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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Water Pollution Program Enhancements Act of 2000''.

SEC. 2. FINDINGS.

Congress finds that—

(1) pollutant loadings from both public and private point sources have decreased dramatically since

the enactment of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) in 1972 and have greatly contributed to achieving national water quality goals;

(2) under that Act, the Federal Government has provided over $80,000,000,000 in grants and loans to assist in the control of the discharge of pollutants from publicly owned treatment works and less than $2,000,000,000 to assist in the control of nonpoint sources of pollution;

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

(4) comprehensive watershed management strategies (including estuary management programs, source water protection programs, and other voluntary or statutory programs) are important tools to coordinate point source and nonpoint source water quality programs;

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

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

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

(7) States have overwhelmingly cited a lack of resources as a limitation to carrying out their responsibilities under that Act, including the identification of impaired waters and the development of total maximum daily loads;

(8) any Federal regulatory or nonregulatory water quality management program must be based on sound science, must be effectively and efficiently implemented, and must have the strong support of affected stakeholders, including State and local governments, landowners, businesses, environmental organizations, and the general public;

(9) the General Accounting Office recently concluded that only 6 States have the majority of the data needed to assess the condition of their waters;

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

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

(11) data described in paragraph (10) are frequently not subject to quality assurance or quality control measures;

(12) the use of scarce public and private resources should be focused on waters that are identified as being impaired by pollutants on the basis of reliable monitoring data;

(13) a strong partnership between the Federal Government, the States, and the private sector, with adequate Federal funding and assistance, must continue if remaining national water quality issues are to be resolved;

(14) many States have developed and are implementing effective regulatory and nonregulatory cooperative programs that are functionally equivalent to Federal water quality programs, including, for example, the Chesapeake Bay watershed protection program; and

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

date State water rights allocations and management programs.

SEC. 3. FUNDING FOR WATER POLLUTION CONTROL MEASURES.

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

"(a) FUNDING.—

"(1) IN GENERAL.—There are authorized to be appropriated for grants to States and interstate agencies to carry out this section, including the administration of programs for the prevention, reduction, and elimination of pollutants (including enforcement directly or through appropriate State law enforcement officers and agencies), $250,000,000 for fiscal years 2001 through 2007, to remain available until expended.

"(2) MONITORING DATA.—From the sums appropriated in any fiscal year, $50,000,000 shall be made available to States for—

"(A) the collection of reliable monitoring data;

"(B) the improvement of lists prepared under section 303(d)(1);

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

"(D) the development of watershed management strategies.".

(b) NONPOINT SOURCE MANAGEMENT PROGRAMS.—Section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) is amended by striking subsection (j) and inserting the following:

"(j) AUTHORIZATION OF APPROPRIATIONS.—

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

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

"(3) PROJECT GRANTS.—From the sums appropriated under paragraph (1) for any fiscal year, $200,000,000 shall be made available for States to provide grants to landowners to develop and implement 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;

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

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

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

(2) SCOPE.—The National Academy of Sciences shall include in the Study an evaluation of, and where possible, provide recommendations for improvements in, the following:

(A) The scientific methodologies (including water quality monitoring and State monitoring plans) currently being used by States to identify impaired waters and develop and implement total maximum daily loads, and the costs associated with monitoring and other methodologies.

(B) Any procedures or programs being implemented by the States and Federal agencies to coordinate and improve monitoring methodologies and the quality of monitoring data.

(C) The availability of alternative programs and other regulatory or nonregulatory mechanisms (including other Federal, State, and local programs that operate as a functional equivalent to the total maximum daily load program) that may achieve comparable environmental benefits in an impaired water, watershed, or basin.

(D) The results achieved by existing regulatory and voluntary programs, activities, and practices currently being implemented to reduce nonpoint source pollution and the costs of these programs, activities, and practices to State and local governments and the private sector;

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

(F) The feasibility of implementing a pollutant trading program between point sources and nonpoint sources.

(G) An assessment of the total costs associated with programs to reduce the discharge of pollutants from point sources and nonpoint source pollution (including the costs to Federal land management agencies, State and local governments, and the private sector) to meet water quality standards on waters currently listed under section 303(d) of the Federal Water Pollution Control Act (33 U.S.C. 1313(d)).

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out

the Study $5,000,000, to remain available until expended.

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

SEC. 5. WATERSHED MANAGEMENT PILOT PROGRAM.

(a) IN GENERAL.—In cooperation with the States, the Administrator shall jointly establish a watershed management pilot program (referred to in this Act as the ''Pilot Program'') to evaluate the relative water quality improvements resulting from up to 5 State watershed management programs or strategies, to be selected by the Administrator and the States, that incorporate non-Federal water quality control programs, innovative technologies and incentives to reduce the discharge of pollutants, or total maximum daily load allocations under section 303(d) of the Federal Water Pollution Control Act (33 U.S.C. 1313(d)).

(b) SELECTION OF STATE PROGRAMS.—To be eligible for consideration in the Pilot Program, a State watershed management strategy must be expected to achieve

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

(c) REPORTS.—

(1) ANNUAL REPORT.—The Administrator, in cooperation with the States, shall jointly develop and submit annually to Congress a report on the program and, for each State included in the Pilot Program, specific information on the progress being achieved to improve water quality.

(2) FINAL REPORT.—Not later than 6 months after the termination of the Pilot Program, the Administrator, in cooperation with the States, shall jointly develop and submit to Congress a report evaluating the State programs, including for each State an assessment of—

(A) the overall improvements achieved in water quality;

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

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

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

(d) TERMINATION.—With respect to each State participating in the program, the Pilot Program shall terminate 3 years after the date on which the Administrator accepts the State program in the Pilot Program.

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

SEC. 6. RULEMAKING.

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

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

(2) take into consideration the recommendations of the National Academy of Sciences in issuing any final regulations.

(b) EXPLANATION.—If the Administrator includes provisions in any final regulation that are not consistent with the recommendations of the National Academy of Sciences, the Administrator shall publish with the final rule an explanation why the recommendations of the National Academy of Sciences were not included in the final regulation.

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