



## VIRGINIA AGRIBUSINESS COUNCIL

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*We Represent Virginia Agribusiness with a Unified Voice*

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### **Re: Environmental Protection Agency Notice: Clean Water Act Section 303(d) - Preliminary Notice of Total Maximum Daily Load (TMDL) Development for the Chesapeake Bay**

Ms. Sincock:

On behalf of the members of the Virginia Agribusiness Council, we respectfully submit comments on the Environmental Protection Agency's (EPA's) recent notice of Total Maximum Daily Load (TMDL) Development for the Chesapeake Bay.

Agriculture and forestry represent the number one industry in the Commonwealth of Virginia, generating \$79 billion in economic impact and 10.3% of employment. Within this industry, the Virginia Agribusiness Council represents farmers, foresters, processors, manufacturers, and suppliers of agricultural and forestal products, as well as approximately 40 commodity associations. We believe it is essential that our agribusiness industry be fully engaged in the development of the Chesapeake Bay TMDL as thousands of farms and forests in the Commonwealth will be directly impacted.

We appreciate this opportunity to provide initial public comment on this process and offer the following concerns:

- Adequate and appropriate representation on all stakeholder groups for development and/or implementation of the Bay TMDL must be provided for farmers, foresters, urban agriculture and agribusinesses within the Bay Watershed.
- TMDL processes must be based on peer-reviewed, science-based information. Scientific advisory panels for TMDL development must include representation from university officials from each Bay state, including Virginia's land-grant universities of Virginia Tech and Virginia State University, who are actively engaged in agricultural conservation measures.

- TMDLs must accurately account for population growth projections within the watershed, and must not hold one sector (i.e. agriculture) responsible for the reductions needed from other industries. While loadings have been established for point and non-point sources, we remain extremely concerned that given agriculture's "cost-effective" practices for water quality reductions, our farmers and foresters will be asked to take more than their allocated or fair share of nutrient reductions.
- TMDLs must assess and take into account wildlife population impacts on water quality. In situations where loading limits have been met for specific water segments based upon every "controllable" action that can be taken from agriculture, other non-point sources, or point-source dischargers, agriculture should not be held accountable for other uses impacting the water quality, such as wildlife populations.
- TMDLs must consider the realistic availability of offset credits. Current "trading" programs for water quality in Virginia require implementation of best management practices that go above what is required for TMDL implementation. Depending upon what the TMDL implementation plans require from agriculture, the actual availability of "trading" or offset credits may prove to be minimal at most. We strongly believe that trading programs are not the singular solution to severe TMDL loading limits.
- Sufficient federal and state funding for implementation of required and voluntary environmental practices for agribusinesses must be provided. Agricultural Best Management Practices (Ag BMPs) can be expensive to implement, and cost-share assistance, as well as technical assistance for implementation, will remain a critical need in order to make environmental progress.
- Additional real-world, science-based and tested water quality data must be gathered and utilized in federal and state decision-making processes. The current overall dependence upon computer modeling has led to confusion, questions, and shaky science, at best. TMDL loading limits should be refined over time based upon science-based, tested water quality data.
- A comprehensive data system must be developed that fully accounts for all Agricultural Best Management Practices, whether through federal or state programs or voluntarily implemented. There is an obvious lack of complete data for current implementation of conservation practices which significantly changes water quality load allocations by assigning more loadings to agriculture than what is realistically on the ground.
  - As an example, in 2003 Virginia Tech conducted a survey of agricultural producers in Virginia's Coastal Plain region and found that while farmers reported that 75,630 cropland acres were currently


in conservation practices, only 5,630 of those were supported through an incentive based government program. This means that in this region, approximately 70,000 acres were not counted nor reported in the Chesapeake Bay Program Model. This is unacceptable.

In addition to these concerns, we raise the following questions for your consideration prior to TMDL development:

- Why has EPA accelerated the TMDL development process from what has been court ordered?
- What is the expectation for meeting a two-year implementation milestone in 2011, when the majority of time for EPA, states, and impacted stakeholders will be spent developing the TMDL and an implementation plan?
- Have the consequences for failure to develop the TMDL or comply with a TMDL plan been clearly outlined for states, localities, and the general public (including the agriculture industry)?
- Has EPA clearly articulated what the next actions will be if a TMDL is not fully met in a specific basin or watershed? What if there is 99% compliance?
- What will happen if one "pollutant load" meets their TMDL limits but the overall goal is not met in a specific basin or watershed? Who is ultimately responsible?

We appreciate this opportunity to provide comment on this most critical issue for agriculture, forestry, agribusinesses, and the citizens of the Commonwealth and the Chesapeake Bay region. Agribusinesses are committed to environmental stewardship, water quality, and protecting the natural resources that they depend upon. Water quality measures such as this TMDL must be based upon a delicate balance of environmental protection and economic viability of an entire watershed. Agribusinesses can and will play an integral role in the success of meeting these goals, but only if their businesses can continue to be sustained and grow.

Sincerely,



Donna Pugh Johnson  
President