

111TH CONGRESS  
1ST SESSION

# H. R. 3265

To amend the Federal Water Pollution Control Act to reduce pollution resulting from impervious surfaces within the Chesapeake Bay watershed, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2009

Mr. CONNOLLY of Virginia (for himself and Ms. NORTON) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend the Federal Water Pollution Control Act to reduce pollution resulting from impervious surfaces within the Chesapeake Bay watershed, and for other purposes.

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 Act of 2009”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

8               (1) Between the years 1990 and 2000, the pop-  
9       ulation of the Chesapeake Bay watershed increased

1       8 percent while impervious surface cover increased  
2       41 percent.

3           (2) Suburban and urban stormwater runoff is  
4       the only major source of pollution in the Chesapeake  
5       Bay watershed that is increasing, as pollution from  
6       point sources and agriculture is decreasing.

7           (3) States, local governments, developers, and  
8       nonprofit organizations have developed numerous de-  
9       velopment techniques since the late 1990s, which use  
10      infiltration, plants, and stormwater harvesting tech-  
11      niques to retain stormwater and associated sedi-  
12      mentation and nutrient pollutants.

13          (4) A study by the Environmental Protection  
14      Agency of low impact development projects in the  
15      United States found that low impact development  
16      stormwater management techniques are almost al-  
17      ways less expensive than traditional stormwater  
18      management techniques.

19          (5) Local governments throughout the Chesa-  
20      peake Bay watershed are proactively implementing  
21      retention techniques and strict new requirements to  
22      reduce stormwater runoff.

23          (6) The National Academy of Sciences rec-  
24      ommends strong new regulations with respect to  
25      stormwater runoff and the provision of funding for

1 local stormwater regulation efforts and finds that re-  
2 tention measures that infiltrate, evapotranspire and  
3 harvest stormwater are more effective than tradi-  
4 tional stormwater management infrastructure at  
5 protecting and restoring stable hydrology.

6 (7) Data from multiple jurisdictions with re-  
7 spect to the health of fish and other organisms living  
8 in Chesapeake Bay tributaries suggest a strong neg-  
9 ative correlation between impervious surface cover  
10 and stream health.

11 (8) According to the Environmental Protection  
12 Agency's Chesapeake Bay Program Office, an aver-  
13 age of 100 acres of forest are lost from the Chesa-  
14 peake Bay watershed every day and forest cover  
15 within the watershed has declined from 95 percent  
16 to 58 percent.

17 (9) Forests capture up to 85 percent of air-  
18 borne nitrogen pollution and infiltrate or  
19 evapotranspire between 90 percent and 95 percent  
20 of annual rainfall, preventing pollution associated  
21 with stormwater runoff.

22 **SEC. 3. REDUCTION OF POLLUTION RESULTING FROM IM-**  
23 **PERVIOUS SURFACES.**

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

1           (1) by redesignating subsection (j) as sub-  
2           section (k); and

3           (2) by inserting after subsection (i) the fol-  
4           lowing:

5           “(j) REDUCTION OF POLLUTION RESULTING FROM  
6 IMPERVIOUS SURFACES.—

7           “(1) PERMITS.—

8           “(A) IN GENERAL.—Not later than Janu-  
9           ary 1, 2009, each unit of local government  
10          within the Chesapeake Bay watershed that dis-  
11          charges stormwater through a storm sewer sys-  
12          tem, regardless of storm sewer system owner-  
13          ship and, without regard to the size of the pop-  
14          ulation shall obtain and comply with a permit  
15          under section 402(p).

16          “(B) REQUIREMENTS.—A permit under  
17          section 402(p) for a unit of local government  
18          within the Chesapeake Bay watershed shall in-  
19          clude requirements to ensure that a project to  
20          develop land within the jurisdiction of such unit  
21          of local government, which affects land that is  
22          more than one acre in size and that is less than  
23          5 percent covered by impervious surfaces prior  
24          to the project, is carried out in a manner that  
25          not less than the volume of the 95th percentile

precipitation event shall infiltrate, evapotranspire from, or be harvested and used on such site after the project is completed.

“(C) DEFINITION OF 95TH PERCENTILE PRECIPITATION EVENT.—The 95th percentile precipitation event is the event whose precipitation total is greater than or equal to 95 percent of all 24-hour storm events on an annual basis.

“(2) GRANT PROGRAM.—

“(A) IN GENERAL.—The Administrator is authorized to make grants to a unit of local government with a permit described under paragraph (1).

“(B) USES.—A grant under subparagraph (A) may be used by a unit of local government for the following:

“(i) Costs associated with complying with such permit.

“(ii) Costs associated with implementing a project that is designed, constructed, and maintained to meet the relevant performance standard of part (1)(B).

“(C) MATCHING REQUIREMENT.—A grant for costs associated with implementing a low

1 impact development project may not be in an  
2 amount that exceeds 75 percent of such costs.

3 “(3) ON-SITE RETENTION GUIDANCE.—Not  
4 later than June 1, 2010, the Administrator shall  
5 issue guidance with respect to the implementation of  
6 practices that retain stormwater on-site through in-  
7 filtration, evapotranspiration, or harvesting, to assist  
8 entities affected by the permit described under para-  
9 graph (1) to meet the requirements of such permit.

10 “(4) FOREST COVER.—Not later than January  
11 1, 2012, the Administrator shall coordinate with the  
12 heads of other Federal departments and agencies to  
13 develop plans to maximize forest cover on land  
14 owned by the Federal Government in the Chesa-  
15 peake Bay watershed through the preservation of ex-  
16 isting forest cover and the development of reforest-  
17 ation plans with respect to land that has been dis-  
18 turbed or developed in the past.

19 “(5) UNIT OF LOCAL GOVERNMENT DE-  
20 FINED.—In this subsection, the term ‘unit of local  
21 government’ means any county, city, or other gen-  
22 eral purpose political subdivision, including regional  
23 authorities of a State with jurisdiction over land use.

24 “(6) AUTHORIZATION OF APPROPRIATIONS.—In  
25 addition to amounts authorized to be appropriated

1       or otherwise made available to carry out this section,  
2       there is authorized to be appropriated to the Admin-  
3       istrator \$1,500,000,000 to carry out this subsection,  
4       to remain available until expended.”.

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