



THE CLEAN WATER ACT

Introduction

The Federal Water Pollution Control Act, commonly known as the Clean Water Act was originally passed in 1948. By 1972, Congress had voted on an amended version of the law that included the expansion of regulations to prevent pollution of the nation's waterways.

In this lesson, students consider how the Clean Water Act of 1972 became a law. They identify key moments in the evolution of this bill including its path in Congress, its veto by President Nixon and its eventual enactment. Preparing and organizing information, students interpret these key events and share them in a storyboard presentation. While intended for 8th grade students, the lesson can be adapted for other grade levels.



Estimated Time

Two to five class sessions

National Standards

National Standards for Civics and Government Content Standards, grades 5 – 8

III—How does the Government established by the Constitution embody the purposes, values and principles of American democracy? (A.1, B.1)

United States History National Standards

United States Era 10—Contemporary United States, Standard 1A

Common Core State Standards for Literacy in History/Social Studies, grade 8

Reading Informational text 6

Speaking and Listening 4, 5

Common Core State Standards for Literacy in History/Social Studies, grade 8

Reading 3, 7

Writing 2, 7

Learning Skills

Reading, class discussion, small group work, graphic organization, writing and presentation

Essential Question

How does a bill become a law? What is the role of Congress and the President in this process?

How did the Clean Water Act of 1972 become a law?

Documents and Worksheets

Primary source material:

- Senator Muskie’s speech to the Senate on the conference report, October 4, 1972
- Veto of the Federal Water Pollution Control Act Amendments of 1972
- *Congressional Quarterly*, Almanac, 92nd Congress, 2nd Session, 1972, Vol XXVII
- “Passage of Federal Water Pollution Bill This Session Doubted, *The New York Times*, May 7, 1972. By E.W. Kentworthy

**Secondary source material:**

- How a Bill Becomes a Law diagram
- Overview of the history of the Federal Water Pollution Control Act (commonly known as the Clean Water Act)
- Outline of key events leading to the passage of the Federal Water Pollution Control Act of 1972 PL 92-500
- Vocabulary list
- Diagram of how the Federal Water Pollution Control Act Amendments of 1972 became law

Suggested Activities

- Begin with a general discussion of how a bill becomes a law. Refer to “teacher background” section for information.
- Then, discuss the Clean Water Act. Are students familiar with this legislation? If so, what do they know about it? Why would we care about clean water? Why would the federal government be involved? What would happen if Congress did not act? Add basic information about the law in order to help drive student discussion. If you choose to use the *Congressional Quarterly* reading here, refer to p. 708 (overview and summary of the Act). Teachers interested in a more involved look at details can also refer to various sections for information: pgs.711–712 (Senate), p.715 (House), p.719 (conference action), p.720 (final action), and pgs.721–722 (veto).
- Ask students to examine key events in the Clean Water Act. Comparing these events with points covered in the earlier discussion of how a bill becomes a law, what is unusual about the Clean Water Act? For example: the Presidential veto, the House and Senate override of that veto, the conference committee and difficult work accomplished in finding compromise between two very different versions. (Refer to “overview of the history” essay and “outline of key events” for historical information). Refer to “how a bill becomes a law” diagram as one example of how this story can be communicated graphically.
- Tell students that they will be creating a presentation that highlights key events related to the passage of the Clean Water Act. In their presentations, they should identify key moments, use quotes and times/dates. Students should reference the outline of key events, Senator Muskie’s speech, President Nixon’s veto message, quotes from the *Congressional Quarterly* and *The New York Times* article.
- In pairs or trios, students create a storyboard that organizes information for their presentation. In their storyboard, they consider: What event or moment starts the story? What are the highlights or moments of drama to emphasize (for example, President Nixon’s late night veto)? What quotes support or communicate a particular moment or point of view (presidential, congressional, etc.)? What is the resolution?



- As a whole class or in small groups, students present their storyboards. Are there different key moments highlighted? Did groups interpret events or quotes in similar or different ways? What surprised students most in learning about the way in which this law was passed? As a group, brainstorm words that describe the process. Out of about 5,000 bills that are introduced each year, only about 250 become law.
- For homework or as an extension, each student writes a script or narration of the events based on their groups' storyboard.

Teacher Tip

Storyboarding is a technique that is used with the development of written narrations and multimedia presentations. Arranging information graphically before creating a written document, radio show, exhibition or film is a way to see the “whole picture.” If students are unfamiliar with the technique, provide some examples for reference. You might explain that moments or events on a storyboard are like slides in a powerpoint, frames in a film, scenes in a graphic novel. Offer 3x5 cards (one for every event), or a template to add more structure to the activity.

Suggested Modifications

Please feel free to use the activity suggestions and materials in ways that best meet the needs of your students. For example, consider abbreviated activities, assigning students to work in teams when analyzing the readings, or asking students to create a timeline or essay instead of a storyboard presentation.

Extended Activity

- Students brainstorm more than five actions that might be included in a hypothetical bill to improve the health of a major waterway (i.e. measuring water quality, offering loans to companies to replace filtration systems, providing grants for research on pollution control and prevention, enforcing existing laws that protect waterways). Ask students to select only three actions. What actions are most important? What if the options included funding (appropriations)? Does including funding change your selection? Why?
- In your state/region/neighborhood, what regional waterways are covered by the current version of the Clean Water Act? Are there any issues unique to your state about regulations or enforcement of the act?



Teacher Background

How does a bill become a law?

While there are clear protocols for the process by which a bill becomes a law, events are often less linear than the steps outlined below. The following outline details the process for a bill introduced in the Senate:

1. A bill is introduced by a senator.
2. If no objection is heard, the bill is considered read twice and is sent to the appropriate committee according to its subject matter. The bill is assigned a number that begins with “S.” Most commonly, a committee refers the bill to a subcommittee. The committee or subcommittee may request reports, hold hearings and make changes or revisions. Most bills don’t make it past this phase.
3. If the committee decides to report the bill back to the Senate, unanimous consent is requested to lay the bill before the Senate.
4. Revisions or amendments usually can be made when a bill is debated by the full Senate. The amending process continues until a bill is read for the third time. In the Senate, extended debate is possible, which may take the form of a “filibuster” that can be stopped only by invoking “cloture,” a measure that requires a 3/5 vote. When debate ends, if a majority of the Senate votes yes (a bill is voted on by roll call vote, voice vote or unanimous consent), the bill passes and is sent to the U.S. House of Representatives.
5. In the House, the bill goes through many of the same steps.
6. When and if it reaches the House floor, changes or amendments can be made, depending upon guidelines established by the House Rules Committee. If changes are made, the bill must go back to the Senate for a vote; the House and the Senate must pass identical versions of a bill. In order to resolve any differences between the House and Senate versions of the bill, key individuals—members or staff—meet in conference committee or confer by phone or correspondence.
7. If a majority of senators and representatives vote “yea,” the bill goes to the president.
8. The president can sign and pass a bill into law, refuse to sign a bill (veto) or do nothing. If the president vetoes the bill, it goes back to Congress where it can become a law if 2/3rd of both houses vote to over-ride the veto. If the president does nothing, and Congress is still in session, after 10 days a bill automatically becomes a law. If the president does nothing, and Congress adjourns before the 10-day period expires, the bill does not become law (pocket veto).



There are many resources and sources that diagram how a bill becomes a law. Here are a few for reference:

<http://kids.clerk.house.gov/grade-school/lesson.html?intID=17>

Kids in the House website. A public service provided by the Office of the Clerk of the U.S. House of Representatives to provide educational and entertaining information about the legislative branch of the United States Government to students of all ages.

<http://beta.congress.gov/legislative-process>

Video/audio outlining the responsibilities and outline of Congress, including the path by which a bill might become a law.

Overview of the History of the Clean Water Act

What legislation existed regarding pollution before the Federal Water Pollution Control Act amendments of 1972?

The Federal Water Pollution Control Act amendments of 1972 were based on a review of the original Federal Water Pollution Control Act of 1948. This earlier law laid out a basic structure for regulating pollution in the waters of the U.S. and gave some funds to state and local governments for water quality programs. Federal involvement and enforcement was limited to matters involving interstate waters.¹ Congress first addressed the issue of pollution in the Rivers and Harbors Act of 1899 which gave authority to the Army Corps of Engineers to issue permits for the discharge of refuse matter into or affecting navigable waters.²

What kinds of issues might have contributed to the amendments in 1972?

Generally speaking, media attention, publications and a groundswell of a public opinion related to pollution and other environmental issues led to greater awareness and calls for change in behaviors and regulations. Specific incidents contributed as well. A disastrous oil spill off the coast of Santa Barbara, California, in 1969 raised awareness. Likewise, the Cuyahoga River outside Cleveland, Ohio was one of the most polluted rivers in the United States. In 1969, oil slicks on the river were set ablaze by sparks from a nearby train on a railroad bridge. News coverage of both events added to mounting attention and pressure to enforce regulation on pollutants along the nation's shores and in its waterways. In 1970, Senator Gaylord Nelson of Wisconsin founded Earth Day, further raising awareness of the need for environmental protection.

In 1970, Congress passed the National Environmental Protection Act that helped establish the Environmental Protection Agency (EPA). The EPA was given the primary responsibility for implementing the goals of ensuring that the “discharge of pollutants into navigable waters be eliminated by 1985” and that wherever attainable “water quality which provides for the

¹ <http://cf.ncseonline.org/nle/crsreports/10May/RL30030.pdf>

² <http://www.fws.gov/laws/lawsdigest/RIV1899.HTML>



protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983.”

Were there varying points of view on the issue?

In the process of developing and passing legislation Congress must review concerns and opinions of constituents as well as research and fact-finding initiatives. Regarding the Clean Water Act there are many varying points of view. For example, the business perspective (farming, manufacturing, fishing), the recreational and cultural point of view, the health and community point of view, and concerns about the cost for taxpayers of actions associated with a law.

By what authority does Congress pass this kind of regulatory legislation?

The Constitutional basis for the legislation is the Commerce Clause (see question below). Currently the Clean Water Act, as stated in the bill itself, applies to bodies of water that are “navigable.” To clarify what is meant by navigable, and is covered by the law, the EPA has proposed a more detailed definition found here (http://water.epa.gov/lawsregs/guidance/wetlands/CWAwaters_guidesum.cfm)

And what about the Commerce Clause?

The Commerce Clause of the Constitution (article 1, Section 8) states that Congress has the right to “regulate Commerce... among the several States.” Laws enacted by Congress must be based on one of the powers stated in the Constitution. The Supreme Court has determined that Congress can legislate and regulate environmental issues as long as these issues are related to interstate commerce.

Outline of key events leading to the passage of the Federal Water Pollution Control Act of 1972 P.L. 92-500

Senate

- The bill (S. 2770) was introduced in Senate by Senator Edmund Muskie, Democrat of Maine, and referred to the Public Works Subcommittee on Air and Water Pollution
- The bill passed the Senate on Nov 2, 1971 by 86-0 roll call vote

House of Representatives

- Then the bill was sent to the House Public Works Subcommittee on Flood Control and Internal Development (Chair Robert Jones, Democrat of Alabama) and reported to the House on March 14 1972 (H.R. 11896)
- The House on March 29, 1972 by roll call vote of 380-14 passed H.R. 11896 in much the same form as it was reported by the Public Works Subcommittee
- Only four amendments were accepted out of twenty amendments offered over three days of debate in the House of Representatives



Conference Committee

- The House and Senate first met in conference on May 11, 1972
- The conference met 40 times and finally came to agreement on Sept 14, 1972
- The House and Senate versions were so different that some predicted that the bill would die in conference
- After the conferees reached general agreement on basic principles and provisions of the bill, House and Senate staff members met six times to decide specific language for the legislation and for a joint explanatory statement for the conference report
- Senator Muskie stated, “Can we afford clean water? Can we afford rivers and lakes and streams and oceans which continue to make possible life on this planet?”³

Conference Report

- Both houses adopted the conference report Oct 4, 1972
- The House passed the legislation by a 366–11 roll-call vote
- The Senate also passed the legislation by roll-call vote (74–0)
- The enrolled bill was signed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives and sent to President Nixon on Oct 5, 1972

President

- President Nixon vetoed the bill on Oct 17, 1972 shortly before midnight; the bill would have become law automatically without his signature the following day.
- The president has 10 full days (excluding Sundays) to sign a bill or it becomes law unless Congress adjourns, when the president may pocket veto it. Many thought that had Congress adjourned before October 17, S. 2770 would have been pocket vetoed
- President Nixon’s veto message stated, “Legislation which would continue our efforts to raise water quality, but which would do so through extreme and needless over-spending, does not serve the public interest”⁴

Senate and House

- Final action came when the House, by a 247-23 roll call, voted to override the veto on October 18, 1972. The Senate had voted to override by a 52-12 roll call in the pre-dawn hours (1:30 am) of the same day. Both votes were well over the two-thirds majority required by the Constitution

³ *Congressional Quarterly*, 92nd Congress, 2nd Session, 1972. Volume XXVIII, pages 13–14

⁴ *Congressional Quarterly*, 92nd Congress, 2nd Session, 1972. Volume XXVIII, page 14



Vocabulary

Adjourn—a motion to end the day’s session

Amendment—a change or addition to a bill

Bill—a legislative proposal that can be made into law

Chamber—the houses (Senate or House of Representatives) of the legislature

Cloture—the only way by which the Senate can vote to place a time limit on consideration of a bill or other matter. Cloture requires a vote of three-fifths of the entire Senate, or normally 60 votes

Committee—organization of the Senate or House of Representatives established by the rules of its chamber for the purpose of considering legislation, and conducting hearings and investigations

Conference Committee—a temporary group of House and Senate members which is formed to resolve the differences in legislation passed by the House and Senate

Enrolled bill—the final copy of a bill which has passed both chambers of Congress in identical form and been signed by their presiding officers

Filibuster—the term used for any attempt to block or delay Senate action on a bill or other matter, often by using lengthy debates for this purpose

Motion—a proposal put to a legislature or committee

Override—the process by which each chamber of Congress votes on a bill vetoed by the president. To pass a bill over the president’s objections requires a two-thirds vote in each chamber

Pocket veto—the Constitution gives the president 10 days to review a bill passed by the Congress. If the president has not signed the bill after 10 days, it becomes law without his signature. However, if Congress stops meeting (adjourns) during the 10-day period, the bill does not become law and cannot be overridden by Congress, and is known as a “pocket veto.”

President pro-tempore (president for a time)—an officer of the Senate who presides over the chamber in the absence of the vice president, who is the president of the Senate

Provisions—section or clause in a law



Roll call vote—a vote in which each member votes “yea” or “nay” as his or her name is called by the clerk. Roll call votes are taken to determine whether enough members are present to conduct business or to vote on a question. The names of members voting on each side are recorded

Session—the length of time the Congress meets to conduct business. Generally every Congress has two regular sessions

Subcommittee—subunit of a Senate or House committee that meets to consider legislation and is used to divide the workload of a committee

Veto—the president uses a veto, as allowed by the Constitution, to prevent a bill or joint resolution from becoming law. The president returns the legislation, usually with a message stating reasons for the veto, to the house in which it originated. The veto can be overridden only by a two-thirds vote in each chamber of Congress

Sources:

U.S. House webpage, <http://kids.clerk.house.gov/middle-school/glossary.html>

U.S. Senate webpage, http://www.senate.gov/reference/glossary_term/committee.htm