

Calendar No. 934

106TH CONGRESS
2D SESSION

S. 2417

[Report No. 106–485]

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, Mr. SMITH of New Hampshire, Mr. SESSIONS, Mr. HATCH, Mr. CRAIG, Mr. MURKOWSKI, Mr. BUNNING, Mr. ROBERTS, Mr. SMITH of Oregon, Mr. GRAMM, Mr. GRAMS, Mr. HAGEL, Mr. BOND, Mr. McCONNELL, Mr. HUTCHINSON, Mr. GORTON, Ms. COLLINS, Mr. THOMAS, Mr. HELMS, Mr. THURMOND, Mr. BENNETT, Mr. BREAUX, Mr. INHOFE, Mrs. HUTCHISON, Mr. ALLARD, Mr. ASHCROFT, Mr. KYL, Mr. BURNS, Ms. SNOWE, Mr. SHELBY, Ms. LANDRIEU, Mr. COVERDELL, and Mr. CLELAND) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

OCTOBER 4 (legislative day, SEPTEMBER 22), 2000

Reported by Mr. SMITH of New Hampshire, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Water Pollution Pro-
3 gram Enhancements Act of 2000”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) pollutant loadings from both public and pri-
7 vate point sources have decreased dramatically since
8 the enactment of the Federal Water Pollution Con-
9 trol Act (33 U.S.C. 1251 et seq.) in 1972 and have
10 greatly contributed to achieving national water qual-
11 ity goals;

12 (2) under that Act, the Federal Government
13 has provided over \$80,000,000,000 in grants and
14 loans to assist in the control of the discharge of pol-
15 lutants from publicly owned treatment works and
16 less than \$2,000,000,000 to assist in the control of
17 nonpoint sources of pollution;

18 (3) increased Federal funding for programs to
19 control nonpoint source pollution through a variety
20 of flexible management practices is necessary to
21 meet water quality standards and the goals of that
22 Act;

23 (4) comprehensive watershed management
24 strategies (including estuary management programs,
25 source water protection programs, and other vol-
26 untary or statutory programs) are important tools to

1 coordinate point source and nonpoint source water
2 quality programs;

3 (5) State and local governments, businesses,
4 and landowners are expected to spend billions of dol-
5 lars over the next 20 years to implement the water-
6 shed management strategies and other programs to
7 address nonpoint source pollution;

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

14 (7) States have overwhelmingly cited a lack of
15 resources as a limitation to carrying out their re-
16 sponsibilities under that Act, including the identi-
17 fication of impaired waters and the development of
18 total maximum daily loads;

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

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

4 (10) waters of the United States are currently
5 being listed as impaired, and total maximum daily
6 loads are being developed under section 303(d) of
7 that Act (33 U.S.C. 1313(d)), often on the basis of
8 anecdotal evidence, where there are no reliable moni-
9 toring or other analytical data to support a listing
10 or a total maximum daily load allocation;

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

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

18 (13) a strong partnership between the Federal
19 Government, the States, and the private sector, with
20 adequate Federal funding and assistance, must con-
21 tinue if remaining national water quality issues are
22 to be resolved;

23 (14) many States have developed and are imple-
24 menting effective regulatory and nonregulatory coop-
25 erative programs that are functionally equivalent to

1 Federal water quality programs, including, for exam-
 2 ple, the Chesapeake Bay watershed protection pro-
 3 gram; and

4 (15) any Federal water quality management
 5 program or initiative must recognize and accommo-
 6 date State water rights allocations and management
 7 programs.

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

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

13 “(a) FUNDING.—

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

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

1 “(A) the collection of reliable monitoring
2 data;

3 “(B) the improvement of lists prepared
4 under section 303(d)(1);

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

7 “(D) the development of watershed man-
8 agement strategies.”.

9 (b) NONPOINT SOURCE MANAGEMENT PROGRAMS.—

10 Section 319 of the Federal Water Pollution Control Act
11 (33 U.S.C. 1329) is amended by striking subsection (j)
12 and inserting the following:

13 “(j) AUTHORIZATION OF APPROPRIATIONS.—

14 “(1) IN GENERAL.—There is authorized to be
15 appropriated to carry out subsections (h) and (i)
16 \$500,000,000 for fiscal years 2001 through 2007, to
17 remain available until expended.

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

22 “(3) PROJECT GRANTS.—From the sums appro-
23 priated under paragraph (1) for any fiscal year,
24 \$200,000,000 shall be made available for States to
25 provide grants to landowners to develop and imple-

ment nonpoint source pollution control projects or activities to restore or improve the water quality of impaired waters that have been identified by a State as a priority for restoration.

“(A) FEDERAL SHARE.—A grant awarded under this paragraph shall not exceed 90 percent of the cost of the project or activity.

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

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

SEC. 4. REPORT TO CONGRESS.

(a) NATIONAL ACADEMY OF SCIENCES STUDY.—

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

(A) the scientific basis underlying the development and implementation of total maximum daily loads;

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

3 (C) the availability of alternative programs
4 or mechanisms to reduce the discharge of pol-
5 lutants from point sources and nonpoint source
6 pollution to achieve water quality standards.

7 (2) SCOPE.—The National Academy of Sciences
8 shall include in the Study an evaluation of, and
9 where possible, provide recommendations for im-
10 provements in, the following:

11 (A) The scientific methodologies (including
12 water quality monitoring and State monitoring
13 plans) currently being used by States to identify
14 impaired waters and develop and implement
15 total maximum daily loads; and the costs asso-
16 ciated with monitoring and other methodologies.

17 (B) Any procedures or programs being im-
18 plemented by the States and Federal agencies
19 to coordinate and improve monitoring meth-
20 odologies and the quality of monitoring data.

21 (C) The availability of alternative pro-
22 grams and other regulatory or nonregulatory
23 mechanisms (including other Federal, State,
24 and local programs that operate as a functional
25 equivalent to the total maximum daily load pro-

1 gram) that may achieve comparable environ-
2 mental benefits in an impaired water, water-
3 shed, or basin.

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

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

14 (F) The feasibility of implementing a pol-
15 lutant trading program between point sources
16 and nonpoint sources.

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

1 ~~(3) AUTHORIZATION OF APPROPRIATIONS.—~~

2 There is authorized to be appropriated to carry out
3 the Study \$5,000,000, to remain available until ex-
4 pended.

5 ~~(b) SUBMISSION OF NAS STUDY TO CONGRESS.—~~

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

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

12 ~~(a) IN GENERAL.—~~In cooperation with the States,
13 the Administrator shall jointly establish a watershed man-
14 agement pilot program (referred to in this Act as the
15 “Pilot Program”) to evaluate the relative water quality
16 improvements resulting from up to 5 State watershed
17 management programs or strategies, to be selected by the
18 Administrator and the States, that incorporate non-Fed-
19 eral water quality control programs, innovative tech-
20 nologies and incentives to reduce the discharge of pollut-
21 ants, or total maximum daily load allocations under sec-
22 tion 303(d) of the Federal Water Pollution Control Act
23 (33 U.S.C. 1313(d)).

24 ~~(b) SELECTION OF STATE PROGRAMS.—~~To be eligi-
25 ble for consideration in the Pilot Program, a State water-

1 shed management strategy must be expected to achieve
2 environmental results comparable to those of the Federal
3 total maximum daily load program.

4 (c) REPORTS.—

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

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

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

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

23 (C) the administrative and other burdens
24 imposed on State and local governments and
25 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.

8 **SECTION 1. SHORT TITLE.**

9 *This Act may be cited as the “Water Pollution Pro-*
 10 *gram Enhancements Act of 2000”.*

11 **SEC. 2. DEFINITIONS.**

12 *In this Act:*

13 (1) **ADMINISTRATOR.**—*The term “Adminis-*
 14 *trator” means the Administrator of the Environ-*
 15 *mental Protection Agency.*

16 (2) **NAPA STUDY.**—*The term “NAPA Study”*
 17 *means the study required to be carried out under sec-*
 18 *tion 4(b).*

19 (3) **NAS STUDY.**—*The term “NAS Study” means*
 20 *the study required to be carried out under section*
 21 *4(a).*

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

3 (a) *STATE GRANTS.*—Section 106 of the *Federal Water*
 4 *Pollution Control Act* (33 U.S.C. 1256) is amending by
 5 striking subsection (a) and inserting the following:

6 “(a) *FUNDING.*—

7 “(1) *IN GENERAL.*—There are authorized to be
 8 appropriated \$250,000,000 for each of fiscal years
 9 2001 through 2007, to remain available until ex-
 10 pended, for grants to States and interstate agencies to
 11 be used in carrying out this section, including—

12 “(A) the administration of programs for the
 13 prevention, reduction, and elimination of pollut-
 14 ants; and

15 “(B) enforcement carried out directly or
 16 through appropriate State law enforcement offi-
 17 cers and agencies.

18 “(2) *STATE ACTIVITIES.*—Of the amount author-
 19 ized under paragraph (1) for any fiscal year,
 20 \$50,000,000 shall be 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);

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

1 “(D) the development of watershed manage-
2 ment strategies.

3 (b) *NONPOINT SOURCE MANAGEMENT PROGRAMS.*—
4 Section 319 of the *Federal Water Pollution Control Act* (33
5 U.S.C. 1329) is amended by striking subsection (j) and in-
6 serting the following:

7 “(j) *AUTHORIZATION OF APPROPRIATIONS.*—

8 “(1) *IN GENERAL.*—Subject to paragraphs (2)
9 and (3), there is authorized to be appropriated to
10 carry out subsections (h) and (i) \$500,000,000 for
11 each of fiscal years 2001 through 2007, to remain
12 available until expended.

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

17 “(3) *PROJECT GRANTS.*—

18 “(A) *IN GENERAL.*—Of the amount author-
19 ized under paragraph (1) for any fiscal year,
20 \$200,000,000 shall be made available to States to
21 provide grants to landowners to develop and im-
22 plement nonpoint source pollution control
23 projects or activities to restore or improve the
24 water quality of impaired water that has been

1 *identified by a State as a priority for restora-*
 2 *tion.*

3 “(B) *COST SHARING.*—

4 “(i) *FEDERAL SHARE.*—*The Federal*
 5 *share of the costs of any project or activity*
 6 *funded under this paragraph shall not ex-*
 7 *ceed 90 percent.*

8 “(ii) *NON-FEDERAL SHARE.*—*The re-*
 9 *recipient of a grant under this paragraph*
 10 *may use funds from other Federal programs*
 11 *and eligible in-kind contributions to satisfy*
 12 *the non-Federal share.*

13 “(C) *LIMITATION.*—*Grants under this para-*
 14 *graph shall not be made available for projects or*
 15 *activities that are required to be carried out*
 16 *under Federal or State law.”.*

17 **SEC. 4. REPORTS TO CONGRESS.**

18 (a) *NATIONAL ACADEMY OF SCIENCES STUDY.*—

19 (1) *IN GENERAL.*—*The Administrator shall con-*
 20 *tract with the National Academy of Sciences to con-*
 21 *duct a study of—*

22 (A) *the scientific basis underlying the devel-*
 23 *opment and implementation of total maximum*
 24 *daily loads under the Federal Water Pollution*
 25 *Control Act (33 U.S.C. 1251 et seq.); and*

1 (B) the availability and effectiveness of al-
 2 ternative programs or mechanisms in producing
 3 quantifiable reductions of pollution from point
 4 sources and nonpoint sources to achieve water
 5 quality standards.

6 (2) SUBMISSION OF NAS STUDY TO CONGRESS.—
 7 Not later than 18 months after the date of enactment
 8 of this Act, the Administrator shall submit to the
 9 Committee on Transportation and Infrastructure
 10 Committee of the House of Representatives and the
 11 Committee on Environment and Public Works of the
 12 Senate a copy of the NAS Study.

13 (3) AUTHORIZATION OF APPROPRIATIONS.—
 14 There is authorized to be appropriated to carry out
 15 the NAS Study \$2,000,000, to remain available until
 16 expended.

17 (b) NATIONAL ACADEMY OF PUBLIC ADMINISTRATORS
 18 STUDY.—

19 (1) IN GENERAL.—The Administrator shall con-
 20 tract with the National Academy of Public Adminis-
 21 trators to conduct a study of—

22 (A) the effectiveness of existing voluntary
 23 and other programs, activities, and practices
 24 being implemented as of the date of enactment of
 25 this Act in producing quantifiable reductions in

1 *pollution from point sources and nonpoint*
2 *sources and attaining water quality standards;*
3 *and*

4 *(B) the costs and benefits associated with*
5 *the programs, activities, and practices described*
6 *in subparagraph (A) that are incurred by State*
7 *and local governments and the private sector.*

8 *(2) SUBMISSION OF NAPA STUDY TO CON-*
9 *GRESS.—Not later than 18 months after the date of*
10 *enactment of this Act, the Administrator shall submit*
11 *to the Committee on Transportation and Infrastruc-*
12 *ture of the House of Representatives and the Com-*
13 *mittee on Environment and Public Works of the Sen-*
14 *ate a copy of the NAPA Study.*

15 *(3) AUTHORIZATION OF APPROPRIATIONS.—*
16 *There is authorized to be appropriated to carry out*
17 *the NAPA Study \$3,000,000, to remain available*
18 *until expended.*

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