



INVENTORY OF STATE WATER RESOURCE LAWS AND REGULATIONS



Water Resources Meeting

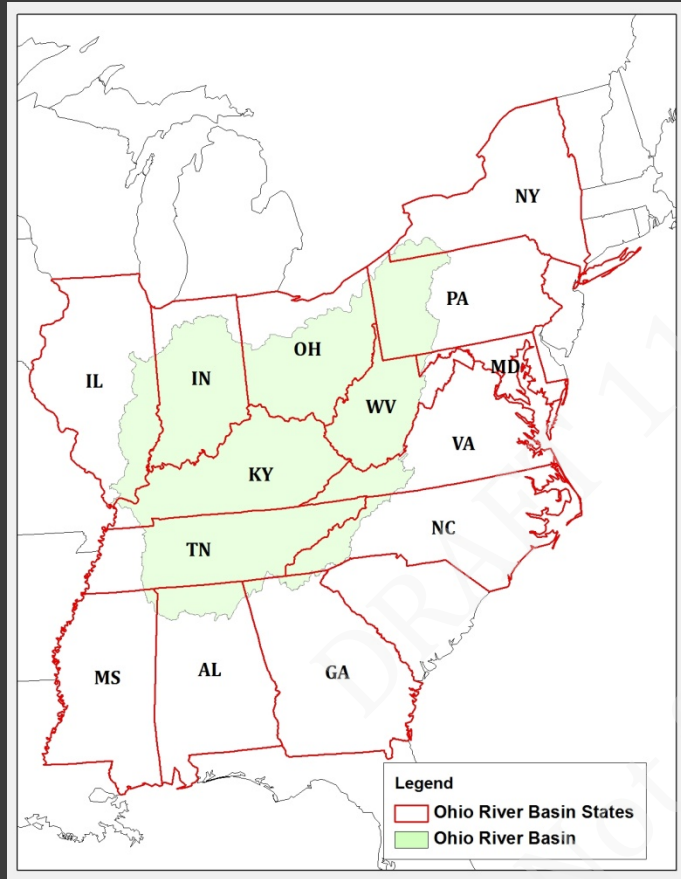
November 27, 2012

Steve Braun

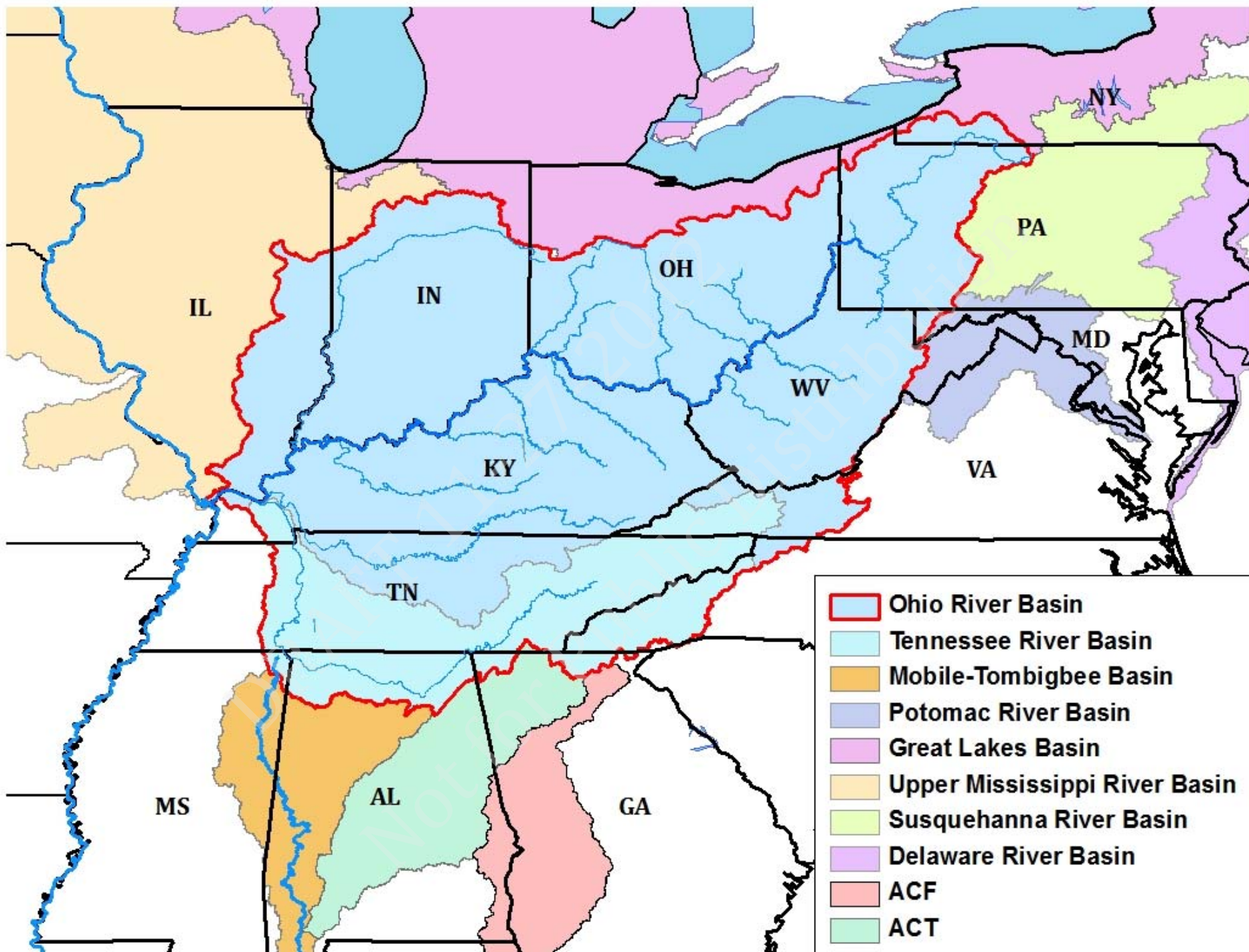
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Ohio River Basin

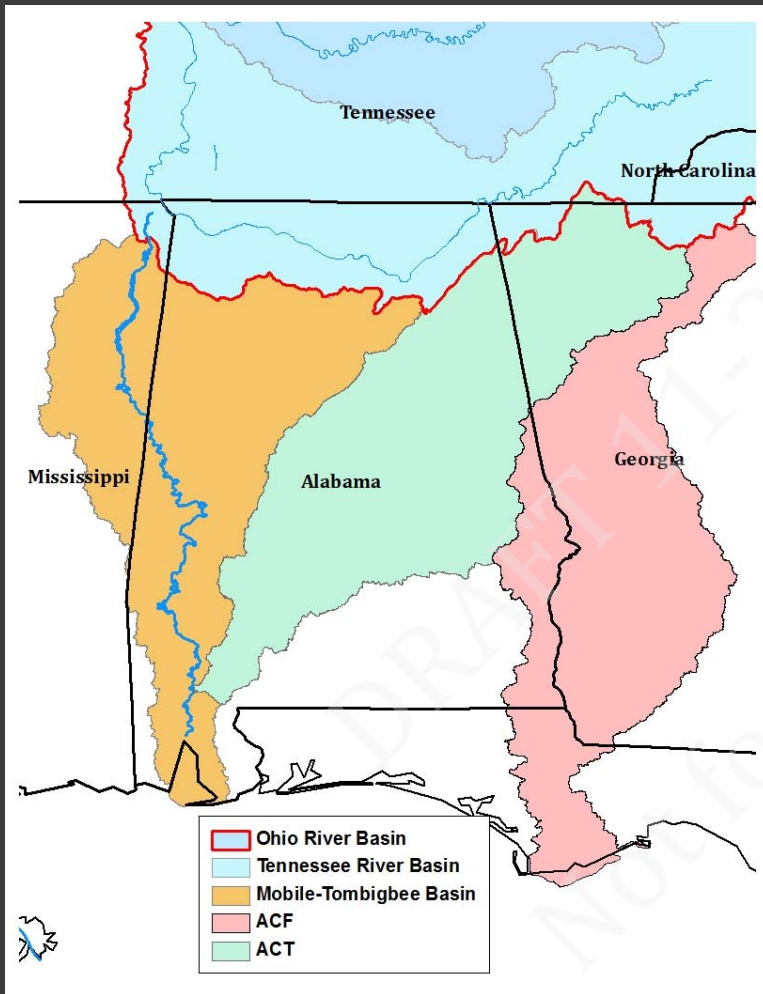


- 14 States
- Multiple Intrabasin Jurisdictions (TVA, USACOE, and more)
- Federal Regulations
- Multiple Neighboring Compacts/Commissions





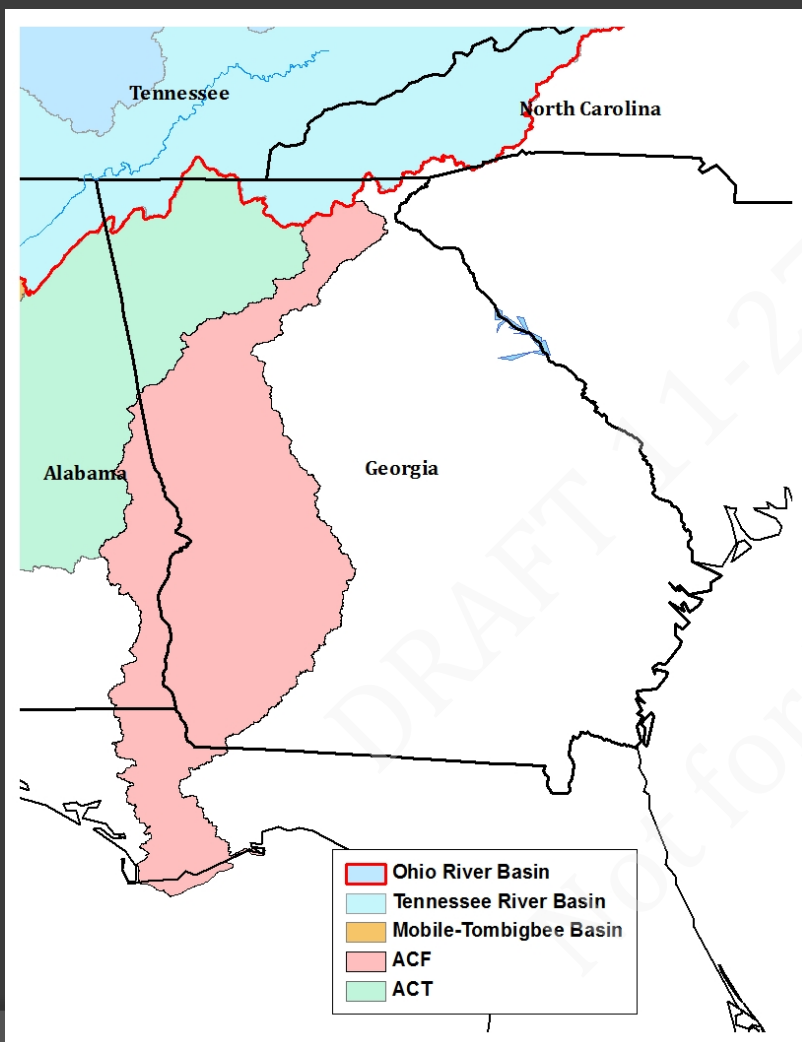
ALABAMA



- Any withdrawal must obtain “Certificate of Use” if capacity to withdraw is $>100,000$ gpd
- Must report annually
- Water Leaves basin via Tenn-Tom Waterway



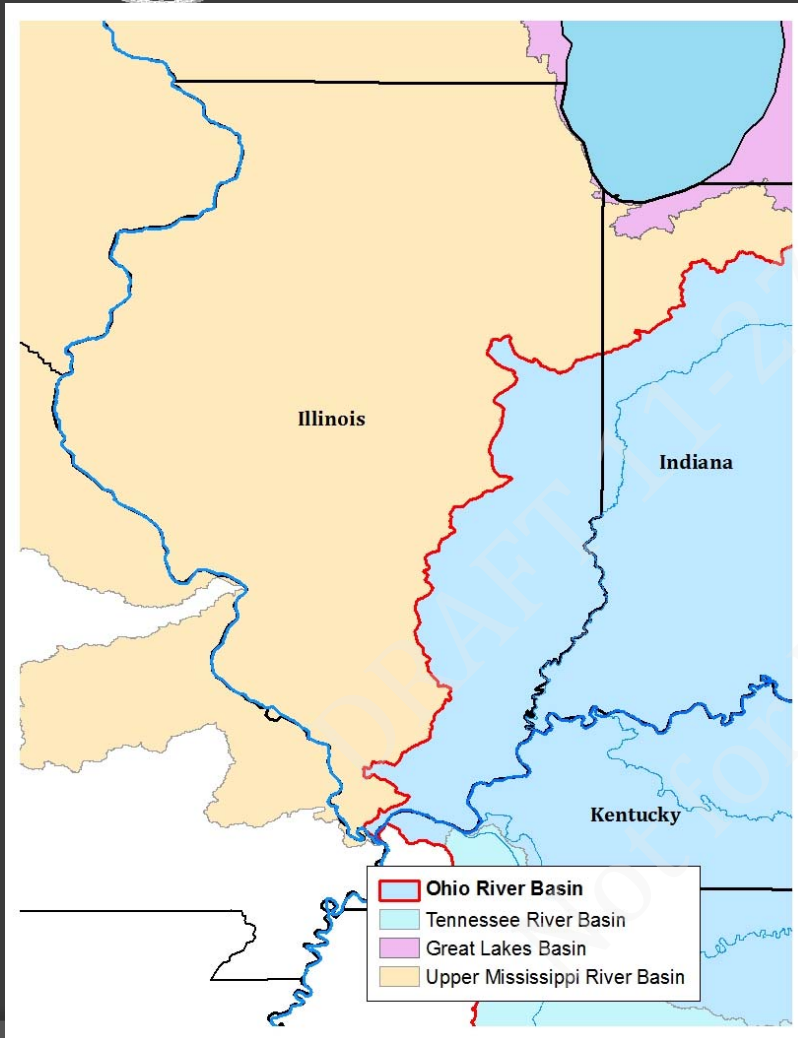
GEORGIA



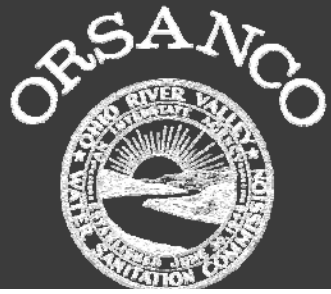
- Any withdrawal >100,000 gpd must obtain permit
- Must report annually
- Interbasin Transfers are subject to same permitting rules, except waters being reused (e.g. mining activities, etc)



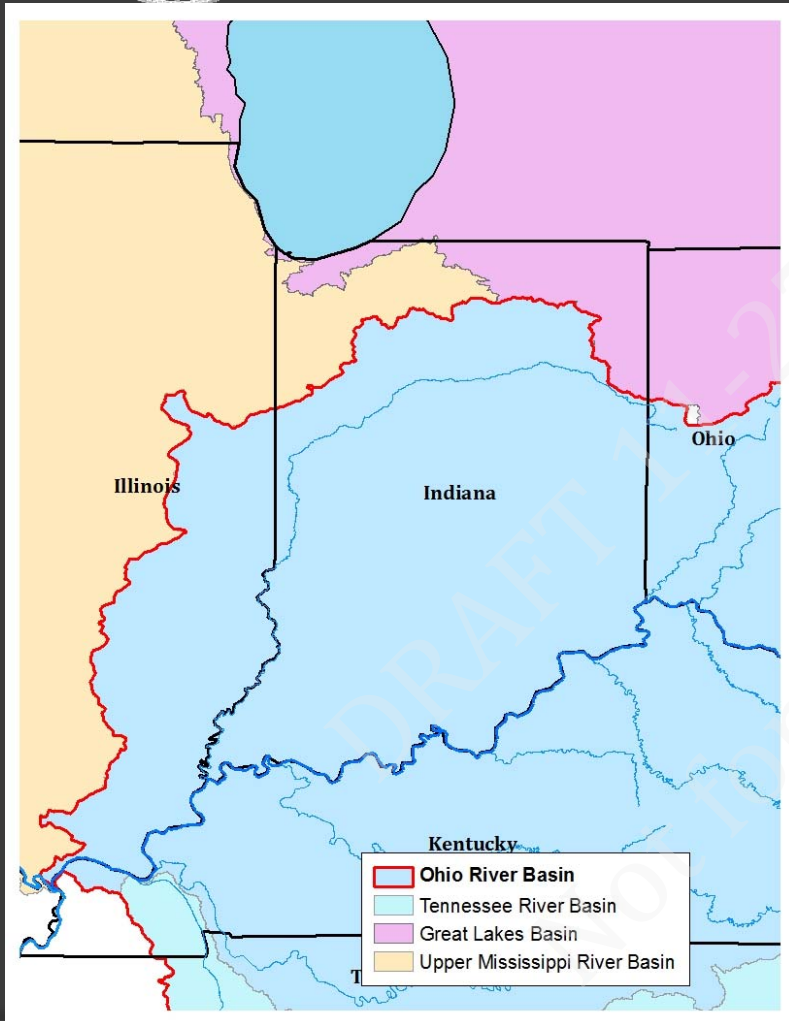
ILLINOIS



- Ground water users must register if capacity is $>100,000$ gpd
- No requirements for surface waters
- Subject to Great Lakes Compact
- No waters may be transferred from Lake Michigan
- Must report annually



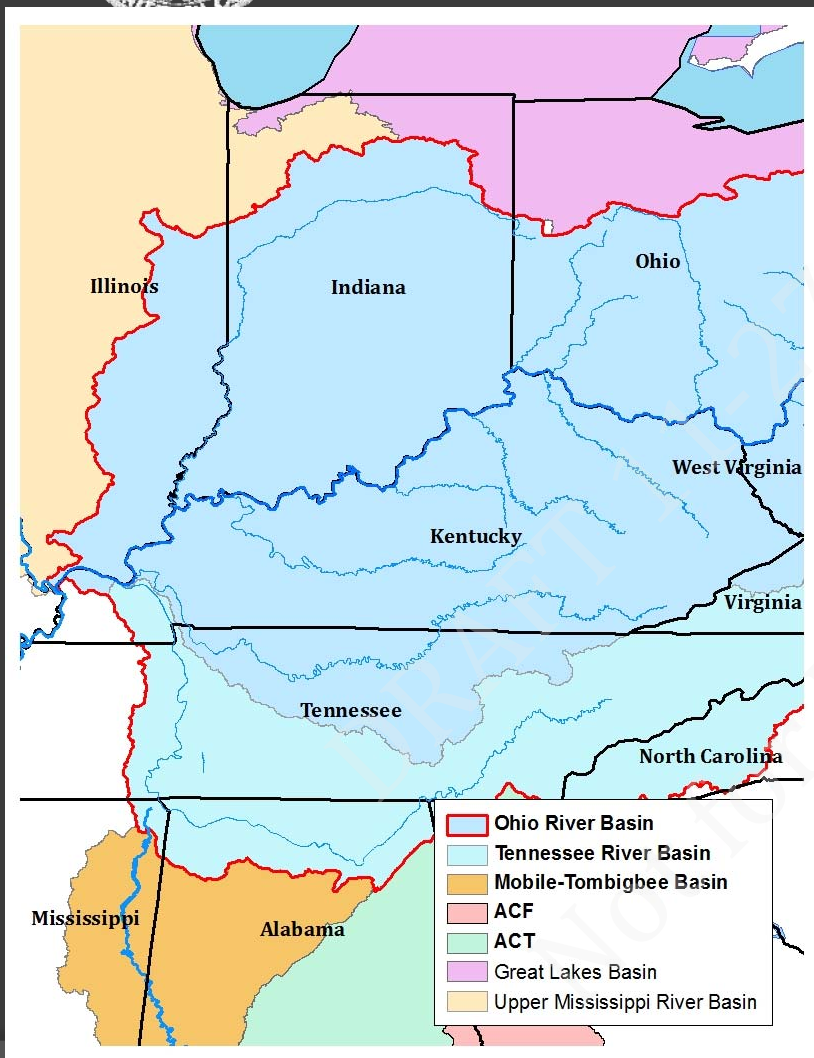
INDIANA



- Any withdrawal must register if withdrawal is $>100,000$ gpd
- Must report annually
- A permit is required if any amount is withdrawn from a navigable waterway
- Subject to Great Lakes Compact



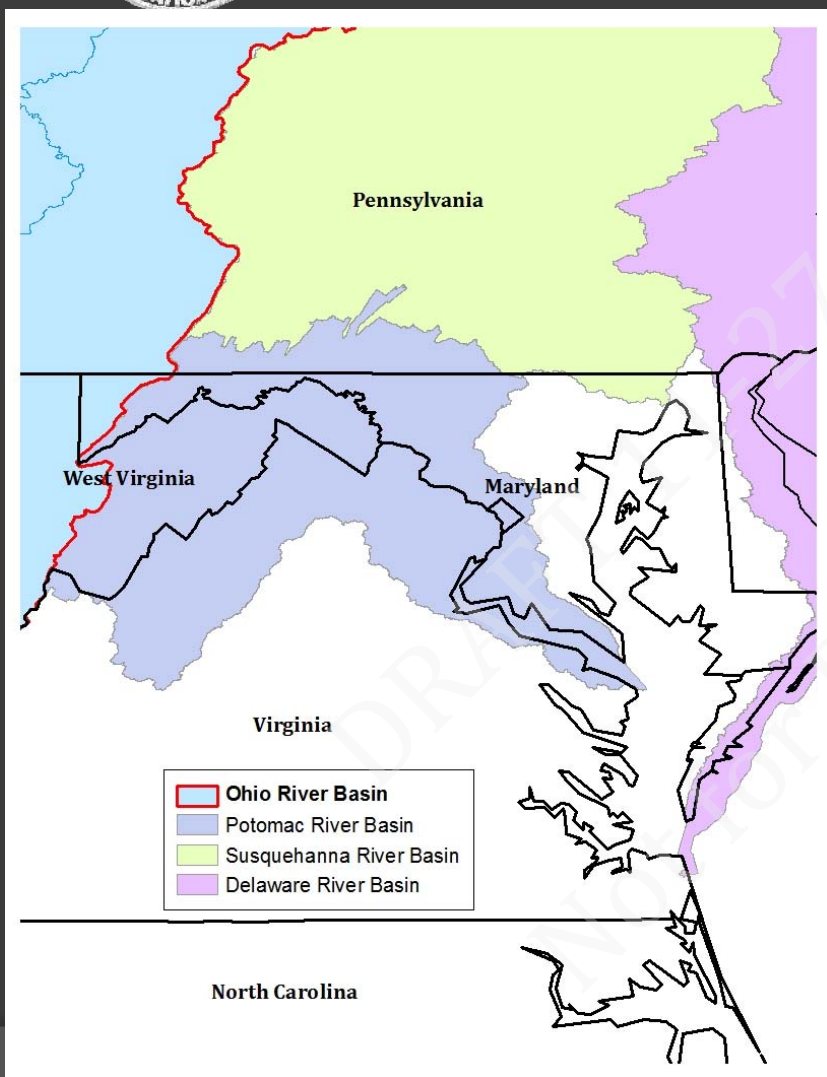
KENTUCKY



- ⦿ A permit is required if any withdrawal is $>10,000$ gpd
- ⦿ Exception:
 - Irregular basis
 - Agricultural use
 - Power plants
 - water injected underground for oil and gas purposes
- ⦿ Must report monthly
- ⦿ Subject to TVA



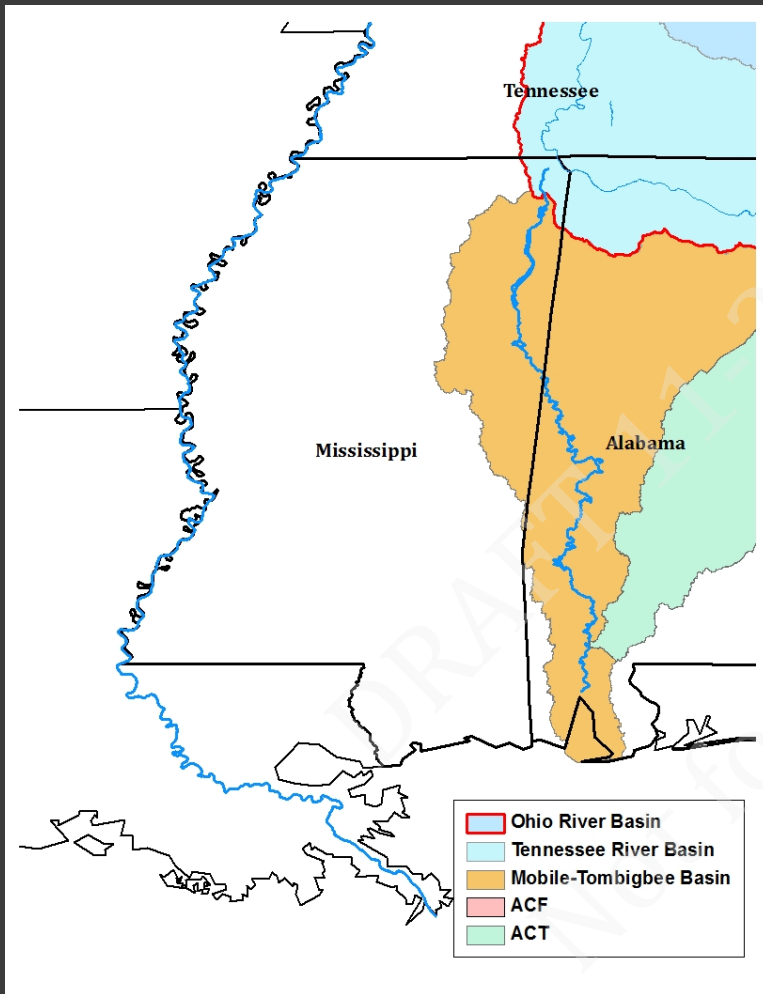
MARYLAND



- ⦿ Must obtain permit for any withdrawal in any amount
- ⦿ Exception
 - Emergency use
 - Ag use <10,000 gpd
 - Individual well use
 - Groundwater use <5,000 gpd
 - Subject to Potomac and Susquehanna RBC



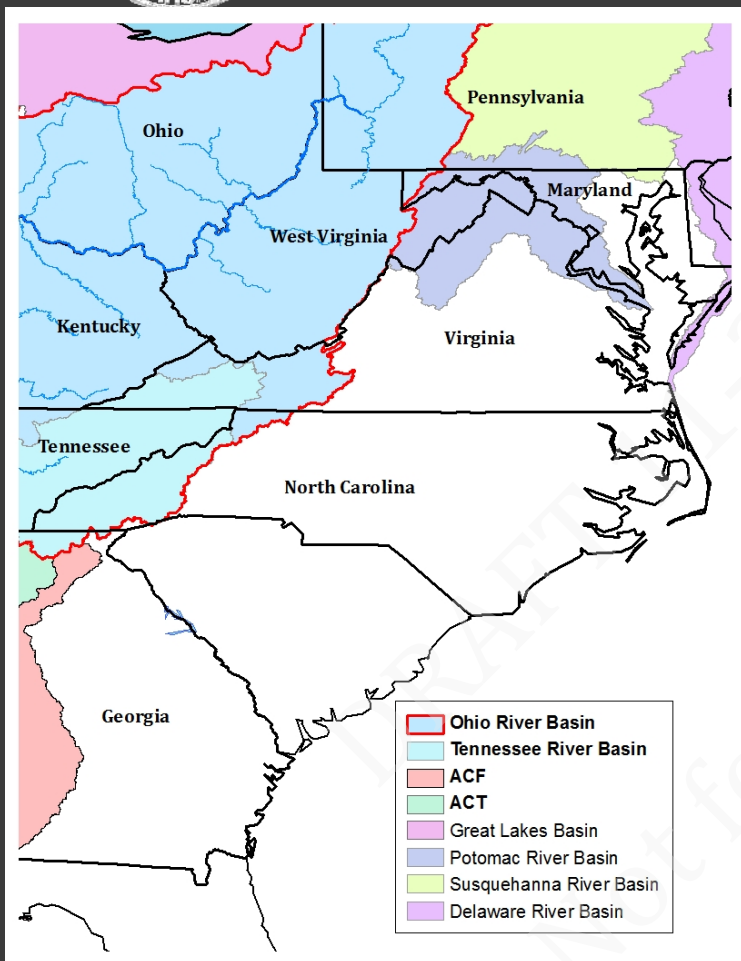
MISSISSIPPI



- ⦿ A permit is required for any withdrawal of any amount with few exceptions



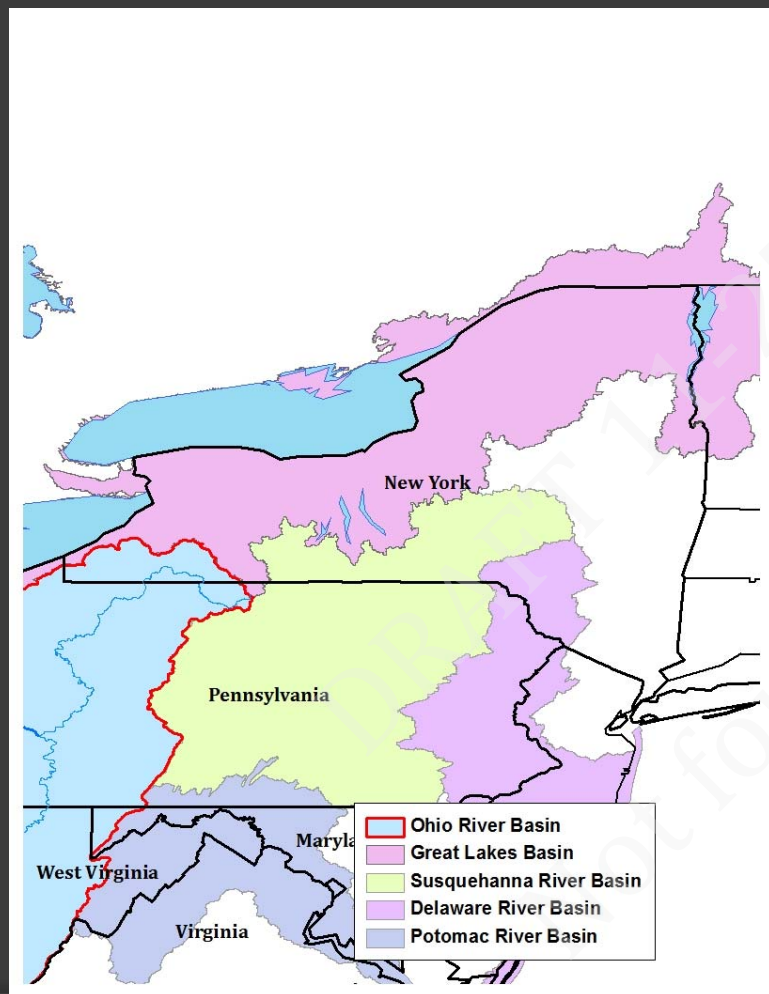
NORTH CAROLINA



- Must register if withdrawal is $>100,000$ gpd
- Ag users must register if $>1,000,000$ gpd
- Must report annually
- Interbasin transfers are subject to same rules



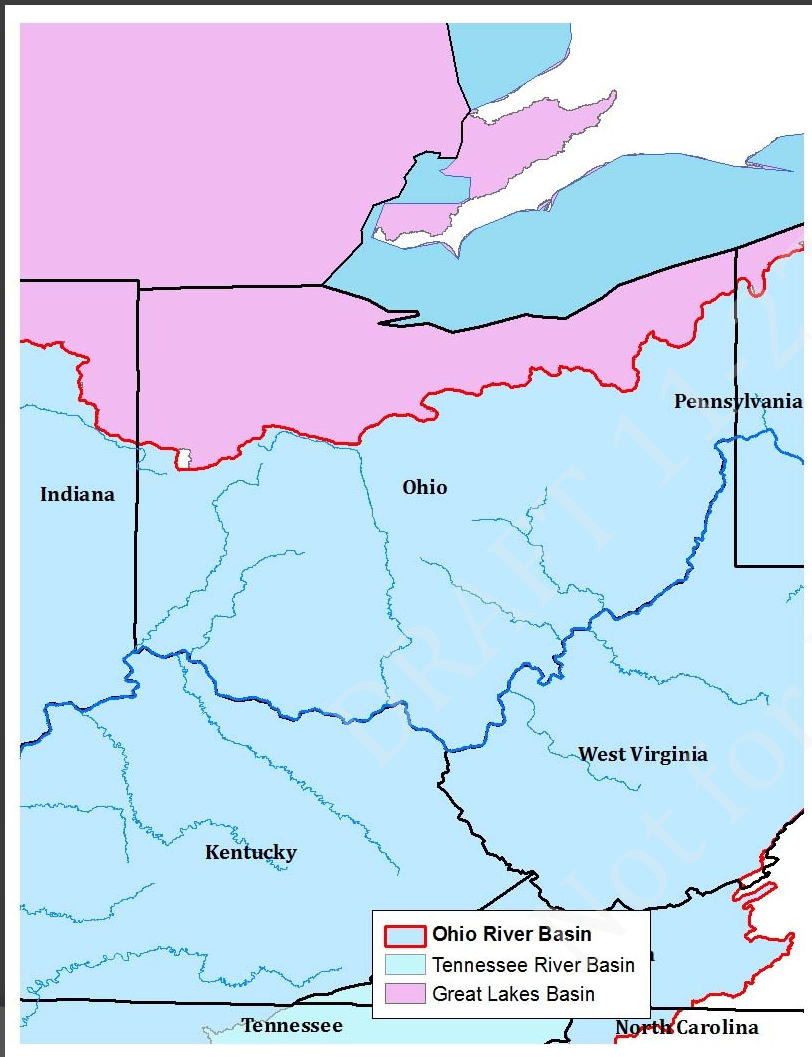
NEW YORK



- As of February 12, 2012; a permit is required for any withdrawal with capacity of $>100,000$ gpd
- Must report annually
- Subject to Great Lakes Compact, Delaware & Susquehanna RBC, and more



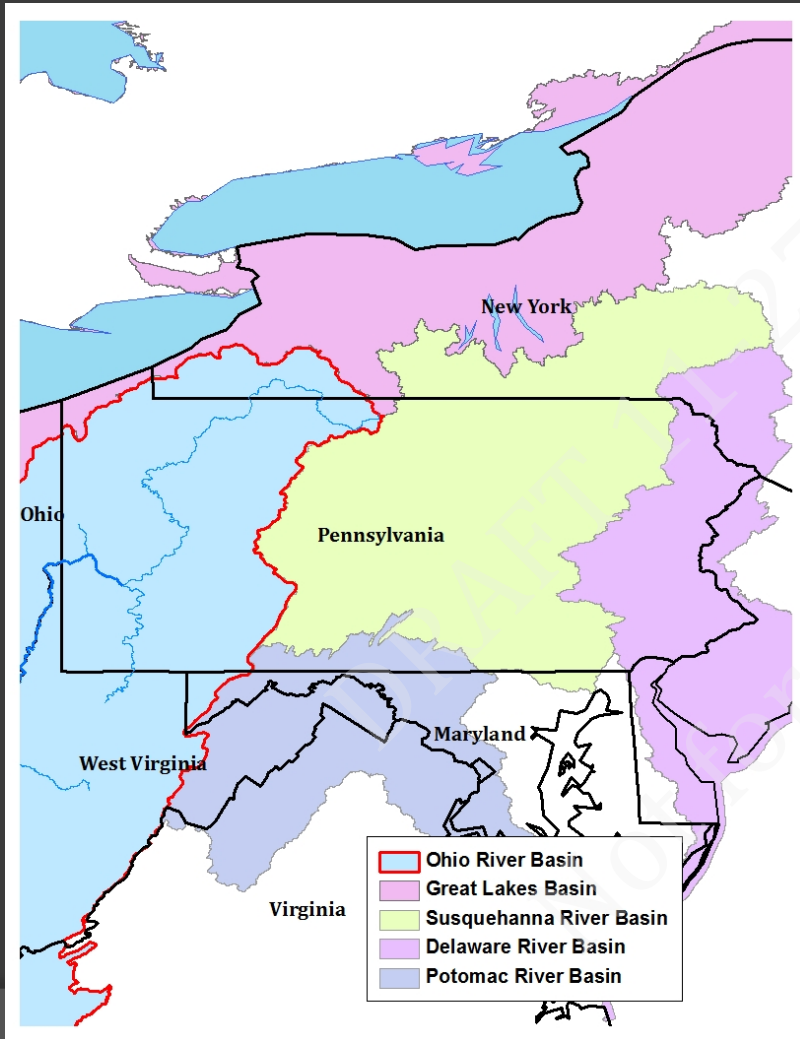
OHIO



- Must register if the withdrawal is $>100,000$ gpd in a 30 day period
- If water body is “High-quality water” a permit is required to withdraw water
- A permit is required to transfer $>100,000$ gpd to any other basin
- Consumptive use – permit if $>2,000,000$ gpd
- Subject to Great Lakes Compact



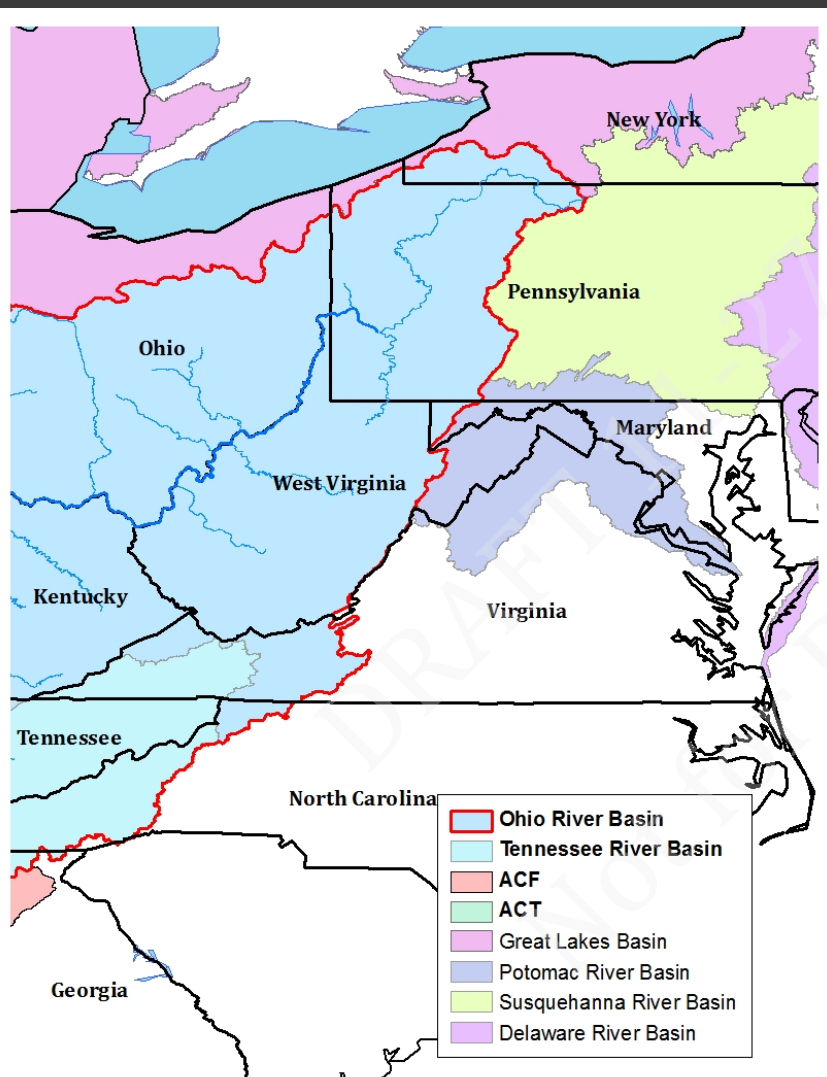
PENNSYLVANIA



- Must register for any withdrawal $>10,000$ gpd in 30 days
- Must report annually
- A permit is required only for public water supply surface water withdrawals



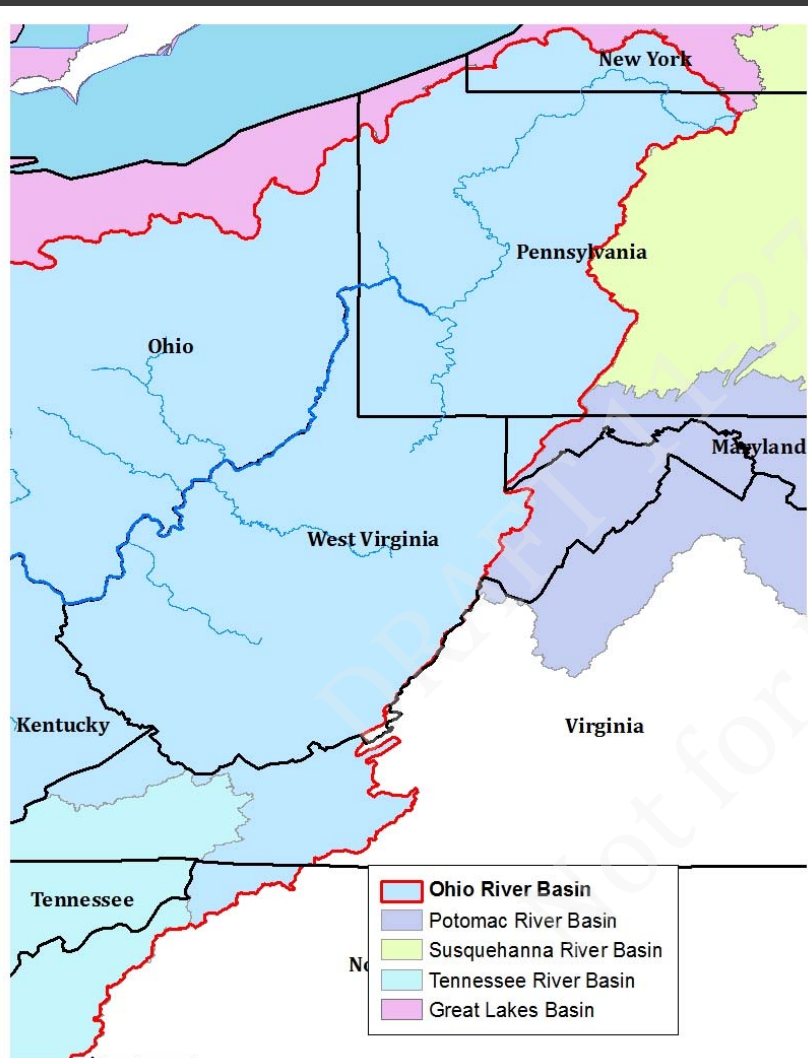
VIRGINIA



- A permit is required for surface water withdrawal >10,000 gpd
- No permitting requirements for groundwater except in a GWMA (none in ORB)
- Ag users must obtain permit if >1,000,000 gpd
- Annual reporting required
- Surface water withdrawals placed into portable containers do not need a permit
- DEQ reserves right to require a permit for any withdrawal if causes a problem



WEST VIRGINIA



- Must register if withdrawal is >25,000 gpd
- Must report annually
- No policy on interbasin transfers except only to report
- Interbasin transfers within the state do not need to report regardless of watershed
- As of Dec. 14, 2011; horizontal drilling using >210,000 gpm must have a water management plan, that plan must demonstrate acceptable in-stream and pass-by flows

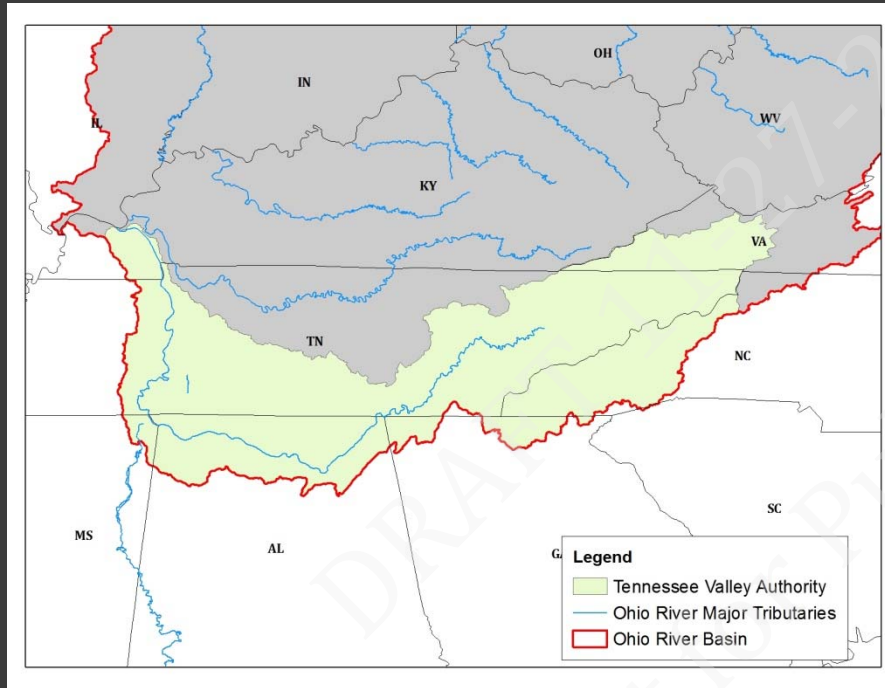


SUMMARY OF STATES

Summary of State Water Resource Laws			
	Register	Permit	Limit (gpd)*
Alabama	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	100,000
Georgia	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	100,000
Illinois	<input type="checkbox"/>	<input type="checkbox"/>	100,000
Indiana	<input checked="" type="checkbox"/>	<input type="checkbox"/>	100,000
Kentucky	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	10,000
Maryland	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	No Limit
Mississippi	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	No Limit
New York	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	100,000
North Carolina	<input checked="" type="checkbox"/>	<input type="checkbox"/>	100,000
Ohio	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	100,000 & 2,000,000
Pennsylvania	<input checked="" type="checkbox"/>	<input type="checkbox"/>	10,000
Tennessee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	10,000
Virginia	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	10,000
West Virginia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	25,000
<i>*Exceptions can exist</i>			



TENNESSEE VALLEY AUTHORITY



- A U.S. government owned corporation
- Is the permitting authority for the Tennessee rivers and its tributaries
- A permit must be obtained for any construction that may have an adverse impact
- The permit contains the max withdrawal amount
- Temporary withdrawals do not require a permit, in general
- Interbasin transfers are subject to same rules except Tenn-Tom waterway (loss = 200 million gpd)
- Any loss in hydropower must be repaid



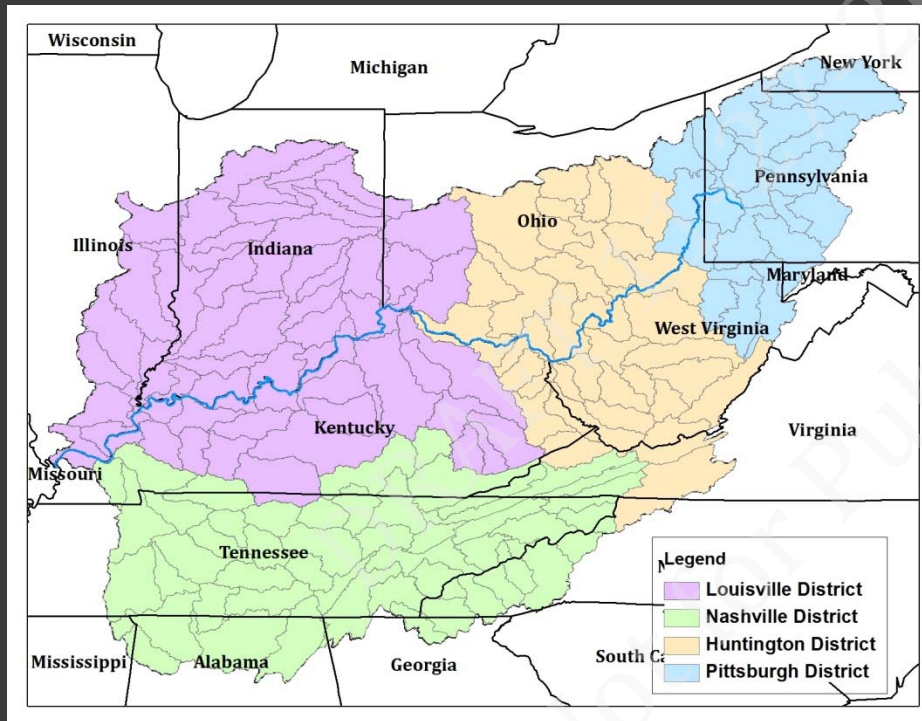
U.S. ARMY CORPS OF ENGINEERS

- USACE is a permitting authority for navigable waterways of the U.S.

- 4 districts within the ORB

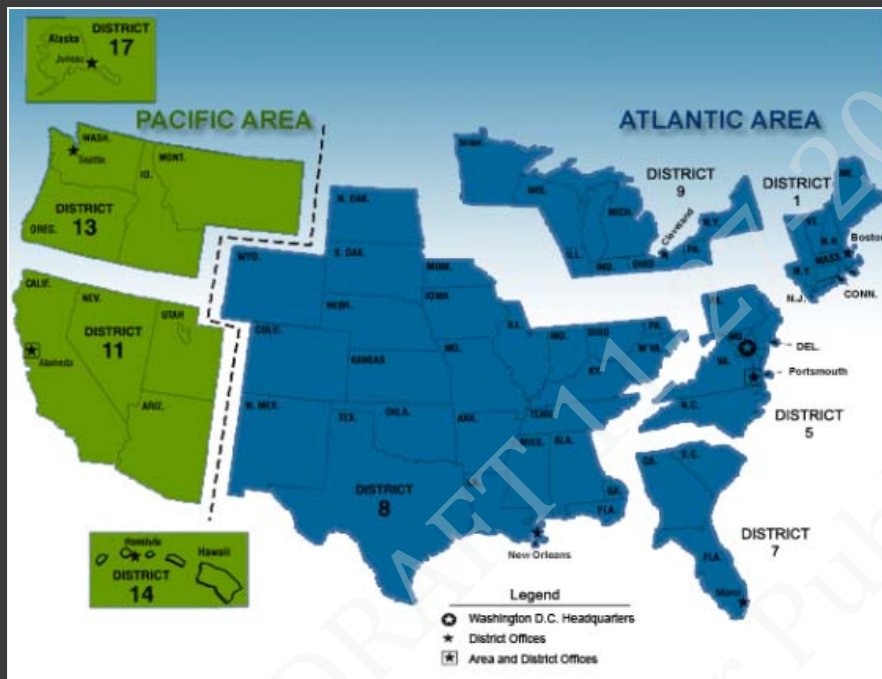
- A permit is required for any activity that may obstruct navigation

- Bridge, pipeline, intake





U.S. COAST GUARD

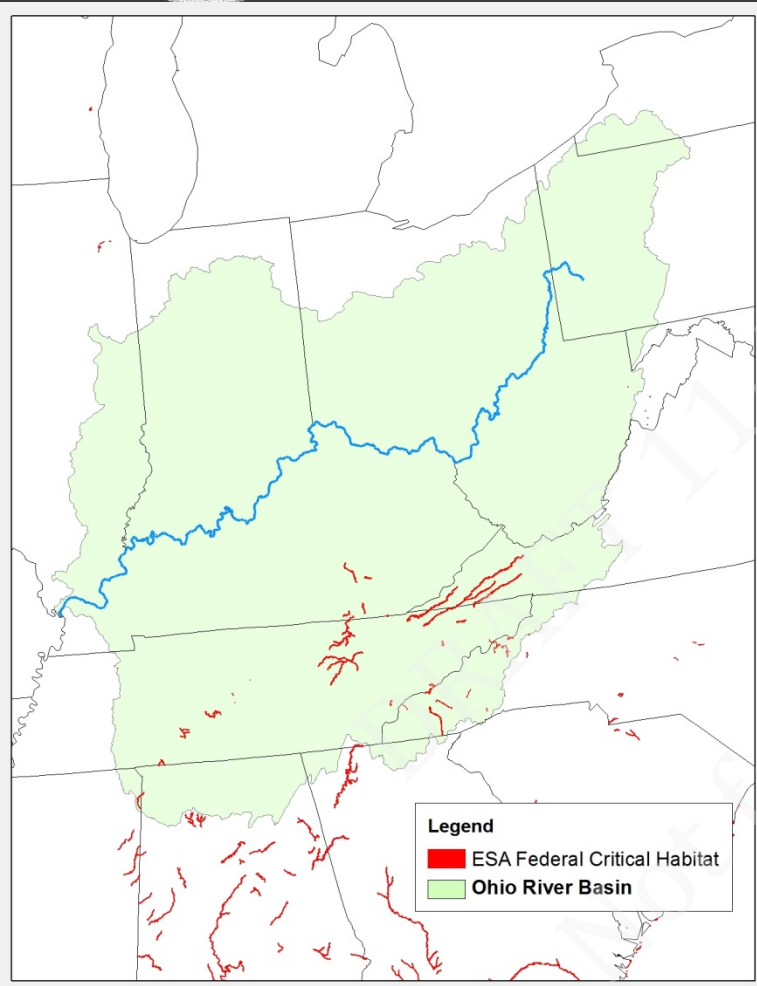


- 4 Districts in the Ohio River Basin (5, 7, 8, 9)
- Has permitting authority for structures that span above a navigable river only



FEDERAL REGULATIONS ENDANGERED SPECIES ACT

- Endangered Species Act
- Approval Required from FWS and/or NOAA if in a Federal Critical Habitat
- Section 2; “It is declared to be the policy of Congress that Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species.”
- Section 7; “...not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary”
- 83 T or E species in the Ohio River alone





FEDERAL REGULATIONS SAFE DRINKING WATER ACT

- Required States to perform a source water assessment for each public water supply
 - Assessment deals primarily with pollutant discharges and not withdrawals

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FEDERAL REGULATIONS CLEAN WATER ACT

- Title I, Section 101; It is the policy of Congress that the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated or otherwise impaired by this Act. It is the further policy of Congress that nothing in this Act shall be construed to supersede or abrogate rights to quantities of water which have been established by any State. Federal agencies shall co-operate with State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources.



NEIGHBORING COMPACTS

- Great Lakes Compact
- SRBC
- DRBC
- ACT/ACF Tri-State Water Basin
Compacts
- ICPRB
- UMRBA

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NEIGHBORING COMPACTS/COMMISSIONS

- Great Lakes – St. Lawrence River Compact
 - Registration required >100,000 gpd
 - No transfers of water out of the GL watershed, few exceptions, >5.7 gallons, straddling communities
 - Starting Dec. 8th 2013, permit if consumptive use >5,000,000 gpd in 90 days
- Susquehanna River Basin Commission
 - Permit if >100,000 gpd
 - Consumptive Use- permit if >20,000 gpd
 - Transfers-permit needed if going in (any amount) or out (<20,000 gpd)
 - Charges a fee for water use
- Delaware River Basin Commission
 - Permit if >100,000 gpd, charges a fee for water
- Upper Mississippi River Basin Association
 - If withdrawal is >5,000,000 gpd in 30 days must "...offer to consult with other signatory states"
- Mississippi River Commission
 - ...improve the condition of the Mississippi River, foster navigation, promote commerce, and prevent destructive floods



Summary of Non-State Water Resource Laws

	Register	Permit	Limit (gpd)*
TVA	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction Activity
USACE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Construction or Navigation Activity
Coast Guard	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Above River only
Great Lakes Compact	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	100,000 & 5,000,000
SRBC	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	10,000
DRBC	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	100,000 & 1,000,000
UMBRA	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5,000,000
ACT/ACF	<input type="checkbox"/>	<input type="checkbox"/>	
ICPRB	<input type="checkbox"/>	<input type="checkbox"/>	

**Exceptions can exist*



WATERSHED GROUPS WITHIN THE OHIO RIVER BASIN

- Multiple organizations exist within the Ohio River basin
- Each has different goals/duties
- Examples
 - Muskingum River Conservancy District
 - Co-manages dams and reservoirs with USACE
 - Has power to "...divide the flow of water in or out of the district"
 - Wheeling Creek Watershed Protection & Flood Prevention District Compact



Questions?

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