

Union Calendar No. 161

112TH CONGRESS
1ST SESSION

H. R. 258

[Report No. 112-245, Part I]

To require the Office of Management and Budget to prepare a crosscut budget for restoration activities in the Chesapeake Bay watershed, to require the Environmental Protection Agency to develop and implement an adaptive management plan, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2011

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

OCTOBER 14, 2011

Additional sponsors: Mr. MORAN, Mr. SARBANES, Mr. RIGELL, Mr. CONNOLLY of Virginia, Mr. GERLACH, Mr. GOODLATTE, and Mr. WOLF

OCTOBER 14, 2011

Reported from the Committee on Natural Resources with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

OCTOBER 14, 2011

The Committee on Transportation and Infrastructure discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on January 7, 2011]

A BILL

To require the Office of Management and Budget to prepare a crosscut budget for restoration activities in the Chesapeake Bay watershed, to require the Environmental Protection Agency to develop and implement an adaptive management plan, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Chesapeake Bay Ac-*
5 *countability and Recovery Act of 2011”.*

6 **SEC. 2. CHESAPEAKE BAY CROSSCUT BUDGET.**

7 *(a) CROSSCUT BUDGET.—The Director, in consulta-*
8 *tion with the Chesapeake Executive Council, the chief execu-*
9 *tive of each Chesapeake Bay State, and the Chesapeake Bay*
10 *Commission, shall submit to Congress a financial report*
11 *containing—*

12 *(1) an interagency crosscut budget that dis-*
13 *plays—*

14 *(A) the proposed funding for any Federal*
15 *restoration activity to be carried out in the suc-*
16 *ceeding fiscal year, including any planned inter-*
17 *agency or intra-agency transfer, for each of the*
18 *Federal agencies that carry out restoration ac-*
19 *tivities;*

20 *(B) to the extent that information is avail-*
21 *able, the estimated funding for any State res-*
22 *toration activity to be carried out in the suc-*
23 *ceeding fiscal year;*

24 *(C) all expenditures for Federal restoration*
25 *activities from the preceding 2 fiscal years, the*

1 *current fiscal year, and the succeeding fiscal*
2 *year; and*

3 *(D) all expenditures, to the extent that in-*
4 *formation is available, for State restoration ac-*
5 *tivities during the equivalent time period de-*
6 *scribed in subparagraph (C);*

7 *(2) a detailed accounting of all funds received*
8 *and obligated by all Federal agencies for restoration*
9 *activities during the current and preceding fiscal*
10 *years, including the identification of funds which*
11 *were transferred to a Chesapeake Bay State for res-*
12 *toration activities;*

13 *(3) to the extent that information is available, a*
14 *detailed accounting from each State of all funds re-*
15 *ceived and obligated from a Federal agency for res-*
16 *toration activities during the current and preceding*
17 *fiscal years; and*

18 *(4) a description of each of the proposed Federal*
19 *and State restoration activities to be carried out in*
20 *the succeeding fiscal year (corresponding to those ac-*
21 *tivities listed in subparagraphs (A) and (B) of para-*
22 *graph (1)), including the—*

23 *(A) project description;*

24 *(B) current status of the project;*

1 (C) *Federal or State statutory or regulatory*
2 *authority, programs, or responsible agencies;*

3 (D) *authorization level for appropriations;*

4 (E) *project timeline, including benchmarks;*

5 (F) *references to project documents;*

6 (G) *descriptions of risks and uncertainties*
7 *of project implementation;*

8 (H) *adaptive management actions or frame-*
9 *work;*

10 (I) *coordinating entities;*

11 (J) *funding history;*

12 (K) *cost-sharing; and*

13 (L) *alignment with existing Chesapeake*
14 *Bay Agreement and Chesapeake Executive Coun-*
15 *cil goals and priorities.*

16 (b) *MINIMUM FUNDING LEVELS.—The Director shall*
17 *only describe restoration activities in the report required*
18 *under subsection (a) that—*

19 (1) *for Federal restoration activities, have fund-*
20 *ing amounts greater than or equal to \$100,000; and*

21 (2) *for State restoration activities, have funding*
22 *amounts greater than or equal to \$50,000.*

23 (c) *DEADLINE.—The Director shall submit to Congress*
24 *the report required by subsection (a) not later than 30 days*

1 *after the submission by the President of the President's an-*
2 *nual budget to Congress.*

3 *(d) REPORT.—Copies of the financial report required*
4 *by subsection (a) shall be submitted to the Committees on*
5 *Appropriations, Natural Resources, Energy and Commerce,*
6 *and Transportation and Infrastructure of the House of Rep-*
7 *resentatives and the Committees on Appropriations, Envi-*
8 *ronment and Public Works, and Commerce, Science, and*
9 *Transportation of the Senate.*

10 *(e) EFFECTIVE DATE.—This section shall apply begin-*
11 *ning with the first fiscal year after the date of enactment*
12 *of this Act for which the President submits a budget to Con-*
13 *gress.*

14 **SEC. 3. ADAPTIVE MANAGEMENT PLAN.**

15 *(a) IN GENERAL.—Not later than 1 year after the date*
16 *of enactment of this Act, the Administrator, in consultation*
17 *with other Federal and State agencies, shall develop an*
18 *adaptive management plan for restoration activities in the*
19 *Chesapeake Bay watershed that includes—*

20 *(1) definition of specific and measurable objec-*
21 *tives to improve water quality, habitat, and fisheries;*

22 *(2) a process for stakeholder participation;*

23 *(3) monitoring, modeling, experimentation, and*
24 *other research and evaluation practices;*

1 (4) a process for modification of restoration ac-
2 tivities that have not attained or will not attain the
3 specific and measurable objectives set forth under
4 paragraph (1); and

5 (5) a process for prioritizing restoration activi-
6 ties and programs to which adaptive management
7 shall be applied.

8 (b) *IMPLEMENTATION.*—The Administrator shall im-
9 plement the adaptive management plan developed under
10 subsection (a).

11 (c) *UPDATES.*—The Administrator shall update the
12 adaptive management plan developed under subsection (a)
13 every 2 years.

14 (d) *REPORT TO CONGRESS.*—

15 (1) *IN GENERAL.*—Not later than 60 days after
16 the end of a fiscal year, the Administrator shall
17 transmit to Congress an annual report on the imple-
18 mentation of the adaptive management plan required
19 under this section for such fiscal year.

20 (2) *CONTENTS.*—The report required under
21 paragraph (1) shall contain information about the
22 application of adaptive management to restoration
23 activities and programs, including programmatic and
24 project level changes implemented through the process
25 of adaptive management.

1 (3) *EFFECTIVE DATE.*—Paragraph (1) shall
2 apply to the first fiscal year that begins after the date
3 of enactment of this Act.

4 (e) *INCLUSION OF PLAN IN ANNUAL ACTION PLAN AND*
5 *ANNUAL PROGRESS REPORT.*—The Administrator shall en-
6 sure that the Annual Action Plan and Annual Progress Re-
7 port required by section 205 of Executive Order 13508 in-
8 cludes the adaptive management plan outlined in sub-
9 section (a).

10 **SEC. 4. INDEPENDENT EVALUATOR FOR THE CHESAPEAKE**
11 **BAY PROGRAM.**

12 (a) *IN GENERAL.*—There shall be an Independent
13 *Evaluator for restoration activities in the Chesapeake Bay*
14 *watershed, who shall review and report on restoration ac-*
15 *tivities and the use of adaptive management in restoration*
16 *activities, including on such related topics as are suggested*
17 *by the Chesapeake Executive Council.*

18 (b) *APPOINTMENT.*—

19 (1) *IN GENERAL.*—The Independent Evaluator
20 shall be appointed by the Administrator from among
21 nominees submitted by the Chesapeake Executive
22 Council.

23 (2) *NOMINATIONS.*—The Chesapeake Executive
24 Council may submit to the Administrator 4 nominees

1 for appointment to any vacancy in the office of the
2 Independent Evaluator.

3 (c) *REPORTS.*—The Independent Evaluator shall sub-
4 mit a report to the Congress every 2 years in the findings
5 and recommendations of reviews under this section.

6 (d) *CHESAPEAKE EXECUTIVE COUNCIL.*—In this sec-
7 tion, the term “Chesapeake Executive Council” has the
8 meaning given that term by section 307 of the National
9 Oceanic and Atmospheric Administration Authorization
10 Act of 1992 (Public Law 102–567; 15 U.S.C. 1511d).

11 **SEC. 5. DEFINITIONS.**

12 *In this Act, the following definitions apply:*

13 (1) *ADAPTIVE MANAGEMENT.*—The term “adapt-
14 ive management” means a type of natural resource
15 management in which project and program decisions
16 are made as part of an ongoing science-based process.
17 Adaptive management involves testing, monitoring,
18 and evaluating applied strategies and incorporating
19 new knowledge into programs and restoration activi-
20 ties that are based on scientific findings and the needs
21 of society. Results are used to modify management
22 policy, strategies, practices, programs, and restoration
23 activities.

1 (2) *ADMINISTRATOR.*—*The term “Adminis-*
2 *trator” means the Administrator of the Environ-*
3 *mental Protection Agency.*

4 (3) *CHESAPEAKE BAY STATE.*—*The term “Chesa-*
5 *peake Bay State” or “State” means the States of*
6 *Maryland, West Virginia, Delaware, and New York,*
7 *the Commonwealths of Virginia and Pennsylvania,*
8 *and the District of Columbia.*

9 (4) *CHESAPEAKE BAY WATERSHED.*—*The term*
10 *“Chesapeake Bay watershed” means the Chesapeake*
11 *Bay and the geographic area, as determined by the*
12 *Secretary of the Interior, consisting of 36 tributary*
13 *basins, within the Chesapeake Bay States, through*
14 *which precipitation drains into the Chesapeake Bay.*

15 (5) *CHIEF EXECUTIVE.*—*The term “chief execu-*
16 *tive” means, in the case of a State or Commonwealth,*
17 *the Governor of each such State or Commonwealth*
18 *and, in the case of the District of Columbia, the*
19 *Mayor of the District of Columbia.*

20 (6) *DIRECTOR.*—*The term “Director” means the*
21 *Director of the Office of Management and Budget.*

22 (7) *RESTORATION ACTIVITIES.*—*The term “res-*
23 *toration activities” means any Federal or State pro-*
24 *grams or projects that directly or indirectly protect,*
25 *conserve, or restore living resources, habitat, water re-*

1 *sources, or water quality in the Chesapeake Bay wa-*
2 *tershed, including programs or projects that promote*
3 *responsible land use, stewardship, and community en-*
4 *gagement in the Chesapeake Bay watershed. Restora-*
5 *tion activities may be categorized as follows:*

6 *(A) Physical restoration.*

7 *(B) Planning.*

8 *(C) Feasibility studies.*

9 *(D) Scientific research.*

10 *(E) Monitoring.*

11 *(F) Education.*

12 *(G) Infrastructure Development.*

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