

111TH CONGRESS
1ST SESSION

H. R. 1053

IN THE SENATE OF THE UNITED STATES

OCTOBER 1, 2009

Received; read twice and referred to the Committee on Environment and
Public Works

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Chesapeake Bay Ac-
3 countability and Recovery Act of 2009”.

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

5 (a) CROSSCUT BUDGET.—The Director, in consulta-
6 tion with the Chesapeake Executive Council, the chief ex-
7 ecutive of each Chesapeake Bay State, and the Ches-
8 peake Bay Commission, shall submit to Congress a finan-
9 cial report containing—

10 (1) an interagency crosscut budget that dis-
11 plays—

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

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

22 (C) all expenditures for Federal restoration
23 activities from the preceding 3 fiscal years, the
24 current fiscal year, and the succeeding fiscal
25 year; and

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

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

11 (3) to the extent that information is available,
12 a detailed accounting from each State of all funds
13 received and obligated from a Federal agency for
14 restoration activities during the current and pre-
15 ceding fiscal years; and

16 (4) a description of each of the proposed Fed-
17 eral and State restoration activities to be carried out
18 in the succeeding fiscal year (corresponding to those
19 activities listed in subparagraphs (A) and (B) of
20 paragraph (1)), including the—

21 (A) project description;

22 (B) current status of the project;

23 (C) Federal or State statutory or regu-
24 latory authority, programs, or responsible agen-
25 cies;

- 1 (D) authorization level for appropriations;
- 2 (E) project timeline, including benchmarks;
- 3 (F) references to project documents;
- 4 (G) descriptions of risks and uncertainties
- 5 of project implementation;
- 6 (H) adaptive management actions or
- 7 framework;
- 8 (I) coordinating entities;
- 9 (J) funding history;
- 10 (K) cost-sharing; and
- 11 (L) alignment with existing Chesapeake
- 12 Bay Agreement and Chesapeake Executive
- 13 Council goals and priorities.

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

- 17 (1) for Federal restoration activities, have fund-
- 18 ing amounts greater than or equal to \$100,000; and
- 19 (2) for State restoration activities, have funding
- 20 amounts greater than or equal to \$50,000.

21 (c) DEADLINE.—The Director shall submit to Con-
22 gress the report required by subsection (a) not later than
23 30 days after the submission by the President of the Presi-
24 dent’s annual budget to Congress.

1 (d) REPORT.—Copies of the financial report required
2 by subsection (a) shall be submitted to the Committees
3 on Appropriations, Natural Resources, Energy and Com-
4 merce, and Transportation and Infrastructure of the
5 House of Representatives and the Committees on Appro-
6 priations, Environment and Public Works, and Commerce,
7 Science, and Transportation of the Senate.

8 (e) EFFECTIVE DATE.—This section shall apply be-
9 ginning with the first fiscal year after the date of enact-
10 ment of this Act for which the President submits a budget
11 to Congress.

12 **SEC. 3. ADAPTIVE MANAGEMENT PLAN.**

13 (a) IN GENERAL.—Not later than 1 year after the
14 date of enactment of this Act, the Administrator, in con-
15 sultation with other Federal and State agencies, shall de-
16 velop an adaptive management plan for restoration activi-
17 ties in the Chesapeake Bay watershed that includes—

18 (1) definition of specific and measurable objec-
19 tives to improve water quality, habitat, and fisheries;

20 (2) a process for stakeholder participation;

21 (3) monitoring, modeling, experimentation, and
22 other research and evaluation practices;

23 (4) a process for modification of restoration ac-
24 tivities that have not attained or will not attain the

1 specific and measurable objectives set forth under
2 paragraph (1); and

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

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

9 (c) UPDATES.—The Administrator shall update the
10 adaptive management plan developed under subsection (a)
11 every 3 years.

12 (d) REPORT TO CONGRESS.—

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

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

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

4 **SEC. 4. INDEPENDENT EVALUATOR FOR THE CHESAPEAKE**
5 **BAY PROGRAM.**

6 (a) IN GENERAL.—There shall be an Independent
7 Evaluator for restoration activities in the Chesapeake Bay
8 watershed, who shall review and report on restoration ac-
9 tivities and the use of adaptive management in restoration
10 activities, including on such related topics as are suggested
11 by the Chesapeake Executive Council.

12 (b) APPOINTMENT.—

13 (1) IN GENERAL.—The Independent Evaluator
14 shall be appointed by the Administrator from among
15 nominees submitted by the Chesapeake Executive
16 Council.

17 (2) NOMINATIONS.—The Chesapeake Executive
18 Council may submit to the Administrator 4 nomi-
19 nees for appointment to any vacancy in the office of
20 the Independent Evaluator.

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

24 (d) CHESAPEAKE EXECUTIVE COUNCIL.—In this sec-
25 tion the term “Chesapeake Executive Council” has the

1 meaning given that term by section 307 of the National
2 Oceanic and Atmospheric Administration Authorization
3 Act of 1992 (Public Law 102–567; 15 U.S.C. 1511d).

4 **SEC. 5. DEFINITIONS.**

5 In this Act, the following definitions apply:

6 (1) ADAPTIVE MANAGEMENT.—The term
7 “adaptive management” means a type of natural re-
8 source management in which project and program
9 decisions are made as part of an ongoing science-
10 based process. Adaptive management involves test-
11 ing, monitoring, and evaluating applied strategies
12 and incorporating new knowledge into programs and
13 restoration activities that are based on scientific
14 findings and the needs of society. Results are used
15 to modify management policy, strategies, practices,
16 programs, and restoration activities.

17 (2) ADMINISTRATOR.—The term “Adminis-
18 trator” means the Administrator of the Environ-
19 mental Protection Agency.

20 (3) CHESAPEAKE BAY STATE.—The term
21 “Chesapeake Bay State” or “State” means the
22 States of Maryland, West Virginia, Delaware, and
23 New York, the Commonwealths of Virginia and
24 Pennsylvania, and the District of Columbia.

1 (4) CHESAPEAKE BAY WATERSHED.—The term
2 “Chesapeake Bay watershed” means the Chesapeake
3 Bay and the geographic area, as determined by the
4 Secretary of the Interior, consisting of 36 tributary
5 basins, within the Chesapeake Bay States, through
6 which precipitation drains into the Chesapeake Bay.

7 (5) CHIEF EXECUTIVE.—The term “chief execu-
8 tive” means, in the case of a State or Common-
9 wealth, the Governor of each such State or Common-
10 wealth and, in the case of the District of Columbia,
11 the Mayor of the District of Columbia.

12 (6) DIRECTOR.—The term “Director” means
13 the Director of the Office of Management and Budg-
14 et.

15 (7) RESTORATION ACTIVITIES.—The term “res-
16 toration activities” means any Federal or State pro-
17 grams or projects that directly or indirectly protect,
18 conserve, or restore living resources, habitat, water
19 resources, or water quality in the Chesapeake Bay
20 watershed, including programs or projects that pro-
21 mote responsible land use, stewardship, and commu-
22 nity engagement in the Chesapeake Bay watershed.
23 Restoration activities may be categorized as follows:

24 (A) Physical restoration.

25 (B) Planning.

- 1 (C) Feasibility studies.
- 2 (D) Scientific research.
- 3 (E) Monitoring.
- 4 (F) Education.
- 5 (G) Infrastructure Development.

Passed the House of Representatives September 30,
2009.

Attest: LORRAINE C. MILLER,
Clerk.