

MARYLAND'S PHASE II WATERSHED IMPLEMENTATION PLAN FOR THE CHESAPEAKE BAY TMDL

Section 1.8 only; full document available at
http://www.mde.state.md.us/programs/Water/TMDL/TMDLHome/Pages/Final_Bay_WIP_2010.aspx

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1.8 Accounting for Growth in Loads

Editor's Note: *The policies and procedures to account for growth are under active development as of October 2012. The information in this section might be superseded as a result of the on-going policy development process. For up-to-date information on Maryland's Accounting for Growth policy See: <http://tinyurl.com/MD-Act4Growth>*

Development of a strategy to account for growth per EPA's guidelines is proceeding as planned in Maryland's Phase I Watershed Implementation Plan. Loads from new development will be accounted for in two ways. First, MDE has in place an Enhanced Nutrient Removal (ENR) Cap Strategy that allows flow increases at major sewage treatment plants to design capacity, while establishing a nutrient loading cap and wasteload allocations (WLAs) in NPDES permits. The interim and target point source loads were set to allow growth up to the permitted WLAs. Second, Maryland's strategy to account for growth, when completed by the end of 2013, will outline a policy and an implementation strategy to offset new loads.

In 2011, the Task Force on Sustainable Growth and Wastewater Disposal presented recommendations relevant to accounting for growth. Further development of the accounting for growth strategy will evaluate the 2012 legislative response to those recommendations before

finalizing the strategy and beginning the public process. The overall plan for completing a fully implementable growth offset program in Maryland by the end of 2013 is as follows:

1. Spring to Fall 2012

- a. Complete research and develop more detailed approaches for offsets
- b. Public process and stakeholder review of draft growth offset policy and implementation strategy

2. Remainder of 2012

- a. Review results from the public process and make recommended edits to the strategy
- b. Finalize the development of the offset policies and procedures
- c. Evaluate current State tracking/accounting for growth process
- d. Begin development of the comprehensive tracking/accounting for growth and offsets system
- e. Evaluate the need for statutory and/or regulatory changes
- f. Develop next steps needed for initiating the offset policy and implementation strategy

3. Beginning of 2013

- a. Legislation if needed
- b. Continue to work with EPA/Bay Program Water Quality Implementation Team Trading and Offset workgroup to discuss/address, where needed, EPA recommendations common to all jurisdictions by the end of 2013

4. Remainder of 2013

- a. Regulations if needed
- b. Outreach to local governments to advance implementation of effective offset program for sectors with planned new or increased loadings
- c. Finalize development of the comprehensive State tracking/accounting for growth and offsets system
- d. Alternative - Demonstrate that a specific sector will not experience growth in loading

1.8.1 Growth Offset Objectives

Minimizing loads from new development is essential to the success of the strategy to offset growth. It reduces the need for offsets and helps preserve offsets for physical and economic development that is vital to the State and local jurisdictions. Maryland's Accounting for Growth strategy will encourage growth where pollutant loading is low by easing offset requirements in those areas, and will increase offset requirements where loadings are high or sensitive areas need to be protected.

1.8.2 Offset Policy Considerations

Maryland's Phase I WIP described and illustrated some of the important factors affecting per capita loading contributions from development. These include the presence or absence of sewer service, zoning and other land use management plans and programs, density of residents and jobs, stormwater management, and the effectiveness of wastewater treatment. All play important roles and affect the nature of development, the amount of land developed per capita, and the amount of impervious surface.

The goal of Maryland's Offset Policy will be to offset new loads in a way that is not just load neutral, but begins to address the need to reduce current loadings and is supportive and consistent with the State's Smart Growth policies and approaches consistent with the Phase I WIP. In addition to establishment of offset requirements that vary among areas commensurate with the loading implications of development in those areas, we anticipate that Maryland's policy will include the following:

New development shall meet all applicable Maryland law and regulations and offset post-development nonpoint source loads.

Redevelopment as defined in State Stormwater Management Regulations, regardless of the Offset Category, must satisfy applicable stormwater regulations, but will not be required to offset post-development nonpoint source loads.

New Septic Systems shall meet all applicable Maryland law and regulations and fully offset the post-development septic load.

Point sources: New point source loads, and increased loads from existing point sources above their WLA, shall be offset according to the procedures established in Maryland nutrient trading policies.¹⁹

1.8.3 Safety Margin for Offsets

This offset policy provides two factors contributing to a safety margin:

- Maryland's nutrient trading policies provide a safety margin by requiring those acquiring nutrient offsets to purchase slightly more credits than they will receive.
- The offset requirements established under this policy are based solely on nonpoint source post-development loads in relation to forested conditions, and do not consider net changes in loads that may be associated with land use change. Over time, we believe that changes in loads as a function of land use will also contribute to a safety margin for Maryland's Offset Policy

¹⁹ <http://www.mde.maryland.gov/programs/water/pages/water/nutrientcap.aspx>