



Chesapeake Bay EPA TMDLs & State WIPs: Implications for Local Governments

*Presentation to COG Board
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Metropolitan Washington
Council of Governments



Today's Focus

- Summarize draft Bay EPA TMDLs and state WIPs
 - Implications for local governments
- Highlight CBPC & WRTC discussion of these issues
 - Policy “themes” and key issues
- Recommend COG Board Action
 - Resolution R60 -10 establishing framework for COG formal comments



TMDL Basic Information

- TMDL stands for “total maximum daily load”
 - Under Clean Water Act, EPA required to set pollution diet for impaired waters not meeting water quality standards
 - TMDLs set allowable levels – “cap loads” – of pollution for various types of sources
 - Establishes regulatory framework for all permitted loads (e.g. wastewater, stormwater, some agriculture)
- WIP stands for “watershed implementation plan”
 - WIPs are the means by which current pollution loads will be reduced to the cap loads
 - Under the Bay-wide set of TMDLs, each state (MD, VA, PA, WV, NY, DE) and District has agreed to develop WIPs



Scope of Bay TMDLs

- Issued by EPA - unprecedented scale
 - Document ~ 300 pages, ~ 17 Appendices
 - Includes 6 states/District
 - Covers 64,000 square miles
 - Details 92 tidal segments and 3 pollutants – so technically 276 separate TMDLs
- Establishes a pollution budget for nitrogen, phosphorus and sediment
 - Calls for 60%* of implementation to be achieved by 2017
 - 100%* of implementation to be achieved by 2025
- Allocates allowable loads to states by basin; states determine allocation by pollution source

* Maryland is planning to achieve 70 percent of implementation by 2017 and 100 percent by 2020



Schedule for Bay TMDLs & WIPs

2010

- Sept. 1 States/District issued Phase I WIPs
- Sept. 24 EPA issued draft Bay TMDLs
- Sept. 24 – Nov. 8 Public Comment Period for TMDLs & WIPs
- Nov. 29 Final Phase I WIPs to be Submitted
- December 31 Final Bay TMDLs to be Issued

2011

- States develop Phase II WIPs; EPA potentially revises TMDLs

2017

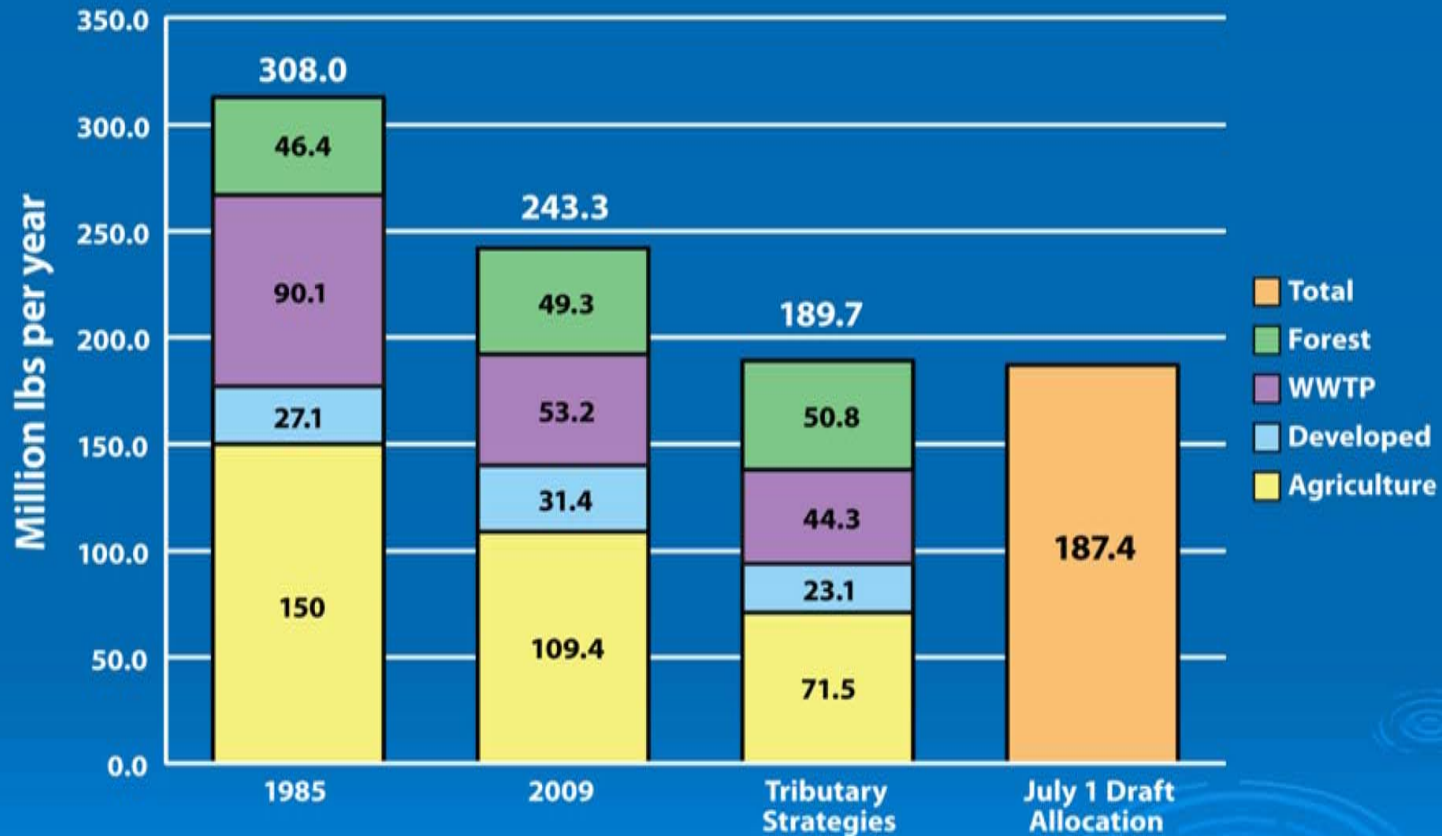
- States develop Phase III WIPs; EPA potentially revises TMDLs



Key Features of Bay TMDLs

- Draft Allocations
 - By state/District
 - By major tributary basins (e.g. Potomac River)
- Reasonable assurance and accountability framework
 - Includes 2-year milestone reporting by states, District
 - Potential for federal action in lieu of or addition to state actions
- Margin of safety - implicit
- Air loads - Rely on implementing existing federal air regulations
- Allowance for growth
 - Not accounted for beyond 2010 – except for permitted capacity at some wastewater plants
 - Up to States/District to define how growth is to be addressed in WIPs

Nitrogen Loads by Sector and Scenario—CBP Watershed Model P5.3



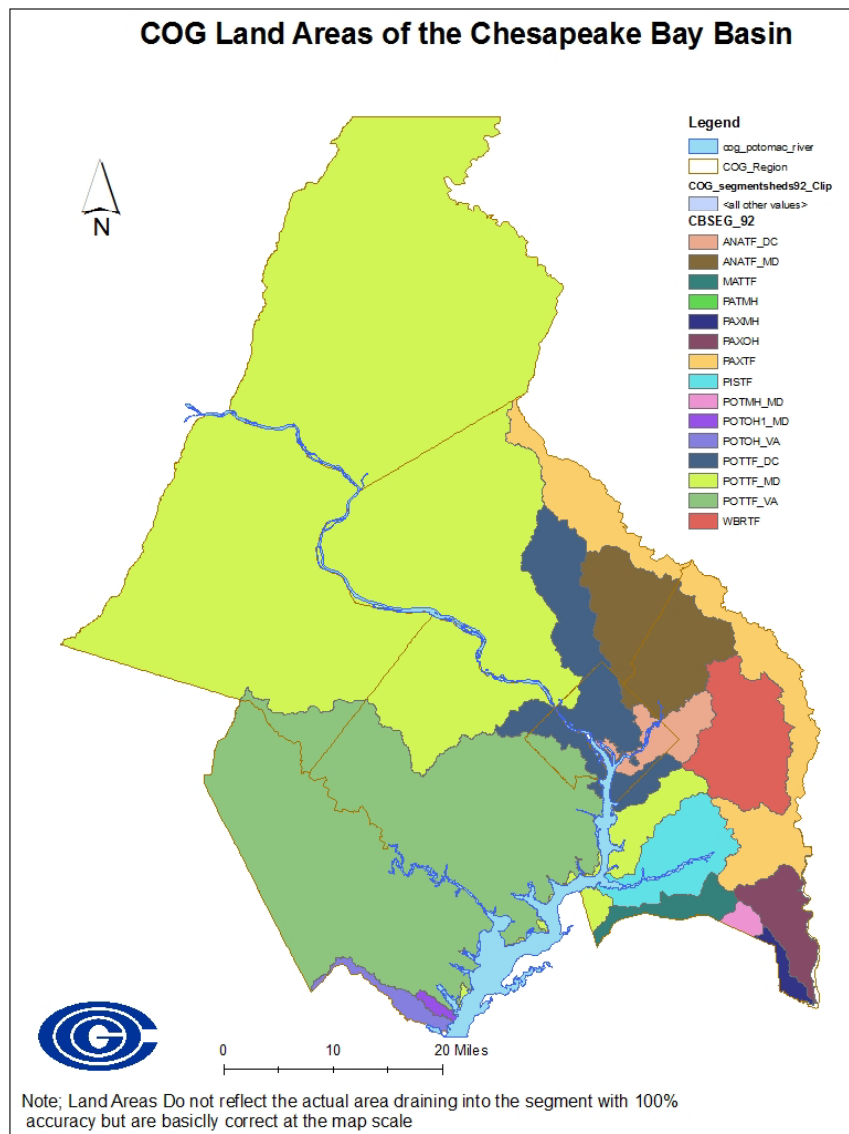
Draft allocation for atmospheric deposition is 15.7 million pounds, which will be achieved by federal air regulations through 2020.

www.epa.gov/chesapeakebaytmdl

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Segment-sheds in COG region

Bay Program has divided the Bay watershed into 92 separate basins; the COG region contains portions of 19 such basins





Summary of WIPs

- Developed by 6 Bay states/District of Columbia
- Scope
 - Phase I – describes proposed implementation measures at state level
 - Phase II & III – will identify local (county) level plans/actions
- Content
 - Allocates loads by source sectors (e.g. wastewater plants, urban stormwater systems, agriculture)
 - Describes what actions will be taken to meet reduction goals
 - Addresses growth, implementation gaps, contingencies



Summary of Maryland Draft Phase I WIP

- Statewide approach toward determining what has to be done
- Focus on nutrients (primarily nitrogen)
 - Achievement of sediment allocations assumed by nutrient reduction actions
- “Gap Analysis” is heart of document
 - 75 expanded current/proposed new actions to close 2017 gap from “current capacity”
 - Basis for meeting additional load reductions from 2017 – 2020
- Public comment will inform gap closers identified in final plan
- No cost data provided for options, although funding sources noted



Summary of Virginia Draft Phase I WIP

- Statewide approach toward determining what has to be done
- Focus on nutrients (primarily nitrogen)
 - Achievement of sediment allocations assumed by nutrient reduction actions
- “Adaptive Management” is heart of document
 - Development of Expanded Chesapeake Bay Nutrient Credit Exchange Program (i.e. trading)
 - Current program only for trades among wastewater plants; state hopes Exchange can facilitate trades between sectors (e.g., urban and ag)
- No cost data provided for options



Summary of District's Draft Phase I WIP

- District is Unique
 - Both a local government and a Bay Program partner with direct role in setting policy
- Plan relies on nutrient load reductions from Blue Plains wastewater plant
- Also will increase stormwater management efforts under new MS4 permit

Bay TMDL – WIP Evaluation

- EPA evaluated WIPs according to 2 main criteria
 - Achieving the overall pollution targets
 - Providing “reasonable assurance”
- EPA found none of the WIPs provided adequate assurance
 - Inadequate strategy for filling gaps
 - Limited enforceability/accountability
 - Few dates for action
- Most of the WIPs (except MD’s) didn’t add up to needed reductions
- Therefore, EPA inserted federal ‘Backstops’
 - Based on actions for which federal regulatory authority exists – i.e., wastewater, stormwater and CAFO permits
- Backstops are provisional; EPA will remove if states can adequately redo Phase I WIPs



Implications for Local Governments

- Cap loads/source allocations – Will establish level of reductions needed in each source sector; load limits for wastewater and stormwater systems via permitting
- Wastewater sector - Must continue progress implementing enhanced nutrient removal
 - Potential concern if EPA seeks further reductions in future years because of lack of progress in other sectors
- Stormwater Permitting – Likely to result in more stringent permit requirements, particularly for expensive retrofits
 - MD proposing up to 50 % retrofit by 2017, more beyond that
 - VA's federal backstop includes 50 % retrofit by 2017
- Growth – Will affect playing field for growth in urban vs. rural areas; may constrain future growth due to WWTP caps, redevelopment requirements, etc.



Recommendation

Per Resolution R60-10...

- CBPC developed “policy framework” to guide detailed comments
 - Organized by four COG Board-adopted Policy Principles
- Seeking COG Board authorization to develop final joint comments on TMDLs, state WIPs*
- COG staff to work with CBPC members (with WRTC technical input) to expand themes into formal comments
- Formal comments to be submitted by November 8

*
Because of its special status, COG will not comment directly on District’s WIP



COG Policy Themes

- Holistic Requirements
 - Address Financial Considerations
 - Allow Maximum Implementation Flexibility for Local Governments and Wastewater Utilities
 - Make Sure Growth Policies Support Infill Development
 - Ensure that Efforts to Meet Bay Water Quality Standards are Consistent with Meeting Other Environmental Objectives
- Equitable Responsibility
 - Confirm Ability to Revise Deadlines and Allocations for the WIPs & TMDLs if Needed for Consistency with its Adaptive Management Principles
 - Build Flexibility into its Backstopping Approach
 - Indicate What the Local Implications Are in a More Timely Fashion
 - Require Greater 'Reasonable Assurance' from Agricultural Sources and Avoid Placing Undue Burden on Regulated Entities



COG Policy Themes – cont.

- **Equitable Responsibility**

- Acknowledge Need to Enhance/Expand Funding if Current Deadlines Are to be Met
- Require Federal Sector to Match or Exceed State and Local Standards

- **Sound Science**

- Portray Source Allocations as ‘Preliminary’
- Clearly Distinguish Between Achieving Water Quality Standards and Achieving the ‘60% & 100% of Implementation’ Goals

- **Communication & Voice**

- Enhance Dialogue with Local Governments and Other Stakeholders
- Ensure that Local Governments and Utilities Have the Greatest Flexibility Possible to Achieve Their Portion of the Implementation Goals