

117TH CONGRESS
1ST SESSION

S. 2807

To authorize the Secretary of the Interior, in coordination with the heads of relevant Federal agencies, to carry out watershed pilots, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22 (legislative day, SEPTEMBER 21), 2021

Mr. WYDEN introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To authorize the Secretary of the Interior, in coordination with the heads of relevant Federal agencies, to carry out watershed pilots, 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 “Watershed Results
5 Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) ADVANCE WATERSHED ANALYTICS.—The
2 term “advance watershed analytics” means the tech-
3 nical analysis that is—

4 (A) conducted before making funding
5 available for a watershed pilot; and

6 (B) necessary—

7 (i) to identify specific high-impact
8 outcome projects across an entire water-
9 shed;

10 (ii) to identify project costs and imple-
11 mentation feasibility constraints;

12 (iii) to identify how different groups
13 of projects impact overall watershed tar-
14 gets; and

15 (iv) to develop scenarios that—

16 (I) maximize outcomes; and

17 (II) are feasible to quickly imple-
18 ment at scale.

19 (2) FEDERAL FINANCIAL SOURCE.—The term
20 “Federal financial source” means an award, grant,
21 loan, guarantee, incentive, or credit enhancement
22 funding available to Federal agencies participating
23 in watershed pilots.

24 (3) FUND.—The term “Fund” means an Envi-
25 ronmental Outcomes Fund established by the head

1 of a Federal department or agency under section
2 4(c)(1).

3 (4) MANAGEMENT TEAM.—The term “manage-
4 ment team” means the management team for a wa-
5 tershed pilot designated under section 3(c)(2).

6 (5) OUTCOME.—The term “outcome” means—

7 (A) a quantifiable reduction in nutrient or
8 sediment runoff;

9 (B) a quantifiable reduction in thermal
10 load;

11 (C) a quantifiable increase in dissolved ox-
12 ygen;

13 (D) a quantifiable increase in surface
14 water or groundwater that functionally benefits
15 fish and wildlife species; or

16 (E) any other quantifiable benefit identi-
17 fied by the management team as being desirable
18 in the applicable watershed.

19 (6) PAY-FOR-PERFORMANCE CONTRACT.—The
20 term “pay-for-performance contract” means a con-
21 tract to purchase successfully implemented outcomes
22 at a negotiated per-unit price.

23 (7) PLAN.—The term “plan” means an action-
24 able implementation and funding plan developed for
25 a watershed pilot under section 3(d)(1).

1 (8) QUALIFYING PROJECT.—The term “quali-
 2 fying project” means a project that efficiently
 3 achieves 1 or more outcomes in pursuit of a plan, as
 4 prioritized through advance watershed analytics.

5 (9) SECRETARY.—The term “Secretary” means
 6 the Secretary of the Interior.

7 (10) WATERSHED PILOT.—The term “water-
 8 shed pilot” means a watershed pilot established
 9 under section 3(a).

10 **SEC. 3. WATERSHED PILOTS.**

11 (a) IN GENERAL.—Not later than 180 days after the
 12 date of enactment of this Act and subject to subsection
 13 (i), the Secretary, acting in coordination with the Sec-
 14 retary of Agriculture and the Administrator of the Envi-
 15 ronmental Protection Agency, shall establish a total of not
 16 less than 2 and not more than 5 watershed pilots.

17 (b) CONSULTATION.—In establishing a watershed
 18 pilot under subsection (a), the Secretary shall—

19 (1) consult with the Chair of the Council on
 20 Environmental Quality in implementing the water-
 21 shed pilot; and

22 (2) regularly submit to the Chair of the Council
 23 on Environmental Quality reports describing the sta-
 24 tus and implementation of the watershed pilot.

25 (c) MANAGEMENT OF WATERSHED PILOTS.—

1 (1) MANAGEMENT BY SECRETARY.—Manage-
2 ment and responsibility for each watershed pilot
3 shall be led by the Secretary.

4 (2) MANAGEMENT TEAM.—The Secretary shall
5 designate a management team for the watershed
6 pilot, which shall be composed of—

7 (A) representatives appointed by the Sec-
8 retary; and

9 (B) representatives from 1 or more other
10 Federal departments or agencies participating
11 in the watershed pilot.

12 (3) CONSULTATION.—In establishing and car-
13 rying out a watershed pilot, the Secretary and the
14 management team shall consult with—

15 (A) State, local, and Tribal representa-
16 tives;

17 (B) nongovernmental organizations;

18 (C) private sector representatives; and

19 (D) such other individuals or entities as
20 the Secretary and the management team deter-
21 mine to be appropriate.

22 (d) PLAN.—

23 (1) IN GENERAL.—Not later than 1 year after
24 the date on which a watershed pilot is established,
25 the management team for the applicable watershed

1 pilot shall develop and implement a 5-year plan for
2 carrying out the watershed pilot.

3 (2) REQUIREMENTS.—A plan shall incor-
4 porate—

5 (A) advance watershed analytics to estab-
6 lish milestones, outcome targets, an implemen-
7 tation plan, and a timeline for achieving the
8 milestones, targets, and full implementation;

9 (B) a coordinated cross-agency funding
10 strategy that will—

11 (i) achieve the milestones and outcome
12 targets established under subparagraph
13 (A) in an effective and flexible manner by
14 efficiently and quickly delivering Federal
15 financial sources to qualifying projects;

16 (ii) leverage amounts made available
17 under sections 4(c)(4) and 7 with existing
18 Federal financial sources;

19 (iii) use Federal financial sources and
20 amounts from the Fund to leverage and
21 attract investments from private or philan-
22 thropic sources to accelerate greater out-
23 comes-based results; and

24 (iv) concentrate Federal financial
25 source commitments from multiple agen-

1 cies in a watershed pilot during the period
2 of the watershed pilot;

3 (C) annually updated progress tracking
4 against milestones and targets; and

5 (D) such other information as the Sec-
6 retary determines to be relevant to achieve out-
7 comes on an accelerated timeline.

8 (3) CONSULTATION AND REVIEW.—A plan shall
9 be—

10 (A) developed in consultation with the
11 head of each Federal department and agency
12 participating in the watershed pilot; and

13 (B) reviewed annually by the management
14 team.

15 (e) NOTIFICATION.—On adoption of each plan, the
16 Secretary shall submit to the Committee on Appropria-
17 tions of the Senate and the Committee on Appropriations
18 of the House of Representatives a notification that the wa-
19 tershed pilot has been established and the plan has been
20 adopted.

21 (f) DISBURSEMENT OF FUNDS TO QUALIFYING
22 PROJECTS.—Not later than 30 days after the date on
23 which the management team for a watershed pilot verify
24 outcomes from the qualifying project, the Secretary and
25 the management team for the watershed pilot shall dis-

1 burse amounts from Federal financial sources, including
2 amounts made available under sections 4(c)(4) and 7, to
3 a qualifying project, through pay-for-performance con-
4 tracts, at agreed upon outcome prices.

5 (g) MINIMUM OUTCOME PRICES.—Not later than 1
6 year after the date on which a watershed pilot is estab-
7 lished, the Secretary and the management team for the
8 watershed pilot shall set and publish minimum per-unit
9 outcome prices.

10 (h) USE OF ADVANCE WATERSHED ANALYTICS.—
11 The Secretary and the management team for each water-
12 shed pilot shall use advance watershed analytics through-
13 out the planning, implementation, measuring, and moni-
14 toring of outcomes within the watershed pilot.

15 (i) AUTHORITY FOR ADDITIONAL PILOTS AND AGEN-
16 CIES.—The Chair of the Council on Environmental Qual-
17 ity, in consultation with the Committee on Appropriations
18 of the Senate and the Committee on Appropriations of the
19 House of Representatives, shall approve—

20 (1) the establishment of more than 5 watershed
21 pilots under this section; and

22 (2) the participation in watershed pilots under
23 this section of a Federal department or agency other
24 than those described in subsection (a).

1 **SEC. 4. FINANCING AND FUNDING OF WATERSHED PILOTS.**

2 (a) **USE OF PAY-FOR-PERFORMANCE CONTRACTS.—**

3 In carrying out a watershed pilot, the head of a Federal
4 department or agency participating in the watershed pilot
5 shall enter into a pay-for-performance contract to achieve
6 outcome-based goals described in the plan developed for
7 the watershed pilot.

8 (b) **FLEXIBILITY UNDER EXISTING PROGRAMS.—**

9 The head of each Federal department or agency partici-
10 pating in a watershed pilot shall modify, expand, or
11 streamline eligibility and verification criteria for existing
12 Federal financial sources to maximize flexibility, speed,
13 and use of Federal funds in the most effective manner
14 to achieve outcomes under the watershed pilot.

15 (c) **ENVIRONMENTAL OUTCOMES FUNDS.—**

16 (1) **IN GENERAL.—**The head of each Federal
17 department or agency participating in a watershed
18 pilot shall establish an Environmental Outcomes
19 Fund.

20 (2) **USE OF FUND.—**Amounts in a Fund shall
21 only be expended on pay-for-performance contracts
22 under a watershed pilot.

23 (3) **CRITERIA.—**Amounts in a Fund shall be ex-
24 pended in accordance with—

25 (A) this Act, including the plan developed
26 for the applicable watershed pilot; and

1 (B) criteria established by the Secretary
2 and the management team for the applicable
3 watershed pilot, which shall include criteria
4 for—

5 (i) eligibility of qualifying projects;

6 (ii) types of qualifying projects;

7 (iii) the timing of the disbursement of
8 funds; and

9 (iv) such other matters as the Sec-
10 retary and the management team deter-
11 mine to be appropriate.

12 (4) MANDATORY FUNDING.—

13 (A) IN GENERAL.—Out of any funds in the
14 Treasury not otherwise appropriated, on Octo-
15 ber 1, 2022, and on each October 1 thereafter
16 through October 1, 2027, the Secretary of the
17 Treasury shall transfer \$15,000,000 to the
18 head of each Federal department or agency to
19 be deposited in the Fund.

20 (B) RECEIPT AND ACCEPTANCE.—The
21 head of a Federal department or agency de-
22 scribed in subparagraph (A) shall be entitled to
23 receive, shall accept, and shall deposit into the
24 Fund for use in accordance with this subsection

1 the funds transferred under subparagraph (A),
2 without further appropriation.

3 (5) REPORT TO CONGRESS.—If a watershed
4 pilot is established as a permanent program, the
5 Secretary may submit to Congress recommendations
6 for modifications to funding levels and a permanent
7 authorization of funding for the permanent program.

8 (d) COST-SHARE WAIVER.—Any otherwise applicable
9 cost-share requirements for existing Federal financial re-
10 sources, including under section 212(a)(1) of the Public
11 Lands Corps Act of 1993 (16 U.S.C. 1729(a)(1)), shall
12 be waived for watershed pilots carried out using amounts
13 made available under this Act.

14 **SEC. 5. REPORTS.**

15 (a) DEFINITION OF APPROPRIATE COMMITTEES OF
16 CONGRESS.—In this section, the term “appropriate com-
17 mittees of Congress” means—

18 (1) of the Senate—

19 (A) the Committee on Appropriations;

20 (B) the Committee on Environment and
21 Public Works; and

22 (C) the Committee on Agriculture, Nutri-
23 tion, and Forestry; and

24 (2) of the House of Representatives—

25 (A) the Committee on Appropriations;

1 (B) the Committee on Natural Resources;
2 (C) the Committee on Agriculture; and
3 (D) the Select Committee on the Climate
4 Crisis.

5 (b) ANNUAL REPORTS.—The Secretary shall, not
6 later than the date on which the budget of the United
7 States Government is submitted by the President under
8 section 1105 of title 31, United States Code, for each fis-
9 cal year for which the watershed pilot is being carried out,
10 submit to the appropriate committees of Congress a report
11 describing the status of each watershed pilot, including
12 progress towards the milestones described in section
13 3(d)(2)(A).

14 (c) 5-YEAR REPORT.—Not later than October 1 of
15 the fifth fiscal year in which a watershed pilot is carried
16 out under section 3, the Secretary shall submit to the ap-
17 propriate committees of Congress a report describing, in
18 accordance with the plan developed for the applicable wa-
19 tershed pilot—

20 (1) a summary of—

21 (A) the projected results of the watershed
22 pilot in meeting the milestones described in sec-
23 tion 3(d)(2)(A);

24 (B) the projected outcomes of the water-
25 shed pilot described in that section;

1 (C) the total amount of funds made avail-
2 able under the watershed pilot;

3 (D) the type of funding expended under
4 the watershed pilot; and

5 (E) such other information as the Sec-
6 retary determines to be appropriate; and

7 (2) recommendations for continuing, termi-
8 nating, or making permanent the watershed pilot.

9 (d) ENVIRONMENTAL OUTCOMES FUNDS.—

10 (1) AGENCY HEADS.—The head of each Federal
11 department or agency participating in a watershed
12 pilot shall, not later than the date on which the
13 budget of the United States Government is sub-
14 mitted by the President under section 1105 of title
15 31, United States Code, for each fiscal year for
16 which the watershed pilot is being carried out, sub-
17 mit to the appropriate committees of Congress a re-
18 port describing the outcomes achieved using
19 amounts made available from, management of, and
20 expenditures from, the Fund established by the
21 agency head.

22 (2) INSPECTORS GENERAL.—

23 (A) AUDIT.—The Inspector General of
24 each Federal department or agency partici-
25 pating in a watershed pilot shall conduct a bi-

1 annual audit of the management of, and fund-
2 ing (including expenditures) relating to, the
3 Fund established by the agency head for the
4 purpose of ensuring proper and effective use of
5 Federal funding by evaluating the effectiveness
6 of the watershed pilot in achieving the plan de-
7 veloped for the watershed pilot, including an
8 evaluation of the outcomes achieved and the
9 Federal financial sources used to achieve those
10 outcomes.

11 (B) REPORTS.—The Inspector General of
12 each Federal department or agency partici-
13 pating in a watershed pilot shall, not later than
14 the date on which the budget of the United
15 States Government is submitted by the Presi-
16 dent under section 1105 of title 31, United
17 States Code, for each fiscal year for which the
18 watershed pilot is being carried out, submit to
19 the appropriate committees of Congress a re-
20 port describing the 2 audits most recently con-
21 ducted under subparagraph (A).

22 **SEC. 6. DURATION.**

23 Each watershed pilot shall terminate on the date that
24 is 5 years after the date on which the notification is sub-

1 mitted under section 3(e) with respect to that watershed
2 pilot.

3 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated—

5 (1) for each watershed pilot, \$15,000,000 for
6 each of fiscal years 2022 through 2027, which shall
7 be in addition to the amounts made available under
8 section 4(c)(4); and

9 (2) to carry out advance watershed analytics for
10 each watershed pilot, \$2,000,000 for each of fiscal
11 years 2022 through 2024.

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