

111TH CONGRESS  
2D SESSION

# S. 3602

To amend title 23, United States Code, to direct the Secretary to establish a comprehensive program to control and treat polluted stormwater runoff from federally funded highways and roads, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 15, 2010

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 amend title 23, United States Code, to direct the Secretary to establish a comprehensive program to control and treat polluted stormwater runoff from federally funded highways and roads, 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 “Safe Treatment of Pol-  
5       luted Stormwater Runoff Act” or the “STOPS Runoff  
6       Act”.

1 **SEC. 2. FEDERAL-AID HIGHWAY RUNOFF POLLUTION MAN-**  
2 **AGEMENT PROGRAM.**

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

6 **“§ 330. Federal-aid highway runoff pollution manage-**  
7 **ment program**

8 “(a) ESTABLISHMENT.—The Secretary shall estab-  
9 lish a Federal-aid highway runoff pollution management  
10 program to ensure that covered projects are constructed  
11 in accordance with minimum standards designed to pro-  
12 tect surface and ground water quality.

13 “(b) PROJECT APPROVAL.—The Secretary may ap-  
14 prove a covered project of a State under section 106 only  
15 if the State provides assurances satisfactory to the Sec-  
16 retary that the State will construct the project in accord-  
17 ance with the minimum standards described in subsection  
18 (c).

19 “(c) MINIMUM STANDARDS.—The following min-  
20 imum standards shall apply to the construction of covered  
21 projects to maintain or restore, to the maximum extent  
22 technically feasible, the predevelopment hydrology of the  
23 project site with regard to the temperature, rate, chemical  
24 composition, volume and duration of flow:

25 “(1) Avoid and minimize alteration of natural  
26 features and hydrology and maximize use of pollu-

tion source control measures that utilize existing terrain and natural features and reduce chemical introduction to reduce creation of pollution on the project site.

“(2) Maximize capture of highway runoff pollution on the project site through pretreatment and treatment, including environmental site design techniques and other control measures that promote evapotranspiration and infiltration.

“(3) Prevent any remaining highway runoff pollution not addressed under paragraphs (1) and (2) to the maximum extent practicable by implementing one or more of the following control measures selected through a watershed-based environmental management or equivalent approach:

“(A) Pretreatment and treatment of runoff with appropriate control measures on the project site.

“(B) Discharge of highway runoff pollution directly to an off-site control measure under the control of the State with documented capacity to provide functionally and quantitatively equivalent management of runoff pollution to that required to achieve the minimum standards of this subsection for the design life of the project.

“(C) If the control measures in subparagraphs (A) and (B) are found impracticable based on site conditions or other appropriate factors, and an appropriate off-site runoff pollution mitigation program is in place, contribution to a mitigation program that will produce functionally and quantitatively equivalent management of runoff pollution to that required to achieve the minimum standards. Under this subparagraph, priority shall be given to off-site control measures that address the impacts of runoff pollution to waterways that are listed as impaired in the same or adjacent 8-digit Hydrologic Unit Code as the project site.

“(d) GUIDANCE.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, shall publish guidance to assist States in complying with the requirements of this section.

“(2) CONTENTS OF GUIDANCE.—The guidance shall include guidelines for the establishment of State processes and programs that will be used to assist in managing highway runoff pollution from

1 covered projects in accordance with the minimum  
2 standards described in subsection (c), including—

3 “(A) guidance to help States integrate the  
4 planning, selection, design, and long-term oper-  
5 ation and maintenance of control measures con-  
6 sistent with the minimum standards in the  
7 overall project planning process;

8 “(B) creation of a watershed-based envi-  
9 ronmental management approach to assist  
10 projects in achieving consistency with the min-  
11 imum standards;

12 “(C) guidelines for the development and  
13 utilization of off-site runoff pollution mitigation  
14 programs to achieve compliance with the min-  
15 imum standards; and

16 “(D) provisions for State inspection, moni-  
17 toring, and reporting to document State compli-  
18 ance and project consistency with this section.

19 “(e) LIMITATION ON STATUTORY CONSTRUCTION.—  
20 Nothing in this section shall be construed to affect the  
21 applicability of any provision of Federal, State, or local  
22 law that is more stringent than the requirements of this  
23 section.

24 “(f) REPORTING.—The Secretary shall require each  
25 State to report annually to the Secretary on the highway

1 runoff pollution reductions achieved for covered projects  
 2 carried out by the State after the date of enactment of  
 3 this section.

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

6 “(1) CONTROL MEASURE.—The term ‘control  
 7 measure’ means a program, structural or non-  
 8 structural management practice, operational proce-  
 9 dure, or policy on or off the project site that is in-  
 10 tended to control, reduce, or prevent highway runoff  
 11 pollution.

12 “(2) COVERED PROJECT.—The term ‘covered  
 13 project’ means a project carried out under this title  
 14 for—

15 “(A) construction of a new highway or as-  
 16 sociated facility;

17 “(B) construction of a Federal-aid highway  
 18 runoff control measure retrofit; or

19 “(C) construction of a significant Federal-  
 20 aid highway improvement.

21 “(3) FEDERAL-AID HIGHWAY RUNOFF CONTROL  
 22 MEASURE RETROFIT.—The term ‘Federal-aid high-  
 23 way runoff control measure retrofit’ means the in-  
 24 stallation or modification of a control measure for  
 25 highway runoff pollution serving a Federal-aid high-

1 way or associated facility originally constructed be-  
2 fore the date of enactment of this section.

3 “(4) HIGHWAY RUNOFF POLLUTION.—The term  
4 ‘highway runoff pollution’ means in relation to a  
5 Federal-aid highway, associated facility, or control  
6 measure retrofit projects one or more of the fol-  
7 lowing—

8 “(A) a discharge of sediment, metals, bac-  
9 teria, chemicals, nutrients, or oil and grease in  
10 runoff; or

11 “(B) a discharge of peak flow rate, water  
12 temperature, and volume of runoff that exceeds  
13 predevelopment amounts generated from a Fed-  
14 eral-aid highway, associated facility, or control  
15 measure retrofit project that violates the water  
16 quality standards of the receiving water set by  
17 the Federal Water Pollution Control Act (33  
18 U.S.C. 125 et seq.) and related State programs.

19 “(5) SIGNIFICANT FEDERAL-AID HIGHWAY IM-  
20 PROVEMENT.—The term ‘significant Federal-aid  
21 highway improvement’ means the rehabilitation, re-  
22 construction, reconfiguration, renovation, or major  
23 resurfacing of an existing Federal-aid highway or as-  
24 sociated facility that disturbs 5 or more acres of  
25 land.

1           “(6)    WATERSHED-BASED    ENVIRONMENTAL  
2           MANAGEMENT   APPROACH.—The   term   ‘watershed-  
3           based   environmental   management   approach’   means  
4           an   approach   under   which—

5                   “(A)   the   selection   of   solutions   that   prevent  
6                   or   minimize   the   environmental   impact   of   an   in-  
7                   dividual   project   is   made   within   the   broader   con-  
8                   text   of   the   environmental   protection   and   res-  
9                   toration   goals   of   any   watershed   that   drains   the  
10                  project   site,   rather   than   selecting   solutions   sole-  
11                  ly   based   on   site   level   considerations;   and

12                  “(B)   priority   consideration   is   given   to—

13                          “(i)   protection   of   drinking   water   sup-  
14                          plies;

15                          “(ii)   protection   and   restoration   of   wa-  
16                          terways   listed   by   a   State   as   impaired   in  
17                          accordance   with   section   303(d)   of   the   Fed-  
18                          eral   Water   Pollution   Control   Act   (33  
19                          U.S.C.   1313(d));

20                          “(iii)   preservation   of   aquatic   eco-  
21                          systems   and   fisheries;   and

22                          “(iv)   cost-effective   expenditure   of  
23                          Federal   funds.”.

24           (b)   EFFECTIVE   DATE.—The   provisions   of   this   legis-  
25   lation   will   be   effective   and   applicable   to   construction   of



1 Federal-Aid Highway projects as defined in subsection  
2 (g)(2) 1 year after enactment.

3 (c) CLERICAL AMENDMENT.—The analysis for chap-  
4 ter 3 is amended by adding at the end the following:

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

