Draft

Bay Restoration Fund Advisory Committee

Gregory B. Murray, Chairman

Annual Status Report

January 2013

Report to:
Governor Martin O'Malley
The President of the Senate
The Speaker of the House
The Senate Education, Health, and Environmental Affairs Committee
The Senate Budget and Taxation Committee
The House Environmental Matters Committee
The House Appropriations Committee

Bay Restoration Fund Advisory Committee Members

Committee Members	Affiliation
Gregory B. Murray	Washington County
Robert M. Summers, Ph.D.	Maryland Department of the Environment
Delegate Barbara Frush	Maryland House of Delegates
James L. Hearn	Washington Suburban Sanitary Commission
Jenn Aiosa	Chesapeake Bay Foundation
Beverly Stinson, PhD	AECOM
William P. Ball, Ph.D.	Johns Hopkins University
Don William Bradley	Town of Hurlock
Jennifer Raulin	Maryland Department of Natural Resources
Wayne Green	Office of Comptroller of Maryland
John Leocha	Maryland Department of Planning
Allyson Black	Maryland Chamber of Commerce
Hilary Bell	Maryland Department of Budget & Management
Norman Astle	Maryland Department of Agriculture
Jennifer Bevan-Dangel	1000 Friends of Maryland

PURPOSE OF THIS REPORT

Section 1605.2 of Chapter 9 of the Environment Article requires that beginning January 2006, and every year thereafter, the Bay Restoration Fund (BRF) Advisory Committee must provide an update to the Governor and the General Assembly on the implementation of the BRF program, and report on its findings and recommendations.

EXECUTIVE SUMMARY

The Bay Restoration Fund Advisory Committee is pleased to present to Governor Martin O'Malley and the Maryland Legislature, its eighth annual Legislative Update Report. Great strides have been made in implementing this historic Bay Restoration Fund, but many challenges remain as we continue with the multi-year task of upgrading the State's wastewater treatment plants and onsite sewage disposal systems and the planting of cover crops to reduce nitrogen and phosphorus pollution in Chesapeake Bay.

Accomplishments

- As of August 30, 2012, the Comptroller of Maryland has deposited approximately $408 million in the Maryland Department of the Environment (MDE) Wastewater Treatment Plant fund, $51 million in the Maryland Department of Environment Septic Systems Upgrade fund, and $42 million in the Maryland Department of Agriculture (MDA) Cover Crop Program fund, for a total of $501 million in BRF fees (Wastewater and Septic Users).

- Enhanced Nutrient Removal (ENR) upgrades of the State's major sewage treatment plants are currently underway. Upgrades to 25 major facilities have been completed and are in operation. Upgrades to 22 other facilities are under construction, 8 are in design, and 10 are in planning. MDE is continuing to work to bring the remaining two major systems into the program by urging the facilities to proceed with the ENR upgrade and/or by adding nutrient loading limits and compliance schedules in the discharge permits.

- The Maryland Department of Agriculture dedicates its portion of BRF funds for the implementation of the statewide Cover Crop Program. In FY2011, farmers planted 400,331 acres attaining an estimated nitrogen reduction of 2.4 million pounds and representing, 123% of Maryland's Chesapeake Bay Program 2-year Milestone goal to be achieved by 2011. In FY2012 Maryland farmers applied to plant 570,000 acres of cover crops. Although acreage planted typically is less than that enrolled, farmers are projected to exceed the milestone goal of 355,000 acres planted in FY2012. MDA's portion of funds projected from BRF annually for cover crops support approximately 120,000 acres in the program. Additional funding was made available from the 2010 Chesapeake Bay Trust Fund in FY2011 to support increased level of participation. Cover crops are planted in the fall to tie up nitrogen remaining from the previous crop. They are recognized as the State's single most cost effective best management practice (BMP) available to control nitrogen movement to groundwater and subsequently the Bay. Cover crops also prevent soil erosion and improve soil quality.

- Starting FY 2011, the Bay Restoration Fund Onsite Sewage Disposal System (OSDS) Best Available Technology (BAT) upgrade program is being implemented locally at the county level.

All Counties are participating in the program through their local health departments or with third-party partners.

- MDE and Maryland Department of Planning (MDP) are continuing their efforts to implement the requirements of House Bill 893, which was passed in the 2006 session and requires MDE and MDP, in consultation with local governments to report on the impact that an ENR upgraded wastewater treatment plant has on growth in the jurisdiction it serves. As part of this report, MDE and MDP evaluated the impact during 2011 as required by the legislation.

2012 Legislation

- Consistent with the BRF Advisory Committee recommendation from prior years, the State legislature during the 2012 session, doubled the BRF fee from $2.50 per month ($30/year) per household or EDU to $5.00 ($60/year) for most Marylanders. The fee remained unchanged for users that do not discharge sewage into the Chesapeake Bay or the Atlantic Bays watershed, which covers a portion of Garrett County, Cecil County and Ocean City area. This fee increase will enable MDE to provide up to 100% in ENR eligible cost grant funding to finance the 67 major WWTPs by FY 2017. The statute also expanded the uses of the BRF wastewater fund starting FY 2018, to allow funding for upgrade of smaller WWTPs with ENR, OSDS (septics) and Stormwater best management practices. The fee increase will also double the number of annual septic systems BAT upgrades from approximately 300 to 600 per year and increase the funding for cover crops.

Challenges

- The United States Environmental Protection Agency (EPA), in coordination with the Bay watershed jurisdictions of Maryland, Virginia, Pennsylvania, Delaware, West Virginia, New York, and the District of Columbia (DC), developed and, on December 29, 2010, established the Total Maximum Daily Loading (TMDL) and a nutrient and sediment pollution diet for the Chesapeake Bay, consistent with Clean Water Act requirements. On March 30, 2012, Maryland submitted to EPA its Phase II Watershed Implementation Plan (WIP), which calls for upgrading at least five minor municipal facilities with an Enhanced Nutrient Removal technology after along with septics, stormwater and other nutrient removal activities to achieve the final 2025 target. In concert with WIP, starting in FY 2018, BRF funding will be available for the upgrade of smaller WWTPs with ENR, OSDS (septics) and Stormwater best management practice. Therefore, the Committee will need consider how best to prioritize/allocate future funding to the different sectors.

Conclusions

- MDE will continue to use the BayStat process to improve its benchmarks and tracking of implementation efforts to ensure that projects remain on schedule and both the interim 2017 and final 2025 targets are achieved.

- MDE, in consultation with the BRF Advisory Committee will begin working on the development of priority system to prioritize/allocate future BRF funding to the different sectors by FY 2018. Planning and design for a typical ENR upgrade is three years. Therefore, to start construction of a minor facility by FY 2018, we need to finalize the selection process by FY 2014, and start the planning for the selected facilities by FY 2015.