

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5509
OFFERED BY M. _____

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

5 (b) TABLE OF CONTENTS.—The table of contents for
6 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.

7 SEC. 2. MODIFICATION OF CHESAPEAKE BAY PROGRAM
8 UNDER CLEAN WATER ACT.

9 (a) DEFINITIONS.—Section 117(a) of the Federal
10 Water Pollution Control Act (33 U.S.C. 1267(a)) is
11 amended—

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

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

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

7 (3) by inserting after paragraph (6), as redesign-
8 nated, the following new paragraphs:

9 “(7) CHIEF EXECUTIVE.—The term ‘chief execu-
10 utive’ means—

11 “(A) in the case of a State or Common-
12 wealth, the Governor of the State or Common-
13 wealth; and

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

16 “(8) RESTORATION ACTIVITIES.—The term
17 ‘restoration activities’ means any Federal or State
18 programs that directly protect, conserve, or restore
19 habitat, water resources, or water quality in the
20 Chesapeake Bay watershed, including programs that
21 promote responsible land use and stewardship in the
22 Chesapeake Bay ecosystem.”.

23 (b) CHESAPEAKE BAY CROSSCUT FINANCIAL RE-
24 PORT.—Section 117 of the Federal Water Pollution Con-

1 trol Act (33 U.S.C. 1267) is amended by striking sub-
2 section (j) and inserting the following new subsection:

3 “(j) FINANCIAL REPORT.—

4 “(1) FINANCIAL REPORT REQUIRED.—Begin-
5 ning with the budget submission for fiscal year
6 2012, the Director of the Office of Management and
7 Budget, in consultation with other appropriate Fed-
8 eral agencies and the chief executive of each Ches-
9 peake Bay State, shall submit to Congress a finan-
10 cial report containing—

11 “(A) a summary of an interagency crosscut
12 budget that displays—

13 “(i) the proposed funding for any
14 Federal restoration activity to be carried
15 out in the succeeding fiscal year, including
16 any planned interagency or intra-agency
17 transfer, for each of the Federal agencies
18 that carry out restoration activities;

19 “(ii) to the extent that information is
20 available, the estimated funding for any
21 State restoration activity to be carried out
22 in the succeeding fiscal year;

23 “(iii) all expenditures for Federal res-
24 toration activities from the preceding 3 fis-

1 cal years, the current fiscal year, and the
2 succeeding fiscal year; and

3 “(iv) all expenditures, to the extent
4 that information is available, for State res-
5 toration activities during the equivalent
6 time period described in clause (iii);

7 “(B) a detailed accounting of all funds re-
8 ceived and obligated by all Federal agencies for
9 restoration activities during the current and
10 preceding fiscal years, including the identifica-
11 tion of funds which were transferred to a
12 Chesapeake Bay State for restoration activities;

13 “(C) to the extent that information is
14 available, a detailed accounting from each State
15 of all funds received and obligated from a Fed-
16 eral agency for restoration activities during the
17 current and preceding fiscal years; and

18 “(D) a description of each of the proposed
19 Federal and State restoration activities to be
20 carried out in the succeeding fiscal year (cor-
21 responding to those activities listed in clauses
22 (i) and (ii) of subparagraph (A)).

23 “(2) SUBMISSION.—Not later than 30 days
24 after the submission by the President of the annual
25 budget to Congress, the Director shall submit the re-

1 port required by paragraph (1) to the following con-
2 gressional committees:

3 “(A) The Committees on Agriculture, Ap-
4 propriations, Natural Resources, Energy and
5 Commerce, and Transportation and Infrastruc-
6 ture of the House of Representatives.

7 “(B) The Committees on Agriculture, Nu-
8 trition, and Forestry, Appropriations, Environ-
9 ment and Public Works, and Commerce,
10 Science, and Transportation of the Senate.”.

11 (c) TRANSPARENCY AND ACCOUNTABILITY.—Section
12 117 of the Federal Water Pollution Control Act (33
13 U.S.C. 1267) is amended by adding at the end the fol-
14 lowing new subsection:

15 “(k) TRANSPARENCY AND ACCOUNTABILITY RE-
16 QUIREMENTS.—

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

22 “(A) identifies the total amount of funds
23 received from the agency under such provisions
24 during the preceding calendar quarter;

1 “(B) identifies the amount of funds re-
2 ceived from the agency under such provisions
3 during the preceding calendar quarter or earlier
4 that were obligated or expended for projects or
5 activities during the preceding calendar quarter;
6 and

7 “(C) contains a list of all projects or activi-
8 ties for which the funds were obligated or ex-
9 pended, except that such list shall not include
10 personal identifying information of individual
11 recipients.

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

21 “(3) INITIAL COMPLIANCE.—Not later than 180
22 days after the date of the enactment of the Chesa-
23 peake Bay Program Reauthorization and Improve-
24 ment Act, the head of each Federal agency providing
25 funds under subsection (n)(1)(B) shall require, as a

1 condition of receipt of the funds, a State recipient
2 of the funds to provide the information required
3 under paragraph (1).

4 “(4) WEBSITE.—

5 “(A) WEBSITE REQUIRED.—The Adminis-
6 trator shall establish and maintain, no later
7 than 30 days after enactment of the Ches-
8 peake Bay Program Reauthorization and Im-
9 provement Act, a user-friendly, public-facing
10 website to foster greater accountability and
11 transparency in the use of funds provided under
12 subsection (n)(1)(B).

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

15 “(i) Accountability information, in-
16 cluding findings from audits, inspectors
17 general, and the Government Account-
18 ability Office.

19 “(ii) Data on relevant economic, fi-
20 nancial, grant, and contract information in
21 user-friendly visual presentations to en-
22 hance public awareness of the use of cov-
23 ered funds.

24 “(iii) Links to other government
25 websites where key information relating to

1 efforts to improve the water quality of the
2 Chesapeake Bay watershed may be found.

3 “(iv) Printable reports on covered
4 funds obligated by month to each State
5 and congressional district.

6 “(v) Links to other government
7 websites with information concerning cov-
8 ered funds, including Federal agency and
9 State websites.

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

12 (d) INDEPENDENT EVALUATION AND TECHNICAL
13 ADVISORY COMMITTEE FOR CHESAPEAKE BAY PRO-
14 GRAM.—Section 117 of the Federal Water Pollution Con-
15 trol Act (33 U.S.C. 1267) is amended by inserting after
16 subsection (k), as added by subsection (c), the following
17 new subsection:

18 “(l) INDEPENDENT EVALUATION AND TECHNICAL
19 ADVISORY COMMITTEE.—

20 “(1) ESTABLISHMENT; PURPOSE.—There shall
21 be an Independent Evaluation and Technical Advi-
22 sory Committee (in this subsection referred to as the
23 ‘advisory committee’) established to review and re-
24 port on restoration activities in the Chesapeake Bay
25 ecosystem, including relevant topics suggested by the

1 Chesapeake Executive Council and the Chesapeake
2 Bay Commission

3 “(2) APPOINTMENT.—The Administrator and
4 the Secretary of Agriculture shall appoint the mem-
5 bers of the advisory committee, which shall consist
6 of the following members:

7 “(A) One individual affiliated with an in-
8 stitution of higher education who has technical
9 expertise in water quality.

10 “(B) Two individuals who are engineers or
11 scientists from government and academia who
12 have expertise in water quality modeling.

13 “(C) One individual with professional expe-
14 rience and expertise concerning urban storm
15 water issues.

16 “(D) One individual with professional ex-
17 perience and expertise concerning agricultural
18 storm water issues

19 “(E) One individual with professional expe-
20 rience and expertise concerning urban and sub-
21 urban development.

22 “(F) One individual with professional expe-
23 rience and expertise regarding water quality
24 modeling.

1 “(G) One individual affiliated with an envi-
2 ronmental or conservation organization.

3 “(H) One individual affiliated with a fish-
4 ing, hunting, or outdoor sporting organization
5 operating in the Chesapeake Bay ecosystem.

6 “(I) One individual affiliated with agri-
7 culture farm commodity programs.

8 “(J) One individual affiliated with agri-
9 culture conservation programs.

10 “(K) One individual with professional ex-
11 perience and expertise in economics.

12 “(L) One individual with professional expe-
13 rience and expertise in agronomy, crop science,
14 or soil science.

15 “(M) One individual with professional ex-
16 perience and expertise in wastewater treatment
17 systems.

18 “(N) One individual with professional ex-
19 perience and expertise in marine biology or fish
20 and wildlife habitats.

21 “(O) One individual with professional expe-
22 rience and expertise in implementing building
23 permits.

24 “(3) TERM.—A member of the advisory com-
25 mittee shall be appointed for a term of two years

1 and is limited to three terms on the advisory com-
2 mittee.

3 “(4) BYLAWS.—The advisory committee shall
4 establish such bylaws as may be appropriate to en-
5 able the advisory committee to carry out its duties
6 under this subsection. Such bylaws shall include pro-
7 visions to prevent any conflict of interest, or the ap-
8 pearance of any conflict of interest, in the actions
9 taken or recommendations made by the advisory
10 committee or by any member. As an advisory com-
11 mittee, the committee has no power to promulgate
12 regulations.

13 “(5) ADMINISTRATIVE SUPPORT.—The Depart-
14 ment of Agriculture shall be the administering agen-
15 cy for the advisory committee.

16 “(6) DUTIES.—

17 “(A) ADMINISTRATION REVIEW.—The ad-
18 visory committee shall provide recommendations
19 to the Administrator and Secretary of Agri-
20 culture concerning administration of this sec-
21 tion.

22 “(B) PROGRAM AND ACTIVITIES RE-
23 VIEW.—The advisory committee shall review,
24 and provide recommendations to the Adminis-

1 trator and Secretary of Agriculture concerning,
2 whether—

3 “(i) funds authorized for the restora-
4 tion activities are distributed and used in
5 a manner that are consistent with the ob-
6 jectives of improving the water quality in
7 the Chesapeake Bay ecosystem;

8 “(ii) mechanisms are in place to en-
9 sure that restoration activities are properly
10 implemented;

11 “(iii) mechanisms are in place to en-
12 sure that progress toward water quality
13 goals for the Chesapeake Bay ecosystem
14 are achieved;

15 “(iv) the allocation of funds reflects
16 each Chesapeake Bay State’s responsibility
17 and contribution towards achieving water
18 quality goals;

19 “(v) restoration activities are carried
20 out in accordance with this section;

21 “(vi) the factual information and as-
22 sumptions incorporated in Chesapeake Bay
23 modeling efforts are accurate; and

24 “(vii) implementation is being ade-
25 quately tracked and accounted for in

1 Chesapeake Bay modeling efforts, includ-
2 ing tracking of privately and government-
3 funded practices.

4 “(C) REPORT.—Not later than December
5 31, 2011, and every two years thereafter, the
6 advisory committee shall submit to the Admin-
7 istrator, the Secretary of Agriculture, and Con-
8 gress regarding progress made toward reaching
9 water quality goals in the Chesapeake Bay eco-
10 system.

11 “(7) COORDINATION.—To avoid duplication of
12 effort, the advisory committee shall coordinate ac-
13 tivities with other Federal advisory committees
14 working in related areas.

15 “(8) MEETINGS.—The advisory committee shall
16 meet at least quarterly.

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

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

1 “(m) NUTRIENT AND SEDIMENT TRADING TECH-
2 NICAL GUIDELINES.—

3 “(1) ESTABLISHMENT.—Not later than May
4 12, 2012, the Administrator, in consultation with
5 the Secretary of Agriculture and Chesapeake Bay
6 States shall establish technical guidelines to be used
7 by the Chesapeake Bay Nutrient and Sediment
8 Trading Commission in establishing an interstate
9 nutrient and sediment trading program for the
10 Chesapeake Bay. Such guidelines shall not apply to
11 agricultural and non-industrial private forest lands.

12 “(2) ELEMENTS.—The technical guidelines es-
13 tablished under this subsection shall, at a min-
14 imum—

15 “(A) define and standardize nutrient and
16 sediment credits and establish procedures or
17 standards for ensuring equivalent water quality
18 benefits for all credits;

19 “(B) establish procedures or standards for
20 nutrient and sediments credits to ensure that
21 credit-generating practices from both point
22 sources and nonpoint sources (excluding agri-
23 cultural and forest lands) are achieving reduc-
24 tions in nutrient and sediments;

1 “(C) establish procedures or standards for
2 generating, quantifying, trading, banking, and
3 applying credits to meet regulatory require-
4 ments;

5 “(D) establish baseline requirements, rel-
6 evant to the credit being traded, that a credit
7 seller must meet before becoming eligible to
8 generate saleable credits; and

9 “(E) incorporate an approach under the
10 national pollutant discharge elimination system
11 established under section 402 that creates a
12 general approval for trading, thereby avoiding
13 the need to reopen or reissue permits to incor-
14 porate individual trades.”.

15 (f) AUTHORIZATION OF APPROPRIATIONS AND
16 GRANT AUTHORITY.—Section 117 of the Federal Water
17 Pollution Control Act (33 U.S.C. 1267) is amended by in-
18 serting after subsection (m), as added by subsection (e),
19 the following new subsection:

20 “(n) AUTHORIZATION OF APPROPRIATIONS;
21 GRANTS.—

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

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

3 “(B) such sums as may be necessary to
4 support the Chesapeake Bay States in carrying
5 out section 303(d), with priority given to Mary-
6 land, Virginia, Pennsylvania, and District of
7 Columbia, which shall be distributed in the fol-
8 lowing percentages and for the following pur-
9 poses:

10 “(i) 30 percent for grants to any mu-
11 nicipal, intermunicipal, interstate, or State
12 agency for construction of publicly owned
13 treatment works, as defined in section 212.

14 “(ii) 35 percent for grants to any mu-
15 nicipality that operates a municipal sepa-
16 rate stormwater sewage system under sec-
17 tion 402(p).

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

22 “(2) AVAILABILITY OF FUNDS.—Amounts ap-
23 propriated pursuant to the authorization of appro-
24 priations in paragraph (1) shall remain available
25 until expended.

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

2 “(A) RESERVATION PERCENTAGES.—Of
3 the amounts appropriated pursuant to the au-
4 thorization of appropriations in paragraph
5 (1)(B), the Administrator shall reserve the fol-
6 lowing percentages for allocation pursuant to
7 subparagraph (B):

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

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

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

11 “(B) ALLOCATION TO STATES.—The Ad-
12 ministrator shall allot the amounts reserved
13 pursuant to subparagraph (A) among States in
14 each fiscal year based on the Administrator’s
15 finding, in consultation with the Secretary of
16 Agriculture, that the States have made suffi-
17 cient progress toward meeting water quality
18 goals and are properly managing financial re-
19 sources intended to enable each State in meet-
20 ing its water quality goals. The Administrator,
21 in consultation with the Secretary, shall base
22 the finding upon the report of the advisory
23 committee required under subsection (l).”.

24 (g) TOTAL MAXIMUM DAILY LOAD FOR NITROGEN,
25 PHOSPHORUS, OR SEDIMENT FOR CHESAPEAKE BAY.—

1 Section 117 of the Federal Water Pollution Control Act
2 (33 U.S.C. 1267) is amended by inserting after subsection
3 (n), as added by subsection (f), the following new sub-
4 section:

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

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

17 “(2) ADAPTIVE MANAGEMENT.—If a Chesa-
18 peake Bay State develops a plan to implement a
19 total maximum daily load under section 303(d) for
20 phosphorus, nitrogen, or sediment for the Chesa-
21 peake Bay or its tributaries that provides for reduc-
22 tions in loading through an iterative process that
23 employs adaptive management principles, permits
24 may be issued under section 402 for new or existing
25 discharges that include waste load allocations con-

1 sistent with the plan and that demonstrate progress
2 towards achieving the waste load allocation, whether
3 by treatment, trading, or other means, in accordance
4 with the schedule provided in the plan, as deter-
5 mined by the permit issuing authority. In assessing
6 sufficient progress by municipal dischargers and
7 other point sources toward meeting water quality
8 goals and plans, the Administrator and the States
9 should take into account the availability, cost, effec-
10 tiveness, and appropriateness of practices, tech-
11 niques, methods, or other provisions for the control
12 of such pollutants to meet the requirements of sec-
13 tion 402(p).

14 “(3) OPTIONS FOR OFFSETTING OF
15 STORMWATER MANAGEMENT REQUIREMENTS.—In
16 order to meet Federal or State water quality re-
17 quirements in the Chesapeake Bay ecosystem, an in-
18 dividual or entity undertaking land development ac-
19 tivities requiring the management of stormwater by
20 on-site infiltration shall be permitted to meet the ap-
21 plicable infiltration requirements by paying to offset
22 them through the establishment of equivalent
23 stormwater management practices off-site within the
24 Chesapeake Bay ecosystem. Offsetting stormwater
25 management practices shall include, at a minimum,

1 the establishment on agricultural lands of riparian
2 forest buffers, streambank fencing, or other best
3 management practices.”.

4 **SEC. 3. ESTABLISHMENT OF INDEPENDENT COMMISSION**
5 **TO OVERSEE AND ADMINISTER NUTRIENT**
6 **AND SEDIMENT TRADING PROGRAM FOR**
7 **CHESAPEAKE BAY STATES.**

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

11 **“SEC. 117A. CHESAPEAKE BAY NUTRIENT AND SEDIMENT**
12 **TRADING COMMISSION.**

13 “(a) DEFINITIONS.—In this section:

14 “(1) COMMISSION.—The term ‘Commission’
15 means the Chesapeake Bay Nutrient and Sediment
16 Trading Commission.

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

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

24 “(4) CHESAPEAKE BAY AGREEMENT.—The
25 term ‘Chesapeake Bay Agreement’ means the for-

1 mal, voluntary agreements executed to achieve the
2 goal of restoring and protecting the Chesapeake Bay
3 ecosystem and the living resources of the Chesapeake Bay ecosystem and signed by the Chesapeake
4 Executive Council.

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

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

9 “(1) IN GENERAL.—There is established a
10 Chesapeake Bay Nutrient and Sediment Trading
11 Commission to oversee and administer the nitrogen
12 and phosphorus trading program for the Chesapeake
13 Bay States to ensure credits are generated to attract
14 market participants and facilitate trading mechanisms among and within States to meet water quality goals.

15
16
17 “(2) INDEPENDENT ESTABLISHMENT.—The
18 Commission shall be an independent establishment,
19 as defined in section 104 of title 5, United States
20 Code.

21 “(3) LOCATION.—The Commission shall be
22 housed at the Office of the Chesapeake Bay Program directed by the Chesapeake Executive Council
23 in accordance with the Chesapeake Bay Agreement.

24
25 “(c) DUTIES.—

1 “(1) CREDITS FOR WATER QUALITY TRAD-
2 ING.—In consultation with market developers and
3 appropriate Federal agencies, the Commission shall
4 develop a system to facilitate and generate credits
5 for interstate water quality trading in the Chesa-
6 peake Bay States.

7 “(2) WATER QUALITY TRADING REGISTRY.—
8 The Commission shall obtain information from the
9 Administrator, the Secretary of Agriculture, and
10 other Federal agencies to operate and oversee a reg-
11 istry for interstate water quality trading in the
12 Chesapeake Bay States.

13 “(3) TRADE RECORDKEEPING.—The Commis-
14 sion shall develop and maintain a system to record
15 specific interstate water quality trades in the Chesa-
16 peake Bay States.

17 “(4) POINT SOURCE AND NON-POINT SOURCE
18 TRADES.—In consultation with market developers
19 and appropriate Federal agencies, the Commission
20 shall develop a system to allow for trading to occur
21 between point source and non-point source dis-
22 chargers in the Chesapeake Bay States.

23 “(5) CONSISTENCY WITH STATE PROGRAM.—
24 The Commission shall not establish or operate a pro-

1 gram that conflicts with or modifies a State pro-
2 gram.

3 “(d) USE OF TECHNICAL GUIDELINES.—The Com-
4 mission shall rely on the Administrator to provide tech-
5 nical guidelines under section 117(m) and the Secretary
6 of Agriculture to provide technical guidelines under sec-
7 tion 1245(b) of the Food Security Act of 1985 (16 U.S.C.
8 3845(b)).

9 “(e) MEMBERS OF COMMISSION.—

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

12 “(A) one member shall be appointed by the
13 Secretary of Agriculture;

14 “(B) one member shall be appointed by the
15 Administrator of the Environmental Protection
16 Agency; and

17 “(C) three members shall be appointed by
18 the governors from each of the signatory States
19 of the Bay Agreement.

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

22 “(A) one member shall be a representative
23 of the general public;

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

4 “(C) at least one of the members shall be
5 experienced in a market based pollutant trading
6 mechanism.

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

10 “(4) CHAIRPERSON.—The members of the
11 Commission shall designate one of the members to
12 serve as chairperson.

13 “(5) MEETINGS.—The Commission shall meet
14 at the call of the chairperson or a majority of its
15 members.

16 “(f) OFFICERS AND STAFF.—The Commission may
17 appoint, employ, fix the pay of, and provide other allow-
18 ances and benefits for such officers and employees of the
19 Commission as the members determine to be appropriate.

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

1 **SEC. 4. CHESAPEAKE BAY WATERSHED ASSURANCE STAND-**
2 **ARDS.**

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

6 “(i) CHESAPEAKE BAY WATERSHED ASSURANCE
7 STANDARDS.—

8 “(1) PURPOSE.—The purpose of this subsection
9 is to develop environmental assurance standards for
10 the Chesapeake Bay States to use to ensure that
11 farmers and non-industrial private forest landowners
12 in the Chesapeake Bay watershed are implementing
13 achievable and economically practicable conservation
14 activities, consistent with the applicable State’s
15 water quality goals—

16 “(A) intended to reduce nutrient and sedi-
17 ment loads; and

18 “(B) to fulfill water quality regulations
19 under applicable Federal and State law.

20 “(2) DUTIES OF SECRETARY.—

21 “(A) ASSURANCE STANDARDS.—For the
22 purposes of this section, the Secretary shall use
23 existing partnerships and programs to identify
24 conservation practice standards and other con-
25 servation activities, including risk assessment
26 and conservation planning, designed to achieve

1 nutrient and sediment reductions that Chesapeake Bay States can incorporate in their State
2 management plan under section 117(g)(1) of
3 the Federal Water Pollution Control Act (33
4 U.S.C. 1267(g)(1)).

6 “(B) ESTABLISHMENT OF GUIDELINES.—
7 The Secretary shall establish third-party
8 verification and auditing guidelines for States
9 to ensure that activities designed to meet con-
10 servation practice standards are being imple-
11 mented.

12 “(C) TECHNICAL ASSISTANCE.—The Sec-
13 retary shall provide conservation technical as-
14 sistance—

15 “(i) to educate agricultural and pri-
16 vate forest landowners in the Chesapeake
17 Bay watershed regarding State and Fed-
18 eral regulatory water quality requirements
19 and possible activities they could undertake
20 to come into compliance with the regula-
21 tions and improve wildlife habitat;

22 “(ii) to assist such landowners in se-
23 lecting and implementing conservation ac-
24 tivities that will achieve and maintain reg-
25 ulatory compliance; and

1 “(iii) to support voluntary efforts to
2 improve water quality and wildlife habitat.

3 “(D) MEMORANDUM OF UNDER-
4 STANDING.—The Secretary may enter into a
5 memorandum of understanding with the Ad-
6 ministrator of the Environmental Protection
7 Agency and with the Chesapeake Bay States to
8 coordinate conservation planning for agricul-
9 tural and non-industrial private forest lands to
10 meet applicable State water quality require-
11 ments.

12 “(3) EFFECT OF ASSURANCE STANDARDS.—

13 “(A) COMPLIANCE.—Agricultural and pri-
14 vate forest landowners who achieve conservation
15 practice standards in accordance with this sub-
16 section shall be deemed to be in full compliance
17 with applicable Federal and State water quality
18 requirements under section 303(d) of the Fed-
19 eral Water Pollution Control Act (33 U.S.C.
20 1313(d)).

21 “(B) EXCEPTION.—Subparagraph (A)
22 does not apply to Natural Resources Conserva-
23 tion Service agreements regarding comprehen-
24 sive nutrient management plans.

1 “(4) CHESAPEAKE BAY STATE DEFINED.—In
2 this subsection, the term ‘Chesapeake Bay State’
3 means Delaware, Maryland, New York, Pennsyl-
4 vania, Virginia, West Virginia, and the District of
5 Columbia.”.

6 **SEC. 5. TECHNICAL GUIDELINES FOR ENVIRONMENTAL**
7 **SERVICES MARKETS.**

8 (a) TYPES OF GUIDELINES REQUIRED.—

9 (1) ADDITIONAL GUIDELINES.—Section
10 1245(b) of the Food Security Act of 1985 (16
11 U.S.C. 3845(b)) is amended by striking paragraphs
12 (1), (2), and (3) and inserting the following new
13 paragraphs:

14 “(1) Methodologies for quantifying environ-
15 mental service benefits.

16 “(2) Baseline methodologies for environmental
17 service benefits.

18 “(3) Methodologies to account for reversals and
19 leakage for environmental services markets.

20 “(4) Methodologies for verification of the envi-
21 ronmental service benefits.

22 “(5) A protocol to report environmental service
23 benefits.

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

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

3 (2) CONFORMING AMENDMENTS.—Section
4 1245(e)(1) of the Food Security Act of 1985 (16
5 U.S.C. 3845(e)(1)) is amended—

6 (A) by striking “paragraph (2)” and in-
7 serting “paragraph (5)”; and

8 (B) by striking “paragraph (3)” and in-
9 serting “paragraph (6)”.

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

14 “(f) LIST OF ELIGIBLE ACTIVITIES.—

15 “(1) LIST REQUIRED.—The Secretary shall
16 publish a list of eligible domestic agricultural and
17 forestry activities that result in environmental serv-
18 ice benefits.

19 “(2) DEADLINE; PUBLICATION.—Not later than
20 14 months after the date of the enactment of the
21 Chesapeake Bay Program Reauthorization and Im-
22 provement Act, the Secretary shall publish in the
23 Federal Register the list of domestic agricultural
24 and forestry activities that are eligible for the guide-
25 lines established under subsection (a).

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

5 “(4) ADDITIONS AND REVISIONS.—Not later
6 than four years after the date of the enactment of
7 the Chesapeake Bay Program Reauthorization and
8 Improvement Act, and every two years thereafter,
9 the Secretary shall add to and revise the list pre-
10 pared under this subsection. The additions and revi-
11 sions shall be made only after the Secretary provides
12 an opportunity for public notice of and an oppor-
13 tunity for comment on the proposed additions and
14 revisions.

15 “(g) GUIDELINES FOR PROVISION OF TECHNICAL
16 ASSISTANCE.—

17 “(1) VERIFICATION GUIDELINES.—As part of
18 the regulations promulgated under this title, the
19 Secretary shall establish guidelines for the provision
20 of technical assistance to ensure—

21 “(A) that environmental service benefits
22 have been implemented properly; and

23 “(B) the quantification of the benefits have
24 resulted in an environmental benefit.

1 “(2) TECHNICAL ASSISTANCE PROVIDER AC-
2 CREDITATION.—As part of the regulations promul-
3 gated under this title, the Secretary shall establish
4 a process and requirements for periodic accreditation
5 of certified technical assistance providers for envi-
6 ronmental service benefits to ensure that those tech-
7 nical service providers are professionally qualified
8 and have no conflicts of interest. Each technical
9 service provider meeting the requirements for ac-
10 creditation in accordance with this paragraph shall
11 be listed in a publicly accessible database, which
12 shall be maintained and updated by the Secretary.”.

13 **SEC. 6. CHESAPEAKE BAY WATERSHED PILOT PROGRAM**
14 **FOR CREATING ENVIRONMENTAL SERVICE**
15 **MARKETS.**

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

20 “(j) PILOT PROGRAM FOR CREATING ENVIRON-
21 MENTAL SERVICE MARKETS.—

22 “(1) ESTABLISHMENT.—The Secretary shall es-
23 tablish a pilot program for the Chesapeake Bay wa-
24 tershed for the facilitation of creating environmental
25 service markets based on the guidelines outlined in

1 section 1245 as long as those environmental service
2 benefits do not result in taking eligible land wholly
3 out of agricultural production. The Secretary shall
4 ensure that the pilot program is consistent with the
5 policies, protocols, and regulations established under
6 existing environmental service markets and State
7 trading programs in the Chesapeake Bay watershed.

8 “(2) TRANSMISSION OF DATA TO CHESAPEAKE
9 BAY NUTRIENT AND SEDIMENT TRADING COMMIS-
10 SION.—The Secretary shall transmit to the Chesa-
11 peake Bay Nutrient and Sediment Trading Commis-
12 sion such data acquired by the Secretary as may be
13 necessary to the effective administration of nutrient
14 and sediment trading programs administered by the
15 Commission under section 117A of the Federal
16 Water Pollution Control Act.”.

