Local Government Advisory Committee
to the Chesapeake Executive Council

Briefing on the Chesapeake Bay Total Maximum Daily Load (TMDL)

Local Government Advisory Committee

June 4, 2026

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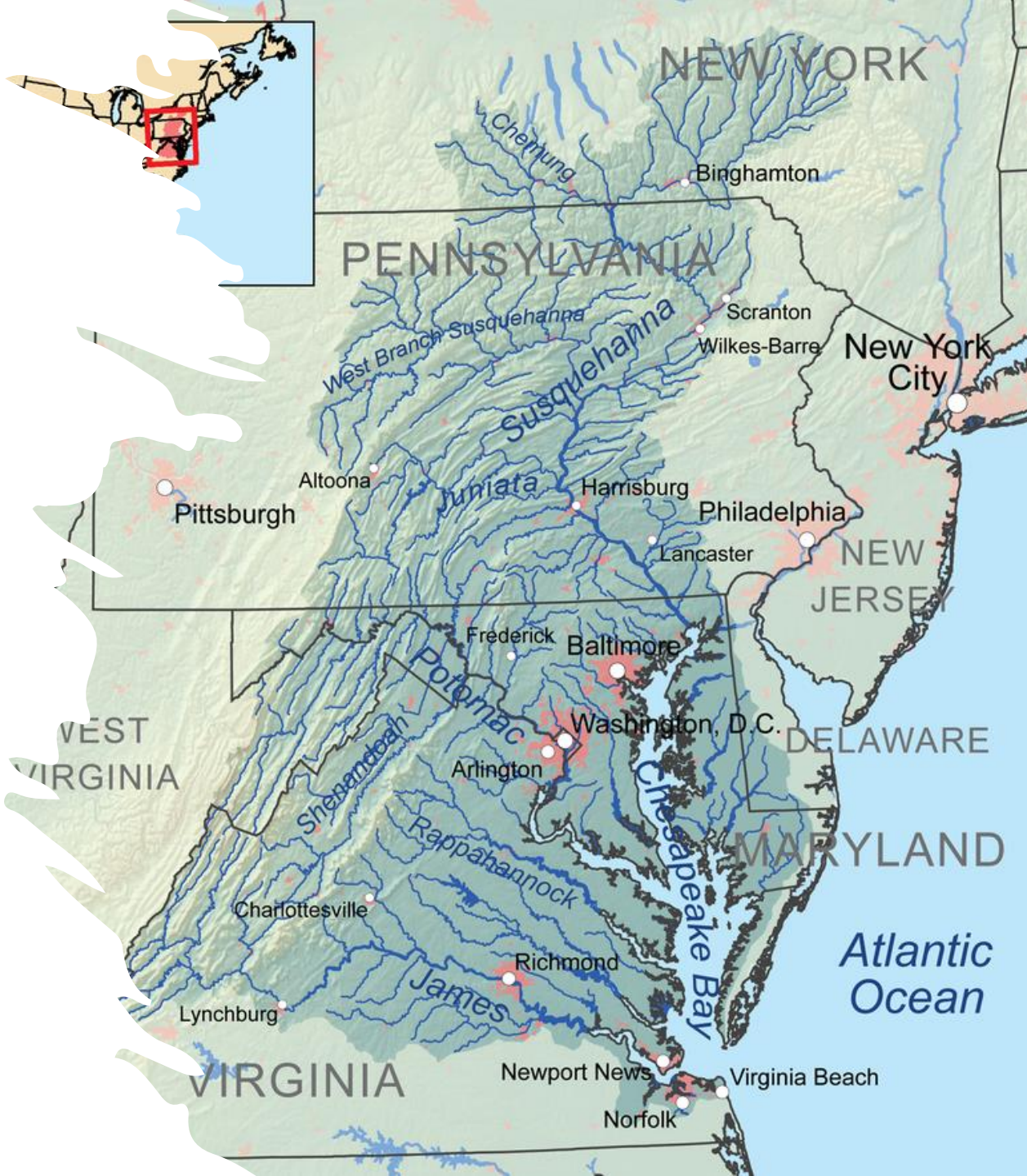
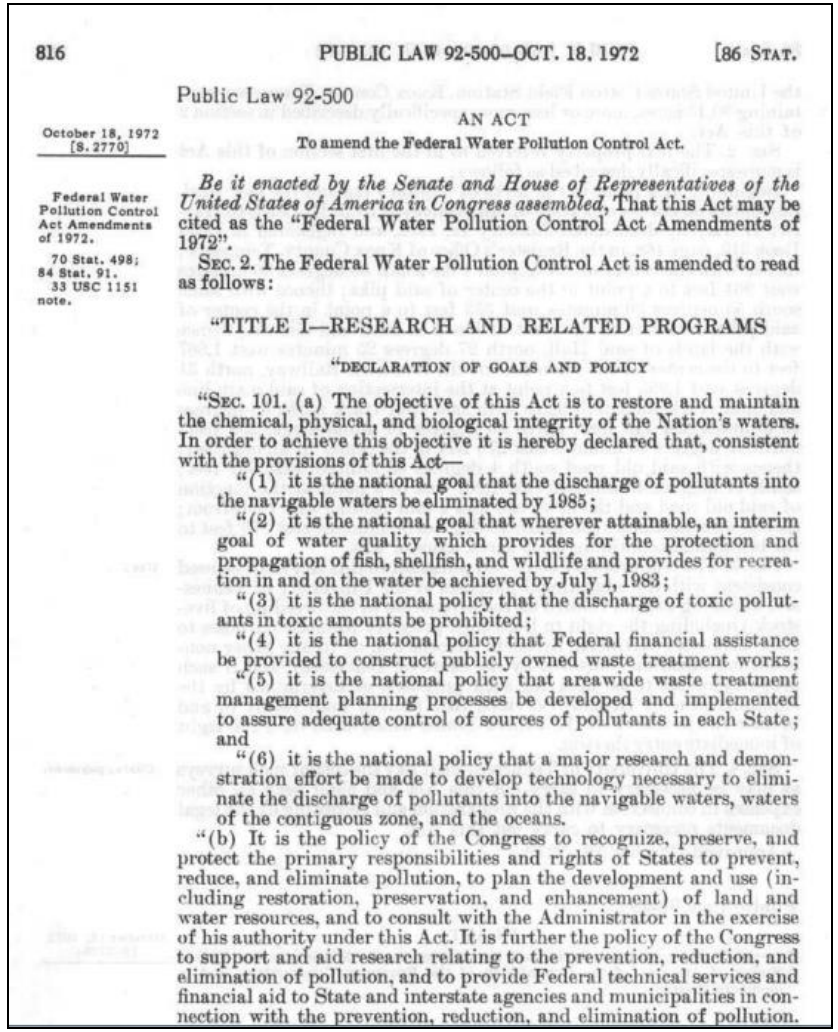
- Affiliate Faculty, School of International Affairs

Overview

- A very quick sketch of the Clean Water Act
- The Chesapeake Bay TMDL and the Chesapeake Bay Watershed Agreement
- Examples of “multi-solving”



Critical to the Chesapeake Bay: the Federal Water Pollution Control Act Amendments of 1972 (aka the Clean Water Act)



816 PUBLIC LAW 92-500—OCT. 18, 1972 [86 STAT.

Public Law 92-500

AN ACT

October 18, 1972
[S. 2770]

To amend the Federal Water Pollution Control Act.

Federal Water Pollution Control Act Amendments of 1972.
70 Stat. 498; 84 Stat. 91. 33 USC 1151 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Water Pollution Control Act Amendments of 1972".

SEC. 2. The Federal Water Pollution Control Act is amended to read as follows:

"TITLE I—RESEARCH AND RELATED PROGRAMS

"DECLARATION OF GOALS AND POLICY

"SEC. 101. (a) The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act—

"(1) it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985;

"(2) it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983;

"(3) it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited;

"(4) it is the national policy that Federal financial assistance be provided to construct publicly owned waste treatment works;

"(5) it is the national policy that areawide waste treatment management planning processes be developed and implemented to assure adequate control of sources of pollutants in each State; and

"(6) it is the national policy that a major research and demonstration effort be made to develop technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and the oceans.

"(b) It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this Act. It is further the policy of the Congress to support and aid research relating to the prevention, reduction, and elimination of pollution, and to provide Federal technical services and financial aid to State and interstate agencies and municipalities in connection with the prevention, reduction, and elimination of pollution.

Presumption under the common law:
activities that might cause water pollution are presumptively lawful unless a plaintiff sues and proves harm to protected legal interest

The Clean Water Act flipped this presumption

President Nixon is given credit for the Clean Water Act.

However, he vetoed it.

Congress passed it over his veto

- 247 to 23 in the House
- 52 to 12 in the Senate

Clean Water Act: Objective & Goals

Objective:

- “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”
- Applies to the “waters of the United States”

Goals:

- Eliminate pollution into navigable waters by 1985
- Wherever attainable, interim goal of water quality which provides for the protection and propagation of fish, shellfish and wildlife and provides for recreation in and on the water be achieved by July 1, 1983 (fishable & swimmable goal)
- National policy that discharge of toxic pollutants in toxic amounts be prohibited

Definitions

- Pollutants, § 502(6), 33 U.S.C. § 1362(6):
  - wide range of substances that might be discharged into water, including "dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste."

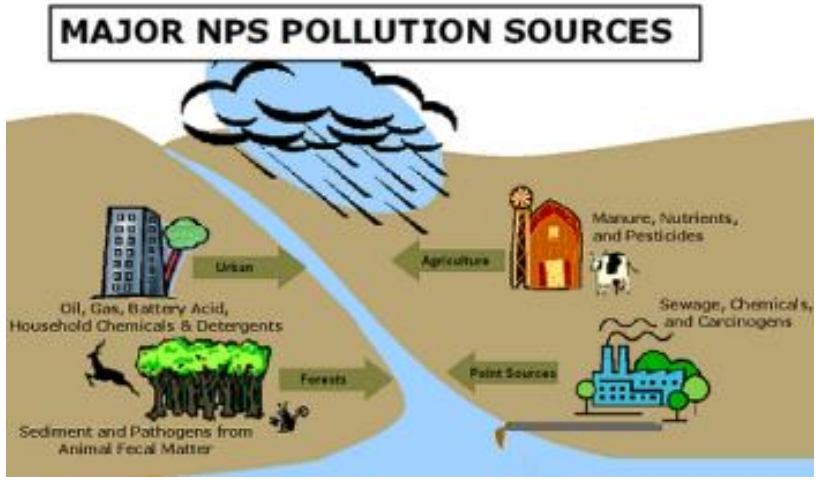
- Pollution, § 502(19), 33 U.S.C. § 1362(19).
  - "man made or man-induced alternation of the chemical, physical, biological and radiological integrity of water."

- Discharge of pollutant, § 502(16), 33 U.S.C. § 1362(16).
  - Any addition of any pollutant to navigable waters from any point source.

- Point source, § 502(14), 33 U.S.C. § 1362(14).
  - "Any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft from which pollutants are or may be discharged."
  - Excludes "ag stormwater discharges and return flows from irrigated agriculture"

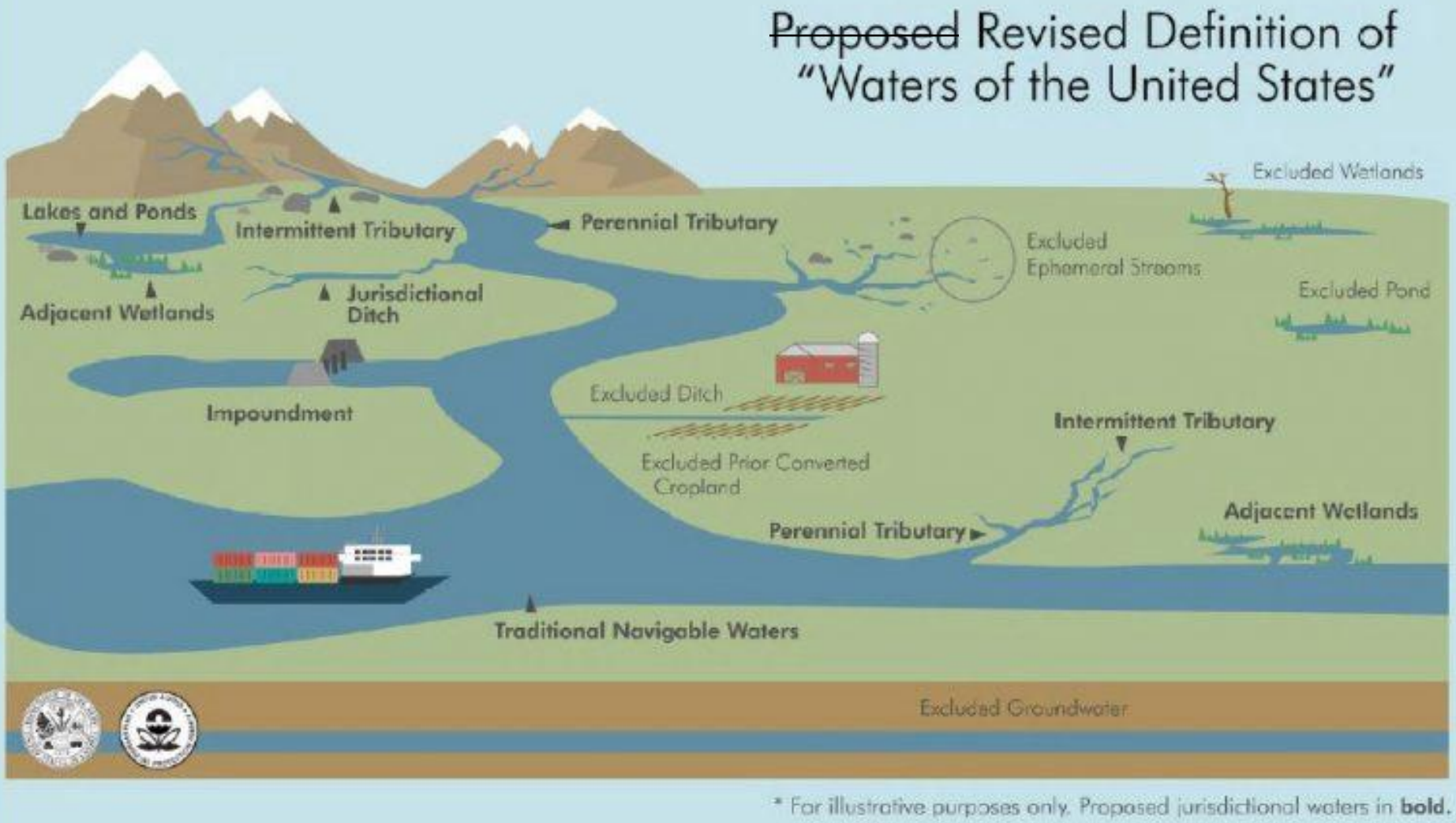
Definitions

- Point source, § 502(14), 33 U.S.C. § 1362(14).
  - May be allowed upon issuance of
    - National Pollutant Discharge Elimination System (NPDES) permits
      - Issued by US Environmental Protection Agency, state (if allowed), or tribes as state
      - Must meet technology-based requirements (301(b)), or
      - Must meet water quality-based standards (303)
    - Dredge & fill material permit
      - US Army Corps or state (if allowed)
  - MS4s are a subset of NPDES permits
    - Municipal separate storm sewer systems for municipalities above a certain population
- Exceptions:
  - Dispersed runoff of pollutants (stormwater/agricultural)
  - Airborne pollutants

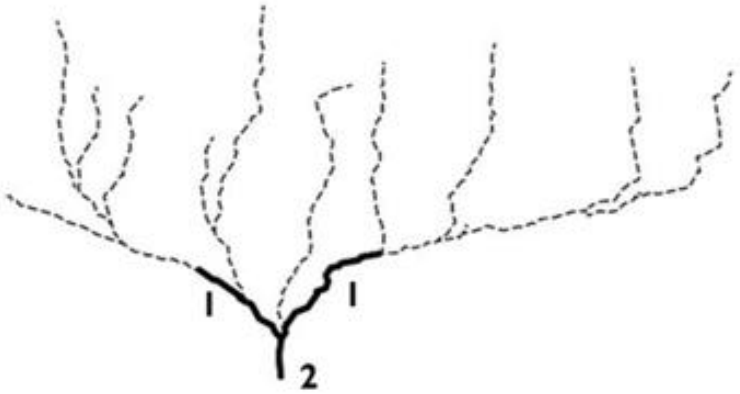


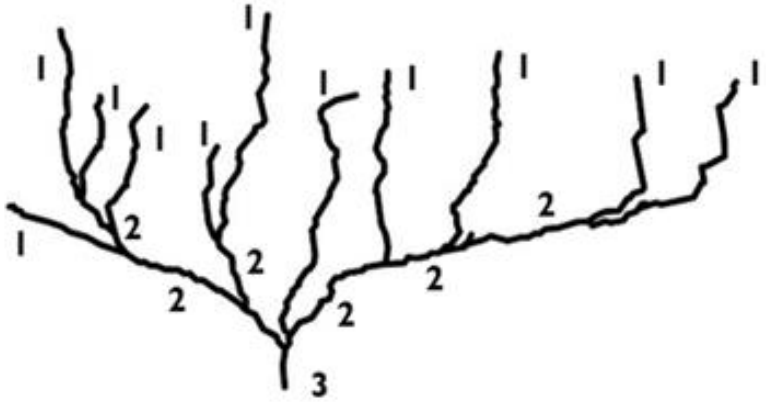
https://www.roanokecountyva.gov/353/Non-Point-Source-NPS-Pollution

A lot of litigation on definition of "Waters of the United States"



https://publiccommentproject.org/aq-conservsummaries/wotus-repeal-step2





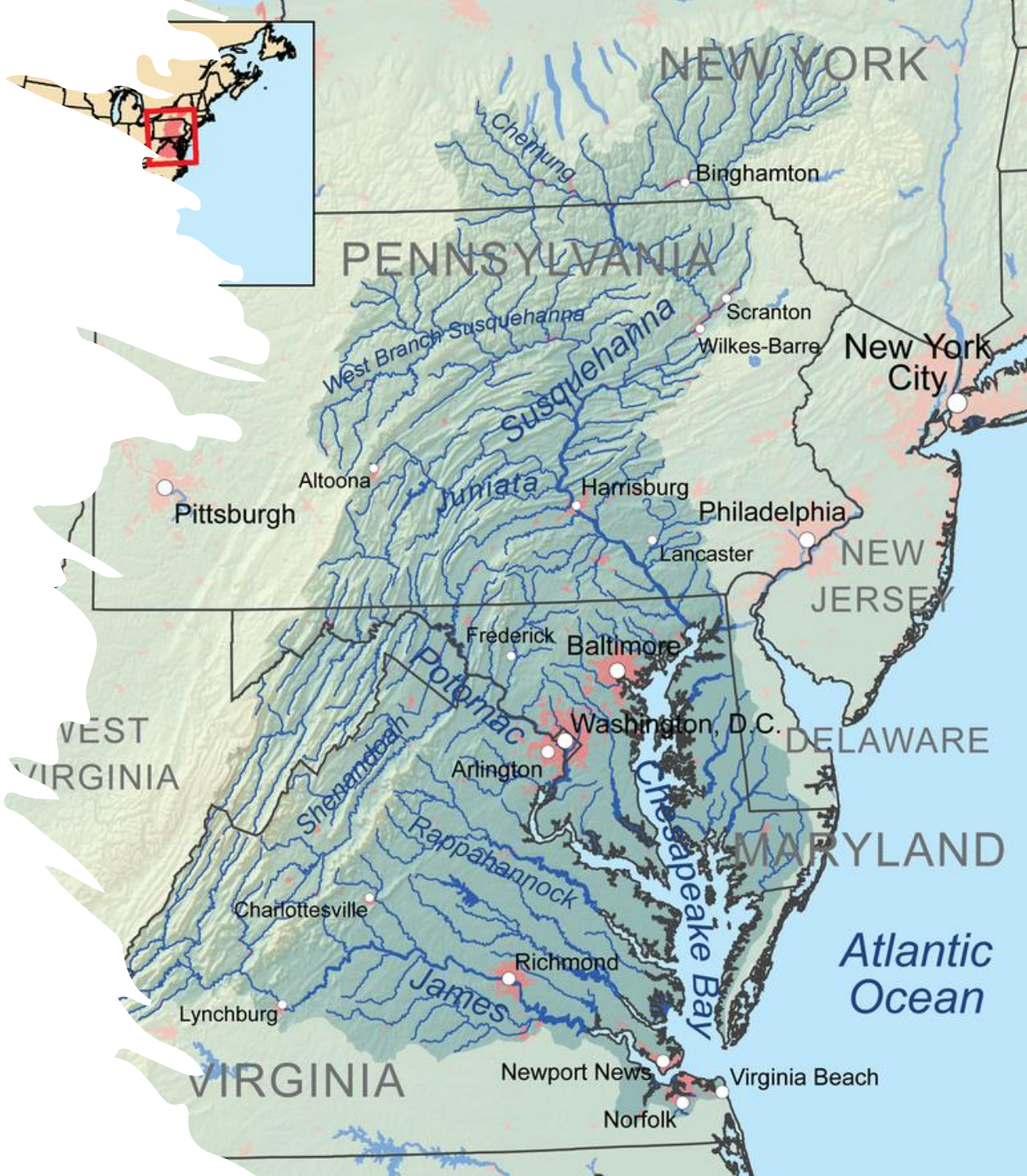
Difference between a dry and wet year?

The above figure shows the expansion and contraction of streamflow in the Leading Ridge watershed in Huntingdon County, Pennsylvania.

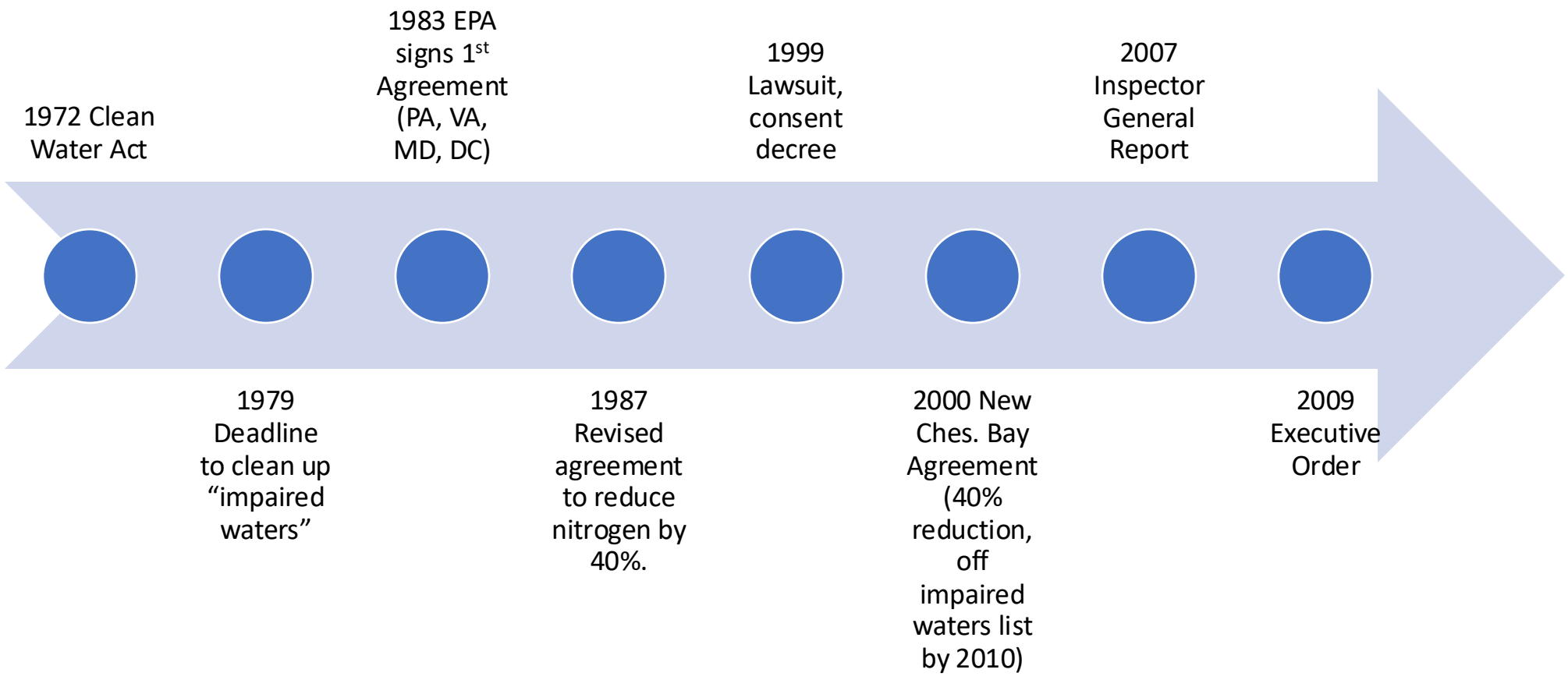
Research by Jon Duncan, Penn State

Overview

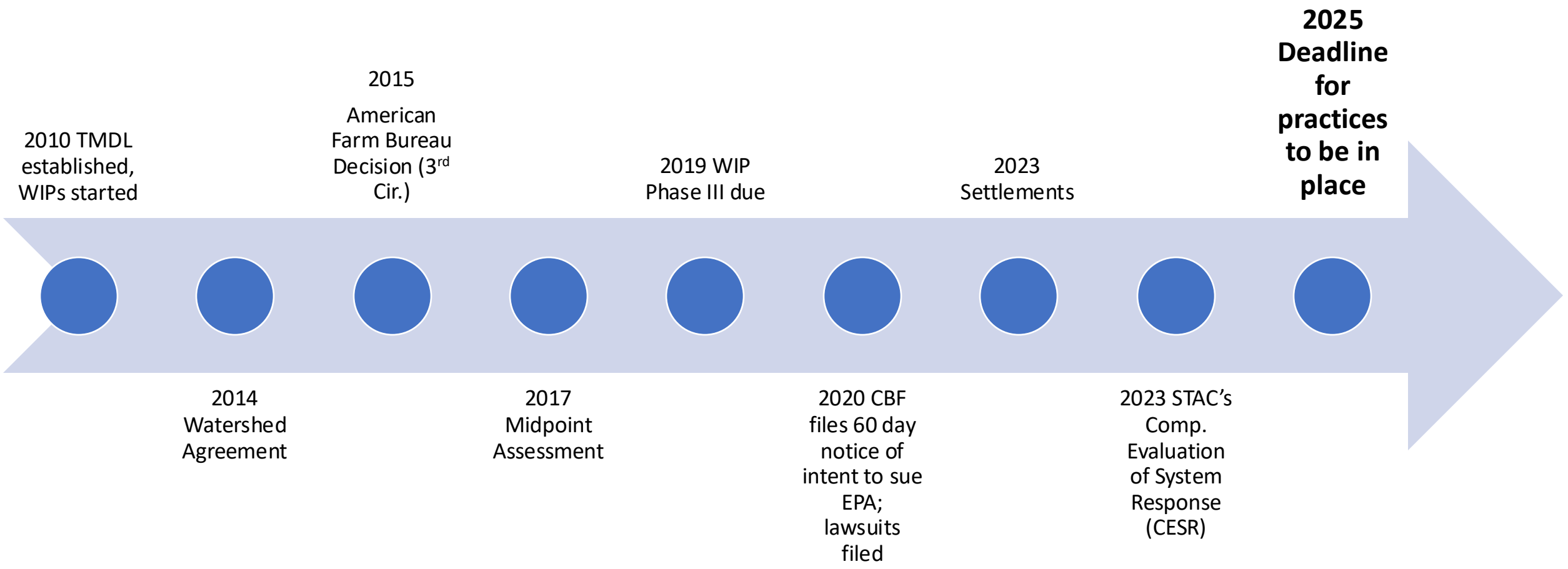
- A very quick sketch of the Clean Water Act
- **The Chesapeake Bay TMDL and the Chesapeake Bay Watershed Agreement**
- Examples of “multi-solving”



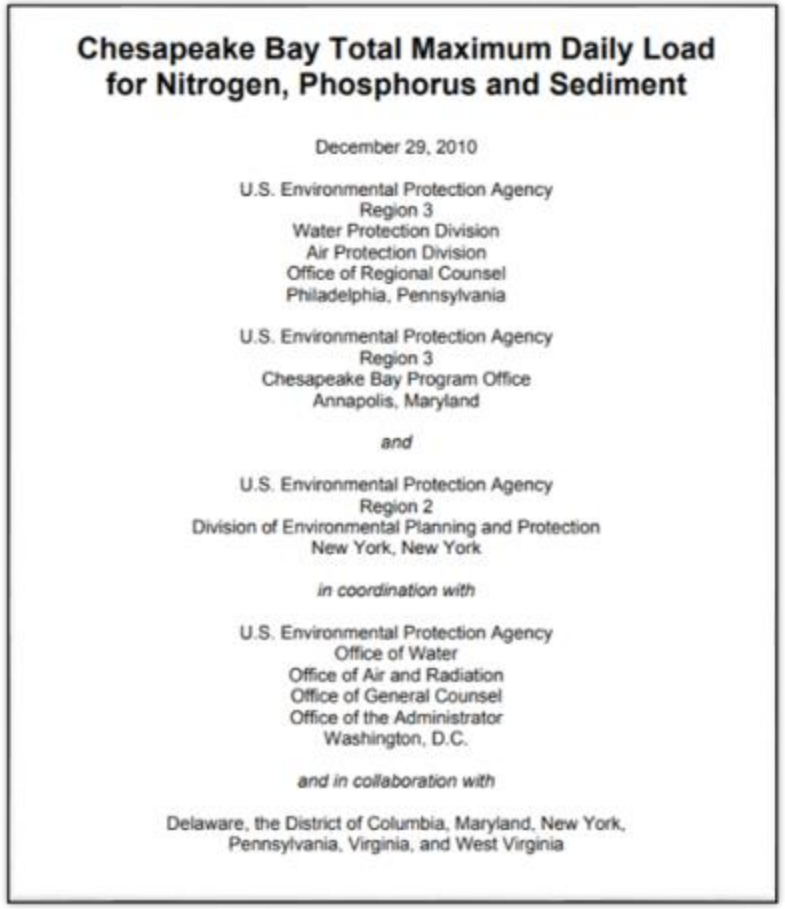
The law & policy on how to address the Chesapeake Bay has evolved over 50+ years



The legal framework has tightened over time; timeline to 2025.



In 2010,the Chesapeake Bay "Total Maximum Daily Load" created the first-in-the-nation regulatory requirements for an entire watershed



Chesapeake Bay Total Maximum Daily Load for Nitrogen, Phosphorus and Sediment

December 29, 2010

U.S. Environmental Protection Agency
Region 3
Water Protection Division
Air Protection Division
Office of Regional Counsel
Philadelphia, Pennsylvania

U.S. Environmental Protection Agency
Region 3
Chesapeake Bay Program Office
Annapolis, Maryland

and

U.S. Environmental Protection Agency
Region 2
Division of Environmental Planning and Protection
New York, New York

in coordination with

U.S. Environmental Protection Agency
Office of Water
Office of Air and Radiation
Office of General Counsel
Office of the Administrator
Washington, D.C.

and in collaboration with

Delaware, the District of Columbia, Maryland, New York, Pennsylvania, Virginia, and West Virginia

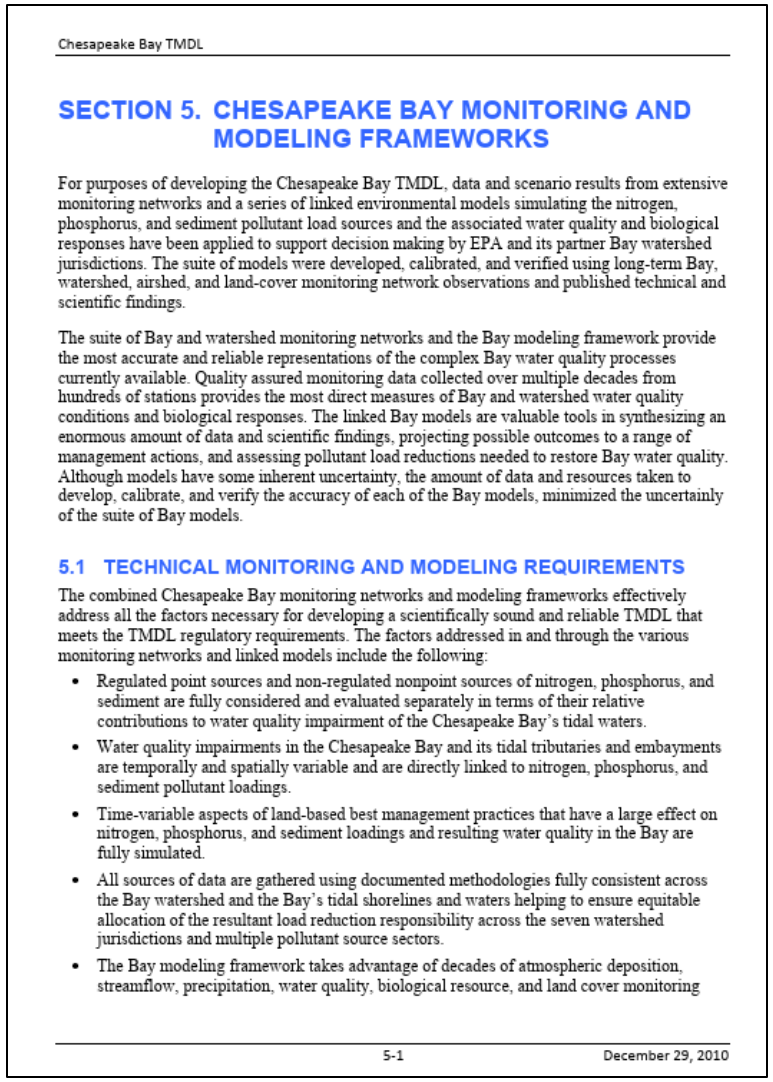
→ Legal requirement to reduce nutrients, achieve standards for dissolved oxygen, water clarity, and Chlorophyll A, and meet living resources goals

→ The 2010 TMDL set Bay watershed limits of 185.9 million pounds of nitrogen, 12.5 million pounds of phosphorus and 6.45 billion pounds of sediment per year.

- 25% reduction in nitrogen
- 24% reduction in phosphorus
- 20% reduction in sediment

→ "The TMDL is designed to ensure that all pollution control measures needed to fully restore the Bay and its tidal rivers are in place by 2025, with at least 60 percent of the actions completed by 2017"

The 2010 TMDL also created frameworks for monitoring and modeling



Chesapeake Bay TMDL

SECTION 5. CHESAPEAKE BAY MONITORING AND MODELING FRAMEWORKS

For purposes of developing the Chesapeake Bay TMDL, data and scenario results from extensive monitoring networks and a series of linked environmental models simulating the nitrogen, phosphorus, and sediment pollutant load sources and the associated water quality and biological responses have been applied to support decision making by EPA and its partner Bay watershed jurisdictions. The suite of models were developed, calibrated, and verified using long-term Bay, watershed, airshed, and land-cover monitoring network observations and published technical and scientific findings.

The suite of Bay and watershed monitoring networks and the Bay modeling framework provide the most accurate and reliable representations of the complex Bay water quality processes currently available. Quality assured monitoring data collected over multiple decades from hundreds of stations provides the most direct measures of Bay and watershed water quality conditions and biological responses. The linked Bay models are valuable tools in synthesizing an enormous amount of data and scientific findings, projecting possible outcomes to a range of management actions, and assessing pollutant load reductions needed to restore Bay water quality. Although models have some inherent uncertainty, the amount of data and resources taken to develop, calibrate, and verify the accuracy of each of the Bay models, minimized the uncertainly of the suite of Bay models.

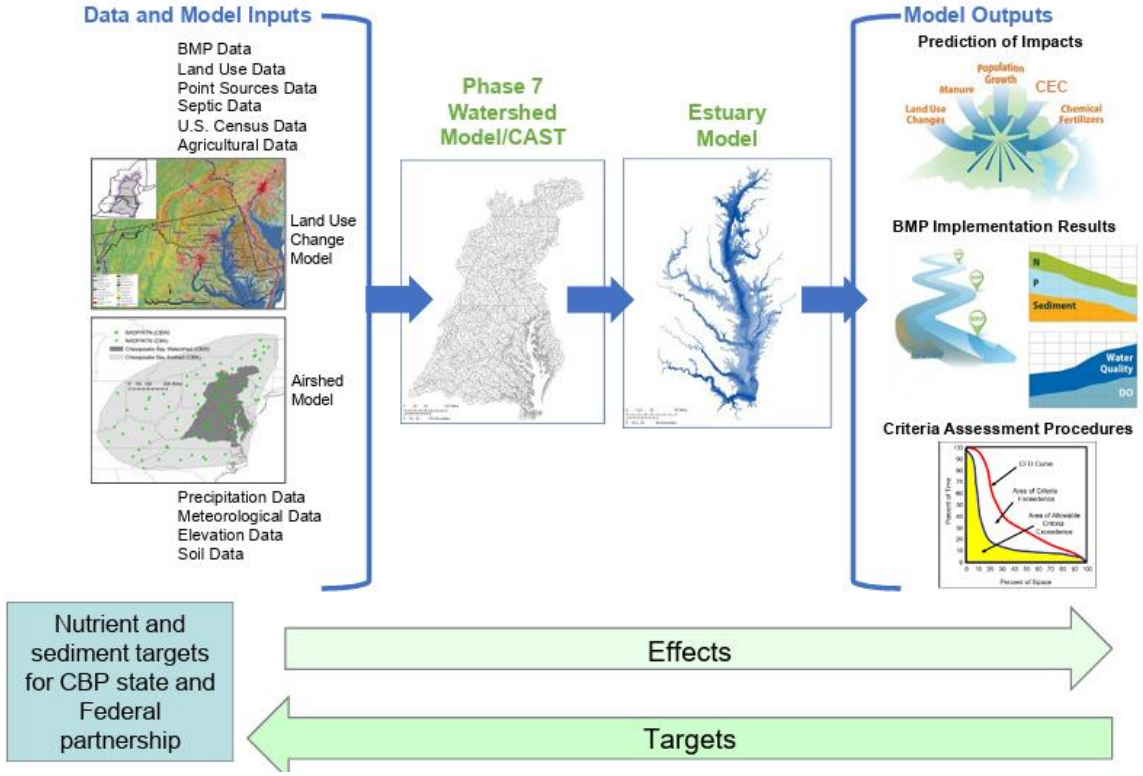
5.1 TECHNICAL MONITORING AND MODELING REQUIREMENTS

The combined Chesapeake Bay monitoring networks and modeling frameworks effectively address all the factors necessary for developing a scientifically sound and reliable TMDL that meets the TMDL regulatory requirements. The factors addressed in and through the various monitoring networks and linked models include the following:

- Regulated point sources and non-regulated nonpoint sources of nitrogen, phosphorus, and sediment are fully considered and evaluated separately in terms of their relative contributions to water quality impairment of the Chesapeake Bay's tidal waters.
- Water quality impairments in the Chesapeake Bay and its tidal tributaries and embayments are temporally and spatially variable and are directly linked to nitrogen, phosphorus, and sediment pollutant loadings.
- Time-variable aspects of land-based best management practices that have a large effect on nitrogen, phosphorus, and sediment loadings and resulting water quality in the Bay are fully simulated.
- All sources of data are gathered using documented methodologies fully consistent across the Bay watershed and the Bay's tidal shorelines and waters helping to ensure equitable allocation of the resultant load reduction responsibility across the seven watershed jurisdictions and multiple pollutant source sectors.
- The Bay modeling framework takes advantage of decades of atmospheric deposition, streamflow, precipitation, water quality, biological resource, and land cover monitoring

5-1 December 29, 2010

https://www.epa.gov/chesapeake-bay-tmdl/chesapeake-bay-tmdl-document



Visual from presentation by Bo Williams, https://www.chesbay.us/library/public/documents/Meetings/May-2026/Bo-Williams_P7Model.pdf

→ Data & scenario results from monitoring networks and "series of linked environmental models" used to develop TMDL

→ Suite of models included long-term Bay, watershed, airshed, and land-cover monitoring network observations

→ Linked Bay models: tools to synthesize data and scientific findings, project possible outcomes, and assess pollution load reductions need to restore Bay water quality

Implementation responsibility: 6 states + Washington DC through "Watershed Implementation Plans" (WIPs)

	Expectation letter	Submission
Phase I	2009	2010
Phase II	2011	2012
Phase III	2018	2019

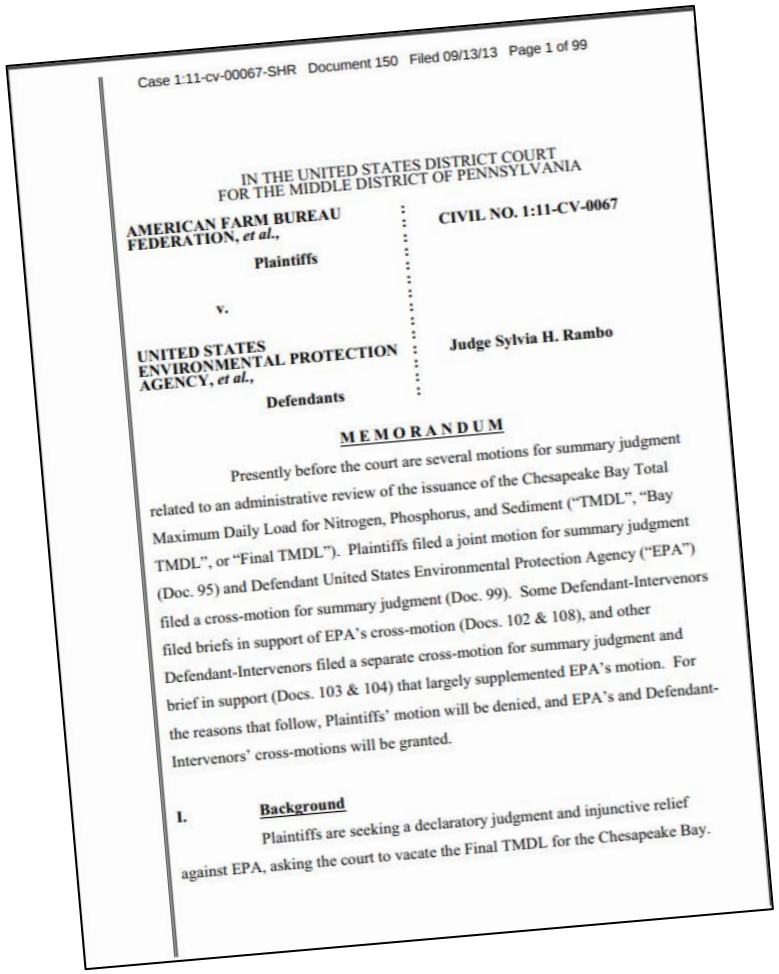
Key Phase III requirement:

"Specify the programmatic and numeric commitments in order to have all practices and controls in place by 2025 to achieve the final Phase III WIP nutrient and sediment planning targets"

Phase III Expectation Fact Sheet

https://www.epa.gov/chesapeake-bay-tmdl/chesapeake-bay-tmdl-fact-sheet

In late 2010, the American Farm Bureau et al filed a lawsuit in federal court; however, courts upheld the TMDL after 5+ years of litigation



Case 1:11-cv-00067-SHR Document 150 Filed 09/13/13 Page 1 of 99

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

AMERICAN FARM BUREAU FEDERATION, *et al.*,
Plaintiffs

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, *et al.*,
Defendants

CIVIL NO. 1:11-CV-0067

Judge Sylvia H. Rambo

MEMORANDUM

Presently before the court are several motions for summary judgment related to an administrative review of the issuance of the Chesapeake Bay Total Maximum Daily Load for Nitrogen, Phosphorus, and Sediment ("TMDL", "Bay TMDL", or "Final TMDL"). Plaintiffs filed a joint motion for summary judgment (Doc. 95) and Defendant United States Environmental Protection Agency ("EPA") filed a cross-motion for summary judgment (Doc. 99). Some Defendant-Intervenors filed briefs in support of EPA's cross-motion (Docs. 102 & 108), and other Defendant-Intervenors filed a separate cross-motion for summary judgment and brief in support (Docs. 103 & 104) that largely supplemented EPA's motion. For the reasons that follow, Plaintiffs' motion will be denied, and EPA's and Defendant-Intervenors' cross-motions will be granted.

I. **Background**

Plaintiffs are seeking a declaratory judgment and injunctive relief against EPA, asking the court to vacate the Final TMDL for the Chesapeake Bay.

<u>Procedural history:</u>

- 2013: 99 page decision by Judge Rambo in U.S District Court for Central Pennsylvania upholding EPA's decision
- Appealed to 3rd Circuit Court of Appeals
- 2015: 3rd Circuit upheld case
- 2016: US Supreme Court denied certiorari

<u>Key findings:</u>

- 2010 TMDL represented lawful federalism under the Clean Water Act, particularly given consultation/engagement
- Public comment period was sufficient
- EPA's modeling & use of data was appropriate

In 2014, the Chesapeake Watershed Agreement provided principles, goals & outcomes to accomplish the TMDL and more

WATER QUALITY

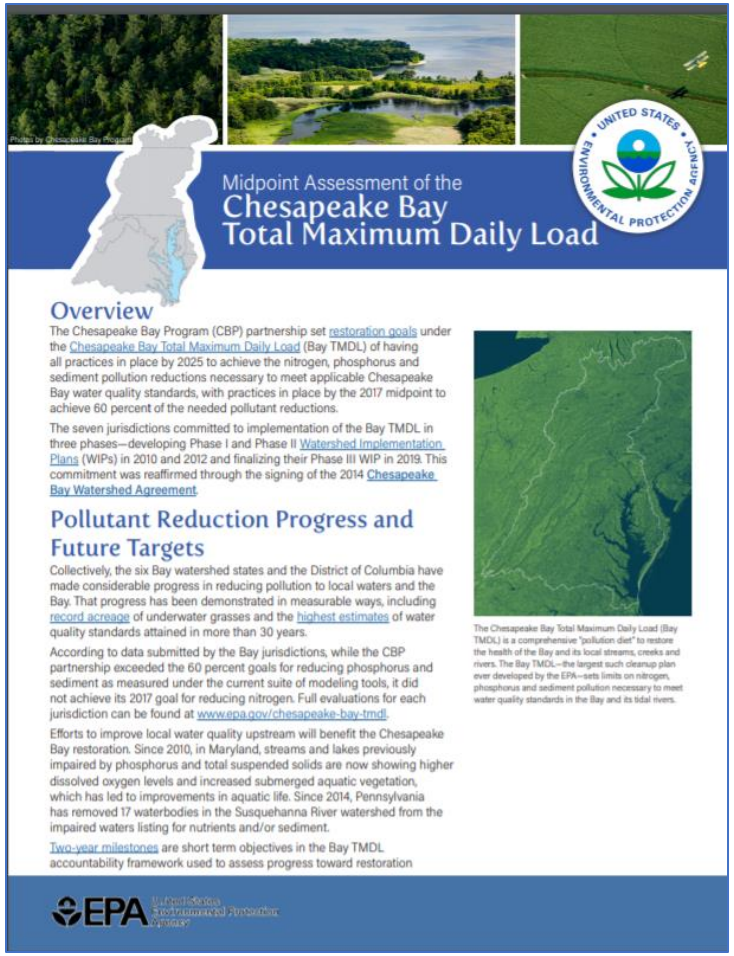
Restoring the Bay's waters is critical to overall watershed restoration because clean water is the foundation for healthy fisheries, habitats and communities across the region. However excess amounts of nitrogen, phosphorus and sediment in the Bay and its tributaries have caused many sections of the Bay to be listed as "impaired" under the Clean Water Act. The Chesapeake Bay Total Maximum Daily Load (TMDL) is driving nutrient and sediment reductions as described in the Watershed Implementation Plans (WIPs), adopted by the states and the District of Columbia, and establishes the foundation for water quality improvements embodied in this Agreement. These plans set nutrient and sediment reduction targets for various sources—stormwater, agriculture, air deposition, wastewater and septic systems.

GOAL: Reduce pollutants to achieve the water quality necessary to support the aquatic living resources of the Bay and its tributaries and protect human health.

7

2017 Watershed Implementation Plans (WIP) Outcome	By 2017, have practices and controls in place that are expected to achieve 60 percent of the nutrient and sediment pollution load reductions necessary to achieve applicable water quality standards compared to 2009 levels.
2025 WIP Outcome	By 2025, have all practices and controls installed to achieve the Bay's dissolved oxygen, water clarity/submerged aquatic vegetation and chlorophyll *a* standards as articulated in the Chesapeake Bay TMDL document.
Water Quality Standards Attainment and Monitoring Outcome	Continually improve the capacity to monitor and assess the effects of management actions being undertaken to implement the Bay TMDL and improve water quality. Use the monitoring results to report annually to the public on progress made in attaining established Bay water quality standards and trends in reducing nutrients and sediment in the watershed.

In 2017, the Mid-Point Assessment found progress and yet the need for more action



Midpoint Assessment of the
Chesapeake Bay
Total Maximum Daily Load

Overview

The Chesapeake Bay Program (CBP) partnership set restoration goals under the Chesapeake Bay Total Maximum Daily Load (Bay TMDL) of having all practices in place by 2025 to achieve the nitrogen, phosphorus and sediment pollution reductions necessary to meet applicable Chesapeake Bay water quality standards, with practices in place by the 2017 midpoint to achieve 60 percent of the needed pollutant reductions.

The seven jurisdictions committed to implementation of the Bay TMDL in three phases—developing Phase I and Phase II Watershed Implementation Plans (WIPs) in 2010 and 2012 and finalizing their Phase III WIP in 2019. This commitment was reaffirmed through the signing of the 2014 Chesapeake Bay Watershed Agreement.

Pollutant Reduction Progress and Future Targets

Collectively, the six Bay watershed states and the District of Columbia have made considerable progress in reducing pollution to local waters and the Bay. That progress has been demonstrated in measurable ways, including record acreage of underwater grasses and the highest estimates of water quality standards attained in more than 30 years.

According to data submitted by the Bay jurisdictions, while the CBP partnership exceeded the 60 percent goals for reducing phosphorus and sediment as measured under the current suite of modeling tools, it did not achieve its 2017 goal for reducing nitrogen. Full evaluations for each jurisdiction can be found at www.epa.gov/chesapeake-bay-tmdl.

Efforts to improve local water quality upstream will benefit the Chesapeake Bay restoration. Since 2010, in Maryland, streams and lakes previously impaired by phosphorus and total suspended solids are now showing higher dissolved oxygen levels and increased submerged aquatic vegetation, which has led to improvements in aquatic life. Since 2014, Pennsylvania has removed 17 waterbodies in the Susquehanna River watershed from the impaired waters listing for nutrients and/or sediment.

Two-year milestones are short term objectives in the Bay TMDL accountability framework used to assess progress toward restoration

The Chesapeake Bay Total Maximum Daily Load (Bay TMDL) is a comprehensive "pollution diet" to restore the health of the Bay and its local streams, creeks and rivers. The Bay TMDL—the largest such cleanup plan ever developed by the EPA—sets limits on nitrogen, phosphorus and sediment pollution necessary to meet water quality standards in the Bay and its tidal rivers.

EPA United States Environmental Protection Agency

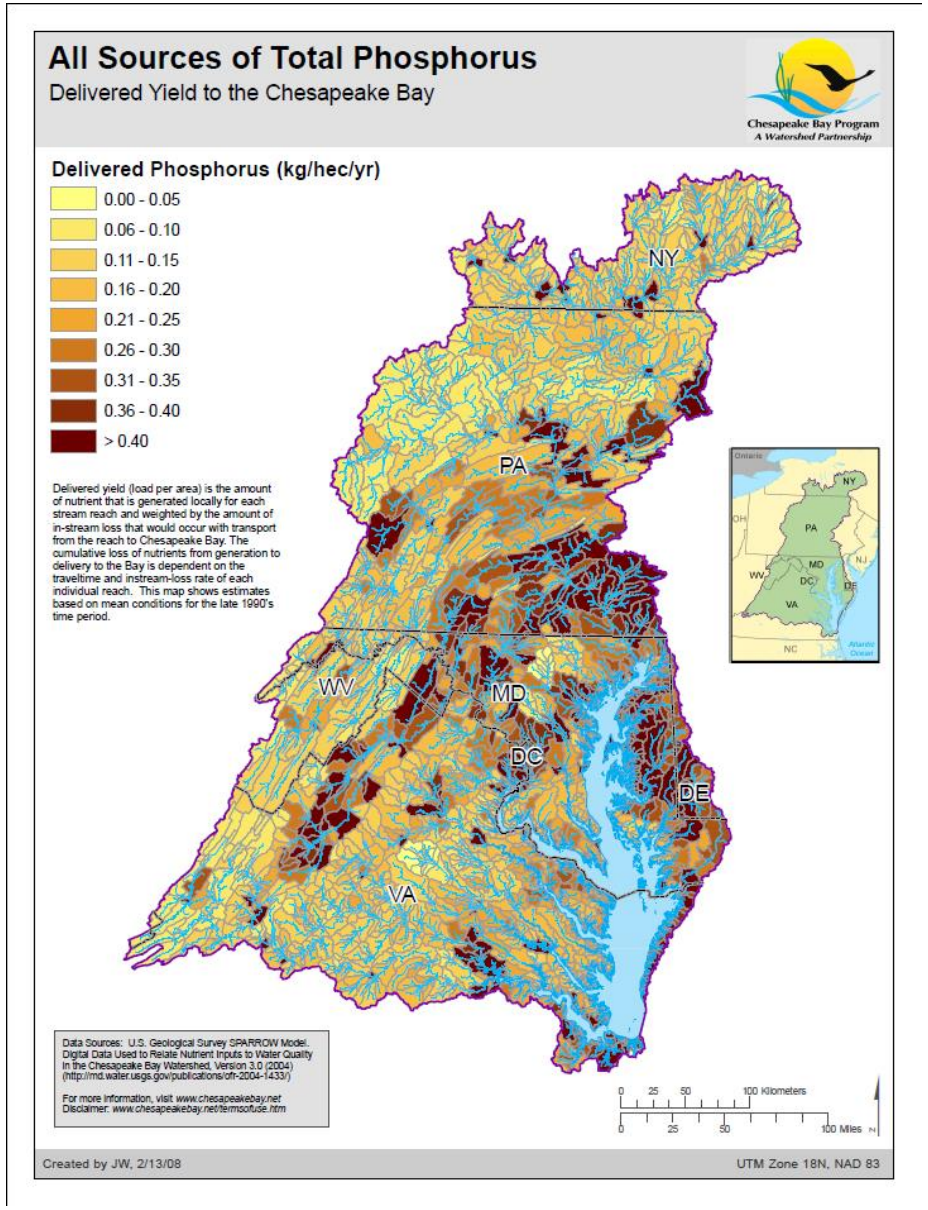
Considerable measurable progress:

- record acreage of underwater grasses
- highest estimates of water quality standards attained in 30 years+

While the 60 percent goals for reducing phosphorus and sediment as measured under the current suite of modeling tools were exceeded, the goal for reducing nitrogen was not met.

-EPA 2017 Mid Point Assessment

Monitoring showed phosphorous runoff decreasing in many areas



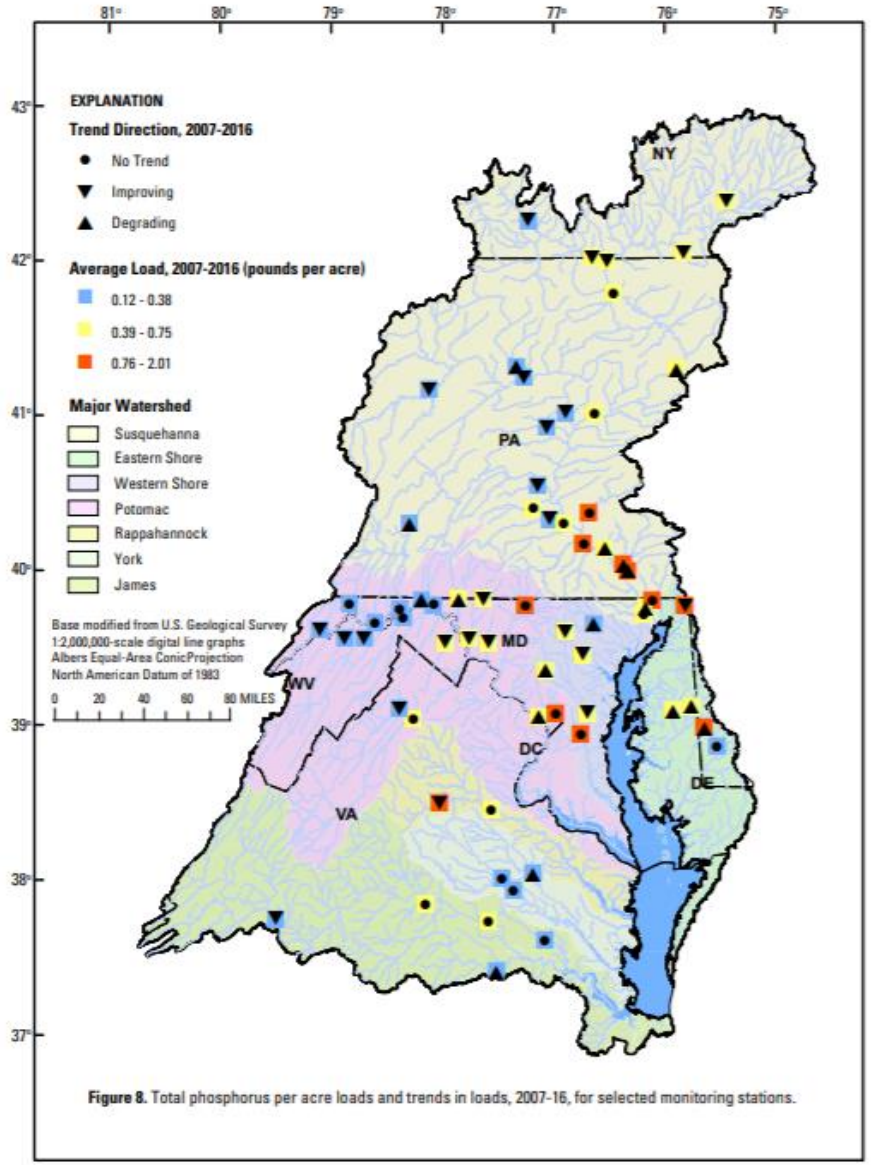
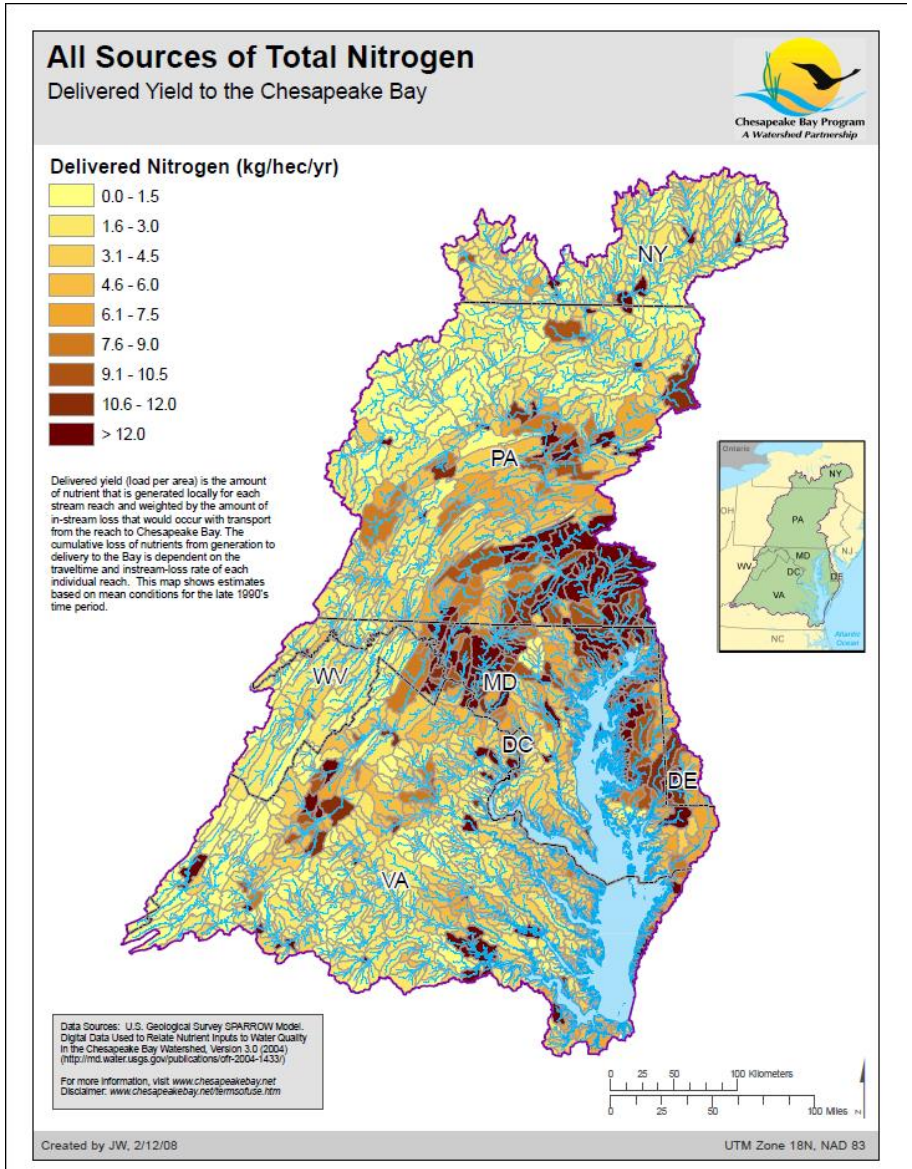


Figure 8. Total phosphorus per acre loads and trends in loads, 2007-16, for selected monitoring stations.

Moyer & Blomquist (2017)

However, monitoring also showed that nitrogen runoff goals not yet met



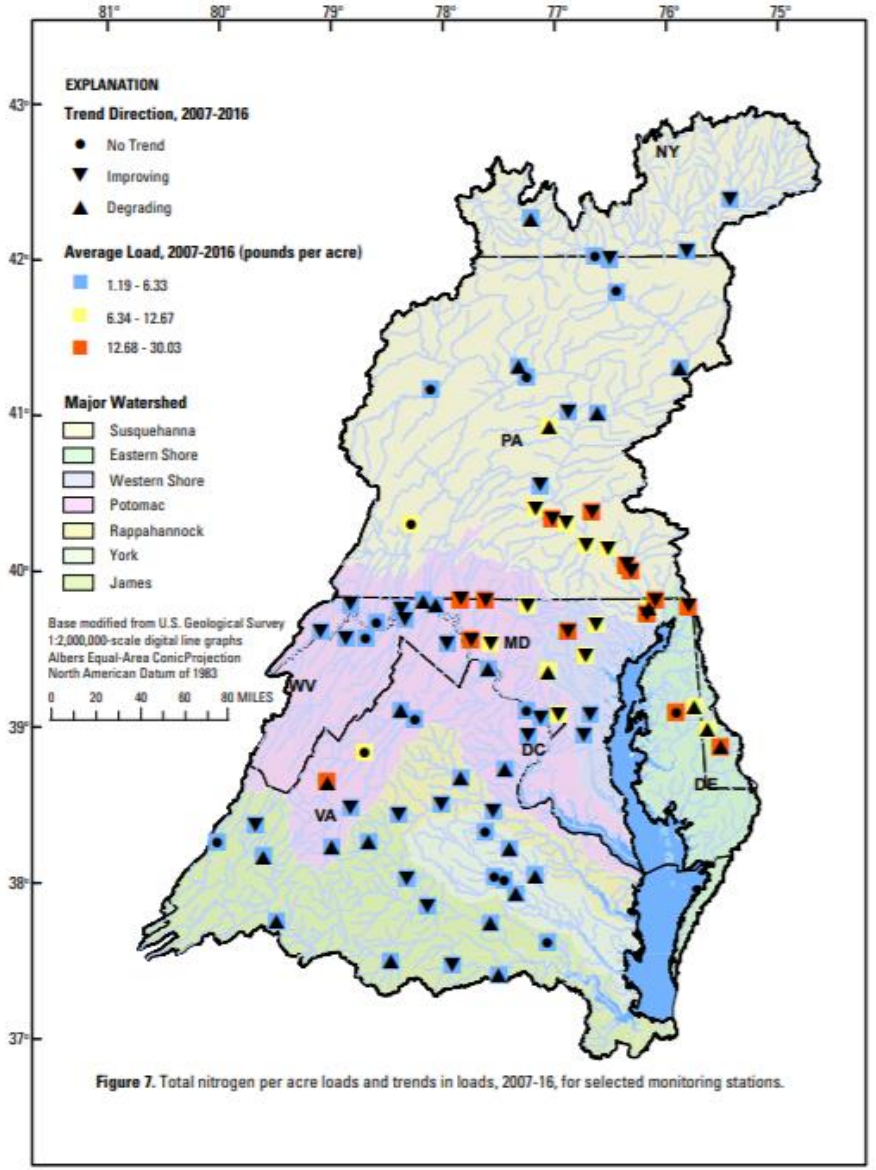
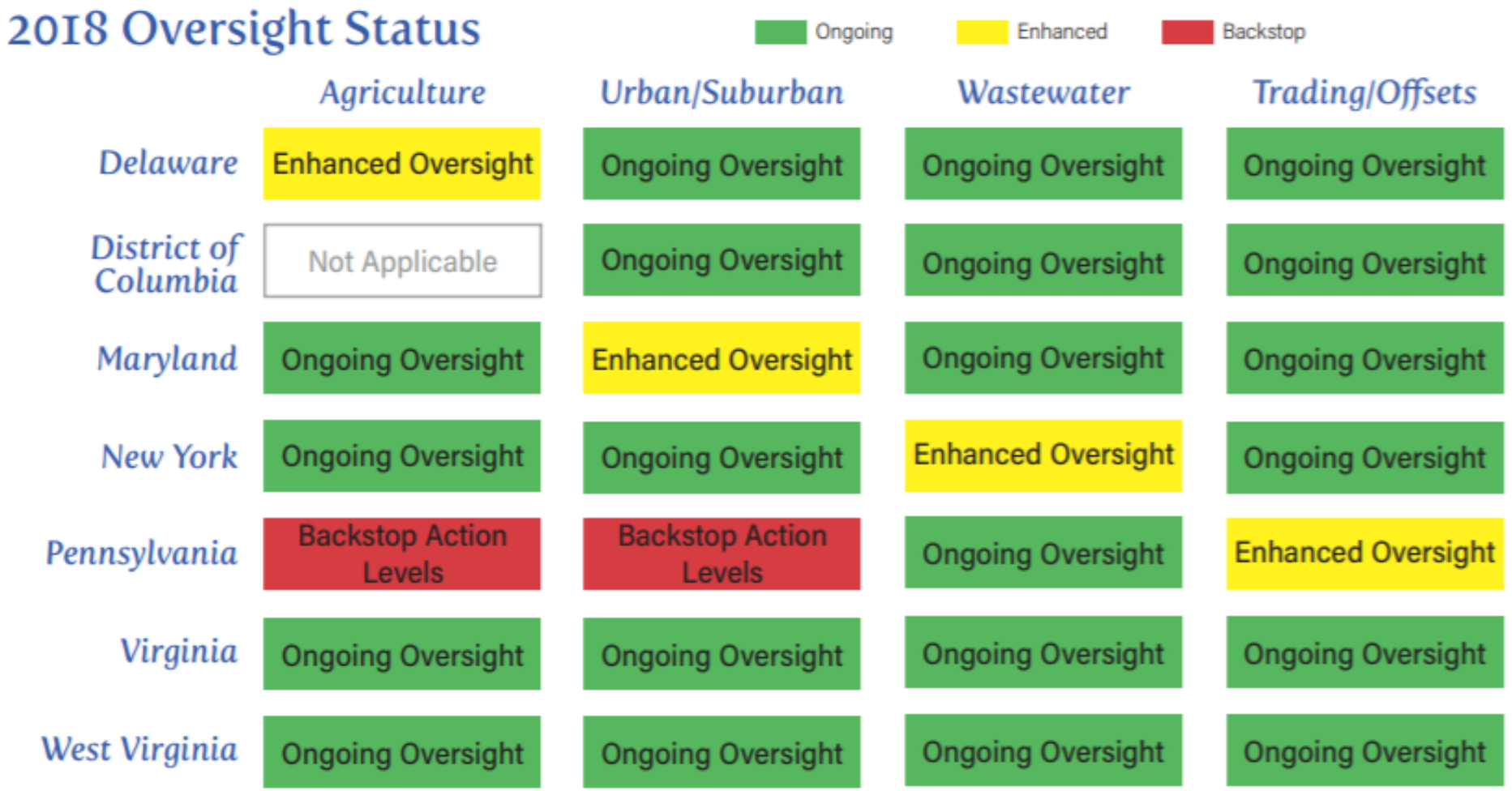


Figure 7. Total nitrogen per acre loads and trends in loads, 2007-16, for selected monitoring stations.

Moyer & Blomquist (2017)

Mid Point Assessment highlighted concerns with particular states, issues (land use, stormwater, agricultural non-point source, Conowingo)



https://www.epa.gov/sites/production/files/2018-07/documents/factsheet-epa-midpoint-assessment-chesapeake-bay-tmdl.pdf

A lot of questions remain re: sediment impacts, particularly related to the Susquehanna River & the Conowingo Dam

To the left: https://prd-wret.s3.us-west-2.amazonaws.com/assets/palladium/production/s3fs-public/styles/side_image/public/thumbnails/image/MODIS%20image%20of%20Chesapeake%20Bay%20area%20after%20Tropical%20Storm%20Lee_2011_09.PNG

Above: https://www.usgs.gov/news/conowingo-dam-above-90-percent-capacity-sediment-storage

Potential mechanisms for enforcement?

(1) Targeting federal enforcement and compliance assurance in the watershed;
(2) Directing Chesapeake Bay funding to identified priorities;
(3) Establishing finer scale waste load and load allocations through a Pennsylvania state-specific proposed amendment to the Chesapeake Bay TMDL;
(4) Requiring additional reductions of loading from point sources through a Pennsylvania state-specific proposed amendment to the Chesapeake Bay TMDL; and
(5) Initiating a process to propose promulgating nitrogen and phosphorous numeric water quality standards for Pennsylvania applicable to streams and rivers in the Chesapeake Bay Watershed.

April 2017 Phase III WIP Expectations for PA: https://www.epa.gov/sites/production/files/2017-05/documents/final_pennsylvania_phase_iii_wip_expectations_4_27_17_508.pdf

Some of which have been tried previously…

U.S. ENVIRONMENTAL PROTECTION AGENCY

EPA leans on Amish farmers in Pennsylvania

By TIM WHEELER
JUN 09, 2010 AT 11:28 AM

MONDAY, AUGUST 8, 2016

PA's Chesapeake Bay Reboot Strategy To Improve Water Quality May Need Kick-Start

By Timothy B. Wheeler,
Chesapeake Bay Journal

The Wolf administration's plan to "reboot" Pennsylvania's badly lagging Chesapeake Bay cleanup efforts could be in need of its own

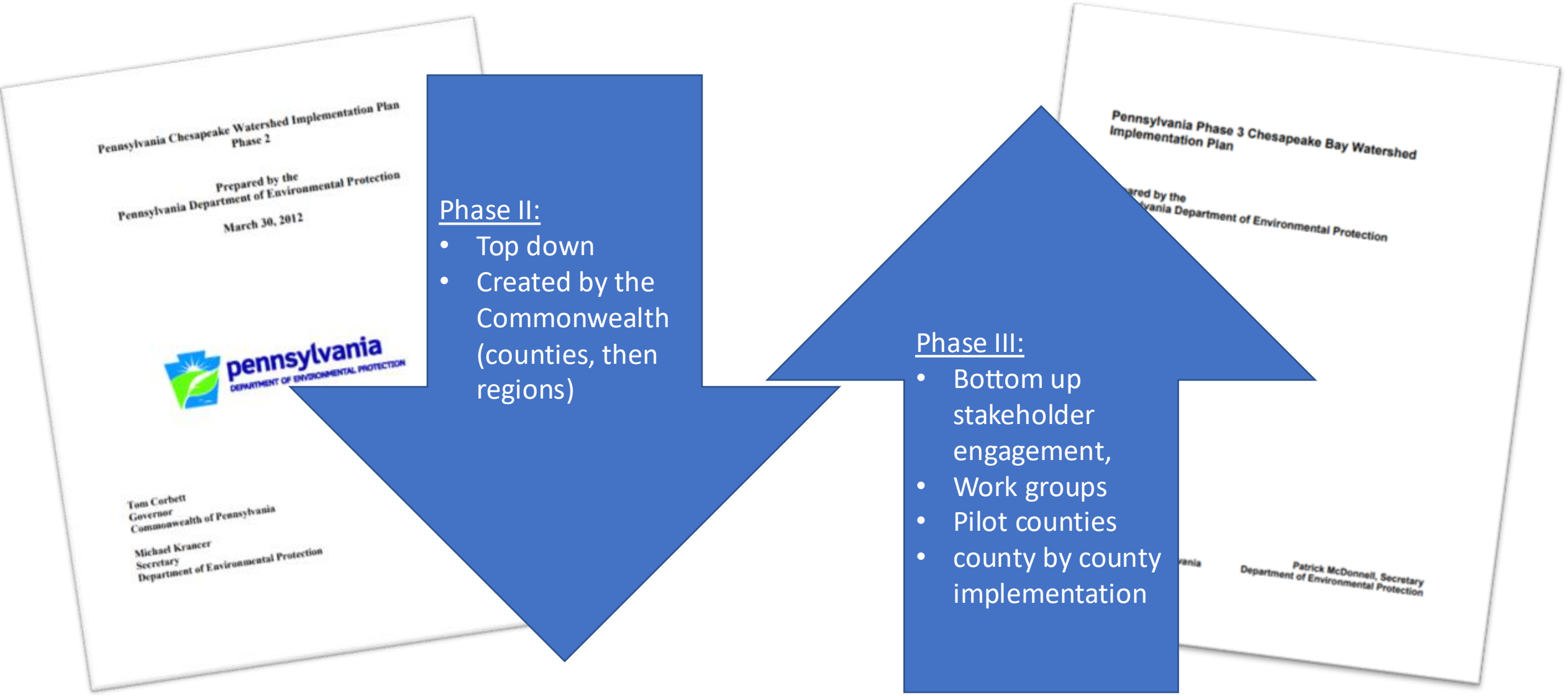
In August 2019, jurisdictions submitted Phase III Watershed Implementation Plans for EPA review; feedback in Dec. 2019

→ Virginia and Maryland plans, <u>if fully funded</u> and implemented, can meet their targets.

→ Pennsylvania's plan underfunded by $250-300 million and falls 25% short of meeting its nitrogen-reduction goal.

→ New York's plan did not meet nitrogen reduction goals at that time

Pennsylvania changed its approach between the Phase II and Phase III Watershed Implementation Plans (WIPs)



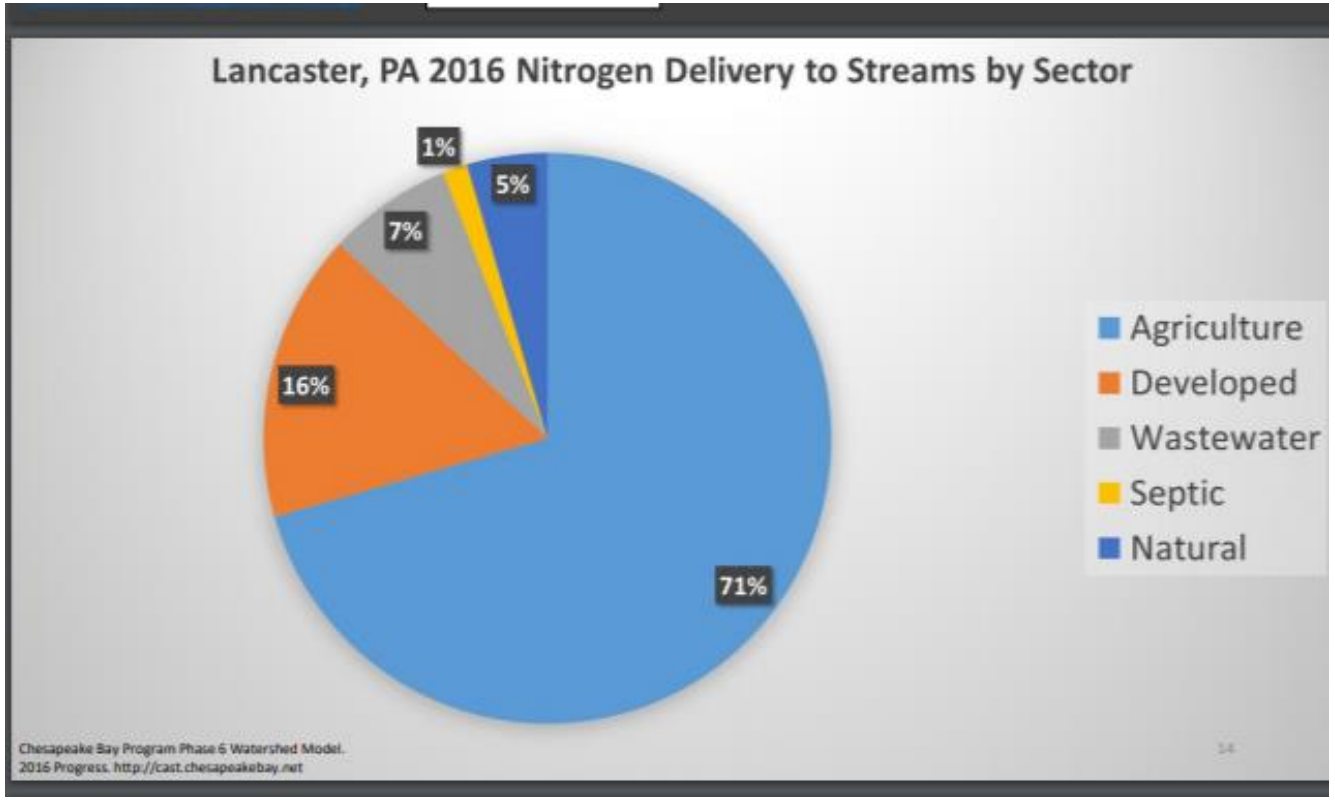
Phase II:

- Top down
- Created by the Commonwealth (counties, then regions)

Phase III:

- Bottom up stakeholder engagement,
- Work groups
- Pilot counties
- county by county implementation

EPA's Review of Pennsylvania:
Phase III WIP meets numeric targets for P; only 75% for N



https://www.chesapeakebay.net/channel_files/25878/ag_wg_trentacoste_6_19_18.pdf

"Pennsylvania's current planned efforts do not achieve the nitrogen Phase III WIP planning target, nor does the plan explain how or when additional reductions from the remaining County Action Plans will be incorporated into the broader plan to achieve the nitrogen planning target."

https://www.epa.gov/sites/production/files/2019-12/documents/pa.pdf

In January 2020, former Chesapeake Bay Program Director said the "TMDL is not enforceable"; huge backlash & questions

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EPA Chesapeake Bay Program director says 2025 pollution targets are not 'enforceable'

By RACHAEL PACELLA
CAPITAL GAZETTE | JAN 03, 2020 | 6:23 PM

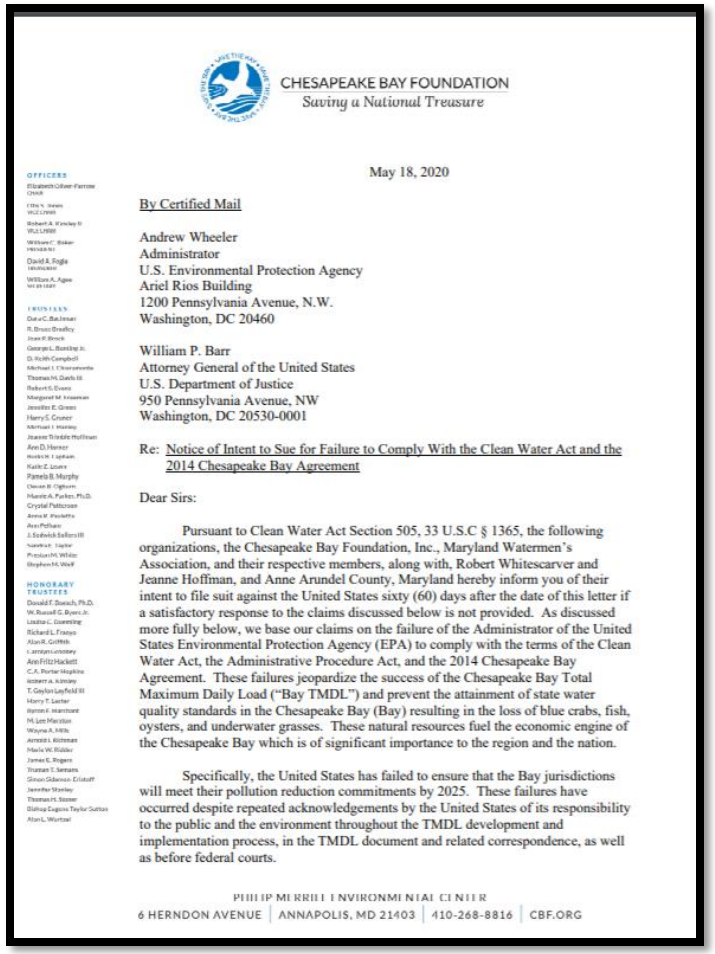
"The head of the EPA's Chesapeake Bay Program stepped back from strict enforcement of 2025 pollution goals for the Chesapeake Bay Friday, calling the technical targets "an aspiration" and not an enforceable deadline.

The comments by program Director Dana Aunkst near the end of a two-day conference in Annapolis sparked criticism from state officials and outrage from several environmental groups who said the comments represent the Trump administration's retreat from the Chesapeake Bay cleanup effort."

https://www.capitalgazette.com/environment/ac-cn-bay-comission-0104-20200103-o5nun6uojbapjecl5dak7p62wa-story.html

Dana Aunkst
Former Director, Chesapeake Bay Program
U.S. Environmental Protection Agency

In early 2020, other states, NGOs sent 60-day notices of intent to sue EPA for failure to meet requirements



CHESAPEAKE BAY FOUNDATION
Saving a National Treasure

May 18, 2020

By Certified Mail

Andrew Wheeler
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

William P. Barr
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Re: Notice of Intent to Sue for Failure to Comply With the Clean Water Act and the 2014 Chesapeake Bay Agreement

Dear Sirs:

Pursuant to Clean Water Act Section 505, 33 U.S.C § 1365, the following organizations, the Chesapeake Bay Foundation, Inc., Maryland Watermen's Association, and their respective members, along with, Robert Whitescarver and Jeanne Hoffman, and Anne Arundel County, Maryland hereby inform you of their intent to file suit against the United States sixty (60) days after the date of this letter if a satisfactory response to the claims discussed below is not provided. As discussed more fully below, we base our claims on the failure of the Administrator of the United States Environmental Protection Agency (EPA) to comply with the terms of the Clean Water Act, the Administrative Procedure Act, and the 2014 Chesapeake Bay Agreement. These failures jeopardize the success of the Chesapeake Bay Total Maximum Daily Load ("Bay TMDL") and prevent the attainment of state water quality standards in the Chesapeake Bay (Bay) resulting in the loss of blue crabs, fish, oysters, and underwater grasses. These natural resources fuel the economic engine of the Chesapeake Bay which is of significant importance to the region and the nation.

Specifically, the United States has failed to ensure that the Bay jurisdictions will meet their pollution reduction commitments by 2025. These failures have occurred despite repeated acknowledgements by the United States of its responsibility to the public and the environment throughout the TMDL development and implementation process, in the TMDL document and related correspondence, as well as before federal courts.

PHILIP MERRILL ENVIRONMENTAL CENTER
6 HERNDON AVENUE | ANNAPOLIS, MD 21403 | 410-268-8816 | CBF.ORG

Two sets of notices:

- Chesapeake Bay Foundation, together with the MD Watermen's Association, Anne Arundel County, and Virginia cattle farmers
- Attorneys General of Maryland, Virginia, Delaware, and the District of Columbia

Issues:

- EPA has failed to ensure the Bay jurisdictions will meet their pollution reduction commitments by the 2025 deadline.
- The agency's failure is a violation of the federal Clean Water Act, the Administrative Procedure Act, and the 2014 Chesapeake Bay Agreement.

https://www.cbf.org/document-library/litigation/cbf-epa-noi-may-18-2020.pdf

Two sets of lawsuits filed in DC District Court, Sept. 2020. Settled in 2023 with a focus on ag & stormwater in PA.

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EPA hit with lawsuits over Chesapeake Bay cleanup

Timothy B. Wheeler Sep 11, 2020 Updated Sep 11, 2020 0

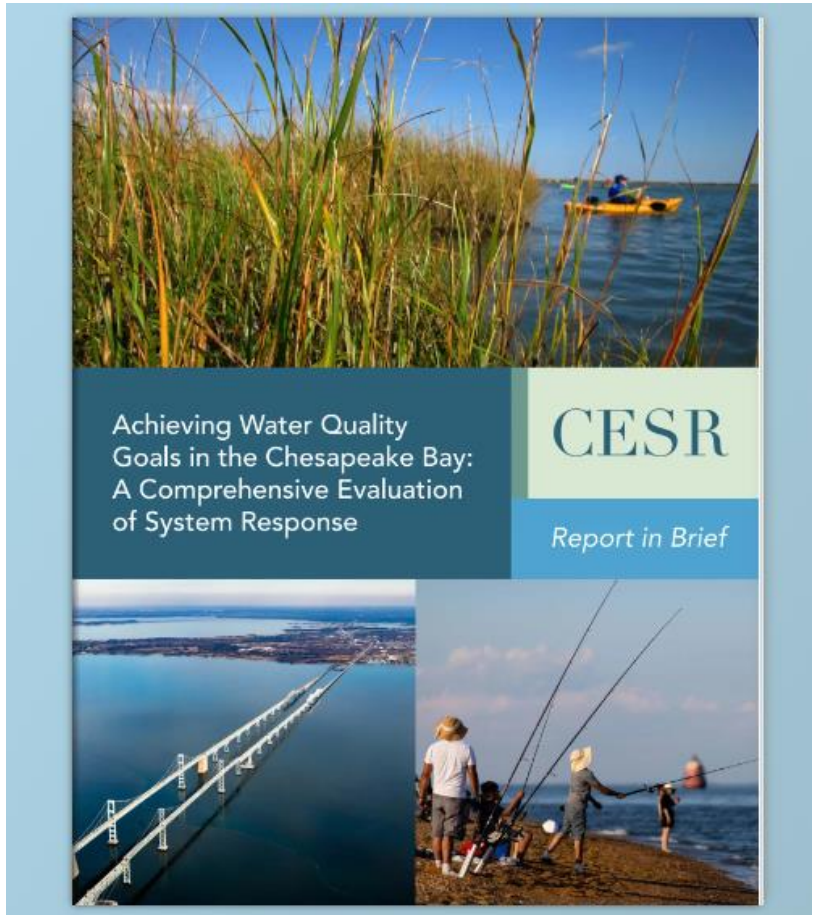
Making good on threats issued months ago, three Chesapeake Bay watershed states, the District of Columbia and the Chesapeake Bay Foundation took the U.S. Environmental Protection Agency to court Thursday for its failure to push **Pennsylvania** and **New York** to do more to help clean up the Bay.

In their lawsuit, the attorneys general of Maryland, Virginia, Delaware and the District of Columbia accused the EPA of shirking its responsibility under the Clean Water Act by letting Pennsylvania and New York fall short in reducing their nutrient and sediment pollution fouling the Bay.

https://www.bayjournal.com/news/policy/epa-hit-with-lawsuits-over-chesapeake-bay-cleanup/article_db7ad7e0-f429-11ea-833a-87109c15a521.html

More on settlement: https://marylandmatters.org/2023/07/12/settlement-finalized-in-lawsuit-that-challenged-enforcement-of-limits-to-chesapeake-bay-pollution-from-pennsylvania/

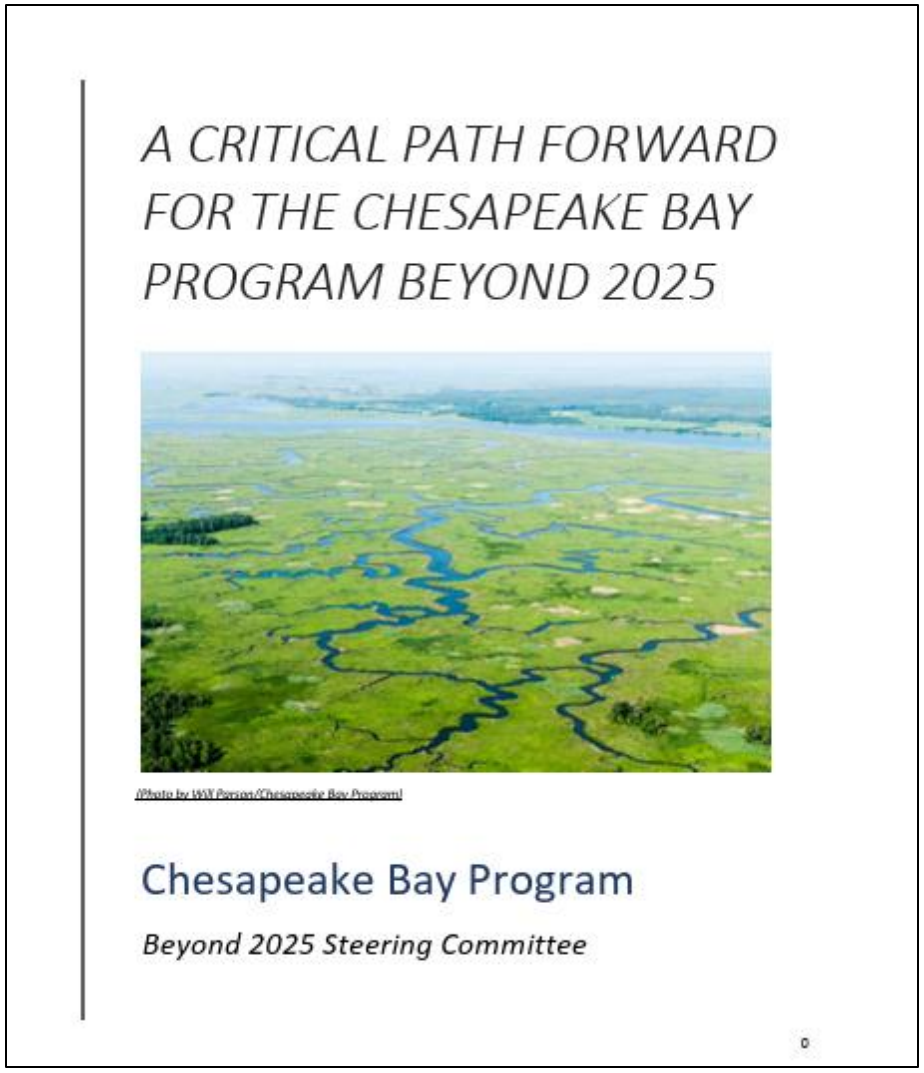
2023 Comprehensive Evaluation of System Response: We're headed in the right direction, but not fast enough. Challenges from non-point source pollution, opportunity for near shore.



https://www.chesapeake.org/stac/cesr/

https://www.chesapeakebay.net/what/what-guides-us/planning-for-2025-and-beyond

Beyond 2025 Steering Committee Recommendations

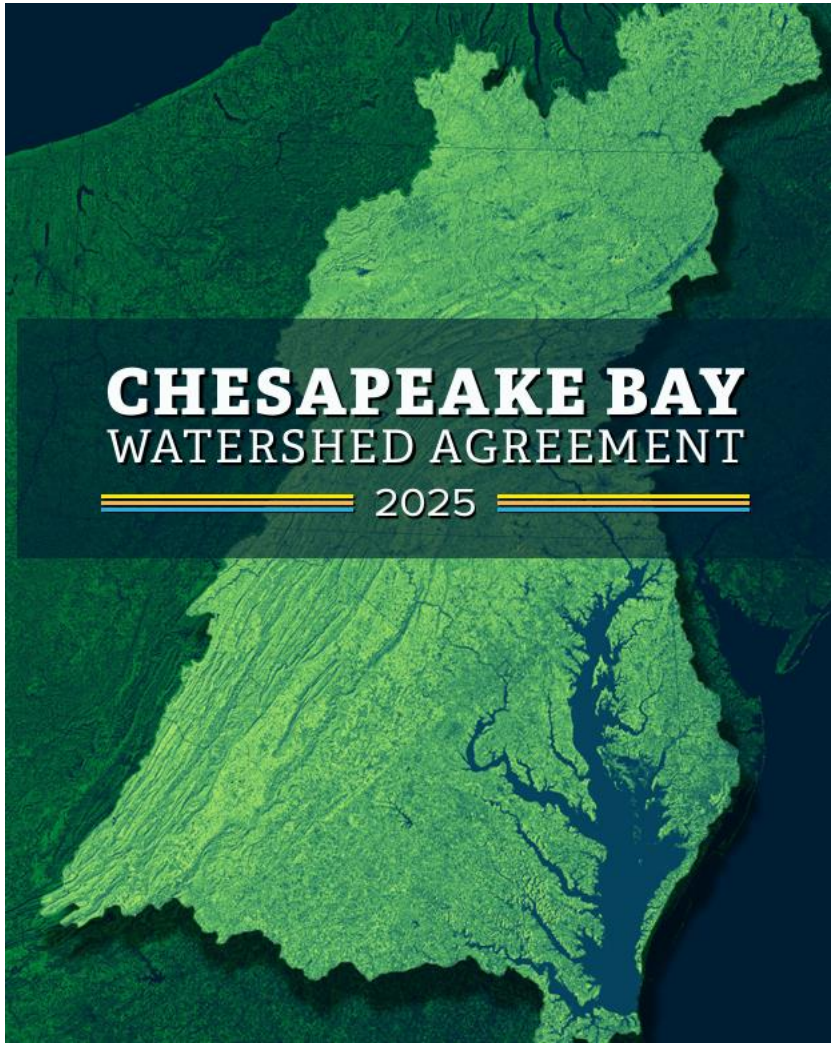


The Executive Committee should

- Affirm continued commitment to meet the goals of the Chesapeake Bay Watershed Agreement while proposing necessary amendments
- Simplify and streamline the partnership's structure and processes

https://www.chesapeakebay.net/what/publications/a-critical-path-forward-for-the-chesapeake-bay-program-beyond-2025

Updated 2025 Chesapeake Bay Watershed Agreement



https://www.chesapeakebay.net/files/documents/CBWA-2025-IV-Final-Facing.pdf

https://www.chesapeakebaymagazine.com/bay-states-approve-new-watershed-agreement-with-2040-deadline/

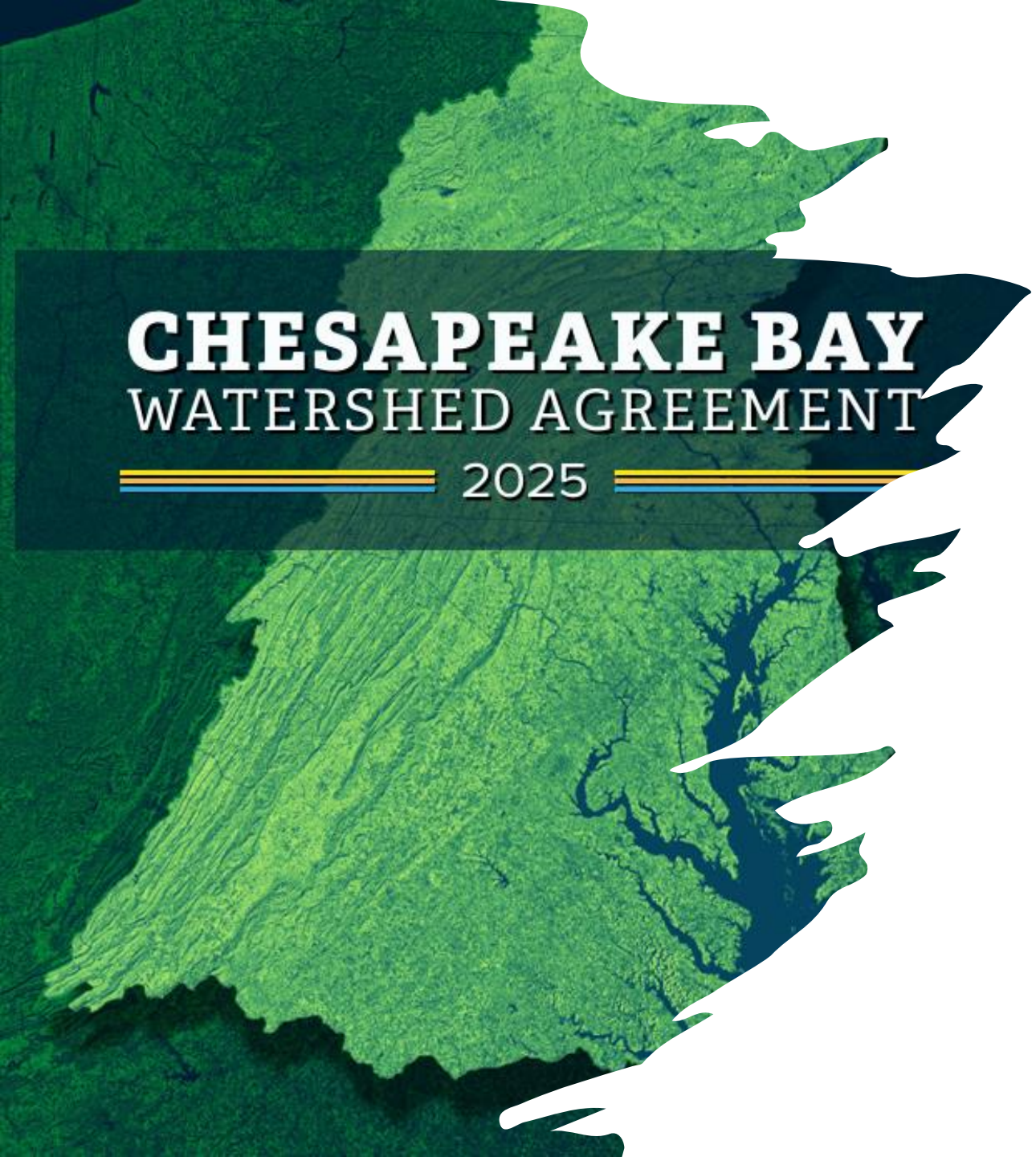
Streamlined 2014 Agreement's 10 goals, 31 outcomes
4 priorities, 21 outcomes

- Thriving habitat, fisheries & wildlife
- Clean water
- Healthy landscapes
- Engaged communities

Addresses "changing environmental conditions"

Sets new timeframes

- 18 months to update/develop strategies for goals
- Midpoint check-in and adaptation phase in 2033
- 2040 deadline for new goals



"This Chesapeake Bay Watershed Agreement acknowledges that the partnership cannot address every issue at once and that progress must be made in a strategic manner, focusing on efforts that will achieve the most meaningful and cost-effective results.

Watershed restoration, conservation and protection are integral drivers of the region's economy, health and culture. To that end, the partnership is committed to achieving success while maximizing the community and economic benefits across the watershed.

The signatories to this voluntary agreement commit to achieving the restoration, conservation and protection of the Chesapeake Bay watershed, its water, habitats, fisheries and wildlife for the benefit of all people living in and visiting this nationally treasured watershed."

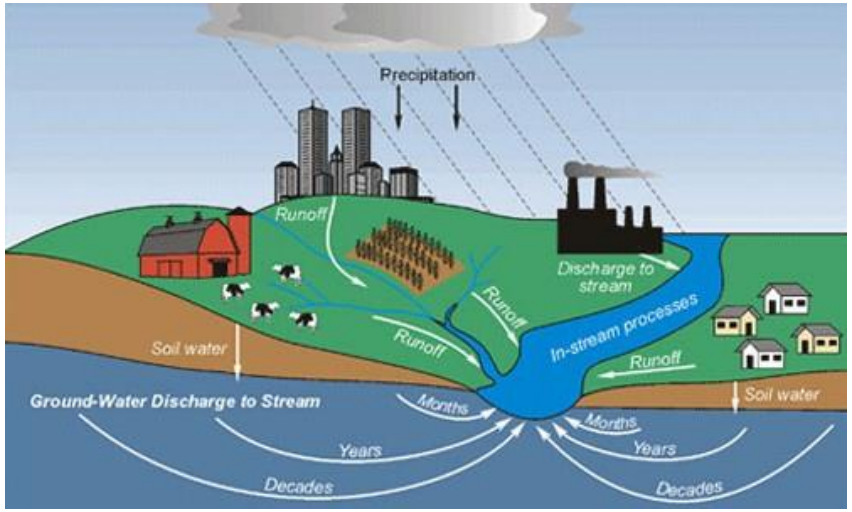
So where are we?

https://www.facebook.com/photo/?fbid=1419824960186929&set=pcb.1419825093520249

March 2026 Bay in the Balance conference in Gettysburg: 240 people, good momentum

- Can we have productive ag and clean water?

Re-examination of 2025 Watershed Agreement goals, outcomes expected later this year

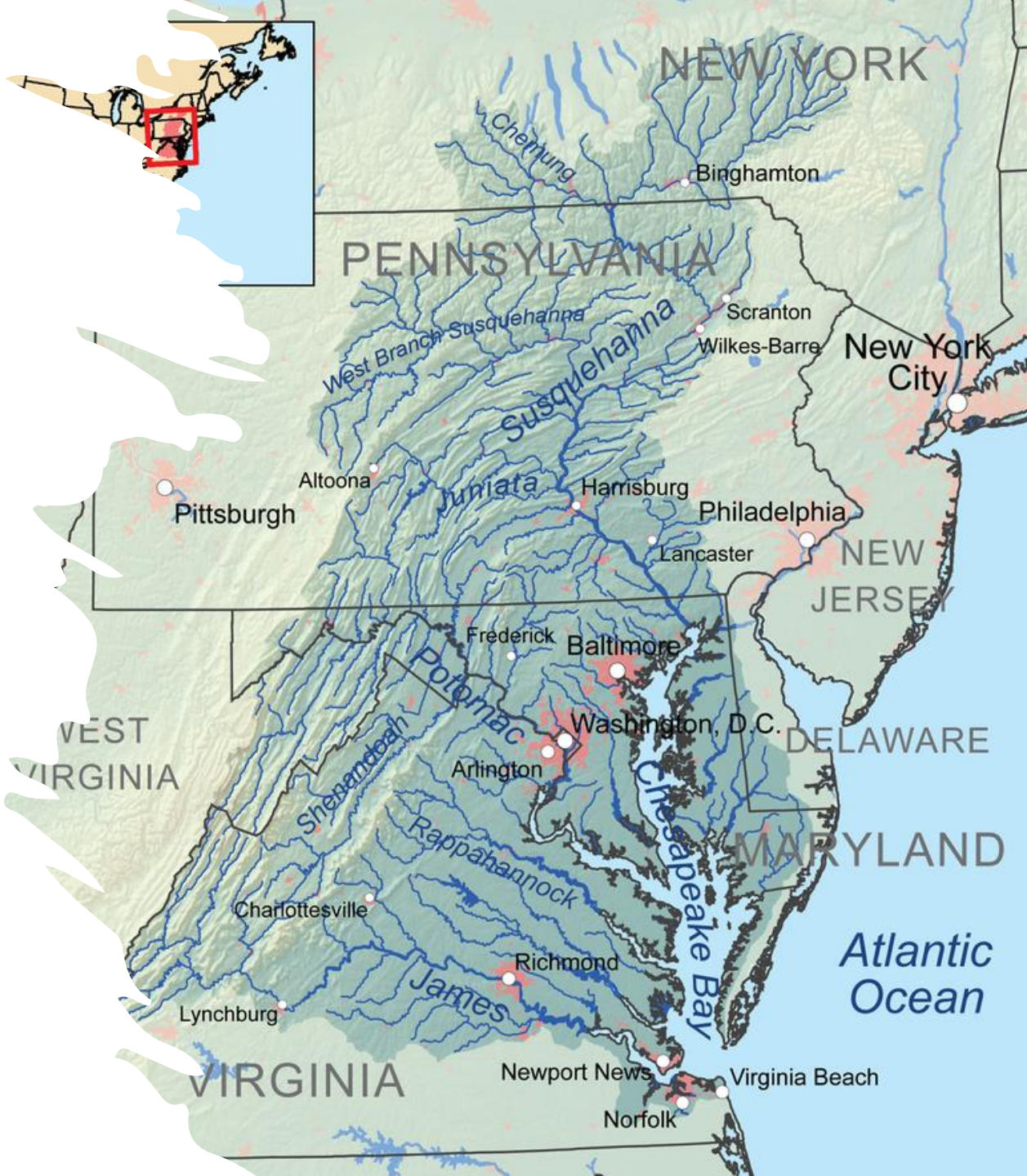


Updated WIPs for states?

While challenges facing the Chesapeake Bay and its watersheds are significant, there are opportunities

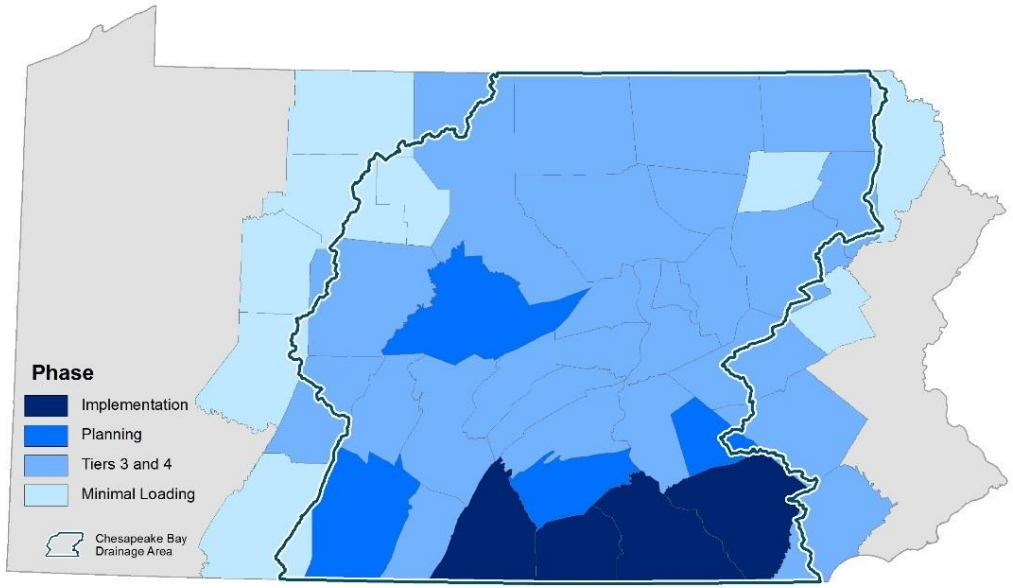
Overview

- A very quick sketch of the Clean Water Act
- The Chesapeake Bay TMDL and the Chesapeake Bay Watershed Agreement
- **Examples of “multi-solving”**



Pennsylvania as one example: focus on multiple “co-benefits”

Clean water:
Great for PA
Good for the Bay



<u>Potential local priorities + co-benefits:</u>

- Clean drinking water
- Food and beverage production by farmers
- Public health
- Less erosion and flooding, reducing the expense of related repairs, protects property values
- Outdoor experiences such as fishing, boating, and swimming
- Income from recreation and tourism businesses
- Habitat for fish, insects, birds, animals

Increased focus on training & scaling up

Federal, State Officials Launch New Training Center for Ag Professionals in Pennsylvania

TOPICS: PENNSYLVANIA

PUBLISH DATE: October 19, 2023

https://www.nrcs.usda.gov/conservation-basics/conservation-by-state/pennsylvania/news/federal-state-officia launch-new

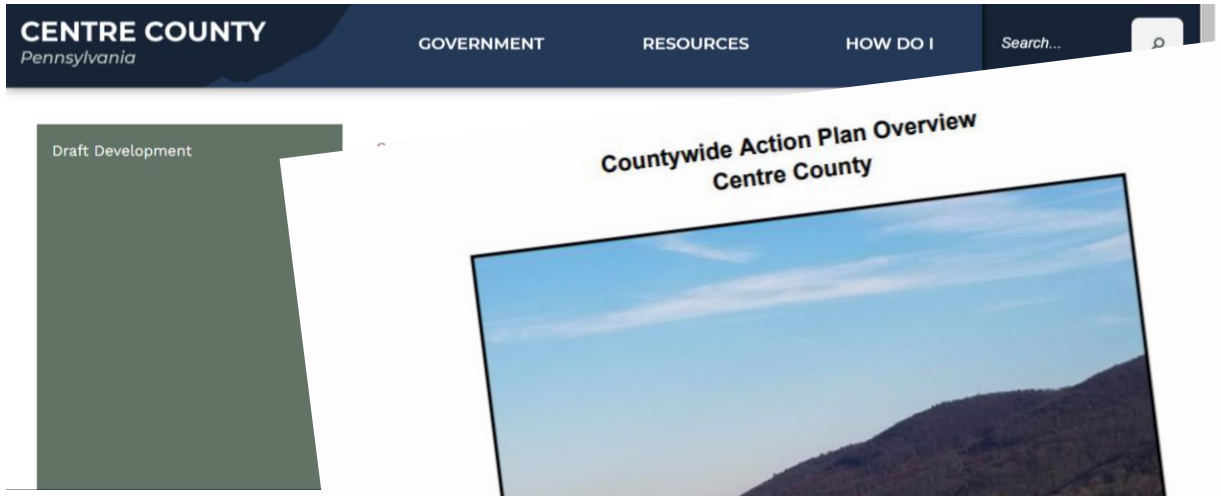
Pa. Launches $10 Million Agricultural Innovation Grant Program

Grant applications open September 30, run through November 26

PUBLISHED ON **SEPTEMBER 16, 2024**

https://www.morningagclips.com/pa-launches-10-million-agricultural-innovation-grant-program/

Continued focus on local implementation– what's possible HERE?



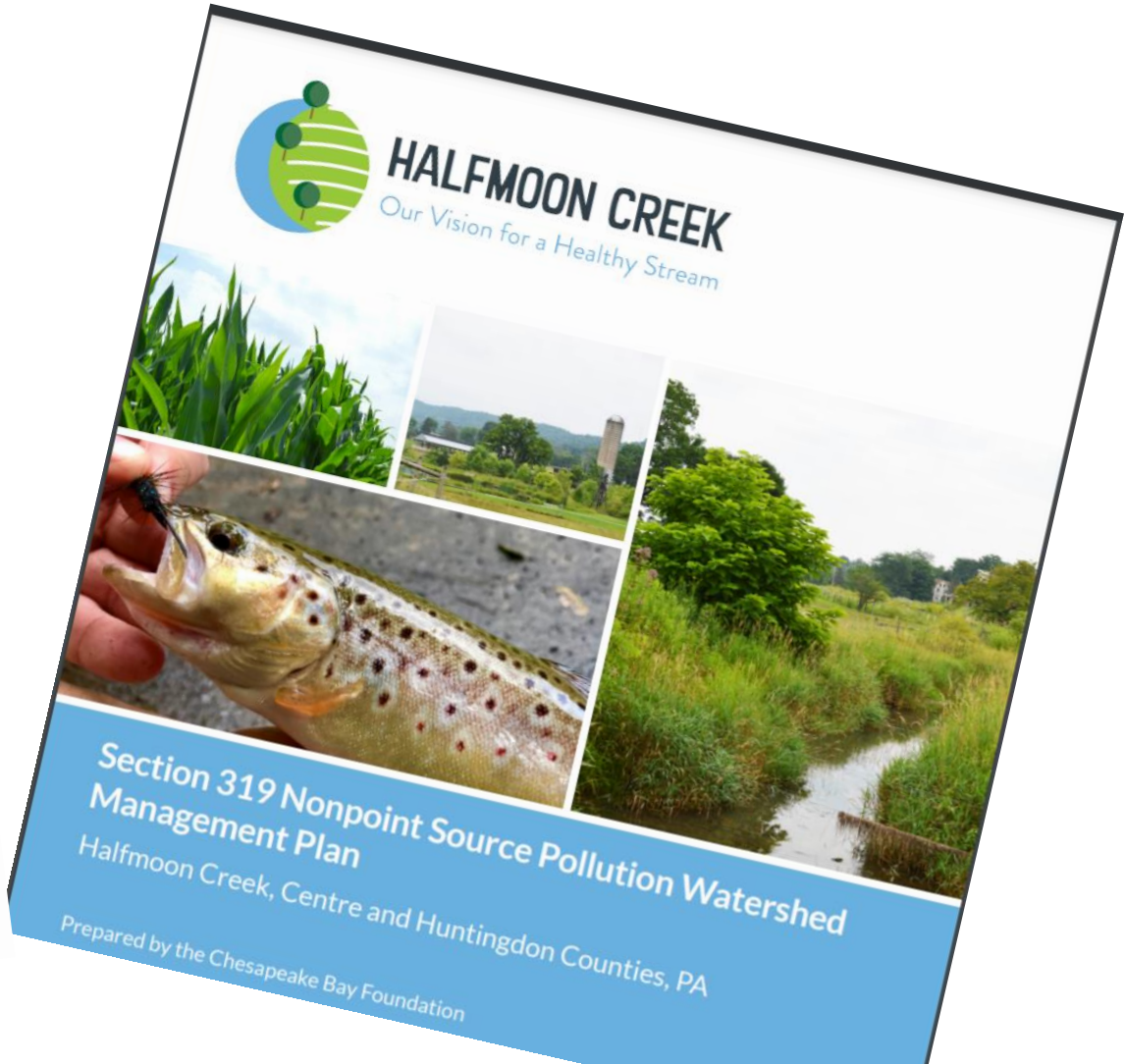

Countywide Action Plan Overview
Centre County

Image 1. Preserved farm in Centre County.

Plan Highlights

The Centre County Countywide Action Plan (CAP) provides a roadmap for the County and its partners to follow to reach the County's clean water goals. The initiatives outlined in the plan are intended to protect the future of Centre County's natural resources while reaching other community goals. Local improvements will benefit the community while also assisting Pennsylvania with meeting its Chesapeake Bay obligations.

The Centre County CAP identifies priority initiatives and actions that support the County's goal of meaningful local water quality improvements. The CAP includes four priority initiatives and several dozen goals. Each Priority Initiative is broken down into manageable and measurable goals. These goals may evolve over time based upon the early successes of plan implementation and changes in local priorities.

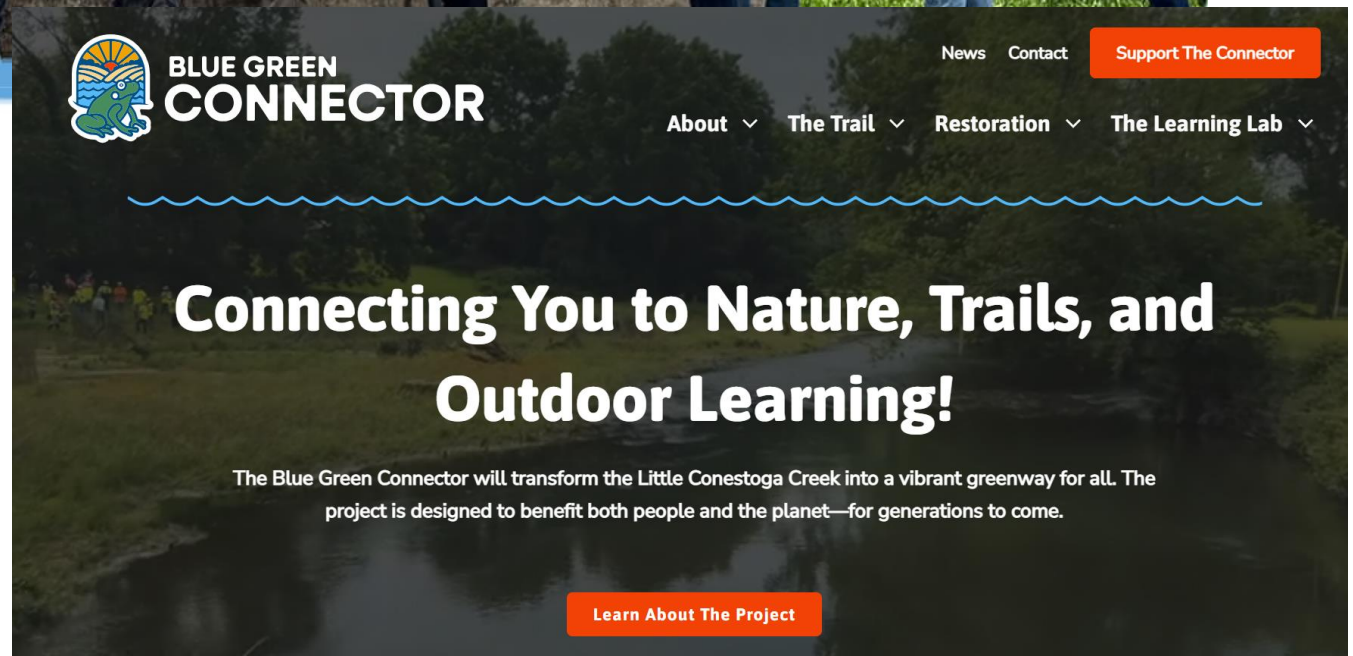


Continued focus on local implementation– what's possible HERE?

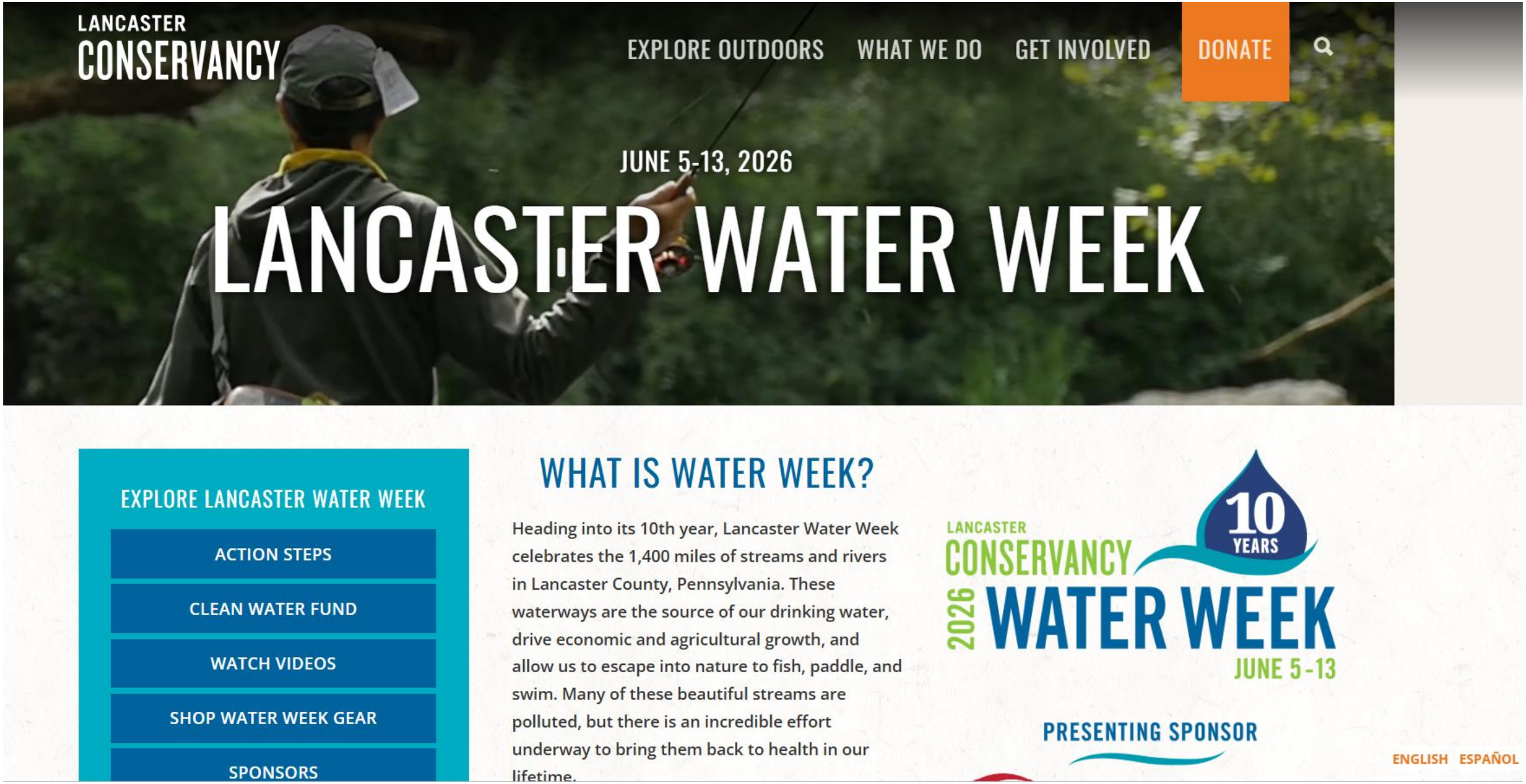
Clean and clear local water by 2040

The majority of Lancaster County's 1,400 miles of streams are not healthy. Lancaster Clean Water Partners is bringing partner organizations together with a shared vision to ensure clean and clear local water by 2040.

The demand for clean water brings many different people to the table. We facilitate this collaborative effort with experts and community



Continued focus on local implementation– what's possible HERE?



New Wetland Park in Delaware Solves Decades of Flooding Issues

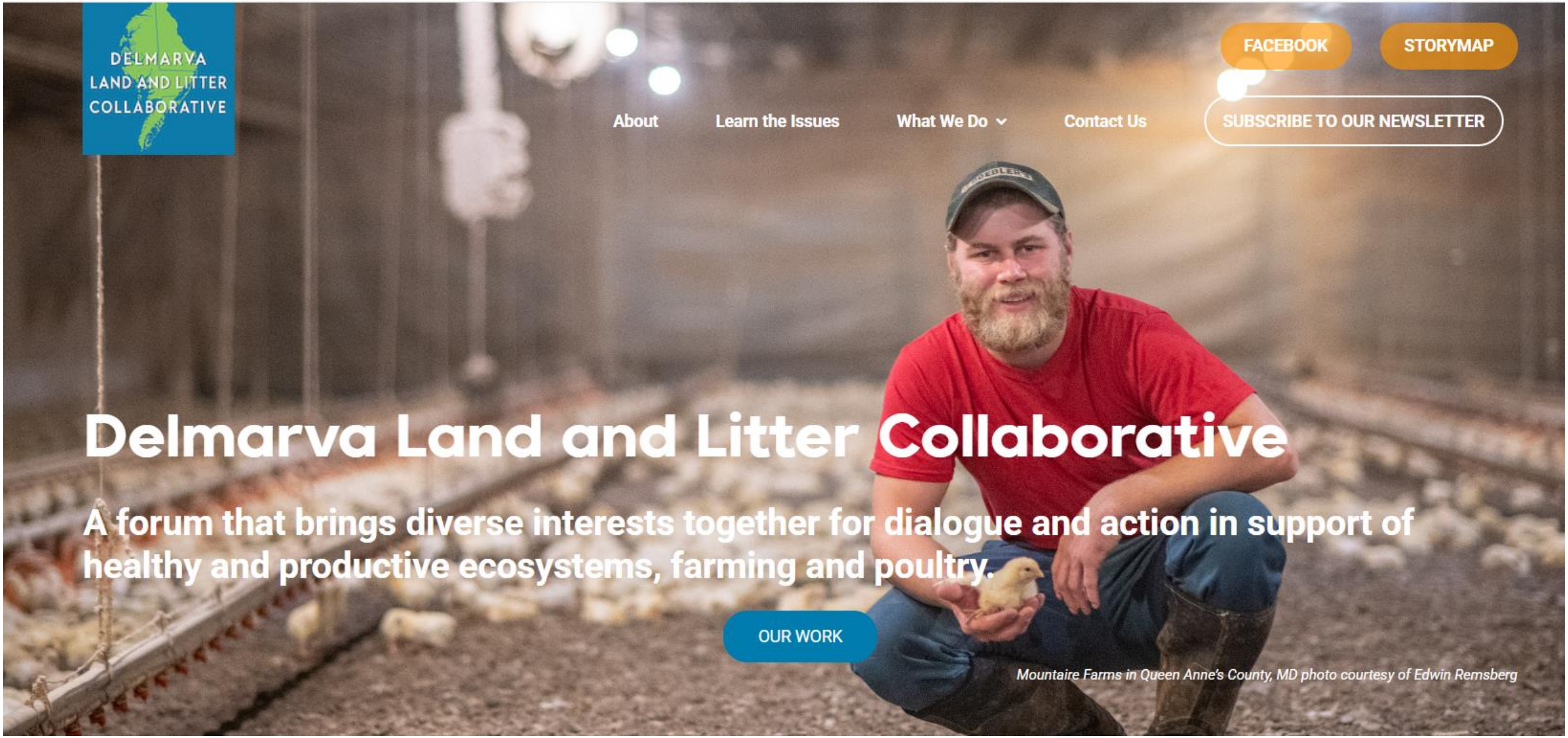
***The Takeaway**: A formerly contaminated area in Delaware has been turned into a park that restores and enhances existing wetlands, provides a recreation area for the community, and hosts a stormwater management facility that reduces flooding.*

https://coast.noaa.gov/states/stories/southbridge-wetlands.html

There are constant conversations on how global warming is affecting the country as a whole, but focusing on its local impact is just as important.

Everett Mitchell, a veteran arborist and community tree planter, has been working with trees since the early 1990s. His efforts focus on replanting and reconnecting Baltimore neighborhoods with nature. Credit: Photo courtesy Everett Mitchell

https://afro.com/baltimore-urban-tree-planting-climate-change/

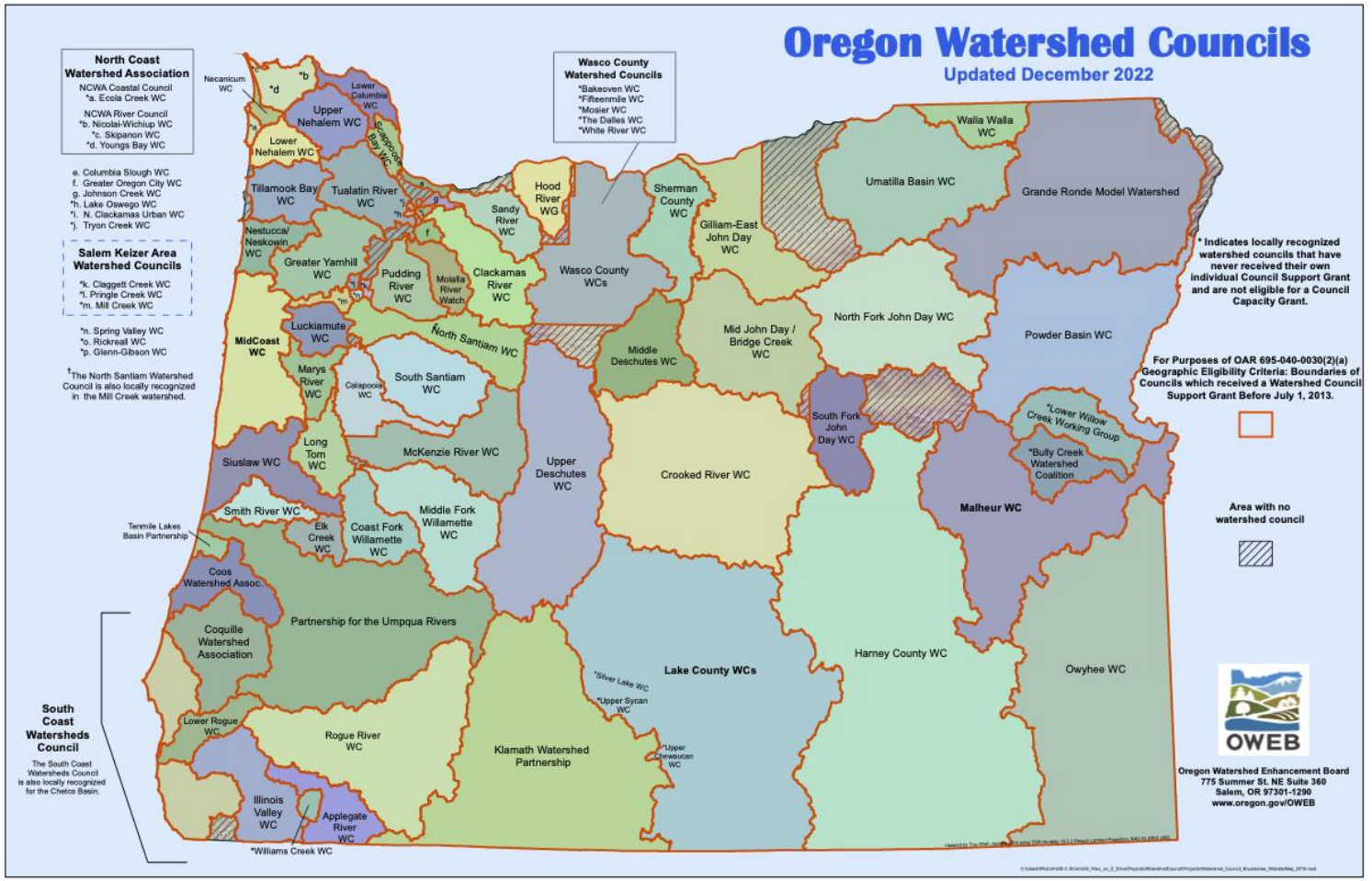


https://delmarvalandandlitter.net/

Examples from elsewhere

Oregon: Watershed Focus

- Originated with Oregon Plan for Salmon and Watersheds
- Dedicated funding from the state lottery
- Decades of local watershed councils to help build coalitions
- Tremendous local success
- Not always easy, but great progress being made

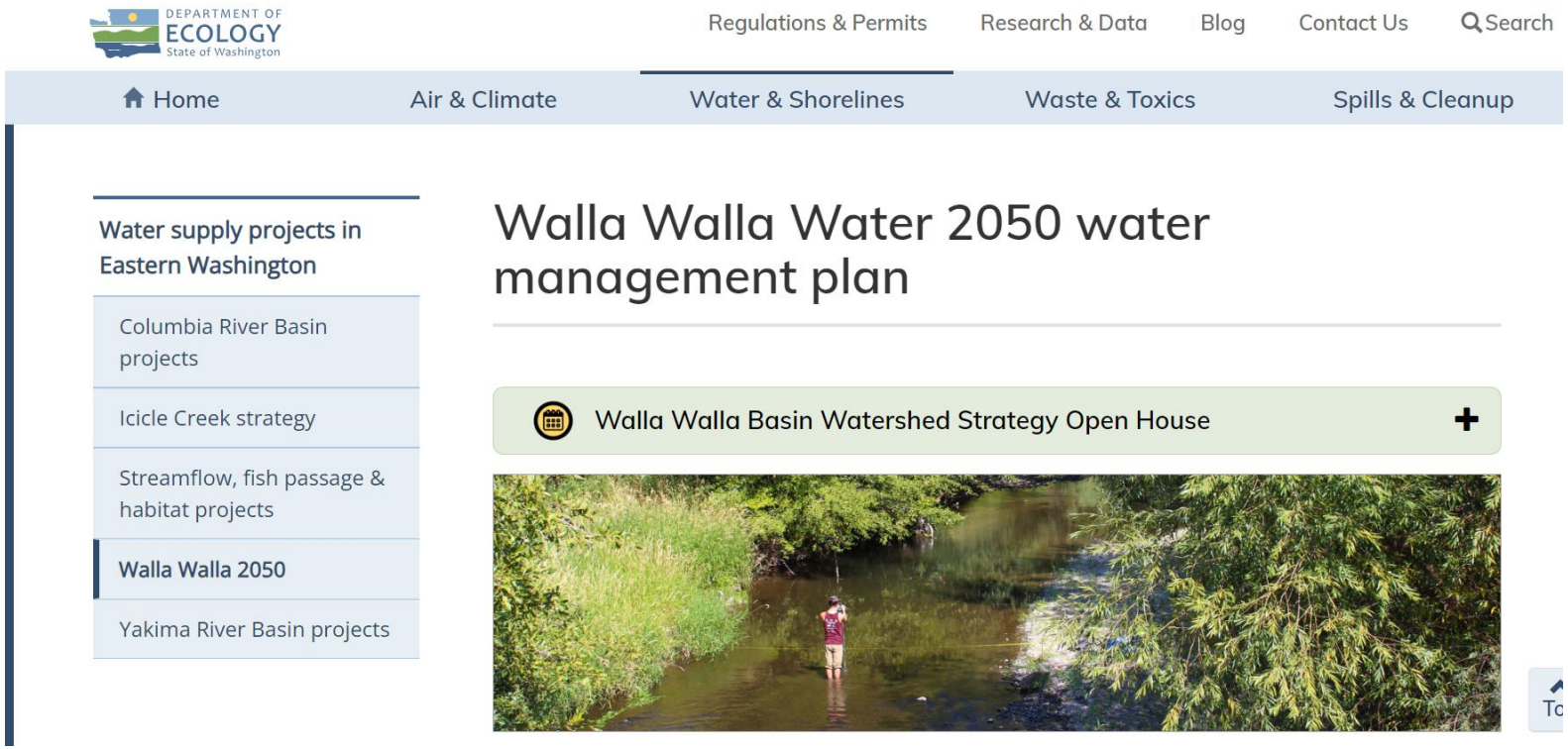


https://www.oregonwatersheds.org/who-we-are/oregon-watershed-councils/

Examples from elsewhere

Walla Walla River Basin (Washington side)

- Original pilot program to provide “flow from flexibility” in managing water allocation under prior appropriation
- Pilot extended through legislative means to water management plan
- Additional work across state lines to address instream flows and tribal rights



https://ecology.wa.gov/water-shorelines/water-supply/water-supply-projects-ew/walla-walla-2050

Questions/discussion?

Lara Fowler, Penn State Dickinson Law

lbf10@psu.edu