



## **LOCAL GOVERNMENT ADVISORY COMMITTEE**

### **REPORT TO THE CHESAPEAKE EXECUTIVE COUNCIL**

**June 3, 2010  
Baltimore, MD**

#### **Introduction**

The members of the Local Government Advisory Committee, separately appointed by each member of the Executive Council, feel that there has been considerable progress this past year with signing of President Obama's Executive Order on the Chesapeake Bay and the initiation of the Chesapeake Bay Total Maximum Daily Load (TMDL). Already there is a sense that actions taken by the Administration have elevated the importance of the Bay to a higher, more visible level. EPA Administrator Lisa Jackson's presence here today is one of many hopeful signs that this year will be a significant one in making progress toward restoration and protection of the Chesapeake Bay.

There is a growing recognition that the kinds of actions that will accelerate restoration in tidal and non-tidal states must happen at the local level. Most of the 1,800 units of local government in the Bay watershed are responsible for managing land use and for adopting and enforcing local ordinances and regulations that protect water quality. For accelerated implementation of restoration programs to occur, local governments need to be sure that the actions they require of their residents are proven effective in incrementally improving the Bay's waters.

With that as a backdrop, here are three key principals that LGAC sees as important for local governments in any strategy for protecting and restoring the Chesapeake Bay evolves:

#### Clear Expectations

Urban and suburban development are significant sources of pollutants to the Bay, and the vast majority of measures to control these pollutants will be implemented through their

Municipal Separate Storm Sewer System (MS4) Programs and through regulations on private development. In order for local governments to plan for the potentially significant increases in workload and cost that will be associated with the Bay restoration effort, EPA and the States need to provide clear expectations regarding the level of effort anticipated, as well as the effective tools for tracking progress toward implementation goals. This clarity will help prioritize the allocation of scarce resources to the most effective projects and will allow measurement of progress towards implementation of restoration goals.

### Consistent Regulations

There are multiple concurrent efforts at the federal level aimed at restoring the Chesapeake Bay. In addition to the Executive Order, the TMDL, and current Senate and House bills being considered, there are a number of state wide initiatives that would improve water quality. The regulatory environment for stormwater and water resources is in a state of flux, and local governments are concerned with inconsistencies between the competing regulatory mandates and lack of a focused effort to coordinate the multiple regulatory initiatives. In order for local governments to successfully meet the mandates to improve water quality, it is imperative that regulations developed at all levels of government be consistent.

### Committed Funding

Even with clear expectations and consistent regulations, the task of protecting and restoring the Chesapeake Bay will require unprecedented funding if goals are to be met. EPA's own draft report fulfilling Section 202a of the Executive Order estimates the cost of retrofits in existing MS4 communities to about \$7.9 billion per year. Many costs at the local level are already borne by local government taxpayers who are currently facing one of the most difficult national economic times in our history. Local governments and their constituents simply cannot bear the economic burden alone. Increased funding is crucial and must be made available to local governments to help support the efforts to clean up the Chesapeake Bay. For local governments, these three key principals must be considered in the evolution of any strategy to protect and restore the Chesapeake Bay.

Our message continues to be that we need action now, and we need a strong bottoms-up, locally based implementation effort if we are going to meet the goals agreed to in the Obama Executive Order.

Specifically, the Local Government Advisory Committee agrees that three priorities are critical to meeting our objectives:

#### **1. Circuit Rider**

**We ask each member of the Executive Council to continue to support the work of our Circuit Rider demonstration projects and look for opportunities to expand the concept where appropriate within each member jurisdiction.**

- We reported to you in May, 2009, that EPA had funded two Circuit Rider demonstration projects as called for by LGAC. Both approaches promised to overcome the barrier of a lack of technical assistance to help local governments implement effective restoration projects on the ground. Circuit Riders are the action agents who will bring all the federal, state, local, and partnership resources together to make projects happen in local communities.
  
- We are pleased to report that we now have a first year final report of Alliance for the Chesapeake Bay's York County Circuit Rider Pilot Project. This project features a single person operating within York County, PA, providing technical assistance, grant writing, project coordination and management, and capacity building to the county and the 72 municipalities it contains. LGAC considers the success of the project as proof that the Circuit Rider concept can and should be expanded to other jurisdictions in the Bay watershed. The York County model is particularly suited to the complex local government structure in Pennsylvania, but could be adapted to local governments in other watershed states. In York County, the Circuit Rider has assisted over 40 land owners, written 7 grants with an average success rate of 85%, and assisted 8 municipalities on projects which have reduced over a million pounds of nutrients. (see 2009-2010 Final Report) The model consists of :
  1. Community based person at the county level
  2. Bottoms up approach providing technical assistance to local governments, stakeholders, and non-profit organizations
  3. Locally based, trusted member of the community, familiar with local communities and the interactions between local, state, and federal agencies
  4. A catalyst, convener to bring diverse groups of people together to get projects on the ground
  5. Knowledgeable of various grant opportunities and the ability to prepare and administer them
  6. Capacity builder through the establishment of multi-group/multi-agency team building
  7. Coordinator of working groups and committees to address various ongoing issues

One example from the report is the creation of a York County TMDL working group consisting of a cross section of the community that will eventually provide local input into the development of the state Watershed Implementation Plan.

- The other pilot project is operated by the Center for Watershed Protection (CWP) and consists of providing technical assistance and support to a variety of communities in Maryland and Virginia. It has assisted both urban and rural jurisdictions on projects ranging from stream restoration and watershed management, to more complex stormwater management projects. The CWP project partners with other organizations such as Chesapeake NEMO, Virginia NEMO, and the Maryland Watershed Collaborative to leverage its technical assistance to communities and jurisdictions who request their services. Nine local governments have requested and received assistance from the CWP Circuit Rider projects. That also includes an educational workshop on stormwater management that focused on elected officials and local government staff. The CWP model for Maryland and Virginia consists of:
  1. Providing technical services at no cost or a reduced rate to those requesting services
  2. Services provided by experienced CWP staff with expertise as engineers, planners, biologists, ecologists, and researchers
  3. Includes working in conjunction with a network of service providers such as Chesapeake NEMO, Virginia NEMO, the Maryland Watershed Assistance Collaborative
  4. Nature of the service is tailored to particular needs of the community requesting assistance
  5. Requests for support from local governments are vetted by project partners and a coordinated response is planned
  6. CWP's technical knowledge can offer key injection into ongoing projects to advance projects more rapidly
  7. Educational opportunities are provided to local governments through regional workshops, webinars, and hands-on training
- Both of the Circuit Rider demonstration projects have recorded successful implementation of projects and a higher level of engagement with local governments. Both have met LGAC's expectations of providing technical assistance to local governments as a way to increase the implementation rate of projects aimed at restoring and protecting the Chesapeake Bay. It will be the local government structure and particular local circumstances which determine which model units of local government may want to use across the Bay watershed.

## 2. Stormwater

**We ask the members of the Executive Council to work in partnership with local governments to develop cost-effective solutions to stormwater issues than must be addressed through the Chesapeake Bay TMDL.**

- Studies have consistently shown that urban and rural stormwater runoff is the second-largest contributor to nutrient and sediment pollution in the Bay. LGAC recognizes that one of local governments' most critical opportunities to contribute to Bay protection and restoration is in the area of stormwater policy and regulation. The authority given to local government officials to prevent stormwater runoff is one that needs closer examination in the immediate future. Further, the solutions to the stormwater runoff problem are generally costly, especially in urban areas. Additional resources must be made available to local governments and to the development community so that measureable reductions in stormwater runoff are achieved.
  
- On May 13 of this year, LGAC and the Scientific and Technical Advisory Committee (STAC) held a stormwater workshop to begin to identify exemplary local government stormwater management programs around the country. In a presentation by the nationally recognized Portland, Oregon stormwater management program, Dan Vizzini laid out the principals of their outstanding program:
  1. **You have to Restore before you can Sustain.** Overcoming generations of damage to watersheds and water bodies will take a concerted effort and considerable investments over decades. For all that Portland has accomplished, they have just begun to restore and protect their watersheds.
  2. **The Whole is Greater than the Sum of the Parts.** It is necessary to break through the strict confines of regulatory silos to develop comprehensive, integrated and adaptive strategies to restore watershed health, based on a comprehensive understanding of watershed conditions, functions and needs.
  3. **Stormwater Management is Local, Private and Green.** Effective stormwater management occurs at the source, mimics natural functions, is integrated into the built environment and is designed to achieve multiple benefits.
  4. **Make the Case, Show the Numbers.** Transformational change will not come easily or quickly. Good science, engineering, planning and execution are needed to prove cost effectiveness. Overcoming institutional and professional inertia will require measurable objectives and documents performance. Public access to demonstration projects is essential.
  5. **Build Understanding, Change Professional Cultures, Grow Community Acceptance.** Widespread adoption requires a transformation of thinking and actions by politicians, development professionals, communities, and property owners. Transformational change places a premium on appealing and practical design, quality demonstration projects, proven

performance and cost effectiveness, consistent communications, an inclusive and engaging approach to planning and decision-making and dependable political leadership...sustained over time.

**6. Private Actions advance Public Goals.** Public regulation and incentives can multiply their impacts if they are leveraged by the widespread adoption of restoration strategies by property owners, communities and the marketplace.

- LGAC and STAC are working on a workshop findings report that will widely distributed throughout the Bay community. That will include recommendations on innovative strategies that will help reduce runoff and restore watersheds. The results of the workshop clearly show that public involvement is the first goal for any successful program. In fact, public involvement should be considered the first Best Management Practice. And that public involvement must be led by consistent political leadership in concert with other community public and private environmental leadership. We discovered that there is a tremendous demand for the kind of workshops that will assist local governments to develop stormwater programs and ways to finance them. LGAC and STAC will continue to provide leadership on this issue.

### 3. TMDLs

**During this past year, LGAC worked with EPA, the Bay Program Office, and its partners to develop a TMDL Game Plan for involving local governments in the TMDL public meetings. late in 2009. That plan was carried out in November and December of 2009 when LGAC members helped moderate public meetings in Pennsylvania, Maryland, and the District of Columbia plus some private informational sessions in Virginia. There was a high degree of cooperation with the states and EPA during this early public hearing phase of the TMDL process.**

**We ask that each member of the Executive Council commit to instructing the appropriate state agency or agencies to have the same full and meaningful degree of cooperation and collaboration with their local governments during the next phase, the development of the state Watershed Implementation Plans (WIP's).**

- There is no more critical and immediate issue for local governments than the development of the Chesapeake Bay-wide Total Daily Maximum Load (TMDL) allocation. LGAC insists that local governments throughout the Bay watershed be more involved in any discussions about implementing TMDLs in the Bay region, especially if, as expected in some states, TMDLs may be allocated down to the city, municipal, or county level in one or more of the jurisdictions in the Bay Agreement.

- The critical issue in this coming year is the development of state Watershed Implementation Plans (WIPs). Local governments must have a voice in the process of developing the WIP's upon which the final TMDL will be based. EPA has approved several pilot studies in each state that would serve as a model for them to get the information needed to complete the WIP's. LGAC will continue to monitor the pilot studies for the best ways to involve local governments in that process. We want to commend the State of Maryland for creating two pilot projects, one in Anne Arundel County and one in Caroline County, that have aggressively reached out to local government officials. Through a series of timely and regular meetings, both the Maryland Department of the Environment and the Department of Natural Resources have sought local government input and advice as they prepare the Watershed Implementation Plans.
- If local governments are given the responsibility for meeting TMDLs, they must also be given the necessary financial resources and regulatory powers to meet the requirements. Requiring local governments to enforce stricter regulations may force many to enact new fees or raise taxes. That could put local officials in a political bind as well as foster local resistance to a TMDL. We need a shared funding plan that will lead to successful implementation of the Bay-wide TMDLs. We also need to determine the legal liability for failure to implement and meet the TMDLs.

## **Conclusion**

In the past several months, LGAC has had the opportunity to review the Strategy for Protecting and Restoring the Chesapeake Bay. We recognize, as stated in the strategy, that land conservation is at the crux of both ecological health and community well being. It is also true that many of the most important places may be altered or lost if those "treasured landscapes" are not protected. Therefore, we want to add our endorsement and support to the Chesapeake Treasured Landscape Initiative contained in the final Strategy document issued on May 12 of this year. We look forward to a federal, state, local government, and citizen partnership that will foster stewardship of our treasured landscapes and our most treasured place, the Chesapeake Bay

Finally, as we come closer to accelerating implementation of plans, programs, and projects that will restore and protect the Chesapeake Bay, we see a need for a new level of collaboration and cooperation between the states and their units of local government. Local governments have been recognized by federal agencies and state governments as key players in the vast partnership that is the Chesapeake Bay Program. For that reason, we request that a small, but significant step be taken by the members of the Executive Council to encourage your state representatives to attend and participate in our quarterly LGAC meetings. We will make a renewed effort to include them on our agendas. As we

move closer to the final TMDL, closer coordination with states and their representatives will benefit us all.

We would like to thank the Executive Council for the opportunity to provide our recommendations and advice and look forward to an exciting year for Chesapeake Bay restoration.