

**Comment Response Document  
Regarding the Total Maximum Daily Load of Sediment in the Non-Tidal Other West  
Chesapeake Bay Watershed, Anne Arundel and Calvert Counties, Maryland**

The Maryland Department of the Environment (MDE) has conducted a public review of the proposed Sediment TMDL for the Non-Tidal Other West Chesapeake Bay Watershed. The public comment period was open from September 13, 2017 through October 12, 2017. MDE received one set of written comments.

Below is a list of the commentors, their affiliations, the date comments were submitted, and the number referenced to the comments. In the pages that follow, comments are summarized along with MDE's responses.

**List of Commentors**

<b>Author</b>	<b>Affiliation</b>	<b>Date</b>	<b>Comment Number</b>
Ms. Jillian Adair	U.S. Environmental Protection Agency Region 3	October 3, 2017	1-20

**Comments and Responses**

1. The commentor references page v of the main report stating MDE “identified the waters of the Other West Chesapeake watershed on the State’s 2014 Integrated Report as impaired by multiple pollutants”, but Table ES-1 on page vi and Table 1 on page 2 list the non-tidal waters as impaired by one pollutant only. Please clarify.

**Response:** The sentence the commentor quotes is referring to the entire Other West Chesapeake watershed, both non-tidal and tidal. As stated on Page v, 2<sup>nd</sup> paragraph, last sentence, “*Background information on the tidal portion of the watershed is presented for informational purposes only.*”

2. The commentor states there’s a possible typo on Page vii, 4<sup>th</sup> paragraph, line 7 and Page 21, 2<sup>nd</sup> paragraph, line 7, sentence beginning, “It is understood...” should “than” be “that”?

**Response:** This correction has been made.

3. The commentor asks if all reference to “Maryland’s biocriteria” instead read “ Maryland’s biological assessment methodology” with a reference to the associated document - citing page vii, 5<sup>th</sup> paragraph, line 6 and Page 23, 1<sup>st</sup> paragraph, line 4, and Page 26, 1<sup>st</sup> paragraph, line 9 as an example.

**Response:** This correction has been made.

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4. The commentor requests a correction in the Executive Summary - Page ix, 1<sup>st</sup> paragraph: The report states that the load allocation (LA) is 1,042 ton/yr and National Pollution Discharge Elimination System (NPDES) Stormwater Wasteload Allocation (WLA) is 928 ton/year, which is inconsistent with Table ES-3 and all other associated tables/text in the document. Please correct.

**Response:** This correction has been made.

5. The commentor suggests adding more information to explain the concept of unregulated urban areas. Additionally, MDE may consider adding the flexibility to translate additional LAs from unregulated urban areas into WLAs in case additional unregulated urban areas become regulated in the future as a result of updated U.S. Census data and NPDES permit applicability.

**Response:** Unregulated urban areas are those that are not regulated by a Municipal Separate Storm Sewer System (MS4) permit. Language has been added to several sections of the TMDL to clarify this. Language has been added to Appendix C to allow for flexibility in adjusting LAs and WLAs if there are changes in unregulated land use area.

6. The commentor suggests that MDE briefly detail the impervious area restoration requirements for stormwater permittees on page x, 3<sup>rd</sup> paragraph.

**Response:** Clarifying language has been added to the TMDL to address this question.

7. The commentor asks if there is reasonable assurance that the TMDL load allocations (LAs) will be met for unregulated urban areas. Please explain.

**Response:** Generally speaking, urban areas that do not have NPDES permits do not have mandatory restoration requirements and restoration activities are largely voluntary. The State makes several efforts to encourage jurisdictions to conduct voluntary activities by providing technical assistance and funding opportunities to guide and support local actions. For example, Section 319 of the Clean Water Act provides federal grants to assist in nonpoint source (NPS) management. Section 319(b) requires preparation of a state NPS management program plan for approval by the US Environmental Protection Agency. Maryland's most recent plan, *Maryland's 2015-2019 Nonpoint Source Management Plan*, addresses NPS according to pollutant and source. There are several programs listed in the report that address urban NPS, including Maryland Bay-Wise Program, Maryland Green Schools Awards, and the SMART Homeowner Reporting Program. Additionally, MDE is conducting outreach to non-MS4 jurisdictions regarding stormwater management requirements and retrofit BMPs. Funding sources for urban nonpoint source pollutants include: Federal 319(h) grants, Chesapeake and Atlantic Coastal Bays Trust Fund, and the State Revolving Loan Fund. More information on Maryland's NPS management program can be found at:

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<http://mde.maryland.gov/programs/Water/319NonPointSource/Pages/index.aspx>. Further efforts include offering competitive grant opportunities through the Chesapeake Bay Trust (CBT). Each year since 2015, MDE and DNR have entered into an agreement to pass federal funding through to local jurisdictions to enhance their ability to restore local water quality. The CBT administers the grant process with these funds and awards over \$1.2M for use by regulated and non-NPDES jurisdictions. More information about this funding can be found on the CBT website here: [https://cbtrust.org/wp-content/uploads/WAGP-2YR-Milestone-2017-2018\\_FINAL.pdf](https://cbtrust.org/wp-content/uploads/WAGP-2YR-Milestone-2017-2018_FINAL.pdf) This grant opportunity combined with technical assistance offered to successful candidates is one more example of the State's plan to address the load allocations and to ensure a better level of reasonable assurance that the TMDL endpoints will be achieved.

8. The commentor references page 2 stating Table 1 lists the non-tidal Other West Chesapeake as impaired by impacts to the biological communities, which differs from Table ES-1 that identifies the non-tidal Other West Chesapeake as impaired by sediments. Please correct.

**Response:** This correction has been made.

9. The commentor references to Section 2.2.1 Nonpoint Source Assessment asking were any Best Management Practices (BMPs) installed after 2009 included in the model?

**Response:** The CBP P5.3.2 watershed model 2009 Progress Scenario was used in this TMDL to maintain consistency with the Chesapeake Bay TMDL. No BMPs installed after 2009 were included in the model. Regulated entities can claim credit in their implementation plans for any BMPs installed after 2009.

10. The commentor references Section 4.4 Critical Condition and Seasonality and states EPA suggests adding information related to the continuous simulation model to further justify that both critical conditions and seasonality were accounted for in the TMDL.

**Response:** The “continuous simulation model” language from Page vii, Paragraph 2, has been added to Section 4.4.

11. The commentor references page 26, 4<sup>th</sup> paragraph quoting “reductions will be applied to the same sediment sources identified in Maryland’s Watershed Implementation Plans (WIPs) for the Bay TMDL, as applicable in the watershed. These include: (1) regulated developed land; (2) conventional till crops, conservation till crops, hay, and pasture; (3) harvested forest; (4) unregulated animal feeding operations and concentrated animal feeding operations (CAFOs); and (5) industrial wastewater sources and municipal wastewater treatment plants.” The commentor then states asks this statement is incorrect as reductions were also applied to unregulated urban lands, correct? Please clarify.

**Response:** Clarifying language regarding reductions to unregulated urban loads has been added to the TMDL to address this question.

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12. The commentor states there is a possible typo on page 28, 4<sup>th</sup> paragraph, ““If loads are de minimis, **and** they pose little or no risk to the aquatic environment and they are not a significant source.” Should “and” be changed to “then”?”

**Response:** This correction has been made.

13. The commentor references Table C-4 stating the “Percent (%)” value for unregulated urban is listed as 21.3 as opposed to 26.3. Please correct.

**Response:** The “Percent (%)” and “Grouped Percent of Total (%)” values should both be 21.3. This correction has been made.

14. The commentor references the point source technical memorandum citing “WLAs have been calculated for NPDES regulated individual municipal permits, individual and general MS4 permits, and the general permit for stormwater discharges from construction sites...”, but WLAs were also calculated for industrial facilities permitted for stormwater discharges. Please clarify.

**Response:** Clarifying language regarding the general permit for stormwater from industrial activities has been added to the TMDL to address this question.

15. The commentor referencing the point source technical memorandum states Section 1 title may be incorrect. The associated WLAs were calculated *without* using Permit 03-IM-5500 for Small MS4s, correct? Please clarify.

**Response:** Section 1 references use of permit **03**-IM-5500, the active permit, whereas Section 2 references permit **13**-IM-5500, the proposed permit out on tentative determination.

16. The commentor referencing the point source technical memorandum, Tables 1-2 and 2-2, and Tables 1-3 and 2-3, stating the NPDES Permit number for Anne Arundel County Phase I MS4 is listed inconsistently between these tables. Please correct.

**Response:** This correction has been made.

17. The commentor referencing Table 1-3 in the point source technical memorandum states the “Reduction (%)” column for Anne Arundel County Phase I MS4 computes to 32% as opposed to 33%. Please clarify.

**Response:** This correction has been made.

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18. The commentor states in Table 2-3 of the point source technical memorandum, the total stormwater WLA is listed as 519 ton/yr whereas in Appendix C, it is listed as 518. Please correct.

**Response:** The correct value is 518 ton/yr. This correction has been made.

19. The commentor references the nonpoint source technical memorandum stating the Section 1 title may be incorrect. The associated LAs were calculated *without* using Permit 03-IM-5500 for Small MS4s, correct? Please clarify.

**Response:** Section 1 references use of permit **03**-IM-5500, the active permit, whereas Section 2 references permit **13**-IM-5500, the proposed permit out on tentative determination.

20. The commentor states EPA's comments regarding the fact sheet are solely for informational purposes. On page 1, the document states "TMDLs for the chloride and sulfate listings will be developed separately", but neither a chloride or sulfate impairment is mentioned in the TMDL report. In addition, on page 2, it's stated "Regulated stormwater WLAs represent 47% of the total TMDL", but regulated stormwater WLAs are listed as 420 tons/year representing only 21% of the total TMDL. Please clarify.

**Response:** The fact sheet has been corrected.