

SAV Policy Update
October 18, 2023

Existing Chesapeake Bay Watershed Statutes and Regulations Affecting Submerged Aquatic Vegetation

Report Background

Existing Chesapeake Bay Watershed Statutes and Regulations Affecting Submerged Aquatic Vegetation



Photo by Will Parson/Chesapeake Bay Program

- Habitat Goal Implementation Team (HGIT) funded project in 2018 - 2019
 - Chesapeake Legal Alliance
- Federal and State statute and regulatory review
 - DC, DE, MD & VA

“By understanding what currently exists, readers may draw comparisons and better understand the different laws, regulations, and policies that affect SAV, as well as how those laws, regulations, and policies might be changed to better help the Bay Program meet its SAV-related goals”

Our Charge



- Management Board “ask”
 - Request: Awareness of the SAV Workgroup's GIT Funding project that reviewed policies, statutes and regulations that protect SAV in the Chesapeake Bay
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“The SAV Workgroup will present the results of the GIT Funding project to the Management Board in September or October 2020. Before then, Matt Fleming (MD DNR) will organize a small meeting of PRFC, USACE, and the appropriate regulatory reps from DC, MD, and VA to review recommendations.”

Initial Meeting March 7, 2023

- Looking at the recommendations, is there an opportunity to improve SAV protection?
 - Can we prioritize?
- Are there new emerging issues we should know about?
 - Is the report missing something that should be addressed?
- Do you want a deeper dive, further discussion?
 - Do we need another meeting?

Participants

Federal

- **EPA**: Katlyn Fuentes (CRC/HGIT Staffer), Dede Lawal (CRC/HGIT Staffer)
- **NOAA**: Sean Corson
- **USACE**: Chris Spaur
- **USFWS**: Robbie Callahan, Chris Guy (HGIT Coordinator)

State

- **DC**: Rese Cloyd (F&W), Jen Dietzen (DOEE)
- **DE**: Matthew Jones (DNREC)
- **MD**: Becky Golden (MDNR/SAVWG Vice-Chair), Dave Goshorn (MDNR), Gina Hunt (MDNR/HGIT Chair), Brooke Landry (MDNR/SAVWG Chair), Heather Nelson (MDE)
- **VA**: Rachel Peabody (VMRC), Tish Robertson (DEQ)
- **Chesapeake Bay Commission**: Mark Hoffman

Can we prioritize?

- SAV Defined
- SAV Removal
- Dredging & Filling
- Marine & Estuarine Resources
- Water Quality Standards, Designated Uses & Criteria
- Penalties



Is the report missing something?

- DC wetland regulations
- Living shorelines
- TMDL crediting



SAV Policy Office Hours

Water Quality Standards

- Wednesday, June 21st, 1:00 - 2:00
- Thursday, June 29th, 11:00 - 12:00

Marine/Estuarine Resources

- Wednesday, June 28th, 1:00 - 2:00
- Thursday, July 6th, 11:00 - 12:00

Dredging and Filling

- Thursday, June 22nd, 11:00 - 12:00
- Wednesday, July 5th, 1:00 - 2:00

Any Topic from the Report

- Wednesday, July 12th, 1:00 - 2:00

Participants

Federal

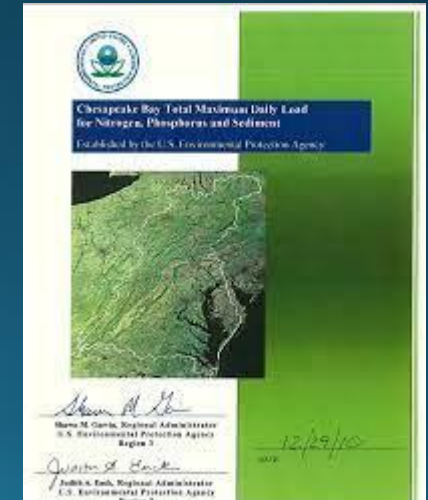
- **EPA**: Megan Fitzgerald, Meredith Hudson, Dede Lawal (CRC/HGIT Staffer), Christina Thomas
- **NOAA**: Sean Corson, Jonathan Watson (NMFS)
- **USACE**: Woody Francis, Chris Spaur
- **USFWS**: Chris Guy (HGIT Coordinator)

State

- **MD**: Becky Golden (MDNR/SAVWG Vice-Chair), Gina Hunt (MDNR/HGIT Chair), Brooke Landry (MDNR/SAVWG Chair), Bill Morgante (BPW), Heather Nelson (MDE)

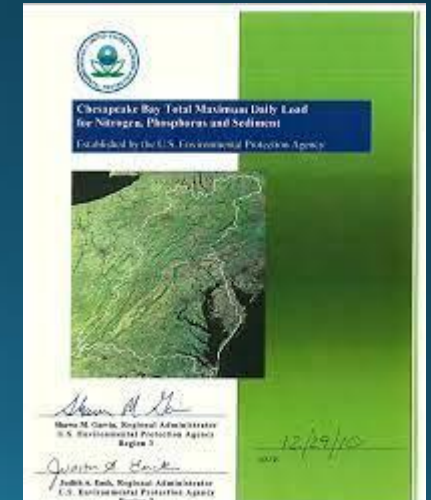
Water Quality Criteria, Designated Uses & Preservation Areas

- MD and VA have laws that specifically mention SAV with their designated uses and water quality criteria
- MD, VA and DE have water quality criteria that address water clarity



Water Quality Criteria/Designated Uses Recommendations

- No Recommendations in Report
- Recommendation: Jurisdictions should review shallow water/SAV designated use criteria in relation to recent SAV acreage data
 - Action: VA amended SAV criteria (increased acreage goals in 5 segments)



Marine & Estuarine Resources

- Shellfish Aquaculture
- Finfish/Shellfish Fishing Equipment & Gear
- Blue Crabs



Marine & Estuarine Resources

- Report Recommendations:
 - Focus on SAV as habitat of aquatic species
 - Associate with jobs, economic welfare, cultural significance & food
- Recommendation: Engage MD Watermen's Association and regulatory partners
- Recommendation: Continue studies on the impacts of aquaculture on SAV habitat; promote practices and gear types that minimize impacts



Dredging & Filling

- Federal Law
 - **Clean Water Act** – regulates the discharge of pollutants into the nation's waterways
 - Waters of the United States
 - Section 404 – dredging & filling
 - Section 401 - discharges
 - **Rivers & Harbors Act** – creates a permitting system
 - **Magnuson-Stevens Fishery Conservation & Management Act** – requires NMFS consultation

Dredging & Filling

Report Recommendations:

- CWA Section 404
 - Regulations like ocean disposal of dredge materials might prove protective of SAV if applied to non-ocean waters
 - Consider the environmental impact of dredged materials
- CWA Section 401
 - Review if all local states are appropriately using the 401 certification process



Dredging & Filling

- State Law
 - DE, MD & VA
 - Includes marinas, piers, boathouses and other structures
- State Recommendations
 - Change state (MD) policy so that maintenance dredging applicants are required to minimize, avoid and/or mitigate for SAV impacts



Dredging

Recommendations: Consider cumulative SAV impacts of dredging projects

- New and maintenance
- Spur channels

Data Need: Evaluation of recovery trajectories of SAV following maintenance dredging



Filling (Living Shorelines)

Recommendations

- Consider SAV as a unique aquatic habitat rather than “tidal wetlands”
- Need guidance on TMDL crediting for projects with SAV impacts



General Recommendations

- Encourage the Bay Program/SAV Workgroup to make **recommendations/guidance** for projects & practices with SAV impacts
- Identify **priority SAV areas**
- Consider the **use of preliminary SAV data** for project reviews
- Consider **sentinel/reference sites** to inform SAV mitigation site selection and relative success

Additional Science & Data Needs/Gaps

- Better tracking & public availability of SAV impacts/losses due to permitted activities
- Better tracking & public availability of SAV restoration and in-kind mitigation activities
- Valuation of SAV habitat benefits (ecosystem services)
- Additional mapping of early season SAV species (*Zannichellia palustris*) to inform avoidance/minimization measures