

I. F. Federal Accountability Framework and EPA Consequences Letter

Background and Overview: The restoration of the Chesapeake Bay has transitioned from a voluntary regional compact, under the Chesapeake Bay Agreement, to include a regulatory process, under the federal Clean Water Act. A key part of this renewed effort is the establishment of an accountability framework to ensure the restoration of the Chesapeake Bay. The *Federal Accountability Framework* includes the following elements:

- Bay TMDLs
- Watershed Implementation Plans
- 2-Year Implementation Milestones
- Tracking & Evaluating Progress
- EPA “Consequences Letter”

Summary of EPA Consequences Letter: One critical component of the new federal accountability framework is the identification of actions (consequences) that the U.S. Environmental Protection Agency (EPA) will draw upon if a Chesapeake Bay watershed state does not meet EPA's expectations for developing Watershed Implementation Plans or does not demonstrate satisfactory progress toward achieving nutrient and sediment allocations established by EPA in the Chesapeake Bay TMDL.

Triggers of Consequences: To assure that these expectations are realized, EPA will closely assess and track the following activities and take appropriate action upon a jurisdiction's failure to:

- Develop and submit Phase I, II and III Watershed Implementation Plans;
- Develop two-year milestones;
- Achieve each successive set of two-year milestones;
- Develop National Pollutant Discharge Elimination System (NPDES) permits consistent with the waste load allocations of the Bay TMDL; and
- Develop appropriate mechanisms to ensure that non-point source load allocations are achieved.

Federal Consequences: EPA may exercise its discretionary authority to take any or all of the following actions as necessary:

- Expand NPDES permit coverage to currently unregulated sources;
- Object to NPDES permits and increase program oversight;
- Require net improvement offsets;
- Establish finer scale waste load and load allocations in the Bay TMDL;
- Require additional reductions of loadings from point sources;
- Increase and target federal enforcement and compliance assurance in the watershed;
- Condition or redirect EPA grants; and
- Federal promulgation of local nutrient water quality standards.

Additional Background and Information:

EPA Consequences Letter of December 29, 2009:

http://www.epa.gov/region03/chesapeake/bay_letter_1209.pdf

Federal Accountability Framework web page “Ensuring Results”:

<http://www.epa.gov/reg3wapd/tmdl/ChesapeakeBay/EnsuringResults.html>