

**Testimony of State Representative Ron Miller (PA)
Chairman of the Chesapeake Bay Commission
before the
Subcommittee on Water and Wildlife
Committee on Environment and Public Works
United States Senate
September 8, 2014
Annapolis, MD**

Good afternoon, Chairman Cardin and members of the Subcommittee. I am State Representative Ron Miller of York County, Pennsylvania, and I thank you for the opportunity to speak to you today as Chairman of the tri-state Chesapeake Bay Commission. The Commission is primarily comprised of state legislators from Maryland, Pennsylvania and Virginia who advise their general assemblies and the U.S. Congress on all matters related to the Chesapeake Bay.

The Commission has been a signatory to all of the Chesapeake Bay Agreements since the first one was signed in 1983. In fact, the Commission pre-dates the larger Chesapeake Bay Program partnership and hosted the meeting at which that first Agreement was signed. Our Commission, and later the Bay Program, was created because my predecessors knew that we could not clean-up the Bay by one or even two states acting alone. It would take participation and coordination across the larger watershed, and between the state and federal governments, to make it happen.

Make no mistake, without federal support and vigilance, the Chesapeake Bay Program would not be the premiere restoration effort that it is today. The establishment of the Bay Program Office under Section 117 of the Clean Water Act, and the appropriation of funds for operations and implementation are critical. We applaud the recent and proposed increases in this funding and thank you, Senator Cardin, Senator Mikulski and other leaders of our Congressional Delegation who have consistently supported the Bay Program's work.

A key strength of the Bay Program is the reliance on science and data to guide our work. Indeed, more data has been generated on Chesapeake Bay than any other estuary. This has been possible because of the forum the Bay Program provides for experts from state and federal government, universities, private industry, and others to share information, ask questions, coordinate their work and leverage resources.

Each of our Bay Agreements have influenced, and were influenced by, this scientific work. The 1987 Agreement set broad nutrient reduction goals. Now, through improved modeling, monitoring and a better understanding of how each tributary impacts the Bay, we have specific nitrogen, phosphorus and sediment goals for our rivers and state-specific watershed implementation plans. From general planning goals for living resources and stewardship in early Agreements, we now have crab population targets, and numeric goals for public access and

wetland acres, among others. But each Agreement has also identified key areas where further study is needed.

The goals outlined in a Bay Agreement help us to prioritize our work. As a legislator, it is extremely helpful to know that I can go to my colleagues with specific recommendations that have been vetted across the watershed, and supported by scientific information. The Commission's 2013 Annual Report highlights a few of the many legislative victories for the Bay that have been accomplished, just in our three member states, as a result of Bay Agreement commitments. This latest Agreement, in particular, acknowledges that we cannot do everything at once, and instead focuses on key actions that will achieve the greatest benefits.

However, it also recognizes that participation across the entire watershed, at all levels of government, is necessary to achieve our goals. If we are to be truly successful with restoration of the Bay, it will only be through the collective efforts of local towns and neighborhoods across the watershed. I am especially pleased that this new Agreement specifically recognizes the role of local governments in implementation, as well as the whole range of local organizations that play a role in educating, advocating, and implementing for positive change.

But the role of the federal government is no less critical. The Chesapeake Bay Stewardship Fund and Clean Water State Revolving Fund support local efforts across the watershed, Farm Bill programs help our farmers implement cost-effective best management practices, and the Chesapeake Bay Gateways program helps connect our citizens with the National Treasure of the Bay and its tributaries.

These programs have been and continue to be enormously helpful and we thank you again for your support. Looking forward, we call your attention to the opportunity to designate the Rivers of the Chesapeake as a funded large landscape initiative under the Land and Water Conservation Fund. I know that you, Senator Cardin, and Congressman Moran have been leading the fight for this, and we thank you.

Additionally, the U.S. Army Corps of Engineers is a key partner in oyster restoration, wetlands protection and other restoration activities. The Corps has recently developed a Comprehensive Bay Management Plan and we thank the Senate for recognizing that the Corps' authorities in the Water Resources Development Act should be amended to align with this plan. Additionally, the Corps will soon reach its authorized funding for oyster restoration. If their critical work is to continue, the authorization should be increased from \$50 million to \$70 million.

Across other agencies, NOAA's Bay Watershed Education and Training Program and EPA's environmental education program face funding threats, and the Bay Program itself within EPA and under NOAA need reauthorization. We also look forward to the opportunity to discuss how a reauthorized transportation bill can promote better stormwater management and improve fishing and boating access.

The federal government has also been a key voice in the call for improved transparency and verification of our work, and this new Agreement is a response. Through the development of Management Strategies, specific implementation actions will be identified, as well as the

partners who have committed to them. This can include local governments, non-government organizations and private businesses. It will also include our agency partners across the federal government. Congressional oversight of this work is vital, but it is equally important to ensure that agency budgets and authorizations provide the tools and resources that our federal partners need to carry out their commitments under this new Agreement and Executive Order 13508. In addition, support for the verification of implemented practices, along with water quality monitoring in both tidal and non-tidal areas, is crucial to our accountability for progress.

In summary, the Chesapeake Bay Program is the premiere estuary restoration effort in the nation because of its science-based approach to policymaking and a strong partnership between state and federal governments. The new 2014 Chesapeake Bay Watershed Agreement seeks to enhance this partnership through better engagement with local governments and organizations and improved accountability for our work.

As a state legislator, I understand the political and budget challenges that we face, but I and my colleagues on the Chesapeake Bay Commission look forward to working with you to support our agency partners with the tools they need to keep our progress on track. This new Agreement, by focusing on the most effective actions for the near term, is our guide.

Thank you for the opportunity to testify here today. I welcome any questions you may have.



10 Things Members of Congress Can Do to Advance Chesapeake Watershed Restoration

ADMINISTRATIVE ACTIONS

1 USDA Farm Bill The 2014 Farm Bill consolidated the USDA Chesapeake Bay Watershed Initiative into a new, nationally competitive Regional Conservation Partnership Program. Of the total of approximately \$275 million available, 35 percent will go to eight Critical Conservation Areas, 40 percent will be provided in competitive grants and 25 percent to states.

ACTION NEEDED: Urge the Secretary of USDA to designate the Chesapeake Watershed as a Critical Conservation Area and to give high priority to applications received from partners in the Chesapeake region.

2 Collaborative Landscape Conservation Initiative For the past three years, the Obama Administration has committed over \$100 million each year in Land and Water Conservation Funds to help conserve large landscapes in particular areas of the country. However, proposals submitted by state and federal partners in the Chesapeake region have been rejected, despite high technical rankings.

ACTION NEEDED: Urge the Obama Administration, specifically the directors of OMB, NPS, USFWS, BLM and USFS, to designate the Chesapeake as the highest priority landscape in the President's Fiscal Year 2016 budget and support appropriations if the Chesapeake is included.

3 Education Issues Providing environmental education opportunities for all 3.5 million preK-12 students in the watershed is critical to preparing the next generation to be good stewards of the Bay, its lands and waterways. Yet the U.S. Department of Education provides virtually no financial support to schools for environmental education and the Obama Administration proposes to terminate funding

for the only Federal programs that do: NOAA's Bay Watershed Education and Training Program (BWET) and EPA's environmental education program.

ACTION NEEDED: Urge the Secretary of Education to provide financial support for state and local preK-12 environmental education in watershed schools and restore funding for NOAA's BWET and EPA's environmental education programs.

4 Conowingo Dam Relicensing Issues The relicensing of the Conowingo Dam on the Susquehanna River offers an opportunity to address several major issues critical to the health of the Chesapeake Bay and its living resources associated with the dam including water quality, fish passage, flow rates, debris management and recreation and conservation.

ACTION NEEDED: Urge the Federal Energy Regulatory Commission (FERC) and other appropriate federal agencies to ensure that the final license agreement includes a comprehensive plan to address water quality, fish passage and living resources, conservation and recreation issues associated with the dam.

LEGISLATIVE ACTIONS

5 Highway/Transit Bill Reauthorization Issues Stormwater runoff from highways, roads and other impervious surfaces is the fastest growing source of pollution to the Bay and waterways nationwide. Many bridges, which cross navigable waterways, present tremendous opportunities to improve public fishing and boating access to our waters, at little cost.

ACTIONS NEEDED: In the reauthorization bill: A) Support stormwater controls for all new federal-aid highway construction and major reconstruction to maintain runoff at pre-construction levels. B) Ensure

Continued on next page

that due consideration is given to improving fishing and boating access in all appropriate federal-aid bridge construction and major reconstruction projects.

6 Water Resources Development Act

The U.S. Army Corps of Engineers provides critical support to state and local partners through its oyster restoration and Chesapeake Bay Restoration/Protection Authorities, among others. But in 2015 the Corps will reach its authorized cap on oyster restoration funding and the Chesapeake Restoration and Protection program must be reauthorized and amended to better link its outcomes to the Corps' Comprehensive Bay Management Plan now under development.

ACTIONS NEEDED: Raise the cap on oyster restoration from \$50 million to \$70 million and reauthorize and amend the Corps of Engineers' Chesapeake Bay Environmental Restoration and Protection Program as contained in the Senate-passed WRDA, but not addressed in the House-passed bill.

7 Clean Water Funding

Communities throughout the watershed rely on dollars provided through the Clean Water State Revolving Fund to improve their sewer infrastructure. These funds have resulted in a significant improvement in water quality and are an important part of our efforts to make continued progress. The ability to use these funds for green infrastructure and other non-traditional projects is critical as communities seek new cost-effective and collaborative approaches to water management.

ACTIONS NEEDED: Continue funding support for the Clean Water State Revolving Fund and enable these dollars to promote innovative approaches that are cost-effective and help achieve multiple local water management goals.

8

Bay Program Budgets Funding for the Chesapeake Bay Programs of EPA, NOAA, USGS, National Park Service, Fish and Wildlife Service, Army Corps of Engineers, USDA and the Forest Service, among others, as well as the national clean water, conservation and wildlife programs, is essential to achieve Bay watershed restoration goals.

ACTIONS NEEDED: In the Fiscal Year 2015 appropriations process, support these programs at least at the levels approved in the Fiscal Year 2014 Omnibus, or at the higher level recommended in the President's budget request.

9

Reauthorization of Bay Programs

Authority for EPA's Chesapeake Bay Program, NOAA's Chesapeake Bay Program and the National Park Service's Chesapeake Gateways and Watertrails Program have expired, but the programs have continued through the annual appropriations process.

ACTIONS NEEDED: Ensure that these program authorities are continued, reauthorized and provided with the funds necessary to implement these programs.

10

Oversight/Accountability

Since the first Chesapeake Bay studies were initiated by Congress, Congressional oversight has been a vital part of the process of ensuring that the various federal agencies are achieving the goals of the program and advancing Chesapeake watershed restoration.

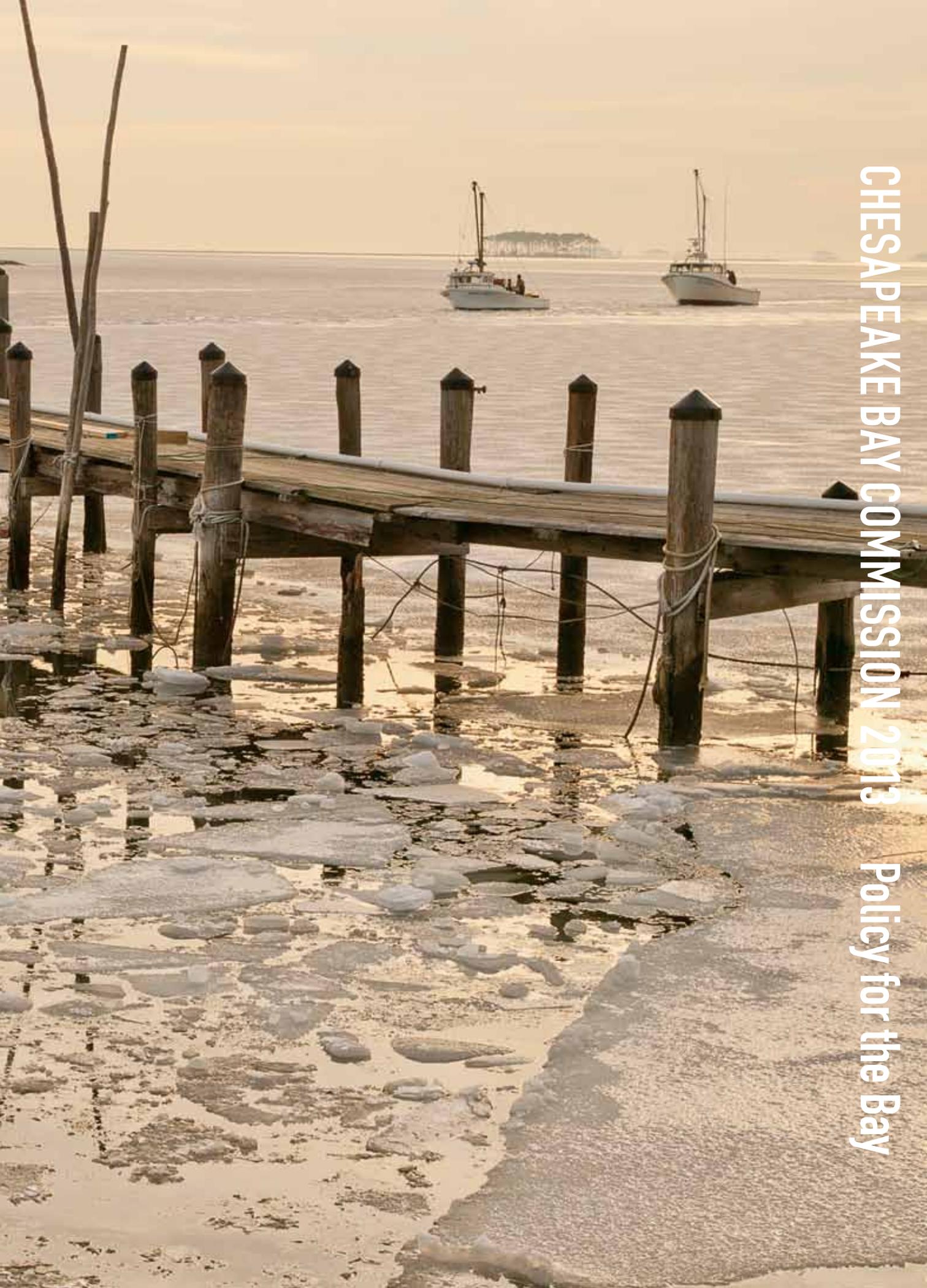
ACTION NEEDED: In the annual appropriations process, in Members' roles on authorizing committees, and in the formulation of the President's budget request, ensure that the federal agencies have the necessary tools and resources to carry out their responsibilities for Bay watershed restoration and are achieving the goals under their authorities and Executive Order No. 13508.



Chesapeake Bay Commission

Policy for the Bay

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CHESAPEAKE BAY COMMISSION 2013 Policy for the Bay

OUR WORK

THE CHESAPEAKE BAY COMMISSION IS A TRI-STATE LEGISLATIVE commission created in 1980 to advise the General Assemblies of Maryland, Pennsylvania and Virginia on matters of Baywide concern. Twenty-one members define the Commission's identity, determine its direction and share its workload. Fifteen are state legislators, three are cabinet-level secretaries representing their governors, and three are citizen representatives. The full range of urban, suburban and rural life enjoyed in the watershed is represented on the bipartisan Commission, with each member contributing his or her unique perspective, knowledge and expertise.

The Commission's charge is to address the breadth of issues and policies that take into account the pollution sources, land uses, and human impacts that threaten the health of the Bay watershed, a 64,000-square-mile area spanning six states, our nation's capital and 1,800 local governments. Commission members craft and secure passage of laws and policies that must balance many ecological, societal and economic concerns.

The Commission is one of six signatories to all of the Bay Agreements as a member of the Chesapeake Executive Council, the governing body of the multi-state Chesapeake Bay Program. The successes to date in restoring the Chesapeake Bay have resulted in no small part from the three Bay Agreements, and the Commission has had the privilege to serve in a leadership role in the adoption and execution of each of them.

With a new Agreement pending in 2014, there is wisdom in taking the time to examine the successes that were inspired by the past agreements in the hopes that a new Agreement will similarly propel actions that shape and accelerate the restoration of the Chesapeake Bay and its watershed well into the future.

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The Hon. G. Warren Elliott
PENNSYLVANIA CITIZEN REPRESENTATIVE



PHOTO: STEVE DROTER

Chesapeake Bay Commission members, staff and alumni gather among 300 celebrants at the Alliance for the Bay's 2013 Taste of the Chesapeake gala.

OUR NEXT CHALLENGE: PHOSPHORUS

Since the signing of the 1987 Agreement calling for a 40 percent reduction in nitrogen and phosphorus, the Chesapeake Bay Program has focused many regulatory, legislative, and funding decisions on this goal. The good news is that the Program has achieved measurable success. Water quality conditions have improved, with monitoring results showing significant progress in reducing nitrogen and phosphorus. Sewage treatment plant upgrades, the phosphorus detergent ban, agricultural conservation practices and many other actions have made a big difference.

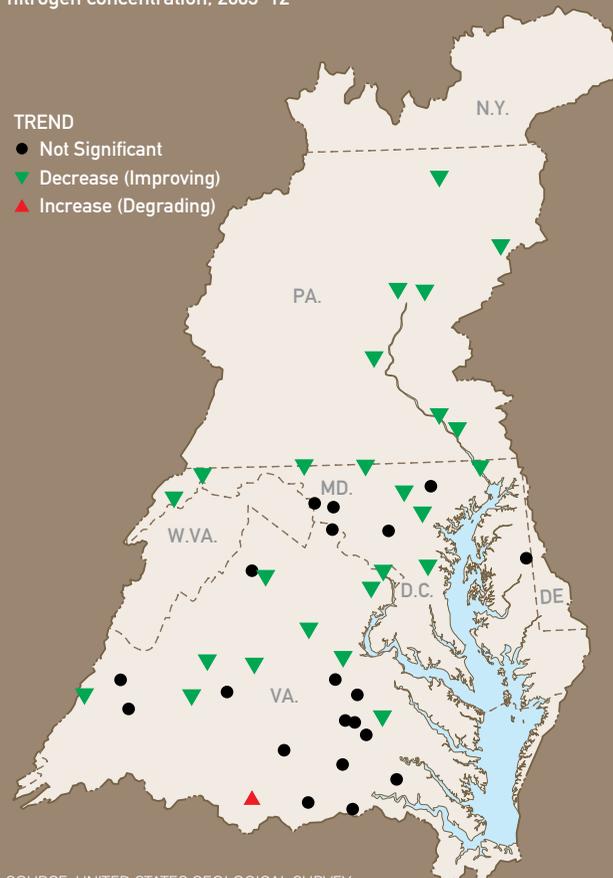
But when it comes to phosphorus, monitoring and modeling results indicate that our success over the past 27 years is being threatened by the trends of the last ten – over this past decade, phosphorus has either ceased to continue its downward trend or has increased. USGS monitoring results show that nitrogen has continued its downward course. Phosphorus has not. (See maps below.)

Science has established that two components of the problem with phosphorus are the increasing amounts of urban stormwater and the presence of phosphorus-saturated soils. Stormwater is the only growing source of pollution in the Bay watershed. It and manure are among the highest contributors of phosphorus. With manure, while the phosphorus from it often binds to soil and other particles, thereby restricting its movement, new science concludes that there are limits to this binding capacity. When soil is saturated with phosphorus, the phosphorus becomes more mobile. Bottom line: our current practices and priorities are not sufficiently addressing the legacy of phosphorus from manure that now burdens many farm fields.

In 2013, the Commission identified stormwater and manure among its highest priorities. We cannot slide backward when it comes to reducing phosphorus pollution. We have come far, but we have further to go.

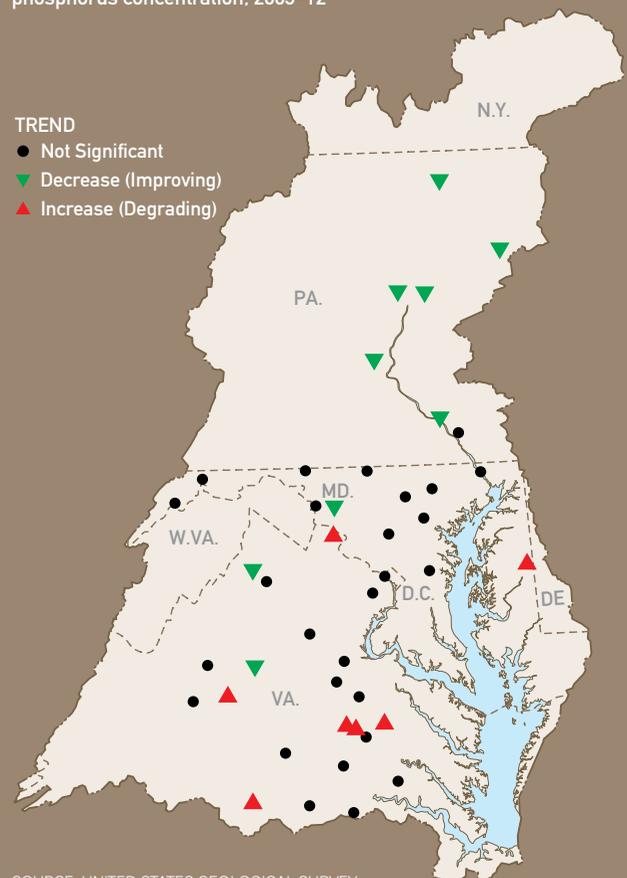
NITROGEN: IMPROVEMENT EVIDENT

Short-term trend in flow-adjusted total nitrogen concentration, 2003–12



PHOSPHORUS: WORK REMAINS

Short-term trend in flow-adjusted total phosphorus concentration, 2003–12



THE COMMISSION, THE

IN 1978, CONGRESS DIRECTED THE EPA TO CONDUCT AN IN-DEPTH STUDY OF THE Chesapeake Bay. It triggered the largest, most comprehensive ecosystem restoration effort in the nation, one that would ultimately bring six states, the Chesapeake Bay Commission, the District of Columbia, and twelve Federal agencies together as the “Chesapeake Bay Program.” Since then, three unprecedented Bay Agreements have guided the Program’s actions. In 2014, the Program will add another chapter to the Chesapeake restoration story with the signing of a fourth Agreement.

The Chesapeake Bay Commission was created in 1980 following an interstate legislative study, three years before the creation of the Program in 1983. Recognizing the interstate nature of the Bay and its challenges, the states of Maryland and Virginia saw the need for a state-focused, policy-making body to act upon the EPA study’s recommendations. Formed by parallel legislative action in the two states, the Commission has worked since 1980 with its state, Federal and local government partners to identify key Chesapeake Bay and watershed restoration opportunities requiring intergovernmental collaboration and legislative action. The Commission’s role and effectiveness were amplified when Pennsylvania joined in 1985.

The Commission’s earliest actions focused on reciprocity laws governing commercial fisheries. This was but the tip of the iceberg. Upon the issuance of the EPA study, the Commission co-sponsored a conference at George Mason University on December 5, 1983. It was there that the Chesapeake Bay Program was born. The Commission’s foresight in organizing a politically broad-based conference in partnership with the states, EPA and the Alliance for the Chesapeake Bay led to the groundbreaking 1983 Bay Agreement, signed at the conference, creating the Chesapeake Executive Council and launching the nation’s most prominent and successful ecosystem restoration initiative.

BAY AGREEMENTS AND THE

1983 CHESAPEAKE BAY AGREEMENT

Focus: Purpose and Governance

The congressionally funded, \$27 million, five-year EPA study to analyze the Bay's rapid loss of wildlife and aquatic life identified excess nutrient and sediment pollution as the main source of the Bay's degradation. As the study headed toward its conclusion, the attention of all parties turned to a central question: What would governments do to protect and restore the Bay and how would they manage that process?

The original Bay Agreement answered that question. With its signing on December 5, 1983, the Agreement committed the signatories — Maryland, Virginia, Pennsylvania, the District of Columbia, EPA and the Chesapeake Bay Commission — to work cooperatively, across jurisdictional boundaries, to manage and reduce pollution entering the Bay as well as to protect the Bay's habitat and living resources. A simple one-page document, it was oriented to management matters, calling for the establishment of the Chesapeake Executive Council, the governing body of the new multi-jurisdictional effort; the establishment of an Implementation Committee, which over time would become the heart of the "on-the-ground" work; and the maintenance of an EPA liaison office in Annapolis, designed to ensure the ongoing investment of the Federal government in the initiative and to provide support to the Council and the Committee.

This initial agreement would define the Chesapeake Bay Program efforts for the first four years. It would also trigger Pennsylvania's General Assembly to join the Chesapeake Bay Commission in 1985 as a full partner; its House and Senate members had already been monitoring the Commission's work for at least three years.

During those formative years, each signatory to the Agreement returned to its home turf to address water quality, habitat, and living resource issues raised by the EPA study. What we now consider basic and ordinary environmental laws and programs were the result. At the time, however, they were revolutionary: new state

sediment and erosion control laws; sewage treatment plant upgrades; Maryland's Critical Areas Law and the beginnings of Virginia's Chesapeake Bay Preservation Act. Most significant, however, was the addition of Section 117 to the Clean Water Act in 1987, which specifically acknowledged the national importance of the Chesapeake Bay and efforts to restore it.

LEGISLATION ARISING FROM THE 1983 AGREEMENT

PENNSYLVANIA

Agricultural Non-point Source Abatement Program ('84)
Agricultural Cost-Share Program ('85)

MARYLAND

Critical Areas ('84)
Sediment & Erosion Control ('80, '84)
Phosphate Detergent Ban ('85)
Rockfish Moratorium ('85)
Stormwater Control Act ('82-'86)

VIRGINIA

Water and Sewer Assistance Authority ('86)
Water Facilities Revolving Fund ('86)
Erosion and Sediment Control ('86)
Dredged Material Use Priority ('87)
Phosphate Detergent Ban ('87)

1987 CHESAPEAKE BAY AGREEMENT

Focus: Measurable, Time-Specific Outcomes

By 1987, it was clear that the restoration of the Bay required a more clearly defined set of goals and objectives, rather than a mere general commitment to cooperative management. Thus, the 1987 Chesapeake Bay Agreement marked a significant expansion from the brief declaration of purpose and governance signed in 1983 to a goal-oriented framework of interstate policy to drive very specific, meaningful and measurable targets and timeframes. The new pact included 32 specific commitments and, in almost all cases, deadlines for achieving those commitments.

This new Agreement re-defined the roles for the states and Federal agencies, forging a partnership within the Program that necessitated greater shared regulatory and legislative actions. With six broad categories of focus



1983 Chairman
Sen. Joseph V.
Gartlan, Jr. (Va.)

LEGISLATION THEY INSPIRED

The Chesapeake Bay Commission is unique in the world of conservation policy-setting bodies. It is comprised primarily of legislators focused on a common goal to conserve the Bay through enactment of strong, scientifically-based and economically-sound laws and regulations. The work of the Commission and its members has been guided by all three Bay Agreements and the aspirations, goals, and policy directives set forth in each. As a result, the Commission and its members have historically played, and will continue to play, a pivotal leadership role in Maryland, Pennsylvania and Virginia to protect and restore the Bay.

Listed here, organized by State and Agreement date, are some of the most important pieces of legislation enacted in support of Chesapeake Bay restoration. The Commission is proud of its role in crafting and supporting passage of these legislative achievements.



2013 Chairman
Delegate Maggie
McIntosh (Md.)

(water quality, living resources, public access, population growth and development, public information and education, and Program governance), the most notable commitment was to reduce nitrogen and phosphorus entering the waters of the Bay by 40 percent by the year 2000. Agreeing to numeric goals such as the 40 percent reduction, with specific deadlines, was unprecedented in 1987, but has since become a hallmark of the Program.



1987 Chairman
Rep. Kenneth J.
Cole (Pa.)

Five years later, recognizing the need to move beyond the Bay itself to achieve the 40 percent reduction, the Program adopted a set of amendments, drafted by the Commission staff, to the 1987 Agreement. These amendments moved the restoration effort watershed-wide, establishing the critical commitment to reduce nitrogen and

phosphorus by 40 percent in the Bay's largest tributaries by 2000, and to cap those nutrients upon achieving the reduction. This new "tributary strategy" approach led to the creation of river-specific clean-up plans and load reduction goals specific to sub-watersheds across the states of Pennsylvania, Maryland, Virginia and the

District of Columbia. For the first time, the Program recognized that the restoration of the Bay was a "sum of its parts."

In spite of the best efforts of the Program partners, the achievements of the 1987 Agreement were mixed. Without question, the Agreement and amendments spawned a wide array of legislation at the state and Federal level. However, when 2000 arrived, the waters of the Chesapeake were still receiving too many nutrients. The 40 percent goal remained unmet.

LEGISLATION ARISING FROM THE 1987 AGREEMENT

PENNSYLVANIA

- Farmland Preservation Program ('89)
- Phosphate Detergent Ban ('89)
- Agricultural Nutrient Management ('93)
- Growing Greener I ('99)
- Environmental Education ('93)

MARYLAND

- Agricultural Nutrient Management ('88)
- Sewage Treatment Plant Compliance ('90)
- Forest Conservation ('91)

Smart Growth ('97)
Blue Crab Targets and Thresholds ('99)

VIRGINIA

Nutrient Management Certification ('94)
Blue Crab Fishery Management Plan ('95)
Water Quality Improvement Act ('97)
Poultry Waste Management Act ('99)
Land Conservation Fund ('99)

CHESAPEAKE 2000

Focus: Broad-based Precursor to the TMDL

The new millennium was more than a symbolic opportunity for a renewed commitment to Chesapeake Bay. Judicial action in 1999 led the Program to consider, adopt and embrace the most ambitious of agreements in 2000.

Known as Chesapeake 2000 (C2K), it was the most comprehensive agreement to date, and committed the partners to an aggressive strategy for future restoration actions. In response to overtures from the Program partners, the Commission took the lead in drafting this precedential agreement.

Chesapeake 2000 established five broad goals and an ambitious set of 102 commitments to reduce pollution, restore habitats, protect living resources, promote sound land use practices and engage the public in Bay restoration.

Most important was the water quality section, which became the dominant driver for the next decade. Poor water quality resulting from excess nitrogen, phosphorus and sediment had led portions of the Bay to be listed as "impaired" under the Federal Clean Water Act. Collaborative actions to generate cleaner and healthier waters in order to remove the Bay from this list became the primary focus of C2K. And, in an unusual recognition by the Program partners, the Agreement acknowledged that if the Program was unsuccessful in removing these waters from the "impaired waters list" by 2010, as required by a judicial consent decree, the Federal government would develop a clean-up plan known as a Total Maximum Daily Load, or TMDL.

To accomplish this task, C2K contained a series of clearly defined steps. First, the Program would define

the water quality conditions necessary to protect living resources. Then, the Program would identify pollutant load reductions for nitrogen and phosphorus for each major tributary. Finally, the state signatories and the District would adopt the legislative and regulatory elements necessary to achieve these reductions and determine when water quality goals had been met.

Because the loadings of nutrients and sediment came not just from the signatory states and the District of Columbia but also from Delaware, New York and West Virginia, the water quality commitments of C2K led the Program to seek the engagement of those three "headwater states." By 2002, all three had officially joined the Program's water quality restoration efforts through a memorandum of understanding. Though



2000 Chairman
Senator
Bill Bolling (Va.)

these states were not signatory members of the Executive Council, the Program, with its history of inclusivity, invited them to participate in all Program efforts.

C2K drove significant restoration gains in key areas, such as land conservation, forest buffer restoration, and fish passage reopening. In the legislatures of the Commission member states as well as Congress, C2K provided the basis for the Commission's partnership work on legislative initiatives that funded sewage treatment plant upgrades, installed advanced septic systems, incentivized land preservation, and garnered never-before-seen levels of Federal dollars for agricultural conservation practices.

By the year 2008, however, it became clear that in spite of the myriad of initiatives designed to reduce the loads of nitrogen and phosphorus pollution, the Program would not succeed in removing the Chesapeake Bay and its tidal tributaries from the "impaired waters list" by the 2010 deadline. The Executive Council members, along with the headwater states, agreed to the development of a Federal TMDL.

LEGISLATION ARISING FROM CHESAPEAKE 2000

PENNSYLVANIA

Growing Greener I Funding ('02)
Water & Wastewater Treatment Bond ('04)
Manure Hauler & Broker Certification ('04)

Growing Greener II ('05)
REAP (Transferable Ag Tax Credit) ('07)

MARYLAND

Bay Restoration Fund ('04, '12)
Bay and Coastal Bays Trust Fund ('07)
Lawn Fertilizer Restrictions ('11)
Stormwater Utilities ('12)
Septic Tanks ('09, '12)

VIRGINIA

Land Preservation Tax Credit ('00)
Nutrient Credit Exchange ('05)
Major Point Source Upgrades ('05)
Crab Dredging Ban ('08)
Lawn Fertilizer Restrictions ('12)

TWO-YEAR MILESTONES

Focus: Short-term Accountability

To help accelerate the implementation of the water quality elements of C2K and the impending TMDL, the Program partners in 2009 adopted a short-term strategy for evaluating success. Called milestones, this elegantly simple strategy committed the seven Bay jurisdictional partners to set and meet two-year incremental goals. Assessment and re-evaluation would occur every two years, allowing the Program and the public to see, understand, and critique progress. These milestones would also provide the Commission with windows of opportunity by identifying initiatives that required policy attention.

2014 CHESAPEAKE BAY AGREEMENT

Focus: Full Watershed Representation and Adaptive Management

With the adoption of the Federal TMDL at the close of 2010, the Bay Agreements took a back seat to the water quality efforts defined by the TMDL. Implementation of the TMDL led the Program in 2013 to consider the next chapter of the broader restoration effort. Since the

signing of the first Bay Agreement, the Program had accomplished much. While population in the watershed has doubled, nitrogen and phosphorus loads have been reduced by almost half. New management schemes for fish and shellfish — systems identified in the agreements — are in place. Fully 20 percent of the watershed's landscape is conserved and many of the region's waste treatment plants are "state of the art."

A new Chesapeake Bay Watershed Agreement is now a work in progress. With the TMDL governing the water quality goals and actions of the Program partners, the draft agreement looks to other priorities: oysters, crabs, forage fish and wetlands, for example. But what distinguishes the proposed new agreement from all others is its embrace of the concept of adaptive management and the expansion of the formal partnership.

To achieve the former, the Agreement creates a set of principles for the Program that the partners will employ through a series of "management strategies." The Agreement's commitment language allows these strategies to evolve over time as conditions and circumstances change. To achieve the latter, the headwater states are expected to join as full signatory members, and special consideration will be given to local governments and their important role in implementation.

With these changes, the Commission encouraged a discussion on governance, challenging the Program to define clearly the rules of engagement. With flexibility a hallmark of the new agreement, how will decisions now be made? How will goals and outcomes change in response to changing environmental, cultural and economic conditions? Will new levels of transparency and verification also be hallmarks of this agreement?

In 2014, with the anticipated signing of a new Agreement, the Program will plot a renewed trajectory for the restoration of the Bay and the rivers and streams that feed it. Challenges remain. As we have done since 1980, the Chesapeake Bay Commission will face these challenges with a team of legislators and staff committed to a healthy and vibrant resource, and will continue to play a critical role in the restoration of this vital and incomparable estuarine ecosystem.

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