Ramping up Regulation (The Chesapeake Bay TMDL)

Chesapeake Bay Commission Meeting May 8, 2009

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What is a Total Maximum Daily Load (TMDL)?

TMDL = Sum of Wasteload Allocations (Point Sources)

Sum of Load Allocations (Nonpoint Sources)

+

Margin of Safety

In other words... a pollution budget

TMDL Background

- Required by Section 303(d) of the Clean Water Act and EPA regulations
 - States list impaired waters on the §303(d) list
 - States/EPA develop pollution budget (TMDL) for listed pollutant that meets water quality standards
- Implementation (not part of the TMDL)
 - NPDES permits for point sources
 - Voluntary with Section 319 grant assistance for nonpoint sources

Myth

- The Chesapeake Bay TMDL will place regulatory controls on point and non-point sources to restore the Bay.
- The Bay TMDL will be another paper exercise resulting in limited implementation of nutrient and sediment controls.

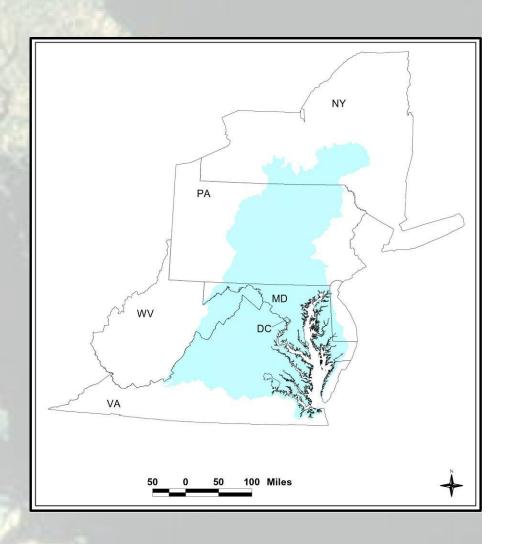
Fact

 The Chesapeake Bay TMDL will be unlike any other, being part of a comprehensive framework for implementation.



The basics... Chesapeake Bay TMDL

- Will establish a 'pollution budget' for N, P, and S
- Will establish loads for all Bay states
- Point source control thru NPDES
- Under the CWA, NPS implementation thru 319 funding



Who will develop the TMDL?

- EPA Region 3 WPD establishes Bay Watershed TMDLs
 - Watershed states provide input and support on the Bay TMDL
 - A Stakeholder committee under the CBP provides key input (WQSC)

Basin-jurisdiction Caps



Bay TMDL Schedule

Summer 2009

Basin-jurisdiction Caps

June 2010

Draft State
 Implementation Plans

June 2010

Final Draft TMDL

December 2010

Final TMDL Approved

Summer 2009

TMDL 101 public meetings

June – August 2010

- Public Comment Period for Final Draft TMDL (EPA)
- Potential StateMeetings onTributary Strategies

A TMDL is not enough!

Effectiveness monitoring

implementation actions

to assess

Biennial Milestones

for closing identified program gaps

Contingencies are employed if

effectiveness monitoring indicates that appropriate progress is not being made

Chesapeake Bay TMDL:

- Set total nutrient and sediment caps
- Wasteload and load allocations
- •Allocate at finer scales if feasible
- •Reference other parts of package

Revised **Implementation** plans

Identifying the nutrient and sediment controls needed to meet the Basin caps

Evaluate existing capacity

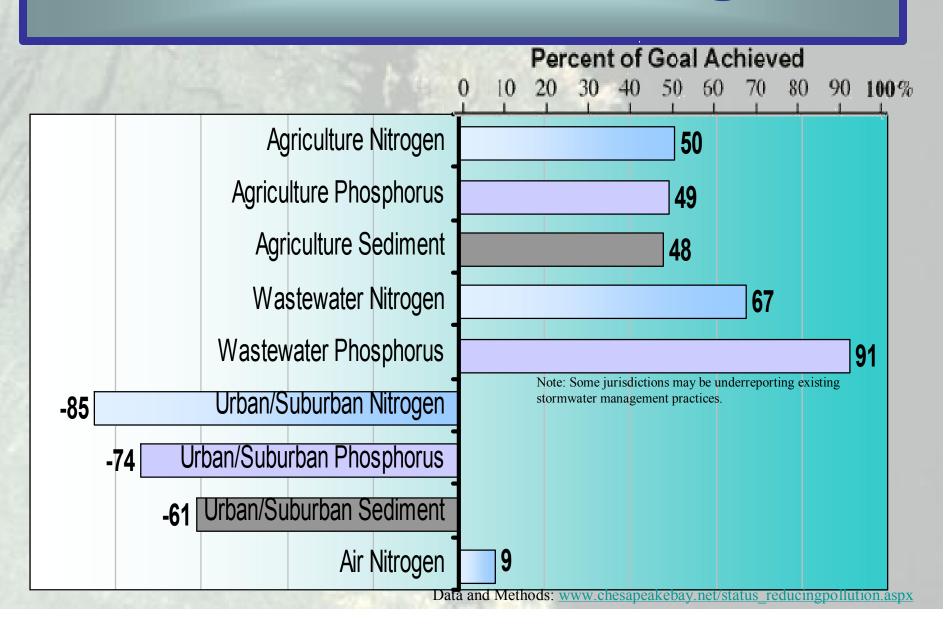


(programmatic, funding, technical) to fully implement tributary strategies

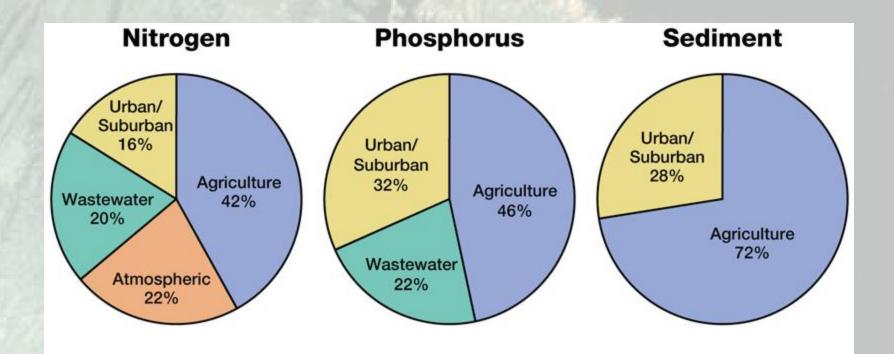
Identify Gaps

between needed controls and existing program capacity

How are we doing?



Pollutant Sources to the Bay



Wastewater loads based on measured discharges; the rest are based on an average-hydrology year. Does not include loads from direct deposition to tidal waters, tidal shoreline erosion or the ocean. Data and Methods: www.chesapeakebay.net/status_reducingpollution.aspx

So how do we get to a restored bay?

- Need to develop the NPS toolbox of the future
- Smarter development
- Don't forget living resources
- Meaningful accountability
- Only limited by
 - -Our will
 - -Our tenacity
 - -Our creativity



Building a bigger toolbox

Sources:

- Agriculture
- Air
- Developed and developing lands
- Wastewater



Tools:

- Public funding
- Cap and trade
- Tax incentives
- Marketing program
- Corporate Stewardship
- Regulation
- · Other?

The big question....

... Who Pays?

- -The landowner?
- -The taxpayer?
- -The consumer?
- -The investor?

