

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