



CHESAPEAKE BAY FOUNDATION
Saving a National Treasure

March 7, 2016

Mr. Nicholas DiPasquale
Chair, Chesapeake Bay Program Management Board
U.S. Environmental Protection Agency
Chesapeake Bay Program Office
410 Severn Avenue
Annapolis, MD 21403
Sent via email to: agreement@chesapeakebay.net

Dear Mr. DiPasquale:

On behalf of the Chesapeake Bay Foundation (CBF), our Board of Trustees, and more than 200,000 members and supporters, we offer comments on the draft work plans for the following outcomes in the Chesapeake Bay Watershed Agreement: 2017 and 2025 Watershed Implementation Plans, Toxic Contaminants Policy and Prevention, Toxic Contaminants Research, and Healthy Watersheds.

We sincerely appreciate the effort that went into developing these work plans, but have found that many of the comments that we submitted on the draft strategies for these outcomes, have not been incorporated. We hope that the workgroups will review these earlier comments and those below when crafting the final work plans.

2017 and 2025 Watershed Implementation Plans

Local level engagement in Phase III WIPs. The two year work plan will include the period during which the jurisdictions will be developing their Phase III Watershed Implementation Plans (WIPs). As noted in our comments on the draft strategy, local engagement on the development of the WIPs is critical, yet there is no mention of this activity in the work plan. The completion of the “Phase III WIP Stakeholder Assessment Report” is mentioned, but not tied to any concrete action. We recommend adding additional performance targets that commit the jurisdictions and the Environmental Protection Agency (EPA) to implement the relevant recommendations of that report, to describe how they will involve local entities in Phase III WIP development, and to develop local area targets. This level of accountability and transparency is needed to provide “reasonable assurance” that necessary pollution reductions from all sources will be achieved by a date certain. The relative ease of use of MAST, CAST, and VAST, particularly with an integrated cost-component and possibly other features, makes this effort do-able.

USDA needs to strongly engage on promoting forested buffers. We were pleased to see a performance target indicating that USDA will develop pilot strategies related to incentives for installing and maintaining forested buffers. Bay states are relying heavily on forested buffers to achieve their water quality goals. In addition, USDA made commitments via the Executive Order to ramp up efforts to promote forested buffers. Despite these commitments, implementation is woefully inadequate. The commitment by USDA to create mutually reinforcing incentives for buffer installation and maintenance

is important, however, their commitment needs to be stronger and more specific. As noted in our comments on the draft management strategy for buffers, we have learned a lot since the first Conservation Reserve Enhancement Program (CREP) buffers were installed and one of the lessons learned is that maintenance in the first few years of planting is critical to success. We recommend a performance target that commits to increasing current payments for maintenance and extending the time period to 5 years. In addition, in some areas the cost-share for installation is not in line with actual costs and therefore, the amount of out of pocket expenses for farmers is an obstacle to implementation. We recommend a performance target addressing this issue.

Lastly, we recommend performance target focused on highlighting USDA's commitment to accelerating buffers. We have seen strong support for buffer implementation from both USDA headquarters and state leads, however, in some instances we do not see the same level of support at the local level where implementation is occurring. CREP is one of several programs for which the USDA's Natural Resource Conservation Service (NRCS) provides technical assistance, yet, there doesn't appear to be much of an incentive for field staff to "sell" this program. We recommend that NRCS staff performance measures include delivering CREP buffers and that a performance target, emphasizing NRCS's commitment, be included in the work plan.

We have also provided input on the forest buffer work plan, but wanted to emphasize these priority recommendations for consideration.

Ensure MS4 reduction requirements are consistent with 2025 deadline. We were pleased that EPA has made the commitment to oversee and review draft state MS4 permits to ensure they are consistent with the Bay Total Maximum Daily Load (TMDL) allocations and state WIPs. Part of this review should include ensuring the timeframe by which the needed reductions are achieved, is consistent with the 2025 implementation deadline. Many MS4 permits in the Bay watershed are long overdue for renewal and this delay means the schedule for the achievement of the TMDL wasteload allocations, described in the state WIPs, now extends beyond 2025. EPA should work with the states to reconcile this disconnect.

Pennsylvania's commitment to revise their trading regulations is missing. The work plan references trading regulations in Maryland and Virginia. Pennsylvania also is in the process of revising their trading regulations and this activity and timeline should also be included as a performance target.

EPA's review of the Jurisdictions 2014/2015 Milestones should be included as a performance target. The annual reporting of best management practice (BMP) implementation by the Bay jurisdictions is included as a performance target, yet, EPA's evaluation of two year progress is not. This evaluation is critical to ensure the states are making sufficient progress and if they are not, EPA has indicated consequences could be invoked. EPA's evaluation of the 2014/2015 milestones will be released in May/June 2016 and it is the last evaluation before 2017, the midpoint. The importance of this upcoming review by EPA cannot be overstated.

CBF strongly supports the commitment to explain the trends in water quality. To maintain support and momentum for Bay clean up efforts, we must be able to highlight success stories where implementation has led to water quality improvements – either reduced loads of nitrogen, phosphorus and/or sediment, or improvements to dissolved oxygen or water clarity. Consequently, CBF strongly supports the effort

by the USGS, Johns Hopkins University, the modeling team and others, to relate water quality trends to management actions.

USGS efforts to examine the impact of the Susquehanna reservoirs on nutrient and sediment transport to the Bay must be integrated with efforts of the Lower Susquehanna River monitoring program. These efforts are listed in separate sections of the work plan, but it is important that these efforts are integrated. As noted at the recent Scientific and Technical Advisory (STAC) workshop on the Conowingo reservoir, ensuring scientists working on this issue are coordinating and sharing a common understanding of the processes and impacts of the Conowingo reservoir on downstream water quality is very important, as is communicating a consistent message to the public. Hence, we recommend that these two related performance targets be listed together in the work plan and that the cooperation among agencies be explicit.

Toxic Contaminants Policy and Prevention

Expand low level monitoring of PCBs. The successes witnessed in the Delaware Estuary demonstrate that reducing PCBs in the environment is possible, if monitoring includes low level detection of PCBs and pollution minimization plans are developed and implemented. Without monitoring information from industrial and regulated stormwater NPDES permit holders, it is not possible for TMDL programs to estimate loads from specific dischargers to identify sources of PCBs that require reductions, or to track down sources of PCB contamination within the watershed. It is important to note that, according to presentations provided by the Delaware River Basin Commission about the process of developing and implementing the PCB TMDL, identifying and quantifying PCB sources using congener-specific analytical methods had several very significant benefits. These included allowing for the prioritization of sources for load reductions, reducing uncertainty in their model inputs, fingerprinting of sources, as well as allowing the targeted permittees to assess the effectiveness of pollutant minimization activities implemented.

We applaud Virginia for their commitment to low level monitoring of PCBs and the development of a prototype pollution minimization plan. It does not appear, however, that the other states are committed to using low level detection methods. In addition, it is unclear why a STAC workshop on this topic is necessary, given that this method, 1668, was initially proposed almost 20 years ago.

We urge the workgroup to strengthen the commitment to monitoring in NPDES permits, as this will allow the jurisdictions to develop strong PCB TMDLs, as well as enabling jurisdictions to take the necessary, and long overdue, actions to actually implement existing TMDLs.

Federal government should lead by example. Given the number of hazardous waste sites on Department of Defense (DOD) properties and that many of these properties have a history of PCB contamination, we are surprised that DOD has not committed to any specific performance targets. Furthermore, CBF believes that this would be a good opportunity for the federal government to “lead by example” and commit to eliminating PCB transformers and other PCB sources on their properties.

Toxic Contaminants Research

Propose STAC workshop to address contaminant toxicity to pollinators. The work plan contains a key action to propose a workshop to address contaminant toxicity to pollinators, but there is no associated performance target. We recommend that one be included.

Healthy Watersheds

Greater state participation is needed. Under the sections pertaining to inventorying healthy watersheds, developing vulnerability information, prioritizing protection areas geographically, maintaining assessment activities, and strengthening local capacity (via outreach to local government on things like comprehensive planning, open space funding, and watershed protection techniques), Virginia is notably absent from any commitments or seeming participation. West Virginia, Delaware, and sometimes New York are also often not included in the various pledges of action, and timelines for completion of the work are often missing in general.

On the federal and state leadership side, there are similarly no timelines/deadlines provided.

Thank you for the opportunity to comment on the draft work plans. We hope the relevant workgroups find these comments useful in finalizing these documents.

Sincerely,



Kim Coble
Vice President