

Chesapeake Bay Program Agreement Management Board Recommendations (4/11/13)

The following is a sample agreement that helps illustrate the recommended styles of a possible Chesapeake Bay Agreement:

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(Draft Outline)

2013 Chesapeake Bay Agreement

Section 1: Preamble – history, benefits and accomplishments of the 30-year Chesapeake Bay Program Partnership. ****Note: All sample language is in grey to describe the types of information that would be included in each section.**

In 1983, 1987 and 2000, the states of Virginia, Maryland, Pennsylvania, the District of Columbia, the Chesapeake Bay Commission and the U.S. Environmental Protection Agency, representing the federal government, signed historic agreements that established the Chesapeake Bay Program partnership to protect and restore the Chesapeake Bay’s ecosystem.....

For almost two decades, the Chesapeake Bay Program Partners have worked together as stewards to ensure the public’s right to clean water and a healthy and productive resource.....

On this 30th anniversary of the founding of the Chesapeake Bay Program, we recognize the significant progress made to protect and restore this National treasure and by signing this agreement, we hereby reaffirm our partnership and recommit to fulfilling the public responsibility we undertook three decades ago.

Section 2: Vision – The Chesapeake Bay Program Partners envision a Chesapeake watershed with:

- clean water that is swimmable and fishable in streams, rivers and the Bay
- sustainable, healthy populations of blue crabs, oysters, fish and other wildlife
- a broad network of land and water habitats that support life and are resilient to the impacts of development
- abundant forests and thriving farms that benefit both the economy and environment
- extensive areas of conserved lands that protect nature and the region’s heritage
- ample access to provide for public enjoyment
- cities, towns and neighborhoods where citizens are stewards of nature

Section 3: Mission – The Partners agree to work together to restore and protect the Chesapeake Bay ecosystem and the living resources of the Chesapeake Bay through a coordinated, cooperative approach. We agree to provide for continuity of management efforts and perpetuation of commitments necessary to ensure long-term results.

Section 4: Goals and Outcomes

Establishing overarching goals for a restored Chesapeake Bay ecosystem is the most basic and essential step for identifying what the Chesapeake Bay Program hopes to accomplish in the long term. It is the basis the program's ongoing work and articulates what success looks like. Program goals are critical for communicating the value of our efforts to the public and other key audiences. Equally important, specific and measurable outcomes—tied to each goal—help the program select strategies and tactics and efficiently allocate program resources. They provide a means for tracking progress, measuring success and making adjustments to tactics as necessary.

The following goals and outcomes are for example only (at this time). They reflect the work of each of the CBP Goal Teams and are still considered draft. Both the goals and outcomes will be put forward for PSC recommendation and Executive Council adoption.

1. **Sustainable Fisheries Goal:** Restore, enhance, and protect the finfish, shellfish and other living resources, their habitats and ecological relationships to sustain all fisheries and provide for a balanced ecosystem in the watershed and bay.
 - **Blue Crab Outcome:** Maintain sustainable blue crab population based on the current 2012 target of 215 million adult females (1+ years old) and continue to refine population targets between 2013 through 2025 based on best available science.
 - **Oyster Outcome**
 - **Fisheries Outcome**
2. **Vital Habitats Goal:** Restore, enhance, and protect a network of land and water habitats to support priority species and to afford other public benefits, including water quality, recreational uses and scenic value across the watershed.
 - **Wetlands Outcome: Restore 30,000 acres of tidal and non-tidal wetlands...**
 - **Stream Restoration Outcome**
 - **Fish Passage Outcome**
 - **Submerged Aquatic Vegetation Outcome**
 - **Forests Outcome**
3. **Water Quality Goal:** Restore water quality to achieve standards for DO, clarity/SAV, and chlorophyll-a in the Bay and its tidal waters as articulated in the Chesapeake Bay Total Maximum Daily Load (TMDL).
 - **2025 Watershed Implementation Plans (WIP) Outcome:** Have all controls installed by 2025 to achieve the Bay's DO, water clarity/SAV, and chlorophyll a criteria.
 - **2017 WIP Outcome:** Have practices in place by 2017 that are expected to achieve 60 percent of the load reductions necessary to achieve applicable water quality standards compared to 2009 levels.
 - **Toxic Contaminants?**
4. **Healthy Watersheds Goal:** Maintain local watersheds at optimal health across a range of landscape contexts.
 - **Healthy Waters Outcome:** State identified healthy waters remain healthy
5. **Land Conservation Goal:** Conserve landscapes treasured by citizens to maintain water quality and habitat; sustain working forests, farms and maritime communities; and conserve lands of cultural, indigenous and community value.
 - **Protected Lands Outcome:** Protect an additional 2 million acres of lands...

6. **Public Access Goal:** Expand public access to the Bay and its tributaries through existing and new local, state and federal parks, refuges, reserves, trails and partner sites.
 - **Public Access Site Development Outcome:** Increase public access by adding 300 new public access sites by 2025.
7. **Environmental Literacy Goal:** Every student in the region graduates environmentally literate having participated in meaningful watershed educational experiences in elementary, middle, and high school that were supported by teachers who have received professional development in environmental education and schools that are models of environmental sustainability.
 - **Education Outcome:** TBD

Options for identifying responsible parties for each outcome:

- Option 1: Include responsible parties (jurisdictions and federal agencies) in the Agreement after each outcome
- Option 2: Identify responsible parties (jurisdictions and federal agencies) in the development of management strategies by Goal Implementation Teams.

Section 5: Membership

As established by Section 117 of the Clean Water Act, the members of the Chesapeake Executive Council are the signatories to the Chesapeake Bay Agreement identified by signature below. This includes: Maryland; Virginia, Pennsylvania, West Virginia, New York, Delaware, the District of Columbia, the Chesapeake Bay Commission, a tri-state legislative body; the U.S. Environmental Protection Agency (representing the United States federal agencies).

The roles and responsibilities of the jurisdictions, the CBC, the EPA and other federal partners are more fully described in the “CBP Governance Guidelines” and management strategies

This section would also emphasize that EPA is signing on behalf of the federal government (via the Federal leadership Committee for the Chesapeake Bay) and that non-signatory federal partners have an important role within the Partnership. This section would also address the role of USDA.*

*The 2008 Farm Bill includes the following “sense of Congress”:

(g) Sense of Congress Regarding Chesapeake Bay Executive Council.--It is the sense of Congress that the Secretary should be a member of the Chesapeake Bay Executive Council, and is authorized to do so under section 1(3) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a(3)).

Section 6: Principles

The Partners agree to the following Principles:

1. Work together to improve the environment in communities throughout the entire watershed and in its thousands of streams, creeks and rivers.

2. Coordinate and strategically manage water quality and ecosystem restoration efforts across the program in cooperation with the Federal Leadership Committee for the Chesapeake Bay and other non-governmental partners.
3. Use best efforts to accomplish the goals of the partnership outlined in Section 4 of this Agreement.
4. Use science-based decision-making and adaptive management principles
5. Commit to being transparent with the public on progress in meeting goals and outcomes, or any changes or revisions to the goals, outcomes, or strategies of the partnership.

Operational Commitments

1. Implement an **adaptive management** system that ensures continual improvement of our ability to achieve goals, outcomes, and strategies including implementation of a tracking and accountability framework.
2. **Delegate** responsibilities for periodic review and necessary revisions of outcomes (based on adaptive management principles) to the **Principals’ Staff Committee**
3. Demonstrate strong, regional leadership by convening an annual public meeting of the Chesapeake Executive Council.
4. Implement a coordinated Bay-wide monitoring system and research program.
5. Develop **management strategies** for each outcome, approved by the **Management Board**, that would include jurisdictions and federal agencies who commit to supporting the achievement of that outcome. Management Strategies, outcomes and goals will be reevaluated every two years by the Management Board with recommended changes going to the PSC.
6. Develop “**governance guidelines**” to identify the roles, responsibilities and working relationships of and between all the CBP members, clearly articulate the roles and responsibilities of the federal agencies, and differentiation the role of EPA in oversight of the TMDL vs. partnership decisions .

Section 7: Effective Date

This Declaration is effective upon signature.

Section 8: Affirmation and Signatures

By this Agreement, we the undersigned members of the Chesapeake Executive Council, reaffirm our commitment to work together as described herein to protect and restore the Chesapeake Bay ecosystem.

Date: _____

For the Commonwealth of Pennsylvania

For the Commonwealth of Virginia

For the State of Maryland

For the State of West Virginia

For the State of New York

For the State of Delaware

For the District of Columbia

For the Chesapeake Bay Commission

For the United States of America (EPA Administrator to sign on behalf of the Federal Government and the Federal Leadership Committee)

(Note: additional Federal Agency representatives may also be invited to attend based on issues being addressed at a particular EC meeting. The 2008 Farm Bill includes the following “sense of Congress” (which does not supersede intent of Congress in Section 117 of the CWA:

(g) Sense of Congress Regarding Chesapeake Bay Executive Council.--It is the sense of Congress that the Secretary should be a member of the Chesapeake Bay Executive Council, and is authorized to do so under section 1(3) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a(3)).)

Supporting Documents

Supporting Document: Governance Guidelines

Note: [This would not be part of the “Agreement” but a separate document.](#) As recognized in “Section 6: Principles”, the partners would be instructed to develop “governance guidelines” to identify the roles, responsibilities and working relationships of and between all the CBP members, including the non-signatory federal partners. This separate document would provide structure and direction to the partnership.

Governance Guidelines

1. *Context and Purpose*
2. *Organization Chart*
3. *Adaptive Management Relative to Program Governance*
4. *Organizational Responsibilities for Adaptive Management*
5. *Decision-Making in the Chesapeake Bay Program*
6. *Chesapeake Bay Program Governance*
 - a. *Chesapeake Executive Council*
 - b. *Principals’ Staff Committee*
 - c. *Management Board*
 - d. *Goal Implementation Teams*
 - e. *Action Teams*
 - f. *Advisory Committees.....*
 - g. *Federal Leadership Committee*

Implementation Document: Management Strategies

Note: Management Strategies are called for Under Section 117 of the Clean Water Act:

“(g) CHESAPEAKE BAY PROGRAM. --“

(1) MANAGEMENT STRATEGIES. -- The Administrator, in coordination with other members of the Chesapeake Executive Council, shall ensure that management plans are developed and implementation is begun by signatories to the Chesapeake Bay Agreement to achieve and maintain

“(A) the nutrient goals of the Chesapeake Bay Agreement for the quantity of nitrogen and phosphorus entering the Chesapeake Bay and its watershed; “

(B) the water quality requirements necessary to restore living resources in the Chesapeake Bay ecosystem;

“(C) the Chesapeake Bay Basinwide Toxins Reduction and Prevention Strategy goal of reducing or eliminating the input of chemical contaminants from all controllable sources to levels that result in no toxic or bioaccumulative impact on the living resources of the Chesapeake Bay ecosystem or on human health;

“(D) habitat restoration, protection, creation, and enhancement goals established by Chesapeake Bay Agreement signatories for wetlands, riparian forests, and other types of habitat associated with the Chesapeake Bay ecosystem; and

“(E) the restoration, protection, creation, and enhancement goals established by the Chesapeake Bay Agreement signatories for living resources associated with the Chesapeake Bay ecosystem.

Note: This document would also not be part of the Agreement. As recognized in “Section 6: Principles”, the partners would be instructed to develop management strategies as part of the overall management of the program. Developed by the Goal Implementation Teams and Management Board the documents would identify the specific strategies for achieving the goals and outcomes approved by the Partnership. (signed by the PSC or MB)

Management Strategies could include:

- Outcome to be achieved with commitment toward shorter term targets (2 or 3 year targets?)
- Agencies and jurisdictions responsible for achieving the outcomes
- Actions to be taken by partnership to facilitate achievement of those outcomes
- Tracking and accountability system used to measure progress and determine necessary redirection

Additional Decision Points

TMDL Governance

Recommended Decision: Treatment of TMDL issues in the Partnership

Separate Regulatory Aspects of TMDL -- Distinguish the nature of TMDLs as a regulatory requirement of section 303(d) of the Clean Water Act, distinct and apart from section 117 of the CWA and have separate EPA/co-regulator discussions with bay jurisdictions as needed. Ensure that the TMDL aspects of the program are addressed as one of the tools to achieve clean water goals under the Water Quality Goal Implementation Team.

Recommended Decision: PSC Participation and Voting Eligibility

EC designees (member/participating partner; level of state secretaries, DDOE Director, CBC E.D., federal agencies). Multiple members from same delegations at the table, but only one vote allowed per delegation (e.g. EPA votes for all feds who are represented by either FLCD member or Regional Director). STAC, CAC and LGAC chairs invited, but may not vote.
