COG Stormwater Webinar Oct. 14, 2011

**Stormwater Management: an Emerging Challenge for Local Governments**

**Summary of questions and answers**

Note: A number of questions were submitted that were not addressed during the webinar because of limited time. The summary includes responses both to the questions that were addressed during the webinar and those that were not. Answers are keyed to the various presenters as follows.

**Jeff Seltzer**, Assoc. Dir. of Stormwater Management District of Columbia

**Randy Bartlett**, Deputy Director, Public Works Fairfax County

**Bob Hoyt**, Dir. of Environmental Protection Montgomery County

**Sam Wynkoop**, Dir. of Environmental Resources Prince George’s County

**Karl Berger**, COG Dept. of Environmental Resources

Summary:

**Q1: Is there tension between the stormwater requirements for redevelopment and smart growth redevelopment efforts and has there been push-back from develops on new stormwater regulations?**

A: District of Columbia – Mr. Seltzer said District staff believes the its new regulations do achieve a balance, but it may depend on developers’ ability to utilize the offset mechanisms, such as off-site mitigation and trading, built into the regulations.

Fairfax County – Mr. Bartlett said there are some potential issues here, but the county is still waiting for the state’s new regulations to take effect.

Montgomery County – Mr. Hoyt said there has been some pushback, built it hasn’t been too loud. Developers seem to understand that our watersheds are in trouble and need help.

Prince George’s County – Mr. Wynkoop said there are some concerns about the need to implement environmental site design techniques in redevelopment projects. However, he didn’t characterize this as “push-back,” but rather as a “working-through” of a new process.

**Q2: Which jurisdictions have begun collecting stormwater utility fees from federal facilities per the law that recently passed?**

A: District of Columbia – Almost all federal agencies in the District are paying the District’s stormwater utility, according to Mr. Seltzer. The exception has been three facilities operated by the U.S. Navy, which is considering seeking its own MS4 permit for these facilities.

Fairfax County – Mr. Bartlett said that because the jurisdiction employs a tax to garner funding for stormwater, it cannot assess federal government properties.

Montgomery County – Mr. Hoyt said the county has billed a number of federal agencies that technically qualify as responsible parties under the current utility assessment, but it has not, as yet, received any federal funds.

Prince George’s County – Mr. Wynkoop said that because the jurisdiction employs a tax to garner funding for stormwater, it cannot assess federal government properties.

**Q3: How do the requirements for Phase I and Phase II MS4 permittees differ. Will Phase II communities face similar requirements as Phase I communities in the future?**

A: Karl Berger, COG staff – Currently, Phase I permittees have far more specific requirements than Phase II permittees, which have more general requirements to meet six “minimum control measures.” One example is in the area of retrofits. Maryland’s Phase I permittees have had a retrofit requirement in their permits for about the past 10 years whereas Phase II permittees have not had this requirement. In the future, Phase II permittees can expect to have retrofit requirements similar to the Phase I permittees and many similar measures. It is also possible that EPA may eliminate the distinctions between the two classes of permittees in its expected Chesapeake Bay-specific provisions of a national stormwater rule, expected to be issued sometime in the next year.

**Q4: To what extent are projections for increased storm intensity with climate change affecting stormwater regulatory requirements; are you taking into account the potential need for revised standards to account for this change?**

A: Fairfax County – Mr. Bartlett said that the county currently has such a great challenge in meeting the current requirements that it has not yet considered the extent to which those standards may need to be increased to address potential climate change effects.

**Q5: Given the current fiscal environment what are the prospects for additional / continuing federal and state funding?**

A: Karl Berger, COG staff – Almost nil. The federal government has never provided much in the way of stormwater funding. There has been some money available, typically about $2 – 5 million/state/year, in so-called Section 319 funds, but technically this money cannot be used for permit compliance. Maryland has a well established fund – the Chesapeake Bay Restoration Fund, or flush tax – that helps to pay for nutrient reduction efforts at wastewater treatment plants and cover crops for farmers, but this currently cannot be used for stormwater efforts. The state launched another fund, the Chesapeake Bay Trust Fund, in 2007 with a goal of providing $50 million/year in support for projects, including stormwater ones. However, full funding has never been realized and in FY 12, the fund received $23.5 million. Similarly, in Virginia, the state’s Water Quality Improvement Fund has the authorization to support stormwater efforts, but it has primarily been used for wastewater upgrades and agricultural projects and it currently does not the capacity to fund even these needs adequately.

**Q6: Is there a good estimate on how much trash has been prevented due to the DC bag bill ?**

A: According to Mr. Seltzer, the District doesn’t have a direct measurement for trash reduction due to the Bag Law.  However, anecdotal evidence indicates that there has been a significant reduction of bag litter in the District.  Local watershed cleanup events have documented a greater-than-50 percent reduction in disposable bags collected since the bag law has been enacted.  Additionally, a poll of District residents found that approximately 75 percent of respondents are using less disposable bags since the Bag Law was enacted.

**Q7: What is the respective level of progress by state in meeting their Ches Bay clean-up efforts? Will they meet the combined goal? What else is needed to make this happen?**

A: Karl Berger, COG staff - States generally need to further reduce nutrient loads by 15 – 25 percent from current levels to meet their Chesapeake Bay TMDL targets. Although this may not seem to be that difficult, restoration efforts to date have largely used up the low hanging fruit represented by two tiers of nutrient reduction efforts at wastewater plants and various agricultural BMPs. What remains to be done is much more costly, as , for example, with retrofitting stormwater quality controls into existing urban areas.

**Q8: Do Fairfax County and Prince George’s County foresee changing from an ad-valorem stormwater tax to a stormwater utility fee based on ERU/impervious area?**

A: Fairfax County – According to Mr. Bartlett, the county has previously studied the creation of a stormwater utility fee (the last time in 2005). At this time, there is no effort to create a stormwater utility. One of the concerns is the expense to establish the utility and to maintain and operate a billing system.

Prince George’s County – Mr. Wynkoop noted in his presentation that county staff is considering this change.

**Q9: For Montgomery County - what has been the response from the business community to your outreach about having all commercial properties begin paying stormwater utility fees based on their impervious area?**

A: According to Mr. Hoyt, the business community’s reactions have varied.  For the majority, the initial reaction has been to express concern about paying additional costs, to support credits for implementing stormwater controls, to request expanding the credit program to provide greater reductions in the Charge for businesses that implement the controls, to ask that Montgomery County businesses not be singled out for costs not borne by businesses in neighboring jurisdictions, and to sympathize with the environmental problem of stormwater.