

CHESAPEAKE BAY PROGRAM REAUTHORIZATION ACT

DECEMBER 12, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DEFAZIO, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 1620]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 1620) to amend the Federal Water Pollution Control Act to reauthorize the Chesapeake Bay Program, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE OF LEGISLATION

H.R. 1620 reauthorizes Federal appropriations for the U.S. Environmental Protection Agency's (EPA) Chesapeake Bay Program with incremental increases over the next five years.

BACKGROUND AND NEED FOR LEGISLATION

The Chesapeake Bay is the largest estuary in the United States, covering more than 4,500 square miles, and draining a 64,000 square mile watershed that extends across parts of Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia.

In 1983, Congress established the Chesapeake Bay Program, authorized under section 117 of the Clean Water Act (33 U.S.C. 1267). The Chesapeake Bay Program implements the Chesapeake Bay Agreement, a periodically renewed agreement between executives in the six watershed states and the District of Columbia, a joint Bay state legislative body (the Chesapeake Bay Commission) and select federal agencies (including EPA) that aim to coordinate Bay restoration efforts. The most recent agreement was signed in 2014 (known as the 2014 Chesapeake Bay Watershed Agreement) and set a series of restoration goals and actions to be completed by 2025.

Other restoration plans—including the 2010 Chesapeake Bay Strategy for Protecting and Restoring the Chesapeake Bay Watershed (pursuant to Executive Order 13508), the 2010 Chesapeake Bay Total Maximum Daily Load (TMDL) (developed by EPA, under section 303(d) of the Clean Water Act, in coordination with the Bay watershed states), and a draft Comprehensive Plan from the U.S. Army Corps of Engineers—harmonize with the goals of the 2014 Chesapeake Bay Watershed Agreement and contain objectives for federal agencies and states.

Despite prior investments and increased attention, the Chesapeake Bay watershed and ecosystem remains under tremendous stress. Sustained and elevated levels of pollution, including nutrients and sediment, have resulted in water quality and habitat degradation and have also contributed to a decline in the population of some species.

The 2017 Chesapeake Bay TMDL Midpoint Assessment of state and Federal efforts found that the collaborative efforts of EPA, the Bay watershed states, and stakeholders have made considerable progress in reducing pollution to local waters and the Chesapeake Bay, resulting in record acreage of underwater grasses and the highest estimates of water quality standards attained in more than 30 years.¹ However, continued efforts with sustained funding are necessary to address sources of nutrient and sediment loads threatening the watershed, including agricultural runoff, wastewater treatment facilities, land-use changes, urban stormwater runoff, and atmospheric deposition.²

HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress, the following hearing was used to develop or consider H.R. 1620:

On June 25, 2019, the Subcommittee on Water Resources and Environment held a hearing, titled “Protecting and Restoring

¹EPA, Midpoint Assessment of the Chesapeake Bay Total Maximum Daily Load, July 27, 2018.

²EPA, Chesapeake Bay Compliance and Enforcement Strategy, May 2010. <https://www.epa.gov/sites/production/files/2015-04/documents/chesapeake-strategy-enforcement-2.pdf>.

America's Iconic Waters". The Subcommittee received testimony from: Preston D. Cole, Secretary, Wisconsin Department of Natural Resources; Dave Pine, Supervisor, District 1, San Mateo County Board of Supervisors, Chair of the San Francisco Bay Restoration Authority Governing Board; Laura Blackmore, Executive Director, Puget Sound Partnership; William C. Baker, President, Chesapeake Bay Foundation; Kristi Trail, Executive Director, Lake Pontchartrain Basin Foundation; and Tom Ford, Director, Santa Monica Bay National Estuary Program, The Bay Foundation. Topics discussed included the importance of reauthorization of EPA's Chesapeake Bay Program Office to continue making progress to restore and maintain the ecological health and water quality related to the Chesapeake Bay watershed.

LEGISLATIVE HISTORY AND CONSIDERATION

H.R. 1620 was introduced in the House on March 7, 2019, by Mrs. Luria, Mr. Wittman, Mr. Scott of Virginia, and Mr. Sarbanes, and referred to the Committee on Transportation and Infrastructure. Within the Committee, H.R. 1620 was referred to the Subcommittee on Water Resources and Environment.

The Chair discharged the Subcommittee on Water Resources and Environment from further consideration of H.R. 1620 on September 19, 2019.

The Committee met in open session to consider H.R. 1620 on September 19, 2019, and ordered the measure to be reported to the House with a favorable recommendation, without amendment, by voice vote, a quorum being present.

The following amendment was offered:

An amendment offered by Mr. Perry (#1); Add at the end a new section entitled "Sec. 3. Analysis Required."; was WITHDRAWN by unanimous consent.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against.

There were no recorded votes taken in connection with consideration of H.R. 1620.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 1620 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 2, 2019.

Hon. PETER A. DEFAZIO,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1620, the Chesapeake Bay Program Reauthorization Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephen Rabent.

Sincerely,

MARK P. HADLEY
(For Phillip L. Swagel, Director).

Enclosure.

H.R. 1620, Chesapeake Bay Program Reauthorization Act			
As ordered reported by the House Committee on Transportation and Infrastructure on September 20, 2019			
By Fiscal Year, Millions of Dollars	2020	2020-2024	2020-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	56	405	455
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

H.R. 4275 would authorize appropriations totaling \$455 million over the 2020–2024 period for the Environmental Protection Agency’s (EPA’s) Chesapeake Bay Program. That program provides technical assistance and grant funding for projects and programs aimed at restoring the Chesapeake Bay. In 2019, EPA received appropriations totaling \$73 million to carry out the program.

Assuming appropriation of the specified amounts and based on historical spending patterns, CBO estimates that implementing the bill would cost \$405 million over the 2020–2024 period and \$50 million after 2024. The costs of the legislation, detailed in Table 1, fall within budget function 300 (natural resources and environment).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 1620

	By fiscal year, millions of dollars—					
	2020	2021	2022	2023	2024	2020– 2024
Authorization	90	90	91	92	92	455
Estimated Outlays	56	77	86	91	92	405

The CBO staff contact for this estimate is Stephen Rabent. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to reauthorize Federal appropriations for EPA’s Chesapeake Bay Program Office to continue the collaborative efforts between EPA, the Bay watershed states, and stakeholders to continue progress in improving water quality and reducing pollution to the Chesapeake Bay.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 1620 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee finds that H.R. 1620 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides that this bill may be cited as the “Chesapeake Bay Program Reauthorization Act”.

Sec. 2. Reauthorization of Chesapeake Bay Program

This section amends section 117(j) of the Federal Water Pollution Control Act to authorize Federal appropriations for the Chesapeake Bay Program in the following amounts: \$90 million for fiscal year 2020; \$90.5 million for fiscal year 2021; \$91 million for fiscal year 2022; \$91.5 million for fiscal year 2023; and \$92 million for fiscal year 2024.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

FEDERAL WATER POLLUTION CONTROL ACT

* * * * *

TITLE I—RESEARCH AND RELATED PROGRAMS

* * * * *

SEC. 117. CHESAPEAKE BAY.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ADMINISTRATIVE COST.—The term “administrative cost” means the cost of salaries and fringe benefits incurred in administering a grant under this section.

(2) CHESAPEAKE BAY AGREEMENT.—The term “Chesapeake Bay Agreement” means the formal, voluntary agreements executed to achieve the goal of restoring and protecting the Chesapeake Bay ecosystem and the living resources of the Chesapeake Bay ecosystem and signed by the Chesapeake Executive Council.

(3) CHESAPEAKE BAY ECOSYSTEM.—The term “Chesapeake Bay ecosystem” means the ecosystem of the Chesapeake Bay and its watershed.

(4) CHESAPEAKE BAY PROGRAM.—The term “Chesapeake Bay Program” means the program directed by the Chesapeake Executive Council in accordance with the Chesapeake Bay Agreement.

(5) CHESAPEAKE EXECUTIVE COUNCIL.—The term “Chesapeake Executive Council” means the signatories to the Chesapeake Bay Agreement.

(6) SIGNATORY JURISDICTION.—The term “signatory jurisdiction” means a jurisdiction of a signatory to the Chesapeake Bay Agreement.

(b) CONTINUATION OF CHESAPEAKE BAY PROGRAM.—

(1) IN GENERAL.—In cooperation with the Chesapeake Executive Council (and as a member of the Council), the Administrator shall continue the Chesapeake Bay Program.

(2) PROGRAM OFFICE.—

(A) IN GENERAL.—The Administrator shall maintain in the Environmental Protection Agency a Chesapeake Bay Program Office.

(B) FUNCTION.—The Chesapeake Bay Program Office shall provide support to the Chesapeake Executive Council by—

(i) implementing and coordinating science, research, modeling, support services, monitoring, data collection, and other activities that support the Chesapeake Bay Program;

(ii) developing and making available, through publications, technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Chesapeake Bay ecosystem;

(iii) in cooperation with appropriate Federal, State, and local authorities, assisting the signatories to the Chesapeake Bay Agreement in developing and implementing specific action plans to carry out the responsibilities of the signatories to the Chesapeake Bay Agreement;

(iv) coordinating the actions of the Environmental Protection Agency with the actions of the appropriate officials of other Federal agencies and State and local authorities in developing strategies to—

(I) improve the water quality and living resources in the Chesapeake Bay ecosystem; and

(II) obtain the support of the appropriate officials of the agencies and authorities in achieving the objectives of the Chesapeake Bay Agreement; and

(v) implementing outreach programs for public information, education, and participation to foster stewardship of the resources of the Chesapeake Bay.

(c) INTERAGENCY AGREEMENTS.—The Administrator may enter into an interagency agreement with a Federal agency to carry out this section.

(d) TECHNICAL ASSISTANCE AND ASSISTANCE GRANTS.—

(1) IN GENERAL.—In cooperation with the Chesapeake Executive Council, the Administrator may provide technical assist-

ance, and assistance grants, to nonprofit organizations, State and local governments, colleges, universities, and interstate agencies to carry out this section, subject to such terms and conditions as the Administrator considers appropriate.

(2) FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of an assistance grant provided under paragraph (1) shall be determined by the Administrator in accordance with guidance issued by the Administrator.

(B) SMALL WATERSHED GRANTS PROGRAM.—The Federal share of an assistance grant provided under paragraph (1) to carry out an implementing activity under subsection (g)(2) shall not exceed 75 percent of eligible project costs, as determined by the Administrator.

(3) NON-FEDERAL SHARE.—An assistance grant under paragraph (1) shall be provided on the condition that non-Federal sources provide the remainder of eligible project costs, as determined by the Administrator.

(4) ADMINISTRATIVE COSTS.—Administrative costs shall not exceed 10 percent of the annual grant award.

(e) IMPLEMENTATION AND MONITORING GRANTS.—

(1) IN GENERAL.—If a signatory jurisdiction has approved and committed to implement all or substantially all aspects of the Chesapeake Bay Agreement, on the request of the chief executive of the jurisdiction, the Administrator—

(A) shall make a grant to the jurisdiction for the purpose of implementing the management mechanisms established under the Chesapeake Bay Agreement, subject to such terms and conditions as the Administrator considers appropriate; and

(B) may make a grant to a signatory jurisdiction for the purpose of monitoring the Chesapeake Bay ecosystem.

(2) PROPOSALS.—

(A) IN GENERAL.—A signatory jurisdiction described in paragraph (1) may apply for a grant under this subsection for a fiscal year by submitting to the Administrator a comprehensive proposal to implement management mechanisms established under the Chesapeake Bay Agreement.

(B) CONTENTS.—A proposal under subparagraph (A) shall include—

(i) a description of proposed management mechanisms that the jurisdiction commits to take within a specified time period, such as reducing or preventing pollution in the Chesapeake Bay and its watershed or meeting applicable water quality standards or established goals and objectives under the Chesapeake Bay Agreement; and

(ii) the estimated cost of the actions proposed to be taken during the fiscal year.

(3) APPROVAL.—If the Administrator finds that the proposal is consistent with the Chesapeake Bay Agreement and the national goals established under section 101(a), the Administrator may approve the proposal for an award.

(4) FEDERAL SHARE.—The Federal share of a grant under this subsection shall not exceed 50 percent of the cost of implementing the management mechanisms during the fiscal year.

(5) NON-FEDERAL SHARE.—A grant under this subsection shall be made on the condition that non-Federal sources provide the remainder of the costs of implementing the management mechanisms during the fiscal year.

(6) ADMINISTRATIVE COSTS.—Administrative costs shall not exceed 10 percent of the annual grant award.

(7) REPORTING.—On or before October 1 of each fiscal year, the Administrator shall make available to the public a document that lists and describes, in the greatest practicable degree of detail—

(A) all projects and activities funded for the fiscal year;

(B) the goals and objectives of projects funded for the previous fiscal year; and

(C) the net benefits of projects funded for previous fiscal years.

(f) FEDERAL FACILITIES AND BUDGET COORDINATION.—

(1) SUBWATERSHED PLANNING AND RESTORATION.—A Federal agency that owns or operates a facility (as defined by the Administrator) within the Chesapeake Bay watershed shall participate in regional and subwatershed planning and restoration programs.

(2) COMPLIANCE WITH AGREEMENT.—The head of each Federal agency that owns or occupies real property in the Chesapeake Bay watershed shall ensure that the property, and actions taken by the agency with respect to the property, comply with the Chesapeake Bay Agreement, the Federal Agencies Chesapeake Ecosystem Unified Plan, and any subsequent agreements and plans.

(3) BUDGET COORDINATION.—

(A) IN GENERAL.—As part of the annual budget submission of each Federal agency with projects or grants related to restoration, planning, monitoring, or scientific investigation of the Chesapeake Bay ecosystem, the head of the agency shall submit to the President a report that describes plans for the expenditure of the funds under this section.

(B) DISCLOSURE TO THE COUNCIL.—The head of each agency referred to in subparagraph (A) shall disclose the report under that subparagraph with the Chesapeake Executive Council as appropriate.

(g) CHESAPEAKE BAY PROGRAM.—

(1) MANAGEMENT STRATEGIES.—The Administrator, in coordination with other members of the Chesapeake Executive Council, shall ensure that management plans are developed and implementation is begun by signatories to the Chesapeake Bay Agreement to achieve and maintain—

(A) the nutrient goals of the Chesapeake Bay Agreement for the quantity of nitrogen and phosphorus entering the Chesapeake Bay and its watershed;

(B) the water quality requirements necessary to restore living resources in the Chesapeake Bay ecosystem;

(C) the Chesapeake Bay Basinwide Toxins Reduction and Prevention Strategy goal of reducing or eliminating the input of chemical contaminants from all controllable sources to levels that result in no toxic or bioaccumulative impact on the living resources of the Chesapeake Bay ecosystem or on human health;

(D) habitat restoration, protection, creation, and enhancement goals established by Chesapeake Bay Agreement signatories for wetlands, riparian forests, and other types of habitat associated with the Chesapeake Bay ecosystem; and

(E) the restoration, protection, creation, and enhancement goals established by the Chesapeake Bay Agreement signatories for living resources associated with the Chesapeake Bay ecosystem.

(2) SMALL WATERSHED GRANTS PROGRAM.—The Administrator, in cooperation with the Chesapeake Executive Council, shall—

(A) establish a small watershed grants program as part of the Chesapeake Bay Program; and

(B) offer technical assistance and assistance grants under subsection (d) to local governments and nonprofit organizations and individuals in the Chesapeake Bay region to implement—

(i) cooperative tributary basin strategies that address the water quality and living resource needs in the Chesapeake Bay ecosystem; and

(ii) locally based protection and restoration programs or projects within a watershed that complement the tributary basin strategies, including the creation, restoration, protection, or enhancement of habitat associated with the Chesapeake Bay ecosystem.

(h) STUDY OF CHESAPEAKE BAY PROGRAM.—

(1) IN GENERAL.—Not later than April 22, 2003, and every 5 years thereafter, the Administrator, in coordination with the Chesapeake Executive Council, shall complete a study and submit to Congress a comprehensive report on the results of the study.

(2) REQUIREMENTS.—The study and report shall—

(A) assess the state of the Chesapeake Bay ecosystem;

(B) compare the current state of the Chesapeake Bay ecosystem with its state in 1975, 1985, and 1995;

(C) assess the effectiveness of management strategies being implemented on the date of enactment of this section and the extent to which the priority needs are being met;

(D) make recommendations for the improved management of the Chesapeake Bay Program either by strengthening strategies being implemented on the date of enactment of this section or by adopting new strategies; and

(E) be presented in such a format as to be readily transferable to and usable by other watershed restoration programs.

(i) SPECIAL STUDY OF LIVING RESOURCE RESPONSE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator shall commence a

5-year special study with full participation of the scientific community of the Chesapeake Bay to establish and expand understanding of the response of the living resources of the Chesapeake Bay ecosystem to improvements in water quality that have resulted from investments made through the Chesapeake Bay Program.

(2) REQUIREMENTS.—The study shall—

(A) determine the current status and trends of living resources, including grasses, benthos, phytoplankton, zooplankton, fish, and shellfish;

(B) establish to the extent practicable the rates of recovery of the living resources in response to improved water quality condition;

(C) evaluate and assess interactions of species, with particular attention to the impact of changes within and among trophic levels; and

(D) recommend management actions to optimize the return of a healthy and balanced ecosystem in response to improvements in the quality and character of the waters of the Chesapeake Bay.

(3) ANNUAL SURVEY.—The Administrator shall carry out an annual survey of sea grasses in the Chesapeake Bay.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section ~~【\$40,000,000 for each of fiscal years 2001 through 2005】~~ *\$90,000,000 for fiscal year 2020, \$90,500,000 for fiscal year 2021, \$91,000,000 for fiscal year 2022, \$91,500,000 for fiscal year 2023, and \$92,000,000 for fiscal year 2024.* Such sums shall remain available until expended.

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