



# MARYLAND DEPARTMENT OF THE ENVIRONMENT

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February 2, 2012

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**MACo**

Mr. Leslie Knapp Jr.  
Associate Director  
Maryland Association of Counties  
169 Conduit Street  
Annapolis MD 21401

Dear Mr. Knapp:

Thank you for contacting the Department regarding the Watershed Implementation Plan. MDE appreciates MACo's partnership on this very important issue. The following is information to clarify the issues you have raised.

**1) The status of the Bay modeling given the EPA statement regarding watershed numbers.**

Originally, EPA intended to provide county-level nutrient loading information to support Phase II WIP development, however, upon further review by EPA and the Bay jurisdictions, it was determined that there are areas in the watershed where there are limitations to the application of the Chesapeake Bay Program Watershed Model at a finer scale. Recognizing that it is the nature of environmental modeling for confidence in outputs to increase as scales become larger, EPA provided the basin jurisdictions with Phase II WIP planning targets for nitrogen, phosphorus and sediment for the major basins in each jurisdiction rather than county-level targets. EPA has allowed the jurisdictions the option of submitting Phase II WIPs that focus on meeting the major river basin planning targets in each jurisdiction rather than loading targets in each county or sub-watershed.

EPA has defined five basins for Maryland: Potomac, Patuxent, Susquehanna, Western Shore and Eastern Shore. Maryland has solicited detailed plans at the county scale (counties and municipalities working together) and plans to continue working with the counties to assess progress through the milestone process, even though we are reporting and will be held responsible by EPA at the basin scale. This will provide Maryland sources with the maximum amount of flexibility to manage pollution reduction programs while still meeting EPA loading targets.

As implementation of the jurisdictions' WIPs proceeds, Maryland and the other Bay watershed jurisdictions are continuing to work with EPA to make improvements to the watershed model and critical input data. EPA and the jurisdictions will use the model to assess progress toward meeting milestone goals and the relative effectiveness of the different implementation measures. This



information will be used to guide our pollution control programs to ensure that we are implementing the most cost effective measures. The Maryland Bay agencies intend to continue to work with the Counties and others to ensure that the best available information is used to guide our decisions and the model is used appropriately as a tool to assist this effort. At the same time, as EPA has said in its communication with MDE, we must “ensure that work to refine model assumptions and data inputs does not distract us from the key implementation priorities at hand.”

EPA has further clarified this approach saying: “The models are not the only tool for assessing milestones. We will ensure implementation is proceeding forward by also considering programmatic milestones. Our review of progress will take into consideration all available data and information, recognizing we will be continually working to credit new practices, factor in new scientific understanding, and account for previously underreported implementation actions.”

## 2) What is generally expected of counties over next few months in this process?

Maryland is planning ahead for four different periods:

- January 15 to March 9, 2012. This will be the review period for the current draft of the WIP. We have scheduled public meetings to assist citizens and others in their review. The schedule follows and additional information is available on the MDE web page.

### **Public Informational Meetings Schedule:**

February 6 (Monday) – 1:00–3:30 PM - Washington College, Chestertown

February 7 (Tuesday) – 6:30–9:00 PM - Videoconferencing from the 4H Center in College Park to the following sites: College of Southern Maryland, Frostburg University, and Salisbury University (Weather date: Wednesday, February 22)

February 29 (Wednesday) – 1:00–3:30 PM – Hagerstown Community College

March 1 (Thursday) – 6:30-9:00 PM – Baltimore County Agricultural Center

March 5 (Monday) – 2:00–4:00 PM - MDE, Baltimore

Local officials should participate in the process, hear what their citizens are saying, and if they wish to make changes, should submit comments reflecting any changes they would like to make to their submitted plans.

- March 30 to July 2012. Local teams will have the opportunity to revise their plans in light of the extended implementation period to 2025 and any outcomes of the Maryland General Assembly session. EPA will very likely be proposing refinements to the Bay TMDL allocations during this period for public review. **Local teams are urged to comment on the Bay TMDLs in a manner that supports any proposed refinements to their plans that would change allocations among sources. This will allow EPA to factor those comments into their final Bay TMDL.**

The critical factor will be whether the Phase II plans shift loads between regulated and unregulated facilities. In the TMDL, there are two key components, the wasteload allocation and the load allocation. The former is the loads from all regulated entities, including regulated stormwater, the latter everything else. Since the wasteload allocation drives permits, any significant changes will require additional public review.

- July 1, 2012 – June 30, 2013. The next Milestone period (2015) runs from July 1, 2013 - June 30, 2015. Local governments will be given the opportunity to identify their milestones for this period. However, advanced planning will be necessary, so local governments should start thinking about their 2015 milestones as soon as they finish their work revisions to the WIP. That's because it will take some time to develop, review and finalize their milestones.

In addition to planning for the next milestones, this will be a critical implementation period. The Maryland Bay agencies will be working closely with the local jurisdictions to assure adequate progress at the end of the first milestone period in June 2013. In particular, it is vital that planning and decisions are on track to establish local funding systems needed to accelerate implementation in advance of the 2017 Interim Target date.

- 2013 – 2017. Showing adequate progress during this period will be necessary to avoid EPA's "consequences." Localities should assure that they have implemented tracking and accounting systems that will credit their jurisdictions with all of the nutrient and sediment reducing practices they have implemented.

### 3) Any anticipated state help with implementation (i.e., increasing BRF)?

- The capital budget is predicated on doubling the revenue from the "flush fee." Thus, **\$105.7 million** is proposed for ENR upgrades and **\$17 million** for septic upgrades. If legislation is enacted, the estimated total funding for cover crops from the Bay Restoration Fund will double to approximately **\$10.8 million** per year.
- The operating budget includes **\$5 million** in additional funds to make progress on WIP goals: **\$4.2 million** for State Highway Administration (SHA) stormwater management projects and **\$750,000** for WIP-related staff, equipment, and operating expenses in the Departments of Agriculture and Environment.
- It also includes **\$25.6 million** for the Chesapeake Bay 2010 Trust Fund to support agricultural Best Management Practices (BMPs), natural filters, and targeted innovative stormwater practices within watersheds. Two key enhancements are:
  - (1) An increase of **\$1.6 million** to support an additional 23 field staff for local soil conservation districts.

- (2) A contingent allocation of **\$5 million** (assuming cover crop funding is doubled in the Bay Restoration Fund) to be used for: **\$2 million** for grants to farmers to assist in implementing proposed new requirements of management of manure; **\$0.5 million** for additional manure transport; and **\$2.5 million** for loan guarantees and grants for construction of manure to energy facilities at the farm level.
- The capital budget also includes **\$27.8 million** in grants for stormwater BMP projects. This leverages **\$11 million** in local matching funds.
  - Capital programs that support clean water and drinking water improvement projects increase significantly in the FY 2013 allowance as American Recovery and Reinvestment Act-related loan repayments become available.
  - The FY 2013 allowance for the Maryland Water Quality Revolving Loan Fund is **\$198 million, an increase of \$57 million from FY 2012.**
  - The Maryland Drinking Water Revolving Loan Fund receives **\$42 million, an increase of \$28.5 million.**

I hope this answers your questions. There are still issues to be resolved and processes to be developed as we are all doing this for the first time. It is my hope that we can continue productive dialog with MACo to jointly find solutions.

Sincerely,



Robert M. Summers, Ph.D.  
Secretary