

# Restoration of the Chesapeake Bay and Tributary Rivers - Legal Obligations -

Chesapeake Bay Restoration Funding  
Committee (HJR 640)

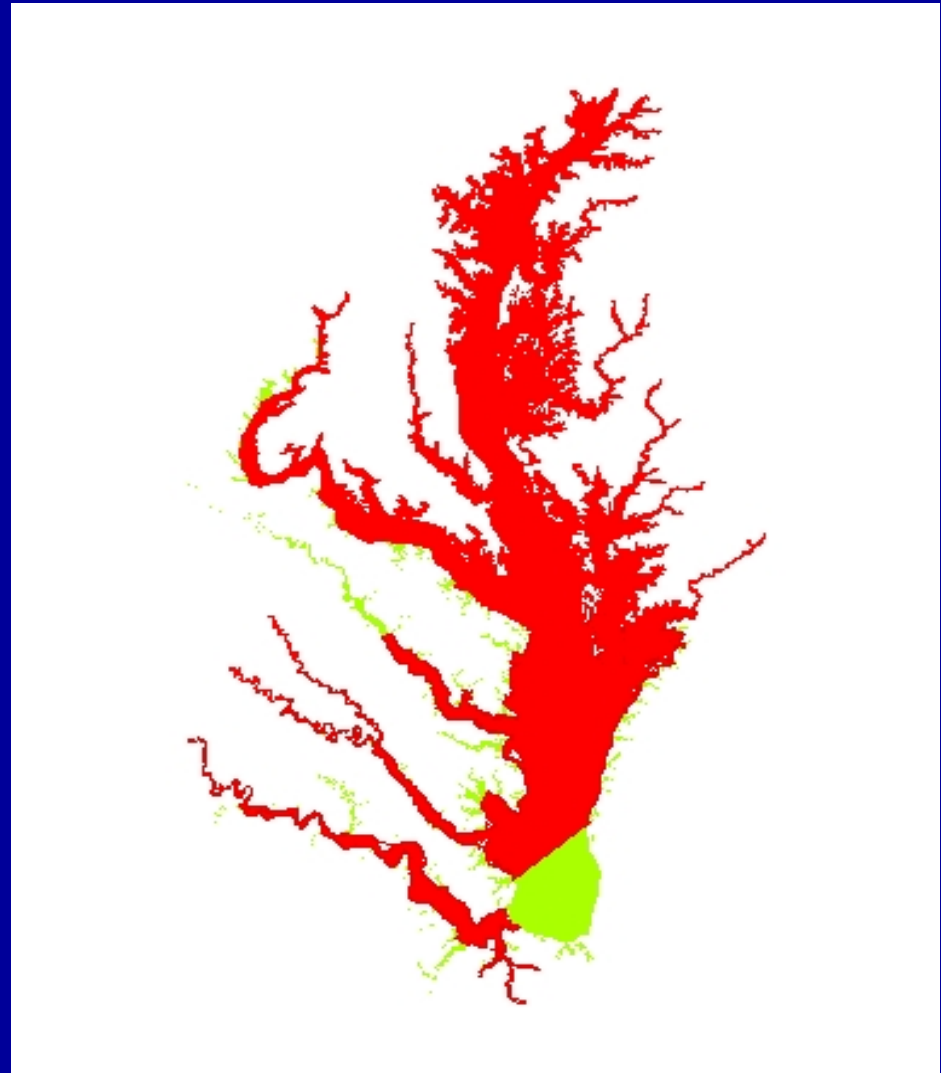
Department of Environmental Quality  
September 29, 2005

# Sources of Requirements and Commitments

- State Water Control Law
- Federal Clean Water Act
- American Canoeist Association vs. EPA Consent Decree
- Chesapeake Bay 2000 Agreement

**Major portions of the Chesapeake Bay and its tidal rivers are listed under the Clean Water Act as “impaired waters”, due to one or more of the following problems:**

- *low dissolved oxygen levels*
- *poor water clarity*
- *algae bloom conditions and poor quality fish food*



■ Impaired Water    ■ Unimpaired Water

# Water Quality Standards

§303 Clean Water Act, § 62.1-44.15 Code of Virginia

- Water Quality standards must protect all beneficial uses
  - public water supplies, fish and wildlife, recreation, and the production of marketable fish and shellfish
  - Reviewed every 3 years to determine if standards are appropriate
  - Standards must be approved by EPA
- When existing standards are not adequate to protect these beneficial uses, new standards must be adopted
  - The State Water Control Board is adopting new standards to protect the Bay from excess nitrogen and phosphorous
- All permits for discharges of waste water must be consistent with these water quality standards once adopted

# Total Maximum Daily Loads

§303 Clean Water Act, §62.1-44.19:7 Code of Virginia

- A TMDL identifies the amount of a pollutant a water body can assimilate without violating water quality sources and allocates those loads between point and nonpoint sources
- A TMDL must be prepared for each water that is listed as impaired
- EPA Consent Decree (American Canoeists v EPA) requires that Virginia complete a TMDL for the Bay or that the Bay meet water quality standards by 2010
  - EPA is required to complete a TMDL by 2011 if this is not done

# Chesapeake 2000 Agreement

- Chesapeake Bay Watershed states agreed to work towards restoring the Chesapeake Bay so that it could be delisted by 2010
  - The agreement is authorized by § 30-225 of the Code of Virginia
  - Signed by the Governor and the Chair of the Virginia Chesapeake Bay Commission
  - All states are working towards this goal, but the Agreement does not create any legal consequences if the Bay is not restored by 2010

# Virginia is required to....

- Adopt standards to protect Bay and Tributary Resources from excess nutrients
  - will be completed in 2005
- Adopt a TMDL or delist the Bay by 2010
  - Chesapeake 2000 Agreement means all states are working towards restoration and delisting of the Bay
  - Current efforts to adopt standards and allocate waste-load may meet the requirements for a TMDL
- Issue permits consistent with those standards and allocations
  - Will start with issuance of Watershed General Permit in 2006
  - Anticipate that most significant dischargers will need to upgrade between 2006 and 2015.