



*Local governments working together for a better metropolitan region*

June 10, 2009

*District of Columbia  
Bladensburg\*  
Bowie  
College Park  
Frederick  
Frederick County  
Gaithersburg  
Greenbelt  
Montgomery County  
Prince George's County  
Rockville  
Takoma Park  
Alexandria  
Arlington County  
Fairfax  
Fairfax County  
Falls Church  
Loudoun County  
Manassas  
Manassas Park  
Prince William County*

*\*Adjunct member*

President Barack Obama  
The White House  
1600 Pennsylvania Avenue  
Washington, DC 20500

Dear President Obama:

Congratulations to you and your staff for injecting new focus and renewed energy into the efforts to restore and protect the Chesapeake Bay. You have appointed Lisa Jackson to lead the Environmental Protection Agency, named Chuck Fox to be her Special Assistant for the Chesapeake Bay and the Anacostia River, and issued an Executive Order on Chesapeake Bay Protection and Restoration. Together, these actions lay the groundwork for greatly enhanced federal leadership to accelerate progress in restoring the Bay.

As the Chair of the Board of the Metropolitan Washington Council of Governments (COG), and former Chair of the Chesapeake Bay Program's Local Government Advisory Committee, I applaud your efforts and share your optimism that, together, we can find the will and the means to accomplish what needs to be done. COG, an association of 21 local governments in the Washington metropolitan area, is proud of the region's local water quality restoration accomplishments, which include state-of-the-art implementation of wastewater treatment plant technology and innovative stormwater management practices stretching back more than 25 years. We are prepared to work with you, the rest of the federal government, and the other Bay Program partners in this "new era" for the restoration effort launched by your initiatives.

Drawing from the COG region's experience, it is apparent that there are four critical aspects to a successful water quality restoration program: (1) sound science and the willingness to adjust policies and programs in response to new findings; (2) an equitable framework for assigning responsibility and ensuring accountability; (3) sustained, targeted investment in restoration projects addressing all sources of pollution; and (4) a full federal-state-local partnership in which all voices are heard. All four aspects were instrumental in guiding the upgrade of wastewater treatment plants in the Washington region, resulting in substantial water quality improvements in the Potomac River. Since the 1970s, the amount of phosphorus released into the Potomac River by the region's wastewater plants has declined 96 percent. The first round of nitrogen reductions, beginning in the late 1990s, produced decreases of more than 50 percent from 1980s levels. The second round, now being built and implemented, will bring this reduction to approximately 75 percent. These gains have been made despite significant increases in wastewater flow caused by population growth.



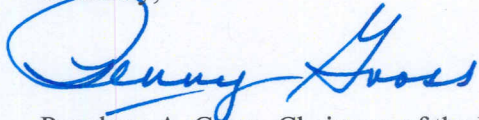
Your Chesapeake Bay Executive Order calls for federal agencies to examine how they can boost recovery efforts and for EPA, in particular, to suggest changes in regulations, programs and policies toward that end. EPA and the Bay states are proceeding with the development of a series of Total Maximum Daily Loads to define the nutrient and sediment load reductions necessary to restore the Bay. At the same time, members of Congress are considering whether to enhance EPA's regulatory authority under the Clean Water Act to accelerate Bay restoration progress. The four elements cited above are integral to the success of these efforts. In particular, local governments and soil conservation districts must be a part of this planning process. Such a planning process offers an excellent chance to produce credible, targeted implementation plans. Coupling such plans with a sustainable funding stream that includes federal, state and local sources will help ensure the timely implementation of those plans.

COG believes that the general approach outlined above will produce real benefits in terms of more rapid implementation of the programs and projects necessary to meet the Bay's water quality goals. As each major watershed is unique, separate plans with multi-state coordination would be appropriate. The Potomac watershed has perhaps the most complex set of issues to resolve in that it includes parts of four states and the District of Columbia. COG is prepared to work closely with the federal government, the states and other parties to develop resolve those issues including the development of targeted load allocations, implementation plans and the requisite funding strategy.

The enclosure presents a set of specific recommendations outlining how the Bay Program partners can work with local governments to accelerate restoration progress. COG would like to sustain a dialogue with EPA on the issues we have raised. We would appreciate the appropriate staff at EPA contacting Stuart Freudberg, COG's Director of Environmental Programs, who will serve as COG's point of contact. He may be reached at (202) 962-3340 or at [sfreudberg@mwcog.org](mailto:sfreudberg@mwcog.org).

The local governments in the Washington region are committed to doing their part in restoring the Bay. We look forward to your response to our recommendations.

Sincerely,



Penelope A. Gross, Chairman of the Board  
Metropolitan Washington Council of Governments

Enclosure

CC:

Lisa Jackson, EPA Administrator  
Chuck Fox, EPA Senior Advisor  
Members of the Chesapeake Bay Executive Council  
William C. Early, Acting Regional Administrator, EPA Region 3  
Jon Capacasa, Water Program Director, EPA Region 3  
Jeff Lape, Chesapeake Bay Program Director  
COG Region Congressional Delegation



## Enclosure

### COG's Recommendations for Enhancing Chesapeake Bay Restoration Progress

The recommendations are grouped into four categories: Local Government Involvement; Funding; Regulatory Policy; and Accountability.

**Local Government Involvement** – Local governments bring a wealth of planning and implementation experience to the table. The efforts to restore and protect the Bay will be significantly enhanced by greater local participation in federal and state planning efforts early in the process.

- We recommend that one or more local government representatives be invited to serve as observers on the proposed Federal Leadership Council.
- Local government representatives should be involved in ongoing efforts to develop the Bay TMDL and in publicizing the policy choices the TMDL will make. Toward that end, COG would welcome the opportunity to host one of the planned TMDL public meetings at our facilities in Washington.
- Local government representatives should be included in the consultation process for the annual action plan and progress report detailed in Section 205 of your order. As written, the order explicitly mentions consultation with “state agencies” and “members of the public,” but does not mention local governments.
- Over the past two years, COG’s members have invested substantial energy in developing a climate action plan for the COG region. COG has a lot to offer as the Chesapeake Bay Program explores linkages between water quality goals and the implications of climate change.

**Funding** – At least two aspects of funding are important for local governments: giving higher priority to programs and projects that offer greater load reduction per dollar spent and ensuring that there is an equitable federal-state-local funding partnership that addresses all of the major pollutant sources.

- Program implementation strategies, whether a two-year milestone or longer term should be screened for cost effectiveness and funding should be prioritized on this basis.
- A consistent, long-term, equitable funding mechanism should be established for helping to meet urban stormwater goals for the Bay. Only modest cost-share funding is currently directed towards urban stormwater controls, in contrast to other methods of pollution reduction, which receive significant support.

**Regulatory Policy** – The Bay TMDL is breaking and will continue to break new regulatory ground. COG offers the following comments and observations.

- Timetables for compliance with nutrient and sediment reduction goals should reflect cost-effectiveness analysis and related funding priorities. Regarding regulatory limits in municipal stormwater permits, the timetables need the flexibility provided by the concept of “maximum extent practicable.”
- Regulatory limits and state implementation plans should address the anticipated continued population growth in urban areas. This issue should be explicitly addressed by the Reasonable Assurance section of the pending TMDL.
- Regulatory policy should acknowledge that water quality is only one of a number of different, if not mutually exclusive, regulated environmental components. To the extent possible, regulatory policy should integrate responsibility for water quality, air quality and greenhouse gas reductions.
- To preserve the investments currently being made in technology upgrades, the regulatory limits enshrined in the current round of Enhanced Nitrogen Reduction agreements at wastewater treatment plants should not be subject to change until the water quality benefits from these investments are realized and assessed.



- Consideration should be given to reactivate the Section 208 planning process with the objective of developing effective area-wide water quality plans integrating both point and nonpoint sources of pollution.
- If the Affordability Analysis or other information related to the cost or effectiveness of implementation plans indicates that the 2025 end date is not likely to be met, EPA should revisit its decision not to conduct a Use Attainability Analysis.

**Accountability** – An effective framework for accountability should explicitly include those with actual responsibility for implementation. This has long been the case for the wastewater sector. Accountability should be extended beyond the state level to include every sector that contributes nutrients and sediment, not just regulated sources. This could be a part of the load allocation process and also be reflected in each of the states' implementation plans.