

1996 RECONVENED SESSION

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VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend the Code of Virginia by adding in Chapter 5.1 of Title 2.1 an article numbered 2, consisting of sections numbered 2.1-51.12:1, 2.1-51.12:2 and 2.1-51.12:3, relating to restoration of the Chesapeake Bay and its tributaries.

[H 1411]

Approved

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 5.1 of Title 2.1 an article numbered 2, consisting of sections numbered 2.1-51.12:1, 2.1-51.12:2 and 2.1-51.12:3, as follows:

Article 2.

Tributary Plans.

§ 2.1-51.12:1. Development of strategies to restore the water quality and living resources of the Chesapeake Bay and its tributaries.

The Secretary of Natural Resources shall coordinate the development of tributary plans designed to improve water quality and restore the living resources of the Chesapeake Bay and its tributaries. Such plans shall be tributary specific in nature and prepared for the Potomac, Rappahannock, York, and James River Basins as well as the western coastal basins (comprising the small rivers on the western Virginia mainland that drain to the Chesapeake Bay, not including the Potomac, Rappahannock, York and James Rivers) and the eastern coastal basin (encompassing the creeks and rivers of the Eastern Shore of Virginia that are west of U.S. Route 13 and drain to the Chesapeake Bay). Each plan shall address the reduction of nutrient inputs to the Chesapeake Bay and its tributaries. Each plan shall also summarize other existing programs, strategies, goals and commitments for reducing toxics; the preservation and protection of living resources; and the enhancement of the amount of submerged aquatic vegetation, for each tributary basin and the Bay. The plans shall be developed in consultation with affected stakeholders, including but not limited to local government officials; wastewater treatment operators; seafood industry representatives; commercial and recreational fishing interests; developers; farmers; local, regional and statewide conservation and environmental interests; the Virginia Chesapeake Bay Partnership Council; and the Virginia delegation to the Chesapeake Bay Commission.

§ 2.1-51.12:2. Tributary plan content; development timelines.

A. Each tributary plan developed pursuant to § 2.1-51.12:1 shall include the following:

1. Recommended specific strategies, goals, commitments and methods of implementation designed to achieve the nutrient goals of the 1987 Chesapeake Bay Agreement and the 1992 amendments to that agreement signed by the Governors of Virginia, Maryland, and Pennsylvania, the Mayor of the District of Columbia, the Administrator of the United States Environmental Protection Agency and the Chairman of the Chesapeake Bay Commission, collectively known as the Chesapeake Executive Council.

2. A report on progress made pursuant to the "Chesapeake Bay Basinwide Toxics Reduction and Prevention Strategy" signed by the Chesapeake Executive Council on October 14, 1994, that is applicable to the tributary for which the plan is prepared.

3. A report on progress on the "Submerged Aquatic Vegetation Restoration Goals" signed by the Chesapeake Executive Council on September 15, 1993, that is applicable to the tributary for which the plan is prepared.

4. A report on progress related to the objectives of the "Local Government Partnership Initiative" signed by the Chesapeake Executive Council on November 30, 1995.

5. Specifically identified recommended state, local and private responsibilities and actions, with associated timetables, for implementation of the plan, to include the (i) person, official, governmental unit, organization or other responsible body; (ii) specific programmatic and environmental benchmarks and indicators for tracking and evaluating implementation and progress; (iii) opportunities, if appropriate, to achieve nutrient reduction goals through nutrient trading; (iv) estimated state and local benefits derived from implementation of the proposed alternatives in the plan; (v) state funding commitments and specifically identified sources of state funding as well as a method for considering alternative or additional funding mechanisms; (vi) state incentives for local and private bodies for assisting with implementation of the plans; and (vii) estimate and schedule of costs for the recommended alternatives in each plan.

6. Scientific documentation to support the recommended actions in a plan and an analysis supporting the documentation if it differs from the conclusions used by the Chesapeake Bay Program.

7. An analysis and explanation of how and when the plan is expected to achieve the elements of

ENROLLED

HB1411ER

subdivisions 1, 2 and 3 of this subsection.

8. A process for and schedule of adjustment of the plan if reevaluation concludes that the specific nutrient reduction goals will not be met.

9. An analysis of the cost effectiveness and equity of the recommended nutrient reduction alternatives.

10. An opportunity for public comment and a public education and information program that includes but is not limited to information on specific assignments of responsibility needed to execute the plan.

B. Tributary plans shall be developed by the following dates for the:

1. Potomac River Basin, January 1, 1997.

2. Rappahannock River Basin, January 1, 1998.

3. York River Basin, January 1, 1998.

4. James River Basin, January 1, 1998.

5. Eastern and western coastal basins, January 1, 1999.

§ 2.1-51.12:3. Annual reporting.

The Secretary of Natural Resources shall report by November 1 of each year to the House Committee on Chesapeake and Its Tributaries, the Senate Committee on Agriculture, Conservation and Natural Resources, the House Committee on Appropriations, the Senate Committee on Finance, the Virginia delegation to the Chesapeake Bay Commission and the Virginia Chesapeake Bay Partnership Council on progress made in the development and implementation of each plan. The annual report shall include, but not be limited to:

1. An analysis of actions taken and proposed and their relation to the timetables and programmatic and environmental benchmarks and indicators.

2. The results and analyses of quantitative or qualitative tests or studies, including but not limited to water quality monitoring and submerged aquatic vegetation surveys, which relate to actual resource improvements in each tributary. The results and analyses are to be clearly related to designated portions of each tributary.

3. A complete summary of public comments received on each plan.

4. The current or revised cost estimates for implementation of the plans.

5. The status of Virginia's strategies as compared to the development, content and implementation of tributary strategies by the other jurisdictions that are signatories to the Chesapeake Bay Agreement.

2. That a tributary plan developed pursuant to this act shall not be implemented without approval by an act of the General Assembly; provided, however, that any activity or program ongoing as of June 30, 1996, may be continued. This requirement shall not be construed as limiting in any manner the authority or ability of agencies of the Commonwealth to carry out their statutory or regulatory responsibilities.