

June 16, 2012 Forum on the Chesapeake Bay TMDL and Associated Watershed Implementation Plans

Att. 3c

COG staff summary of highlights
August 19, 2011

COG's Chesapeake Bay and Water Resources Policy Committee sponsored a June 16 dialogue with Jeff Corbin, EPA's special adviser on Chesapeake Bay and Anacostia River restoration, and state representatives (Rich Eskin, Maryland Department of the Environment, and Shelia Besse, District of Columbia Department of the Environment) on the development of the Bay TMDL and the Phase II watershed implementation plans. Rich Batiuk of EPA's Chesapeake Bay Program Office also attended.

Committee members and alternates in attendance included:

Chair Barbara Favola, Arlington County
Vice Chair Andy Fellows, City of College Park
Shelia Besse for Vice Chair Hamid Karimi, District of Columbia
Cathy Drzyzgula, City of Gaithersburg
Shelley Aloï, City of Frederick
J Davis, City of Greenbelt
Uwe Kirste, Prince William County
Meo Curtis, Montgomery County
Mark Charles, City of Rockville
Sam Wynkoop, Prince George's County
Randy Bartlett (for Penelope Gross), Fairfax County
William Skrabak, City of Alexandria
Mohsin Siddique, District of Columbia Water
Mark Peterson, Loudoun Water
Jim Sizemore, Alexandria Sanitation Authority

In addition, technical staff attended from the following COG members:

- City of Alexandria,
- Arlington County
- Fairfax County
- Loudoun County
- Frederick County

The summary is divided into the four broad themes into which the CBPC had organized COG's talking points for the meeting. Where relevant, the summary identifies the initials of the participant who made the statement. The key to those initials is as follows:

JC = Jeff Corbin, EPA

RB = Rich Batiuk, EPA

RE = Rich Eskin, state of Maryland

GH = George Hawkins

RB – Randy Bartlett

SA = Shelley Aloï

SF = Stuart Freudberg (COG staff)

BF = Barbara Favola

Flexibility

- EPA indicated its openness to flexibility. “How you meet the allocations is up to you and will certainly change over time.” (JC)
- In regard to trading: EPA probably will probably not develop a specific trading mechanism itself; instead, the agency plans on issuing guidelines for trading programs to be run by the states and third parties. (JC)
- In response to concerns that MS4 regulatory policy would prevent a jurisdiction from trading between multiple Bay TMDL segments (as defined by EPA) within its jurisdictional boundaries: EPA will re-examine this aspect of its MS4 regulatory policy. (JC) Maryland plans to allow trading within jurisdictions and even within each of its five major basins, which include the Potomac. (RE)
- In response to concerns about the accuracy of the Bay Program's watershed model for estimating loads from the agricultural sector, which derive in part from contradictions with a recent USDA study estimating loads from agriculture in the Bay region: EPA is working with USDA to resolve discrepancies. “Very little of it (the discrepancy) has to do with the model per se; most of it has to do with what is input into the model.” (JC)

Cost/Benefit Analysis

- Several members cited cost estimates and ratepayer impacts for WIP implementation for their jurisdictions:
 - DC Water -- about \$1 billion for upgrades to enhanced nutrient removal at the Blue Plains wastewater treatment plant and about \$1 billion to address stormwater runoff in the city's combined sewer area. Water and sewer rates will have increased about 60 percent over a four-year period. (GH)
 - Fairfax County – costs to reduce phosphorus loss in existing urban areas of about \$23,000 per pound. Stormwater fee charges increased 50 percent in FY 2011 compared to the previous year. (RB)
 - City of Frederick – cost to upgrade to enhanced nutrient removal at the city's wastewater treatment plant of \$54 million. Projected increases in ratepayer costs are 100 percent over a five-year period. (SA)
- DC Water also cited an exponential increase in costs as local governments and utilities are required to achieve greater levels of nutrient reduction. It cost Blue Plains approximately \$100 million to reduce nitrogen concentrations in its effluent from 15 milligrams/liter (mg/l) down to 5 mg/l. Now it will cost the agency about \$1 billion to further reduce nitrogen from 5 to 4 mg/l. For this and other reasons, the agency wants EPA to focus on cost efficiency in determining what should be done under TMDL implementation. (GH)
(Note: EPA did not respond directly to the cost efficiency comment.)
- EPA has begun a study of how much it will cost to meet the TMDL goals as well as what are the economic benefits of doing so. The agency is willing to work directly with local governments to

gather on-the-ground costs for various urban pollution reduction practices as well as the cost for operations and maintenance. (RB)

Schedule

- There is a need for the federal government to come up with a significant amount of funding to assist local governments and other parties with their implementation responsibilities, otherwise it will not be possible to meet the TMDL reduction deadlines on time. (SF) In response, it was noted that EPA is discussing the funding issue and hopes to see Congress approve funding for Chesapeake Bay restoration at the levels that it approved for the Great Lakes or Everglades restoration efforts. (JC)
- However, in the meantime, EPA is not prepared to extend any of the current TMDL deadlines for various levels of implementation progress, although it may do so in the future. (JC)
- Maryland recognizes that the schedule is very tight and is not expecting jurisdictions to come up with Phase II watershed implementation plans (WIPs) that are final. For instance, a jurisdiction can focus more on planned programmatic actions, such as developing a new stormwater utility to fund future implementation, than on actual implementation plans in its 2-year milestones. (RE)
- Maryland dismissed a concern that local governments can't begin to plan because they have not yet received from EPA and the states the latest watershed model output detailing what their loads are and how much they have to be reduced. "You may not know exactly what you have to do, but you know it will be more than you are doing now." (RE)
- Attendees asked what consequences local governments will face if they cannot meet the load reduction targets in their WIPs. (*Neither EPA nor Maryland responded directly to this inquiry.*) It was then suggested that EPA and the states link potential consequences to the extent to which parties are trying to meet their reduction targets. Those who have made some level of progress to be determined should be able to receive extensions of the TMDL deadlines. (BF)

Adaptive Management

- EPA expressed general support for this concept. "I don't exactly know what adaptive management looks like, but we support the concept." (JC)
- In response to a question about whether EPA is planning to conduct a "Use Attainability Analysis" that potentially could adjust water quality standards and change the requirements of the TMDL: neither EPA nor Maryland ruled out this option. However, this is not an option that the agency wants to consider at this time. (RB) The earliest that Maryland would consider such an option would be during the 2017 reevaluation process. (RE)

Summary

- In closing remarks, Chair Favola noted the following points:
 - It would be good to hold another meeting to continue this dialogue as the Phase II WIP plans near finalization later this year.
 - There appears to be agreement on the need for flexibility in crafting the Phase II WIPs.
 - EPA is open to local government input on its cost-benefit study.
 - EPA is supportive of adaptive management techniques, although no specifics were discussed.
 - Although EPA did not disagree with the need for more money to assist local governments with implementation efforts, it is not willing to alter the TMDL schedule at this point in time.

Follow-up Actions

- Both the EPA and Maryland officials involved in the forum have expressed their willingness to participate again. (See attached letter from Jeff Corbin dated 7/22/11.) Chair Favola would like the committee to consider a date for another forum sometime later in 2011.
- EPA has launched a cost-benefit study. COG staff has asked EPA staff how local governments can participate.
- EPA staff recently extended some of the interim deadlines for development of the Phase II WIPs, but it has stuck with March 31, 2012, as the deadline for final approval/publication.



UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY
WASHINGTON, D.C. 20460

July 22, 2011

The Honorable Barbara Favola
Chair, Chesapeake Bay and Water Resources Policy Committee
Metropolitan Washington Council of Governments
777 North Capitol Street, NE
Suite 300
Washington, DC 20002

Dear Supervisor Favola:

Thank you for your letter of July 11, 2011, acknowledging the productive discussion we had at the June 16 Chesapeake Bay Total Maximum Daily Load (TMDL) forum sponsored by your committee. I agree that the conversation was excellent, and I appreciate the Metropolitan Washington Council of Governments' support for Chesapeake Bay restoration efforts. I will be happy to participate in another forum to discuss the development of Phase II watershed implementation plans (WIPs).

As we discussed at the forum, EPA's analysis of costs associated with the implementation of the Chesapeake Bay TMDL is underway. We are working to develop costs of the practices and actions identified in the Bay jurisdictions' WIPs, and we plan to share preliminary drafts of this information with the Bay watershed jurisdictions later this summer. The input of local governments on the quality of this information will be welcome. EPA will be pleased to consider any data, case studies, or research that local governments wish to share in support of the cost analysis. Furthermore, EPA's National Center for Environmental Economics is undertaking an assessment of benefits associated with the TMDL. This work would benefit as well from the input of local governments. Please feel free to contact Kevin DeBell in EPA's Chesapeake Bay Program Office, 410 295 1318 or debell.kevin@epa.gov, for more information on these projects.

Thank you again for your letter and your enduring commitment to restoration of the Chesapeake Bay.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Corbin".

Jeff Corbin
Senior Advisor to the EPA Administrator