

Developments of Interest: July 2010 through September 2010

THIS ARTICLE HIGHLIGHTS significant environmental regulatory changes and indicators suggesting future changes to the regulatory landscape.

In September 2010, the U.S. Environmental Protection Agency (EPA) released a draft Total Maximum Daily Load (TMDL) addressing sediment and nutrients for the Chesapeake Bay watershed.



As the largest estuary in North America and formerly a fantastically productive commercial fishery, the Chesapeake Bay has been a prominent test case for whether the Clean Water Act (CWA) “fishable and swimmable” goals could be realized. The effort of trying to attain these goals is providing additional impetus for environmental changes ranging from better control of oxides of nitrogen from power plants to requiring low impact development (i.e., stormwater management that empha-

sizes infiltration to reduce runoff) in public and private sector development. Already mandatory for federal agencies, low impact development is being explored as a future requirement for private sector construction and renovation. Executive Order 13508 in May 2009 tasked federal agencies with multiple actions to protect and restore the Chesapeake Bay, including strengthening stormwater management.

The watershed draining to the Chesapeake Bay covers more than 64,000 square miles, encompassing parts of Delaware, Maryland, New York, Pennsylvania, Virginia and West Virginia, and the entire District of Columbia. The Chesapeake Bay TMDL allocates to each portion (segment) of the watershed an allowable daily contribution of nutrients and sediment. The draft TMDL will contain at minimum 92 segment specific point (waste-load) and non-point (load) allocations for nitrogen, phosphorous and sediment that will assure the attainment and maintenance of all applicable water quality standards for each of the 92 segments. EPA has worked with Bay jurisdictions, to assist them in developing individual jurisdiction-specific Watershed Implementation Plans that identify specific nutrient and sediment reduction targets and actions that the jurisdictions will take to achieve these reductions.

As an example, the State of Maryland Watershed Implementation Plan addresses nutrient management plans on farms, upgrades to large wastewater treatment plants and air pollution controls on coal fired power plants to reduce nitrogen emissions, and nutrient removal technology for new and failing septic systems located within 1,000 feet of the Bay. The state requires site design to reduce storm-

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water runoff on all new development, and stringent MS-4 permitting Best Management Practices. The state is sponsoring trading programs, including between point and non-point sources. Links to watershed implementation plans, and other information are available at <http://www.epa.gov/chesapeakebaytmdl>.

The Chesapeake Bay TMDL, along with EPA efforts in Florida, is a prominent pilot for nutrient control efforts in United States waters. The hypoxic zone that appears annually in the Gulf of Mexico near the Mississippi delta suggests the extent and significance of excessive nutrients in our aquatic ecosystems. Because excessive nutrients and sediments are the most common causes

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identified for impairment of waters throughout the nation, the types of regulatory controls that are being applied in the Chesapeake Bay and in Florida will establish patterns likely to be copied to protect other estuaries and water bodies.

Atmospheric nitrogen deposition may contribute 30 percent of total nitrogen loadings in the Chesapeake Bay. The secondary National Ambient Air Quality Standards (NAAQS) for nitrogen oxides (NOx) are currently under review and EPA documents suggest that the secondary NAAQS may be tightened—which if it occurred would, for NOx, set the secondary NAAQS—which protect the environment—at lower values than the primary NAAQS which protect human health. For more information, visit <http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=198220>.

Additional regulatory and environmental news items of interest (26 June 2010 through 30 September 2010) include:

Air

Reviews of the Secondary NAAQS for NOx and Sulfur Oxides—Notice (21-September-10)
<http://edocket.access.gpo.gov/2010/2010-23540.htm>

National Emission Standard for Hazardous Air Pollutants for Reciprocal Internal Combustion Engines—Final Rule (20-August-10)

<http://edocket.access.gpo.gov/2010/2010-20298.htm>

Water

Ninth Circuit Court Rules Runoff from Logging Roads Requires National Pollutant Discharge Elimination System (NPDES) Permitting (17-August-10)

<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2010/08/18/BAMV1EVF36.DTL&feed=rss.bayarea>

NPDES Electronic Reporting (01-July-10)

<http://edocket.access.gpo.gov/2010/2010-15885.htm>

Guidelines Establishing Test Procedures for the Analysis of Pollutants under the CWA (23-September-10)

<http://edocket.access.gpo.gov/2010/2010-20018.htm>

Water Quality Standards for the State of Florida's Lakes and Flowing Water (03-August-10)

<http://edocket.access.gpo.gov/2010/2010-19140.htm>

Pesticide NPDES General Permit (02-June-10)

http://cfpub.epa.gov/npdes/home.cfm?program_id=410

Energy

External Power Adapters No Longer Available for EPA's Energy Star Label—Notice (17-September-10)

<http://yosemite.epa.gov/opa/admpress.nsf/0/C1D81E1692F0771E852577A10048E953>

Health & Safety

Occupational Safety and Health Administration Cranes and Derricks in Construction Standard—Final Rule (09-August-10)

<http://edocket.access.gpo.gov/2010/2010-17818.htm>

Presidential Memo on Protecting Our Workers and Ensuring Reemployment; POWER Initiative (22-July-10)

<http://edocket.access.gpo.gov/2010/2010-18176.htm>

Materials

Best Management Practices for Unused Pharmaceuticals at Health Care Facilities—EPA Guidance (08-September-10)
<http://edocket.access.gpo.gov/2010/2010-22325.htm>

Navy Guidance on Pharmaceutical Waste Management
http://www.nehc.med.navy.mil/environmental_health/envIRON_qualdocuments_backup.aspx

Revisions to the Total Coliform Rule—Proposed Rule (14-July-10)
<http://edocket.access.gpo.gov/2010/2010-15205.htm>

Multi-Walled and Single-Walled Carbon Nanotubes; Significant New Use Rules—Final Rule (7-September-10)
<http://edocket.access.gpo.gov/2010/2010-23321.htm>

Formaldehyde Standards for Composite Wood Products Act—Public Law (07-July-10)
http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:s1660enr.txt.pdf

<http://www.whitehouse.gov/the-press-office/president-obama-expands-greenhouse-gas-reduction-target-federal-operations>

Federal Greenhouse Gas Accounting and Reporting Guidance for EO 13514—Council on Environmental Quality Notice and Request for Comments (16-July-10)
<http://edocket.access.gpo.gov/2010/2010-17352.htm>

Greenhouse Gas Reporting of Scope 3 Vendor and Contractor Emissions EO 13514 GSA Recommendations—Notice (01-April-10)
http://www.gsa.gov/graphics/admin/GSA_Section13_FinalReport_040510_v2.pdf

Other

Navy Electronic Signature Policy Released—Notice (30-August-10)

<http://www.doncio.navy.mil/Download.aspx?AttachID=1343>

Emergency Response Guidebook—Notice and Request for Comments (23-July-10)
<http://edocket.access.gpo.gov/2010/2010-18134.htm>

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Greenhouse Gas Reduction & Sustainability

EPA's Role in Advancing Sustainable Products—Notice and Request for Comments (16-September-10)
<http://edocket.access.gpo.gov/2010/2010-23123.htm>

Strategic Sustainability Performance Plans per Executive Order (EO) 13514—Notice (10-September-10)
<http://www.whitehouse.gov/administration/eop/ceq/sustainability/plans>


Recommendations on Sustainable Siting for Federal Facilities—Notice (26-May-10)
http://www.fedcenter.gov/_kd/Items/actions.cfm?action=ShowItem&id=15263&destination=ShowItem

General Services Administration (GSA) Supplier Greenhouse Gas Emissions Inventory Pilot—Notice (20-September-10)
<http://edocket.access.gpo.gov/2010/2010-23391.htm>

Greenhouse Gas Reduction Target Established for Federal Scope 3 Indirect Emissions—Presidential Memo or Proclamation (20-July-10)

Stewardship of the Ocean, Our Coasts, and the Great Lakes—EO 13547 (22-July-10)
<http://edocket.access.gpo.gov/2010/2010-18169.htm>

Interagency Ocean Policy Task Force; Interim Framework for Effective Coastal and Marine Spatial Planning—Notice (03-August-10)
<http://edocket.access.gpo.gov/2010/2010-18950.htm>

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