

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

MINUTES OF November 15, 2013 MEETING

ATTENDANCE:

Members and alternates:

Andrew Fellows, City of College Park
 Bruce Williams, City of Takoma Park
 Cathy Drzyzgula, City of Gaithersburg
 JL Hearn, WSSC
 Karen Pallansch, Alexandria Renew Enterprises
 Mary Cheh, DC Council
 Nicole Rentz, District of Columbia
 Pamela Parker, Montgomery County
 Penny Gross, Fairfax County (Chair)
 Peter Hill, District Dept. of the Environment
 Shannon Moore, Frederick County
 Shelley Aloï, City of Frederick
 Steve Shofar, Montgomery County
 Tim Stevens, City of Falls Church

COG Staff:

Christine Howard, DEP
 Heidi Bonnaffon, DEP
 Karl Berger, DEP
 Monica Beyrouti, COG Executive Dept.
 Nasser Ameen, DEP
 Ryan Hand, DCPS
 Steve Bieber, DEP/UW&S Chief
 Tanya Spano, DEP/RWQM Chief

Guests:

Cherie Schultz, ICPRB
 Leslie Knapp, MACO
 Norm Goulet, Northern VA Regional Commission

1. Introductions and Announcements

Vice Chair Aloï called the meeting to order at approximately 9:05 a.m.

2. Approval of Meeting Summary for September 20, 2013 meeting

Members approved the draft summary of the September 20th meeting.

3. Water Quantity: Planning for the Future and Droughts.....Cherie Shultz, Director for CO-OP Operations, ICPRB and Christine Howard, COG

Ms. Shultz provided a historical overview climate change modeling as it pertains to predicting regional water supply to 2040. She stressed while climate change models agree on much globally, our region in a transition zone and therefore there is less certainty about the future of rainfall patterns and whether we can expect rain fall to increase or decrease. She explained how ICPRB has extrapolated USGS climate scenarios with the help of the Bay Program's Phase 5 watershed model. Ms. Schultz also discussed what actions the region's water utilities are doing to ensure adequate future water supply, including more operational efficiency, increased system flexibility and use of retired quarries, which Loudoun County, Fairfax County and Montgomery County are all pursuing.

Ms. Howard provided an overview of COG's drought plan history, core features, and updates that will be made to the plan. The Metropolitan Washington Water Supply and Drought Awareness Response Plan was adopted in 2000 and has two main components: A year-round plan emphasizing wise water use and conservation and a water supply and drought awareness and response plan. The drought response plan includes four stages, which are triggered based on NOAA river gages. The stages are Normal, watch, warning, and emergency. The watch and warning result in regional voluntary water conservation recommendations, and an emergency would result in mandatory restrictions. To-date, the COG region has been in a watch three times, but never a warning or emergency. By late spring of 2014 COG wants to update the Plan, including revisiting the NOAA 'D1 Triggers, and revisiting communication and wise water use messaging.

Discussion:

Ms. Drzyzgula asked Ms. Shultz whether land use change has been taken into effect in ICPRB modeling and the answer was “no.” Ms. Moore asked if the models are ICC and if the results of the ICPRB modeling can be applied to other regional stream flows such as the Monocacy River? The six models used in the ICPRB projections are approved by the ICC, and they have not applied their research to other rivers but that could be possible. Ms. Drzyzgula said that water conservation recommendations need to be common sense and recognize good behaviors. Mr. Williams mentioned that regional coordination of water supply is important because of our common water source—the Potomac and shared reservoirs. Chair Gross mentioned the Colorado Compact to conserve water, given the huge quantities needed to manufacture snow for skiing. Chair Gross asked that Ms. Howard update the CBPC and COG Board about the revised drought plan, once it’s finished in late spring or early summer.

4. Trading, Offsets, and Accounting for Growth.....Leslie Knapp, Counsel, MACO, and Norm Goulet, Senior Planner, NVRC

Mr. Knapp, of the Maryland Association of Counties (MACO), provided a summary of Maryland’s plans to account for growth under the dictates of the Chesapeake Bay TMDL. MACO was represented on the state’s Accounting for Growth (AFG) work group, which put together recommendations for Maryland’s pending regulations on this issue. The Bay TMDL accounts for existing development and current pollution loads, and the AFG Policy is designed to address water pollution, specifically nitrogen and potentially phosphorus, caused by new growth and development, and in doing so, will affect where new growth and economic development occurs in Maryland. It does not come from statute but rather the state’s Watershed Implementation Plan (WIP). However there is a statutory requirement to create an offset policy specifically for septic systems under SB 236. The accounting for growth policy will be implemented through the regulatory process of MDE, not via the General Assembly. MACO’s position on the AFG Policy is that it should not:

- Eliminate rural economic development;
- Make urban redevelopment and infill impractical (cost-prohibitive); or
- Incentivize conversion of active farmland to urban uses.

Some key concerns for MACo members are:

- Establishing a scientifically defensible baseline requirement for the offsets;
- Establishing a fee-in-lieu option;
- Giving local governments the first right of refusal for using the fee;
- Creating a robust trading market; and
- Preventing the State from requiring that the counties assume ultimate financial responsibility for the offsets, which much be maintained into perpetuity.

It is critical that MACo and the counties remain engaged in the evolution of this complex Policy, according to Mr. Knapp.

Note: Maryland has postponed the promulgation of its Accounting for Growth regulation due to ongoing debate in the governor’s cabinet over whether it is necessary to account for phosphorus as well as nitrogen. More information about the Accounting for Growth legislation is available [here](#).

Mr. Goulet, of the Northern Virginia Regional Commission (NVRC), provided an update on nutrient trading development in Virginia. In contrast to Maryland, the state does not attempt to regulate growth; that is up to local governments, according to Mr. Goulet. Another difference, he said, Virginia’s nutrient trading is focused on phosphorus rather than nitrogen. Nutrient trading in Virginia was initiated in 2005-2006 originally just for wastewater plants. The program was expanded in 2011 to include offsite options for stormwater management, but with many limitations. Most of these were removed in 2012 legislation that opened up nutrient trading to all pollution source sectors, including local governments that must meet pollution reduction requirements under their stormwater (MS4) permits.

Mr. Goulet noted that a technical advisory committee convened by the state’s Department of Environmental Quality recently finished its work on advising the state on how to implement the new law. New state regulations on trading are expected to be issued early in 2014. However, he added, there are a number of outstanding issues that still concern local governments. These include:

- That local governments are given only five days “first right of refusal” when developers propose to buy credits rather than install practices on site;
- How credit prices should be set and whether they should be locked in place for perpetuity given that the model estimates used to generate them are continually changing and that BMP technology will change as well; and
- Insufficient detail on DEQ’s process for inspections, scheduling, and criteria for establishing credits.

Discussion:

Chair Gross commented that there are may be too few credits available for trading, which could limit use of that option.

5. Legislative Updates..... Lisa Ochsenhirt, Attorney, AquaLaw and Tanya Spano, COG

Ms. Ochsenhirt, AquaLaw, provided a brief overview of water resources issues that will likely be appearing in Maryland’s and Virginia’s 2014 general assembly sessions.

Virginia

- 2 years of divided government coming
- Stormwater issues are expected to be the focus

Ms. Ochsenhirt went into detail about several stormwater items being debated in Virginia, but none of which is of great COG focus. For more details please see her [PowerPoint](#).

Maryland

- Stormwater issues, especially H. B. 987, requiring the establishment of stormwater fees and a fund to pay for stormwater management plans, are likely to be the big water issues. It’s a politically contentious issue for several smaller counties. Some have pre-filed legislation to repeal the 2012 law.
- Accounting for Growth legislation
- Other issues include storm sewer overflows, and bottle deposits.

Discussion:

Karl Berger asked about the Water Quality Improvement Fund’s (WQIF) allocation for 2014. The WQIF assists with stormwater cost share and BMP compliance. The 2013 amount was \$35 Million and that is what is expected for 2014.

Note: Nearly \$27 million has been included in the Governor’s proposed budget, mostly for continuing the Stormwater Local Assistance Fund grants for capital projects (\$20M). The other roughly \$7M is for nonpoint WQIF grants through DEQ.

Ms. Spano asked the committee members to review COG’s 2013 Legislative Priorities and offer staff recommendations for 2014 water quality priorities. The committee stated that the 2013 priorities are still timely, but that there should be an emphasis that there will not be any backsliding on water quality progress despite the request for regulatory and schedule flexibility.

Note: The Legislative Priorities will go before the COG Board for adoption on January 8th.

6. **Staff Updates**

A. 2014 Meetings

The following dates were proposed as 2014 CBPC meeting dates (all are 3rd Fridays of the month), and the committee members present said those dates should be fine for the majority of members. So we will plan to meet these dates in 2014.

January 17	July 18
March 21	September 19
May 16	November 21

B. Chesapeake Bay Program Activities

Ms. Spano provided brief updates about the Executive Council meeting that was scheduled for December 12 and said that COG staff would prepare comment letter on the draft Bay Agreement for the January 17th meeting. Ms. Spano also mentioned COG plans to emphasize local government and utility contributions as part of the Bay restoration 30-Year celebration efforts, and she also mentioned the new CBP initiative to highlight the success of wastewater treatment plant efforts and staff's plans to work with EPA to highlight local success stories.

C. Update on the Water Resources Infrastructure Workshop

Current plans are under development, and the event is expected to be held this spring (March 2014).

7. **Adjournment**

Chair Gross adjourned the meeting at 12:05 p.m.