



PRESS RELEASE

Attorneys General Frosh, Herring, Jennings, and Racine File Suit Against EPA *Agency Failed to Hold Pennsylvania and New York Accountable for Chesapeake Bay Pollution*

BALTIMORE, MD (September 10, 2020) - Maryland Attorney General Brian E. Frosh, joined by the Attorneys General of Delaware, Virginia, and the District of Columbia, today [filed a lawsuit](#) against the Environmental Protection Agency (EPA) over its failure to require Pennsylvania and New York to develop and implement plans to achieve 2025 Chesapeake Bay restoration goals. The suit asserts that EPA has abandoned its responsibility to ensure that certain states uphold their obligations under the [Chesapeake Bay Watershed Agreement](#) to reduce pollution levels to restore local waters and the Bay in the allotted timeframe. The complaint highlights that “EPA’s actions threaten the future restoration and health of the Bay, and the livelihoods of the millions who use the Bay as a multi-purpose resource.” The Chesapeake Bay Foundation filed a similar lawsuit coinciding with the one filed by Maryland, Delaware, Virginia, and the District of Columbia.

Under the Clean Water Act, EPA has a nondiscretionary duty to “ensure that management plans are developed and implementation is begun by signatories to the Chesapeake Bay Agreement to achieve and maintain” the Bay Total Maximum Daily Load (TMDL). The TMDL is a comprehensive “pollution diet” aimed at restoring clean water in the Bay States that sets limits for nitrogen and phosphorus pollution, in addition to reductions in sediment. EPA’s recent final evaluation of each Bay state’s Watershed Improvement Plan (WIP) concluded that Maryland, Virginia, and the District of Columbia all will attain their respective necessary load reductions by 2025. EPA also concluded that the plans submitted by Pennsylvania and New York were deficient, falling short of nutrient reduction goals and lacking in sufficient funding. EPA has not, however, required Pennsylvania or New York to develop or implement plans that fully meet the pollution reduction goals.

“The Chesapeake Bay is a national treasure,” said Attorney General Frosh. “Restoring the health of the Bay will take a coordinated, comprehensive effort by each of the watershed states. EPA has walked away from its responsibility to regulate and manage the efforts of the Bay states. Today, we are asking the court to force EPA to do its job.”

In the complaint, the attorneys general argue it is the EPA’s responsibility to ensure that the partner states are adhering to their commitments in the Chesapeake Bay Agreement, but that “EPA has failed to ensure that Pennsylvania and New York develop and implement [plans] that

achieve and maintain their [pollutant] reductions.” They go on to explain that EPA’s failure “comes at a particularly crucial point. With the conclusion of the [plan] process, there is no further statutory or regulatory mechanism to ensure that the Bay States will achieve and maintain those reductions.” The States also note that the EPA’s failure “represents an about-face from its prior guidance and action taken to improve deficient [plans]”.

“The Chesapeake Bay is one of Virginia’s most important natural treasures and we all have a role to play in protecting and restoring it,” said Attorney General Herring. “The EPA must hold every partner equally accountable and make sure they uphold their portion of the Agreement, but Trump’s EPA shirked that responsibility and simply rubberstamped inadequate plans. I will not stand by and allow the EPA to ignore its enforcement obligations and erase decades of progress we have made to reduce pollution and restore the Chesapeake Bay.”

“We cannot allow the EPA to abdicate its legal duty to ensure states are reducing pollution in the Chesapeake Bay,” said District of Columbia Attorney General Karl A. Racine. “We filed this lawsuit to force the EPA to do its job, protect decades of environmental work and billions of dollars invested, and ensure all the watershed states work together to meet pollution reduction goals. Safeguarding the health of the Bay—and all of our interconnected rivers and streams—is impossible without everyone doing their part.”

“This is the moment in time for the Chesapeake Bay. If EPA fails to hold Pennsylvania accountable, the Chesapeake Clean Water Blueprint will be yet another in a series of failures for Bay restoration,” said CBF President William C. Baker. “It doesn’t have to be this way. Under the Blueprint we have seen progress. But unless pressure is brought to bear on Pennsylvania, we will never get to the finish line.”

“Governor Hogan has pressed for a lawsuit from day one if EPA and states in the Susquehanna River watershed failed to honor their Chesapeake commitments under the Clean Water Act,” said Maryland Environment Secretary Ben Grumbles. “Our lawsuit is now absolutely necessary to get EPA and our partners upstream and upwind to do their fair share to protect our beloved Bay.”

The Chesapeake Bay is the largest estuary in the United States, is home to thousands of plant and animal species, and is an invaluable cultural and economic resource for Maryland, Virginia and the surrounding region. Protecting the Bay’s watershed, which spans 64,000 square miles and crosses Virginia, Maryland, Delaware, Pennsylvania, New York, West Virginia and the District of Columbia, presents unique challenges because water from each of those states flows into the Bay, bringing significant amounts of pollution with it. Over the decades, the Bay’s water quality and productivity have diminished, primarily because of pollution. Because of these problems that pollution posed, the watershed states and the federal government have long worked together to both restore the health of the Bay and protect it from further damage.