

The Deadlines That Failed

Virginia, Maryland and the District missed their water pollution deadlines by years -- 19 years. They still haven't reduced the area's smog -- 30 years after the mandate. Now, three key environmental dates are near. Any hope of meeting them?

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Tuesday, February 13, 2007; B01

In the 1970s, the Environmental Protection Agency was told to collect water pollution-control plans from Maryland, Virginia and the District by 1979.

The first arrived in 1998.

The EPA itself set a 1975 deadline when it ordered the Washington area to fix its smog problem.

Three decades later, the region still has dangerous Code Orange, Code Red and even Code Purple days in the summer.

In the world of missed deadlines, it's hard to find anyone who does it on the scale of the EPA.

This history, which has frustrated local environmentalists and teed off a succession of judges, is relevant again now. There will soon be due dates looming for cleanups of the Blue Plains sewage plant, the Anacostia River and the Chesapeake Bay.

Or maybe, activists worry, they won't be looming over anyone if the EPA can't improve on its record of delays and lax enforcement

"When push comes to shove," said David Baron, an attorney with the group Earthjustice, which has sued the EPA dozens of times to enforce various deadlines, "there ain't no push, and there ain't no shove. The EPA just doesn't have the guts and the political will to get tough."

The EPA, of course, is not the first government agency to run behind schedule. Officials at the agency defend themselves by saying that on their watch, there have been significant reductions in air and water pollution-- even if deadlines have been missed along the way.

Local and federal officials say they are committed to meeting future due dates.

"We take deadlines very seriously, and we are working pretty hard with the jurisdictions in the D.C. area currently to make sure that they are on track," said Judith Katz, who oversees EPA air pollution programs for the mid-Atlantic.

Some of the agency's critics also concede that the EPA sometimes gets complex mandates from Congress, requiring them to untangle centuries-old pollution problems in a few years, often without adequate funding.

But even so, environmentalists have assailed the agency, saying that each missed mark sends the wrong signal.

"It sends a strong message that enforcement is not a priority," said Tim Dillingham, executive director of the American Littoral Society, which is concerned with coastal areas. "And that just encourages noncompliance with the law."

The EPA's deadline problem is a national one: In 2005, a report by the Government Accountability Office found that of 338 deadlines assigned by the Clean Air Act, the agency had met only 37.

But locally, there has been more than enough to leave environmentalists frustrated.

There was that 1979 deadline, set by the Clean Water Act, when states and the District were supposed to submit the first of their "pollution budgets," showing how much cleanup of unhealthy rivers was needed.

But, in a pattern that was repeated across the country, it took 19 years and several lawsuits from environmental groups before the first local plans were completed. Along the way, local and federal officials say, the EPA did not penalize Maryland, Virginia or the District for missing the original due date.

"It was in the law. It should have been done," said Richard Eskin, an official at the Maryland Department of the Environment.

He said one reason for the delay was that the work required sophisticated computer modeling. But, also, "EPA didn't push the states to do it."

The smog problem has had even more twists. In the early 1970s, the EPA ruled that the D.C. area violated standards for ground-level ozone, a harmful gas whose components come from power plants, factories and car exhaust, among other sources.

Since then, by the EPA's calculations, there have been unmet goals for 1977 (extended from 1975), 1987 and 1999. For years, no significant punishments were imposed -- sometimes because of laws passed by Congress, sometimes because of decisions by the EPA.

After the 1999 deadline passed, environmentalists sued, and the EPA classified the Washington region as being in "severe nonattainment" of its rules. Local jurisdictions were forced to take action to reduce ozone pollution, such as retrofitting buses and imposing new rules on power plants.

The result has been some good news: Officials say the D.C. area has made serious strides to reduce the components of smog.

But the bottom line is still bad. The area still violates the EPA's current smog standards. The District gets an "F" for air quality from the American Lung Association, which says smog irritates lungs and can pose dangers for the very young and old.

And despite the improvements, the EPA has still come in for blame for not pushing local officials hard enough. In 2005, a federal judge wrote that the agency had "an unblemished record of nonperformance" on the issue.

Now it's possible that the area's deadline-busting tradition is about to change. Maryland's new attorney general has promised to prosecute polluters, and new Gov. Martin O'Malley (D) has proposed holding regular "BayStat" meetings to keep track of environmental progress. The EPA says the two local projects, cleaning up water and smog, which have been delayed for decades, are now mainly on schedule.

But the three coming projects will test the resolve to do better.

One involves the massive Blue Plains sewage plant in the District, the largest single source of some types of pollution in the Chesapeake watershed. The EPA wants its output of the pollutant nitrogen drastically cut -- but hasn't said what the due date will be.

Another project in the spotlight is the effort to reduce raw sewage flowing from the District's sewer system into the Anacostia. Last month, environmentalists won a lawsuit forcing the EPA to impose stricter, daily caps on river pollution. But the EPA says it may need a year to work out the details.

In both cases, environmentalists say they worry about the EPA's history, concerned that it will delay taking action for as long as possible or -- when it does move to curb pollution -- move too weakly.

"At some point, you get tired of it, and something's got to change," said Chris Weiss, a member of Friends of the Earth, which sued for the stricter pollution caps on the Anacostia. "Show the environmental community that you're serious."

The other coming deadline is the pledge by local and federal governments to clean the Chesapeake by 2010. Officials have already acknowledged that this goal -- like a previous pledge to fix the bay by 2000 -- will likely be missed.

And what if it is?

Officials say the closest thing to a hammer falling would be a requirement that the EPA or some other agency draw up a "pollution budget" to guide future bay cleanup efforts.

Given past experience, environmentalists say they don't expect that to change things very much. So now, even before that deadline is officially missed, the region's old cycle appears ready to repeat. The Chesapeake Bay Foundation says it is considering a lawsuit to force the EPA to act more aggressively.

"Often, there's no recourse but to . . . use litigation," foundation President William C. Baker said, "if the political will is not there."

Staff researcher Meg Smith contributed to this report