

114TH CONGRESS  
1ST SESSION

# S. 1394

To amend the Federal Water Pollution Control Act to establish within the Environmental Protection Agency a Columbia River Basin Restoration Program.

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## IN THE SENATE OF THE UNITED STATES

MAY 20, 2015

Mr. MERKLEY (for himself and Mr. WYDEN) 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 establish within the Environmental Protection Agency a Columbia River Basin Restoration Program.

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 “Columbia River Basin  
5 Restoration Act of 2015”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the Columbia River is the largest river in  
9 the Pacific Northwest by volume;

1           (2) the river is 1,243 miles long, with a drain-  
2           age basin that includes 259,000 square miles, ex-  
3           tending to 7 States and British Columbia, Canada,  
4           and including all or part of—

5                   (A) multiple national parks;

6                   (B) components of the National Wilderness  
7           Preservation System;

8                   (C) national monuments;

9                   (D) national scenic areas;

10                  (E) national recreation areas;

11                  (F) other areas managed for conservation;

12           and

13                  (G) multiple tribal reservations and over  
14           45,000,000 acres of tribally comanaged land;

15           (3) the Columbia River Basin and associated  
16           tributaries (referred to in this Act as the “Basin”)  
17           provide significant ecological and economic benefits  
18           to the Pacific Northwest and the entire United  
19           States;

20           (4) traditionally, the Basin includes more than  
21           6,000,000 acres of irrigated agricultural land and  
22           produces more hydroelectric power than any other  
23           North American river;

24           (5) significant commerce takes place on the fed-  
25           erally authorized Columbia Snake River System

1 navigation channel, which is 465 miles in length,  
2 from the mouth of the Columbia River to Lewiston,  
3 Idaho;

4 (6) the Basin—

5 (A) historically constituted the largest  
6 salmon-producing river system in the world,  
7 with annual returns peaking at as many as  
8 16,000,000 fish; and

9 (B) as of the date of enactment of this  
10 Act—

11 (i) supports economically important  
12 commercial and recreational fisheries;

13 (ii) supports treaty tribal fisheries;

14 (iii) is home to numerous species of  
15 salmonids, including steelhead, bull trout,  
16 and Kootenai white sturgeon, that are list-  
17 ed as threatened species or endangered  
18 species under the Endangered Species Act  
19 of 1973 (16 U.S.C. 1531 et seq.); and

20 (iv) is a cultural and historical re-  
21 source and provides sports and recreation  
22 opportunities for millions annually;

23 (7) toxics are present throughout the Columbia  
24 River Basin that are harmful to humans, fish, and  
25 wildlife;

1 (8) studies have shown that Columbia River  
2 fish contain a wide array of contaminants;

3 (9) a fish consumption survey in the Columbia  
4 River Basin showed that tribal members were eating  
5 6 to 11 times more fish than the estimated national  
6 average;

7 (10) in 2013, the States of Oregon and Wash-  
8 ington issued a fish advisories warning against con-  
9 sumption of resident fish between Bonneville Dam to  
10 McNary Dam because of toxic contamination;

11 (11) in 1995, the lower river and estuary was  
12 designated an “estuary of national significance” in  
13 accordance with section 320 of the Federal Water  
14 Pollution Control Act (33 U.S.C. 1330), because of  
15 degradation and contamination in the lower river,  
16 lack of structure to coordinate programs and poli-  
17 cies, significance of the lower river to survival of spe-  
18 cies throughout the basin, and the importance of the  
19 lower river to the economic viability of the region;  
20 and

21 (12)(A) in 2006, the Administrator of the Envi-  
22 ronmental Protection Agency named the Columbia  
23 River Basin 1 of the 10 large aquatic ecosystems in  
24 the United States;

1 (B) the Columbia River Basin is the only large  
2 aquatic ecosystem in the United States that does not  
3 receive dedicated appropriations as a large aquatic  
4 ecosystem; and

5 (C) the other 9 large aquatic ecosystems receive  
6 appropriations through the Geographic Programs  
7 program area of the Environmental Protection  
8 Agency.

9 **SEC. 3. COLUMBIA RIVER BASIN RESTORATION.**

10 Title I of the Federal Water Pollution Control Act  
11 (33 U.S.C. 1251 et seq.) is amended by adding at the end  
12 the following:

13 **“SEC. 123. COLUMBIA RIVER BASIN RESTORATION.**

14 “(a) DEFINITIONS.—

15 “(1) ACTION PLAN.—

16 “(A) IN GENERAL.—The term ‘Action  
17 Plan’ means the Columbia River Basin Toxics  
18 Reduction Plan developed by the Environmental  
19 Protection Agency and the Columbia River  
20 Toxics Reduction Working Group in 2010.

21 “(B) INCLUSIONS.—The term ‘Action  
22 Plan’ includes any amendments to the plan.

23 “(2) COLUMBIA RIVER BASIN.—The term ‘Co-  
24 lumbia River Basin’ means the entire United States  
25 portion of the Columbia River watershed.

1           “(3) ESTUARY PARTNERSHIP.—The term ‘Es-  
2           tuary Partnership’ means the Lower Columbia River  
3           Estuary Partnership, an entity created by the States  
4           of Oregon and Washington and the Environmental  
5           Protection Agency under section 320.

6           “(4) ESTUARY PLAN.—

7           “(A) IN GENERAL.—The term ‘Estuary  
8           Plan’ means the Estuary Partnership Com-  
9           prehensive Conservation and Management Plan  
10          adopted by the Environmental Protection Agen-  
11          cy and the Governors of Oregon and Wash-  
12          ington on October 20, 1999, under section 320.

13          “(B) INCLUSIONS.—The term ‘Estuary  
14          Plan’ includes any amendments to the plan.

15          “(5) LOWER COLUMBIA RIVER ESTUARY.—The  
16          term ‘Lower Columbia River Estuary’ means the  
17          mainstem Columbia River from the Bonneville Dam  
18          to the Pacific Ocean and tidally influenced portions  
19          of tributaries to the Columbia River in that region.

20          “(6) MIDDLE AND UPPER COLUMBIA RIVER  
21          BASIN.—The term ‘Middle and Upper Columbia  
22          River Basin’ means the region consisting of the  
23          United States portion of the Columbia River Basin  
24          above Bonneville Dam.

1           “(7) PROGRAM.—The term ‘Program’ means  
2 the Columbia River Basin Restoration Program es-  
3 tablished under subsection (b)(1)(A).

4           “(8) WORKING GROUP.—The term ‘Working  
5 Group’ means—

6                   “(A) the Columbia River Basin Toxics Re-  
7 duction Working Group established under sub-  
8 section (c); and

9                   “(B) with respect to the Lower Columbia  
10 River Estuary, the Estuary Partnership.

11           “(b) COLUMBIA RIVER BASIN RESTORATION PRO-  
12 GRAM.—

13                   “(1) ESTABLISHMENT.—

14                           “(A) IN GENERAL.—The Administrator  
15 shall establish within the Environmental Protec-  
16 tion Agency a Columbia River Basin Restora-  
17 tion Program for the purposes of reducing toxic  
18 contamination and cleaning up contaminated  
19 sites throughout the Columbia River Basin.

20                           “(B) NO EFFECT ON EXISTING AUTHOR-  
21 ITY.—The Program shall not modify any legal  
22 or regulatory authority or program in effect as  
23 of the date of enactment of this section, includ-  
24 ing the roles of Federal agencies in the Colum-  
25 bia River Basin.

1                   “(C) RELATIONSHIP TO EXISTING ACTIVI-  
2 TIES.—The Program shall—

3                   “(i) build on the work and collabo-  
4 rative structure of the existing Columbia  
5 River Toxics Reduction Working Group  
6 representing the Federal Government,  
7 State, tribal, and local governments, indus-  
8 try, and nongovernmental organizations,  
9 which was convened in 2005 to develop a  
10 collaborative toxic contamination reduction  
11 approach for the Columbia River Basin;

12                   “(ii) in the Lower Columbia River  
13 Basin and Estuary, build on the work and  
14 collaborative structure of the Estuary  
15 Partnership;

16                   “(iii) coordinate with other efforts, in-  
17 cluding activities of other Federal agencies  
18 in the Columbia River Basin, to avoid du-  
19 plicating activities or functions; and

20                   “(iv) not impede implementation of  
21 existing agreements or other recovery and  
22 mitigation programs.

23                   “(2) SCOPE OF PROGRAM.—The Program shall  
24 consist of a collaborative stakeholder-based program



1 for reducing toxic contamination throughout the Co-  
2 lumbia River Basin.

3 “(3) DUTIES.—The Administrator shall—

4 “(A) assess trends in water quality and  
5 toxic contamination or toxics reduction, includ-  
6 ing trends that affect uses of the water of the  
7 Columbia River Basin;

8 “(B) collect, characterize, and assess data  
9 on toxics and water quality to identify possible  
10 causes of environmental problems;

11 “(C) provide the Working Group with  
12 data, analysis, reports, or other information;

13 “(D) provide technical assistance to the  
14 Working Group, and to State governments,  
15 tribal governments, and local governments par-  
16 ticipating in the Working Group, to assist those  
17 agencies and entities in—

18 “(i) developing updates to the Action  
19 Plan;

20 “(ii) recommending and prioritizing  
21 projects and actions for the Action Plan;  
22 and

23 “(iii) reviewing progress and effective-  
24 ness of projects and actions implemented,

1 as well as cumulative progress toward the  
2 goals of this section, and the Action Plan;

3 “(E) periodically update the Action Plan  
4 and the Estuary Plan as required by counsel,  
5 and ensure that those plans, when considered  
6 together and in light of relevant plans developed  
7 by other Federal or State agencies, form a co-  
8 herent toxic contamination reduction strategy  
9 for the Columbia River Basin;

10 “(F) track progress toward meeting the  
11 identified goals and objectives of the Action  
12 Plan by coordinating and reporting environ-  
13 mental data related to the Action Plan and the  
14 Estuary Plan and making the data and reports  
15 on the data available to the public; and

16 “(G) provide grants in accordance with  
17 subsection (d) for projects that—

18 “(i) assist in—

19 “(I) eliminating or reducing pol-  
20 lution;

21 “(II) cleaning up contaminated  
22 sites;

23 “(III) improving water quality;

24 “(IV) monitoring to evaluate  
25 trends;

- 1 “(V) reducing runoff;
- 2 “(VI) protecting habitat; or
- 3 “(VII) promoting citizen engage-
- 4 ment or knowledge;
- 5 “(ii) address the goals, tasks, or ac-
- 6 tion items in the Action Plan or the Estu-
- 7 ary Plan; and
- 8 “(iii) are recommended by the Work-
- 9 ing Group to implement the Estuary Plan.

10 “(c) STAKEHOLDER WORKING GROUP.—

11 “(1) ESTABLISHMENT.—The Administrator  
12 shall establish a Columbia River Basin Toxics Re-  
13 duction Working Group.

14 “(2) MEMBERSHIP.—

15 “(A) IN GENERAL.—Membership in the  
16 Working Group shall be on a voluntary basis  
17 and any person invited by the Administrator  
18 under this subsection may decline membership.

19 “(B) INVITED REPRESENTATIVES.—The  
20 Administrator shall invite, at a minimum, rep-  
21 resentatives of—

- 22 “(i) each State located in whole or in
- 23 part within the Columbia River Basin;

1           “(ii) the Governors of each State lo-  
2 cated in whole or in part with the Colum-  
3 bia River Basin;

4           “(iii) each federally recognized Indian  
5 tribe in the Columbia River Basin;

6           “(iv) local governments located in the  
7 Columbia River Basin;

8           “(v) industries operating in the Co-  
9 lumbia River Basin that affect or could af-  
10 fect water quality;

11           “(vi) electric, water, and wastewater  
12 utilities operating in the Columba River  
13 Basin;

14           “(vii) private landowners in the Co-  
15 lumbia River Basin;

16           “(viii) soil and water conservation dis-  
17 tricts in the Columbia River Basin;

18           “(ix) nongovernmental organizations  
19 that have a presence in the Columbia River  
20 Basin;

21           “(x) the general public in the Colum-  
22 bia River Basin; and

23           “(xi) the Estuary Partnership.

24           “(3) GEOGRAPHIC REPRESENTATION.—The  
25 Working Group shall include representatives from—

1           “(A) each State; and

2           “(B) each of the Lower, Middle, and  
3           Upper Basins of the Columbia River.

4           “(4) DUTIES AND RESPONSIBILITIES.—The  
5           Working Group shall—

6           “(A) participate in developing updates to  
7           the Action Plan, including by providing com-  
8           ments on the updates;

9           “(B) recommend and prioritize projects  
10          and actions for the Action Plan; and

11          “(C) review the progress and effectiveness  
12          of projects and actions implemented, as well as  
13          cumulative progress toward the goals of this  
14          section, and the Action Plan.

15          “(5) LOWER COLUMBIA RIVER ESTUARY.—

16          “(A) ESTUARY PARTNERSHIP.—

17                 “(i) IN GENERAL.—The Estuary Part-  
18                 nership shall perform the duties and fulfill  
19                 the responsibilities of the Working Group  
20                 described in paragraph (4) as those duties  
21                 and responsibilities relate to the Lower Co-  
22                 lumbia River Estuary for such time as the  
23                 Estuary Partnership is the management  
24                 conference for the Lower Columbia River

1 National Estuary Program under section  
2 320.

3 “(ii) DESIGNATION.—If the Estuary  
4 Partnership ceases to be the management  
5 conference for the Lower Columbia River  
6 National Estuary Program under section  
7 320, the Administrator may designate the  
8 new management conference to assume the  
9 duties and responsibilities of the Working  
10 Group described in paragraph (4) as those  
11 duties and responsibilities relate to the  
12 Lower Columbia River Estuary.

13 “(B) ESTUARY PLAN.—

14 “(i) IN GENERAL.—The Estuary Plan  
15 shall function as the Action Plan for the  
16 Lower Columbia River Estuary for such  
17 time as there is an Estuary Plan in place  
18 pursuant to section 320.

19 “(ii) INCORPORATION.—If the Estu-  
20 ary Partnership is removed from the Na-  
21 tional Estuary Program, the duties and re-  
22 sponsibilities for the lower 146 miles of the  
23 Columbia River pursuant to this Act shall  
24 be incorporated into the duties of the  
25 Working Group.

1 “(d) GRANTS.—

2 “(1) IN GENERAL.—The Administrator shall es-  
3 tablish a voluntary, competitive Columbia River  
4 Basin toxics program to provide grants to State gov-  
5 ernments, tribal governments, regional water pollu-  
6 tion control agencies and entities, local government  
7 entities, nongovernmental entities, or soil and water  
8 conservation districts to develop or implement  
9 projects authorized under this section for the pur-  
10 pose of implementing the Action Plan and the Estu-  
11 ary Plan.

12 “(2) FEDERAL SHARE.—

13 “(A) IN GENERAL.—Except as provided in  
14 subparagraph (B), the Federal share of the cost  
15 of any project or activity carried out using  
16 funds from a grant provided to any person (in-  
17 cluding a State, tribal, or local government or  
18 interstate or regional agency) under this sub-  
19 section for a fiscal year—

20 “(i) shall not exceed 75 percent of the  
21 total cost of the project or activity; and

22 “(ii) shall be made on condition that  
23 the non-Federal share of that total cost  
24 shall be provided from non-Federal  
25 sources.

1           “(B) EXCEPTIONS.—With respect to cost-  
2           sharing for a grant provided under this sub-  
3           section—

4                   “(i) a tribal government may use Fed-  
5                   eral funds for the non-Federal share; and

6                   “(ii) the Administrator may increase  
7                   the Federal share under such cir-  
8                   cumstances as the Administrator deter-  
9                   mines to be appropriate.

10           “(3) ALLOCATION.—In making grants using  
11           funds appropriated to carry out this section, the Ad-  
12           ministrator shall—

13                   “(A) provide not less than 25 percent of  
14                   the funds to make grants for projects, pro-  
15                   grams, and studies in the Lower Columbia  
16                   River Estuary;

17                   “(B) provide not less than 25 percent of  
18                   the funds to make grants for projects, pro-  
19                   grams, and studies in the Middle and Upper  
20                   Columbia River Basin, which includes the  
21                   Snake River Basin; and

22                   “(C) retain for Environmental Protection  
23                   Agency not more than 5 percent of the funds  
24                   for purposes of implementing this section.

25           “(4) REPORTING.—



1           “(A) IN GENERAL.—Each grant recipient  
2           under this subsection shall submit to the Ad-  
3           ministrators reports on progress being made in  
4           achieving the purposes of this section.

5           “(B) REQUIREMENTS.—The Administrator  
6           shall establish requirements and timelines for  
7           recipients of grants under this section to report  
8           on progress made in achieving the purposes of  
9           this section and the goals of the Action Plan  
10          and the Estuary Plan.

11          “(5) RELATIONSHIP TO OTHER FUNDING.—

12           “(A) IN GENERAL.—Nothing in this sec-  
13           tion limits the eligibility of the Estuary Part-  
14           nership to receive funding under section 320(g).

15           “(B) LIMITATION.—None of the funds  
16           made available under this subsection may be  
17           used for the administration of a management  
18           conference under section 320.

19          “(e) ANNUAL BUDGET PLAN.—The President, as  
20          part of the annual budget submission of the President to  
21          Congress under section 1105(a) of title 31, United States  
22          Code, shall submit information regarding each Federal  
23          agency involved in protection and restoration of the Co-  
24          lumbia River Basin, including an interagency crosscut  
25          budget that displays for each Federal agency—

1           “(1) the amounts obligated for the preceding  
2           fiscal year for protection and restoration projects,  
3           programs, and studies relating to the Columbia  
4           River Basin;

5           “(2) the estimated budget for the current fiscal  
6           year for protection and restoration projects, pro-  
7           grams, and studies relating to the Columbia River  
8           Basin; and

9           “(3) the proposed budget for protection and  
10          restoration projects, programs, and studies relating  
11          to the Columbia River Basin.

12          “(f) AUTHORIZATION OF APPROPRIATIONS.—There  
13          is authorized to be appropriated to the Administrator to  
14          carry out this section \$50,000,000 for each of fiscal years  
15          2016 through 2021, to remain available until expended.”.

○