

109TH CONGRESS
1ST SESSION

S. 1490

To amend the Federal Water Pollution Control Act to require environmental accountability and reporting and to reauthorize the Chesapeake Bay Program.

IN THE SENATE OF THE UNITED STATES

JULY 26, 2005

Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. ALLEN, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Federal Water Pollution Control Act to require environmental accountability and reporting and to 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 Pro-
5 gram Reauthorization and Environmental Accountability
6 Act of 2005”.

1 **SEC. 2. CHESAPEAKE BAY ENVIRONMENTAL ACCOUNT-**
 2 **ABILITY AND REPORTING REQUIREMENTS.**

3 Section 117 of the Federal Water Pollution Control
 4 Act (33 U.S.C. 1267) is amended—

5 (1) by redesignating subsection (j) as sub-
 6 section (l);

7 (2) in subsection (e)(7), by inserting “by the
 8 Federal Government or a State government” after
 9 “funded” each place it appears; and

10 (3) by inserting after subsection (i) the fol-
 11 lowing:

12 “(j) ENVIRONMENTAL ACCOUNTABILITY.—

13 “(1) IMPLEMENTATION PLAN.—

14 “(A) IN GENERAL.—Not later than 180
 15 days after the date of enactment of this para-
 16 graph, the Administrator shall complete a plan
 17 for achieving the nutrient and sediment reduc-
 18 tion goals described in the agreement entered
 19 into by the Chesapeake Executive Council enti-
 20 tled ‘Chesapeake 2000’ and dated June 28,
 21 2000.

22 “(B) INCLUSIONS.—The plan shall in-
 23 clude—

24 “(i) a timeline identifying—

1 “(I) annual goals for achieving
2 the overall nutrient and sediment re-
3 duction goals; and

4 “(II) the estimated annual costs
5 of reaching the annual goals identified
6 under subclause (I);

7 “(ii) a description of any measure, in-
8 cluding monitoring or modeling, that the
9 Administrator will use to assess progress
10 made toward achieving a goal described in
11 subparagraph (A) in—

12 “(I) each jurisdictional tributary
13 strategy basin of the Chesapeake Bay;
14 and

15 “(II) the Chesapeake Bay water-
16 shed as a whole; and

17 “(iii) a description of any Federal or
18 non-Federal activity necessary to achieve
19 the nutrient and sediment reduction goals,
20 including an identification of any party
21 that is responsible for carrying out the ac-
22 tivity.

23 “(2) ANNUAL TRIBUTARY HEALTH REPORT
24 CARD.—

1 “(A) IN GENERAL.—Not later than Janu-
2 ary 31 of each year, the Administrator shall
3 publish and widely circulate a ‘tributary health
4 report card’ to evaluate, based on monitoring
5 and modeling data, progress made during the
6 preceding year (including any practice imple-
7 mented during the year), and overall progress
8 made, in achieving and maintaining nutrient
9 and sediment reduction goals for each major
10 tributary of the Chesapeake Bay and each sepa-
11 rable segment of such a tributary.

12 “(B) BASELINE.—The baseline for the re-
13 port card (referred to in this paragraph as the
14 ‘baseline’) shall be the tributary cap load alloca-
15 tion agreement numbered EPA 903–R–03–007,
16 dated December 2003, and entitled ‘Setting and
17 Allocating the Chesapeake Bay Basin Nutrient
18 and Sediment Loads: The Collaborative Proc-
19 ess, Technical Tools and Innovative Ap-
20 proaches’.

21 “(C) INCLUSIONS.—The report card shall
22 include, for each jurisdictional tributary strat-
23 egy basin of the Chesapeake Bay—

1 “(i) an identification of the total allo-
2 cation of nutrients and sediments under
3 the baseline;

4 “(ii) the monitored and modeled quan-
5 tities of nitrogen, phosphorus, and sedi-
6 ment reductions achieved during the pre-
7 ceding year, expressed numerically and as
8 a percentage of reduction;

9 “(iii) a list (organized from least to
10 most progress made) that ranks the com-
11 parative progress made, based on the per-
12 centage of reduction under clause (ii), by
13 each jurisdictional tributary strategy basin
14 toward meeting the annual allocation goal
15 of that jurisdictional tributary strategy
16 basin for nitrogen, phosphorus, and sedi-
17 ment; and

18 “(iv) to the maximum extent prac-
19 ticable, an identification of the principal
20 sources of pollutants of the tributaries, in-
21 cluding airborne sources of pollutants.

22 “(D) USE OF DATA; CONSIDERATION.—In
23 preparing the report, the Administrator shall—

24 “(i) use monitoring data and data
25 submitted under paragraph (3)(A); and

1 “(ii) take into consideration drought
2 and wet weather conditions.

3 “(3) ACTIONS BY STATES.—

4 “(A) SUBMISSION OF INFORMATION.—Not
5 later than December 31 of each year, each of
6 the States of Delaware, Maryland, New York,
7 Pennsylvania, Virginia, and West Virginia and
8 the District of Columbia shall submit to the Ad-
9 ministrators information describing, for each ju-
10 risdictional tributary strategy basin of the
11 Chesapeake Bay located in the State or Dis-
12 trict, for the preceding year—

13 “(i) the nutrient and sediment cap
14 load allocation of the jurisdictional tribu-
15 tary strategy basin;

16 “(ii) the principal sources of nutrients
17 and sediment in the jurisdictional tributary
18 strategy basin, by category;

19 “(iii) for each category of pollutant
20 source, the technologies or practices used
21 to achieve reductions, including levels of
22 best management practices implementation
23 and sewage treatment plant upgrades; and

1 “(iv) any Federal, State, or non-Fed-
 2 eral funding used to implement a tech-
 3 nology or practice described in clause (iii).

4 “(B) AUDIT.—Not later than 1 year after
 5 the date of enactment of this subparagraph,
 6 and triennially thereafter, the Inspector General
 7 of the Environmental Protection Agency shall
 8 audit the information submitted by States
 9 under subparagraph (A) for accuracy.

10 “(C) FAILURE TO ACT.—The Adminis-
 11 trator shall not make a grant to a State under
 12 this Act if the State fails to submit any infor-
 13 mation in accordance with subparagraph (A).

14 “(k) REPORTING REQUIREMENTS.—

15 “(1) OFFICE OF MANAGEMENT AND BUDGET.—

16 “(A) INITIAL REPORT.—Not later than
 17 180 days after the date of enactment of this
 18 subsection, the Director of the Office of Man-
 19 agement and Budget shall submit to the appro-
 20 priate committees of the Senate and the House
 21 of Representatives a report describing the feasi-
 22 bility and advisability of—

23 “(i) combining into a single fund cer-
 24 tain or all funds (including formula and
 25 grant funds) made available to each Fed-

1 eral agency to carry out restoration activi-
2 ties relating to the Chesapeake Bay; and

3 “(ii) notwithstanding any issue relat-
4 ing to jurisdiction, distributing amounts
5 from that fund in accordance with the pri-
6 ority of water quality improvement activi-
7 ties identified under the Chesapeake Bay
8 Program.

9 “(B) ANNUAL REPORT.—Not later than
10 February 15 of each year, the Director of the
11 Office of Management and Budget shall submit
12 to the appropriate committees of the Senate
13 and the House of Representatives a report con-
14 taining—

15 “(i) an interagency crosscut budget
16 that displays the proposed budget for use
17 by each Federal agency in carrying out
18 restoration activities relating to the Chesa-
19 peake Bay for the following fiscal year;
20 and

21 “(ii) a detailed accounting of all funds
22 received and obligated by Federal and
23 State governments (including formula and
24 grant funds, such as State revolving loan
25 funds and agriculture conservation funds)

1 to achieve the objectives of the Chesapeake
 2 Bay Program during the preceding fiscal
 3 year.

4 “(2) ENVIRONMENTAL PROTECTION AGENCY.—
 5 Not later than April 15 of each year, the Adminis-
 6 trator, in cooperation with appropriate Federal
 7 agencies, as determined by the Administrator, shall
 8 submit to the appropriate committees of the Senate
 9 and the House of Representatives a report con-
 10 taining—

11 “(A)(i) an estimate of the reduction in lev-
 12 els of nutrients and sediments in the Chesa-
 13 peake Bay and its tributaries; and

14 “(ii) a comparison of each estimated reduc-
 15 tion under clause (i) and the appropriate an-
 16 nual goal described in the implementation plan
 17 under subsection (j)(1);

18 “(B) based on review by the Administrator
 19 of the budget and implementation plans of each
 20 Federal agency, and any tributary strategy of
 21 an appropriate State agency—

22 “(i) an estimate of the reductions in
 23 pollutants likely to occur as a result of
 24 each program of an agency under this sec-

tion during the subsequent 1-year and 5-year periods, including—

“(I) an analysis of the success or failure of each program in achieving nutrient and sediment reduction; and

“(II) an estimated timeline during which a reduction in nutrient and sediment pollution will occur; and

“(ii) accounting for other trend data, an estimate of the actual reduction in the quantities of nutrients and sediments in the Chesapeake Bay and its tributaries from all sources that has occurred over the preceding 1-year and 5-year periods; and

“(C) the technical basis and reliability of each estimate under this paragraph.”.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267) is amended by striking subsection (l) (as redesignated by section 2) and inserting the following:

“(l) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section

- 1 \$50,000,000 for each of fiscal years 2006 through 2010,
- 2 to remain available until expended.”.

