



Virginia Environmental Law

Virginia's revised WIP submitted...but will it be enough?

By: Ann Neil Cosby. *This was posted Thursday, December 2nd, 2010*

On Monday, the Commonwealth of Virginia submitted a revised [Watershed Implementation Plan](#) (WIP) to the [EPA](#), meeting EPA's established deadline. However, in the revised draft, [Secretary of Natural Resources Doug Domenech](#), on behalf of [Governor McDonnell](#), cautioned that the submission was being provided only an "initial submission" due to unforeseen and late-breaking modeling results that required additional reductions the plan's Wastewater Treatment load allocations. Secretary Domenech advised that the state would continue to work to modify the plan over the next 7 to 10 days. So while a "final" plan has been submitted, we still do not have a final, "final plan."

However, even when a really and truly final plan is submitted, it will remain to be seen whether the state's WIP will be enough to satisfy EPA such that it removes the threatened "[backstops](#)" that the agency stated might be imposed if the state did not do more to reduce pollution in the Chesapeake Bay.

While the current WIP calls for, among other things, significant pollutant load reductions from wastewater treatment plants, increased reductions in urban stormwater runoff, and the implementation of "resource management plans" to further reduce runoff from Virginia farmland, critics believe the plan does not go far enough.

In a [press release issued yesterday](#), Ann F. Jennings, the Executive Director of the Chesapeake Bay Foundation, characterized the revised plan as "includ[ing] many more promising ideas" particularly in regards to agriculture runoff pollution, but lacking "commitments that such reductions will actually be achieved." Ms. Jennings stated that given this "shortcoming," the Foundation anticipates that "EPA will have no choice but to impose backstop TMDL measures which could result in increased EPA oversight in order to comply with the Clean Water Act."

For its part, the state seems to be poised for a fight if EPA does refuse to remove the threatened backstops. In his [transmittal letter to EPA](#), Secretary Domenech reiterated Virginia's concerns about "the process, cost, *legality*, allocations and compressed timing in the development of this plan." (Emphasis mine.) Domenech points out that Virginia was not a party to the case which established a deadline of May 1, 2011 for EPA to create TMDLs for certain Virginia waters and pollutants, if Virginia had not done so by that time. He also

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called into question the precision of the Bay modeling upon which the load allocations are based, and criticized its failing to consider economic consequences as part of the plan process.

So what happens next? Who will blink first? There has been much written about the cost of clean-up. There has also been much written about [the cost if not cleaning up](#) the Bay. Viewed against the backdrop of a weak economy and equally grim state and local budgets, can we even afford to do more?

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