

## ACTION OR CONSEQUENCES

ON A STRICT 'POLLUTION DIET'

# Townships See Dollar Signs as EPA Ramps Up Efforts to Restore the Chesapeake Bay

For years, Pennsylvania and other states with waters that feed the Chesapeake Bay have been trying to restore the nation's largest estuary. It's been a process punctuated by plans, promises, and ultimately, costly, unmet pollution-reduction goals. Now, the federal government is stepping in and demanding real action. This renewed push on the commonwealth will fall on townships, among others. And although the state is vowing to come up with low-cost solutions to help municipalities meet their share of the burden, that's little consolation to township officials, who are facing another unfunded mandate.

BY JILL ERCOLINO / MANAGING EDITOR

**W**hen Matt Royer visits the Conewago Creek, he looks at it through a child's eyes.

Growing up along its shores in Londonderry Township, Dauphin County, Royer spent many summer days splashing around in the creek's cool, clear water, searching for crawfish, and casting fishing lines into its depths.

But the Conewago Creek, which flows through eight townships, two boroughs, and three counties, has changed, and Royer, whose life has been inextricably entwined with the waterway, has witnessed its metamorphosis.

"One day I was out walking with my father, and we both agreed, the creek just didn't look the same," says Royer, an attorney and outdoorsman who has

worked for the state Department of Environmental Protection, the Chesapeake Bay Foundation, and now Penn State's Agriculture and Environment Center.

He was right; the creek was indeed different.

It had become tarnished, sullied over the years by pollutants — among them, manure, dirt, pesticides, fertilizers, sewage, and industrial waste — that have been discharged into the waterway from farms, homes, businesses, and wastewater treatment plants.

But this isn't merely a story about one impaired creek in Pennsylvania — although many eyes are on this small watershed of 3,000 people, which has become a major testing ground for pollution-reducing practices and technology. It's about the Conewago and the 99,000 other tributaries here and else-

**"Virtually everyone living life contributes to the problems in the bay. First, we have to recognize that we have a problem, and then we have to do things differently. More can and must be done."**

where that feed the Chesapeake Bay, the nation's largest estuary and, some would contend, its most prized.

Much of the water reaching the bay's doorstep is contaminated with nitrogen, phosphorus, and sediment, a mish-mash of pollutants from point and nonpoint sources that are choking the life out of this cherished resource.

And that's a problem. A big, expensive problem.

### Wanted: real results — or else

Just ask federal officials, who are more adamant than ever that the Chesapeake Bay will be cleaned up. No if's, and's, or but's about it.

"The time for talking has indeed passed. We have to act, and we are settling for nothing less than real results,"

Lisa P. Jackson, administrator of the U.S. Environmental Protection Agency, told attendees at a January bay summit.

In her remarks, Jackson was alluding to the fact that efforts to save the bay have stretched over decades, beginning in the 1970s with the passage of the Clean Water Act and continuing through today with bay states making plans and promises but never reaching their goals.

"Progress was made, but it wasn't nearly enough," says Matt Ehrhart, executive director of the Chesapeake Bay Foundation's Pennsylvania office.

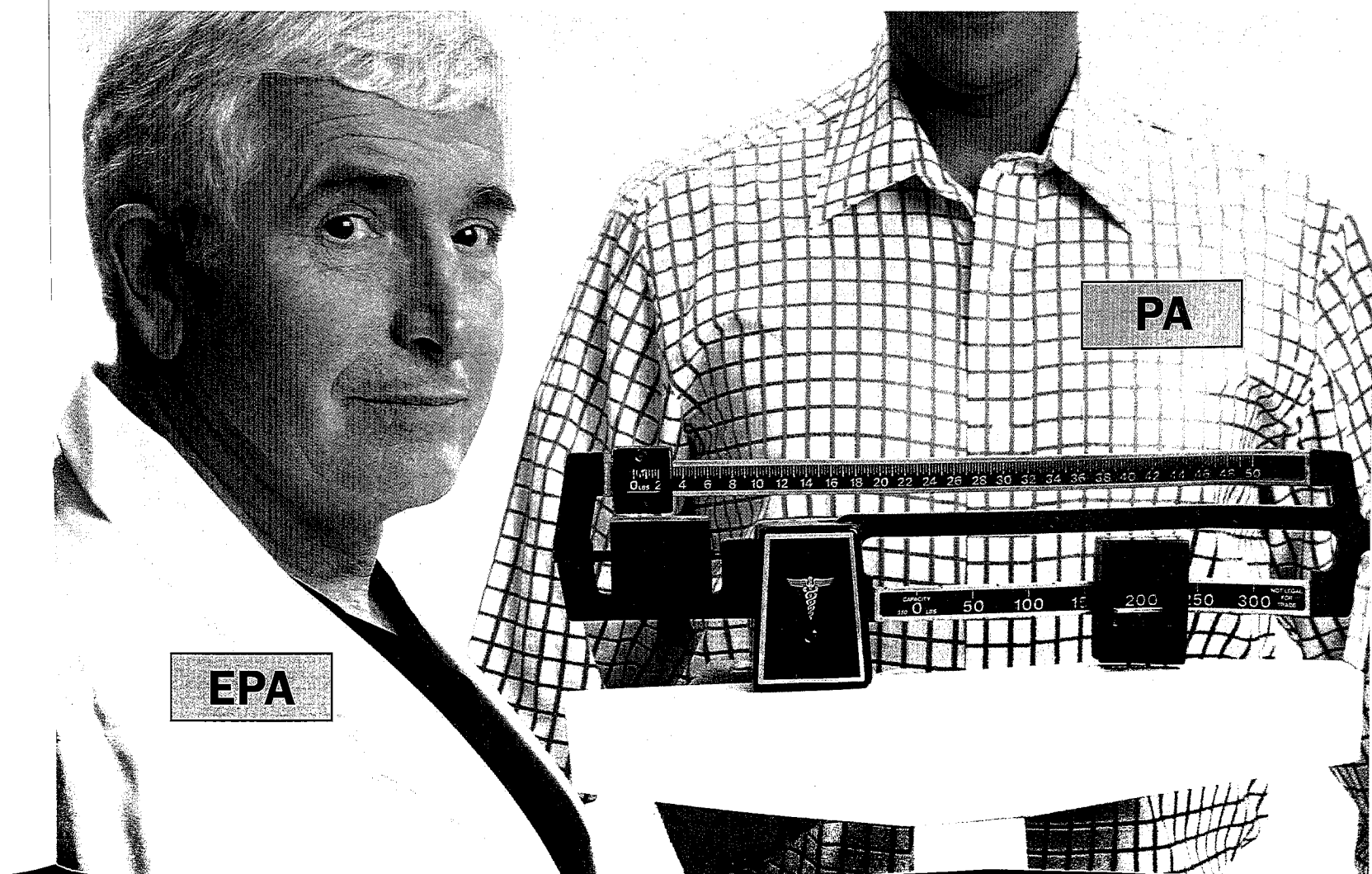
In other words, these good intentions did little good: The bay is still dirty.

But federal officials aren't the only ones frustrated with the cleanup. Townships have their share of complaints,

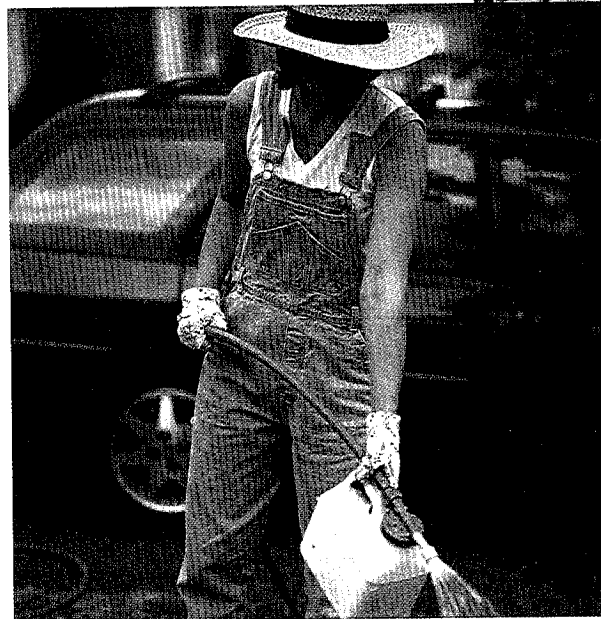
too. Many have taken on debt and raised fees and taxes to fund millions in mandated upgrades to their stormwater systems and wastewater treatment plants only to be confronted with new clean-water demands and more costs.

Lower Paxton Township in Dauphin County is one of those municipalities. "We're seeing a lot of good money being thrown away," manager George Wolfe

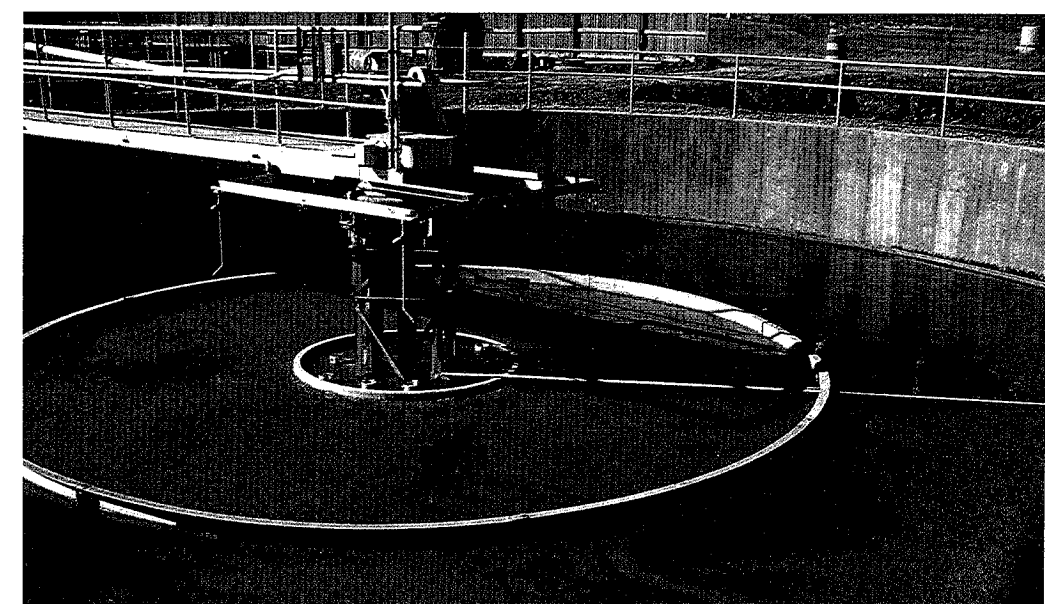
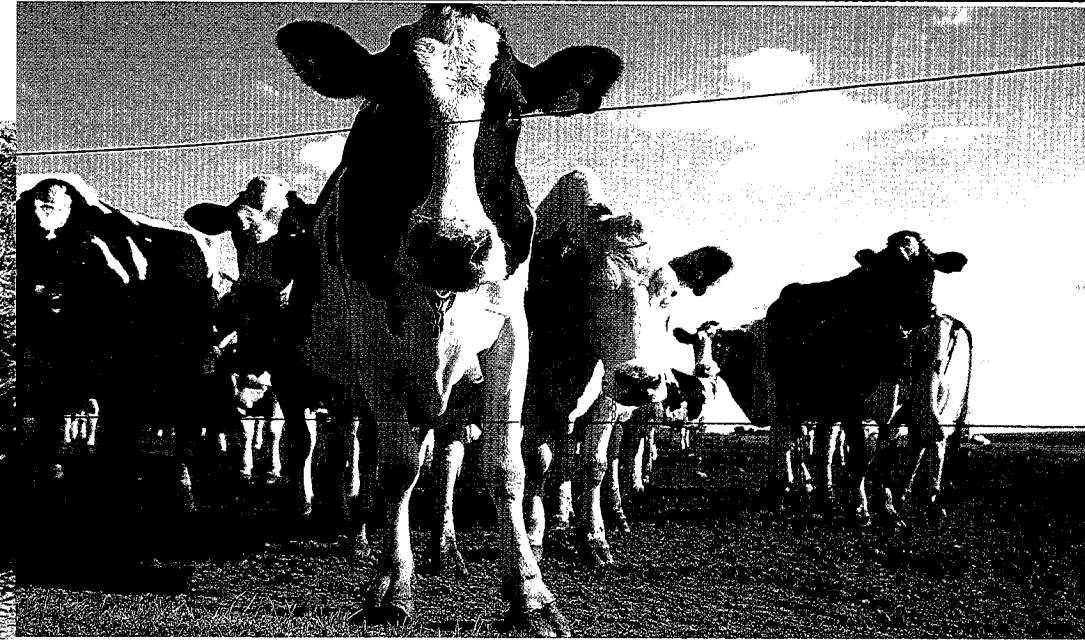
**Pennsylvania is being put on a diet, a pollution diet, that is. The order comes from the U.S. Environmental Protection Agency, which is mandating that the commonwealth, six other states, and the District of Columbia cut the nitrogen, phosphorus, and sediment they send to the Chesapeake Bay or face the consequences. Townships will feel the ripple effects of this action.**



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Lawn fertilizers, stormwater, pesticides, manure, dirt, and wastewater are polluting local waters and getting flushed into the Chesapeake Bay, which has been in decline for years despite the best efforts of state and local officials. This time, however, the U.S. Environmental Protection Agency is serious about the cleanup. It recently mandated the bay states, including Pennsylvania, to develop a strategy for reducing point and nonpoint source pollution. The agency has also been flexing its enforcement muscle by paying surprise visits to farms and sending stormwater compliance orders to municipalities.



says. "What we're not seeing are logical approaches by federal officials."

And once again, the tide has turned, but this time, things are different. The federal government is more serious about righting what is wrong with the bay, more focused on state and local accountability, and more willing to be heavy-handed.

John Hines, deputy secretary for water management with the state Department of Environmental Protection, sums up the situation this way: "The pot has been simmering on this issue for a long time, and now the heat has been turned up."

The EPA, for instance, spurred to action by a White House executive order and a legal settlement with the Chesapeake Bay Foundation, has already started flexing its enforcement muscle.

Agency officials paid surprise visits to dozens of Lancaster County farms, many operated by the Amish. The EPA also sent compliance orders to 79 south-central Pennsylvania townships that fall under its Municipal Separate Storm Sewer System, or MS4, Program. The message to both groups was the same: Get your agricultural and stormwater runoff under control or else. (*Editor's*

## Getting the scoop on reducing water pollution

Townships can learn more about Pennsylvania's total maximum daily load, which limits the amount of pollutants it can send to the Chesapeake Bay, and their role in sharing the burden by contacting:

- **John Hines**, the state Department of Environmental Protection's deputy secretary for water management — (717) 783-4693
- **James Wheeler**, PSATS director of environmental affairs — (717) 763-0930

*note: Southcentral Pennsylvania, rich in farms and people, as well as Maryland's eastern shore and Virginia's Shenandoah Valley, have been called "hot spots" by the EPA and targeted in the cleanup effort.)*

The EPA is also putting the entire Chesapeake Bay Watershed, which encompasses Pennsylvania, Delaware, Maryland, New York, Virginia, West Virginia, and the District of Columbia, on a strict "pollution diet" based on a baywide total maximum daily load, which was released as the *News* went to press.

### 'More...must be done'

This budget of sorts, the largest and most complex ever developed, establishes binding state limits for three major pol-

lutants entering the bay: nitrogen, phosphorus, and sediment. It also targets their sources: sewage treatment plants, fertilized lawns, farms, and stormwater runoff.

"Virtually everyone living life contributes to the problems in the bay," Robert Koroncai, the EPA's Bay TMDL manager, says. "First, we have to recognize that we have a problem, and then we have to do things differently. More can and must be done."

Since its release, the bay TMDL has been divided among the six states and D.C., which are now required by year's end to devise a cleanup plan, formally known as a watershed implementation plan.

"The TMDL paints a picture of what we need to reduce," DEP's John Hines

says, adding that the plans will detail how the states intend to trim down contaminants through 2025. A number of groups, including townships and farmers, will be expected to share the load.

Progress in reducing pollution will be monitored through a series of two-year milestones. "This time, there is some accountability," the Chesapeake Bay Foundation's Matt Ehrhart says. "The states have some flexibility, but at the end of the day, they actually have to meet the goals."

Those who fail face a handful of consequences, from reduced funding to more federal oversight, particularly over stormwater systems and treatment plants. The EPA is also threatening to bring more townships under the wing of the MS4 Program, which currently places mandatory stormwater management controls on urban and suburban municipalities.

"If states don't meet the milestones, we'll be looking at our backstop of actions, which we are prepared to take," Koroncai says. "We've told them about eight consequences, but there could be more imposed under the Clean Water Act."

Pennsylvania, for its part, would much rather make tough decisions

now that result in clean water than see more federal intervention and regulation later, Secretary of Environmental Protection John Hanger said last year at a meeting of the Susquehanna River Basin Commission.

"If we don't make these decisions now...somebody else will be making these decisions for us," Hanger said. "And that somebody may not be the Environmental Protection Agency. It may well be a federal judge adjudicating an action lawsuit for long, persistent violations of the Clean Water Act. That's what I want to avoid."

The bottom line: "We need to sit down as Pennsylvanians and solve this problem together," DEP's John Hines says.

### Sharing the burden

For townships, the renewed focus on

cleaning up the Chesapeake Bay boils down to one thing: Local officials and their residents will be expected to share the burden of reducing Pennsylvania's pollution load.

To what extent? Well, that's unclear at this point.

DEP is still working with its stakeholders, including PSATS, to develop the commonwealth's watershed implementation plan, which will outline expectations and obligations for townships and others. It seems certain, though, that the townships in the Chesapeake Bay Watershed, which covers 43 counties in Pennsylvania, will be required to get a better handle on their nonpoint source pollution, including adopting tighter stormwater management controls and encouraging residents to reduce fertilizer use. ►



The state Department of Environmental Protection, under a mandate from the U.S. Environmental Protection Agency, is developing a watershed implementation plan. The cleanup strategy, to be ready by year's end, will outline how the commonwealth, municipalities, farmers, and others will limit pollutants entering the Chesapeake Bay. As a member of a stakeholders group, PSATS has been airing the needs and concerns of townships. (Photo courtesy of the Chesapeake Bay Program)

## PSATS helping Pennsylvania develop bay cleanup strategy

PSATS has been working with the state Department of Environmental Protection as it develops the commonwealth's watershed implementation plan, which will outline strategies for reducing the pollutants sent to the Chesapeake Bay.

PSATS Assistant Executive Director Elam Herr and Director of Environmental Affairs James Wheeler are sharing township concerns as members of a stakeholders group convened to determine the role municipalities and others will play in meeting the state's total daily maximum load. This federally mandated load limits the amount of nitrogen, phosphorus, and sediment entering the bay.

PSATS has been urging DEP to avoid placing an excessive finan-

cial burden on townships. It has also been asking the state to develop effective, affordable strategies and technologies to help municipalities meet the clean-water mandate.

"One important matter that has not been completely settled is determining how effective various measures are at cleaning up the bay," Wheeler says. "We want to get a handle on these best management practices now, at the very beginning of this process, so that townships know exactly what's expected of them."

"Too often in the past, rules and strategies have changed in the middle of the game, leading to wasted dollars and frustrated township officials. PSATS' goal is to end this cycle."

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"The department is going to be available to help townships along," Hines says.

Once a draft of Pennsylvania's watershed implementation plan is complete, public hearings will be scheduled. Sen. Mike Brubaker, a former township supervisor who heads up Pennsylvania's delegation on the Chesapeake Bay Commission, urges township officials to be a part of the process.

"It takes people to be involved in this mandate. Therefore, it's crucial for townships to attend and learn and comment at these hearings," Brubaker says. "It would be a tremendous wasted opportunity if local leaders don't participate."

EPA's Robert Koroncai agrees: "Pennsylvania is building a plan to reduce nutrients. Participate."

Still, township officials have been through this whole Chesapeake Bay thing before, most recently with the controversial Chesapeake Bay Tributary Strategy, which required municipalities to invest millions of dollars in wastewater treatment plant upgrades.

As word circulates that more will be expected of them, local leaders are becoming filled with a sense of what-now dread. Because as much as townships want to be champions for clean water, they are bothered by what amounts to another unfunded mandate. (To learn more about funding pending in the U.S. Congress, turn to the sidebar on Page 42.)

The frustration oozes from George Wolfe's voice. He manages Lower Paxton Township, one of the municipalities that received an MS4 compliance order from the EPA. Over the years, he says, the township has spent more than \$50 million to meet federal clean-water mandates.

Wolfe is tired of throwing local tax dollars at a problem that never seems to go away because the federal government keeps changing the rules. Now, the emphasis is on the total maximum daily load, but he is skeptical.

"They're taking a bureaucratic approach to an environmental problem," he says, "as opposed to a scientific approach based on on-the-ground solu-

tions. My concern is that the logic is missing."

On top of that, Wolfe worries that townships will have a difficult time staying within their load limits. "We have 12,000 residential properties, and many of those homeowners apply pesticides and fertilizers because everyone wants a green lawn," he says. "I don't know what we'll do about that."

"I'm afraid that no matter what we do here, it won't have an impact," he adds, "but we'll be spending a lot of money trying."

Wolfe's sense is that the federal government is shirking its responsibility. "It seems the federal government is implementing a program to make local government upgrade the quality of the bay," he says, "but we're not equipped in Lower Paxton Township to do that."

### Reducing pollution with affordable solutions

DEP's John Hines is fully aware of these local frustrations and admits that implementing a multi-state cleanup of the Chesapeake Bay is going to be costly. The goal now, however, is to find innovative strategies and technologies that net results without breaking township budgets, he says.

Because, the truth is, there is no turning back. "Reducing nitrogen, phosphorous, and sediment is not optional," Sen. Mike Brubaker says. "We must do it, and townships need to be a part of the solution."

Along those lines, township officials should be thinking about how they are going to address stormwater in older neighborhoods and in new developments.

They also should be considering how they are going to convince residents to reduce their pollution-producing practices. Will it be through an ordinance that limits fertilizer use? Or through workshops that tout the environmental benefits of rain gardens and barrels?

"We have to be creative, and we have to be innovative," Hines says. "That's the only way we'll truly meet the challenges ahead of us. It's not going to be an easy road, but it's one we have to address. We have to make the move from paper to people and projects."

"The key," says Matt Ehrhart of the Chesapeake Bay Foundation, "is show-

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ing people what success looks like.”

That isn't hard to do in Pennsylvania, where municipalities, businesses, and farmers are tinkering around with projects and practices that promote clean water and reduce their pollution footprint.

In Lancaster County, for instance, Oregon Dairy Organics recently broke ground for a \$1.5 million facility that will turn manure and other waste into marketable compost. By taking some 20,000 tons of manure off farms, the project will prevent it from washing into local streams and eventually the Chesapeake Bay.

In Lycoming County, where wastewater treatment plant operators are facing \$212 million in mandated upgrades, officials are crafting a pilot nutrient credit trading program.

These credits, which are created when a farmer or developer employs a pollution-reducing practice, such as planting stream bank buffers or fencing in cattle, can then be sold to the county's treatment plants and others in the Chesapeake Bay Watershed to offset the cost of their repairs.

Megan Lehman, an environmental planner for the county, says the concept has many benefits: Farmers get additional income from selling credits, treatment plant operators get relief from expensive structural upgrades, residents avoid hikes in their sewer fees, and local water quality improves.

“This is a way for us to reward farmers for doing something good for the community and for the environment,” Lehman says.

### A model for change

And to the south of Lycoming County, the Conewago Initiative is unfolding.

There, along the shores of the Conewago Creek in Dauphin, Lancaster, and

Lebanon counties, Penn State and a slew of federal, state, and local partners are hoping to prove that with a little hard work, a little cooperation, and a little ingenuity, it's possible to clean up the Chesapeake Bay one watershed at a time.

The idea is to turn this grassroots restoration project into a model for others in the Chesapeake Bay Watershed. It certainly has the backing of the federal government, which has anted up \$750,000 to get the effort off the ground. Similar “discovery watershed” projects are planned in Maryland and Virginia, too.

“We're going to bring Penn State research here and get it into the ground, where it can make a difference,” says Matt Royer, the newly minted director of Penn State's Lower Susquehanna Initiative. Farmers, for instance, will be able to take advantage of cutting-edge techniques, including a no-till device that injects dry manure into the ground, where it won't smell or run off the land.

South Londonderry Township in Lebanon County, one of 10 municipalities in the watershed, hopes to be among those setting an example.

Not long ago, it became the first municipality in the county to form an environmental advisory council, which is helping the township secure natural areas. So far, homeowners have enrolled 700 acres in this voluntary program, where they agree not to spray or mow the land.

Currently, South Londonderry isn't under any federal mandates to curb stormwater runoff or reduce pollutants, and officials want to keep it that way, township manager Tom Ernharth says. “Everybody needs to do their part, and we want to be at the forefront of this before someone else comes in and tells us what to do,” he says.

Clearly, a cleaner Conewago is the top priority for many, but Royer has other goals, too. Chief among them: Getting township officials, farmers, and residents alike to see the connection between their actions on the land and the impact on the water.

“Every person, every landowner has a role to play,” he says, “and we're going to be reaching out to everyone in the watershed. We may be small, but collectively, we believe we can make a big difference.” ♦

## Proposal would provide \$1.5 billion to help municipalities meet clean-water mandates

Now that there is a renewed focus on cleaning up the Chesapeake Bay, something becomes very clear: It's going to take a lot of money for states and municipalities to reduce pollutants that come from farms, homes, businesses, and wastewater treatment plants.

Although no one has assigned a dollar figure to the multi-state effort, Robert Koroncai of the U.S. Environmental Protection Agency says that much of the money will be spent on managing stormwater. “This will be a major expense,” he says.

Congress, however, is eyeing the Chesapeake Clean Water Act, which would amend the Clean Water Act and authorize \$1.5 billion to help townships and other local governments pay for stormwater runoff projects. The law would also:

- Place legally enforceable limits on pollution from all sources.
- Give states pollution reduction standards to meet and allow them the flexibility to determine how they will achieve these limits.
- Allow nutrient credit trades between the bay states to help offset the costs of wastewater treatment plant upgrades.

“The act clarifies the responsibilities of the states,” says Matt Ehrhart of the Chesapeake Bay Foundation, “but it's also a vehicle to bring communities more federal dollars to implement solutions.”

To learn more about the proposal, log onto the foundation's Web site, [www.cbf.org](http://www.cbf.org), and click on the “Chesapeake Clean Water Act” tab.



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