Informational Memo Regarding

SB528 - COAST SMART SITING AND DESIGN CRITERIA – PRIVATE CONSTRUCTION OR RECONSTRUCTION PROJECTS

What is the Coast Smart Council?

The Council was established by law in 2014 and is chaired by the Department of Natural Resources and composed of state and local government and private sector membership and functions as a forum for expert collaboration and planning across agencies to increase the state's long-term resilience to storm-related flooding and sea-level rise.

What authority does the Coast Smart Council have?

The Coast Smart Council was established in the Department of Natural Resources by HB615 in 2014 for the purpose of establishing specific Coast Smart Sitting and Design Criteria to address impacts associated with sea level rise and coastal flooding on future capital projects. *The Coast Smart Council is an advisory council.*

What are Coast Smart Siting and Design Guidelines?

COAST SMART CONSTRUCTION PROGRAM	
Siting Guidelines	***Design Guidelines***
New state structures, the reconstruction of substantially damaged state structures and other new major infrastructure projects shall be avoided within areas likely to be inundated by sea level rise within the next 50 years.	New state structures, the reconstruction of substantially damaged state structures, and new major infrastrcture projects shall be designed to avoid or minimize future impacts over the anticipated design life of a project.
New state "critical or essential facilities" shall not be located within SFHA designated under the National Flood Insurance Program (NFIP) and should be protected from damage and loss of access as a result of a 500-year flood.	New state structures and the reconstruction or rehabilitation of substantially damaged state structures located in SFHA shall be construc-tured with a minimum of two feet of freeboard above the 100-year base flood elevation defined by the NFIP.
Ecological features that may serve to buffer a project from the impacts of future sea level rise, coastal flooding or storm surge or that support general climate adaptation practices shall be identified, protected and maintained	State structures serving transportation pur-poses that are not water dependent on inte-gral infrastructure shall be constructed with a minimum of two feet of freeboard above the 100-year base flood elevation, as defined by NFIP.
Exceptions to these guidelines may be considered, provided that it can be demon-strated that projects have been designed to increase resiliency to future impacts.	Flooding potential shall be considered when choosing building materials for all structural projects, including minor improvements or maintenance and repair.
	Structures and infrastructure proposed within the Limit of Moderate Wave Action boundary as mapped under the NFIP shall be designed in compliance with construction standards ap-plicable to areas subject to inundation by the one percent annual flood event and storm-in-duced waves, called V Zones.
	Exceptions to these guidelines may be warranted based on consideration of cer-tain factors established by the council.

Are there exemptions to the siting and design criteria?

Exemptions may be considered and warranted if it can be demonstrated that projects have been designed to increase resiliency to future impacts.

What does SB528 do?

SB528 applies the Coast Smart Siting and Design criteria to all private construction and reconstruction projects that:

- Cost more than $100,000
- greater than 1 acre of disturbance, and
- located in an area designated by FEMA as SFHA,
- located in an area within 3 vertical above the 100-year floodplain, or
- located in an area subject to nuisance flooding,

SB528 increases the state's long-term resilience to storm-related flooding and sea level rise and ensures that fiscally wise investments are made when building or rebuilding in vulnerable coastal areas.

Why choose projects that cost greater than $100,000?

SB528 is intended to capture new development and large reconstruction projects. It is not the bill's intention to capture small remodeling projects.

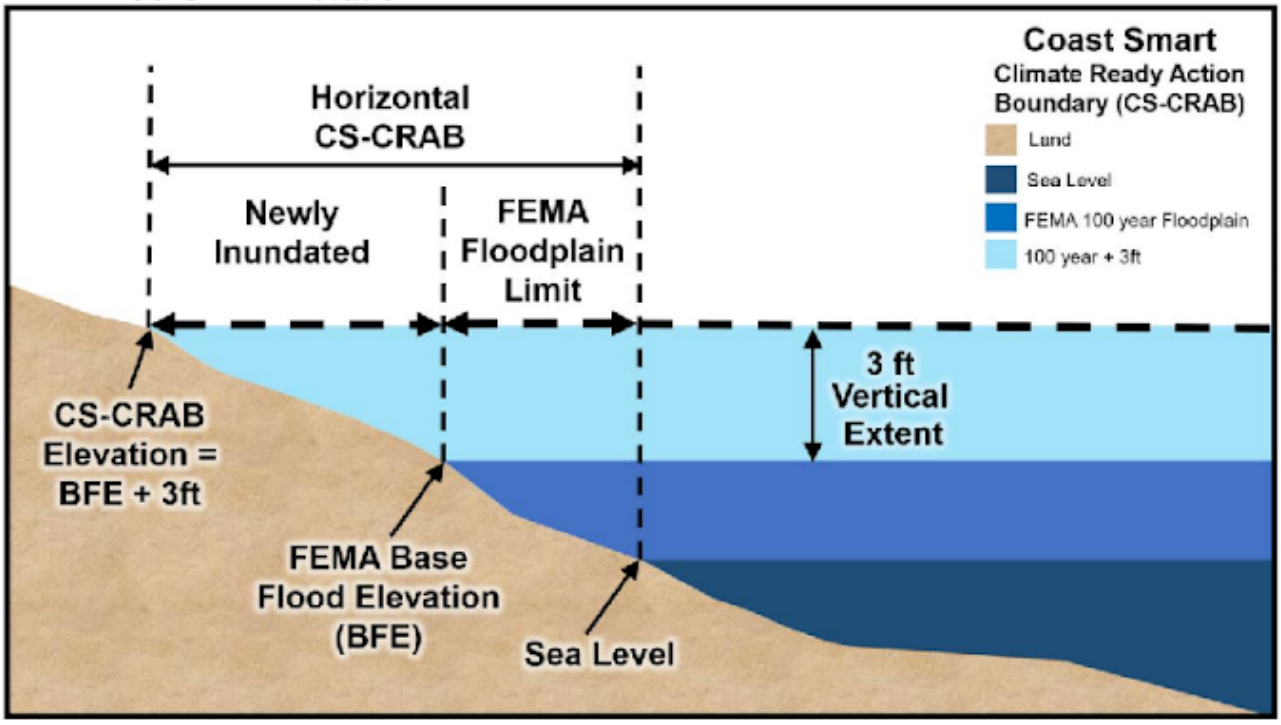
Why choose a disturbance of 1-acre of land or more?

This is the same criteria that requires a construction project to obtain an Erosion and Sediment Control permit. By using this triggering criteria, local implementors can review a project's compliance with the Coast Smart criteria alongside their review for an ESC permit, eliminating the need for local governments to develop a new process.

Why pick projects within 3 vertical feet above the 100-year floodplain?

100-year floodplain is known as the Base Flood Elevation and identifies areas of possible inundation due to both riverine and coastal flooding. In their 2020 report, the Council found that adding a 3-foot vertical extent above the 100-year FEMA floodplain elevations *would address the footprint of a Category 2 storm surge* and *would include areas inundated by an at least 2-foot rise in sea level*. This also allows the Council's approach to be tied to existing floodplain regulations. Thus, this area is known by the Council as the Coast Smart Climate Ready Action Boundary.

FIGURE 1: Coast Smart Climate Ready Action Boundary (CS-CRAB) & CS-CRAB Elevation



How is SB528 Implemented?

SB528 will be implemented and enforced in a similar way that the state's Erosion Sediment Control Permits are, in that delegated authority will be granted to local county or municipalities. Implementation will simply include reviewing a proposed project's compliance with a checklist of design and siting criteria. The Council has already designed a *Project Screening Form* which can be found in Appendix A of the 2020 Coast Smart Construction Program

When does SB528 go into effect?

Beginning July 1, 2022 applicable projects shall be sited and designed according to Coast Smart Criteria.

The Criteria are written for State agencies only, aren't they?

The original charge of the Council in 2014 was to adopt specific siting and design criteria to address impacts associated with sea level rise and coastal flooding, and it wasn't until 2018 that the criteria were applied to state projects, showing that the developed criteria are directly applicable to all construction projects in vulnerable areas.

Does SB528 give citizens standing?

SB528 does nothing to change who has standing on construction projects, nor does it change the public participation process for permits associated with construction projects. The review process for HB1080 will be incorporated into the local planning and zoning process.

Why use the Coast Smart criteria and not County Comprehensive Plans or International Building Codes?

The Coast Smart criteria is designed specifically to address impacts associated with sea level rise and coastal flooding on future projects in Maryland. The criteria include practices in which preliminary planning, siting,

design, construction, operations, maintenance, and repair of a structure avoids or minimizes future impacts associated with coastal flooding and seal level rise.

- County Comprehensive Plans are criteria that can certainly incorporate the Coast Smart Council, but there is no current requirement for counties to adopt such requirements and the process of updating County Comprehensive Plans can be extensive and time consuming for counties.
- International Building Codes lack the local knowledge and expertise needed to address an issue like coastal flooding and sea level rise.
- The Coast Smart Council has established citing and design criteria for state-funded projects in Maryland and is therefore familiar with our communities and the processes associated with the Coast Smart Citing and Design Criteria.

Does SB528 apply to every private construction project?

SB528 applies to those projects proposed in areas known to be sensitive and vulnerable to sea level rise and coast flooding. The triggering criteria listed in SB528 includes any project:

- Cost more than $100,000
- greater than 1 acre of disturbance, and
- located in an area designated by FEMA as SFHA,
- located in an area within 3 vertical above the 100-year floodplain, or
- located in an area subject to nuisance flooding,

How will this impact citizen's insurance premiums?

SB528 will assist communities in qualifying for discounts on insurance premiums through FEMA's Community Rating System (CRS). Elements of the Coast Smart design and siting criteria qualifies as a Higher Regulation Standards, therefore increasing a community's CRS score.

Who is on the Coast Smart Council?

Chair: Jeannie Haddaway-Riccio, Secretary, Maryland Department of Natural Resources
Members (as of 8/27/19):

Nancy Kopp, Treasurer State of Maryland	**Dr. Lewis E. "Ed" Link,** Professor, Department of Civil and Environmental Engineering University of Maryland, College Park
Michael Bayer, AICP, Manager, Infrastructure Planning, Maryland Department of Planning	**Sandy Hertz,** Assistant Director Office of Environment, Maryland Department of Transportation
Sepehr Baharlou, P.E., Principal BayLand Consultants & Designers, Inc.	**Tim La Valle,** Director Office of General Services Maryland Department of Commerce
Dr. Peter Goodwin, President University of Maryland, Center for Environmental Science	**Spyros Papadimas,** P.E., Senior Capital Projects Manager Facilities Planning, Design & Construction, Maryland Department of General Services
Susan Gore, Budget Analyst Office of Capital Budgeting, Maryland Department of Budget and Management	**Jaleesa Tate,** Disaster Risk Reduction, State Hazard Mitigation Officer, Maryland Emergency Management Agency
Gary Setzer, Advisor for Office of the Secretary Maryland Department of the Environment	**Kate Charbonneau,** Executive Director Maryland Critical Area Commission

Chris Elcock, Associate Principal GWWO Inc., Architects	**Mary Phillips,** Zoning Specialist Planning and Zoning, Somerset County
William Neville, Director of Planning and Community Development Town of Ocean City	