

109TH CONGRESS
1ST SESSION

H. R. 4126

To amend the Federal Water Pollution Control Act to improve and reauthorize the Chesapeake Bay program.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 25, 2005

Mr. GILCREST (for himself, Mr. WYNN, Mr. MORAN of Virginia, Mr. CARDIN, Mr. VAN HOLLEN, Mr. SCOTT of Virginia, Mr. HOYER, Mrs. DRAKE, Mr. BARTLETT of Maryland, Mr. RUPPERSBERGER, Mr. HOLDEN, Mr. CUMMINGS, Mr. HINCHEY, Mr. PLATTS, Ms. NORTON, Mr. TOM DAVIS of Virginia, and Mr. CASTLE) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the Federal Water Pollution Control Act to improve and reauthorize the Chesapeake Bay program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Chesapeake Bay Res-
5 toration Enhancement Act of 2005”.

6 **SEC. 2. DEFINITIONS.**

7 Section 117(a) of the Federal Water Pollution Con-
8 trol Act (33 U.S.C. 1287(a)) is amended—

1 (1) in paragraph (3) by striking “and its”; and
2 (2) by adding at the end the following new
3 paragraphs:

4 “(7) CHESAPEAKE BAY WATERSHED.—The
5 term ‘Chesapeake Bay watershed’ means the Chesapeake
6 Bay and the area consisting of 36 tributary
7 basins, within the States of Maryland, Virginia,
8 West Virginia, Pennsylvania, Delaware, and New
9 York and the District of Columbia, through which
10 precipitation drains into the Chesapeake Bay.

11 “(8) LOCAL GOVERNMENT ADVISORY COMMITTEE.—The term ‘Local Government Advisory
12 Committee’ means the committee of the same name
13 formed through the 1987 Chesapeake Bay Agreement.
14 The committee may include representative
15 members from all jurisdictions within the Chesapeake
16 Bay watershed.

17 “(9) TRIBUTARY STRATEGY.—The term ‘tributary
18 strategy’ means one of 36 strategies in the
19 Chesapeake Bay watershed that is a State approved,
20 river-specific, cleanup plan that provides best management
21 practice implementation actions that, when
22 taken together, will meet the Chesapeake Bay Agreement
23 goal of removing nutrient and sediment im-
24

1 pairments from the Chesapeake Bay and its tidal
2 tributaries.

3 “(10) TRIBUTARY BASIN.—The term ‘tributary
4 basin’ means an area of land that drains into any
5 one of 36 Chesapeake Bay tributaries or tributary
6 segments and that is managed through tributary
7 strategies under this Act.”.

8 **SEC. 3. IMPLEMENTATION AND MONITORING GRANTS.**

9 Section 117(e)(1) of the Federal Water Pollution
10 Control Act (33 U.S.C. 1287(e)(1)) is amended by strik-
11 ing “approved and committed to implement all or substan-
12 tially all aspects” and inserting “signed all or a significant
13 portion”.

14 **SEC. 4. REPORTING.**

15 Section 117 of the Federal Water Pollution Control
16 Act (33 U.S.C. 1287) is amended by striking subsection
17 (e)(7) and subsection (f) and inserting the following:

18 “(7) REPORTING.—The Administrator shall
19 make available to the public on or before January 31
20 of each year, a document that lists and describes, in
21 the greatest practicable degree of detail, all com-
22 pleted projects and accomplishments of the previous
23 fiscal year funded by the Federal Government, and
24 all completed projects and accomplishments of the
25 previous fiscal year funded by a State government,

1 for the Chesapeake Bay watershed that contribute to
2 Chesapeake Bay Agreement goals.

3 “(f) REPORTING REQUIREMENTS.—

4 “(1) IN GENERAL.—The Administrator shall
5 publish, on or before January 31 of each year, a
6 ‘tributary health report card’ to evaluate, based on
7 monitoring and modeling data, progress made dur-
8 ing the preceding fiscal year (including any practice
9 implemented during the fiscal year), and overall
10 progress made, in achieving and maintaining nutri-
11 ent and sediment reduction goals for each tributary
12 basin.

13 “(2) BASELINE.—The baseline for the report
14 card (in this subsection referred to as the ‘baseline’)
15 shall be the tributary cap load allocation agreement
16 numbered EPA 903–R–03–007, dated December
17 2003, and entitled ‘Setting and Allocating the
18 Chesapeake Bay Basin Nutrient and Sediment
19 Loads: The Collaborative Process, Technical Tools
20 and Innovative Approaches’.

21 “(3) INCLUSIONS.—The report card shall in-
22 clude, for each tributary basin—

23 “(A) an identification of the total alloca-
24 tion of nutrients and sediments under the base-
25 line;

1 “(B) the monitored and modeled quantities
2 of nitrogen, phosphorus, and sediment reduc-
3 tions achieved during the preceding fiscal year,
4 expressed numerically and as a percentage of
5 reduction;

6 “(C) a list (organized from least to most
7 progress made) that ranks the comparative
8 progress made, based on the percentage of re-
9 duction under subparagraph (B), by each tribu-
10 tary basin toward meeting the annual allocation
11 goal of that tributary basin for nitrogen, phos-
12 phorus, and sediment; and

13 “(D) to the maximum extent practicable,
14 an identification of the principal sources of pol-
15 lutants of the tributaries, including airborne
16 sources of pollutants.

17 “(4) USE OF DATA; CONSIDERATION.—In pre-
18 paring the report card, the Administrator shall—

19 “(A) use monitoring data and data sub-
20 mitted under subsection (g)(1); and

21 “(B) take into consideration the effects of
22 drought and wet weather conditions on the con-
23 dition of water quality parameters.

24 “(5) DISTRIBUTION.—The Administrator
25 shall—

1 “(A) distribute report cards to appropriate
2 committees of the Senate and House of Rep-
3 resentatives;

4 “(B) post report cards on the Internet;
5 and

6 “(C) distribute paper copies of the report
7 cards to the public.”.

8 **SEC. 5. ACTIONS BY STATES.**

9 (a) IN GENERAL.—Section 117 of the Federal Water
10 Pollution Control Act (33 U.S.C. 1287) is amended by re-
11 designating subsections (g), (h), (i), and (j) as subsections
12 (i), (j), (k), and (l), respectively, and by inserting after
13 subsection (f) the following:

14 “(g) ACTIONS BY STATES.—

15 “(1) SUBMISSION OF INFORMATION.—Not later
16 than November 30 of each year, each of the States
17 of Delaware, Maryland, New York, Pennsylvania,
18 Virginia, and West Virginia and the District of Co-
19 lumbia shall submit to the Administrator informa-
20 tion describing, for each tributary basin located in
21 the State or District of Columbia, for the preceding
22 fiscal year—

23 “(A) the nutrient and sediment cap load
24 allocation of the basin;

1 “(B) the principal sources of nutrients and
2 sediment in the basin, by category;

3 “(C) for each category of pollutant source,
4 the technologies and practices used to achieve
5 reductions, including levels of best management
6 practices implementation and sewage treatment
7 plan upgrades; and

8 “(D) any Federal, State, or non-Federal
9 funding used to implement a technology or
10 practice described in subparagraph (C).

11 “(2) FAILURE TO ACT.—The Administrator
12 shall not make a grant to a State under this section
13 if the State fails to submit any information in ac-
14 cordance with paragraph (1).”.

15 (b) CONFORMING AMENDMENTS.—Such section is
16 further amended—

17 (1) in subsection (d)(2)(B) by striking “(g)(2)”
18 and inserting “(i)(3)”; and

19 (2) in subsection (e)(2)(B)(i) by striking “and
20 its”.

21 **SEC. 6. PLANNING AND BUDGET REQUIREMENTS.**

22 Section 117 of the Federal Water Pollution Control
23 Act (33 U.S.C. 1287) (as amended by section 4(a) of this
24 Act) is further amended by inserting after subsection (g)
25 the following:

1 “(h) PLANNING AND BUDGET REQUIREMENTS.—

2 “(1) ANNUAL BUDGET PLAN.—Not later than
3 April 15 of each year, the Director of the Office of
4 Management and Budget, in cooperation with the
5 Administrator, the Secretary of the Interior, the
6 Secretary of Agriculture, the Secretary of Com-
7 merce, the Secretary of Defense, and the heads of
8 other appropriate Federal agencies, shall submit to
9 the appropriate committees of the Senate and the
10 House of Representatives a report containing—

11 “(A) an interagency crosscut budget that
12 displays the proposed budget for use by each
13 Federal agency in carrying out restoration ac-
14 tivities relating to the Chesapeake Bay for the
15 following fiscal year; and

16 “(B) a detailed accounting of all funds re-
17 ceived and obligated by Federal and State gov-
18 ernments (including formula and grant funds,
19 such as State revolving loan funds and agri-
20 culture conservation funds) to achieve the goals
21 of the Chesapeake Bay Agreement during the
22 preceding fiscal year.

23 “(2) ROLE OF FEDERAL GOVERNMENT.—Not
24 later than 120 days after the date of enactment of
25 the Chesapeake Bay Restoration Enhancement Act

1 of 2005, the Council on Environmental Quality shall
2 provide to Congress a document briefly describing
3 the Federal role in the Chesapeake Bay Program
4 and the specific role of each Federal agency involved
5 in Chesapeake Bay restoration.

6 “(3) FEDERAL ACTIONS.—Federal agencies act-
7 ing in the Chesapeake Bay watershed should plan
8 and execute, to the maximum extent practicable,
9 such activities to support the achievement of Ches-
10 apeake Bay Agreement goals.”.

11 **SEC. 7. CHESAPEAKE BAY PROGRAM.**

12 Section 117(i) of the Federal Water Pollution Control
13 Act (33 U.S.C. 1287) (as redesignated by section 4(a) of
14 this Act) is amended—

15 (1) in paragraph (1)—

16 (A) by inserting “tributary strategies and”
17 after “ensure that”;

18 (B) by striking “and implementation is
19 begun” and inserting “, approved, and imple-
20 mented”;

21 (C) by inserting “all or a significant por-
22 tion of” after “signatories to”; and

23 (D) by striking “and its”;

24 (2) by redesignating paragraph (2) as para-
25 graph (3);

1 (3) by inserting after paragraph (1) the fol-
2 lowing:

3 “(2) LOCAL GOVERNMENT INVOLVEMENT.—

4 “(A) MEASURABLE GOALS.—The Adminis-
5 trator shall establish, in coordination with other
6 members of the Chesapeake Executive Council
7 and the Local Government Advisory Committee,
8 measurable goals for local governments to
9 achieve toward Chesapeake Bay Agreement nu-
10 trient and sediment reduction goals not later
11 than 120 days after the date of enactment of
12 the Chesapeake Bay Restoration Enhancement
13 Act of 2005.

14 “(B) CONSIDERATION OF PRIORITIES.—In
15 preparing an annual budget for the Chesapeake
16 Bay under subsection (h)(1), the Administrator
17 shall consider priorities for funding needs rec-
18 ommended by the Local Government Advisory
19 Committee.”;

20 (4) in paragraph (3)(A) (as redesignated by
21 paragraph (2) of this section) by striking “as part
22 of the Chesapeake Bay Program; and” and inserting
23 “to support tributary strategies and other projects
24 toward achievement of Chesapeake Bay Agreement
25 goals;”;

1 (5) in paragraph (3) (as redesignated by para-
2 graph (2) of this section) by striking subparagraph
3 (B) and inserting the following:

4 “(B) provide technical assistance and as-
5 sistance grants under subsection (d) to local
6 governments and nonprofit organizations and
7 individuals in the Chesapeake Bay watershed to
8 implement tributary strategies and other coop-
9 erative, locally based protection and restoration
10 programs or projects within a tributary basin
11 that complement the tributary strategy for such
12 basin, including—

13 “(i) the improvement of water quality
14 toward Chesapeake Bay Agreement goals;
15 or

16 “(ii) the creation, restoration, protec-
17 tion, or enhancement of habitat associated
18 with the Chesapeake Bay ecosystem;

19 “(C) under the small watershed grants
20 program, make such grants—

21 “(i) so that local governments receive
22 not less than 40 percent of total annually
23 amount appropriated to carry out such
24 program; and

1 “(ii) taking into consideration priority
2 recommendations provided to the Chesapeake
3 Executive Council by the Local Government
4 Advisory Committee; and

5 “(D) consider recommendations of the
6 Local Government Advisory Committee with regard
7 to sufficiency of grant requests in meeting
8 tributary strategy goals.”; and

9 (6) by adding at the end the following:

10 “(4) WASTELOAD ALLOCATIONS.—Before May
11 11, 2001, the load allocations in the tributary strategies
12 for any activity for which a permit is issued
13 under section 402 of this Act for the Chesapeake
14 Bay watershed shall be treated as the functional
15 equivalent of wasteload allocations for total maximum
16 daily loads and shall be incorporated in such
17 permit.”.

18 **SEC. 8. STUDY OF CHESAPEAKE BAY PROGRAM.**

19 Section 117(j) of the Federal Water Pollution Control
20 Act (33 U.S.C. 1287(j)) (as redesignated by section 4(a)
21 of this Act) is amended—

22 (1) in paragraph (2)(B) by striking “and 1995”
23 and inserting “1995, and 2005”; and

24 (2) in paragraph (2)(C)—

1 (A) by inserting after “management strate-
2 gies” the following: “, including tributary strat-
3 egies,”; and

4 (B) by striking “on the date of enactment
5 of this section”.

6 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

7 Section 117 of the Federal Water Pollution Control
8 Act (33 U.S.C. 1287) (as amended by section 4(a) of this
9 Act) is amended by striking subsections (k) and (l) and
10 inserting the following:

11 “(k) AUTHORIZATION OF APPROPRIATIONS.—

12 “(1) IN GENERAL.—There is authorized to be
13 appropriated \$40,000,000 for each of fiscal years
14 2007 through 2011 to carry out this section (other
15 than subsection (i)(3)).

16 “(2) SMALL WATERSHED GRANTS PROGRAM.—
17 There is authorized to be appropriated \$10,000,000
18 for each of fiscal years 2007 through 2011 to carry
19 out subsection (i)(3).

20 “(3) PERIOD OF AVAILABILITY.—Funds appro-
21 priated to carry out this section shall remain avail-
22 able until expended.”.

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