

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 2.1-51.12:1 and 2.1-51.12:2 of the Code of Virginia, relating to inclusion of sediments and suspended solids in tributary plans.

[H 2267]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-51.12:1 and 2.1-51.12:2 of the Code of Virginia are amended and reenacted as follows:

§ 2.1-51.12:1. Development of strategies to restore the water quality and living resources of the Chesapeake Bay and its tributaries.

The Secretary of Natural Resources shall coordinate the development of tributary plans designed to improve water quality and restore the living resources of the Chesapeake Bay and its tributaries. Such plans shall be tributary specific in nature and prepared for the Potomac, Rappahannock, York, and James River Basins as well as the western coastal basins (comprising the small rivers on the western Virginia mainland that drain to the Chesapeake Bay, not including the Potomac, Rappahannock, York and James Rivers) and the eastern coastal basin (encompassing the creeks and rivers of the Eastern Shore of Virginia that are west of U.S. Route 13 and drain to the Chesapeake Bay). Each plan shall address the reduction of ~~nutrient inputs to~~ *nutrients and suspended solids, including sediments, entering* the Chesapeake Bay and its tributaries. Each plan shall also summarize other existing programs, strategies, goals and commitments for reducing toxics; the preservation and protection of living resources; and the enhancement of the amount of submerged aquatic vegetation, for each tributary basin and the Bay. The plans shall be developed in consultation with affected stakeholders, including, but not limited to, local government officials; wastewater treatment operators; seafood industry representatives; commercial and recreational fishing interests; developers; farmers; local, regional and statewide conservation and environmental interests; the Virginia Chesapeake Bay Partnership Council; and the Virginia delegation to the Chesapeake Bay Commission.

§ 2.1-51.12:2. Tributary plan content; development timelines.

A. Each tributary plan developed pursuant to § 2.1-51.12:1 shall include the following:

1. Recommended specific strategies, goals, commitments and methods of implementation designed to achieve the nutrient goals of the 1987 Chesapeake Bay Agreement and the 1992 amendments to that agreement signed by the Governors of Virginia, Maryland, and Pennsylvania, the Mayor of the District of Columbia, the Administrator of the United States Environmental Protection Agency and the Chairman of the Chesapeake Bay Commission, collectively known as the Chesapeake Executive Council.

2. *Recommended specific strategies, goals, commitments and methods of implementation to achieve sediment and suspended solids reductions from nonpoint sources sufficient to achieve living resource goals, particularly those related to habitat conditions necessary to support submerged aquatic vegetation.*

3. A report on progress made pursuant to the "Chesapeake Bay Basinwide Toxics Reduction and Prevention Strategy" signed by the Chesapeake Executive Council on October 14, 1994, that is applicable to the tributary for which the plan is prepared.

4. A report on progress on the "Submerged Aquatic Vegetation Restoration Goals" signed by the Chesapeake Executive Council on September 15, 1993, that is applicable to the tributary for which the plan is prepared.

5. A report on progress related to the objectives of the "Local Government Partnership Initiative" signed by the Chesapeake Executive Council on November 30, 1995.

6. Specifically identified recommended state, local and private responsibilities and actions, with associated timetables, for implementation of the plan, to include the (i) person, official, governmental unit, organization or other responsible body; (ii) specific programmatic and environmental benchmarks and indicators for tracking and evaluating implementation and progress; (iii) opportunities, if appropriate, to achieve nutrient reduction goals through nutrient trading; (iv) estimated state and local benefits derived from implementation of the proposed alternatives in the plan; (v) state funding commitments and specifically identified sources of state funding as well as a method for considering alternative or additional funding mechanisms; (vi) state incentives for local and private bodies for assisting with implementation of the plans; and (vii) estimate and schedule of costs for the recommended alternatives in each plan.

7. Scientific documentation to support the recommended actions in a plan and an analysis

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supporting the documentation if it differs from the conclusions used by the Chesapeake Bay Program.

7. 8. An analysis and explanation of how and when the plan is expected to achieve the elements of subdivisions 1, 2 and 3 of this subsection.

8. 9. A process for and schedule of adjustment of the plan if reevaluation concludes that the specific nutrient reduction goals will not be met.

9. 10. An analysis of the cost effectiveness and equity of the recommended nutrient reduction alternatives.

10. 11. An opportunity for public comment and a public education and information program that includes but is not limited to information on specific assignments of responsibility needed to execute the plan.

B. Tributary plans shall be developed by the following dates for the:

1. Potomac River Basin, January 1, 1997.

2. Rappahannock River Basin, January 1, 1999.

3. York River Basin, July 1, 1998.

4. James River Basin, July 1, 1998.

5. Eastern and western coastal basins, January 1, 1999.

C. In developing tributary plans, the Secretary shall consider, among other factors: (i) studies relevant to the establishment of nutrient, *sediment and suspended solids* reduction goals; (ii) the relative contributions and impacts of point and nonpoint sources of nutrients; (iii) the scientific relationship between nutrient, *sediment and suspended solids* controls and the attainment of water quality goals; and (iv) estimates of costs for each publicly owned treatment works affected by point source nutrient reduction goals and estimates of costs for nonpoint source nutrient, *sediment and suspended solids* reduction goals.

D. In any tributary plan reevaluation, the Secretary shall consider, among other factors: (i) whether all publicly owned treatment works in the basin under consideration have either installed biological nutrient removal technology or achieved equivalent nutrient reduction by other means; (ii) total nutrient reductions achieved by nonpoint sources to the tributary; (iii) the need for additional nutrient controls for the attainment of water quality goals; (iv) a comparison between nutrient reductions achieved by point source controls and nonpoint source controls in order to equitably allocate any additional reductions; and (v) the cost effectiveness, including nutrient trading options, of any additional nutrient reduction controls.