

H.R. 5509  
Amendment in the Nature of a Substitute  
Section by Section Analysis

**SECTION 1 – SHORT TITLE; TABLE OF CONTENTS.**

Section 1 provides the title of the bill, “The Chesapeake Bay Program Reauthorization and Improvement Act,” and the table of contents.

**SECTION 2: MODIFICATION OF CHESAPEAKE BAY PROGRAM UNDER CLEAN WATER ACT.**

This section amends Section 117 of the Federal Water Pollution Control Act (FWPCA).

**SECTION 2(a): DEFINITIONS.**

Defines the terms “Chesapeake Bay State,” “Chief Executive,” and “Restoration Activities.”

**SECTION 2(b): CHESAPEAKE BAY CROSSCUT FINANCIAL REPORT (117(j) FWPCA).**

This section requires OMB, relevant federal agencies, and the chief executives of Chesapeake Bay States to submit an interagency financial report, including a crosscut budget, to Congress. The report will detail past, current and proposed expenditures on Bay restoration activities.

**SECTION 2(c): TRANSPARENCY AND ACCOUNTABILITY (117(k) FWPCA).**

Recipients (excluding individuals) of 303(d) and Bay Assurance Program funds must provide a report to the disbursing agency detailing the amount of funds received, the amount actually expended or obligated, and a detailed list of all projects and activities the funds were spent on. Agencies receiving these reports shall provide information from those reports to the Administrator, who will publish the information on a publicly available website. This website will provide accountability to enhance public awareness regarding the use of federal funds, and provide links to other government websites containing information relevant to the health of the Chesapeake Bay.

**SECTION 2(d): INDEPENDENT EVALUATION AND TECHNICAL ADVISORY COMMITTEE FOR THE CHESAPEAKE BAY PROGRAM (117(l) FWPCA).**

This provision establishes the Independent Evaluation and technical Advisory Committee (Advisory Committee). The Advisory Committee will review and report on restoration activities in the Chesapeake Bay. Members are appointed by the Secretary and Administrator. The Advisory Committee shall review and report to the Secretary and the Administrator regarding the administration of Section 117 of the FWPCA (the Chesapeake Bay Program), funding transparency, implementation of restoration activities, assumptions underlying the Bay model, progress toward water quality goals, tracking of private and government funded activities in Bay modeling, and whether the allocation of federal funds is appropriate to each state’s responsibility for meeting water quality goals. The Advisory Committee will also report to the Secretary, Administrator and Congress regarding progress made toward achieving water quality goals.

**SECTION 2(e): NITROGEN AND PHOSPHOROUS TECHNICAL GUIDELINES (117(m) FWPCA).**

This provision authorizes the Administrator to develop technical guidelines to be used by the Chesapeake Bay Trading Commission in operating an interstate nitrogen and phosphorous credit trading system for the Chesapeake Bay. These guidelines shall not apply to agricultural and private non industrial forest lands.

**SECTION 2(f): AUTHORIZATION OF APPROPRIATIONS; GRANTS (117(n) FWPCA).**

Under this section, such sums as are necessary to carry out Section 117 of the FWPCA are authorized. Additional sums as are necessary to provide grants to States to carry out Section 303(d) of the FWPCA are also authorized, with priority given to specific States. Of this amount, 30% will be distributed to public treatment plants, 35% will be for stormwater sewage systems, and 35% shall be disbursed to the Secretary to establish and implement Bay Assurance Standards under Sec. 1240Q(i) .

Of the funds intended for States to implement Sec. 303(d), 80% shall be reserved by the Administrator, to be released upon the Administrator's finding that the States are making sufficient progress toward meeting water quality goals. The Administrator shall consult with the Secretary and rely upon the Advisory Committee report in making this determination.

**SECTION 2(g): TOTAL MAXIMUM DAILY LOAD FOR NITROGEN, PHOSPHOROUS, OR SEDIMENT FOR CHESAPEAKE BAY (117(o) FWPCA).**

Nitrogen, phosphorous, or sediment TMDL'S established for the Chesapeake Bay and its tributaries may include time frames other than daily for appropriate sectors (such as agriculture). TMDL permits may be issued for state plans that include an iterative process that employs adaptive management principles.

Stormwater management requirements may be met by paying for equivalent offsite stormwater management practices elsewhere within the Chesapeake Bay ecosystem.

**SECTION 3: ESTABLISHMENT OF INDEPENDENT COMMISSION TO OVERSEE AND ADMINISTER NUTRIENT AND SEDIMENT TRADING PROGRAM FOR CHESAPEAKE BAY STATES (117A FWPCA).**

This section establishes The Chesapeake Bay Nutrient and Sediment Trading Commission to oversee and administer a trading program for Chesapeake Bay States to generate credits and facilitate interstate and point and non-point source trades to meet water quality goals. The Commission shall not establish or operate a program that conflicts with or modifies a State program.

**SECTION 4: CHESAPEAKE BAY WATERSHED ASSURANCE STANDARDS.**

This section amends Section 1240Q of the Food Security Act of 1985 ('85 FSA).

This provision authorizes the Secretary to identify conservation practice standards for Chesapeake Bay States to incorporate in their State implementation Plans to ensure that farmers and non-industrial private foresters are undertaking appropriate conservation activities to comply with State and Federal water quality standards.

The Secretary will promulgate third party verification guidelines for States to ensure that activities designed to meet conservation practice standards are implemented. The Secretary will also provide conservation technical assistance to educate farmers and non-industrial private foresters regarding regulatory water quality requirements and possible conservation activities to help meet those requirements. The Secretary will also assist in conservation planning to help meet those requirements.

Farmers and non-industrial private foresters in the Chesapeake Bay watershed who meet their conservation practice standards shall be deemed to be in compliance with 303(d) requirements of the FWPCA. This assurance does not extend to comprehensive nutrient plans.

#### **SECTION 5: TECHNICAL GUIDELINES FOR ENVIRONMENTAL SERVICES MARKETS.**

This section amends Section 1245 of the '85 FSA.

This section expands USDA guidelines to measure environmental services benefits from conservation and land management activities; requires the Secretary to publish a list domestic agricultural and forestry activities that result in environmental service benefits; requires the Secretary to establish verification guidelines and a process for technical assistance accreditation.

#### **SECTION 6: CHESAPEAKE BAY WATERSHED PILOT PROGRAM FOR CREATING ENVIRONMENTAL SERVICE MARKETS.**

This Section amends Section 1240Q of the '85 FSA.

The Secretary is authorized to establish an environmental services market pilot program for the Chesapeake Bay Watershed. This program must not result in the loss of agriculturally productive lands and must be consistent with existing environmental service markets in the Chesapeake Bay Watershed. The Secretary is directed to transmit data to the Administrator to support the nitrogen and phosphorous trading program established in Sec. 117(m) of the FWPCA, as amended in this Title.