



## STATUS OF PHASE II WIP DEVELOPMENT AT THE LOCAL LEVEL

Att. 3b

COG staff document (Sept. 9, 2011)

ELEMENTS	MARYLAND	VIRGINIA	DISTRICT of COLUMBIA
Deadlines	<ul style="list-style-type: none"> <li>- Sept. 9 for state to provide updated county allocations</li> <li>- Nov. 1 for locals to submit draft WIPs to MDE</li> </ul>	<ul style="list-style-type: none"> <li>- ? for state to provide county allocations</li> <li>- Feb 1 for locals to submit strategies to state</li> </ul>	<ul style="list-style-type: none"> <li>- Oct 17 for federal partners to submit plans to DC DOE</li> </ul>
Who's Developing	<p><b><u>Urban &amp; Septic</u></b>            - Local WIP teams in each county (may or may not include incorporated municipality representatives)</p> <p><b><u>Ag</u></b>            Soil Conservation Districts, State</p>	<p><b><u>Urban &amp; Septic</u></b>            - Virginia is urging local governments to work through their respective Planning District Commissions</p> <p><b><u>Ag</u></b>            Soil Conservation Districts, State</p>	<p><b><u>Urban</u></b>            - District of Columbia Department of the Environment is developing plan and working with various federal agencies in the city.</p>
Content of Plan	<ul style="list-style-type: none"> <li>- Narrative describing local conditions, plans for increasing capacity, etc; set of new BMPs that local governments, others could implement to achieve required level of nutrient and sediment reductions</li> <li>- MDE developing default plans for counties that choose not to submit drafts</li> </ul>	<ul style="list-style-type: none"> <li>- 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.</li> <li>- 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</li> </ul>	<ul style="list-style-type: none"> <li>- Description of increased wastewater efforts at Blue Plains, new stormwater measures to be undertaken as part of District's new MS4 permit, and actions to be taken by federal agencies</li> </ul>
Geographical Scope	<ul style="list-style-type: none"> <li>- County/municipality</li> </ul>	<ul style="list-style-type: none"> <li>- County/municipality - ?</li> </ul>	<ul style="list-style-type: none"> <li>- City-wide</li> </ul>
Unit of Allocation	<p><b><u>Urban</u></b>            - Overall county target numbers are subdivided into targets for federal, state, state highway, permitted industrial, Phase II municipal and unregulated lands – available thru MAST<sup>1</sup></p> <p><b><u>Ag &amp; Septic</u></b>            - County-wide</p>	<p><b><u>Urban</u></b>            - Overall county target numbers will be subdivided into targets for federal lands; Phase II permittees, including municipalities, state highways, universities; and unregulated lands</p> <p><b><u>Ag &amp; Septic</u></b>            - County-wide</p>	<p><b><u>Urban</u></b>            - Overall city target numbers are subdivided into targets for CSO areas, MS4-only areas and other drainage areas</p>

<sup>1</sup> MAST is an on-line means of deriving nutrient and sediment load estimates that are consistent with the Bay Program's watershed model.

<b>ELEMENTS</b>	<b>MARYLAND</b>	<b>VIRGINIA</b>	<b>DISTRICT of COLUMBIA</b>
Enforceability	<p>- 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>	<p>There is no mandate for local governments to participate and Virginia is not pressuring its localities to do so.</p>	<p>Because the District functions as a state, it is required by EPA to issue a Phase II WIP</p>
Relationship to MS4 Stormwater Permits	<p>- New Phase I 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 MS4 permit approval</p> <p>- Phase I counties must retrofit 20% of impervious surface not already treated to the MEP during 5-year permit term.</p> <p>- New Phase II permit language has not yet been proposed, but the WIP Phase I had indicated that Phase II municipal permittees would also have the 20% retrofit requirement.</p>	<p>- 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 currently have actual wasteload allocations established in Appendix Q of the TMDL.</p> <p>- Virginia has not proposed to require retrofits in its new round of MS4 permits, although it has suggested that they may be required in future permit rounds</p> <p>- New Phase II permit language has not yet been proposed.</p>	<p>- The District’s new MS4 permit, when finalized, will require a number of new projects and program milestones that will help the city meet its TMDL/WIP allocations.</p>
Relationship to Wastewater Permits	<p>- Assignment of loads expected to be consistent with current permits, which include enhanced nutrient removal requirements, and to match the load allocations already established in Appendix Q of the TMDL issued in December 2010.</p>	<p>- Assignment of loads expected to be consistent with current permits, which include enhanced nutrient removal requirements (or compliance through application of Virginia Nutrient Credit Trading program), and to match the load allocations already established in Appendix Q of the TMDL issued in December 2010.</p>	<p>Assignment of loads from Blue Plains expected to be reflected in the District of Columbia’s Phase II WIP (and in Maryland’s and Virginia’s plans for that portion of the load attributed to wastewater flow from those states to Blue Plains)</p>

## **Water Resources Technical Committee Input:**

Concerns / Basis for Potential Comments to Jeff Corbin, EPA Special Adviser *(Compiled at 9/8/11 WRTC Meeting)*

### **1. Implementation Continues:**

Local governments in the COG region are moving forward with existing plans and, in some cases, new initiatives for reducing wastewater and stormwater pollution.

### **2. Continued Uncertainty & Conflicting Signals:**

As of 9/9/11, local governments in the region have not yet received the new target allocations. Questions still remain about the relationship of MS4 permits to the TMDL/WIPs. Despite recent changes/revisions that were made to the Bay Program's watershed model there are still significant concerns about the accuracy of the results that are the basis for target allocations and WIPs. In addition, the requirements in MS4 permits and local TMDLs do not necessarily match those of the Bay TMDL.

### **3. Shrinking Timeframes for Local Planning:**

The EPA has adjusted several internal deadlines in response to continual delays in model outputs and other aspects of TMDL development, but it continues to maintain the March 31, 2012 deadline for submitting final Phase II WIP plans. This deadline was agreed to as part of a legal settlement EPA made with the Chesapeake Bay Foundation. As a result, local plans that are finalized by the March deadline are likely to have significant gaps given the limited time available to plan and assess options; and local governments may not be able to adequately assess whether their plans are feasible/sufficient to meet the stated targets.

### **4. Cost and Feasibility:**

Few local government have been able to develop plans that would fully meet Bay TMDL targets (which are still uncertain), and there is a lot of concern that such plans would ultimately be neither affordable nor feasible to implement within the timeframes currently set by EPA. *(Note: several state Bay Partners have raised concerns about the deadlines, but have not taken any formal action.)*