
DEQ
VIRGINIA DEPARTMENT OF
ENVIRONMENTAL QUALITY

Resource Protection Areas in Tidewater Virginia

A presentation to the Joint Subcommittee on Coastal Flooding

Jutta Schneider
Water Planning Division
Virginia Department of Environmental Quality
August 19, 2019

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

DEQ

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

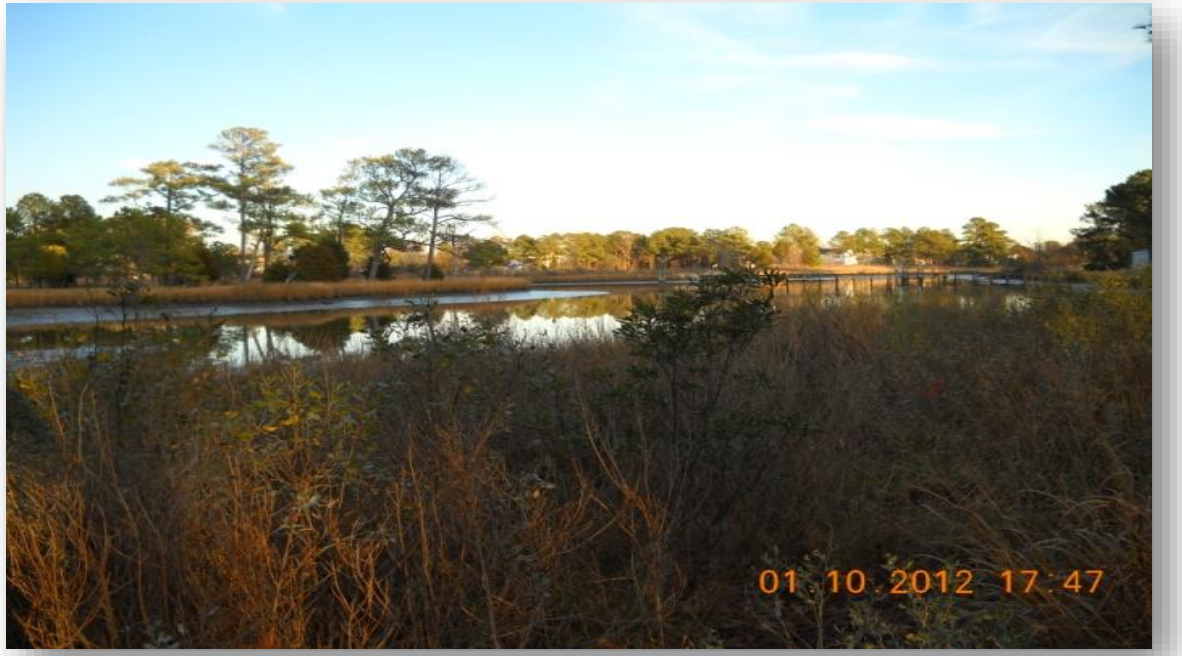
Disclaimer

- 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.

DEQ

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



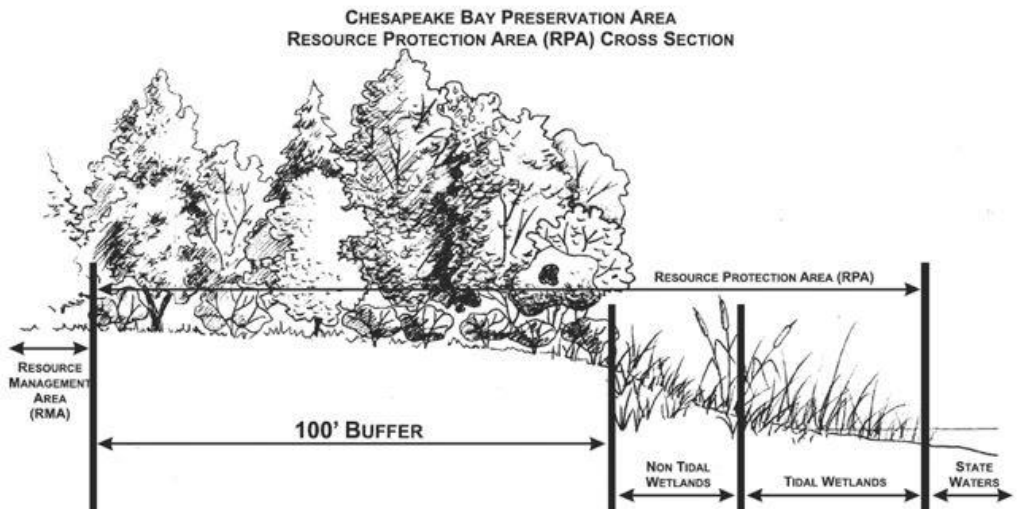
DEQ

Purpose of RPA Buffers

- Slow down runoff
- Retain floodwaters
- Intercept rainfall
- Maximize infiltration
- Prevent erosion
- Filter nonpoint source pollution from runoff.

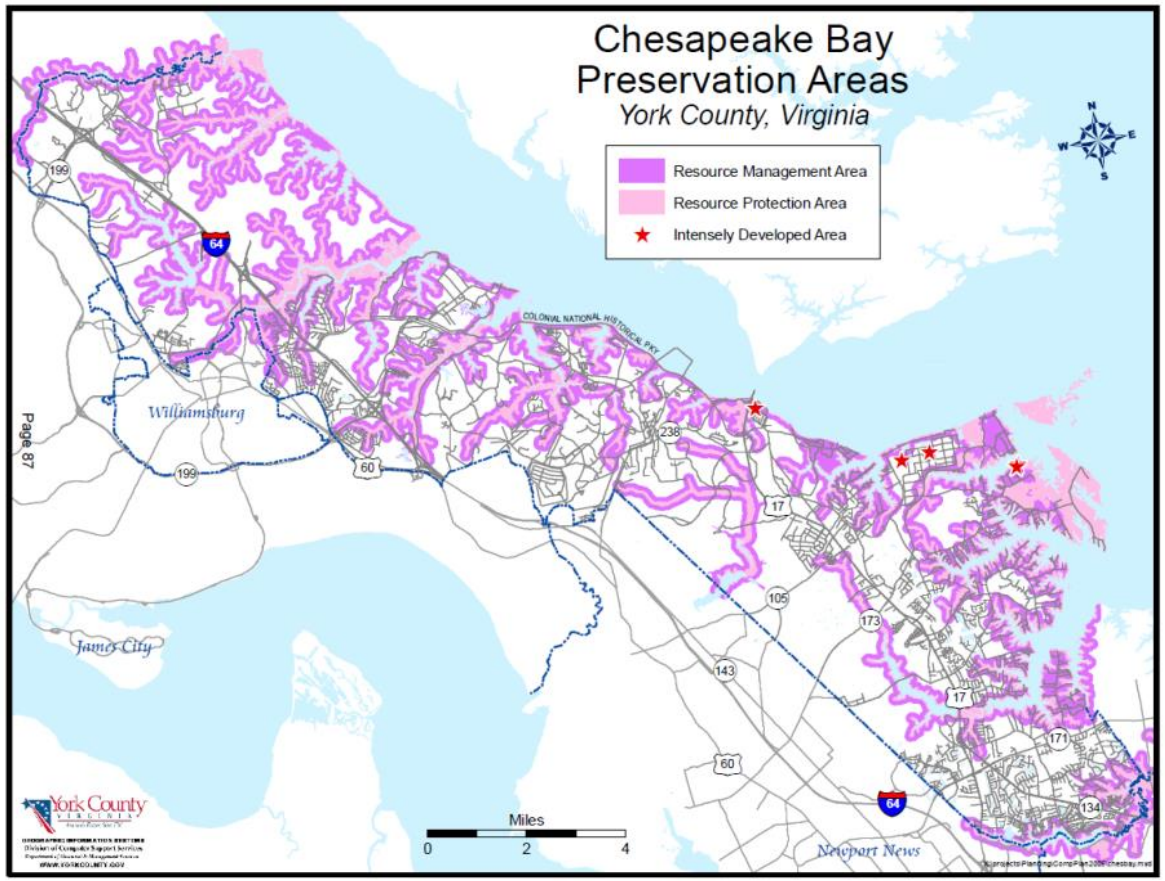
DEQ

Existing Land Use in RPAs



DEQ

Geographic Extent of RPAs



DEQ

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

DEQ

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

DEQ

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

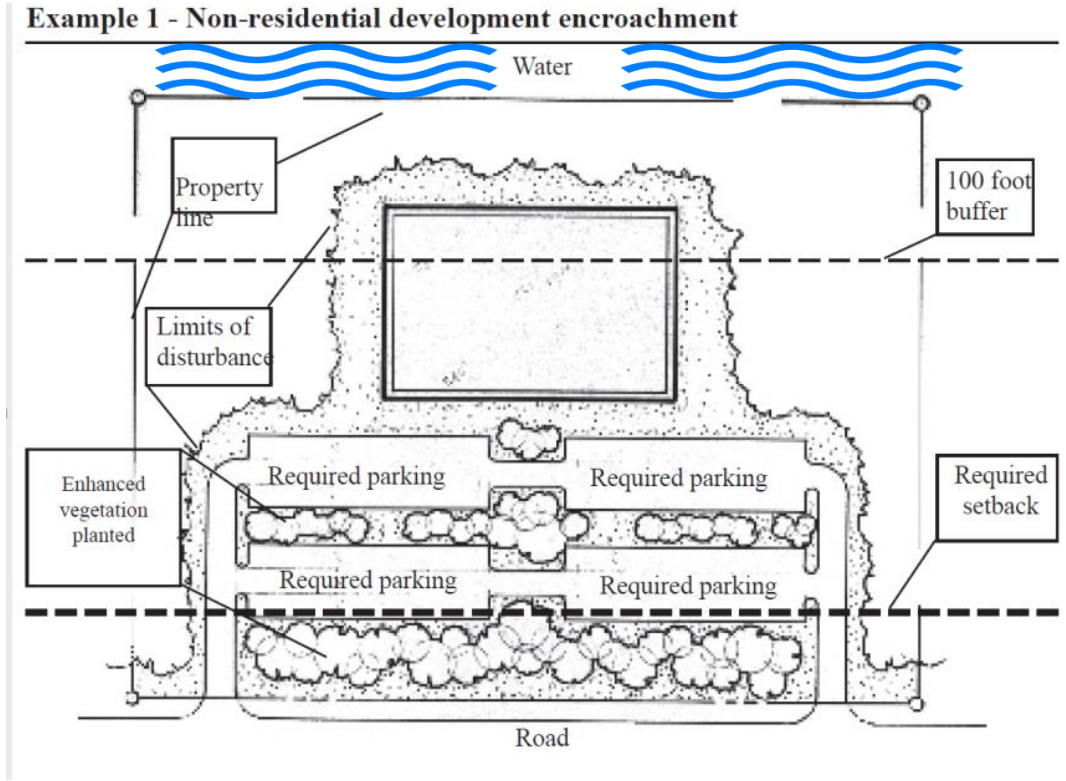
DEQ

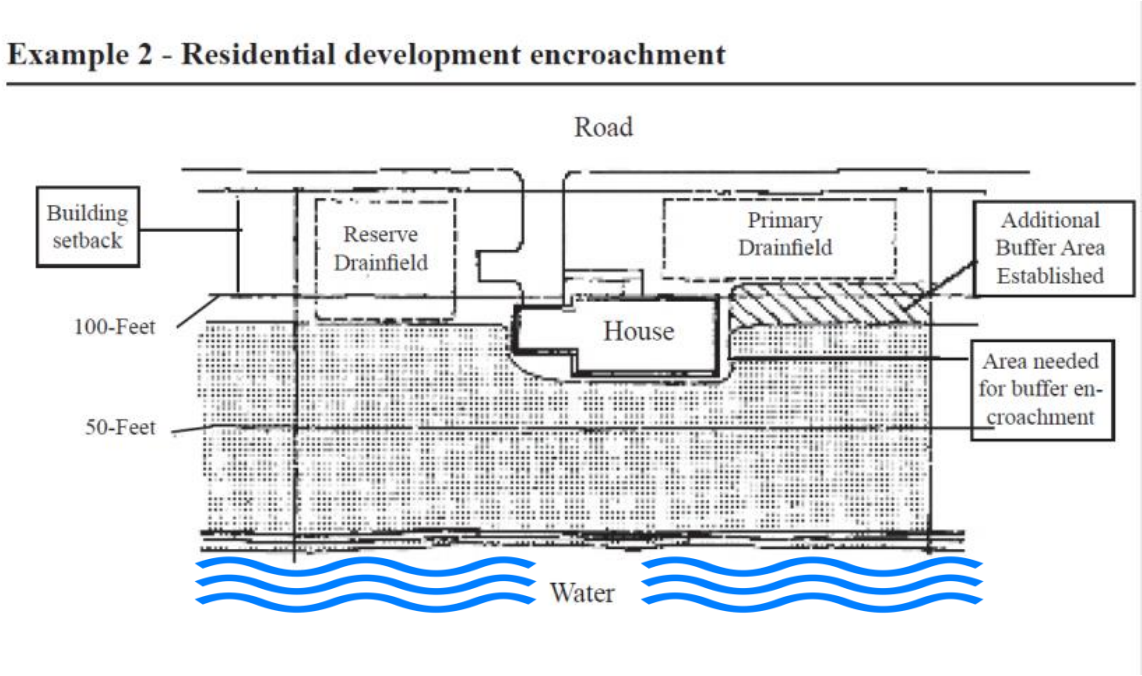
Other RPA Provisions

- 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

DEQ

Examples of Activities within RPAs: Development





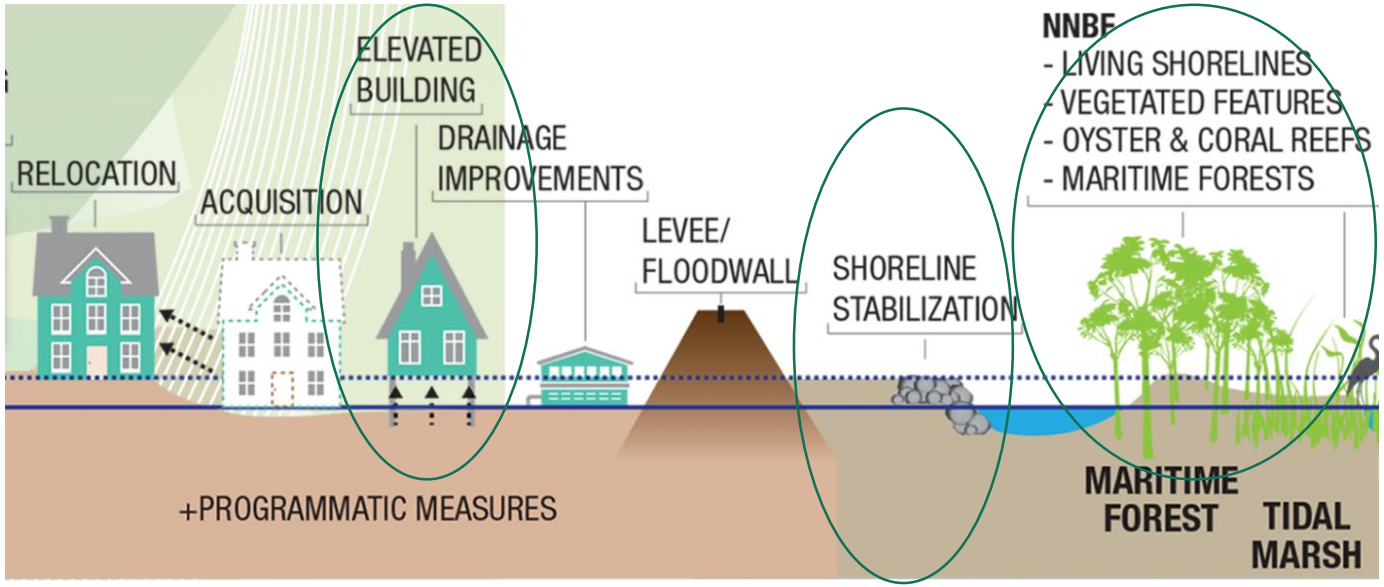
https://www.deq.virginia.gov/Programs/Water/ChesapeakeBay/ChesapeakeBayPreservationAct/RegulationsGuidanceandPublications.aspx

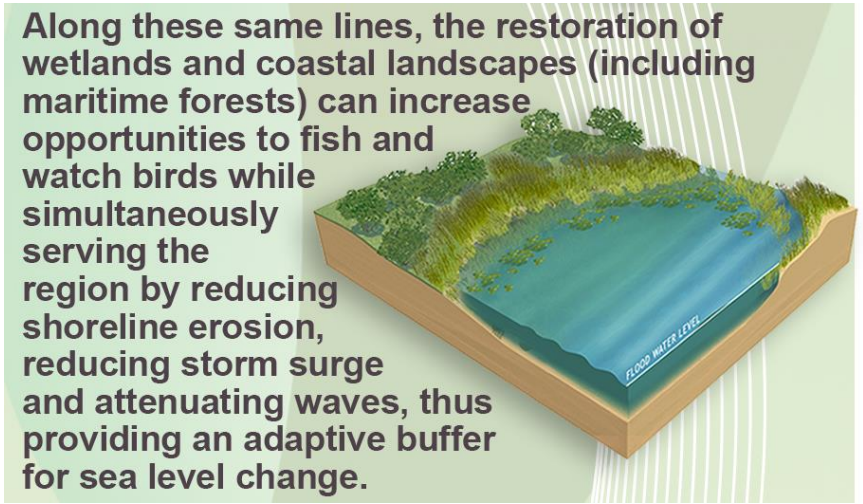
DEQ

Examples of Activities within RPAs: Best Management Practices

DEQ

Examples of Activities within RPAs: Coastal Flooding and Resilience





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

DEQ

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?