

Chesapeake Bay TMDL: Phase II WIP comments

Presented to
Hampton Roads Planning District Commission
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Update from January 2012 brief

- State submitted the final Phase II WIP to EPA on March 30, 2012.
Public comments due May 31st.
- Legislation proposed in General Assembly.
 - ❑ Expand Nutrient Credit Trading**General Assembly passed legislation.**
- MS4 Permit renewal process may begin soon.
Draft permit template for Arlington being reviewed by EPA.
- HRPDC will develop regional cost estimate for Phase II WIP.
Most local reports did not include cost estimates. PDC is evaluating methods of estimating regional costs based on broad assumptions.



Virginia's Phase II WIP – comment deadlines

- Public comment period ends May 31, 2012.
Commission does not meet in May.

- Draft comment letter identifies the most significant regional concerns.

- Technical Comments from Regional Steering Committee
 - ❑ PDC staff will collect additional comments from the Regional Steering Committee until May 4th.
 - ❑ Comments will be consolidated and final draft will be sent out on May 18th.
 - ❑ Final revisions are due to PDC staff by May 24th.



Positive comments

- **Individual Waste Load Allocations (WLAs):**
 - ❑ Virginia requested that individual WLA's for MS4s be removed from the TMDL.
 - ❑ Instead, aggregate waste load allocations for all MS4s within a segmentshed would be included in the TMDL.
- **Federal facilities:** Commitments from federal facilities are represented in the WIP and Virginia plans to create a Memorandum of Agreement (MOA) for these commitments.
- **Expansion of Nutrient Credit Trading:** General Assembly passed legislation to expand the program.
 - ❑ MS4s can trade with all sectors.
 - ❑ Localities have authority to establish local exchange programs.
 - ❑ Each locality will have early notice of credits generated on private property within its jurisdiction.



Negative comments

- **Groundtruthed BMP data:** Virginia did not utilize local groundtruthed BMP data that was requested through the WIP process.
- **Local Land use data:**
 - ❑ Virginia did not utilize local land use data.
 - ❑ A schedule and process for addressing the impact of corrections on target loads was not included in the WIP.



Negative comments

- **BMP Baseline: 2009 Progress** includes State estimates of all BMPs installed prior to 2009.
 - ❑ Many localities discovered that DCR's estimate of pre-2006 acres treated overestimated the actual acres treated.
- Baseline should be **2010 No Action** (no BMPs).
 - ❑ Local governments should take credit for all locally verified BMPs installed since January 1, 2006.
 - ❑ Errors in the pre-2006 BMP data should be addressed during recalibration of the model between now and 2017.



Negative comments

➤ State-owned lands:

- ❑ Local governments assumed urban lands owned/operated by State entities would reach Level 2 (L2) reductions.
(L2 = treatment of approximately 33% of state-owned urban land).
- ❑ State did not identify strategies and resources to implement load reductions state-owned lands.

➤ Fertilizer Restrictions: Still no credit for fertilizer restrictions. State needs to work with EPA to resolve this issue ahead of permit reissuance.



Additional Concerns and Recommendations

- **Model recalibration:** State needs to work closely with Localities and EPA ahead of the 2017 model recalibration in order to avoid the problems with model version 5.
- **Future data collection:** Need more structured system to collect data from local governments for progress runs and milestones.



Additional Concerns and Recommendations

➤ Better Communication:

- ❑ All State implementation teams should distribute the same quantity and quality of information.
- ❑ State should confirm that it received local submittals and say whether or not the information meets the needs of the State.
- ❑ State should provide specific schedules and defined steps to fix the model input, credit BMPs, recalculate loads, report progress, etc.



MS4 Permit renewals

- **MS4 permits:** Virginia needs to make sure that permits are consistent with the Phase II WIP.
- Phase I MS4s will have 5 years to implement 5% of the reductions needed to meet Level 2 goals.
 - ❑ Permit language is unclear on which BMPs count towards the 5% reduction.
 - ❑ L2 goals are not well defined for MS4's, especially if Phase II MS4s are located within a Phase I MS4 boundary.
 - ❑ If L2 goals are based on acres of urban area, will permits reference local land use or land use in the Bay model?
- **We know local targets will change** – need to correct land use & existing BMPs, refine BMP efficiencies, add fertilizer restrictions, etc.



Recommended Actions

1. Approve the draft letter. Additional comments may be included based on input from the Regional Steering Committee.
2. Authorize Chairman to sign the final letter and submit it to the Secretary of Natural Resources by the May 31, 2012 deadline.

