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S. 2294

To provide for continued conservation efforts in the Chesapeake Bay watershed, increase energy production from animal waste, improve transparency of Federal restoration efforts, and expand agricultural opportunities to participate in State voluntary water quality credit trading programs.

IN THE SENATE OF THE UNITED STATES

APRIL 18, 2012

Mr. CASEY (for himself, Mr. CARDIN, Ms. MIKULSKI, Mr. WARNER, and Mr. WEBB) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To provide for continued conservation efforts in the Chesapeake Bay watershed, increase energy production from animal waste, improve transparency of Federal restoration efforts, and expand agricultural opportunities to participate in State voluntary water quality credit trading programs.

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 Wa-
5 tershed Fairness Act of 2012”.

1 **SEC. 2. CHESAPEAKE BAY WATERSHED PROGRAM.**

2 (a) IN GENERAL.—Section 1240Q of the Food Secu-
3 rity Act of 1985 (16 U.S.C. 3839bb–4) is amended—

4 (1) by striking subsection (a) and inserting the
5 following:

6 “(a) DEFINITIONS.—In this section:

7 “(1) CHESAPEAKE BAY STATE; STATE.—The
8 terms ‘Chesapeake Bay State’ and ‘State’ means
9 any of—

10 “(A) the States of Delaware, Maryland,
11 New York, Pennsylvania, Virginia, and West
12 Virginia; and

13 “(B) the District of Columbia.

14 “(2) CHESAPEAKE BAY WATERSHED.—The
15 term ‘Chesapeake Bay watershed’ means all tribu-
16 taries, backwaters, and side channels, including their
17 watersheds, draining into the Chesapeake Bay in a
18 Chesapeake Bay State.

19 “(3) TECHNICAL SERVICE PROVIDER.—The
20 term ‘technical service provider’ may include any
21 provider who—

22 “(A) has experience working with individ-
23 uals who, due to religious tenets, do not accept
24 government assistance; and

25 “(B) meets the requirements of section
26 1242(e).

1 “(4) WATER QUALITY TRADING PREPARATION
2 ACTIVITY.—The term ‘water quality trading prepa-
3 ration activity’ includes the following activities car-
4 ried out with respect to agricultural land or non-
5 industrial private forest land:

6 “(A) Identification of existing and addi-
7 tional best management practices required for
8 eligibility to participate in water quality trad-
9 ing.

10 “(B) Related activities that the Secretary
11 determines will help agricultural producers or
12 owners achieve eligibility to participate in water
13 quality markets.”;

14 (2) by inserting “and owners” after “pro-
15 ducers” each place it appears in subsections (b), (c),
16 (d)(1)(A), (d)(2), and (e)(1);

17 (3) in subsection (b), in the matter preceding
18 paragraph (1), by inserting “and nonindustrial pri-
19 vate forest lands” after “agricultural lands”;

20 (4) by redesignating subsections (d), (e), (f),
21 (g), and (h) as subsections (e), (f), (j), (k), and (l),
22 respectively;

23 (5) by inserting after subsection (c) the fol-
24 lowing:

25 “(d) TECHNICAL ASSISTANCE.—

1 “(1) TECHNICAL ASSISTANCE TO CHESAPEAKE
2 BAY STATES.—

3 “(A) STATE WATER QUALITY GOALS.—The
4 Secretary may provide technical assistance to a
5 Chesapeake Bay State to assist in developing
6 the water quality goals of the State to result in
7 reductions in losses of nitrogen, phosphorus,
8 and sediment from agricultural or nonindustrial
9 private forest land in the Chesapeake Bay wa-
10 tershed to improve water quality in the Ches-
11 apeake Bay watershed.

12 “(B) CERTAINTY.—The Secretary may
13 provide technical assistance to a Chesapeake
14 Bay State to assist in developing protocols to
15 confirm producer or owner achievement of com-
16 pliance with State water quality laws and pro-
17 vide a reduced level of scrutiny if the producer
18 or owner maintains compliance.

19 “(C) INTERSTATE TRADING.—The Sec-
20 retary may provide technical assistance to a
21 Chesapeake Bay State to harmonize State
22 water quality trading technical guidelines with
23 other Chesapeake Bay States in preparation for
24 interstate trading.

1 “(D) TARGETED ASSISTANCE TO CHESA-
2 PEAKE BAY STATES.—

3 “(i) IN GENERAL.—The Secretary
4 may enter into an agreement with a Chesa-
5 peake Bay State (including any political
6 subdivision and agency of the Chesapeake
7 Bay State) to provide financial and tech-
8 nical assistance to the Chesapeake Bay
9 State.

10 “(ii) PURPOSE OF ASSISTANCE.—As-
11 sistance provided by the Secretary under
12 this subparagraph shall be used by the
13 Chesapeake Bay State to provide, through
14 a technical service provider, the technical
15 assistance needed by an agricultural pro-
16 ducer or owner in the Chesapeake Bay wa-
17 tershed—

18 “(I) to promote water quality
19 goals of the Chesapeake Bay State;

20 “(II) to obtain certainty under
21 subparagraph (B); or

22 “(III) to conduct a water quality
23 trading preparation activity.

24 “(2) TECHNICAL ASSISTANCE TO AGRICUL-
25 TURAL PRODUCERS AND OWNERS OF CERTAIN NON-

1 INDUSTRIAL PRIVATE FOREST LAND.—The Sec-
 2 retary may provide technical assistance to agricul-
 3 tural producers and owners of nonindustrial private
 4 forest land in the Chesapeake Bay watershed di-
 5 rectly or through third-party providers—

6 “(A) for conservation services, including—

7 “(i) education regarding activities the
 8 producers and owners can undertake to re-
 9 duce losses of nitrogen, phosphorus, and
 10 sediment from agricultural and nonindus-
 11 trial private forest land in the Chesapeake
 12 Bay watershed; and

13 “(ii) conservation planning, implemen-
 14 tation, and maintenance to reduce losses of
 15 nitrogen, phosphorus, and sediment from
 16 agricultural and nonindustrial private for-
 17 est land in the Chesapeake Bay watershed;

18 “(B) in identifying existing best manage-
 19 ment practices and assessing practices required
 20 to achieve compliance with State and Federal
 21 water quality laws, including through—

22 “(i) outreach to producers and owners
 23 to determine interest in receiving assist-
 24 ance; and

1 “(ii) adoption and use of tools and
 2 technology capable of assessing practices
 3 required to achieve compliance with State
 4 and Federal water quality laws; and

5 “(C) in attaining eligibility to participate
 6 in water quality trading markets, including
 7 preparation activities.”;

8 (6) in subsection (e) (as redesignated by para-
 9 graph (4))—

10 (A) in paragraph (1)—

11 (i) in subparagraph (A), by striking
 12 “and” at the end;

13 (ii) in subparagraph (B), by striking
 14 the period at the end and inserting “;
 15 and”; and

16 (iii) by adding at the end the fol-
 17 lowing:

18 “(C) provide technical assistance directly
 19 or through technical service providers in car-
 20 rying out this section.”; and

21 (B) in paragraph (2), by adding at the end
 22 the following:

23 “(E) The James River.”;

1 (7) in paragraph (2) of subsection (f) (as reded-
2 ignated by paragraph (4)), by inserting “or owner”
3 after “producer”; and

4 (8) by inserting after subsection (f) (as rededig-
5 nated by paragraph (4)) the following:

6 “(g) COST-EFFECTIVENESS.—In providing assist-
7 ance under this section, the Secretary may consider the
8 cost-effectiveness of the conservation practices that may
9 be needed to reduce losses of nitrogen, phosphorus, and
10 sediment from agricultural or nonindustrial private forest
11 land in the Chesapeake Bay watershed to improve water
12 quality in the Chesapeake Bay watershed.

13 “(h) CROSSCUT BUDGET.—

14 “(1) IN GENERAL.—The Secretary, in consulta-
15 tion with the Chesapeake Executive Council, the
16 chief executive of each Chesapeake Bay State, and
17 the Chesapeake Bay Commission, shall annually sub-
18 mit to Congress a financial report containing—

19 “(A) an interagency crosscut budget that
20 displays—

21 “(i) the proposed funding for any
22 Federal restoration activity to be carried
23 out in the succeeding fiscal year, including
24 any planned interagency or intraagency

1 transfer, for each Federal agency that car-
2 ries out restoration activities;

3 “(ii) to the extent that information is
4 available, the estimated funding for any
5 State restoration activity to be carried out
6 in the succeeding fiscal year;

7 “(iii) all expenditures for Federal res-
8 toration activities from the preceding 3 fis-
9 cal years, the current fiscal year, and the
10 succeeding fiscal year; and

11 “(iv) all expenditures, to the extent
12 that information is available, for State res-
13 toration activities during the equivalent
14 time period described in clause (iii);

15 “(B) a detailed accounting of all amounts
16 received and obligated by each Federal agency
17 for restoration activities during the current and
18 preceding fiscal years, including the identifica-
19 tion of amounts that were transferred to a
20 Chesapeake Bay State for restoration activities;

21 “(C) to the extent that information is
22 available, a detailed accounting from each State
23 of all amounts received and obligated from a
24 Federal agency for restoration activities during
25 the current and preceding fiscal years; and

1 “(D) a description of each of the proposed
2 Federal and State restoration activities to be
3 carried out in the succeeding fiscal year (cor-
4 responding to those activities listed in clauses
5 (i) and (ii) of subparagraph (A)), including—

6 “(i) the project description;

7 “(ii) the current status of the project;

8 “(iii) the Federal or State statutory
9 or regulatory authority, program, or re-
10 sponsible agency;

11 “(iv) the authorization level for appro-
12 priations;

13 “(v) a timeline for the project, includ-
14 ing benchmarks;

15 “(vi) references to project documents;

16 “(vii) descriptions of risks and uncer-
17 tainties of project implementation;

18 “(viii) a description of the applicable
19 adaptive management actions or frame-
20 work;

21 “(ix) a list of coordinating entities;

22 “(x) a description of funding history
23 for the project;

24 “(xi) cost-sharing, if any, for the
25 project; and

1 “(xii) alignment with existing Chesapeake Bay Agreement and Chesapeake Executive Council goals and priorities.

2 “(2) MINIMUM FUNDING LEVELS.—The Secretary shall only describe restoration activities in the
3 report required under paragraph (1) that—

4 “(A) for Federal restoration activities,
5 have funding amounts greater than or equal to
6 \$100,000; and

7 “(B) for State restoration activities, have
8 funding amounts greater than or equal to
9 \$50,000.

10 “(3) SUBMISSION.—Not later than 30 days
11 after the date on which the President submits the
12 annual budget to Congress under section 1105 of
13 title 31, United States Code, the Secretary shall
14 submit the report required by paragraph (1) to—

15 “(A) the Committees on Appropriations,
16 Agriculture, Natural Resources, Energy and
17 Commerce, and Transportation and Infrastructure
18 of the House of Representatives; and

19 “(B) the Committees on Appropriations,
20 Agriculture, Nutrition and Forestry, Environment
21 and Public Works, and Commerce,
22 Science, and Transportation of the Senate.

1 “(4) EFFECTIVE DATE.—This subsection shall
 2 apply beginning with the first fiscal year after the
 3 date of enactment of the Chesapeake Bay Watershed
 4 Fairness Act of 2012 for which the President sub-
 5 mits a budget to Congress under section 1105 of
 6 title 31, United States Code.

7 “(i) WEBSITES.—

8 “(1) IN GENERAL.—Not later than 180 days
 9 after the date of enactment of this subsection, the
 10 Secretary shall establish and maintain—

11 “(A) a user-friendly, publicly available
 12 website to promote greater accountability and
 13 transparency regarding the crosscut budget de-
 14 scribed in subsection (h); and

15 “(B) a user-friendly, publicly available
 16 website to provide information on Federal,
 17 State, local and private resources available to
 18 those interested in implementing conservation
 19 practices.

20 “(2) CROSSCUT BUDGET WEBSITE.—The
 21 website established under paragraph (1)(A) shall
 22 provide—

23 “(A) accountability information, including
 24 findings from audits, inspectors general, and
 25 the Government Accountability Office;

1 “(B) data on relevant economic, financial,
2 grant, and contract information in user-friendly
3 visual presentations to enhance public aware-
4 ness of the use of covered funds;

5 “(C) links to other government websites at
6 which key information relating to efforts to im-
7 prove the water quality of the Chesapeake Bay
8 watershed may be found;

9 “(D) printable reports on covered funds
10 obligated by month to each State and congres-
11 sional district; and

12 “(E) links to other government websites
13 providing information concerning covered funds,
14 including Federal agency and State websites.

15 “(3) WEBSITE FOCUSED ON RESOURCES.—The
16 website established under paragraph (1)(B) shall—

17 “(A) provide—

18 “(i) user-friendly access for agricul-
19 tural producers, owners of nonindustrial
20 private forest land, Federal, State, and
21 local governments, academic and non-
22 governmental organizations, industry asso-
23 ciations, and other interested parties to in-
24 dustry-specific regulatory compliance and
25 conservation program information that the

1 Secretary considers potentially useful to
 2 agricultural producers and owners of non-
 3 industrial private forest land located in the
 4 Chesapeake Bay watershed; and

5 “(ii) detailed examples of successful
 6 conservation projects; and

7 “(B) be arranged in industry-specific cat-
 8 egories.

9 “(4) REVISIONS.—The Secretary shall enhance
 10 and update the websites established under para-
 11 graph (1) as necessary.”.

12 (b) FUNDING.—Subsection (l) of section 1240Q of
 13 the Food Security Act of 1985 (16 U.S.C. 3839bb–4) (as
 14 redesignated by subsection (a)(4)) is amended—

15 (1) in subparagraph (C), by striking “and”
 16 after the semicolon at the end;

17 (2) in subparagraph (D), by striking the period
 18 at the end and inserting “; and”; and

19 (3) by adding at the end the following:

20 “(E) \$50,000,000 for each of fiscal years
 21 2013 through 2018.”.

22 **SEC. 3. WATER QUALITY TRADING ELIGIBILITY PLANNING.**

23 Section 1240A(5)(B) of the Food Security Act of
 24 1985 (16 U.S.C. 3839aa–1(5)(B)) is amended—

25 (1) in clause (i), by striking “and” at the end;

1 (2) by redesignating clause (ii) as clause (iii);

2 and

3 (3) by inserting after clause (i) the following:

4 “(ii) water quality trading eligibility
5 planning; and”.

6 **SEC. 4. ENERGY PRODUCTION FROM AGRICULTURAL**
7 **SOURCES IN THE CHESAPEAKE BAY.**

8 (a) RURAL ENERGY FOR AMERICA PROGRAM.—Sec-
9 tion 9007 of the Farm Security and Rural Investment Act
10 of 2002 (7 U.S.C. 8107) is amended—

11 (1) in subsection (c)(2)—

12 (A) in subparagraph (F), by striking
13 “and” at the end;

14 (B) by redesignating subparagraph (G) as
15 subparagraph (H); and

16 (C) by inserting after subparagraph (F)
17 the following:

18 “(G) in the case of a manure-to-energy
19 system or improvement, whether the system or
20 improvement includes an integrative approach
21 to water quality issues; and”; and

22 (2) in subsection (g), by adding at the end the
23 following:

24 “(4) WATERSHED PROJECTS.—

1 “(A) IN GENERAL.—Of the funds made
 2 available for each fiscal year to carry out this
 3 section, 10 percent shall be used to carry out
 4 projects located within the watershed of any
 5 water for which the Federal Government has
 6 established a multistate total maximum daily
 7 load for pollutants under section 303(d)(2) of
 8 the Federal Water Pollution Control Act (33
 9 U.S.C. 1313(d)(2)), with priority given to
 10 projects that address agricultural and silvicultural
 11 sources.

12 “(B) INSUFFICIENT APPLICATIONS.—If
 13 funds described in subparagraph (A) remain
 14 available by April 1 of the fiscal year due to in-
 15 sufficient applications for projects described in
 16 that subparagraph, the funds shall be available
 17 to carry out other purposes under this sec-
 18 tion.”.

19 (b) ENVIRONMENTAL QUALITY INCENTIVES PRO-
 20 GRAM.—Section 1240C(b) of the Food Security Act of
 21 1985 (16 U.S.C. 3839aa–3(b)) is amended—

22 (1) in paragraph (3), by striking “and” at the
 23 end;

24 (2) in paragraph (4), by striking the period at
 25 the end and inserting “; and”; and

1 (3) by adding at the end the following:

2 “(5) in the case of applications involving ma-
3 nure-to-energy projects, whether the projects include
4 an integrative approach to water quality issues.”.

5 **SEC. 5. FOREST COVER AT FEDERAL FACILITIES.**

6 Not later than 90 days after the date of enactment
7 of this Act, the Secretary of Agriculture, with the advice
8 of the Chief of the Forest Service and the appropriate
9 Chesapeake Basin State forester, shall coordinate with the
10 head of each Federal agency that owns or operates a facil-
11 ity within the Chesapeake Basin (as determined by the
12 Secretary) to develop plans to maximize forest cover at
13 the facility through—

14 (1) the preservation of existing forest cover; or

15 (2) with respect to a facility that has been pre-
16 viously disturbed or developed, the development of a
17 reforestation plan, as appropriate.

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