

113TH CONGRESS
2D SESSION

S. _____

To require States to establish highway stormwater management programs.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To require States to establish highway stormwater
management programs.

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. FEDERAL-AID HIGHWAY RUNOFF MANAGE-**
4 **MENT.**

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

8 **“§ 330. Federal-aid highway runoff management pro-**
9 **gram**

10 “(a) DEFINITIONS.—In this section, the following
11 definitions apply:

1 “(1) COVERED PROJECT.—The term ‘covered
2 project’ means a reconstruction, rehabilitation, re-
3 configuration, renovation, major resurfacing, or new
4 construction project on a Federal-aid highway car-
5 ried out under this title that results in—

6 “(A) a 10-percent or greater increase in
7 impervious surface of the aerial extent within
8 the right-of-way of the project limit on a Fed-
9 eral-aid highway or associated facility; or

10 “(B) an increase of 1 acre or more in im-
11 pervious surface coverage.

12 “(2) EROSIVE FORCE.—The term ‘erosive force’
13 means the flowrate within a stream or channel in
14 which channel bed or bank material becomes de-
15 tached, which in most cases is less than or equal to
16 the flowrate produced by the 2-year storm event.

17 “(3) HIGHWAY RUNOFF.—The term ‘highway
18 runoff’, with respect to a Federal-aid highway, asso-
19 ciated facility, or management measure retrofit
20 project, means a discharge of peak flow rate or vol-
21 ume of runoff that exceeds flows generated under
22 preproject conditions.

23 “(4) IMPACTED HYDROLOGY.—The term ‘im-
24 pacted hydrology’ means stormwater runoff gen-

1 erated from all areas within the site limits of a cov-
2 ered project.

3 “(5) MANAGEMENT MEASURE.—The term
4 ‘management measure’ means a program, structural
5 or nonstructural management practice, operational
6 procedure, or policy on or off the project site that
7 is intended to prevent, reduce, or control highway
8 runoff.

9 “(b) STATE HIGHWAY STORMWATER MANAGEMENT
10 PROGRAMS.—

11 “(1) IN GENERAL.—Not later than 1 year after
12 the date of enactment of this section, each State
13 shall—

14 “(A) develop a process for analyzing the
15 erosive force of highway runoff generated from
16 covered projects; and

17 “(B) apply management measures to main-
18 tain or restore impacted hydrology associated
19 with highway runoff from covered projects.

20 “(2) INCLUSIONS.—The management measures
21 established under paragraph (1) may include, as the
22 State determines to be appropriate, management
23 measures that—

24 “(A) minimize the erosive force of highway
25 runoff from a covered project on a channel bed

1 or bank of receiving water by managing high-
2 way runoff within the area of the covered
3 project;

4 “(B) manage impacted hydrology in such a
5 manner that the highway runoff generated by a
6 covered project is below the erosive force flow
7 and volume;

8 “(C) to the maximum extent practicable,
9 seek to address the impact of the erosive force
10 of hydrologic events that have the potential to
11 create or exacerbate downstream channel ero-
12 sion, including excess pier and abutment scour
13 at bridges and channel downcutting and bank
14 failure of streams adjacent to highway embank-
15 ments;

16 “(D) ensure that the highway runoff from
17 the post-construction condition does not in-
18 crease the risk of channel erosion relative to the
19 preproject condition; and

20 “(E) employ simplified approaches to de-
21 termining the erosive force of highway runoff
22 generated from covered projects, such as a re-
23 gionalized analysis of streams within a State.

24 “(c) GUIDANCE.—

1 “(1) IN GENERAL.—Not later than 180 days
2 after the date of enactment of this section, the Sec-
3 retary, in consultation with the heads of other rel-
4 evant Federal agencies, shall publish guidance to as-
5 sist States in carrying out this section.

6 “(2) CONTENTS OF GUIDANCE.—The guidance
7 shall include guidelines and technical assistance for
8 the establishment of State management measures
9 that will be used to assist in avoiding, minimizing,
10 and managing highway runoff from covered projects,
11 including guidelines to help States integrate the
12 planning, selection, design, and long-term operation
13 and maintenance of management measures con-
14 sistent with the design standards in the overall
15 project planning process.

16 “(3) APPROVAL.—The Secretary, in consulta-
17 tion with the heads of other relevant Federal agen-
18 cies, shall—

19 “(A) review the management measures
20 program of each State; and

21 “(B) approve such a program, if the pro-
22 gram meets the requirements of subsection (b).

23 “(4) UPDATES.—Not later than 5 years after
24 the date of publication of the guidance under this

1 subsection, and not less frequently than once every
2 5 years thereafter—

3 “(A) the Secretary, in consultation with
4 the heads of other relevant Federal agencies,
5 shall update the guidance, as applicable; and

6 “(B) each State, as applicable, shall up-
7 date the management measures program of the
8 State in accordance with the updated guidance.

9 “(d) REPORTING.—

10 “(1) IN GENERAL.—Except as provided in para-
11 graph (2)(A), each State shall submit to the Sec-
12 retary an annual report that describes the activities
13 carried out under the highway stormwater manage-
14 ment program of the State, including a description
15 of any reductions of stormwater runoff achieved as
16 a result of covered projects carried out by the State
17 after the date of enactment of this section.

18 “(2) REPORTING REQUIREMENTS UNDER PER-
19 MIT.—

20 “(A) IN GENERAL.—A State shall not be
21 required to submit an annual report described
22 in paragraph (1) if the State—

23 “(i) is operating Federal-aid highways
24 in the State in a post-construction condi-
25 tion in accordance with a permit issued

1 under the Federal Water Pollution Control
2 Act (33 U.S.C. 1251 et seq.);

3 “(ii) is subject to an annual reporting
4 requirement under such a permit (regard-
5 less of whether the permitting authority is
6 a Federal or State agency); and

7 “(iii) carries out a covered project
8 with respect to a Federal-aid highway in
9 the State described in clause (i).

10 “(B) TRANSMISSION OF REPORT.—A Fed-
11 eral or State permitting authority that receives
12 an annual report described in subparagraph
13 (A)(ii) shall, on receipt of such a report, trans-
14 mit a copy of the report to the Secretary.”.

15 (b) CLERICAL AMENDMENT.—The analysis for chap-
16 ter 3 of title 23, United States Code, is amended by add-
17 ing at the end the following:

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