



## POTENTIAL COG CHESAPEAKE BAY AND WATER RESOURCES POLICY COMMITTEE COMMENTS ON PHASE III WIPS - DRAFT AS OF 05/15/19

### STATUS

All of the Bay partners have issued draft Phase III watershed implementation plans. Details on those relevant to COG can be found here:

- Maryland (<https://mde.maryland.gov/programs/Water/TMDL/TMDLImplementation/Pages/Phase3WIP.aspx>)
- Virginia (<https://www.deq.virginia.gov/Programs/Water/ChesapeakeBay/ChesapeakeBayTMDL/PhaseIIIWatershedImplementationPlanning.aspx>)
- The District of Columbia (<https://doee.dc.gov/service/watershed-implementation-plans-chesapeake-bay>) Note: COG does not intend to comment on the District's draft WIP.

Comment Deadline: June 7, 2019

*Potential Comments (COG staff proposes that the following general comments – as recommended by the Water Resources Technical Committee – be incorporated in a letter to the chair of the Bay Program's Principals Staff Committee (Maryland Secretary of the Environment Ben Grumbles). The letter would note that these comments apply to both the Maryland and Virginia WIPs, but not to the District of Columbia WIP, on which COG is not commenting. The WRTC members also recommended that COG supply some detailed technical comments on a few items each in the Maryland and Virginia WIPs. Staff is still consulting with WRTC members on what those will be.*

### WASTEWATER CAPACITY - BACKGROUND

Nutrient reductions from the wastewater sector currently exceed their respective jurisdictional targets by 3.9 million pounds of nitrogen and 330,000 pounds of phosphorus for POTWs in the COG region (and by larger amounts on a statewide basis). The state WIPs propose using this excess to meet their overall reduction targets by 2025. However, this excess represents reserve capacity that will eventually be needed to accommodate population and job growth in the region.

**WASTEWATER CAPACITY COMMENT** - The state WIPs should acknowledge that the wastewater sector's current excess reduction beyond their cap loads will be needed for growth in the COG region beyond 2025 and make sure that they have plans in place to meet their Bay reduction targets as this excess is consumed.

### STORMWATER CAPACITY – BACKGROUND

Nitrogen reductions are the biggest remaining gap to be addressed by the Phase III WIPs. However, most of the BMPs available for addressing nutrient reduction by the stormwater sector are among the most costly and least efficient practices for nitrogen reduction. Local stormwater programs also must address a number of concerns aside from nutrient reduction, including flooding issues, local stream health and bacteria. Stormwater programs also must budget for operations and maintenance, the cost of which is expected to rise due to climate change effects.

**STORMWATER CAPACITY COMMENT** - Achieving Bay TMDL nitrogen reduction targets should not set the pace of BMP implementation or overall program costs for the COG region's stormwater sector. Stormwater permits need to recognize the many objectives of stormwater programs beyond just nutrient reduction.

### **AVOIDING FAILURE – BACKGROUND**

Several load reduction measures cited in the Maryland and Virginia WIPs appear to be overly ambitious or to depend on levels of participation or state funding that are unlikely to fully materialize in the next 6 years. As a result, these WIPs may fall short of achieving the needed reductions by 2025. In addition, WIP-based reductions in other Bay partner jurisdictions, particularly Pennsylvania, are unlikely to reach their targets. Although the COG region may fall short of some targets for urban stormwater reductions, its excess wastewater reductions will more than offset any such shortfalls in 2025 - providing the stormwater sector with more time to meet the sector's ambitious reduction targets until the wastewater reserve capacity is needed. Note: COG supports augmented federal and state funding for implementing stormwater and agricultural BMPs.

**AVOIDING FAILURE COMMENT** - The COG region's combined wastewater and stormwater nutrient reduction performance should exceed respective combined WIP targets in 2025. First, continue to recognize the COG region's combined success with meeting WIP targets in these two sectors while planning for growth with reserve wastewater capacity and making steady stormwater progress. Also, do not penalize this region with additional requirements to offset shortfalls from other sectors or regions.

### **CLIMATE CHANGE - BACKGROUND**

The Bay Program has given its partner jurisdictions the option of addressing climate change in either quantitative or qualitative terms in the Phase III WIPs. Preliminary estimates by the Bay Program's modeling team indicated that climate change has a negative impact on Bay water quality and that it would take additional reductions of about 9 million pounds of nitrogen and 480,000 pounds of phosphorus to address this impact. However, the Bay Program also directed the modelers to review their assumptions and potentially revise their preliminary estimates, a process that is expected to conclude in 2021. The Bay Program and its partners also don't know how current BMPs will respond to different weather patterns driven by climate change and don't know how to design or site new BMPs to better address climate change.

**CLIMATE CHANGE COMMENT** - Addressing climate change quantitatively at this point only introduces additional uncertainty into the WIP process. While we agree with the planning benefits of providing potential level of effort estimates associated with climate change impacts, we encourage Maryland and Virginia to hold off on explicit target reductions in the Phase III WIP that address climate change until the Bay Program technical staff has finalized its estimate of the impact of climate change on nutrient and sediment loads and Bay water quality. However, the Bay Program and its partners should prioritize the funding of research into BMP siting and design to address climate change.

### **CONOWINGO - BACKGROUND**

The Bay Program has established a separate process to address the changing conditions in the lower Susquehanna dam system, which it estimates will require an extra reduction of 6 million pounds of nitrogen and 260,000 pounds of phosphorus beyond the current WIP process to achieve the goals of the Bay TMDL.

This separate Conowingo WIP, which has not yet been developed, is not addressed directly in the draft MD and VA WIPs. COG should reiterate a previous comment that local government stakeholders in the COG region need a voice in assembling the Conowingo WIP to the extent that its provisions may affect us.

**CONOWINGO COMMENT** - As is planned for the Conowingo WIP, COG encourages local stakeholder involvement in the draft WIP development.

### **PLANNING FOR GROWTH - BACKGROUND**

The Bay Program decided to incorporate 2025 estimates of the nutrient and sediment loading impact of changes in land use and agricultural practices directly into the framework of the Phase III WIPs. However, as noted in the wastewater capacity comment section, the implications of maintaining a cap on future load increases extends indefinitely into the future and will affect local government plans for water, wastewater and stormwater systems. We should be planning for population growth impacts to water quality beyond 2025.

**PLANNING FOR GROWTH COMMENT** - We support the Bay Program's decision to incorporate estimates of future changes in land use and agricultural practices directly into the framework of the Phase III WIPs. We urge the Bay Program partners to work with local governments in examining planning issues beyond 2025, for example, regarding future wastewater capacity to continue to meet the Bay TMDL's cap loads.