

VIRGINIA AGRIBUSINESS COUNCIL

Top 5 Things You Need to Know about the Chesapeake Bay “Pollution Diet” or Total Maximum Daily Load (TMDL)

1. What is the Bay TMDL?

- TMDLs, termed “pollution diets”, set maximum amounts (called loads) of pollutants that a specific waterway can handle and still meet federal water quality standards.
- The Bay watershed includes six states and the District of Columbia and encompasses 64,000 square miles.
- EPA has broken the watershed into 92 different smaller watersheds (35-40 in Virginia) each of which must meet water quality goals to collectively achieve Bay water quality standards.
- The Bay TMDL will set loads for nitrogen, phosphorus and sediment. EPA will set the ultimate loading “goals” (called allocations) to reach by a 2025 deadline. These loads are driven by data from the Chesapeake Bay Model.
- These allocations will be apportioned to each state based upon their relative impact to water quality.

2. How Did We Get Here & Where Are We Headed?

- **1998-** Bay and its tributaries were identified as not meeting federal water quality standards (main pollutants: nitrogen, phosphorus, and sediment).
- **1999-** Judicial “Consent Decree” issued to EPA (as a result of a lawsuit regarding the impairment of the Bay) with a deadline of May 1, 2011 to clean up the Bay, or issue a TMDL plan to achieve Bay restoration.
- **2008-** Chesapeake Bay Foundation and others filed lawsuit against EPA for failing to make sufficient progress in Bay clean-up.
- **2009-** President Obama issued an Executive Order giving EPA a deadline of December 31, 2010 to finalize the Bay TMDL.
- **2010-** EPA expects states to develop their own watershed implementation plans (WIPs) to meet the TMDL and submit them for federal approval by September 1. If not, EPA will issue a state WIP themselves. By December 31, 2010, the TMDL is to be finalized.
- **2011-** EPA will modify their load allocations given to states in 2010, which may require some changes to the state WIPs. “Phase II” WIPs, which are more localized, are also due to EPA.
- **2017-** EPA will re-evaluate the progress towards meeting the TMDL allocations (supposed to meet 60% of the goal by 2017) and make adjustments as necessary.
- **2025-** All practices are to be implemented deemed necessary to achieve TMDL allocations.

3. What will Virginia have to do?

- By September 1, Virginia is expected to divide nutrient and sediment allocations between sources: a) wastewater, b) agriculture, c) urban/stormwater, d) forestry, and e) onsite/septic, and also by major tributary basins (approximately 35-40 in Virginia).
- By September 1, Virginia is expected to provide a plan to EPA that addresses existing progress and programs needed to meet Bay goals, as well as identify (broadly) strategies to meet any goals not met through utilization of current programs.

- Next fall, Virginia will have to submit a “Phase II” WIP, identifying more specific local actions to meet water quality allocations for each sector (wastewater, agriculture, forestry, urban/stormwater, and onsite/septic).

4. What are the potential impacts of the TMDL on you that the Council is working to minimize?

- Will more farms be required to have an EPA permit to operate, potentially requiring upgrades and implementation of additional BMPs to continue producing?
- Will there be stricter permit limits (i.e. more BMPs required or greater effluent controls) on already permitted facilities like large poultry operations, pork farms, or dairies, or processing facilities?
- Will there be no expansion of existing facilities, farms, or other growth without getting an “offset for your new nutrient loads from a neighboring farmer or other offset provider?”
- Will there be limited opportunities for farmers to generate “offsets” to sell to those who wish to expand because of requirement that farmers must first meet TMDL requirements and only sell “over and above” what’s regulated?
- Will EPA withhold federal funds, or take over appropriation of federal funds if Virginia doesn’t meet their expectations on TMDL implementation?
- Will there be smaller and smaller load allocations in the future and no certainty as to what could be required of farmers to meet TMDL goals?

5. What can I do?

- Be conscious of the conservation practices that you have implemented on your operation. Keep track of these, even if you did not participate in federal or state cost-share programs to implement them.
- Stay updated on the progress of the Virginia TMDL WIP, and participate in public comment this September–November.
- Plan to participate in your local area next year as more localized TMDL plans are developed.
- Urge legislators and decision makers to be balanced in their approach to meeting the TMDL, relying upon fair and equitable solutions versus massive regulatory increases.

Helpful Links

[EPA’s TMDL Website](#)

[DEQ’s Chesapeake Bay TMDL Website](#)

[Frequently Asked Questions](#) from December 2009 TMDL Public Meetings

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