

CHESAPEAKE BAY and WATER RESOURCES POLICY COMMITTEE
777 North Capitol Street, N.E.
Washington, D.C. 20002

MINUTES OF NOVEMBER 19, 2010, MEETING

ATTENDANCE:

Members and alternates:

Chair Cathy Drzyzgula, City of Gaithersburg
Vice Chair Barbara Favola, Arlington County
Marty Nohe, Prince William County
Andy Fellows, College Park
Bruce Williams, Takoma Park
J Davis, Greenbelt
Mark Charles, City of Rockville
Beverly Warfield, Prince George's County
Jim Sizemore, Alexandria Sanitation Authority
J. L. Hearn, WSSC
Mohsin Siddique, DC Water
Glenn Harvey, Prince William County Service Authority

Staff:

Stuart Freudberg, DEP Director
Ted Graham, DEP
Steve Bieber, DEP
Heidi Bonnaffon, DEP
Karl Berger, DEP

Visitors:

Cy Jones, World Resources Institute
John Rhoderick, Maryland Department of Agriculture

1. Introductions and Announcements

Chair Drzyzgula called the meeting to order at approximately 10:00 a.m.

2. Approval of Meeting Summary for July 30, 2010

The members approved the draft summary.

3. Overview of Bay TMDL, WIP Developments

Mr. Graham summarized the comments that COG submitted to EPA under the agency's formal period on its draft TMDL for the Chesapeake Bay watershed. He noted the comments were developed through consultation with COG's Water resources Technical Committee and the Bay Policy Committee.

He said COG's comments focused on several issues, such as inadequate time to review and comment on the TMDL documents, lack of engagement of stakeholders such as local governments, failure to consider cost and other constraints facing implementers and the proposal of an overly ambitious schedule for implementation of pollution control practices. Mr. Graham said that many other stakeholders made similar comments

4. **Role of Trading in Bay TMDL**

Chair Drzyzgula introduced a panel of speakers invited to address the topic of trading nutrient and sediment credits within the Bay watershed. She said that trading is a possible means by which local governments could more cost effectively meet their pollution reduction responsibilities under the pending TMDL regulation, but it remains to be seen whether trading mechanisms exist and are sufficiently established to allow such trading to occur.

Mr. Jones, who has studied trading in the Bay watershed for the World Resources Institute, provided a general overview of how trading could work to meet TMDL needs. He said that the TMDL will not work without a viable trading system and that trading is needed to provide nutrient credits for future growth, to provide an affordable and more cost-effective means of meeting TMDL nutrient reduction requirements and to avoid onerous federal backstop provisions under the TMDL. Because other sources of pollution, particularly agriculture, can reduce nutrients and sediment far more cheaply than those responsible for urban stormwater can do so, he said, (\$5 – 20 per pound of nitrogen reduced compared to \$200 – 600), viable trading could greatly reduce the cost of compliance for MS4 permittees. WRI has estimated these costs savings could total \$800 million to \$1 billion.

Some observers have expressed skepticism that agriculture can meet its own requirements for nutrient and sediment reduction under the TMDL and still have the capacity to make further reductions for trading purposes. M. Jones, however, said WRI has calculated that Bay-wide agriculture could provide nitrogen credits of 64 million pounds a year using currently established practices and even more if alternative technologies prove viable. He also noted that non-ag practices such as oyster aquaculture and algal scrubbing may also generate credits for trading.

Mr. Jones addressed the potential role of governments in trading systems. He said governments have a role to play, particularly in providing funds to jump start credit arrangements for a trading system. He also said that an interstate trading system would be the most efficient and would avoid mismatches between supply and demand. He also said that EPA should make establishing a trading process for MS4 permittees a high priority.

Mr. Rhoderick discussed the current status of trading programs established by the state of Maryland. He said the state currently has a Phase I program to trade credits among wastewater plants and a Phase II program to regulate trading between agriculture and wastewater plants. The state intends to establish a Phase III program to handle trades between nonpoint sources, such as from agriculture to urban stormwater sources. He noted that Maryland's proposed Watershed Implementation Plan for the Bay TMDL relies on trading to achieve reductions for such sources as septic systems and possibly, urban stormwater.

The state's Phase II program for trading credits from agriculture is based on a number of principles, according to Rhoderick. These include the need to meet TMDL baseline requirements first, the need to be in compliance with all applicable federal/state laws and regulations, an offset ration of 1.1 to 1 and a requirement that the practices generating a credit be in place before a trade is made. He said the state has provided a software program that allows farmers to calculate how many credits they can generate with various practices. The state does not act as a market maker or guarantor, although it will conduct annual inspections to ensure that the requisite practices are in place. Trades are consummated through contracts.

Mr. Harvey, who has worked on Virginia's Nutrient Credit Exchange Program for the Virginia Association of Municipal Wastewater Agencies, summarized how that program has worked to date. It was originally authorized under legislation passed by the General Assembly in 2005 and was created to allow wastewater plants to purchase credits from each other and thereby more cost effectively deploy the newest generation of nutrient reduction technology. He said the Exchange estimates that it will wind up saving about \$800 million out of total nutrient upgrade cost of \$3.2 billion by 2025.

Mr. Harvey noted the current exchange is only set up to handle point source trades of known duration and quantity. He said there are a number of obstacles to including non[point sources in the exchange.

Discussion: Mr. Karimi said that one such obstacle of buying credits from agriculture is the fact that MS4 jurisdictions would require offsets in perpetuity. Ultimately, he said, buyers of credits will be on the hook if whatever practice has generated a credit goes away.

Mr. Charles asked when credits might be available for MS4 jurisdictions to purchase. Mr. Jones replied that the market is not there as yet.

Mr. Harvey said much of the current Virginia Exchange runs on annual credits. However, he added, if a way can be found to accommodate these time issues, there is great potential for trading between urban stormwater sources and wastewater plants. He noted that wastewater plants could probably generate credits in the range of \$20 – 60 per pound of nitrogen, which is far cheaper than projections of reducing nitrogen through stormwater retrofit projects.

5. Proposed Comment on Bay Stormwater Regulations

Mr. Berger discussed EPA's proposal to create special provisions for the Chesapeake Bay under a national stormwater regulation it intends to issue in 2012. He noted that EPA is currently accepting comments on its general proposal until Dec. 8 and that COG's Water resources Technical Committee has recommended that COG provide comments. He then summarized the comments developed by staff and reviewed by the WRTC, which focus on the four options for provisions under the EPA rule.

Action: The committee authorized staff to draft a letter detailing comments to EPA on its "Proposed Stormwater Rulemaking for the Chesapeake Bay" for the signature of the committee chair.

6. Discussion of Improving Outreach to Elected Officials

Chair Drzyzgula noted that COG staff is concerned that elected officials in the region are not sufficiently aware of the pending Bay TMDL and its consequences for local governments. She said that staff is asking the committee for input on how to improve its efforts to educate elected officials throughout the region.

Discussion: Mr. Nohe said the biggest challenge is the sheer complexity of the Bay issue and the limited time that local officials have to devote to any one issue.

Ms. Favola suggested that COG may want to produce a video that could be used in various ways. It could be used when COG staff provide briefings, for instance, but it also could be aired on its own or by member government staff who are providing a briefing.

Ms. Davis noted that right now the Bay Program is not a high priority for elected officials, who are faced with a difficult budget environment. She said it is unlikely to gain interest until the officials are faced with actual requirements.

Mr. Charles recommended the production of a series of brief presentations that would move from the general to the more specific. One thing that is needed, he said, is to try to illustrate what it means at the local level and to explain what local benefits might derive from the actions being required.

Mr. Williams said COG should consider partnering with groups such as the Chamber of Commerce and the homebuilders association in pursuing these efforts.

7. General Updates

Discussion of these items was deferred due to lack of time. Staff referred members' attention to a handout detailing COG's Regional Action Plan to Implement Region Forward.

8. New Business

None was noted.

9. Adjourn

The meeting was adjourned at approximately 12:05 p.m.