

## Chesapeake Bay TMDL: Key Provisions of Draft Phase II Watershed Implementation Plans

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During the winter of 2011/2012, the seven jurisdictions subject to the Chesapeake Bay Final Total Maximum Daily Load (TMDL) submitted their Watershed Implementation Plan (WIP) Phase II Draft. This document posts the key legal changes affecting agriculture, whether proposed or actualized. See each jurisdiction's key actions below.

### Key Actions By Jurisdiction

#### Pennsylvania (Draft Submitted December 13, 2011)

- Evaluate and Modify Existing Regulatory Tools
  - o Chapter 102 Regulations (Regulations became effective on November, 19, 2010. These regulations establish clear regulatory requirements for agricultural erosion and sedimentation control on all agricultural operations. In July 2011, these regulations were grouped in a compliance handbook for farmers.)
  - o CAFO Activities (Pennsylvania is working with EPA and others to review and revise the CAFO general permit, known as PAG-12. This permit will be revised and implemented no later than March 2013.)
  - o Manure Management Manual Outreach (The manual has been revised and published with the goal: "a farmer should be able to develop his own manure management plan." DEP will use this manual to engage the farm community in their manure management planning.)
- Achieve Agricultural Compliance with State Regulatory Requirements
  - o Creation of new compliance documents
  - o Outreach plans (Conservation District Chesapeake Bay staff to address farm operations and "inform them about compliance with their regulatory requirements")

- Continue development of the Draft “Model Agriculture Compliance Policy” (identifying specific steps conservation districts will take to address compliance activities on agricultural operations; the draft establishes a “three strikes” approach that allows the conservation district to work with the farm operator to achieve compliance prior to formal enforcement actions)
- New Nutrient Management Delegation Agreement (“the new delegation agreement would provide additional funds to conservation districts that would accept additional responsibilities for manure management regulatory oversight”)
- Enhance Compliance Activities (new employees hired to increase field presence to ensure regulatory compliance)

Maryland (Draft Submitted January 25, 2012)

- Legislative and Policy Initiatives
  - On May 19, 2011, Maryland’s Governor signed The Fertilizer Use Act of 2011, an environmental law designed to reduce the amount of nutrients washing into the Chesapeake Bay from lawns golf courses, recreation areas and other non-agricultural sources.
  - Proposed Revision of the Phosphorus (P) Site Index (goal is to improve the ability to rank fields in a relative manner according to their potential for P loss to surface waters)

Virginia (Draft Submitted December 15, 2011)

- Develop and implement resource management plans
- Following through on CAFO and Animal Feeding Operations (AFO) plan commitments
  - State is in the final stages of completing a strategy to manage water quality issues on small, unpermitted AFOs.
- State may encourage more Chesapeake Bay Preservation Act localities to adopt jurisdiction wide Chesapeake Bay Preservation Areas
- Legislature “could” create an “alternative real estate taxation” regulation that provides tax incentives for eco-friendly agricultural land management

West Virginia (Draft Submitted January 18, 2012)

- WV Department of Agriculture developed a technical standard for WV’s CAFO Nutrient Management Plans.
- USDA Natural Resources Conservation Service (NRCS) has finalized a Litter Transfer Program that will help facilitate transport of poultry litter out of the Chesapeake Bay Watershed. NRCS is currently offering a payment rate of \$10 per ton for producers of poultry litter within the priority watersheds of the WV Bay drainage area.

- Agricultural Enhancement Program expanded during 2010 with a focus of expanding agricultural best management practices installation.
- WV Nutrient Management Rule has now formally entered the lawmaking process and will be taken up the WV State Legislature in 2012; key component is to implement Nutrient Management Practices on farms that have potential to discharge nutrients in storm water runoff.
- NRCS standards are being updated to include the use of time release and slow release fertilizer formulations that help “fine tune” nutrient availability and movement.
- In 2010, WV legislature revised 47CSR10-13 to be consistent with the 2008 Federal CAFO rule; under the new rule, all concentrated animal feeding operations are point sources subject to NPDES permitting requirements; the owner or operator of any AFO that is defined or designated as a CAFO must provide substantive controls on the discharge of pollutants from production areas.

Delaware (Draft Submitted December 15, 2011)

- Newly revised CAFO regulations (now animal feeding operations include any operation in which animals have been, are, or will be stabled or confined, fed, or maintained for a total of 45 days or more in any twelve month period; confinement area cannot sustain crops, vegetation, or forage growth, and post residues)
- State Technical Standards updated (manure application setbacks will be implemented)
- Reduced property assessments for property tax in exchange for farmer’s use of a nutrient management plan

District of Columbia (Draft Submitted December 15, 2011)

- Inapplicable

New York (N/A)

- Draft Phase II submission pending

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