

# Chesapeake Bay Total Maximum Daily Load (TMDL): Local Government Policy and Program Options

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Hampton Roads Planning District Commission

November 17, 2010

Agenda Item #12



**SUPPLEMENTAL AGENDA NOTE- HRPDC EXECUTIVE COMMITTEE MEETING**

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

Attached is the “Hampton Roads Statement of Legislative Principles Regarding Implementation of the Chesapeake Bay TMDL.” As indicated in Agenda Item #12, this statement was developed by the HRPDC staff in cooperation with the Joint Environmental (Regional Stormwater Management and Hampton Roads Chesapeake Bay) Committee. The HRPDC staff presentation will discuss the statement in detail.

Attachment

## **Hampton Roads Statement of Legislative Principles Regarding Implementation of the Chesapeake Bay TMDL**

On December 31, 2010, the Environmental Protection Agency will finalize a Total Maximum Daily Load (TMDL) for the Chesapeake Bay that will require local governments to significantly reduce nutrients and sediment loads to the watershed. The member localities of the Hampton Roads Planning District Commission have developed the legislative principles described below to encourage the Commonwealth to provide leadership in achieving the goals of the TMDL by developing state programs to implement the most cost effective nutrient reductions and by committing the financial resources necessary to pay for the restoration of the water quality in the Chesapeake Bay.

### **Agriculture Programs**

HRPDC supports a well-financed and fully staffed state program to address the problem of non-point source runoff from agricultural operations. The program should effectively encourage implementation of priority best management practices such as nutrient management planning, use of cover crops, continuous no-till farming, development of forested riparian buffers, and livestock stream exclusion.

### **Alternative Onsite Sewage Systems**

HRPDC supports state regulations for alternative onsite sewage systems that clearly define responsibility and liability for proper operation; have a means to finance future repair and replacement costs; and ensure that sufficient and appropriate testing occurs to protect groundwater standards and alert owners to potential problems at the earliest possible moment.

### **Chlorophyll-*a* Study**

HRPDC concurs with and supports the elements contained in the Draft James River Chlorophyll-*a* study plan contained in Virginia's Watershed Implementation Plan (WIP). Successful completion of this study plan is considered essential to address the acknowledged deficiencies of the water quality standard and the associated modeling framework.

### **Expand Authority for Tree Canopy Requirements**

HRPDC supports the amendment of Virginia Code Section 15.2-961.1 to allow all Virginia localities to adopt an ordinance containing a set of tree canopy preservation requirements based on development density. Section 15.2-961.1 was adopted during the 2008 General Assembly session and is currently applicable only to the localities within Planning District Eight. Increasing the urban tree canopy is an inexpensive method to reduce nutrient loading through runoff reduction and will allow localities to reduce the cost of achieving nutrient reductions for urban stormwater.

### **Expansion of Chesapeake Bay Preservation Act**

HRPDC supports an amendment to the Chesapeake Bay Preservation Act that would expand the coverage of the Act from “Tidewater” to the entire Chesapeake Bay Watershed.

### **Expansion of Nutrient Credit Exchange Program**

HRPDC supports expansion of the Chesapeake Bay Watershed Nutrient Credit Exchange Program (Code of Virginia at §62.1-44.19:12) to include on-site systems and urban stormwater for new and existing development and in order to allow the most cost effective reduction of nutrients to improve water quality in the Chesapeake Bay and its tributaries.

### **Lawn Fertilizer**

The HRPDC supports Virginia’s effort to control the amount, timing, and composition of fertilizers applied to urban lands, but opposes any effort to require local governments to administer this program. This issue should be addressed by a state-wide turf grass fertilizer restriction, similar to the phosphate ban in laundry soap and dish detergent, which is outside of the permitting process.

### **Restoration of Funding to PDCs**

HRPDC supports the overall funding of Virginia’s Planning District Commissions at a level of \$0.35 per capita or a minimum of \$100,000 per commission, whichever is greater. It is likely that the Department of Conservation and Recreation (DCR) will rely on PDCs to facilitate the development of locality specific nutrient reductions in Phase II of the State’s Watershed Implementation Plan.

### **State Fees on City Services (water, sewer, solid waste)**

HRPDC strongly opposes the imposition of a state fee, tax or surcharge on water, sewer, solid waste or any service provided by a local government or authority to finance the nutrient reductions imposed by the Chesapeake Bay TMDL.

### **Unfunded Mandates**

HRPDC opposes unfunded mandates by the Commonwealth. When funding for a mandated program is altered, the mandate should be suspended until full funding is restored. When legislation with a cost to localities is passed by the General Assembly, the cost should be borne by the state, and the legislation should contain a sunset clause providing that the mandate is not binding on localities until funding by the Commonwealth is provided. Furthermore, HRPDC opposes the shifting of fiscal responsibility from the state to localities for existing programs. Any unfunded mandate or shifting of responsibility should be accompanied by a full fiscal and program analysis to determine the relative costs to the state and to the locality and to assure the state is meeting its full funding responsibility before taking effect.

**Water Quality Funding**

HRPDC supports dedicated and adequate state appropriations to the Water Quality Improvement Fund to make full and timely payments under point source contracts. Additionally, HRPDC requests the General Assembly address costs associated with anticipated permit requirements for Municipal Separate Storm Sewer Systems (MS4s) in light of expected requirements of the Chesapeake Bay TMDL.