

April 22, 2010

Ms. Katie Flahive
U.S. Environmental Protection Agency
Office of Water, Office of Wetlands, Oceans and Watersheds
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**RE: Executive order 13508; Chesapeake Bay Protection and Restoration Section 502
Guidance for Federal Land Management in the Chesapeake Bay Watershed
EPA-HQ-OW-2010-0164**

Dear Ms. Flahive:

The “Virginia Agriculture United” coalition appreciates this opportunity to comment on the Chesapeake Bay Federal Land Management Draft Guidance. Our 28 organizations represent Virginia’s number one industry which contributes \$79 Billion annually to the Commonwealth’s economy. Coalition members include livestock and poultry producers, row crop farmers, nurseries, fertilizer manufacturers and dealers, foresters, golf courses, and lawn care professionals, all who have an interest in the outcome of this Guidance document and its intended use by EPA.

While the document’s introduction states that this is a guide for federal land managers within the Bay watershed and provides useful tips for state agencies, non-profits, landowners, farmers, etc., this intent is not as clear throughout the remainder of the document. In general, the tone of the Draft Guidance leads to the following unanswered questions and concerns:

Application to Federal Lands:

- Who is mandated to comply with this Guidance? Are all federal lands expected to comply? Does this include federal properties rented to private landowners and farmers?
- What is the expectation for compliance with this Guidance?
- How will EPA monitor federal lands to ensure that they are meeting these mandates?
- What is the timeline for implementing these practices? By 2010, 2017, 2025, or beyond?
- Are there 2-year incremental goals for achieving implementation of practices?
- What is the cost to taxpayers for federal lands to implement these mandates?

Impact on Private Landowners:

- While the introduction states that this Guidance will serve as a useful guide for private landowners, farmers, etc., there are many instances where the document refers to meeting Bay Goals and requiring certain practices to meet these goals. This creates confusion for private landowners who may read a specific section and assume that certain practices are being required of them. As an example:
 - Agriculture Section 1.2 (Pg. 6): “This chapter provides recommendations for the suite of practices that should be implemented in the Chesapeake Bay watershed to meet the agriculture sector reduction goals by 2025.”

- Why is this specific document being used to provide “guidance” to private landowners? Should this not be separated from what is mandated for federal land managers?
- The unification of Guidance for mandated actions for federal lands and recommendations for other landowners is confusing, at best.

Requirements vs. Recommendations

- Some parts of the guidance appear to require certain actions, while others recommend actions. What is the basis for these differences?
- In light of the EPA “Consequences Letter” sent to the Bay Principals Staff Committee on December 29, 2009, does this document serve as a guide for EPA in enforcing those consequences?
- How will these “Implementation Measures” be utilized long-term by EPA within the Bay Watershed?
- Without a thorough vetting of all proposed Implementation Measures with the industries impacted, we are concerned some of these specific Measures may not be achievable for private landowners in the agriculture, turfgrass, and forestry industries.
- Some “recommendations” may be implemented by States, municipalities, or local governments in an effort to meet what they may mistakenly read as EPA expectations.

Priority for Implementation Measures

- Each section of this Guidance contains numerous Implementation Measures for federal lands and landowners to achieve. While some have been widely adopted in various industry sectors, there are others that are still in the research and demonstration stage. The Guidance recognizes this to be the case in certain instances, but leaves unclear how to achieve greater adoption of practices.
- Is there a priority for Implementation Measures, based on implementing those that are widely adopted first, then moving to those that are new or innovative?
- When examining the full list of implementation measures, many also appear in the “E3” scenario from EPA for TMDL development. While “E3” is the “perfect”, it is not widely believed to be achievable at this time. This Guidance appears to set up requirements and expectations based upon the “perfect” versus a more achievable plan.

Input from States and other Federal Agencies

- What type of input from other impacted federal agencies, state agencies and constituent groups was utilized in drafting this Guidance?
- Do all Implementation Measures correspond to existing federal and state programs, or will additional tools need to be developed?

Research Data Utilized

- Some research data appears to be outdated.
 - For example, in the Turfgrass section, 5.2.2 Fertilizer Applications, references a 1988 study regarding the amount of N that homeowners apply to lawns when compared to for-hire companies. In the 22 years since this study has been completed, the economy, environmental awareness, for-hire company policies, fertilizer inputs, and homeowner education has changed significantly and greatly improved.
- Why is there such a reliance on research data from non-Bay states? A few examples:
 - Agriculture Section- Many of the cited studies for conservation tillage practices are from Missouri, Mississippi, or Alabama. The soil types, weather conditions, cropping systems, etc. in each of these places differ from those in the Bay states so that the applicability of the research is not useful.
 - Turfgrass Section- In the “Water Management” section, research on water usage is cited from studies in California and Nevada. Given that weather patterns in the mid-Atlantic

vary greatly than those in CA and NV, especially in the desert environments there, this does not seem to be a useful application of research.

Utilization of Existing State Programs

- Some recommendations appear to contradict the existing policies that many states and even federal agencies follow. In many instances, these policies have been adopted based on scientific research, industry input, and water quality benefits, and it appears counterproductive to replace these with new requirements without the same thorough review and adoption process.
 - As an example, in Chapter 2 “Agriculture”, section 2.1.1 Phosphorus (page 16), there is an Implementation Measure of not applying manure or commercial fertilizer containing phosphorus (P) when the soil P saturation levels are above 20%. Many Bay states utilize a P-index which does not allow P applications above a much higher threshold, 65% soil saturation in Virginia. What is the basis for this change and who has been consulted to determine its efficacy?
 - Another example can be found in Chapter 3 “Controlling Urban Runoff”, section 5.3.1-Fertilizer Management (page 131), where the document states that lawn fertilizer should be applied in the early spring early in the growing season. In fact, Virginia Tech turfgrass specialists and the Virginia Department of Conservation and Recreation encourage homeowners to apply lawn fertilizers in the fall (September, October, and November) to minimize water quality impacts and encourage the most efficient use of the fertilizer. What is the basis for this new recommendation and which experts were consulted to make this determination?

Again, we appreciate this opportunity to submit comments to the Chesapeake Bay Federal Land Management Draft Guidance. This Draft Guidance creates uncertainty for both Federal land managers and others who may or may not be “required” to comply with its provisions. In addition, a further, thorough vetting with impacted industry sectors may result in a document that reflects current best management practices implemented by agribusinesses to protect water quality.

The members of “Virginia Agriculture United” remain committed to environmental stewardship and water quality. We support sound, science-based environmental stewardship through measures that balance natural resource protections with the economic viability of agriculture and forestry operations. We look forward to a response from EPA on this matter.

Sincerely,

Association of Virginia Potato & Vegetable Growers
Central Virginia Nursery & Landscape Association
Cooperative Milk Producers Association
Maryland & Virginia Milk Producers Cooperative Association
Southwest Virginia Agricultural Association
Virginia Agribusiness Council
Virginia Cattlemen’s Association
Virginia Christmas Tree Growers Association
Virginia Cotton Growers Association
Virginia Crop Production Association
Virginia Farm Bureau
Virginia Forage & Grasslands Council
Virginia Forest Products Association
Virginia Forestry Association
Virginia Golf Course Superintendents Association

Virginia Grain Producers Association
Virginia Green Industry Council
Virginia Horse Council
Virginia Nursery & Landscape Association
Virginia Peanut Growers Association
Virginia Pork Industry Association
Virginia Poultry Federation
Virginia Sheep Producers Association
Virginia Soybean Association
Virginia State Dairymen's Association
Virginia State Horticultural Society
Virginia Turfgrass Council
Virginia Wineries Association

Cc: The Honorable Todd P. Haymore, Secretary of Agriculture & Forestry
The Honorable Doug Domenech, Secretary of Natural Resources