

To Whom It May Concern,

The [Coastal Virginia Community Rating System \(CRS\) Workgroup](#) (“CRS Workgroup”) promotes education and cultivation of strong floodplain management programs in the Commonwealth of Virginia. The CRS Workgroup includes locality representatives from a wide range of both coastal and non-coastal communities in Virginia. In addition to locality floodplain managers, emergency managers, engineers, and planners, our membership includes representatives from regional and state government, academia, nonprofits, and businesses. We meet regularly to provide a forum about the National Flood Insurance Program (NFIP), the CRS Program, FEMA’s Hazard Mitigation Grant programs, hazard mitigation planning, climate adaptation, flood resilience, and more.

[HB 504](#) was enacted in the 2020 legislative session to modify the Chesapeake Bay Preservation Act (CBPA) to include “coastal resilience and adaptation to sea-level rise and climate change” as one of the purposes of the Act. The CRS Workgroup acknowledges the importance of accounting for future conditions in areas regulated by the CBPA to help further water quality and flood risk reduction in the Commonwealth. However, we appreciate the opportunity to comment on how [the draft regulations](#) enacting the inclusion of future conditions could negatively impact Virginia communities participating in the CRS Program and the flood insurance policyholders who depend on the annual premium discounts earned by those communities.

The [NFIP’s CRS](#) Program is a voluntary incentive based program that rewards localities that take extra steps to reduce flood risk with lower annual flood insurance premiums for policyholders. Communities earn points by adopting plans, programs, and policies that promote flood risk reduction. Total points correspond to different class ratings, which in turn correspond to discount percentages on annual flood insurance premiums. Flood insurance policy holders save **\$6.6 million** annually statewide through their community’s participation in the program. The actions that are incentivized under the CRS program overlap with the coastal resiliency goals outlined in HB 504.

The draft regulations mention that activities within a CBPA Resource Protection Area (RPA) shall “[n]ot consist solely of the use of fill or other materials to raise the elevation of a Resource Protection Area” (9 VAC 25-830 E). The draft language suggests that some amount of fill, so long as it is combined with other materials, could be used to raise the ground elevation of a RPA. The word “fill” in the NFIP equates to development and is not typically used to describe shoreline activities, like those adaptive or resilience practices contemplated by the draft regulations. We recognize the use of limited fill is permissible under the current law and necessary to install shoreline erosion control projects, but this language appears to expand the use of fill, without clear parameters in place.

Several communities in Virginia earn credits for prohibiting development and fill inside the RPA buffers. As part of the CRS Workgroup’s efforts, Wetlands Watch, a nonprofit based in Norfolk, Virginia, filed an official appeal to the CRS Task Force, the national policy board that reviews

what activities are eligible for CRS credits, requesting that all VA communities be eligible to receive credit for the CBPA RPA buffers. The CRS Task Force used the state regulations for their official review and determination for this appeal. To receive credit, communities must prove they are enforcing the Act's development restrictions, as written in state regulations. **Revising the regulations to expressly mention the use of fill in the RPA would jeopardize existing and future credits earned by communities participating in the CRS program, thereby jeopardizing the annual flood insurance premium discounts, upon which community residents and businesses rely.**

A significant percentage of RPA buffers overlap with Special Flood Hazard Areas (SFHA), which are regulated by communities as part of their participation in the NFIP. As mentioned above, the NFIP equates the word "fill" with "development," triggering a community to require floodplain permits and potentially more detailed engineering analyses for every proposed shoreline practice. If a community fails to enforce permit requirements, it could be considered noncompliant with the NFIP. **If a community is noncompliant with the NFIP, the community and its residents could lose access to flood insurance, which would disrupt the real estate market, disaster assistance, and certain federal grants and loans.**

We hope that you will take our concerns into consideration.

Sincerely,

Mary-Carson Stiff
Chair
Coastal Virginia CRS Workgroup