

**The Washington Post**

## Chesapeake Bay settlement has EPA agreeing to enforce pollution reduction goals

By Ashley Halsey III  
Washington Post Staff Writer  
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The Environmental Protection Agency will be legally bound to clean the soiled waters of the Chesapeake Bay after reaching an agreement Tuesday to enforce tough new standards for pollution reduction.

The settlement reached to end a lawsuit brought by bay advocates has potentially far-reaching consequences for the bay's watershed, a huge sweep of territory from Upstate New York to the Shenandoah Valley.

The pollution reductions could affect how lawns and farm fields are fertilized; how livestock is managed; what sewage treatment costs taxpayers; where housing developments, office complexes and shopping centers can be built; and other aspects of life with the potential to taint the water that flows into the 200-mile-long bay.

Tuesday's agreement is the latest in a series of landmarks that so far have not survived the test of time. They began with the Clean Water Act in 1972, which was followed by Chesapeake Bay agreements in 1983, 1987 and 2000. Those efforts all faltered, with much finger-pointing, as federal overseers sought to manage a coalition of states whose enthusiasm and commitment often were fractured by parochial issues.

This time, there are several differences, foremost among them that the EPA is legally obligated to achieve the goals established in the settlement. The agency has agreed to force states to do what has not been done voluntarily in the past. In addition, the Obama administration has demonstrated the political will to tackle bay pollution, beginning a year ago with an executive order empowering the EPA to set more stringent standards and penalize states that failed to meet them.

"For the first time in bay history, the EPA has said in a legally enforceable document that 'We are responsible for bay restoration,' " said Jon A. Mueller, a lawyer for the Chesapeake Bay Foundation, one of the lead groups in the lawsuit filed last year.

Mueller said advocates would return to court if the EPA misses targets.

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"We share the goals," said EPA Deputy Administrator Bob Perciasepe, a former secretary of the environment in Maryland. "EPA will be there and will be living up to these commitments. We want the states to take the leadership here, but we are going to be developing a stronger federal backstop than ever existed before."

Under the agreement, the EPA will mandate that states limit their nitrogen, phosphorus and sediment flow into the bay in compliance with an overall daily maximum being formulated by the federal agency.

Calculating the maximum volume of pollution that can be absorbed by a healthy bay that draws from a 64,000-square-mile watershed is a monumental challenge. Each of the six states and the District must develop a plan to comply with the limits. States that violate the limits could be denied federal funds or construction permits for major developments.

Nitrogen, primarily from farm fertilizer but from lawn use as well, is the single leading cause of pollution in the bay. Farm runoff is also blamed for half of the phosphorus entering the bay.

The EPA has also agreed to formulate regulations to control barnyard pollution. With advancements in sewage treatment plants, manure has surpassed human waste as a bay pollutant.

"This agreement is a game changer," said William C. Baker, bay foundation president. "In 1983, 1987 and 2000, those were good words on paper, but this is a legal document. We've had promises before but never a legal document."

Despite the optimism, Baker said his group harbors a "healthy skepticism" and will scrutinize the EPA's compliance.

The lawsuit, in which the foundation joined with watermen, fishermen and several public officials, was filed after state governments and the EPA admitted three years ago that they would fall far short of meeting bay cleanup goals set under the 2000 agreement.

Despite spending almost \$6 billion over a quarter-century to try to restore the bay, it still had just as many heavily polluted "dead zones" as it did at the outset. Over the course of those decades, the EPA presented overly

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rosy progress reports, officials later conceded, for fear that more truthful accounts would jeopardize annual funding that hovered around \$20 million in the 1990s.

As indicators of distress abounded -- oysters virtually disappeared, critical underwater grasses died and the crab population that breeds in that grass declined -- and the population in the bay watershed mushroomed to 17 million, the charade continued until the 2007 admission that goals set for 2010 weren't remotely close to being realized.

Bernie Fowler, a former waterman and Maryland state senator from Calvert County, was among the lawsuit plaintiffs who expressed satisfaction with Tuesday's settlement.

"After 40 years of personal involvement," said Fowler, 86, "I'm beginning to see a little light at the end of the tunnel."

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