



CHESAPEAKE BAY & WATER RESOURCES POLICY COMMITTEE  
MEETING SUMMARY- **Draft**  
March 16, 2018

**1. INTRODUCTORY REMARKS**

Chair Garvey called the meeting to order at 10:10 a.m. She welcomed everyone and asked members and invited guests to introduce themselves.

**2. CBPC APPROVAL OF DRAFT SUMMARY FROM JANUARY 19 MEETING**

The draft summary of the January 19, 2018 meeting was approved as written.

**3. COAL TAR SEALANTS BRIEFING**

*Zach Rybarczyk, DOEE*

The District of Columbia banned coal tar pavement sealants in 2008 to address a major source of polycyclic aromatic hydrocarbons (PAHs). While enforcing the coal tar ban, the District's Department of Energy and Environment (DOEE) has found new products containing ethylene cracker residue (ECR) not subject to the current ban but that contain high enough levels of PAHs to pose a risk to human health and aquatic life. DOEE is bringing this issue before the CBPC to gauge regional interest in supporting the District's solutions under consideration, including amending their coal tar ban (and others with existing coal tar bans) to broaden the ban to address sealants with PAH concentrations higher than .1%. A second process under consideration by DOEE is a third-party certification process for pavement sealant products, which would verify PAH concentrations are at or below .1%.

Mr. Rybarczyk defined PAHs and explained DOEE's inspection findings, as well as the risks. PAHs are a carcinogen and have a negative effect on bottom-dwelling aquatic life, including tumors in catfish. Mr. Rybarczyk also explained DOEE'S proposed solutions to more broadly address PAHs than the current coal tar ban does.

[Link](#) to Mr. Rybarczyk's DOEE presentation.

**Decisions/Actions:**

- Montgomery County, Prince George's County, and the District of Columbia, who may be considering amendments to their coal tar bans, and have agreed to share draft revision language as it develops.
- Members have agreed to support DOEE's pursuit of product certification, via a letter of support and/or coalition building.
- Members have requested educational materials to be cross-shared.

**Member discussion:**

- Mr. Rice asked DOEE their expected timeline for amending their legislation. He stated he would like Montgomery County to be a partner in developing amending legislation, so that the Anacostia Watershed's action to guard against PAHs can be a model watershed, and he would plan to draft similar legislative text for Montgomery County. Mr. Rybarczyk said the District of Columbia was still determining its approach and timing, but he will keep the CBPC informed of The District's plans.
- Ms. Dyballa asked for the average PAH concentration in the ECR products, since they appeared to range from .1% to 1%. Mr. Rybarczyk said there is limited lab research on

ECR concentrations, and variances.

- Ms. Davis asked whether there is a list of compliant products in the region. DOEE has a list of suggested products, but it is not comprehensive, and Montgomery County has a list of products as well. Mr. Rybarczyk said DOEE's recommendations are to leave pavements unsealed or to use acrylic-based sealants that do not have PAHs.
- Members discussed how cost or lack of consumer awareness could both be factors for the public choosing options that have the harmful concentrations.
- Mr. Rice said a more aggressive approach of .1% PAH limit, and a certified product, would put the onus on retailers to stock the compliant products and that would lessen consumer confusion.
- Ms. Gross inquired what, if anything, is the sealant industry doing right now to avoid the use of PAHs? She suggested working with the Businesses for the Bay and with the industry itself, akin to when the CBPC approached Scotts Miracle Gro about reducing its phosphorus content in fertilizers.
- Mr. Karimi pointed out that the level defined as "safe" could be a moving target, as such was the case when phasing out lead concentrations in fuel and paint. The purpose of setting limits could be to get industry attention and action.
- Ms. Dyballa stated that bans can be on point of sale or on use of a product. It is hard for small jurisdictions to regulate points of sale, and often people will drive to another jurisdiction to obtain the banned product.
- Mr. Rice said moving forward with a ban and product certification puts the needed pressure on industry to use alternative materials in their products.
- Ms. Gross pointed out that in Virginia, a Dillon Rule state, localities would need General Assembly enabling legislation to implement a ban. However, can sign a letter of support for certification and do educational efforts without legislation.
- Ms. Dyballa requested educational materials from regional jurisdictions that have prepared materials about sealants.

#### 4. ANACOSTIA MESSAGING CAMPAIGN

*Erin Garnaas-Holmes, Project Director, Anacostia Waterfront Trust*  
*Adam Ortiz, Anacostia Watershed Steering Committee Chair*

Mr. Garnaas-Homes shared the plans and work of dozens of organizations planning the Year of the Anacostia events and messaging. He said this year is especially apropos for celebrating the history and recreation along the Anacostia:

- It's the centennial of the Anacostia Park
- The DC United stadium is opening along the Anacostia this July.
- The perception of the Anacostia is changing from a dumping ground to a destination and a place to recreate.

The Year of the Anacostia (#YOTA) will include a tool kit, and events to celebrate the Anacostia are continually being added to the [website's](#) events calendar. They are seeking sponsors.

Mr. Ortiz updated the CBPC members on the Anacostia Watershed Steering Committee's messaging goals and process. He said we talk a lot about the Bay, but really people connect with water in their neighborhoods, through recreation and stewardship, such as keeping litter from getting in the local stream. The Anacostia messaging campaign is a sustained effort to close the "truth gap" between the stereotypes about the river and the improving condition of the river—which is beautiful, fun and safe. Some major landmarks along the Anacostia River include the National Arboretum, stadiums, and parks.

To represent the ways people engage with the Anacostia River, the Anacostia Watershed Steering Committee has developed nine icons and a 30-second video about the amenities of the Anacostia. He concluded by playing the video.

[Link to Anacostia presentation.](#)

**Member discussion:**

- Chair Garvey says these Anacostia campaigns connect the dots for the public: All of the fees that the public is paying for water, stormwater and wastewater, are paying off. It brings to mind the phrase “water is life.” She asked whether the icons could be broadened for use by all regional water.
- Ms. Gross applauded the outreach campaign and said it is very exciting to see the evolution of this messaging. The Chesapeake Bay restoration has been a committee focus since 1988, but if we can make it local, then the Bay will benefit. She used the example of the Bay being the umbrella and the tributaries are the spines.
- Mr. Rice said he agreed with everything Penny said. Many of the activities along the river are free (picnics, walks, etc.) so it means anyone can connect to the water. He is following #YOTA on Twitter.
- Mr. Williams added they are “free” because government taxes are making these water quality improvements possible.

## 5. LEGISLATIVE AND ADVOCACY UPDATES

Ms. Bonnaffon provided an overview of the state legislation that the CBPC Legislative Work Group had tracked, and provided a schedule of upcoming CBPC outreach events.

[Link to both documents.](#)

**Member discussion:**

- Ms. Gross said the Virginia House has a lot of new members and it would be good to provide them information about water resource issues.
- Chair Garvey suggested reconvening the Legislative Work Group to strategize educating freshman General Assembly members, and Mr. Stehle and Ms. Dyballa both agreed.

**Decisions/Actions:**

- COG staff will work with CBPC members on advancing the Virginia General Assembly water education efforts this summer/fall.

## 6. CHESAPEAKE BAY PROGRAM – UPDATES ON KEY ISSUES & ACTION TIMELINE FOR LOCAL GOVERNMENTS & WATER UTILITIES

Ms. Spano provided an overview of the Chesapeake Bay Program’s (CBP) Midpoint Assessment process updates. Here are the highlights:

- COG is prepared to advocate for Chesapeake Bay Program funding, but as of now the continuation of funding for the Bay Program looks to be secured in the Congressional budget.
- The Chesapeake Bay Program just released their TMDL progress report, saying that the 60% implementation by 2017 has been met. COG staff will be gathering details on the assessment by states and sectors.
- The separate Conowingo Dam Watershed Implementation Plan (WIP) originally did not include the Potomac and the Patuxent as “effective basins” but the latest reporting from the Bay Program may include portions of these basins (Potomac above the fall line). Ms. Spano cautioned that this inclusion in the Conowingo Dam WIP could set up a competition with the states’ Phase III Watershed Implementation Plans for how the best management practices will be counted, and she will raise this with the Bay Program.

[Link](#) to Ms. Spano's presentation.

**Member discussion:**

- Mr. Ortiz said that in assessing the midpoint assessment progress, the Bay partners need to hold Pennsylvania accountable.
- Ms. Spano and Mr. Karimi replied that it would be best to keep a careful and science-driven approach to these matters. There are Bay partner sensitivities, and not just with Pennsylvania, but also other exceptions and adjustments that the states may request.

**7. STAFF UPDATES**

Ms. Bonnaffon announced plans for the May meeting and proposed a change in schedule for the July meeting. The May 18<sup>th</sup> meeting will include a presentation of COG's Water Resiliency Study, and staff are arranging a tour. More details will be forthcoming. COG staff requested to push back the July 20<sup>th</sup> meeting one week to July 27<sup>th</sup>, due to a conflict with the COG Board Retreat. The Region Forward Committee also meets on July 27, so it was decided that the July 27<sup>th</sup> CBPC meeting will start and end earlier, from 9:30 a.m. until 11:00 a.m., to minimize conflict for members of both committees.

**8. ADJOURNMENT**

The meeting adjourned at 12:00 P.M.

The next CBPC meeting and tour will be on Friday, May 18 from 9:00 a.m. to 12:30 p.m. at WSSC.

ATTENDANCE

**Members and Alternates:**

Adam Ortiz, Prince George's County  
Cindy Dyballa, Takoma Park  
Craig Rice, Montgomery County  
Hamid Karimi, DOEE  
J. Davis, City of Greenbelt  
Jon Stehle, City of Fairfax (phone)  
Karen Pallansch, Alexandria Renew Enterprises  
Katherine Antos, DOEE  
Laurie-Ann Sayles, Gaithersburg (phone)  
Libby Garvey, Chair, Arlington County  
Michael Ambinder, DC Council

Patty Bubar, Montgomery County DEP (phone)  
Penny Gross, Fairfax County

**Guests:**

Bruce Williams, Chair, LGAC  
Erin Garnaas-Homes, Anacostia Waterfront Trust

Jesse Maine, City of Alexandria (phone)  
Stan Edwards, Montgomery Co. DEP  
Zach Rybarczyk, DOEE

**COG Staff:**

Heidi Bonnaffon, COG DEP  
Steve Walz, COG DEP Director  
Tanya Spano, COG DEP

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