

## **Implications of a modified SAV survey on Current Regulatory Procedures**

### **State Water Quality Standards-Water Clarity Criteria for Shallow Water SAV Designated Use**

Regulation or Statute: 9 VAC 25-260-185 (§ [62.1-44.15](#) of the Code of Virginia); MD COMAR 26.08.02.03-3 ( Environment Article, §§9-303.1, 9-313—9-316, 9-319, 9-320—9-325, 9-327, and 9-328, Annotated Code of Maryland)

States have established specific SAV acreage goals that are based on water clarity standards for each Chesapeake Bay Program segment with shallow water SAV designated use.

#### **A segment has attained the shallow water designated use if:**

- 1) it meets or exceeds the **SAV acreage** restoration goal,
- 2) the shallow water acreage meets or exceeds the water clarity criterion (expressed as Secchi depth equivalence or % light through water column (PLL), or
- 3) it meets or exceeds the water clarity acreage goal (derived from SAV acreage restoration goal).

\*\*\*If none of these are applicable, the segment has not attained the water clarity designated use\*\*\*

Criteria assessments are done every three years using the single best SAV acreage for a particular segment. The SAV acreage is determined by the current annual SAV survey. Water clarity acres are determined using Shallow Water Monitoring Program data.

**Implications:** An accurate SAV acreage for each segment (at minimum every 3 years) is necessary to assess water clarity criteria as stipulated in current regulations. If a segment has no available SAV acreage data or shallow water monitoring data, it does not attain the water criteria designated use.

**Compatible design options from alternative design excel file: 1, 2, 3, 9 maybe 4 and 8**

### **Tidal Wetlands Permitting**

States have direct and indirect protection of SAV that applies to dredging and filling, piers, marinas, and non-water dependent structures.

#### **Tidal Wetlands**

- SAV habitat should be considered within criteria for tidal wetlands permit or license applications (MD COMAR 26.24.02.03)
- Mitigation plan view should include delineation of existing and adjacent SAV (MD COMAR 26.24.05.01)

## Dredging and Filling

- SAV presence should be a factor to be considered in application process (VA 28.2-1205, 4VAC 20 400-50; MD COMAR 26.24.03.01, 26.24.03.06)
- No new dredge projects in water < 3ft unless “historic use” (MD COMAR 26.24.03.02)
- Time of year restrictions to assure protection of SAV (MD COMAR 23.02.04, 26.24.02.06)

## Piers, Marina, Non-water dependant structures

- SAV presence should be considered in permitting/licensing process for siting of marinas (4VAC 20 360-90, MD COMAR 26.24.04.03), non-water dependent structures (MD Article §16-104), marina expansion (MD Article §16-107)
- Fixed or floating platforms may not be placed over vegetative tidal wetlands, including SAV (MD COMAR 26.24.04.02)
- MDE may not issue a license for a fixed or floating pier, deck or walkway or related structure which adversely affects SAV (MD COMAR 26.24.04.02)
- No new boathouses should be placed over state or private wetlands (MD COMAR 26.24.04.02)

**Implications:** SAV distribution and location at the project level is necessary criteria for license/permit application approval; increased ground-truthing on a project-by-project basis would increase staff time and costs associated with permit/license reviews; increased risk of “missing” SAV during site surveys.

**Compatible design options from alternative design excel file: 1, 2, 3, 12, maybe 9, 10**

## Fisheries Practices

SAV is afforded some protections from certain fishing practices, including shellfish aquaculture, hydraulic clam dredging, pound nets (VA) and haul seines (VA).

### Pound nets

- VMRC should consider effects of placement of new nets on SAV (4VAC 20 25-30)

### Haul seines

- Gear restrictions in water less than 3 ft deep (4VAC 20 1070-30, 2003), or
- If in water less than 3 ft, no SAV should be within 15 ft of the pocket (4VAC 20 1070-30, amended 2009)

### Hydraulic clam dredging

- In Maryland, hydraulic clam dredging is prohibited in “**SAV Protection Zones**” (MD COMAR 08.02.01.12) and within certain distances from shore (by county) (MD Article §4-1038)
  - “Aerial survey” means the **annual aerial survey compiled by the Virginia Institute of Marine Sciences for the annual baywide Submerged Aquatic Vegetation Mapping Program** (MD Article §4-1006.1)
  - The updated delineations shall include areas where submerged aquatic vegetation has been mapped by aerial surveys during at least 1 of the previous 3 years. (MD Article §4-1006.1)
- In Virginia, clam and crab dredging within 200 meters of SAV is prohibited in Chincoteague Bay (4VAC 20-1030, §28.2-701 Code of Virginia)

#### Shellfish Aquaculture

- No enclosures, bags, nets or structures shall be placed on existing SAV (4VAC 20 335-30, 4VAC 20 336-30, 4VAC 1130-10 et seq., §28.2-603.1 Code of Virginia, MD Article §4-11A)
- No new leases shall not be located in an “**SAV Protection Zone**” (MD COMAR 08.02.23, MD Article§ 4-11A)
  - **"SAV Protection Zone"** means an area of submerged aquatic vegetation with a density greater than 10 percent **as mapped in aerial surveys by the Virginia Institute of Marine Sciences** in 1 or more of the 3 years preceding the designation of an Aquaculture Enterprise Zone, or an application for an aquaculture, submerged land, or demonstration lease

**Implications:** Decrease in the ability to enforce current regulations; requirements of current regulations could not be met without the VIMS aerial survey.

**Compatible design options from alternative design excel file:** 1, 2, 3, 9 maybe 4, 8