Meeting Minutes
Wednesday, June 10, 2020
Water Quality Management Planning Regulation Amendment

Regulatory Advisory Panel (RAP)
Electronic-only Meeting on GoToWebinar

Members Present: Grace LeRose, Theresa O'Quinn, Allison Deines, Tim Castillo, Scott Morris, Ben Shoemaker, Frank Harksen, Dickie Thompson, Timothy Mitchell, James Grandstaff, Ted Henifin, Chris Pomeroy, Andrew Parker, Joe Wood, and Jamie Brunkow.

Members Absent: Patrick Calvert.

Other Attendees: Patrick Fanning, Jim Pletl (present online with Ted Henifin), Wendy Eikenberry (present online with Tim Castillo), Melanie Davenport, Drew Hammond, John Kennedy, Allan Brockenbrough, Dr. Tish Robertson, Austen Stevens, Gary Graham, Alison Thompson, Clifton Bell, Erica Duncan, KC Filipino, Jerry Byerly, Herbert Chriscoe, Viktoriia De La Casas, Laura Dickerson, Normand Goulet, Steven Herzog, Lawrence Heyd, Lawrence Hoffman, Brenda Kennell, Anna Killius, Adrienne Kotula, Amanda Marsh, Michelle Mix, Shelby Olsen, Erin Reilly, Ashley Tatge, Shannon Varner, and Brandon Bull.

The meeting convened at 9:08 a.m. and adjourned at 2:28 p.m.

1. **Welcome, Introductions, and Meeting Logistics** [Melanie Davenport, DEQ]. Ms. Davenport presented the final Agenda (Attachment 1) for the meeting; welcomed the RAP members and alternates (Attachment 2 as revised) and other meeting attendees; and introduced the DEQ staff members that were managing the on-line meeting from the DEQ Central Office. Ms. Davenport then reviewed how the following three elements of the agenda would proceed, including presentations by members representing VMA and VAMWA.

2. **James River Chlorophyll-A** [John Kennedy, DEQ]. Mr. Kennedy provided an update to the James River water quality modeling results shown at the last meeting (Attachment 5 to the minutes of that meeting). In that presentation, there was only one instance of nonattainment with the new chlorophyll criteria under all the point source loading scenarios that were run. That one model run (2017 Watershed General Permit wasteload allocations with WIP 3 nonpoint source control levels, without climate change factors included) needed further investigation to explain the results. Since that time, Dr. Shen at VIMS has done many tests for multiple parameter sets, testing the sensitivity of the climate change factors (e.g., algal growth and respiration rates, increasing water temperature, sea level rise and salinity changes) used to generate results. He has confirmed that the new set of parameters works for both existing and climate change conditions and the model remains calibrated and verified. However, DEQ needs to decide if the model has to be rerun for all the nutrient reduction scenarios with the new parameters. There are funding constraints under the VIMS' modeling contract that have to be considered but DEQ should have more definitive results to report in about a month.

Mr. Kennedy stated that, absent new information or revised water quality modeling results to replace the provisional output of the point source nutrient reduction scenarios tested, the James River allocations should be based on 2017 Watershed General Permit individual facility WLAs and the only changes would be either Industrial review changes or Baywide/WIP type changes (not chlorophyll-based). The group was informed that modeling evaluations continue with examination of the climate change factors to use, and results will be reported when finalized.

3. **Industrial Wasteload Allocations** [Andrew Parker, VMA]. Using Attachment 3, Virginia Manufacturers Association (VMA) presented information on proposed changes to DEQ's suggested means of adjusting industrial wasteload allocations. VMA representatives have participated in various workgroups and processes relating to adjustments to allocations, and have raised concerns with the proposed numerically based evaluation presented by DEQ at the May 28, 2020 meeting. In VMA's view, DEQ's evaluation does not take into account voluntary installation of treatment improvements that may have been undertaken to generate credits or to preserve the opportunity for a facility's expansion in the future. VMA requested that any reductions in industrial wasteload allocations be limited to the provisions in §62.1-44.19:14.D.2.a and b only. Provisions in both the VA Code and Executive Order 52 (2016) were reviewed, highlighting how the language conflicts with DEQ's original proposal. VMA proposed that industrial facilities flagged by DEQ should be contacted directly to validate operational status, future business plans, and voluntary treatment installation. VMA focused on the idea that adjustments in industrial allocations should be dedicated to economic growth, both at existing facilities and at potential new operations.

   DEQ agreed that each of the industrial facilities need to be engaged to confirm their wasteload allocation needs for production variability and future development and urged industrial stakeholders to provide input to the RAP. DEQ emphasized that excess wasteload allocations identified for the Nutrient Offset Fund are not gone and are still potentially available to an industry expanding their production process. The Nutrient Offset Fund (NOF) is also available as a source of credits should the market run short.

   Concerns were raised by members that DEQ may be unaware of private agreements for trades between facilities, so it is critical that discussions be held in future with each facility to ensure that identified allocations are not part of some prior private agreement.

   Concerns were also expressed by members that allocations in the Fund would be acquired by other industrial facilities and no longer available for expansion. DEQ staff pointed out that any distribution of allocations from the NOF would likely also require state of the art treatment.

4. **Municipal Floating Wasteload Allocations** [Chris Pomeroy, VAMWA]. Using Attachment 4, Mr. Pomeroy presented VAMWA's recommended alternative to DEQ's floating cap concept, which VAMWA members consider unnecessarily burdensome and costly for Virginia's Water Quality Improvement Fund and the ratepayers of local wastewater utilities. VAMWA and its members believe that the Phase III Watershed Implementation Plan (WIP) incorrectly assumes a large increase in effluent nutrient concentrations by

2025, leading to unrealistically high 2025 loading projections for significant point sources that are not in line with recent past performance levels (as a statewide average). By correcting the WIP's 2025 loading projection, along with numerous municipal reductions and projects outlined in the presentation as well as any unused industrial wasteload allocations (WLAs), significant point sources can readily meet the WIP's goals for outperforming their aggregate WLAs by operating existing infrastructure at current levels (as a statewide average) without the floating caps. VAMWA proposes that the portion of this rulemaking targeting the reduction of municipal WLAs by means of a floating cap be discontinued.

Several members representing municipal facilities spoke to endorse VAMWA's alternate proposal citing the fact that they outperform their WLAs at great cost to their ratepayers, the floating cap concept would result in additional costs to ratepayers that have already invested in outperforming their WLAs, and implementing the floating cap concept would impose unnecessary facility management difficulties. Additionally, trading pays those investments back to some degree and requires some investment from facilities that have not invested sufficiently to attain their WLAs. Finally, it seems that if the excess allocations are used to make up for nonpoint sources, it unfairly puts the burden of paying for those allocations on ratepayers. Several municipal stakeholders outlined the expected costs of the floating wasteload allocations on their ratepayers and suggested that more cost effective alternatives may be available.

5. **Additional Discussion** [Allan Brockenbrough, DEQ]. Mr. Henifin questioned the equity of the state looking to James River ratepayers to absorb costs with no scientific basis in order to fix a problem up in the upper Bay. Mr. Brockenbrough indicated that the floating wasteload allocation concept was not developed to make up for WIPIII input deck shortfalls in other basins. The concept was developed in recognition that additional, cost-effective and reliable reductions could be achieved from the point source sector as reductions in the more challenging nonpoint sectors lag. He proposed that the RAP discuss the four issues presented in his discussion of WLAs at the last meeting (Item 4 of the minutes of the May 28, 2020 meeting). The membership discussed the first issue of whether to apply floating WLAs to all significant facilities or just a subset of larger facilities. No consensus was reached. Members were concerned that moving ahead with the floating WLA concept is based upon an agreement between DEQ and EPA that the RAP members had no say in.

   Mr. Pomeroy specifically objected to moving forward with the discussion of Floating WLAs for three reasons:

   a. He has received assurance from the Secretary of Natural Resources that the Department consider alternatives to Floating WLAs. If Floating WLAs is the only alternative being discussed, then that is inconsistent with those assurances.

   b. The legislature and the Governor have both agreed to a reevaluation of Floating WLAs since the NOIRA was published. That agreement is codified in the Appropriations Act signed by the Governor this spring.

c. The Governor's Executive Order on rulemaking specifically calls for rulemaking only when necessary and then in the most cost-effective way. Mr. Pomeroy's presentation (Attachment 4) demonstrates a more cost-effective alternative to Floating WLAs.

Mr. Pomeroy asked that the upcoming meetings of the RAP be deferred to allow the required reevaluation workgroup to proceed with its work before continuing with the RAP discussions, and that Mr. Brockenbrough and Ms. Davenport please share this request with the Director before proceeding. Some members agreed with this request, and other members responded that they didn't think deferring the RAP meeting was necessary.

Ms. Davenport responded that she would raise those concerns with the Director.

Mr. Henifin requested that DEQ consider the two cost-effective alternatives included in HRSD's February 19th letter submitted in response to the NOIRA that would eliminate the need for a regulation (Alternative No. 1 being purchase of additional reductions in the Potomac Basin and Alternative No. 2 being an additional voluntary 1.8M lb TN WLA reduction for the HRSD James River Aggregate WLA). Mr. Brockenbrough indicated that all identified alternatives will be considered prior to a recommendation being made to the State Water Control Board. Mr. Brockenbrough also reviewed some of the slides from his work-in-progress spreadsheet (Attachment 5 to the minutes of the May 28, 2020 meeting) to explain how under the floating wasteload allocations DEQ expects that there will be adequate credits available to serve any demand from the MS4 facilities. Mr. Pomeroy expressed the opinion that "capacity" credits that would revert to the NOF should be available for MS4s and new and expanding facilities. The state code only recognizes a single wasteload allocation but DEQ agreed to try to craft regulatory language addressing the issue.

A recording of the meeting is available for review on-line.

Attachments:

1. Final Meeting 2 Agenda.
2. Regulatory Advisory Panel. (Revised RAP membership List).
3. Industrial Wasteload Allocations – WQMP RAP Meeting June 10, 2020.
4. Municipal Wastewater Presentation for DEQ WQMP Regulation Regulatory Advisory Panel June 10, 2020.
5. MS4 Required Wasteload Reductions vs Available Credits.

Attachment 1

Final Agenda
Water Quality Management Planning Regulation Regulatory Advisory Panel (RAP)
Meeting No. 2 – June 10, 2020, 9:00 a.m.

1. Meeting Logistics
2. Introductions
3. James River Chlorophyll-a
4. Industrial Wasteload Allocations
5. Municipal Floating Wasteload Allocations

Attachment 2

COMMONWEALTH OF VIRGINIA
STATE WATER CONTROL BOARD

REGULATORY ADVISORY PANEL
CONCERNING
WATER QUALITY MANAGEMENT PLANNING REGULATION AMENDMENT
(9VAC25-720)

Panel Facilitators

Allan Brockenbrough, DEQ
John Kennedy, DEQ

Regulated Community, Municipal

Grace LeRose, City of Richmond DPU	Alt: Patrick Fanning, Troutman Sanders
Theresa O'Quinn, Prince William County SA	Alt: Patrick Fanning, Troutman Sanders
Allison Deines, Alexandria Renew Enterprises	
Tim Castillo, Augusta County SA	Alt: Wendy Eikenberry
Scott Morris, Chesterfield County Utility Dept.	Alt: Jeff McBride
Ben Shoemaker, Fauquier County WSA	Alt: Cheryl St. Amant
Frank Harksen, Hanover County	Alt: Steven Herzog
Dickie Thompson, Hopewell Water Renewal	Alt: Jerry Byerly
Timothy Mitchell, Lynchburg Water Resources	Alt: Greg Poff
James Grandstaff, Henrico County DPU	Alt: Erica Duncan
Ted Henifin, HRSD	Alt: Jim Pletl

Trade Group/Regulated Community, Municipal

Chris Pomeroy, VA Assoc. of Municipal Water Agencies, Inc.

Trade Group/Regulated Community, Industrial

Andrew Parker, AdvanSix, VMA	Alt: Andrea Wortzel, Troutman Sanders, VMA

Environmental Groups

Patrick Calvert, Virginia Conservation Network	Alt: Phillip Musegaas
Jameson Brunkow, James River Association	Alt: Anna Killius
Joseph Wood, Chesapeake Bay Foundation	Alt: Peggy Sanner

DEQ Staff

Gary Graham, DEQ, Agency Contact

Attachment 3

Industrial Wasteload Allocations – WQMP RAP Meeting June 10, 2020.

Industrial Wasteload Allocations

WQMP RAP Meeting – June 10, 2020

Virginia Manufacturers Engagement

Manufacturers are Active Participants:

- Chesapeake Bay TMDL implementation process
- Virginia Nutrient Credit Exchange program development
- Executive Order 52 (2016) work group

Manufacturers Invest:

- Make capital investments in reliance on this history and to preserve their ability to grow
- Are generally not eligible for funds from the Water Quality Improvement Fund

DEQ's proposal undermines the established regulatory framework and trading program.

Overview

- Statutory Code
  - Concerns about Production vs Voluntary Treatment
- Executive Order 52 (2016)
  - Economic Development
- Proposed Evaluation Criteria
  - Manufacturers have varying production schedules & markets
  - Evaluations should <u>not</u> be numeric, but through facility engagement
- Requirements for Economic Development
  - Allocation requirements to support development

ECONOMIC DEVELOPMENT

VIRGINIA'S WIP3 TARGETS

WATER QUALITY (CHLA)

Code of Virginia - 62.1-44.19:14.D

D. 1. The Board shall (i) review during the year 2020 and every 10 years thereafter the basis for allocations granted in the Water Quality Management Planning Regulation (9VAC25-720) and (ii) as a result of such decennial reviews propose for inclusion in the Water Quality Management Planning Regulation (9VAC25-720) **either the reallocation of unneeded allocations to other facilities registered under the general permit or the reservation of such allocations for future use**.

2. For each decennial review, the Board shall determine whether a permitted facility has:

a. Changed the use of the facility in such a way as to make **discharges unnecessary, ceased the discharge of nutrients, and become unlikely to resume such discharges in the foreseeable future**; or

b. Changed the production processes employed in the facility in such a way as to render **impossible, or significantly to diminish the likelihood of, the resumption of previous nutrient discharges**.

The Board shall not reduce allocations based solely on voluntary improvements in nutrient removal technology

Executive Order 52 (2016) Report

"The issues addressed in the Executive Order are not only related to the Commonwealth's commitments to restore water quality and the overall ecological health of the Chesapeake Bay but also the capacity to treat wastewater from a growing population and **the ability to expand economic** activity within the Chesapeake Bay watershed."

Recommendation II.3.

- "**the first round of review should focus on the most dramatic changed circumstances**."
- "Facilities that have changes their use or implemented changes in their facility **that make discharges impossible should not hold nutrient allocations** that could be better used by new or expanding facilities or held by the state for future reallocation."
- "It is no the intention of this recommendation to discourage voluntary advances in wastewater treatment"
- "ensure that discharges are given a high degree of certainty as they continue to operate … and make decisions about future investments and needs"

Proposed Evaluation Criteria

2.a. Changed the use of the facility in such a way as to make **discharges unnecessary, ceased the discharge of nutrients, and become unlikely to resume such discharges in the foreseeable future**

- Facilities that have not operated or discharged nutrients in the previous 5 years and have documented no intent of transferring the business rights to the discharge allocations or have not register for continuing coverage under the watershed general permit

2.b. Changed the production processes employed in the facility in such a way as to render **impossible, or significantly to diminish the likelihood of, the resumption of previous nutrient discharges**.

- Facilities that have reduced discharges of nutrients based purely on production requirements and have documented no foreseeable business opportunity requiring those portions of the allocation. Not including production changes implemented to attain existing allocations

Back-Up Data

- Potomac
  - Alma Plant – Delivered – 6,030 TN & 484 TP
- Rappahannock
  - N/A
- York
  - Plains Marketing – Delivered – 167,128 TN & 17,689 TP
- James
  - Sustainability Park – Delivered – 25,583 TN & 1,556 TP
  - Tranlin/Vastly – Delivered – 80,000 TN
  - JH Miles – Delivered – 150,000 TN & 21,000 TP
- Eastern Shore
  - N/A
- Large Economic Development Example
  - Estimated Nutrient Discharges – 80,000 TN & 8,000 TP per year (Tranlin 2017)

Attachment 4

Municipal Wastewater Presentation for DEQ WQMP Regulation Regulatory Advisory Panel
June 10, 2020

Municipal Wastewater Presentation for DEQ WQMP Regulation Regulatory Advisory Panel

June 10, 2020

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Purpose of Presentation

- To share VAMWA's vision for ***continuing collaboration*** and ***progress*** for clean water
- To review the ***assumptions used*** in WIP3 for estimating the effluent nutrient concentrations and trends of wastewater facilities
- To identify ***cost-effective*** options to achieve wastewater nutrient load levels ***with reasonable assurance*** consistent with the needs of the Chesapeake Bay TMDL WIP3
- To offer an alternative by which the Wastewater Sector can ***meet or exceed the WIP3 goals*** without the "Floating Cap" regulation of concern

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Please Know That VAMWA Is Proud to Be Your Partner and Continue Leading the Progress

- It is Now Year 10 of the 15-Year TMDL Implementation Plan
- VAMWA Members / Nutrient Exchange Participants Have Achieved Full Compliance with the Bay TMDL
- VAMWA Members Have Invested ~ $2 to $3 Billion in Clean Water Infrastructure for Bay Restoration Projects
- Nutrient Control Is Now Part of the POTW DNA in Virginia and Agencies Will Be Investing in It Forever Going Forward
- VAMWA Members Are the Top Performers Under TMDL Subsidizing Other Sectors that Need More Time and Money
- VAMWA Members Will Voluntarily Do So Without More Regulations and Deserve Everyone's Support

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The Phase III WIP Summarizes What You Have Accomplished Together The Past Decade

"Virginia has implemented one of the most successful point source trading programs in the nation to achieve significant nutrient reductions from the wastewater sector." (WIP3 p.10)

Large Reductions Made

50% N Reduction or 9.93 mlbs/yr since 2010 (WIP3 p.11)

38% P Reduction or 437,410 lbs/yr since 2010 (WIP3 p.11)

Steady & Reliable Results

Nitrogen loads for facilities registered … have declined every year since 2010 (WIP3 p.78)

The facilities currently produce greater than 6 million pounds of unused TN credits every year (WIP3 p.78)

Phosphorus performance has averaged more then 640,000 pounds of unused TP credits over past 8 yrs (WIP3 p.78)

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WIP3 Assumes Actual Effluent Concentrations Jump Up to WLA Concentrations in 2025

Assuming this Unrealistic Spike Means WIP3 Overlooks Real Reductions Made by POTWs

(table shows how much by basin as of CY2018 – same table used on following pages)

	Nitrogen (lbs/yr)			Phosphorus (lbs/yr)		
Basin	**Municipal**	**Industrial**	**Total**	**Municipal**	**Industrial**	**Total**
E Shore	2,514	11,642	14,156	155	704	859
James	925,634	997,378	1,923,012	50,808	76,337	127,145
Potomac	453,765	139,337	593,103	54,456	3,321	57,777
Rapp	49,275	17,431	66,706	8,699	907	9,606
York	1,982	145,131	147,113	1,192	22,369	23,561

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WIP3 Math: Industrial Sources Don't Drive It

	Nitrogen (lbs/yr)			Phosphorus (lbs/yr)		
Basin	**Municipal**	**Industrial**	**Total**	**Municipal**	**Industrial**	**Total**
E Shore	2,514	11,642	14,156	155	704	859
James	925,634	997,378	1,923,012	50,808	76,337	127,145
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Rapp	49,275	17,431	66,706	8,699	907	9,606
York	1,982	145,131	147,113	1,192	22,369	23,561

Industrial Point Source Loads

- WIP3's view of Industry (load spike) is unrealistically negative
- Plus, DEQ announced plan at 1st RAP mtg to reclaim Industrial WLA
- Including York-Plains Marketing 160,000 lbs/yr N
- VAMWA's proposal does not depend upon Industrial reductions, whether voluntary or by DEQ WLA amendments

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WIP3 Math: James River POTWs Don't Drive It

	Nitrogen (lbs/yr)			Phosphorus (lbs/yr)		
Basin	Municipal	Industrial	Total	Municipal	Industrial	Total
E Shore	2,514	11,642	14,156	155	704	859
James	925,634	997,378	1,923,012	50,808	76,337	127,145
Potomac	453,765	139,337	593,103	54,456	3,321	57,777
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York	1,982	145,131	147,113	1,192	22,369	23,561

James River POTWs

- The chl-a WQS controls nutrient levels in the James
- Modeling confirms 2017 Watershed GP James WLAs attain WQS
- So the James is fully protected, but on top of that HRSD's program alone would out-perform the imagined spike
- The James does not drive WIP3 planning or strategy

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WIP3 Math: The Assumed Load Spike in the Potomac Drives Everything

	Nitrogen (lbs/yr)			Phosphorus (lbs/yr)		
Basin	Municipal	Industrial	Total	Municipal	Industrial	Total
E Shore	2,514	11,642	14,156	155	704	859
James	925,634	997,378	1,923,012	50,808	76,337	127,145
Potomac	453,765	139,337	593,103	54,456	3,321	57,777
Rapp	49,275	17,431	66,706	8,699	907	9,606
York	1,982	145,131	147,113	1,192	22,369	23,561

Potomac River POTWs

- This is the most stringently regulated basin – home of the best of the best
- The load spike assumption – basically that the best of the best won't continue to do the great job they are doing now – drives all the numbers
- The Floating Cap is supposed to "fix" the assumed spike, but…

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The Floating Cap Will Not Solve the Assumed Potomac Spike Because the Big POTWs Are Already at State-of-the-Art Levels

- Table shows load reductions from applying WIP3 concentrations (TN=4, TP=0.3) to POTWs with 2018 actual concentrations > WIP3 concentrations
- For Potomac, this yields only 15,938 lbs/yr progress toward 453,000 lbs/yr assumed spike

	TN (lbs/yr)			TP (lbs/yr)		
Basin	**Municipal**	**Industrial**	**Total**	**Municipal**	**Industrial**	**Total**
E Shore	-1,404	0	-1,404	-191	0	-191
James	-2,759,326	-33,408	-2,792,734	-248,782	-10,005	-258,787
Potomac	-15,938	0	-15,938	-5,633	-936	-6,569
Rappahannock	-49,071	0	-49,071	-1,497	0	-1,497
York	-62,748	-63,712	-126,460	-5,044	-472	-5,516

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WIP3 Math: A Closer Look at Potomac

Because of WIP3's point source spike assumption and lack of local treatment options, WIP3 makes an interbasin trade to balance the Potomac

Receiving Basin	N:P Ratio	N Credits Received from James in Final WIP3 (lbs/yr)	Use Omitted Overtreatment		Additional N Credit Needed to Match WIP3 (lb/yr)
			N Credits From N (lb/yr)	N Credits From P (lb/yr)	
Potomac	1.68	404,000	490,041	101,218	-187,259
E Shore	1.34	358,000	1,110	-49	356,939
Rapp	1.67	170,000	204	11,994	157,802
York	1.68	164,000	-60,766	-6,474	231,240

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WIP3 Math: A Closer Look at Potomac

The interbasin trade is unnecessary because the credit is already there in the Potomac based on the excellent facilities in place and demonstrated performance

Receiving Basin	N:P Ratio	N Credits Received from James in Final WIP3 (lbs/yr)	Use Omitted Overtreatment		Additional N Credit Needed to Match WIP3 (lb/yr)
			N Credits From N (lb/yr)	N Credits From P (lb/yr)	
Potomac	1.68	404,000	490,041	101,218	-187,259
E Shore	1.34	358,000	1,110	-49	356,939
Rapp	1.67	170,000	204	11,994	157,802
York	1.68	164,000	-60,766	-6,474	231,240

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Potomac Situation Summary

- **W/o False "Spike", Potomac 187,000 lbs/yr N to the Good**
  - But with "spike" assumption, Potomac short 404,000 credits (a negative swing of 591,000 lbs)
- **Largest Facilities in Potomac Already Operate < 4 mg/l N, so There Is No 404,000 lbs/yr Local Option**
  - Thus WIP3 looks south to take credit from other basins (all basins are affected by Floating Cap concentrations)
- **Plus James-to-Potomac interbasin credit transfer requires 5.8 to 1.0 Discount Ratio to account for lost effectiveness**
  - Because James hardly affects the Bay in the first place
  - Potomac 404,000 x 5.8 Discount = 2,343,000 James hit

WIP3 Effectively Cuts James Permit Limits from 5/6 to 4 mg/l to Fund Interbasin Trade to Make Up for False Spike Assumption

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WIP3 Math: Other Basins

After fixing the assumed spike, WIP3 still uses credits in 3 basins and these remain available from James

Receiving Basin	N:P Ratio	N Credits Received from James in Final WIP3 (lbs/yr)	Take Credit for Overtreatment		Additional N Credit Needed to Match WIP3 (lb/yr)
			N Credits From N (lb/yr)	N Credits From P (lb/yr)	
Potomac	1.68	404,000	490,041	101,218	-187,259
E Shore	1.34	358,000	1,110	-49	356,939
Rapp	1.67	170,000	204	11,994	157,802
York	1.68	164,000	-60,766	-6,474	231,240

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Recommendations

- Replace WIP3's Floating Cap concept with reasonable planning assumptions from demonstrated performance
  - Plan using real concentration data and credits the facilities are producing – this is what we all invested in – so credit it
- This is similar to what MD did and EPA approved
  - No regulation is needed for WIP3 to take credit for PS overtreatment vs. WLA and to thereby subsidize NPS sectors while they continue their reduction progress
- Drop Floating Cap concept from WQMPR rulemaking
  - And support WQIF Budget Amendment in 2021 Session to increase appropriations for eligible projects in the pipeline

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Benefits

- Treats your best performing partners fairly and maintains trust
- Meets Bay TMDL goals as shown above
- Avoids Floating Cap compliance costs estimated at $750M to $1B of previously unanticipated / unplanned spending that would occur at the worst possible time
- Protects residents from increased financial burden when the virus, job losses and recession are already making water and sewer bill payment problematic for many people
- Supports progress in agriculture and stormwater sectors, by not driving up POTW WQIF needs that would compete with and likely delay NPS progress

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“>RA”: Greater Than Reasonable Assurance

- The ***demonstrated*** POTW loading numbers speak for themselves and provide Reasonable Assurance
- Plus VAMWA Members are doing <u>more</u> than needed (the following items are “extra” vs. TMDL & WIP3 needs):
  - HRSD / Chesapeake-Eliz Consolidation project
  - HRSD’s 1 mlbs/yr TN WLA reduction offer
  - Spotsylvania County Regional Consolidation / Upgrade
  - South Central Wastewater Authority Regional Upgrade
  - HRSD SWIFT Program (2024-2032)

VAMWA Members Are More-than-Meeting Bay Requirements and Have Demonstrated That They Will Continue to Do So

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Attachment 5

MS4 Required Wasteload Reductions vs. Available Credits

Impact of Floating WLAs Applied to 2018 Performance

	2018 Excess TN credits (lbs/yr)	2018 Excess TN credits with Floating WLAs (lbs/yr)	2018 Excess TP credits (lbs/yr)	2018 Excess TP credits with Floating WLAs (lbs/yr)
Potomac	1,249,802	699,856	113,514	96,526
Rappahannock	176,960	5,290	24,284	7,246
York	364,565	60,724	46,060	28,544
James	4,503,559	(928,993)	252,477	(134,437)
Eastern Shore	26,327	16,749	1,584	878

Required Reductions by the MS4 Sector

	100% TN Reduction Goal (lbs/yr)	100% TP Reduction Goal (lbs/yr)	100% Sediment Reduction Goal (lbs/yr)
Potomac	210,910	26,150	22,091,029
Rappahannock	4,812	1,083	387,946
York	22,174	4,731	1,591,271
James	230,664	43,100	18,988,808
Totals	468,561	75,065	43,059,054

Prepared 6-9-20