

## Chesapeake Bay Watershed Agreement

### Issue: Governance – Modification of Goals and Outcomes

Updated April 10, 2014 (for PSC meeting discussion)

IRC recommendations for PSC are highlighted in yellow below.

#### Current Language

The introductory language for the Goals and Outcomes section states that:

- “The commitments contained in this section are the goals and outcomes the signatories collectively will work on . . .”
- “As the Partnership identifies new opportunities and concerns, goals and outcomes may be adopted or modified.”
- “While the goals and outcomes are described here by topic areas, they are interrelated.”
- The signatories emphasize that all aspects of the ecosystem are connected and acknowledge that the following goals and outcomes support the health and the protection of the entire Bay watershed.”

The Preamble to the draft Agreement states that:

- “The Partnership is committed to improving verification and transparency of its actions to strengthen and increase public confidence in its efforts.”

Additionally, the Principles in the draft Agreement include:

- “Operate with transparency in program decisions, policies, and actions and progress to strengthen public confidence in our efforts.”

There is no language in the current draft that describes the process for updating or modifying the Goals and Outcomes.

#### Options

(Status quo is not an option as the current draft of the Agreement is silent on this issue. The decisions made by the PSC in fall 2013 and winter 2014 are not reflected in the current draft Agreement. )

##### Decision #1: Goal and Outcome authority

- a. Add language to the Agreement stating any changes or additions to goals and outcomes are approved by the EC.
- b. Add language to the Agreement stating any changes or additions to goals are approved by the EC. Changes or additions to outcomes are approved by the PSC.

The IRC did not reach consensus on this decision.

##### Decision #2: Transparency

- a. Add language stating that proposed changes to goals and outcomes or the addition of new goals or outcomes are open for public comment before being approved. Final changes or additions are publicly posted to the Bay Program website.
- b. Add language stating that proposed changes to the goals and outcomes or the addition of new goals or outcomes are developed through the open meetings process of the Bay Program.

There will be no separate public comment period. Final changes or additions are publicly posted to the Bay Program website.

#### Partner Comments

CAC: Executive Council ... is ultimately accountable for ensuring that the goals and outcomes of the new Agreement are achieved. With the addition of the three headwater states, it is even more critical that the public has a clear understanding that the responsibilities and accountability for the restoration of Chesapeake Bay and its rivers and streams rests with the Executive Council.

CAC: We recommend the Executive Council (EC) report annually on: **a) Management strategies in which each signatory member is participating, b) Progress made in the implementation of the management strategies in each of the jurisdictions and on a river-by-river or sub-watershed basis, and c) Any changes in the management strategies, goals or outcomes and the rationale for those changes.**

#### Stakeholder Comments

MWashCOG: No new or expanded goals should be added to this Agreement unless another public comment period is provided.

CBF: The decision to change outcomes should be endorsed by the Executive Council.

CBF: We remain concerned about the decision to allow the PSC to **change the outcomes**. The goals and outcomes of other Bay Agreements have not been subject to change by the PSC, without Executive Council endorsement. Under the current operating structure, discussions and decisions by the PSC are not publicized and so the only way for the "interested public" to find out the status of a particular issue, is by checking the PSC web page.

CBF: While we support the concept of "adaptive management," we note that along with the flexibility to change course, comes the responsibility to specify and clearly document the reasons for the change, so that the decision-making process is transparent and understandable.

SOLS/LSR: Revision of Agreement: Although not included in the Agreement, we understand that the Bay Program has added a new revision process allowing the Agreement to be modified by the Principals' Staff Committee (state secretaries/EPA Reg. Administrator) rather than the Executive Council (governors/EPA Administrator) whose members are signing the Agreement.

All previous agreements were signed by the Executive Council and could only be changed by their signature. We understand that Management Strategies may be altered by the Principals' Staff Committee, but this should not apply to the Goals and Outcomes of the Chesapeake Bay Watershed Agreement.

Potomac Conservancy: The Conservancy does not support the current draft language that allows for changes by the Principals Staff Committee (PSC) to the outcomes without endorsement from the Executive Council. Previous Chesapeake Bay Agreements have not allowed the PSC to make changes to

outcomes without approval by the Executive Council and it is unclear what this change is solving for. For the sake of transparency and public input, the language should be amended to guarantee that the Principals Staff Committee may not fundamentally change the outcomes without availing information to stakeholders and providing for adequate public comment.

Alliance for the Chesapeake Bay: Although the strategies may change over time, the goals and outcomes of the agreement represent the commitments of the Executive Council (EC); and so **outcomes** that are a part of this agreement **should only be changed, removed or added by approval of the EC.**

Alliance for the Chesapeake Bay: Executive Council should review and assess how the strategies are progressing during its annual meeting. We further suggest that because management strategies are of paramount importance in driving the accountability for Goals and outcomes, that this agreement be viewed with a limited time frame, such as 5 years, with the provision to evaluate the goals and outcomes, consider the adoption of new goals and outcomes, and rededicate the partners to the goals at this time.

#### **Public Individual Comments**

Joseph Valentine: Any changes to the agreement should be managed by the Executive Council. The decision-making process for the council must be transparent.

John B. Reeves: Designate the “Executive Council” as the body that is empowered to make changes to goals and outcomes

#### **Background**

From the February 28, 2014 PSC Actions and Decisions:

**Issue Decision:** A brand new governance document will be developed, which the Principals’ Staff Committee will approve.

**Issue Decision:** The Partnering Leadership and Management Goal Implementation Team (GIT 6) will craft decisions from the February 28, 2014 Principals’ Staff Committee meeting into a 5-10 page conceptual draft for review and approval by the Principals’ Staff Committee before signing the Agreement if possible.

**Issue Decision:** The governance document does not need to be addressed in the Agreement.

**Issue Decision:** Decisions made at the February 28, 2014 Principals’ Staff Committee meeting will govern how the Chesapeake Bay Program operates in the meantime.