive of Virginia's Coastal Zone Management Program. For purposes of this Program, the Coastal Area shall mean Tidewater Virginia as defined in Section 28.2-100 of the *Code of Virginia,* inclusive of all tidal waters out to the three nautical mile Territorial Sea Boundary.

The Director of the Department of Environmental Quality shall monitor all state actions that affect coastal resources. When, in the judgment of the DEQ Director, a state agency, regulatory board, or commission is about to act in a manner that appears to be inconsistent with the Program or has established a pattern of actions that appears to be inconsistent with the Program, the Director shall discuss the situation with the head of such agency, board, or commission to determine if a consistency problem exists.

If, after discussion, the head of such agency, board, or commission and the Director of DEQ are in disagreement about the existence of a consistency problem, the Director will inform the Secretary of Natural Resources of the disagreement. The Secretary shall then determine if a state interagency consistency problem exists.

If the head of such agency, board, or commission and the Director of DEQ agree that a consistency problem exists, they shall attempt to resolve the problem. If they cannot resolve the problem, the Director shall advise the Secretary that an unresolved interagency consistency problem exists.

Upon notification of the existence of an unresolved consistency problem, the Secretary shall review the problem, determine how it should best be resolved, and affect such resolution within the Secretariat of Natural Resources or consult with other Cabinet Secretaries to resolve a consistency problem with agencies, boards, or commissions not within the Secretariat of Natural Resources. If unable to resolve the problem, the Secretary shall report to the Governor and recommend appropriate action. The Governor shall have the ultimate responsibility for resolving any interagency consistency problem that cannot be resolved by the Secretary of Natural Resources.

Any person having authority to resolve consistency problems shall resolve those problems in a manner that furthers the goals and objectives of the Program as set forth above and in accordance with existing state law, regulations, and administrative procedures.

We sincerely appreciate NOAA's assistance in streamlining the continuation of the Virginia Coastal Zone Management Program and look forward to many more years of protecting, restoring and strengthening our coastal and ocean ecosystems and economy.

Sincerely,

Ralph S. Northam

Appendix B

Map of Virginia Coastal Zone

Virginia's Coastal Zone
Fairfax
Falls Church
Arlington
Fairfax
Alexandria
Prince William
Stafford
Potomac
Fredericksburg
King George
Spotsylvania
Caroline
Westmoreland
Richmond
Northumberland
Essex
Lancaster
King and Queen
Middlesex
Hanover
King William
Henrico
City of Richmond
New Kent
Gloucester
Mathews
James City
Chesterfield
Hopewell
Colonial Heights
Petersburg
Prince George
Williamsburg
York
Newport News
Poquoson
Hampton
Surry
Isle of Wight
Norfolk
Portsmouth
Virginia Beach
Chesapeake
Suffolk
Great Dismal Swamp
Tangier Island
Smith Point
Chesapeake Bay
Northampton
Accomack
Atlantic Ocean
Sea
Territorial
Boundary
Three-Mile

Appendix C

Enforceable Policies (2020)

VIRGINIA COASTAL ZONE MANAGEMENT PROGRAM
ENFORCEABLE POLICIES - 2020

Table of Contents

I. Tidal and Non-Tidal Wetlands
II. Subaqueous Lands
III. Dunes and Beaches
IV. Chesapeake Bay Preservation Areas
V. Marine Fisheries
VI. Wildlife and Inland Fisheries
VII. Plant Pests and Noxious Weeds
VIII. Commonwealth Lands
IX. Point Source Air Pollution
X. Point Source Water Pollution
XI. Nonpoint Source Water Pollution
XII. Shoreline Sanitation

Appendix A. Chesapeake Bay Preservation Act Localities: Local Program Adoption Dates

I. Tidal and Non-Tidal Wetlands

Tidal Wetlands: It is the policy of this Commonwealth to preserve the tidal wetlands, to prevent their despoliation and destruction, and to accommodate necessary economic development in a manner consistent with wetlands preservation.

In deciding to allow a use or development of tidal wetlands, the Commonwealth shall apply the following standards:

A. Tidal wetlands of primary ecological significance shall not be altered so that the ecological systems in the tidal wetlands are unreasonably disturbed
B. Development in Tidewater Virginia, to the maximum extent practical, shall be concentrated in tidal wetlands of lesser ecological significance, in vegetated tidal wetlands which have been irreversibly disturbed before July 1, 1972, in nonvegetated tidal wetlands which have been irreversibly disturbed prior to January 1, 1983, and in areas of Tidewater Virginia outside of tidal wetlands.

Consideration shall be given to the unique character of the Commonwealth's tidal wetlands, which are essential for the production of marine and inland wildlife, waterfowl, finfish, shellfish, and flora; serve as a valuable protective barrier against floods, tidal storms and the erosion of the Commonwealth's shores and soil; are important for the absorption of silt and pollutants; and are important for recreational and aesthetic enjoyment of the people and the promotion of tourism, navigation, and commerce.

It is the policy of the Commonwealth to avoid or minimize the loss of tidal wetlands and the adverse ecological effects of all permitted activities.
Va. Code Ann. § 28.2-1301 and -1308; 4 Va. Admin. Code § 20-390-20

Non-Tidal Surface Waters, Including Wetlands: It is the Commonwealth's policy that non-tidal surface waters, including wetlands and streams, shall be protected. Development shall only be permitted in a manner consistent with the protection of wetland acreage and function and stream function. Impacts to wetlands and streams shall be avoided or minimized to the maximum extent practicable.

Surface water delineation shall be based on the method in the US Army Corps of Engineers' (USACE) "Wetlands Delineation Manual, Technical Report Y-87-1, January 1987, Final Report" and USACE approved regional supplements, and approved stream assessment methods.

When assessing potential impacts to non-tidal surface waters, consideration shall be given to whether there will be an adverse impact to a beneficial use of state waters. Instream beneficial uses include, but are not limited to, the protection of fish and wildlife resources and habitat; maintenance of waste assimilation; and recreational, navigational, and cultural and aesthetic values. Offstream beneficial uses include, but are not limited to, domestic uses (including public water supply), agricultural uses, electric power generation, commercial uses, and industrial uses.

Instream flows shall be assessed, using an appropriate cumulative impact model, for purposes of the protection of navigation; maintenance of waste assimilation capacity; protection of fish and wildlife resources and habitat; and recreational, and cultural and aesthetic values as instream beneficial uses of Virginia's waters.
Va. Code Ann. §§ 62.1-44.15:20 and -44.15:21; and 9 Va. Admin. Code §§ 25-210-10, -210-45, 210-80, 260-10, -380, -390

II. Subaqueous Lands

All decisions affecting subaqueous lands shall be guided by the Commonwealth's General Policy to conserve, develop, and utilize its natural resources, its public lands, and its historical sites and buildings and to protect its atmosphere, lands, and waters from pollution, impairment, or destruction, for the benefit, enjoyment, and general welfare of the people of the Commonwealth. Subaqueous lands include all the beds of the bays, rivers, creeks and the shores of the sea within the jurisdiction of the Commonwealth shall remain the property of the Commonwealth and may be used as a common by all the people of the Commonwealth for the purpose of fishing, fowling, hunting, and taking and catching oysters and other shellfish. The General Assembly has authorized the VMRC to grant or deny any use of state-owned bottomlands, including dredging, aquaculture, the taking and use of material from the bottomland, and the placement of wharves, bulkheads, and fill.

In deciding whether to allow a particular use of state-owned bottomland, VMRC shall consider the public and private benefits of the use and the public trust doctrine as defined by the common law of the Commonwealth. The effect of the use on the following shall also be considered:

A. Other reasonable and permissible uses of state waters and state-owned bottomlands;
B. Marine and fisheries resources of the Commonwealth;
C. Tidal wetlands;
D. Adjacent or nearby properties;
E. Water quality; and
F. Submerged aquatic vegetation (SAV).

Va. Code Ann. §§ 28.2-1200, -1203, -1204 and -1205

III. Dunes and Beaches

It is the policy of the Commonwealth to preserve and protect coastal primary sand dunes and beaches, to prevent their despoliation and destruction, and whenever practical, to accommodate necessary economic development in a manner consistent with the protection of such features. Therefore, no permanent alteration of or construction upon any coastal primary sand dune or beach shall take place which would:

A. Impair the natural functions of the dune or beach;
B. Physically alter the contour of the dune or beach; or
C. Destroy vegetation growing thereon unless there will be no significant adverse ecological impact, or the project is clearly necessary and consistent with the public interest, considering all material factors.

Consideration shall be given to the importance of coastal primary sand dunes and beaches with their unique physiographic features which, in their natural state, serve as protective barriers from the effects of flooding and erosion caused by coastal storms, thereby protecting life and property; provide an essential source of natural sand replenishment for beaches and an important natural habitat for coastal fauna; and enhance the scenic recreational attractiveness of Virginia's coastal area

Va. Code Ann. §§ 28.2-1401 and -1408

IV. Chesapeake Bay Preservation Areas

It is the policy of the Commonwealth to protect and improve the water quality of the Chesapeake Bay, its tributaries, and other state waters by minimizing the effect of human activity upon these waters. To that end, the Commonwealth will ensure that land use and development performance criteria and standards are implemented in Chesapeake Bay Preservation Areas, which if improperly used or developed may result in substantial damage to the water quality of the Chesapeake Bay and its tributaries.

The designated Chesapeake Bay Preservation Areas (CBPAs) are composed of the following:

A. A Resource Protection Area (RPA) is composed of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform, or are sensitive to impacts that may result in significant degradation to the quality of state waters. The RPA must include the following components: tidal wetlands, nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow, and tidal shores. Within the RPA, a vegetated buffer no less than 100 feet wide must be maintained adjacent to and landward of these components and along both sides of any water body with perennial flow; and

B. A Resource Management Area (RMA) is composed of lands contiguous to the entire inland boundary of RPAs, including land types – such as floodplains, highly erodible soils (including steep slopes), highly permeable soils, nontidal wetlands not included in the RPA, and other lands necessary to protect the quality of state waters that, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the RPA. The RMA must encompass a land area large enough to provide significant water quality protection through application of the requirements below; and

C. An Intensely Developed Area (IDA) is composed of lands where:
   1. Development has severely altered the natural state of the area such that it has more than 50% impervious surface;
   2. Public sewer and water systems, or a constructed stormwater drainage system, or both, have been constructed and served the area by the original local program adoption date, as set forth in Appendix A, *Chesapeake Bay Preservation Act Localities: Local Program Adoption Dates*, which is attached hereto and incorporated herein by this reference. This condition does not include areas planned for public sewer and water or constructed stormwater drainage systems; or
   3. Housing density is equal to or greater than four dwelling units per acre.

Any use, development, or redevelopment of land in a Chesapeake Bay Preservation Area shall comply with the following performance criteria:

A. No more land shall be disturbed than is necessary to provide for the proposed use or development.

B. Indigenous vegetation shall be preserved to the maximum extent practicable, consistent with the use or development proposed.

C. All development equaling or exceeding 2,500 square feet of land disturbance shall go through a plan of development review process.

D. Land development shall minimize impervious cover consistent with the proposed use or development.

E. The Commonwealth's Nonpoint Source Water Pollution policy shall apply to a land disturbance of 2,500 sq. ft. or greater.
F. Onsite sewage treatment systems not requiring a Virginia Pollutant Discharge Elimination System (VPDES) permit shall:
   1. Have pump-out accomplished for all such systems at least once every five years; or be fitted with a plastic filter installed and maintained in the outflow pipe from the septic tank; or shall be inspected at least once every five years by an operator or licensed onsite soil evaluator and certified as functioning properly and not needing to have the effluent pumped out of the tank.
   2. For new construction, provide a reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site. Building shall be prohibited on the area of all sewage disposal sites until the structure is served by public sewer or an onsite sewage treatment system. As an alternative to the 100% reserve sewage disposal site, the proponent agency has the option of installing an alternating drainfield system.
G. Land upon which agricultural activities are being conducted, including but not limited to crop production, pasture, and dairy and feedlot operations, or lands otherwise designated as agricultural land, shall have a soil and water quality conservation assessment conducted. Such assessments shall evaluate the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and management of pesticides, and where necessary, shall result in a plan that outlines additional practices needed to ensure that water quality protection is being accomplished.

The following development criteria shall be applied to Resource Protection Areas.

A. Land development may be allowed in the Resource Protection Area, only if:
   1. It is a water dependent facility that complies with the performance criteria listed herein and that any non-water dependent component of the facility is located outside of the RPA;
   2. It constitutes redevelopment, provided there is no increase in impervious cover and no further encroachment into the RPA;
   3. constitutes development or redevelopment within a designated IDA;
   4. It is a road or driveway crossing that minimizes the encroachment into the RPA and impacts to water quality;
   5. It is a flood control or stormwater management facility that minimizes the encroachment into the RPA and impacts to water quality;
   6. It is a water well, passive recreational facility such as a boardwalk, trail or pathway or an historic preservation activity; or
   7. A water quality impact assessment has been completed for the proposed land disturbance within the RPA.
B. To minimize the adverse effects of human activities on the other components of the RPA, state waters, and aquatic life, a 100-foot wide buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist. The 100-foot wide buffer area shall be the landward component of the RPA. Notwithstanding permitted uses, encroachments, and vegetation clearing, the 100-foot wide buffer area is not reduced in width

1. The 100-foot wide buffer area shall be deemed to achieve a 75% reduction of sediments and a 40% reduction of nutrients.
2. Where land uses such as agriculture or silviculture within the area of the buffer cease and the lands are proposed to be converted to other uses, the full 100-foot wide buffer shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures buffer functions.

C. Permitted modifications of the buffer area.
   1. In order to maintain the functional value of the buffer area, existing vegetation maybe removed, only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices, including those that prevent upland erosion and concentrated flows of stormwater, as follows:
      a. Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.
      b. Any path shall be constructed and surfaced so as to effectively control erosion.
      c. Dead, diseased, or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu, and multiflora rose) may be removed and thinning of trees may be allowed pursuant to sound horticultural practice.
      d. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements. Living shorelines shall be the preferred alternative for stabilizing tidal shorelines within CBPAs wherever practicable.
   2. On agricultural lands the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and appropriate measures may be taken to prevent noxious weeds (such as Johnson grass, kudzu, and multiflora rose) from invading the buffer area. Agricultural activities may encroach into the buffer area as follows:
      a. Agricultural activities may encroach into the landward 50 feet of the 100-foot wide buffer area when at least one agricultural best management practice is being implemented on the adjacent land that addresses erosion control or nutrient management. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil tests, must be developed.
      b. Agricultural activities may encroach within the landward 75 feet of the 100-foot wide buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land.
      c. The buffer area is not required to be designated adjacent to agricultural drainage ditches if at least one best management practice that addresses the more predominant water quality issue on the adjacent land—either erosion control or nutrient management—is being implemented on the adjacent land.

D. Water quality impact assessment. A water quality impact assessment shall be required for any proposed development within the Resource Protection Area. The purpose of the water quality impact assessment is to identify the impacts of proposed development on water

quality and lands in the Resource Protection Areas consistent with the goals and objectives of this policy, and to determine specific measures for mitigation of those impacts.

E. These policies shall not be construed to prevent the reconstruction of pre-existing structures within CBPAs from occurring as a result of casualty loss.

F. Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, and telephone transmission lines, railroads, and public roads and their appurtenant structures are exempt from these policies provided the Commonwealth's Nonpoint Source Water Pollution policy is applied to a land disturbance of 2,500 sq. ft. or greater. The exemption of public roads is further conditioned on the optimization of the road alignment and design to prevent or otherwise minimize the encroachment in the RPA and adverse effects on water quality; and

G. Construction, installation and maintenance of water, sewer, natural gas, and underground telecommunications and cable television lines owned, permitted, or both, by a local government or regional service authority shall be exempt from the policies listed herein provided that:

   1. To the degree possible, the location of such utilities and facilities should be outside any RPA;
   2. No more land shall be disturbed than is necessary to provide for the proposed utility installation.

Va. Code Ann. §§ 28.2-104.1, 62.1-44.15:24, -44.15:51, -44.15:67, -44.15:68, -44.15:69, -44.15:73, -44.15:74, and -44.15:78; 9 Va. Admin. Code §§ 25-830-30, -40, -80, -90, -100, -120, -130, -140, and -150

V. Marine Fisheries

It is the policy of the Commonwealth to conserve and promote the seafood and marine resources of the Commonwealth, including fish, shellfish and marine organisms, and manage the fisheries to maximize food production and recreational opportunities within the Commonwealth's territorial waters. Marine fishery management shall be based upon the best scientific, economic, biological, and sociological information available, shall be responsive to the needs of interested and affected citizens, shall promote efficiency in the utilization of the resources, and shall draw upon all available capabilities in carrying out research, administration, management, and enforcement. In support of this policy, any activity in the Commonwealth's tidal waters must:

A. Achieve optimum yield from fisheries without engaging in overfishing.
B. Not negatively impact the short and long term viability of the Blue crab stock in Virginia.
C. Protect spawning stock, nursery areas and habitat.
D. Not encroach upon the natural oyster beds, rocks, and shoals of the Commonwealth, which shall not be leased, rented, or sold but shall be held in trust for the benefit of the people of the Commonwealth.
E. Engage in the planting or propagating of oysters only on assigned leases (i) that are not on waterfront that is already assigned or reserved for the riparian owners, (ii) on the beds of the bays, rivers, and creeks and shores of the sea lying outside the limits of navigation projects adopted and authorized by Congress and not required for the disposal of materials dredged incident to the maintenance of such projects, and (iii) on grounds other than the Commonwealth's natural oyster beds, rocks, or shoals held in trust for the benefit of the public.
F. Not encroach upon the lawful use and occupation of previously leased ground for the term of the lease unless exercising riparian rights or the right of fishing.

Va. Code Ann. §§ 28.2-101, -201, -203, -203.1, -225, -551, -600, -601, -603 -618, and -1103, -1203 and the Constitution of Virginia, Article XI, Section 3

VI. Wildlife and Inland Fisheries

Wildlife & Fish: No person shall import, export, take, pursue, kill or possess in the Commonwealth any fish or wildlife, or stock any species of fish in inland waters, in a manner that negatively impacts the Commonwealth's efforts in conserving, protecting, replenishing, propagating and increasing of the supply of game birds, game animals, fish and other wildlife of the Commonwealth.

Va. Code Ann. §§ 29.1-501, -512, -521, -530.2, -531, -533, -542, -543.1, -545, -548, -549, -550, -552, -554, -556, -569, and -574; 4 Va. Admin. Code §§ 15-30-10, -20, -50, and 15-290-60

Threatened and Endangered Species: No person shall harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, possess, collect, transport, sell or offer to sell, or attempt to do so, any species of fish or wildlife listed as threatened or endangered by the Board of Game and Inland Fisheries, except:

A. for zoological, educational, or scientific purposes and for propagation of such fish or wildlife in captivity for preservation purposes, when such actions will result in long-term survival benefits to such species; or
B. when incidental to other lawful actions and where the species will accrue long-term survival benefits from measures implemented in concert with or as mitigation for the incidental take; or
C. actions affecting a designated experimental population of said species, when such actions are taken in the context of implementing an approved Conservation Plan for the species; or
D. possession, breeding, sale, and transport of nonnative wildlife listed as threatened or endangered by the United States Secretary of the Interior pursuant to provisions of the federal Endangered Species Act of 1973 (P.L. 93-205), as amended, when (i) the federal designation does not specifically prohibit such possession, breeding, selling, or transporting and (ii) the nonnative wildlife is not listed by the Board of Game and Inland Fisheries as a predatory or undesirable species because its introduction into the Commonwealth would not be detrimental to the native fish and wildlife resources of Virginia.

Va. Code Ann. §§ 29.1-501, -564, -566, -567, and -568; 4 Va. Admin. Code §§ 15-20-130 and -140

Use of Drugs on Vertebrate Wildlife: No person shall administer any drug to any vertebrate wildlife in the Commonwealth unless it is done in a manner that is not harmful to the wildlife.

Va. Code Ann. § 29.1-501 and -508.1

Nonindigenous Aquatic Nuisance, Predatory, or Undesirable Species:

A. No person shall knowingly import, possess, sell, or liberate in the Commonwealth any member of a species designated as a predatory or undesirable species unless such actions are consistent with the Commonwealth's fish and wildlife management programs;

B. No person shall knowingly import, possess, transport, sell, offer for sale, purchase, give, receive, or introduce into the Commonwealth any member of a species designated as a nonindigenous aquatic nuisance except: (1) when such actions do not pose a significant threat of harm to: (i) the diversity or abundance of any species indigenous to state waters; (ii) the ecological stability of state waters; or (iii) the commercial, industrial, agricultural,

municipal, recreational, aquacultural, or other beneficial uses of state waters; or (2) for research by recognized academic institutions or government agencies upon receiving satisfactory assurance that adequate safeguards will be maintained to prevent the escape or introduction of any such species into the Commonwealth.

Va. Code Ann. §§ 29.1-501, -542, -543.1, -545, -569, -571, -574, and -575; 4 Va. Admin. Code §§ 15-20-210, -30-20, -30-40, and 15-290-60

VII. Plant Pests and Noxious Weeds

Quarantines: Once the Board of Agriculture and Consumer Services ("BACS") or the Commissioner of Agriculture and Consumer Services has established a quarantine for a pest, no person shall move any regulated article described in the quarantine or the pest against which the quarantine is established within, from, into, or through the Commonwealth in violation of the quarantine.
Va. Code Ann. §§ 3.2-700 and -703; 2 Va. Admin. Code §§ 5-315-10 to -130, -318-10 to -140, -330-10 to -90, and -440-10 to -70, -100, and -110

Importation of Regulated Articles: Once the BACS has issued a proclamation declaring the importation of infested regulated articles to be a menace to public health, it shall be prohibited to import any such regulated articles from any locality in other states, territories, or countries into the Commonwealth.
Va. Code Ann. § 3.2-704

Plant Pests and Noxious Weeds: No person shall sell, barter, offer for sale, move, transport, deliver, ship, or offer to ship into or within the Commonwealth any plant pests in any living stage, unless such plant pests are not injurious, are generally present already, or are for scientific purposes subject to specified safeguards. No person shall move, transport, deliver, ship, or offer for shipment into or within the Commonwealth any noxious weed, or part thereof, unless such noxious weed is generally present already or it is for scientific purposes subject to prescribed standards.
Va. Code Ann. §§ 3.2-712 and -804; 2 Va. Admin. Code §§ 5-315-10 to -130, -317-10 to -100, -318-10 to -140, -330-10 to -90, and -440-10 to -70, -100, and -110

VIII. Commonwealth Lands

A. Virginia Department of Game and Inland Fisheries

Dams and Fish Passage: Any person owning or having control of any dam or other obstruction in the streams of the Commonwealth that may interfere with the free passage of anadromous and other migratory fish shall provide every such dam or other obstruction with a suitable fishway, to the extent necessary.
Va. Code Ann. § 29.1-532

Back Bay: Unless determined to not be harmful for fish and wildlife resources or habitats, no person shall drill, dredge, or conduct other operations designed to recover or obtain shells, minerals or any other substance on lands owned by or under the control of the Commonwealth under Back Bay, its tributaries and the North Landing River from the North Carolina line to North Landing Bridge.
Va. Code Ann. § 29.1-103(10); 4 Va. Admin. Code § 15-20-90

Damage to Boundary Enclosures and Entry to Refuges: No person shall damage theboundary enclosure of or enter a game refuge owned, leased, or operated by the Board of Game and Inland fisheries for the purpose of molesting any bird or animal, or permit his dog or livestock to go thereon.
Va. Code Ann. § 29.1-554

Protection of Aquatic and Terrestrial Habitats Used or Owned by DGIF: No person shall damage or destroy any pond, pool, flume, dam, pipeline, property, or appliance belonging to, controlled by or being utilized by DGIF or its Board; or interfere with, obstruct, pollute, or diminish the natural flow of water into or through a fish hatchery.
Va. Code Ann. § 29.1-554; 4 Va. Admin. Code §§ 15-20-150 and -320-100

B. Virginia Department of Conservation and Recreation

Fire Prevention: No person shall kindle, build, maintain, or use a fire in any park other than in places provided or designated for such purposes, and only if continuously supervised by a competent person over 16 years of age. No person shall throw away any lighted match, cigarette, cigar, or other burning object in the confines of any park until the object is entirely extinguished.
4 Va. Admin. Code §§ 5-30-70 and -220

Hunting and Fishing in State Parks: No person shall hunt or molest in any way any bird or animal, or possess any wild bird or animal, within the confines of any park, except in designated hunting areas. Likewise, no person shall take fish in any park unless done via bait fishing by cast net, crabbing by line and net, or licensed fishing by hook and line, all of which are limited to areas in each park designated for those activities.
4 Va. Admin. Code §§ 5-30-240 to -250

Feeding Wildlife in State Parks Prohibited: No person shall feed wildlife in any park, except for DCR-sponsored programmatic activities.
4 Va. Admin. Code § 5-30-422

Boating and Vehicles in State Parks: No person shall operate a boat in a bathing area in a park. It is illegal to operate a motor vehicle in any area of a park that is not designated for or customarily used by motor vehicles, unless engaged in fire control, park maintenance, or other necessary park-related activities. Further, no person shall operate, anywhere in a park, a vehicle that is excessively loaded.
4 Va. Admin. Code §§ 5-30-190, -290, and -330

IX. Point Source Air Pollution

In addition to the requirements of the Clean Air Act established by the Federal Government and the Commonwealth of Virginia, which in accordance with 15 CFR § 923.45 are part of the Commonwealth's Coastal Zone Management Program, the following air quality policies apply:

It is the policy of the Commonwealth, after observing the effects of air pollution, to abate, control, and prohibit air pollution throughout the Commonwealth.
Va. Code Ann. § 10.1-1308

Asphalt paving operations (APPLIES TO VOC EMISSIONS CONTROL AREAS ONLY):
It is the policy of the Commonwealth to limit volatile organic compound emissions in areas designated in VOC emissions control areas to protect air quality. Therefore, any asphalt operations conducted in areas designated as such will be subject to the following:

A. No owner or other person shall cause or permit the manufacture, mixing, storage, use, or application of liquefied asphalt for paving operations unless such asphalt is of the emulsified asphalt type. This does not prevent the manufacture, mixing, storage, use, or application of heated asphalt cement as a component in asphaltic concrete mixing or for priming in surface treatment.
B. The manufacture, mixing, storage, use, or application of cutback asphalt is allowed when
   1. Stockpile storage greater than one month is necessary;
   2. Use or application during the months of November through March is necessary;
   3. Use or application as a penetrating prime coat or tack coat is necessary; or
   4. The user can demonstrate that there are no volatile organic compound emissions from the asphalt under conditions of normal use.
C. The annual average of volatile organic compound content for all emulsified asphalts is not to exceed 6.0% by volume.

Va. Code Ann. §§ 10.1-1308 and -1322; 9 Va. Admin. Code §§ 5-20-206 and -45-780

In addition, the following standards generally apply to asphalt paving operations:

A. Standards for Visible Emissions - Unless specified otherwise, no owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any visible emissions which exhibit greater than 20% opacity, except for one six-minute period in any one hour of not more than 60% opacity.
   Va. Code Ann. §§ 10.1-1308 and -1322; 9 Va. Admin. Code §§ 5-45-790 and -40-80
B. Standard for Fugitive Dust / Emissions - No owner or other person shall cause or permit any materials or property to be handled, transported, stored, used, constructed, altered, repaired or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne.
   Va. Code Ann. §§ 10.1-1308 and -1322; 9 Va. Admin. Code §§ 5-45-800 and -40-90
C. Standard for Odor - No owner or other person shall cause or allow to be discharged into the atmosphere any emissions which cause an odor objectionable to individuals of ordinary sensibility.
   Va. Code Ann. §§ 10.1-1308 and -1322; 9 Va. Admin. Code §§ 5-45-810 and -40-140

Open Burning (CRITERIA FOR VOC EMISSIONS CONTROL AREAS and STATEWIDE): It is the policy of the Commonwealth to prohibit combustion of solid waste or use of special incineration devices without:

A. Control of combustion air to maintain adequate temperature for efficient combustion,
B. Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and
C. Control of the combustion products' emission.

Permissible Open Burning in VOC Emissions Control Areas: Open burning or the use of special incineration devices under controlled conditions is allowed under the following conditions:

A. Open burning may be allowed to eliminate a hazard that constitutes a threat to the public health, safety, or welfare that cannot be remedied by any other reasonable means.
B. Open burning can be conducted for training and instruction of firefighters. Training exercises not conducted on a permanent training facility must give notice to the local firefighting authority.
C. Open burning or the use of special incineration devices is allowed for the destruction of classified military documents under the supervision of the designated official.
D. Open burning is allowed for camp fires and other recreational or ceremonial fires, in addition to fires for outdoor noncommercial preparation of food, and for warming of outdoor workers provided the following materials are not burned: rubber tires, asphaltic materials, crankcase oil, impregnated wood or other rubber or petroleum based materials.
E. Open burning is allowed for the destruction of any combustible liquid or gaseous material by burning in a flare or flare stack provided that it assures the safe and acceptable management and disposal of hazardous or toxic wastes.
F. Open burning or the use of special incineration devices is allowed on site for the destruction of clean burning waste and debris waste resulting from property maintenance; from the development or modification of roads and highways, parking areas, railroad tracks, pipelines, power and communication lines, buildings or building areas, sanitary landfills; or from any other clearing operations. Open burning or the use of special incineration devices under this section is prohibited from May 1 through September 30.
G. Open burning is allowed for forest management, agricultural practices, and highway construction and maintenance programs if the burning is at least 1,000 feet from anyother occupied building (unless occupants have given prior permission), and the burning is attended to at all times.
H. Open burning or the use of special incineration devices is allowed for the destruction of clean burning waste and debris waste on the site of local landfills if it does not present an underground fire hazard due to methane gas. Open burning or the use of special incineration devices under this section is prohibited May 1 through September 30.

Open Burning Prohibitions in VOC Emissions Control Areas:

A. No owner or other person shall cause or allow open burning or the use of a special incineration device for the destruction of rubber tires, asphaltic materials, crankcase oil, impregnated wood or other rubber or petroleum based materials except when conducting bona fide firefighting instruction at firefighting training schools having permanent facilities.

B. No owner or other person shall cause or allow open burning or the use of a special incineration device for the destruction of hazardous waste or containers for such materials.
C. No owner or other person shall cause or allow open burning or the use of a special incineration device for the purpose of a salvage operation or for the destruction of commercial/industrial waste.
D. Upon declaration of an alert, warning, or emergency state of weather or air pollution conditions or both that indicate a potential threat to human health, no owner or other person shall cause or allow open burning or use of a special incineration device, and any in process burning or use will be immediately terminated in the designated area.

Permissible Open Burning Throughout the Commonwealth of Virginia (including VOC Emissions Control Areas):

A. Open burning may be used for forest management practices provided that the burning:
    1. Reduces forest fuels and minimizes the effects of wild fires;
    2. Controls undesirable growth of hardwoods;
    3. Controls disease in pine seedlings;
    4. Prepares forest land for planting or seeding;
    5. Creates a favorable habitat for certain species; or
    6. Removes dead vegetation for the maintenance of railroads, highways, and public utility right-of-way.
B. In the absence of other means of disposal, open burning may be used for agricultural practices to:
    1. Destroy undesirable or diseased vegetation.
    2. Clear orchards and orchard pruning.
    3. Destroy empty fertilizer and chemical containers.
    4. Denature seed and grain that may no longer be suitable for agricultural purposes.
    5. Prevent loss from frost or freeze damage.
    6. Create a favorable habitat for certain species.
    7. Destroy strings and plastic ground cover remaining in the field after being used in growing staked tomatoes.

Va. Code Ann. §§ 10.1-1308 and -1322; 9 Va. Admin. Code §§ 5-80-1105, -130-10, -130-30 to -50, 20-60-30, and 5-60-200

Fugitive Dust Emissions (APPLIES TO NEW / MODIFIED SOURCES AND EXISTING SOURCES)

A. It is the policy of the Commonwealth that, during the construction or operation of any structure or facility, reasonable precautions will be taken to prevent particulate matter from becoming airborne
B. These precautions may include, but are not limited to:
    1. Use of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land;
    2. Application of asphalt, water, or suitable chemicals on dirt roads, materials stockpiles and other surfaces which may create airborne dust; the paving of roadways and the maintaining of them in a clean condition;

3. Installation and use of hoods, fans and fabric filters to enclose and vent the handling of dusty materials. Adequate containment methods shall be employed during sandblasting or other similar operations;
4. Open equipment for conveying or transporting materials likely to create objectionable air pollution when airborne shall be covered, or treated in an equally effective manner at all times when in motion; and
5. The prompt removal of spilled or tracked dirt or other materials from paved streets and of dried sediments resulting from soil erosion.

Va. Code Ann. §§ 10.1-1308 and -1322; 9 Va. Admin. Code §§ 5-50-90 and -40-90

State Operating Permits (SOP) (APPLIES STATE-WIDE)

It is the policy of the Commonwealth to use the SOP to limit the emissions of a stationary source or emissions unit contributing to a violation of any air quality standard; or to establish a source-specific emission standard or other requirements, including, but not limited to, reasonably available control technology (RACT) or best available retrofit technology (BART) necessary to protect air quality within the Commonwealth.

Va. Code Ann. §§ 10.1-1308 and -1322; 9 Va. Admin. Code § 5-80-800

New Source Review (APPLIES STATE-WIDE)

It is the policy of the Commonwealth to require the construction, reconstruction, relocation, or modification of regulated stationary sources to meet emission limits and operating requirements, based on the type of source, size of source, pollutant emission rates, pollutant categories, and location of source. Emission limits and operating requirements shall be based on a control technology review for regulated air pollutants and an air quality analysis as appropriate.

Va. Code Ann. §§ 10.1-1308 and -1322; 9 Va. Admin. Code §§ 5-80-1100, -1400, -1605, and -2000

X. Point Source Water Pollution (DEQ)

It is the policy of the Commonwealth to protect existing high quality state waters and restore all other state waters to such condition of quality that any such waters will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them; safeguard the clean waters of the Commonwealth from pollution; prevent any increase in pollution; reduce existing pollution; promote and encourage the reclamation and reuse of wastewater in a manner protective of the environment and public health; and promote water resource conservation, management and distribution, and encourage water consumption reduction in order to provide for the health, safety, and welfare of the present and future citizens of the Commonwealth.
Va. Code Ann. § 62.1-44.2; 9 Va. Admin. Code § 25-31-20

In accordance with 15 CFR § 923.45, the requirements of the Clean Water Act established by the federal government and adopted by the Commonwealth of Virginia automatically are incorporated into the Commonwealth's Coastal Zone Management Program.

XI. Nonpoint Source Water Pollution (DEQ)

It is the policy of the Commonwealth to control stormwater runoff to protect the quality and quantity of state waters from the potential harm of unmanaged stormwater; to control soil erosion and sediment deposition in order to prevent unreasonable degradation of properties, stream channels, state waters, and other natural resources; and to otherwise act to control nonpoint source water pollution to ensure the general health, safety, and welfare of the citizens of the Commonwealth.

Va. Code Ann. §§ 62.1-44.15:25, 62.1-44.15:52; 9 Va. Admin. Code §§ 25-840-30, 25-870-20

In accordance with 15 CFR § 923.45, the requirements of the Clean Water Act established by the federal government and adopted by the Commonwealth of Virginia automatically are incorporated into the Commonwealth's Coastal Zone Management Program.

XII. Shoreline Sanitation (VDH)

It is the policy of the Commonwealth for sewage to be disposed of in a safe and sanitary manner that protects the public health and welfare and the environment. Therefore, any type of sewage systems that are located within or impact the coastal zone are subject to the following:

The discharge of raw or partially treated sewage onto the ground surface or into the waters of the Commonwealth is prohibited. All buildings, residences, and structures designed for human occupancy, employment or habitation and other places where humans congregate shall be served by an adequate sewerage system and/or treatment works. All such systems shall be maintained by the owner.
Va. Code Ann. §§ 32.1-12 and -164; 12 Va. Admin. Code §§ 5-610-20 and -80

Onsite sewage system design and installation shall be dependent upon site and soil conditions and shall assure that all sewage is handled and disposed of in a safe and sanitary manner that is protective of public health and the environment. Further, each system shall have adequate capacity to properly treat and dispose of the maximum projected daily wastewater flow.
Va. Code Ann. §§ 32.1-12 and -164; 12 Va. Admin. Code §§ 5-610-20, -120, -240, -320, -330, -450 to -500, -560, -593, -594, -596, -597, -670, -720 to -770, -810, -815, -870, -880, -890, -960, -965, -1000, -1010, -1040, -1050, -1060, -1070, -1110, -1120, -1130, -613-10 to -210, and -640-5, -20 to -40, -60 to -90, -110 to -120, -140 to -180, -210 to -290, -390 to -470, and -490 to -520

All formal drawings, specifications, reports and other documents shall be prepared by or under the supervision of a licensed onsite soil evaluator or professional engineer. Proposed onsite sewage system designs shall be protective of public health and the environment by meeting appropriate horizontal separation distances to structures and topographic features, including private wells, streams, and lakes; providing the appropriate level of treatment and vertical separation from soil restrictions including seasonal water table; and providing the appropriate level of dispersal area sizing to properly dispose of the treated effluent.
Va. Code Ann. §§ 32.1-12, -163.5(A), -163.6(A), and -164; 12 Va. Admin. Code §§ 5-610-260 and -597

Conventional onsite sewage systems (COSS)

Any treatment works consisting of one or more septic tanks with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface drainfield shall conform to these requirements:

A. Provide at least 18 inches of vertical separation from the point of effluent application to bedrock, shrink-swell soil, water table, or other soil restriction;
B. Meet appropriate horizontal separation distances from features on coastal lands; and
C. Consist of septic tanks capable of provide 48 hours of retention time for effluent based on the proposed peak system flow.
D. Provide equal distribution of effluent throughout the dispersal areas.
E. Consist of a soil dispersal area sized based on the following equation:

$$\log y = 2.00 + 0.008\,(x)$$

$y = Ft^2/100$ Gallons per day

x = Percolation rate in minutes/inch

Va. Code Ann. §§ 32.1-12, -163.5(A), -163.6(A), and -164; 12 Va. Admin. Code §§ 5-610-20, -30, -170, -592 to -596, -815, -950

Alternative Onsite Sewage Systems (AOSS)

Any treatment works that is not a conventional onsite sewage system and does not result in a point source discharge must be designed to protect the quality of the surface and ground water by doing the following:

A. Such systems must meet appropriate vertical and horizontal separation distances from features on coastal lands;
B. System with flows less than or equal to 10,000 gallons per day shall provide a 50% reduction of total nitrogen as compared to a conventional gravity drain-field system. Systems with flows greater than 10,000 gallons per day shall demonstrate effluent quality of less than or equal to 8 mg/L total nitrogen prior to application to the soil treatment area and 5 mg/L total nitrogen at the project boundary. All systems located within the Chesapeake Bay Watershed shall provide at least a 50% reduction of total nitrogen as compared to a conventional onsite sewage system;
C. The AOSS shall be designed so that all components are of sufficient structural integrity to minimize the potential of physical harm to humans and animals;
D. All treatment units and treatment systems shall be designed for the anticipated receiving wastewater characteristics and peak flow;
E. The AOSS shall be designed to minimize noise, odor, or other nuisances at the property boundary; and
F. All treatment units or treatment systems shall prevent the bulking of solids to the treatment area.

Va. Code Ann. §§ 32.1-12, -164 and -164(H); 12 Va. Admin. Code §§ 5-613-20, -40, -50, -80 to -110

To further protect the groundwater, AOSS operators will conduct and submit adequate sampling to properly monitor chemical levels.
Va. Code Ann. §§ 32.1-12 and -164; 12 Va. Admin. Code §§ 5-613-90, 100, and -110

AOSS owners will employ or contract with an operator qualified to safely operate an AOSS. Operators will diligently visit and monitor AOSS for chemical levels and coastal effects. Operators' frequency of maintenance monitoring must scale directly with the AOSS's output.
Va. Code Ann. §§ 32.1-12 and -164; 12 Va. Admin. Code §§ 5-613-10, -120, -140, -150, and -180

Alternative Discharging Sewage Systems – Flows less than or equal to 1,000 gallons per day.
When no other option for onsite sewage treatment and disposal are satisfactory, the property owner may propose the installation of an alternative discharging sewage treatment system which results in a point source discharge of treated sewage only if:

A. Flow is less than 1,000 gallons per day;
B. The system is diligently maintained and operated by a qualified operator;
C. It protects ground and surface waters; and
D. It would have no effect on shellfish use now and in the foreseeable future.

Va. Code Ann. §§ 32.1-12 and -164; 9 Va. Admin. Code §§ 25-260-270, 12 Va. Admin. Code §§ 5-640-20, -240, -420, -430

Appendix A. Chesapeake Bay Preservation Act Localities: Local Program Adoption Dates

	Counties	Date	Notes
1	Accomack	5/6/1992	Date CBLAB found County's Phase I program consistent; original adoption date unknown
2	Arlington	5/6/1992	
3	Caroline	9/24/1992	
4	Charles City	11/26/1991	
5	Chesterfield	10/10/1990	
6	Essex	10/22/1991	
7	Fairfax	3/22/1993	
8	Gloucester	10/15/1991	
9	Hanover	10/24/1990	
10	Henrico	11/13/1991	
11	Isle of Wight	11/15/1990	
12	James City	8/6/1990	
13	King George	3/5/1991	
14	King & Queen	11/14/1991	
15	King William	3/28/1991	
16	Lancaster	9/20/1990	
17	Mathews	11/14/1991	
18	Middlesex	1/16/1992	
19	New Kent	11/25/1991	
20	Northampton	4/4/1991	
21	Northumberland	9/13/1990	
22	Prince George	11/19/1991	
23	Prince Wm.	11/27/1990	
24	Richmond	9/20/1990	
25	Spotsylvania	11/26/1991	
26	Stafford	5/21/1991	
27	Surry	12/19/1991	
28	Westmoreland	9/12/1990	
29	York	9/6/1990	

Appendix A. Chesapeake Bay Preservation Act Localities: Local Program Adoption Dates (continued)

	Cities	Date	Notes
30	Alexandria	1/28/1992	
31	Chesapeake	10/21/1991	
32	Colonial Heights	9/12/1990	
33	Fairfax	3/22/1993	
34	Falls Church	11/12/1990	
35	Fredericksburg	8/24/1993	
36	Hampton	11/14/1990	
37	Hopewell	9/6/1990	
38	Newport News	7/1/1991	
39	Norfolk	8/28/1990	
40	Petersburg	9/19/1990	
41	Poquoson	11/12/1991	
42	Portsmouth	8/28/1990	
43	Richmond	11/11/1991	
44	Suffolk	9/19/1990	
45	Virginia Beach	11/6/1992	
46	Williamsburg	9/20/1990	

Appendix A. Chesapeake Bay Preservation Act Localities: Local Program Adoption Dates (continued)

	Towns	Date	Notes
47	Ashland	9/17/1990	
48	Bell Haven	11/3/1992	
49	Bloxom	12/23/1992	
50	Bowling Green	8/4/1994	
51	Cape Charles	9/11/1990	
52	Cheriton	8/18/1994	
53	Claremont	12/3/1991	
54	Clifton	7/5/1995	
55	Colonial Beach	11/8/1990	
56	Dumfries	11/12/1991	
57	Eastville	3/14/1995	
58	Exmore	8/3/1994	
59	Hallwood	12/6/1993	
60	Haymarket	6/14/1993	
61	Herndon	1/22/1991	
62	Irvington	10/11/1990	
63	Kilmarnock	10/15/1990	
64	Melfa	3/21/1994	
65	Montross	3/26/1991	
66	Nassawadox	5/17/1993	
67	Occoquan	6/11/1991	
68	Onancock	3/26/1993	
69	Onley	5/6/1996	
70	Painter	6/13/1994	
71	Parksley	4/10/1995	
72	Port Royal	10/17/1995	
73	Quantico	11/12/1992	
74	Saxis	8/2/1993	
75	Smithfield	10/21/1991	
76	Surry	6/9/1992	
77	Tangier	9/11/1997	
78	Tappahannock	10/28/1991	
79	Urbanna	10/16/1991	
80	Vienna	1/6/1992	
81	Warsaw	9/5/1990	
82	West Point	11/6/1991	
83	White Stone	11/1/1990	
84	Windsor	10/13/1992	