



Chesapeake Bay and Water Resources Policy Committee Regional Water Quality Forum: Meeting Bay & Local Water Quality Objectives Through Integrated Permitting & Affordability Strategies May 17, 2013

This was the third in a series of forums that COG's Chesapeake Bay and Water Resources Policy Committee (CBPC) has held with EPA and some of the Bay states during the past few years. The forums are an opportunity for COG members to engage with state and federal officials on how to meet both local water quality goals in their jurisdictions as well as the regional requirements of the Chesapeake Bay TMDL. The initial forums were focused on the development of load reduction targets for nutrients and sediment under the Bay TMDL and what local governments could accomplish under the accompanying state Watershed Implementation Plans (WIPs). The May 17th Forum was focused more broadly on the need for permitting flexibility, the consideration of local financial considerations and the need to balance regulatory concerns with investment in aging infrastructure in the wastewater, drinking water and stormwater sectors.

Discussion Highlights

Attendees

Federal and State Guests:

- Shawn Garvin, EPA Region III Administrator
- Ellen Gilinsky, EPA Senior Policy Advisor in the Office of Water
- Jon Capacasa, EPA Region III Water Division Director
- Jeff Corbin, EPA Special Advisor to the Administrator for Chesapeake Bay and Anacostia Restoration
- Diane Davis, District of Columbia Dept. of the Environment, representing Director Keith Anderson
- Doug Domenech, Virginia Secretary of Natural Resources
- Robert Summers, Maryland Secretary of the Environment

Local governments and water and wastewater utilities were well-represented by members of the CBPC, WRTC, and other invited guests (see meeting minutes for a full list of attendees).

The dialogue between COG's members and the EPA and state staff addressed specific local concerns, focused on shared responsibilities and the need to continue to work together, and was viewed as a very productive exchange. Much of the dialogue between the EPA, state, and local government and utility partner representatives can be organized into the following themes:

I. Partners & Partnerships

➤ **We Are All in This Together**

- Acknowledged the fundamental importance of water to protecting public health, the environment, and supporting our local economy.
- Recognition that everyone has a stake in these water quality efforts and a role to play and that local governments, water resource utilities, state governments and EPA need to be partners and not adversaries.
- While local governments and utilities are and will continue to implement; that EPA and the states also have various roles to play (e.g., setting standards, assessing progress, providing technical resources, and setting an example).

- The District appears to have a successful model for engaging the federal government on stormwater implementation through a MOU process that may be useful to others.
- EPA and the states need to temper their enforcement actions towards local governments who are making bona fide efforts to meet their permit requirements, as penalties can be counter-productive.
- We all need to work together to better leverage our limited funding resources, as well as to share innovations and lessons learned.
- **Look for Opportunities to Collaborate** – Various options were noted, including:
 - Expanding and improving these types of dialogues with EPA and the states to more directly involve local governments/utilities.
 - Acknowledged ongoing EPA discussions with US Conference of Mayors and other entities –which COG is a part of.
 - Recommendation to collaborate on broader outreach/education efforts (see III below).
 - The concept of using public-private partnerships for financing, procurement, design, construction and even operation and maintenance of stormwater BMPs - Prince George’s County is currently working on one such model that could have regional application.
 - There is concern, however, that local governments could be saddled with too much risk if the partnership’s terms are not negotiated properly – so these new options require careful consideration.
 - Memorandums of Understanding between levels of government can be effective.
 - Could expand the use of COG’s purchasing rider mechanism and other tools to allow jurisdictions to benefit from each other’s good practices.
- **Local Perspectives are Critical to Success**
 - Localities are unique in their challenges, available options, and legal authorities, so one-size-fits-all approaches do not work.
 - The concept of an EPA local government ombudsman was suggested to help address such issues.
 - EPA agreed that although they have strong state liaisons, that more could be done to improve local government input.

II. Financial Challenges & Constraints

- **There are Limited Financial Resources & Mechanisms**
 - Local governments have lost revenue during the economic downturn due to lowered property assessments while demand for services has increased – and costs continue to increase.
 - Even in relatively wealthy local governments, the use of median household income as an affordability metric can mask problems with low-income resident.
 - Tax payers and rate payers are often the same people and have limited funds too.
 - Each local government is unique in its financial circumstances and in its legal structure for levying fees, and taking on debt.

- **Addressing Aging Infrastructure is a Critical and Competing Need**
 - Increased capital requirements to meet regulatory requirements at wastewater and drinking water plants often means that pipeline and other system rehabilitation and upgrades are often deferred, despite increasing concern over the age of the infrastructure.
- **Affordability Must Be Evaluated**
 - Recognition of the importance of ‘quality of life’ and meeting all citizens’ needs - not just environmental quality.
 - EPA should consider the full range of local government costs – not just those related to water quality, when assessing affordability.
 - EPA was encouraged to continue the ongoing national dialogues on new/expanded affordability criteria (i.e., more than just median household income), permitting and schedule flexibility, nutrient trading, and adaptive management.

III. Innovation & Adaptive Management

- **It Takes Time to Implement and Assess**
 - Need to recognize that our built infrastructure, especially in highly urban areas, has taken decades if not centuries to develop – and that it will take time to address the full range of water quality issues we face.
 - Requirements need to allow sufficient time to design and to implement – which may exceed permit renewal cycles.
- **Permitting and Enforcement Flexibility is Needed**
 - With limited financial resources, having the flexibility to set local priorities is critical.
 - EPA and the states need to fully utilize regulatory flexibility to allow local governments and utilities to manage their overall water resource permitting requirements.
 - Discussed potential to use the temporary surplus in the reduction credits achieved by wastewater plants using enhanced nutrient removal to lengthen the schedule by which local government must meet their stormwater reduction targets – a specific idea MDE suggested.
- **Innovation and Risk Ought to be Balanced**
 - Recognition that many of the advanced technologies and processes that are being implemented throughout the region have some uncertainties and will need time to fully implement and evaluate their effectiveness.

IV. Public Education & Awareness

- Public support for increased fees for water, wastewater and stormwater services is limited. Citizens do not necessarily see the benefits of increased investment in water quality. .
- A joint EPA-state-local education initiative was suggested.

V. Next Steps

- As the lead policy committee to the COG Board on water resource issues, the CBPC will continue its efforts to communicate and collaborate with the states and EPA to address these critical water resource issues on behalf of the COG region.
- In support of the CBPC and as part of its ongoing support to the regions' local governments and water utilities, COG staff will:
 - Continue to address water quality/water resource issues on behalf of the region;
 - Work with national groups to organize a regional dialogue on water resource infrastructure needs, financing, and related issues;
 - Continue to gather and synthesize wastewater, drinking water, and stormwater cost and fee information for the region;
 - Work with its members to develop a regional water quality education effort that could be undertaken in partnership with EPA and the states.