

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 4560

To amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 15, 2005

Mr. DUNCAN introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Resources and Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, 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; TABLE OF CONTENTS.**

4 (a) IN GENERAL.—This Act may be cited as the  
5 “Clean Water Trust Act of 2005”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Purpose.

Sec. 3. Amendment of Federal Water Pollution Control Act.

## TITLE I—TECHNICAL AND MANAGEMENT ASSISTANCE

- Sec. 101. Technical assistance.
- Sec. 102. National Center for Utility Management.
- Sec. 103. State management assistance.
- Sec. 104. Watershed pilot projects.
- Sec. 105. Critical regional waters.

## TITLE II—CONSTRUCTION OF TREATMENT WORKS

- Sec. 201. Sewage collection systems.
- Sec. 202. Treatment works defined.
- Sec. 203. Policy on cost effectiveness.
- Sec. 204. Pilot program for alternative water source projects.
- Sec. 205. Sewer overflow control grants.

## TITLE III—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

- Sec. 301. General authority for capitalization grants.
- Sec. 302. Capitalization grant agreements.
- Sec. 303. Water pollution control revolving loan funds.
- Sec. 304. Allotment of funds.
- Sec. 305. Intended use plan.
- Sec. 306. Federal oversight.
- Sec. 307. Technical assistance.
- Sec. 308. High priority partnership grants.
- Sec. 309. Authorization of appropriations from the Clean Water Trust Fund.

## TITLE IV—CLEAN WATER TRUST FUND

- Sec. 401. Establishment of Clean Water Trust Fund.

## TITLE V—FISHERIES

- Sec. 501. Fisheries habitat protection, restoration, and enhancement grants.
- Sec. 502. State wetlands restoration grants.

## TITLE VI—GENERAL PROVISIONS

- Sec. 601. Definition of treatment works.
- Sec. 602. Funding for Indian programs.
- Sec. 603. Private property not affected.

**1 SEC. 2. PURPOSE.**

2       The purpose of this Act is to make further progress  
3 towards the achievement of the Nation's water quality  
4 goals by establishing and providing funding for a clean  
5 water trust fund, which will provide for increased invest-  
6 ment in critical water infrastructure, improvements in  
7 technology and management, greater funding for critical

1 regional programs, and increased attention to fishable  
2 uses.

3 **SEC. 3. AMENDMENT OF FEDERAL WATER POLLUTION CON-**  
4 **TROL ACT.**

5 Except as otherwise expressly provided, whenever in  
6 this Act an amendment or repeal is expressed in terms  
7 of an amendment to, or repeal of, a section or other provi-  
8 sion, the reference shall be considered to be made to a  
9 section or other provision of the Federal Water Pollution  
10 Control Act (33 U.S.C. 1251 et seq.).

11 **TITLE I—TECHNICAL AND**  
12 **MANAGEMENT ASSISTANCE**

13 **SEC. 101. TECHNICAL ASSISTANCE.**

14 (a) TECHNICAL ASSISTANCE FOR RURAL AND SMALL  
15 TREATMENT WORKS.—Section 104(b) (33 U.S.C.  
16 1254(b)) is amended—

17 (1) by striking “and” at the end of paragraph  
18 (6);

19 (2) by striking the period at the end of para-  
20 graph (7) and inserting “; and”; and

21 (3) by adding at the end the following:

22 “(8) make grants to nonprofit organizations—

23 “(A) to provide technical assistance to  
24 rural and small municipalities for the purpose  
25 of assisting, in consultation with the State in

1           which the assistance is provided, such municipi-  
2           palities in the planning, developing, and acquisi-  
3           tion of financing for wastewater infrastructure  
4           assistance;

5           “(B) to capitalize revolving loan funds for  
6           the purpose of providing loans, in consultation  
7           with the State in which the assistance is pro-  
8           vided, to rural and small municipalities for  
9           predevelopment costs associated with waste-  
10          water infrastructure projects or short-term  
11          costs incurred for equipment replacement that  
12          is not part of regular operation and mainte-  
13          nance activities for existing wastewater systems,  
14          subject to the conditions that any loan from the  
15          fund will be made at a below market interest  
16          rate, for a term not to exceed 10 years, and in  
17          an amount not to exceed \$100,000 and that all  
18          loan repayments will be credited to the fund;

19          “(C) to provide technical assistance and  
20          training for rural and small publicly owned  
21          treatment works and decentralized wastewater  
22          treatment systems to enable such treatment  
23          works and systems to protect water quality and  
24          achieve and maintain compliance with the re-  
25          quirements of this Act; and

1           “(D) to disseminate information to rural  
2           and small municipalities and municipalities that  
3           meet the affordability criteria established under  
4           section 603(i) by the State in which the munici-  
5           pality is located with respect to planning, de-  
6           sign, construction, and operation of publicly  
7           owned treatment works and decentralized  
8           wastewater treatment systems.”.

9           (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
10 104(u) (33 U.S.C. 1254(u)) is amended—

11           (1) by striking “and (6)” and inserting “(6)”;  
12           and

13           (2) by inserting before the period at the end the  
14           following: “; (7) not to exceed \$50,000,000 from the  
15           Clean Water Trust Fund established by section 701  
16           for each of fiscal years 2006 through 2010 for car-  
17           rying out subsection (b)(8), except that not more  
18           than one-third of such amount may be used in a fis-  
19           cal year for carrying out subsection (b)(8)(B); and  
20           (8) not to exceed \$295,000,000 from the Clean  
21           Water Trust Fund for each of fiscal years 2006  
22           through 2010 for carrying out subsection (b)(3).”.

23           (c) COMPETITIVE PROCEDURES FOR AWARDED  
24 GRANTS.—Section 104 (33 U.S.C. 1254(b)) is amended  
25 by adding at the end the following:

1       “(w) COMPETITIVE PROCEDURES FOR AWARDING  
2 GRANTS.—The Administrator shall establish procedures  
3 that, to the maximum extent practicable, promote com-  
4 petition and openness in the award of grants to nonprofit  
5 private agencies, institutions, and organizations under this  
6 section.”.

7 **SEC. 102. NATIONAL CENTER FOR UTILITY MANAGEMENT.**

8       Section 104 (33 U.S.C. 1254) is further amended by  
9 adding at the end the following:

10       “(x) ESTABLISHMENT OF A NATIONAL CENTER FOR  
11 UTILITY MANAGEMENT.—

12           “(1) GRANT.—The Administrator may make a  
13 grant to an appropriate nonprofit organization to es-  
14 tablish a National Center for Utility Management  
15 for the purpose of promoting improved management  
16 of public wastewater utilities, including the use of  
17 best management practices with respect to com-  
18 prehensive asset management, worker training and  
19 flexibility, information systems, financial planning,  
20 and financial reporting.

21           “(2) FUNCTIONS.—The functions of the Na-  
22 tional Center for Utility Management shall include,  
23 at a minimum, the following:

24           “(A) Developing best practices for utility  
25 management.

1           “(B) Coordinating relevant studies and de-  
2           velopment activities conducted at university-  
3           based training and technical assistance centers.

4           “(C) Coordinating ongoing and planned  
5           initiatives to promote best practices for utility  
6           management within and across the wastewater  
7           program.

8           “(D) Exploring opportunities to take ad-  
9           vantage of best management practices and in-  
10          formational materials developed by other agen-  
11          cies (including the Office of Asset Management  
12          in the Federal Highway Administration).

13          “(E) Strengthening efforts to educate utili-  
14          ties and local government leaders about the op-  
15          timal use of best practices for utility manage-  
16          ment, through handbooks, software, workshops,  
17          the establishment of a website, and other steps  
18          to assure that wastewater utilities, regardless of  
19          size, have easy access to information about best  
20          practices for utility management.

21          “(F) In undertaking these functions, pro-  
22          viding appropriate attention to the needs and  
23          circumstances of utilities that serve not more  
24          than 20,000 users and are located in a rural  
25          area.

1           “(4) AUTHORIZATION OF APPROPRIATIONS.—  
2           There is authorized to be appropriated from the  
3           Clean Water Trust Fund established by section 701  
4           \$5,000,000 for each of fiscal years 2006 through  
5           2010 to carry out this subsection.”.

6 **SEC. 103. STATE MANAGEMENT ASSISTANCE.**

7           Section 106(a) (33 U.S.C. 1256(a)) is amended—

8           (1) by striking “and” at the end of paragraph  
9           (1); and

10           (2) by inserting after paragraph (2) the fol-  
11           lowing:

12           “(3) such sums as may be necessary for each  
13           of fiscal years 1991 through 2005; and

14           “(4) \$250,000,000 from the Clean Water Trust  
15           Fund established by section 701 for each of fiscal  
16           years 2006 through 2010.”.

17 **SEC. 104. WATERSHED PILOT PROJECTS.**

18           (a) SECTION REDESIGNATION.—The second section  
19           121 (33 U.S.C. 1274) relating to watershed pilot projects  
20           is redesignated as section 122.

21           (b) PILOT PROJECTS.—Section 122 (as so redesi-  
22           gnated) is amended—

23           (1) in the section heading by striking “**WET**  
24           **WEATHER**”;

1           (2) in the matter preceding paragraph (1) of  
2 subsection (a) by striking “wet weather discharge”;

3           (3) in subsection (a) by inserting “, including  
4 low-impact development technologies” before the pe-  
5 riod at the end; and

6           (4) by adding at the end of subsection (a) the  
7 following:

8           “(3) WATERSHED PARTNERSHIPS.—Efforts of  
9 municipalities and property owners to demonstrate  
10 cooperative ways to address nonpoint sources of pol-  
11 lution to reduce adverse impacts on water quality.”.

12          (c) AUTHORIZATION OF APPROPRIATIONS.—Section  
13 122(c)(1) (as so redesignated) is amended by inserting  
14 after “for fiscal year 2004” the following: “and from the  
15 Clean Water Trust Fund established by section 701  
16 \$20,000,000 for each of fiscal years 2006 through 2010”.

17          (d) REPORT TO CONGRESS.—Section 122(d) (as so  
18 redesignated) is amended by striking “5 years” and insert-  
19 ing “7 years”.

20 **SEC. 105. CRITICAL REGIONAL WATERS.**

21          (a) CRITICAL REGIONAL WATERS.—Title I (33  
22 U.S.C. 1251–1274) is amended by adding at the end the  
23 following:

1 **“SEC. 123. CRITICAL REGIONAL WATERS.**

2 “(a) **GENERALLY.**—In addition to amounts otherwise  
3 authorized to be appropriated, there is authorized to be  
4 appropriated from the Clean Water Trust Fund estab-  
5 lished by section 701 \$250,000,000 for each of fiscal years  
6 2006 through 2010 for the following:

7 “(1) Implementing section 117, relating to the  
8 Chesapeake Bay.

9 “(2) Implementing section 118, relating to the  
10 Great Lakes.

11 “(3) Implementing section 119, relating to the  
12 Long Island Sound.

13 “(4) Implementing section 120, relating to  
14 Lake Champlain.

15 “(5) Implementing section 121, relating to  
16 Lake Pontchartrain.

17 “(6) Implementing section 320, relating to es-  
18 tuaries of national significance.

19 “(7) Making grants to States to protect and  
20 improve water quality of waters in the Gulf of Mex-  
21 ico impaired by hypoxia.

22 “(b) **LIMITATIONS.**—

23 “(1) **MAXIMUM AMOUNT OF GRANT.**—The max-  
24 imum amount of a grant for a project or activity  
25 under subsection (a)(7) may not exceed 65 percent

1 of the cost of the project or activity, as determined  
2 by the Administrator.

3 “(2) ADMINISTRATIVE EXPENSES.—Not more  
4 than 4 percent of the amount of any grant made  
5 subsection (a)(7) may be used to pay administrative  
6 expenses in connection with the project or activity  
7 for which the grant is made.”.

## 8 **TITLE II—CONSTRUCTION OF** 9 **TREATMENT WORKS**

### 10 **SEC. 201. SEWAGE COLLECTION SYSTEMS.**

11 Section 211 (33 U.S.C. 1291) is amended—

12 (1) by striking the section designation and all  
13 that follows through “(a) No” and inserting the fol-  
14 lowing:

#### 15 **“SEC. 211. SEWAGE COLLECTION SYSTEMS.**

16 “(a) IN GENERAL.—No”;

17 (2) in subsection (b) by inserting “**POPU-**  
18 **LATION DENSITY.—**” after “(b)”;

19 (3) by striking subsection (c) and inserting the  
20 following:

21 “(c) EXCEPTIONS.—

22 “(1) REPLACEMENT AND MAJOR REHABILITA-  
23 TION.—Notwithstanding the requirement of sub-  
24 section (a)(1) concerning the existence of a collection  
25 system as a condition of eligibility, a project for re-

1 placement or major rehabilitation of a collection sys-  
2 tem existing on January 1, 2006, shall be eligible for  
3 a grant under this title if the project otherwise  
4 meets the requirements of subsection (a)(1) and  
5 meets the requirement of paragraph (3).

6 “(2) NEW SYSTEMS.—Notwithstanding the re-  
7 quirement of subsection (a)(2) concerning the exist-  
8 ence of a community as a condition of eligibility, a  
9 project for a new collection system to serve a com-  
10 munity existing on January 1, 2006, shall be eligible  
11 for a grant under this title if the project otherwise  
12 meets the requirements of subsection (a)(2) and  
13 meets the requirement of paragraph (3).

14 “(3) REQUIREMENT.—A project meets the re-  
15 quirement of this paragraph if the purpose of the  
16 project is to accomplish the objectives, goals, and  
17 policies of this Act by addressing an adverse envi-  
18 ronmental condition existing on the date of enact-  
19 ment of this paragraph.”.

20 **SEC. 202. TREATMENT WORKS DEFINED.**

21 Section 212(2)(A) (33 U.S.C. 1292(2)(A)) is amend-  
22 ed—

23 (1) by striking “any works, including site”;

24 (2) by striking “is used for ultimate” and in-  
25 serting “will be used for ultimate”; and

1           (3) by inserting before the period at the end the  
2 following: “and acquisition of other lands, and inter-  
3 ests in lands, which are necessary for construction”.

4 **SEC. 203. POLICY ON COST EFFECTIVENESS.**

5           Section 218(a) (33 U.S.C. 1298(a)) is amended by  
6 striking “combination of devices and systems” and all that  
7 follows through “from such treatment;” and inserting  
8 “treatment works;”.

9 **SEC. 204. PILOT PROGRAM FOR ALTERNATIVE WATER**  
10 **SOURCE PROJECTS.**

11           Section 220(j) (33 U.S.C. 1300(j)) is amended in the  
12 first sentence by striking “a total of \$75,000,000 for fiscal  
13 years 2002 through 2004” and inserting “from the Clean  
14 Water Trust Fund established by section 701  
15 \$125,000,000”.

16 **SEC. 205. SEWER OVERFLOW CONTROL GRANTS.**

17           (a) ADMINISTRATIVE REQUIREMENTS.—Section  
18 221(e) (33 U.S.C. 1301(e)) is amended to read as follows:

19           “(e) ADMINISTRATIVE REQUIREMENTS.—A project  
20 that receives assistance under this section shall be carried  
21 out subject to the same requirements as a project that  
22 receives assistance from a State water pollution control  
23 revolving fund under title VI, except to the extent that  
24 the Governor of the State in which the project is located

1 determines that a requirement of title VI is inconsistent  
2 with the purposes of this section.”.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—The first  
4 sentence of section 221(f) (33 U.S.C. 1301(f)) is amended  
5 by striking “\$750,000,000” and all that follows before the  
6 period and inserting “from the Clean Water Trust Fund  
7 established by section 701 \$250,000,000 for each of fiscal  
8 years 2006 through 2010”.

9 (c) ALLOCATION OF FUNDS.—Section 221(g) (33  
10 U.S.C. 1301(g)) is amended to read as follows:

11 “(g) ALLOCATION OF FUNDS.—

12 “(1) FISCAL YEAR 2006.—Subject to subsection  
13 (h), the Administrator shall use the amounts appro-  
14 priated to carry out this section for fiscal year 2006  
15 for making grants to municipalities and municipal  
16 entities under subsection (a)(2) in accordance with  
17 the criteria set forth in subsection (b).

18 “(2) FISCAL YEAR 2007 AND THEREAFTER.—

19 Subject to subsection (h), the Administrator shall  
20 use the amounts appropriated to carry out this sec-  
21 tion for fiscal year 2007 and each fiscal year there-  
22 after for making grants to States under subsection  
23 (a)(1) in accordance with a formula to be established  
24 by the Administrator, after providing notice and an  
25 opportunity for public comment, that allocates to

1 each State a proportional share of such amounts  
2 based on the total needs of the State for municipal  
3 combined sewer overflow controls and sanitary sewer  
4 overflow controls identified in the most recent survey  
5 conducted pursuant to section 516.”.

6 (d) REPORTS.—The first sentence of section 221(i)  
7 (33 U.S.C. 1301(i)) is amended by striking “2003” and  
8 inserting “2008”.

9 **TITLE III—STATE WATER POLLU-**  
10 **TION CONTROL REVOLVING**  
11 **FUNDS**

12 **SEC. 301. GENERAL AUTHORITY FOR CAPITALIZATION**  
13 **GRANTS.**

14 Section 601(a) (33 U.S.C. 1381(a)) is amended by  
15 striking “for providing assistance” and all that follows  
16 through the period at the end and inserting the following:  
17 “to accomplish the objectives, goals, and policies of this  
18 Act by providing assistance for projects and activities  
19 identified in section 603(c).”.

20 **SEC. 302. CAPITALIZATION GRANT AGREEMENTS.**

21 (a) REPORTING INFRASTRUCTURE ASSETS.—Section  
22 602(b)(9) (33 U.S.C. 1382(b)(9)) is amended by striking  
23 “standards” and inserting “standards, including stand-  
24 ards relating to the reporting of infrastructure assets”.

1 (b) ADDITIONAL REQUIREMENTS.—Section 602(b)  
2 (33 U.S.C. 1382(b)) is amended—

3 (1) by striking “and” at the end of paragraph  
4 (9);

5 (2) by striking the period at the end of para-  
6 graph (10) and inserting a semicolon; and

7 (3) by adding at the end the following:

8 “(11) the State will establish, maintain, invest,  
9 and credit the fund with any repayments, such that  
10 the fund balance will be available in perpetuity for  
11 providing financial assistance in accordance with this  
12 title;

13 “(12) any fees charged by the State to recipi-  
14 ents of assistance will be used for the purpose of fi-  
15 nancing the cost of administering the fund or fi-  
16 nancing activities eligible for assistance from the  
17 fund;

18 “(13) beginning in fiscal year 2008, the State  
19 will include as a condition of providing assistance to  
20 a municipality or intermunicipal, interstate, or State  
21 agency that the recipient of such assistance certify,  
22 in a manner determined by the Governor of the  
23 State, that the recipient—

24 “(A) has studied and evaluated the cost  
25 and effectiveness of innovative and alternative

1 processes, materials, and techniques for car-  
2 rying out the proposed project or activity for  
3 which assistance is sought under this title, and  
4 has selected, to the extent practicable, a project  
5 or activity that more efficiently uses energy and  
6 natural and financial resources or provides  
7 greater environmental benefits; and

8 “(B) has considered the cost and effective-  
9 ness of alternative management and financing  
10 approaches (including, as appropriate, rate  
11 structures, issuance of bonds, restructuring, re-  
12 gional alternatives, consolidation, and public-  
13 private partnerships) for carrying out a project  
14 or activity for which assistance is sought under  
15 this title, taking into account the cost of oper-  
16 ating and maintaining the project or activity  
17 over its life, as well as the cost of constructing  
18 the project or activity;

19 “(14) the State will use at least 15 percent of  
20 the amount of each capitalization grant received by  
21 the State under this title after September 30, 2007,  
22 to provide assistance to municipalities of fewer than  
23 20,000 individuals that meet the affordability cri-  
24 teria established by the State under section  
25 603(i)(2) for activities included on the State’s pri-

1 ority list established under section 603(g), to the ex-  
2 tent that there are sufficient applications for such  
3 assistance;

4 “(15) treatment works eligible under section  
5 603(c)(1) that will be constructed in whole or in  
6 part with funds directly made available by capitaliza-  
7 tion grants under this title and section 205(m) will  
8 meet the requirements of, or otherwise be treated  
9 (as determined by the Governor of the State) under  
10 sections 204(b)(1), 211, 218, and 511(c)(1) in the  
11 same manner as treatment works constructed with  
12 assistance under title II of this Act; and

13 “(16) contracts and subcontracts to be carried  
14 out using funds under this title for program man-  
15 agement, construction management, planning stud-  
16 ies, feasibility studies, architectural services, prelimi-  
17 nary engineering, design, engineering, surveying,  
18 mapping, and related services shall be awarded in  
19 the same manner as contracts for architectural and  
20 engineering services are awarded under chapter 11  
21 of title 40, United States Code, or an equivalent  
22 qualifications-based method of selection (as deter-  
23 mined by the Governor of the State).”.

1 **SEC. 303. WATER POLLUTION CONTROL REVOLVING LOAN**  
2 **FUNDS.**

3 (a) PROJECTS AND ACTIVITIES ELIGIBLE FOR AS-  
4 SISTANCE.—Section 603(c) (33 U.S.C. 1383(c)) is amend-  
5 ed to read as follows:

6 “(c) PROJECTS AND ACTIVITIES ELIGIBLE FOR AS-  
7 SISTANCE.—The amounts of funds available to each State  
8 water pollution control revolving fund shall be used only  
9 for providing financial assistance—

10 “(1) to any municipality or intermunicipal,  
11 interstate, or State agency for construction of pub-  
12 licly owned treatment works;

13 “(2) for the implementation of a management  
14 program established under section 319;

15 “(3) for development and implementation of a  
16 conservation and management plan under section  
17 320;

18 “(4) for the implementation of lake protection  
19 programs and projects under section 314;

20 “(5) for repair or replacement of decentralized  
21 wastewater treatment systems that treat domestic  
22 sewage;

23 “(6) for measures to manage or reduce munic-  
24 ipal stormwater runoff;

25 “(7) to any public entity for a water conserva-  
26 tion project or activity the primary purpose of which

1 is the protection, preservation, or enhancement of  
2 water quality, including—

3 “(A) piping or lining an irrigation canal;

4 “(B) recovery or recycling of wastewater or  
5 runoff from irrigation;

6 “(C) irrigation scheduling;

7 “(D) measurement or metering of water  
8 use;

9 “(E) installation of water conservation  
10 measures by public utilities;

11 “(F) improving on-field irrigation effi-  
12 ciency; or

13 “(G) measures to enable customers to  
14 make more efficient use of treated water.

15 “(8) for measures to increase the security of  
16 publicly owned treatment works; and

17 “(9) for the development and implementation of  
18 watershed projects meeting the criteria set forth in  
19 section 122.”.

20 (b) EXTENDED REPAYMENT PERIOD.—Section  
21 603(d)(1) (33 U.S.C. 1383(d)(1)) is amended—

22 (1) in subparagraph (A) by striking “20 years”  
23 and inserting “the lesser of 30 years or the design  
24 life of the project to be financed with the proceeds  
25 of the loan”; and

1           (2) in subparagraph (B) by striking “not later  
2           than 20 years after project completion” and insert-  
3           ing “upon the expiration of the term of the loan”.

4           (c) FISCAL SUSTAINABILITY PLAN.—Section  
5 603(d)(1) (33 U.S.C. 1383(d)(1)) is further amended—

6           (1) by striking “and” at the end of subpara-  
7           graph (C);

8           (2) by inserting “and” at the end of subpara-  
9           graph (D); and

10          (3) by adding at the end the following:

11                 “(E) for any portion of a treatment works  
12                 proposed for repair, replacement, or expansion,  
13                 and eligible for assistance under section  
14                 603(c)(1), the recipient of assistance will de-  
15                 velop and implement a fiscal sustainability plan  
16                 that includes—

17                         “(i) an inventory of critical assets  
18                         that are a part of that portion of the treat-  
19                         ment works;

20                         “(ii) an evaluation of the condition  
21                         and performance of inventoried assets or  
22                         asset groupings; and

23                         “(iii) a plan for maintaining, repair-  
24                         ing, and, as necessary, replacing that por-

1                   tion of the treatment works and a plan for  
2                   funding such activities.”.

3           (d) EXPENSES OF ADMINISTERING THE STATE  
4 FUND.—Section 603(d)(7) (33 U.S.C. 1383(d)(7)) is  
5 amended by inserting before the period at the end the fol-  
6 lowing: “, \$400,000 per year, or  $\frac{1}{5}$  percent per year of  
7 the current valuation of the fund, whichever amount is  
8 greatest, plus the amount of any fees collected by the  
9 State for such purpose regardless of the source”.

10          (e) TYPES OF ASSISTANCE.—Section 603(d) (33  
11 U.S.C. 1383(d)) is amended—

12               (1) by striking “and” at the end of paragraph  
13               (6);

14               (2) by striking the period at the end of para-  
15               graph (7) and inserting a semicolon; and

16               (3) by adding at the end the following:

17               “(8) to provide owners and operators of treat-  
18               ment works that serve a population of 20,000 or  
19               fewer with technical and planning assistance and as-  
20               sistance in financial management, user fee analysis,  
21               budgeting, capital improvement planning, facility op-  
22               eration and maintenance, repair schedules, and other  
23               activities to improve wastewater treatment plant  
24               management and operations; except that such

1 amounts shall not exceed 2 percent of grant awards  
2 to such fund under this title; and

3 “(9) to make grants to States for high priority  
4 partnership projects under section 608 on the condi-  
5 tion that the requirements of paragraph (1)(E) are  
6 met in the case of any grant by a State for the re-  
7 pair, replacement, or expansion of a treatment  
8 works.”.

9 (f) AFFORDABILITY CRITERIA.—Section 603 (33  
10 U.S.C. 1383) is amended by adding at the end the fol-  
11 lowing:

12 “(i) AFFORDABILITY CRITERIA.—

13 “(1) ESTABLISHMENT.—On or before Sep-  
14 tember 30, 2007, and after providing notice and an  
15 opportunity for public comment, a State shall estab-  
16 lish affordability criteria to assist in identifying mu-  
17 nicipalities that would experience a significant hard-  
18 ship raising the revenue necessary to finance a  
19 project or activity eligible for assistance under sec-  
20 tion 603(c)(1) if additional subsidization is not pro-  
21 vided. Such criteria shall be based on income data,  
22 population trends, and other data determined rel-  
23 evant by the State.

24 “(2) EXISTING CRITERIA.—If a State has pre-  
25 viously established, after providing notice and an op-

1 portunity for public comment, affordability criteria  
2 that meet the requirements of paragraph (1), the  
3 State may use the criteria for the purposes of this  
4 subsection. For purposes of this Act, any such cri-  
5 teria shall be treated as affordability criteria estab-  
6 lished under this paragraph.

7 “(3) INFORMATION TO ASSIST STATES.—The  
8 Administrator may publish information to assist  
9 States in establishing affordability criteria under  
10 paragraph (1).

11 “(4) PRIORITY.—A State may give priority to a  
12 recipient for a project or activity eligible for funding  
13 under section 603(c)(1) if the recipient meets the  
14 State’s affordability criteria.”.

15 **SEC. 304. ALLOTMENT OF FUNDS.**

16 (a) IN GENERAL.—Section 604(a) (33 U.S.C.  
17 1384(a)) is amended to read as follows:

18 “(a) ALLOTMENTS.—

19 “(1) FISCAL YEARS 2006 AND 2007.—Sums ap-  
20 propriated to carry out this title for each of fiscal  
21 years 2006 and 2007 shall be allotted by the Admin-  
22 istrator in accordance with the formula used to allot  
23 sums appropriated to carry out this title for fiscal  
24 year 2005.

1           “(2) FISCAL YEAR 2008 AND THEREAFTER.—  
2           Sums appropriated to carry out this title for fiscal  
3           year 2008 and each fiscal year thereafter shall be al-  
4           lotted by the Administrator as follows:

5                   “(A) Amounts that do not exceed  
6                   \$1,350,000,000 shall be allotted in accordance  
7                   with the formula described in paragraph (1).

8                   “(B) Amounts that exceed \$1,350,000,000  
9                   shall be allotted in accordance with the formula  
10                  developed by the Administrator under sub-  
11                  section (d).”.

12          (b) PLANNING ASSISTANCE.—Section 604(b) (33  
13 U.S.C. 1384(b)) is amended by striking “1 percent” and  
14 inserting “2 percent”.

15          (c) FORMULA.—Section 604 (33 U.S.C. 1384) is  
16 amended by adding at the end the following:

17           “(d) FORMULA BASED ON WATER QUALITY  
18 NEEDS.—Not later than September 30, 2007, and after  
19 providing notice and an opportunity for public comment,  
20 the Administrator shall publish an allotment formula  
21 based on water quality needs in accordance with the most  
22 recent survey of needs developed by the Administrator  
23 under section 516(b).”.

1 **SEC. 305. INTENDED USE PLAN.**

2 (a) INTEGRATED PRIORITY LIST.—Section 603(g)  
3 (33 U.S.C. 1383(g)) is amended to read as follows:

4 “(g) PRIORITY LIST.—

5 “(1) IN GENERAL.—For fiscal year 2008 and  
6 each fiscal year thereafter, a State shall establish or  
7 update a list of projects and activities for which as-  
8 sistance is sought from the State’s water pollution  
9 control revolving fund. Such projects and activities  
10 shall be listed in priority order based on the method-  
11 ology established under paragraph (2). The State  
12 may provide financial assistance from the State’s  
13 water pollution control revolving fund only with re-  
14 spect to a project or activity included on such list.  
15 In the case of projects and activities eligible for as-  
16 sistance under section 603(c)(2), the State may in-  
17 clude a category or subcategory of nonpoint sources  
18 of pollution on such list in lieu of a specific project  
19 or activity.

20 “(2) METHODOLOGY.—

21 “(A) IN GENERAL.—Not later than 1 year  
22 after the date of enactment of this paragraph,  
23 and after providing notice and opportunity for  
24 public comment, each State (acting through the  
25 State’s water quality management agency and  
26 other appropriate agencies of the State) shall

1 establish a methodology for developing a pri-  
2 ority list under paragraph (1).

3 “(B) PRIORITY FOR PROJECTS AND AC-  
4 TIVITIES THAT ACHIEVE GREATEST WATER  
5 QUALITY IMPROVEMENT.—In developing the  
6 methodology, the State shall seek to achieve the  
7 greatest degree of water quality improvement,  
8 taking into consideration the requirement of  
9 section 602(b)(5), section 603(i), and whether  
10 such water quality improvements would be real-  
11 ized without assistance under this title.

12 “(C) CONSIDERATIONS IN SELECTING  
13 PROJECTS AND ACTIVITIES.—In determining  
14 which projects and activities will achieve the  
15 greatest degree of water quality improvement,  
16 the State shall consider—

17 “(i) information developed by the  
18 State under sections 303(d) and 305(b);

19 “(ii) the State’s continuing planning  
20 process developed under section 303(e);

21 “(iii) the State’s management pro-  
22 gram developed under section 319; and

23 “(iv) conservation and management  
24 plans developed under section 320.

1           “(D) NONPOINT SOURCES.—For categories  
2           or subcategories of nonpoint sources of pollu-  
3           tion that a State may include on its priority list  
4           under paragraph (1), the State may consider  
5           the cumulative water quality improvements as-  
6           sociated with projects or activities in such cat-  
7           egories or subcategories.

8           “(E) EXISTING METHODOLOGIES.—If a  
9           State has previously developed, after providing  
10          notice and an opportunity for public comment,  
11          a methodology that meets the requirements of  
12          this paragraph, the State may use the method-  
13          ology for the purposes of this subsection.”.

14          (b) INTENDED USE PLAN.—Section 606(c) (33  
15          U.S.C. 1386(c)) is amended—

16               (1) in the matter preceding paragraph (1) by  
17               striking “each State shall annually prepare” and in-  
18               serting “each State (acting through the State’s  
19               water quality management agency and other appro-  
20               priate agencies of the State) shall annually prepare  
21               and publish”;

22               (2) by striking paragraph (1) and inserting the  
23               following:

24                       “(1) the State’s priority list developed under  
25                       section 603(g);”;

1           (3) by striking “and” at the end of paragraph  
2           (4);

3           (4) by striking the period at the end of para-  
4           graph (5) and inserting “; and”; and

5           (5) by adding at the end the following:

6           “(6) if the State does not fund projects and ac-  
7           tivities in the order of the priority established under  
8           section 603(g), an explanation of why such a change  
9           in order is appropriate.”.

10          (c) **TRANSITIONAL PROVISION.**—Before completion  
11 of a priority list based on a methodology established under  
12 section 603(g) of the Federal Water Pollution Control Act  
13 (as amended by this section), a State shall continue to  
14 comply with the requirements of sections 603(g) and  
15 606(e) of such Act, as in effect on the day before the date  
16 of enactment of this Act.

17 **SEC. 306. FEDERAL OVERSIGHT.**

18          (a) **ANNUAL REPORT.**—Section 606(d) (33 U.S.C.  
19 1386(d)) is amended—

20           (1) by inserting “or grant” after “loan” each  
21           place it appears; and

22           (2) by inserting “the eligible purpose under sec-  
23           tion 603(c) for which the assistance is provided,”  
24           after “loan amounts,”.

1 (b) ANNUAL FEDERAL OVERSIGHT REVIEW.—Sec-  
2 tion 606(e) (33 U.S.C. 1386(e)) is amended—

3 (1) by inserting “or the recipient of a grant  
4 under section 608” after “revolving fund”; and

5 (2) by inserting “or grant” after “loan”; and

6 (3) by adding at the end the following: “In car-  
7 rying out an oversight review under this subsection,  
8 the Administrator may allow a State to certify, with  
9 supporting documentation, its compliance with the  
10 requirements of this title.”.

11 **SEC. 307. TECHNICAL ASSISTANCE.**

12 Title VI (33 U.S.C. 1381 et seq.) is amended—

13 (1) by redesignating section 607 as section 609;

14 and

15 (2) by inserting after section 606 the following:

16 **“SEC. 607. TECHNICAL ASSISTANCE.**

17 “(a) SIMPLIFIED PROCEDURES.—Not later than 1  
18 year after the date of enactment of this section, the Ad-  
19 ministrator shall assist the States in establishing sim-  
20 plified procedures for treatment works to obtain assistance  
21 under this title.

22 “(b) PUBLICATION OF MANUAL.—Not later than 2  
23 years after the date of the enactment of this section, and  
24 after providing notice and opportunity for public comment,  
25 the Administrator shall publish a manual to assist treat-

1 ment works in obtaining assistance under this title and  
2 publish in the Federal Register notice of the availability  
3 of the manual.

4 “(c) ASSISTANCE FOR IMPROVING THE MANAGE-  
5 MENT OF WATER QUALITY INFRASTRUCTURE AND IN-  
6 CREASING COST-EFFECTIVENESS OF INFRASTRUCTURE  
7 IMPROVEMENTS.—At the request of any State, the Admin-  
8 istrator shall assist in the development of criteria for a  
9 State to determine compliance with the conditions of fund-  
10 ing assistance established under section 602(b)(13).”.

11 **SEC. 308. HIGH PRIORITY PARTNERSHIP GRANTS.**

12 Title VI of the Federal Water Pollution Control Act  
13 (33 U.S.C. 1381 et seq.) is further amended by inserting  
14 after section 607 (as inserted by section 307 of this Act)  
15 the following:

16 **“SEC. 608. HIGH PRIORITY PARTNERSHIP GRANTS.**

17 “(a) ESTABLISHMENT OF PROGRAM.—The Adminis-  
18 trator is authorized to make grants to States for the pur-  
19 pose of providing grants to entities eligible for assistance  
20 under section 603(c) for projects and activities that are  
21 eligible under section 603(c) based on the selection criteria  
22 in subsection (b).

23 “(b) CRITERIA.—In selecting from among applica-  
24 tions for grants under this section, a State shall give pri-

1 ority, to the maximum extent practicable, to projects and  
2 activities that—

3 “(1) address the most serious water pollution  
4 problems;

5 “(2) are necessary to ensure compliance with  
6 the requirements of this Act; or

7 “(3) benefit communities with the greatest need  
8 (determined on the basis of affordability criteria es-  
9 tablished by the State under section 603(i)).

10 “(c) FEDERAL SHARE.—The amount of Federal  
11 funds granted by a State for a project or activity under  
12 this section may not exceed 65 percent of the cost of the  
13 project or activity.”.

14 **SEC. 309. AUTHORIZATION OF APPROPRIATIONS FROM THE**  
15 **CLEAN WATER TRUST FUND.**

16 Title VI (33 U.S.C. 1381 et seq.) is further amended  
17 by adding at the end the following:

18 **“SEC. 610. AUTHORIZATION OF APPROPRIATIONS FROM**  
19 **CLEAN WATER TRUST FUND.**

20 “There is authorized to be appropriated from the  
21 Clean Water Trust Fund established by section 701  
22 \$6,000,000,000 for grants to States under section 601(a)  
23 for each of fiscal years 2006 through 2010, of which the  
24 first \$1,500,000,000 shall be available only for the pur-  
25 pose of providing assistance under paragraphs (1) through

1 (8) of section 603(d). The remainder of the amount made  
 2 available under this section for a fiscal year shall be avail-  
 3 able for grants for high priority partnerships under section  
 4 608 for such fiscal year.”.

5 **TITLE IV—CLEAN WATER TRUST**  
 6 **FUND**

7 **SEC. 401. ESTABLISHMENT OF CLEAN WATER TRUST FUND.**

8 The Federal Water Pollution Control Act (33 U.S.C.  
 9 1251 et seq.) is amended by adding at the end the fol-  
 10 lowing:

11 **“TITLE VII—CLEAN WATER**  
 12 **TRUST FUND**

13 **“SEC. 701. CLEAN WATER TRUST FUND.**

14 “(a) ESTABLISHMENT.—There is established in the  
 15 Treasury of the United States a trust fund to be known  
 16 as the ‘Clean Water Trust Fund’.

17 “(b) TRANSFERS TO THE TRUST FUND.—There are  
 18 hereby appropriated to the Clean Water Trust Fund  
 19 amounts equivalent to fees collected and deposited in the  
 20 Fund under section 702.

21 “(c) EXPENDITURES FROM THE TRUST FUND.—  
 22 Amounts in the Trust Fund are available, as provided by  
 23 appropriations acts, for—

24 “(1) water pollution reduction and control ac-  
 25 tivities under section 104(b)(3);

1           “(2) the technical assistance for small rural  
2 communities program under section 104(b)(8);

3           “(3) the National Center for Utility Manage-  
4 ment program under section 104(x);

5           “(4) grants for State management assistance  
6 under section 106(a);

7           “(5) carrying out section 122, relating to water-  
8 shed pilot projects;

9           “(6) critical regional waters under section 123;

10          “(7) carrying out section 220 relating to alter-  
11 native water source projects;

12          “(8) carrying out section 221, relating to sewer  
13 overflow control grants;

14          “(9) grants to States under section 601;

15          “(10) grants for fisheries habitat protection,  
16 restoration, and enhancement under section 501 of  
17 the Clean Water Trust Act of 2005; and

18          “(11) grants for wetlands restoration under sec-  
19 tion 502 of the Clean Water Trust Act of 2005.

20          “(d) BUDGETARY TREATMENT OF THE FUND.—Not-  
21 withstanding any other provision of law, the receipts and  
22 disbursements of the Clean Water Trust Fund—

23                 “(1) shall not be counted as new budget author-  
24 ity, outlays, receipts, or deficit or surplus for pur-  
25 poses of—

1           “(A) the budget of the United States sub-  
2           mitted by the President; or

3           “(B) the congressional budget (including  
4           allocations of budget authority and outlays pro-  
5           vided therein); and

6           “(2) shall be exempt from any general budget  
7           limitation imposed by statute on expenditures and  
8           net lending (budget outlays) of the United States  
9           Government.

10 **“SEC. 702. REVENUE.**

11           “[The Administrator shall submit to Congress for  
12           consideration, within 180 days of enactment of this sec-  
13           tion, an equitable system of user fees to fund this title.]”.

14           **TITLE V—FISHERIES**

15 **SEC. 501. FISHERIES HABITAT PROTECTION, RESTORATION,**  
16 **AND ENHANCEMENT GRANTS.**

17           (a) GRANTS.—The Administrator of the Environ-  
18           mental Protection Agency is authorized to make grants  
19           to any State (as defined in section 502 of the Federal  
20           Water Pollution Control Act (33 U.S.C. 1362), munici-  
21           pality, intermunicipal or interstate agency, nonprofit orga-  
22           nization, or institution of higher education for the purpose  
23           of assisting in the protection, preservation, and restoration  
24           of fresh water, estuarine, and marine fisheries habitat and

1 uses and for the enhancement of access within a watershed  
2 for fisheries uses.

3 (b) WATERSHED PLANS.—Activities to be funded  
4 shall be based on a comprehensive assessment and plan  
5 for the watershed. All funded activities must directly sup-  
6 port the described plan, and grant funds must be used  
7 in accordance with the plan.

8 (c) LIMITATIONS.—

9 (1) MAXIMUM AMOUNT.—The maximum  
10 amount of a grant under this section for any activity  
11 may not exceed 65 percent of the cost of the activ-  
12 ity, as determined by the Administrator.

13 (2) ADMINISTRATIVE EXPENSES.—Not more  
14 than 4 percent of the amount of any grant made  
15 under this section may be used to pay administrative  
16 expenses in connection with the activity for which  
17 the grant is made.

18 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
19 authorized to be appropriated to the Administrator from  
20 the Clean Water Trust Fund \$250,000,000 for each of  
21 fiscal years 2006 through 2010 to carry out this section.

22 **SEC. 502. STATE WETLANDS RESTORATION GRANTS.**

23 (a) GRANTS TO STATES.—The Administrator of the  
24 Environmental Protection Agency is authorized to make  
25 grants of up to \$2,000,000 to each State (as defined in

1 section 502 of the Federal Water Pollution Control Act  
2 (33 U.S.C. 1362)) for fiscal years 2006 through 2010 to  
3 carry out this section.

4 (b) WETLAND RESTORATION PROJECT DEFINED.—  
5 For the purposes of this section, a “wetland restoration  
6 project” means an activity to improve wetland functions,  
7 including the filtration of surface and ground water, the  
8 mitigation of flooding, and the enhancement of wildlife  
9 habitat.

10 (c) PROJECT GRANTS.—

11 (1) DISTRIBUTION OF FUNDS.—A State receiv-  
12 ing a grant under this section shall distribute funds  
13 received under the grant for wetland restoration  
14 projects to appropriate State, municipal, intermunic-  
15 ipal, and interstate agencies, nonprofit organiza-  
16 tions, and institutions of higher education that have  
17 expertise in wetlands restoration.

18 (2) MAXIMUM AMOUNT.—The maximum  
19 amount of grants under this section for any project  
20 may not exceed \$500,000 in a fiscal year and 65  
21 percent of the cost of the project, as determined by  
22 the Administrator.

23 (d) PROJECT ADMINISTRATION.—A State receiving a  
24 grant under this section may use up to 4 percent of the

1 funds received under the grant for administrative expenses  
2 in carrying out this section.

3 (e) REPORTING.—Each State receiving a grant under  
4 this section shall provide annually to the Administrator  
5 a summary of the wetland restoration projects funded  
6 under this section.

7 (f) AUTHORIZATION.—There is authorized to be ap-  
8 propriated to the Administrator from the Clean Water  
9 Trust Fund \$112,000,000 for each of fiscal years 2006  
10 through 2010 to carry out this section.

## 11 **TITLE VI—GENERAL** 12 **PROVISIONS**

### 13 **SEC. 601. DEFINITION OF TREATMENT WORKS.**

14 Section 502 (33 U.S.C. 1362) is amended by adding  
15 at the end the following:

16 “(25) The term ‘treatment works’ has the  
17 meaning given that term in section 212.”

### 18 **SEC. 602. FUNDING FOR INDIAN PROGRAMS.**

19 (a) RESERVATION OF FUNDS.—Section 518(c) (33  
20 U.S.C. 1377(c)) is amended—

21 (1) by striking “The Administrator” and insert-  
22 ing the following:

23 “(1) FISCAL YEARS 1987–2006.—The Adminis-  
24 trator”;

25 (2) in paragraph (1) (as so designated)—

1 (A) by inserting “and ending before Octo-  
2 ber 1, 2006,” after “1986,”; and

3 (B) by striking the second sentence; and  
4 (3) by adding at the end the following:

5 “(2) FISCAL YEAR 2007 AND THEREAFTER.—  
6 For fiscal year 2007 and each fiscal year thereafter,  
7 the Administrator shall reserve, before allotments to  
8 the States under section 604(a), not less than 0.5  
9 percent and not more than 1.5 percent of the funds  
10 made available to carry out title VI.

11 “(3) USE OF FUNDS.—Funds reserved under  
12 this subsection shall be available only for grants for  
13 projects and activities eligible for assistance under  
14 section 603(e) to serve—

15 “(A) Indian tribes;

16 “(B) former Indian reservations in Okla-  
17 homa (as determined by the Secretary of the  
18 Interior); and

19 “(C) Native villages (as defined in section  
20 3 of the Alaska Native Claims Settlement Act  
21 (43 U.S.C. 1602)).”.

22 (b) ELIGIBILITY OF INDIAN TRIBES.—Section 518(e)  
23 of such Act (33 U.S.C. 1377(e)) is amended by striking  
24 “and 406” and inserting “406, and 608”.

1 **SEC. 603. PRIVATE PROPERTY NOT AFFECTED.**

2       Nothing in this Act affects the rights of private prop-  
3 erty owners or may be construed to provide any Federal,  
4 State, or local entity with authority to restrict the use of,  
5 encumber, or take private property.

○