

## Virginia Environmental Law

### EPA Tightens Rules for Bay Cleanup

**By: Ann Neil Cosby. *This was posted Friday, November 6th, 2009***

We knew tighter federal requirements for [reducing pollutants](#) in the Chesapeake Bay were on the way, and on Wednesday, Virginia and the other Chesapeake Bay states got their first taste of what federal oversight of Bay restoration might really mean. Each of the impacted states received [letters from EPA](#) detailing tighter restrictions on what pollutants could enter the Chesapeake Bay watershed and in what amounts. The EPA directed that states will have to limit annual discharges of nitrogen to 200 million pounds and phosphorus to 15 million pounds by 2025. Controls will need to be in place by 2017 to meet 60% of the mandated reductions.

While Virginia has taken action to reduce pollutants, most notably the new stormwater regulations that significantly limit nitrogen discharges from new and redevelopment, and limits on the amount of nitrogen that sources such as power plants and wastewater treatment plants may discharge, there is significantly more work to be done. This was true before the Obama Administration stepped in with the [May, 2009 Executive Order](#) mandating greater discharge limitations, and it remains true today - even more so.

The [EPA](#) is expected to release a draft strategy for handling pollutant limitations next week, and then it is up to the Chesapeake Bay states to come up with a methodology to meet EPA's new stringent standards. But what then? Will Virginia, and the other affected states, really be able to meet those requirements will any greater success than it has in the past? And what will happen if they don't? EPA officials have indicated that consequences could include even more stringent requirements for pollution sources such as sewage treatment plants, prohibitions on new or expanded discharge permits, or withholding federal funds.

We have no doubt the development and future enforcement of new restrictions is going to be a painful process. Consider how long it took to get the new stormwater regulations through the administrative process. And now EPA is demanding more. It appears that the state will have little option but to look beyond regulations that effect only development projects and major pollutant sources, and adopt regulations that will affect us all.

The question on everyone's mind: Is Virginia ready for the next step? And if not, what will be the consequence?

<http://vaenvironmentallaw.com>

[Richmond](#) • [Blacksburg](#) • [Fredericksburg](#) • [Research Triangle](#) • [McLean](#)

Copyright Sands Anderson Marks & Miller, PC.