

April 20, 2016

EPA Chesapeake Bay Program
United States Environmental Protection Agency
Attn: Nicholas A. DiPasquale, Director
Chesapeake Bay Program Office
Region 3
Chesapeake Bay Program Office
410 Severn Avenue
Annapolis, MD 21403

Chesapeake Bay Foundation
Attn: Harry Campbell, Executive Director
Attn: Bill Chain, Senior Agriculture Program Manager
1426 North 3rd Street
Suite 220
Harrisburg, PA 17102

USEPA REGION 3
Attn: Jon M. Capacasa, Director
Water Program Division
1650 Arch Street
Mail Code: 3WP00
Philadelphia, PA 19103-2029

PennFuture
Attn: Jacquelyn Bonomo
V.P. and COO
Harrisburg Office
610 North Third Street
Harrisburg, PA 17101

RE: PA Department of Environmental Protection Non-CAFO SOP and Staffing Concerns

Dear Sir or Madam:

I'm writing on behalf of several senior County Conservation District staff in Pennsylvania in the Chesapeake Bay watershed. We attended a "Bay" meeting at Bucknell University in February and were very disturbed about the PA DEP's plans for county Conservation Districts to reboot Pennsylvania's Chesapeake Bay effort. I'm not just talking about the idea of requiring Conservation District inspections, although this seems like a poor decision on DEP's part. Most District staff that I know are not trained or motivated to do this type of work. We are also concerned with what DEP is proposing in a March 28,

2016 draft SOP that is intended to be implemented by all Bay Districts and DEP staff. This SOP is unacceptable in terms of the inspection criteria and the DEP's lack of staff to support it. We Districts had no initial input in this reboot plan or SOP, but now we are expected to blindly support it, while putting our primary mission to assist farmer on hold; otherwise our Bay Technician funding will be cut. This doesn't make sense given these are hands-on positions that actually do the work to improve water quality!

Inspection Criteria:

The March 28, 2016 draft SOP instructs District and DEP staff to do inspections of farms, but these are limited to asking for the plans and asking the farmer if the plans are implemented. The inspections are not intended to evaluate the plans or look at the farm in any detail to determine if problems exist or if the plans call for any BMPs to resolve problems. The following quotes come directly from the draft SOP:

1. *"Initial inspections do not include inspection of waste management systems, production areas, barnyards and other animal housing areas, or best management practices (BMPs)."*
2. *"Does the operation have a written MMP or NMP? The inspector will request to review a written copy of the MMP or NMP and check the appropriate box on the inspection report once the plan is produced. NOTE – If the owner or operator indicates that a requested plan exists but cannot be produced, the inspector will leave this section blank but will request that the plan be mailed within 10 business days to the inspector so that the inspection report can be completed. NOTE – The inspector may briefly review the plan with the owner or operator; however, initial inspections are not focused on ensuring that all recommended or required elements of the plan are in place, nor whether the plan is being fully implemented. The inspector may request that the owner or operator mail a copy of the plan if the inspector would like to conduct a more detailed review at the office."*
3. *"Does the owner/operator indicate the MMP or NMP is being implemented? The inspector should ask the owner or operator whether the MMP or NMP is being implemented (if the plan is available), and record the answer on the inspection report. For initial inspections, inspectors will not generally perform an assessment of plan implementation."*

Although some Districts may feel this type of inspection will be easier, we feel it will be a waste of staff time with no benefit to our streams or the Chesapeake Bay. Especially when our Bay Technicians could instead use this time to help farmers write plans and get BMPs installed on farms.

DEP Staff:

The draft SOP also requires Districts to refer all water quality concerns (unintentionally encountered during the above inspections), to the DEP Southcentral and Northcentral regional offices, but there has been no increase in staff to follow up on District inspections. We think this could be anywhere from 10% to 50% of all District inspections (depending on the District's approach). The SOP also requires DEP offices to do their own inspections to meet 10% of all farms annually. Districts continue to ask how the

DEP will manage the increase work from District referrals with existing staff, but have received no answers that ring true. We do not want to identify problems and then see no follow through, but it is widely understood the DEP really can't do both. What is the purpose of rushing in an SOP that isn't staffed to work and has the potential to grind current progress to a halt? Surely it would be better to do real inspections and appropriate follow through with the staff DEP already has, rather than this token effort that will harm District relationships and ignores water quality concerns?

The SOP and inspection form makes it perfectly clear, the DEP's main priority is to use District and DEP staff to count as many manure management and ag erosion and sediment control plans as possible, to increase credits in the Chesapeake Bay model, regardless of whether the plans are credible, or if any water quality concerns are addressed in the process. Given 2018 is an election year, this is no surprise. We see no indication that actual agricultural problems will be addressed through this scheme, and it is downright deceitful that the Department is trying to pass this off as an inspection program, intended to demonstrate their "culture of compliance" while the SOP doesn't even expect plans will be verified or BMPs installed. If anything it's the opposite; just more game playing – while sacrificing the District's time, reputations and relationships, and not providing the DEP staffed to support it. Although we would prefer the DEP be the "ag" inspectors for all farms, if we do have to do inspections, then they should at least be legitimate and focused on improving actual water quality.

We are a small group of senior District staff that believe EPA and other Bay Partners should look into what the PA DEP has put into motion, before it is too late to step back from this poorly conceived plan and SOP. We are asking that you review what the PA DEP has proposed and talk to District and DEP staff (privately) to determine the validity of this letter, and take action to address these concerns where possible. Unfortunately, and for obvious reasons, we are unwilling to disclose our identities, but we do hope you take this matter seriously and promptly conduct your own research to determine if Pennsylvania DEP is on the right path.

Sincerely,

Concerned Pennsylvania County Conservation District Staff