



# APPENDIX - C

# CHESAPEAKE BAY

# PRESERVATION ACT

I-64 Hampton Roads Bridge-Tunnel Expansion Project

Hampton Roads Connector Partners

240 Corporate Blvd. 4<sup>th</sup> floor

Norfolk, VA 23502

*Hampton-Norfolk, Virginia*

**August 30, 2019**

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# C. CHESAPEAKE BAY PRESERVATION ACT

*The following information supplements the Joint Permit Application (JPA) Appendix C Chesapeake Bay Preservation Act Information form.*

## C.1 INTRODUCTION

The Chesapeake Bay Preservation Act (Bay Act) was enacted by the Virginia General Assembly in 1988 to protect and improve the water quality of the Chesapeake Bay, its tributaries, and other state waters (Virginia Code § 62.1-44.15:67 et seq.). Development in the localities located within “Tidewater Virginia” (as defined in the Code of Virginia) is subject to requirements of the Bay Act. The Bay Act requires local governments in Tidewater Virginia to include water quality protection measures in their zoning and subdivision ordinances and in their comprehensive plans (9VAC25-830-50 and 9VAC25-830-170).

Under the Bay Act, local governments are charged with identifying Chesapeake Bay Preservation Areas consisting of Resource Protection Areas (RPAs) and Resource Management Areas (RMAs). RPAs include tidal wetlands, tidal shores, waterbodies with perennial flow, non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or perennial water bodies, as well as a 100-foot vegetated buffer area located adjacent to and landward of these features. When preserved in their natural condition, RPAs protect water quality, filter and reduce the volume of runoff, prevent erosion, and perform other important biological and ecological functions (9 VAC 25-830-80). RMAs include those lands contiguous to the inland boundary of the RPA, which if improperly used or developed, have the potential to degrade water quality or diminish functions of the RPA. RMAs include floodplains, highly erodible soils (including steep slopes), highly permeable soils, non-tidal wetlands not included in RPAs, and any other sensitive lands considered by the local government to be necessary to protect the quality of water resources (9 VAC 25-830-90). These areas are subject to local Bay Act requirements to minimize land disturbance, preserve indigenous vegetation, minimize impervious surfaces, control stormwater runoff, and implement erosion and sediment control plans for land disturbances.

## C.2 PROJECT APPLICABILITY

Although RPAs and RMAs occur in the Hampton Roads Bridge-Tunnel (HRBT) Expansion Project area within the Cities of Hampton and Norfolk, public roads and their appurtenant structures are conditionally exempt from regulation under the Bay Act (9 VAC 25-830-150). This conditional exemption includes those roads where the Virginia Department of Transportation (VDOT) exercises direct supervision over the design or construction activities, and cases where secondary roads are constructed or maintained by a local government in accordance with the standards of that local government. According to the Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 25-830-150), construction, installation, operation, and maintenance of public roads and their appurtenant structures are exempt if:

- The roadway is constructed in accordance with an erosion and sediment control plan consistent with regulations promulgated pursuant to the Erosion and Sediment Control Law (Virginia Code § 62.1-44.15:51 et seq.).
- The roadway is constructed in compliance with the Stormwater Management Act (Virginia Code §62.1-44.15:24 et seq.) and a stormwater management plan is approved by the Virginia Department of Environmental Quality (VDEQ).
- The road is designed and constructed to optimize alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize encroachment in the RPA and adverse effects on water quality.

The Project is being designed and constructed in a way that will minimize encroachment in the RPA, in accordance with VDOT's annual erosion and sediment control and stormwater management standards and specifications.

VDOT's annual standards and specifications are approved by the VDEQ and exceed local regulations. Therefore, provided that the Project meets the above conditions, no additional avoidance or minimization for RPA and RMA areas designated under the Bay Act is necessary. Natural resources (i.e. wetlands, floodplains, threatened and endangered species habitat, etc.) that may be present within the RPAs and RMAs would be avoided and potential Project-related impacts to those natural resources minimized under the individual regulations that govern the resources.