

MEETING SUMMARY
Stakeholder Meeting #1 – Chesapeake Bay Total Maximum Daily Load (TMDL)
Phase III Watershed Implementation Plan (WIP)
August 2, 2018
Chesapeake, VA

Attendance List attached

1. Chesapeake Bay TMDL 101

Dr. KC Filippino began the meeting with an overview of the history of the Chesapeake Bay TMDL (“TMDL”), a pollution diet for nitrogen (N), phosphorous (P), and sediment, which is administered by the USEPA and agreed upon by the Bay states and Washington, D.C. She highlighted the decades of work that led to the development of the TDML in 2010. The focus then turned to the efforts made by the State and the Hampton Roads region to work towards the goals.

The Virginia Phase I Watershed Implementation Plan (“WIP”) described the methods in which specific sectors, agriculture, wastewater, and stormwater, would reduce pollutants on a state-wide scale. As part of the Phase I WIP, the HRPDC developed cost estimates to meet the urban stormwater reductions and commented on the State’s proposed methods.

The Virginia Phase II WIP was developed in 2012 and included pollution reduction targets at a finer scale. The HRPDC developed the Regional Planning Framework, which included recommendations for new BMPs, policies, and research needs.

The state is using the Phase III WIP to target reductions known as local area planning goals (“LAPGs”) from agriculture, unregulated developed, natural, and septic sectors. DEQ contracted with the PDCs in the Bay watershed to develop potential strategies to address LAPGs.

The USEPA completed the mid-point assessment for the Bay TMDL in 2017. At least 60% of the pollutant reductions were to be achieved by the deadline. In Hampton Roads (and throughout Virginia), the wastewater sector met the goal, but agriculture and developed lands did not.

The Bay Program partnership agreed to focus exclusively on nutrients for the Phase III WIP. After reviewing the LAPGs provided by DEQ, Dr. Filippino presented a breakdown of the region’s goals. The region was assigned a reduction of approximately 42,000 pounds of N from unregulated lands, which includes natural, developed, and septic lands. For comparison, this reduction represents 2.5% of those required in the regulated areas, which is 1,655,980 pounds. The region was assigned a reduction of 36 pounds of P from unregulated lands, which is less than 1% of the reductions required from the regulated community, 155,360 pounds.

Dr. Filippino explained how the Chesapeake Bay Program defines unregulated developed lands. The definition is based on land use/ land cover and includes impervious roads, impervious non-roads, tree canopy over impervious, tree canopy over turf grass, and turf grass. The loads also include those from state lands and VPDES permittees; however, federal lands, MS4 service areas and new construction are omitted. Based on the data provided to HRPDC to date, nearly half of the land in the region is categorized as natural, 28% regulated developed, 12% unregulated developed, 10% agriculture, roughly 2% VPDES permittees, and 1% regulated construction. Dr. Filippino will request additional data from the localities, including VPDES-permitted areas, state lands layers, and septic tank locations. There are discrepancies between the data included in CAST and what has been provided by localities. Part of the Phase III WIP effort will be to provide an accurate account of the data used by the Bay Program.

Ms. Ashley Hall, Stantec, indicated that VDOT has mapped their MS4 service area and can provide that data to the HRPDC.

The Phase II WIP included predictions on the types of BMPs that would be used to achieve the total reductions needed to meet the TMDL in 2025. For the unregulated developed sector, it was expected that nutrient management plans would have been the most popular BMP, followed by ponds and wetlands, and then filtering practices. These predictions did not follow the current trends in BMP implementation for the region. Rather, the most popular BMPs implemented in terms of acreage by 2017 according to the Phase 6 model were wet ponds and wetlands, followed by erosion and sediment control, and dry detention ponds. During the development of the Phase II WIP, the MS4 service areas had not been delineated, so the number of unregulated developed acres was underestimated, while the number of regulated acres was overestimated.

The number of acres to be covered with Urban Nutrient Management Plans (UNMPs) was overestimated in the Phase II WIP by a significant margin. Golf courses are required to develop plans; however, local governments are not developing many plans because they are applying little fertilizer on public lands. It is unclear how these acres are tracked at the state level.

DEQ provided each PDC an input deck of BMPs that could be implemented on unregulated developed lands to meet the LAPGs. Dr. Filippino proposed that the Stakeholders use the opportunity to correct existing BMP implementation data, to generate a list of the types of projects that would be considered if funding was made available, and to recommend policy changes that could incentivize voluntary BMP implementation.

The onsite wastewater data in the Phase 6 Bay model is also inaccurate for the region. Even though local data were provided, the modelers used estimates. Dr. Filippino will be requesting current data so that she can incorporate that information into the Phase III WIP. VDH tracks some septic information; however, the localities would have more complete data sets. One challenge will be to identify the type of septic systems in use because most localities do not track it. Another challenge is to ensure that septic

systems are regularly pumped out and to determine who enforces pump-outs for each locality. HRPDC could advocate for a pump-out assistance program during the Phase III WIP process. Even if localities extend sanitary sewer, only cities can require a private property owner to connect, the same authority is not granted to counties. Furthermore, if the locality is within the Bay watershed but is not in the CBPA, they would not have the requirement to pump-out septic systems every five years.

Dr. Filippino reviewed the next steps in the process with the Stakeholders. The second and third meetings are scheduled for September 6 and October 10, 2018. She asked the group to provide suggestions on the types of strategies that should be included in the regional Phase III WIP report. Dr. Filippino began the discussion with the following ideas:

- Expand VCAP beyond SWCD's, provide more funding for VCAP
- Provide funding opportunities or technical assistance for reporting and verifying BMPs in unregulated developed
- Extend on-site wastewater 5-year pump-out requirement watershed wide
- Advocate for pump-out assistance programs
- Get an accurate account of BMPs in place for regulated and unregulated developed and septic
- Resolve reporting issues
- Separate state lands from locality lands and provide a state LAPG
- Evaluate BMP co-benefits for Bay and local TMDLs and flooding concerns
- Develop loading rates for shoreline erosion in the coastal plain

Ms. Barbara Brumbaugh asked if the schedule for the Phase III WIP would be delayed since the Bay Program released the LAPGs later. Dr. Filippino replied that the schedule will remain the same.

Ms. Rachel Hamm asked if HRPDC staff had reached out to the SWCDs. She said that there are three SWCDs in the region that are in the Bay watershed – Peanut, Colonial, and Dare. Dr. Filippino will coordinate with them, but that step will come later this fall.

Mr. Mike Woolson requested that the region advocate for MS4s to receive full credit for stormwater retrofit projects implemented in areas beyond their MS4 service area. The current Bay TMDL Action Plan Guidance requires that the MS4 deduct baseline stormwater treatment from the total. Dr. Filippino noted that Northern Virginia is also advocating for removing that requirement but ultimately it is an EPA decision. Conversations regarding baseline are still on-going. Mr. Heide also asked if the state is taking the credit for meeting baseline, and if they are not, where those credits end up. Dr. Filippino will follow-up on this question.

Ms. Shereen Hughes suggested ideas for improving the reporting and verification of BMPs in the unregulated developed area. The SMART tool developed by the Alliance for the Chesapeake Bay was designed to collect this type of data. Ms. Hughes also emphasized the importance of co-benefits as incentives for voluntary projects. For

example, Wetlands Watch created a crosswalk of stormwater BMPs that would also be credited through the Community Rating System.

Mr. David Kuzma suggested a percent imperviousness analysis that would be helpful for the more rural localities. It would be based on the methods used by VIMS/ODU during the House Bill 1774 study for rural Tidewater. The data could show that low percent impervious acres may not contribute significant amounts of nutrients and allow for counties to advocate for the Tiered Approach to stormwater regulations for new construction as is what is allowable in the Rural Tidewater localities in VA.

Ms. Ellen Roberts asked how the other Bay states are achieving reductions from their unregulated developed lands. Ms. Roberts noted that there are still low-hanging fruit stormwater treatment options in the unregulated localities; however, there needs to be a driver for those options to be pursued.

Mr. Tim Hare explained the administrative problem with reporting. DEQ has data that has not been incorporated into the Phase 6 model.

Ms. June Whitehurst asked what the localities could provide before the next Stakeholders meeting. Dr. Filippino indicated that she will send out a data call for VPDES permitted areas, state lands, and septic data next week.

Ms. Brumbaugh asked how crediting is tracked for connecting private properties to sanitary sewer. The locality can take credit for all of the connections, even when they are located outside of the MS4 service area.