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State Plans For Chesapeake Bay Restoration Not Strong Enough to Get the Job Done, Says New CPR Report

Chesapeake Bay Watershed States Earn Grades from C to F from Panel of Experts

(Washington) -- Pollution reduction plans released by the states within the Chesapeake Bay Watershed late last year fail to provide a specific roadmap for restoring the Bay, scholars with the Center for Progressive Reform said in a new report released today. The report judged the Watershed Implementation Plans (WIPs) submitted by Delaware, Maryland, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia, giving grades that ranged from C to F.

"The state plans are all improvements over earlier drafts, but they don't give us much confidence that they will be enough to ensure that the Bay will be a lasting economic, environmental and recreational resource," said report co-author Rena Steinzor, President of CPR and Professor at the University of Maryland School of Law. "The EPA asked the states to come up with concrete roadmaps to reduce pollution, but instead the states submitted spotty plans that do not tell us clearly enough how they will reduce the pollution that damages the Bay. They must do better in the next round to move toward making the pollutant reductions we need." A second set of WIPs is due in November.

In September 2010, EPA issued a draft Total Maximum Daily Load (TMDL) for the Bay, which set limits on how much nitrogen, phosphorus, and sediment pollution are allowed in 92 individual tributary segments of the Bay watershed. The state plans were to describe how they would achieve those new pollution limits. In August, CPR sent the states a set of [metrics](#) by which its panel of water quality experts would judge the strength of the state plans; CPR also submitted [comments](#) to the states in November on their draft plans. The final plans were submitted to EPA in November and December.

The CPR report found that the state plans all underperformed, to varying degrees, on the two primary areas for evaluation: strength of program design and transparency of information. The plans were light on providing specific commitments for actions needed to achieve the required pollution reductions, and generally did not pledge dedicated funding for the programs. The plans generally did not provide a plan for adequate transparency to allow the public to monitor the states' performance in implementing the programs. The grades for the states and the District were as follows:

	Transparency of Information	Strength of Program Design
Delaware	D	D
District of Columbia	C	D

Maryland	C	D
New York	C	D
Pennsylvania	D	F
Virginia	F	F
West Virginia	F	F

CPR graded the final Phase I WIPs to help establish accountability in the reinvigorated Chesapeake Bay restoration effort. CPR's grading metrics were developed based on an assessment of what was needed from the states to achieve the goals EPA asked of them.

The report says that going forward, while the Bay states and Washington, D.C., should be given the opportunity to demonstrate their commitment to achieving the Bay TMDL, EPA should also remain vigilant with the necessary backstops if jurisdictions fail to follow through with their commitments. If EPA and the public do not see measurable progress toward achieving the interim and final Bay TMDL targets, EPA must increase its presence in the Bay restoration effort, the report says.

“The Bay TMDL culminates years of work and is the most sophisticated set of pollution limits in the country. EPA must ensure the states reduce their pollution to meet the TMDL or a tremendous opportunity will be lost,” said Steinzor.

CPR’s expert panel included CPR Member Scholars William Andreen of the University of Alabama School of Law, Robert Glicksman of The George Washington University Law School, and Steinzor, joined by and CPR executive director Shana Jones and policy analyst Yee Huang.

In late December, the EPA released its own response to the state plans. The assessments differed in two important respects. First, in its assessment, CPR’s panel relied exclusively on the statements and commitments in the WIP documents, as what is disclosed and agreed to in writing is the public’s only way to hold states accountable for making progress. By contrast, EPA apparently engaged in a dialogue with the states and may have received verbal assurances or representations in that process. In addition, the CPR panel relied on a different and, in the judgment of our experts, more telling standard for assessing the likelihood that Bay jurisdictions will actually achieve their pollutant limits. Specifically, CPR gave greater weight than EPA appears to have given to the WIP information regarding the current state of the jurisdictions’ Clean Water Act and nonpoint source programs.

The CPR report, *Missing the Mark in the Chesapeake Bay: A Report Card for the Phase I Watershed Implementation Plans*, is available online at:
www.progressivereform.org/articles/ChesBay_WIPs_1102.pdf

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