

## Essential Skills for Living Shorelines

# Navigating the Permitting Process for General Permits Type 1 or 2 at the Federal, State, and Local Level

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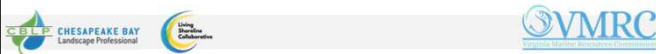
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## Living Shoreline Regulations and Permits

### LEARNING OBJECTIVES:

- Become familiar with the regulatory agencies and jurisdictions related to General Permits 1 & 2
- Learn requirements of the JPA and how to complete
- Understand factors that trigger additional review or delays in permit processing
- Understand that there are other federal, state and local permit or project approvals that may be relevant to the LS project.
- Professional Best Practice: Each locality and the people on staff and on boards are unique. You need to be familiar with locality requirements prior to starting work
- Form relationships with these regulators and technical advisors and call on them when in doubt and early in the project before you design or implement.



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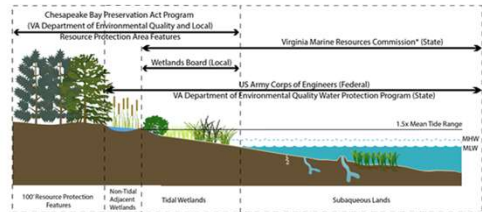
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## Jurisdictional Boundaries Tidal Waters



\* VMRC has oversight authority for the Tidal Wetlands Act and administers the Act in localities without a wetlands zoning ordinance and local wetlands board.  
Virginia Shorezone Jurisdictions legally defined shoreline resources and the relevant local, state and federal authorities. Note that some authorities cross resource boundaries and most resources have at least two responsible regulatory authorities. Symbols courtesy of the Integration and Application Network, [ian.umces.edu/symbols/](http://ian.umces.edu/symbols/); University of Maryland Center for Environmental Science.



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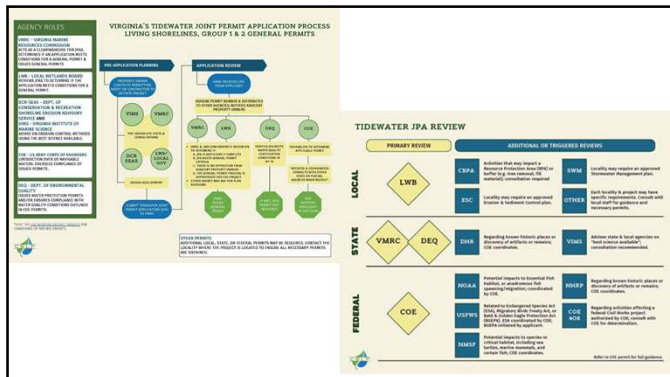
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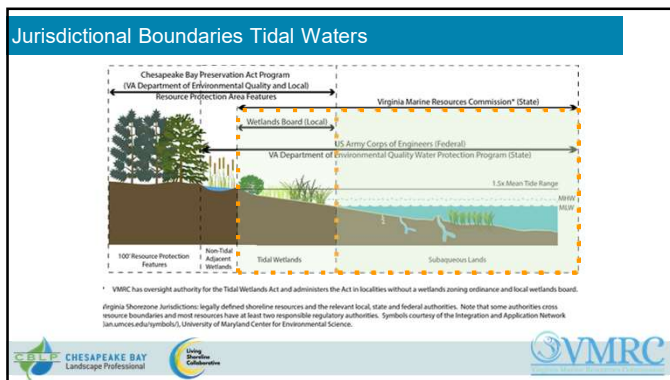
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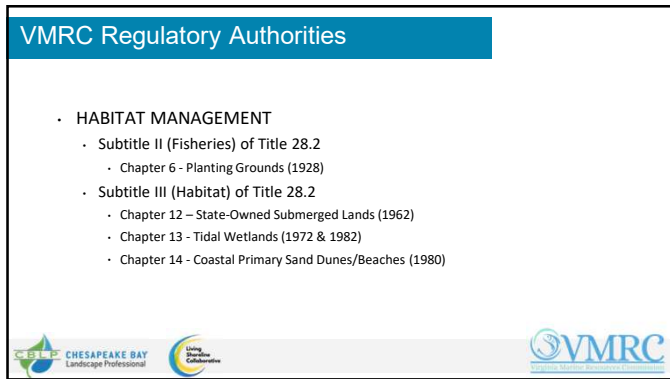
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### The Commission



- Meets on the 4<sup>th</sup> Tuesday of every month.
- Consists of 8 members and the Chairman (Commissioner)
- Must consist of 1 commercial fisherman, 1 sport fisherman, and an environmental interest.
- Powers:
  - Promulgate regulations and guidelines
  - Decide on protected wetlands, submerged lands, and aquaculture permit applications.

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### Living Shorelines: Default Approach

- Living Shoreline**
  - Living Shorelines must be the primary approach to shoreline management unless best available science proves one is not suitable.
- Rock**
  - Rock revetments are the next preferred alternative if a LS is not suitable based on best available science.
- Mixed Media Shoreline**
  - When a LS is not suitable, living shoreline approaches should be incorporated where possible.

*Code of Virginia 28.2-104.1 Living shorelines; development of general permit; guidance*

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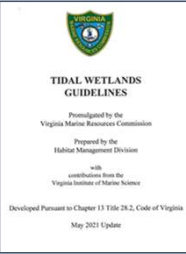
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### Tidal Wetlands Guidelines



- Minimum Standards for the protection and conservation of wetlands
- Ensure protection of shorelines and sensitive coastal habitat from sea level rise and coastal hazards
- Designed to survive the impacts of sea level rise using 2017 NOAA Intermediate-High SLR Projection Curve or updated projection

VMRC Wetlands Guidelines:  
[https://mrc.virginia.gov/regulations/Final-Wetlands-Guidelines-Update\\_05-26-2021.pdf](https://mrc.virginia.gov/regulations/Final-Wetlands-Guidelines-Update_05-26-2021.pdf)

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### Expedited Living Shoreline Permits

#### LS General Permit Type 1

- 21 day expedited permit
- Maximum fetch 0.5 miles or less
- "soft" living shorelines
  - Fiber logs or shell bags
  - Sand
  - Planting



#### LS General Permit Type 2

- 21 day expedited permit
- Living shorelines with toe revetments
- Maximum fetch 1.5 miles or less
- Minimum width of wetlands 8 ft or more
- Additional site requirements for approval and APO notifications



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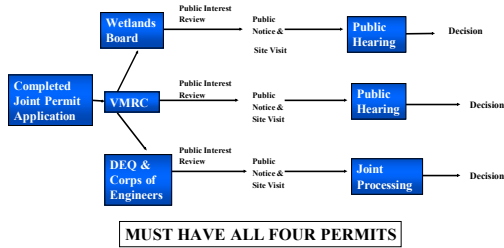
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### Virginia's Shoreline Permit Process



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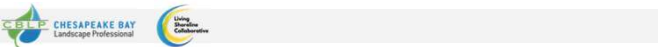
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### The permitting process

- Virginia Joint Permit Application submitted through VA Marine Resources Commission: <https://www.nao.usace.army.mil/Missions/Regulatory/JPA>
- Fill out application and submit to VMRC which will be distributed to US Army Corps of Engineers, VA DEQ (if needed), and others
- Include ADJACENT PROPERTY OWNER'S ACKNOWLEDGEMENT FORM
- Follow up with both VMRC and the Corps about your permit
- Address any questions regulatory agencies might have about the application



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### What is needed for a complete JPA?

- Applicant and Agent's information, including project location
- Approval letters from adjacent property owners
- Description of the project, including cost
- Areas that will be impacted
- Type of construction and all materials
- Any proposed vegetative stabilization measures to be used
- Project Drawings (plane view and cross-sectional view drawings)



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### VMRC and the Local Wetlands Board

- Completeness Determination
- Jurisdictional Determination
- Site Visit and Revision Requests
- Review for General Permit Criteria
- Adjacent Property Owner Notifications



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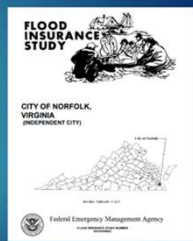
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### Storm Protection

1. Projects should be designed to mitigate coastal hazards...over the useful life of the project.
2. Projects should ensure that the stabilizing objectives address the most erosive conditions predictable to the site.
3. Project reviews shall include "the 10-year storm event water levels as calculated by NOAA and FEMA" (Storm Surge)
4. The Board must incorporate consideration of long-term sustainability and coastal resource resilience



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### Incorporating Sea Level Rise into Design

Proposed projects must allow the landward migration of existing vegetation over the useful life of the project using the 2017 NOAA Intermediate-High Projection Curve.



Online Resources for Identifying SLR Projections:

- [https://cwbi-app.sec.usace.army.mil/rccslc/slcc\\_calc.html](https://cwbi-app.sec.usace.army.mil/rccslc/slcc_calc.html)
- <https://msc.fema.gov/portal/advanceSearch>



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### The Role of the Virginia Institute of Marine Science (VIMS)

- Codified Scientific Arm to the VMRC in marine science
- **Office of Research & Advisory Services**
  - 4 full time scientists to advise permit writers on the scientific evaluation of projects.
  - Will write advisory reports on projects when requested.
  - VIMS reports are highly weighted during permit reviews and public hearings.
  - *Best Available Science and LS Feasibility Determination*



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### Additional Resources

- VMRC Staff - Get to know them
- VMRC Wetlands Guidelines: [https://mrc.virginia.gov/regulations/Final-Wetlands-Guidelines-Update\\_05-26-2021.pdf](https://mrc.virginia.gov/regulations/Final-Wetlands-Guidelines-Update_05-26-2021.pdf)
- Virginia Wetlands Handbook [http://ccim.vims.edu/permits\\_web/guidance/handbook/index.html](http://ccim.vims.edu/permits_web/guidance/handbook/index.html)
- Living Shoreline Design Guidelines: Hardaway et. Al. <https://scholarworks.wm.edu/reports/833/>
- Shoreline Management in Chesapeake Bay <https://www.dcr.virginia.gov/soil-and-water/document/shoreline-management-in-chesapeake-bay.pdf>



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## Administration of the Living Shoreline Law

### Barriers to Implementation

- Cost of Installation
  - Contractor Availability
  - Design and Permitting Expertise
  - Homeowner Comfort with the Design Concept.
- Preference for lawn that leads to hardened structure
- Competing Natural Resources (SAV, Riparian Buffers)

### Incentives to Implementation

- Cost Share Programs
- Expedited Permitting
- Regaining Eroded Property
- Contractors can "upsell" additional services.



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