

# Chesapeake Bay Preservation Act Programs and Activities

Presentation to  
Mathews County Planning Commission

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# Topics

- Overview of Bay Act Requirements
- Mathews County Bay Act Program
- DCR-CBLA Activities
- Upcoming Programs and Requirements
  - Annual Report
  - Phase III



# Chesapeake Bay Preservation Act Background

- **Virginia's Commitment:**  
1987 Chesapeake Bay Agreement;  
Chesapeake 2000 Agreement
- **Statutory Authority:**  
1988 Chesapeake Bay Preservation Act  
Code of Virginia Sec. 10.1-2100 through 10.1-2115
- **Regulatory Authority:**  
1989 Chesapeake Bay Preservation Area Designation and  
Management Regulations; amended in 1991 and 2001
- **Focus:**  
Prevention/reduction of NPS pollution and general protec-  
tion of water quality through better land management and  
land use decisions





# Chesapeake Bay Preservation Act

## Key Elements

- Established:
  - ✓ Chesapeake Bay Local Assistance Board
  - ✓ Chesapeake Bay Local Assistance Department  
(merged as a division of DCR in July 2004)
- Authorized:
  - ✓ *Chesapeake Bay Preservation Area Designation and Management Regulations*
- Regulations include specific requirements:
  - ✓ Resource Protection Areas
  - ✓ Resource Management Areas
  - ✓ Local Ordinance Requirements



# 84 Bay Act Localities

17 Cities  
29 Counties  
38 Towns



# Philosophy of the Bay Act

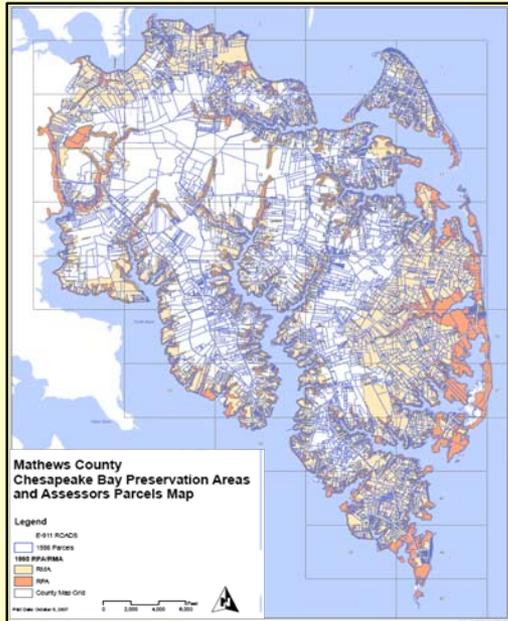
*“Healthy state and local economies and a healthy Chesapeake Bay are integrally related; balanced economic development and water quality protection are not mutually exclusive.”*

*(Chesapeake Bay Preservation Act, Sec. 10.1-2100 A)*

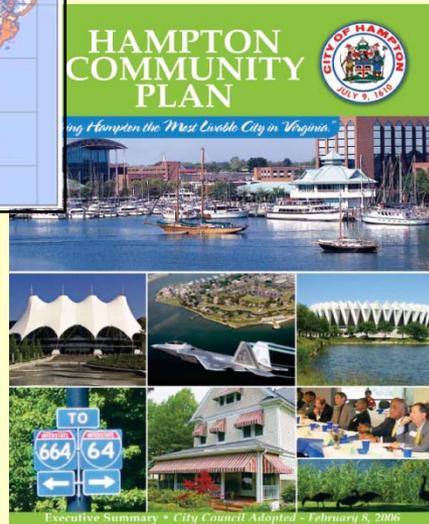


Local governments are best suited to administer the program because **land use is controlled by the locality**

# Elements of Local Government Chesapeake Bay Program Implementation



- **Phase I:** Description and mapping of Chesapeake Bay Preservation Areas and adoption of management program in local ordinances:
  - Resource Protection Area
  - Resource Management Area



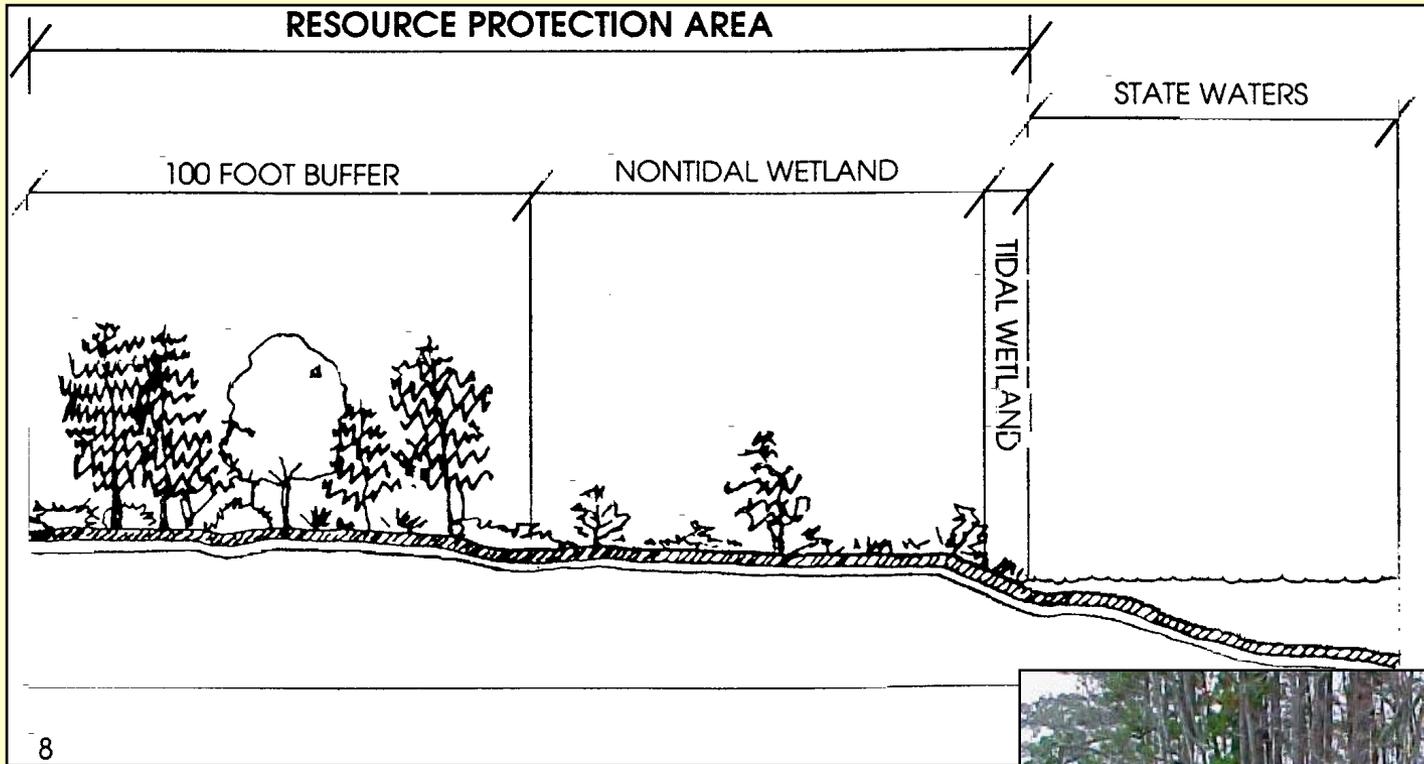
- **Phase II:** Adoption of Comprehensive Plan components
- **Phase III:** Review & revision of local codes for inclusion of specific standards that implement the water quality performance criteria

# Resource Protection Area



- Tidal wetlands
- Certain non-tidal wetlands
- Tidal Shores
- 100-foot RPA buffer
- Other lands as determined by locality
- Development generally prohibited
- Certain uses and activities are allowed
- Administrative and/or formal process for granting exceptions

# The Buffer Component of the RPA



# What is the purpose of a buffer?

- **To minimize the adverse effects of human activities on the other components of the RPA, state waters and aquatic life**



# Buffers may provide for sightlines and vistas but not full understory clearing.



Example of excessive buffer clearing

# Resource Management Area

- Contiguous to the Resource Protection Area
- Should include certain land categories
- Locality has flexibility in area designated
- No prohibited land uses; must meet performance criteria in local ordinance

Mathews County RMA is 150' setback from RPA plus lands with certain features.

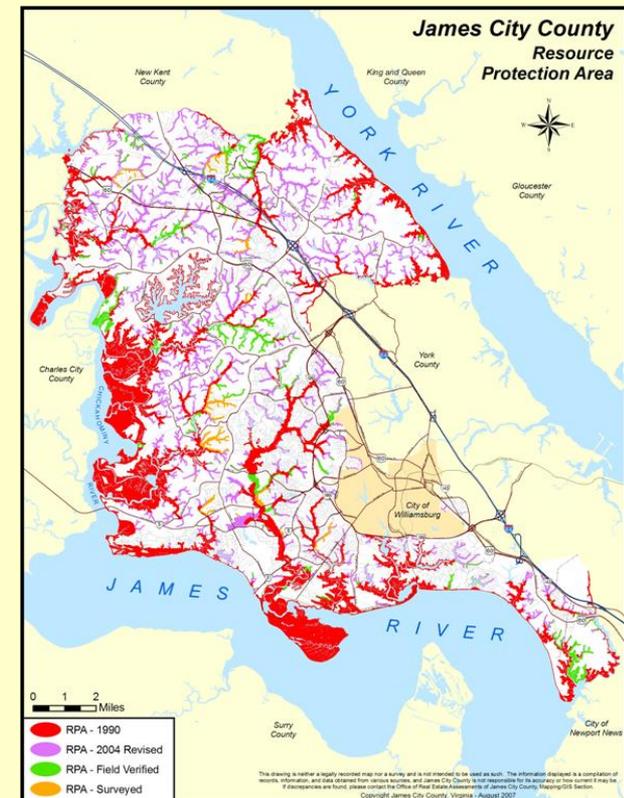
Middle Peninsula localities designate RMA's ranging from entire jurisdiction to only areas with certain features.



# Comprehensive Plan Elements

## (Bay Act Requirements - partial list)

- The location of Chesapeake Bay Preservation Areas
- Physical constraints to development
- Commercial and recreational fisheries and other aquatic resources
- Shoreline and stream bank erosion problems
- Existing and proposed land uses
- Public and private waterfront access areas
- Protection of potable water supply
- Local policy on land use issues relative to water quality protection

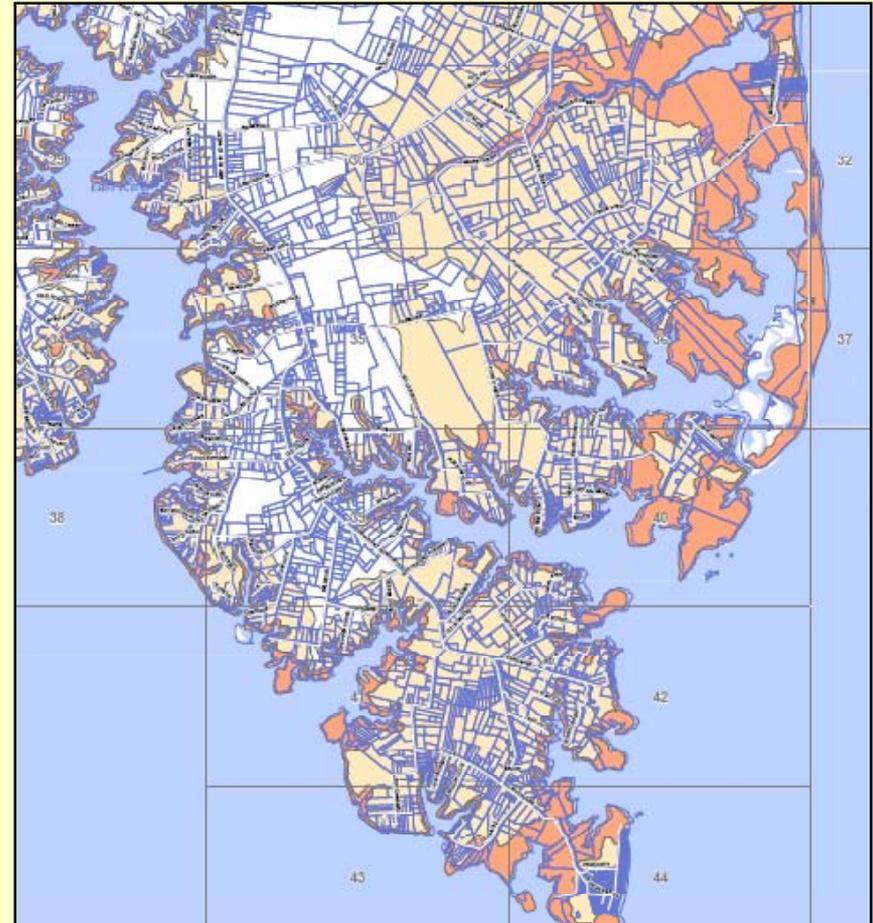


# Mathews County Chesapeake Bay Preservation Program

RPA: follows Act and regulatory requirements; delineated around all required shorelines

Ordinance: is a component of the County Zoning Ordinance, with references in other ordinances.

Program administered by County Planning Staff; appeals go to BZA.



# Mathews County Chesapeake Bay Preservation Program Elements

**RPA and RMA** mapped as described in County ordinance (improved mapping in progress); shorelines and other RPA features and RMA elements delineated. follows Act and regulatory requirements; delineated around all required shorelines. 100 ft. buffer required as part of development approval. (aprox. 30,000 acres is designated RMA or RPA)

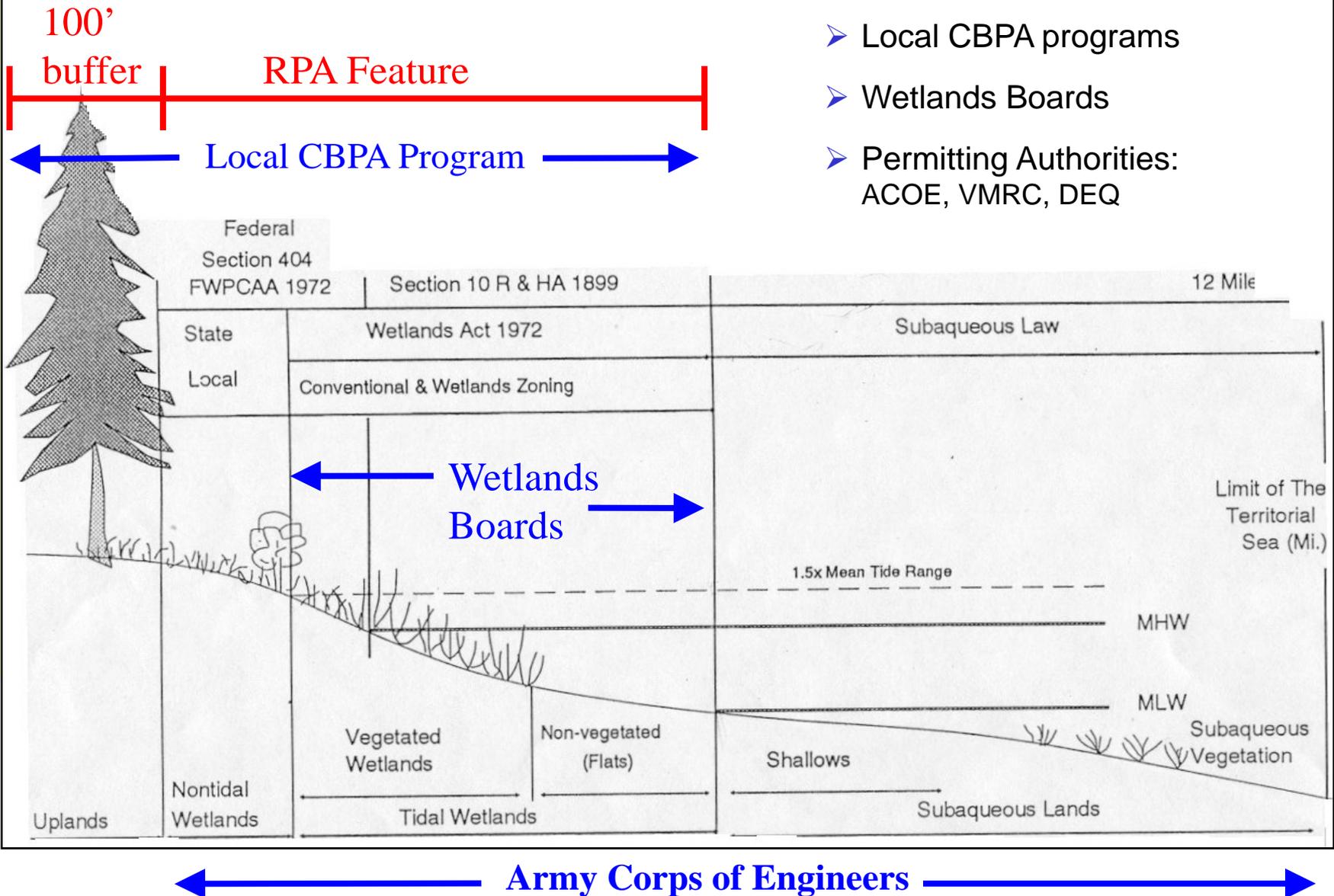
**Eleven Performance Criteria** applicable in CBPA's. These include stormwater management requirements, Erosion and Sediment control requirements, septic system maintenance, etc. (Mathews County Code Sec. 22.10 Ordinance: is a component of the County Zoning Ordinance, with references in other ordinances.

**Program administered** by County Planning Staff; appeals to BZA.

County Ordinance allows for exceptions, exemptions, variances, buffer modifications for agricultural lands, provides for an appeals processes and describes plan submittal requirements.

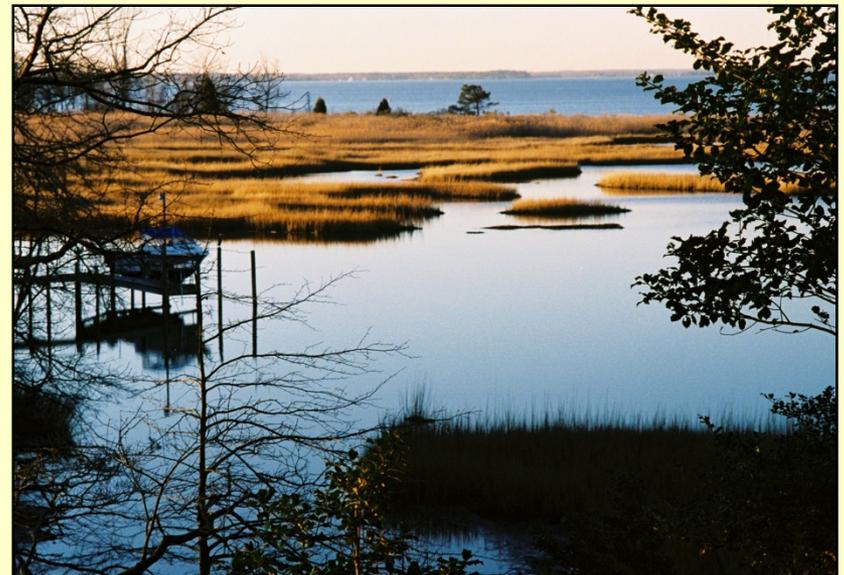


# Overlapping Jurisdiction in Tidal Areas



# DCR -Division of Chesapeake Bay Local Assistance - Activities

- Technical Assistance
- Training
- Education and Outreach
- Policy and Guidance Development
- Local Government Consistency and Compliance Reviews
- Program Design/Development
- General Planning Assistance

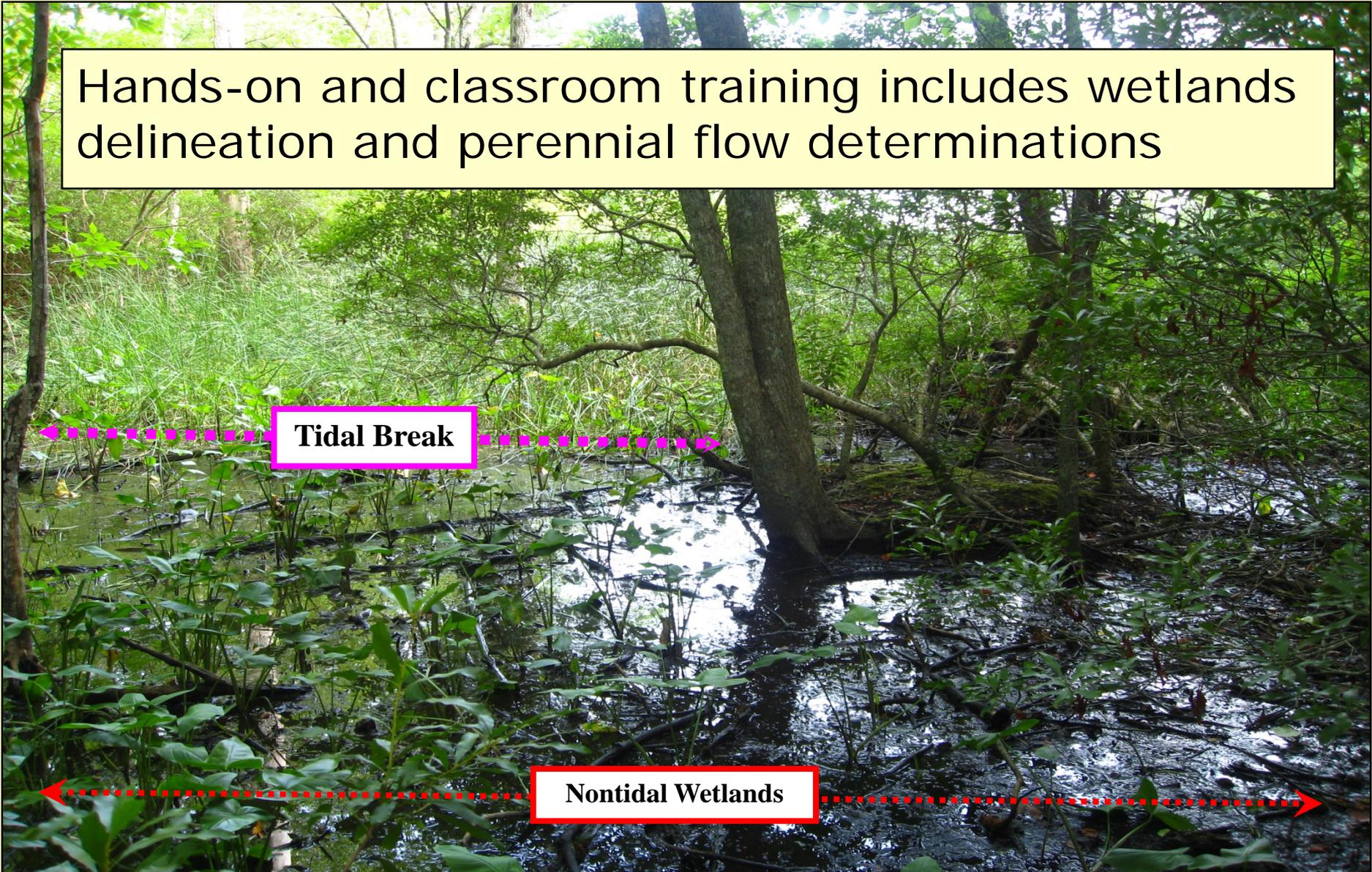


# Technical Assistance to Localities

- Site plan reviews (and site visits, as needed)
- Advice on difficult program issues (exceptions, waivers, violations and enforcement)
- Program design and development (septic pump-out programs, database design, mapping, forms, etc)
- Nontidal Wetlands training
- Perennial Flow determinations



Hands-on and classroom training includes wetlands delineation and perennial flow determinations



**Tidal Break**

**Nontidal Wetlands**

# Education and Outreach Activities

- Board training
  - Planning Commissions
  - Review Boards
  - Elected Officials
- Locality staff training
- Workshops
- Materials for use by local staff
- Presentations to Local Interest Groups



# Local Government Consistency and Compliance Reviews

- Review local ordinances and comprehensive plans for “consistency” with regulations
- Review of local programs every five years to verify implementation of local ordinances adopted pursuant to the Bay Act – requires coordination with other DCR agencies

## Mathews County Review Status

- April 2006, CBLAB finds County’s ordinance and CBPA designation “consistent” with Bay Act and revised Reg’s
- Sept. 2001 Comprehensive Plan found “consistent”
- June 2008 Implementation of County’s program found “compliant” (previously found not compliant in five areas)

# Activities and Programs Underway

- Locality Annual Implementation Report - starting July 1, 2008
- Phase III review program



# Chesapeake Bay Preservation Act Annual Implementation Report

## What is it?

A two-page questionnaire for local governments to complete annually at the end of the fiscal year

## Who is affected?

All localities that have undergone a CBLAB compliance review and have been compliant at least 9 months

## When will this start?

July 1, 2008

*Submission by Mathews County not required until next year*



Completion and submission of the questionnaire will fulfill a locality's requirement for submission of an "annual report"

# Chesapeake Bay Preservation Act Annual Implementation Report



## Information Requested:

- Development and redevelopment activity in the RPA
- Exceptions – requested & granted
- Numbers and types of BMPs
- Septic Tank Pump-out Data
- RPA Delineations and Mapping
- Violations in RPAs

*Review of a locality's annual report will provide a means of tracking activity and program changes and identifying assistance needs*

# Chesapeake Bay Preservation Act Implementation - Phase III



To protect water quality, local governments must review and revise their land development ordinances and processes, which include but are not limited to zoning ordinances, subdivision ordinances, erosion and sediment control ordinances, and the plan of development review process.

# Phase III Requirements

## Specific Provisions

### I. CBPA Land Development Ordinance Requirements

Bay Act Regulations  
Sections 9 VAC 10-  
20-191 A 4 & 5

Ordinances must require the following:

1. a depiction of the Resource Protection Area and Resource Management Area boundaries on plats and site plans
2. a notation on plats of the requirement to retain an undisturbed and vegetated 100-foot wide buffer area
3. a notation on plats of the requirement for pump-out for on-site sewage treatment systems
4. a notation on plats of the requirement for 100% reserve drainfield
5. a notation on plats that development in the RPA is limited to water dependent facilities or redevelopment
6. Plans must delineate the buildable areas allowed on each lot

most localities do some or all of these, but not always due to ordinance requirements

# Phase III Components

## General Performance Criteria Requirements

### II. Evaluation of Water Quality Protection in Land Development Ordinances

Review local land development ordinances for specific development standards that implement the general performance criteria in the Regulations

A checklist will be used to identify ordinance provisions and a threshold will be set identifying the minimum number of provisions that must be provided

Sections 9 VAC 10-20-191 A 2 and B 2 of the Regulations

General Performance Criteria (9 VAC 10-20-120 1, 2 and 5)

- Minimize impervious cover
- Minimize land disturbance
- Protect indigenous vegetation

# Phase III Components

## General Performance Criteria cont'd

### Minimize Land Disturbance

- Open Space Requirements
- Clearing and Grading Requirements
- Utility and Easement Requirements
- Low Impact Development and Better Site Design Concepts

### Preserve Indigenous Vegetation

- Sensitive Land Protection/Preservation
- Vegetation and Tree Protection Requirements
- LID/ Better Site Design Concepts

### Minimize Impervious Cover

- Parking Requirements
- LID/ Better Site Design Concepts
- Redevelopment and Infill Development Concepts
- Road Design Requirements
- Pedestrian Pathways and Driveways



# Opportunities for Incorporating Phase III Objectives into Local Ordinances



**Reduction of parking requirements**



**Use of bioretention in parking lots and subdivisions;**



# Opportunities for Incorporating Phase III objectives into Local Ordinances cont'd



**POROUS PAVING FOR NEW OR EXISTING PARKING LOTS**

**Permanent signage along RPA boundary; setbacks from edge of RPA**



# Phase III Local Review Process

1. Philosophy: A cooperative approach, with some components of a self assessment
2. Locality will be asked to provide copies of all relevant ordinances and related documents
3. Locality & DCR-CBLA staff will complete the checklist by reviewing local ordinances and documents
4. If deficiencies are found, locality will be given time to address the issues
5. An opportunity for an advisory review will be available prior to formal review
6. Review process with Board and locality notification, etc. to pattern after Compliance Review process

# Phase III Program Development and Implementation Process

Sept - Nov. 2007: Program structure and initial checklist questions and review approach developed with Advisory Committee assistance

Nov 2006 - Mar 2008 Meetings with locality staff at PDC's to discuss program and receive comment, meetings with interest groups.

Ongoing Review and discussion with Chesapeake Bay Local Assistance Board.

Oct 2008: Expected date of revised program (checklist) available for review

Late 2008 or or early 2009 Expected CBLAB adoption of Phase III review materials.

Official Notification to Localities; Advisory Reviews

Begin Formal Reviews

Ongoing: Local Government Outreach

*Questions? Comments?*

[www.dcr.virginia.gov](http://www.dcr.virginia.gov)



