

AGENDA NOTE - HRPDC EXECUTIVE COMMITTEE MEETING

ITEM #12: CHESAPEAKE BAY TOTAL MAXIMUM DAILY LOAD (TMDL): LOCAL GOVERNMENT POLICY AND PROGRAM OPTIONS

SUBJECT

The Environmental Protection Agency (EPA) released the Draft Chesapeake Bay TMDL for public comment on September 24, 2010. The Hampton Roads Planning District Commission submitted comments to EPA and Virginia on behalf of the localities on November 5, 2010.

BACKGROUND

At the October 20, 2010 Annual Commission meeting, HRPDC staff briefed the HRPDC on the regional concerns with the Chesapeake Bay Total Maximum Daily Load (TMDL) and the Virginia Watershed Implementation Plan (WIP). Based on the briefing, the Commission authorized the Chairman to sign a letter transmitting final comments that were then being developed by staff and consultants. Draft comments were distributed to the Commission for review on November 1, 2010. Final comments were signed by the Chairman and submitted on behalf of the member localities on November 5, 2010.

Regional concerns included:

- The cost of achieving the urban runoff sector allocations per EPA's backstop allocations would place an unreasonable financial burden on the residents of Hampton Roads. The estimated \$1.05 billion in annual costs equates to a total average annual storm water fee of \$1,670 per household, which equates to 2.3 percent to 3.0 percent of median household income (MHI).
- The EPA has not provided reasonable assurance that the urban runoff sector allocations can be achieved by 2025.
- The EPA does not have the legal authority to establish a deadline in the TMDL.
- The EPA has failed to provide the localities with a reasonable opportunity to review, evaluate, and comment on the basis for the proposed allocations.
- The Phase 5.3 model and model inputs are not sufficiently developed to produce reliable predictions.
- The modeling predictions do not justify use of the chlorophyll-a criteria as the basis for the James River basin allocations.

Following the close of the public comment period on the Draft Chesapeake Bay TMDL on November 8, 2010, EPA will review the public comments and establish the Final Chesapeake Bay TMDL by December 31, 2010. Virginia will submit a revised Phase I

Watershed Implementation Plan by November 29, 2010. Draft Phase II Watershed Implementation Plans will be due from the Bay States to EPA by June 1, 2011.

The HRPDC and the localities will continue to work with Virginia agencies to develop the locality specific loads during the Phase II WIP process. Once these loads are developed, they will be incorporated into the locality's Municipal Separate Storm Sewer System (MS4) permits. It is expected that several legislative items will be submitted by DCR and DEQ to support implementation of the Chesapeake Bay TMDL. There are also a number of proposed items for federal legislation related to the Chesapeake Bay TMDL that the Commission should be aware.

HRPDC Senior Water Resources Planner Jennifer Tribo will brief the Commission on local government policy and program options regarding the Chesapeake Bay TMDL.

RECOMMENDED ACTIONS

Approve a statement of principles for potential environmental and Chesapeake Bay related legislation for distribution to the Hampton Roads General Assembly Delegation and to the Hampton Roads Congressional Delegation.*

*The statement of principles is being developed by the HRPDC staff in cooperation with the Joint Environmental (Regional Stormwater Management and Hampton Roads Chesapeake Bay) Committee. The statement of principles will be handed out at the meeting.