

112TH CONGRESS  
1ST SESSION

# S. 760

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.

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## IN THE SENATE OF THE UNITED STATES

APRIL 7 (legislative day, APRIL 5), 2011

Mr. WARNER (for himself and Mr. WEBB) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## 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. DEFINITIONS.**

7 In this Act:

1           (1) ADAPTIVE MANAGEMENT.—The term  
2 “adaptive management” means a type of natural re-  
3 source management in which project and program  
4 decisions are made as part of an ongoing, science-  
5 based process that—

6           (A) includes testing, monitoring, and eval-  
7 uating applied strategies and incorporating new  
8 knowledge into programs and restoration activi-  
9 ties that are based on scientific findings and  
10 the needs of society; and

11           (B) uses the results of the activities de-  
12 scribed in subparagraph (A) to modify manage-  
13 ment policies, strategies, practices, programs,  
14 and restoration activities.

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

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

23           (4) CHESAPEAKE BAY WATERSHED.—The term  
24 “Chesapeake Bay watershed” means the Chesapeake  
25 Bay and the geographic area within the Chesapeake

1 Bay States, consisting of 36 tributary basins,  
2 through which precipitation drains into the Chesapeake Bay, as determined by the Secretary of the  
3 Interior.  
4

5 (5) CHESAPEAKE EXECUTIVE COUNCIL.—The  
6 term “Chesapeake Executive Council” has the meaning given the term by section 307 of the National  
7 Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d).  
8  
9

10 (6) CHIEF EXECUTIVE.—The term “chief executive” means, in the case of a State or Commonwealth,  
11 the Governor of each State or Commonwealth and, in the case of the District of Columbia,  
12 the Mayor of the District of Columbia.  
13  
14

15 (7) DIRECTOR.—The term “Director” means  
16 the Director of the Office of Management and Budget.  
17

18 (8) RESTORATION ACTIVITY.—

19 (A) IN GENERAL.—The term “restoration  
20 activity” means any Federal or State program  
21 or project that directly or indirectly protects,  
22 conserves, or restores living resources, habitat,  
23 water resources, or water quality in the Chesapeake Bay watershed, including programs or  
24 projects that promote responsible land use,  
25

1 stewardship, and community engagement in the  
2 Chesapeake Bay watershed.

3 (B) INCLUSIONS.—The term “restoration  
4 activity” includes any 1 or more of the fol-  
5 lowing:

6 (i) Physical restoration.

7 (ii) Planning.

8 (iii) Feasibility studies.

9 (iv) Scientific research.

10 (v) Monitoring.

11 (vi) Education.

12 (vii) Infrastructure Development.

13 **SEC. 3. CHESAPEAKE BAY CROSSCUT BUDGET.**

14 (a) CROSSCUT BUDGET.—The Director, in consulta-  
15 tion with the Chesapeake Executive Council, the chief ex-  
16 ecutive of each Chesapeake Bay State, and the Ches-  
17 apeake Bay Commission, shall annually submit to Congress  
18 a financial report containing—

19 (1) an interagency crosscut budget that dis-  
20 plays—

21 (A) the proposed funding for any Federal  
22 restoration activity to be carried out in the suc-  
23 ceeding fiscal year, including any planned inter-  
24 agency or intraagency transfer, for each Fed-

1           eral agency that carries out restoration activi-  
2           ties;

3           (B) to the extent that information is avail-  
4           able, the estimated funding for any State res-  
5           toration activity to be carried out in the suc-  
6           ceeding fiscal year;

7           (C) all expenditures for Federal restoration  
8           activities from the preceding 3 fiscal years, the  
9           current fiscal year, and the succeeding fiscal  
10          year; and

11          (D) all expenditures, to the extent that in-  
12          formation is available, for State restoration ac-  
13          tivities during the equivalent time period de-  
14          scribed in subparagraph (C);

15          (2) a detailed accounting of all amounts re-  
16          ceived and obligated by each Federal agency for res-  
17          toration activities during the current and preceding  
18          fiscal years, including the identification of amounts  
19          that were transferred to a Chesapeake Bay State for  
20          restoration activities;

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

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

6                   (A) project description;

7                   (B) current status of the project;

8                   (C) Federal or State statutory or regu-  
9                   latory authority, program, or responsible agen-  
10                  cy;

11                  (D) authorization level for appropriations;

12                  (E) project timeline, including benchmarks;

13                  (F) references to project documents;

14                  (G) descriptions of risks and uncertainties  
15                  of project implementation;

16                  (H) adaptive management actions or  
17                  framework;

18                  (I) coordinating entities;

19                  (J) funding history;

20                  (K) cost-sharing, if any; and

21                  (L) alignment with existing Chesapeake  
22                  Bay Agreement and Chesapeake Executive  
23                  Council goals and priorities.

1 (b) MINIMUM FUNDING LEVELS.—The Director shall  
2 only describe restoration activities in the report required  
3 under subsection (a) that—

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

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

8 (c) SUBMISSION.—Not later than 30 days after the  
9 date on which the President submits the annual budget  
10 to Congress under section 1105 of title 31, United States  
11 Code, the Director shall submit the report required by  
12 subsection (a) to—

13 (1) the Committees on Appropriations, Natural  
14 Resources, Energy and Commerce, and Transpor-  
15 tation and Infrastructure of the House of Represent-  
16 atives; and

17 (2) the Committees on Appropriations, Environ-  
18 ment and Public Works, and Commerce, Science,  
19 and Transportation of the Senate.

20 (d) EFFECTIVE DATE.—This section shall apply be-  
21 ginning with the first fiscal year after the date of enact-  
22 ment of this Act for which the President submits a budget  
23 to Congress under section 1105 of title 31, United States  
24 Code.

1 **SEC. 4. ADAPTIVE MANAGEMENT PLAN.**

2 (a) IN GENERAL.—Not later than 1 year after the  
3 date of enactment of this Act, the Administrator, in con-  
4 sultation with appropriate Federal and State agencies,  
5 shall develop and implement an adaptive management  
6 plan for restoration activities in the Chesapeake Bay wa-  
7 tershed that includes—

8 (1) a description of specific and measurable ob-  
9 jectives to improve water quality, habitat, and fish-  
10 eries;

11 (2) a process for stakeholder participation;

12 (3) monitoring, modeling, experimentation, and  
13 other research and evaluation practices;

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

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

21 (b) UPDATES.—The Administrator shall update the  
22 adaptive management plan developed under subsection (a)  
23 every 3 years.

24 (c) REPORT TO CONGRESS.—

25 (1) IN GENERAL.—Not later than 60 days after  
26 the end of each fiscal year, the Administrator shall

1 submit to Congress a report describing the imple-  
2 mentation of the adaptive management plan required  
3 under this section for that fiscal year.

4 (2) CONTENTS.—The report required under  
5 paragraph (1) shall contain information about the  
6 application of adaptive management to restoration  
7 activities and programs, including programmatic and  
8 project level changes implemented through the proc-  
9 ess of adaptive management.

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

13 **SEC. 5. INDEPENDENT EVALUATOR FOR THE CHESAPEAKE**  
14 **BAY PROGRAM.**

15 (a) IN GENERAL.—There shall be an Independent  
16 Evaluator for restoration activities in the Chesapeake Bay  
17 watershed, who shall review and report on—

18 (1) restoration activities and the use of adaptive  
19 management in restoration activities; and

20 (2) any related topics that are suggested by the  
21 Chesapeake Executive Council.

22 (b) APPOINTMENT.—

23 (1) IN GENERAL.—The Independent Evaluator  
24 shall be appointed by the Administrator from among

1 nominees submitted by the Chesapeake Executive  
2 Council.

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

7 (c) REPORTS.—The Independent Evaluator shall sub-  
8 mit a report to Congress describing the findings and rec-  
9 ommendations of the Independent Evaluator under sub-  
10 section (a) every 3 years.

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