

Bay TMDL Virginia Frequently Asked Questions

Will there be one TMDL for Virginia's portion of the Bay or multiple TMDLs?

The tidal portions of the Chesapeake Bay, tidal tributaries and embayments have been divided into 92 segments. Thirty-five of these are in Virginia. In each one, loads for nitrogen, phosphorus and sediment will be allocated to either point source *wasteload allocations* (WLAs) or to nonpoint source *load allocations* (LAs). Each segment is considered a separate TMDL. There will be, however, one implementation plan that addresses concerns of all 35 segments.

How will Virginia's allowable nitrogen, phosphorus and sediment loads be determined?

The Chesapeake Bay Program, led by EPA, will use Bay Program models to set Virginia's nitrogen, phosphorus and sediment load caps that meet the state's water quality standards. The data will be used to further distribute EPA-assigned state caps among the major river basins and the 35 segments that make up Virginia's Bay watershed. The general philosophy in distributing these loads is that watersheds that contribute the most to the problem should achieve the greatest reductions. However, meeting water quality standards and achieving the desired living resource response is the ultimate driver. Initial drafts of state, basin and segment cap loads are expected in spring 2010. These loads will then be allocated to sources in each of Virginia's 35 segments.

There have been many local TMDLs written in Virginia's Chesapeake Bay watershed. How do they relate to this Bay TMDL?

The local TMDLs were done to address local water quality issues. The Bay TMDL is being developed to address the larger Bay watershed. While some previously approved local TMDLs were based on reducing nutrients or sediment, most were written for other pollutants. In contrast, the Bay TMDL will be based on protecting the Chesapeake Bay and its tidal waters from excessive nitrogen, phosphorus and sediment. For waters with both local and Bay TMDLs for nitrogen, phosphorus, and sediment, the more stringent of TMDL will apply. In some cases, reductions required to meet local conditions shown in existing TMDLs may be more stringent than those required for the Bay requirements. In other cases, the opposite will be true. In waters within the Bay watershed where TMDLs have been developed for other pollutants, those TMDLs will remain active alongside the Bay TMDL to address the nitrogen, phosphorus and sediment impairments.

What are the expected consequences if a segment or basin fails or exceeds an assigned loading level, or if it doesn't meet two-year milestones?

Virginia plans to adopt an "adaptive management" approach. This includes the development of two-year milestones and contingencies to adjust plans that fall short of expectations to ensure successful implementation. If these state actions fall short, EPA is prepared to impose consequences to assure progress is made. The specifics of the federal consequences are expected to be formally communicated by EPA before the end of the year in a document commonly referred to as the *Consequences Letter*. Together, the adaptive management, milestones, contingencies and consequences form a strong framework of accountability.

How will unimpaired bodies of water or watersheds be treated in this TMDL process?

Segments next to an impaired segment will be assigned an allocation in the TMDL. While some local segments may not be impaired, their nutrients and sediments contribute to poorer water quality conditions of other nearby impaired tidal segments. That's why these associated watersheds will have allocations, too.

How will specific actions needed to clean the Bay be identified and their implementation be planned?

Based on EPA's expectations for the TMDL, the state will write watershed implementation plans (WIPs) to estimate the pollution reductions needed to meet the allocations. The plans will include two-year milestones. An extensive outreach process will be undertaken with localities, soil and water conservation districts, planning districts, permitted dischargers and other stakeholders to identify appropriate and achievable implementation actions for the WIPs. It is anticipated that the final WIP will require a significant expansion and acceleration of existing programs and practices. Also, various new and innovative approaches will be used. As the process progresses, the actions needed in each source sector and segment will become clearer. This in turn will enable the Bay, its tributaries and local waters to meet nutrient and sediment targets and achieve the desired living resource response.

How will the Bay TMDL affect permitted facilities in Virginia, particularly those that fall under the Nutrient Enriched Waters and Nutrient Trading programs?

Potential impacts to permitted facilities will be unknown until final load allocations are detailed in the final TMDL. That document is due by December 2010. As noted above, EPA is working with jurisdictions to develop an adaptive management approach, including contingencies and consequences based on two-year milestones. Because of allowances for alternate compliance methods under the Nutrient Credit Exchange Program, the determination of total nitrogen and phosphorus loads delivered to tidal waters will be based on all dischargers in each Bay tributary basin, not necessarily by individual facility. In a recent letter to the Principal Staff Committee, EPA recognized the need for further discussions with watershed jurisdictions on the methodology for distributing loads.

How will Bay Program modeling data be used to create the TMDL and to track progress?

EPA's Chesapeake Bay Program is working on updating the Bay Watershed Model to version 5.3. The new version will be used along with other Bay water quality models to establish the Bay TMDL. Until then, EPA has given each jurisdiction target load figures based on the current watershed model. These target loads, which are likely to change, are spelled out in [this EPA Bay letter about TMDL loads](#) (PDF). Once approved, version 5.3 will be used to re-calibrate the Bay water quality-estuary model. This should be done during the spring 2010. The complete series of Bay Program models will then be used to establish nitrogen, phosphorus and sediment allocations for the point and nonpoint sources in each of Virginia's 35 segments.

The model will also be used to evaluate proposed implementation actions in draft [watershed implementation plans](#) (WIPs). This will be done to estimate pollution reductions that would result from the planned measures to make sure such measures adequately meet the allocations. A similar process will be used to track two-year milestone progress. Implemented practices will be tested to estimate long-term benefits that will occur. This will be compared with planned milestone targets.

What funding or training will be provided to meet challenges posed by the TMDL?

An important part of developing the implementation plan will be determining just what levels of training and funding, among other resources, will be needed to meet goals of the TMDLs. One reason for the extensive engagement process mentioned above is the need to learn about, from stakeholders, barriers that exist in terms of meeting allocations. Once obtained, this information will be used to develop strategies and timelines to remove those barriers. This should lead to an implementation plan that will include an estimate of implementation costs and a listing of potential funding sources for the various implementation actions.

What opportunities exist for public participation in the Watershed Implementation Planning process?

During development of the tributary strategies, state staff held regional meetings to get data for eventual development of the strategies. Given the accelerated timeframe for the TMDL process, the state is proposing the compilation of land-use data and potential strategies needed for a TMDL and implementation plans. This will be done with the help of experts in on-site wastewater and agricultural and urban best management practices.

This whole process will be developed using a broad range of stakeholder engagement. This will include consultation with a stakeholder workgroup as well as meeting with numerous stakeholder groups, including local governments, planning district commissions, soil and water conservation districts, professional groups and others. For example, a [Stakeholder Advisory Group](#) has been appointed by the Virginia Secretary of Natural Resources. That group will assist throughout this process. The state is also exploring the use of web-based tools to further gather pertinent comments and input as specific implementation actions and two-year milestones are developed. This planning process will maximize transparency and public involvement by following all state requirements for public notice and comment. All meetings will be conducted according to applicable sunshine regulations.

For additional information

- [EPA Chesapeake Bay TMDL](#)
- [EPA Chesapeake Bay Fact Sheet and Key Documents](#)
- [EPA Chesapeake Bay TMDL Frequently Asked Questions](#)
- [Chesapeake Bay TMDL Implementation and Accountability](#)
- [EPA Watershed Implementation Plan Letter - Nov. 4, 2009](#)
- [Chesapeake Bay Modeling](#)
- [Virginia's Nutrient Credit Exchange Program Requirements - VPDES Watershed General Permit for Nutrient Discharges to the Chesapeake Bay \(9 VAC 25-820\)](#)