UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

JUN 11 2010

Dear PSC Member:

Thank you for your participation at our April 29-30 Principals' Staff Committee meeting. I greatly appreciate your continued commitment to our common mission of protecting and restoring the Chesapeake Bay and local waters.

Although we had to shorten or omit several topics on the agenda, it was important to spend ample time discussing the issues you raised related to completion of the Chesapeake Bay Total Maximum Daily Load (TMDL) and Watershed Implementation Plans. While it is critical to maintain a schedule that moves the entire partnership forward to finalizing a Bay TMDL in December, EPA intends to work in partnership with you to work through issues and develop sound implementation plans. I ask that we continue to stay in close contact and work together to resolve any remaining issues as we move ahead.

We are on the cusp of something truly remarkable as major first-time initiatives, such as the Bay TMDL, President Obama's Executive Order, and our two-year milestone approach, have put us in an unprecedented position to fulfill long-sought goals. The Bay TMDL and the accompanying Watershed Implementation Plans are keys to an enhanced performance and accountability framework to ensure we hit our restoration marks.

I want to take this opportunity to summarize the results of our meeting and subsequent discussions with respect to the Bay TMDL. A significant revision agreed to at our April meeting is the elimination of the requirement for jurisdictions to submit "preliminary" draft Watershed Implementation Plans by June 1 and extending the submittal deadline for the draft plans. The revised schedule now affords the jurisdictions and additional three months – until September 1 – to submit draft plans. In addition, since our April meeting, EPA has agreed to extend the formal public comment period to 45 days (September 24 to November 8), preceded by many other opportunities for open exchange of information with the public and specific stakeholders on the Bay TMDL and the implementation plans.

EPA will continue to work closely with the six watershed states and the District of Columbia as we move forward to meet the joint commitment set by the Principals' Staff Committee and the Executive Council last year to establish the Bay TMDL by December 2010.

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EPA has made adjustments to the process, provided additional financial and technical assistance, offered detailed guidance, responded to state-specific issues and supplied sophisticated scientific data to help all jurisdictions develop strong implementation plans and accelerate on-the-ground actions.

We will continue to take steps to keep our state-federal partnership on track to have all practices in place to restore local waters and the Chesapeake Bay by 2025, with 60 percent in place by the 2017 mid-point mark. Based on our discussions at the April Principals' Staff Committee meeting and additional follow-up conversations with many of you, adjustments have been made to our schedule to provide specific model revisions and to address certain refinements identified by individual jurisdictions. As previously detailed in correspondence to the jurisdictions, EPA expects Phase I implementation plans to include a description of the authorities, actions, and to the extent possible, control measures that will be implemented to achieve point and nonpoint source TMDL allocations. However, plans may be revised by November, 2011 (Phase II), following revisions to the watershed model to address nutrient management effectiveness and suburban land characteristics, and again in 2017 (Phase III). We will also provide an opportunity to review and adjust the models, if necessary, prior to 2017, when final Phase III plans are due. In no case, does EPA anticipate any likelihood of a jurisdiction "over-controlling" between now and 2017 in this first phase of planning and implementation.

The following is EPA's revised three-phase process to ensure that the Bay TMDL is completed by the December 2010 deadline and that all actions necessary for full restoration are implemented on schedule:

- **In 2010:**
    - The model is being closed to any new changes (with the exception of the two agreed upon updates described further in this letter). We will review the suite of Bay models again prior to 2017 and perform a comprehensive assessment with input from all the Bay jurisdictions. Based on that assessment, any additional necessary revisions to the models will be made at that time.
    - On July 1, EPA expects to provide nitrogen and phosphorus allocations to the six watershed states and the District of Columbia by major river basin, and include a temporary reserve for any shift in loads that may occur from the two agreed to Bay watershed model updates (nutrient management effectiveness and suburban land characteristics). On August 15, EPA expects to provide sediment allocations to the six watershed states and the District of Columbia by major river basin.
    - The jurisdictions are expected to complete their draft Phase I Watershed Implementation Plans by September 1 and EPA plans to issue a draft Bay TMDL for a 45-day formal public comment period on September 24, continuing regular outreach on the Bay TMDL that began last fall and continues in 2010.
    - While there is no longer a requirement to provide preliminary Phase I plans by June 1, jurisdictions are strongly urged to share all or a portion of their plans with EPA for feedback prior to September 1. EPA is also hosting a series of

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conference calls in which jurisdictions can share approaches with each other for developing the required elements of the implementation plans.

- EPA will provide to the states and the District of Columbia an additional $200,000 in federal funds for contractor assistance, with a priority on supporting the development of Offset Programs in the jurisdictions. These funds are in addition to significant EPA support funds, totaling nearly $1 million, provided in the past year to directly help the states establish their Watershed Implementation Plans as well as the $11.2 million in Chesapeake Bay Regulatory and Accountability Program grant funds being awarded to the states and the District of Columbia.
- The jurisdictions are expected to complete their final Phase I Watershed Implementation Plans no later than November 29. As further detailed in the November 4, 2009 EPA "expectations" letter, the plans will include: 1) source sector distribution; 2) strategies and contingency plans for controlling pollution; 3) plans for tracking and verification; and 4) projections of future actions.
- By December 31, EPA will establish the Bay TMDL and will include final allocations that achieve attainment of all water quality standards as well as interim allocations reflecting the need to have practices in place by 2017 to meet 60 percent of the necessary nutrient and sediment load reductions.

- **In 2011:**
  - EPA expects to revise the partnership's Phase 5.3 Chesapeake Bay Watershed Model with the results of the two agreed upon updates to modify the state-basin nutrient and sediment allocations, and remove or reduce the temporary reserve.
  - If the temporary reserve is removed, reduced or the revised model results indicate that allocations should be modified, jurisdictions will work with EPA to determine new Bay TMDL allocations.
  - The states and the District of Columbia are expected to submit their draft Phase II Watershed Implementation Plans on June 1 and their final Phase II plans by November 1. The Phase II plans are expected to include finer-scale load distributions as described in EPA's November 4, 2009 letter and any updates resulting from the Bay watershed model revisions.
  - Along with their final Phase II plans, the jurisdictions would also submit for public comment any intention to modify the Bay TMDL allocations.
  - EPA anticipates providing state grant funding equivalent to the increased 2010 levels.
  - EPA expects to modify the Bay TMDL, if necessary, by December 15.

- **In 2017:**
  - Prior to 2017, EPA plans to review the full suite of the partnership's Bay models based on the best available science and decision-support tools and consider whether updated models should be developed to support Phase III implementation plans and potential modifications to Bay TMDL allocations.
  - In 2017, jurisdictions are expected to submit draft Phase III Watershed Implementation Plans by June 1 and final plans by November 1 with a focus on

ensuring that all practices are in place by 2025 as needed to fully restore the Bay and its tidal waters.

- EPA expects to modify the Bay TMDL, if necessary, by December 15.

From now until the time that the jurisdictions receive final nutrient and sediment allocations this summer, there are several significant steps that EPA expects the jurisdictions to undertake in the development of their Phase I Watershed Implementation Plans. In order to keep us on schedule to complete the Bay TMDL by the December deadline, the jurisdictions should focus on identifying and filling program gaps, capacity-building, addressing growth and verifying the accuracy of reported practices. Also, given that the level of effort reflected in existing tributary strategies remains close to that needed to meet water quality standards, the states and the District can continue to request multiple "what if" scenarios to evaluate various options for achieving the necessary load reductions. EPA staff stands ready to assist the jurisdictions with this effort.

Working together with all of our partners, we pledge to take the necessary actions to achieve our goals. I look forward to our continued dialogue as we take advantage of this historic opportunity to restore our local waters and the Chesapeake Bay.

Sincerely,

Shawn M. Garvin
Regional Administrator

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