

# 11

# Information Bulletin



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## *Silvicultural Operations in Chesapeake Bay Preservation Areas*

Are silvicultural operations in Chesapeake Bay Preservation Areas (CBPAs) exempt from local CBPA ordinance requirements? Who is responsible for overseeing silvicultural operations in CBPAs? What local CBPA ordinance requirements are applicable to silvicultural operations if they are not exempt?

Silvicultural activities in Chesapeake Bay Preservation Areas are exempt from the local Bay Act requirements only if they adhere to the water quality protection procedures prescribed by the Department of Forestry (DOF) in its "Best Management Practices Handbook for Forestry Operations."

Regulatory requirements:

§ 4.2.10 of the Regulations charges the DOF with the responsibility to oversee and document the installation of silvicultural best management practices. Following site inspections, the DOF foresters will notify local governments when they determine that silvicultural operations are not adhering to the guidelines. Once the DOF notifies a locality of a violation, the locality must enforce the CBPA ordinance requirements. Landowners are legally responsible for such violations and correction of any problems associated with them.

Once a locality has been notified of a violation, the only CBPA ordinance requirements that would apply are the buffer area criteria. The CBPA ordinance requirement for erosion and sediment controls (ESC) on land disturbances greater than 2,500 square feet is not applicable because silvicultural operations are exempt as a land disturbing activity under the state ESC law and associated local ESC ordinances. The plan of development review requirement and the rest of the CBPA ordinance performance standards are not applicable because they are tied specifically to development and/or land disturbance.

§ 4.3.B of the Regulations states:

*To minimize the adverse effects of human activities on the other components of the Resource Protection Area, state waters, and aquatic life, a 100-foot 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.*

Complying with the buffer area requirements means that the landowner would have to establish and revegetate, if necessary, the full 100-foot wide buffer area along all waterbodies designated as Resource Protection Areas (RPAs) by the local government.

One of the silvicultural best management practices (BMPs) applicable along all perennial streams is the streamside management zone (SMZ). The SMZ is similar to the CBPA buffer zone although it is



- B. Stabilization of all ruts, skid trails, haul roads, and bare soil areas within the buffer area using water control structures, seeding, and other BMPs with appropriate fertilization, liming, seeding, and mulching practices. If appropriate, silt fencing, mulching and excelsior blankets should be used to stabilize critically eroding areas.
- C. Revegetation of all disturbed areas including initial soil stabilization and overstory tree replacement as well as long term revegetation of all layers of the vegetation strata (overstory, understory, shrub, and groundcover). Use of locally grown native vegetation similar to the species removed or those indigenous to the area should be encouraged. Trees should be planted at the rate and size specified by the local government. Protective measures such as tree shelters should be used.
- D. A maintenance schedule to evaluate the stabilization and revegetation procedure and ensure its effectiveness. This should stress keeping people out of the buffer area until the vegetation is established.
- E. Cost of the stabilization and revegetation procedure.

The landowner will be notified in writing, after coordination and review by the local government and the DOF whether the stabilization and revegetation plan has been approved or denied, including recommendations for correcting any deficiencies in the proposed plan. Implementation should occur immediately upon approval of the stabilization and revegetation plan by the local government.

Many local government CBPA ordinances require replacement trees to be a minimum size of three and one-half inches caliper at the time of planting. However, planting trees this size may cause more disturbance than has already occurred. Also, smaller caliper trees planted at a greater ratio to those removed may have a greater chance for survival in these cases. Therefore, local governments may wish to waive or grant exceptions to the tree size and replacement ratio requirements in their CBPA ordinances and use the DOF recommended size and ratio in silvicultural situations.

The local government should require that a maintenance agreement be signed by the landowner to ensure the effectiveness of the stabilization and revegetation effort. This agreement should include provisions for keeping people and equipment out of the buffer area and for long-term establishment and/or re-establishment of vegetation in the buffer area.

A completion letter should be written to the landowner by the local government following notification by the DOF of successful site stabilization.

This two-part framework will allow efficient and effective site remediation to occur while allowing flexibility to work within the existing natural system.