

106TH CONGRESS  
2D SESSION

# S. 2417

To amend the Federal Water Pollution Control Act to increase funding for State nonpoint source pollution control programs, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

APRIL 13, 2000

Mr. CRAPO (for himself and Mr. SMITH of New Hampshire) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

---

## A BILL

To amend the Federal Water Pollution Control Act to increase funding for State nonpoint source pollution control programs, 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 “Water Pollution Pro-  
5 gram Enhancements Act of 2000”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) pollutant loadings from both public and pri-  
9 vate point sources have decreased dramatically since

1 the enactment of the Federal Water Pollution Con-  
2 trol Act (33 U.S.C. 1251 et seq.) in 1972 and have  
3 greatly contributed to achieving national water qual-  
4 ity goals;

5 (2) under that Act, the Federal Government  
6 has provided over \$80,000,000,000 in grants and  
7 loans to assist in the control of the discharge of pol-  
8 lutants from publicly owned treatment works and  
9 less than \$2,000,000,000 to assist in the control of  
10 nonpoint sources of pollution;

11 (3) increased Federal funding for programs to  
12 control nonpoint source pollution through a variety  
13 of flexible management practices is necessary to  
14 meet water quality standards and the goals of that  
15 Act;

16 (4) comprehensive watershed management  
17 strategies (including estuary management programs,  
18 source water protection programs, and other vol-  
19 untary or statutory programs) are important tools to  
20 coordinate point source and nonpoint source water  
21 quality programs;

22 (5) State and local governments, businesses,  
23 and landowners are expected to spend billions of dol-  
24 lars over the next 20 years to implement the water-

1 shed management strategies and other programs to  
2 address nonpoint source pollution;

3 (6) in order to complete the total maximum  
4 daily load calculations required for currently listed  
5 waters, States will be required to develop 1 total  
6 maximum daily load allocation per week per region  
7 for the next 15 years at an estimated cost to the  
8 States of \$670,000,000 to \$1,200,000,000;

9 (7) States have overwhelmingly cited a lack of  
10 resources as a limitation to carrying out their re-  
11 sponsibilities under that Act, including the identi-  
12 fication of impaired waters and the development of  
13 total maximum daily loads;

14 (8) any Federal regulatory or nonregulatory  
15 water quality management program must be based  
16 on sound science, must be effectively and efficiently  
17 implemented, and must have the strong support of  
18 affected stakeholders, including State and local gov-  
19 ernments, landowners, businesses, environmental or-  
20 ganizations, and the general public;

21 (9) the General Accounting Office recently con-  
22 cluded that only 6 States have the majority of the  
23 data needed to assess the condition of their waters;

24 (10) waters of the United States are currently  
25 being listed as impaired, and total maximum daily

1 loads are being developed under section 303(d) of  
2 that Act (33 U.S.C. 1313(d)), often on the basis of  
3 anecdotal evidence, where there are no reliable moni-  
4 toring or other analytical data to support a listing  
5 or a total maximum daily load allocation;

6 (11) data described in paragraph (10) are fre-  
7 quently not subject to quality assurance or quality  
8 control measures;

9 (12) the use of scarce public and private re-  
10 sources should be focused on waters that are identi-  
11 fied as being impaired by pollutants on the basis of  
12 reliable monitoring data;

13 (13) a strong partnership between the Federal  
14 Government, the States, and the private sector, with  
15 adequate Federal funding and assistance, must con-  
16 tinue if remaining national water quality issues are  
17 to be resolved;

18 (14) many States have developed and are imple-  
19 menting effective regulatory and nonregulatory coop-  
20 erative programs that are functionally equivalent to  
21 Federal water quality programs, including, for exam-  
22 ple, the Chesapeake Bay watershed protection pro-  
23 gram; and

24 (15) any Federal water quality management  
25 program or initiative must recognize and accommo-

1       date State water rights allocations and management  
2       programs.

3   **SEC. 3. FUNDING FOR WATER POLLUTION CONTROL MEAS-**  
4                   **URES.**

5       (a) STATE GRANTS.—Section 106 of the Federal  
6   Water Pollution Control Act (33 U.S.C. 1256) is amend-  
7   ing by striking subsection (a) and inserting the following:

8       “(a) FUNDING.—

9               “(1) IN GENERAL.—There are authorized to be  
10   appropriated for grants to States and interstate  
11   agencies to carry out this section, including the ad-  
12   ministration of programs for the prevention, reduc-  
13   tion, and elimination of pollutants (including en-  
14   forcement directly or through appropriate State law  
15   enforcement officers and agencies), \$250,000,000  
16   for fiscal years 2001 through 2007, to remain avail-  
17   able until expended.

18              “(2) MONITORING DATA.—From the sums ap-  
19   propriated in any fiscal year, \$50,000,000 shall be  
20   made available to States for—

21                   “(A) the collection of reliable monitoring  
22                   data;

23                   “(B) the improvement of lists prepared  
24                   under section 303(d)(1);

1 “(C) the preparation of total maximum  
2 daily load allocations under section 303(d); and

3 “(D) the development of watershed man-  
4 agement strategies.”.

5 (b) NONPOINT SOURCE MANAGEMENT PROGRAMS.—

6 Section 319 of the Federal Water Pollution Control Act  
7 (33 U.S.C. 1329) is amended by striking subsection (j)  
8 and inserting the following:

9 “(j) AUTHORIZATION OF APPROPRIATIONS.—

10 “(1) IN GENERAL.—There is authorized to be  
11 appropriated to carry out subsections (h) and (i)  
12 \$500,000,000 for fiscal years 2001 through 2007, to  
13 remain available until expended.

14 “(2) GROUNDWATER QUALITY.—Of the funds  
15 authorized to be appropriated under paragraph (1),  
16 for each fiscal year, not more than \$7,500,000 may  
17 be made available to carry out subsection (i).

18 “(3) PROJECT GRANTS.—From the sums appro-  
19 priated under paragraph (1) for any fiscal year,  
20 \$200,000,000 shall be made available for States to  
21 provide grants to landowners to develop and imple-  
22 ment nonpoint source pollution control projects or  
23 activities to restore or improve the water quality of  
24 impaired waters that have been identified by a State  
25 as a priority for restoration.

1           “(A) FEDERAL SHARE.—A grant awarded  
2           under this paragraph shall not exceed 90 per-  
3           cent of the cost of the project or activity.

4           “(B) NON-FEDERAL SHARE.—The recipi-  
5           ent of a grant under this paragraph may use  
6           funds from other Federal programs and other  
7           eligible in-kind contributions to satisfy the  
8           matching requirement.

9           “(C) LIMITATION.—Grants shall not be  
10          made available for projects or activities that are  
11          otherwise required by Federal or State law.”.

12 **SEC. 4. REPORT TO CONGRESS.**

13          (a) NATIONAL ACADEMY OF SCIENCES STUDY.—

14               (1) IN GENERAL.—The Administrator of the  
15          Environmental Protection Agency (referred to in  
16          this Act as the “Administrator”) shall contract with  
17          the National Academy of Sciences to conduct a  
18          study (referred to in this Act as the “Study”) on—

19                       (A) the scientific basis underlying the de-  
20          velopment and implementation of total max-  
21          imum daily loads;

22                       (B) the costs of implementing measures to  
23          comply with total maximum daily loads; and

24                       (C) the availability of alternative programs  
25          or mechanisms to reduce the discharge of pol-

1           lutants from point sources and nonpoint source  
2           pollution to achieve water quality standards.

3           (2) SCOPE.—The National Academy of Sciences  
4           shall include in the Study an evaluation of, and  
5           where possible, provide recommendations for im-  
6           provements in, the following:

7                   (A) The scientific methodologies (including  
8                   water quality monitoring and State monitoring  
9                   plans) currently being used by States to identify  
10                  impaired waters and develop and implement  
11                  total maximum daily loads, and the costs asso-  
12                  ciated with monitoring and other methodologies.

13                  (B) Any procedures or programs being im-  
14                  plemented by the States and Federal agencies  
15                  to coordinate and improve monitoring meth-  
16                  odologies and the quality of monitoring data.

17                  (C) The availability of alternative pro-  
18                  grams and other regulatory or nonregulatory  
19                  mechanisms (including other Federal, State,  
20                  and local programs that operate as a functional  
21                  equivalent to the total maximum daily load pro-  
22                  gram) that may achieve comparable environ-  
23                  mental benefits in an impaired water, water-  
24                  shed, or basin.



1 (D) The results achieved by existing regu-  
2 latory and voluntary programs, activities, and  
3 practices currently being implemented to reduce  
4 nonpoint source pollution and the costs of these  
5 programs, activities, and practices to State and  
6 local governments and the private sector;

7 (E) The circumstances in which water  
8 quality standards may not be attainable, and  
9 the availability of mechanisms to address those  
10 circumstances.

11 (F) The feasibility of implementing a pol-  
12 lutant trading program between point sources  
13 and nonpoint sources.

14 (G) An assessment of the total costs asso-  
15 ciated with programs to reduce the discharge of  
16 pollutants from point sources and nonpoint  
17 source pollution (including the costs to Federal  
18 land management agencies, State and local gov-  
19 ernments, and the private sector) to meet water  
20 quality standards on waters currently listed  
21 under section 303(d) of the Federal Water Pol-  
22 lution Control Act (33 U.S.C. 1313(d)).

23 (3) AUTHORIZATION OF APPROPRIATIONS.—

24 There is authorized to be appropriated to carry out

1 the Study \$5,000,000, to remain available until ex-  
2 pended.

3 (b) SUBMISSION OF NAS STUDY TO CONGRESS.—

4 Not later than 18 months after the date of enactment of  
5 this Act, the Administrator shall submit to the Committee  
6 on Environment and Public Works of the Senate and the  
7 Committee on Transportation and Infrastructure of the  
8 House of Representatives a copy of the Study.

9 **SEC. 5. WATERSHED MANAGEMENT PILOT PROGRAM.**

10 (a) IN GENERAL.—In cooperation with the States,  
11 the Administrator shall jointly establish a watershed man-  
12 agement pilot program (referred to in this Act as the  
13 “Pilot Program”) to evaluate the relative water quality  
14 improvements resulting from up to 5 State watershed  
15 management programs or strategies, to be selected by the  
16 Administrator and the States, that incorporate non-Fed-  
17 eral water quality control programs, innovative tech-  
18 nologies and incentives to reduce the discharge of pollut-  
19 ants, or total maximum daily load allocations under sec-  
20 tion 303(d) of the Federal Water Pollution Control Act  
21 (33 U.S.C. 1313(d)).

22 (b) SELECTION OF STATE PROGRAMS.—To be eligi-  
23 ble for consideration in the Pilot Program, a State water-  
24 shed management strategy must be expected to achieve

1 environmental results comparable to those of the Federal  
2 total maximum daily load program.

3 (c) REPORTS.—

4 (1) ANNUAL REPORT.—The Administrator, in  
5 cooperation with the States, shall jointly develop and  
6 submit annually to Congress a report on the pro-  
7 gram and, for each State included in the Pilot Pro-  
8 gram, specific information on the progress being  
9 achieved to improve water quality.

10 (2) FINAL REPORT.—Not later than 6 months  
11 after the termination of the Pilot Program, the Ad-  
12 ministrator, in cooperation with the States, shall  
13 jointly develop and submit to Congress a report eval-  
14 uating the State programs, including for each State  
15 an assessment of—

16 (A) the overall improvements achieved in  
17 water quality;

18 (B) the extent to which the water quality  
19 improvements are consistent with those that  
20 would likely have been achieved through the  
21 Federal total maximum daily load program;

22 (C) the administrative and other burdens  
23 imposed on State and local governments and  
24 the private sector under the State program; and

1 (D) the costs associated with implementing  
2 the State program.

3 (d) TERMINATION.—With respect to each State par-  
4 ticipating in the program, the Pilot Program shall termi-  
5 nate 3 years after the date on which the Administrator  
6 accepts the State program in the Pilot Program.

7 (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
8 authorized to be appropriated to establish and implement  
9 the Pilot Program \$2,000,000, to remain available until  
10 expended.

11 **SEC. 6. RULEMAKING.**

12 (a) IN GENERAL.—Prior to finalizing the Proposed  
13 Revisions to the National Pollutant Discharge Elimination  
14 System Program and Federal Antidegradation Policy,  
15 published August 23, 1999 (64 Fed. Reg. 46058), and the  
16 Proposed Revisions to the Water Quality Planning and  
17 Management Regulations Concerning Total Maximum  
18 Daily Loads, published August 23, 1999 (64 Fed. Reg.  
19 46012), the Administrator shall—

20 (1) review the National Academy of Sciences  
21 Study prepared under section 4; and

22 (2) take into consideration the recommenda-  
23 tions of the National Academy of Sciences in issuing  
24 any final regulations.

1       (b) EXPLANATION.—If the Administrator includes  
2 provisions in any final regulation that are not consistent  
3 with the recommendations of the National Academy of  
4 Sciences, the Administrator shall publish with the final  
5 rule an explanation why the recommendations of the Na-  
6 tional Academy of Sciences were not included in the final  
7 regulation.

○