

113TH CONGRESS  
2D SESSION

# S. 2457

To require States to establish highway stormwater management programs.

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IN THE SENATE OF THE UNITED STATES

JUNE 10, 2014

Mr. CARDIN 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 States to establish highway stormwater management 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 “Highway Runoff Man-  
5 agement Act”.

6 **SEC. 2. FEDERAL-AID HIGHWAY RUNOFF MANAGEMENT.**

7 (a) IN GENERAL.—Chapter 3 of title 23, United  
8 States Code, is amended by adding at the end the fol-  
9 lowing:

1 **“§ 330. Federal-aid highway runoff management pro-**  
2 **gram**

3 “(a) DEFINITIONS.—In this section, the following  
4 definitions apply:

5 “(1) COVERED PROJECT.—The term ‘covered  
6 project’ means a reconstruction, rehabilitation, re-  
7 configuration, renovation, major resurfacing, or new  
8 construction project on a Federal-aid highway car-  
9 ried out under this title that results in—

10 “(A) a 10-percent or greater increase in  
11 impervious surface of the aerial extent within  
12 the right-of-way of the project limit on a Fed-  
13 eral-aid highway or associated facility; or

14 “(B) an increase of 1 acre or more in im-  
15 pervious surface coverage.

16 “(2) EROSION FORCE.—The term ‘erosion force’  
17 means the flowrate within a stream or channel in  
18 which channel bed or bank material becomes de-  
19 tached, which in most cases is less than or equal to  
20 the flowrate produced by the 2-year storm event.

21 “(3) HIGHWAY RUNOFF.—The term ‘highway  
22 runoff’, with respect to a Federal-aid highway, asso-  
23 ciated facility, or management measure retrofit  
24 project, means a discharge of peak flow rate or vol-  
25 ume of runoff that exceeds flows generated under  
26 preproject conditions.

1           “(4) IMPACTED HYDROLOGY.—The term ‘im-  
2           pacted hydrology’ means stormwater runoff gen-  
3           erated from all areas within the site limits of a cov-  
4           ered project.

5           “(5) MANAGEMENT MEASURE.—The term  
6           ‘management measure’ means a program, structural  
7           or nonstructural management practice, operational  
8           procedure, or policy on or off the project site that  
9           is intended to prevent, reduce, or control highway  
10          runoff.

11          “(b) STATE HIGHWAY STORMWATER MANAGEMENT  
12          PROGRAMS.—

13               “(1) IN GENERAL.—Not later than 1 year after  
14               the date of enactment of this section, each State  
15               shall—

16                       “(A) develop a process for analyzing the  
17                       erosive force of highway runoff generated from  
18                       covered projects; and

19                       “(B) apply management measures to main-  
20                       tain or restore impacted hydrology associated  
21                       with highway runoff from covered projects.

22               “(2) INCLUSIONS.—The management measures  
23               established under paragraph (1) may include, as the  
24               State determines to be appropriate, management  
25               measures that—

1           “(A) minimize the erosive force of highway  
2 runoff from a covered project on a channel bed  
3 or bank of receiving water by managing high-  
4 way runoff within the area of the covered  
5 project;

6           “(B) manage impacted hydrology in such a  
7 manner that the highway runoff generated by a  
8 covered project is below the erosive force flow  
9 and volume;

10           “(C) to the maximum extent practicable,  
11 seek to address the impact of the erosive force  
12 of hydrologic events that have the potential to  
13 create or exacerbate downstream channel ero-  
14 sion, including excess pier and abutment scour  
15 at bridges and channel downcutting and bank  
16 failure of streams adjacent to highway embank-  
17 ments;

18           “(D) ensure that the highway runoff from  
19 the post-construction condition does not in-  
20 crease the risk of channel erosion relative to the  
21 preproject condition; and

22           “(E) employ simplified approaches to de-  
23 termining the erosive force of highway runoff  
24 generated from covered projects, such as a re-  
25 gionalized analysis of streams within a State.

1 “(c) GUIDANCE.—

2 “(1) IN GENERAL.—Not later than 180 days  
3 after the date of enactment of this section, the Sec-  
4 retary, in consultation with the heads of other rel-  
5 evant Federal agencies, shall publish guidance to as-  
6 sist States in carrying out this section.

7 “(2) CONTENTS OF GUIDANCE.—The guidance  
8 shall include guidelines and technical assistance for  
9 the establishment of State management measures  
10 that will be used to assist in avoiding, minimizing,  
11 and managing highway runoff from covered projects,  
12 including guidelines to help States integrate the  
13 planning, selection, design, and long-term operation  
14 and maintenance of management measures con-  
15 sistent with the design standards in the overall  
16 project planning process.

17 “(3) APPROVAL.—The Secretary, in consulta-  
18 tion with the heads of other relevant Federal agen-  
19 cies, shall—

20 “(A) review the management measures  
21 program of each State; and

22 “(B) approve such a program, if the pro-  
23 gram meets the requirements of subsection (b).

24 “(4) UPDATES.—Not later than 5 years after  
25 the date of publication of the guidance under this

1 subsection, and not less frequently than once every  
2 5 years thereafter—

3 “(A) the Secretary, in consultation with  
4 the heads of other relevant Federal agencies,  
5 shall update the guidance, as applicable; and

6 “(B) each State, as applicable, shall up-  
7 date the management measures program of the  
8 State in accordance with the updated guidance.

9 “(d) REPORTING.—

10 “(1) IN GENERAL.—Except as provided in para-  
11 graph (2)(A), each State shall submit to the Sec-  
12 retary an annual report that describes the activities  
13 carried out under the highway stormwater manage-  
14 ment program of the State, including a description  
15 of any reductions of stormwater runoff achieved as  
16 a result of covered projects carried out by the State  
17 after the date of enactment of this section.

18 “(2) REPORTING REQUIREMENTS UNDER PER-  
19 MIT.—

20 “(A) IN GENERAL.—A State shall not be  
21 required to submit an annual report described  
22 in paragraph (1) if the State—

23 “(i) is operating Federal-aid highways  
24 in the State in a post-construction condi-  
25 tion in accordance with a permit issued

1 under the Federal Water Pollution Control  
2 Act (33 U.S.C. 1251 et seq.);

3 “(ii) is subject to an annual reporting  
4 requirement under such a permit (regard-  
5 less of whether the permitting authority is  
6 a Federal or State agency); and

7 “(iii) carries out a covered project  
8 with respect to a Federal-aid highway in  
9 the State described in clause (i).

10 “(B) TRANSMISSION OF REPORT.—A Fed-  
11 eral or State permitting authority that receives  
12 an annual report described in subparagraph  
13 (A)(ii) shall, on receipt of such a report, trans-  
14 mit a copy of the report to the Secretary.”.

15 (b) CLERICAL AMENDMENT.—The analysis for chap-  
16 ter 3 of title 23, United States Code, is amended by add-  
17 ing at the end the following:

“330. Federal-aid highway runoff management program.”.

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