

Congress of the United States
Washington, DC 20515

December 6, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

We are writing you regarding our concern about the Phase II Watershed Implementation Plans (WIPs) that Chesapeake Bay Watershed states are required to submit to the Environmental Protection Agency (EPA). The restoration of the Bay is something we all want, but based upon meeting with our constituents and speaking with officials from our respective states we have concerns about the Phase II process.

As you know, virtually every state in the Watershed has approached the EPA about concerns regarding the accuracy of the Watershed Model. The model is producing inconsistent results and making it difficult, if not impossible, for the states and localities to use it to complete their Phase II WIP. This model is driving the decisions that the EPA is using to issue target load reductions for the Phase I and Phase II WIPs as well as any possible backstop actions that the EPA may impose. The inconsistencies in the model cause us great concern since this is how EPA is measuring nutrient loads in the Bay, states' progress with the Total Maximum Daily Load and WIP process, and any possible backstop allocation that EPA may apply to states. These concerns are not limited to us, but are shared by Bay states, localities in the watershed, and the general public.

Recently, agency officials acknowledged that there are problems with the model citing that the model is not effective on a smaller scale. On October 5, 2011, Shawn Garvin, the Regional Administrator, responded to the Bay states' concerns about the model's inconsistencies. We were encouraged that this letter stated that the EPA would use "common sense" in assessing progress on the WIPs and that this would result in a more flexible Phase II process. We had hoped that this was the start of renewing the federal-state cooperative relationship that had previously governed the Chesapeake Bay clean-up efforts. Unfortunately, this letter was followed-up with guidance on October 17th, in which the EPA reiterated its threats of backstop actions or consequences should reduction goals be missed.

This message that the EPA is sending Watershed States and localities is inconsistent. Financially strained states and communities across the Chesapeake Bay Watershed are debating how to complete the Phase II process. Based on the inconsistent guidance from the EPA they are not sure whether this will be a flexible approach or whether states and localities should fear backstop actions or consequences. We ask that you provide clarification.

- Will the Phase II be a flexible approach or should states still fear a backstop?
- How does EPA intend to balance the model limitations and its goal of assessing and ensuring adequate progress?
- Your October 5th letter commits to a “common sense” approach, what specifically does this mean?
- The October 17th guidance lists numerous items to be corrected in the model. Would it not be prudent to fix the model that it is used to evaluate the states two year milestone?

If we are going to solve the long-standing problems in the Bay Watershed it is imperative that we work in a cooperative manner. We appreciate your prompt attention to this matter and look forward to the clarification that you will provide on this process. We look forward to continuing to work with you to restore the Chesapeake Bay.

Sincerely,

Bob Goodlatte

Glenn GT Thompson

Pat Rooney

Ann

Bill Shuster

N/A

Stacy

MST

Lou Barletta

T. Hill

Judy Foster



Tom Marino

Shelly Moore Capito

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