

# Changes in the State and Federal NPDES Permitting Environment in Maryland:

## Overview of Regulatory Changes Impacting the Utility Industry in Maryland

**Presentation to the MD-DC Utilities  
Association**

**October 2012**

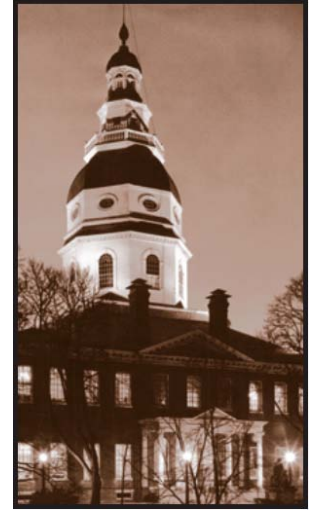


# 12 Month Look Ahead

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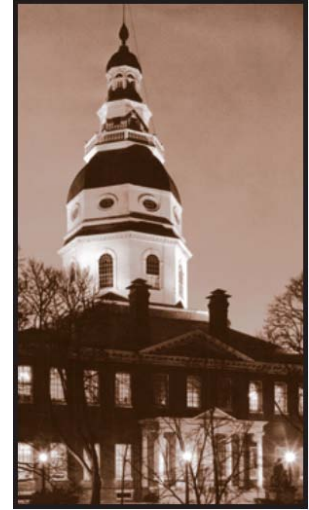
- 2012 Legislative Update
- Chesapeake Bay TMDL – WIP
- Accounting for Growth
- Permitting Changes
- Pending Federal Rulemaking
- Other Issues

# 2012 Legislative Session



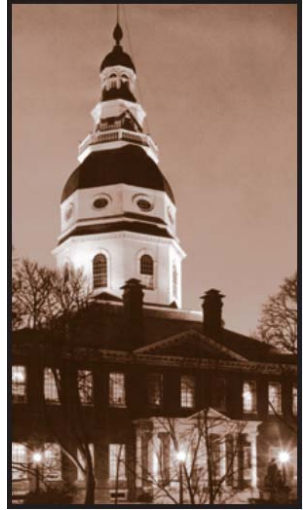
- House Bill 446: generally doubles the bay restoration fee beginning July 1, 2012. makes several other changes including (1) requiring a local government to establish a financial hardship exemption program; (2) establishing an exemption from the fee for local career or volunteer fire departments; (3) establishing an exemption from the
- Senate Bill 236 establishes land use and sewerage criteria and restrictions applicable to each of the four growth tiers. Property within minor residential subdivisions is generally restricted from further subdivision beginning December 31, 2012.

# 2012 Legislative Session



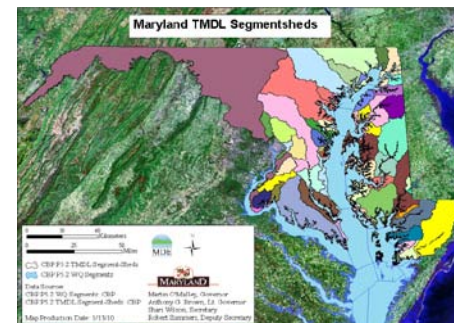
- House Bill 987 requires Phase I MS4 counties to establish an annual stormwater remediation fee and a local watershed protection and restoration fund.
- Senate Bill 115 authorizes specified waterworks, wastewater works, and industrial wastewater works to have a certified operator serve in responsible charge instead of a certified superintendent on approval from MDE. In order to qualify for the exemption from the requirement to be under the supervision of a certified superintendent, the system must serve fewer than 500 persons, have minimal treatment requirements, and employ no more than two operators.

# 2012 Legislative Session



- House Bill 1411 alters wetlands and waterways application fees, fee exemptions, minimum compensation rates, and alters the definition of a “major project”.
- Senate Bill 117 authorizes MDE to waive the water appropriation permit notice and hearing requirements for a construction dewatering project.

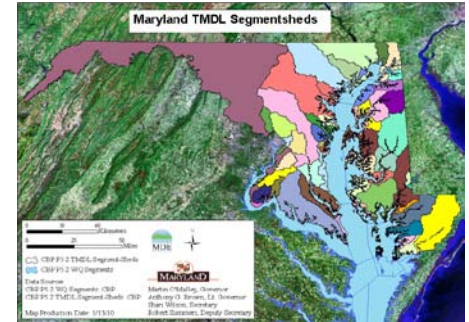
# Chesapeake Bay TMDL



## Total Nitrogen

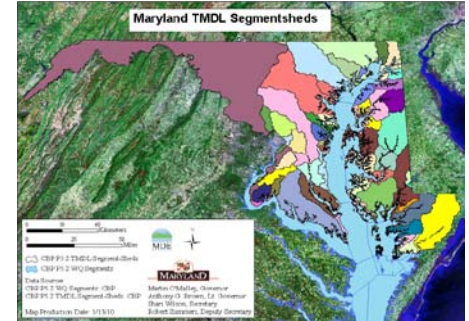
	2010 Progress	Final Target	% Reduction from 2010
Source Sector	Million Lbs/Yr	Million Lbs/Yr	%
Agriculture	19.95	15.22	23.7%
Forest	5.29	5.31	(0.2%)
Non-Tidal Atm <sup>a</sup>	0.66	0.66	NA
Septic	3.00	1.85	38.2%
Stormwater	9.48	7.55	20.3%
Wastewater	14.37	10.58	26.4%
<b>Total</b>	<b>52.76</b>	<b>41.17</b>	<b>22.0%</b>

# Key improvements since draft Phase II WIP



- Local strategies and programs are addressed in draft county WIPs.
- Maryland provides a schedule for revising nutrient management regulations.
- Maryland is committed to submit all draft Phase I MS4 permits to EPA by July 1, 2012
- Maryland enacted new legislation that requires Phase I MS4 jurisdictions to establish an annual stormwater remediation fee and a local watershed protection and restoration fund.

# Key improvements since draft Phase II WIP



- Maryland enacted significant new legislation to increase the Bay Restoration Fund to provide financing for wastewater treatment plant (WWTP) upgrades and onsite septic system improvements.
- Maryland enacted significant new legislation to guide growth on central sewer and septic systems.
- Maryland added a milestone to have a fully effective offset program in place by December 2013.



# Accounting For Growth



Outreach Meetings  
MDA, MDE, MDP

# Addressing New Loads

- Maryland will account for loads from new development in two ways
  - MDE has allotted nutrient loads to large wastewater treatment plants that allow them to take sewage from new development, provided they stay below the allocation or “nutrient cap.”
  - Other new loads from development (septic loads, wastewater over the nutrient cap and stormwater) must be offset

# Schedule

- July to Sept. – Outreach
  - Regional meetings and possibly a webinar
  - Make documents available online
    - Discussion Draft
    - Spreadsheet for calculating load
    - Draft regulations as they are prepared and revised
- Oct. – Attorney General review and approval by Secretary
- Nov. – Brief ENV and EHEA (required by SB236)
- Early Dec. – Submit to AELR and DLS
- Mid-December – Submit to Maryland Register

# Permitting Changes

- NPDES General Permit for Stormwater Associated with Construction
- NPDES Industrial Stormwater General Permit
- TMDL's & Water Quality Standards
- Fees

# General Permit for Stormwater Associated with Construction Activity

- New Non-Numeric ELG Language consistent with current Maryland Standards and Specifications
- Construction GP: target for Tentative Determination - Jan/Feb 2013
- Target for Final Determination - July 2013
- Target effective date - Jan 1 2014
- On-line Permitting



# General Permit for Stormwater Associated with Industrial Activity

- Published proposed permit on October 5t.
- Major overhaul of the existing permit
- Includes requirement to treat 20% of the impervious surfaces
- Includes benchmark monitoring requirements for certain categories of industry such as scrap yards.
- Electronic submittal of the Stormwater Pollution Prevention Plan is required
- Use of new NetDMR to report benchmark results.
- Comment period will be open through January 4, 2013. Hearings scheduled for November 26th and 30th.

# TMDL's, WQS, and other emerging issues

- Offsetting new loads
- New WQ criteria – Temperature, TDS
- Trading
- Anti Degradation
- Environment Justice
- Source Water Protection
- Planning Considerations

## Permit Fee's

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- Service Delivery
- Fiscal Sustainability
- Increasing Complexity
- Legal Challenges
- Technical Resources
- Technology & Innovation



## Proposed Increases to Fees

- Construction NOI – Increase to flat per/acre fee structure
- Industrial Discharge Permits – Fee schedule based on complexity
- Water Appropriation – Need a State Water Resource Development Plan

# Federal Rulemaking

- National Stormwater Rule
- Construction Effluent Limit Guideline
- 316 (b)

# National Stormwater Rule

- **Proposed Rule**
  - Expanding definition of MS4
  - Performance standard for discharge from **new** sites
  - Performance standard for discharge from **redeveloped** sites
  - Performance standard for **retrofits**
  - **Green** infrastructure
- **September 2012: Original Due Date for Final Rule**
- **June 2013 – New date for release of proposed rule.**
- **December 2014 – Proposed Date for Final Action**

# Status of Rulemaking to Revise Numeric Turbidity Limit



- December 2010 - The EPA submitted a proposed rule to revise the turbidity limit to the Office of Management and Budget (OMB) .
- January 4, 2011- EPA has stayed the numeric limitation of 280 NTU.
- January 3, 2012 - EPA published a Federal Register notice requesting additional data on the performance of technologies in controlling turbidity in stormwater discharges from construction sites. Comment period was 60 days.
- Rule is still under review.

# 316 (B) Cooling Water Intake Structures

- EPA has secured an additional year to finalize standards for cooling water intake structures under section 316(b) of the Clean Water Act, under a modified settlement agreement.
- The Agency is working to finalize the standards by June 27, 2013.
- EPA issued two Notices of Data Availability (NODA) in mid-June that described flexibilities EPA is considering as part of the impingement mortality limitations and that described the preliminary results of surveys of households' willingness to pay for incremental reductions in fish mortality.
- This extension will allow EPA to complete analysis of data, options and public comments on the NODAs prior to finalizing the rule.

# Other Issues

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- Marcellus Shale
- FastTrack/ Maryland Made Easy
- Clean Water Innovations Trade Show
- Developments in Renewable Energy

# Marcellus Shale Gas Drilling

- **January 2012 - Recommendations sent to Governor and Legislature detailing recommendations on revenue sources and standards of liability.**
- **More than twenty bills were introduced. Only HB1123 – Presumptive Impact Areas – passed**
- **Ongoing Studies: Investigation into the short-term, long-term and cumulative effects of natural gas exploration and production in the Marcellus shale**
- **Dec. 2012 - Advisory Commission scheduled to release a draft report on Best Practices.**
- **A final report will be issued by August 1, 2014.**



# Clean Water Innovation Tradeshow

- Government agencies, consultants, developers, environmental advocates and the building industry can learn more about the latest best management practices in stormwater management, wetland creation and restoration and other green technologies.
- Additionally, MDE will recognize the winners of the 2012 Smart, Green & Growing Award for Infrastructure and Innovations in Stormwater Management.
- Wednesday, October 24, 10 a.m. - 3 p.m.
- MDE Headquarters at Montgomery Park
- The event is free and refreshments will be provided.







**THANKS - Questions?**