



P.O. Box 2277, Harrisonburg, VA 22801; 540-433-2451; [hobey@vapoultry.com](mailto:hobey@vapoultry.com)

## **Virginia Poultry Federation Comments on Virginia's Draft Chesapeake Bay TMDL Phase III Watershed Implementation Plan**

Contact: Hobey Bauhan, president

June 6, 2019

Virginia Poultry Federation (VPF) is a nonprofit trade association, founded in 1925, that represents the poultry and egg industry in Virginia. VPF's members include poultry processing companies that operate facilities which have Clean Water Act waste water discharge permits (VPDES). Our members also include individual poultry farms, which use nutrient management plans and other BMPs to manage dry poultry litter (manure and bedding) and minimize nonpoint source runoff pollution.

The poultry industry, which has an overall economic impact in Virginia in excess of \$13 billion, generates significant farm income that helps keep farmland in production and slow conversion of farmland for other less environmentally friendly uses. The poultry industry employs about 15,000 people in Virginia and supports the livelihood of nearly 1,100 family farms that raise chickens, turkeys, or eggs.

VPF has appreciated the opportunity to provide input, as a member of the Secretary of Natural Resources' Stakeholder Advisory Group (SAG), on development of Virginia's Phase III Watershed Implementation Plan (Phase III WIP) for the Chesapeake Bay Total Maximum Daily Load (TMDL). We have also participated in numerous stakeholder meetings held by the Virginia Department of Environmental Quality (DEQ) and Virginia Department of Conservation and Recreation (DCR).

We commend the Commonwealth for recognizing in its Draft Phase III WIP the significant progress already made to reduce loadings of nitrogen, phosphorus, and sediment from Virginia sources. In particular, we are pleased that the positive role of agriculture was highlighted. We are also pleased to see that Virginia's cumulative efforts are resulting in improvements in Bay water quality and habitats. We also commend Virginia for its significant outreach to stakeholders during the Phase III WIP development process.

The Draft Phase III WIP contains significant commitments which VPF supports, such as adequate and consistent funding for the Virginia Agricultural Cost-Share (VACS) Program; expanded technical assistance for farmers through Soil and Water Conservation Districts (SWCDs); and other program enhancements and improvements.

## Topics Related to the Poultry Industry

In Chapter 7 (STATE INITIATIVES FOR THE CHESAPEAKE BAY PHASE III WIP), the Draft Phase III WIP contains two components concerning Virginia's poultry industry:

- Recommendation 27 (Expand poultry litter transport in the Chesapeake Bay) calls for expanding the eligibility of DCR's Poultry Litter Transport Program from two to five counties and increasing the amount of litter transported annually from 5,000-6,000 tons to 89,000 tons.
- Recommendation 28 (Expand poultry litter transport reporting) calls for consideration of a new reporting requirement for poultry growers and/or end-users of poultry.

### *Recommendation 27 (Expand poultry litter transport in the Chesapeake Bay)*

We understand from DCR that the agency plans to increase the source counties from two to three, not two to five. The current program includes Rockingham and Page. DCR indicated to VPF that it plans to add Accomack County. This should be clarified in the Phase III WIP.

We believe the goal of subsidizing transport of 89,000 tons of litter annually could be overly ambitious – both questionable in its feasibility and expensive. Depending upon its use, the program could require as much as \$1 million or even more annually to subsidize transport of 89,000 tons per year. Given the performance of previous, far less ambitious litter transport subsidies, consideration must be given to the capacity of target counties with regard to market demand as well as spreading resources. For many years, a similar subsidy designed to transport 5000-6000 tons annually has failed to be fully subscribed. We understand that DCR plans a significant effort to ramp up promotion of this program, which will be important for its success. VPF will help promote the program through our website and poultry litter hotline program, and welcomes opportunities to assist with its promotion in new ways in collaboration with DCR. Additionally, as agreed between VPF and DCR, the poultry industry intends to continue contributing funding toward the transport program in line with prior commitments.

In addition to our concerns about cost and feasibility of Recommendation 27, VPF also questions the *necessity* of subsidizing transport of a full 89,000 of litter annually. If Bay Model assumptions and data inputs were to better reflect realistic management and disposition of litter, we believe the Phase III WIP goal of 89,000 tons/year could be reduced, perhaps significantly. Following are some specific issues of concern:

- **Litter quantity** – Let's start with a success story. In recent years, the Bay Program has improved the accuracy of the underlying assumptions of poultry litter quantity. Accurately calculating the amount of litter annually produced by poultry farm operations and needing to be land applied depends upon several factors, such as the population of poultry within a county; the type of birds grown (e.g., light turkey hens or heavy toms) actual excretion of waste per bird; and poultry house cleanout schedules. The five-year Ag Census is a poor predictor of near or long-term poultry population growth or contraction. In 2016, the Bay Program accepted the Final Report for Turkey Litter

Generation and Nutrient Content for use in Phase 6.0 Chesapeake Bay Program Watershed Model.

A collaboration of the Bay Program, Virginia Tech, DCR, and the turkey industry, the immediate outcome and long term goal of this project are to use locally derived data on turkey production and litter management practices, such as clean out schedules, to increase the accuracy and quality of the annual mass of nutrients (nitrogen and phosphorus) estimates used as inputs in Bay model tools. Importantly, this project showed significant reduction in the annual production of turkey litter nutrients as compared with the prior assumptions based on Ag Census and ASABE standards. Research on Delmarva Peninsula has also improved model assumptions concerning production of litter nutrients from broiler chickens. VPF supports efforts to ground-truth the assumptions used in the model.

- **Nutrient loadings from cleanout and storage** – At one time the Bay model assumed that 15 percent of animal manure is lost during storage. The current assumption is five percent; that is, five percent of litter in the production area is considered to be spilled during cleanouts or otherwise lost to the environment. Attached is an analysis from U.S. Poultry & Egg Association’s Vice President of Environmental Program’s Paul Bredwell, an engineer with extensive experience and involvement with the Bay Program. VPF encourages Virginia to challenge this model assumption, and determine if a more realistic scenario would allow the Commonwealth to reduce the assumed load associated with poultry litter and thereby reduce the quantity of litter needing to be transported to satisfy the model.
- **Fully account for litter transport** - Finally, and most importantly, Virginia must improve its collection and provision to EPA modelers of applicable data on poultry litter transport. About 85 percent of poultry litter generated on poultry farms must be transported off the farm due to insufficient acres on poultry farms to accommodate its application. Fortunately, poultry litter is a valuable source of organic fertilizer and a soil health amendment that is in strong demand for application by farmers on pasture, hay, and cropland. According to the poultry litter “end-user” regulations adopted by the State Water Control Board in 2010, transferred litter must be managed and applied according to phosphorus-based nutrient management measures and much the same storage, setback, and record keeping standards as permitted growers. We believe that a significant quantity of poultry litter leaves its county of origin via market forces and is transported, unsubsidized to farms outside of intensive poultry production areas for management and application according to the end-user regulations, which are just as or in some cases more restrictive than the application rates in a nutrient management plan. However, because DEQ has not captured and documented these transfers, the transported tons of litter are assumed to remain in the county of origin, artificially exacerbating manure surplus and load factor than is the case in reality.

If Virginia can take credit for properly managed, unsubsidized litter transport, we believe the Commonwealth can reduce the cost of the litter transport program called for in Recommendation 27 of the Draft Phase III WIP. This brings us to Recommendation 28 (Expand poultry litter transport reporting).

*Recommendation 28 (Expand poultry litter transport reporting)*

DEQ has established a Technical Advisory Committee (TAC), upon which VPF is represented, to make recommendations to the agency on reissuance of the ten year Virginia Pollution Abatement (VPA) General Permit for Poultry Waste Management, which expires in December 2020. The TAC will discuss options for better accounting for litter transfers. VPF has not agreed to support new reporting requirements. We have only expressed the need to better track and account for litter transport in a manner that does not significantly burden farmers. VPF is concerned the wording in the DRAFT Phase III WIP proposal calling for reporting is too definitive. We believe new reporting requirements, unless somehow incentivized, could be problematic and burdensome, and that other alternatives should be explored.

To address our concerns about Recommendations 27 and 28, we recommend the following:

- In Recommendation 27:
  - Insert “*up to*” before “89,000 tons per year.”
  - After “89,000 tons per year,” add “*depending upon efforts to document existing, unsubsidized litter transport and other factors such as development of alternative uses of poultry litter.*”
- In Recommendation 28:
  - In the heading description, change the word “reporting” to “*accounting.*”
  - In paragraph 2, line 2, after “TAC,” add “*such as.*”

These changes simply increase flexibility and foster a broader look at how the Commonwealth might achieve its nutrient loading reductions in the most cost-effective, least burdensome manner. We commend the Commonwealth for including language in Recommendation 28 to consider the potential of reporting requirements to impede the movement of poultry litter to areas with nutrient deficits

### **Poultry Industry Environmental Stewardship**

Virginia’s poultry industry has been a responsible and proactive environmental steward on a voluntary basis and through compliance with existing government regulations. The industry has long been part of the solution to a cleaner Bay and local waterways. Please consider the following:

- In 1995, Virginia’s poultry industry received a “Friend of the Bay” award from the Commonwealth of Virginia for its voluntary initiative to implement nutrient management plans (NMPs) on all Valley poultry farms by the year 2000, a goal largely achieved.
- VPF estimates at least 80 percent of poultry producers in the Shenandoah Valley have constructed sheds for storing poultry litter before it is utilized. (Those with or without sheds must store litter according to state regulatory criteria.)

- VPF and poultry processors have provided educational programs for growers, litter brokers and end-users of litter:
  - ✓ Sponsored operator training program for growers.
  - ✓ Sponsored educational meetings for poultry litter brokers.
  - ✓ Sponsored educational materials for end users.
- VPF and poultry processors are contributing to programs that facilitate transport of poultry litter from concentrated production areas to farmland that can utilize additional nutrients:
  - ✓ Poultry litter hotline and marketing program.
  - ✓ Provided grants to Louisa, Madison, and Fauquier County Farm Bureaus to rent manure spreaders for facilitating poultry litter applications outside of concentrated production regions.
  - ✓ Helped fund transport subsidy pilot project.
- Research:
  - ✓ More than \$160,000 provided to Virginia Tech water quality research projects since 2000.
  - ✓ Provided funds for research and pilot projects to convert poultry litter to energy.
- Feed management:
  - ✓ Phytase phosphorus reduction enzyme incorporated in poultry feed mills, resulting in a more than 25 percent, on average, reduction in phosphorus in Virginia poultry litter.
- Collaboration:
  - ✓ VPF participates in the Virginia Waste Solutions Forum, a collaboration of agriculture, environmental groups, academia, government agencies, and others that have worked since 2004 to identify economically viable solutions for surplus animal manure. Several of the above initiatives evolved from the Forum.
  - ✓ VPF was a founding member of the Shenandoah Valley Pure Water Forum, another group of diverse interests working collaboratively toward improved water quality.

Aside from the above voluntary efforts, Virginia's poultry industry is already heavily regulated. In 1999, the Virginia General Assembly enacted the Poultry Waste Management Program

(House Bill 1207). This law charged the State Water Control Board with developing a regulatory program requiring a general permit, incorporating a state-approved, phosphorus-based, nutrient management plan and mandating adequate waste storage, for growers. The program requires tracking and accounting of litter transferred off poultry farms. Growers with 20,000 or more broilers or laying hens or 11,000 or more turkeys were required to obtain a state-approved nutrient management plan and file for the general permit by October 1, 2001. This is far below the size farms targeted by the federal CAFO permit and captures a large majority of poultry farms in Virginia.

In 2010, the State Water Control Board adopted amendments to the Virginia Poultry Waste Management Program to impose additional regulatory requirements upon litter transporters and non-poultry farmers that receive poultry litter for use on their farm. The regulation imposes enforceable requirements governing “end-users’” land-application and storage of poultry litter.

In addition, poultry processors have been required, with no cost-share, to spend millions of dollars on wastewater treatment plant upgrades. New permits must meet close to “limits of technology” reductions for total nitrogen, in some cases reducing nitrogen by 95-99 percent at a cost of up to \$3 million per plant. This is on top of previous reductions in phosphorus to limits as low as 0.1 mg/liter that cost upwards of \$2 million for some plants.

As you can see, Virginia’s poultry industry has been a responsible and proactive environmental steward on a voluntary basis and through compliance with government regulations. It is important that applicable activities and programs are considered in Bay modeling and given appropriate credit in Virginia’s Bay cleanup plans.

### **Conclusion**

The Chesapeake Bay is an extraordinary natural treasure. The agriculture industry supports efforts to enhance and improve water quality and aquatic habitats in the Bay, as well as local rivers and streams. The agriculture industry has stepped up its implementation of science-based conservation practices with the help of cost-share, tax credit, and technical assistance.

Rather than new regulatory mandates, the most good can be achieved through consistent and reliable cost-share funding and technical assistance through local conservation agencies. In particular, VPF appreciates the Commonwealth’s approval in 2019 of funding proposed by Governor Ralph Northam to expand the litter transport program.

We encourage the Commonwealth to resist adoption of new regulatory mandates on farmers and seek to chart a path forward that balances the universally shared desire to improve the condition of the Bay while avoiding detriment to agriculture and Virginia’s economy generally.

Please let me know if you would like additional information. Thank you for your consideration of these comments.

ATTACHMENT (Letter from Paul Bredwell, U.S. Poultry & Egg Association)