



### Defending Agriculture

Legal, environmental hot button issues that impact U.S. farmers.

## EPA Targets Agriculture in Chesapeake Bay

Posted on September 20, 2010 at 11:16 AM

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*"Agriculture is the single largest source of nutrients to the Chesapeake Bay. Agricultural operations deliver nitrogen and phosphorus to the Bay accounting for 38 and 45% of phosphorus." -- U.S. Environmental Protection Agency*

EPA would have you believe the numbers quoted above are exact. In fact, they are estimates. Even so, EPA plans to use its enforcement authority to crack down on farm operations in the 64,000-square mile area which includes parts of Delaware, Maryland, New York, Pennsylvania, Virginia, West Virginia, and the entire District of Columbia.

Approximately 17 million people live in the Bay watershed, but EPA claims "agricultural sources contribute the largest nutrient and sediment pollution in the watershed..."

All these quotes come from EPA's Office of Enforcement and Compliance Assurance. In May of this year, this office published a document entitled "Chesapeake Bay Compliance and Enforcement Strategy." (<http://www.epa.gov/oeaerth/civil/initiatives/chesapeake-strategy-enforcement.pdf>)

EPA claims the Bay's health remains unacceptable although it admits total pollution levels have declined since 1985. The strategy document, of course, does not discuss the successes of the decline, but paints a terrible portrait of algal blooms fed by nutrient pollution blocking sunlight from reaching underwater bay grasses. The algal blooms lead to low oxygen levels and this is caused by both urban development and by agricultural operations.

The EPA strategy document claims the greatest pollution threats to the Bay are from nutrients (nitrogen and phosphorus) and sediment. "Agricultural sources contribute the largest nutrient and sediment pollution in the watershed, accounting for approximately 38% of nitrogen loading, 45% of phosphorus loading and 60% of sediment loading."

EPA claims that approximately one half of the nitrogen is from animal manure. It further claims urban and suburban storm water runoff only contributes 10% of the nitrogen loading and 31% of the phosphorus loading.

Agriculture, EPA claims, is the main culprit!

**Future course of action** EPA is very clear on its future course of action under this administration. When many are requesting the federal government to ease off on promulgating more regulations, EPA is making it clear it is going to issue more regulations.

Also, EPA claims it is going to use all of its available enforcement mechanisms to address significant violations. It will "...exercise its enforcement authority and use compliance programs where the states have either failed to act or impede action."

EPA says, "Without expanded regulatory coverage and stronger permit requirements, compliance and enforcement cannot remedy the Bay's pollution problems."

EPA says it is going to initiate "...a new generation of federal and state regulatory actions." According to EPA, these actions include "(1) finalizing total maximum daily loads (TMDLs) throughout the Bay watershed; (2) expanding the definition of CAFO to encompass smaller animal feeding operations (AFOs); (3) defining more stringent permit conditions related to the land application of animal manure."

EPA is also going to take judicial and administrative actions against livestock integrators for dischargers from CAFOs. (This will be interesting since CAFOs are not supposed to discharge.) EPA claims it is going to insure that all CAFOs that discharge or propose to discharge obtain and comply with NPDES permits.

Remember, a United States Circuit Court of Appeals has already told EPA that if there is no discharge from a CAFO, no NPDES permit is required. It would appear that EPA is saying it does not have to abide by a U.S. Court of Appeals decision.

EPA assumes there is massive noncompliance with applicable environmental regulations by sectors that contribute nutrients and sediment to the Bay. EPA claims it is going to analyze the compliance records for facilities in key regulated sectors, and it is going to investigate and inspect those facilities. Investigations and inspections of the highest priority will include "CAFO operations located in the Delmarva Peninsula, south-central Pennsylvania and the Shenandoah Valley; (and) Geographic areas with high nitrogen and phosphorus loadings and counties with high rates of growth and development..."

EPA is targeting three areas the agency believes represents the greatest contributions of manure-based agricultural nutrient loads to the Bay:

- (1) Delmarva Peninsula- Delaware and the eastern shores of Maryland and Virginia; poultry-broiler chickens, a dominant industry sector;
- (2) South-central Pennsylvania- Susquehanna River watershed/Lancaster and York counties, where dairy is a dominant industry sector; to a lesser extent, swine and poultry;
- (3) Shenandoah Valley- Virginia and West Virginia, including poultry-broiler chicken and turkey operations.

EPA claims it will target its enforcement actions at the facilities just described. It will work with the states to target CAFOs "...by investigating and inspecting facilities that pose the most risk to the Bay watershed and taking enforcement actions to compel compliance."

While many business and agricultural leaders are arguing for less regulation in our society, EPA is planning to boost regulations on farmers in this region. What happens in the Chesapeake Bay will be applied to agricultural sources nationwide!

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#### Comments

Posted by M. Jamison on September 20 at 1:31 PM

I am pleased to see an article regarding the EPA's fallacious information and finger pointing tactics used on farmers in the tri-state region. My family and I farm corn, wheat, and soybeans 30 miles northwest of D.C. and could not agree more with your article. Even though the E.P.A. condemns farmers as the sole contributor to pollution in the Chesapeake Bay, they miserably fail to mention many other contributing factors. 1.) When the least bit of winter precipitation is present, Reagan International Airport, located in D.C., applies urea or 30% UAN to the runways. I'm assuming the two other major airports in Baltimore and Dulles use some form or another. That is 100% runoff into the watershed. Let us not forget the massive amounts of salt, or liquid brine, applied to state and county roads every winter. 2.) Urbanization along the major watersheds of the Chesapeake have been rampant for the past 20 years, especially during this past housing boom. And rest assured, every spring the lawns look just as green and weedless as they possibly could be. Given the pesticides and nutrients being applied by a large majority of "fly by night" landscapers who don't even know what an applicator's license is. 3.) Please don't forget the next time you're in Annapolis or Baltimore, to take note of the millions of pleasure boats patrolling the war spring and summer waters. What E.P.A fails to mention is that the State of Maryland has enforced very strict nutrient management laws that farmers must follow. The fact is, I could go on forever on other contributing factors, but I believe the farmers are an easy target and they can be dealt with much easier than having to enforce rules and regulations everyday individuals who live in the urbanized areas. I really do appreciate seeing an article addressing some of the issues we face in this region.

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