

# US appeals court upholds EPA plan to clean up Chesapeake Bay

July 6 2015, by Maryclaire Dale

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A U.S. appeals court on Monday approved a federal plan to limit pollution in the Chesapeake Bay despite objections from farmers, builders and others who accused the Environmental Protection Agency of a power grab.

The ruling by the 3rd U.S. Circuit Court of Appeals upholds restrictions on farm and construction runoff and wastewater treatment, and has the support of environmentalists and officials in the six states that surround the Chesapeake.

"The Chesapeake Bay (plan) will require sacrifice by many, but that is a consequence of the tremendous effort it will take to restore health to the Bay—to make it once again a part of our "land of living," Circuit Judge Thomas Ambro wrote, quoting American poet Robert Frost.

The bay, the nation's largest estuary, serves a growing population in nearby cities and towns, and supports commercial ventures that include fishing, farming, shipping and tourism. The resulting pollutants have led to what the ruling called "dead zones with opaque water and algae blooms" that make it difficult for aquatic life to survive.

The judges called pollution in the bay a complex problem with clear winners and losers that affects 17 million people.

"The winners are environmental groups, the states that border the Bay, tourists, fishermen, municipal [waste water treatment](#) works, and urban

centers. The losers are rural counties with farming operations, nonpoint source polluters, the agricultural industry, and those states that would prefer a lighter touch from the EPA," Ambro wrote in his unanimous opinion.

The American Farm Bureau Federation, the National Association of Builders, the Fertilizer Institute and others have fought the restrictions, arguing that the EPA's comprehensive plan usurped state authority to regulate waterways. However, the three-judge panel found their arguments "unpersuasive."

"Congress made a judgment in the Clean Water Act that the states and the EPA could, working together, best allocate the benefits and burdens of lowering pollution," the ruling stated.

Animal waste and fertilizer that moves from streams into the Chesapeake is the single largest source of bay pollution, according to the EPA. Scientists have said the bay absorbs too much nitrogen, phosphorous and sediment to maintain a healthy ecosystem. The decision Monday upholds a September 2013 decision by U.S. District Judge Sylvia Rambo in Harrisburg.

"This is a great day for everyone who cares about [clean water](#) and the Chesapeake Bay," said William C. Baker, president of the Chesapeake Bay Foundation. "In a case challenging EPA's Clean Water Act authorities, the 3rd Circuit Court in Philadelphia has spoken."

The EPA expects 60 percent of the plan to be implemented by 2017, with the rest in place by 2025.

The six surrounding states that previously agreed to the pollution limits and support the plan are Delaware, Maryland, New York, Pennsylvania, Virginia and West Virginia, along with Washington, D.C.

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