



Backgrounder

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July 23, 2015

The Honorable Thomas J. Vilsack
Secretary, US Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250

7/23 EC Draft

Dear Secretary Vilsack:

First, we commend you for your leadership in ensuring a strong partnership between our states and the United States Department of Agriculture. Your efforts to expand conservation practices on farms throughout our watersheds have helped greatly in our effort to protect and restore the nation's premier watershed, the Chesapeake Bay.

Within the 64,000 square miles of the Bay watershed, agriculture is the largest industry. Collectively, our states' Watershed Implementation Plans (WIPs) to meet the Chesapeake Bay TMDL call for agriculture to contribute fully three-quarters of our total nutrient load reductions. By far, agriculture provides the greatest opportunity for achieving restoration goals.

As we near the 2017 Total Maximum Daily Load (TMDL) deadline to have the necessary practices in place to achieve 60 percent of 2025 goal, there is renewed interest in near-stream practices, such as forest buffers, grass buffers and livestock stream exclusion that have direct benefits to water quality both in the Bay and locally, while also benefitting farmers and their livestock through improved herd health. We are relying on these riparian practices alone to achieve over 18 percent of the nitrogen, 16 percent of the phosphorus, and 22 percent of the sediment goals for the Bay TMDL.

As you prepare your next set of federal milestones under the Chesapeake Bay Executive Order, we respectfully offer a few suggestions for program modifications that will accelerate implementation of these critical riparian practices and facilitate your achievement of USDA's four million acre goal for new conservation. Our recommendations are included as an attachment to this letter.

The next three years are a critical period under the TMDL as we conduct the 2017 Midpoint Assessment and develop Phase 3 of our WIPs. As each of our states takes action to achieve its share of reductions, we look forward to working with you on these five proposed modifications.

As you address these issues, please coordinate with, Secretary Molly Ward, Chair of the Bay Program's Principals' Staff Committee at Molly.Ward@governor.virginia.gov or 804-786-0044. She will make sure that our states are kept informed. We look forward to working with you to ensure that our partnership is as strong as possible.

Sincerely,

Members of the Chesapeake Executive Council

The Honorable Terence R. McAuliffe, Governor, Commonwealth of Virginia (EC Chair)

The Honorable L. Scott Lingamfelter, Chairman, Chesapeake Bay Commission

The Honorable Jack A. Markell, Governor, State of Delaware

The Honorable Muriel Bowser, Mayor, District of Columbia

The Honorable Lawrence J. Hogan Jr., Governor, State of Maryland

The Honorable Andrew M. Cuomo, Governor, State of New York

The Honorable Thomas W. Wolf, Governor, Commonwealth of Pennsylvania

The Honorable Earl Ray Tomblin, Governor, State of West Virginia

Cc: Gina McCarthy, Administrator, EPA
Robert Bonnie, Deputy Under Secretary, NRE
Michael Scuse, Deputy Under Secretary, FFAS
Val Dolcini, FSA Administrator
Jason Weller, Chief, NRCS

Attachment

Recommendations to Improve Livestock Exclusion Programs

1. **Make riparian practices and inter-agency cooperation a priority of program delivery.**
Implementation of near-stream practices such as livestock stream exclusion and buffers vary widely from county-to-county, depending on the leadership of individuals within those counties. A USDA watershed-wide call for prioritization of these practices will lead to more consistency. Additionally, CREP, a key program that supports these practices, remains under-utilized, while EQIP is heavily over-subscribed. When projects come through NRCS that include CREP-eligible practices, a policy should be in place to ensure the farmer is aware of CREP benefits and offered as an option for achieving BMP goals, whenever possible. Leveraging CREP for these practices provides opportunities to fund other important WIP BMPS with EQIP.
2. **Increase technical assistance, education and outreach for conservation-related programs.**
Adequate technical assistance is an integral part of program delivery, yet this fundamental support system has not kept pace with the demands placed upon agriculture in the Total Maximum Daily Load (TMDL) or the Chesapeake Executive Order (EO). Priority practices in the WIPs should be targeted and supported by complementary outreach activities and technical assistance for multiple years (particularly in targeted watersheds) in order to ensure successful implementation and maintenance.
3. **Provide a Temporary Fencing option to encourage more efforts to exclude livestock from streams.**
A Temporary Fencing Option in the EQIP program should be offered to improve adoption of livestock exclusion practices by providing more flexibility within specific practice standards. This would allow for a few years of flood damage experience to inform the best placement of a more permanent fence system. A companion change that alters how NRCS fencing practices are recorded and requires specifics about the purpose of the fence, such as “interior,” “stream exclusion” or “perimeter,” would also be of great value in supporting each state’s WIP. You have begun this work through your “access control” initiative in Maryland. The effort should be watershed wide.
4. **Implement criteria under which succession of riparian grass buffers can be accommodated by program requirements.**
Early adopters of riparian grass buffers have experienced challenges with maintaining the plant community to meet USDA standards. There are a number of circumstances under which this occurs including maintenance timing restrictions on control of woody vegetation or unsuitable site conditions impacting control success. Lessons learned from these contracts can be applied to new enrollments including adequate site evaluation, thorough pre-treatment or choosing mixed vegetative buffers in certain locations. However, to address these issues in current contracts that occur despite active maintenance by the producer, USDA should develop criteria or evaluation protocols to allow for succession in certain situations without penalty or loss of program benefits.
5. **Provide funding for maintenance of the buffers earlier in the contracts.**
CREP maintenance funding should be available starting in year one so plant competition can be kept in check and invasive species eliminated. In some contracts, the delay in maintenance funding comes too late to correct problems that might have been avoided altogether. Reminder notices of buffer maintenance requirements might also reduce producer conflicts.