



CHESAPEAKE BAY COMMISSION

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NOVEMBER 17-18, 2022, QUARTERLY MEETING

The Chesapeake Bay Commission held its fourth quarterly meeting of 2022 on Thursday and Friday, November 17-18, 2022. The meeting was held in Annapolis, MD.

Commission members in attendance:

Delegate Robert Bloxom
Delegate David Bulova
Senator Sarah Elfreth
Warren Elliott, PA Citizen Member
Representative Keith Gillespie
RDML Scott Gray
Senator Guy Guzzone
Secretary Jeannie Haddaway-Riccio
Senator Emmett Hanger
Representative John Hershey
Delegate Sara Love
Senator Scott Martin
Thomas “Mac” Middleton, MD Citizen Member
Missy Cotter Smasal, VA Citizen Member
Delegate Dana Stein
Representative Mike Sturla
Director Andrew Wheeler
Senator Gene Yaw
Acting Secretary Ramez Ziadeh

Not in attendance:

Delegate Tony Bridges
Senator Lynwood Lewis
Delegate Tony Wilt

Staff: MD – David Goshorn
PA – Jill Whitcomb
Navy – Kevin Du Bois

CBC Staff:

Ann Swanson
Jen Dieux
Mark Hoffman
Marel King
Adrienne Kotula

THURSDAY, NOVEMBER 17, 2022

WELCOME

Members met at the Smithsonian Environmental Research Center (SERC) in Edgewater, Maryland.

WELCOME TO SERC

The members were welcomed by Pat Megonigal, SERC's Associate Director for Research.

The meeting was called to order at 12:52 P.M. by Chair Elfreth.

ROLL CALL

Chair Elfreth then asked Executive Director Swanson to call the roll. A quorum was present.

ADOPTION OF MINUTES

Chair Elfreth called for approval of the minutes from the September meeting. They were approved unanimously without discussion.

ADOPTION/MODIFICATION OF AGENDA

Chair Elfreth asked for comments or questions on the agenda from the members. Hearing none, they were approved unanimously without discussion.

FOLLOW-UP FROM SEPTEMBER MEETING

Executive Director Swanson provided updates from the September meeting regarding freshwater mussels, wetland and forest data enhancements, the striped bass population, and the workforce development subcommittee being formed.

ADDRESSING PLASTICS POLLUTION

The Commission then turned to its annual discussion of plastics pollution. Over the last year, the staff worked to identify policy trends for addressing plastics pollution and identified Extended Producer Responsibility (EPR) as the most actionable item for the Commission's member states. The Commission then worked with Molly Brown at the Chesapeake Legal Alliance to develop a policy report that detailed the critical elements for legislative success. Ms. Brown facilitated discussion with a panel of guests who were joining virtually from sites across the country.

FRAMING THE PROBLEM

Dr. Kara Lavender Law, Research Professor with the Sea Education Association, Environmental Studies at Woods Hole and the Sea, began the afternoon's discussion by detailing the rapid rise in plastics production and the resulting pollution throughout the world since 1950. Plastics packaging, typically a single-use item, represents the largest use of plastics. Plastics pollution is widespread and abundant throughout the world, even in oceans, but its impact on the natural environment is not yet fully understood. Focusing on the reduction of plastic production, innovating designs, decreasing waste generation and improving waste management are critical to addressing plastics pollution. EPR provides an opportunity to achieve all of these issues.

EXTENDED PRODUCER RESPONSIBILITY (EPR)

Ms. Brown, then provided background on the elements of an EPR Program as well as detailing its adoption across the world. The popularity of EPR Programs has spread throughout the world in the last 20 years. Canada, the European Union, China and Russia have all adopted mandatory EPR programs, but the United States still has limited implementation across the nation. This has started to change in the last two years with Maine, Oregon, California, and Colorado adopting programs. Sixteen additional states, including all CBC member states, have considered legislation on the matter in the last two years. While there are numerous aspects to consider when adopting an EPR Program, the key pieces are what is considered a product, whether the program is operational or simply financial, eco-modulated fees, the role of state and local governments, as well as the timeline for implementation.

LEGISLATIVE SUCCESS

Scott Cassel, Chief Executive Officer/Founder of the Product Stewardship Institute, Inc., then discussed his experiences in negotiating EPR legislation across the United States. He detailed the perspectives of key stakeholders in the negotiation of the legislation including plastic producers, waste management entities, state governments, local governments and environmental groups. The hot button issues are typically consumer costs, chemical recycling, the treatment of bottles, toxics and compostable packaging. Finally, he detailed the role that EPR can play in achieving a circular economy for plastics and how additional legislative measures such as bottle and plastic bag bills, can be complementary to achieving a reduction in plastics pollution.

Kate Bailey, Policy and Research Director at Eco-cycle in Colorado, then discussed her experience in successful negotiation and passage of that state's EPR legislation. Kate stressed the need for robust stakeholder engagement in process, as well as acknowledging the goals for each stakeholder group. Colorado began their process with an agency study, then moved to a policy committee, and then worked with 40 stakeholders to draft the legislation. Even with such a robust process, it still required over 70 meetings with stakeholders to achieve consensus on the legislation. Colorado's law also embeds continued stakeholder involvement with the legislature approving future recycling goals, and advisory board requirements, as well as public comment and plan approval all before the program launches in 2026.

USING THE BEST SCIENCE TO DRIVE POLICY

The Commission then turned its attention to the new, large-scale report being issued on the health of Chesapeake Bay: A Comprehensive Evaluation of System Response (CESR). The report is an assessment of how our water quality policy and management actions of the past have impacted the Bay watershed.

CESR PART ONE – THE SCIENCE

Dr. Denice H. Wardrop, Ph.D., Executive Director of the Chesapeake Research Consortium and Research Professor in Geography at Penn State University, introduced the CESR report by acknowledging that achieving our desired outcomes is proving more challenging than expected.

She simultaneously acknowledged that there are opportunities to improve our effectiveness, but that they will require a significant change in our thinking and programs.

Kurt Stephenson, Ph.D., Professor, Department of Agriculture and Applied Economics at Virginia Tech, then detailed historical nutrient load reductions and while we have achieved reductions, there are also gaps in the modeled reductions expected versus the reductions seen in monitoring results. The report found that existing nonpoint source water quality programs are insufficient to achieve the nonpoint source reductions required by the TMDL, but also described potential reasons for this gap, such as lag time/legacy pollutants, BMP effectiveness, behavior and data/monitoring limitations.

Jeremy Testa, Ph.D., Associate Professor at the Chesapeake Biological Laboratory, UMCES, then discussed water quality responses to nutrient load reductions. The modest reduction in nutrient loads we have achieved Bay wide, which are substantial in some locales, have initiated a recovery of some living resources. He then discussed living resource response in more detail, discussing how there are a variety of factors that drive response, yet the Bay agreement only aims to address some of these (i.e., nutrient and sediment loads). The factors not addressed – temperature, pH and salinity – are also being impacted by climate change. Each living resource has a different response to these factors and while it may not be possible to meet all TMDL and water quality goals, this may not be necessary to enhance living resource response.

TOUR OF SERC'S CHARLES McC. MATHIAS LABORATORY

The members then broke out in groups and toured the variety of labs available to learn more about coastal ecology studies at SERC.

ADJOURNMENT

The Commission adjourned for the day at 4:30 P.M.

FRIDAY, NOVEMBER 18, 2022

WELCOME & ROLL CALL

Chair Elfreth called the meeting to order at 9:12 A.M. and asked Executive Director Swanson to call the roll. A quorum was present.

ADMINISTRATIVE UPDATE

Chair Elfreth updated the members on the Executive Director search.

EXECUTIVE DIRECTOR'S LIGHTNING ROUND UPDATES

Chair Elfreth asked Executive Director Swanson to update the members on several timely issues that both staff and members had been working on.

- Executive Council Meeting: Director Swanson asked Chair Elfreth to detail highlights from the October meeting. The theme was progress and how to get as close to our 2025 goals as possible. While it was acknowledged that we will not meet our 2025 goals, it is important to focus on the success we have achieved and Chair Elfreth shared our legislative wins.

- C-SPI: CBC members and staff met with NRCS leadership and requested full funding of C-SPI at \$737 million. Staff will be responding to a “Request for Information” on the Inflation Reduction Act funds in order to request the funding be used for C-SPI. Technical assistance will still need to be addressed.
- Chesapeake Bay Blue Crab Stock Assessment: On September 20th and 21st, scientific experts from across the watershed came together to discuss Chesapeake blue crab population dynamics and drivers to help inform the development of the new blue crab stock assessment. This was the first of two blue crab requests the Commission made of the Fisheries GIT in November 2021. Both the Maryland and Virginia Delegations have weighed in with their respective Administrations to ensure funding for the stock assessment will be included in the Governor’s budgets – requested \$225,000 each.
- CBC Annual Audit: The Commission’s by-laws require us to hire an accounting firm to do a yearly audit of our financial records. A copy of the audit report was provided to the Executive Committee for review. The audit concludes that the Commission is in good standing, with no management issues. All seven members of the Executive Committee have signed off on the audit.

USING THE BEST SCIENCE TO DRIVE POLICY

The Commission then turned its attention back to the CESR report. The report is an assessment of how our water quality policy and management actions of the past have impacted the Bay watershed.

CESR PART TWO – THE POLICY

Dr. Denice H. Wardrop, Ph.D., the Executive Director of Chesapeake Research Consortium and Research Professor in Geography, Penn State University, rejoined the Commission to discuss the policy implications of the CESR report. The policy changes needed are improvements in the effectiveness of nonpoint source management programs, improvements in living resource response, and an expansion of adaptive management.

Kurt Stephenson, Ph.D., Professor at the Department of Agriculture and Applied Economics, Virginia Tech, then discussed examples of such nonpoint source programs such as spatial targeting, outcomes based incentive programs, and “sandboxing.” He also suggested prioritizing achievement of TMDL goals based on location (segments) or habitat type or additional management actions to elevate living resource response. Expanding adaptive management was also discussed.

REFLECTIONS AND FAREWELLS

Taking advantage of 35 years of leadership and knowledge, Executive Director Swanson shared with the Commission reflections on how far we have collectively come in addressing wastewater loads in the watershed and the challenges still ahead with agriculture, while bidding adieu to an organization she treasures.

NEW BUSINESS

Chair Elfreth asked if there was any new business. There was no new business.

PUBLIC COMMENT

Patrick Thompson spoke to the Commission regarding the potential for nutrient reductions from animal waste treatment plants.

ADJOURNMENT

The Commission adjourned at 12:15 P.M.