



CHESAPEAKE BAY RESTORATION COALITION



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Presentation by
ALCALDE & FAY

To

Metropolitan Washington
Council of Governments

Chesapeake Bay TMDL

What are we facing?

- Substantial unfunded federal mandates on local governments, wastewater treatment facilities and private property owners
- Phase II Watershed Improvement Plan development starts now; adopted this year, runs through 2017.
- Due to budgetary restraints or political decisions, under-funded restoration funds from federal and state governments
- Slow or no implementation by federal facilities.
- Tremendous uncertainty over the impact litigation may have on implementation plans.
- EPA's FY 2012 Action Plan, including two year milestones, was due April 2011.

All MWCOG Members Affected



Source: MWCOG Website

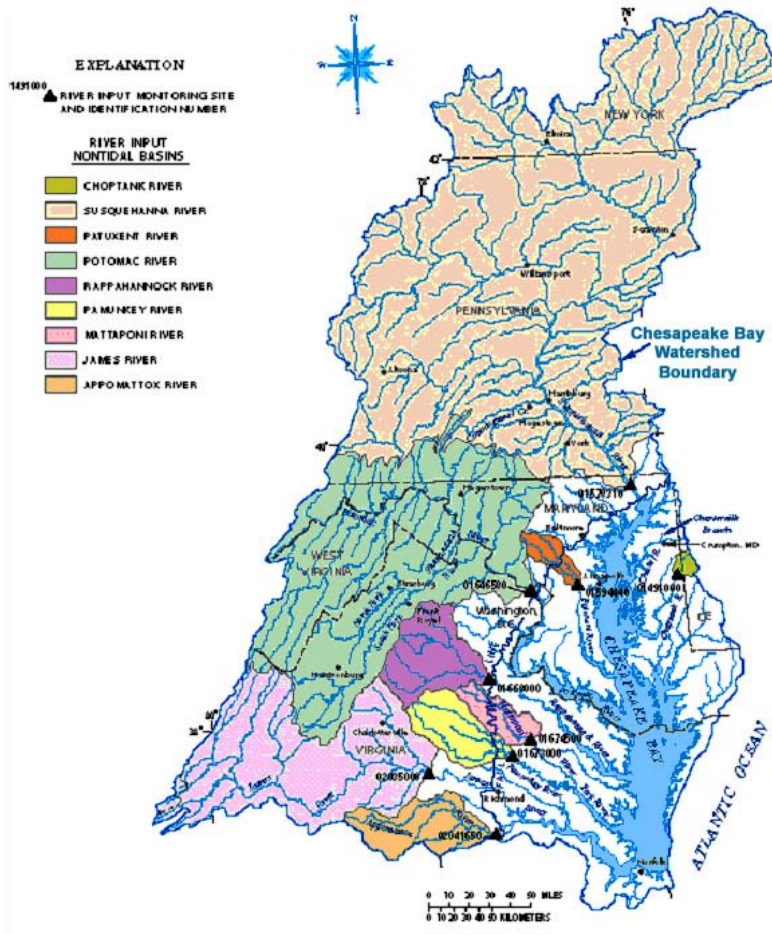
Who are the players in Chesapeake Bay Restoration?

- Federal Government: EPA, USDA, NOAA, Interior, USACE, Congress
- State Governments
- Local Governments
- Municipal wastewater and stormwater agencies; DOTs
- Farming community
- Private Sector – i.e.- chemical plants, pulp mills, developers, food processing
- Interest groups: local government associations, environment NGOs
- Media – informing the public

What is Needed? A Multi-State Effort

Similar issues impact the public and private sector in portions of six states and Washington, D.C.:

- Delaware
- Maryland
- New York
- Pennsylvania
- Virginia
- West Virginia



What are they saying?

- * It's not clear what the executive order's direct impact might be on the 17 million people who live in the bay watershed, but it could lead to new requirements for upgrading sewage treatment plants and other utilities and limits on developers and on farmers and homeowners who fertilize their fields and lawns with nutrients that seep into the bay. *– The Washington Post (DC)*
- * State Sen. George Edwards is concerned that no matter what the final numbers are, there's trouble coming. That trouble is in the form of a four letter word — TMDL, an acronym that stands for total maximum daily load. “It's really going to put the hurts on in this state. It's going to hit people in their pocketbooks,” he said. *– Cumberland Times-News (MD)*
- * Local municipalities are bearing too large a financial burden for Chesapeake Bay initiatives, but where the relief will come from is anyone's guess. State Sen. E. Eugene Yaw, R-Loyalsock Township, told local officials that any help will have to come from the federal level. *– Williamsport Sun-Gazette (PA)*

What are they saying?

- * No one has calculated the total cost of the cleanup, but in Virginia the price is estimated at \$7 billion or more in state money alone.
– *Richmond Times-Dispatch (VA)*
- * The Chesapeake Bay TMDL -- often referred to as a "pollution diet" -- was at the center of intense debate for months before it was officially set in place. Some local farmers, conservation districts and wastewater treatment plant operators spoke out against the strict pollution levels in the plan, which they feared would cost billions in taxpayer and stakeholder money to reach. The EPA and some environmental groups said the plan was necessary to finally clean the Bay, which has been severely polluted for the better part of three decades. – *Elmira Star-Gazette (NY)*
- * "In a way, they are giving us money to comply, but they haven't given us the money down at the local government level that they're realizing they need," [the eastern bay coordinator with the West Virginia Department of Environmental Protection Alana] Hartman said.
– *Martinsburg Journal (WV)*

Suggested Objectives

- Seek additional funding for grant and loan programs for wastewater and stormwater infrastructure, farm retrofitting and nonpoint source pollution prevention from OMB, EPA, USDA and Congress.
- Engage with EPA regarding its own model and work to ensure credibility and simplification of the modeling process, as well as a marketplace of ideas through the support and/or integration of alternative modeling techniques.
- Work with EPA and Congress to require that federal installations be required to take the same restorative actions as public and private property owners and with OMB to include the funds in the President's budget.

Lobbying: Relevant House Committees and Members

- **Agriculture (The Farm Bill)**
 - Chairman Frank Lucas, OK
 - Bob Goodlatte (VA) Former Chairman of full committee
 - Glenn Thompson (PA) Chair of Conservation Subcommittee
- **Appropriations (related agencies and programs)**
 - Agriculture Subcommittee (USDA)
 - Energy and Water Development – (USACE)
 - Interior, Environment – (Interior, EPA, CEQ)
- **Energy & Commerce**
 - Tim Murphy (PA) Vice Chair – Subcommittee on Environment and the Economy
- **Transportation and Infrastructure (Water Resources Development Act)**
 - John Mica (FL) Chairman
 - Nick Rahall (WV) Ranking Member
 - Bob Gibbs (OH) Chair – Subcommittee on Water Resources & Environment
 - Bill Shuster (PA) Member, Subcommittee on Water Resources and Environment
- **Oversight & Government Reform**
 - Darrell Issa (CA) Chairman
 - Jim Jordan (OH) Subcommittee chair on Regulatory Affairs
- **Delaware, Maryland, New York, Pennsylvania, Virginia and West Virginia Representatives**

Lobbying: Relevant Senate Committees and Members

- **Agriculture (The Farm Bill)**
 - Subcommittee on Rural Revitalization, Conservation Forestry and Credit
- **Appropriations (related agencies and programs)**
 - Agriculture Subcommittee (USDA)
 - Energy and Water Development – (USACE)
 - Interior, Environment – (Interior, EPA, CEQ,) Senators Reed (RI) and Mikulski (MD)
- **Energy & Natural Resources**
 - Subcommittee on Water and Power
- **Environment & Public Works**
 - Subcommittee on Water and Wildlife – Ben Cardin (MD) Chairman
 - Subcommittee on Transportation and Infrastructure – Max Baucus (MT) Chairman
- **Delaware, Maryland New York, Pennsylvania, Virginia, West Virginia Senators**

Promoting Credible Models for Chesapeake Bay Restoration

“The Chesapeake Bay TMDL is based on data that the EPA has admitted is flawed...”
- National Cattlemen’s Beef Association

“Because the models are not widely used outside the CBP [Chesapeake Bay Program], they lack credibility with the broader scientific community that would result from a history of independent applications.”
- National Research Council

“Where we have a problem is we think this Bay model is not 100 percent accurate when it comes to agriculture,” White said. “There is just some erroneous stuff in there. We believe 88 percent of cropland (in the Bay areas) is under no-till. EPA is saying 50 percent. That’s a big, big difference.”
- Dave White, Chief, USDA Natural Resource Conservation Service

- Use the expertise at Virginia, Maryland, Pennsylvania and other universities to contribute new perspectives on modeling to simplify model utilization and ensure the best model possible through promotion of a credible marketplace of ideas.

Fund Federal Property Restoration Effort

“(c) strengthen storm water management practices at Federal facilities and on Federal lands within the Chesapeake Bay watershed and develop storm water best practices guidance” – Executive Order 13508

- The “Storm Water Management At Federal Facilities & On Federal Lands In The Chesapeake Bay Watershed” (11/23/2009) report states:
 - The Federal government owns the greatest amount of developed land in the Chesapeake Bay watershed – 5.3% of the total.
 - USDA – 66%, DoI – 17%, DOD – 16%
- As local governments and the private sector are forced to take expensive actions under this Rule, the Administration and Congress must fund the actions necessary on Federal land to restore the health of the Chesapeake Bay.

Our Mission

- Organize the multitude of stakeholders into a strong, multi-state Bay-wide organization with significant political clout.
- Educate members of Congress and key committee staff about the impacts of the Chesapeake TMDL on local governments.
- Modeling initiative – organize state universities to provide simplified, scientifically-valid technical resources.
- Get the federal government to pay its fair share or more.
- Include federal property included in Bay restoration efforts.
- Develop and distribute key talking points to members of the coalition.
- Spokesperson to Congress, EPA, media.
- Help coordinate and advocate for multi-jurisdictional state and local inputs.
- Understand the impacts of litigation on implementation plans.

The Organization

- Name: Chesapeake Bay Restoration Coalition
- Voting membership available to: Public bodies, Associations representing public bodies
- Non-voting membership available to: Private sector companies and associations representing private sector companies that share the goal of the organization
- Member and Associate Member fee structure: Based on local population or private company gross revenues
- Annual budget: +/- \$500,000
 - Federal and State Government Affairs
 - Initiate Chesapeake Bay model development
 - Communicating goals, objectives and accomplishments of the organization with traditional and new media

Reasons to Act Now

- There will be only five opportunities to seek additional federal funding to meet compliance obligations before the Phase III WIPs in 2017. The first of those opportunities, FY12, is being worked on now. It is necessary to position local governments to protect and expand funding for Chesapeake restoration initiatives.
- Goodlatte Amendment stripping funding for EPA implementation of Chesapeake TMDL will potentially remain an issue during this round of budget negotiations. It would not affect local governments' obligation to comply and still allows TMDL enforcement through citizen suits.
- It is expected that a new Water Resources Development Act (WRDA) will be worked on this year. It is necessary to begin positioning with the relevant legislators now.
- The longer EPA works on its model, the more resistant it will be to a unified voice of local governments advocating for further modifications.

Draft 2011 Work Plan

- **February 24:** Initial Virginia Stakeholder Listening Session
- **March 30:** Initial Maryland Stakeholder Listening Session
- **Mid April:** West Virginia Listening Sessions. The Coalition will begin vigorous outreach to the 46 constituent legislators of the Chesapeake Bay watershed area.
- **Late April:** Initial Delaware Stakeholder Listening Session.
- **May:** Official Launch of Chesapeake Bay Restoration Coalition. Formation of a Chesapeake Bay Restoration Coalition Steering Committee that will discuss priorities for the following calendar year and approve a work plan for the staff. Suggested work plan is laid out in part below.
- **Late May:** Initial Pennsylvania/New York Stakeholder Listening Session.

Draft 2011 Work Plan

- **Late May:** The Coalition will also begin to formally engage with key universities in the Bay watershed (such as the University of Virginia, ODU, Virginia Tech, University of Maryland, Penn State, West Virginia University, University of Delaware) in developing alternative modeling techniques to those being employed by EPA in the formation of the Chesapeake Bay TMDL.
- **Early June:** Coalition leads outreach to state governments to provide coordinated messages regarding development of Phase II WIPs, and assists in addressing local issues as they rise. Concurrently, the Coalition will introduce itself to key legislators and regulators and begin to advocate on behalf of its principles. Development of a set of principles upon which the Coalition will advocate during the creation of Phase II WIPs.
- **June:** The Coalition will work to create the Chesapeake Bay Restoration Caucus in the House and Senate.
- **June – July:** Meet with key congressional committee members and staff regarding impact of EPA's TMDL rules. May ask for congressional hearings to educate Members of Congress on the impacts on local governments and property owners.

Draft 2011 Work Plan

- **August:** The Coalition will advocate strongly to EPA and OMB for inclusion of increased funding for Chesapeake Bay Restoration as agencies prepare to make their budget submissions to OMB and decision-making on the President's FY13 budget proposal begins.
- **September:** Executive Branch agencies make budget submissions to OMB highlighting agency priorities. Based upon feedback from EPA regarding Phase II WIPs, the Coalition will continue to advocate its principles as final Phase II WIPs are developed.
- **October:** Formation of a WIP Implementation Committee designed to engage experts and begin knowledge sharing across municipalities regarding the most effective ways of implementing the WIPs.
- **December 1:** Draft Phase II WIPs submitted to EPA by state governments.
- **December:** Outreach to EPA will increase as the Agency reviews draft Phase II WIPs and prepare responses.
- **March 30, 2012:** Final Phase II WIPs submitted to EPA.

Phase II WIPs - Expectations

- EPA expects the following from Phase II WIPs:
 - Clear, quantitative targets for local jurisdictions (such jurisdictions to be defined by the state.)
 - Identification of local, state, and federal partners involved in the effort.
 - How each jurisdiction will work with its partners to implement their targets.
 - How progress by jurisdictions will be tracked, verified, and reported to EPA.
 - How jurisdictions will be working with federal agencies to meet their targets.
- Source: “Guide for Chesapeake Bay Jurisdictions for the Development of Phase II Watershed Implementation Plans” - http://www.epa.gov/reg3wapd/pdf/pdf_chesbay/GuideforthePhaseIIWIPs_3.30%20final.pdf

Phase II WIPs - Timeline

- July 15, 2011 – EPA finalizes nitrogen, phosphorous, and sediment allocations for the 19 state-basins.
- November 1, 2011 – Deadline for submitting to EPA preliminary milestone commitments for scenario analysis. Jurisdictions are encouraged to submit these draft milestones earlier to give them more time to respond to the Chesapeake Bay Watershed Model estimates of how much their milestone commitments will meet their targets.
- December 1, 2011 – Draft Phase II WIPs submitted to EPA.
- January 3, 2012 – Jurisdiction milestone commitments submitted to EPA for 2012-2013.
- January 31, 2012 – EPA provides comments on draft Phase II WIPs.
- March 30, 2012 – Final Phase II WIPs submitted to EPA.

- This timeline has been revised by EPA, which had set an original deadline for completion of Phase II WIPs of November 1, with drafts due on June 1 of this year.

About ALCALDE & FAY

- Founded in 1973; one of the oldest lobbying firms in Washington
- Based in Arlington, Virginia.
- Environmental policy experience:
 - Reputation for effective management of complex environmental policy issues
 - Multiple Fortune 100 businesses
 - Alliance for Responsible Atmospheric Policy since 1980
 - International Climate Change Partnership since 1991
- Represented more than 100 public bodies around the country
- Significant experience working with Congress, EPA, CEQ, OMB, USDA, Interior