

DRAFT CHESAPEAKE BAY TMDL PHASE III WATERSHED IMPLEMENTATION PLAN SUMMARY OF PUBLIC COMMENTS

Draft Phase III WIP – Basis and Overview

On December 29, 2010, the U.S. Environmental Protection Agency (EPA) established the Chesapeake Bay Total Maximum Daily Load (TMDL), a historic and comprehensive cleanup plan to guide federal, state and local actions as their communities clean up the Chesapeake Bay and the connected streams, creeks and rivers. The objective is to have clean up practices, such as permit requirements and best management practices or BMPs, in place by 2025 that will lead to the goal of a clean Chesapeake Bay and local waterways that meet water quality standards. Watershed Implementation Plans (WIPs) are the roadmap for how Bay states and the District of Columbia, in partnership with federal and local governments, will attain the Chesapeake Bay TMDL. Currently, the Bay states are working with local stakeholders to finalize the third phase of their WIPs. The Phase III WIPs include an update of state and federal strategies and the identification of new pollutant reduction strategies with a special focus on sustained local engagement.

Although the Chesapeake Bay TMDL is often discussed and thought of conceptually as a single TMDL, it is comprised of 92 segments. Virginia contributes drainage to 39 segments within the watershed. All of those 39 segments are listed as impaired for excessive nutrients and sediments. More information about the Chesapeake Bay TMDL can be found [on the EPA's Chesapeake Bay TMDL website](#).

The development of Virginia's draft Chesapeake Bay TMDL Phase III Watershed Implementation Plan (Phase III WIP) was guided by Governor Northam's goals for his administration:

- Achieving the state basin planning targets while accounting for future population and economic growth and the impacts of climate change and to do so no later than December 31, 2025.
- Engaging and seeking guidance from partners, including local governments, PDCs, and SWCDs through a local area planning effort.
- Developing a plan that is resilient, practical, cost-effective, and provides for multiple benefits.
- Adhering to expectations established by the Environmental Protection Agency (EPA) and our Chesapeake Bay Program partners, particularly those regarding reasonable assurance.

The Phase III WIP contains BMPs targeting load reductions of nitrogen, phosphorus and suspended solids in different source sectors. These sectors include wastewater treatment plants, agriculture, forest, urban stormwater, onsite/septic and air sources that contribute to the problems caused by excessive nutrient and sediment (also referred to as total suspended solids or "TSS") loads to the Chesapeake Bay. The plan also provides broad strategies proposed to see those BMPs implemented. In accordance with federal expectations, the strategies and contingencies included in the Phase III WIP are intended to meet requirements for the Chesapeake Bay TMDL.

The draft Phase III WIP is comprised of 11 chapters and includes multiple supporting appendices. The building blocks of Virginia's draft Phase III WIP include new state initiatives as well as existing federal, state and local programs and detailed local area plans provided by planning district commissions and soil and water conservation districts. In particular, Chapter 7: State Initiatives for the Chesapeake Bay Phase III WIP, provides a detailed explanation of the 56 multi-sector policy initiatives that will be necessary to meet the Commonwealth's load reduction targets for 2025.

Public Comment Process

On April 5, 2019, the Office of the Virginia Secretary of Natural Resources, through the Department of Environmental Quality (DEQ), announced the release of Virginia’s draft Phase III WIP for public review and comment. The comment period ran from April 5 through June 7, 2019. The announcement of the comment period was posted on the Virginia Regulatory Town Hall on April 5. In conjunction with the comment period, two public webinars were held on May 13, 2019, to share information about the Draft Phase III WIP. The webinars, one in the morning and repeated in the evening, provided an overview of the plan and provided information about the public comment submittal process.

Summary of Comments and Responses

Over 4,850 comments on the draft Phase III WIP were received during the 60-day public comment period. The comments were submitted via electronic mail and hand-delivered letters and postcards. Approximately 4,700 commenters expressed their general overall support for the draft Phase III WIP. Of the comments expressing general support for the plan, 4,622 were submitted as “form” emails, letters and postcards, and signatures on petitions. Additionally, approximately 150 other commenters expressed their general opposition or significant concerns about one or more of the policy initiatives contained in the draft Phase III WIP. 97 of these comments were submitted as form e-mails. The full text of all comments received will be made available by sending an email request to chesbayplan@deq.virginia.gov. Appendix A includes a listing of the public and private organizations that provided comments during the public comment period. Comments were also received from the Honorable Delegate Tony Wilt, Virginia House of Delegates. The Environmental Protection Agency provided a detailed review on June 21, 2019.

The Office of the Secretary of Natural Resources and the members of the state Chesapeake Bay Interagency Team reviewed and categorized all of the comments that were submitted during the public comment period. Next, a general summary of the comments and responses was prepared. Although thousands of comments were received, there were clear and recurring issues and themes raised by the commenters. These issues and themes are described below in the summary of comments and responses. In many instances, the response to a comment or a set of related comments resulted in a corresponding change to the draft Phase III WIP. These changes include clarifying edits, updated and additional information where it was requested, modifications to several of the multi-sector policy initiatives, and updates to the data in the tables and to the input decks in the Chesapeake Assessment Scenario Tool (CAST). Please refer to page 13 of this document for a more detailed explanation of changes to input decks in CAST.

The summary of comments and responses is provided below. For ease of navigation, the summary and responses are organized by the corresponding chapter of the Phase III WIP.

EXECUTIVE SUMMARY/CHAPTER 1. INTRODUCTION

No comments of substance were submitted that pertain to the Executive Summary or Chapter 1. Some additional clarifying language was added to improve readability.

CHAPTER 2. SIGNIFICANT ADVANCEMENTS RESULTING FROM PHASE I AND II WIPs

A number of commenters recommended additional discussion about the successes achieved during Phase I and II. In particular, commenters made reference to the progress made in the wastewater sector and the benefits provided through Virginia’s nutrient trading program. Other commenters asked for clarification relating to the discussions contained in the Riparian Forest Buffer and Afforestation Programs, Septic, Stormwater, and the Municipal Separate Storm Sewer System (MS4) Permits sections of this chapter. Another commenter recommended that the final Phase III WIP should establish goals to re-evaluate the target acreage of submerged aquatic vegetation (SAV)

contained in Virginia's Water Quality Standards (WQS) Regulation, using the 2017 Chesapeake Bay Criteria Assessment Protocols Addendum. In response to these comments, further clarifying/explanatory language was added to several of the sections in Chapter 2. The wastewater section has also been expanded to more fully describe successes achieved.

With regard to the recommendation about re-evaluating SAV targets, the referenced 2017 Chesapeake Bay Criteria Assessment Protocols Addendum was recently added to the WQS Regulation and became effective on January 10, 2019. Reevaluating SAV acreage goals cannot be adequately addressed in the Final WIP; however, this item could be a topic considered during the next Water Quality Standards Triennial Review, which may begin by the end of this year. Lastly, editorial corrections/revisions were added in several places in Chapter 2.

CHAPTER 3. VIRGINIA'S GOALS FOR THE PHASE III WIP

Commenters questioned the projected additional loads of nutrients associated with climate change. The following language was added to Chapter 3:

Modeling estimates indicate that the impacts of climate change, including increased precipitation and storm intensity as well as sea level rise, will result in additional loads of nitrogen and phosphorus through 2025. Virginia's plan therefore accounts for that additional load due to climate change (Chapter 4).

Several editorial changes were also added in Chapter 3.

CHAPTER 4. ACCOUNTING FOR THE IMPACTS OF CLIMATE CHANGE

A significant number of comments were received related to this topic. The overwhelming majority of these comments expressed appreciation and support for Virginia having formally recognized there will be impacts to the Chesapeake Bay and its watershed that are caused by the effects of climate change. However, there were many commenters who also asked about the source information used to estimate climate change impacts and targets, and questioned the appropriateness of including these estimates in the WIP at this time. In response to these concerns, this explanation was added to Chapter 4:

Additional information on the background and basis for these estimates can be found on the Bay Program's Climate Resiliency Workgroup's website. Additional work is underway by the Bay Program to reassess the potential load increases resulting from climate change. That work is expected to be completed in 2021. Planning for these reductions now will give Virginia a longer window to achieve the additional implementation and prevent the need for more aggressive actions between 2022 and 2025.

Also, an update was added to the Reducing Fossil Fuel Electric Power Carbon Dioxide Pollution section of this chapter to confirm the State Air Pollution Control Board approved a carbon pollution control rule on April 19, 2019, and that this regulation is now final.

Language was added to Chapter 2 of the Final Phase III WIP regarding the use of the one-year, two-year, and 10-year 24-hour storms using site-specific rainfall precipitation estimates provided by the U.S. National Oceanic and Atmospheric Administration (NOAA) Atlas 14 for compliance with the Commonwealth's post-development water quantity criteria for the VSMP Program. NOAA has developed a modeling framework that allows climate effects to be integrated into their Atlas 14 process which will allow the Virginia Stormwater Management Program to account for climate change.

CHAPTER 5. PLANNING TARGETS AND LOCAL AREA PLANNING GOALS

Commenters raised a series of questions and concerns related to the local planning goals. Specific concerns included the designation of responsibility for tracking, reporting and achieving the goals. Several paragraphs of additional language have been included in this chapter to explain that Virginia views the local planning goals as a tool to encourage and facilitate local participation in the WIP III planning process. Two new sections, Sediment Targets and Accounting for Growth, were also added.

CHAPTER 6. PHASE III LOCAL ENGAGEMENT

A number of comments were received that recognized and thanked the Commonwealth for its extensive efforts to seek and include local input during the development of the draft Phase III WIP. Some updates were added to the federal agencies section because four additional agencies, U.S. Forestry Service, U.S. Fish and Wildlife Service, National Aeronautics and Space Administration's Langley Research Center, and National Park Service provided input after the draft Phase III WIP was developed.

CHAPTER 7. STATE INITIATIVES FOR THE CHESAPEAKE BAY PHASE III WIP

By far, the policy initiatives contained in Chapter 7 received the largest number of comments. While there was broad-based support for many of the initiatives, there were also a large number of comments submitted that raised concerns or stated outright opposition. In response to these comments and recommendations, a considerable number of revisions and clarifications were made in this chapter. Many of the titles of the initiatives have been revised for consistency and to more fully explain the purpose of the initiative. Also, six new initiatives were added to the WIP and one initiative was removed. Those changes resulted in revisions to the numbering of the initiatives from the Draft to the Final versions. The changes made to the initiatives in response to public comments are summarized below.

7.1 Multi-Sector Policy Initiatives for WIP III – Explanations

(1) Enhance reporting of BMP implementation

Some minor changes were made to provide clarification about responsibilities for the reporting and training. Also, a change was made to the date DEQ will send the urban and septic BMP record reports to the respective jurisdictions; changed from June 30 to December 31, 2019.

(2) Evaluate improvements and extension of the Chesapeake Bay Preservation Act

The title was changed for clarity. Updated and clarifying language was added to explain the plans for evaluating improvements and possible extension of the Chesapeake Bay Preservation Act.

(3) Prepare a State Lands Watershed Implementation Plan

The title was changed for clarity. An update was added to explain: the Secretary of Natural Resources will establish a team of state agency staff to develop a state agency watershed implementation plan; Virginia will strive to achieve reductions of nutrient and sediment pollution from state-owned and/or managed lands consistent with expectations of this WIP; and, the new team will consider innovative approaches to achieving the aggregate reductions most cost-effectively, including geographic targeting, trading, and maximizing co-benefits.

(4) Pursue the restoration and enhancement of wetland habitats

The title was revised and clarifying language was added.

(5) Determine method to quantify nitrogen reductions from finalized carbon trading regulations

The title was changed for clarity. Language was added to explain the State Air Pollution Control Board approved a final carbon pollution control rule (on April 19, 2019).

(6) EO 24 – Section 2A, Coastal Resilience Master Plan

No changes were made to this initiative.

(7) Evaluate WIP eligibility for Section 319 nonpoint source BMP funding

The title has been revised and this language was added for clarification: This initiative will enhance local TMDL implementation projects by making additional BMPs eligible for 319 funding.

(8) Expand voluntary use of Innovative BMPs/bioreactors

The title was revised to clarify the use of Innovative BMPs/bioreactors is voluntary. New language was added to explain a program to seek voluntary adoption of these practices where groundwater nitrogen concentrations are elevated would increase the potential for reductions.

(9) N:P and Basin: Basin exchanges

Language was added to clarify Virginia will target implementation where the greatest reductions can be realized while striving to maintain a balanced level of implementation across all Basins and that these exchanges have been evaluated using the Partnership's Models and the resulting loadings were found to be at least as protective of water quality as the state-basin planning targets. This policy does not change our current trading program.

(10) Consider options for additional No Discharge Zones

This new initiative announces the Commonwealth, in consultation with stakeholders, will explore the options for increasing the numbers of No Discharge Zones in Virginia waters. The Office of the Secretary of Natural Resources and the Department of Environmental Quality (DEQ) will lead this effort.

(11) Advance oyster restoration efforts in Virginia

This new initiative stems from the [2014 Chesapeake Bay Watershed Agreement](#), which calls for state and federal partners to restore native oyster habitat and populations in designated Bay tributaries by 2025. Five of the designated tributaries are in Virginia. This effort will add to previous oyster restoration work in the James River, Rappahannock River and Tangier Sound. The Virginia Marine Resources Commission (MRC) is the lead agency for this initiative. Virginia can now receive credit from the Bay Program for oyster restoration.

(12) Guide Land Conservation in Virginia to the Highest Conservation Value Lands

This new initiative was added in response to comments recommending help for Virginia's Bay water quality goals can be met by targeting additional BMP implementation on conserved lands and by avoiding the potential for load increases resulting from future land use changes. The recently developed [ConserveVirginia](#) tool has identified 6.3 million acres of high priority conservation areas across the state. These mapped acres will help guide a long-term land conservation strategy for Virginia. The Department of Conservation and Recreation (DCR) is the lead agency for this initiative.

7.2 Agricultural Sector Policy Initiatives for WIP III – Explanations

(13) Establish state-federal-private collaborative approach to document voluntary agriculture best management practices (BMP), particularly cover crops, stream exclusion and nutrient management (NM) plans

The title was expanded. Language was added to clarify that a voluntary BMP task force has already been formed and its review will also include methods to account for voluntarily implemented cover crops and livestock stream exclusion practices.

(14) Enhance Coordination among State Agencies assisting farmers

The target date for this initiative was revised from 2019 to 2020.

(15) Reinstate Virginia’s Agriculture BMP Loan Program Adequate and consistent funding for VACS

The program has been updated and reinstated. The State Water Control Board approved the revised guidelines on June 27, 2019, and the program resumed on July 1, 2019. Updates to the guidelines incorporate changes based on the 2019 legislation and provide additional incentives for producers, including zero percent interest on all loans, no long-term loan requirement, and the possibility for principal forgiveness.

(16) Provide Adequate and consistent funding for VACS

Language has been added to clarify that the WIP III will be used to update the Agricultural Needs Assessment and the Budget Template submissions of applicable SWCDs, and that this assessment will be used to quantify the level of funding needed to achieve year 2025 reduction targets.

(17) Provide adequate and consistent funding for technical assistance

The following explanatory language has been added:

The Virginia Soil and Water Conservation Board (SWCB) approved the creation of an Allocation Subcommittee that will provide recommendations on the ways to provide adequate, level and fair base technical assistance funding to all SWCDs in Virginia. A consistent level of base technical assistance funding will help ensure that SWCDs have adequate staffing to support all of the programs that they help to implement. The Allocation Subcommittee will provide its recommendations to the Virginia Soil and Water Conservation Board in December 2019.

(18) Direct 70% of cost share funding for Chesapeake Bay needs

In response to concerns raised in the comments, language was added to explain why increase is needed.

(19) Direct increased cost share funding to key WIP III SWCDs

Some clarifying language was added.

(20) Make revisions to the VACS Program, including but not limited to, regionalizing the program. Direct increased cost share funding to key BMPs in key Phase III WIP SWCDs

A summary of the changes to the VACS program to be implemented in 2020 or 2021 was added. Other additions include a discussion of the Conservation Efficiency Factor (CEF) tool and language to clarify changes for cover crop levels, cost share caps, seeding rates and planting dates. A subcommittee will be established to review program cost-effectiveness and targeting.

(21) Increase tax credits for agriculture BMPs and equipment

Language was added to explain DCR is working to recommend a legislative proposal by 2020 to increase some agricultural conservation tax credits.

(22) Support SWCD technical assistance staff implementing tax credit projects

Language was added to explain the challenge of funding technical assistance for SWCDs is that technical assistance funding fluctuates every year and that the SWCB has approved the creation of an Allocation Subcommittee to address base technical assistance funding for SWCDs that would also address the work required to administer the tax credit program. The subcommittee will provide recommendations to the SWCB in December 2019.

(23) Enhance implementation of RMP program through scheduled periodic review of regulations

An update was added to explain that the Virginia Soil and Water Conservation Board has authorized DCR to initiate a periodic review of the RMP regulations, for which public comment will be solicited.

(24) Bundle all RMP BMPs into one cost share contract

This initiative was updated to explain the SWCB has approved the referenced pilot project.

(25) Improve water quality benefits, soil health and farm operations through revisions to the NMP regulations

DCR will conduct a periodic review of the Nutrient Management Program Regulations in 2020 and will consider additional changes to the VACS Program, which could include additional measures to include soil health.

(26) Increase NMP implementation on agricultural lands

A number of commenters expressed concerns about the requirements for nutrient management plans (NMPs) discussed in this initiative. Clarifying language has been added to explain the WIP seeks 85% implementation of NMPs on all cropland acres in the Chesapeake Bay watershed. Virginia will pursue legislation specifying that if the implementation target of 85% is not achieved by December 31, 2025, certain agriculture operations in the Chesapeake Bay watershed larger than 50 acres must develop and implement NMPs. This effort will take into account both the capacity of certified Nutrient Management Plan writers and the availability of cost share and other applicable funding sources.

(27) Livestock stream exclusion

Considerable opposition to this initiative was expressed by commenters. Language was added to explain that effective July 1, 2019, the VACS program was revised to provide greater flexibility for livestock stream exclusion practices, including payments for converting productive farm land into buffer areas. Funding for maintaining existing livestock stream exclusion practices also became available to producers as of July 1, 2019. The Commonwealth will also pursue legislation specifying that if the implementation target for livestock stream exclusion is not achieved by December 31, 2025, that all farms in the Chesapeake Bay watershed with livestock accessing perennial streams must provide exclusion measures. The availability of state and federal cost-share funds for exclusion practices will be taken into account. DCR in partnership with the VACS Technical Advisory Committee will also evaluate temporary fencing options for use on rented grazing land.

(28) Horse manure and pasture management through incentives

Language was added to clarify that the recommendations for BMPs and funding mechanisms being developed by the Equine Workgroup are for non-commercial equine operations that do not qualify for funding from the VACS

Program. The Workgroup is also charged with providing recommendations that clarify which commercial equine operations are eligible to receive VACS cost-share funding. In addition, DCR will work with Virginia Cooperative Extension to investigate practical options for the disposal and use of horse manure from both commercial and non-commercial operations. The policy regarding local authorities and horse stocking rates was deleted.

(29) Expand poultry litter transport in the Chesapeake Bay

This initiative has been revised to state the planned increase in the number of eligible counties for DCR's Poultry Litter Transport Program will be from two to three (down from five), and to annually increase the amount of litter transported from these counties from 5,000-6,000 tons per year up to 89,000 tons per year. Other language was added to clarify these totals will include non-subsidized litter transported to and from the three counties to other counties with low phosphorus soils. DCR has identified 27 counties in Virginia, plus portions of 16 other localities, where this poultry litter could be land applied, consistent with a nutrient management plan, without the threat of phosphorus enrichment. The Commonwealth will also explore development of alternative uses of poultry litter.

(30) Improve poultry litter transport accounting

The title has been revised. Language was added to clarify the current regulation already requires growers, brokers, and end-users to make all records available to DEQ upon request. Other language was added to explain that during the process to reissue the regulation and the General Permit for Poultry Waste Management, DEQ will consider options with input from a technical advisory committee (TAC), to provide more accurate accounting of progress towards WIP goals associated with poultry litter transport and utilization. In its evaluation, DEQ will consider ways to reduce the possibility that regulatory requirements would discourage end-users from using poultry litter in areas that could benefit due to soil phosphorus needs or other factors.

(31) Increase grass and forest buffers through the Conservation Reserve Enhancement Program (CREP)

Clarifying edits were made.

(32) Pilot long-term marketing plan to promote certain farm products grown on farms that participate in the RMP program

No changes we made.

(33) Enhance verification of BMPs implemented as a result of the Agricultural Stewardship Act (ASA)

Language was added to clarify that verifying the BMPs implemented as part of the stewardship plan are in place and functioning properly is a current requirement of the Agricultural Stewardship Act and will ensure these BMPs are accounted for in the Bay model.

(34) Support growth of private sector native plant nurseries and oyster aquaculture

New language was included to explain VDACS will promote the availability of the Governor's Agriculture and Forestry Industries Development (AFID) Fund grant program for projects involving operations such as oyster aquaculture or nurseries that produce native plants needed for stormwater BMPs and encourage localities to consider submitting such projects for funding consideration.

7.3 Forestry Sector Policy Initiatives for WIP III – Explanations

(35) Implement DOFs Healthy Watershed Initiative

Minor editorial changes were made.

(36) Improve technical assistance, collaboration and oversight of stream protection projects. Increase riparian forest buffers and urban tree canopy

In response to a large number of comments, this initiative has been substantially expanded. Language was added to explain the objectives of the Watershed Program Manager position for the Chesapeake Bay Initiative that VDOF is seeking to create. The position will coordinate all watershed initiatives for the agency to include identifying and applying for appropriate grant funding sources.

Specific focus areas for this effort include riparian forest buffer establishment along streams and associated lands, tree planting on urban/suburban riparian lands, and BMPs to mitigate concentrated flow to existing buffers. Traditional and new methods for implementing conservation projects will be utilized. Similar to the Agricultural Soil and Water Conservation Plans, VDOF will seek to ensure that the plans developed for rural and urban forestland owners receive appropriate credit for the water quality benefits provided. Credit methodology needs to be developed with assistance from DEQ to capture the improved land use attributes that are complimentary to this effort. Further, efforts will be made in harnessing contributions of the tree ordinances and per capita investment of localities that participate in the Tree City USA, Tree Campus USA to capture appropriate crediting.

(37) Urban Tree Canopy Program

This initiative was also expanded to explain that the VDOF, through the Chesapeake Bay Program Partnership, will actively pursue efforts that will allow for an improved accounting for the acquired benefits of enhanced riparian buffer growth, tree canopy expansion/growth, natural regeneration, projects completed in the absence of cost-share, and municipal and community planting achievements. Through this effort, the VDOF and its partners will be able to account for additional contributions and growth that are measurable from year to year as Land Cover Assessment data is acquired and/or data is provided regarding practice installation or discovery. The Maturity Measurement calculation will be used to achieve a significant percentage of the goals for the urban sector that are provided in the Phase III WIP. Stable funding through the Commonwealth is needed to ensure program viability.

(38) Pursue Sentinel Landscapes Partnerships

This new initiative was added to explain that Sentinel Landscapes Partnerships are being pursued to sustain military readiness, reduce the effects of incompatible development around military installations, preserve working forests and agricultural lands and protect wildlife habitat by focusing on areas where these priorities overlap. A Sentinel Landscape designation can act as a driving force in the creation of a landscape-scale national security and conservation corridor that ensures the security of the Nation, prioritizes conservation of working lands, contributes to the health of the Chesapeake Bay, and enhances compatible rural economic development opportunities. VDOF is the lead agency.

(39) Encourage Tree Conservation

This new initiative was added to recognize the multiple benefits that arise from good urban tree planning and care. The Commonwealth will explore the possibility of broadening existing local government authorities in state code to enhance conservation of trees providing environmental benefits (maintaining existing exemptions, such as the right to practice forestry act, silviculture and hazard trees). Such local ordinances could include requirements for permits

for tree removal, variable fees for tree removal based on the size/type of tree, requirements that developers conserve trees, and requirements to plant trees to offset trees removed. VDOF is lead agency for this initiative.

7.4 Developed Lands (incl. MS4) Sector Policy Initiatives for WIP III – Explanations

(40) Expand the Healthy Virginia Lawns Program

No changes were made to this initiative.

(41) Pilot and expand an Urban Nutrient Management (NM) Program for Virginia Youth

Updated language was added to explain grant funding to initiate this project will be available in 2019.

(42) Audit and verify contractor-aplicator reports of fertilizer applied to urban lands

Language was added to explain Virginia will continue to investigate incentive-based, homeowner education and regulatory approaches to better manage the use of lawn fertilizer by individual homeowners.

(43) Establish state cost share for residential homeowners, small businesses and churches, etc.

An update was added to explain: State funding for VCAP in fiscal year 2020 has been provided for the first time, in the amount of \$1 million; a consistent source of funding will be sought to continue these activities; and, localities not supported by SWCDs will be encouraged to enter into agreements with SWCDs to employ VCAP in those communities.

(44) Enhance marketing of funding opportunities for Non-MS4 localities

No changes were made to this initiative.

(45) Prepare annual estimate of the amount of stormwater local assistance needs and pursue adequate funding

Language was added to clarify that DEQ worked with wastewater and stormwater stakeholders to initiate the first needs assessment for WQIF and SLAF funding. A needs survey was provided to localities to capture funding needs for FY2020 through FY2024. Localities completed the survey in early July 2019 and results will be reported in the annual Chesapeake Bay and Virginia Waters Cleanup Plan Report due to the Governor and General Assembly November 1st of each year.

(46) Establish long-term partnership with local Planning District Commissions

Language was added to explain the current status of this partnership and the plans for its continuation. All 15 Bay watershed PDCs are currently under cost-share contract with a work plan ending September 2019, using pass-through funds from EPA. This funding allows PDCs to begin the transition from planning to implementation, building on the momentum gained through the local engagement process. Work includes continued support for the PDCs to serve as liaisons to localities and stakeholders, along with geographic targeting of implementation to maximize nutrient reductions and co-benefits. The PDCs will lead efforts to support and encourage implementation of non-agricultural BMPs and strategies to meet local area planning goals based on local conditions, knowledge and needs. DEQ plans to request additional funding from EPA to contract with PDCs for their ongoing partnership and support.

(47) Add nutrient management provisions to E&S requirements

An explanation was added to recognize that in carrying out the actions described in this initiative, revisions to Virginia's Erosion and Sediment Control Handbook and Virginia's Nutrient Management Standards and Criteria may also be necessary to ensure consistency among regulatory programs.

(48) Re-evaluate post-construction water quality requirements under the VSMP

Many objections were received in response to this initiative. However, the Virginia Stormwater Management Program (VSMP) Regulation, 9VAC25-870-63 C, requires DEQ to review the current water quality design requirements after the completion of the Chesapeake Bay Phase III WIP. As a result, no changes were made to this initiative.

(49) Establish 5-year program review of VSMP Authorities

No changes were made to this initiative.

(50) Reevaluate MS4 TMDL Action Plan Guidance elements addressing crediting of MS4 projects in unregulated areas and the urban tree canopy BMP

This new initiative was added in response to the need to address some challenges that are constraining the use of these BMPs. The current baseline requirements for a BMP placed on unregulated lands often account for most and in some case all of the reductions provided by the BMP, which means there are limited incentives for an MS4 permittee to implement such a project. Recognizing these projects are often easier to site and more cost effective to implement than projects within the more densely developed MS4 regulated areas, DEQ, in partnership with stakeholders, will reevaluate the current baseline requirements and if appropriate revise the guidance to provide additional incentives for the implementation of BMPs on unregulated urban lands. At the same time, DEQ will also evaluate existing guidance to ensure that the crediting of the urban tree canopy BMP is consistent with the recommendations of the Bay Program's expert panel report, [Recommendations of the Expert Panel to Define BMP Effectiveness for Urban Tree Canopy Expansion](#). DEQ is the lead agency.

7.5 Wastewater Sector Policy Initiatives for WIP III - Explanations

(51) Consult with the Wastewater Infrastructure Work Group

The title was changed and language was added to explain the work group has been established.

(52) Require additional nutrient reductions from wastewater treatment plants (WWTP)

A substantial number of commenters expressed significant concerns about the planned actions contained in this initiative. In response, language has been added to clarify and further explain the planned actions. The action will consist of modifications to the [Water Quality Management Planning Regulation](#) to include secondary, "floating" wasteload allocations for significant municipal facilities. The floating wasteload allocations will be based on the flow treated by the facility in a given year and nutrient concentrations of 4 mg/l TN and 0.3 mg/l TP. Existing "primary" wasteload allocations will remain and in any given year the facility will be required to meet the lesser of the primary or floating allocations. A few facilities with special circumstances could be assigned alternative floating wasteload allocations. The Commonwealth may choose to exempt a subset of the smallest significant facilities that in aggregate represent a minor percentage of the expected load reductions from this initiative. Also, because this initiative is being implemented through the Water Quality Management Planning Regulation and the [Watershed General Permit](#), no facilities will be required to upgrade but rather may choose to trade nutrient credits to achieve their reduction goals.

On a statewide basis, year-to-year variability of municipal wastewater flows is impacted much more by weather than it is by growth. Virginia experienced near record rainfall throughout most of the Chesapeake Bay watershed in 2018. The use of 2018 flows and the concentration assumptions included in the WIP III input deck for the significant municipal facilities is expected to generate conservative loading projections for 2025.

Significant sampling of nonsignificant point sources has occurred in Virginia over the past permit cycle including required VPDES monitoring and a DEQ sampling effort funded by an EPA CBRAP Grant. The Phase III WIP input deck reflects a detailed analysis of the available data and includes updated flow and nutrient concentration data for small municipal facilities, individual industrial facilities and seven different general VPDES permit categories. Although the results vary from one category to another, in aggregate the sampling results indicated that current nonsignificant nutrient loads are well below the wasteload allocations included in the TMDL

(53) Require reporting of sewer connections by wastewater utilities

Language was added to explain the regulatory action to amend the existing Sewage Collection and Treatment Regulations (9VAC25-790-10 et seq.) to include a reporting requirement for all septic systems taken off-line and connected to sewage collection systems has been expanded to include or other on-site sewage disposal systems. This requirement will ensure a more accurate count of nutrient reductions resulting from septic systems connected to sewer systems.

(54) Develop plan for transferring oversight of the septic pump-out program from certain localities to the VDH

The title was changed. Language was added to explain that the 2019 legislation was enacted directing VDH to develop a plan for oversight and enforcement of requirements related to onsite sewage treatment systems. VDH will work with stakeholders in the areas listed in the legislation to develop a plan to transfer the oversight and enforcement requirements from localities to the agency. The plan will include analysis of resource needs and any additional legislative actions required for implementation. The plan will also include methods to track the pump-outs and consideration of requiring Onsite Sewage System (OSS) operators (not just Alternative OSS operators) and waste treatment facilities to report. The plan is scheduled to be completed by January 1, 2020. Additional legislation may be required to implement the plan.

(55) Designate VDH as a state certifying authority and provide sales tax exemption for community systems serving 10 or more households that use total nitrogen (TN) reducing treatment systems

An update was added to state the referenced legislation has been enacted. Language was added to explain the tax exemption applies only to equipment.

(56) VDH to establish by regulation TN limits for all OSS dispersing greater than 1,000 gallons per day (GPD), including Conventional OSS

No changes were made to this initiative.

CHAPTER 8. WATERSHED IMPLEMENTATION PLANS BY BASIN

At the request of our federal partners, the listing of the federal agencies which provided BMP inputs and programmatic actions to support the Phase III WIP has been expanded to include, U.S. Fish and Wildlife Service (USFWS), U.S. Forest Service (USFS), the National Aeronautics and Space Administration (NASA) Langley Research Center (LaRC), and the National Park Service. In addition, over 150 comments were received that expressed very strong support for the James River Basin plan.

CHAPTER 9. COST ESTIMATES AND FUNDING SOURCES

A number of commenters asked for clarification about the methods used to develop the cost estimates. The comments also include strong opinions about the projected costs and the viability of the options presented to secure the levels of funding that will be needed to implement the Phase III WIP – both in the short and long-term. A change has been added to clarify that the Agricultural Needs Assessment will be significantly revised based on the Commonwealth’s WIP III. It will estimate both the financial and technical assistance costs that need to be funded in order to fully implement the WIP.

CHAPTER 10. NEXT STEPS TO IMPLEMENTATION

No comments pertaining to this chapter were received that led to the addition of any changes or revisions.

CHAPTER 11. WHAT CAN YOU DO

Commenters provided a several thoughtful recommendations for enhancing the list of engagement opportunities in this chapter. A discussion about how to support restoration and education opportunities through purchase a Chesapeake Bay license plate (Figure 3) or contributing to the Chesapeake Bay Restoration Fund has been added. Also, a detailed description has been included about how to get personally involved in the efforts to restore the Bay through voluntary programs hosted by environmental groups.

Changes to the Draft Phase III WIP BMP Input Deck

In response to comments, revisions to the Draft Phase III WIP BMP input deck include significant changes to the implementation levels for Shoreline Management, Urban Forest Buffers, Urban Forest Planting, Urban Tree Planting-Canopy, and Oyster Aquaculture. Additionally, BMPs have been included for Oyster Restoration, and Agricultural Denitrifying Ditch Bioreactors as a surrogate to represent the reductions planned from Spring Denitrifying Bioreactors. The final Phase III WIP BMP scenario is available on [CAST](#) as “VA WIP III Final”.

Next Steps

The Virginia Secretary of Natural Resources Matthew Strickler wants to express his deep appreciation that so many citizens and organizations participated in the public review of the Draft Phase III Watershed Implementation Plan for restoring water quality in the Chesapeake Bay. The thoughtful comments and suggestions resulted in substantial improvements to Virginia’s final plan and the Commonwealth is well positioned to build on successes to date and achieve our nutrient reduction goals by 2025.

The final Phase III WIP with the changes outlined above was made available to EPA and the public on August 23, 2019. The plan can be accessed at [DEQ’s website](#).

EPA will assess Virginia’s final Phase III WIP to determine whether there is confidence Virginia will achieve the pollution reduction goals by 2025. EPA will assign each of Virginia’s source sectors a level of oversight based on whether Virginia provided sufficient information in its Phase III WIP that load reductions and programmatic commitments will be achieved for those source sectors by 2025. The levels of oversight are:

- Ongoing oversight: EPA, while having no significant concerns with a jurisdiction’s strategy to implement the TMDL goals, will continue to monitor progress.
- Enhanced oversight: EPA, having identified significant concerns with a jurisdiction’s strategy to implement the TMDL goals, may take additional federal actions, as necessary, to ensure that the jurisdiction stays on-track.

- Backstop oversight: EPA, having identified substantial concerns with a jurisdiction's strategy to implement the TMDL goals, has taken necessary federal actions to help the jurisdiction get back on-track.

EPA's assessment will be made public when it is complete.

An addendum to the Phase III WIP regarding sediment targets will be published at [DEQ's website](#) in October 2019. No additional clean-up practices or changes to the Phase III WIP will be necessary as a result of that addendum.

The next six years will continue to require engagement from all nutrient source sectors, whether regulated or unregulated, whether governed by permits or voluntary, whether encompassing large facilities or individual citizens. Virginia will assess its progress every two years as part of periodic milestone updates and make adjustments to Phase III WIP implementation depending on these updates and reviews. The next set of two-year milestones for 2020-2021 will be drafted in October 2019, with an opportunity for public comment prior to final milestones published on [DEQ's Chesapeake Bay Milestones webpage](#) in January 2020.

The Virginia Secretary of Natural Resources Matthew Strickler encourages all interested stakeholders to stay engaged and continue their contributions to a successful restoration effort. The Chesapeake Bay Stakeholder Advisory Group, the Planning District Commissions and their local governments, the Soil and Water Conservation Districts and the many non-governmental organizations that work on Chesapeake Bay issues provide many different avenues for engagement and working toward nutrient and sediment reductions. The Secretary of Natural Resources office can be contacted at: (804) 786-0044.

Appendix A

List of Commenting Organizations

Accomack County
Action Network
City of Alexandria
Alexandria Renew Enterprises
Alliance for the Chesapeake Bay
Alliance for the Shenandoah Valley
Augusta County Service Authority
BioClean, a Forterra Company
Chesapeake Bay Foundation
Chesterfield County
Town of Culpeper
Culpeper Soil and Water Conservation District
Delmarva Poultry Industry, Inc.
Department of the Navy/Department of Defense
Elizabeth River Project
Everett Farms, Inc.
Environmental Integrity Project
Fairfax County
Fauquier County Water and Sanitation Authority
Federal Lock & Safe, Inc.
City of Fredericksburg
Friends of the Rappahannock
Goochland County
Hampton Roads Planning District Commission
Hampton Roads Sanitation District
Hanover County
Harbour Pointe Homeowners Association
Harrisonburg-Rockingham Regional Sewer Authority
Henrico County
City of Hopewell
James River Association
John Marshall Soil and Water Conservation District
Town of Leesburg
Lord Fairfax Soil & Water Conservation District
Loudoun County
Loudoun Water
Louisa County Water Authority
City of Lynchburg
Metropolitan Washington Council of Governments
Monacan Soil and Water Conservation District
New Kent County
Northern Virginia Regional Commission
Northampton County
Northumberland-Lancaster County Farm Bureau
Oyster Recovery Partnership
Piedmont Environmental Council
Potomac Riverkeeper Network and Shenandoah Riverkeeper
Rapidan Service Authority
Restoration Systems
Rivanna Water and Sewer Authority
The Scotts Company, LLC
Shenandoah Valley Pure Water Forum
Spotsylvania County
Stafford County
Sustainable Chesapeake
Upper Occoquan Service Authority
U.S. Biochar Initiative
Virginia Agribusiness Council
Virginia Association for Commercial Real Estate
Virginia Association of Counties
Virginia Association of Municipal Wastewater Agencies
Virginia Biosolids Council
Virginia Cattlemen's Association
Virginia Chamber of Commerce
Virginia Conservation Network and Choose Clean Water Coalition
Virginia Farm Bureau Federation
Virginia Forestry Association
Virginia League of Conservation Voters
Virginia Manufacturers Association
Virginia Municipal Stormwater Association
Virginia Poultry Federation
Virginia State Dairywomen's Association
Virginia Turfgrass Council
Virginia Wineries Association
Waterkeepers Chesapeake
City of Waynesboro
Western Virginia Water Authority
Wetland Studies and Solutions, Inc.
Wetlands Watch