Resource Protection Areas in Tidewater Virginia
A presentation to the Joint Subcommittee on Coastal Flooding

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Overview

• Chesapeake Bay Preservation Act and Regulations
• Resource Protection Areas Overview (RPAs)
• Criteria applicable to development in an RPA
• General Performance Criteria
• Examples of Activities within RPAs
• Summary
Chesapeake Bay Preservation Act (Bay Act)

- Adopted in 1988
- Protection of Chesapeake Bay Preservation Areas by the local governments in Tidewater Virginia in accordance with specified criteria
  - Protection of the quality of state waters incorporated into comprehensive plan, zoning ordinances and subdivision ordinances
  - Application of certain criteria to ensure that use and development of land protects the quality of state waters
Chesapeake Bay Preservation Area Designation and Management Regulations (CBPA Regulations)

- Promulgated in 1989
- Establish criteria for use by local governments to determine the ecological and geographic extent of Chesapeake Bay Preservation Areas
- Establish criteria for use by local governments in granting, denying, or modifying requests to rezone, subdivide, or use and develop land in these areas
Disclaimer

• Bay Act represents a cooperative State-Local Program.
• Bay Act and CBPA Regulations supplement the planning and zoning authorities used by local governments to regulate land use and development.
• Local programs may vary in their application of the Bay Act performance criteria within the framework provided by the Act and Regulations.
• DEQ cannot give a definitive answer to a hypothetical change of use scenario or general question since we do not have all of the relevant information, including the applicable local ordinances.
• The discussion today is intended to provide a broad overview.
What are Resource Protection Areas (RPAs)?

- Water bodies with perennial flow
- Tidal wetlands
- Certain non-tidal wetlands
- Tidal shores
- Other lands
- 100’ vegetated buffer landward of any of these features
Purpose of RPA Buffers

• Slow down runoff
• Retain floodwaters
• Intercept rainfall
• Maximize infiltration
• Prevent erosion
• Filter nonpoint source pollution from runoff.
Existing Land Use in RPAs
Geographic Extent of RPAs
Criteria for Development in RPAs

- Land development and redevelopment may be allowed under certain conditions
- Water Quality Impact Assessment, inclusive of mitigation for area of land disturbance, is required for any proposed development
- Site-specific RPA determination is required at time of development
- Buffer encroachments and modifications are permitted, with conditions
- Certain exemptions apply
- General performance criteria apply
Criteria for Development in RPAs

• Subject to local review and approval; certain conditions apply

• **Permitted Development**: water dependent, redevelopment, private roads or driveways; flood control or stormwater management facility

• **Permitted Modifications**: reasonable sight lines, access paths, dead/diseased/dying vegetation removal, shoreline erosion control projects, agricultural activities

• **Permitted Encroachments**: for pre-Bay Act lots when specific conditions are met

• **Exempted Uses**: water wells, passive recreation facilities such as boardwalks, trails and pathways; historic preservation and archaeological activities; also: public utilities, railroads, and public roads
General Performance Criteria

• Minimize land disturbance
• Preserve indigenous vegetation
• Minimize impervious surfaces
• Plan of development review process required >2,500 SF
• E&S and stormwater requirements apply >2,500 SF
• Septic system requirements
• Silvicultural activities are exempt, with conditions
• Soil and water quality conservation assessments on CBPA lands being used for agricultural activities
• Evidence of state and federal wetland permits
Other RPA Provisions

- Intensely developed areas as RPA overlays
- Existing nonconforming structures
- Public utilities, railroads, public roads, and facilities
- Lots or parcels recorded prior to certain dates
- Process for administration of exceptions
Examples of Activities within RPAs: Development

https://www.deq.virginia.gov/Programs/Water/ChesapeakeBay/ChesapeakeBayPreservationAct/RegulationsGuidanceandPublications.aspx
Examples of Activities within RPAs: Best Management Practices
Examples of Activities within RPAs: Coastal Flooding and Resilience

Along these same lines, the restoration of wetlands and coastal landscapes (including maritime forests) can increase opportunities to fish and watch birds while simultaneously serving the region by reducing shoreline erosion, reducing storm surge and attenuating waves, thus providing an adaptive buffer for sea level change.

https://ewn.el.erdc.dren.mil/nbnb/other/5_ERDC-NNBF_Brochure.pdf
Summary

• The CBPA and implementing regulations specify criteria for the designation, use, development and redevelopment of land in RPAs.
• Designated RPAs are considered by Tidewater Virginia localities in their local planning, zoning, and development activities.
• Subject to local government review and approval, land development activities or uses are allowed within RPAs under certain conditions.
• RPA buffers protect coastal and riparian areas from water quality impacts such as nutrients, sediment and pesticides.
• RPAs also provide an adaptive buffer for flooding impacts and sea level change by slowing floodwaters, reducing shoreline erosion, reducing storm surge and attenuating waves.
Questions?