

# RESILIENCE POLICY UPDATE (WHAT JUST HAPPENED?)



# POLICY LANDSCAPE - 2021

## 2020 and 2021 General Assembly Sessions

- Community Flood Preparedness Fund/RGGI
- Climate Change Impacts in Permitting for Tidal Wetlands, CBPA, Septic
- Chief Resilience Officer Created

## Northam Administration Actions

- Virginia Coastal Resilience Master Plan
- Technical Advisory Committee
- EO 24 and 45 – state actions on sea level rise
- Initiated updates to rainfall estimates (IDF and Atlas 14)

# POLICY LANDSCAPE - LATE 2021

Virginia Academy of Science, Engineering, and Medicine –  
“Impact of Climate Change on Virginia’s Coastal Areas  
July 2021

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Coastal Resilience Master Plan – Technical Advisory  
Committee (TAC) statement – October 2021

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Chesapeake Bay Commission -“Gaps Analysis &  
Recommendations for Climate Resilient Policies in  
Maryland, Pennsylvania, and Virginia” - November 2021



# POLICY LANDSCAPE - LATE 2021

- Governance/oversight/coordination of state resilience policy  
Establish a state structure for collaboration and coordination
- Establish a process to provide scientific advice, data  
Create a technical advisory body of subject matter experts
- Continue the process of developing and updating a statewide master plan for resilience
- Dedicated funding to implement the Master Plan
- Identify and involve underserved/disadvantaged communities/low resource communities

# POLICY INITIATIVES - YOUNGKIN

- December 7, 2021 – Governor-elect announces his intention to take Virginia out of RGGI
- January 15, 2022 - EO #9 issued asking DEQ to:
  - Develop a cost-benefit analysis of RGGI (delivered 3/11/2022)
  - Develop an emergency regulation for the Virginia Air Pollution Control Board to repeal RGGI regulations
  - Develop a permanent regulation to do the same
  - Notify RGGI of Virginia's intent to withdraw from RGGI

# RESILIENCE STUDY FOLLOW-ON AND TAC

Lewis (SB 504) (SB 506)– codifies Master Plan, asks for biennial report on “flood resilience in the commonwealth,” and creates the Virginia Coastal Resilience Technical Advisory Committee. (Rolled into SB 551/HB 516)

Bulova (HB 517) – Changes role of Chief Resilience Officer

Marsden (SB 551)/Bulova (HB516) – Omnibus bills. SB 551 Enacted most of the CRO/TAC/Study Mandates.

# STUDIES? WE GOT STUDIES!

New law calls for a series of resilience studies:

12/31/2022 – Department of Conservation and Recreation (DCR) is to develop an outreach plan for the Virginia Coastal and the Virginia Flood Protection Master Plans

...Paid for by funds from the Community Flood Preparedness Fund. Total amount of funds needed is unknown, raising the issue of oversight and reporting on the Flood Fund.

12/31/2024 – VA Coastal master Plan update (by DCR)

12/31/2026 – Virginia Flood Protection Master Plan (by DCR)

# COORDINATION OF STATE POLICY/ GOVERNANCE OF STATE FLOOD FUND

Youngkin Position - “single state entity to develop, manage, and integrate coastal restoration and resilience”

Kiggins (S569) / Bloxom (HB 847) – Virginia Resiliency Authority - S569 killed in Senate Finance; HB 847 turned into a study and then continued to 2023.

Hayes (HB602) - Creates Department of Flood Control and a Commonwealth Flood Board. Dies.

Lewis (SB508) – Puts Flood Fund under the Soil and Water Conservation Board at DCR. Passes and then Vetoed.

““My administration continues to develop and advance a comprehensive and coordinated resiliency effort to complete the Commonwealth’s long-delayed environmental projects. This legislation will have the unintended consequence of fragmenting our coastal resiliency efforts.”





# RESILIENT VIRGINIA REVOLVING LOAN FUND

Bulova (HB1309) Lewis (SB756)

- Provides Loans or Grants for local governments for home upgrades, buyouts, hazard mitigation, infrastructure improvements, etc.
- DCR Administers the Revolving Fund for the Virginia Resources Authority
- Preference for loans and grants that:
  - Use private industry in the operations and maintenance of projects where material savings in cost can be shown over public O&M
  - Serve two or more local governments to encourage regional cooperation.
- Local governments can create funding program and place a lien on the property to secure loans

(\$25 million transferred from CFPF to this program through budget amendment)



# ONE FUND TOO MANY?

In 2016, legislation created a [Virginia Shoreline Resiliency Fund](#), " *a low-interest loan program to help residents and businesses that are subject to recurrent flooding as confirmed by a locality-certified floodplain manager.*" No money was appropriated.

In 2020, legislation amends the Fund, calling it the [Community Flood Preparedness Fund](#) to provide grants and loans for resilience projects. The loans are to local governments who then make loans to people for, " *implementing flood prevention and protection projects and studies in areas that are subject to recurrent flooding as confirmed by a locality-certified floodplain manager.*" The loan program has not been implemented.

In 2022, legislation creates ANOTHER program under the [Resilient Virginia Revolving Loan Fund](#), to provide loans (and grants) to local governments for flood control projects, and to pass through to private residents.

# VIRGINIA COMMUNITY FLOOD PREPAREDNESS FUND

Community Flood Preparedness Fund in one year+ has become the largest program within DCR – almost as large as the entire agency budget.

**Community Flood Preparedness Fund - \$170,223,245 (to date)**

|                              |                      |
|------------------------------|----------------------|
| <b>DCR Total (FY'22)</b>     | <b>\$182,902,764</b> |
| Land and Resource Management | \$91,631,756         |
| Leisure and Recreation       | \$80,587,983         |
| Administration and Support   | \$10,683,025         |

# VIRGINIA COMMUNITY FLOOD PREPAREDNESS FUND

|                       |               |
|-----------------------|---------------|
| <b>Total for CFPF</b> | \$170,228,245 |
| Round One             | \$7,800,000   |
| Round Two             | \$24,500,000  |
| Round Three           | \$40,000,000  |
| Budget Diversion*     | \$36,400,000  |
| Remainder             | \$61,428,245  |

\*Transfer \$11.4M to Dept. of Housing and Community Development from unobligated balances RGGI to provide relief to residents of Virginia that lost or sustained property damage as a result of a flood disaster, mudslide, or landslide occurring on or after August 1, 2021, but before September 31, 2021, and subject to Major Disaster Declaration.

\* \$25M of RGGI funds allocated to Community Flood Preparedness Fund transferred to new Resilient Virginia Revolving Loan Fund.



# FLOOD FUND OVERSIGHT AND TRANSPARENCY

Sec 10.1-1330 4(D) an annual report for RGGI from DEQ, DCHD and DCR that is “a description of each way in which money was expended during the fiscal year.”

Complaints about lack of transparency with decision-making in the Flood Fund – April 26, 2022, Director Wells “transparency letter” to Sen. Lewis and Rep. Bulova. (Attempt to counter the Soil and Water Board proposal.)

No strategic/guiding document or plan

No metrics for program success

No guaranteed transparency

No oversight by independent/“arms length” entity

No coordination with other state government functions



# BUDGET ISSUES

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CFPF funding is “nonreverting” and unappropriated, making it attractive for diversion for other, related uses.

2022 Budget Amendments signal that is it open season on CFPF funds.

# NEXT UP - RGGI

Anytime after July 1, 2022, (with the appointment of a majority of the members of the Air Pollution Control Board) the Administration can introduce the emergency regulation and, upon passage, it will negate the RGGI membership regulations.

The emergency regulation remains in force for 18 months while the permanent regulation is considered under the Administrative Process Act.

A lawsuit is expected, seeking to block the Air Board action.



# OTHER ITEMS

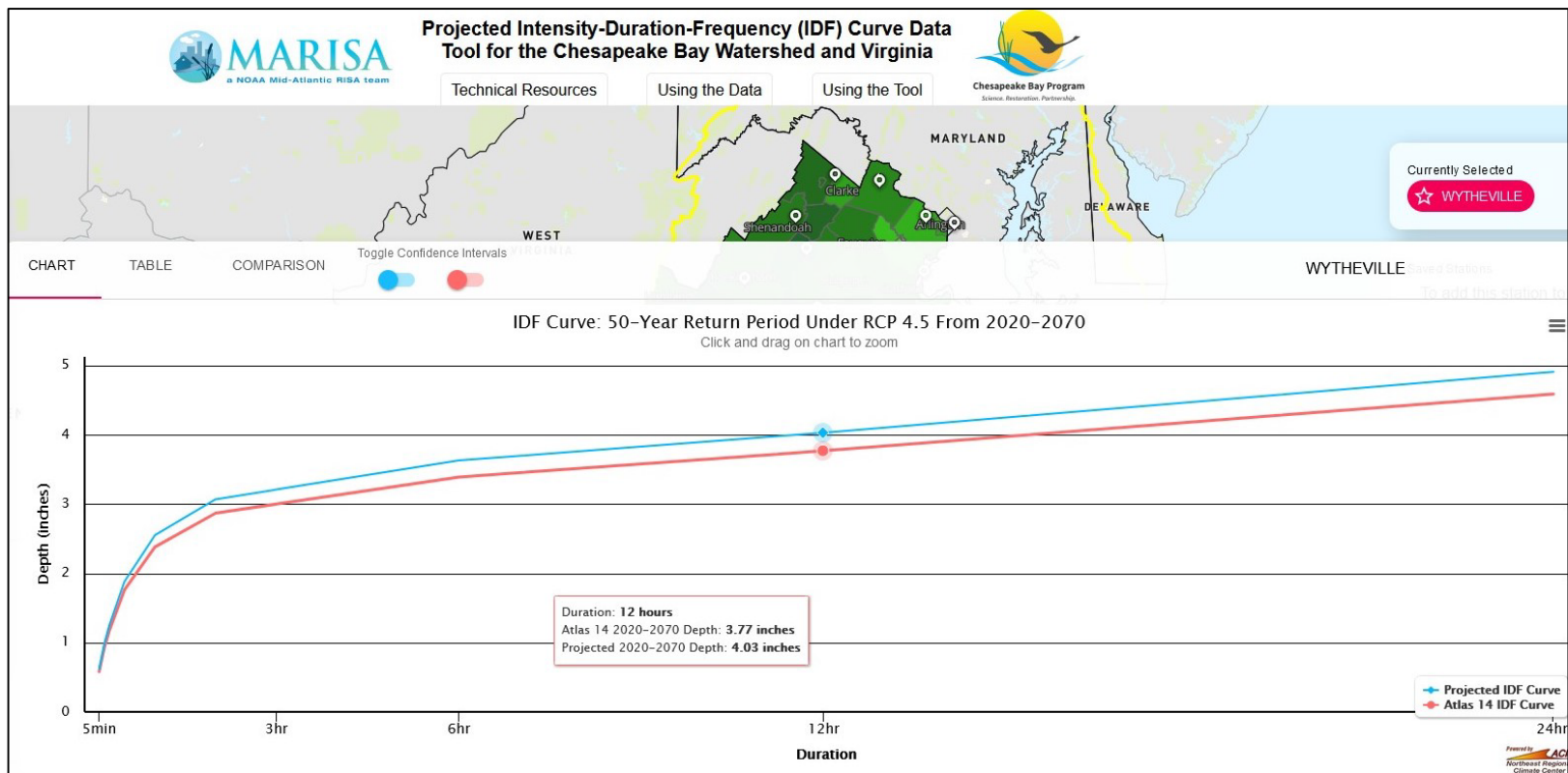




# RAINFALL-STORMWATER STANDARDS

New rainfall Intensity, Duration, Frequency (IDF) curves are available for the Chesapeake Bay Watershed and all of Virginia ~+18% over Atlas 14

<https://midatlantic-idf.rcc-acis.org/>



# RAINFALL-STORMWATER STANDARDS

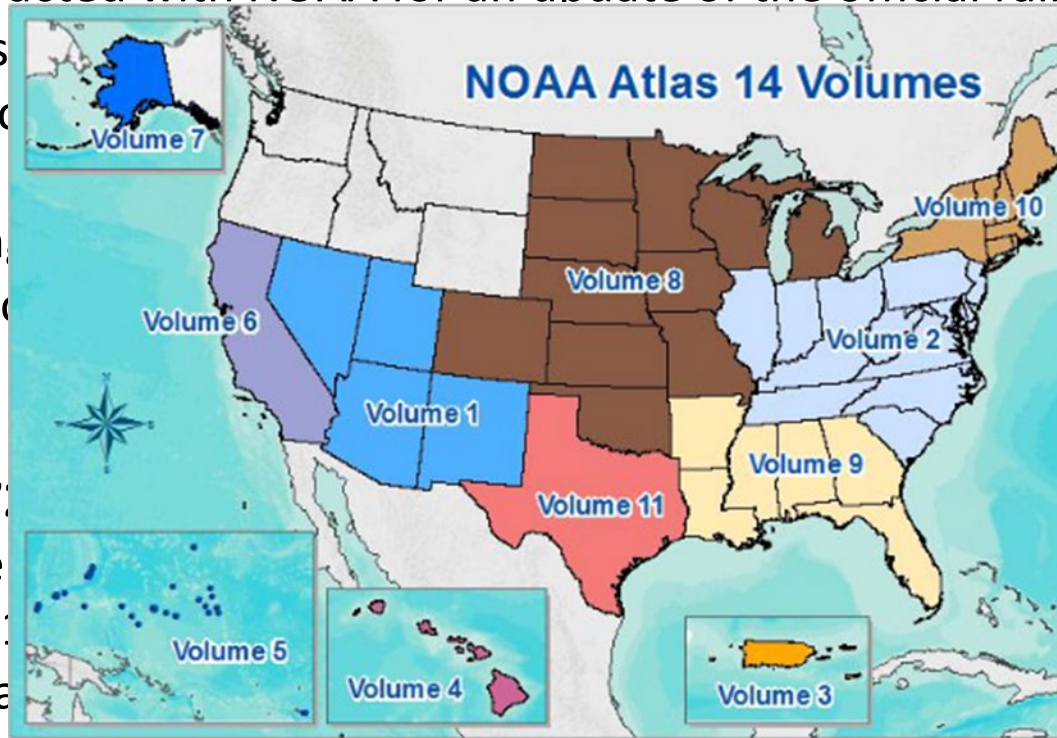
Virginia, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina have all contracted with NOAA for an update of the official rainfall document, "Atlas 14," last updated in 1978. The results as the Marisa IDF was updated.

Atlas 14 changes the rainfall frequency and design wind speed. The new Code:

**9VAC25-870-7**

A. Unless otherwise specified, the one-year, two-year, and five-year return frequency data shall be based on the

NOAA Atlas 14. Partial duration time series shall be used for the precipitation data.



state regulatory into Virginia

the one-year, fall precipitation Atmospheric

# UNRESOLVED ISSUES

- Funding – Without RGGI and we're back to 2020 depending on appropriated funds. (Many localities and individuals prefer grants and are averse to loans.)
- Coordination of Resilience programs and policy – unresolved and divergent views.
- Oversight of Flood Fund/Revolving Loan Fund – unresolved and divergent views.



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# WETLANDS LOSS

December 2020 – VIMS projects a wetland loss of up to 50% by 2100.\*

November 2021 – Coastal Master Plan projects 89% loss of tidal wetlands by 2080, 51% of nontidal marshes, and 38% loss of beach and dune habitat.\*\*

June 2022 – Climate Central study projects a wetland loss of 42% by 2100.\*

\*Without ability for marsh migration, the total goes much higher. Current rates of SLR and availability of sediment preclude vertical accretion. Availability of sediment is limited by Bay erosion and sediment goals.

\*\* Losses at these levels make Chesapeake Bay cleanup goals unattainable.