



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

MAY 30 2012

The Honorable Robert M. Summers, Secretary
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Dear Secretary ~~Summers~~ *Bob*:

Thank you for submitting Maryland's final Phase II Watershed Implementation Plan (WIP) and amended 2012-2013 milestones to the U.S. Environmental Protection Agency (EPA). I greatly appreciate the efforts of you and your partners to respond to EPA's evaluation of the draft WIP and milestones that was provided on February 15, 2012. Maryland has made significant progress reducing pollution and moving forward with Phase I WIP commitments. The completion of the Phase II WIPs represents a transition from planning to accelerating the implementation of practices that will clean up the thousands of streams and rivers that make up the Chesapeake Bay watershed.

I am enclosing EPA's evaluation of Maryland's final Phase II WIP and 2012-2013 milestones. The improvements noted in the enclosed evaluation increase EPA's confidence that Maryland will meet its pollution reduction goals. The evaluation also identifies key areas that EPA expects Maryland to address in the next milestone period and through 2017 in order to fully succeed in this effort.

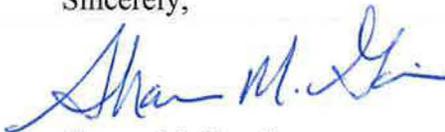
The progress that Maryland has made to enact legislation this year is commendable and will directly support WIP and milestone commitments. Maryland has submitted a draft MS4 permit for Baltimore City that includes enforceable provisions to implement Maryland's WIP commitments and addresses EPA's comments from the February 15 evaluation. Maryland has since submitted three additional draft Phase I MS4 permits that are under EPA review, and the final Phase II WIP and milestones include a schedule for issuing the remaining permits. I appreciate Maryland's implementation efforts and the substantive outreach to local governments and stakeholders to develop the WIP and local plans. These actions demonstrate Maryland's commitment to the Chesapeake Bay restoration effort and actively engaging its citizens in the process, and EPA will continue to maintain ongoing oversight for all source sectors.



EPA will work with you through our regular discussions and the two-year milestone process to assess progress. I look forward to our continued dialogue as we work toward implementing the practices necessary to achieve our shared goals for a restored Chesapeake Bay.

If you have any questions or comments, please do not hesitate to contact me or have your staff contact Mr. Jim Edward at (410) 267-5705.

Sincerely,



Shawn M. Garvin
Regional Administrator

Enclosure

cc: Honorable John Griffin, Secretary
Maryland Department of Natural Resources

Honorable Buddy Hance, Secretary
Maryland Department of Agriculture

Honorable Richard Hall, Secretary
Maryland Department of Planning



**EPA EVALUATION OF MARYLAND'S FINAL PHASE II WATERSHED IMPLEMENTATION PLAN
AND 2012-2013 MILESTONES**

Overview

The final Phase II Watershed Implementation Plan (WIP) and 2012-2013 milestones provide a framework for reducing nitrogen, phosphorus and sediment loads to meet water quality standards in the Bay and achieve the Chesapeake Bay Total Maximum Daily Load (Bay TMDL) allocations. The final 2012-2013 milestones identify important near-term commitments to implement WIP strategies. Model simulations show that, when implemented, Maryland's strategies would achieve the desired improvements in tidal water quality.

The U.S. Environmental Protection Agency (EPA) notes that achievement of projected pollutant load reductions will be supported by key state legislation passed in the 2012 session, including:

- A 100% increase in the Bay Restoration Fund fee to support enhanced nutrient removal (ENR) upgrades at wastewater treatment plants, improvements to on-site septic systems, and planting of cover crops on agricultural land;
- A requirement for Phase I Municipal Separate Storm Sewer System (MS4) jurisdictions to establish, by July 1, 2013, an annual stormwater remediation fee and a local watershed protection and restoration fund to support implementation of local stormwater management plans; and
- A requirement, beginning December 31, 2012, for local jurisdictions to adopt a four-tiered system to guide growth on central sewer and septic systems, before a jurisdiction may approve a major residential subdivision served by onsite sewage disposal systems, community sewerage systems, or shared systems.

EPA will maintain "ongoing oversight" for all sectors in Maryland to ensure that commitments are implemented.

Local Engagement

Key improvements since draft Phase II WIP and final 2012-2013 milestone submission

- Local strategies and programs are addressed in draft county WIPs to varying degrees, and likely will be updated in final Phase II county WIPs which are due to Maryland Department of Environment (MDE) on July 2, 2012. EPA recognizes that, depending upon the magnitude of changes in the local plans, adjustments may be accommodated through changes to Maryland's implementation targets at the midpoint of the milestone period. These issues also may be addressed in ongoing quarterly oversight discussions.

Key areas to address in 2012-2013 milestone period and through 2017

- None specified

Agriculture

Key improvements since draft Phase II WIP and final 2012-2013 milestone submission

- Maryland provides a schedule for revising nutrient management regulations.
- Maryland's Final Phase II WIP includes strategies for filling local technical capacity gaps and to support implementation levels of key best management practices (BMPs), such as cover crops and waste management.

- Implementation plans show a logical progression of increasing implementation from 2009 levels to 2025.
- Maryland explained that contingencies that were in the Phase I WIP were no longer necessary because (1) the mix of BMPs is sufficient to ensure that if some of the strategies are not achieved, then others will enable Maryland to achieve an implementation pace of 60% progress by 2017 and (2) the tracking and verification of the unreported, non-cost shared practices will help fill any target shortfalls. EPA will continue to assess progress through ongoing oversight discussions to ensure that implementation stays on track.

Key areas to address in 2012-2013 milestone period and through 2017

- None specified

Potential EPA Actions: Maintain ongoing oversight.

Urban Stormwater

Key improvements since draft Phase II WIP and final 2012-2013 milestone submission

- Maryland is committed to submit all draft Phase I MS4 permits to EPA by July 1, 2012, and to provide tentative determinations to EPA for all Phase I MS4 permits by November 1, 2012, with final permits planned for issuance by December 31, 2012. Also, Maryland has agreed to submit a draft general permit for Phase II MS4 jurisdictions to EPA for review by December 31, 2012. EPA expects permits to include provisions to implement WIP strategies.
- EPA has received and approved one draft Phase I MS4 permit (Baltimore City) based on inclusion of provisions to implement Maryland's WIP strategies. EPA has received three additional draft Phase I MS4 permits in May and expects to receive the remainder by July 1.
- The WIP includes a plan to fund an outreach effort to accompany MS4 permit reissuance to raise local knowledge and technical capacity to meet new requirements.
- The WIP includes a commitment to pursue funding sources to support implementation of local WIP strategies.
- Maryland includes a milestone to finalize stormwater retrofit guidance and make it consistent with the forthcoming recommendations from the Chesapeake Bay Program's Stormwater Retrofit BMP Panel.
- Maryland enacted significant new legislation that requires Phase I MS4 jurisdictions to establish, by July 1, 2013, an annual stormwater remediation fee and a local watershed protection and restoration fund to support implementation of local stormwater management plans.

Key areas to address in 2012-2013 milestone period and through 2017

- EPA will work with Maryland to issue MS4 Permits with provisions to implement Maryland's WIP strategies according to the schedule outlined above.

Potential EPA Actions: Maintain ongoing oversight, contingent upon Maryland following through with WIP and milestone commitments including issuing tentative determinations for all Phase I MS4 permits with provisions to implement the WIP strategies by November 1, 2012. Oversight will include a stormwater assessment and providing technical assistance and training.

Wastewater Treatment Plants and Onsite Systems

Key improvements since draft Phase II WIP and final 2012-2013 milestone submission

- Maryland enacted significant new legislation to increase the Bay Restoration Fund to provide financing for wastewater treatment plant (WWTP) upgrades and onsite septic system improvements.
- Maryland enacted significant new legislation to guide growth on central sewer and septic systems.
- The WIP explains how Maryland will ensure that nitrogen treatment and alternative onsite treatment systems are properly operating and maintained.

Key areas to address in 2012-2013 milestone period and through 2017

- Maryland has agreed to provide nutrient and sediment load information to EPA from State permits for discharges from dredged material facilities.

Potential EPA Actions: Maintain ongoing oversight.

Offsets and Trading

Key improvements since draft Phase II WIP and final 2012-2013 milestone submission

- Maryland's 2012-2013 milestones include a commitment to address all unresolved Tier 1 recommendations from EPA's offsets and trading program assessment by the end of 2012 and all unresolved recommendations that are common to all jurisdictions in 2013.
- Maryland added a milestone to have a fully effective offset program in place by December 2013 for new or increased loadings, or make a demonstration that a specific sector will not experience net growth in loading. Maryland also committed to address any new or increased loadings that occur prior to offset program implementation in 2013 and described how growth will be tracked.

Key areas to address in 2012-2013 milestone period and through 2017

- None specified

Potential EPA Actions: Conduct ongoing oversight, including NPDES permit reviews, to ensure commitments are implemented and recommendations from EPA's offsets and trading program assessment are addressed.

Federal Facilities

Key improvements since the Draft Phase II WIP and final 2012-2013 milestone submission

- None specified

Key areas to address in 2012-2013 milestone period and through 2017

- None specified

Potential EPA Actions: Conduct ongoing oversight. Through the Federal Facilities Team, EPA will assist jurisdictions in coordinating with federal facilities for purposes of WIP implementation.

General Note to All Jurisdictions

- EPA will assess annual progress and track two-year milestone commitments. EPA may take federal actions, including but not limited to actions described in its December 29, 2009 letter, to ensure that nitrogen, phosphorus, and sediment reductions identified in the jurisdictions' individual WIPs and needed to meet Bay TMDL allocations are achieved.
- The Chesapeake Bay Program partnership is developing verification protocols in order for nutrient and sediment controls to be credited by the Chesapeake Bay Program models. These protocols will address unreported and non-cost shared practices and will include guidelines for identifying and removing duplicate records and addressing expired, failed, or removed practices.
- EPA may conduct special studies or program assessments to ensure progress under the WIPs and milestones.