

ASSESSMENT OF PHASE II WIP DEVELOPMENT AT THE LOCAL LEVEL

WRTC Meeting (9/8/11) -- **DRAFT**

ELEMENTS	MARYLAND	VIRGINIA
Deadlines	<ul style="list-style-type: none"> - Sept. 9 for state to provide county allocations under Version 5.3.2 of the watershed model - Nov. 1 for locals to submit draft WIPs to MDE 	<ul style="list-style-type: none"> - ??? for state to provide local allocations under Version 5.3.2 of the watershed model - Oct. 1 for locals to provide initial info to state(QA/QC on land use and BMP #s) - Feb 1 for locals to submit strategies to state
Who's Responsible	<p><u>Urban & Septic</u> Local WIP teams in each county (may or may not include incorporated municipality representatives)</p> <p><u>Ag</u> Soil Conservation Districts</p>	<p><u>Urban & Septic</u> Planning District Commissions, which are expected to involve their local government members</p> <p><u>Ag</u> ?</p>
Content of Plan	<ul style="list-style-type: none"> - Narrative describing local conditions, plans for increasing capacity, etc; - MAST input deckⁱ with strategies for achieving 2017 interim and 2020 final allocations (new BMP implementation) - BMPs include full suite of CBP approved BMPs and associated reduction efficiencies; potential to use alternatives such as pet waste management and trash removal - MDE developing default plans for counties that choose not to submit drafts 	<ul style="list-style-type: none"> - Not clear as yet. State has promised to provide some examples of strategies that local governments can use, but has not done so as yet. - There have been discussion of extending the MAST tool Bay-wide (CAST) or producing a Virginia-specific version of it (VAST), but, as yet, neither is available. - BMPs include at least a full suite of CBP approved BMPs and associated reduction efficiencies; potential to use alternatives - Not clear whether Virginia will create default plans for local governments that do not participate or whether the state will submit a WIP plan with gaps and let EPA decide what to do
Unit of Allocation	<p><u>Urban & Septic</u> County with splits for federal, state, state highway, permitted industrial, Phase II municipal and unregulated – available thru MASTⁱⁱ</p> <p><u>Ag</u> County with splits for regulated ag (CAFOs) and federal (if applicable)</p>	<p><u>Urban & Septic</u> County with splits at least for federal lands; Phase II permittees, including municipalities, state highways, universities ; and unregulated, ⁱⁱⁱ</p> <p><u>Ag</u> ?</p>
Geographical Specificity of Plan	<ul style="list-style-type: none"> - MAST set up with 2 or 3 different loading zones per county based on an amalgam of watershed model delivery rations for TN, TP and TSS - MDE has said plans do not need to address multiple Bay segment-sheds within a county (for now) 	<p>?</p> <p>?</p>
Enforceability	<ul style="list-style-type: none"> - Phase II WIP is “planning document” – i.e. nothing in it can be directly enforced, but MDE is expecting/encouraging all counties to participate 	<p>There is no mandate for local governments to participate and Virginia is not pressuring its localities to do so.</p>

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Relationship to MS4 permits	<ul style="list-style-type: none"> - New Phase I draft permit language requires BMPs and other stormwater programs to be “consistent” with applicable TMDLs - Phase I counties must submit restoration plans for meeting Bay TMDL wasteload allocations within 1 year of permit approval (<i>and MDE appears to be treating appropriately configured WIP reduction targets as these wasteload allocations, even though regulated urban stormwater only appears as an aggregate WLA at the state level for now – they are not in the individual MS4 permits</i>) - Phase I counties must retrofit 20% of impervious surface not already treated to the MEP during 5-year permit term and TN, TP and TSS reductions from meeting this practice will count toward the WIP reductions^{iv} - New Phase II permit language has not yet been proposed. WIP Phase I had indicated that Phase II municipal permittees would be required to retrofit 20% of their impervious surface during their 5-year permit term 	<ul style="list-style-type: none"> - Not clear as yet, but Virginia has said that Phase I permits will establish the schedule and requirements for measures to meet the wasteload allocation - Virginia Phase I MS4 permittees do have actual wasteload allocations established in Appendix Q of the TMDL, although these are based on outdated Phase 5.3 load estimates; it is not clear as yet whether these will be altered or eliminated if the TMDL is modified in 2012 - Virginia has not indicated that it will require retrofits in its new round of MS4 permits, although it has suggested that they may be required in future permit rounds - New Phase II permit language has not yet been proposed.

Observations

- **Differences in how local governments participate in the process:**
 - MD will develop default plans for counties who do not do so on their own, and although the state has emphasized the non-enforceability of the WIPs, it is not clear whether or not plan provisions could be included in future MS4 permit language.
 - VA is not strongly encouraging its local governments to even submit plans, but it is not clear what sort of EPA consequences might follow from a decision not to submit any plans.
- **Discrepancies between Bay TMDL/WIP drivers and MS4 permit requirements:**
 - In MD at least, the requirement for MS4 permittees to retrofit 20% of impervious surface not already treated to the MEP emphasizes different BMPs than those that might be employed solely to reduce TN,TP and TSS loads under the WIP.
 - Similarly, local TMDLs in Virginia (e.g. the flow-based TMDL for Accotink Creek) will emphasize different practices than would otherwise be employed to maximize progress under the Bay TMDL.

ⁱ MAST = Maryland Assessment Scenario Tool - Developed to quickly provide loading data that closely mirrors watershed model output in response to varying BMP and land use scenarios. Tool is currently programmed with land use and loads from the Bay Program’s 2009 Progress scenario; will be updated to the 2010 Progress scenario when it available.

ⁱⁱ MDE has taken Bay Program land use as used in Version 5.3.2 of the watershed model and adjusted it through various statewide GIS data layers to separately track various categories such as state highway lands and industrially permitted lands. This includes the split between MS4 Phase I county land and MS4 Phase II municipal land within the same county, although currently MAST aggregates together all such Phase II lands within the same county. Supposedly, the state will disaggregate the land use and other data for the various Phase II municipalities in future iterations of MAST.

ⁱⁱⁱ VA DCR says it is working with EPA to disaggregate these land uses from the overall county totals.

^{iv} MDE will allow alternative practices to substitute for BMPs that directly control flow from existing surfaces, but these alternatives are credited in a different way than they are for direct nutrient reduction under the watershed model.