



# Living Shorelines:

Implementing Senate Bill 964  
General Permit and Integrated  
Guidance Development

Coastal Partners Workshop

12/6/12

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VMRC - Habitat Management Division

SENATE JOINT RESOLUTION NO. 35

Requesting the Virginia Institute of Marine Science to study tidal shoreline management in the Commonwealth. Report.

Agreed to by the Senate, February 16, 2010  
Agreed to by the House of Delegates, March 9, 2010

WHEREAS, shorelines of all estuaries erode over time due to manmade and natural processes and one-third of all shorelines of the Chesapeake Bay are classified as eroding, with some areas losing as much as eight to 11 inches of shoreline per year; and

WHEREAS, traditional methods to protect shorelines, such as riprap revetments, bulkheads, and seawalls, have replaced shoreline vegetation, reduced water filtration and habitat functions, steepened shorelines, and reduced or removed shallow-water nurseries and refuge habitats for many estuarine species; and

WHEREAS, eighty-five percent of the Chesapeake Bay shoreline is privately owned, and it is critical to provide education to landowners on the benefits of living shorelines that employ natural habitat elements including emergent marsh grasses, submerged aquatic vegetation, riparian vegetation, coarse woody debris, and oyster reef and shell; and

WHEREAS, the development of tidal shoreline resources in the Commonwealth may be regulated or directed by numerous federal, state, and local agencies including the United States Army Corps of Engineers, Department of Environmental Quality, Virginia Marine Resources Commission, and local wetlands and zoning boards; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Virginia Institute of Marine Science be requested to study tidal shoreline management in the Commonwealth. In conducting its study, the Virginia Institute of Marine Science shall (i) review tidal shoreline management in the Commonwealth and similarly situated states; (ii) identify potential changes to the regulatory structure of tidal shoreline management to reduce the cost and time required to issue a permit; (iii) identify regulatory innovations that would increase adoption of living shorelines among shoreline landowners; and (iv) make specific recommendations to achieve the sustained protection of tidal shoreline resources.

Technical assistance shall be provided to the Virginia Institute of Marine Science by the Virginia Marine Resources Commission and the Division of Chesapeake Bay Local Assistance of the Department of Conservation and Recreation. All agencies of the Commonwealth shall provide assistance to the Virginia Institute of Marine Science for this study, upon request.

The Virginia Institute of Marine Science shall complete its meetings by November 30, 2010, and shall submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2011 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

ENROLLED

SENATE



REPORT OF THE VIRGINIA INSTITUTE OF MARINE SCIENCE

Study of Tidal Shoreline Management in Virginia: Recommendations for Living Shorelines and Tidal Resources Sustainability [SJR 35 (2010)]

TO THE GOVERNOR AND THE GENERAL ASSEMBLY OF VIRGINIA



SENATE DOCUMENT NO. 16

COMMONWEALTH OF VIRGINIA RICHMOND 2010



VIRGINIA ACTS OF ASSEMBLY — CHAPTER

1  
2 An Act to amend and reenact § 28.2-1100 of the Code of Virginia and to amend the Code of Virginia by  
3 adding sections numbered 15.2-2223.2 and 28.2-104.1, relating to Marine Resources Commission;  
4 Virginia Institute of Marine Science, coastal resource management.

5  
6 Approved [S 964]

7 Be it enacted by the General Assembly of Virginia:  
8 L. That § 28.2-1100 of the Code of Virginia is amended and reenacted and that the Code of  
9 Virginia is amended by adding sections numbered 15.2-2223.2 and 28.2-104.1 as follows:

10 § 15.2-2223.2. Comprehensive plan to include coastal resource management guidance.  
11 Beginning in 2013, any locality in Tidewater Virginia, as defined in § 10.1-2101, shall incorporate  
12 the guidance developed by the Virginia Institute of Marine Science pursuant to subdivision 9 of  
13 § 28.2-1100 into the next scheduled review of its comprehensive plan. The Department of Conservation  
14 and Recreation, Virginia Marine Resources Commission, and the Virginia Institute of Marine Science  
15 shall provide technical assistance to any such locality upon request.

16 § 28.2-104.1. Living shorelines; development of general permit; guidance.  
17 A. As used in this section, unless the context requires a different meaning:  
18 "Living shoreline" means a shoreline management practice that provides erosion control and water  
19 quality benefits, protects, restores or enhances natural shoreline habitat, and maintains coastal  
20 processes through the strategic placement of plants, stone, sand fill, and other structural and organic  
21 materials.  
22 B. The Commission, in cooperation with the Department of Conservation and Recreation and with  
23 technical assistance from the Virginia Institute of Marine Science, shall establish and implement a  
24 general permit regulation that authorizes and encourages the use of living shorelines as the preferred  
25 alternative for stabilizing tidal shorelines in the Commonwealth. In developing the general permit, the  
26 Commission shall consult with the U.S. Army Corps of Engineers to ensure the minimization of conflicts  
27 with federal law and regulation.

28 C. The Commission, in cooperation with the Department of Conservation and Recreation and with  
29 technical assistance from the Virginia Institute of Marine Science, shall develop integrated guidance for  
30 the management of tidal shoreline systems to provide a technical basis for the coordination of permit  
31 decisions required by any regulatory entity exercising authority over a shoreline management project.  
32 The guidance shall:  
33 1. Communicate to stakeholders and regulatory authorities that it is the policy of the Commonwealth  
34 to support living shorelines as the preferred alternative for stabilizing tidal shorelines;  
35 2. Identify preferred shoreline management approaches for the shoreline types found in the  
36 Commonwealth;  
37 3. Explain the risks and benefits of protection provided by various shoreline system elements  
38 associated with each management option; and  
39 4. Recommend procedures to achieve efficiency and effectiveness by the various regulatory entities  
40 exercising authority over a shoreline management project.

41 § 28.2-1100. Virginia Institute of Marine Science continued; duties.  
42 The Virginia Institute of Marine Science shall hereafter be referred to as the Institute. The Institute  
43 shall:  
44 1. Conduct studies and investigations of the seafood and commercial fishing and sport fishing  
45 industries;  
46 2. Consider ways to conserve, develop and replenish fisheries resources and advise the Marine  
47 Resources Commission and other agencies and private groups on these matters;  
48 3. Conduct studies of problems pertaining to the other segments of the maritime economy;

49 4. Conduct studies of marine pollution in cooperation with the State Water Control Board and the  
50 Department of Health and make the data and their recommendations available to the appropriate  
51 agencies;  
52 5. Conduct hydrographic and biological studies of the Chesapeake Bay, its tributaries, and all the  
53 tidal waters of the Commonwealth and the contiguous waters of the Atlantic Ocean;  
54 6. Engage in research in the marine sciences;  
55 7. Conduct such special studies and investigations concerning these subjects as requested by the  
56 Governor; and

ENROLLED

SENATE

Senate Joint Resolution 35 (2010)

Senate Document #16 (2010)

Senate Bill 964 (2011)



# SENATE BILL NO. 964

*A BILL to amend and reenact § 28.2-1100 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 15.2-2223.2 and 28.2-104.1, relating to Marine Resources Commission; Virginia Institute of Marine Science; coastal resource management.*

# *Senate Bill 964 does five important things:*

1. Defines *Living Shorelines*
2. Requires the Commission in cooperation with DCR and technical assistance from VIMS to develop a general permit
3. Requires the Commission in cooperation with DCR and technical assistance from VIMS to develop integrated guidance for the management of tidal shoreline systems
4. Requires VIMS to develop comprehensive coastal resource management guidance by 12/30/2012.
5. Directs Tidewater localities to incorporate the comprehensive guidance developed by VIMS into their comprehensive plans starting in 2013 with VIMS, VMRC and DCR providing technical assistance

*"Living shoreline" means a shoreline management practice that provides erosion control and water quality benefits; protects, restores or enhances natural shoreline habitat; and maintains coastal processes through the strategic placement of plants, stone, sand fill, and other structural and organic materials.*

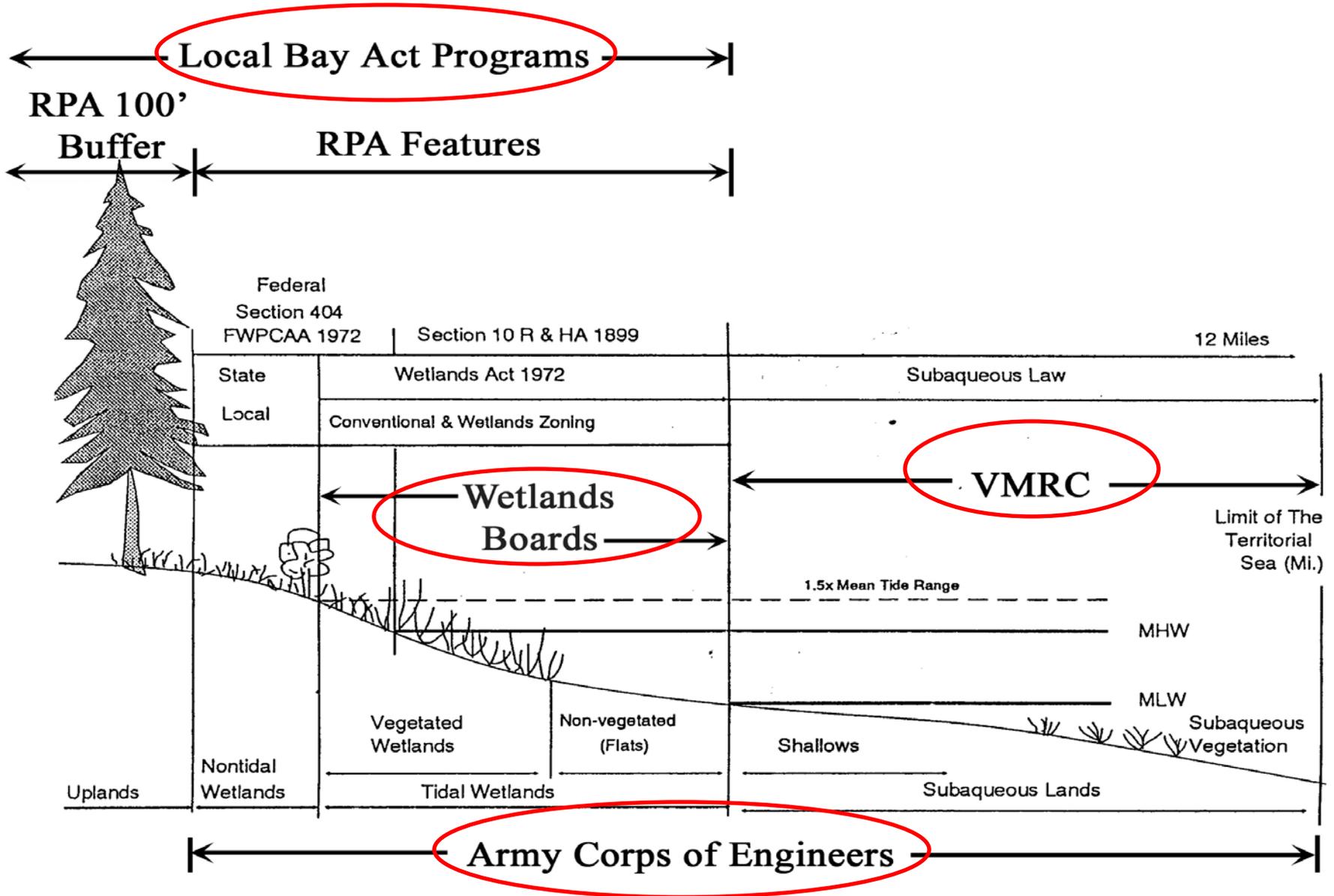




# Legislation requires implementation of a General Permit

*The Commission, in cooperation with the Department of Conservation and Recreation and with technical assistance from the Virginia Institute of Marine Science, shall establish and implement a general permit regulation that authorizes and encourages the use of living shorelines as the preferred alternative for stabilizing tidal shorelines in the Commonwealth. In developing the general permit, the Commission shall consult with the U.S. Army Corps of Engineers to ensure the minimization of conflicts with federal law and regulation.*

# JURISDICTIONAL BOUNDARIES



# General Permit Development

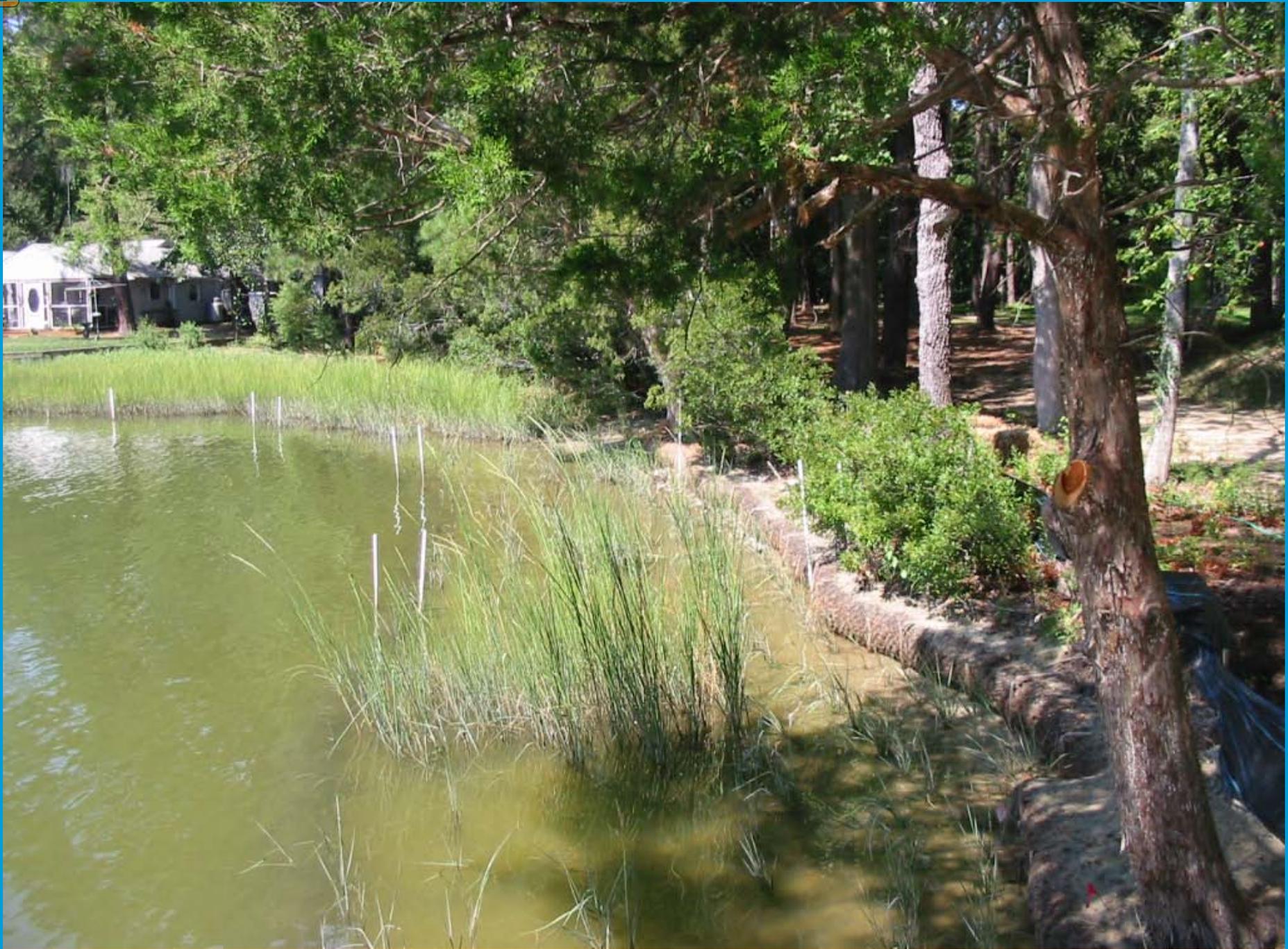
1. Presentations to and comments from Wetlands Boards
2. Coordination with Corps of Engineers
3. Assist VIMS in development of Technical Guidance
4. Technical Committee meetings
5. Formed Advisory Committee





# General Permit Considerations

- What should be covered ?
  - Vegetation, Fiber Logs, Sills, Fill, Bank Grading, Oyster Reefs, Breakwaters, anything consistent with a Shoreline Plan?
- Review Procedures ?
  - Board Hearing, Chairman, Board Staff, VMRC, VIMS
- Notification requirements ?
  - Public Notice, Agencies, APOs
- Fee reductions or waivers?
  - LWB fees, VMRC fees, Royalties?
- Application Process ?
  - Regular JPA, New Form, Non-reporting?
- Tiered general permitting process?







Technical Committee develops draft GP with input from LWB questionnaires

Advisory Committee review and comment

Legal Counsel review

# General Permit Adoption Process

Solicit Public Comment: Local Government (LWB and CBPA), agents, contractors, public

Publish in Virginia Register following adoption by Commission

Present to VMRC at public hearing for adoption

Habitat Management Advisory Committee Review

