

MARYLAND FORWARD

Governor's Forum on The Chesapeake Bay Watershed Implementation Plan (WIP)



**February 24, 2011
Calhoon M.E.B.A. Engineering School
Easton, Maryland**

Introduction

Governor O'Malley has made fostering a more sustainable future for Maryland one of his Administration's top priorities, taking more assertive steps to: restore the Chesapeake Bay; revitalize Smart Growth; reduce electricity consumption; expand transit ridership and transit oriented development; and reduce Maryland's greenhouse gas emissions. As a result, Maryland's blue crab and oyster spat populations are at their highest levels since 1997 and the State's energy and sustainable growth policies are among the most aggressive in the nation.

On February 24, 2011 Governor Martin O'Malley convened a Watershed Implementation Plan (WIP) forum at the Calhoun M.E.B.A. Engineering School (CMES) in Easton, Maryland. The forum brought together a diverse group of over 200 leaders from around the Choptank River Watershed and beyond, including community leaders, farmers, environmentalists, elected officials, riverkeepers, scientists, watermen, planners, engineers, local watershed groups, and cabinet secretaries. The Governor along with a panel made up of county officials, scientists, and Agency Secretaries presented the various issues related to the Watershed Implementation Plan (WIP). This presentation was followed by a discussion of the issues that will aid in shaping the Administration's WIP strategy and other sustainability policy going forward. Specifically, the forum looked at the following areas.

Information on the [Transition Forums](#) can be found on the Governor's Website.

- Explaining the WIP and how it is central to the Governor's Bay Restoration Goal
- Gathering feedback from stakeholders on submitted Phase I and pending Phase II of the WIP
- Discussing barriers or perceived barriers to successful WIP implementation
- Providing support and assistance to local governments
- Exploring how the WIP can best be implemented at the local level

The resulting recommendations and comments were recorded and are outlined in this report.



The Choptank River Watershed

The Choptank watershed includes parts of Caroline, Talbot, Dorchester and Queen Anne's Counties. The Choptank has an active Tributary Team and has exceptional leadership from Caroline County (upper Choptank), one of the two WIP pilot counties. Caroline County is a model of how the region can proceed with reducing pollution in the Chesapeake Bay.

Caroline County has been proactive as a WIP pilot county on both urban and agricultural issues. Their plans for the Upper County, when fully funded, will address needed nutrient reductions by correcting failing septic systems and upgrading a poorly functioning wastewater treatment plant. To leave no source of funding untapped, they have been qualified for funding from the USDA Rural Development Program.

There has also been positive leadership from the Caroline County Soil Conservation District (SCD). The SCD has indicated that once all of the agricultural best management practices (cover crops, stream buffers, etc.) that have been voluntarily installed by farmers are counted, the County will be able to meet their required allocations, provided financial assistance from the US Department of Agriculture and the Maryland Agricultural Cost-Share Program (MACS) is made available.

More information on the Choptank Watershed can be found on the [Choptank Tributary Team](#) webpage and on Maryland's [Stream Health Website](#).

The Phase I Watershed Implementation Plan

Since 1972, Section 303(d) of the federal Clean Water Act has required states to identify waters that do not meet water quality standards and publicly report them on a list published every two years. For each of the listed waters, states are to determine the maximum amount of pollution that the waters can withstand and still meet standards. This maximum amount of pollution is called a Total Maximum Daily Load (TMDL).

In 2000, the Bay watershed partners, Virginia, Maryland, Pennsylvania, and the District of Columbia, signed the Chesapeake 2000 Agreement to set water quality goals for the Bay and to identify the pollution mitigation actions needed to achieve the Bay goals by 2010. The Agreement was contingent upon the states succeeding in the implementation of voluntary actions. If the states' actions proved insufficient, the EPA could and would step in and compel the states to act by establishing mandatory TMDLs for the Bay. While progress was made, it was not enough to meet the water quality goals that had been established. As a result, the EPA is now leading the States (also now included are New York, West Virginia, and Delaware) through the Watershed Implementation Plan (WIP) process to develop targeted TMDLs for the Chesapeake Bay. Maryland submitted the most aggressive WIP of any Bay State and was the first state to have their plan approved by the EPA.

EPA required the states to comply with TMDL's "reasonable assurance of implementation" which means that achieving the load reductions required by the TMDL can reasonably be met given current and anticipated resources and commitments.

Maryland's WIP supports the reasonable assurance of implementation for the State's TMDL. In accordance with EPA guidance, Maryland's WIP contains the following elements:

In order to reach the EPA's TMDL goals the States must submit the WIP with enumerated strategies for implementation. These strategies are run through a complex model to determine the impact they would have on water quality. According to the EPA's latest model run, Maryland's WIP achieves the target TMDLs. EPA will continue to refine the model throughout the WIP process.

Maryland's WIP was developed and crafted based in part on the public's comments and recommendations. Through an open and transparent process, the Bay Cabinet convened a broad series of public meetings and outreach efforts. Comments were continuously solicited, carefully reviewed and evaluated throughout the process. Final recommendations for strategy selection were further evaluated and selected through the Governor's BayStat process. Maryland's WIP incorporates the strategies to restore and maintain healthy waters in the Chesapeake Bay.

EPA expects that the WIPs will also create a new accountability framework. Not unlike BayStat, the EPA wants the plans to provide the foundation for ongoing oversight on progress toward achieving improved Bay water quality.

A Three-Phased Planning Process:

The WIP process has been broken up into three phases. The three phases allows Maryland to develop finer scale planning during the latter Phases and continue to adjust strategies in accordance with updated data and changing conditions.

Phase I: Completed at the end of 2010, Phase I set Final Target loads that provide the EPA the necessary information to establish Maryland's TMDL allocations. The WIP also sets Interim Target loads (similar to Maryland's accelerated two-year milestones). In Phase I, Maryland committed to achieve the Final Target loads by 2020, five years ahead of schedule. Consistent with this accelerated implementation date, Maryland's WIP is designed to achieve 70 percent of the Final Target by 2017.

Phase II: Scheduled for completion in 2011, Phase II will provide more geographic specificity regarding target loads. The Phase II WIP will also include greater detail about pollution controls that the State and partners will implement by the end of 2017. As part of the Phase II planning process, EPA will allow states to revise the TMDL allocations established in the Phase I WIP but all revisions must be subject to public review.

Phase III: Phase III will be developed in 2017 and will address reductions needed to fill in gaps identified during implementation. These short term remedies will be implemented from 2018 to 2020.



Leading the Way

In developing nutrient reduction strategies, Maryland's Phase I WIP builds on the many precedent setting programs already in place. Since 1985, Maryland has been the leader in Chesapeake Bay restoration by reducing nitrogen pollution by 33 percent and phosphorous pollution by 38 percent. These reductions were realized even as a 29 percent increase in population (1.28 million people) occurred in the State between 1985 and 2009. Maryland continues to be a leader –

- First State to require nutrient management plans on all farms,
- First to commit to implementing state-of-the-art technology on all of the State's 69 largest wastewater treatment plants, accounting for 95 percent of our wastewater flow
- First State to place stringent air pollution controls on power plants required by Maryland's nationally recognized, groundbreaking Healthy Air Act, reducing nitrogen emissions by over 75 percent from coal fired power plants by 2013.

- First state in the watershed to receive federal approval for our Concentrated Animal Feeding Operation (CAFO) program that meets the new EPA regulations and requires comprehensive nutrient management on poultry farms.
- First State in the watershed to require nutrient removal technology for new and failing septic systems in its Critical Area – the land within 1000 feet of the Bay.
- First state in the Watershed to require environmental site design to reduce stormwater runoff on all new development approved after May of 2010 and implemented one of the most progressive set of stormwater requirements for a stormwater (MS4) permit in the Bay Watershed.

Caroline County Pilot Watershed Implementation Plan (WIP)

A WIP pilot program was carried out in two Maryland Counties, Anne Arundel and Caroline. This project has begun development of WIPs with two counties with different types of government, land use, and demographics as a pilot study to determine the challenges that will be faced in development of local WIPs for the remainder of Maryland. The basic approach is to meet and share information and concerns, and develop quantitative data based on existing programs, allocations, and projections to determine the gap between target and reduction. Caroline County, home to 34,000 residents, is primarily agricultural with 78 percent of the land (155,000 acres) held in farms. There are ten municipalities that contain roughly 4,000 people.

Forum Discussion

After presentations on the WIP, Maryland's Sustainability goals, and a brief overview of Caroline County's WIP pilot project, Governor O'Malley lead a discussion on various sustainability issues. The main topics brought up by stakeholders present include mitigation strategies, balancing and preserving Maryland's historic land uses, review of current legislation, costs and funding of mitigations, and septic mitigations. A detailed look at the discussion is listed below.



Mitigation Strategies

- The Governor pointed out that there are often competing demands regarding land use. Working together for a stronger Maryland and cleaner Bay will require a balance between these demands.
- Support was given for Maryland's work on offshore wind development, reducing urban fertilizers, and work to revise phosphorus-index. The Governor committed to keeping progress on these fronts transparent and inclusive.
- Representatives from St. Mary's College highlighted their sustainability efforts and resulting dollar savings, and it was suggested that these efforts be replicated at other institutions.
- It was noted that some mitigation strategies are more affordable than others, such as agricultural compared to urban stormwater.
 - In order to meet nutrient reductions necessary for a healthy Bay, everyone will have to reduce pollution. The State is committed to continuing to work with the various sectors to develop strategies that are the most cost effective.
- It was noted that farms can employ many different actions to mitigate nitrogen pollution and that more resources should be provided to support the most cost effective actions.
- Concerns were raised that despite recent actions to reduce runoff, the watersheds of the Eastern Shore can't assimilate the millions and millions of pounds of nutrients that will be applied to the land in the Spring.
- It was noted that homeowners can fertilize up to the shoreline and that it should be restricted, especially in the Critical Area.
 - Queen Anne's County restricts when urban fertilizers can be applied and State legislation is pending.

Costs and Funding

- Members from the Severn River Keepers noted that Maryland is losing millions of dollars due to EPA's failure to comply with their own Supplemental Environmental Projects. They encouraged Governor O'Malley to write to EPA Director, Lisa Jackson to encourage the EPA to do more to collect these federally mandated fees from polluters.
- An Eastern Shore resident noted the many challenges, including financial, associated with building a living shoreline.
- Representatives of a non-governmental organization (NGO) watershed group made the case for more actively engaging NGOs in the development and implementation of the WIP.
- It was also recommended that local governments' partner with local watershed groups because NGO's are often able to apply for funds the local governments cannot.

Agricultural Concerns

- Concerns regarding the State's farm land buffer requirements were discussed. Farmers noted that too extensive a buffer results in the loss of productive cropland.
- Farmers also expressed concerns that the WIP would result in the conversion of 20,000 acres to cropland to forest.
- The Governor noted that the biggest threat to Maryland agriculture, was not buffers and other sustainability regulations, but sprawl development.

Other Concerns

- Worries were expressed about moving too hastily to restore the Bay. It was suggested that the State slow the implementation of the WIP down in order to guarantee the most cost effective and least damaging approach.
- The Governor acknowledge the need for careful decision making, but noted that Maryland had been too careful for too long and that the current ill health of the Chesapeake Bay required more immediate and accelerated action.

Conclusion

The O'Malley-Brown Administration is committed to making Maryland a leader in restoring the health of the Chesapeake Bay. The Governor's Forum on the WIP offered an opportunity for a broad range of stakeholders in the Choptank region to discuss the various strategies and being undertaken or considered to achieve a healthier Bay and more prosperous and sustainable future for Maryland.

Public participation has been encouraged throughout the WIP process and this forum continued to foster open channels of communication. Governor O'Malley is committed to making Maryland a national leader in sustainable policies and practices and the ideas generated at this forum will inform the policies that the State of Maryland employs.