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New Report Calls on Pennsylvania and Maryland to Reform Approach to Chesapeake Bay Pollution from Concentrated Animal Feeding Operations

Report calls for stiffer fines, speedier permit approval, rigorous inspections, & accountability for national chicken and hog processing companies

A new report from the Center for Progressive Reform concludes that environmental agencies in Pennsylvania and Maryland need to make significant reforms to their regulatory and enforcement efforts in order to stem the flow into the Chesapeake Bay and its tributaries of millions of tons of untreated manure from industrial animal operations. The report recommends a series of specific reforms for the states and EPA.

Among the reforms proposed in [*Manure in the Bay: A Report on Industrial Animal Agriculture in Maryland and Pennsylvania*](#): speedier review of pollution permits by state environmental agencies, rigorous inspections of polluting facilities, and fines for violations that are large enough to serve as a deterrent rather than a nuisance. In addition, the report calls for the states to treat large chicken and hog processing companies that have substantial control over a CAFO in the state — such as Tysons, Perdue, and Smithfield — as subject to Clean Water Act permitting requirements.

"Pennsylvania and Maryland need to treat these huge, industrial-sized animal operations for what they are: a major cause of the Chesapeake Bay's ill health," said report co-author Rena Steinzor, President of the Center for Progressive Reform and a professor at the University of Maryland Francis King Carey School of Law. "We've seen agribusiness flex their political muscle over and over, so we have no reason to imagine that the needed reforms will be easily accomplished. But CAFOs and other industrial agriculture operations are a major source of pollution. They need to clean up their act, and they'll only do it if EPA and the states make them." Steinzor co-authored the paper with CPR Policy Analyst Yee Huang.

The report notes that EPA estimates that animal manure contributes around 19 percent of the 277 million pounds of total nitrogen and 26 percent of the 19 million pounds of total phosphorus to the Bay. These figures translate into roughly 53 million pounds of nitrogen and 5 million pounds of phosphorus from the animal agricultural sector. The manure contains a slurry of pathogens, antibiotics, cleaning fluids, heavy metals, synthetic fertilizers, and pesticides. The report notes that, unlike human waste, which goes through extensive treatment, animal waste is most frequently spread onto land untreated.

The report offers a series of recommendations for the U.S. Environmental Protection Agency (EPA), the Maryland Department of the Environment (MDE), and the Pennsylvania Department of Environmental Protection (DEP). Among the recommendations:

- Pennsylvania and Maryland should both **revamp their fines for violations so that they are large enough to serve as actual deterrents**. Fines that are too small turn the calculation of whether to break the law into a mere business decision. Hefty fines, on the other hand, deter future violations.
- EPA, MDE, and DEP should **clarify in federal or state regulations that an entity that has substantial operational control over a CAFO constitutes an “operator” and is thus subject to Clean Water Act** permitting requirements. National processors in the poultry and hog sectors, such as Tysons, Perdue, and Smithfield, provide the animals, feed, and medication or strictly dictate growing practices to local contractors. But they disclaim responsibility for the environmental and public health damage caused by the manure and animal litter from their operations. As a result, these central players in the CAFO industry contract away responsibility for pollution, leaving the local contractors responsible for preventing water pollution with relatively few resources.
- **MDE should begin to assess annual permit fees for CAFOs**. The fee would offset the cost of the additional work that regulated facilities generate for MDE by discharging pollution into the Bay and its tributaries. Maryland law allows MDE to assess such fees, but MDE waived fees during the early phases of the CAFO permitting program. It is time to end the grace period for polluters.
- **MDE should increase the number of physical, on-site inspections of MAFOs — animal feeding operations that say they do not discharge pollutants**. The rate of inspections for Maryland Animal Feeding Operations (MAFOs) is significantly lower than the inspection rate for CAFOs. Although MAFOs by definition do not discharge, MDE should increase the number and frequency of physical, on-site inspections to confirm the absence of discharges, and to be certain that the operations have appropriate permits.
- **Pennsylvania's DEP should increase transparency by publishing an annual enforcement and compliance report**. Such a report would promote accountability by demonstrating, on an annual basis, DEP's enforcement and compliance effort. It would also allow watchdog groups to track trends and work with DEP to improve overall compliance with CAFO permit requirements.
- **EPA and DEP should use the designation authority in the Clean Water Act to classify smaller animal operations that contribute significantly to water pollution as CAFOs subject to Clean Water Act permit requirements**. Estimates suggest that nearly 50 percent of the animal waste in Pennsylvania comes from small animal operations that are not subject to federal permitting requirements. More stringent pollution controls for these operations is important to reducing nutrient pollution in the Bay.

Maryland contributes roughly 20 percent of total nitrogen pollution in the Chesapeake Bay, and the state's agriculture sector accounts for 39 percent of that. Similarly, Maryland contributes roughly 20 percent of total phosphorus to the Bay, and the state's agriculture sector accounts for 19 percent of that contribution.

Pennsylvania contributes 44 percent of total nitrogen pollution to the Bay, 24 percent of total phosphorous, and 32 percent of total sediment, according to EPA models. The agriculture sector

accounts for much of that pollution. Despite that, as much as half of the manure generated by animal agriculture in the state is not regulated by the state.

Now marking its tenth anniversary year, the Center for Progressive Reform is a nonprofit research and educational organization of working academics dedicated to protecting health, safety, and the environment through analysis and commentary. Visit CPR on the web at www.progressivereform.org and read CPRBlog at www.progressivereform.org/cprblog. The report is available at http://www.progressivereform.org/articles/CAFOs_1206.pdf.

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