

# CHANGING LEGISLATION FOR CHANGING SHORELINES: THE WAIT IS OVER FOR MAJOR RESILIENCE ADVANCES



# BIG CHANGES IN LAST GENERAL ASSEMBLY SESSION

- Chief Resilience Officer position created ([HB 1313](#))
- DEQ Mission to include “Address Climate Change” and include environmental justice ([HB 1164](#))
- **Amend Chesapeake Bay Preservation Act purpose to include “Coastal Resilience and Adaptation” ([HB 504](#))**
- **What’s new with VMRC, Wetlands Boards, Living Shorelines and Wetlands Guidelines ([SB 776](#))**
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- **VDOT integrates climate change into [design standards](#)**

## CONFLUENCE OF ISSUES CREATES CHANGE

1. Legislature changes leadership
2. Administration has a resilience strategy they want to implement.
3. Coastal flooding issue becomes “constituent” issue, not policy debate. Local governments/wet communities want action. Sea Level Rise Impacts become obvious along the entire shoreline.





New Intertidal Zone



## SIGNIFICANT CHANGES: CHESAPEAKE BAY ACT

HB 504 (Hope) amends the Chesapeake Bay Preservation Act (§ 62.1-44.15:72) by adding “coastal resilience and adaptation to sea-level rise and climate change” as a purpose of the Act.

There will be an expedited rulemaking and stakeholder process with final action by the Water Quality Control Board.

## SIGNIFICANT CHANGES: CHESAPEAKE BAY ACT

Amendment was added during veto session to address an ongoing debate on changing the Act to use it to permit fill in the RPA to address encroachment from Sea Level Rise.

Pressure came from Middle Peninsula where SLR impacts are high – Del. Hodges has been carrying legislation the past few sessions. Conflict between allowing fill in RPA to protect private property, preserving trees in RPA, and sea level rise moving the tidal wetlands “uphill.”



## SIGNIFICANT CHANGES: CHESAPEAKE BAY ACT

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Amendment will cause other changes in CBPA with requirement to address “climate change.” e.g. New rainfall intensity data will change non-point source pollution runoff calculations. Etc. etc.

## SIGNIFICANT CHANGES: LIVING SHORELINES/SLR IN TIDAL WETLANDS PERMITS

SB 776 (Lewis) made two changes affecting local government Wetlands Boards:

- 1) Living shorelines are the default approach to shoreline erosion control unless the “best available science” indicates it will not work.

VMRC sent letter to localities telling them to update local ordinance to add *“a statement indicating whether use of a living shoreline as defined in § 28.2-104.1 for a shoreline management practice is not suitable, including reasons for the determination”*

# VMRC Letter



## COMMONWEALTH of VIRGINIA

*Marine Resources Commission  
Building 96  
380 Fenwick Road  
Fort Monroe, VA 23651*

Matthew J. Strickler  
Secretary of Natural Resources

Steven G. Bowman  
Commissioner

May 12, 2020

### MEMORANDUM

**TO:** Local Wetlands Boards

**FROM:** Tony Watkinson  
Chief, Habitat Management Division

**SUBJECT:** Senate Bill 776

## SIGNIFICANT CHANGES: LIVING SHORELINES/SLR IN TIDAL WETLANDS PERMITS

SB 776 (Lewis) made two changes affecting local government Wetlands Boards (continued):

- 2) Tidal Wetlands permits will incorporate, *“any standards set by the Commonwealth in addition to those identified in Sec. [28.2-1308](#) to ensure protection of shorelines and sensitive coastal habitats from sea level rise and coastal hazards, including the provisions of guidelines and minimum standards promulgated by the Commission pursuant to Sec. [28.2-1301](#) of the Code of Virginia.”*

## SIGNIFICANT CHANGES: LIVING SHORELINES/SLR IN TIDAL WETLANDS PERMITS

Two issues being worked on for wetlands permits

1) *“standards set by the Commonwealth”  
involves setting a statewide SLR rate.*

**EO 45** has a SLR standard (NOAA Intermediate Curve) but it only applies to “state agencies, institutions, and property”

**EO 24** has the Chief Resilience Officer and Special Assistant providing SLR estimates to local governments but not state regulatory agencies

## SIGNIFICANT CHANGES: LIVING SHORELINES/SLR IN TIDAL WETLANDS PERMITS

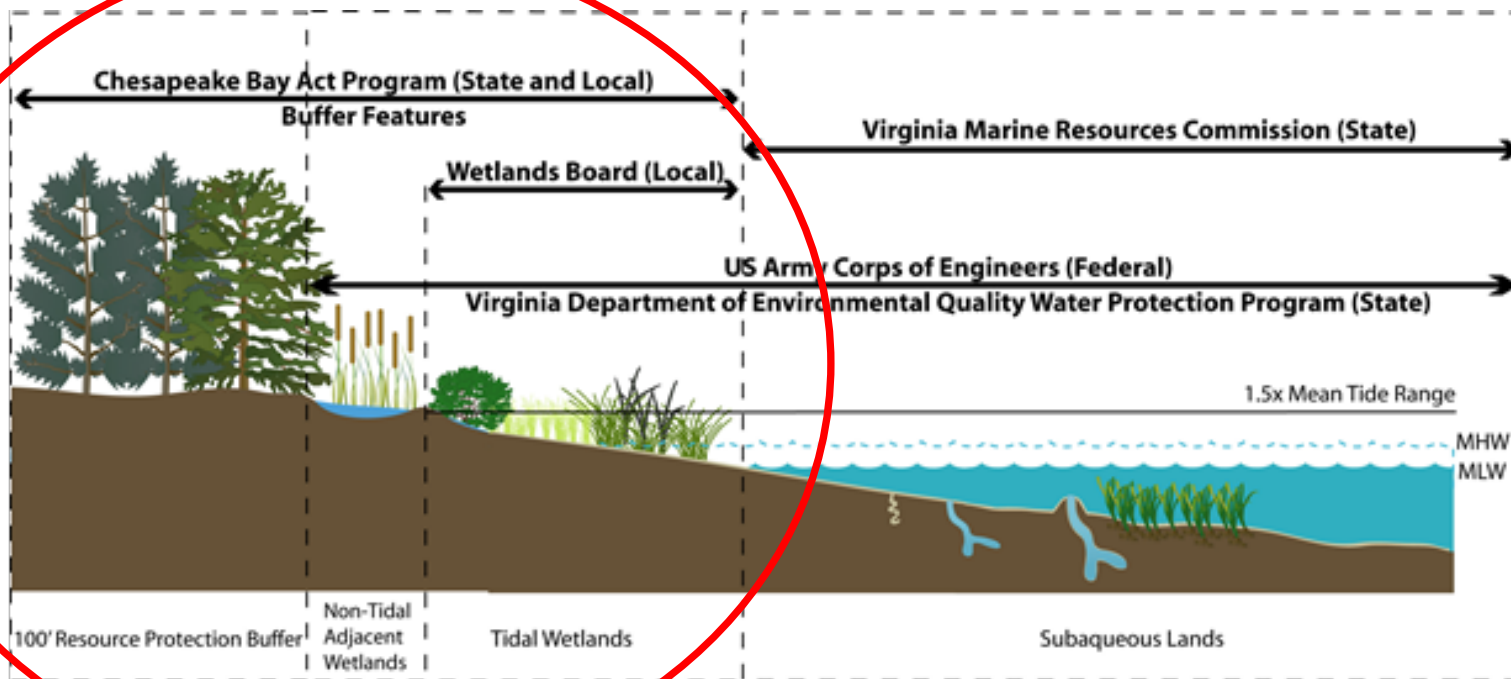
Two issues being worked on for wetlands permits

2) *“protection of shorelines and sensitive coastal habitats from sea level rise and coastal hazards, including the provisions of guidelines and minimum standards”*

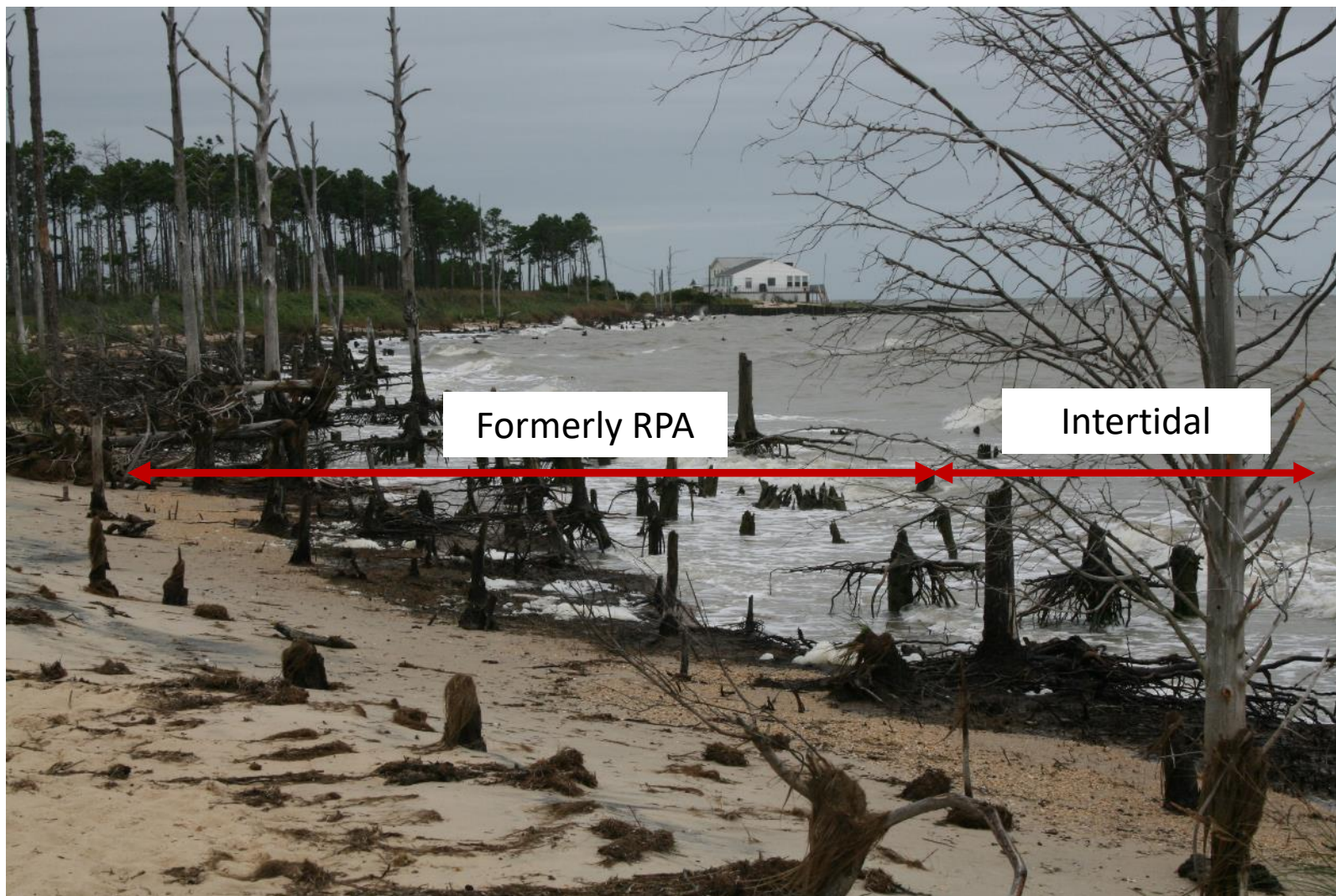
Much more complicated work determining future impacts and then incorporating them into permit guidelines. VMRC starting series of 4 webinars to obtain input.

What about “standards?”

# SIGNIFICANT OPPORTUNITY: ALIGN CBPA AND TIDAL WETLANDS PROGRAMS



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.



Formerly RPA

Intertidal



## SIGNIFICANT CHANGES: COMMUNITY FLOOD PREPAREDNESS FUND

HB 981 (Herring) has Virginia joining the Regional Greenhouse Gas Initiative (RGGI), a market-based compact among the New England and Mid-Atlantic states to reduce CO2 emissions.

- 1) Auction in spring of 2021 will generate millions of dollars for low-income energy efficiency programs (50% of funds) and for the newly reconstituted Community Flood Preparedness Fund (45% of funds). Flood Fund expected to have \$45 million/yr.!

## SIGNIFICANT CHANGES: COMMUNITY FLOOD PREPAREDNESS FUND

- 2) Flood Fund will be administered by Department of Conservation and Recreation based upon guidelines developed by DCR, Secy. Strickler, and Special Assistant to the Gov. Ann Philips.
- 3) Fund is non reverting and separate from general fund. Monies can be used for studies of “state and regional significance.”
- 4) Fund is statewide – riverine and coastal flooding.

## SIGNIFICANT CHANGES: COMMUNITY FLOOD PREPAREDNESS FUND

- 5) Localities can use the Fund, “for the purpose of implementing flood prevention and protection projects and studies in areas that are subject to recurrent flooding as confirmed by a locality-certified floodplain manager.”
  
- 6) No less than 25 percent of the moneys disbursed from the Fund each year shall be used for projects in low-income geographic areas.

## SIGNIFICANT CHANGES: COMMUNITY FLOOD PREPAREDNESS FUND

- 7) “Priority shall be given to projects that implement community-scale hazard mitigation activities that use nature-based solutions to reduce flood risk.”
  
- 8) Fund can also be used to provide loans to individual property owners for resilience work. Locality takes the loan and services it on the individual property. Loans in low-income areas can be forgiven by locality but the local government is still responsible for paying back the principal.

## GETTING READY FOR THE COMMUNITY FLOOD PREPAREDNESS FUND

CZM program will award \$30,000 to each coastal PDC to help develop capacity to compete for grant funding – can include this Fund.

## SIGNIFICANT CHANGES: VDOT INTEGRATES CLIMATE CHANGE IMPACTS INTO DESIGN STANDARDS

In revised Chapter 33, VDOT's Structure and Bridge Division identified the following four factors that may affect bridges over the next 100 years:

- Temperature Change
- Salinity
- Precipitation or Rainfall Intensity
- Sea Level Rise (SLR)

# SIGNIFICANT CHANGES: VDOT INTEGRATES CLIMATE CHANGE IMPACTS INTO DESIGN STANDARDS

Standards set:

- **Temperature Change** - no change from current design standards
- **Salinity** - salinity boundary moves upstream 8.5 miles to 11.2 miles by 2100
- **Precipitation or Rainfall Intensity**
  - ❖ 20% increase in rainfall intensity
  - ❖ 25% increase in discharge shall be used in design of bridges = 200 year storm)
- **Sea Level Rise (SLR)** - Use NOAA Intermediate High curve = +4.95 feet

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**QUESTIONS?**