

Minutes

**CHESAPEAKE BAY COMMISSION
Washington DC
May 7-8, 2009**

The Chesapeake Bay Commission held its second quarterly meeting on Thursday and Friday, May 7-8, 2009 in Washington, DC.

The following Commission members and staff were in attendance

Rear Admiral Mark Boensel
Patricia Buckley
Senator Mike Brubaker
Secretary Preston Bryant
Assistant Secretary Jeff Corbin
Delegate John Cosgrove
Assistant Secretary Frank Dawson
Representative Russ Fairchild
MD Citizen Representative Bernie Fowler
Senator Brian E. Frosh
Senator Emmett W. Hanger, Jr.
Delegate Lynwood Lewis
Delegate Scott Lingamfelter
Senator Thomas "Mac" Middleton
Representative Mike Sturla
Senator Mary Margaret Whipple
PA Citizen Representative George Wolff
Delegate John F. Wood, Jr.

Staff: Ann Pesiri Swanson
Suzan Bulbulkaya
Matt Mullin
Marel Raub
Paula Hose

Members not in attendance:

Delegate Virginia Clagett (proxy)
VA Citizen Representative Irvine B. Hill (proxy)
Delegate Jim Hubbard
Senator Mike Waugh

Thursday, May 7, 2008

**MEETINGS WITH THE CONGRESSIONAL MEMBERS OF THE CHESAPEAKE BAY
WATERSHED TASK FORCE**

Senator Ben Cardin (Md.) and staff
Senator Arlen Specter (Pa.) and staff
Senator Mark Warner (Va.) and staff
Staff representatives for Senator Robert Casey (Pa.)
Staff representatives for Senator Barbara Mikulski (Md.)
Staff representative for Senator James Webb (Va.)

Congressman Chris Carney (Pa.) and staff
Congressman Gerry Connolly (Va.) and staff
Congressman Elijah Cummings (Md.) and staff
Congressman Tim Holden (Pa.) and staff
Congressman Frank Kratovil (Md.) and staff
Congressman Glenn Nye (Va.) and staff
Congressman Dutch Ruppersberger (Md.) and staff
Congressman John Sarbanes (Md.) and staff
Congressman Robert Scott (Va.) and staff
Congressman Glenn Thompson (Pa.) and staff
Congressman Tom Perriello (Va.) and staff
Congressman Joseph Pitts (Pa.) and staff
Congressman Todd Platts (Pa.) and staff
Congressman Chris Van Hollen (Md.) and staff
Congressman Robert Wittman (Va.) and staff
Congressman Frank Wolf (Va.) and staff

Staff representatives for Congressman Eric Cantor (Va.)
Staff representatives for Congresswoman Donna Edwards (Md.)
Staff representatives for Congressman Jim Gerlach (Pa.)
Staff representatives for Congressman Steny Hoyer (Md.)
Staff representatives for Congressman James Moran (Va.)

Friday, May 8, 2008

Washington Plaza Hotel

BREAKFAST DELEGATION MEETING

As in years past members reflected on the prior day's meetings with their congressional colleagues during the state delegation breakfast meetings. Each of the delegations reported having very positive meetings with excellent attendance by the Congressional members, and agreed to continue the tradition next May. The main topics of discussion centered on the Commission's 3-year Congressional Agenda, released in February 2008. Some of the important issues included support for an Executive Order by the new Obama Administration recognizing the Chesapeake Bay as a National Treasure, reauthorization of the EPA Chesapeake Bay Program, NOAA and the Bay Gateways Program, expansion of the Water Resources Development Act to incorporate further Bay restoration programs, as well as appropriations to upgrade Blue Plains wastewater treatment plant.

MEETING CALLED TO ORDER

The business meeting was called to order by Chairman John Cosgrove at 9:15 A.M. Following roll call, the January meeting minutes and the agenda were adopted as proposed.

CHAIRMAN'S UPDATES

CBC Fiscal Year 09-10 Budget

The Commission's FY 2009-2010 Budget was adopted as proposed. Delegate Virginia Clagett (Md.), Virginia Citizen Representative Irvine Hill, and Senator Thomas Middleton (Md.) voted for adoption of the budget via proxies.

2010 Meeting Dates

The 2010 meeting dates (January 7 – Annapolis; May 6 & 7 – Washington, DC; September 9 & 10 – Pennsylvania; and November 4 & 5 – Virginia) were approved. The members also agreed to continue the tradition of holding the May meeting in Washington, DC and to continue meeting with Congress.

2009 GENERAL ASSEMBLY REPORTS

Delegate John Cosgrove (Va.), Senator Mike Brubaker (Pa.), and Assistant Secretary Frank Dawson (Md.) reported on their states' Chesapeake Bay- related legislative initiatives for 2008, which are summarized below:

MARYLAND

SB 273/HB 294 – PLANNING VISIONS

SB 276/HB 295 – ANNUAL REPORTS/IMPLEMENTATION OF PLANNING VISIONS

SB 280/HB 297 – SMART AND SUSTAINABLE GROWTH ACT OF 2009

Offered by the Administration, this legislative package set out to achieve more effective Bay-friendly growth patterns by strengthening and reinvigorating the fundamental tools of smart growth. The suite of bills adds a set of modernized growth Visions already in place, impacting the future growth philosophy in Maryland. The package also sets a statewide smart growth goal and now requires local governments to develop their own goals. Maryland jurisdictions will now report on a uniform set of indicators in order to provide better information to influence better planning policy decisions. The package also seeks to protect the time and effort citizens invest in their local community's comprehensive plans by enhancing the role of these plans for smart growth.

SB 554/HB 176 – BAY RESTORATION ACT OF 2009

This legislation, as amended, requires all new on-site septic systems within Maryland's Critical Area utilize the best available nutrient removal technology. The bill requires the Maryland Department of Environment to assist homeowners, through use of Bay Restoration Funds, in covering the cost difference between a conventional septic system and installation of a new septic system that includes enhanced nutrient removal (ENR) technology.

SB 553/HB 609 – CHESAPEAKE BAY PHOSPHOROUS REDUCTION ACT OF 2009

This measure codifies the Agreement that the Chesapeake Executive Council forged with The Scotts Company LLC and the headwater state jurisdictions to reduce phosphorus content in residential lawn fertilizers for home use by April 1, 2010. This bill extends the same commitment to all fertilizer manufacturers. It also establishes labeling requirements for lawn fertilizer.

SB 271/HB 312 – AQUACULTURE – SHELLFISH – LEASING

This legislation, introduced as a Maryland Department of Natural Resources Departmental bill, amends current water leasing laws to better encourage oyster aquaculture in the Bay. It was particularly timely issue given the Commission's past interest in oysters and current focus on the Federal oyster PEIS.

SB 278/HB 315 – GREENHOUSE GAS EMISSIONS ACT OF 2009

This bill sets an enforceable cap on statewide carbon emissions in Maryland, reducing emissions 25% by 2020. It also requires the Maryland Department of the Environment work with all stakeholders to develop a plan to achieve these reductions, and sets a 2012 deadline to have all the regulations in place to achieve the reductions.

SB 666/HB 1291 – NO NET LOSS OF FORESTRY POLICY

A subject long been supported by the Commission (CBC signed the 2006 Chesapeake Executive Council Forest Conservation Directive and subsequent 2007 Directive on the topic), this bill establishes a "No Net Loss" standard for the state, and amends the Forest Conservation Act by

increasing the level of payments required from developments that impact forests and reduces the exemption for minor impacts.

SB 549/HB 771 – SUSTAINABLE FORESTRY ACT OF 2009

This piece of legislation declares a number of policy statements and findings relating to forests and revises certain provisions of law relating to the protection of forestry practices from specified private actions. The bill also defines sustainable forestry and ecosystem services, and is consistent with the 2006 Chesapeake Executive Council Forest Conservation Directive.

SB 555/HB 1379 – BIOMASS AND BIOFUELS – IN-STATE INCENTIVES

Final Outcome: INCOMPLETE. Passed Senate with Amendments (35-7); No action by House Economic Matters Committee.

A bill introduced by Commission member and 2009 Maryland Delegation Chairman, Senator Mac Middleton, this bill called for certain motor vehicle fuel blend requirements contingent on in-state production of biodiesel or cellulosic biofuel at certain levels, as well as allowed for landowners who generate excess electricity from on-site combustion of biomass to sell that excess electricity back to the utility companies for a profit. The provisions contained in the bill were consistent with the recommendations outlined in the Commission's 2008 biofuels report.

PENNSYLVANIA

Status as of May 4, 2009

Nutrient Trading

SB 767 – cosponsored by Senators Brubaker and Waugh: Would establish a Nutrient Credit Trading Board to oversee the nutrient credit trading program, and would require regulations governing the application for and review of nutrient credits. (In Senate Environmental Resources and Energy Committee)

HB 112 – cosponsored by Representative Fairchild: Would establish a Nutrient Reduction Credit Trading Program and oversight board. Would authorize the use of certain funds for generation of nutrient reduction credits, and would create a nutrient reduction credit bank. Also includes biofuel provisions (see "Biofuels" below). (In House Environmental Resources and Energy Committee)

HB 1381 – cosponsored by Representative Sturla: Would establish a Nutrient Credit Trading Program Board to implement the nutrient credit trading program, and would require regulations governing the application for and review of nutrient credits. (In House Environmental Resources and Energy Committee)

HB 1326 : Would establish a Nutrient Reduction Trading Program Board to implement the nutrient credit trading program, plus other activities (see "Conservation Funding" below). (In House Agriculture and Rural Affairs Committee)

Biofuels

HB 112 – cosponsored by Representative Fairchild: In addition to nutrient trading provisions (see "Nutrient Trading" above), the bill would provide funds to Conservation Districts to provide technical assistance to farmers for the implementation of best management practices related to cropping systems used for the production of biofuel feedstocks. (In House Environmental Resources and Energy Committee)

HB 136 – cosponsored by Representative Fairchild: Would amend the mine reclamation bonding process to encourage the planting of switchgrass or other bioenergy crops on previously mined lands. (In House Appropriations Committee)

SB 698 – sponsored by Senator Waugh: Would establish the Pennsylvania Farms to Fuels Initiative, to provide per acre incentives for farmers to transition to biofuel crops, provided the farmer is implementing an approved conservation plan. (In Senate Agriculture and Rural Affairs Committee)

HB 110: Would require the use of biodiesel in diesel-powered Commonwealth vehicles, beginning with B5 in 2010 and increasing to B20 in 2016. (In House Environmental Resources and Energy Committee)

Stormwater

SB 524: Would authorize counties to regulate storm water within a watershed-based planning area and would authorize the formation of water resources management authorities. (In Senate Environmental Resources and Energy Committee)

Conservation Funding

SB 490 – cosponsored by Senator Brubaker: Would amend 1955 Act requiring that gas lease rents and royalties from Commonwealth land be placed in a special fund for conservation, recreation, dams and flood control. Would specifically provide that certain monies in the fund be distributed to 1) conservation districts that have responsibilities related to oversight of oil and gas development, and 2) DEP for administration of a nutrient credit trading program. (Passed Senate, in House Environmental Resources and Energy Committee)

HB 1326 : Would provide up to \$170 million annually for nutrient reduction upgrades at sewage treatment plants, grants and tax credits to farmers for best management practice implementation and funding to conservation districts for technical assistance delivery. Would also create a Nutrient Reduction Trading Board (see “Nutrient Trading” above). (In House Agriculture and Rural Affairs Committee)

VIRGINIA

HB 2001/SB1186 Biofuels Production Incentive Grant Program

The Biofuels Production Incentive Grant Program is amended to provide a \$0.125 per gallon grant for advanced biofuels and a \$0.10 per gallon grant for standard biofuels. The program now distinguishes between advanced biofuels, which are made from winter cover crops, cellulose, hemicellulose, lignin or algae, and traditional biofuels made from traditional agricultural feedstocks such as corn and soy beans. The program requires the production of one million gallons per year for eligibility.

HB 2002/SB 1427 Virginia Energy Plan; Promotes The Use Of Sustainable Biofuels Made From Traditional Agricultural Crops

The sustainable production and use of advanced biofuels made from feedstocks such as winter cover crops, warm season grasses, fast-growing trees and algae are added as objectives of the Virginia Energy Plan. The bill also adds to the Commonwealth’s energy policy support of the delivery infrastructure needed for statewide distribution of biofuels to consumers and increased implementation of silvicultural and agricultural best management practices to protect water quality.

SB 1357 Clean Fuel Vehicle Job Creation Tax Credit; Adds Advanced Biofuels

The clean fuel vehicle job creation tax credit is expanded to include new jobs associated with the production of advanced biofuels, the conversion of vehicles from traditional fuels to advanced biofuels and the manufacture of components for vehicles that utilize advanced biofuels. Advanced biofuels means a fuel derived from any cellulose, hemi-cellulose or lignin that is derived from renewable biomass or algae. A corporation is eligible for the tax credit of \$700 for each job that is created in the taxable year that the job is created and in each of the two succeeding years.

SB 1358 Alternative Fuel Tax; Exemption For Agricultural Operations

This bill provides an on-farm exemption from the alternative fuel tax. Alternative fuel produced on a farm and that is used for farm use or in a motor vehicle operated by the producer of the fuel will not be taxed.

SB 1058/HB 1975 Green Roofs; Authorizes Counties, Cities, And Towns, By Ordinance, To Grant Incentives, etc

Localities are authorized to grant local incentives or provide regulatory flexibility to encourage the use of green roofs in the construction, repair, or remodeling of residential and commercial buildings. The incentives may include a reduction in permit fees and a streamlined process for the approval of building permits when green roofs are used, or a reduction in any gross receipts tax on green roof contractors as defined by the local ordinance.

MAXIMIZING THE FEDERAL-STATE PARTNERSHIP

J. Charles Fox, Senior Advisor on the Chesapeake Bay and Anacostia River to the EPA Administrator provided an introduction to the several federal initiatives that are ongoing or about to begin, such as development of the Bay-wide TMDL and a Presidential Executive Order regarding Federal Agency involvement in Bay restoration. Mr. Fox then facilitated the following panel:

Bill Dennison, Ph.D., Vice President for Science Applications at the University of Maryland Center for Environmental Science, explained the local river report cards being produced throughout the watershed, with plans to expand the number of report cards published in the future.

Bob Koroncai, Chief of US EPA Region III, explained the process and timelines for development of the Chesapeake Bay TMDL and also described the process for determining “reasonable assurance” that the TMDL would be implemented.

Jeff Sweeney, Nutrient Specialist with the University of Maryland Chesapeake Bay Program, described the process for updating the nitrogen, phosphorus, and sediment allocation goals in the Phase 5 Watershed Model. Loadings are expected to go up under the new model, due to more representative hydrologic data and watershed data inputs that are developed at a finer scale.

Tony Caligari, Regional Executive Director of the National Wildlife Federation Chesapeake Mid-Atlantic Office and Doug Siglin, Federal Affairs Director for the Chesapeake Bay Foundation, described the new “Chesapeake Bay Coalition,” comprised of several non-governmental organizations from the watershed and nationally that are joining together to advocate at the Federal level on behalf of the Bay restoration effort. The top three priorities of the new Coalition are opportunities under the Clean Water Act, reauthorization of the Surface Transportation Act, and climate change.

ANNOUNCEMENTS

Chairman Cosgrove will be representing the Commission at the Chesapeake Executive Council (EC) Meeting at Mount Vernon on May 12. It is anticipated that the states will release the first set of two-year milestones for state action at the EC meeting. The milestones are still being finalized and were not available as of the Commission meeting.

Chairman Cosgrove encouraged everyone to attend the next Commission meeting in Williamsburg, VA on September 10 and 11, 2009.

The meeting adjourned at 12:35 pm.