

Chesapeake Bay Stormwater Listening Session

Richmond, VA

November 9, 2010

www.epa.gov/npdes/stormwater/rulemaking



U.S. Environmental Protection Agency



Purpose of Today's Session

- On December 28, 2009, EPA announced national rulemaking to strengthen its stormwater program.
- One of the preliminary considerations included exploring specific stormwater provisions to protect sensitive areas.
- Today's session will provide the public with an early opportunity to learn about and comment on stormwater requirements within the Chesapeake Bay watershed.

Agenda

- EPA introduction and short presentation
 - Purpose of Today's Session
 - Regulations
 - Chesapeake Bay Watershed Challenges
 - Stormwater Challenges
 - Preliminary Considerations to Address Challenges
- Oral comments by registered participants
- If time allows, additional discussion

The Clean Water Act: *The Objective*

“to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”



The Clean Water Act: *The Goals*

- eliminating the discharge of pollutants into navigable waters; and
- achieving interim water quality that will protect fish, shellfish, and wildlife while providing for recreation (“fishable and swimmable”) in and on the water whenever attainable.

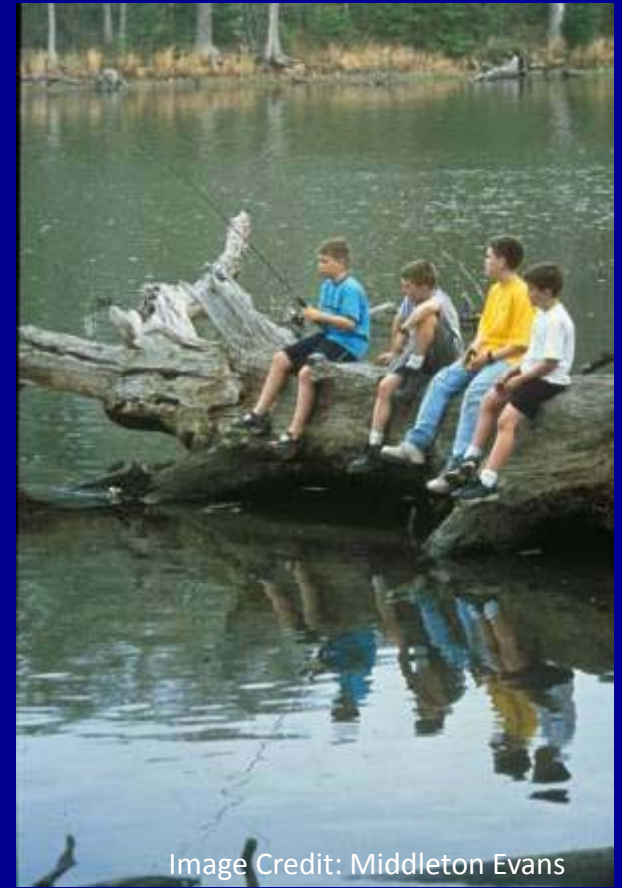
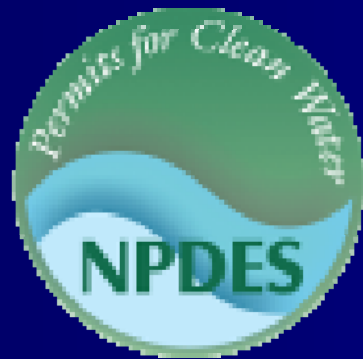


Image Credit: Middleton Evans

The Clean Water Act: *The Tools*

National Pollutant Discharge Elimination System (NPDES) permitting program authorizes and regulates certain discharges (§ 402), including stormwater discharges.



402(p) of Clean Water Act

- Section 402(p) established phased approach to permitting certain stormwater discharges
- Section 402(p)(4) required EPA to establish permit application requirements for industrial and medium and large municipal separate storm sewer discharges (100,000 population and greater)
- Section 402(p)(5) required EPA to
 - conduct a study to identify other discharges, assess their pollutant loadings and establish methods to control the pollutants and
 - submit the results in a report to Congress.
- Section 402(p)(6) provides authority for EPA to regulate other stormwater sources, based on the study, “to protect water quality”

Phase I Stormwater Regulations

- Finalized in 1990
- Regulates stormwater discharges from:
 - Medium and large municipal separate storm sewer systems (MS4s) in areas that serve 100,000 or more people
 - 10 categories of industrial operations including construction activity disturbing 5 acres or more
- Established:
 - Permit application requirements and deadlines
 - Requirements for a municipal stormwater management plan

Permit exclusion for industrial activities that are not exposed to stormwater

Phase II Stormwater Regulations

- Finalized in 1999
- Defines “small MS4” as any MS4 that is not “medium” or “large and includes systems such as large prison or hospital complexes, highways, public universities and military bases
- Regulates stormwater discharges from:
 - Small MS4s,
 - Located in an “urbanized area” as defined by the Bureau of Census, or
 - Designated by the NPDES permitting authority on a case-by-case basis.
 - Construction activities disturbing between one and five acres
- Requires NPDES permits for these discharges

Phase II Stormwater Regulations (Cont'd)

- Established six minimum control measures for small MS4 permits:
 1. Public Education & Outreach
 2. Public Participation/Involvement
 3. Construction Site Runoff Control
 4. Illicit Discharge Detection & Elimination
 5. Post-Construction Runoff Control
 6. Pollution Prevention/Good Housekeeping

MS4s in the Chesapeake Bay watershed

Pennsylvania, West Virginia, Delaware and New York

Phase II Jurisdictions

Maryland Phase I and II NPDES Jurisdictions

Phase I "Large" Jurisdictions

Phase I "Medium" Jurisdictions

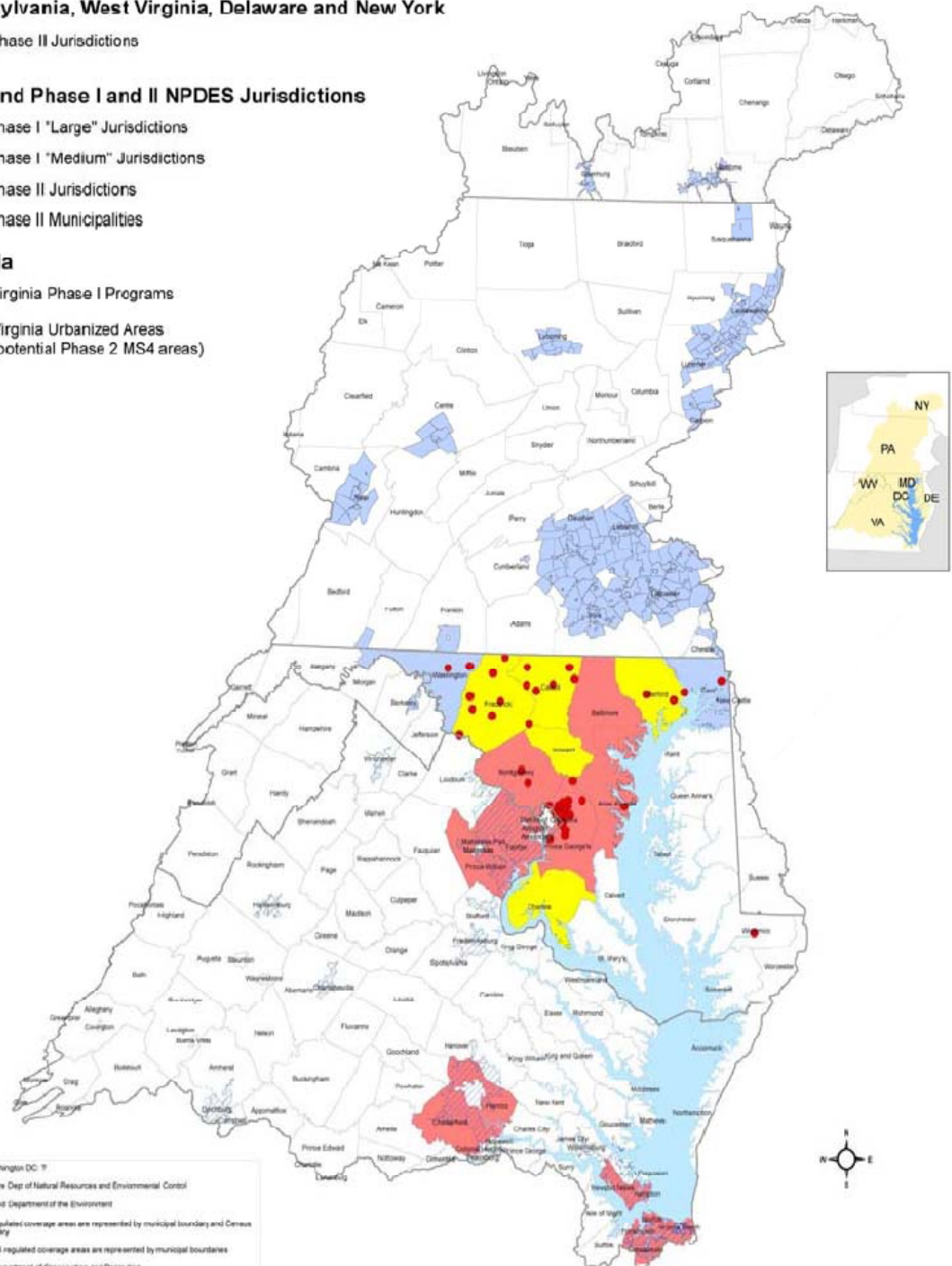
Phase II Jurisdictions

Phase II Municipalities

Virginia

Virginia Phase I Programs

Virginia Urbanized Areas (potential Phase 2 MS4 areas)



Data source: Washington DC: 17

Delaware: Delaware Dept of Natural Resources and Environmental Control

Maryland: Maryland Department of the Environment

New York: MS4 regulated coverage areas are represented by municipal boundary and Census Urban Area boundary

Pennsylvania: MS4 regulated coverage areas are represented by municipal boundaries

Virginia: Virginia Department of Transportation and Statewide

Number of Stormwater MS4 Permittees (as of Summer 2009)

| Stormwater Permit Type | DC | | DE | | MD | | NY | |
|--------------------------------|----------|----------|----------|------------|-----------|------------|-----------|------------|
| | Bay-wide | DC-wide | Bay-wide | State-wide | Bay-wide | State-wide | Bay-wide | State-wide |
| MS4 Phase I | 1 | 1 | 1 | 14 | 11 | 11 | 0 | 1 |
| MS4 Phase II | 0 | 0 | 0 | 3 | 82 | 82 | 34 | 502 |
| Total | 1 | 1 | 1 | 17 | 93 | 93 | 34 | 503 |
| % Permittees in the Bay | 100% | | 6% | | 100 | | 7% | |

| Stormwater Permit Type | PA | | VA | | WV | | Total | |
|--------------------------------|------------|------------|-----------|------------|----------|------------|------------|-------------|
| | Bay-wide | State-wide | Bay-wide | State-wide | Bay-wide | State-wide | Bay | State |
| MS4 Phase I | 0 | 2 | 11 | 11 | 0 | 0 | 24 | 40 |
| MS4 Phase II | 206 | 727 | 75 | 90 | 3 | 45 | 400 | 1449 |
| Total | 206 | 729 | 86 | 101 | 3 | 45 | 424 | 1489 |
| % Permittees in the Bay | 28% | | 85% | | 7% | | 29% | |

Stormwater In the News



Skirting stormwater rules

A plan for a shopping center in Remington fails a key environmental test
By Tina Carroll

It took a week to get the plan approved, but the Remington, Va., shopping center's stormwater management plan failed a key environmental test. The plan, which was approved by the local government, did not meet the requirements of the state's stormwater management rules. The plan was approved by the local government, but it failed a key environmental test. The plan was approved by the local government, but it failed a key environmental test.

THE WASHINGTON SUN
Storm over storm water
Our view: Might regarding runoff cause harm by discouraging redevelopment? The evidence is not compelling enough to weaken — or even delay — pending rules

January 28, 2010

Cracking up the Chesapeake Bay is not a fun cleanup job. Everyone wants things to be neat and dry, but nobody wants to be stuck with the costs.

The grand debate of this phenomenon can be heard in the halls of the state House. Here, some environmental groups are pushing for a relaxation or perhaps delay in imposing new rules on managing the water that runs off property after a storm. They are not opposed to cleaning up the Chesapeake Bay, or even tighter controls over storm water runoff.

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Land Looks plans for smart growth
up all based company worries with the community to help it understand the full impact of its land use.

Md. environmentalists split over stormwater pollution rules

More than 30 Maryland environmentalists—including a former governor, a former U.S. senator and a former congressman—held a press conference today in Annapolis to denounce efforts to revise rules on pollution flowing to the Chesapeake Bay through storm sewers.

The event, led by former U.S. Senator Joseph Tydings (D-Md.), was another sign of a fracturing in Maryland's green community over an arcane area of environmental law.

This year, land developers were supposed to face a new set of rules defining the ways that water could run off new or re-developed properties. Maryland would require them to do more to stop that water, and filter it naturally. Often, stormwater rushes off concrete and rooftops, carrying road grease and algae-feeding chemicals into the bay.

But developers objected to this plan, saying it was so restrictive that it would stop growth—or re-direct it into undeveloped areas, away from "smart growth" sites near urban cores.

To head off a battle, Del. Maggie McIntosh (D) brokered a compromise between developers, local governments, and environmental groups. The two at the table, reportedly, the Chesapeake Bay Foundation and 1,000 Friends of Maryland.

Under that deal, some un-finished projects could be "grandfathered" in, built under the old stormwater rules. If they received the right kind of permission. Also, some projects could face looser restrictions in "in-fill" developments.

At today's press conference, activists said that was giving developers too long a leash.

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Chesapeake Bay effort targets polluted runoff in Richmond

By MICHAEL HEINTZ | TIMES-DISPATCH STAFF WRITER
Published July 26, 2012

2 Comments | Post a Comment

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Recent EPA enforcement actions intended to send message to polluters
The goal is to ensure that compliance in the field is better, and that agencies are prepared.

For nearly two decades, Bay restoration efforts have been built on voluntary efforts and cooperation. The restoration of the Chesapeake Bay Program, but as the pace of cleanup progress has been slower than what was once hoped, the regulatory reach of state and federal agencies has increased.

But federal officials believe the full impact of regulations has never been realized, as programs that would give people an incentive to act have not been fully implemented.

The state's first enforcement action was taken last year, but it was not until this year that the state's first enforcement action was taken. The state's first enforcement action was taken last year, but it was not until this year that the state's first enforcement action was taken.

CAROLINE NURSING & REHAB CENTER
539 Kent Avenue • Denton, MD 21042
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The Gables

Talbot ponders Md. stormwater regulations

Published: October 17, 2012 1:03 PM and October 17, 2012 1:03 PM
By STEVE WOFFENBACH | 14 Comments

STAFF WRITER (Staff) has written about environmental regulations. The Talbot County Council will at least consider a measure to repeal the county's existing stormwater code and replace it with the state's model.

Stormwater Challenges

1. Increased amounts of stormwater and pollutants...



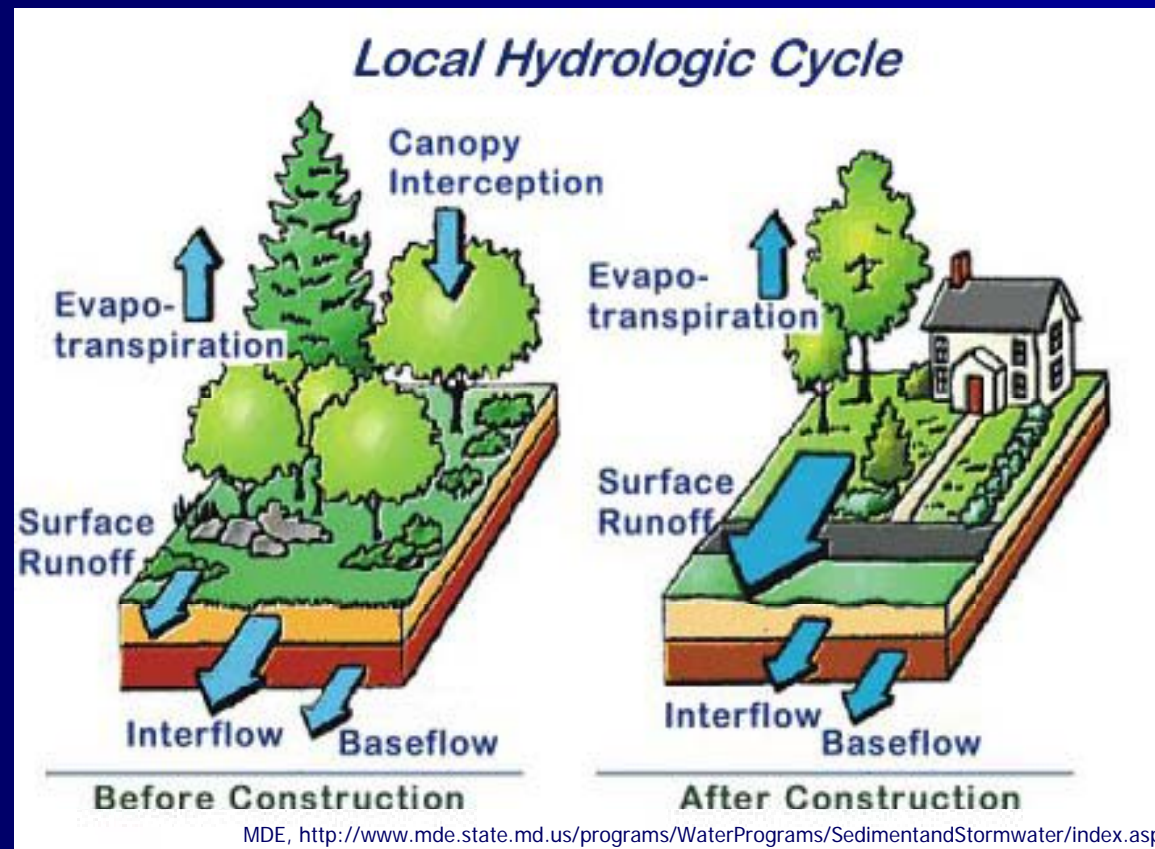
2. Enter the municipal separate storm sewer system (MS4) or is directly discharged to a nearby waterbody...



3. Which can lead to stream degradation and increased pollutants entering waterbodies



Alteration of Hydrologic Cycle

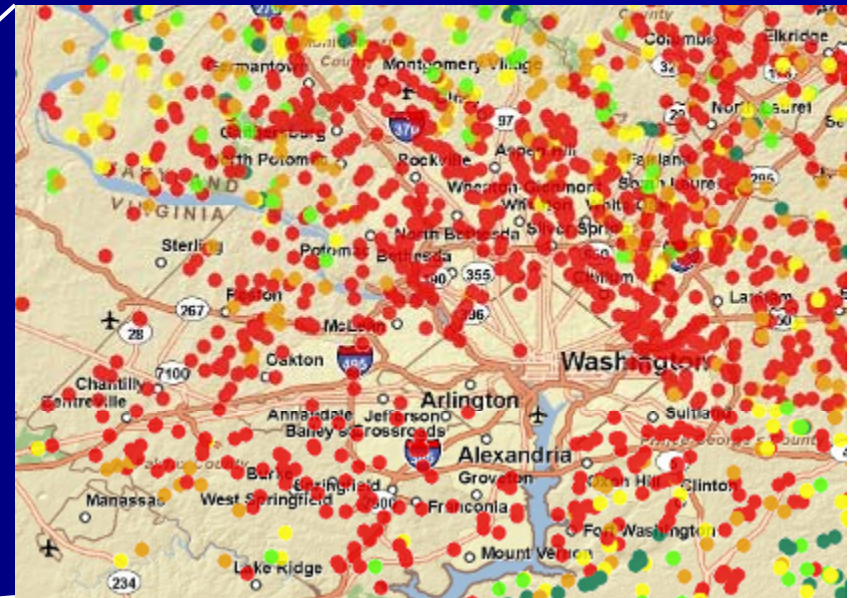
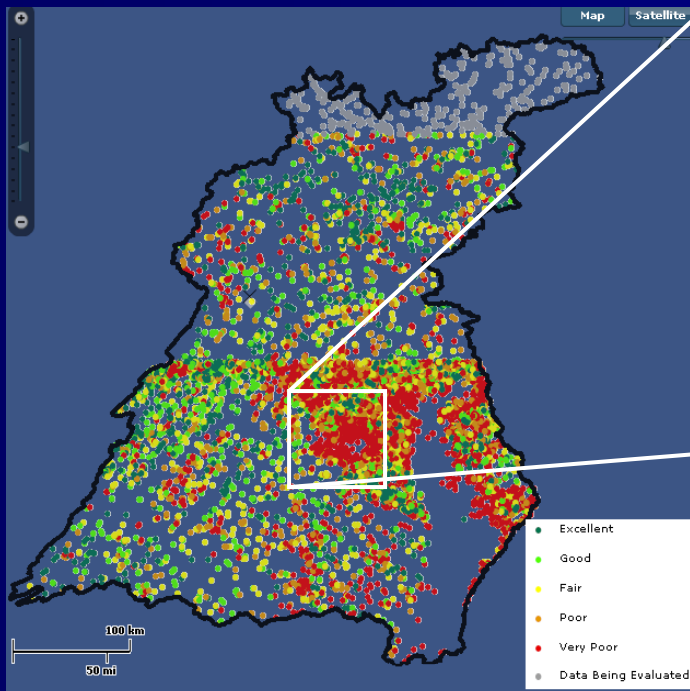


The Chesapeake Bay Watershed

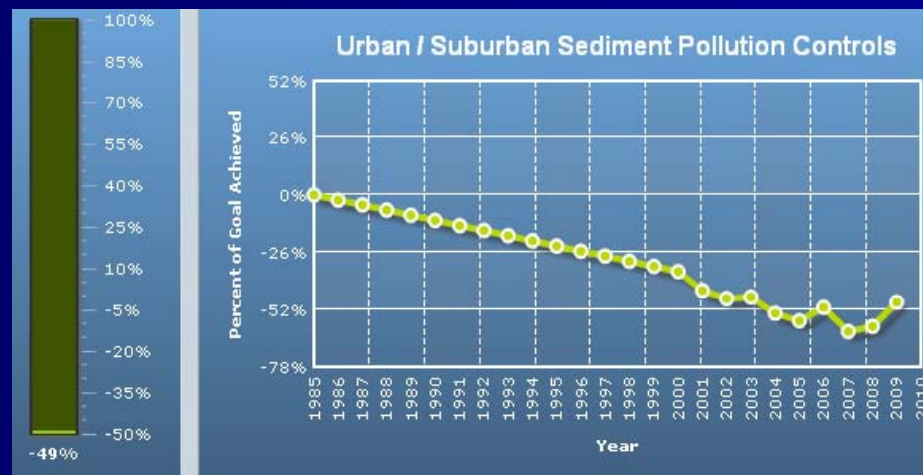
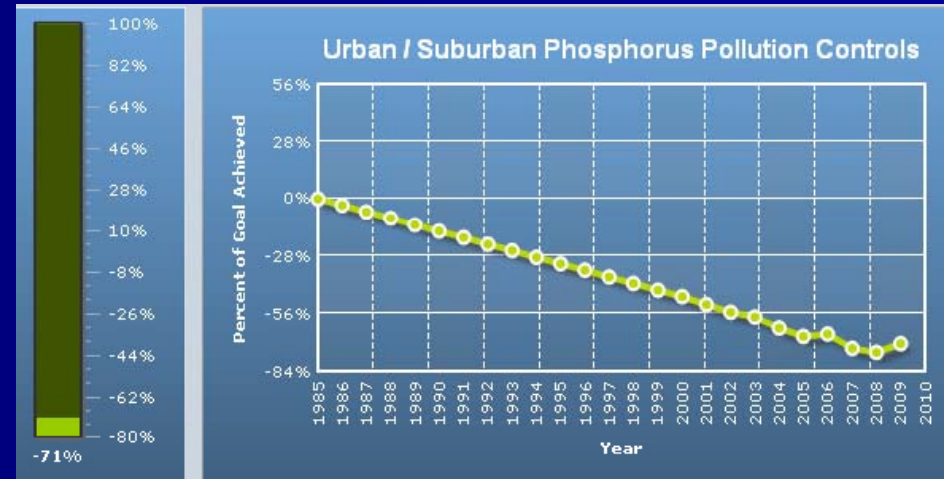
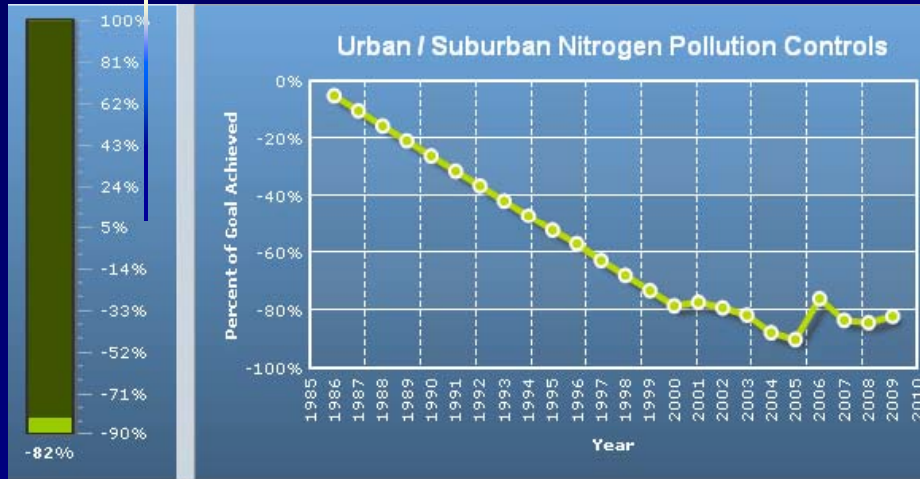
- Over 64,000 square miles of land drain into the Chesapeake Bay or its tributaries
- Major urban areas include:
 - Baltimore, MD
 - Harrisburg, PA
 - DC
 - Annapolis, MD
 - Richmond, VA
 - Hampton Roads, VA (Norfolk-Virginia Beach)



Chesapeake Bay Watershed: Stream Health



Chesapeake Bay Watershed: Stormwater Challenges



Chesapeake Bay Watershed Stormwater Challenges (Cont'd)

From the Office of Inspector General Report (2007)*:

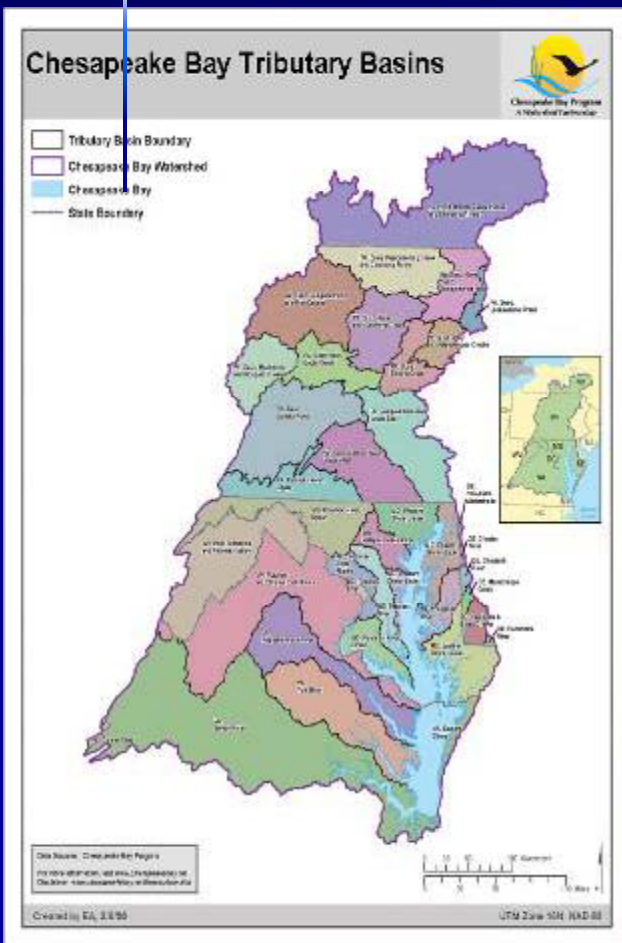
- “New development is increasing nutrient and sediment loads at rates faster than loads are being reduced from developed lands.”
- “To meet the reductions in loads laid out by the jurisdictions, the adaptive management approach of the federally mandated municipal stormwater program needs to be accelerated.”



Photo Credit: Chesapeake Bay
Program www.chesapeakebay.net

**Development Growth Outpacing Progress in Watershed Efforts to Restore the Chesapeake Bay*
<http://www.epa.gov/oig/reports/2007/20070910-2007-P-00031.pdf>

The Relationship between this Stormwater Rulemaking and the Chesapeake Bay TMDL



- The Chesapeake Bay Total Maximum Daily Load (TMDL) sets limits on the amount of nitrogen, phosphorus, and sediment that can be discharged into the Bay and each of its tributaries by different types of pollution sources.
- Stormwater is one of these sources.

The Relationship between this Stormwater Rulemaking and the Chesapeake Bay TMDL (Cont'd)

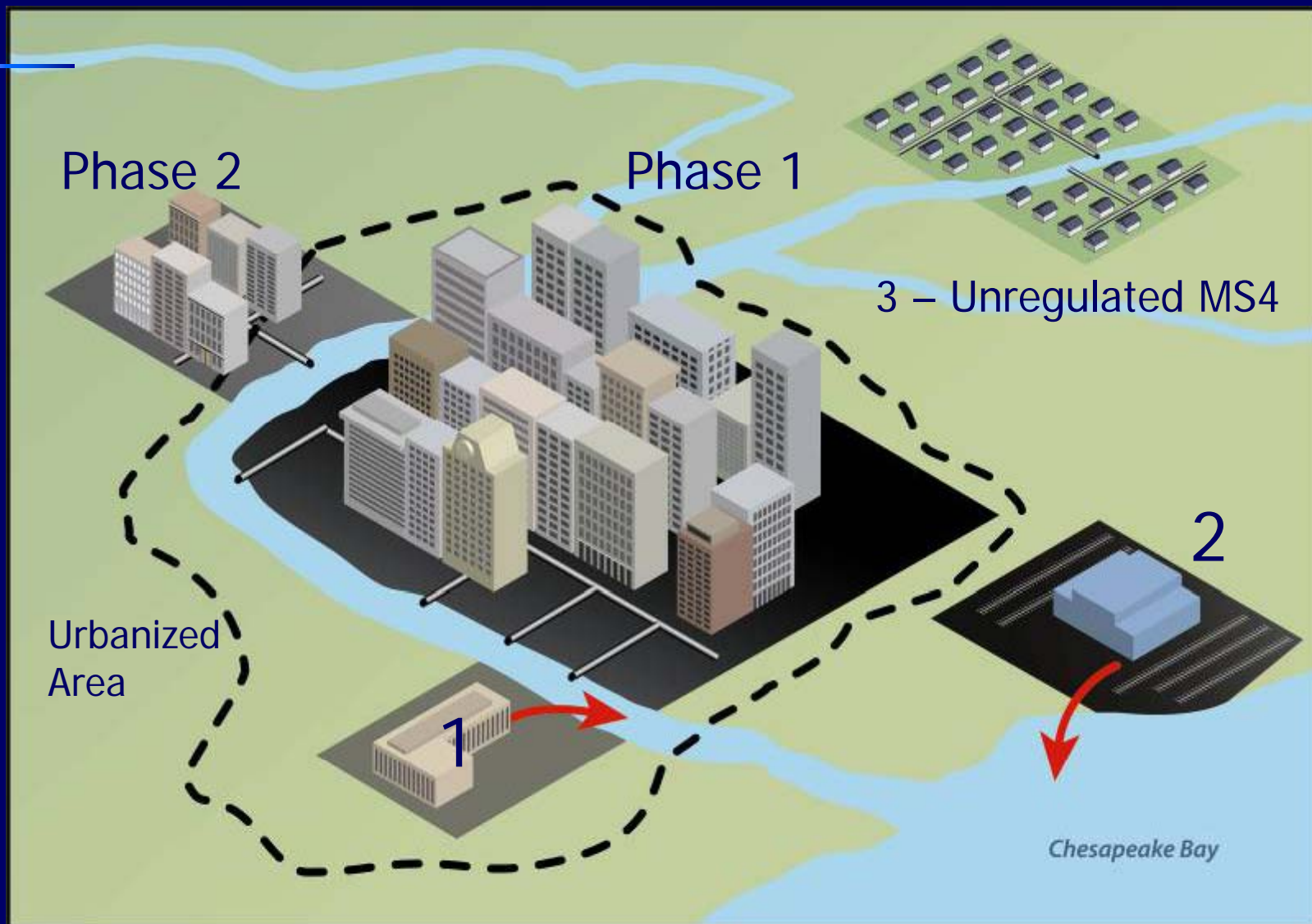
- Regulatory considerations included in the stormwater rule will help decrease the amounts of nitrogen, phosphorus, sediment, and other pollutants that are found in stormwater.
- Current activities
 - Review of Watershed Implementation Plans (WIPs)
 - Listening Sessions

Preliminary Considerations to Address these Challenges



- Considerations are not mutually exclusive.
- EPA signed a settlement agreement with the Chesapeake Bay Foundation and others promising to take a number of actions to restore and preserve the Chesapeake Bay.

Types of Discharges



Designate Additional Discharges to be Regulated

- Expanding the number of regulated MS4 dischargers
 - 2010 Census definition of urbanized area
 - Expand to Jurisdictional Boundaries
 - Watershed boundaries
 - Other Options
- Designating discharges from newly developed and redeveloped sites of a certain size
 - Implement through MS4 permit, separate NPDES permit or stand alone rule

Establish New and Redevelopment Standards

- Standards for discharges from newly developed and redeveloped sites to mimic natural hydrological condition.
- Examples of existing standards are based on:
 - Minimum storm volume to be retained on site (e.g. first 1", 95th percentile storm event).
 - Limiting total impermeable surface
 - Percent removal of pollutants (e.g. 80% TSS)

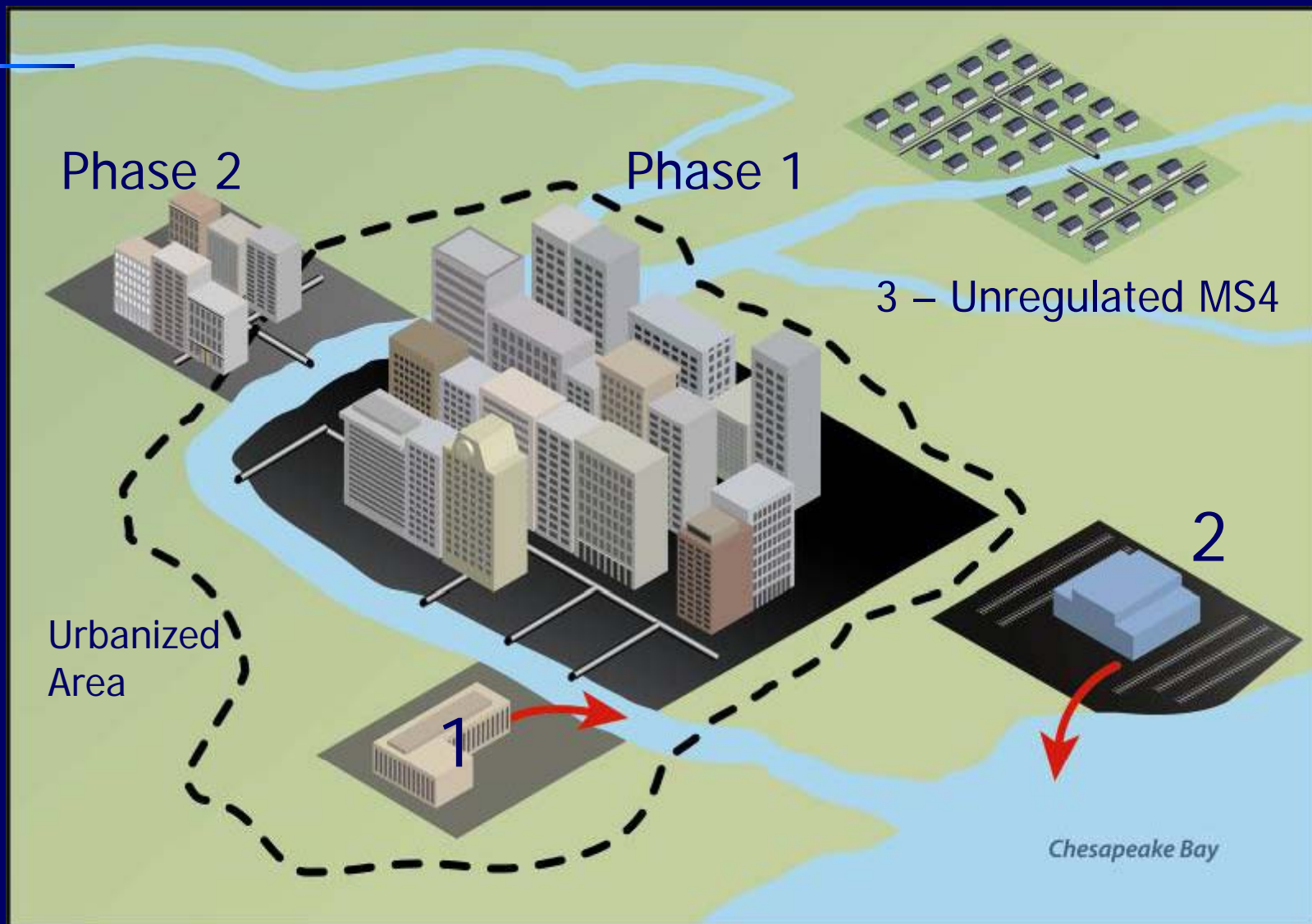


Photo Credit: Chesapeake Bay Program
www.chesapeakebay.net

Examples of 95th Percentile Storm Event in the Chesapeake Bay

| City | 95 th Percentile Event Rainfall Total (in) | City | 95 th Percentile Event Rainfall Total (in) |
|----------------|---|------------------|---|
| Washington, DC | 1.7 | Williamsport, PA | 1.4 |
| Baltimore, MD | 1.6 | Lynchburg, VA | 1.5 |
| Salisbury, MD | 1.7 | Norfolk, VA | 1.7 |
| Binghamton, NY | 1.2 | Richmond, VA | 1.7 |
| Elmira, NY | 1.2 | Romney, WV | 1.2 |
| Harrisburg, PA | 1.4 | | |

Types of Discharges



Green Infrastructure Approaches Mimic Natural Hydrologic Site Conditions

Infiltration ~ Evapotranspiration ~ Capture & Use



- Protecting areas with natural ecological functions
- Amended soils
- Impervious cover removal
- Bioretention
- Permeable pavements
- Green roofs
- Cisterns & rain barrels
- Trees & expanded tree boxes
- Reforestation & restoration
- Infill & redevelopment
- Parking & street designs
- Water conservation

Examples of Green Infrastructure

Vegetated Buffers



Pocket Wetlands



Rain Barrels



Green Walls



Grass Swales



Parking Lot Infiltration Areas



Green Roofs



Rain Gardens



Permeable and Porous Pavements



Planters



Bioinfiltration



Curb Extensions



Green Infrastructure Benefits

- Cleaner water
- Stable hydrology/baseflow maintenance
- Reduced flooding
- Climate change mitigation and adaptation
- Cleaner air
- Reduced urban temperatures
- Jobs creation
- Water supply
- Energy savings
- Cost savings
- Habitat protection
- Community benefits (recreation, public health)

Require Retrofitting of Stormwater Management Controls with Improved Stormwater Control Measures

- Consider stormwater requirements for already developed areas
- Make retrofitting structural stormwater controls mandatory for existing development where water quality impairments exist



Require Additional Chesapeake Bay-only MS4 Provisions

- Requirements related to turf management, pesticide usage, fertilizer usage, buffers, etc.



Photo Credit: Chesapeake Bay
Program www.chesapeakebay.net

Fertilizer Restrictions in the Chesapeake Bay Watershed

- Phosphorus Restriction: Annapolis, MD
 - limits the use and sale of residential lawn fertilizer to help restore the Bay.
 - applies to all land located in the city limits and all land owned by the city.
 - As of January 1, 2010, city businesses are not allowed to stock phosphorus-containing lawn fertilizers on their shelves.

Fertilizer Restrictions and Water Quality Improvements

- Phosphorus Restriction: Ann Arbor, MI (2007)
 - Limited application timeframes
 - Limits on application sites
 - No phosphorus fertilizers may be used except in a few cases
 - Requires commercial applicators to register with the City and report usage annually
 - Inspections and educational component

Fertilizer Restrictions and Water Quality Improvements (Cont'd)

~Results~

- Study showed that phosphorus levels in the Huron River decreased an average of 28% after the ordinance was adopted.

(Lehman et al. *Reduced River Phosphorus Following Implementation of a Lawn Fertilizer Ordinance*. Lake and Reservoir Management. 2009.)

Schedule

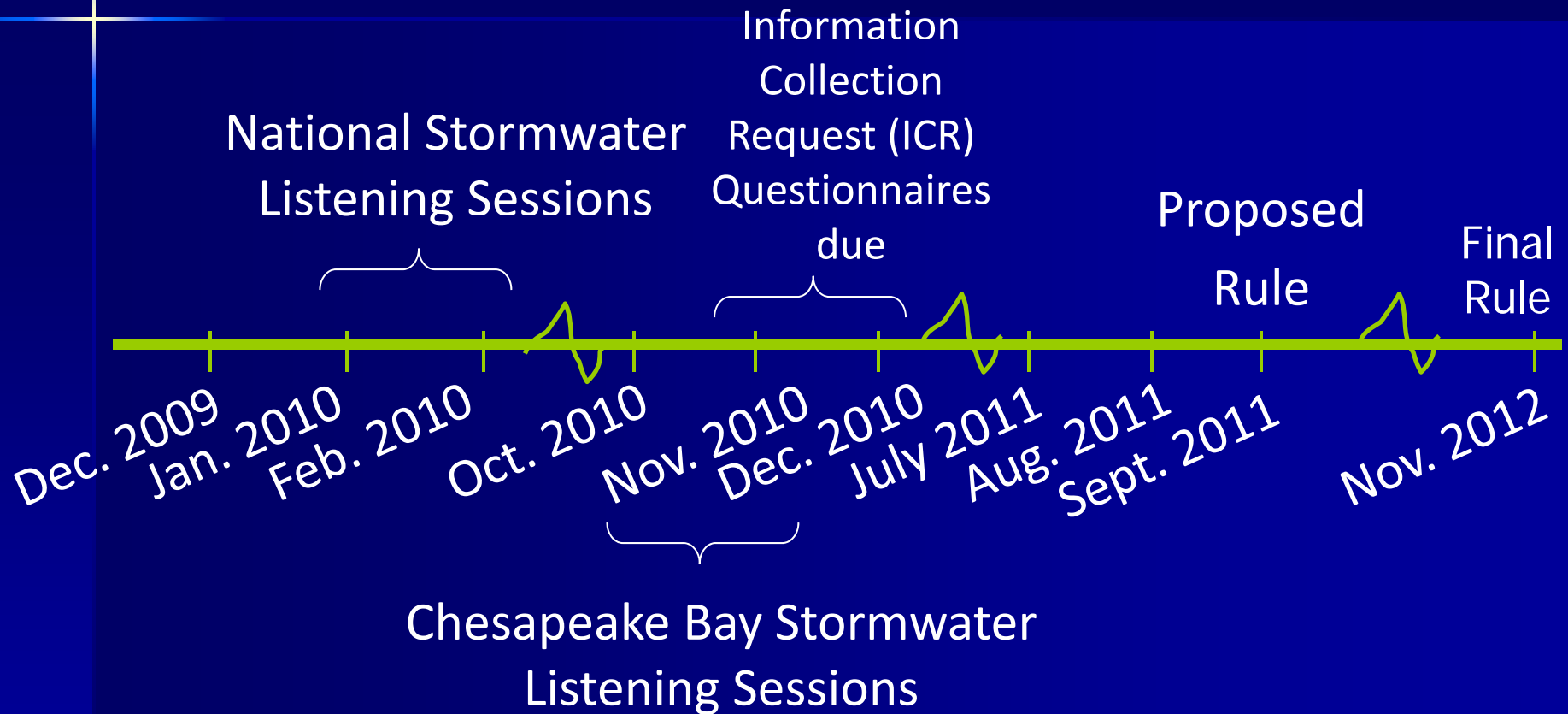




Photo Credit: NOAA's American Coastlines Collection. www.photolib.noaa.gov

Reminders:

- “Virtual Listening Session” Webcast on November 16, 2010
- Submit written comments today in person or to www.regulations.gov, Docket ID No. EPA-HQ-OW-2009-0817 by December 7, 2010
- Stormwater Contact: Rachel Herbert
202-564-2649; herbert.rachel@epa.gov

www.epa.gov/npdes/stormwater/rulemaking

Standards for Discharges from New and Redevelopment

- What type of standards should be considered?
- Where should the standard apply?
- Should the standard be limited to a certain site size?

Regulating Additional Discharges

- What discharges should potentially be regulated?
- What areas within the Chesapeake Bay watershed should be covered based on development pressures and to protect water quality?
- Should EPA consider regulating stormwater discharges from particular types or sizes of development that are not currently covered by a permit?

Retrofits

- Where do you think retrofits would be most beneficial for water quality?
- If so, how extensive should these requirements be?
- Should EPA tailor requirements based on the size of the MS4?

Source Control

- Should EPA consider specific requirements to address impacts of pollutants from turf, fertilized areas, etc?
- If so, where should these requirements apply?