VMRC Proposed Wetlands Guidelines

RegionalEnvironmental Committee

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HAMPTON ROADS PDC PLANNING DISTRICT COMMISSION

SB 776- 2020 Tidal Wetlands Act

- Established living shorelines as the default approach to shoreline management unless the “best available science indicates the site is not suitable for such methods

- “ensure protection of shorelines and sensitive coastal habitats from sea level rise and coastal hazards, including guidelines and minimum standards…”

Three Workshops

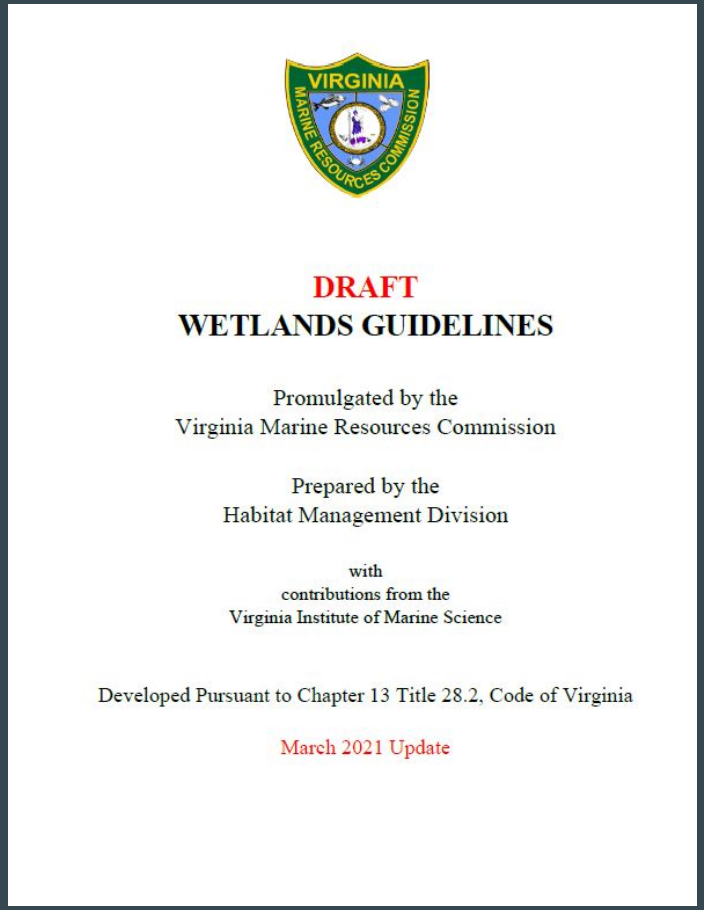
Date	Topic
August 26, 2020	Listening to Local Regulators
September 9, 2020	Minimum Standards for the Use and Development of Tidal Wetlands & Discussion on the Policies for Managing for Sea Level Rise and Climate Change
September 30, 2020	Best Management Practices for Preferred Shoreline Approaches

Themes from Workshops

- Request for more holistic management of shorelines, jurisdictional determinations
- Definition of “best available science”
- Role of cost in suitability or best available science
- Identify factors to determine suitability of living shoreline approaches

Themes from Workshops continued

- Not only hard or living shorelines, include hybrid
- Living shoreline life expectancy when planning for sea level rise
- Risks and maintenance of living shoreline practices
- Education needs – contractors and property owners



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Were concerns addressed?

Concern	Included in revised Guidelines?
More holistic management of shorelines	No – Not aligned with the CBPA proposed regulatory amendments, nor considerations for sea level rise or coastal hazards
Definition of “best available science”	Yes – VMRC, VIMS, DCR SEAS plus emerging wetlands science
Role of cost in suitability or best available science	Kind of – If living shoreline approach suitable but too costly, work with Commission or board to adjust project to reduce costs, move project landward, or deny application

Were concerns addressed?

Concern	Included in revised Guidelines?
Identify factors to determine suitability of living shoreline approaches	Yes – Minimum standards listed, including to conserve wetlands, onsite analysis requirements, online tools to be used, etc.
Not only hard or living shorelines, include hybrid	A little – Creating a protected living shoreline between the structures is considered reasonable for high energy situations
Living shoreline life expectancy when planning for sea level rise	No – There are no mentions of life expectancy for living shoreline approaches

Were concerns addressed?

Concern	Included in revised Guidelines?
Maintenance of living shoreline practices	No – Maintenance of living shoreline approaches was not included
Education needs - contractors and property owners	No – Education and outreach was not included

Alignment with CBPA

- Implementation of the guidelines “must be coordinated with” the implementation of the new CBPA regulatory amendments that address climate change and sea level rise
- Not aligned with the CBPA regulatory amendment process
- Comments on guidelines due March 31 and comments on CBPA regs due May 3
- If a living shoreline approach is suitable but too costly, one option provided is to move the project landward into the CBPA

Potential Conflict if all Wetlands are Equal

- 1993 guidance classifies wetlands into 17 types (12 vegetated, 5 non-vegetated)
  - Types are grouped by value based on production, waterfowl/wildlife utilization, and benefits for erosion, water quality, and flood protection (Group One has highest value, Group Five least)

Group One	Group Two	Group Three	Group Four	Group Five
Saltmarsh cordgrass Arrow arum-pickerel weed Freshwater mixed Brackish water mixed Intertidal beaches Intertidal oyster reef	Big cordgrass Saltmeadow Cattail Sand/flats Sand/mud mixed flats Mud/flats	Yellow pond lily Black needlerush	Saltbush	Saltwort Reedgrass

- New guidance classifies wetlands as either vegetated or non-vegetated and considers both “worthy of equal protection”
- § 28.2-1308 requires wetland development in Tidewater to be concentrated in “wetlands of lesser ecological significance”

Best Available Science

Broad interpretation and what about access/availability?

"…on a case-by-case basis is the research, written advice, and online tools" from:

- VMRC Habitat Management Division
- VIMS Office of Advisory Services,
- VIMS Shoreline Studies Program,
- VIM Center for Coastal Resource Management, and
- DCR's Shoreline Erosion and Advisory Service.

How would a local Board consider all new science?

- "Additionally, all newly emerging wetlands science shall contribute to the Commission's or local wetlands boards' consideration of best available science."

Changes to the General Criteria

- Incorporates flood protection and water quality
- Utilization of open-pile type structures is required instead of preferred
- Design standard changes from “withstand the maximum stresses of the marine environment and also to minimize the frequency of future maintenance activities” to “resist coastal storm-level hydrological energy that may reasonably be expected at the project site”
- Eliminates “channels, fills, and structures” and replaces with “shoreline alterations”

Changes to the Specific Criteria

A. Shoreline Protection Strategies – New emphasis on living shorelines

Criteria from Existing Guidelines Omitted from Revised Guidelines:

B. Filling and Dredged Material Disposal
C. Dredging
D. Channeling into Fastlands or Marshes
E. Dams and Impoundments
F. Marinas
G. Drainage and Mosquito Ditches
H. Submarine Pipeline Crossings

Summary of Primary Concerns

- Timing and alignment with CBPA regulatory amendments
- Apparent conflict - if all tidal wetlands are equal, which would have “lesser ecological significance”?
- Best Available Science does this definition work for local boards?
- Remaining issues – how to account for sea level rise and coastal hazards when considering living shoreline elements, education needs, life expectancy of living shoreline approaches as sea level rises, etc.

Next Steps

- Draft Regional Comment Letter– week of March 22
- Comments due to VMRC by March 31

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