

112TH CONGRESS
2D SESSION

H. R. 4337

To limit the authority of the Administrator of the Environmental Protection Agency to implement certain actions related to Chesapeake Bay watershed total maximum daily loads, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2012

Mr. REED (for himself and Ms. HOCHUL) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Agriculture, 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

A BILL

To limit the authority of the Administrator of the Environmental Protection Agency to implement certain actions related to Chesapeake Bay watershed total maximum daily loads, 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 State
5 and Local Backstop Limitation Act of 2012”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

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

4 (2) CHESAPEAKE BAY STATE.—The term
5 “Chesapeake Bay State” means any one of the
6 States of Delaware, Maryland, New York, Pennsyl-
7 vania, Virginia, or West Virginia, or the District of
8 Columbia.

9 (3) 2010 CHESAPEAKE BAY TMDL.—The term
10 “2010 Chesapeake Bay TMDL” means the total
11 maximum daily load for nitrogen, phosphorus, and
12 sediment for the Chesapeake Bay and its tidal tribu-
13 taries established by the Administrator on December
14 29, 2010, and noticed at 76 Fed. Reg. 549 (January
15 5, 2011).

16 **SEC. 3. LIMITATIONS ON ADMINISTRATOR REGARDING**
17 **CERTAIN ACTIONS IN THE CHESAPEAKE BAY**
18 **WATERSHED.**

19 (a) EXISTING PERMITS.—In the case of a point
20 source in the Chesapeake Bay watershed for which the Ad-
21 ministrator (or a State) has issued a permit under section
22 402 of the Federal Water Pollution Control Act (33
23 U.S.C. 1342) before the date of enactment of this Act,
24 the Administrator may not modify the permit to require

1 additional reductions in discharges of nitrogen, phos-
2 phorus, or sediment.

3 (b) NEW PERMITS AND PERMIT RENEWALS.—In the
4 case of a point source in the Chesapeake Bay watershed
5 for which the Administrator requires a permit to be issued
6 or renewed under section 402 of the Federal Water Pollu-
7 tion Control Act (33 U.S.C. 1342) on or after the date
8 of enactment of this Act, the Administrator, for purposes
9 of compensating for any lack of progress in the State to-
10 ward meeting the water quality goals established for the
11 State in the 2010 Chesapeake Bay TMDL, may not re-
12 quire under such permit lower levels of discharges of nitro-
13 gen, phosphorus, and sediment from such point source
14 than would otherwise be required if sufficient progress to-
15 ward meeting such goals was being made.

16 (c) STORMWATER.—

17 (1) INDUSTRIAL ACTIVITY.—For purposes of
18 application in the Chesapeake Bay watershed, the
19 Administrator may not revise the definition of
20 “storm water discharge associated with industrial
21 activity” contained in section 122.26 of title 40,
22 Code of Federal Regulations, as in effect on the date
23 of enactment of this Act.

24 (2) LIMITATION ON NEW PERMITS.—The Ad-
25 ministrator may not require a permit under section

1 402(p)(2)(E) of the Federal Water Pollution Control
2 Act (33 U.S.C. 1342(p)(2)(E)) for a discharge of
3 stormwater in the Chesapeake Bay watershed, from
4 a municipal separate storm sewer system or associ-
5 ated with an industrial activity, for which a permit
6 has not been issued under section 402(p) of such
7 Act (33 U.S.C. 1342(p)) before the date of enact-
8 ment of this Act.

9 (d) ANIMAL FEEDING OPERATIONS.—For purposes
10 of application in the Chesapeake Bay watershed, the Ad-
11 ministrator may not revise the definition of “concentrated
12 animal feeding operation” contained in section 122.23 of
13 title 40, Code of Federal Regulations, as in effect on the
14 date of enactment of this Act.

15 (e) 2010 CHESAPEAKE BAY TMDL.—Before the
16 date on which all of the nitrogen, phosphorus, and sedi-
17 ment total maximum daily loads established in the 2010
18 Chesapeake Bay TMDL are met, the Administrator may
19 not—

20 (1) revise the 2010 Chesapeake Bay TMDL—
21 (A) to establish more specific or finer scale
22 wasteload or load allocations, including for
23 nonpoint sources or any individual point source;
24 or

1 (B) to require additional reductions in
2 loadings from point sources, including through
3 reallocating additional load reductions of nitro-
4 gen, phosphorus, or sediment from nonpoint
5 sources to point sources; or

6 (2) issue or enforce any regulations regarding
7 nitrogen, phosphorus, or sediment for any navigable
8 waters within the Chesapeake Bay watershed in a
9 Chesapeake Bay State, other than the 2010 Ches-
10 apeake Bay TMDL, unless the chief executive of the
11 State submits to the Administrator a statement of
12 approval of the regulation.

13 **SEC. 4. TREATMENT OF GRANTS.**

14 The Administrator or the Secretary of Agriculture
15 may not condition, withhold, or redirect any grant related
16 to water quality in a Chesapeake Bay State under the
17 Federal Water Pollution Control Act (33 U.S.C. 1251 et
18 seq.) or the Food Security Act of 1985 (16 U.S.C. 3801
19 et seq.), respectively, because the Chesapeake Bay State
20 does not meet the water quality goals established for the
21 State in the 2010 Chesapeake Bay TMDL, unless—

22 (1) the Administrator or the Secretary, as ap-
23 plicable, has offered technical assistance to the State
24 to assist the State in meeting such water quality
25 goals; and

1 (2) after allowing for sufficient time for the
2 State to benefit from such technical assistance, the
3 State has failed to show reasonable progress toward
4 achieving such water quality goals, as determined by
5 the Administrator or the Secretary, as applicable.

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