



December 9, 2009

Statement

of

Perdue Farms, Incorporated

Presented by

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Vice President of Environmental Sustainability

Before

Subcommittee on Conservation, Credit, Energy and Research

Committee on Agriculture
United States House of Representatives

Chairman Holden and Ranking Member Goodlatte, thank you for the opportunity to appear today before the subcommittee as you review regulations and legislation impacting the Chesapeake Bay Program.

My name is Steve Schwalb. I am Vice President of Environmental Sustainability at Perdue Incorporated, headquartered in Salisbury, Maryland, on the Eastern Shore of the Chesapeake Bay. Perdue Incorporated's (Perdue) operating entities consists of Perdue Farms and Perdue Agribusiness. Perdue Farms is the number-one brand of premium chicken in the Eastern U.S. and is synonymous with quality products around the globe. With annual sales in excess of \$4.6 billion, Perdue is ranked as the third largest poultry company in the U.S. and the largest agribusiness company in the eastern U.S. Combined, we provide food and agricultural products and services to customers in more than 50 countries and to our servicemen and women serving in war. Perdue employs 22,000 associates in 15 states, with operations in Alabama, Delaware, Florida, Georgia, Indiana, Kentucky, Maryland, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.

With our headquarters located in the heart of the Chesapeake Bay's Eastern Shore, we know all too well the importance and ecological sensitivity of the Bay and its watershed. Our Chairman, Jim Perdue is fully committed to restoring, protecting and preserving the Bay, like the other watermen and farmers of the Shore. With a family history on the Shore dating back to the 1600s and a PhD in fisheries, Jim continues to support the highest level of commitment to environmental stewardship. As a firm believer that the restoration of the oyster population in the Bay is critical to a successful Bay restoration, he serves as a board member of the Oyster Recovery Partnership.

Perdue is committed to environmental stewardship and shares that commitment with our farm-family partners. Together, we can continue to provide a safe, abundant and affordable food supply while protecting our natural resources.

Perdue is proud of the leadership role we're providing in addressing the full range of environmental challenges related to animal agriculture and food production. We have invested, and continue to invest, millions of dollars in research, new technology, equipment upgrades and awareness and education as part of our ongoing commitment to protecting the environment. Some examples:

- Perdue has been conducting environmental research for more than two decades.
- Perdue was among the first poultry companies with a dedicated Environmental Services department. A group of corporate environmental

specialists and environmental managers are responsible for ensuring that every Perdue facility operates within 100 percent compliance of all environmental regulations and permits.

- Our processing plants have some of the newest and most-advanced wastewater treatment facilities, helping us to protect the waterways in our communities.
- We've invested thousands of man-hours in producer education to assist our farm-family partners manage their independent poultry operations in the most environmentally responsible manner.
- Our Technical Services department is conducting ongoing research into feed technology as a means of reducing nutrients in poultry manure. We've already achieved phosphorus reductions that far exceed the rest of the industry.
- Perdue was one of four poultry companies operating in Delaware to sign a historic agreement with Delaware officials outlining our companies' voluntary commitment to help independent producers solve on-farm environmental challenges.
- Perdue signed MOUs with Delaware, Maryland and Virginia pledging cooperative efforts to address current and potential environmental challenges created from poultry production on the Eastern Shore.

Our demonstrated commitment to protecting the Chesapeake Bay is not something recent. In 1999, as “physteria hysteria” was settling in over the watershed, Perdue took immediate action. We entered into a joint venture and created Perdue AgriRecycle. Because many Delmarva poultry producers did not have sufficient land to be able to utilize poultry litter as fertilizer, especially those with smaller farms, an alternative to traditional land application of poultry litter was needed. Perdue AgriRecycle provides that alternative. Our manufacturing facility, the first-ever, large-scale litter-pelletizing operation and the result of an initial investment of \$13 million, is located in Sussex County, Delaware, the center of one of the country's most-concentrated areas of poultry production. While the close proximity to hundreds of poultry farms helps the supply of raw material, the plant's location also demonstrates Perdue's environmental commitment to the independent poultry grower and the grain farmer. Perdue's willingness to continue to invest an additional \$17+ million to-date to keep Perdue AgriRecycle operating further demonstrates our commitment to the environment.

Perdue AgriRecycle can process the equivalent of 400 poultry houses worth of litter each year. Perdue AgriRecycle also participates in litter relocation programs, further reducing excess nutrients on the Delmarva Peninsula.

The Perdue AgriRecycle process begins at the farm, where surplus poultry litter is loaded into specially designed, sealed trucks for transport to our 65,000-square-foot manufacturing facility. The trucks are unloaded inside the plant, where a negative-air system prevents dust and odor from escaping to the environment (the same negative-air system is used in the finished product storage area). Special filters and scrubbers ensure that the air leaving the plant is cleaner than the outside air. Raw material is heated to a temperature that kills salmonella and e.coli as well as destroys bacteria and weed seed. The dried material is then reduced to a powder before it is transferred to the pellet mill. Moisture captured in the drying step is re-used in the pelletizing process. The finished product is then stored in an enclosed warehouse room. Product can be shipped by truck or rail to our customers.

While poultry litter remains a valuable resource for many producers as a natural alternative to chemical fertilizers, Perdue AgriRecycle provides an environmentally friendly alternative for those producers who do not have the acreage for traditional land application or whose fields do not need the nutrients in poultry litter. Our organic fertilizer, approved by the USDA's National Organic Program (NOP) and classified as approved for use without restriction by the Organic Materials Review Institute (OMRI) is used in horticulture, landscaping, organic crop production, on golf courses and as a key ingredient in popular organic lawn and garden products. Perdue AgriRecycle also participates in litter transport programs, relocating raw litter to farmers who can appropriately utilize the nutrients. Since its inception, Perdue AgriRecycle has handled 639,000 tons of poultry litter, the equivalent of 1535 poultry houses and over 51 million pounds of nitrogen, 25 million pounds of phosphorus and 38 million pounds of potassium. Also since its inception, Perdue AgriRecycle has sold almost 329,000 tons of finished product. This represents 26.3 million pounds of nitrogen, 13.1 million pounds of phosphorous, and 19.7 million pounds of potassium. At least half of those nutrients have been relocated to states out of the Chesapeake Bay watershed.

In 2001, Perdue approached the Delaware Center for Inland Bays (a private, non-profit National Estuary Program) and proposed a "model watershed" concept for the Little Assawoman Bay that would include cooperative efforts to accelerate compliance with Delaware's Nutrient Management regulations. The proposal developed into the Poultry Integrators Nutrient Effort (P.I.N.E). Partnership, which includes the poultry industry, the Center for Inland Bays, the Delaware Nutrient Management Program, the Sussex Conservation District, the Delaware Non-point Source Program and the University of Delaware. The P.I.N.E. Partnership includes environmental surveys of poultry farms within the watershed and the development of nutrient management planning and best management practices for the Little Assawoman Bay Watershed. Most recently, as part of the P.I.N.E. partnership, Perdue helped create a model farm that incorporates

technology and best practices to reduce the environmental impact and is more “neighbor-friendly.”

Another example of our commitment to environmental sustainability centered on the independent farm families that grow poultry for Perdue. On September 18, 2006, Perdue and the U.S Environmental Protection Agency (EPA) Region 3 signed a Memorandum of Agreement for the Perdue-EPA Clean Bays Environmental Management Initiative (Clean Bays), a corporate stewardship program aimed at reducing environmental impacts of poultry farms on the Chesapeake Bay and Coastal Bays throughout the Delmarva Peninsula.

The first-of-its-kind Pilot Program for the poultry industry, Clean Bays was also designed to improve the independent poultry producers’ compliance with environmental regulations by utilizing the unique relationship between the Perdue flock supervision and those producers within the comprehensive structure and organization of Perdue Farms. Although EPA was a participating partner, the strong reliance upon corporate leadership throughout many levels within Perdue Farms constituted the majority of the effort under the Clean Bays Memorandum of Agreement.

The pilot program included trained area flock supervisors visiting the 19 largest poultry farms that were growing birds for Perdue to evaluate how the producer was managing important aspects of poultry litter as well as how best management practices (BMPs) were being implemented to help reduce nutrient runoff.

After training was provided to area flock supervisors and producers by Perdue and EPA, poultry farms in the pilot program throughout the Delmarva Peninsula were visited several times throughout 2007 and early 2008 by the area flock supervisors. Utilizing an environmental assessment checklist jointly developed by Perdue and EPA, the area flock supervisor recorded how farms were implementing environmental practices in accordance with Clean Bays, identified areas needing improvements, and assisted producers with ensuring that corrective measures were taken.

The pilot program also included recognition awards to producers that demonstrate excellence in environmental stewardship.

This pilot program was a new model for how industry, agriculture and regulators can cooperate to promote environmental compliance and protect our natural resources.

Based upon the very positive results of the pilot program, Perdue and the EPA agreed to expand the Clean Bays initiative company-wide. On November 21, 2008, Perdue and EPA Regions 3 and 4 signed an MOA to continue to work together to develop and implement the Perdue Clean Waters Environmental Initiative (Clean Waters). The purpose of this Initiative was to continue to foster Perdue's environmental leadership in the poultry industry by providing training, assistance, and environmental assessments to all the producers to enhance their compliance with federal, state, and local environmental regulations and specific BMPs and by the use of Environmental Management Systems (EMSs) at Perdue processing facilities.

As outlined in the "Clean Waters Initiative" MOA:

The goal of this Initiative is to restore and protect our nation's waters. To accomplish this goal, the Initiative is designed to minimize environmental impacts to our nation's waters, to support continued corporate environmental excellence, to encourage sustainable agriculture, and to improve Producers' compliance with environmental requirements. The Parties have identified the following critical components of the Initiative and plan to work together to refine these:

Perdue Corporate Environmental Stewardship

- 1. Sustainable Agriculture:** It is in the interest of Perdue and the Producers to employ agricultural practices to ensure environmental protection and a prosperous and sustainable agricultural industry. Toward that end, Perdue agrees to utilize feed management techniques to minimize phosphorous content of poultry litter and endeavor to minimize the use of substances that are determined jointly by the Parties to adversely affect surface and groundwater quality. Perdue currently utilizes phytase in its feed formulation and has adjusted the composition of its feed to minimize the phosphorous content of poultry manure. Perdue agrees to continue this practice and to continue to investigate and utilize other means to minimize the phosphorus levels of litter if found not to detrimentally affect bird health or growth. Perdue agrees to make every effort not to use arsenic compounds in its feed, but may use it where the health of the flock is a concern and other non-arsenic techniques fail to restore the flock to health in a timely manner. EPA and Perdue intend to engage in regular technical discussions on advances in feed management practices to identify and employ new advances in sustainable agriculture.
- 2. Environmental Management Systems:** To enhance Perdue's environmental excellence, Perdue plans to implement an Environmental Management System at all of its processing plants using as a model the ISO 14001 based program that has been developed for Perdue's Salisbury processing plant.

Producer Program

1. Training and Assistance: Proper training and assistance are critical to ensure that both Perdue associates and the Producers have sufficient tools and knowledge to comply with environmental regulations and to take the necessary actions to minimize nutrient loads to our nation's waters. Under the September 2006 Perdue-EPA Clean Bays Environmental Management Initiative, Perdue and Region 3 have developed a training program in consultation with other federal and state agricultural agencies. Under this Initiative, the Parties plan to modify the training program to incorporate lessons learned from the Perdue-EPA Clean Bays Environmental Management Initiative. The Parties will also review modifications proposed by Region 4 and agricultural agencies and environmental departments in Region 4 states that were not part of the September 2006 Perdue-EPA Clean Bays Environmental Management Initiative's pilot program.

Once updated, the training program, to be jointly presented by Perdue and EPA, will:

- a. provide Perdue flock supervisors training necessary to perform thorough environmental and compliance assessments;
- b. provide Producers information on Best Management Practices and how they are to comply with federal, state and local environmental requirements governing poultry operations; and
- c. provide Producers with technical guidance and information about publicly available financial assistance to support implementation of nutrient management plans.

2. Producer Environmental Assessments: Regular and thorough Producer Environmental Assessments ("Assessments") are critical if the goals of this Initiative are to be achieved. Perdue, in previous consultation with EPA, developed an Assessment program that Perdue implemented as a part of the Perdue-EPA Clean Bays Environmental Management Initiative's pilot program. With this Initiative, the previous pilot program is being expanded to include the Assessment of all dry litter chicken facilities owned or operated by the Producers located in Region 3 and 4 states only. In addition, an updated assessment checklist has been developed by Perdue. This expanded Assessment program is to be implemented in phases according to the following schedule:

April 2009	October 2009	April 2010	October 2010	April 2011	October 2011	April 2012
Retrain Region 3 Flock Supervisors, Producers with >100,000 capacity	Region 3 assessments on farms with >100,000 capacity	Train Region 3 Producers with 60,000-100,000 capacity	Region 3 assessments on farms with 60,000-100,000 capacity	Train remaining Region 3 Producers	Region 3 assessments on remaining farms	
	Train Region 4 Flock Supervisors, Producers with >125,000 capacity	Region 4 assessments on farms with >125,000 capacity	Train Region 4 Producers with 80,000-125,000 capacity	Region 4 assessments on farms 80,000-125,000 capacity	Train remaining Region 4 Producers	Region 4 assessments on remaining farms

In order to maintain a more comprehensive Assessment checklist, EPA, in consultation with participating Region 3 and 4 states agrees to provide available guidance that reflects state and federal environmental requirements. These criteria will be incorporated by Perdue into the Assessment checklist.

The Assessment checklist is intended to promote compliance by the Producers with applicable state and federal environmental requirements, and evaluate:

- whether Producers have obtained a Nutrient Management Plan,
- whether critical elements of the Nutrient Management Plan, as it relates to chicken operations within the production area, are being followed, and
- whether required Best Management Practices are fully implemented within the production area.

The Assessment should also record that the Producer has a means of disposing of and handling litter that is consistent with good environmental practices and all applicable federal and state regulations. Perdue is not expected to verify the accuracy of the Producer's plan and does not intend to perform assessments of operations outside the production area.

The Assessments are to occur at a frequency of two (2) times per year at each Producer's facility. One assessment should be conducted within a reasonable time after birds have been removed from the farm but prior to the next placement of birds and another assessment should be conducted during the Producer's grow-out cycle. Perdue agrees to make the Assessments available to EPA in redacted form upon request.

- 3. Deviation Notification Process:** During Perdue's Assessments, it is possible that deviations may be identified regarding some Producers' operations. It is important from an environmental compliance standpoint that these deviations be corrected in a timely and appropriate manner. During the Perdue-EPA Clean Bays Environmental Management Initiative, Perdue developed and implemented a program to enable the Producers to address deviations identified during the Assessments. The same response to deviations will operate under this Initiative. Specifically, in the event that Perdue's Assessment identifies a deviation, Perdue should implement the Deviation Notification Process, which alerts the Producer to correct the deficiency by a certain date. If a deviation is not addressed by a Producer in the time specified in the Assessment and the issue is elevated to Perdue's Environmental Services group, it will be logged and tracked to closure. Perdue agrees to make the deviation log available to EPA for review upon request with Producer names redacted and agrees to notify EPA annually of Producers that are no longer in the program.

- 4. Environmental Results:** Our shared goal in the development and implementation of this Program is the restoration and protection of our nation's waters. Toward that end, it is central that the program be designed and implemented to achieve environmental results. Perdue, in consultation with EPA, intends to develop and implement an information system and set of program measures designed to track progress in achieving environmental improvement and compliance. Perdue agrees to make available information regarding Assessments and deviations available for EPA review except that the database will not contain Producer names and locations but will substitute a confidential identification number specific to an individual farm.
- 5. Program Evaluation:** In order to ensure that the program is accomplishing the intended results, Perdue and EPA plan to conduct an annual evaluation, involving joint site visits, joint record reviews, including reviews of Assessments and Deviation Response Plans, and environmental results analysis. Perdue and EPA intend to use the information obtained from these evaluations to assess the effectiveness of program implementation and make any necessary program modifications.
- 6. Recognition:** EPA appreciates the efforts of its partners to improve water quality and compliance. Perdue, in consultation with EPA, intends to work with other agencies and organizations to develop a program designed to recognize those program participants who demonstrate environmental and compliance excellence, particularly those that are judged to be outstanding in their efforts to minimize nutrient loads to our waters.
- 7. Outreach:** In order to further our shared goals of environmental protection and compliance, materials and tools developed under this program with EPA assistance may be shared with the public and other members of the poultry industry.
- 8. EPA Compliance Assurance Activities:** While nothing in this agreement waives or limits the authority of EPA to conduct compliance monitoring (including inspections or other information gathering activities) or to take enforcement action pursuant to federal law, the Agency intends to consider the good faith and full participation by Perdue and the participating Producers in this MOA as a factor in determining whether and how such activities will be undertaken.
- 9. Record Retention:** Perdue agrees to maintain copies of all Assessments and Deviation Response Plans for a period of 4 years (1 year after full implementation) of the Producer Program.
- 10. Record Review:** Perdue agrees to provide EPA with copies of any documents generated by Perdue as part of this initiative upon request by EPA. These documents may be redacted to shield the identity of the Producers. However, if EPA needs to review documents in their entirety for program evaluation purposes, EPA can have access to these documents on-site at Perdue's regional complexes located in Salisbury, Maryland and Perry, Georgia. This MOA in no way limits EPA's legal authority to obtain documents from Perdue or any of the Producers.

Progress-to-date on the implementation of the Clean Bays initiative has been on-schedule, with the largest of the almost 700 Delmarva producers the first to come on-line. By the end of the four-year implementation, approximately 1,650 producers in Alabama, Delaware, Florida, Georgia, Kentucky, Maryland, North Carolina, South Carolina and Virginia, as well as all Perdue processing operations, will be included in the initiative.

Since the on-farm environmental assessment component of the Clean Bays initiative is especially applicable to the purpose of this hearing, I would like to highlight the specifics of the assessment process and how the process is executed:

- Two on-farm environmental assessments are to be performed on each farm annually. These assessments are performed by the Perdue area flock supervisor. One is performed when the house is in production (birds in) and one is performed when the house is out of production (birds out).
- It's important to note that although "official" assessments are conducted two times per year, the Perdue flock supervisors visit the poultry farms each week, and will be observing and noting assessment items during those times. Any issues of concern noted during these visits will be addressed with the producer.
- Assessment information includes:
 - General Farm Information
 - Nutrient Management Plan review
 - Manure Management practices review and evaluation
 - Mortality Management practices review and evaluation
 - Chemical Management practices review and evaluation
 - Environmentally Beneficial Practices (EBS)/Best Management Practices (BMP) review and evaluation
 - Direct Contact with Waters evaluation
 - Records Management review
 - Status & Summary
- A graduated "deviation notification process" is part of the initiative, and operates as follows:
 - Step One: Issue identified, brought to the producers attention by the Perdue flock supervisor to address with a follow-up time scheduled to verify completion.

- Step Two: Should the producer not address the issue, it is elevated to Perdue Corporate Environmental Services and Perdue Live Production management, who meet with the producer to address/correct the issue.
- Step Three: Should the issue remain unresolved, Perdue will not place birds at the farm until the producer rectifies the situation.
- Final Step: If all previous steps do not result in satisfactory resolution, the contract with the producer will be terminated. Perdue's contract with the producer clearly states that the producer agrees to comply with applicable federal, state and local laws, regulations and codes.

It's also important to note that the Clean Waters initiative includes a commitment by Perdue to implement an Environmental Management System (EMS) in each processing facility. This is a major undertaking to ensure that all environmental aspects related to the processing of our poultry at our processing plants are considered. Based on the ISO 14001 standard, Perdue's EMS is a Plan-Do-Check-Improve process for controlling and improving environmental performance. By requiring the setting of clear environmental goals, roles and responsibilities, an EMS provides the mechanism for ensuring involvement of every facility associate in environmental issues. The EMS also serves as a comprehensive training tool for facility and environmental management

I hope it is apparent that the Clean Bays and subsequent Clean Waters initiatives are a different model for supporting environmental compliance. Since September 2006, Perdue has demonstrated our on-going commitment through thousands of man-hours and substantial funds to support this initiative, and will continue to do so in the future.

Perdue has established a long record for exceeding compliance and leading the industry in addressing the environmental challenges associated with animal agriculture and food production. Continuing that record, we formally established the Perdue Environmental Sustainability Initiative in November 2007. This initiative, operating parallel and in harmony with the Corporate Environmental Services function mentioned earlier, is a comprehensive approach. It's driven by the Environmental Steering Committee, a cross- business unit and cross-functional team that set the strategic direction for the overall Environmental Sustainability Initiative and ensures there are measurable results to support Perdue's environmental story. Today, we're organizing our Environmental Sustainability Initiative efforts under three platforms: *Reduce, Reuse, Recycle*; *Research and Innovation*; and *Community Outreach*:

- The *Reduce, Reuse, Recycle* platform at Perdue is defined as conserving resources and reducing waste streams by managing material usage more efficiently. Some examples are:
 - Phytase, an enzyme added to our feed formulations since 2000, reduces phosphorus in manure by over 25%.
 - Water Conservation initiatives for our facilities on Delmarva resulted in an average reduction in water use of 2 million gallons of water per week per plant.
 - Energy saving pilot projects at our Delaware processing plants will save 3.98 million kWh annually and pave the way for even greater energy savings throughout the company.
 - A pilot recycling project at our Dillon, S.C., processing plant recycled 2 million pounds of solid waste in one year, and is now a model being implemented in all of our plants.
 - Perdue uses recyclable, eco-friendly corrugated boxes.
 - Improvements at our Accomac, Va., protein conversion plant reduced nitrogen oxide emissions by 29,000 pounds per year and sulfur dioxide by 121,000 pounds.
 - Perdue Transportation Inc. is an EPA *SmartWay* Transport Partner with an “exceptional rating” for our fuel savings and environmental improvements.
 - Revised routing for flock supervisors reduced distances traveled by 2000 miles per week. This process is being applied to other live production transportation.

- The *Research and Innovation* platform at Perdue is leveraging technology discovered through research or developed through innovation to drive environmental sustainability throughout Perdue’s supply chain for the benefit of associates, consumers, customers and our businesses. Some examples are:
 - Perdue BioEnergy, LLC, is pursuing opportunities in alternative fuels, including wood chips, poultry fat and by-products from our waste treatment plants to replace fuel oil at our processing plants.
 - Perdue is working to reduce packaging and make our packaging more recyclable.
 - The company has modified formulas in our products to be less impactful on our waste treatment facilities.
 - We’ve modified our packaging case sizes to reduce the environmental impact of the transportation of our finished products. In one example, a case-size change enabled the same product to be shipped in 240,000 less corrugated boxes on 1,666 less wood pallets needing 75 less trucks to deliver.

- The *Community Outreach* platform at Perdue is bringing us together with various stakeholders to communicate, educate and collaborate on environmental sustainability efforts. Some examples are:
 - The Perdue EPA Clean Waters Environmental Initiative that is currently being implemented.
 - As part of the P.I.N.E. Project from 2004, activity at the Model Farm continues, the latest being the installation and testing of diverters for the exhaust fans to minimize airborne dust. This project is managed within an ongoing partnership with the Delaware Center for Inland Bays.
 - For 2008 & 2009, Perdue supported Maryland Public Television's Chesapeake Bay Week volunteer-a-thon by pledging 500 and 700 volunteer hours respectively to Bay-based environmental projects.
 - Also for 2008 & 2009, Perdue participated in Project Clean Stream, an effort coordinated by the Alliance for the Chesapeake Bay. Perdue associates volunteered 498 hours over the two yearly efforts. Additionally, a Perdue executive serves on the Board of the Alliance.
 - In 2009, Perdue initiated a pilot partnership with the National Fish and Wildlife Foundation. By committing funds to NFWF, Perdue supported two important Chesapeake Bay-oriented projects: an Oyster Recovery Partnership project that attached 200+ oyster gardens to docks along the Nanticoke River; and a Nanticoke Watershed Alliance project that will develop a Green Infrastructure conservation plan for ecologically sensitive areas in the Nanticoke River watershed.

When this Environmental Sustainability Initiative is combined with our Environmental Services efforts to ensure compliance at our Perdue facilities and locations, I hope it is very apparent that Perdue is committed to a comprehensive approach to addressing our corporate environmental impact.

Perdue is not alone in our efforts to care for the bay. Agriculture on Delmarva is best characterized as a 3-legged stool, with the poultry companies, poultry growers and grain farmers working to equally support a viable poultry industry. According to the Maryland Department of Agriculture, poultry grower and grain farmer conservation accomplishments include:

- Since 1984, farmers have spent over \$12.25 million of their own money to match \$98 million in state and federal funds to install over 20,000 water quality best management practices (BMP) or about 2.5 BMPs per day, every day, for 24 years. Installation of agricultural BMPs on farmland will

account for 67 percent of 2.5 million pounds of nitrogen of Maryland's recent 2011 Chesapeake Bay milestones

- In 2007 and 2008 alone, farmers matched \$24.4 million in MACS state grants with \$3 million of their own money to install over 4,000 capital and special projects on their farms. These practices are preventing 5.1 million pounds of nitrogen, and 287,000 pounds of phosphorus from impacting waterways.
- Cover crops are widely recognized as one of the most cost-effective and environmentally promising ways to reduce agricultural runoff into the Chesapeake Bay and its tributaries. In 2004, the Chesapeake Bay Restoration Fund was established to create a dedicated and stable funding source for Maryland's cover crop cost-share program. In 2008, Governor O'Malley's 2010 Chesapeake Bay Fund provided millions more. In 2009, farmers have signed up to plant 330,500 acres of cover crops to take up excess nutrients and prevent soil erosion over the winter.
- Since 1999, through Maryland's Manure Transport Program, approximately 456,983 tons of excess poultry litter and manure have been transported from areas with excess manure or high soil phosphorus levels to other farms or alternative use facilities that can use the product in an environmentally-sound manner. In 2008, approximately \$520,357 in state cost-share funding to transport manure was matched by Delmarva poultry companies, for a total of \$891,342 provided to participating poultry growers.
- 99 percent of the state's 1.3 million acres of crop land and 99 percent of the state's 6,200 eligible farmers have nutrient management plans and are complying with the state's nutrient management law.
- Over the last 10 years, Maryland farmers have converted approximately 74,000 acres of environmentally sensitive farmland into streamside buffers, wetlands other wildlife habitat areas through the Conservation Reserve Enhancement Program (CREP). The program helps protect water quality in local streams and rivers by reducing soil erosion, controlling nutrient runoff and increasing wildlife habitat.
- Approximately 22 percent of all Maryland farmland is managed as woodland, which promotes sustainable forestry to provide clean water, improve stream health, stabilize soil reduce nutrients and sequester of carbon through actively growing forests and tree biomass.
- More than 50 percent of Maryland farmers in targeted watersheds achieved the highest assistance rate available from the Conservation Security Program - a federal program that provides funds for the farmers

that go the extra mile for conservation. More farms in Maryland qualified in their first year of eligibility than any other state in the Northeast.

- The Maryland Agricultural Land Preservation Foundation has permanently preserved 277,475 acres of priority farmland for farming, with a public investment of over \$550 million since its founding in 1977. The Foundation has preserved farmland in all of Maryland's 23 counties.

Today you, the members of this committee, are exploring legislation and regulation as it relates to the Chesapeake Bay Program. On behalf of the 8,000 Perdue associates that live and work in the Chesapeake Bay watershed, the 700 independent farm families on Delmarva that grow poultry for Perdue, and the more than 7,000 independent farm families in the Chesapeake Bay watershed that grow grain, we appreciate your efforts.

Our position on the Chesapeake Bay Program is clear. Perdue wholeheartedly supports the reauthorization of the program, Section 117 of the Clean Water Act. We do, however, have concerns with the efforts to incorporate into the reauthorization legislation new law on how agriculture will operate in the watershed. President Obama's Executive Order (EO 13508) and the subsequent Section 202 reports recently issued by EPA focus on a centralized, federal oversight approach to Bay restoration activities that emphasize regulatory mandates rather than cooperative approaches. Through the efforts taken by Perdue and our family farm partners, in cooperation with both federal and state officials, and the actions taken by the agriculture community, we have implemented an initiative that is producing measurable results for the Bay and the watershed. Before Congress codifies the federal oversight and enforcement of the Bay restoration, we should first let the efforts that Perdue and the farmers in the watershed have started take hold. Many of the concepts and regulations included in this legislation to reauthorize the Chesapeake Bay Program are codification of proposals recently set forth in EO13508. This EO is not yet promulgated into regulation, but now without the opportunity to see if the regulation has value or testing its impact, it would be set in stone as law. Such action is premature.

As for specific areas of concern, first, H.R. 3852 will create an uneven playing field for the ever tenuous continued operation of poultry processing in the Delmarva by establishing a higher level of EPA Clean Water Act regulation for the states in the Bay watershed than is required by farmers throughout the rest of the country. Today, Delmarva is one of the least cost effective locations for the agriculture community and, in particular, for the poultry industry. This reauthorization would put our operations and our growers at a significant

competitive disadvantage and would threaten the very existence of the poultry industry.

Second, the bill gives EPA unprecedented authority to take any and all action the agency deems necessary to reach Bay restoration goals. This includes requiring all poultry and livestock operations, and potentially any farmer that fertilizes a field, to operate under a Clean Water Act permit. This will be cost prohibitive for small and medium size farm operations.

Third, the bill puts into law specific caps for the Total Maximum Daily Load (TMDL) for the Chesapeake Bay, sets deadlines to achieve these TMDLs and gives EPA ultimate authority to implement the program. Unfortunately, the agricultural community still has very little information on the TMDL, what it means at the farm level and how they are expected to measure the non-point sources attributed to their farms. Based on information from the USDA, the NRCS is still gathering information to determine what agricultural BMPs are included in the Bay Model, the basis for the TMDL program. We know that many of the voluntary practices outlined in this testimony are not included in the Bay Model, and therefore, the baseline on which the initial TMDLs have been developed is not an accurate representation of agriculture's environmental impact on the Bay. This baseline effort needs to be completed, and the outcomes better understood, before the TMDL program is mandated through codification by this legislation.

Fourth, citizen right of action or citizen suits must not be codified as they will generate unnecessary legal actions that are intended to stop a project or prolong the issuance of permits. This will provide a legal tool to be used by any group against farmers and other permitted projects from getting established, and will become a huge financial burden to farm families targeted by special interest groups.

Fifth, this new reauthorization would designate agriculture as permittees, yet would not place the same oversight and enforcement mechanisms on the other nutrient contributors in the watershed. Why if the legislation envisions that all nutrient contributors should be engaged in the process of protecting the bay is agriculture the only one facing penalty if they fail to meet the goals established by EPA?

Sixth, while we appreciate the provisions in the bill to set aside federal funds for technical support in NRCS and Soil Conservation District offices to help farmers develop conservation plans and install BMPs, this authorization of legislation does not ensure that such funding will be made available through an

appropriation. Thus farmers are left with “the stick” of enforcement and merely the promise of a “carrot” without a guarantee of the funds. We are concerned that if Congress fails to make the annual appropriation, farmers will bear the brunt of nutrient reduction when local governments cannot afford the investment.

Finally, it is our understanding that the legislation mandates an “environmental credit” program that would be generated by agricultural efforts for farmers to “pay” for the costs associated with additional regulation, and utilize those credits to provide necessary “offsets” for any form of additional development. However, it is our understanding that farmers will be required to meet all individual farm nutrient obligations under the TMDL program, and therefore have to implement all available BMPs, before being eligible to generate any credits. According to the Maryland Farm Bureau, experts in this area agree that there will be no offsets on farms to sell, leading to local governments utilizing very onerous alternatives, such as purchasing whole farm and taking them out of production, to achieve the mandated offsets necessary for additional required development, such as schools and hospitals.

Earlier in my testimony, I outlined the actions Perdue is taking to address our environmental impact and help sustain the environment. These actions are in place and effective. I also outlined a few actions that the agricultural community currently has in place that’s proving to be effective. I respectfully request that Congress ensure the current actions of Perdue and others in the agriculture community are included in an updated Bay Model, and that President Obama’s Executive Order not be codified through legislation at this time to allow the agricultural community to work cooperatively with the Federal Leadership Committee charged to develop the strategy to address EO 13508. To do otherwise would be placing all agriculture in the Chesapeake Bay watershed at a competitive and economic disadvantage.

To that end, we urge you to share with your colleagues at the Transportation Committee that this legislation, as introduced, could dramatically and adversely impact the future of agriculture in the watershed.

In closing, Mr. Chairman and members of the subcommittee, I thank you for your time and I will be happy to answer any of your questions.