

111TH CONGRESS
2^D SESSION

H. R. 5509

To support efforts to reduce pollution of the Chesapeake Bay watershed and to verify that reductions in pollution have been achieved, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 2010

Mr. HOLDEN (for himself and Mr. GOODLATTE) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To support efforts to reduce pollution of the Chesapeake Bay watershed and to verify that reductions in pollution have been achieved, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Chesapeake Bay Program Reauthorization and Improve-
6 ment Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Modification of Chesapeake Bay Program under Clean Water Act.
- Sec. 3. Establishment of independent commission to oversee and administer nutrient and sediment trading program for Chesapeake Bay States.
- Sec. 4. Chesapeake Bay watershed assurance standards.
- Sec. 5. Technical guidelines for environmental services markets.
- Sec. 6. Chesapeake Bay watershed pilot program for creating environmental service markets.

3 **SEC. 2. MODIFICATION OF CHESAPEAKE BAY PROGRAM**
 4 **UNDER CLEAN WATER ACT.**

5 (a) DEFINITIONS.—Section 117(a) of the Federal
 6 Water Pollution Control Act (33 U.S.C. 1267(a)) is
 7 amended—

8 (1) by redesignating paragraphs (5) and (6) as
 9 paragraphs (6) and (9), respectively;

10 (2) by inserting after paragraph (4) the fol-
 11 lowing new paragraph:

12 “(5) CHESAPEAKE BAY STATE.—The term
 13 ‘Chesapeake Bay State’ or ‘State’ means Delaware,
 14 Maryland, New York, Pennsylvania, Virginia, West
 15 Virginia, and the District of Columbia.”; and

16 (3) by inserting after paragraph (6), as redesign-
 17 ated, the following new paragraphs:

18 “(7) CHIEF EXECUTIVE.—The term ‘chief execu-
 19 tive’ means—

1 “(A) in the case of a State or Common-
2 wealth, the Governor of the State or Common-
3 wealth; and

4 “(B) in the case of the District of Colum-
5 bia, the Mayor of the District of Columbia.

6 “(8) RESTORATION ACTIVITIES.—The term
7 ‘restoration activities’ means any Federal or State
8 programs that directly protect, conserve, or restore
9 habitat, water resources, or water quality in the
10 Chesapeake Bay watershed, including programs that
11 promote responsible land use and stewardship in the
12 Chesapeake Bay ecosystem.”.

13 (b) CHESAPEAKE BAY CROSSCUT FINANCIAL RE-
14 PORT.—Section 117 of the Federal Water Pollution Con-
15 trol Act (33 U.S.C. 1267) is amended by striking sub-
16 section (j) and inserting the following new subsection:

17 “(j) FINANCIAL REPORT.—

18 “(1) FINANCIAL REPORT REQUIRED.—Begin-
19 ning with the budget submission for fiscal year
20 2012, the Director of the Office of Management and
21 Budget, in consultation with other appropriate Fed-
22 eral agencies and the chief executive of each Chesa-
23 peake Bay State, shall submit to Congress a finan-
24 cial report containing—

1 “(A) a summary of an interagency crosscut
2 budget that displays—

3 “(i) the proposed funding for any
4 Federal restoration activity to be carried
5 out in the succeeding fiscal year, including
6 any planned interagency or intra-agency
7 transfer, for each of the Federal agencies
8 that carry out restoration activities;

9 “(ii) to the extent that information is
10 available, the estimated funding for any
11 State restoration activity to be carried out
12 in the succeeding fiscal year;

13 “(iii) all expenditures for Federal res-
14 toration activities from the preceding 3 fis-
15 cal years, the current fiscal year, and the
16 succeeding fiscal year; and

17 “(iv) all expenditures, to the extent
18 that information is available, for State res-
19 toration activities during the equivalent
20 time period described in clause (iii);

21 “(B) a detailed accounting of all funds re-
22 ceived and obligated by all Federal agencies for
23 restoration activities during the current and
24 preceding fiscal years, including the identifica-

1 tion of funds which were transferred to a
2 Chesapeake Bay State for restoration activities;

3 “(C) to the extent that information is
4 available, a detailed accounting from each State
5 of all funds received and obligated from a Fed-
6 eral agency for restoration activities during the
7 current and preceding fiscal years; and

8 “(D) a description of each of the proposed
9 Federal and State restoration activities to be
10 carried out in the succeeding fiscal year (cor-
11 responding to those activities listed in clauses
12 (i) and (ii) of subparagraph (A)).

13 “(2) SUBMISSION.—Not later than 30 days
14 after the submission by the President of the annual
15 budget to Congress, the Director shall submit the re-
16 port required by paragraph (1) to the following con-
17 gressional committees:

18 “(A) The Committees on Agriculture, Ap-
19 propriations, Natural Resources, Energy and
20 Commerce, and Transportation and Infrastruc-
21 ture of the House of Representatives.

22 “(B) The Committees on Agriculture, Nu-
23 trition, and Forestry, Appropriations, Environ-
24 ment and Public Works, and Commerce,
25 Science, and Transportation of the Senate.”.

1 (c) TRANSPARENCY AND ACCOUNTABILITY.—Section
2 117 of the Federal Water Pollution Control Act (33
3 U.S.C. 1267) is amended by adding at the end the fol-
4 lowing new subsection:

5 “(k) TRANSPARENCY AND ACCOUNTABILITY RE-
6 QUIREMENTS.—

7 “(1) STATE REPORTS.—Not later than 10 days
8 after the end of each calendar quarter, each State
9 that received funds from a Federal agency under
10 subsection (n)(1)(B) shall submit a report to the
11 head of the agency that—

12 “(A) identifies the total amount of funds
13 received from the agency under such provisions
14 during the preceding calendar quarter;

15 “(B) identifies the amount of funds re-
16 ceived from the agency under such provisions
17 during the preceding calendar quarter or earlier
18 that were obligated or expended for projects or
19 activities during the preceding calendar quarter;
20 and

21 “(C) contains a list of all projects or activi-
22 ties for which the funds were obligated or ex-
23 pended, except that such list shall not include
24 personal identifying information of individual
25 recipients.

1 “(2) AGENCY REPORTS.—Not later than 30
2 days after the end of each calendar quarter, the
3 head of each Federal agency that made funds avail-
4 able under subsection (n)(1)(B) to any State shall
5 provide the information received in reports sub-
6 mitted under paragraph (1) to the Administrator.
7 The Administrator shall publish the information on
8 a publicly available website, as provided in para-
9 graph (4).

10 “(3) INITIAL COMPLIANCE.—Not later than 180
11 days after the date of the enactment of the Chesa-
12 peake Bay Program Reauthorization and Improve-
13 ment Act, the head of each Federal agency providing
14 funds under subsection (n)(1)(B) shall require, as a
15 condition of receipt of the funds, a State recipient
16 of the funds to provide the information required
17 under paragraph (1).

18 “(4) WEBSITE.—

19 “(A) WEBSITE REQUIRED.—The Adminis-
20 trator shall establish and maintain, no later
21 than 30 days after enactment of the Chesa-
22 peake Bay Program Reauthorization and Im-
23 provement Act, a user-friendly, public-facing
24 website to foster greater accountability and

1 transparency in the use of funds provided under
2 subsection (n)(1)(B).

3 “(B) CONTENT AND FUNCTION.—The
4 website shall provide the following:

5 “(i) Accountability information, in-
6 cluding findings from audits, inspectors
7 general, and the Government Account-
8 ability Office.

9 “(ii) Data on relevant economic, fi-
10 nancial, grant, and contract information in
11 user-friendly visual presentations to en-
12 hance public awareness of the use of cov-
13 ered funds.

14 “(iii) Links to other government
15 websites where key information relating to
16 efforts to improve the water quality of the
17 Chesapeake Bay watershed may be found.

18 “(iv) Printable reports on covered
19 funds obligated by month to each State
20 and congressional district.

21 “(v) Links to other government
22 websites with information concerning cov-
23 ered funds, including Federal agency and
24 State websites.

1 “(C) REVISIONS.—The Administrator shall
2 enhance and update the website as necessary.”.

3 (d) INDEPENDENT EVALUATION AND TECHNICAL
4 ADVISORY COMMITTEE FOR CHESAPEAKE BAY PRO-
5 GRAM.—Section 117 of the Federal Water Pollution Con-
6 trol Act (33 U.S.C. 1267) is amended by inserting after
7 subsection (k), as added by subsection (c), the following
8 new subsection:

9 “(l) INDEPENDENT EVALUATION AND TECHNICAL
10 ADVISORY COMMITTEE.—

11 “(1) ESTABLISHMENT; PURPOSE.—There shall
12 be an Independent Evaluation and Technical Advi-
13 sory Committee (in this subsection referred to as the
14 ‘advisory committee’) established to review and re-
15 port on restoration activities in the Chesapeake Bay
16 ecosystem, including relevant topics suggested by the
17 Chesapeake Executive Council and the Chesapeake
18 Bay Commission

19 “(2) APPOINTMENT.—The Administrator and
20 the Secretary of Agriculture shall appoint the mem-
21 bers of the advisory committee, which shall consist
22 of the following members:

23 “(A) One individual affiliated with an in-
24 stitution of higher education who has expertise
25 in water quality.

1 “(B) Two individuals who are engineers or
2 scientists from government and academia who
3 have expertise in water quality modeling.

4 “(C) Two individuals with professional ex-
5 perience and expertise concerning urban and
6 agricultural storm water issues.

7 “(D) One individual with professional ex-
8 perience and expertise concerning urban and
9 suburban development.

10 “(E) One individual with professional expe-
11 rience and expertise regarding water quality
12 modeling.

13 “(F) One individual affiliated with an envi-
14 ronmental or conservation organization.

15 “(G) One individual affiliated with agri-
16 culture farm commodity programs.

17 “(H) One individual affiliated with agri-
18 culture conservation programs.

19 “(I) One individual with professional expe-
20 rience and expertise in economics.

21 “(J) One individual with professional expe-
22 rience and expertise in agronomy, crop science,
23 or soil science.

1 “(K) One individual with professional ex-
2 perience and expertise in wastewater treatment
3 systems.

4 “(L) One individual with professional expe-
5 rience and expertise in marine biology or fish
6 and wildlife habitats.

7 “(M) One individual with professional ex-
8 perience and expertise in implementing building
9 permits.

10 “(3) TERM.—A member of the advisory com-
11 mittee shall be appointed for a term of two years
12 and is limited to three terms on the advisory com-
13 mittee.

14 “(4) BYLAWS.—The advisory committee shall
15 establish such bylaws as may be appropriate to en-
16 able the advisory committee to carry out its duties
17 under this subsection. Such bylaws shall include pro-
18 visions to prevent any conflict of interest, or the ap-
19 pearance of any conflict of interest, in the actions
20 taken or recommendations made by the advisory
21 committee or by any member. As an advisory com-
22 mittee, the committee has no power to promulgate
23 regulations.

1 “(5) ADMINISTRATIVE SUPPORT.—The Depart-
2 ment of Agriculture shall be the administering agen-
3 cy for the advisory committee.

4 “(6) DUTIES.—

5 “(A) ADMINISTRATION REVIEW.—The ad-
6 visory committee shall provide recommendations
7 to the Administrator and Secretary of Agri-
8 culture concerning administration of this sec-
9 tion.

10 “(B) PROGRAM AND ACTIVITIES RE-
11 VIEW.—The advisory committee shall review,
12 and provide recommendations to the Adminis-
13 trator and Secretary of Agriculture concerning,
14 whether—

15 “(i) funds authorized for the restora-
16 tion activities are distributed and used in
17 a manner that are consistent with the ob-
18 jectives of improving the water quality in
19 the Chesapeake Bay ecosystem;

20 “(ii) mechanisms are in place to en-
21 sure that restoration activities are properly
22 implemented;

23 “(iii) mechanisms are in place to en-
24 sure that progress toward water quality

1 goals for the Chesapeake Bay ecosystem
2 are achieved;

3 “(iv) the allocation of funds reflects
4 each Chesapeake Bay State’s responsibility
5 and contribution towards achieving water
6 quality goals;

7 “(v) restoration activities are carried
8 out in accordance with this section; and

9 “(vi) the factual information and as-
10 sumptions incorporated in the Chesapeake
11 Bay model are accurate.

12 “(C) REPORT.—Not later than December
13 31, 2011, and every two years thereafter, the
14 advisory committee shall submit to the Admin-
15 istrator, the Secretary of Agriculture, and Con-
16 gress regarding progress made toward reaching
17 water quality goals in the Chesapeake Bay eco-
18 system.

19 “(7) COORDINATION.—To avoid duplication of
20 effort, the advisory committee shall coordinate ac-
21 tivities with other Federal advisory committees
22 working in related areas.

23 “(8) MEETINGS.—The advisory committee shall
24 meet at least quarterly.

1 “(9) NO REGULATORY AUTHORITY.—The advi-
2 sory committee does not have the authority to rec-
3 ommend or promulgate regulations.”.

4 (e) NUTRIENT AND SEDIMENT TRADING TECHNICAL
5 GUIDELINES.—Section 117 of the Federal Water Pollu-
6 tion Control Act (33 U.S.C. 1267) is amended by inserting
7 after subsection (l), as added by subsection (d), the fol-
8 lowing new subsection:

9 “(m) NUTRIENT AND SEDIMENT TRADING TECH-
10 NICAL GUIDELINES.—

11 “(1) ESTABLISHMENT.—Not later than May
12 12, 2012, the Administrator, in consultation with
13 the Secretary of Agriculture and Chesapeake Bay
14 States shall establish technical guidelines to be used
15 by the Chesapeake Bay Nutrient and Sediment
16 Trading Commission in establishing an interstate
17 nutrient and sediment trading program for the
18 Chesapeake Bay. Such guidelines shall not apply to
19 agricultural and non-industrial private forest lands.

20 “(2) ELEMENTS.—The technical guidelines es-
21 tablished under this subsection shall, at a min-
22 imum—

23 “(A) define and standardize nutrient and
24 sediment credits and establish procedures or

1 standards for ensuring equivalent water quality
2 benefits for all credits;

3 “(B) establish procedures or standards for
4 nutrient and sediments credits to ensure that
5 credit-generating practices from both point
6 sources and nonpoint sources (excluding agri-
7 cultural and forest lands) are achieving reduc-
8 tions in nutrient and sediments;

9 “(C) establish procedures or standards for
10 generating, quantifying, trading, banking, and
11 applying credits to meet regulatory require-
12 ments;

13 “(D) establish baseline requirements, rel-
14 evant to the credit being traded, that a credit
15 seller must meet before becoming eligible to
16 generate saleable credits; and

17 “(E) incorporate an approach under the
18 national pollutant discharge elimination system
19 established under section 402 that creates a
20 general approval for trading, thereby avoiding
21 the need to reopen or reissue permits to incor-
22 porate individual trades.”.

23 (f) AUTHORIZATION OF APPROPRIATIONS AND
24 GRANT AUTHORITY.—Section 117 of the Federal Water
25 Pollution Control Act (33 U.S.C. 1267) is amended by in-

1 setting after subsection (m), as added by subsection (e),
2 the following new subsection:

3 “(n) AUTHORIZATION OF APPROPRIATIONS;
4 GRANTS.—

5 “(1) IN GENERAL.—There are authorized to be
6 appropriated to the Administrator for each of fiscal
7 years 2010 through 2015—

8 “(A) such sums as are necessary to carry
9 out this section; and

10 “(B) such sums as may be necessary to
11 support the Chesapeake Bay States in carrying
12 out section 303(d), with priority given to Mary-
13 land, Virginia, Pennsylvania, and District of
14 Columbia, which shall be distributed in the fol-
15 lowing percentages and for the following pur-
16 poses:

17 “(i) 30 percent for grants to any mu-
18 nicipal, intermunicipal, interstate, or State
19 agency for construction of publicly owned
20 treatment works, as defined in section 212.

21 “(ii) 35 percent for grants to any mu-
22 nicipality that operates a municipal sepa-
23 rate stormwater sewage system under sec-
24 tion 402(p).

1 “(iii) 35 percent to the Secretary of
2 Agriculture to carry out section 1240Q(i)
3 of the Food Security Act of 1985 (16
4 U.S.C. 3839bb–4(i)).

5 “(2) AVAILABILITY OF FUNDS.—Amounts ap-
6 propriated pursuant to the authorization of appro-
7 priations in paragraph (1) shall remain available
8 until expended.

9 “(3) RESERVATION OF FUNDS FOR STATES.—

10 “(A) RESERVATION PERCENTAGES.—Of
11 the amounts appropriated pursuant to the au-
12 thorization of appropriations in paragraph
13 (1)(B), the Administrator shall reserve the fol-
14 lowing percentages for allocation pursuant to
15 subparagraph (B):

16 “(i) 10 percent in fiscal year 2011.

17 “(ii) 20 percent in fiscal year 2013.

18 “(iii) 50 percent in fiscal year 2015.

19 “(B) ALLOCATION TO STATES.—The Ad-
20 ministrator shall allot the amounts reserved
21 pursuant to subparagraph (A) among States in
22 each fiscal year based on the Administrator’s
23 finding, in consultation with the Secretary of
24 Agriculture, that the States have made suffi-
25 cient progress toward meeting water quality

1 goals and are properly managing financial re-
2 sources intended to enable each State in meet-
3 ing its water quality goals. The Administrator,
4 in consultation with the Secretary, shall base
5 the finding upon the report of the advisory
6 committee required under subsection (l).”.

7 (g) TOTAL MAXIMUM DAILY LOAD FOR NITROGEN,
8 PHOSPHORUS, OR SEDIMENT FOR CHESAPEAKE BAY.—
9 Section 117 of the Federal Water Pollution Control Act
10 (33 U.S.C. 1267) is amended by inserting after subsection
11 (n), as added by subsection (f), the following new sub-
12 section:

13 “(o) TOTAL MAXIMUM DAILY LOAD FOR NITROGEN,
14 PHOSPHORUS, OR SEDIMENT FOR CHESAPEAKE BAY.—

15 “(1) TMDL DURATION.—A total maximum
16 daily load established under section 303(d) for nitro-
17 gen, phosphorus, or sediment for the Chesapeake
18 Bay and its tributaries may include load expressions
19 for wasteload allocations or load allocations using
20 time frames other than daily (such as annual,
21 monthly, or seasonal) for sectors, including agri-
22 culture, where non-daily wasteload or load alloca-
23 tions are most appropriate to implement applicable
24 water quality standards.

1 “(2) ADAPTIVE MANAGEMENT.—If a Chesapeake Bay State develops a plan to implement a
2 total maximum daily load under section 303(d) for
3 phosphorus, nitrogen, or sediment for the Chesapeake Bay or its tributaries that provides for reductions in loading through an iterative process that
4 employs adaptive management principles, permits
5 may be issued under section 402 for new or existing
6 discharges that include waste load allocations consistent with the plan and that demonstrate progress
7 towards achieving the waste load allocation, whether
8 by treatment, trading, or other means, in accordance
9 with the schedule provided in the plan, as determined by the permit issuing authority. In assessing
10 sufficient progress by municipal dischargers and
11 other point sources toward meeting water quality
12 goals and plans, the Administrator and the States
13 should take into account the availability, cost, effectiveness, and appropriateness of practices, techniques, methods, or other provisions for the control
14 of such pollutants to meet the requirements of section 402(p).

15 “(3) OPTIONS FOR OFFSETTING OF
16 STORMWATER MANAGEMENT REQUIREMENTS.—In
17 order to meet Federal or State water quality re-

1 requirements in the Chesapeake Bay ecosystem, an in-
2 dividual or entity undertaking land development ac-
3 tivities requiring the management of stormwater by
4 on-site infiltration shall be permitted to meet the ap-
5 plicable infiltration requirements by paying to offset
6 them through the establishment of equivalent
7 stormwater management practices off-site within the
8 Chesapeake Bay ecosystem. Offsetting stormwater
9 management practices shall include, at a minimum,
10 the establishment on agricultural lands of riparian
11 forest buffers, streambank fencing, or other best
12 management practices.”.

13 **SEC. 3. ESTABLISHMENT OF INDEPENDENT COMMISSION**
14 **TO OVERSEE AND ADMINISTER NUTRIENT**
15 **AND SEDIMENT TRADING PROGRAM FOR**
16 **CHESAPEAKE BAY STATES.**

17 The Federal Water Pollution Control Act is amended
18 by inserting after section 117 (33 U.S.C. 1267) the fol-
19 lowing new section:

20 **“SEC. 117A. CHESAPEAKE BAY NUTRIENT AND SEDIMENT**
21 **TRADING COMMISSION.**

22 “(a) DEFINITIONS.—In this section:

23 “(1) COMMISSION.—The term ‘Commission’
24 means the Chesapeake Bay Nutrient and Sediment
25 Trading Commission.

1 “(2) CHESAPEAKE BAY STATE.—The term
2 ‘Chesapeake Bay State’ means Delaware, Maryland,
3 New York, Pennsylvania, Virginia, West Virginia,
4 and the District of Columbia.

5 “(3) CHESAPEAKE EXECUTIVE COUNCIL.—The
6 term ‘Chesapeake Executive Council’ means the sig-
7 natories to the Chesapeake Bay Agreement.

8 “(4) CHESAPEAKE BAY AGREEMENT.—The
9 term ‘Chesapeake Bay Agreement’ means the for-
10 mal, voluntary agreements executed to achieve the
11 goal of restoring and protecting the Chesapeake Bay
12 ecosystem and the living resources of the Chesa-
13 peake Bay ecosystem and signed by the Chesapeake
14 Executive Council.

15 “(5) NUTRIENT.—The term ‘nutrient’ means
16 nitrogen and phosphorous.

17 “(b) ESTABLISHMENT OF COMMISSION; PURPOSE.—

18 “(1) IN GENERAL.—There is established a
19 Chesapeake Bay Nutrient and Sediment Trading
20 Commission to oversee and administer the nitrogen
21 and phosphorus trading program for the Chesapeake
22 Bay States to insure credits are generated to attract
23 market participants and facilitate trading mecha-
24 nisms among and within States to meet water qual-
25 ity goals.

1 “(2) INDEPENDENT ESTABLISHMENT.—The
2 Commission shall be an independent establishment,
3 as defined in section 104 of title 5, United States
4 Code.

5 “(3) LOCATION.—The Commission shall be
6 housed at the Office of the Chesapeake Bay Pro-
7 gram directed by the Chesapeake Executive Council
8 in accordance with the Chesapeake Bay Agreement.

9 “(c) DUTIES.—

10 “(1) CREDITS FOR WATER QUALITY TRAD-
11 ING.—In consultation with market developers and
12 appropriate Federal agencies, the Commission shall
13 develop a system to facilitate and generate credits
14 for interstate water quality trading in the Chesa-
15 peake Bay States.

16 “(2) WATER QUALITY TRADING REGISTRY.—
17 The Commission shall obtain information from the
18 Administrator, the Secretary of Agriculture, and
19 other Federal agencies to operate and oversee a reg-
20 istry for interstate water quality trading in the
21 Chesapeake Bay States.

22 “(3) TRADE RECORDKEEPING.—The Commis-
23 sion shall develop and maintain a system to record
24 specific interstate water quality trades in the Chesa-
25 peake Bay States.

1 “(4) POINT SOURCE AND NON-POINT SOURCE
2 TRADES.—In consultation with market developers
3 and appropriate Federal agencies, the Commission
4 shall develop a system to allow for trading to occur
5 between point source and non-point source dis-
6 chargers in the Chesapeake Bay States.

7 “(5) CONSISTENCY WITH STATE PROGRAM.—
8 The Commission shall not establish or operate a pro-
9 gram that conflicts with or modifies a State pro-
10 gram.

11 “(d) USE OF TECHNICAL GUIDELINES.—The Com-
12 mission shall rely on the Administrator to provide tech-
13 nical guidelines under section 117(m) and the Secretary
14 of Agriculture to provide technical guidelines under sec-
15 tion 1245(b) of the Food Security Act of 1985 (16 U.S.C.
16 3845(b)).

17 “(e) MEMBERS OF COMMISSION.—

18 “(1) COMPOSITION.—The Commission shall
19 consist of five members, of which—

20 “(A) one member shall be appointed by the
21 Secretary of Agriculture;

22 “(B) one member shall be appointed by the
23 Administrator of the Environmental Protection
24 Agency; and

1 “(C) three members shall be appointed by
2 the governors from each of the signatory States
3 of the Bay Agreement.

4 “(2) SPECIAL CONSIDERATIONS.—With regard
5 to the members appointed under paragraph (1)(C)—

6 “(A) one member shall be a representative
7 of the general public;

8 “(B) not more than two of the members
9 may have similar professional experience or ex-
10 pertise in the same field; and

11 “(C) at least one of the members shall be
12 experienced in a market based pollutant trading
13 mechanism.

14 “(3) TERMS.—The members of the Commission
15 shall serve a term of five years and may be re-
16 appointed.

17 “(4) CHAIRPERSON.—The members of the
18 Commission shall designate one of the members to
19 serve as chairperson.

20 “(5) MEETINGS.—The Commission shall meet
21 at the call of the chairperson or a majority of its
22 members.

23 “(f) OFFICERS AND STAFF.—The Commission may
24 appoint, employ, fix the pay of, and provide other allow-

1 ances and benefits for such officers and employees of the
2 Commission as the members determine to be appropriate.

3 “(g) DURATION.—The Commission shall terminate
4 on September 30, 2015.”.

5 **SEC. 4. CHESAPEAKE BAY WATERSHED ASSURANCE STAND-**
6 **ARDS.**

7 Section 1240Q of the Food Security Act of 1985 (16
8 U.S.C. 3839bb–4) is amended by adding at the end the
9 following new subsection:

10 “(i) CHESAPEAKE BAY WATERSHED ASSURANCE
11 STANDARDS.—

12 “(1) PURPOSE.—The purpose of this subsection
13 is to develop environmental assurance standards for
14 the Chesapeake Bay States to use to ensure that
15 farmers and non-industrial private forest landowners
16 in the Chesapeake Bay watershed are implementing
17 conservation activities to fulfill water quality regula-
18 tions under applicable Federal and State law.

19 “(2) DUTIES OF SECRETARY.—

20 “(A) ESTABLISHMENT OF STANDARDS.—

21 For the purposes of this section, the Secretary
22 shall use existing State partnerships and pro-
23 grams to establish standards for risk assess-
24 ment, conservation planning, verification, water
25 quality, and auditing practices that Chesapeake

1 Bay States can incorporate in their State man-
2 agement plan under section 117(g)(1) of the
3 Federal Water Pollution Control Act (33 U.S.C.
4 1267(g)(1)).

5 “(B) TECHNICAL ASSISTANCE.—The Sec-
6 retary shall provide conservation technical as-
7 sistance—

8 “(i) to educate agricultural and pri-
9 vate forest landowners in the Chesapeake
10 Bay watershed regarding State and Fed-
11 eral regulatory water quality requirements
12 and possible activities they could undertake
13 to come into compliance with the regula-
14 tions; and

15 “(ii) to assist such landowners in con-
16 servation planning that will achieve and
17 maintain regulatory compliance.

18 “(C) MEMORANDUM OF UNDER-
19 STANDING.—The Secretary may enter into a
20 memorandum of understanding with the Ad-
21 ministrator of the Environmental Protection
22 Agency and with the Chesapeake Bay States to
23 coordinate conservation planning for agricul-
24 tural and non-industrial private forest lands to

1 meet applicable State water quality require-
2 ments.

3 “(3) EFFECT OF ASSURANCE STANDARDS.—Ag-
4 ricultural and private forest landowners who develop
5 and implement a conservation plan in accordance
6 with this subsection shall be deemed to be in full
7 compliance with applicable Federal and State water
8 quality requirements under section 303(d) of the
9 Federal Water Pollution Control Act (33 U.S.C.
10 1313(d)).

11 “(4) DEFINITIONS.—In this subsection:

12 “(A) CHESAPEAKE BAY STATE.—The term
13 ‘Chesapeake Bay State’ means Delaware, Mary-
14 land, New York, Pennsylvania, Virginia, West
15 Virginia, and the District of Columbia.

16 “(B) CONSERVATION PLANNING.—The
17 term ‘conservation planning’ has the same
18 meaning as established for such term in the
19 Natural Resources Conservation Service field
20 office technical guide, comprehensive nutrient
21 management plans, and nutrient management
22 plans.”.

23 **SEC. 5. TECHNICAL GUIDELINES FOR ENVIRONMENTAL**
24 **SERVICES MARKETS.**

25 (a) TYPES OF GUIDELINES REQUIRED.—

1 (1) ADDITIONAL GUIDELINES.—Section
2 1245(b) of the Food Security Act of 1985 (16
3 U.S.C. 3845(b)) is amended by striking paragraphs
4 (1), (2), and (3) and inserting the following new
5 paragraphs:

6 “(1) Methodologies for quantifying environ-
7 mental service benefits.

8 “(2) Baseline methodologies for environmental
9 service benefits.

10 “(3) Methodologies to account for reversals and
11 leakage for environmental services markets.

12 “(4) Methodologies for verification of the envi-
13 ronmental service benefits.

14 “(5) A protocol to report environmental service
15 benefits.

16 “(6) A registry to collect, record, and maintain
17 the benefits measured.

18 “(7) A procedure to verify and ensure compli-
19 ance of the environmental service benefits.”.

20 (2) CONFORMING AMENDMENTS.—Section
21 1245(c)(1) of the Food Security Act of 1985 (16
22 U.S.C. 3845(c)(1)) is amended—

23 (A) by striking “paragraph (2)” and in-
24 serting “paragraph (5)”; and

1 (B) by striking “paragraph (3)” and in-
2 serting “paragraph (6)”.

3 (b) ADDITIONAL REQUIREMENTS.—Section 1245 of
4 the Food Security Act of 1985 (16 U.S.C. 3845) is
5 amended by adding at the end the following new sub-
6 sections:

7 “(f) LIST OF ELIGIBLE ACTIVITIES.—

8 “(1) LIST REQUIRED.—The Secretary shall
9 publish a list of eligible domestic agricultural and
10 forestry activities that result in environmental serv-
11 ice benefits.

12 “(2) DEADLINE; PUBLICATION.—Not later than
13 14 months after the date of the enactment of the
14 Chesapeake Bay Program Reauthorization and Im-
15 provement Act, the Secretary shall publish in the
16 Federal Register the list of domestic agricultural
17 and forestry activities that are eligible for the guide-
18 lines established under subsection (a).

19 “(3) RECOMMENDATIONS.—In preparing the
20 list under this subsection, the Secretary shall take
21 into consideration the recommendations of the enti-
22 ties referred to in subsection (e).

23 “(4) ADDITIONS AND REVISIONS.—Not later
24 than four years after the date of the enactment of
25 the Chesapeake Bay Program Reauthorization and

1 Improvement Act, and every two years thereafter,
2 the Secretary shall add to and revise the list pre-
3 pared under this subsection. The additions and revi-
4 sions shall be made only after the Secretary provides
5 an opportunity for public notice of and an oppor-
6 tunity for comment on the proposed additions and
7 revisions.

8 “(g) GUIDELINES FOR PROVISION OF TECHNICAL
9 ASSISTANCE.—

10 “(1) VERIFICATION GUIDELINES.—As part of
11 the regulations promulgated under this title, the
12 Secretary shall establish guidelines for the provision
13 of technical assistance to ensure—

14 “(A) that environmental service benefits
15 have been implemented properly; and

16 “(B) the quantification of the benefits have
17 resulted in an environmental benefit.

18 “(2) TECHNICAL ASSISTANCE PROVIDER AC-
19 CREDITATION.—As part of the regulations promul-
20 gated under this title, the Secretary shall establish
21 a process and requirements for periodic accreditation
22 of certified technical assistance providers for envi-
23 ronmental service benefits to ensure that those tech-
24 nical service providers are professionally qualified
25 and have no conflicts of interest. Each technical

1 service provider meeting the requirements for ac-
2 creditation in accordance with this paragraph shall
3 be listed in a publicly accessible database, which
4 shall be maintained and updated by the Secretary.”.

5 **SEC. 6. CHESAPEAKE BAY WATERSHED PILOT PROGRAM**
6 **FOR CREATING ENVIRONMENTAL SERVICE**
7 **MARKETS.**

8 Section 1240Q of the Food Security Act of 1985 (16
9 U.S.C. 3839bb-4) is amended by inserting after sub-
10 section (i), as added by section 102, the following new sub-
11 section:

12 “(j) PILOT PROGRAM FOR CREATING ENVIRON-
13 MENTAL SERVICE MARKETS.—

14 “(1) ESTABLISHMENT.—The Secretary shall es-
15 tablish a pilot program for the Chesapeake Bay wa-
16 tershed for the facilitation of creating environmental
17 service markets based on the guidelines outlined in
18 section 1245 as long as those environmental service
19 benefits do not result in taking eligible land wholly
20 out of agricultural production. The Secretary shall
21 ensure that the pilot program is consistent with the
22 policies, protocols, and regulations established under
23 existing environmental service markets in the Chesa-
24 peake Bay watershed.

1 “(2) TRANSMISSION OF DATA TO CHESAPEAKE
2 BAY NUTRIENT AND SEDIMENT TRADING COMMIS-
3 SION.—The Secretary shall transmit to the Ches-
4 apeake Bay Nutrient and Sediment Trading Commis-
5 sion such data acquired by the Secretary as may be
6 necessary to the effective administration of nutrient
7 and sediment trading programs administered by the
8 Commission under section 117A of the Federal
9 Water Pollution Control Act.”.

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