

Chesapeake Bay TMDL: Hampton Roads' Concerns

Presented to
Hampton Roads Planning District Commission
March 31, 2011

John M. Carlock, Deputy Executive Director





Agenda Attachments

- A. HRPDC Final Comments on Watershed Implementation Plan
- B. Presentation to HRPDC, January 20, 2011
- C. HRPDC Memo to Hampton Roads General Assembly Delegation, February 2, 2011
- D. HRPDC Letter requesting guidance on Phase II WIP, February 7, 2011
- E. Presentation to HRPDC, February 7, 2011
- F. Presentation Notes, March 17, 2011





TMDL & WIP Timeline

- September 2010 - Draft TMDL and WIP released.
- November 2010 - Final WIP released
- December 2010 - Final TMDL released
- February 2011 - Virginia General Assembly enacted several significant bills.





HRPDC Comments on draft TMDL

- HRPDC comments to EPA raised questions & concerns about draft TMDL:
 - Lack of reasonable assurance that the urban runoff sector allocations were achievable.
 - Legal authority to establish a deadline in the TMDL.
 - Lack of reasonable opportunity to review and comment on the basis for the proposed allocations.
 - Accuracy of the Phase 5.3 model and model inputs and their ability to produce reliable predictions.
 - The justification for use of the chlorophyll-a criteria as the basis for the James River allocations.





Significant HRPDC Actions

- Revision of Cost Estimates to Reflect the final TMDL and WIP
- Adoption of Resolution and Statement of Legislative Principles
- Authorization for HRPDC staff to proceed with development of regional framework and process for addressing Phase II WIP.





Moving forward with Phase II ?

- TMDL process did not proceed as expected.
- Localities need additional information from Virginia and EPA before moving forward.
- Virginia Phase II WIP needs to be developed in the next 8 -12 months.





Expected TMDL Process

- TMDL
 - EPA establish Statewide targets.
- Phase I WIP
 - States establish basinwide targets.
 - States establish source sector reductions.
- Phase II WIP – States and local stakeholders develop local allocations.





Actual TMDL Process

➤ TMDL – Appendix Q

- Allocations for each source sector down to the County level rather than basinwide.
- Individual Waste Load Allocations (WLA) for Virginia Phase I MS4 localities.





Next Step - Phase II WIP due March 2012

- Divide target nutrient reductions into a finer geographic scale (counties, sub-watersheds)
- Identify specific controls and practices that will be implemented, no later than 2017, to meet interim water quality goals.
- State and/or localities need detailed plan for implementing stormwater retrofits, agricultural BMPs, and septic tank upgrades.





Phase II WIP Questions

- Do allocations in the Phase II WIP have to be consistent with Appendix Q?
 - Will localities have the flexibility to trade nutrient reductions with other sources?
- What information on existing management practices was included in the TMDL for each locality?
- How will existing management actions that were not included be credited to the localities?
- Will localities receive credits for nutrient reduction activities that are not accounted for in the Bay Model.
 - SSO reductions, No discharge zones, oyster restoration





Impact of TMDL

- Localities' MS4 permits will enforce the nutrient reductions in the TMDL.
- DCR indicated on March 7, 2011 that the state intends to write permits for all Phase I MS4s by the end of 2011.
- PDC staff and locality staffs have many unanswered questions about how the nutrient reductions in the TMDL were calculated.
- Permit negotiations can address how nutrient reductions are implemented but cannot address the amount of nutrient reductions required, which are established by the TMDL.





Questions & Discussion

