



## **Center for Progressive Reform Editorial Memorandum, January 23, 2015**

### **Hogan's Move to Rescind Bay Clean-Up Rule Threatens Multi-State Cleanup Plan**

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Despite the bipartisan rhetoric of his inaugural address, one of the first actions Maryland Governor Larry Hogan took after assuming office was to yank the state's Phosphorous Management Tool (PMT) as it went to print. The new rule had been signed and finalized by the Secretary of Agriculture and was widely supported by legislators, scientists, the Maryland Department of Agriculture, the Maryland Department of the Environment, and environmentalists. The science-based regulation would have limited the amount of phosphorus-laden chicken manure farmers can spread on their fields, thus reducing the Bay-choking levels now sloshing into the Chesapeake and bringing Maryland on par with states such as Virginia and Pennsylvania that have updated their phosphorus limits for manure application.

Governor Hogan wants a comprehensive review of the PMT, stressing the need for "[full due process](#)." He fails to mention that University of Maryland scientists have spent the past 10 years developing the regulation in collaboration with regional and national experts. The regulation was introduced twice before—the second time after stakeholder meetings resulted in a consensus agreement among environmental and agriculture organizations. The proposal underwent an expansive economic study. What more process could possibly be due?

Phosphorus is an essential nutrient for healthy waterways, but only in the right quantities. Too much phosphorus causes algae growth to explode, devouring all the oxygen in the water and leading to "dead zones" that cannot support aquatic life. This past summer, the Bay dead zone was the [eighth largest](#) since record-keeping began. The algae itself can also be toxic. Phosphorus fueled an outbreak of poisonous algae in [Lake Erie](#) last year that forced half a million people in Toledo and the surrounding Ohio communities to temporarily shut off their tap water.

The list of polluted Chesapeake Bay tributaries in Maryland is long, and the state has much to lose from not controlling phosphorus pollution. Maryland derives billions of dollars from the Bay, mainly from tourism, and stands to gain [\\$4.6 billion more annually](#) when and if the watershed is restored. With so much at stake, it must lead the way if it expects other, more far-flung states within the watershed to do their part.

As part of the [Chesapeake Bay-wide pollution diet](#), a multi-state plan to restore the health of the Bay by 2025, Maryland is required to dramatically reduce water pollutants, including phosphorus, or face penalties and other consequences. The PMT is a major part of Maryland's plan to meet the pollution diet and failure to implement these rules mean we will be forced to reduce phosphorus pollution through other, costlier measures. As it stands now, Maryland farms contribute [53 percent](#) of the state's total phosphorus loading to the Bay, and concentrated animal feeding operations (CAFOs)—industrial-size chicken farms—make up a significant part of the problem.

To understand just how badly new phosphorus regulations are needed, the Center for Progressive Reform took a look at farmers' own records and found that their fields contain far more phosphorus than the fields can safely absorb. Of the 60 CAFOs in six Eastern Shore counties that submitted a manure-management plan between 2008 and 2014, fifty-nine reported at least one field with excessive soil phosphorus levels. The 60 CAFOs in Dorchester, Talbot, Caroline, Wicomico, Worcester, and Somerset counties took soil samples from 1,022 fields to help plan their fertilization needs over the five-year term. Of those fields, 803—78 percent—had soil phosphorus levels, known as fertility index values (FIVs), in the excessive range. Excessive values tell farmers they should not apply additional phosphorus since crops are not able to absorb it, and it ends up running off of fields, into streams, and eventually into the Chesapeake Bay. [CPR's interactive map](#), created with the help of the GIS experts at Chesapeake Commons, illustrates these findings.

The map shows just how saturated the fields on the Eastern Shore are. An [Environmental Integrity report](#), released in conjunction with the map, confirms that farmers continue to apply phosphorus to these oversaturated fields. According to the study, farmers reported applying three times more phosphorus in chicken manure on their fields in 2012 than their crops needed.

For the most part, the farmers' over-application does not appear to be intentional. The problem is that they use an outdated scientific tool to determine the right amount of manure to apply, and no state regulation mandates an update—at least not yet.

After [two false starts](#), then-Governor Martin O'Malley introduced the phosphorus regulation this past November. Under its terms, if a farmer uses chicken manure as fertilizer, he or she is not allowed to apply more manure to a field than is necessary to fertilize crops. Farmers with excess manure may have to truck some to other areas where fields aren't saturated or to private facilities that turn poultry manure into energy, fertilizer pellets, or other beneficial products. Since manure provides both phosphorus and nitrogen and a given quantity of manure provides all the necessary phosphorus but not enough nitrogen, some farmers may have had to buy commercial fertilizer to replace the nitrogen. Under the proposed PMT, the [state would have subsidized these costs](#).

More specifically, the PMT would have required the farms with fields with the highest soil phosphorus levels (150 FIV and higher) to limit or halt phosphorus application to those fields. The PMT would have been phased in over a six-year period; the farms with the

highest FIVs would begin implementing the tool first but would also have the longest time to transition. As the map indicates, 623 of the 1,023 fields have soil phosphorus levels at or above 150 FIV.

After decades of lip service to Bay clean-up efforts, Maryland and the other states in the watershed had recently begun to make progress, with federal leadership. Governor Hogan's first-day-in-office move to yank the PMT at the last minute starts his tenure off on the wrong foot. From watermen and boatyards to the tourism industry and those who make a living selling waterfront real estate, a large and growing number of businesses depend on a clean and healthy Chesapeake Bay. Cleaning it up must become a priority if Governor Hogan wants his Administration to be a success.

I hope you'll be able to find space on your editorial pages for this important issue.