



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

SECRETARY

September 1, 2010

Mr. Shawn M. Garvin
Regional Administrator
U.S. Environmental Protection Agency, Region III
1650 Arch Street (Mail Code: 3RA00)
Philadelphia, PA 19103-2029

Dear Administrator Garvin:

Please find the enclosed draft Phase I Chesapeake Bay Watershed Implementation Plan (WIP) for Pennsylvania.

Pennsylvania made a decision to develop the WIP through an open process that solicited significant input from a variety of constituency groups. Over 125 individuals representing a broad range of organizations and interest volunteered to participate on workgroups that provided input throughout the development of this document. The hours of effort from these workgroup members demonstrate the commitment of Pennsylvanians to help protect and restore both local waters, as well as the Chesapeake Bay. The short timeframe allotted for development of the WIP did not allow for full analysis of all the comments provided by the workgroups, so it is the intent of the Department of Environmental Protection (DEP) to continue to work with these groups through the second phase of the WIP process to further ideas and suggestions.

I would like to thank the Environmental Protection Agency (EPA) for the various elements of support that have been provided, such as the participation of EPA staff in the workgroup and advisory committee meetings. Financial support for technical help from TetraTech was also helpful, along with the recent additional funding made available to support implementation of WIP elements.

Although the support from EPA has been helpful, there are a number of issues that will require an on-going dialogue between our agencies in order to ensure effective implementation of the WIP. Areas where further discussion is needed include:

Data and the Chesapeake Bay Watershed Model

During the development of the WIP, various issues arose that centered around the Chesapeake Bay Watershed Model (Model). An issue of principal concern among Pennsylvania stakeholders with the Phase 5.3 Model is the significant change in the delivery ratios (DRs) for nutrients and sediments. These factors determine what portion of the nutrient and sediments coming from the land into streams and rivers is transported to the Chesapeake Bay. Initial review indicates that in the Phase 5.3 model, changes in segment delivery DRs ranged from an increase of 11% transport to a decrease of -82%, when compared to the corresponding land segments in the Phase 4.3 model.

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The overall change was approximately a -32% drop in DRs in the Phase 5.3 model. Such a significant change in DRs has raised concerns among all Pennsylvania sectors.

Other issues with the Phase 5.3 model include a concern with how reductions associated with Best Management Practices (BMPs) are calculated. These types of problems were noticed following the submittal of WIP scenarios that were run through the Model. Concerns include:

- Only one stormwater BMP is allowed on an acre of urban land. This eliminates submitting multiple BMPs implemented in sequence as "treatment trains." This type of multiple implementation is becoming more common in Pennsylvania.
- Enhanced and precision nutrient management are not implemented consistent with the definition of the practices.
- Dirt and gravel road BMPs are not allowed on agricultural land in the Phase 5.3 model. About 25% of dirt and gravel road BMPs are implemented on agricultural land.
- Continuous No-Till application in the Phase 5.3 model is inconsistent with how the efficiencies were determined for this practice.
- The acres of animal feeding operations need to be changed to be consistent with the actual acres of confined animal operations that have been permitted.

Sector Load Methodology

There is disagreement between our agencies on the methodology for calculating loadings associated with stormwater from Municipal Separate Storm Sewer Systems (MS4s). This is a significant issue for Pennsylvania, which involves fundamental concepts such as defining the MS4 service area for the purposes of the Total Maximum Daily Load (TMDL). There has been significant discussion between DEP and EPA staff on this topic, and there is a need for an on-going discussion that will allow for the expertise of both our agencies to craft a workable solution.

WIP Scenarios

From our agency's perspective, a WIP scenario consists of a list of BMPs and point source controls to be run through the watershed model, which results in quantification of reductions associated with the implementation of those BMPs and controls. This is an important and powerful analytical tool that is necessary to inform decision-making. During the development of the WIP, DEP worked with workgroups to develop alternative WIP scenarios which were submitted to EPA staff.

The short time allocated for drafting the WIP did not allow for the development and analysis of a full range of scenarios. The running of scenarios is time and resource intensive, and was complicated by some miscommunication between our agencies during the development of the WIP. Ideally, the final WIP scenario run would have been used to develop Wasteload Allocations (WLAs) and Load Allocations (LAs) for Pennsylvania's four basins and sectors, and for

completing Table B2. Since that was not available until August 26, DEP staff and TetraTech worked to develop sector WLAs and LAs using state and watershed model data.

There is a need to re-visit this process and determine how it can be improved, and consideration needs to be given to allowing additional WIP scenarios to be submitted.

Next Steps

During the next few months, I anticipate that there will be a significant amount of discussion between our agencies. This will build upon the dialogue that has already been occurring as part the development of the draft WIP.

Due to the broad range of program areas addressed in the WIP and the large number of staff persons involved from both agencies, I feel that it would be helpful to establish a single point of contact for transmittal of comments on the WIP. For our agency, I am asking Deputy Secretary for Water Management, John Hines, to serve in that role. Mr. Hines can be reached by e-mail at johines@state.pa.us or by telephone at 717.783.4693. I also request your naming of an individual that could serve in that capacity for EPA.

I look forward to receiving your agency's comments on the WIP.

Sincerely,

A handwritten signature in black ink that reads "John Hanger". The signature is written in a cursive, slightly slanted style.

John Hanger
Secretary

Enclosure