

105TH CONGRESS
2D SESSION

S. 2620

To amend the Federal Water Pollution Control Act to establish a National Clean Water Trust Fund and to authorize the Administrator of the Environmental Protection Agency to use amounts in the Fund to carry out projects to promote the recovery of waters of the United States from damage resulting from violations of that Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 10 (legislative day, OCTOBER 2), 1998

Mr. ROBB 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 establish a National Clean Water Trust Fund and to authorize the Administrator of the Environmental Protection Agency to use amounts in the Fund to carry out projects to promote the recovery of waters of the United States from damage resulting from violations of that Act, 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 “National Clean Water
3 Trust Fund Act of 1998”.

4 **SEC. 2. NATIONAL CLEAN WATER TRUST FUND.**

5 Section 309 of the Federal Water Pollution Control
6 Act (33 U.S.C. 1319) is amended by adding at the end
7 the following:

8 “(h) NATIONAL CLEAN WATER TRUST FUND.—

9 “(1) ESTABLISHMENT.—There is established in
10 the Treasury a National Clean Water Trust Fund
11 (referred to in this subsection as the ‘Fund’) consist-
12 ing of amounts transferred to the Fund under para-
13 graph (2) and amounts credited to the Fund under
14 paragraph (3).

15 “(2) TRANSFER OF AMOUNTS.—For fiscal year
16 1998, and each fiscal year thereafter, the Secretary
17 of the Treasury shall transfer to the Fund an
18 amount determined by the Secretary to be equal to
19 the total amount deposited in the general fund of
20 the Treasury in the preceding fiscal year from fines,
21 penalties, and other funds obtained through enforce-
22 ment actions conducted pursuant to this section and
23 section 505(a)(1), including any amounts obtained
24 under consent decrees and excluding any amounts
25 ordered to be used to carry out mitigation projects
26 under this section or section 505(a).

1 “(3) INVESTMENT OF AMOUNTS.—

2 “(A) IN GENERAL.—The Secretary of the
3 Treasury shall invest in interest-bearing obliga-
4 tions of the United States such portion of the
5 Fund as is not, in the Secretary’s judgment, re-
6 quired to meet current withdrawals.

7 “(B) ADMINISTRATION.—The obligations
8 shall be acquired and sold and interest on, and
9 the proceeds from the sale or redemption of, the
10 obligations shall be credited to the Fund in ac-
11 cordance with section 9602 of the Internal Rev-
12 enue Code of 1986.

13 “(4) USE OF AMOUNTS FOR REMEDIAL
14 PROJECTS.—Amounts in the Fund shall be available,
15 as provided in appropriations Acts, to the Adminis-
16 trator to carry out projects to restore and recover
17 waters of the United States from damage resulting
18 from violations of this Act that are subject to en-
19 forcement actions under this section and similar
20 damage resulting from the discharge of pollutants
21 into the waters of the United States.

22 “(5) SELECTION OF PROJECTS.—

23 “(A) PRIORITY.—In selecting projects to
24 carry out under this subsection, the Adminis-
25 trator shall give priority to a project to promote

1 the recovery of waters of the United States
2 from damage described in paragraph (4), if an
3 enforcement action conducted pursuant to this
4 section or section 505(a)(1) with respect to the
5 violation, or another violation of this Act in the
6 same administrative region of the Environ-
7 mental Protection Agency as the violation, re-
8 sulted in amounts being deposited in the gen-
9 eral fund of the Treasury.

10 “(B) CONSULTATION WITH STATES.—In
11 selecting projects to carry out under this sec-
12 tion, the Administrator shall consult with
13 States in which the Administrator is consider-
14 ing carrying out a project.

15 “(C) ALLOCATION OF AMOUNTS.—In de-
16 termining an amount to allocate to carry out a
17 project to restore and recover waters of the
18 United States from damage described in para-
19 graph (4), the Administrator shall, in the case
20 of a priority project described in subparagraph
21 (A), take into account the total amount depos-
22 ited in the general fund of the Treasury as a
23 result of enforcement actions conducted with re-
24 spect to the violation pursuant to this section or
25 section 505(a)(1).

1 “(6) IMPLEMENTATION.—The Administrator
2 may carry out a project under this subsection di-
3 rectly or by making grants to, or entering into con-
4 tracts with, another Federal agency, a State agency,
5 a political subdivision of a State, or any other public
6 or private entity.

7 “(7) REPORT TO CONGRESS.—Not later than 1
8 year after the date of the enactment of this sub-
9 section, and every 2 years thereafter, the Adminis-
10 trator shall submit to Congress a report on imple-
11 mentation of this subsection.”.

12 **SEC. 3. USE OF CIVIL PENALTIES FOR MITIGATION**
13 **PROJECTS.**

14 (a) IN GENERAL.—Section 309(d) of the Federal
15 Water Pollution Control Act (33 U.S.C. 1319(d)) is
16 amended by inserting after the second sentence the follow-
17 ing: “The court may order that a civil penalty be used
18 for carrying out mitigation, restoration, or other projects
19 that are consistent with the purposes of this Act and that
20 enhance public health or the environment.”.

21 (b) CONFORMING AMENDMENT.—Section 505(a) of
22 the Federal Water Pollution Control Act (33 U.S.C.
23 1365(a)) is amended in the last sentence by inserting be-
24 fore the period at the end the following: “, including order-
25 ing the use of a civil penalty for carrying out mitigation,

1 restoration, or other projects in accordance with section
2 309(d)".

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