February 23, 2018

The Honorable Ben Grumbles
Chairman, Principals' Staff Committee
Secretary, Maryland Department of the Environment
1800 Washington Blvd.
Baltimore, MD 21230
ben.grumbles@maryland.gov

Via Electronic Mail Only

Dear Secretary Grumbles:

The undersigned members of the Choose Clean Water Coalition want to express their thoughts on two key issues that will be discussed at the Principals' Staff Committee (PSC) meeting in March. First, is the decision regarding inclusion of the model results of climate change in the Phase III Watershed Implementation Plans (WIPs). Second, is the approach being used to help satisfy West Virginia and New York's "special case" allocations.

Inclusion of Climate Change in Phase III WIPs

Members of the Coalition are deeply concerned and disappointed to learn that the PSC was unable to come to a consensus on whether to communicate the Bay modeling estimates of the effects of climate change in the Phase III WIPs. This decision is short-sighted. Inclusion of the model estimates would be an important public acknowledgement of the challenges ahead, could inform near-term strategies for qualitatively addressing climate change impacts in the Phase III WIPs, and would set the stage for future actions.

In addition, in the absence of a definitive commitment to address pollution loads attributable to climate change, it is imperative that the Bay Program partners commit the resources necessary to refine the climate modeling and assessment framework that is needed to support final decision-making in 2022 on how to address climate-attributable pollution loads. In the near term, the Bay Program partners must also commit the resources necessary to investigate the climate resilience and climate co-benefits of restoration practices and to use this information when developing their Phase III WIPs.

Closing the Gap on the "Special Cases"

We also want to express our concern about the approach currently being considered to help close the gap for the "special case" allocations for New York (NY) and West Virginia (WV). Our issue is not with the additional allocations, per se, as we believe that NY and WV are justified in their request that the agreement reached in 2009, regarding additional allocations, be honored. Our concern stems from: (1) the reliance on additional NOx reductions that are expected to occur by 2030; and (2) the absence of any consideration that increases in ammonia emissions since 2009 should be offset.

Reliance on Projected NOx Reductions from State and Federal CAA Regulatory Programs

According to the February 12, 2018 presentation to the Water Quality Goal Implementation Team[1] an additional 1.6 million pounds of nitrogen reductions, almost entirely from NOx reductions, is projected to be available by 2030. These modeled reductions are based on expected benefits from the implementation of state and federal Clean Air Act (CAA) regulatory programs.

These expected reductions are far from certain. The Environmental Protection Agency (EPA) has recently proposed to repeal several national regulations, some of which are being relied upon for these reductions. According to the October 31, 2017 webinar hosted by the Chesapeake Bay Program,[2] the future air modeling includes the benefits of the "CAFE Rule" and implementation of the 2015 ozone standard of 70 ppb, among others. Since there was no specific definition given for the "CAFE Rule", we are interpreting it to apply to regulations that improve automobile fuel economy standards and reduce greenhouse gases.

On August 17, 2017 EPA announced their Reconsideration of Final Determination on the Appropriateness of the Model Year 2022-2025 (and 2021) Light Duty Vehicle Greenhouse Gas Emissions Standards under the Midterm Evaluation.[3] EPA is reconsidering whether the light-duty vehicle greenhouse gas (GHG) standards previously established for Model Year 2022-2025 are appropriate under Section 202 (a) of the Clean Air Act (CAA) and whether the light-duty GHG standards established for Model Year 2021 remain appropriate.
In addition, on November 16, 2017, EPA proposed to repeal the emission requirements for glider vehicles, glider engines, and glider kits from GHG standards for heavy-duty trucks.[4] Glider vehicles are new truck bodies that contain older engines. The proposed rule would remove the requirement for these engines to meet emission standards applicable in the year of assembly of the new glider vehicle.

Failure to implement the Light Duty Vehicle GHG standards and to regulate the glider industry under EPA's Phase 2 rule could result in the failure to achieve millions of pounds of NOx reductions nationwide and will affect modeled nitrogen reductions in the Chesapeake Watershed.

The EPA has also indicated interest in revisions to the New Source Review rule for power plants.[5] This rule has been a major driver in the significant NOx reductions in the past ten years and changes to the rule could mean expected reductions will not occur. Finally, the implementation of the 2015 ozone standard is also in jeopardy, as EPA missed deadlines for promulgating the initial area of designations related to NAAQS for ozone and final agency action by EPA remains unclear.[6]

These actions, taken together, indicate that the reliance on projected NOx reductions from state and federal CAA regulatory programs is, at best, now in question. It is worth noting that these

---

[1] https://www.chesapeakebay.net/channel_files/25896/attachment_c1_update_on_bay_assimilation_analysis_for_ny__wv_special_cases.pdf

[2] https://www.chesapeakebay.net/channel_files/25651/atmo_dep_webinar_draft_11-1-17.pdf

[3] https://www.gpo.gov/fdsys/pkg/FR-2017-08-21/pdf/2017-17419.pdf

[4] https://www.gpo.gov/fdsys/pkg/FR-2017-11-16/pdf/2017-24884.pdf

[5] https://www.utilitydive.com/news/epa-to-drop-key-new-source-review-enforcement-provision/512825/

[6] https://www.epa.gov/ozone-designations/ozone-designations-regulatory-actions

actions will also result in more emissions of greenhouse gases that contribute to climate change, further exacerbating our Bay restoration challenges.

Increased Ammonia Emissions and Deposition

One reason for the shortfall in expected nitrogen reductions from atmospheric deposition projected during the development of the Chesapeake Bay Total Maximum Daily Load is increases in ammonia emissions and deposition (see figure below taken from slide 39 in the October 31, 2017 air webinar). These increases are due, in part, to increases in ammonia emissions from agriculture (see slide 58). To that end, we note there have been substantial increases in poultry production in several states in the Chesapeake Watershed since 2010 (see table below) and poultry production is a known source of ammonia. Any additional nitrogen loads that resulted from these increases in poultry production should be ***offset*** by the states where the increases occurred, in accordance with Appendix S of the Bay TMDL and EPA expectations regarding state procedures to account for new and expanded sources of pollution loads. These additional reductions could be used to help close the gap on the special cases for NY and WV.

Additional nitrogen loads associated with ammonia from animal operations that occur between 2009 and 2025 could be modeled using a similar approach as that used to estimate NOx benefits. The states responsible for these additional loads would receive a smaller allocation to offset these new loads.

We sincerely thank you and the rest of the Principals' Staff Committee for your leadership on Bay restoration and thoughtful consideration of our input. In addition, we welcome the opportunity to work with you and the other Chesapeake Bay Program partners in the coming months on the development of quality Phase III WIPs. Please contact Chante Coleman at 443-927-8047 or colemanc@nwf.org with any questions or concerns.

Sincerely,

Anacostia Watershed Society
Audubon Naturalist Society
Center for Progressive Reform
Chesapeake Bay Foundation
Coalition for Smarter Growth
Conservation Voters of Pennsylvania
Delaware Nature Society
Earth Forum of Howard County
Friends of Accotink Creek
Friends of Lower Beaverdam Creek
Friends of St Clements Bay
James River Association
Maryland Conservation Council
Maryland Environmental Health Network
Maryland League of Conservation Voters
Mattawoman Watershed Society
Mid-Atlantic Youth Anglers & Outdoors Partners
National Parks Conservation Association

National Wildlife Federation
Natural Resources Defense Council
Nature Abounds
PennFuture
Pennsylvania Council of Churches
Potomac Conservancy
Rachel Carson Council
Rivertown Coalition for Clean Air & Water
Savage River Watershed Association
Shenandoah Valley Network
Sleepy Creek Watershed Association
Southern Maryland Audubon Society
St. Mary's River Watershed Association
Virginia Conservation Network
Virginia League of Conservation Voters
Waterkeepers Chesapeake
West Virginia Rivers Coalition
Wetlands Watch

cc: Members, Principals' Staff Committee, CBP
Jim Edward, Chair, Management Board
James Davis-Martin, Co-Chair, Water Quality Goal Implementation Team
Dinorah Dalmasy, Co-Chair, Water Quality Goal Implementation Team
Mark Bennett, Chair, Climate Resiliency Workgroup
Rich Batiuk, Associate Director of Science, Analysis and Implementation, CBP

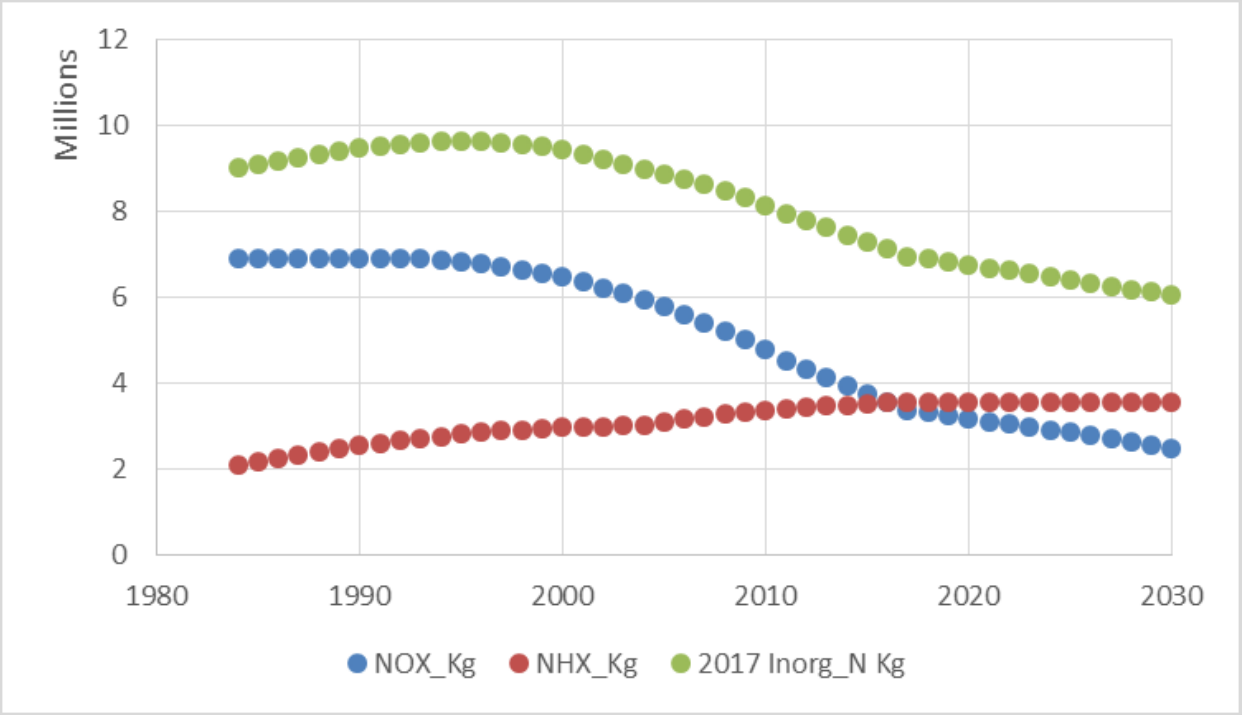

Figure from Chesapeake Bay Program indicating deposition of atmospheric nitrogen to the tidal portion of the Chesapeake Bay. Blue is NOx, red is ammonia and green is the combination. Note some of the reductions from air are offset by increases in ammonia.

State	Production	2010	2011	2012	2013	2014	2015	2016	% change since 2010
DE	# (x 1,000)	235,000	217,800	212,000	215,600	244,300	244,100	252,500	7.4
	lbs (x1,000)	1,630,900	1,524,600	1,505,200	1,530,800	1,759,000	1,733,100	1,843,300	13.0
MD	# (x1000)	300,500	311,100	304,000	305,200	287,800	303,500	303,500	1.0
	lbs (x 1,000)	1,433,400	1,555,500	1,611,200	1,617,600	1,554,100	1,730,000	1,851,400	29.2
PA	# (x1,000)	149,300	155,600	154,500	170,700	181,300	190,400	185,700	24.4
	lbs (x 1,000)	839,100	871,400	865,200	955,900	997,200	1,066,200	1,039,900	23.9
VA	# (x 1,000)	250,400	243,800	240,500	250,100	262,000	262,800	269,100	7.5
	lbs (x 1,000)	1,292,100	1,292,100	1,298,700	1,350,500	1,441,000	1,471,700	1,533,900	18.7
WV	# (x 1,000)	87,600	85,400	94,000	96,300	95,300	93,700	90,300	3.1
	lbs (x 1,000)	346,000	341,600	376,000	385,200	371,700	356,100	352,200	1.8

Table showing broiler production by state over time. Production is expressed as number of animals as well as by weight. In some states, bird weight has increased, substantially, in recent years and weight may be a better indicator of ammonia production. Data taken from http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1130. New York was not included as poultry production in the Chesapeake Bay watershed part of New York is very small.