

# Federal Legislative Summary

COG staff document  
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## **H. R. 5509 “Chesapeake Bay Program Reauthorization and Improvement Act”**

- Sponsors: Rep. Tim Holden (R-PA) and Rep. Robert Goodlatte (R- VA). Introduced June 10, this legislation would, like S.1816, the Cardin bill, amend Section 117 of the Clean Water Act. However, this bill is considerably less complicated than S. 1816 and dispenses with most of the provisions of that bill.
- Main provisions:
  - The bill would require an extensive new reporting system, including an annual federal financial report to be submitted to Congress that would detail all federal expenditures on the Bay as well as annual reports from the states on how they spend any federal funds for Bay restoration.
  - The bill also would establish an “Independent Evaluation and Technical Advisory Committee” to report every two years on the Bay restoration effort, including its assessment of the accuracy of Bay Program modeling efforts.
  - Like the Cardin bill, H. R. 5509 would establish a federal inter-state trading program and an independent commission to oversee it. This section of H. R. 5509 is much less detailed than the trading provisions in the Cardin bill and would leave most of the details to be determined by the commission.
  - Unlike the S. 1816, the bill does not authorize specific program expenditures. Rather, the bill calls for “such sums as are necessary to carry out this section.” Federal funds given to the states must be distributed according to a certain formula, including 35 percent for agricultural activities, 35 percent for stormwater activities and 30 percent for publically owned treatment works.
- The bill does not attempt to codify the TMDL process into statutory language. It appears to grant states a lot of flexibility in responding to the TMDL process, implying that states have the option to develop implementation plans. Like the Cardin bill, it does include specific language making clear that TMDL allocations can be assessed at time frames other than daily. Unlike the Cardin bill, it appears to grant the states the authority to issue permits for new discharges as long as an implementation plan is in place regardless of the status of restoration efforts. It also would require EPA to specifically consider “cost” and “effectiveness” in assessing progress toward meeting water quality goals.

## **H. R. 4202/S. 3561 “Green Infrastructure for Clean Water Act of 2009”**

- Sponsors: Donna Edwards (D- Md), Sen. Tom Udall (D- NM) and Sheldon Whitehouse (D – RI). Introduced last December in the House and on July 12, 2010, in the Senate, this bill seeks to promote the expansion of green infrastructure on a nationwide basis.
- Main provisions:
  - The bill would establish five “Centers of Excellence” to do research and promote the

increased use of green infrastructure and authorize \$25 million a year for four years to fund them.

- The bill would authorize up to \$300 million a year for four years to enable EPA to provide matching grants to local governments and other entities for the planning and implementation of green infrastructure projects, which the bill defines as anything from certain stormwater management practices to the purchase of conservation lands.
- The bill also would establish a green infrastructure program within EPA and authorize up to \$25 million a year for four years to fund it.

**S. 3481 “Federal Responsibility for Stormwater Pollution”**

- Sponsor: Sen. Ben Cardin (D – MD). Introduced June 10, 2010, this bill would amend the Clean Water Act to make clear that reasonable service charges for the purpose of stormwater management shall not be considered to be a tax subject to sovereign immunity claims.
- Main provisions:
  - Basically, this bill would require the federal government to pay stormwater utility fees, which has been in dispute in the District of Columbia and elsewhere in the watershed.

**S. 3602 “Safe Treatment of Polluted Stormwater Runoff Act”**

- Sponsor: Sen. Ben Cardin (D – MD). Introduced July 15, 2010, this bill would establish minimum stormwater protection standards for the construction of highway projects using federal funds.
- Main provisions:
  - The bill calls for the same general standard as was established for federal facilities under the federal Energy and Independence Security Act, which calls for projects to maintain or restore to the “maximum extent technically feasible,” the predevelopment hydrology of the site. The bill would allow for off-site mitigation for projects that can’t meet the METF standard.