

Message

From: Forsgren, Lee [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A055D7329D5B470FBAA9920CE1B68A7D-FORSGREN, D]
Sent: 8/28/2017 5:54:35 PM
To: Ben Grumbles -MDE- [ben.grumbles@maryland.gov]
Subject: FW: NACo Proposed Resolutions

Ben,

We should talk then reach out to NaCo.

Lee

D. Lee Forsgren

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Office Of Water
Environmental Protection Agency
1200 Pennsylvania Avenue, VW
Room 3219 WJCE
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From: DiPasquale, Nicholas
Sent: Monday, August 28, 2017 1:51 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>
Subject: FW: NACo Proposed Resolutions

Lee, see previous message. Scroll down to the resolution to see text highlighted in yellow that is inaccurate or incorrect.
Thanks, Nick

*Nicholas A. DiPasquale, Director
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410 Severn Ave Suite 109
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Tel: 410.267.5710
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E-mail: dipasquale.nicholas@epa.gov
Web: <http://www.chesapeakebay.net>*

From: Power, Lucinda
Sent: Wednesday, July 19, 2017 4:12 PM
To: DiPasquale, Nicholas <dipasquale.nicholas@epa.gov>; Edward, James <edward.james@epa.gov>; Batiuk, Rich <Batiuk.Richard@epa.gov>; Bisland, Carin <bisland.carin@epa.gov>; Wenz, Tom <Wenz.Tom@epa.gov>; Miller, Linda <miller.linda@epa.gov>; McNally, Dianne <mcnally.dianne@epa.gov>
Subject: RE: NACo Proposed Resolutions

Nick,

Please see the highlighted information and responses below. Any quoted language is taken directly from the final recommendations document of the Local Planning Goals Task Force, unless otherwise noted:

http://www.chesapeakebay.net/channel_files/23900/final_recommendations_of_the_local_planning_goals_task_force_wggit_approved_12.19.16.pdf.

Thanks,
Lucinda

Lucinda Power
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"Be the change you wish to see in the world." - Gandhi

From: DiPasquale, Nicholas
Sent: Wednesday, July 19, 2017 2:05 PM
To: Power, Lucinda <power.lucinda@epa.gov>; Edward, James <edward.james@epa.gov>; Batiuk, Rich <Batiuk.Richard@epa.gov>; Bisland, Carin <bisland.carin@epa.gov>; Wenz, Tom <Wenz.Tom@epa.gov>; Miller, Linda <miller.linda@epa.gov>; McNally, Dianne <mcnally.dianne@epa.gov>
Subject: RE: NACo Proposed Resolutions

Lucinda, could you take a stab at highlighting the factual inaccuracies and inserting the relevant expectations language on local area planning goals. It says they are taking the resolutions up this Friday. Thanks, Nick

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From: Power, Lucinda
Sent: Wednesday, July 19, 2017 12:10 PM
To: DiPasquale, Nicholas <dipasquale.nicholas@epa.gov>; Edward, James <edward.james@epa.gov>; Batiuk, Rich <Batiuk.Richard@epa.gov>; Bisland, Carin <bisland.carin@epa.gov>; Wenz, Tom <Wenz.Tom@epa.gov>; Miller, Linda <miller.linda@epa.gov>; McNally, Dianne <mcnally.dianne@epa.gov>
Subject: FW: NACo Proposed Resolutions

FYI. The one relating to us is below (local planning goals) and can be found on pages 26-27 of the attached. Much of it is just factually incorrect.

Proposed Resolution on EPA's Imposition of Numeric Water Quality-Based Effluent Limitations on Local Governments

Issue: The U.S. Environmental Protection Agency (EPA) is imposing watershed-wide water quality standards on all localities within the Chesapeake Bay watershed, which will have implications on other counties across the nation when such standards are imposed in other watersheds.

LP: Incorrect. It might be helpful to provide some information on the process for developing water quality standards. Like...typically, a state, territory, or authorized tribe proposes water quality standards that EPA must then review and

approve. If the proposed water quality standards do not meet the requirement of the Clean Water Act, EPA would specify changes that would make the standards approvable, or it may promulgate federal standards if necessary. Any federal-promulgated water quality standards are issued to a state, territory, or authorized tribe, not “localities.”

Proposed Policy: NACo opposes U.S. EPA’s efforts to implement localized numeric water quality-based effluent limitations or area pollution targets. NACo opposes any provisions of any watershed-wide strategy that penalizes local governments by withdrawing current forms of financial assistance or imposing monitoring, management or similar requirements on localities without providing sufficient resources to achieve water quality objectives.

LP: Incorrect. EPA expects the jurisdictions, working with their local partners, to develop local planning goals.

“The 2010 Bay TMDL established wasteload allocation (WLAs) and load allocations (LAs) for point sources and nonpoint sources of pollution, respectively. Point sources, in this context, include all sources subject to regulation under the National Pollutant Discharge Elimination System (NPDES) program (e.g., wastewater treatment facilities, some stormwater discharges and concentrated animal feeding operations). Local planning goals are not WLAs and therefore are not directly applicable to NPDES permitting.”

“EPA expects the jurisdictions to work closely with their respective local partners in the development and implementation of these local planning goals. It is up to each jurisdiction to decide how to track and report progress towards achievement of local planning goals through their two-year milestones and/or annual progress reporting to EPA. In no way do the planning goals supersede or modify, jurisdictions’ obligations under statutes, regulations, policies, or executive orders. These recommendations do not establish any new requirement or rights for the jurisdictions or its local partners.”

“Task Force members have expressed their concern that establishment of local planning goals could imply the subsequent delegation of responsibility for achieving those goals to the localities. The Task Force members also expressed concern that local, state and federal statutory and regulatory requirements could influence the implementation of local planning goals. Task Force members questioned whether local planning goals could subject localities to new or more stringent WLAs, permit limits, or other related enforcement by EPA. The Task Force, therefore, recommends that EPA directly address these questions and concerns in the Phase III WIP Expectations document. The Task Force requests EPA specify in the Phase III WIP Expectations document that in no way do the targets supersede or modify locality obligations under statutes or regulations, that local planning goals do not establish any new requirement or rights for localities, and that decisions regarding how local stakeholders may be involved in achieving local planning goals will remain with the jurisdiction.”

From EPA’s Interim Phase III WIP Expectations Document: “As a result of the work completed by the Partnership’s Task Force, EPA expects the jurisdictions to work with their local and regional partners, stakeholders, and federal and state facilities to establish measurable local planning goals at a geographic scale below the state-major river basin and implement them through their Phase III WIPs. In and of themselves, these local planning goals do not supersede or modify any statutory or regulatory obligations of the local and regional partners; nor do the goals establish any new requirements or rights for those local and regional partners. Decisions regarding how local and regional stakeholders may be involved in developing and achieving local planning goals will remain with the jurisdiction.”

Background: On June 15, 2014, Delaware, Maryland, New York, Pennsylvania, Virginia and West Virginia signed the Chesapeake Bay Watershed Agreement with the U.S. Environmental Protection Agency (EPA). The plan provides for collaboration across political boundaries to work toward restoration of the Bay.

By the end of 2018, the states of Virginia, Maryland, Pennsylvania, West Virginia, Delaware, New York and the District of Columbia are required to submit to the EPA their final “Phase 3” Chesapeake Bay Watershed Implementation Plans (WIP). The chief purpose of these plans will be to promulgate strategies for all states in the

Chesapeake Bay watershed to implement all measures necessary to meet specific pollution reduction goals for the Chesapeake Bay by the year 2025.

LP: It might be helpful to clarify the actual 2025 goal under the Bay TMDL: “By 2025, have all practices and controls installed to achieve the Bay’s dissolved oxygen, water clarity/submerged aquatic vegetation and chlorophyll a standards as articulated in the Chesapeake Bay TMDL document.” These practices are expected to be *in place* by 2025.

As part of a watershed wide strategy for meeting Chesapeake Bay improvement goals, a Local Area Targets Task Force was convened to assess whether WIPs for the states should include local area targets (LATs). While the task force was still working to determine whether LATs should be included in state plans, EPA informed local governments that WIPs will include LATs, imposing specific numerical water pollution limits, regardless of the Task Force’s recommendations. This imposition is counter to other Clean Water Act requirements which require “maximum extent practicable” measures.

LP: Incorrect. It was the Partnership’s Water Quality Goal Implementation Team (WQGIT) that decided the Phase III WIPs would include local planning goals: “The Task Force recognizes the intent of the WQGIT that local planning goals should be established by each of the seven Chesapeake Bay jurisdictions at a scale below the state-major river basin. The Task Force further recognizes that due to the varied nature of local government structures (including soil & water conservation districts) across the Chesapeake Bay jurisdictions, one size will not fit all with regard to the development and implementation of local planning goals. Accordingly, the Task Force recommends that local goals be established in partnership with their local and regional partners, stakeholders and federal and state facilities, at a scale below the state-major river basin, using the options provided for “local” under Question #2. Providing such flexibility will allow the jurisdictions to design Phase III WIP planning and local engagement processes that are best suited to them and their partners.”

Also, the Partnership refers to these as “local planning goals”, not local area targets to avoid confusion with any regulatory mechanism. As a result, the Task Force changed its name to “Local Planning Goals Task Force”.

Despite EPA’s pronouncement, the LAT Task Force completed its work and recommended removal of LAT provisions from the Phase 3 Chesapeake Bay WIP. In the alternative, should LATs be imposed despite the Task Force’s recommendation, the Task Force recommended that each individual state be permitted to determine how best to implement a LAT program in its jurisdiction since a one-size-fits-all approach is impractical. In accepting the LAT Task Force’s recommendations, the EPA affirmed its pronouncement that LATs will be included in the WIP expectations document to be issued.

LP: Similar to my response above: “The Task Force recognizes the intent of the WQGIT that local planning goals should be established by each of the seven Chesapeake Bay jurisdictions at a scale below the state-major river basin. The Task Force further recognizes that due to the varied nature of local government structures (including soil & water conservation districts) across the Chesapeake Bay jurisdictions, one size will not fit all with regard to the development and implementation of local planning goals. Accordingly, the Task Force recommends that local goals be established in partnership with their local and regional partners, stakeholders and federal and state facilities, at a scale below the state-major river basin, using the options provided for “local” under Question #2. Providing such flexibility will allow the jurisdictions to design Phase III WIP planning and local engagement processes that are best suited to them and their partners.”

The establishment of LATs will have a significant and unintended financial consequence on local governments since the majority of costs to comply with watershed-wide clean up goals will fall on local governments. Adding specific LATs to stormwater management programs and wastewater treatment plant plans will be especially burdensome for counties of all sizes, especially if the federal government does not provide funding to meet these federal goals.

President Trump's FY 2018 budget proposed to eliminate all Chesapeake Bay grant funding; this funding helps states and localities meet these federally determined goals.

The Chesapeake Bay clean-up efforts and EPA's imposition of LATs will serve as a model for other watershed-wide improvement programs across the country. Counties with watersheds feeding Long Island Sound, Albemarle Sound, Puget Sound, the Great Lakes, the Gulf of Mexico and others will be impacted when EPA's program is implemented in these areas.

LP: It was the Partnership's decision to include local planning goals as part of the Phase III WIP development and implementation processes.

Fiscal/Urban/Rural Impact: Rural, agricultural, and urban counties and cities in large watersheds and regional estuaries will be severely impacted by increased compliance costs, economic development impacts, and negative impacts on federal funding if EPA is successful in imposing watershed-wide water quality standards upon county governments and their citizens.

LP: Similar to my response above. EPA does not promulgate and "impose" water quality standards upon county governments and their citizens.

Sponsor(s): Ruby Brabo, Supervisor, King George County, Va.; Penny Gross, Supervisor, Fairfax County, Va.; Paul Trampe, Supervisor, Spotsylvania County, Va.; Claire Collins, Supervisor, Bath County, Va.; Erick Coolidge, Commissioner, Tioga County, Pa.; Todd Devlin, Commissioner, Prairie County, Mont.; and Russell Clark, Supervisor, Yuma County, Ariz.

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"Be the change you wish to see in the world." - Gandhi

From: Hanson, Andrew
Sent: Wednesday, July 19, 2017 11:44 AM
To: Evalenko, Sandy <Evalenko.Sandy@epa.gov>; Rush, Alan <Rush.Alan@epa.gov>
Cc: Christensen, Damaris <Christensen.Damaris@epa.gov>; Bowles, Jack <Bowles.Jack@epa.gov>; Power, Lucinda <power.lucinda@epa.gov>; Hannon, Arnita <Hannon.Arnita@epa.gov>
Subject: NACo Proposed Resolutions

Hi Sandy and Alan –

Just a quick heads-up that the following proposed resolutions will be discussed at the **National Association of Counties** Annual Conference and Exposition this Friday.

Sandy, while there are several water-related resolutions here, the few directly relating to EPA would include:

Proposed Resolution on the EPA and the Corps' Waters of the U.S. Definition Rulemaking (currently in effect, renewal with new language proposed)
Proposed Resolution Supporting the Regulation of Certain Functional Wetlands within Section 404 of the Clean Water Act (new resolution)
Proposed Resolution Supporting Codification of EPA's Integrated Planning Framework and Related Demonstration Projects (currently in effect, renewal)

Proposed Resolution on EPA's Imposition of Numeric Water Quality-Based Effluent Limitations on Local Governments
(currently in effect, renewal with new language proposed)

Alan, just one relating to your shop.

Proposed Resolution to Oppose EPA's Efforts to Tighten Ozone Air Quality Standards (currently in effect, renewal)

Other items of potential interest include:

Proposed Resolution on U.S. Army Corps of Engineers Section 404 Permits (expedite permit issuance)

Proposed Resolution Urging Congress to Provide Funding for Local Efforts to Address Sea Level Rise

Proposed Resolution on Compensatory Mitigation In-Lieu Fee Programs

Proposed Resolution in Opposition to Material Preference Legislation

Proposed Resolution on Supporting the Use of Woody Biomass as an Energy Source

Proposed Resolution to Allow Construction of the Keystone XL Pipeline

Proposed Resolution Supporting Counties' Ability to Join the "We Are Still In" Coalition of States and Cities Committing to the Paris Climate Accord

Proposed Resolution in Support of President Trump's Decision on the Paris Climate Accord

In most cases, final language will not be available until several days following the meeting. I will forward to you as soon as available.