

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> 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 Ches-  
6 peake 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 COM-  
12 MITTEE.—The term ‘Local Government Advisory  
13 Committee’ means the committee of the same name  
14 formed through the 1987 Chesapeake Bay Agree-  
15 ment. The committee may include representative  
16 members from all jurisdictions within the Ches-  
17 peake Bay watershed.

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

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.”.

○