

Chesapeake Bay Presidential Executive Order

Issue

On May 12, 2009, in a precedent setting move, President Barack Obama signed an Executive Order that recognizes the Chesapeake Bay as a national treasure and calls on the federal government to lead a renewed effort to restore and protect the Bay and its tributaries.

The “Chesapeake Bay Protection and Restoration Executive Order” established a Federal Leadership Committee that will oversee the development and coordination of reporting, data management and other activities by agencies involved in Bay restoration. The committee will be chaired by the Administrator of the Environmental Protection Agency and include senior representatives from the departments of Agriculture, Commerce, Defense, Homeland Security, Interior, Transportation and others. Virginia, Maryland and Pennsylvania are defined as “signatory states” in the Executive Order.

Background & Timeline

Section 202 of the Executive Order requires that these federal agencies prepare and submit draft reports by September 9, 2009 that make recommendations to:

- 202A - Define the next generation of tools and actions to restore water quality in the Bay and describe the changes to be made to regulations, programs and policies to implement these actions. (U.S. Environmental Protection Agency)
- 202B - Target resources to better protect the Bay and its rivers, particularly in agricultural conservation practices. (U.S. Dept. of Agriculture)
- 202C - Strengthen storm water management practices for federal facilities and federal land within the Bay watershed and develop a best practices guide for reducing polluted runoff. (EPA, Dept of Defense)
- 202D - Assess the impacts of climate change on the Bay and develop a strategy for adapting programs and infrastructure to these impacts. (Dept. of Interior, Dept. of Commerce)
- 202E - Expand public access to the Bay and its rivers from federal lands and conserve landscapes of the watershed. (Dept. of Interior)
- 202F - Expand environmental research, monitoring and observation to strengthen scientific support for decision-making on Bay restoration issues. (Dept. of Interior, Dept of Commerce)
- 202G - Develop focused and coordinated habitat and research activities that protect and restore living resources and water quality. (Dept. of Interior, Dept. of Commerce)



Federal agencies are to consult extensively with the state governments of the seven Bay jurisdictions -- Delaware, Maryland, New York, Pennsylvania, Virginia, West Virginia and the District of Columbia -- in preparing their reports. By November 12, the Federal Leadership Committee will integrate these reports into a coordinated strategy for restoration and protection of the Chesapeake Bay. This draft strategy will be available for public comment on Nov 9th and a final strategy will be completed by May 12, 2010.

Section 202 Reports 202A and 202B are most significant for agriculture and propose the following that will impact Virginia:

- **Expands state accountability defining reasonable assurance as “enforceable or otherwise binding”**
- **Outlines federal consequences if state reduction programs for non-point source sectors are not enforced with “reasonable assurance” including:**
 - **More regulations for point source sectors, including CAFOs**
 - **Withholding of federal funds currently funding state nonpoint source programs and,**
 - **Prohibition on new or re-developed structures inside Bay watershed**
- **Expands coverage of permits for Animal Feeding Operations (CAFOs) beyond what is currently required by the state**
- **Uses “existing authority” to expand the number of Concentrated Animal Feeding Operations with Individual Permits**
- **Redirects federal cost-share funding to targeted watersheds within each state**
- **Calls for air quality measures to mitigate deposition of pollutants to water**
- **Calls for measures to address Climate Change**
- **Development of a TMDL by 2010 and TMDL implementation beginning in 2011**
- **Calls for establishment of a virtual Chesapeake Bay National Park with public access**

While many of these are not new concepts for those in favor of expanded EPA authority, the inclusion of all concepts into a single document or initiative is precedent setting.