



## **LOCAL GOVERNMENT ADVISORY COMMITTEE**

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

**July 11, 2011  
Richmond, VA**

#### **Introduction**

Local government officials, in many ways without regard to authority and funding, have been thrust to the forefront in the implementation of the Chesapeake Bay Total Maximum Daily Load. As an Advisory Committee, we are severely concerned about the impacts that that will have for almost 1,800 units of local government in the Bay Watershed.

We have finally arrived at the point in the Chesapeake Bay (TMDL) process where the focus has truly begun to shift to local governments and the impending Phase II State Watershed Implementation Plans (WIPs). As state jurisdictions begin to refine target loads and assign them to smaller units of local governments at a county or multi-jurisdictional level, elected and appointed local government officials must be aware of the process and how their local concerns can be addressed in the Phase II WIPs. The Local Government Advisory Committee has a key role to play to insure all local governments in the Watershed understand their obligations under the TMDL and their opportunities to influence the shape of local WIPs. At the same time, we must insist that the Environmental Protection Agency and all the states and the District of Columbia prepare plans to help finance the costs of implementing the TMDL at the local level.

With that in mind, here are three key principles that LGAC sees as important for local governments as 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 must 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

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 and ratepayers 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 principles must be considered in the evolution of any strategy to protect and restore the Chesapeake Bay.

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

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

#### **1. TMDLs and the Phase II Watershed Implementation Plans**

**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 Phase II state Watershed Implementation Plans (WIPs).**

LGAC has spent this last year informing local governments about the TMDL process and the opportunities at various EPA and state level public meetings to provide input to the Phase I Watershed Implementation Plans. Now we are in the Phase II WIP process where target loads will be assigned at a local government level. This is an absolutely critical time for local governments. Elected and appointed local government officials need to understand how each state and the District of Columbia will develop their final WIPs and the opportunities for them to have their local concerns incorporated into the plans.

During the early TMDL process, EPA and the Chesapeake Bay Program assisted several areas in the development of pilot projects in several state jurisdictions. The Piedmont Regional Pilot Project in Virginia and Pilot Projects in Anne Arundel and Caroline Counties in Maryland tested local involvement in the TMDL process and provided some insight on how to garner support of local governments and communities throughout the Chesapeake Bay Watershed. The recommendations of the Virginia Pilot Project are worth repeating:

- Provide dedicated funding for watershed implementation planning. The development of Phase II WIPs will require significant resources so that local governments and local and regional agencies can dedicate efforts to focus on plan development and implementation.
- Acknowledge and highlight the importance of local water quality to encourage buy-in by local governments and affected stakeholders. The concern with the Chesapeake Bay model can be addressed if EPA and its state partners provide their local partners with enough information, resources, and tools so that local staff can understand the Bay models and the relationship of the Bay TMDL to local water quality.
- Provide a mechanism for using local water quality, land use, and other data in the development and implementation of local and regional pollution reduction strategies. The potential to improve local water quality may be the most compelling reason for many localities to embrace the Bay TMDL requirements. Local cooperation may also allow cost efficiencies in activities such as water quality monitoring.
- Provide accurate and timely information from EPA and the state agencies about the process of developing the Bay TMDL and state WIPs. Experience has shown that many stakeholders hold beliefs that are not factually based. Federal and state presentations should be accurate to the scale of the region and localities with which stakeholders are identified.
- Engage the proper units of local and regional governance during the Phase II WIP process. Local governments in every state and the District of Columbia have a concern about accepting responsibilities without having the authority to effectuate changes. Those differences must be recognized by EPA and the states regarding the role, resources, and capability to carry out the requirements of the Phase II WIPs.

- The Phase II process must directly engage local government officials and seek opportunities for understanding and problem solving among all local stakeholders and members of their communities.
- Take measures to ensure that implementation of the Bay TMDL takes advantage of local efforts to maintain existing healthy streams and to restore compromised ecosystems. Healthy ecosystems and streams have the greatest capacity to process excess nutrients and sediment.

We would also like to issue a word of caution about local governments and their elected officials. The Bay TMDL is just one of the many pressing issues facing local elected leaders. Schools, public safety, transportation, and local economies all compete for the attention of local officials. Please do not assume localities will simply raise local taxes to cover the costs of implementing local WIPs. The local fiscal impact of the WIPs cannot be underestimated. For instance, the cost of stormwater retrofits may be prohibitive to many local governments. EPA and the states need to come up with realistic cost estimates and allow local communities to achieve cost efficiencies through cooperative and innovative solutions in stormwater management and through trading/off-set programs where direct stormwater improvements would have very poor cost-benefit outcomes.

At the same time, we recognize that quality of life issues are important and there must be a balance of values to achieve healthy, economically viable communities.

**LGAC acknowledges that each state and the District of Columbia have already begun efforts to engage local governments in their jurisdictions in the Phase II WIP process. LGAC also recognizes that communication, cooperation, and messaging to local elected officials is critical to a wider understanding and acceptance of the WIP process now that targets are being assigned to smaller units of government throughout the Bay watershed. We also understand that a more effective way to communicate with local elected officials is for our elected official members and representatives of LGAC to speak directly with all the other local governments in the Watershed.**

**With the encouragement and support of Region III Administrator, Shawn Garvin, LGAC has taken on the challenge of developing information pieces and messages that will go directly to local elected officials throughout the Bay community. It will be a campaign of elected officials speaking to elected officials about the critical importance of their direct engagement in the WIP II process. I am proud to announce that our first piece is being distributed in conjunction with this Executive Council meeting. You have copies of this initial effort at your table.**

**This is just the first in what we consider a longer range campaign to increase the awareness of local governments about their opportunities to impact local WIPs and to become leaders in their own communities. We will follow up this initial effort with additional pieces such as op-ed articles for local news, examples**

**where local government efforts have had a positive impact on local water quality, and sample messages that will resonate in their local communities and in their backyards. Our goal is to not only get local elected officials involved, but to help them explain to their constituents the importance of what the WIPs will accomplish.**

## **2. 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. One is being administered by the Alliance for the Chesapeake Bay and the other by the Center for Watershed Protection. Both approaches promised to overcome the barriers raised by the lack of technical assistance to help local governments implement effective protection and 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 our second 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 its 72 municipalities. LGAC considers the success of this project and of the Center for Watershed Protection's 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. The model consists of :
  1. Community based person at the county level
  2. Bottoms up, on site 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 initiate 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 of the characteristics of the ACB Circuit Rider program is the ability to adapt to local conditions and circumstances. One of the outstanding successes of this past year was the creation of a county wide TMDL Working Group composed of all sectors of the community and a variety of local governments in York County. The purpose was to act as a sounding board for the Pennsylvania Department of Environmental Protection in the development of the Phase I WIP. The York County Circuit Rider organized a continuing series of meetings as PA DEP developed their Draft and Final PA WIP. The TMDL Working Group was able to follow the process and contribute suggestions and recommendations that represented a broad range of interests within York County.

As the state moves into the Phase II WIP process, it has continued to consult with the Working Group as DEP determines how it will engage local governments elsewhere in PA. The goal for the Circuit Rider project this year is to continue service to York County, but also to reach out to other counties and regions in PA to promote the Circuit Rider concept. An example of this is the Circuit Rider's invited participation in a multi jurisdictional task force in Lancaster County to develop a long range water quality strategic 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 Virginia NEMO and the Maryland Watershed Collaborative to leverage its technical assistance to communities and jurisdictions who request their services. Seventeen local governments and a river basin commission 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 Virginia NEMO and 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 input 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 that determine which model units of local government may want to use across the Bay watershed.

### 3. 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 Phase II Watershed Implementation Plans. LGAC is extremely concerned that the economic implications of the magnitude of additional stormwater management may be prohibitive for local governments and the citizens they serve.**

- 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. States need to review whether or not the authority given to local government officials is sufficient to allow them to regulate stormwater runoff. 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.
- Last 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. The

demand for solutions to local stormwater issues is tremendous and will only increase with the advent of local targets in the Phase II WIP process. We are already in discussions with STAC for a follow up workshop which may focus on financing of stormwater projects as well as the impact of climate change on future stormwater management. The Summary Report on last year's joint LGAC/STAC workshop is now available and will be accessible through appropriate Bay related websites.

## **Conclusion**

**As we mentioned at the beginning of our report, the focus for Chesapeake Bay restoration and protection has settled finally on local governments. LGAC has taken up the challenge of helping to fully engage local governments throughout the Bay Watershed . It is a vital role for us and needs the full support of the Chesapeake Executive Council. Our strategy is to develop local water quality messages that will resonate locally and to enlist local leaders with the passion and commitment to advance those messages in their own communities. We will promote the concept of local healthy waters by emphasizing the cost effectiveness of preservation vs. clean-up and the economic value of clean waterways for drinking water, recreation, tourism, and a better quality of life. What we ask in return is a reasonable, common sense approach to regulation that accounts for unique conditions in local communities. And we again, cannot overstate our extreme concern for the funding needs of local government.**

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 restoration in our own communities.