

CHESAPEAKE BAY-RELATED LEGISLATION 2000 - 2007

2000

MARYLAND

Dredging for Baltimore Harbor and Site 104

The dumping of dredged material at "Site 104" continued to be a hotly contested issue in 2000. The state of Maryland and the U.S. Army Corps of Engineers proposed using the 4-mile long site north of the Bay Bridge as a disposal site for dredged material from Baltimore Harbor shipping channels. Proponents cited the port's economic value while opponents, including several new citizen grassroots coalitions, cited the potential negative impacts on water quality and living resources.

As in 1999, numerous bills were introduced and while several passed the House of Delegates, none were enacted. These measures would have banned depositing dredged material at Site 104 for one or two years, created a spoil disposal alternatives fund and demonstration program, and studied utilizing upper Bay islands as deposition sites. After considerable debate among numerous federal agencies over the use of Site 104, the state of Maryland announced in June of 2000 that it was withdrawing the location from consideration for spoils deposition. While debate continues over the need to deepen and maintain northern Bay approach channels and the resultant increased need for additional sites and disposal methods, additional legislation is expected during the 2001 session to prohibit the deposition of dredged material at Site 104.

Habitat Protection

The Maryland Delegation, led by Commission members Delegates Michael H. Weir, John F. Wood, Jr., and Charles A. McClenahan, successfully enacted legislation during the 2000 session that strengthened protection of submerged aquatic vegetation.

Like many states along the Atlantic coast, Maryland had experienced a three-to four-fold increase in registered and documented vessels utilizing the Bay and other waters for recreational purposes. Florida recently documented that the burgeoning use of jet skis and other pleasure craft is causing propeller scarring, excessive turbidity and channel widening, effects all detrimental to healthy SAV. The Commission measure directs Maryland's Department of Natural Resources to study the possibility of similar impacts in Maryland waters using at least three separate pilot test areas within Chesapeake Bay and the Coastal Bays. The Department will report its findings and recommendations to the General Assembly by January 2003.

Commission members, Senator Brian E. Frosh sponsored legislation to update an enacted 1998 Commission measure that prohibits hydraulic clam dredging in designated SAV protection zones located throughout the Bay and the Coastal bays. This measure, the result of a broad consensus among Commission members, watermen, the environmental community and regulatory agencies, would improve the identification and enforcement of the protection zones in several ways. It would require that the zones be more geographically manageable and tied to existing points of land or other reference points. It would create an equitable process for including new areas and possibly

excluding existing protected areas. It also permanently protects vital blue crab nursery areas in Tangier Sound, while slightly expanding current protection by prohibiting several other types of clam harvesting in SAV protection zones.

Although the measure received unanimous support in the Maryland state Senate, it was not brought up for vote in the House Environmental Matters Committee. Commission members initiated discussions with the Committee leadership during the summer and fall and will redraft and reintroduce the measure in both Maryland chambers during the 2001 legislative session.

Land Use, Management and Water Quality

The 2000 session saw the passage of two Administration-sponsored "Smart Codes" measures but the defeat of the Governor's top environmental initiative requiring more efficient septic systems in environmentally sensitive areas.

The two successful bills were an extension of the Governor's Smart Codes measures designed to curb suburban sprawl. The first establishes a Maryland Building Rehabilitation Code that would be adopted by local governments and serve as a guide for upgrading older buildings and developing homes and businesses in established neighborhoods. This measure was broadly supported by developers, municipal officials, and by many in the environmental community.

The second enacted measure requires the Maryland Office of Planning to draft model codes for building on vacant or underutilized land and for developing larger projects that blend housing, business and open space. The Planning Office will share these model codes with other state agencies and departments and create incentives to encourage code adoption by local governments.

The General Assembly rejected the third Smart Codes measure, the Water Resources Protection Act, which mandates more efficient septic systems for properties in "areas of special concern", such as Chesapeake Bay Critical Areas. The measure would have required property owners to install new or replacement systems equipped with additional nitrogen replacement technologies at an estimated cost of \$3,000 to \$7,000 per system.

A final emergency measure created a Maryland Task Force on the Environmental Effects of MTBE (Methyl Tertiary-Butyl Ether), a gasoline octane enhancement additive used extensively since the 1970's. Recent studies indicated that MTBE, the most commonly used additive in reformulated gasoline, is contaminating ground and surface waters.

The measure calls for the Task Force to: determine and assess the environmental and health risks associated with MTBE ground or surface water contamination; examine national and regional efforts concerning MTBE contamination; recommend a plan to minimize and counteract these risks; and explore alternatives to MTBE use in gasoline. The Task Force's preliminary report, issued in December, noted that MTBE readily dissolves into groundwater and that approximately 267 domestic wells in Maryland have at one time samples positive for MTBE. The Task Force's final report is due by December 2001.

Ballast Water and Invasive Species

Non-native species, such as the zebra mussel, can cause dramatic economic and environmental damage to marine, estuarine and freshwater communities throughout the world. Ballast water discharge from ships is a major source of these aquatic invasions and, as the largest recipient of foreign ballast water on the East Coast, the Chesapeake Bay is at particular risk for an invasion by these harmful intruders.

Delegate Weir co-sponsored successful legislation that requires all vessels destined for a Maryland port that are carrying ballast water into state waters to provide real-time reports to the Maryland Department of the Environment to be shared with a central repository (the National Ballast Water Information Center of the Smithsonian Environmental Research Center) established by federal law.

Fisheries Management and Living Resources

Utilizing funds from Maryland and Virginia, and drawing upon a broad stakeholder consensus-building process, the Commission's Bi-State Blue Crab Advisory Committee (BBCAC) developed and adopted blue crab harvest targets and thresholds for the Bay-wide fishery, as well as a statement of consensus on the status of the crab stock and its fisheries. The BBCAC recommendations were driven by scientific inquiries and consensus, including a socio-economic characterization of the fishery and investigations of the impact of habitat loss and predation on the blue crab population.

Several crab-related measures were introduced during the 2000 session, but none of the bill advanced towards passage. The Maryland Delegation introduced crab legislation in the 2001 General Assembly session that would establish a recreational crab license.

Commercial Fishing

Senator J. Lowell Stoltzfus successfully stewarded a bill during the 2000 session to refine the regulation of stake or pound nets. The broadly supported measure improved existing law by repealing a requirement that applicants state the specific location of their nets. Instead, the Department of Natural Resource was provided with authority to limit the number of pound net locations (up to eight) that may be assigned to a licensee, thus simplifying compliance by waterman and enhancing enforceability by the Department.

Agriculture and Water Resources

In 1998, the General Assembly enacted legislation to establish a Maryland poultry litter transportation pilot project designed to reduce potential nutrient loads into waterways. The measure accomplished this by transferring poultry litter from areas with high soil phosphorus levels to agricultural areas that require additional phosphorus crop inputs. During the 2000 session, the Assembly expanded the scope of the 1998 measure to include manure from dairy and other livestock operations statewide with similarly high soil phosphorus levels.

The 2000 session amendments established cost-share matching rates for all livestock manures and also repealed a requirement that persons accepting state funds for nutrient management plan development implement plans immediately upon completion. Under the revised law, these individuals now follow a sliding nutrient management implementation time line established in the 1998 legislation.

The legislation also strengthened the 1998 statutes by requiring that commercial fertilizer applicators, including commercial lawn services serving residential customers, follow University of Maryland nutrient application recommendations if they service a total of 10 or more non-agricultural acres annually. This constructive step greatly increases the number of Maryland acres adhering to certified nutrient application guidelines.

VIRGINIA

The year 2000 saw important steps taken in Virginia regarding natural resource conservation highlighted by the creation of a state nontidal wetlands regulatory program and by increases in funding for conservation of open space, natural areas and farmland. Other proposals moved toward consideration in 2001.

Water Quality

More than \$20 million was appropriated for the fiscal biennium to the Water Quality Improvement Fund, which by law receives a portion of any budget surplus. The Water Quality Improvement Fund supports point and nonpoint source nutrient and sediment reduction through grants to local governments, farmers and others, and is the cornerstone of Virginia's Chesapeake Bay Tributary Strategy Program. The fund also provides grants to areas of the state outside the Chesapeake Bay watershed.

Prompted by a controversy surrounding the inadequate reporting by state agencies on the presence of PCBs in fish in the Roanoke River, the General Assembly strengthened the requirements for the State Water Control Board (SWCB), the Department of Environmental Quality (DEQ) and the Virginia Department of Health (VDH) to monitor and report on the presence of toxic substances in state waters. The bill requires additional monitoring and reporting on water bodies, greater opportunity for citizen participation and a more timely evaluation of fish consumption.

DEQ was also directed, contingent on adequate funding, to increase the number of water quality monitoring stations and sampling frequency by 5 percent a year until the monitoring program is representative of all river and stream miles in the state.

Open Space, Land Preservation and Management

The General Assembly took a number of significant actions in support of land conservation during 2000. More than \$12 million was appropriated to the Land Conservation Foundation, a state fund established for the purpose of preserving open space and recreational lands. However, in his budget presented for consideration in 2001, Governor Gilmore proposed removing about half of the \$12 million. The General Assembly also passed a bill that allows the Foundation to provide direct (as opposed to matching) grants to state agencies. The Foundation may also now transfer lands to other entities that will retain them for conservation purposes.

Another bill directed that one of the trustees appointed to the Foundation must be a farmer and requires the establishment of criteria for grants to localities for the purchase of development rights. A bill that would have established funding for the Foundation from the proceeds of the recordation tax died in a Senate Committee in December 2000. It is expected that a similar bill will be introduced in the 2001 session, based on a recommendation by the Commission on the Future of Virginia's Environment.

The Open Space Land Preservation Trust Fund, administered by the Virginia Outdoors Foundation, was modified to allow grants to be made to aid localities in acquiring open space easements. Currently, grants may only be made to persons conveying conservation easements to the Virginia Outdoors Foundation and a local co-holder.

The General Assembly revised the "Important Farmlands law" which requires that state agencies evaluate the impacts of their actions on farm and forest lands. The bill replaced a previous definition of important farmlands with a set of criteria that determine farm and forest lands worthy of protection. The bill requires annual updates of agency

farmland protection plans to be reviewed by the Secretary of Commerce and Trade and mandates that an annual report on efforts to protect farm and forest land be submitted by the Secretary of Commerce and Trade and to the relevant committees of the General Assembly.

A tax credit was established for owners of forest land who forego harvest along streams and rivers (so-called riparian buffers). The credit is equal to 25 percent of the value of the timber retained in the riparian buffer

Habitat

Spurred by the actual and potential loss of nontidal wetlands as the result of the so-called "Tulloch" federal court ruling which limited the jurisdiction of the U.S. Army Corps of Engineers over the ditching of nontidal wetlands, the General Assembly seriously addressed the protection of nontidal wetlands for the first time in a decade. After a great deal of study, debate and compromise, legislation passed that establishes a state nontidal wetlands management program.

The legislation takes a phased approach by first addressing the Tulloch issues. As of July 1, 2000, it is now unlawful to excavate in a wetland without providing adequate compensation for the impact; this compensation must be sufficient to achieve no net loss in wetland acreage and function. Beginning October 1, 2001, following the promulgation of regulations by the DEQ, all activities conducted in a nontidal wetland will require a DEQ-issued permit. The Department is also directed to seek a programmatic General Permit from the Corps of Engineers that would give the state primary responsibility for the management of nontidal wetlands in the commonwealth. Over the course of 2000, DEQ in consultation with an advisory committee, developed draft regulations for public review, which will take place in the first half of 2001.

The Marine Habitat and Waterways Improvement Fund was established to fund activities which would improve marine habitat and waterways, including the removal of obstructions or hazards from state waters. As of July 1, 2000, the Fund now receives fees, rents and royalties paid for the use of state-owned bottomlands. It will also include penalties and civil charges for violations of permits or regulations related to state-owned bottomlands.

As the result of General Assembly action, riparian landowners who wish to build a noncommercial wharf or dock longer than 100 feet that crosses productive clam or oyster grounds must obtain a permit from the Marine Resources Commission. The Commission may prescribe the design and location of the pier in order to minimize its impact on productive oyster or clam grounds. This bill also removes the current 12-month notice and waiting period that a riparian owner must provide to an adjacent oyster or clam lease holder, as long as the Commissioner of Marine Resources determines there will be no adverse impact on commercially productive oyster or clam grounds from the proposed wharf or dock. The notice and waiting period otherwise remain in effect.

The Virginia Delegation to the Chesapeake Bay Commission was directed to continue its study on issues related to the protection and restoration of submerged aquatic vegetation. During 2000, the members examined issues related to the use of state-owned bottom, particularly for aquaculture, and sought ways to forestall conflicts among uses of shallow water while reaching SAV restoration goals. The Delegation is likely to recommend the development of a shallow water management plan that would assist in the restoration of SAV. The Delegation will also likely recommend the establishment of a Virginia-specific SAV restoration goal. A report by the delegation is expected in early 2001.

Fishery Management

A bill that would make it unlawful to catch, possess or offer for sale an egg-bearing female crab (known as a sponge crab) or a female from which the egg pouch has been removed was carried over to the 2001 session. The bill was not acted on by the committee by the December 2000 deadline and therefore will receive no further consideration during the 2001 session.

Natural Resource Management

The General Assembly carried over a bill, the Virginia Natural Resources Policy Act, for further study. The bill would have repealed the existing Environmental Impact Statement review process for state projects and replaced it with a natural resources impact review process which applies to a broader category of actions by the state, including actions by other entities that are funded by state money. However, the bill was not acted on by the December, 2000 deadline and will receive no further consideration.

The Commission on the Future of Virginia's Environment was continued for another year. This legislative commission, chaired by Senator Bill Bolling, has been instrumental in developing initiatives related to solid waste, state parks, open space preservation and water quality. During the year, the Commission addresses three principle issues; the implementation of the *Chesapeake 2000*, the management of solid waste and the needs for state parks and open space

In addition to funding for the Water Quality Improvement Fund and the Virginia Land Conservation Foundation, the Commission voted in December to support additional funds for maintenance needs at state parks, blue crab management efforts under the Bi-State Blue Crab Advisory , fish passage in the York watershed and oyster restoration.

For the last several years, the Rappahannock River Basin Commission has been coordinating the development of the Rappahannock River Tributary Strategy as well as addressing other issues of regional concern. The authorization for the Commission was scheduled to expire on June 30, 2000. However, the sunset provision was removed this session and the Commission continues to operate and focus on the implementation of the Rappahannock River Tributary Strategy.

PENNSYLVANIA

In 2000, the Pennsylvania General Assembly completed the second year of a two-year legislative session that began in January, 1999. Highlighting the first half of the session was the adoption of the Growing Greener program, a \$645 million legislative package directing new expenditures and a redirection of existing monies for environmental infrastructure, watershed protection, open space, recreation and related programs. Details concerning the Growing Greener legislative package and other environment-related bills enacted earlier in the session were provided in the Commission's 1999 Annual Report. Major environmental initiatives during 2000, are described below.

Land Use Management

The most significant environment-related legislative action was the passage of comprehensive growth management amendments to current land use law in the commonwealth. The amendments to the Pennsylvania Municipalities Planning Code (MPC) were contained in two complimentary legislative proposals, signed into law as Acts 67 and 68.

Act 68 amends the MPC to (1) give local municipalities greater flexibility to use joint planning and zoning authority by providing clearer protection from legal challenges asserting "fair share" or exclusionary zoning arguments; (2) encourage and enhance transferable development rights (TDR's) as a tool for preserving open space and farmland and more effectively direct growth into appropriate areas on a multi-municipal basis by authorizing TDR use regionally; (3) permit municipalities to have a more predictable and orderly pattern of growth by making their zoning ordinances consistent with their comprehensive plans; (4) permit better coordination of land use within a county by promoting greater consistency between municipal and county comprehensive plans; and (5) allow municipalities to permit "traditional neighborhood developments" through the use of mixed-use zoning.

Act 67 further amends the MPC to authorize and encourage the use of intergovernmental cooperative agreements among counties and municipalities. It authorizes these agreements to include the designation of growth areas, potential growth areas and rural resource areas. The integrated planning provisions would give municipalities the ability to spread all allowable land uses over a joint planning area. Previously, all land uses were required to be available within each municipality. Like the complimentary language contained in Act 68, these provisions are intended to provide greater protection to zoning ordinances from curative amendment challenges.

Legislation was also enacted establishing the "Downtown Location Law" to encourage state agencies to locate new offices in the central business districts of cities, boroughs and townships, rather than on greenfield sites away from these central business areas. It requires the state Department of General Services to establish guidelines for state agencies to locate in these areas, including leased buildings and new construction. It provides flexibility in choosing locations by applying factors such as the availability of public transportation and suitable space, public safety and local economic impact.

Water Resources & Watershed Management

There was activity in both chambers dealing with water resources management legislation, but no measures were enacted. Similar, but not identical Water Resource Conservation and Management Act proposals were introduced in each chamber. The House version was reported from committee but was not taken up on the floor while the Senate version was the subject of public hearings, but was never reported from committee.

Both proposals contained provisions to create a comprehensive program for the management of Pennsylvania's surface and groundwater resources, including planning, the regulation of withdrawals, water conservation, designation of special water conservation areas and enhanced drought management planning. Re-introduction and consideration is anticipated in the 2001-02 session.

Agriculture

A bill sponsored by Commission member Senator Noah W. Wenger amending the Anaerobic Manure Digesters Act was reported from committee and passed in the Senate, but failed to be considered in the House prior to the end of the session. The bill would comprehensively amend the law, originally adopted in 1994 in several ways.

The retitled Agricultural By-Product Management Technology Act would fund six demonstration projects and expand its original scope by establishing a program for investigating, studying and promoting digesters and animal by-product management

technologies that are environmentally sound and economically feasible. The bill would provide grant funding and specify that recipients would not be precluded, by virtue of their award, from receiving grants, loans or other financial assistance under the Nutrient Management Act or the Agriculture-Linked Investment Program Act. Re-introduction and consideration of this bill is anticipated in the 2001-02 session.

2001

LEGISLATIVE ACTIONS OF THE STATES

CHESAPEAKE 2000, “C2K”

On June 28, 2000, the Commission, as a member of the Chesapeake Bay Program’s Executive Council, signed *Chesapeake 2000*, the most comprehensive Bay agreement in the history of the Chesapeake Bay restoration. This agreement charts the course for the Bay restoration for the next decade and beyond. Over the last year, the focus of the Chesapeake Bay Commission has been on reaching the goals of the agreement – working towards concrete actions that support the commitments made in *Chesapeake 2000*.

To better understand the legislative actions each state has taken in the context of C2K, the topics in this legislative update mirror the sections of the agreement. While not all of the actions listed here are a direct result of the Chesapeake Bay Agreement, this topical approach enables the reader to examine legislative actions brought to bear on a specific issue, to compare the approaches of each state, and to appreciate the complexities of a multi-jurisdictional restoration effort.

LIVING RESOURCE PROTECTION AND RESTORATION

Crabs

Both Maryland and Virginia responded to the recommendations of the Commission’s Bi-State Blue Crab Advisory Committee (BBCAC) in April of this year. Faced with scientific consensus regarding the alarming trends in the blue crab population, BBCAC recommended a doubling of the adult spawning stock in the Bay, which translates to an approximate 15 percent reduction in fishing effort over the next three years.

Members of the Chesapeake Bay Commission’s Maryland Delegation introduced recreational crabbing legislation as a complement to new commercial regulations proposed by the Department of Natural Resources. The final conference report resulted in the establishment of new catch and gear restrictions on the recreational fishery. Persons catching up to 2 dozen hard crabs do not require a license. Allowable gear includes handlines, dipnets, up to 10 collapsible traps and/or net rings and up to 2 crab pots. With the purchase of a \$5 individual license or a \$15 boat license, recreational crabbers may take up to 1 bushel of hard crabs and 2 dozen soft crabs or peelers per person. Allowable gear includes up to 30 collapsible traps/net rings and a trotline up to 1200 feet. The per boat limit is 1 bushel of hard crabs, or a maximum of 2 bushels with 2 or more licensed crabbers on board. License fees will be used for enforcement, blue crab research, and for a recreational crabbing survey. The tightened gear and catch restrictions approved by the Maryland General Assembly are aimed at providing a reduction in the recreational catch in order to help meet the 15 percent reduction goal,

while simultaneously providing much needed data about the size and scope of the recreational crab fishery. (SB 514/HB 772)

Commission member Delegate Michael H. Weir sponsored legislation authorizing the Department of Natural Resources to require each commercial crab licensee to declare a Sunday or a Monday as a day off for the license year. DNR has proposed emergency regulations establishing the commercial crabbing day off provisions in the bill. (HB 1021)

In Virginia, the General Assembly expanded the Virginia Marine Resources Commission's (VMRC) current authority by granting it the ability to limit the catch of recreational crabbers. Currently, unlicensed individuals may take as much as one bushel of hard crabs and two dozen peeler crabs per day for personal use without a license. Beginning July 1, 2001, VMRC may limit, by regulation, the catch of unlicensed crabbers. The bill was sponsored by BBCAC Co-Chair Delegate Robert S. Bloxom. (HB 2032)

Lastly, legislation authorizing the Maryland Department of Natural Resources to adopt regulations limiting or prohibiting the importation, use, catching or possession of non-native crab species was unanimously approved. (HB 319)

Oysters

In Virginia, a new program, if funded, will provide grants of up to \$300 for individuals who grow oysters for transfer to state oyster sanctuaries. The bill creates the Oyster Growing Activities Fund from which the grants will be made. The Virginia Marine Resources Commission will administer the fund and the grants program. (HB 2493)

The Maryland General Assembly addressed oyster aquaculture this year by requiring the Department of Natural Resources to adopt regulations addressing the methods used when collecting oyster spat in the waters of the state. (HB 921)

Invasive Species

Modeled after a bill passed in Maryland in 2000, the Virginia General Assembly adopted legislation to improve its knowledge of ship ballast water exchange activities. While Maryland's approach includes reporting requirements for domestic traffic, Virginia is limited to ships originating from foreign ports. Reporting procedures, which apply to all foreign-flagged vessels whose first port of call in the United States is in Virginia, now require the ship operator to report to the National Ballast Water Information Clearinghouse *and* to the state on all ballast exchange activity. Those found in noncompliance can be found guilty of a misdemeanor. This bill will provide Virginia with important information about the source and quantity of ballast water discharged as the commonwealth seeks to protect its waters from the potential invasion of foreign organisms. (SB 1072)

The voracious consumption of submerged aquatic vegetation (SAV) by a burgeoning non-native mute swan (*Cygnus olor*) population prompted the Maryland General Assembly to approve a measure requiring the Department of Natural Resources to establish a program to control the population of swans, including the managed harvest of adult mute swans. (HB 728)

Fish Passage

Based on a previously approved capital budget bill, Pennsylvania Governor Tom Ridge approved \$4.2 million for the design and construction of fish passage facilities at an inflatable dam at Sunbury, Pennsylvania. The dam is located at Shikellamy State Park on the Susquehanna River, immediately downstream of the confluence of the West Branch and North Branch of the river. The project now enters the design phase, which is

anticipated to take 18 months, and is intended to be operational for the American shad migration in spring 2004. The fish passage at Sunbury will open up 580 miles of additional spawning habitat for the shad, which historically had migrated as far north as Cooperstown, New York, on the North Branch of the river, and Chest Creek, Pennsylvania, on the West Branch.

VITAL HABITAT PROTECTION AND RESTORATION

Wetlands

Several bills were introduced to amend Virginia's nontidal wetlands program, created by legislation in the 2000 session. However, only one bill survived, that changed the effective date of the law from no later than October 1, 2001, to August 1, 2001, for linear transportation projects by the Virginia department of Transportation. The Department sought earlier implementation of the law because the regulations, if adopted as proposed, will expedite the completion of a number of transportation projects. *(SB 1272; HB 2292)*

Submerged Aquatic Vegetation

As a result of an ongoing study of issues related to the restoration of submerged aquatic vegetation by the Chesapeake Bay Commission, the Virginia General Assembly adopted a resolution, proposed by Delegate Thelma Drake, to develop a shallow water management plan for the Chesapeake Bay and its tidal tributaries. The plan will be developed by the Virginia Institute of Marine Science (VIMS), in consultation with the Virginia Coastal Program and other agencies, over the course of two years. It will address the increasing conflicts between the natural resource goals of restoring SAV and economic uses of shallow water and riparian areas. It will also assess the impact of adjacent land uses on shallow waters. *(HJ 765)*

In recent years, there has been illegal use of hydraulic dredges by fishermen who transit Virginia waters. Because these dredges can cause severe damage to seagrasses, the General Assembly adopted a bill that improves the authority of the VMRC to enforce its prohibition on the use of hydraulic dredges. It will be illegal to possess or use a hydraulic dredge in Virginia waters unless a permit is obtained from the VMRC. Transporting dredges in Virginia waters for the purposes of maintenance, repair or off-loading catches made in federal waters are exempt from permitting requirements. *(HB 2417)*

In Maryland, legislation was proposed to offer further protection of SAV by authorizing the Department of Natural Resources to prohibit the use of crab scrapes in specified areas. The increasingly heavy equipment used and the expansion of the use of this gear into vulnerable underwater grassbeds prompted this legislative action. Although unanimously approved in the House, the bill failed to reach final vote in the Senate. *(HB 679)*

A Chesapeake Bay Commission-sponsored measure first introduced in 2000 was approved by the Senate, but failed to come up for a vote in the House Environmental Matters Committee. This bill would have updated Maryland law by improving the identification and enforcement of SAV Protection Zones, permanently protecting vital blue crab nursery areas in Tangier Sound, and expanding current protection by prohibiting several other types of clam harvesting equipment in SAV Protection Zones. *(SB 172; HB 1001)*

Watersheds

The proposed budget now under consideration in the Pennsylvania General Assembly includes an appropriation of \$51.9 million to the Department of Environmental Protection (DEP) for watershed protection and restoration projects, including those related to riparian buffers, acid mine drainage, abandoned mine reclamation, wetlands restoration, watershed assessments and education. This appropriation represents continued funding for the Growing Greener Initiative, which last year funded 568 watershed restoration projects worth over \$170 million, cleaned up 389 miles of streams, restored 4,079 acres of wetlands, planted 137 miles of streamside buffers and reclaimed 5,226 acres of abandoned mine land.

WATER QUALITY PROTECTION AND RESTORATION

Nutrients and Sediments

Leaks from aging sanitary sewerage systems and overflows from combined sewage systems discharged millions of gallons of raw sewage into the Bay's Maryland tributaries during the spring and summer of 2000. Recognizing this major source of nutrient pollution, Maryland Commission members Senators Brian E. Frosh and J. Lowell Stoltzfus, along with House Environmental Matters Chairman Ronald A. Guns, introduced legislation that would have established a task force on upgrading sewerage systems throughout the Bay watershed. In order to address this issue in the most timely manner, Governor Glendening issued Executive Order #3 to immediately establish the task force and to define its role. This task force is charged with assessing the costs and priorities for upgrading of aging sewerage system infrastructure in the state and for addressing the water quality impacts of combined sewer overflows. The Task Force will submit a final report of its findings and recommendations to the Governor by December 2001. (SB 174; HB 12)

Related legislation, which successfully passed the Maryland General Assembly, will improve the reporting requirements for sewer overflow or treatment plant bypass by establishing requirements for both public and agency notification. This legislation was successfully shepherded by Senator Frosh and several of his colleagues. (SB 418)

A re-introduction of one of Maryland Governor Parris Glendening's top environmental priorities in 2000 was again unsuccessful. This bill would have mandated more efficient septic systems for properties in "areas of special concern," such as the Chesapeake Bay Critical Area, coastal bay watersheds and drinking water supply wellhead areas. Opponents successfully argued that the additional costs (estimated at \$3,000 to \$7,000) were prohibitive for prospective homeowners and for low-income residents. (HB 321)

Pennsylvania is also addressing the issues of aging of inadequate sewerage and stormwater collection systems. Joint Legislative Conservation Committee hearings were recently conducted on the issue of combined sewer overflows (CSOs), and specifically on a bill that would call for a \$1 billion bond referendum to provide grant assistance to local communities to address CSO problems. Additional legislative attention on the "aging infrastructure" issue is anticipated this session. In addition, the proposed budget contains a line item that would provide \$32.9 million to the Pennsylvania Infrastructure Investment Authority (PENNVEST) for water, sewer and stormwater projects.

In February 2001, the Joint Legislative Air and Water Pollution Control and Conservation Committee of Pennsylvania issued its *Report on Water Quality Credits and Trading*. The committee report contains a series of recommendations supporting creation of a watershed-based pollutant credit trading system and calls on DEP to

establish a pilot trading program under prescribed guidelines and with stakeholder involvement. The committee report supports the efforts of DEP and the Chesapeake Bay Program's Nutrient Trading Team to implement its nutrient trading guidance. *(HR 361 of 2000)*

Legislation was recently reported to the floor of the Pennsylvania House that would authorize municipal ordinances that require independent testing of biosolids, or "sewage sludge," used on reclamation sites to verify compliance with current DEP regulations. Currently, municipalities have no authority to require testing. The bill would also allow municipalities to establish setback requirements of up to 1,000 feet from any occupant dwelling, spring or well. Current DEP regulations provide for a 300 foot buffer. The bill awaits action in the House. *(HB 506)*

In an effort to more comprehensively address the issue of manure disposal, Commission member Senator Noah W. Wenger introduced a bill which would create the Agricultural By-Product Management Technology Board in the Pennsylvania Department of Agriculture. The board would evaluate advanced technology regarding economically and environmentally feasible digesters and by-product management technologies, analyze by-product management technologies and specific regional by-product reduction needs and make recommendations to the Secretary of Agriculture. The Department would be directed to develop programs to promote education, use and development of digesters and by-product management technologies, and a related grant and loan program. *(SB 549)*

Chemical Contaminants

Reporting of pollution incidents will be improved under a bill adopted by the Virginia General Assembly. This bill expands reporting requirements to any person responsible for an unpermitted discharge or likely discharge of "industrial wastes...or any noxious or deleterious substance into state waters." Previously, based on a court ruling, only permit holders were required to report. *(HB 2601)*

In April of last year, an underground pipeline associated with the Chalk Point Generating Station leaked more than 110,000 gallons of oil into Maryland's Patuxent River. In response to this event, hazardous liquid pipeline safety requirements were improved and clarified in a bill that received unanimous approval by the Maryland General Assembly. The Public Service Commission is now authorized to act for the U.S. Secretary of Transportation to implement federal laws relating to intrastate transportation of hazardous liquids by pipeline. *(SB 117)*

Dredged Material Management

The Maryland General Assembly passed legislation prohibiting the open-water dumping of dredged material in the Chesapeake Bay, allowing for some exceptions when projects involve the beneficial use of the spoils. The legislation establishes an Executive Committee to provide oversight in the development of a long-range dredged material management plan for the state of Maryland. The committee is directed to review and recommend to the Governor dredged material placement options and disposal sites for long-term dredged material placement capacity, with priorities given to beneficial use and innovative reuse of dredged material. These recommendations are due on or before December 31, 2002. *(HB 1317)*

SOUND LAND USE

Land Conservation

A number of bills that would have expanded land preservation efforts failed in the Virginia General Assembly. Once again, a bill that would dedicate a portion of the existing state recordation tax to the Virginia Land Conservation Foundation (VLCF) was unsuccessful, as was the Park and Recreation Bond Act of 2001, which would have, among other things, acquired land for the preservation of natural areas. *(HB 1879; HB 2390)*

A bill in Virginia renamed the Agricultural Vitality Program within the Department of Agriculture as the Office of Farmland Preservation. The bill enumerates the powers of the office, which include developing model policies and practices for use by local governments in the development of purchase of development right programs. The office is also empowered to develop criteria for the certification of local PDR programs as eligible to receive grants, loans and other public funds and develop ways of allocating funds to localities to purchase agricultural conservation easements. *(SB 1160)*

In Maryland, a new land preservation program aimed at protecting a network of the state's most valuable remaining ecological lands was approved and funded at \$35 million for FY 2002. The purpose of Maryland's "GreenPrint" program is to: identify the most important unprotected natural lands in the state; link or connect these lands through a system of corridors or connectors; and, save those lands through targeted acquisitions and easements. It is estimated that the state's green infrastructure contains roughly 2 million acres of undeveloped land, of which three-quarters are currently unprotected. *(HB 1379)*

Another important land preservation measure approved by the Maryland General Assembly gives an individual state income tax credit in exchange for the donation of a perpetual easement in land to the Maryland Environmental Trust or the Maryland Agricultural Land Preservation Foundation. *(SB 459)*

The proposed budget now under consideration in the Pennsylvania General Assembly includes two important appropriations for land conservation, both of which continue funding for the Growing Greener Initiative adopted in 1999. The first would provide \$8.2 million for grants to communities for conservation and open space acquisitions, and the second would provide \$20.6 million for farmland preservation easements.

Proposed legislation, currently in the Senate after passage in the House, would amend Pennsylvania's Agricultural Area Security law, to increase opportunities for enrolling acreage in the farmland preservation program. It would help ensure that land enrolled in federal conservation programs is eligible and that preserved land can subsequently be enrolled into such programs without violating the provisions of the conservation easement. *(HB 101)*

Development, Redevelopment and Revitalization

Responding to recent court rulings which were seen to weaken one of Maryland's keystone land use laws – the Chesapeake Bay Critical Area Protection Program – Commission member Delegate Weir and colleagues introduced bills that would have clarified the original intent of the law and clearly defined the conditions under which a variance could be granted. Although the Senate legislation was approved, the House measure was not brought up for a vote in the Environmental Matters Committee. *(SB 607; HB 661)*

Two component parts of the Governor's now 4-year-old "Smart Growth" campaign to curb sprawl development were approved. An Office of Smart Growth will be established in the Maryland Executive Branch to oversee urban sprawl-related activities, and a Community Legacy Program will be established in the Department of Housing and Urban Development. *(SB 204; SB 202)*

A bill, sponsored by Senator Martin E. Williams, to expand the jurisdiction of the Chesapeake Bay Preservation Act in Virginia to apply to all the land within Virginia's Chesapeake Bay watershed was defeated in a Senate committee. The Act would have required the incorporation of regulations to protect water quality into local land use codes and ordinances. Currently, only counties and cities that are adjacent to the Bay or to a tidal portion of any of its tributaries must comply. The Virginia legislature did adopt a resolution to study a number of issues relating to implementation of the Chesapeake Bay Preservation Act, including local compliance, the granting of exceptions and variances, and the funding and personnel needs for full implementation and enforcement. As part of the interim report, the Chesapeake Bay Local Assistance Department is directed to assess the benefits of the program to the environment and the cost to state and local governments of extending the requirements of the Act to the entire watershed. The final report is due in October 2002. *(SB 801; HJ 622)*

The proposed budget now under consideration in the Pennsylvania General Assembly includes an appropriation of \$4.6 million for continuation and expansion of the Growing Smarter Initiative. The appropriation expands the Center for Government Services' sound land-use initiatives and responds to last year's amendments to the Municipalities Planning Code under Growing Smarter. It will allow for further strengthening of planning capability at the county and municipal level through technical assistance and land-use planning grants, strengthen interagency communication and coordination, and develop an electronic clearinghouse for land-use resources.

STEWARDSHIP AND COMMUNITY ENGAGEMENT

Stewardship

Across the watershed, communities have been working to clean up their waterways. In recognition of a growing number of derelict boats, Commission members Delegates Charles A. McClenahan, John F. Wood, Jr., and Weir sponsored a bill to accelerate the process of removing these abandoned vessels along Maryland waterways. *(HB 114)*

Government by Example

Beginning in November 2001, the Virginia Secretary of Natural Resources will report annually to the relevant committees of the General Assembly and the Chesapeake Bay Commission and will review the programs developed and implemented to meet the goals and commitments of the Chesapeake 2000 agreement. In addition, the report will contain an assessment of funding needs to meet the various commitments. *(SB 1087)*

The General Assembly continued the Commission on the Future of Virginia's Environment, chaired by Commission member Senator Bill Bolling. The Commission has been in existence for four years and has been responsible for a series of initiatives related to parks and open space, Chesapeake Bay restoration and solid waste management. *(SJ 373)*

CONGRESSIONAL ACTION IN SUPPORT OF THE BAY PROGRAM

Despite growing competition for congressional support from estuarine restoration efforts across the nation, legislation and funding for key Chesapeake Bay protection and restoration programs made important advances in the U.S. Congress during the second session of the 106th Congress.

Chesapeake Bay Restoration

On November 7, 2000, President Clinton signed into law the Estuary and Clean Water Act of 2000. The Act authorizes \$300 million in federal funding over the next five years for the U.S. Army Corps of Engineers, in cooperation with NOAA, EPA and the U.S. Fish and Wildlife Service, to carry out estuary habitat restoration projects and provides incentives for local communities to participate in creative partnerships. Title II of the Act contains the Chesapeake Bay Restoration Act, sponsored by Senators Paul S. Sarbanes (MD), Barbara A. Mikulski (MD), John W. Warner (VA), Charles S. Robb (VA), and Rick Santorum (PA) and Representative Herbert H. Bateman (VA). It reauthorizes the Chesapeake Bay Program through 2006 at \$40 million per year – an increase of \$20 million over the current authorization. It encourages and assists the signatories of the Chesapeake Bay Agreement in meeting nutrient reduction, water quality, toxics reduction and prevention and habitat restoration goals, and requires that federal facilities within the watershed comply with nutrient reduction and other agreement goals. It also formalizes the small watersheds grants program, and requires a five-year study to evaluate the response of the Bay's living resources to water quality improvements resulting from the Program. (*PL 106-457*)

Chesapeake Bay Oyster Restoration

To help achieve the ambitious *Chesapeake 2000* goal of a ten-fold increase in oyster abundance in this decade, Senators Warner and Sarbanes led the Congressional effort to increase funding to the Corps of Engineers for restoring oyster habitats and increasing oyster populations in the Chesapeake Bay. As part of the Water Resources Development Act of 2000, \$20 million was appropriated – previous law capped funding to the Corps for oyster reef construction at \$7 million. Under this authority and with funds previously appropriated by the Congress, the Corps has successfully constructed 30 reefs in Maryland and Virginia waters. The legislation enables the Corps of Engineers to share on a 50/50 basis in the costs of constructing oyster reefs at numerous sites around the Bay. (*Section 342 of PL 106-541*)

NOAA Chesapeake Bay Program

Senators Sarbanes, Warner and Mikulski introduced legislation to reauthorize and enhance the NOAA Chesapeake Bay Program office. Companion bills were introduced in the House by Representatives Benjamin L. Cardin (MD) and Wayne T. Gilchrest (MD). The legislation authorizes NOAA to undertake a special five-year study, in cooperation with the scientific community and other appropriate federal agencies, to develop the knowledge base required to understand multi-species interactions and develop multi-species management plans. NOAA is also directed to carry out a small-scale grant and technical assistance program to help citizens' organizations and local governments in the Chesapeake Bay watershed undertake habitat, fish and shellfish restoration projects. Authorization for the NOAA Bay Program is increased from the current level of \$2.5

million to \$6 million per year. No action was taken on the legislation before the Congress adjourned, but, as we go to press, similar legislation is being considered in the House and Senate.

Federal Funding

In 2000 (FY 2001), federal funding for key agencies involved in the Bay restoration effort was continued at previous or slightly increased levels:

- EPA's Chesapeake Bay Program received approximately \$20 million – the same level as in fiscal year 2000 – and the Small Watershed's program received \$1,250,000, an increase of \$500,000 over the FY 2000 level for the fourth year of the program. Funds were also provided to upgrade three sewage treatment plants for biological nutrient removal.
- Congress appropriated \$2.5 million for the NOAA Chesapeake Bay Program office, an increase of \$110,000 over the FY 2000 level. NOAA received \$1.89 million in fiscal year 2000 plus an additional \$500,000 for the multi-species initiative. The additional funds provided in FY 2001 will continue this important program.
- Oyster replenishment work through the Corps of Engineers, NOAA and the EPA received a big boost in funding this year. The Corps of Engineers received \$3 million – an increase of \$2.1 million over the FY 2000 level. NOAA received \$850,000 – an increase of \$400,000 over the FY 2000 level – and EPA received \$300,000. The NOAA Sea Grant Oyster Disease Research Program was also continued at \$1.5 million.
- The National Park Service's Chesapeake Bay Gateways and Watertrails Program was funded at \$800,000 in fiscal year 2001, an increase of \$200,000 over the FY 2000 level, but effectively doubling the amount of funding available for grants.
- The Corps of Engineers received \$19.1 million to initiate construction of Phase II of the Poplar Island Beneficial Use of Dredged Material Project. The Corps' Chesapeake Bay Environmental Restoration pilot program received \$1 million, an increase of approximately \$400,000 over the budget request. Funds are being used to restore oyster reefs in Virginia and to address shoreline erosion at Smith Island in Maryland. Funds were also provided for the Corps to continue with studies for environmental restoration of key tributaries of the Bay, including the Anacostia, Potomac and Patuxent rivers.
- Funding for the Forest Service's Chesapeake Bay effort was continued at the \$500,000 level.
- The Natural Resources Conservation Service (NRCS) received \$5.25 million in fiscal year 2001 – an increase of \$500,000 over the FY 2000 level.

2002

LEGISLATIVE ACTIONS OF THE STATES

Chesapeake 2000, “C2K”

Chesapeake 2000, the most comprehensive Bay agreement in the history of the Chesapeake Bay restoration, charts the course for the Bay restoration for the next decade and beyond. Since 2000, the focus of the Chesapeake Bay Commission has been on reaching the goals of the agreement — by determining those programs that must be maintained while simultaneously crafting new ones to fill the gaps. Surely, a doubling, if not tripling, of effort will be needed to reach the goals by the next decade. A key question within the Commission has become: “How will we find the money?”

To better understand the legislative actions each state has taken in the context of C2K, the topics in this legislative update mirror the sections of the agreement. While not all of the actions listed here are a direct result of the agreement, this topical approach enables the reader to examine legislative actions brought to bear on a specific issue, to compare the approaches of each state, and to appreciate the complexities of a multi-jurisdictional restoration effort.

Living Resource Protection and Restoration

Fishing

The Virginia General Assembly passed a bill that creates a fishing guide license for operators of recreational headboats or charterboats. The license would be required in addition to the existing saltwater fishing license and mirrors a license requirement that currently exists in Maryland. This bill will not become effective unless it is reenacted during the 2003 session of the General Assembly. A reenactment clause allows the legislators the opportunity for reconsideration. (HB 978)

After several unsuccessful attempts in recent years, the General Assembly removed the “seaside” (the Atlantic coast) exemption from the requirement to have a tidal saltwater recreational fishing license in Maryland. The bill contains certain exemptions including fishing from one’s own property or from federal property. Funds generated from license sales can now be used for recreational fishing enhancement projects on the seaside. Previously, only projects in the Bay or tidal tributaries were funded. (HB 613)

Crabs

A crab potting tagging program will be established in Virginia if the General Assembly reenacts the bill during the 2003 session. According to the provisions of the bill, the Virginia Marine Resources Commission must administer a program to require all crab pots to be marked with an individual identification. Pot marking, which has been reviewed extensively by the Commission’s Bi-State Blue Crab Advisory Committee, is widely considered as an important tool to gauge and control fishing effort. (HB 975)

Also, a bill that makes the catching or marketing of egg-bearing females crabs (“sponge crabs”) illegal was carried over in a Senate committee. The committee must act on the bill prior to the start of the 2003 session. (SB 297)

Oysters

The exotic oyster species, *Crossostrea ariakensis*, has been studied in experimental aquaculture facilities in Virginia since 1997. While its potential for cultivation in Chesapeake Bay waters has shown promise, a number of uncertainties remain. The National Academy of Sciences will study the economic and environmental costs and benefits of *C. ariakensis* beginning in June 2002. Legislation passed this session in Maryland directs the Department of Natural Resources (DNR) to authorize studies and establish biosecurity measures to enable research and experimentation in Maryland waters. The study will include an analysis of the ecological benefits and risks associated with the introduction of both sterile and reproductively-capable nonnative oyster species, and should incorporate, to the extent possible, the findings of the NAS review. DNR is also directed to study the current condition of the native oyster and consider new measures to protect and increase its health and survival rate. An interim status report is due December 2002, with the final report due December 2004. (HB 353/SB 493)

The Virginia General Assembly weighed in on the debate over the production of non-native oysters by adopting a resolution supporting the revitalization of the Virginia oyster industry based on both the native oyster and the commercial production of genetically-sterile *C. ariakensis*. The resolution supports the research necessary to assess the ecological impacts of introduction and goes on to state that if research fails to prove within three years that *C. ariakensis* will be harmful to the Bay, the General Assembly urges introduction of reproductively-capable oysters. (HJ 164)

Penalties for the intentional and unlawful harvesting of oysters from a designated oyster sanctuary or reserve in Maryland were established. The legislation imposes a fine of not more than \$3,000 and immediate suspension of a person's tidal fish license for a period of between 6 months and one year. (HB 469)

Invasive Species

Several modifications were made to Virginia's ballast water reporting system established in 2001. Legislation passed that designates the Hampton Roads Maritime Association as the Marine Resources' agent for collection of report forms from ship operators. The bill also clarifies that an operator who files a report within the U.S. Exclusive Economic Zone prior to arriving in a Virginia Port is not required to file a separate state report. (SB 115)

Due to a ruling by the U.S. Fish and Wildlife Service (USFWS) that placed mute swans under the protection of the Migratory Bird Act, Maryland's program to control the burgeoning mute swan population was put on hold. A joint resolution passed by the House and Senate encourages the USFWS to expedite review of the ruling and craft appropriate regulatory processes to allow the Bay states to control the population. Furthermore, the U.S. Department of Interior is urged to appeal the holding of the U.S. Court of Appeals that declared the mute swan a migratory bird protected under international treaty. The rapid population increase and voracious consumption of SAV by this species is the primary concern. (SJ 15/HJ 12)

Vital Habitat Protection and Restoration

The Virginia General Assembly passed legislation that ensures that once the State Programmatic General Permit is approved by the U.S. Army Corps of Engineers, only a state permit will be required for activities in nontidal wetlands. The Commonwealth established a nontidal wetlands program two years ago and is seeking delegation of authority from the Corps. (HB 1002)

Submerged Aquatic Vegetation

Returning to the Maryland General Assembly for the third year, legislation that updates current law to improve the identification and enforcement of SAV protection zones was approved. DNR is directed to use buoys or other visible landmarks to delineate SAV areas where clam harvesting equipment is prohibited. Adjustments to these protection zones, based on aerial surveys, are to be made every three years, instead of annually, so that an area affected by a severe water quality or storm event would not be prematurely removed from protection. Commission members Charles A. McClenahan, John F. Wood, Jr., and Michael H. Weir sponsored the House bill, while members Brian E. Frosh and J. Lowell Stoltzfus sponsored the Senate version. (HB 536/SB 195)

Forests

A 2-year pilot program designed to increase the number of permanently-protected forested stream buffers in Maryland through the use of “forest retention banks” was created under legislation approved this session. The bill directs the Department of Agriculture to authorize landowners to use forested stream buffers established under contracts with the Federal Conservation Reserve Enhancement Program (CREP) as forest retention banks. Pilot programs are to be established in Carroll and Frederick counties. Forest conservation easements developed under this program may be used for mitigation purposes, and will be credited at a rate of 2.5 acres per each acre of mitigation required. A report evaluating the effectiveness of the pilot program is due by December 31, 2004. (HB 895)

Legislation sponsored in Maryland addresses notice requirements relating to forest conservation plans and requires the State to address certain provisions in the development of a forest conservation program. Funds collected due to noncompliance will go to the Forest Conservation Fund. (HB 470)

Water Quality Protection and Restoration

In order to close a budget gap in the water permit program at the Virginia Department of Environmental Quality, a bill was passed that triples the statutory caps on water permit fees. There is a July 1, 2004, sunset on the new fee structure. (SB 592)

Nutrients and Sediments

Responding to the difficulties faced by many communities in financing necessary upgrades to their wastewater treatment infrastructure, legislation passed in Maryland that authorizes a study to determine the extent of inflow and infiltration problems for every wastewater treatment system in the state. This study, to be conducted in fiscal year 2004 by the Department of the Environment, will assist in determining priorities for infrastructure improvements. In fiscal year 2006, the Department will finance a utility rate study that will assess whether each locality’s utility rates ensure that adequate funding is set aside for a local capital improvement program. (SB 643/HB 1051)

Legislation is pending in the House in Pennsylvania that would authorize municipal ordinances that require independent testing of biosolids, or “sewage sludge,” used on reclamation sites to verify compliance with current Department of Environmental Protection (DEP) regulations. Currently, municipalities have no authority to require testing. The bill would also allow municipalities to establish setback requirements of up to 1,000 feet from any occupant dwelling, spring or well. Current DEP regulations provide for a 300-foot buffer. (HB 506)

Since the publication of last year's Legislative Update, legislation introduced by Commission member Senator Noah W. Wenger to create the Agricultural By-Product Management Technology Board in the Pennsylvania Department of Agriculture was enacted into law. The Board will evaluate advanced technology regarding economically and environmentally feasible digesters and by-product management technologies. It will also analyze the regional by-product reduction needs and make recommendations to the Secretary of Agriculture. The Department is directed to develop programs to promote education and a related grant and loan program to encourage use and development of digesters and by-product management technologies. (Act No. 32-2001)

Increased use of reclaimed water for purposes of irrigation will be promoted in Maryland as a result of legislation sponsored by Commission member Senator J. Lowell Stoltzfus. Alternatives to discharging wastewater effluent to surface waters include irrigation of farmland, golf courses, and athletic fields and for landscaping purposes. Ancillary benefits include reduced nutrient loading to surface waters as well as indirect recharge of groundwater, thus promoting water conservation. (SB 726)

In 1998, Maryland lawmakers approved the Manure Transportation Pilot Project, which established a cost-share matching program to assist in the transportation of poultry or livestock manure from farms in areas of the state experiencing phosphorous overenrichment. The program encourages alternatives to land application, as well as land application on soils that tend to hold additional phosphorous. A goal of removing poultry litter produced by at least 20 percent of the poultry in the four lower Eastern Shore counties was established. This year, the June 30, 2002, termination date was repealed, to reflect that the project is no longer a pilot project. (HB 468)

As a result of prior year legislation, Governor Glendening's Task Force on Upgrading Sewerage Systems delivered its final report to the Maryland legislature in December 2001. Based upon the findings of this report, legislation passed establishing a State Advisory Council on Water Security and Sewerage Systems. The Advisory Council is charged with evaluating new and innovative technologies relating to water security and sewerage systems and with developing a priority funding system for implementing new technology. A study of the environmental and public health issues surrounding the use of chlorine and alternative methods of disinfection in drinking water and wastewater treatment will also be conducted. A final report is due December 1, 2004. Based on another recommendation of the Task Force, an Interagency Technical Assistance Committee on Wastewater Treatment Systems is established to advise local jurisdictions on the efficient operation and financial management of wastewater treatment systems. The Committee will report to the State Advisory Council by November 1 of each year. (HB 659)

Air Pollution

On December 3, 2001, the Maryland Department of the Environment lost federal approval of its Clean Air Act Title V air quality permit program. Legislation approved by the General Assembly expands the standing provisions for judicial review of Title V operating permits in order to restore the state's ability to implement the program. (SB 248/HB 8)

Other

Water conservation practices employed by public water systems and sewage treatment plants will be enhanced under the new Maryland Water Conservation Act. Best management practices that improve water conservation and the efficiency with which water or wastewater is used, treated and stored are now to be part of the permit review

process. Implementation of these best management practices will affect priority eligibility for state financial assistance for drinking water and wastewater treatment improvements. It is anticipated that greater efficiency in water use and conservation will reduce the financial costs associated with public water supply and wastewater treatment. Another expected benefit resulting from this legislation is the reduced environmental impacts on Maryland's aquatic life due to surface and groundwater withdrawal, as well as wastewater discharge. (SB 549/HB 693)

New legislation authorizing the Secretary of the Maryland Department of the Environment to adopt and enforce state primary drinking water regulations for contaminants not addressed by federal regulation was passed this session. A cost/benefit analysis of implementing the proposed standard for the contaminant must be conducted. (SB 246/HB 350)

The Maryland statute of limitations for prosecution of, and suits for, violations of certain water pollution provisions was changed from two to three years after the violation is committed. (HB 1161)

Sound Land Use / Land Conservation

Chesapeake 2000 established a goal of preserving from development 20 percent of the land area in the watershed by 2010. A report by the Chesapeake Bay Commission and The Trust for Public Land (TPL) determined that this translates to an additional 1.1 million acres.

Based on CBC/TPL recommendations, legislation that allows local governments to develop and implement local land preservation programs was approved by the Maryland General Assembly. The bill encourages local governments to establish continuing, dedicated local funding sources to be eligible for a state match, and directs the Department of the Environment and Department of Natural Resources to work in partnership to develop new viable funding mechanisms. (HB 1131)

The Task Force to Study the Maryland Agricultural Land Preservation Foundation was extended for another two years. The task force will continue to develop guidelines for farmland preservation acreage goals for each county and evaluate funding opportunities targeted to priority preservation areas. The possible creation and funding of a statewide critical farms program and improved easement valuation systems will also be reviewed. A report to the Governor and the legislature is due June 1, 2004.

Although approximately 35 percent of Maryland's total land area is farmland, Maryland's agricultural land is rapidly disappearing, with an estimated 18,000 acres of farmland converted annually to urban, commercial or other nonagricultural use. In recognition of this trend, the Maryland legislature passed a joint resolution establishing a goal of tripling the existing number of acres of productive agricultural land preserved by the Maryland Agricultural Land Preservation Foundation, GreenPrint, Rural Legacy and local preservation programs. (SJ 10/HJ 22)

In June 2001, Governor Ridge signed into law the "Conservation and Preservation Easements Act." Pennsylvania no longer has to rely on "common law" to govern easements for land conservation, water quality, and open space and farmland preservation. (Act No. 29-2001)

In May 2001, the General Assembly passed legislation making a number of changes to Pennsylvania's agricultural preservation program. The law rescinds the \$10,000/acre cap on state funding for agricultural conservation easement purchases and facilitates the conservation of farms that straddle county lines. It also provides for reimbursement of land trusts up to \$5,000 for expenses in the acquisition of agricultural conservation easements. (Act No. 14-2001)

A bill passed that allows the Virginia Public Building Authority to issue bonds for various state agency projects, including \$20 million to the Department of Conservation and Recreation for parkland acquisition. (SB 673)

The General Assembly also passed the "Commonwealth of Virginia Parks and Natural Areas Bond Act of 2002," which authorizes the issuance of \$119 million of general obligation bonds for park and recreational facilities, \$30 million of which is to be used for acquisition of parks and natural areas. An additional \$6.5 million may be used to acquire in-holdings and adjacent properties at various state parks. (HB 1144)

Legislation passed that allows a Virginia taxpayer entitled to a land preservation tax credit to transfer the credit to any other taxpayer. (HB 1322)

Local governments in Virginia may now create a service district to acquire real property in order to preserve land. Service districts are created for a variety of purposes; this bill grants another tool for the protection of open space by localities. This bill resulted from a recommendation of a joint study by the Chesapeake Bay Commission, Trust for Public Land, and the Commission on the Future of Virginia's Environment. (HB 344)

Virginia's next biennial budget includes a two-dollar (optional) fee added to motor vehicle registrations with some of the proceeds potentially going to the Virginia Land Conservation Foundation (VLCF). This is an "opt-out" fee, which means that a motorist has a choice of participating when registering a vehicle. The first \$5 million generated by the fee will go toward a special license plate program and promotion of the Jamestown 2007 Anniversary. Additional money collected will go to the VLCF.

A bill establishing "by right" cluster development ordinances passed the Virginia General Assembly this year. Under the provisions of the bill a locality may provide for clustering of single-family dwellings in order to preserve open space on the remainder of a parcel. If a development proposal complies with the locality's criteria, it will be permitted and not be subject to the special exception or use permit process. This bill is intended to encourage developers to use cluster development techniques. Localities have until July 1, 2004, to establish the criteria. (HB 346)

Resolutions adopted by the Virginia House and Senate request the Secretary of Natural Resources to examine options for providing a stable source of funding for conservation of open space and report to the next session. (HJ 255)

Virginia legislators also carried over a bill that would dedicate a portion of the state-collected recordation tax. This measure continues to be a priority for land conservation advocates seeking a reliable source of funding. (HB 341)

The proposed budget now under consideration in the Pennsylvania General Assembly includes two important appropriations for land conservation, both of which continue funding for the Growing Greener Initiative adopted in 1999. The first would provide DCNR \$8 million for grants to communities for conservation, open space acquisitions and biodiversity, and the second would provide the Department of Agriculture \$2.9 million for farmland preservation easements. The DEP would also receive \$32.5 million for watershed protection and restoration projects.

The proposed budget also includes an appropriation of \$4 million for continuation of the Growing Smarter Initiative. The appropriation supports the Center for Government Services' sound land-use initiatives and responds to amendments adopted two years ago to the Municipalities Planning Code under Growing Smarter. It will allow for further strengthening of planning capability at the county and municipal level.

Commission member Representative Russell H. Fairchild will introduce legislation calling for a state constitutional amendment under which the General Assembly would be authorized to establish a special tax provision allowing state and local tax credits for donations of land or easements for conservation purposes. The amendment is necessary because the Pennsylvania Constitution contains a "Uniformity Clause," which requires

that all taxes be uniform (i.e., without any special deductions, exemptions or credits), unless authorized constitutionally. The legislation would have to be adopted in two successive sessions of the General Assembly, then approved by the voters in a statewide referendum. Enabling legislation would then follow.

The Pennsylvania House has passed and forwarded to the Senate legislation that establishes standards for the construction and siting of water wells. It creates a water well inspectors program along with a certification board. The legislation addresses both environmental as well as professional licensure issues. Proper well construction standards are important for both groundwater and water supply protection. Furthermore, the geologic and hydrogeologic data that results from the registration program is very important in doing water availability analyses and water resource planning. (HB 1591)

The Pennsylvania General Assembly recently passed the Sewage Treatment Plant and Waterworks Operators Certification Act, which brings Pennsylvania into compliance with federal guidelines established in the Drinking Water Operator Certification Program. The amendments related to certification and continuing education go beyond the federal drinking water program requirements to include sewage facility operators as well. Municipalities or municipal authorities in the process of developing a capacity assurance plan will be allowed to use chlorine contact chambers to treat excess flow during wet weather conditions for three years. (Act No. 11-2002)

Commission member Representative Arthur D. Hershey is the prime sponsor of the Administration's proposed water resource legislation developed in response to the Public Water Forums sponsored by the Department of Environmental Protection (DEP). The legislation establishes a formal water resource program in DEP and requires that the State Water Plan be updated to include information on water availability, water use and future demands on a watershed basis. Identification of Critical Water Planning Areas, where supplies are expected to exceed demand, and development of Integrated Water Resource Plans for these areas are called for in the bill. The legislation is intended to establish a formal water conservation program for the Commonwealth. A similar bill has been introduced in the Senate, which also includes construction standards for new water wells. There are several other initiatives pending related to water resource management, and adoption of legislation is anticipated in 2002. (HB 2230/SB 1230)

Transportation

A controversial transportation project, the proposed intercounty connector (ICC) between Maryland's Montgomery and Prince George's counties, has been strongly opposed on environmental grounds. A joint resolution passed by the General Assembly urges the Governor to direct the Department of Transportation to complete an environmental impact statement on the ICC. The study is to include at least one alternative that would employ advanced environmental design and mitigation techniques. (SJ 8/HJ 10)

Development, Redevelopment and Revitalization

One of Maryland's key land use laws, the Chesapeake Bay Critical Areas Protection Act, was restored to its original intent under legislation passed this session. Responding to evidence that recent court decisions by the Maryland Court of Appeals had seriously weakened the ability of the law to restrict development in the sensitive 100-foot buffer zone, Commission member Delegate Michael H. Weir sponsored legislation reinforcing the criteria that must be met before a variance can be approved. (HB 528)

Provisions related to "brownfields" (former industrial sites) in current law will be consolidated and reorganized due to passage of a bill by the Virginia General Assembly.

The bill also creates the Brownfields Restoration and Economic Redevelopment Assistance Fund, from which grants can be made to restore and redevelop brownfield sites. (HB 463)

Legislation was enacted authorizing certain Virginia counties and towns of the “Middle Peninsula” to create a public access authority in order to improve the ability of citizens to gain access to the Chesapeake Bay and its tidal tributaries. (HB 619)

The Virginia Commission on Growth and Economic Development was continued for another year. The Commission has been examining a variety of issues related to growth and development, protection of open space, revitalization of urban areas, among other issues. (HJ 156)

Stewardship and Community Engagement

A bill passed which requires the Virginia Department of Environmental Quality to establish a citizen water quality monitoring program and authorizes the agency to provide grants to support water quality monitoring organizations so long as the monitoring is done according to criteria established by the Department. (HB 497)

The Commission on the Future of Virginia’s Environment, chaired by Commission member Senator Bill Bolling, was continued for another year. Created in 1996, the Commission has addressed a variety of issues including stormwater management, land conservation and ballast water management and has played a key role in the ongoing implementation of the Chesapeake 2000 Agreement. (SJ 117)

Congressional Action In Support of the Bay

Despite the shift in national priorities and budgetary focus following the September 11 terrorist attacks, the Congress continued to move forward with initiatives that will help meet the goals of Chesapeake 2000.

Farm Bill

As we go to press, a House-Senate Conference Committee is continuing work to reconcile differences between a House and Senate-passed Farm Bill that could have significant implications for the Chesapeake Bay restoration effort.

The Senate-passed measure contains nearly \$6 billion more in conservation spending over the next ten years than the House-passed bill (\$21.3 billion vs. \$15.8 billion). The Senate-approved funding levels would mean more funding for programs of great importance to the Chesapeake Bay area states including: CREP, EQUIP, wetland restoration, wildlife habitat incentive programs and farmland and grassland protection.

The Senate-passed bill also includes several specific measures of special interest to the Bay:

- 1) A \$70 million Nitrogen Reduction Pilot Program aimed at providing farmers in the watershed with new incentives to reduce the application of nitrogen by at least 15 percent below what is normally considered best management practice and financial protection in the event of reduced yields.

- 2) A provision that allows USDA to approve state plans to integrate resources from all USDA conservation programs, including CRP, farmland protection, the wetland reserve program, and EQIP. This should help regions, like the Chesapeake Bay, that historically have not fared well with USDA conservation programs by allowing USDA to adjust program rules to meet local needs.

3) A \$3 million-a-year provision which would codify the U.S. Forest Service's roles and responsibilities in the Chesapeake Bay restoration effort by strengthening existing coordination, technical assistance, forest resource assessment and planning efforts; and authorize a small grants program to support local agencies, watershed associations and citizen groups in conducting on-the-ground conservation projects. The funds would also establish a regionally-applied urban forestry research and training program to enhance urban forests in the watershed. (H.R. 2646)

Chesapeake Bay Shoreline Erosion and Susquehanna Dam Sediment Trap Studies

In May 2001, the Senate Environment and Public Works Committee approved a resolution directing the Secretary of the Army to review the recommendations of the Army Corps of Engineers' 1990 Chesapeake Bay Shoreline Erosion Study. It also directed a comprehensive study of shoreline erosion and sediment management techniques to better protect the water and land resources of the watershed while also restoring water quality conditions needed by the Bay's living resources. The study is to be conducted in cooperation with other federal agencies, the state of Maryland, the commonwealth of Virginia, and the commonwealth of Pennsylvania, their respective political subdivisions and the Chesapeake Bay Program.

The resolution also directed the Corps to evaluate structural and non-structural environmental enhancement opportunities and other innovative protection measures in the interest of environmental restoration and ecosystem protection. In a subsequent amendment to the FY 02 Energy and Water Appropriations bill, the Congress provided \$100,000 to initiate the study and directed that the study include an examination of management measures that could be undertaken to address the sediments behind the dams on the lower Susquehanna River.

Chesapeake Bay Watershed Nutrient Removal Assistance Act

Legislation was introduced in the Senate to establish a federal nutrient removal technology (NRT) grants program in the 6-state Chesapeake Bay watershed. The legislation is sponsored by the full Bay-states Senate delegation.

The program would provide grants for 55 percent of the capital costs of upgrading publicly-owned wastewater treatment plants of at least 0.5 million gallons per day with nutrient removal technologies to remove nitrogen down to an average annual concentration of 3 mg/l. The total authorization is \$660 million over a 5-year period, divided equally at \$132 million a year. Any publicly-owned wastewater treatment plant which has a permitted design capacity to treat an annual average of at least .5 million gallons per day within the Chesapeake Bay watershed portion of New York, Pennsylvania, Maryland, West Virginia, Delaware, Virginia and the District of Columbia would be eligible. It is hoped that the legislation will be included as part of a broader reauthorization of the Clean Water Act. Members of the House from the Bay region are expected to introduce a companion measure shortly. (S. 1044)

NOAA Chesapeake Bay Program

Senators Sarbanes, Warner, Allen and Mikulski introduced new legislation to reauthorize and enhance the NOAA Chesapeake Bay Program office (S. 1045). The legislation authorizes NOAA to undertake a special five-year study, in cooperation with the scientific community and appropriate federal agencies, to better understand multi-species interactions and develop multi-species management plans. NOAA is also directed to carry out a small-scale grant and technical assistance program to help

citizens' organizations and local governments in the Chesapeake Bay watershed undertake habitat, fish and shellfish restoration projects. The legislation establishes a new education program targeted toward the 3 million pupils in K-12th grade as well as an internet-based Coastal Predictions Center for the Chesapeake Bay. Authorization for the NOAA Bay Program is increased from the current level of \$2.75 million to \$8 million per year. A similar bill but without the Education Program and Coastal Predictions Center, sponsored by the Maryland House Congressional Delegation, was approved by the House in April 2001. (S. 1045 and H.R. 642)

Funding

In 2001 (FY 2002), several agencies involved in the Bay restoration effort received increased funding to implement important new initiatives designed to help achieve the Chesapeake 2000 goals.

NOAA received \$1.2 million to establish a new Chesapeake Bay Environmental Education Program. The goal of the program is to improve understanding by elementary and secondary students and teachers of the living resources in the Chesapeake Bay ecosystem. The funds will be used by NOAA to run a competitively-based program that would support existing environmental education programs, foster the growth of new programs, and encourage the development of partnerships among environmental education programs throughout the entire Bay watershed. Activities of the education program include both classroom and outdoor education experiences.

In addition, NOAA received \$2.75 million — an increase of \$250,000 over the FY 2001 level. The increased funds will be used to continue the multi-species initiatives and a “micro grants” program to foster on-the-ground restoration activities at the community level .

The EPA Chesapeake Bay Program received \$19.5 million, the same level as last year, but the Small Watersheds Program was increased by \$500,000 to \$1,750,000 — the highest level ever provided — for the fifth year of the program. As of September 2001, these small watershed grants have provided incentive funds to 152 organizations watershed-wide that are engaged in Bay restoration projects. More than \$6 million was also provided to upgrade three sewage treatment plants in the watershed for biological nutrient removal.

Funding for oyster replenishment work through the Army Corps of Engineers and NOAA was boosted to \$5 million. The Corps of Engineers received \$3 million, the same level as in FY 01, but NOAA received \$2 million, an increase of \$1.150 million.

The National Park Service's Chesapeake Bay Gateways and Watertrails program was funded at \$1,200,000 — an all time high — in fiscal 2002. This represented an increase of \$600,000 over the FY 2001 level.

The Corps of Engineers received \$18.2 million to continue construction of Phase II of the Poplar Island Beneficial Use of Dredged Material Project. The Corps' Chesapeake Bay Environmental Restoration pilot program received \$950,000, which is being used to construct a “natural” wastewater treatment system on Smith Island and design a marsh restoration project at Taylor's Island. Funds were also provided for the Corps to continue with studies for environmental restoration of key tributaries of the Bay, including the Anacostia, Potomac and Patuxent rivers.

Funding for the Forest Service's Chesapeake Bay effort was increased to \$750,000 — a \$250,000 increase over the FY 2001 and the highest level ever provided. The increased funds are being used to support technical assistance and small grants.

The Natural Resources Conservation Service (NRCS) received \$6 million in fiscal year 2001 — an increase of \$750,000 over the FY 2001 level.

2003

LEGISLATIVE ACTIONS OF THE STATES

Maryland

- In Maryland, Commission members supported and sponsored legislation that will: improve the management of non-native aquatic species; establish reciprocity in the issuance of charter boat permits; and provide incentives for hybrid motor vehicles that meet federal low-emission exhaust standards. In addition, Commission members successfully sponsored legislation to expand criminal and civil penalties related to violations of sediment control, stormwater management, and wetlands and riparian rights provisions.
- Commission staff from Maryland and Virginia provided a half-day seminar to the Maryland Department of Legislative Services reviewing environmental policy issues associated with attainment of the Chesapeake Bay restoration goals. The presentation contrasted the differing yet comparable policy approaches taken by the two general assemblies.

Pennsylvania

- In Pennsylvania, Delegation members sponsored or co-sponsored legislation that, if enacted during the 2-year session that concludes in 2004, will: by subsequent referendum, amend the uniformity clause of the Pennsylvania constitution to provide special tax provisions for land conservation; amend the Tax Reform Code to provide for \$1/acre valuation of land under agricultural conservation easement for inheritance tax purposes; create an alternative fuels incentive program; and create a tax credit program to “incentivize” reclamation of abandoned mine land.

Virginia

- Virginia House Joint Resolution (HJR) 633 directed the Virginia Delegation of the Commission to study the collection of rents and royalties for the use of state-owned subaqueous bottomland. The resolution also called upon the delegation to evaluate a regulatory framework for off-bottom aquaculture and proposals for shallow water management. Four public hearings were held to discuss these issues and collect comments from the public, scientists, lawyers, agency staff and other interested parties.
- The delegation agreed to recommend to the General Assembly that a moratorium on collection of bottomland lease assessments be lifted, beginning July 1, 2004. This recommendation also extends to new projects (those initiated after July 1, 2004) that do not involve the exercise of a riparian right. It will also sponsor legislation in 2004 to create a water column lease for off-bottom aquaculture and ask the Virginia Institute of Marine Science to continue

to study how shallow water use designations could be developed and implemented.

- Virginia Delegation members supported or sponsored legislation that will: provide additional environmental and public health protection in the use of biosolids; develop a certification process for low impact development techniques; and prohibit the possession of non-indigenous nuisance species. The General Assembly also passed a Commission-sponsored resolution urging Congress to adopt legislation to fund nitrogen reduction technology at sewage treatment plants in the Chesapeake Bay watershed.

Congressional Activities

The federal share of the Bay restoration effort to date has been, on average, one-fifth, or 18 percent, of the total Bay restoration expenditures. Assuming that this proportionate share of support will be continued to 2010, when nutrient reduction goals are to be achieved, the federal dollar amount will need to triple. In 2003, garnering the Congressional support needed to increase federal funding became an important undertaking of both members and staff.

- In May 2003, the Commission spent a day on Capitol Hill, meeting with 24 of the watershed's most influential U.S. House and Senate members to gain support for enhanced federal funding for Chesapeake Bay initiatives
- The Commission established the Congressional Advisory Council. In prior years, the Commission had worked with its Bay partners to determine the costs of implementing *Chesapeake 2000* and identify forthcoming federal legislation that could be supportive. Now, the Council will focus directly on these legislative mechanisms in an effort to bolster federal funding streams in the watershed.
- Commission staff met with White House staff to solicit the support of President George W. Bush for enhanced funding for the Bay region.
- Laying the groundwork to incorporate a stormwater management fund in the Surface Transportation Act (SAFE-TEA) commanded much staff attention in 2003. Staff worked closely with both House and Senate members to provide technical and drafting assistance. Since no Congressional action was taken on the measure in 2003, and the Act's funding pool may not expand, the inclusion of stormwater provisions in the Act remains a significant Congressional question for 2004.
- The Commission worked with members of the U.S. Senate to ensure that increased appropriations were provided to our federal partners, including the National Oceanic and Atmospheric Administration (NOAA), the Forest Service, and the National Park Service, all of which maintain programs focused on the watershed.

2004

LEGISLATIVE ACTIONS OF THE STATES

Commission members in 2004 sponsored and supported legislation and budget initiatives in all three states to improve the management of water, land, air and living resources. The following are highlights from each of the states' legislative sessions:

MARYLAND

Agriculture and point sources remain the largest sources of nitrogen to the Bay. In Maryland, Commission members supported the creation of a dedicated fund proposed by Governor Robert L. Ehrlich and passed during the 2004 session. Funds from the "Sewer Surcharge" will be used to upgrade the 66 largest sewage treatment plants in the state with enhanced nutrient removal (ENR) technology to address this problem. A combination of user fees assessed to households, businesses and multifamily dwellings, as well as bond proceeds, will generate funds sufficient to upgrade these plants by 2011. Fees are also assessed on users of septic systems or holding tanks, with proceeds directed toward failing septic systems as well as the Maryland Department of Agriculture's cover crop cost-share program. The initiative is recognized by all as a major stride in the Bay's restoration and will, upon full implementation, result in the capture of one-third percent of the state's required nitrogen pollution load reduction.

To better address agricultural sources of pollution, the Maryland delegation supported legislation to change required nutrient management plan provisions seen as unduly burdensome by the farm community. The Commission members and staff had participated in a series of meetings and summits to ensure that these provisions improved a farmer's willingness to implement a plan while causing no additional harm to the Bay.

The Maryland delegation also supported legislation to reaffirm the principles and intent of the Critical Areas Law and increased penalties for critical area violations. They supported the establishment of energy-efficiency standards and renewable energy portfolios for electricity suppliers. Mercury labeling and disposal requirements were also passed this session.

PENNSYLVANIA

The Commonwealth, in 2004, became one of the 18 states (along with Maryland) to enact an advanced energy portfolio standard. In 15 years, eighteen percent of the electricity sold by electric distributors and electric generators that sell directly to retail customers must be from alternative energy sources, including solar photovoltaic energy, wind power, geothermal energy, biologically-derived methane gas, coal mine methane, waste coal and coal gasification, among others.

Through a referendum on the May primary election ballot, Pennsylvania voters approved a \$250 million bond issue to fund water and wastewater improvements in the Commonwealth. A Water Supply and Wastewater Treatment Fund was established that will administer \$200 million of grants and loans for water projects associated with

economic development. The remaining \$50 million will be forwarded to the Pennsylvania Infrastructure Investment Authority (PENNVEST) for improvements to existing systems. An additional \$50-\$100 million indebtedness is provided under a 1992 bond initiative for the improvement of existing systems.

Agriculture is the top source of both nitrogen and phosphorus pollution in Pennsylvania. The Commonwealth moved to strengthen its existing nutrient management program by regulating both commercial manure haulers and brokers. The legislation requires all commercial haulers and brokers to undergo training and certification in nutrient management requirements. It also places a duty on commercial haulers and brokers to comply with requirements of Pennsylvania's Nutrient Management Act and to maintain appropriate records of land application.

The Chesapeake Bay Watershed Education Program within Pennsylvania's Department of Education was created in 2004. The program is authorized to provide grants up to \$5,000 per school to promote the teaching of watershed education and provide students with the opportunity to participate in meaningful bay or stream outdoor experiences.

VIRGINIA

In Virginia, large expanses of Bay bottomland is state-owned and available for lease. In 2004, the Virginia delegation sponsored legislation authorizing the Virginia Marine Resources Commission to lease the water column above certain bottomlands for aquaculture purposes. Commission members also supported the establishment of the Secretary of Agriculture and Forestry, and assessment of permit application fees, annual fees and permit maintenance fees that will generate approximately \$6 million for the funding of air, water and waste permit programs at the Department of Environmental Quality.

Virginia's stormwater management programs will be improved through legislation which consolidates activities into one agency, the Department of Conservation and Recreation. Additional legislation requires agency personnel who inspect for compliance with the Erosion and Sediment Control Law and stormwater management permits to hold valid certificates of competence, as required of local government personnel.

Legislation was also approved authorizing a study by the Joint Legislative and Administrative Review Commission (JLARC) on the effectiveness of the implementation, performance and enforcement of Virginia's nutrient management plans. The Commission will assist JLARC in gathering the information that they need.

In September, the Executive Director and the Virginia Director spoke at the joint meeting of the Virginia House and Senate committees covering natural resources and appropriations. Their presentations addressed the role of the Commission and its activities in the Bay Program and the Virginia General Assembly, the nutrient and sediment reduction strategies of Maryland and Pennsylvania, and the Commission's work to identify the relative cost effectiveness of different nutrient control options. The information shared contributed directly to the waste treatment funding proposals submitted for General Assembly consideration in 2005.

Congressional Activities

In May 2004, the Commission met with its Congressional colleagues for individual state hearings on the condition of the Bay and the status of the restoration effort. Earlier in the day, Commission members met with: Chairman James Connaughton of the President's Council on Environmental Quality; Acting Assistant Secretary Benjamin Grumbles of the U.S. Environmental Protection Agency, Office of Water; and Maggie Grant, Special Assistant to the President on Intergovernmental Affairs.

The Commission presented a letter to Chairman Connaughton, addressed to President Bush, seeking issuance of an Executive Order to reaffirm the federal government's commitment to the Bay restoration and identify the Bay as a "national treasure". The Commission also provided an outline of the key points such an Order would include. Details of these meetings are provided in Chapter 2.

Commission staff worked with the [House] Congressional Bay Task Force to develop federal budget requests based, in part, on the findings of the Commission's 2004 cost effectiveness report. Staff also served as a lead witness when the Task Force convened.

Negotiations began in 2004 for the reauthorization of the Water Resources Development Act (WRDA), the broad authorization for the work of the Army Corps of Engineers nationwide. The Commission worked closely with the U.S. Senators from the region to ensure that Corps funding would track closely with Bay region priorities. The Committee was urged to make permanent the pilot program established in Section 510 of WRDA 1996 known as the Chesapeake Bay Environmental Restoration and Protection Program and to raise the authorized funding from the current level of \$10 million to \$1 billion. Section 510 authorizes the Army Corps of Engineers to provide design and construction assistance to State and local authorities in the environmental restoration of the Chesapeake Bay. In addition, we further requested the establishment of a new small-grants program for local governments and nonprofit organizations to carry out small-scale restoration and protection projects in the Chesapeake Bay watershed. The reauthorization did not pass in 2004 but will be reconsidered in 2005.

Continuing the work it began in 2003, the Commission continued to advocate revisions to the federal Abandoned Mine Reclamation Fund (Fund) established under the federal Surface Mining Control and Reclamation Act of 1977 that would reauthorize fee collections into the Fund for an additional 25 years and modify the Fund's allocation formula to better direct resources to states based upon historic production. The Commission has pressed Congress to continue to allow the use of Fund monies to address water quality problems, notwithstanding pressures to limit expenditures to public health and safety threats.

In August, the U.S. House of Representatives Committee on Government Reform conducted a full committee field hearing on the health of the Chesapeake Bay at Fort Monroe, Hampton Roads. Both Congressmen Tom Davis (R-Va.) and Ed Shrock (R-Va.) were present. The Commission's testimony, as requested by the committee, addressed the current state of the Bay and the role of the Commission in bringing together the three state legislatures to jointly address Bay issues. Representative Davis expressed particular interest and concern about the Blue Plains sewage treatment plant. As a result

of this hearing, the Commission formed a subcommittee to focus on the political and financial obstacles preventing the upgrade of the plant to full nitrogen removal at 3 milligrams per liter.

Finally, in the late fall of 2004, the U.S. Senators from our region requested that the Governmental Accounting Office (GAO) conduct an audit of the Bay restoration program to ensure that benchmarks used to indicate progress were providing the clearest picture possible of the Bay's health. The audit is to determine if the investment of Federal funds is resulting in the greatest possible environmental improvement. Because cost-effectiveness has also been a central focus of the Commission's work, the GAO will rely upon CBC as a key information source. The audit is expected to conclude in August of 2005.

2005

LEGISLATIVE ACTIONS OF THE STATES

The Commission serves as the legislative liaison of the Bay Program partnership, helping to ensure that the policies adopted by the Program have the complement of Federal and state policies and budgets needed to support them. In partnership with colleagues in the general assemblies and the U.S. Congress, the Commission has helped to pass more than one hundred state and Federal laws to promote the Bay's well being (see Appendix II).

Maryland

The Maryland Delegation has consistently been a strong advocate for land conservation. The General Assembly approved an increase of \$88 million in Fiscal Year 2006 for land conservation programs, bringing total expenditures for local and state land conservation programs to \$124.6 million. This action helped to temper the impact of prior year diversions of Program Open Space funds to the General Fund.

A Critical Farms Program will be created that will provide interim or emergency financing for agricultural conservation easements on farms that would otherwise be sold for nonagricultural uses. The Maryland Agricultural Land Preservation Foundation and the Department of Planning must first explore options for funding the program and submit a report with proposed legislation by January 1, 2006.

The Maryland Delegation also addressed the issue of non-native oysters this session, supporting legislation which specifies research and reporting requirements that must be met before the Maryland Department of Natural Resources can introduce a non-native oyster into state waters. An independent oyster advisory panel will review and approve specified data and assessments and identify any additional research needs.

Beginning in 2008, farmers who plant small grains for production of ethanol and biodiesel will receive credits which could total up to \$4 million annually. The small grains envisioned as a source of ethanol can be used as winter cover crops, which serve to reduce nutrient runoff to the Bay.

Finally, in anticipation of the 2006 General Assembly session, the joint House and Senate Agricultural Stewardship Commission worked to develop new state proposals for agricultural conservation funding and policy. Ann Swanson and Pat Stuntz served as expert witnesses, advising the Commission on the most cost-effective options for agricultural conservation.

Pennsylvania

Delegation members were instrumental in securing \$300,000 for the first year of the Commonwealth's Chesapeake Bay Education Grant Program. The program provides grants of up to \$5,000 per school for out-of-classroom "meaningful watershed experiences" as outlined in the *Chesapeake 2000* agreement.

House Resolution 296 was introduced by delegation House members Russ Fairchild, Art Hershey and Peter Zug and adopted by the full General Assembly in May. This resolution supports legislation in the U.S. Senate to begin a feasibility study of the Captain John Smith National Historic Water Trail. A corresponding resolution, SR 138, was introduced by delegation members Senators Mike Waugh and Noah Wenger and adopted in the Pennsylvania Senate. The successful passage of the Federal legislation is discussed in further detail later in this chapter.

Senators Mike Waugh and Noah Wenger introduced the "Farmers First Agenda," an initiative that would result in the enhancement of Pennsylvania's Farmland Preservation Program, as well as the investigation of alternative uses of manure.

In February, the Delegation submitted comments to the Pennsylvania Public Utility Commission on implementation of the Advanced Energy Portfolio Standards passed by the legislature in 2004. The Delegation's comments focused on the importance of net metering provisions to facilitate on-farm generation of electricity, including manure-to-energy projects.

A \$625 million environmental bond issue was approved by voters in May. The first round of "Growing Greener II" grants total \$65 million, including \$3 million for sewer and water infrastructure. Ninety million dollars are available to counties for eligible projects including wastewater treatment infrastructure and enhancement.

Through amendments to the First and Second Class Township Codes and the Boroughs Code, local governments were authorized to fund watershed associations.

The Agriculture, Communities, and the Rural Environment (ACRE) Act established buffer areas of 100 feet from streams, lakes, or ponds where no animal manure may be applied. Buffer areas may be 35 feet if they are vegetated. BMPs to control odor will be required for new or expanding Concentrated Animal Feeding Operations and a process was created to provide Attorney General review of local ordinances that restrict agriculture.

Finally, the Farmland Preservation Program was expanded to allow land used for "commercial equine activity" to be eligible for enrollment in an agricultural security area and an agricultural conservation easement.

Virginia

In 2005, Virginia's efforts to clean up the Chesapeake Bay were bolstered by bicameral legislation committing \$50 million to the Virginia Water Quality Improvement Fund. The money will be used to modernize sewage treatment plants to reduce nutrient pollution and lessen nonpoint source nutrient and sediment pollution from agriculture and urban lands. The legislation also requests recommendations for a permanent source of funding dedicated to cleaning up Virginia's polluted waters, including the Chesapeake Bay and its tributaries.

In a related move, a study resolution was passed creating a joint subcommittee to develop recommendations for a long-term funding source dedicated to water quality improvements, both for the Chesapeake Bay and Virginia's southern rivers. The resolution acknowledges Virginia's polluted waters and seeks possible solutions to fund their cleanup. The Commission assisted Legislative Services staff with background and cost information. Executive Director Ann Swanson provided expert testimony. She stressed the importance of establishing an adequate and consistent long-term funding source dedicated to cleaning up Virginia's waters in order to remove them from the Federal Impaired Waters List and restore the Bay.

The Chesapeake Bay Watershed Nutrient Credit Exchange Program was also established in 2005. This is the first watershed-based nutrient trading program in the Bay region, allowing sewage treatment plants and other nutrient pollution point and nonpoint sources to buy and sell credits from each other to meet the state's water quality goals. It is anticipated that the program will accelerate the reduction of nutrients going into Virginia's rivers and the Bay and reduce facilities' compliance costs.

Nutrient trading may be especially helpful in Virginia because point sources are the greatest contributor of nitrogen pollution. In fact, point sources contribute approximately 33 percent of the nitrogen loadings going into the Bay, while agriculture in Virginia contributes about 29 percent of the state's total.

Two bills were passed and signed into law that affect the Bay's living resources. First, the Virginia Marine Resources Commission (VMRC) was authorized to allow the placement of nonnative *Crassostrea ariakensis* oysters on state-owned bottomlands. However, before fertile *C. ariakensis* oysters are to be placed in state waters, the VMRC must hold at least one public hearing to receive information and review concerns over the placement of such oysters.

The second bill addresses the management of the menhaden fishery in Virginia. Traditionally, the General Assembly has managed the menhaden fishery. To address times when the Atlantic States Marine Fisheries Commission requires a change in management of the fishery and the General Assembly is not in session, the Governor is now authorized to issue a proclamation to manage the menhaden fishery. Before issuing such a proclamation, the Governor, in consultation with the Secretary of Natural Resources and the Commissioner of the VMRC, must determine whether the measures are both necessary for the conservation of the fishery and in accordance with scientific, biological and social data.

U.S CONGRESS

2007 Farm Bill Recommendations

At its January 10, 2005 meeting, the Chesapeake Bay Executive Council issued three directives aimed at further reducing nutrient and sediment runoff to the Chesapeake Bay. One of them, Directive #04-2, *Meeting the Nutrient and Sediment Reduction Goals: Next Steps*, heavily influenced the Commission's focus and workload in 2005.

Specifically, the Council called for the development of a set of regional recommendations to improve the 2007 Federal Farm Bill and called upon the Commission for help. Scheduled for reauthorization in 2007, the Council recognized the Farm Bill as the best opportunity to improve Federal agricultural conservation policy and funding for the region.

Launched in February, the Federal Farm Bill Reform Project became the primary focus of the Commission's work in 2005, developing a set of regional recommendations shaped by the ideas and guidance of the stakeholders themselves.

During the nine-month drafting process, Commission staff held more than 40 outreach sessions – with farmers, government officials, conservationists, and academics – and met routinely with U.S. House, Senate and Committee staff. The Commission published a comprehensive set of white papers along with a full report, endorsed by five governors and the Mayor of the District of Columbia.

Whether measured by time, attention or resources, no other issue came close in demands made upon the Commission staff and its members in 2005.

2006

LEGISLATIVE ACTIONS OF THE STATES

MARYLAND

Power Plant Emissions Reductions: The Healthy Air Act requires reductions in emissions of the four major air pollutants that come from power plants. It will require emissions reductions of 75% for nitrogen oxides, 85% for sulfur dioxide, 90% for mercury and 10% for carbon dioxide from seven coal-fired power plants. One plant is subject to separate provisions depending upon its impact upon grid reliability. The bill requires major sources of mercury emissions to install best available technology and to demonstrate compliance through direct monitoring. It requires Maryland to participate in a regional global warming agreement with seven other East Coast states. If MD's participation ceases for any reason, the Governor must submit an alternative emissions reduction plan. Carbon dioxide reductions can be met through efficiency improvements, fuel switching, and carbon sequestration offsets (e.g., forest buffers).

Land Use and Local Government Planning: Several changes were made through HB 1141 as to how local jurisdictions plan for and manage development, including their plans for growth, annexation and water use. Counties and cities will be required to revise their comprehensive plans to include projections of future growth, including the land area and public services required to sustain growth, and the impact on sensitive areas. Comprehensive plans must also include city annexations of county land, as well as water quality and quantity elements. Zoning changes are prohibited unless the developer can demonstrate that adequate water exists to serve proposed new development.

Agricultural Stewardship: The Agricultural Stewardship Act implements the recommendations of the General Assembly's Agricultural Stewardship Commission. The bill establishes the intent of the General Assembly that the Governor increase funding for several existing programs, a number of which support agricultural best management practices. The recommended funding levels represent an increase of \$37.6-\$71.8 million over the period FY 2007-2011, as compared to FY 2006 appropriations. The fiscal 2007 budget includes approximately \$3.5 million of that increase. The bill also includes a mandatory increase in FY 2007 of \$0.5 million for county Soil Conservation Districts. In addition, priority preservation areas will be added to county agricultural land preservation programs to target key resource lands. A task force is established to recommend improvements to the tax structure related to farmers.

Land Conservation Funding: Program Open Space received all of the money collected through the real estate transfer tax this year, after three years of funding diversions which removed \$191 million from land conservation programs for budget balancing purposes. This year the program generated a record \$361 million, of which about \$115 million will go towards agricultural land preservation.

Mercury Thermostats: This bill bans the sale and manufacture of thermostats that contain mercury. When disposed of improperly, mercury thermostats are often incinerated, releasing mercury into the environment. In Maryland, there are approximately 2.7 million mercury thermostats in homes today, containing 18,000 pounds of mercury. Banning the sale of new mercury thermostats and educating the public about proper disposal of existing mercury thermostats will accelerate efforts to reduce exposure to this toxic pollutant via air and water.

Private Fertilizer Use: This legislation requires that retailers post signs near all bags of fertilizer of 50 pounds or larger warning purchasers that overuse of fertilizer damages the bay and advising them to get a chemical soil analysis before applying fertilizer to their lawn or garden.

VIRGINIA

Chesapeake Bay and Virginia Waters Clean-up and Oversight Act: Legislation requires the Secretary of Natural Resources to develop a clean-up plan for the Chesapeake Bay and Virginia's impaired waters. The plan will include measurable objectives, a description of the strategies to meet the plan's objectives, time frames for accomplishing the objectives, and a plan for disbursing funds for point and non-

point pollution projects. The plan will also include an analysis of alternative funding mechanisms. The Secretary is to submit the first plan by January 2007, and then progress reports on the clean-up semiannually.

Clean Smokestacks: This bill establishes a federally-required phased schedule for power plants in Virginia to reduce their emissions of sulfur dioxide, nitrogen oxide, and mercury. Dominion's plants are required to achieve earlier reductions of NOx (5,000 tons) in 2007 and 2008. Regulated facilities are allowed to participate in the EPA administered cap and trade system; however, the State Air Pollution Control Board can prohibit facilities in non-attainment areas from purchasing credits in order to meet their sulfur dioxide and nitrogen oxide caps. The Board will also adopt the Federal Clean Air Mercury Rule, as well as a state specific rule for mercury. The Department of Environmental Quality will conduct a detailed assessment of mercury deposition in Virginia to determine if there is justification for the state to undertake additional measures to control mercury emissions.

Mercury Switches: This bill requires the removal of mercury switches in motor vehicles prior to their demolition. The Waste Board will develop guidelines to implement the program.

Farmland Preservation: A six-member joint subcommittee will be established to study the financing and programmatic options for preserving Virginia's open-space land and farmlands.

Equine owners' income tax credit for agricultural best management practices: Allows owners of equines to participate in the existing agricultural best management practices tax credit for reducing non-point source pollutants (a credit of 25% of the first \$70,000 expended by the individual for agricultural best management practices).

Captain John Smith Land and Water Trail: The General Assembly passed a resolution commending Virginia's efforts to develop components of the Captain John Smith Land and Water Trail on Virginia's tributaries, including the *Captain John Smith's Adventure on the James* trail.

PENNSYLVANIA

Agricultural Land Preservation: SB 723 amends the Agricultural Conservation Easement Purchase Program by:

- Reducing minimum eligible acreage from 50 to 35

- Reinstating Land Trust Reimbursement Program, which reimburses land trust for incidental expenses (title searches, recording fees, etc.) when they purchase easements

- Allowing local land trusts to partner with county and state programs

The bill passed the General Assembly, and awaits the Governor's signature.

Agricultural Land Preservation: SB 940 would provide grants to counties to "improve" their county farmland preservation program, such as through purchase of GIS equipment, hiring of additional staff, etc. It passed the Senate, and is now in the House Appropriations Committee

Land Conservation: HB 1895 proposes a constitutional amendment to establish tax credits for land conservation. The bill passed the House; no Senate committee assignment is indicated

Additional issues under consideration include the General Fund budget, especially regarding conservation district funding, and continuation of the Chesapeake Watershed Education Program.

U.S CONGRESS

Abandoned Mine Reclamation Fund

Passage of the Abandoned Mine Lands Reclamation Fund (AML) represented a significant victory for the Chesapeake Bay Commission and the Bay region in 2006. After 3 ½ years of work, and despite great odds against passage during the lame duck session of Congress, the AML Program was reauthorized in the waning hours of the 109th session.

Our efforts began in January 2006 when the Pennsylvania General Assembly adopted a joint resolution requesting the Congress to reauthorize the AML, in order to address water pollution discharges from abandoned mines in the state. Before its reauthorization, the Fund was primarily targeted to *active* mining states, leaving the legacy of past coal mining impacts without Federal restoration support.

With the most abandoned mine land acreage in the nation (250,000 acres) and 4,600 miles of streams and rivers reported as biologically dead, Pennsylvania has had the most at stake in this long debate. “Dead” streams are unable to assimilate nitrogen, allowing both nutrient and toxic-filled waters to tumble downstream. The Pennsylvania DEP has estimated the total state costs for AML clean-up at \$15 billion. Passage of AML will provide most of these needed restoration funds.

2007 Farm Bill Recommendations

Every five years Congress produces the nation's flagship legislation on farm policy. It's no small undertaking. The Farm Bill contains something on just about every topic -- nutrition, research, energy, rural development and, of course, agriculture. Not surprisingly, it is a big-ticket item for both the nation and the Chesapeake Bay. The last bill, passed in 2002, had a 5-year price tag of nearly \$250 billion, of which \$100 billion constituted payments of one kind or another to farmers.

With the 2002 bill set to expire in September 2007, the reauthorization of the Farm Bill is the Commission's top Congressional priority. The Farm Bill provides more money towards nonpoint source pollution control than any other program in the world.

The 87,000 farms in the Bay watershed contribute 42 percent of the nitrogen, 49 percent of the phosphorus and 63 percent of the sediment loads entering the Chesapeake Bay. This makes agriculture the single largest source of both nutrients and sediment to the Chesapeake and also makes agriculture the key to water quality improvement in the Bay.

The Farm Bill represents this region's best opportunity to substantially amplify agricultural conservation activities through increased financial support and technical assistance. During 2006, Commission members and staff met with their Congressional counterparts, offered testimony in both the state General Assemblies and the Congress, worked with the region's governors to adopt and distribute a Baywide resolution, and built state and national coalitions to support a reauthorized Farm Bill that would, at a minimum, double conservation spending.

Captain John Smith National Historic Water Trail

In the Chesapeake region, ecology and history are deeply intertwined. In December 2006, the U.S. Congress passed and the President signed legislation establishing the Captain John Smith Chesapeake National Historic Trail. The trail's designation comes just as the nation begins to celebrate the 400th anniversary of the settlement of Jamestown and the remarkable journeys of Captain Smith (from 1607 to 1609) that ensured the fragile settlement's success.

The Commission also worked with the Congress to provide funding for interpretive "talking" buoys along the trail, and with National Geographic to develop a complimentary interpretive program and trail map for school-age children. The details of the trail are summarized in Chapter 4.

Chesapeake Bay Program Reauthorization and Reform

During 2006, the Commission served as an expert advisor on two Congressional bills intended to ramp up the success and accountability of the federally-funded Chesapeake Bay Program. Both the Senate version, *The Chesapeake Bay Program Reauthorization and Environmental Accountability Act* (S.1490), and the House's *Chesapeake Bay Restoration Enhancement Act* (H.R. 4126), would require the EPA Administrator to develop an implementation plan for reaching the goals of the *Chesapeake 2000* agreement.

Timelines, measures of progress and improved involvement of local governments are all themes of the legislation. The bills would also require the Administrator to publish annual "tributary report cards" that describe the progress made in achieving the nutrient and sediment reduction goals for each tributary in the Bay watershed. The Commission was instrumental in developing the "report card" concept, to improve communication to watershed residents of the progress made toward restoring their rivers and the Bay.

If passed, the bills will allocate \$50 million annually to the Chesapeake Bay Program, which provides support and coordination for the Federal, state, and local partners in developing strategies and action plans as part of the overall restoration effort.

2007

MARYLAND

Maryland General Assembly, (Jan. 10 - Apr. 2, 2007)

SB 901/HB 1220 - Chesapeake Bay Green Fund

The Chesapeake Bay Green Fund is a dedicated funding source for Bay-improvement practices that will help Maryland meet its Chesapeake 2000 Agreement (C2K) commitments, fund Tributary Strategy practices, and promote Smart Growth.

SB 51/HB 44 - Maryland Clean Cars Act of 2007

The Clean Cars Act is a state-based policy that has already been adopted by 11 other states including Pennsylvania, New Jersey, and New York. It would reduce the pollution that causes global warming, smog, and the dead zone in the Chesapeake Bay.

SB 784/HB786 - Stormwater Management Act Of 2007

This legislation would require local governments to update zoning ordinances to allow for the implementation of environmental site design techniques in stormwater management practices. It would also require MDE to adopt regulations that establish model ordinances and to specify criteria for stormwater management plans that specify environmental site design techniques as the primary method for managing stormwater under certain circumstances.

SB 766/HB 1131 - Reducing the Phosphorus Content of Automatic Dishwashing Detergents

This legislation would prohibit a person from using, selling, manufacturing, or distributing for sale household dishwashing machine detergent that contains greater than 0.5 percent of phosphorus by weight after July 1, 2009; requiring the Department of the Environment to report to the Governor and the General Assembly by December 1, 2008, regarding use of specified detergents in commercial dishwashing machines; etc.

PENNSYLVANIA

Pennsylvania General Assembly (2007-2008)

Specific session dates can be found at:

<http://www.legis.state.pa.us/cfdocs/legis/home/session.cfm?papowerNav>

SB 97 - The Resource Enhancement and Protection Act (REAP)

Would establish a transferable tax credit for the installation of agricultural best management practices.

HB 772 - The Energy Efficiency and Pollution Reduction Act

Would establish the energy efficiency and pollution reduction initiative within the Department of Environmental Protection and the Keystone Energy and Environmental Excellence Award.

HB 849 - An Act amending Title 34 (Game) of the Pennsylvania Consolidated Statutes, further providing for use of Game Fund revenues.

Would require at least 10% of revenues from timber harvesting on Game Commission lands to be used for forest regeneration.

HB 904 - An Act amending the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, adding provisions to authorize temporary development moratorium.

Would authorize municipalities to enact temporary development moratorium during a period of enactment or revision of a comprehensive plan, zoning ordinance or land development/subdivision ordinance.

SB 607 - An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, providing for a prototypical school facility design clearinghouse.

Would establish a clearinghouse for prototypical school designs that include, among others. standards for environmental protection, energy efficiency, and preservation of open space.

VIRGINIA

Virginia General Assembly (Jan. 10 - Feb. 24 & April 4, 2007)

SB 771/HB 1710 - Chesapeake Bay Bonds

These bills authorize the issuance of up to \$250 million in bonds for grants to localities for the installation of nutrient removal technologies at sewage treatment plants to implement Virginia's Chesapeake Bay Tributary Strategies.

HB 2082 - Harvest Quota on Menhaden Fishery

An annual menhaden harvest cap of 109,020 metric tons for the Virginia portion of the Chesapeake Bay was established. If an annual harvest is below the cap, then a credit will be applied to the next year's harvest. However, if the actual harvest exceeds the cap a deduction will be applied to the following year's cap. Any person harvesting menhaden for reduction purposes after receiving notice that the quota has been met shall be guilty of a Class 1 misdemeanor.

SB 1333/HB 1855 - Shellfish Aquaculture General Permit

The Marine Resources Commission is required to develop a general permit for the placement of temporary shellfish enclosures in state waters. The general permit will include provisions to ensure that the enclosures may be easily located and removed if (i) a threat to navigation arises, (ii) the enclosure is idle, or (iii) the lease conditions are otherwise violated.

HJR 650 - Derelict Crab Trap Study and Report

The Center for Coastal Resources Management at the Virginia Institute of Marine Science will continue to study abandoned and discarded crab traps that litter Virginia's rivers and the Bay. The Center will submit a report of its findings to the General

Assembly in November 2007 that assesses the scope of the issue and identifies potential mitigation options.

SB 1211/HB 2694 Land Conservation

The Virginia Resources Authority is expanded to now also include