

111TH CONGRESS
1ST SESSION

S. _____

To amend the Federal Water Pollution Control Act to improve and reauthorize the Chesapeake Bay Program.

IN THE SENATE OF THE UNITED STATES

Mr. CARDIN introduced the following bill; which was read twice and referred to the Committee on _____

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 Eco-
5 system Restoration Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the Chesapeake Bay and the tributary
9 waters of the Chesapeake Bay are natural resources

1 of outstanding ecological, economic, and cultural im-
2 portance to the United States;

3 (2) for more than 20 years, the Federal Gov-
4 ernment and the States of the Chesapeake Bay Wa-
5 tershed, the Chesapeake Bay Commission, and var-
6 ious local government, scientific, and citizen advisory
7 boards have worked through the Chesapeake Bay
8 Program of the Environmental Protection Agency to
9 develop an unparalleled body of scientific informa-
10 tion and cooperative partnerships to advance the
11 Chesapeake Bay restoration effort;

12 (3) despite significant efforts by Federal, State,
13 and local governments and other interested parties,
14 water pollution in the Chesapeake Bay prevents the
15 attainment of existing State water quality standards
16 and the “fishable and swimmable” goals of this Act;

17 (4) that Chesapeake Bay Program partnership
18 has developed a rich body of environmental data
19 based on an extensive network of monitors, which
20 provide the ultimate measure of success in attain-
21 ment of the goals of the restoration effort;

22 (5) the Chesapeake Bay Program partnership
23 has also developed some of the world’s foremost
24 water quality and ecosystem computer models, which
25 are invaluable planning tools for resource managers;

1 (6) the major pollutants affecting the water
2 quality of the Chesapeake Bay and related tidal
3 waters are nitrogen, phosphorus, and sediment;

4 (7) the largest single-sector source of those pol-
5 lutants is agriculture;

6 (8) the Federal Government and State govern-
7 ments have initiated a number of agricultural con-
8 servation programs, including the Chesapeake Bay
9 watershed initiative under section 1240Q of the
10 Food Security Act of 1985 (16 U.S.C. 3839bb-4);

11 (9) atmospheric deposition of nitrogen oxides
12 and ammonia on the Chesapeake Bay watershed
13 contributes as much as $\frac{1}{3}$ of the nitrogen pollution
14 in the Chesapeake Bay;

15 (10) for years, a steady stream of technology
16 development and increasingly stringent permit re-
17 quirements have resulted in a steady decline in the
18 nitrogen and phosphorus pollution derived from
19 wastewater treatment plants in the Chesapeake Bay
20 watershed;

21 (11) suburban and urban stormwater runoff is
22 the only major source of pollution in the Chesapeake
23 Bay watershed that is increasing;

24 (12) States, local governments, developers, and
25 nonprofit organizations have developed numerous

1 low-impact development techniques since the late
2 1990s, which use infiltration and impervious sur-
3 faces to reduce stormwater runoff and associated
4 sediment and nutrient pollution;

5 (13) many of those techniques are less expen-
6 sive than traditional pollution stormwater control
7 management techniques;

8 (14) the decline of key aquatic habitats and
9 species has resulted in a loss of the important water
10 quality benefits that the habitats and species tradi-
11 tionally provided;

12 (15) native oysters, the numbers of which have
13 declined precipitously in the Chesapeake Bay in sig-
14 nificant part because of diseases brought into the
15 watershed by nonnative oysters, are natural filters
16 that once effectively filtered the water volume of the
17 entire Chesapeake Bay in a matter of days;

18 (16) although less well-understood, menhaden,
19 a species of fish found in the Chesapeake Bay, also
20 provide important filtering capacity as well as a
21 number of other key ecosystem functions;

22 (17) wetland is a vital part of any major eco-
23 system;

24 (18) studies have demonstrated that nontidal
25 wetland near the Chesapeake Bay removed an esti-

1 mated 89 percent of the nitrogen and 80 percent of
2 the phosphorus that entered the wetland through up-
3 land runoff, groundwater, and precipitation;

4 (19) the loss of wetland in the Chesapeake Bay
5 has resulted in diminished water quality, among
6 other effects;

7 (20) in certain locations in the Chesapeake
8 Bay, nutria, a nonnative species, has caused exten-
9 sive destruction of key wetland; and

10 (21) in spite of the successes of the Chesapeake
11 Bay Program partnership and increasing knowledge
12 about ecosystem functions, the restoration of the
13 Chesapeake Bay will require significantly stronger
14 tools to manage pollution levels and other impedi-
15 ments to water quality.

16 **SEC. 3. DEFINITIONS.**

17 Section 117 of the Federal Water Pollution Control
18 Act (33 U.S.C. 1267) is amended by striking subsection
19 (a) and inserting the following:

20 “(a) **DEFINITIONS.**—In this section:

21 “(1) **2-YEAR STORM.**—The term ‘2-year storm’
22 means a precipitation event that has a 50-percent
23 likelihood of occurring in a year.

24 “(2) **ADMINISTRATIVE COST.**—The term ‘ad-
25 ministrative cost’ means the cost of salaries and

1 fringe benefits incurred in administering a grant
2 under this section.

3 “(3) ASIAN OYSTER.—The term ‘Asian oyster’
4 means the species *Crassostrea ariakensis*.

5 “(4) BASIN COMMISSIONS.—The term ‘basin
6 commissions’ means—

7 “(A) the Interstate Commission on the Po-
8 tomac River Basin established under the inter-
9 state compact consented to and approved by
10 Congress under the Joint Resolution of July
11 11, 1940 (54 Stat. 748, chapter 579) and Pub-
12 lic Law 91–407 (84 Stat. 856); and

13 “(B) the Susquehanna River Basin Com-
14 mission established under the interstate com-
15 pact consented to and approved by Congress
16 under Public Law 91–575 (84 Stat. 1509) and
17 Public Law 99–468 (100 Stat. 1193).

18 “(5) CHESAPEAKE BAY AGREEMENT.—The
19 term ‘Chesapeake Bay Agreement’ means the for-
20 mal, voluntary agreements executed to achieve the
21 goal of restoring and protecting the Chesapeake Bay
22 ecosystem and the living resources of the Chesa-
23 peake Bay ecosystem and signed by the Chesapeake
24 Executive Council.

1 “(6) CHESAPEAKE BAY ECOSYSTEM.—The term
2 ‘Chesapeake Bay ecosystem’ means the ecosystem of
3 the Chesapeake Bay watershed.

4 “(7) CHESAPEAKE BAY PROGRAM.—The term
5 ‘Chesapeake Bay Program’ means the program di-
6 rected by the Chesapeake Executive Council in ac-
7 cordance with the Chesapeake Bay Agreement.

8 “(8) CHESAPEAKE BAY STATE.—The term
9 ‘Chesapeake Bay State’ means any of—

10 “(A) the States of Delaware, Maryland,
11 New York, Pennsylvania, Virginia, and West
12 Virginia; or

13 “(B) the District of Columbia.

14 “(9) CHESAPEAKE BAY WATERSHED.—The
15 term ‘Chesapeake Bay watershed’ means the Ches-
16 apeake Bay and the area consisting of 36 tributary
17 basins within the Chesapeake Bay States through
18 which precipitation drains into the Chesapeake Bay.

19 “(10) CHESAPEAKE EXECUTIVE COUNCIL.—The
20 term ‘Chesapeake Executive Council’ means the sig-
21 natories to the Chesapeake Bay Agreement.

22 “(11) CLEANING AGENT.—The term ‘cleaning
23 agent’ means a laundry detergent, dishwashing com-
24 pound, household cleaner, metal cleaner, degreasing
25 compound, commercial cleaner, industrial cleaner,

1 phosphate compound, or other substance that is in-
2 tended to be used for cleaning purposes.

3 “(12) DIRECTOR.—The term ‘director’ means
4 the Director of the Chesapeake Bay Program Office
5 of the Environmental Protection Agency.

6 “(13) LOCAL GOVERNMENT.—The term ‘local
7 government’ means any county, city, or other gen-
8 eral purpose political subdivision of a State with ju-
9 risdiction over land use.

10 “(14) MENHADEN.—The term ‘menhaden’
11 means members of stocks or populations of the spe-
12 cies *Brevoortia tyrannus*.

13 “(15) NUTRIA.—The term ‘nutria’ means the
14 species *Myocaster coypus*.

15 “(16) PREDEVELOPMENT HYDROLOGY.—The
16 term ‘predevelopment hydrology’ means that—

17 “(A) with respect to all or a portion of a
18 development site that has not been developed in
19 the past, not less than 90 percent of water infil-
20 trates, is detained, or evaporates from the site
21 so that the percentage of annual precipitation
22 and precipitation from a 2-year storm that
23 leaves the site as surface runoff is not more
24 than 10 percent of the total of that precipita-
25 tion at the site; and

1 “(B) with respect to all or a portion of a
2 development site that has been developed in the
3 past, not less than 85 percent of water infil-
4 trates, is detained, or evaporates from the site
5 so that the percentage of annual precipitation
6 and precipitation from a 2-year storm that
7 leaves the site as surface runoff is not more
8 than 15 percent of the total of that precipita-
9 tion at the site.

10 “(17) SIGNATORY JURISDICTION.—The term
11 ‘signatory jurisdiction’ means a jurisdiction of a sig-
12 natory to the Chesapeake Bay Agreement.

13 “(18) TRIBUTARY BASIN.—The term ‘tributary
14 basin’ means an area of land or body of water
15 that—

16 “(A) drains into any of the 36 Chesapeake
17 Bay tributaries or tributary segments; and

18 “(B) is managed through tributary imple-
19 mentation plans under this Act.”.

20 **SEC. 4. ASSISTANCE GRANTS.**

21 Section 117(d)(2)(B) of the Federal Water Pollution
22 Control Act (33 U.S.C. 1267(d)(2)(B)) is amended by
23 striking the subparagraph heading and inserting the fol-
24 lowing:

1 “(B) CHESAPEAKE BAY STEWARDSHIP
2 GRANTS PROGRAM.—”.

3 **SEC. 5. IMPLEMENTATION AND MONITORING GRANTS.**

4 Section 117(e) of the Federal Water Pollution Con-
5 trol Act (33 U.S.C. 1267(e)) is amended—

6 (1) by striking the subsection heading and all
7 that follows through paragraph (1) and inserting the
8 following:

9 “(e) IMPLEMENTATION AND MONITORING
10 GRANTS.—

11 “(1) IN GENERAL.—If a Chesapeake Bay State
12 has approved and committed to implement all or
13 substantially all aspects of the Chesapeake Bay
14 Agreement with respect to water quality, on the re-
15 quest of the chief executive of the Chesapeake Bay
16 State, the Administrator—

17 “(A) shall make an implementation grant
18 to the Chesapeake Bay State for the purpose of
19 implementing the programs and achieving the
20 goals established under the Chesapeake Bay
21 Agreement, subject to such terms and condi-
22 tions as the Administrator considers to be ap-
23 propriate; and

24 “(B) may make a monitoring grant to—

1 “(i) a nontidal Chesapeake Bay State
2 for the purpose of monitoring the eco-
3 system of freshwater tributaries to the
4 Chesapeake Bay; or

5 “(ii) a tidal Chesapeake Bay State for
6 the purpose of monitoring the Chesapeake
7 Bay, including the tidal waters of the
8 Bay.”;

9 (2) by striking paragraphs (2) through (7) and
10 inserting the following:

11 “(2) PROPOSALS.—

12 “(A) IMPLEMENTATION GRANTS.—

13 “(i) IN GENERAL.—A Chesapeake
14 Bay State described in paragraph (1) may
15 apply for a grant under this subsection for
16 a fiscal year by submitting to the Adminis-
17 trator a comprehensive proposal to imple-
18 ment programs and achieve the goals es-
19 tablished under the Chesapeake Bay
20 Agreement.

21 “(ii) IMPLEMENTATION GRANT CON-
22 TENTS.—A proposal under clause (i) shall
23 include—

24 “(I) a description of proposed ac-
25 tions that the Chesapeake Bay State

1 commits to take within a specified
2 time period that are designed—

3 “(aa) to achieve and main-
4 tain the water quality necessary
5 to support the aquatic living re-
6 sources of the Chesapeake Bay
7 and related tributaries and to
8 protect human health;

9 “(bb) to restore, enhance,
10 and protect the finfish, shellfish,
11 and other living resources, habi-
12 tats of those species and re-
13 sources, and ecological relation-
14 ships to sustain all fisheries and
15 provide for a balanced ecosystem;

16 “(cc) to preserve, protect,
17 and restore those habitats and
18 natural areas that are vital to the
19 survival and diversity of the liv-
20 ing resources of the Chesapeake
21 Bay and associated rivers;

22 “(dd) to develop, promote,
23 and achieve sound land use prac-
24 tices that protect and restore wa-
25 tershed resources and water qual-

1 ity, maintain reduced pollutant
2 loadings for the Chesapeake Bay
3 and related tributaries, and re-
4 store and preserve aquatic living
5 resources; or

6 “(ee) to promote individual
7 stewardship and assist individ-
8 uals, community-based organiza-
9 tions, businesses, local govern-
10 ments, and schools to undertake
11 initiatives to achieve the goals
12 and commitments of the Chesa-
13 peake Bay Agreement; and

14 “(II) the estimated cost of the
15 actions proposed to be taken during
16 the fiscal year.

17 “(B) MONITORING GRANTS.—

18 “(i) IN GENERAL.—A Chesapeake
19 Bay State described in paragraph (1) may
20 apply for a grant under this subsection for
21 a fiscal year by submitting to the Adminis-
22 trator a comprehensive proposal to monitor
23 freshwater or estuarine ecosystems, includ-
24 ing water quality.

1 the design and implementation of the
2 freshwater monitoring systems estab-
3 lished under this subsection; and

4 “(bb) give particular attention to
5 the measurement of the water quality
6 effectiveness of agricultural conserva-
7 tion program implementation, includ-
8 ing the Chesapeake Bay Watershed
9 Initiative under section 1240Q of the
10 Food Security Act of 1985 (16 U.S.C.
11 3839bb-4); and

12 “(II) consult with the Director of
13 the Chesapeake Bay Office of the Na-
14 tional Oceanic and Atmospheric Ad-
15 ministration, the Old Dominion Uni-
16 versity, and the Center for Environ-
17 mental Studies at the University of
18 Maryland regarding the estuarine
19 monitoring systems established under
20 this subsection.”.

21 **SEC. 6. FEDERAL ANNUAL ACTION PLAN AND PROGRESS**

22 **REPORT.**

23 Section 117 of the Federal Water Pollution Control
24 Act (33 U.S.C. 1267) is amended by striking subsection
25 (f) and inserting the following:

1 “(f) FEDERAL ANNUAL ACTION PLAN AND
2 PROGRESS REPORT.—The Administrator, in accordance
3 with Executive Order 13508 entitled ‘Chesapeake Bay
4 Protection and Restoration’ and signed on May 12, 2009
5 (74 Fed. Reg. 23099), shall make available to the public,
6 not later than March 31 of each year—

7 “(1) a Chesapeake Bay action plan describing,
8 in the greatest practicable degree of detail, how Fed-
9 eral funding proposed in the annual budget of the
10 United States submitted by the President to Con-
11 gress will be used to protect and restore the Chesa-
12 peake Bay during the upcoming fiscal year; and

13 “(2) an annual progress report that—

14 “(A) reviews indicators of environmental
15 conditions in the Chesapeake Bay;

16 “(B) assesses implementation of the action
17 plan during the preceding fiscal year; and

18 “(C) recommends steps to improve
19 progress in restoring and protecting the Chesa-
20 peake Bay.”.

21 **SEC. 7. CHESAPEAKE BAY PROGRAM.**

22 Section 117(g) of the Federal Water Pollution Con-
23 trol Act (33 U.S.C. 1267(g)) is amended by striking para-
24 graph (2) and inserting the following:

1 “(2) CHESAPEAKE BAY STEWARDSHIP GRANTS
2 PROGRAM.—The Administrator, in cooperation with
3 the Chesapeake Executive Council, shall—

4 “(A) establish a Chesapeake Bay Steward-
5 ship Grants Program; and

6 “(B) in carrying out that program—

7 “(i) offer technical assistance and as-
8 sistance grants under subsection (d) to
9 local governments, academic institutions,
10 and nonprofit organizations in the Chesa-
11 peake Bay region to implement—

12 “(I) cooperative watershed strate-
13 gies that address the water quality
14 and living resource needs in the
15 Chesapeake Bay ecosystem;

16 “(II) locally based protection and
17 restoration programs or projects with-
18 in a watershed that complement the
19 State tributary implementation plans,
20 including the creation, restoration, or
21 enhancement of habitat associated
22 with the Chesapeake Bay ecosystem;
23 and

1 “(III) innovative nitrogen, phos-
2 phorus, and sediment reduction ef-
3 forts; and

4 “(ii) give preference to cooperative
5 projects that involve local governments.”.

6 **SEC. 8. WATER QUALITY PROTECTION MEASURES—TMDLS.**

7 Section 117 of the Federal Water Pollution Control
8 Act (33 U.S.C. 1267) is amended by striking subsection
9 (h) and inserting the following:

10 “(h) TOTAL MAXIMUM DAILY LOAD.—

11 “(1) DEFINITION OF TMDL.—

12 “(A) IN GENERAL.—In this subsection, the
13 term ‘TMDL’ means the total maximum daily
14 load, a measure of the maximum aggregate
15 quantity of pollutants permitted to enter a body
16 of water.

17 “(B) INCLUSIONS.—The term ‘TMDL’
18 may include nitrogen, phosphorus, and sedi-
19 ment discharges in temporal units of greater
20 than daily duration if applicable discharge lim-
21 its—

22 “(i) are demonstrated to achieve
23 water quality standards; and

1 “(ii) do not lead to violations of other
2 applicable water quality standards for local
3 receiving waters.

4 “(2) TMDL.—

5 “(A) ESTABLISHMENT.—Not later than
6 December 31, 2010, the Administrator shall es-
7 tablish a Chesapeake Bay-wide TMDL.

8 “(B) REQUIREMENTS.—The Administrator
9 shall not establish or approve a TMDL de-
10 scribed in subparagraph (A) unless the TMDL
11 includes—

12 “(i) wasteload allocations necessary to
13 comply with pollution limitations in the
14 Chesapeake Bay watershed—

15 “(I) for any activity for which a
16 permit is issued under section 402;
17 and

18 “(II) that are incorporated into
19 all such new or existing permits by
20 not later than May 12, 2011;

21 “(ii) enforceable or otherwise binding
22 load allocations for all nonpoint sources,
23 including atmospheric deposition, dis-
24 charges to groundwater, and stormwater

1 sources for which a permit under section
2 402 is not required;

3 “(iii) a margin of safety so as to en-
4 sure that the TMDL does not exceed any
5 established allowable pollution limit; and

6 “(iv) a requirement for no net in-
7 crease of nitrogen, phosphorus, and sedi-
8 ment loads above the pollution limitations
9 necessary to meet water quality standards
10 for the Chesapeake Bay, including no net
11 projected increased pollution loads from—

12 “(I) the construction of new de-
13 velopment;

14 “(II) increased impervious sur-
15 faces;

16 “(III) transportation systems;
17 and

18 “(IV) septic systems.”.

19 **SEC. 9. WATER QUALITY PROTECTION MEASURES—AC-**
20 **TIONS BY STATES.**

21 Section 117 of the Federal Water Pollution Control
22 Act (33 U.S.C. 1267) is amended by striking subsection
23 (i) and inserting the following:

24 “(i) ACTIONS BY STATES.—

25 “(1) TRIBUTARY IMPLEMENTATION PLANS.—

1 “(A) PLANS.—

2 “(i) IN GENERAL.—Not later than
3 May 12, 2011, each Chesapeake Bay State
4 shall, after providing for reasonable notice
5 and 1 or more public hearings, adopt and
6 submit to the Administrator for approval a
7 tributary implementation plan to ensure
8 attainment of the tributary pollution limi-
9 tations from all sources, within the water-
10 shed area of each of the 36 major tribu-
11 taries to the Chesapeake Bay, of nitrogen,
12 phosphorus, and sediment, including pollu-
13 tion from—

14 “(I) air deposition;

15 “(II) agricultural runoff;

16 “(III) nonpoint source
17 stormwater runoff;

18 “(IV) point sources; and

19 “(V) septic systems.

20 “(ii) POLLUTION LIMITATIONS.—

21 “(I) IN GENERAL.—Unless more
22 stringent pollution limitations are es-
23 tablished by a Chesapeake Bay State
24 or the Administrator with respect to
25 the total maximum daily load of the

1 Chesapeake Bay, the tributary pollu-
2 tion limitations shall be the nitrogen,
3 phosphorous, and sediment cap loads
4 identified in the tributary cap load
5 agreement numbered EPA 903-R-03-
6 007, dated December 2003, and enti-
7 tled ‘Setting and Allocating the
8 Chesapeake Bay Basin Nutrient and
9 Sediment Loads: The Collaborative
10 Process, Technical Tools and Innova-
11 tive Approaches’.

12 “(II) STRINGENCY.—A tributary
13 implementation plan shall be designed
14 to attain, at a minimum, the pollution
15 limitations described in subclause (I).

16 “(iii) PLAN REQUIREMENTS.—Each
17 tributary implementation plan shall—

18 “(I) include State-adopted con-
19 trol measures, including rules or regu-
20 lations, permits, consent decrees, and
21 other enforceable or otherwise binding
22 measures, to require and achieve re-
23 ductions from pollution sources;

24 “(II) include programs to achieve
25 voluntary reductions from pollution

1 sources, including funding commit-
2 ments necessary to implement those
3 programs;

4 “(III) include any additional re-
5 quirements or actions that the Chesa-
6 peake Bay State determines to be nec-
7 essary to attain the pollution limita-
8 tions by the deadline established in
9 this paragraph;

10 “(IV) provide for enforcement
11 mechanisms, including a penalty
12 structure for failures, such as fees or
13 forfeiture of State funds, for use in a
14 case in which a permittee, local jurisd-
15 ictions, or any other party fails to
16 adhere to assigned pollution limita-
17 tions, implementation schedules, or
18 permit terms;

19 “(V) include a schedule for im-
20 plementation divided into 2-year peri-
21 ods, along with computer modeling to
22 demonstrate the projected reductions
23 in nitrogen, phosphorus, and sediment
24 loads associated with each 2-year pe-
25 riod;

1 “(VI) include the stipulation of
2 alternate actions as contingencies;

3 “(VII) account for how the
4 Chesapeake Bay State will address
5 additional loadings from growth
6 through offsets or other actions; and

7 “(VIII) provide assurances
8 that—

9 “(aa) the initial plan shall
10 be designed to achieve, not later
11 than May, 31, 2014, at least 50
12 percent of the nutrient and sedi-
13 ment limitations described in
14 clause (ii)(I);

15 “(bb) the management
16 measures required to achieve a
17 50-percent reduction of nutrient
18 and sediment limitations shall be
19 in effect upon submission of the
20 plan;

21 “(cc) the Chesapeake Bay
22 State will have adequate per-
23 sonnel, funding, and authority
24 under State (and, as appropriate,
25 local) law to carry out the imple-

1 mentation plan, and is not pro-
2 hibited by any provision of Fed-
3 eral or State law from carrying
4 out the implementation plan; and
5 “(dd) in a case in which a
6 Chesapeake Bay State has relied
7 on a local government for the im-
8 plementation of any plan provi-
9 sion, the Chesapeake Bay State
10 has the responsibility for ensur-
11 ing adequate implementation of
12 the provision.

13 “(B) IMPLEMENTATION.—

14 “(i) IN GENERAL.—In implementing a
15 tributary implementation plan, each Ches-
16 apeake Bay State shall follow a strategy de-
17 veloped by the Administrator for the imple-
18 mentation of adaptive management prin-
19 ciples, including biennial evaluations of—

20 “(I) State actions and progress
21 made toward implementation; and

22 “(II) the attainment of pollution
23 limitations to ensure full implementa-
24 tion by not later than May 12, 2020,
25 for all plan elements.

1 failed to fully implement in accordance
2 with the approved tributary implementa-
3 tion plan of the Chesapeake Bay State;

4 “(iii) includes monitored and collected
5 water quality data;

6 “(iv) includes Chesapeake Bay Pro-
7 gram computer modeling data that detail
8 the nitrogen, phosphorus, and sediment
9 load reductions projected to be achieved as
10 a result of the implementation of the meas-
11 ures and mechanisms carried out by the
12 Chesapeake Bay State;

13 “(v) includes, for the subsequent 2-
14 year period, implementation goals and
15 Chesapeake Bay Program computer mod-
16 eling data detailing the projected pollution
17 reductions to be achieved if the Chesa-
18 peake Bay State fully implements the sub-
19 sequent round of pollution reduction meas-
20 ures; and

21 “(vi) specifies any revisions to the
22 tributary implementation plan submitted
23 under this paragraph that the Chesapeake
24 Bay State determines are necessary to at-

1 tain the applicable pollution limitations for
2 nitrogen, phosphorus, and sediments.

3 “(2) ISSUANCE OF PERMITS.—Notwithstanding
4 any exclusion or exception contained in a definition
5 under section 502, for the purpose of achieving the
6 nitrogen, phosphorus, and sediment reductions re-
7 quired under a tributary implementation plan, a
8 Chesapeake Bay State may issue a permit in accord-
9 ance with section 402 for any pollution source the
10 Chesapeake Bay State determines to be necessary.

11 “(3) MUNICIPAL SEPARATE STORMWATER
12 SEWER SYSTEM PERMITS.—If any Chesapeake Bay
13 State determines, through the biennial monitoring
14 and modeling review conducted pursuant to para-
15 graph (1)(C), that a separate stormwater sewer sys-
16 tem of a municipality within the Chesapeake Bay
17 State is contributing to the failure to attain pollu-
18 tion limitations under the tributary implementa-
19 tion plan, the Chesapeake Bay State shall provide assur-
20 ances to the Administrator that—

21 “(A) as a condition of the municipal sepa-
22 rate stormwater sewer system permit, the spon-
23 sor of any development or redevelopment
24 project within the permitted area possessing an
25 impervious footprint that exceeds 5,000 square

1 feet will use site planning, design, construction,
2 and maintenance strategies for the property to
3 maintain or restore, to the maximum extent
4 technically feasible, the predevelopment hydrology
5 of the property with regard to the tempera-
6 ture, rate, volume, and duration of flow; and

7 “(B) as a further condition of the permit,
8 the sponsor of any development or redevelop-
9 ment project within the permitted area pos-
10 sessing an impervious footprint that exceeds
11 5,000 square feet will compensate for any un-
12 avoidable impacts to the predevelopment hydrology
13 of the property with regard to the tempera-
14 ture, rate, volume, and duration of flow, such
15 that—

16 “(i) the compensation within the per-
17 mit boundaries shall provide in-kind miti-
18 gation of function at a ratio of not less
19 than 1 to 1; and

20 “(ii) the compensation outside the
21 permit boundaries shall provide in-kind
22 mitigation, at a ratio of not less than 2 to
23 1, within the tributary watershed in which
24 the project is located.

25 “(4) PHOSPHATE BAN.—

1 “(A) PHOSPHORUS IN CLEANING
2 AGENTS.—Each Chesapeake Bay State shall
3 provide to the Administrator, not later than 3
4 years after the date of enactment of this para-
5 graph, assurances that within the jurisdiction,
6 except as provided in subparagraph (B), a per-
7 son may not use, sell, manufacture, or dis-
8 tribute for use or sale any cleaning agent that
9 contains more than 0.0 percent phosphorus by
10 weight, expressed as elemental phosphorus, ex-
11 cept for a quantity not exceeding 0.5 percent
12 phosphorus that is incidental to the manufac-
13 ture of the cleaning agent.

14 “(B) PROHIBITED QUANTITIES OF PHOS-
15 PHORUS.—Each Chesapeake Bay State shall
16 provide to the Administrator, not later than 3
17 years after the date of enactment of this para-
18 graph, assurances that, within the jurisdiction,
19 a person may use, sell, manufacture, or dis-
20 tribute for use or sale a cleaning agent that
21 contains greater than 0.0 percent phosphorus
22 by weight, but does not exceed 8.7 percent
23 phosphorus by weight, if the cleaning agent is
24 a substance that the Administrator, by regula-
25 tion, excludes from the limitation under sub-

1 paragraph (A), based on a finding that compli-
2 ance with that subparagraph would—

3 “(i) create a significant hardship on
4 the users of the cleaning agent; or

5 “(ii) be unreasonable because of the
6 lack of an adequate substitute cleaning
7 agent.”.

8 **SEC. 10. WATER QUALITY PROTECTION MEASURES—FED-**
9 **ERAL ACTIONS.**

10 Section 117 of the Federal Water Pollution Control
11 Act (33 U.S.C. 1267) is amended by striking subsection
12 (j) and inserting the following:

13 “(j) ACTION BY ADMINISTRATOR.—

14 “(1) IN GENERAL.—Not later than 60 days
15 after the date of enactment of the Chesapeake Bay
16 Ecosystem Restoration Act of 2009, the Adminis-
17 trator shall establish minimum criteria that any pro-
18 posed tributary implementation plan must meet be-
19 fore the Administrator may approve such a plan.

20 “(2) COMPLETENESS FINDING.—

21 “(A) IN GENERAL.—Not later than 60
22 days after the date on which the Administrator
23 receives a new or revised proposed tributary im-
24 plementation plan from a Chesapeake Bay
25 State, the Administrator shall determine wheth-

1 er the minimum criteria for the plan established
2 under paragraph (1) have been met.

3 “(B) EFFECT OF FINDING OF INCOM-
4 PLETENESS.—If the Administrator determines
5 under subparagraph (A) that all or any portion
6 of a submitted tributary implementation plan
7 does not meet the minimum criteria established
8 under paragraph (1), the Chesapeake Bay State
9 submitting the plan shall be treated as not hav-
10 ing made the submission.

11 “(3) APPROVAL AND DISAPPROVAL.—

12 “(A) DEADLINE.—Not later than 90 days
13 after determining that a tributary implementa-
14 tion plan meets minimum criteria in accordance
15 with paragraph (2)(A), the Administrator shall
16 approve or disapprove the plan.

17 “(B) FULL AND PARTIAL APPROVAL AND
18 DISAPPROVAL.—In carrying out this paragraph,
19 the Administrator—

20 “(i) shall approve a tributary imple-
21 mentation plan if the plan meets all appli-
22 cable requirements under this section; and

23 “(ii) may approve the plan in part
24 and disapprove the plan in part if only a

1 portion of the plan meets those require-
2 ments.

3 “(C) **CONDITIONAL APPROVAL.**—The Ad-
4 ministrators—

5 “(i) may conditionally approve a re-
6 vised tributary implementation plan based
7 on a commitment of the Chesapeake Bay
8 State submitting the plan to adopt specific
9 enforceable measures by not later than 1
10 year after the date of approval of the plan
11 revision; but

12 “(ii) shall treat a conditional approval
13 as a disapproval under this paragraph if
14 the Chesapeake Bay State fails to comply
15 with the commitment of the Chesapeake
16 Bay State.

17 “(D) **FULL APPROVAL REQUIRED.**—A new
18 or revised tributary implementation plan shall
19 not be treated as meeting the requirements of
20 this section until the Administrator approves
21 the entire new or revised plan.

22 “(E) **CORRECTIONS.**—In any case in which
23 the Administrator determines that the action of
24 the Administrator approving, disapproving, con-
25 ditionally approving, or promulgating any new

1 or revised tributary implementation plan was in
2 error, the Administrator—

3 “(i) may, in the same manner as the
4 approval, disapproval, conditional approval,
5 or promulgation, revise the action of the
6 Administrator, as appropriate, without re-
7 quiring any further submission from the
8 Chesapeake Bay State; and

9 “(ii) shall make the determination of
10 the Administrator, and the basis for that
11 determination, available to the public.

12 “(F) EFFECTIVE DATE.—The provisions of
13 a State tributary implementation plan shall
14 take effect upon the date of approval of the
15 plan.

16 “(4) CALLS FOR PLAN REVISION.—In any case
17 in which the Administrator determines that a tribu-
18 tary implementation plan for any area is inadequate
19 to attain or maintain applicable pollution limitations,
20 the Administrator—

21 “(A) shall notify the Chesapeake Bay
22 State of, and require the Chesapeake Bay State
23 to revise the plan to correct, the inadequacies;

24 “(B) may establish reasonable deadlines
25 (not to exceed 180 days after the date on which

1 the Administrator provides the notification) for
2 the submission of a revised tributary implemen-
3 tation plan;

4 “(C) make the findings of the Adminis-
5 trator under paragraph (3) and notice provided
6 under subparagraph (A) public; and

7 “(D) require the Chesapeake Bay State to
8 comply with the requirements applicable under
9 the initial tributary implementation plan, except
10 that the Administrator may adjust any dates
11 (other than attainment dates) applicable under
12 those requirements, as appropriate.

13 “(5) FEDERAL IMPLEMENTATION.—If a Chesa-
14 peake Bay State fails to submit a tributary imple-
15 mentation plan, to submit a biennial report, or to
16 correct a previously missed 2-year commitment made
17 in a tributary implementation plan, the Adminis-
18 trator shall, after issuing a notice to the State and
19 providing a 90-day period in which the failure may
20 be corrected—

21 “(A) withhold all funds otherwise available
22 to the Chesapeake Bay State under this Act;

23 “(B) develop and administer a tributary
24 implementation plan for that Chesapeake Bay
25 State until such time as the Chesapeake Bay

1 State has remedied the plan, reports, or
2 achievements to the satisfaction of the Adminis-
3 trator;

4 “(C) require a 2-to-1 offset for all permits
5 issued under section 402 to new or expanding
6 sources that discharge nitrogen, phosphorus, or
7 sediments; and

8 “(D) for the purposes of developing and
9 implementing a tributary implementation plan
10 under subparagraph (B)—

11 “(i) notwithstanding any other provi-
12 sion of this Act, promulgate such regula-
13 tions as the Administrator determines to
14 be necessary to control pollution sufficient
15 to meet the water quality goals defined in
16 the tributary implementation plan; and

17 “(ii) enforce any permits issued in ac-
18 cordance with the tributary implementation
19 plan in the same manner as other permits
20 issued under section 402 are enforced.

21 “(6) NITROGEN AND PHOSPHORUS TRADING
22 PROGRAM.—

23 “(A) ESTABLISHMENT.—Not later than
24 May 12, 2011, the Administrator, in coopera-
25 tion with each Chesapeake Bay State, shall es-

1 establish an interstate nitrogen and phosphorus
2 trading program for the Chesapeake Bay for
3 the generation, trading, and use of nitrogen and
4 phosphorus credits to facilitate the attainment
5 and maintenance of the pollution limitations for
6 nitrogen and phosphorus.

7 “(B) TRADING SYSTEM.—The trading pro-
8 gram established under this subsection shall, at
9 a minimum—

10 “(i) establish procedures for certifying
11 and verifying nitrogen and phosphorus
12 credits to ensure that credit-generating
13 practices from both point sources and
14 nonpoint sources are achieving actual re-
15 ductions in nitrogen and phosphorus;

16 “(ii) establish procedures for gener-
17 ating, trading, and applying credits to
18 meet regulatory requirements and allow for
19 trading to occur between and across point
20 source and nonpoint source dischargers;

21 “(iii) ensure that, if the local receiving
22 water is impaired for the nutrient being
23 traded but a TMDL has not yet been im-
24 plemented, trades are required to result in
25 progress toward or the attainment of water

1 quality standards in the local receiving
2 water;

3 “(iv) require that the application of
4 credits to meet regulatory requirements
5 under this section not cause or contribute
6 to violations of water quality standards,
7 total maximum daily loads, or wasteload or
8 load allocations for local receiving waters;
9 and

10 “(v) except as part of a consent agree-
11 ment, prohibit the purchase of credits from
12 any entity that is in significant noncompli-
13 ance with an enforceable permit issued
14 under section 402.

15 “(7) TRIBUTARY WATERSHED GENERAL PER-
16 MITS.—

17 “(A) IN GENERAL.—Not later than May
18 12, 2011, the Administrator, in consultation
19 with the Chesapeake Bay States, shall issue a
20 tributary watershed permit pursuant to this
21 subsection for the control of nitrogen, phos-
22 phorus, and sediments within the watershed
23 area of each of the 36 major tributaries to the
24 Chesapeake Bay.

1 “(B) REQUIREMENTS.—A permit issued
2 pursuant to this subsection shall—

3 “(i) include the nitrogen, phosphorus,
4 and sediment cap loads identified in the
5 tributary cap load agreement numbered
6 EPA 903–R–03–007, dated December
7 2003, and entitled ‘Setting and Allocating
8 the Chesapeake Bay Basin Nutrient and
9 Sediment Loads: The Collaborative Proc-
10 ess, Technical Tools and Innovative Ap-
11 proaches’, unless more stringent pollution
12 limitations are established by—

13 “(I) a Chesapeake Bay State; or

14 “(II) the Administrator, in a
15 total maximum daily load for the
16 Chesapeake Bay;

17 “(ii) require the attainment of the
18 pollution limitation loads within the term
19 of the permit; and

20 “(iii) apply to any discharge of pollut-
21 ants from a point source within the water-
22 shed area of a covered tributary and there-
23 fore required to be covered by a permit
24 issued under section 402, including—

25 “(I) wastewater treatment plants;

40

1 “(II) stormwater discharges asso-
2 ciated with construction activities;

3 “(III) municipal separate storm
4 sewer systems; and

5 “(IV) concentrated animal feed-
6 ing operations.

7 “(C) PERMITS FOR NEW SOURCES.—With
8 respect to any water listed as impaired under
9 section 303(d), a permit under this subsection
10 shall not be issued to any new source, regard-
11 less of the potential impact of the source on the
12 net level of pollutants in the water, without a
13 demonstration that—

14 “(i) existing permittees and dis-
15 chargers are subject to compliance sched-
16 ules with respect to the impaired water;
17 and

18 “(ii) there are sufficient remaining
19 pollutant load allocations to allow for the
20 discharges to be covered by the new permit
21 in accordance with section 122.4 of title
22 40, Code of Federal Regulations (or a suc-
23 cessor regulation).

24 “(8) AUTHORITY RELATING TO DEVELOP-
25 MENT.—The Administrator shall—

1 “(A) establish, for projects resulting in the
2 impervious development of land greater than
3 5,000 square feet in size, guidance relating to
4 site planning, design, construction, and mainte-
5 nance strategies to ensure that the land main-
6 tains predevelopment hydrology with regard to
7 the temperature, rate, volume, and duration of
8 flow;

9 “(B) establish model ordinances and guide-
10 lines with respect to the construction of low-im-
11 pact development infrastructure and non-
12 structural low-impact development techniques
13 for use by States, local governments, and pri-
14 vate entities; and

15 “(C) not later than 180 days after the date
16 of enactment of this subsection, issue such
17 guidance, model ordinances, and guidelines as
18 are necessary to carry out this paragraph.

19 “(9) ASSISTANCE WITH RESPECT TO RUN-
20 OFF.—

21 “(A) GRANT PROGRAM.—The Adminis-
22 trator may provide grants to any local govern-
23 ment that adopts the guidance, ordinances, and
24 guidelines issued under paragraph (8).

1 “(B) USE OF FUNDS.—A grant provided
2 under subparagraph (A) may be used by a local
3 government to pay costs associated with—

4 “(i) developing, implementing, and en-
5 forcing the guidance, ordinances, and
6 guidelines issued under paragraph (8); and

7 “(ii) implementing projects designed
8 to reduce stormwater pollution within the
9 municipal separate storm sewer system
10 permit area.

11 “(10) CONSUMER AND COMMERCIAL PRODUCT
12 REPORT.—Not later than 3 years after the date of
13 enactment of this subsection, the Administrator, in
14 consultation with the Chesapeake Executive Council,
15 shall—

16 “(A) review consumer and commercial
17 products, the use of which may affect the water
18 quality of the Chesapeake Bay watershed or as-
19 sociated tributaries, to determine whether fur-
20 ther product nutrient content restrictions are
21 necessary to restore or maintain water quality
22 in the Chesapeake Bay watershed and those
23 tributaries; and

24 “(B) submit to the Committees on Appro-
25 priations, Environment and Public Works, and

1 Commerce, Science, and Transportation of the
2 Senate and the Committees on Appropriations,
3 Natural Resources, Energy and Commerce, and
4 Transportation and Infrastructure of the House
5 of Representatives a product nutrient report de-
6 tailing the findings of the review under sub-
7 paragraph (A).”.

8 **SEC. 11. ADDITIONAL WATER QUALITY PROTECTION MEAS-**
9 **URES.**

10 Section 117 of the Federal Water Pollution Control
11 Act (33 U.S.C. 1267) is amended by adding at the end
12 the following:

13 “(k) PROHIBITION ON INTRODUCTION OF ASIAN
14 OYSTERS.—Not later than 2 years after the date of enact-
15 ment of this subsection, the Administrator shall promul-
16 gate regulations—

17 “(1) to designate the Asian oyster as a ‘biologi-
18 cal pollutant’ pursuant to section 502; and

19 “(2) to prohibit the issuance of permits under
20 sections 402 and 404 for the discharge of the Asian
21 oyster into the Chesapeake Bay.

22 “(l) CHESAPEAKE NUTRIA ERADICATION PRO-
23 GRAM.—

24 “(1) GRANT AUTHORITY.—Subject to the avail-
25 ability of appropriations, the Secretary of the Inte-

1 rior (referred to in this subsection as the ‘Sec-
2 retary’), may provide financial assistance to the
3 States of Delaware, Maryland, and Virginia to carry
4 out a program to implement measures—

5 “(A) to eradicate or control nutria; and

6 “(B) to restore marshland damaged by nu-
7 tria.

8 “(2) GOALS.—The continuing goals of the pro-
9 gram shall be—

10 “(A) to eradicate nutria in the Chesapeake
11 Bay ecosystem; and

12 “(B) to restore marshland damaged by nu-
13 tria.

14 “(3) ACTIVITIES.—In the States of Delaware,
15 Maryland, and Virginia, the Secretary shall require
16 that the program under this subsection consist of
17 management, research, and public education activi-
18 ties carried out in accordance with the document
19 published by the United States Fish and Wildlife
20 Service entitled ‘Eradication Strategies for Nutria in
21 the Chesapeake and Delaware Bay Watersheds’,
22 dated March 2002.

23 “(m) PROHIBITION ON COMMERCIAL HARVESTING
24 OF MENCHADEN.—

25 “(1) DEFINITIONS.—In this subsection:

1 “(A) FISHERIES COMMISSION.—The term
2 ‘Fisheries Commission’ means the Atlantic
3 States Marine Fisheries Commission established
4 under the interstate compact consented to and
5 approved by pursuant to the Act of May 4,
6 1942 (56 Stat. 267, chapter 283) and the Act
7 of May 19, 1949 (63 Stat. 70, chapter 238).

8 “(B) FISHING.—Except as otherwise pro-
9 vided, the term ‘fishing’—

10 “(i) means—

11 “(I) the commercial catching,
12 taking, or harvesting of menhaden,
13 except when incidental to harvesting
14 that occurs in the course of commer-
15 cial or recreational fish-catching ac-
16 tivities directed at a species other
17 than menhaden;

18 “(II) the attempted commercial
19 catching, taking, or harvesting of
20 menhaden; or

21 “(III) any operation at sea in
22 support of, or in preparation for, any
23 activity described in subclause (I) or
24 (II); and

1 “(ii) does not include any scientific re-
2 search authorized by the Federal Govern-
3 ment or by any State Government.

4 “(C) MENHADEN.—The term ‘menhaden’
5 means members of stocks or populations of the
6 species *Brevoortia tyrannus*.

7 “(D) REDUCTION PURPOSES.—The term
8 ‘reduction purposes’ means, with respect to
9 menhaden, the reduction of menhaden to meal
10 and oil.

11 “(2) PROHIBITION.—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (B), it is unlawful to engage in,
14 or to attempt to engage in, the fishing of men-
15 haden for reduction purposes in the Chesapeake
16 Bay.

17 “(B) TERMINATION OF PROHIBITION.—
18 The prohibition in (A) shall cease to apply on
19 the date that—

20 “(i) the Administrator certifies to the
21 Secretary of Commerce that permitting the
22 fishing of menhaden for reduction purposes
23 in the Chesapeake Bay shall not adversely
24 impact achievement of the water quality
25 goals of this Act; and

1 “(ii) the Secretary of Commerce de-
2 termines that any proposed further amend-
3 ment of the Interstate Fishery Manage-
4 ment Plan for Atlantic Menhaden, dated
5 July 2001, will not adversely affect the
6 restoration of ecosystem functions in the
7 Chesapeake Bay.

8 “(3) CIVIL PENALTIES.—

9 “(A) LIABILITY FOR CIVIL PENALTY.—Any
10 person who is found by the Secretary of Com-
11 merce, after notice and an opportunity for a
12 hearing in accordance with section 554 of title
13 5, United States Code, to have committed an
14 act in violation of the prohibition in paragraph
15 (2), shall be liable to the United States for a
16 civil penalty.

17 “(B) AMOUNT OF CIVIL PENALTY.—The
18 amount of a civil penalty under subparagraph
19 (A) may not exceed \$1,000 for each violation
20 and shall be assessed by the Secretary of Com-
21 merce by written notice.

22 “(C) CONTINUING VIOLATION.—Each day
23 of continuing violation of the prohibition in
24 paragraph (2) shall constitute a separate of-
25 fense.

1 “(4) ACTION BY FISHERIES COMMISSION.—The
2 Fisheries Commission shall promptly take action to
3 amend the Interstate Fishery Management Plan for
4 Atlantic Menhaden Amendment 1, dated July 2001,
5 to take into account the prohibition set out in para-
6 graph (2).

7 “(5) MENHADEN REPORT.—Not later than 5
8 years after the date of the enactment of this Act, the
9 Fisheries Commission, in cooperation with the Ad-
10 ministrator of the National Oceanic and Atmos-
11 pheric Administration, shall submit to Congress a
12 report on—

13 “(A) the progress of the Commission to-
14 ward understanding the structure of the men-
15 haden population of the Atlantic Coast of the
16 United States and of the Chesapeake Bay;

17 “(B) the role of such population as filter
18 feeder, including their role with respect to im-
19 pacting water clarity, dissolved oxygen levels,
20 and other ecosystem functions;

21 “(C) the role of such populations as prey
22 species for predatory fish in the Chesapeake
23 Bay and in coastal ecosystems;

1 “(D) the impact on the Atlantic coastal
2 and Chesapeake Bay ecosystems of fishing for
3 menhaden; and

4 “(E) the recommendations of the Fisheries
5 Commission, if any, for future sustainable man-
6 agement of such fishing.

7 “(n) EFFECT ON OTHER REQUIREMENTS.—

8 “(1) IN GENERAL.—Nothing in this section re-
9 moves or otherwise affects any other obligation for
10 a point source to comply with other applicable re-
11 quirements under this Act.

12 “(2) VIOLATIONS BY STATES.—The failure of a
13 State to submit a tributary implementation plan or
14 biennial report, or to correct a previously missed 2-
15 year commitment made in a tributary implementa-
16 tion plan, by the applicable deadline established
17 under this section shall—

18 “(A) constitute a violation of this Act; and

19 “(B) subject the State to—

20 “(i) enforcement action by the Admin-
21 istrator; and

22 “(ii) civil actions commenced pursuant
23 to section 505.

24 “(3) FAILURE OF ADMINISTRATOR TO ACT.—

25 The failure of the Administrator to act under this

1 section shall subject the Administrator to civil ac-
2 tions commenced pursuant to section 505.

3 “(o) AUTHORIZATION OF APPROPRIATIONS.—

4 “(1) IMPLEMENTATION AND MONITORING
5 GRANTS.—

6 “(A) AUTHORIZATION OF APPROPRIA-
7 TIONS.—In addition to amounts authorized to
8 be appropriated or otherwise made available to
9 carry out this section, there are authorized to
10 be appropriated to the Administrator—

11 “(i) to provide implementation grants
12 under subsection (e)(2)(A), \$80,000,000
13 for each of fiscal years 2010 through
14 2015, to remain available until expended;

15 “(ii) to carry out a freshwater moni-
16 toring program under subsection (e)(2)(B),
17 \$5,000,000 for each of fiscal years 2010
18 through 2015; and

19 “(iii) to carry out a Chesapeake Bay
20 and tidal water monitoring program under
21 subsection (e)(2)(B), \$5,000,000 for each
22 of fiscal years 2010 through 2015.

23 “(B) COST SHARING.—The Federal share
24 of the cost of a program carried out using
25 funds from a grant provided—

1 “(i) under subparagraph (A)(i) shall
2 not exceed 50 percent; and

3 “(ii) under clause (ii) or (iii) of sub-
4 paragraph (A) shall not exceed 80 percent.

5 “(2) CHESAPEAKE STEWARDSHIP GRANTS.—
6 There is authorized to be appropriated to carry out
7 subsection (g)(2) \$15,000,000 for each of fiscal
8 years 2010 through 2014.

9 “(3) MUNICIPAL SEPARATE STORM SEWER SYS-
10 TEM PLANNING AND IMPLEMENTATION GRANTS.—

11 “(A) AUTHORIZATION OF APPROPRIA-
12 TIONS.—In addition to amounts authorized or
13 otherwise made available to carry out this sec-
14 tion, there are authorized to be appropriated to
15 the Administrator—

16 “(i) to carry out subsection
17 (j)(9)(B)(i), \$10,000,000; and

18 “(ii) to carry out subsection
19 (j)(9)(B)(ii), \$1,500,000,000.

20 “(B) COST-SHARING.—A grant provided
21 for a project under—

22 “(i) subsection (j)(9)(B)(i) may not be
23 used to cover more than 80 percent of the
24 cost of the project; and

1 “(ii) subsection (j)(9)(B)(ii) may not
2 be used to cover more than 75 percent of
3 the cost of the project.

4 “(4) NUTRIA ERADICATION GRANTS.—

5 “(A) IN GENERAL.—There is authorized to
6 be appropriated to the Secretary of the Interior
7 to provide financial assistance in the Chesapeake
8 Bay watershed under subsection (l)
9 \$4,000,000 for each of fiscal years 2010
10 through 2014.

11 “(B) COST-SHARING.—

12 “(i) FEDERAL SHARE.—The Federal
13 share of the cost of carrying out the pro-
14 gram under subsection (l) may not exceed
15 75 percent of the total costs of the pro-
16 gram.

17 “(ii) IN-KIND CONTRIBUTIONS.—The
18 non-Federal share of the cost of carrying
19 out the program under subsection (l) may
20 be provided in the form of in-kind con-
21 tributions of materials or services.

22 “(5) LIMITATION ON ADMINISTRATIVE EX-
23 PENSES.—Not more than 10 percent of the annual
24 amount of any grant provided by the Administrator
25 or Secretary under any program described in para-

1 graph (1), (2), (3), or (4) may be used for adminis-
2 trative expenses.

3 “(6) AVAILABILITY.—Amounts authorized to be
4 appropriated under this subsection shall remain
5 available until expended.”.