

# Chesapeake Bay TMDL – Summary from Virginia Grains

## “At a Glance” Summary of Chesapeake Bay Clean Up Process

- Executive Order for Chesapeake Bay issued May 2009
- Federal lawsuit required EPA to develop Bay-Wide TMDL by May 2011; EPA imposed deadline of December 2010
- TMDL= Pollution Diet for Bay
- Action by everybody, everywhere, all the time
- Three Phases of Bay TMDL
  - Phase 1 (2010)- State Plans
  - Phase 2 (2011)- Local Plans
  - Phase 3 (2017)- Re-evaluate
- VA Sec. of Natural Resources formed diverse “Stakeholder Advisory Group”
- EPA publish Draft TMDL for 45-day comment 9/24/10
- States required to develop and submit Watershed Implementation Plan (WIP) to meet TMDL water quality goals by 11/29/10
- EPA published Final TMDL 12/29/10

## EPA and TMDL Process

- EPA developed Final TMDL with admittedly flawed data thus creating “arbitrary and capricious” TMDL
- EPA modeling assumptions (*data and documents*) not made public in time for public comment/correction
- EPA accelerated timeframe forced states to develop reduction allocations (WIP) *before* they had final TMDL allocations
- No economic analysis from EPA, no proof TMDL standards are attainable
- Compliance with EPA Final TMDL *removes* 20% farmland from Chesapeake Bay Watershed
- Authority of EPA – Clean Water Act (CWA) does *not* grant EPA authority to implement TMDL
  - Neither Executive Order or CWA grants EPA authority to approve/disapprove state WIP or require specific measures – issuing “backstops” is EPA overreach

## USDA vs. EPA Numbers in Bay Watershed

- EPA Chesapeake Bay Program compared with USDA/NRCS Conservation Effects Assessment Project
- Land Use – EPA claims 1.6 Million *less* acres in watershed than USDA
  - Cropland: EPA claims 3.33 Million acres, USDA claims 4.59 Million acres – 37.8% difference
- Estimated Delivered Loads to Bay from Agriculture:
  - EPA – 111.1 Million lbs Nitrogen, 2,586 tons Sediment, 7.3 Million lbs Phosphorus
  - USDA – 149.5 M lbs N, 930 tons S, 5.5 M lbs P
- *According to USDA, Agriculture has already met Sediment and Phosphorus TMDL standards in Bay*

## VGPA Goals for State/Federal TMDL Implementation

- Achieve better water quality
- Use accurate data to assess loads and reductions and set accurate goals
- Keep measures voluntary not creating unfunded mandates
- Maintain Virginia’s flexibility and authority
- Use achievable and economically feasible resource management plan (RMP) to address the individual conservation needs of each farm
- Allow necessary time for evaluation and review and correction of goals/standards
- Provide “safe harbor” for farmers implementing RMP (no citizen suits) (HB 1830)
- Support “safe harbor” bill defining RMP
- Provide dedicated source of funding for additional Best Management Practices (BMP) and technical assistance
- Farmers not required to implement additional BMPs on more acres if funding not available
- Allow flexibility in RMP writing and assessing
- Support Nutrient Credit Exchange

## Helpful Websites & Resources

- EPA's Bay TMDL Website - <http://www.epa.gov/chesapeakebaytmdl/>
- Va. Bay Watershed Implementation Plan - [http://www.dcr.virginia.gov/soil\\_and\\_water/documents/vatmdlwip.pdf](http://www.dcr.virginia.gov/soil_and_water/documents/vatmdlwip.pdf)