

**EPA EVALUATION OF MARYLAND'S DRAFT PHASE II WIP AND FINAL 2012-2013
MILESTONES**

WIP and Milestone Overview

Overall, the Draft Phase II WIP meets EPA's expectations, especially in the breadth and depth of local engagement. The final 2012-2013 milestones identify important near-term commitments to implement WIP strategies. The milestone and the 2017 and 2025 WIP model input decks meet or approximate planning targets for nitrogen, phosphorus and sediment statewide.

EPA appreciates that Maryland's strategies for the agriculture sector are informed by extensive outreach to the agricultural community and include a mix of milestones pertaining to both quantitative BMP implementation levels and programmatic initiatives. EPA expects the Final Phase II WIP to include strategies to close the local capacity gaps identified in the Draft Phase II WIP for MS4 jurisdictions and Soil Conservation Districts (SCDs).

EPA expects Maryland to reissue and implement Phase I and II MS4 permits with key requirements to implement WIP strategies. Maryland has committed to a schedule to reissue these permits in 2012 and will amend their 2012-2013 milestones to reflect this new schedule (see below). EPA also expects Maryland to update programmatic milestone target dates to conform with the 2012 - 2013 calendar year programmatic milestone period.

EPA notes that achievement of projected load reductions will be supported by the following key pending actions that are identified in the Draft Phase II WIP:

- Legislation to increase the Bay Restoration Fund for enhanced nutrient removal (ENR) upgrades at wastewater treatment plants (WWTPS), on-site septic upgrades and hookups, and stormwater retrofits;
- Nutrient management regulation revisions; and
- Local (or State) legislation to establish stormwater financing mechanisms.

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

Local Engagement

- Maryland implemented a significant local engagement initiative with local government officials, the agricultural sector, federal facility staff, and other stakeholders.
- Maryland provided local officials with the Maryland Assessment Scenario Tool (MAST) and trained them on its use to develop local implementation plans.
- The Draft Phase II WIP includes draft local jurisdiction WIPs for all Maryland Counties and the City of Baltimore with local implementation targets for wastewater, urban stormwater and on-site sewer systems, as well as analysis of local implementation capacity, capacity gaps, and implementation strategies for those source sectors. Final local jurisdiction plans will be submitted to MDE by July 1, 2012.
- Maryland identifies a process for continuing engagement with local partners during WIP implementation.

Agriculture

Key Strengths of Draft Phase II WIP

- Extensive stakeholder meetings reached key agricultural implementers and provided the basis for agriculture sector BMP implementation commitments and programmatic initiatives in the Draft Phase II WIP.

Key Strengths of Milestones

- Presented a good mix of quantitative BMP implementation milestones in a 2013 model input deck and supporting programmatic 2013 milestones in the Draft Phase II WIP.
- Expressed intent to propose nutrient management regulation changes to control crop nutrient applications.
- Staying on target with a schedule to implement P Index revisions.

Improvements EPA Expects in Final Phase II WIP

- Include a plan and timeline for completion of pending nutrient management regulations.
- Include strategies for filling well-articulated local technical capacity gaps and to support implementation levels of key BMPs, such as cover crops and waste management.
- EPA expects model inputs to follow a logical progression of increasing implementation from 2009 levels to the 2025 plan. EPA recognizes that such a progression is supported by the January 25, 2012 Draft Phase II WIP strategy, and is satisfied that Maryland is committed to addressing this progression in its Final Phase II WIP input decks.
- EPA expects the Final Phase II WIP either to retain the contingencies from the Final Phase I WIP (e.g., the mandatory cover crop contingency), or to explain in the Final Phase II WIP why such contingencies are no longer necessary based on specific changes between the Phase I and Phase II WIPs.

Improvements Maryland Should Consider in Final 2012-2013 Milestones

- Consider adding an updated milestone to reflect a new schedule for nutrient management regulation revisions.
- Consider adding milestones to address local technical capacity gaps.

Potential EPA Actions: Maintain ongoing oversight.

Urban/Suburban Stormwater

Key Strengths of Draft Phase II WIP

- Local engagement for WIP development has been exceptional.
- Local jurisdiction Draft WIPs generally go into great detail on stormwater implementation strategies and targets, including milestones.

Key Strengths of Milestones

- Appropriate and important emphasis on local financing of stormwater BMP implementation.

Improvements EPA Expects in Final Phase II WIP

- Through EPA's dialogue with MD during review of the Draft Phase II WIP, EPA is satisfied that Maryland is committed to submit all draft Phase I MS4 permits to EPA by July 1, 2012, 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 all Phase II MS4 permits to EPA for review by December 31, 2012. Permits are expected to include provisions to implement WIP strategies.
- Include an outreach effort to accompany MS4 permit reissuance to raise local knowledge and technical capacity to meet new requirements.
- Include a summary and/or examples of local draft WIP strategies and programs to support forest buffer, tree planting, impervious surface retrofit, stream restoration, and urban nutrient management targets.
- Include a commitment to pursue funding sources to support implementation of local WIP strategies.

Improvements EPA Expects in Final 2012-2013 Milestones

- Through EPA's dialogue with MD during review of the Draft Phase II WIP, EPA is satisfied that Maryland is committed to add a milestone that provides a schedule for reissuing all expired Phase I MS4 permits, including submission of all draft Phase I MS4 permits to EPA by July 1, 2012, provision of tentative determinations for all Phase I MS4 permits to EPA by November 1, 2012, with final permits planned for issuance by December 31, 2012. Maryland's milestone also will include submission of all Phase II MS4 permits to EPA for review by December 31, 2012.
- Consider adding a milestone to finalize the stormwater retrofit guidance and make it consistent with the forthcoming recommendations from the Chesapeake Bay Program Retrofit Panel.

Potential EPA Actions: Maintain ongoing oversight, including conducting stormwater assessment, and provide technical assistance and training.

Wastewater Treatment Plants and On-Site Systems

Key Strengths of Draft Phase II WIP

- Commitment to ENR upgrades at 67 public major WWTPs by 2017.
- Commitments to upgrade significant numbers of on-site systems and connect others to wastewater treatment plants.
- Scope of on-site septic hookups is based on outreach to local jurisdictions.
- Financing strategy identified.

Key Strengths of Milestones

- Commitment to pursue Bay Restoration Fund legislation to generate the necessary revenue.

Improvements EPA Expects in Final Phase II WIP

- Where annual loads in the model input deck or any proposed reissued permit differ from the wasteload allocations contained in the Bay TMDL, document these changes and identify how these changes are being accounted for.

- Explain how ensuring that nitrogen treatment and alternative systems are properly operating and maintained. Strategies should be consistent with EPA management model 3 and/or management model 4 found in the "National Guidelines for Management of Onsite and Clustered (Decentralized) Wastewater Treatment Systems".

Improvements EPA Expects in Final 2012-2013 Milestones – none specified

Potential EPA Actions: Maintain ongoing oversight.

Offsets and Trading

Key Strengths of Draft Phase II WIP

- MD's Bay Cabinet has created a Growth Offset Committee to produce a strategy by June 30, 2012 to account for growth. Committee plans outreach to local governments and other stakeholders.
- Maryland plans to expand its trading program to include ecosystem services.

Key Strengths of Milestones – none specified

Improvements EPA Expects in Final Phase II WIP

- EPA acknowledges that Maryland has provided a plan for implementing an offset program by the end of calendar year 2013 that may now be outdated. EPA expects Maryland to update the description of the plan, as necessary, in the Final Phase II WIP.
- Include a plan of action to address all unresolved, jurisdiction-specific Tier 1 recommendations from EPA's offsets and trading program assessment by the end of 2012 and to address all unresolved recommendations common to all jurisdictions by the end of 2013.

Improvements EPA Expects in Final 2012-2013 Milestones

- Add milestones to address all unresolved, jurisdiction-specific Tier 1 issues in EPA's offsets and trading program assessment in 2012 and all unresolved recommendations that are common to all jurisdictions in 2013.
- Add 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. Explain how new or increased loads that occur prior to offset program implementation in 2013 will be addressed.

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 Strengths of Draft Phase II WIP

- Very good coordination with federal facilities, including effort to supply facilities with usable planning targets.

- Improved description of federal WWTP upgrades.
- Includes appendix of DOD and USDA facility plans.

Key Strengths of Milestones – none specified

Improvements EPA Expects in Final Phase II WIP – none specified

Improvements EPA Expects in Final 2012-2013 Milestones – none specified

Potential EPA Actions: Maintain ongoing oversight and EPA will encourage federal facilities to work with Maryland to identify specific implementation actions.

General Note to All Jurisdictions on EPA Actions: EPA may take federal actions, as described in its December 29, 2009 letter, to ensure that nitrogen, phosphorus, and sediment reductions identified in the WIP and needed to meet Chesapeake Bay TMDL allocations are achieved.