

Chesapeake Bay Program Veterans

August 22, 2024

The Honorable Michael S. Regan, Administrator
U.S. Environmental Protection Agency
Mail Code 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Regan:

We, the undersigned, have played roles in crafting and implementing multiple Chesapeake Bay Agreements from the first one in 1983 through the present 2014 Chesapeake Bay Watershed Agreement. We have had roles as elected officials, state and federal agency executives, scientists, lawyers, environmental advocates, and philanthropic sponsors. We gained rich experience in the development of goals and outcomes and the implementation of efforts to achieve them. We are now retired or otherwise have no official responsibilities regarding the Chesapeake Bay Program (CBP) partnership, but retain an abiding interest in Bay protection and restoration.

We join together to strongly support sustaining the multijurisdictional partnership embodied in the Chesapeake Bay Watershed Agreement. Here, we also offer our advice on accelerating the achievement of its outcomes in concert with actions to reduce greenhouse gas emissions and adapt to the changing climate.

The CBP partnership has achieved much in the 41 years since the first agreement and is a global exemplar for large-scale ecosystem protection and restoration. Pollutant loads have been reduced, in spite of substantial population growth, and water quality is improving, even under the changing climate. The Bay would be much more degraded now without these efforts. However, the CBP's Executive Council (EC) has acknowledged that the partnership is not on track to meet several important outcomes by the 2025 target year as specified in the Watershed Agreement. The most notable of these outcomes is to have all practices and controls installed to achieve the nutrient and sediment pollution load reductions necessary to achieve water quality standards as articulated in the Chesapeake Bay Total Maximum Daily Load (TMDL) document. Reducing sources of water pollution has been a central objective in all Bay agreements from the first in 1983. The outcomes for wetlands and forest buffers, both of which also contribute to reducing nutrient and sediment pollution as well as provide vital habitats, are also off track.

On October 11, 2022 the Executive Council charged the Principals' Staff Committee (PSC) with "recommending a critical path forward that prioritizes and outlines the next steps for meeting the goals and outcomes of the Watershed Agreement leading up to and beyond 2025." The CBP generated two reports in response to this charge: *Charting a Course to 2025* and *A Critical Path Forward for the Chesapeake Bay Program Partnership Beyond 2025*. The *Charting a Course* report stressed the need to focus on nonpoint source pollution and on regulatory and voluntary measures sufficient to implement the Watershed Implementation Plans designed to achieve the TMDL. It also noted that fundamental changes are needed to accelerate the rate of implementation of forest buffers and wetlands outcomes.

The draft *Beyond 2025* report recommends that the Executive Council, at its 2024 meeting, affirm its continued commitment to meet the goals of the Watershed Agreement and direct its PSC to propose amendments to its vision, principles and goals for consideration at the EC's 2025 meeting. It further recommends that the EC direct the CBP to review and revise the outcomes associated with these goals, with every effort to complete most reviews and revisions by the 2026 EC meeting. The draft report also recommends that the EC direct the PSC to streamline the partnership's structure and processes to enhance its efficacy, transparency, and adaptive management. The report does not suggest a time frame for completing this last task.

The *Comprehensive Evaluation of System Response* produced in 2023 by the CBP's Scientific and Technical Advisory Committee (STAC) further confirmed that practices to reduce nonpoint sources of nutrient pollution have not produced sufficient levels of implementation to meet the TMDL. Furthermore, STAC indicated that some practices may not be producing the pollutant reductions expected. The CBP's Monitored and Expected Reduction Indicator provides further evidence of this shortcoming for many tributary watersheds. STAC concluded that incentives have not been sufficient for adoption of agricultural practices with the largest pollution reduction benefits. Also, reductions are being partially offset by regional increases in imported nutrients due to the growth of concentrated livestock production, leading to mass imbalances of nutrients that increase discharges to the Bay. STAC found that additional funding of existing implementation efforts, alone, is unlikely to produce the intended nutrient reduction outcomes. To overcome this shortfall, the Bay partnership must develop and adopt new implementation programs and tools that account for actual load reductions and target effective controls on high nutrient loss areas and operations.

With our past experiences and these current reports in mind, we respectfully recommend that the Executive Council take the following actions at its December 2024 meeting:

1. **Affirm the partners' continuing commitment to meeting both the goals and the outcomes of the 2014 Watershed Agreement pending any amendments that incorporate new scientific understanding, account for emerging challenges, and engage the populace.** Suspending the partners' commitments to the outcomes and goals of the Agreement while amendments are being considered is counterproductive to progress. Many actions taken to achieve existing outcomes should proceed regardless of future modifications to the Agreement.
2. **Direct the Principals' Staff Committee to lead the collaborative development of an amended Watershed Agreement for consideration by the end of 2025.** Based on our experience, it is not necessary to spend a year to amend only the goals of the Agreement. Similar goals for living resources, water quality, vital habitats, land use and conservation, and public engagement, education and access were included in the 1987 Chesapeake Bay Agreement and the Chesapeake 2000 Agreement, with relatively small variations in form. Only the climate resiliency goal is truly new in the 2014 Watershed Agreement and we offer suggestions on this goal as our third recommendation. The other goals are enduring and have evolved only modestly. When some of us faced the new challenge of developing goals for the first time in 1987, it did not take multiple years. Fine-tuning the existing goals seems to us a quickly achievable task.

The Principals' Staff Committee should deliberately proceed with evaluation and amendment of outcomes over a one-year period that would allow the EC to recommit to an updated Agreement by the end of 2025. The amended outcomes should contribute to the overarching goals as well as accommodate the appropriate considerations presented in the *Beyond 2025* report. Proposed outcomes should provide clear direction and appropriate timelines and provide for means for accountability in implementation that include, but are not limited to, actions taken by the U.S. Environmental Protection Agency. As in the past, outcomes can be stated broadly enough with the understanding that specific aspects will be developed shortly thereafter. For example, the Chesapeake 2000 Agreement committed to continue efforts to achieve and maintain the nutrient reduction goals agreed to in 1987, while initiating a process to define water quality conditions and assign load reductions to each major tributary. The 2014 Watershed Agreement made a commitment to have practices and controls installed by 2025 to achieve water quality standards as articulated in the Chesapeake Bay TMDL, with the specifics of WIPs adjusted in two additional phases.

3. **Charge the Principals' Staff Committee to include in the amended Agreement the integration of appropriate Bay and watershed-related goals with federal, state and local actions to reduce greenhouse gas emissions.** The climate resiliency goal and outcomes in the 2014 Watershed Agreement focus, somewhat fatalistically, on withstanding adverse impacts from changing environmental and climate conditions. Climate change is already affecting water quality, living resources, habitats, public infrastructure and communities and these effects are sure to intensify. Restoring Bay and watershed ecosystems as soon as possible will enhance their resilience. However, since 2014, federal, state and local governments, institutions, and industries have made commitments, enacted laws, and made huge investments in reducing greenhouse gas emissions to net-zero over the next 25 years to avoid catastrophic warming. This is a far shorter schedule than the time course of the Chesapeake Bay Program thus far. The energy and other transitions that are required to achieve net-zero emissions present opportunities for alleviating vexing pollution and land-use threats confronting the Bay and its watershed. For example, transition away from fossil fuels to renewable energy will further reduce atmospheric deposition of nitrogen and affect land uses and stormwater runoff. The Inflation Reduction Act provides substantial federal funding for reducing greenhouse gas emissions from agriculture, not only carbon dioxide, but also nitrous oxide (resulting from crop fertilization) and methane (largely from concentrated animal production). While sea-level rise unavoidably results in tidal marsh erosion and loss of low-lying agricultural fields, it is also creating new wetlands that can be managed for water and habitat quality. In short, the amended goal and outcomes related to climate should address the opportunities as well as the threats.
4. **Agree to implement the *Beyond 2025* committee's recommendations for simplifying and streamlining the Chesapeake Bay Program structure and processes by the end of 2026.** An independent evaluation found that stakeholders view the CBP and its components as too complex, overly siloed, inadequately transparent, and trying to accomplish too much. Structure and processes should be improved, but form should follow function. To be effective, streamlining must achieve the amended outcomes. The

Principals' Staff Committee should monitor the streamlining process in alignment with the amended Agreement, reporting back to the EC in 2026

5. **Direct the Chesapeake Bay Program partnership to commission a technical evaluation of options for nonpoint-source pollution reduction that could achieve at least the Phase III Watershed Implementation Plans outcome within another decade.** Neither the *Charting a Course* nor the *Beyond 2025* reports identify and prioritize specific steps that could meet the elusive outcomes for Watershed Implementation Plans, wetlands and forest buffers. However, the Scientific and Technical Advisory Committee has advised that these outcomes are unlikely to be achieved just through existing implementation approaches, even with additional funding. It recommended the development and adoption of new implementation programs and tools that incentivize and account for actual load reductions (i.e., that are performance-based) and target effective controls on high nutrient loss areas and operations. Technical evaluation of options for more effective approaches should not be deferred pending the amendments to the Agreement outcomes. We recommend the appointment in early 2025 of a tightly charged (focusing on actions rather than research needs) and time-constrained task force to develop options for achieving the nonpoint-source load reductions required to meet the existing WIPs. The task force would be comprised primarily of experts in agricultural and stormwater nutrient management, environmental processes and effects, economic and social sciences, and law. The options developed would then be subject to stakeholder inputs and discussion that inform considerations by decision makers.

We greatly appreciate your consideration of these recommendations and stand ready, collectively or individually, to provide any clarification or assistance.

Submitted on behalf of the signatories below,



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