

106TH CONGRESS
2D SESSION

H. R. 4502

To improve the implementation of the Federal Water Pollution Control Act,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2000

Mr. COMBEST (for himself, Mr. STENHOLM, Mr. GOODLATTE, Mrs. CLAYTON, Mr. BARRETT of Nebraska, Mr. BERRY, Mr. BISHOP, Mr. BOYD, Mr. COOKSEY, Mr. CRAMER, Mr. DICKEY, Ms. DUNN, Mrs. EMERSON, Mr. ETHERIDGE, Mr. EWING, Mr. GOODE, Mr. HASTINGS of Washington, Mr. HAYES, Mr. HERGER, Mr. HUTCHINSON, Mr. JONES of North Carolina, Mr. RYUN of Kansas, Mr. SANDLIN, Mr. SANFORD, Mr. SHOWS, Mr. SPRATT, Mr. SUNUNU, Mr. TURNER, Mr. CHAMBLISS, and Mr. RILEY) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To improve the implementation of the Federal Water
Pollution Control 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Water Pollution Pro-
5 gram Improvement Act of 2000”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Pollutant loadings from both public and pri-
2 vate point sources have decreased dramatically since
3 the enactment of the Federal Water Pollution Con-
4 trol Act in 1972 and such reductions have greatly
5 contributed to achieving national water quality goals.

6 (2) Appropriate emphasis on the management
7 of nonpoint source pollution through a variety of
8 flexible management practices is necessary to meet
9 water quality standards and the goals of the Federal
10 Water Pollution Control Act.

11 (3) Comprehensive watershed management
12 strategies (including estuary management programs,
13 source water protection programs, and other vol-
14 untary or statutory programs) are important tools in
15 coordinating point source and nonpoint source water
16 quality programs.

17 (4) State and local governments, businesses,
18 and landowners are expected to spend billions of dol-
19 lars over the next 20 years to implement watershed
20 management strategies and other programs to ad-
21 dress nonpoint source pollution.

22 (5) In order to complete the total maximum
23 daily load calculations required for currently identi-
24 fied waters, States will be required to develop one
25 total maximum daily load allocation per week per re-

1 gion for each of the next 15 years at an estimated
2 cost to the States ranging from \$670,000,000 to
3 \$1,200,000,000.

4 (6) States have overwhelmingly cited a lack of
5 credible and reliable data and a lack of the resources
6 necessary to collect and analyze such data, as sig-
7 nificant limitations to carrying out their responsibil-
8 ities under the Federal Water Pollution Control Act,
9 including the identification of impaired waters and
10 the development of total maximum daily loads.

11 (7) The General Accounting Office recently con-
12 cluded that only 6 States have the majority of data
13 needed to assess the condition of their waters.

14 (8) In cases in which there are no reliable mon-
15 itoring or other analytical data to support a listing
16 or total maximum daily load allocation, waters of the
17 United States are being identified as impaired and
18 total maximum daily loads are being developed
19 under section 303(d) of the Federal Water Pollution
20 Control Act (33 U.S.C. 1313(d)) on the basis of an-
21 ecdotal evidence. The data used are frequently not
22 subject to quality assurance or quality control meas-
23 ures.

24 (9) Any Federal regulatory or nonregulatory
25 water quality management program—

1 (A) must be based on sound science, in-
2 cluding credible and reliable monitoring data;

3 (B) must be subject to rigorous cost anal-
4 ysis;

5 (C) must be effectively and efficiently im-
6 plemented; and

7 (D) must have the strong support of af-
8 fected stakeholders, including State and local
9 governments, landowners, businesses, environ-
10 mental organizations, and the general public.

11 (10) Any Federal water quality management
12 program or initiative must recognize and
13 accommodate—

14 (A) State water rights allocations and
15 management programs;

16 (B) the clear distinction between point and
17 nonpoint sources of pollution provided in the
18 Federal Water Pollution Control Act (33 U.S.C.
19 1251 et seq.); and

20 (C) the exclusive authority of the States to
21 regulate nonpoint sources of pollution.

22 **SEC. 3. NATIONAL ACADEMY OF SCIENCES STUDY.**

23 (a) **STUDY REQUIRED.**—The Administrator of the
24 Environmental Protection Agency shall make arrange-

1 ments with the National Academy of Sciences to conduct
2 a study on—

3 (1) the scientific basis underlying the develop-
4 ment and implementation of total maximum daily
5 loads for pollutants in waters identified under sec-
6 tion 303(d)(1)(A) of the Federal Water Pollution
7 Control Act (33 U.S.C. 1313(d)(1)(A));

8 (2) the costs of implementing measures to com-
9 ply with the total maximum daily loads; and

10 (3) the availability of alternative programs or
11 mechanisms to reduce the discharge of pollutants
12 from point sources and to reduce pollution from
13 nonpoint sources to achieve water quality standards.

14 (b) SCOPE.—The study shall include an evaluation of
15 the following:

16 (1) The scientific methodologies (including
17 water quality monitoring and monitoring plans) that
18 are being used by States to identify waters under
19 section 303(d)(1)(A) of the Federal Water Pollution
20 Control Act (33 U.S.C. 1313(d)(1)(A)) and to de-
21 velop and implement total maximum daily loads for
22 pollutants in such waters, and the costs associated
23 with the methodologies.

24 (2) Any procedures or programs that are being
25 implemented by States and Federal agencies to co-

1 ordinate and improve monitoring methodologies and
2 the quality of monitoring data.

3 (3) The availability of alternative programs and
4 other regulatory or nonregulatory mechanisms (in-
5 cluding Federal, State, and local programs that op-
6 erate as a functional equivalent to the total max-
7 imum daily load program) that may achieve com-
8 parable environmental benefits in an impaired water,
9 watershed, or basin.

10 (4) The results achieved by regulatory and vol-
11 untary programs, activities, and practices that are
12 being implemented to reduce nonpoint source pollu-
13 tion and the costs of such programs, activities, and
14 practices to State and local governments and the
15 private sector.

16 (5) The feasibility of implementing a pollutant
17 trading program between point sources and nonpoint
18 sources of pollution.

19 (6) An assessment of the total costs (including
20 the costs to Federal land management agencies,
21 State and local governments, and the private sector)
22 associated with programs to reduce the discharge of
23 pollutants from point sources to meet water quality
24 standards on waters currently identified under sec-
25 tion 303(d)(1)(A) of the Federal Water Pollution

1 Control Act (33 U.S.C. 1313(d)(1)(A)) and with
2 programs to reduce pollution from nonpoint sources
3 in such waters under section 319 of such Act (33
4 U.S.C. 1329).

5 (c) PEER REVIEW.—Before submitting a report
6 under subsection (d), the National Academy of Sciences
7 shall provide appropriate Federal, State, and private sec-
8 tor interests an opportunity to review and submit written
9 comments on the report.

10 (d) REPORT.—Not later than 18 months after the
11 date of enactment of this Act, the National Academy of
12 Sciences shall submit a report on the study to the Admin-
13 istrator of the Environmental Protection Agency, the
14 Committee on Transportation and Infrastructure of the
15 House of Representatives, and the Committee on Environ-
16 ment and Public Works of the Senate. The report shall
17 include recommendations of the National Academy of
18 Sciences for improving the methodologies evaluated under
19 the study, as well as any recommendations received pursu-
20 ant to subsection (c) that are not otherwise incorporated
21 into the report.

22 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
23 authorized to be appropriated to carry out this section
24 \$5,000,000. Such sums shall remain available until ex-
25 pended.

1 **SEC. 4. RULEMAKING.**

2 (a) PROPOSED RULES DEFINED.—In this section,
3 the term “proposed rules” means the Proposed Revisions
4 to the National Pollutant Discharge Elimination System
5 Program and Federal Antidegradation Policy and the Pro-
6 posed Revisions to the Water Quality Planning and Man-
7 agement Regulations Concerning Total Maximum Daily
8 Loads, published in the Federal Register on August 23,
9 1999.

10 (b) CONSIDERATION OF STUDY.—Before making a
11 final determination with respect to the proposed rules, the
12 Administrator of the Environmental Protection Agency
13 shall—

14 (1) review the report submitted by the National
15 Academy of Sciences under section 3(d) and incor-
16 porate, as appropriate, into the proposed rules the
17 recommendations contained in the report, including
18 recommendations received pursuant to section 3(c);
19 and

20 (2) publish in the Federal Register and receive
21 public comment on—

22 (A) the recommendations described in
23 paragraph (1) that were incorporated into the
24 proposed rules; and

25 (B) the recommendations described in
26 paragraph (1) that were not incorporated into

1 the proposed rules, including an explanation of
2 why the recommendations were not incor-
3 porated.

4 (c) EFFECT ON PROPOSED RULES.—The Adminis-
5 trator shall not make a final determination on the pro-
6 posed rules identified in subsection (a) until the conclusion
7 of the public notice and comment period provided under
8 subsection (b)(2).

9 (d) PROHIBITED ACTIONS.—Except as specifically
10 provided by an Act enacted after the date of enactment
11 of this Act, to ensure that States continue to have exclu-
12 sive authority to regulate nonpoint sources of pollution—

13 (1) the Administrator shall not take any action
14 to affect any definition of, or distinction made be-
15 tween, point sources and nonpoint sources of pollu-
16 tion contained in a rule of the Environmental Pro-
17 tection Agency in effect on June 1, 2000; and

18 (2) the Administrator shall not require approval
19 of any measures set forth by a State to control
20 nonpoint sources of pollution pursuant to the Fed-
21 eral Water Pollution Control Act (33 U.S.C. 1251 et
22 seq.), except as authorized by section 319 of such
23 Act (33 U.S.C. 1329).

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