





Chesapeake Bay Preservation Area Designation and Management Regulations Climate Adaptation Amendment

9 VAC 25-830

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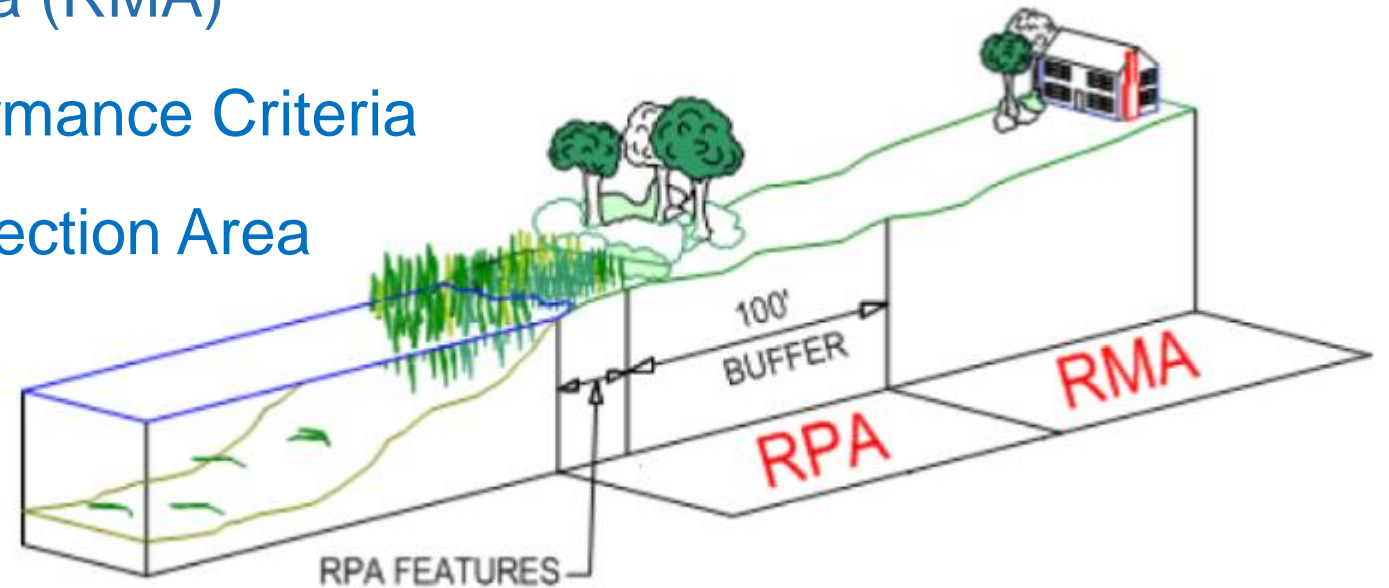
Presentation Overview

- Background
- Amendments Overview
- Amendment Sections
- Guidance Development

Background:

Chesapeake Bay Preservation Area Types:

- Resource Protection Area (RPA)
- Resource Management Area (RMA)
- Section 130: General Performance Criteria
- Section 140: Resource Protection Area Development Criteria



Background:

- Chesapeake Bay Preservation Act Amendments (2020 General Assembly)
- Amended Virginia Code § 62.1-44.15:72. (Board to develop criteria)
- Added criteria for local government programs to encourage and promote:
 - “Coastal resilience and adaptation to sea-level rise and climate change”
- Public comment period: February 1, 2021 to May 3, 2021
- Stakeholder advisory meetings held May 13 and May 14th, 2021

Regulatory Amendment Overview

- New Section 155
 - 155(A) General provision
 - 155(B) Assessment of climate change impacts
 - 155(C) Adaptation measures
 - 155(D) and (E) Consistency with Tidal Wetlands Guidance
 - 155(F) Limitation on granting of exceptions
- Section 190
 - Three-year timeframe for adoption incorporated
- Section 40
 - Definition of nature-based solution and adaptation measure

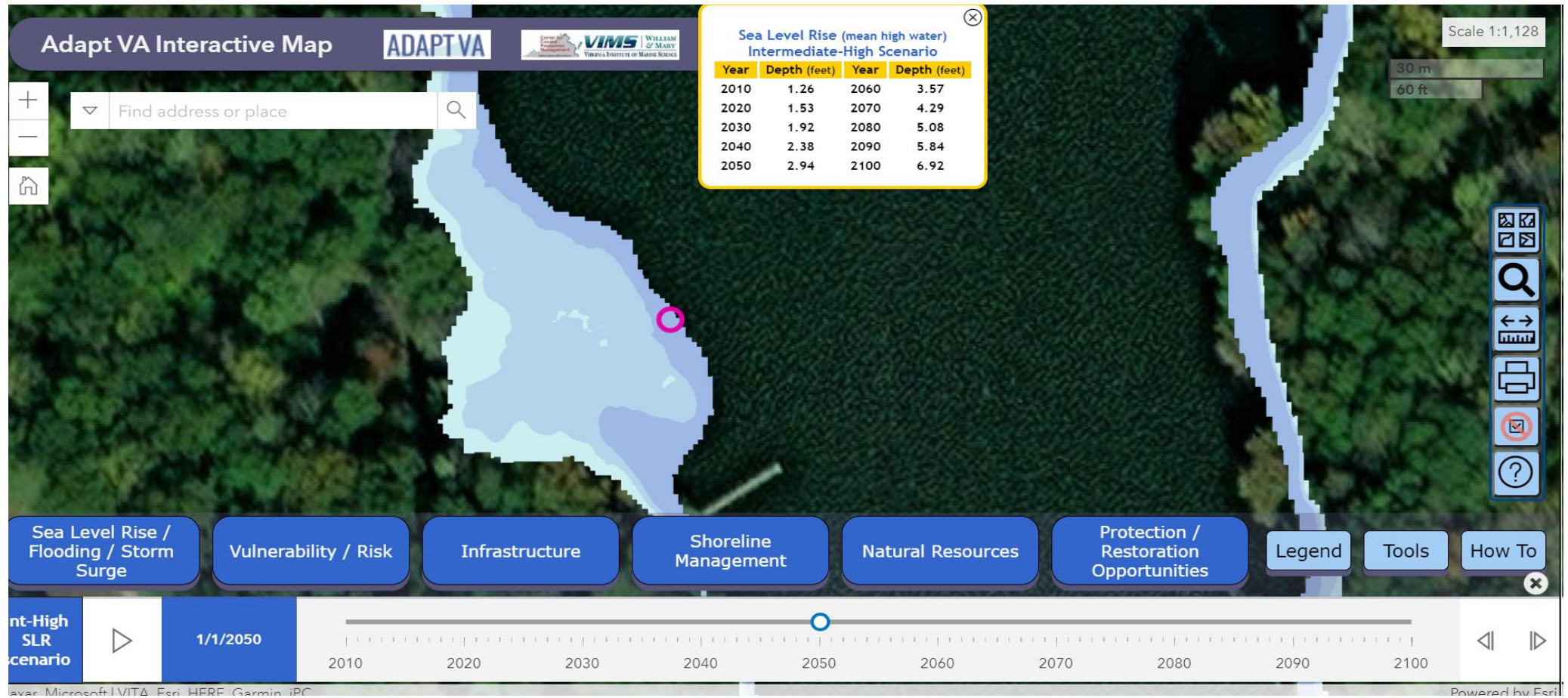
Amendment Section 155(B): Assessment

- Assess the impacts of climate change and sea-level rise on proposed land development
- Part of the plan of development process
- Based upon RPA as delineated at time of proposed development
- Based upon a period of 30 years or lifespan of the project
- Use model or forecast used or developed by or on behalf of Commonwealth

Amendment Section 155(B): Assessment

- Current models/forecasts:
 - Virginia Flood Risk Information System
 - AdaptVA
- Scope of Impacts:
 - Sea-Level rise (2017 NOAA Intermediate High Curve)
 - Storm surge (NOAA SLOSH Model)
 - Flooding (Special Flood Hazard Area, Limit of Moderate Wave Action)

Example: AdaptVA Mean-Sea Level Rise in 2050



Amendment Section 155(B): Assessment

- Assess potential impacts in light of proposed development on buffer function
- Identify conditions, alterations, or adaptation measures as necessary and appropriate
- Can include assessment in Water Quality Impact Assessment
- Gives local governments authority to act based upon assessment

Amendment Section 155(C): Adaptation Measures

- Must Be:
- Nature-based solution and
- Chesapeake Bay Program Partnership BMP
- Virginia Stormwater BMP
- Shoreline Protection Strategy (VMRC); or
- Eligible activity for funding by the Virginia Community Flood Preparedness Fund
- Meet certain requirements

RAmendment Section 155(C): Adaptation Measures

- Be designed, installed, and maintained in accordance with specifications
- Maximize preservation of existing natural vegetation including mature trees
- Minimize land disturbance
- Comply with other requirements

Amendment Section 155(C): Adaptation Measures

- Allow for the use of fill with conditions:
 - Grading and slope
 - Support growth of vegetation
 - Address and manage stormwater run-off
 - Not negatively impact septic systems and drainfields; and
 - Consistent with any applicable federal and state law, including floodplain management requirements

Amendment Section 155(C): Adaptation Measures

- Limitations:
 - Contravention of the National Flood Insurance Program and established floodplain ordinances, or
 - Contravention of locality participation in the National Flood Insurance Program Community Rating System

Amendment Section 155(D) and (E): Consistency with Tidal Wetlands Guidelines

- Adaptation Measures
 - Nature-based
 - Specific universe
 - Stormwater BMP
 - Chesapeake Bay BMP
 - Shoreline Strategy
 - Community Flooding Fund
- Shoreline Erosion Control
 - Tidal Wetlands Guidelines apply (VMRC)
 - Living shoreline-default
 - Hardened shoreline activity: “Active, detrimental erosion” and living shoreline not possible
 - Hierarchy of options including rock revetments, seawalls, bulkheads

Amendment Section 155(F): Exception Limitations

- Local governments shall not grant exceptions to the general and RPA development criteria requirements where:
 - Climate change and sea-level rise assessment has not occurred; or
 - Use of fill in an adaptation measure in contravention of the requirements.

Guidance Development

- NOAA grant to engage W&M Coastal Policy Center and VIMS on guidance development
- Technical Guidance and training to be developed
 - Additional stakeholder engagement
 - Additional specifics on implementation
- Joint Guidance with VMRC
- Identifying additional opportunities for guidance development and technical assistance for localities

Questions?