

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE

House Bill 33 (Delegate Clagett)  
Environmental Matters

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Environment - Watershed Implementation Plans - Implementation Deadlines

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This emergency bill prohibits the State from submitting a draft document to the U.S. Environmental Protection Agency (EPA) for approval as a Watershed Implementation Plan (WIP) for purposes of complying with the Chesapeake Bay Total Maximum Daily Load (Bay TMDL) that contains a plan to achieve the preliminary nutrient reduction target before 2017 or the final nutrient reduction target before 2025.

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Fiscal Summary

**State Effect:** None. The bill codifies existing practice.

**Local Effect:** None. The bill codifies existing practice.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** The bill defines the preliminary nutrient reduction target to be about 60% of the final nutrient reduction target. As a result of this definition, the bill prohibits the State from submitting a plan to EPA that achieves significantly more than 60% of the final target before 2017. A WIP includes any modification made by the State to a WIP.

**Current Law/Background:** In December 2010, EPA established the first Bay TMDL that (1) sets the maximum amount of pollution the bay can receive and still attain water quality standards; and (2) identifies specific pollution reduction requirements. **Exhibit 1** illustrates Maryland's pollution reduction goals in the Bay TMDL.

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**Exhibit 1**  
**Maryland's Pollution Reduction Goals in the Bay TMDL**  
**(Million Pounds per Year)**

<u>Pollutant</u>	<u>2009 Loads</u>	<u>Bay TMDL Target Load</u>	<u>Percent Reduction</u>
Nitrogen	52.88	41.17	22.1%
Phosphorus	3.20	2.81	12.2%
Sediment	1,395	1,350	3.2%

TMDL: Total Maximum Daily Load

Note: Historical load estimates and target loads as revised by EPA in August 2011.

Source: Maryland Department of the Environment; U.S. Environmental Protection Agency

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In 2010, each bay jurisdiction submitted a Phase I WIP that details how the jurisdiction will achieve its individual pollution reduction goals under the Bay TMDL. The Phase I WIP focuses on the following three approaches for bridging the remaining loading gap: (1) developing new technology and approaches before 2017; (2) increasing the scope of implementation of existing strategies such as upgrading wastewater treatment plants and increasing the number and efficiency of stormwater runoff controls; and (3) improving regulatory requirements. On December 15, 2011, Maryland provided EPA with a preliminary draft of the State's Phase II WIP, which provides implementation strategies for the five major basins in Maryland (the Potomac River basin, Eastern Shore, Western Shore, the Patuxent River basin, and Maryland's portion of the Susquehanna River basin).

All pollution reduction measures must be in place by 2025, with at least 60% of the actions complete by 2017. Maryland had originally committed to achieving the final reduction target by 2020 and 70% of the final reduction target by 2017, which was reflected in the Phase I WIP. In December 2011, Maryland announced that it would change its preliminary and final target reduction schedule to be consistent with the EPA requirements. The Maryland Department of the Environment (MDE) advises that, although the bill's implementation delay is consistent with the State's current plans, it may result in a conflict with future federal requirements should EPA alter the schedule for meeting the preliminary or final reduction targets included in the Bay TMDL.

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**Additional Information**

**Prior Introductions:** SB 29 of the 2011 special session was referred to the Senate Rules Committee, but no further action was taken on it.

**Cross File:** None.

**Information Source(s):** Maryland Department of the Environment, Department of Legislative Services

**Fiscal Note History:** First Reader - January 23, 2012  
mlm/lgc

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Analysis by: Evan M. Isaacson

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510