116TH CONGRESS
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HOUSE OF REPRESENTATIVES
REPORT
116–484

WATER QUALITY PROTECTION AND JOB CREATION ACT OF 2019

SEPTEMBER 4, 2020.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DEFAZIO, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 1497]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 1497) to amend the Federal Water Pollution Control Act to reauthorize certain water pollution control programs, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Water Quality Protection and Job Creation Act of 2019".

SEC. 2. WASTEWATER INFRASTRUCTURE WORKFORCE INVESTMENT.

Section 104(g) of the Federal Water Pollution Control Act (33 U.S.C. 1254(g)) is amended—

(1) in paragraph (1), by striking "manpower" each place it appears and inserting "workforce"; and

(2) by amending paragraph (4) to read as follows:

"(4) REPORT TO CONGRESS ON PUBLICLY OWNED TREATMENT WORKS WORKFORCE DEVELOPMENT.—Not later than 2 years after the date of enactment of the Water Quality Protection and Job Creation Act of 2019, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report containing—

"(A) an assessment of the current and future workforce needs for publicly owned treatment works, including an estimate of the number of future positions needed for such treatment works and the technical skills and education needed for such positions;

"(B) a summary of actions taken by the Administrator, including Federal investments under this Act, that promote workforce development to address such needs; and

"(C) any recommendations of the Administrator to address such needs.".

SEC. 3. STATE MANAGEMENT ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 106(a) of the Federal Water Pollution Control Act (33 U.S.C. 1256(a)) is amended—

(1) by striking "and" at the end of paragraph (1); and

(2) by inserting after paragraph (2) the following:

"(3) such sums as may be necessary for each of fiscal years 1991 through 2020;

"(4) $240,000,000 for fiscal year 2021;

"(5) $250,000,000 for fiscal year 2022;

"(6) $260,000,000 for fiscal year 2023;

"(7) $270,000,000 for fiscal year 2024; and

"(8) $275,000,000 for fiscal year 2025;".

(b) TECHNICAL AMENDMENT.—Section 106(e) of the Federal Water Pollution Control Act (33 U.S.C. 1256(e)) is amended by striking "Beginning in fiscal year 1974 the" and inserting "The".

SEC. 4. WATERSHED, WET WEATHER, AND RESILIENCY PROJECTS.

(a) INCREASED RESILIENCE OF TREATMENT WORKS.—Section 122(a)(6) of the Federal Water Pollution Control Act (33 U.S.C. 1274(a)(6)) is amended to read as follows:

"(6) INCREASED RESILIENCE OF TREATMENT WORKS.—Efforts—

"(A) to assess future risks and vulnerabilities of publicly owned treatment works to manmade or natural disasters, including extreme weather events and sea level rise; and

"(B) to carry out the planning, designing, or constructing of projects, on a systemwide or areawide basis, to increase the resilience of publicly owned treatment works through—

"(i) the conservation of water or the enhancement of water use efficiency;

"(ii) the enhancement of wastewater (including stormwater) management by increasing watershed preservation and protection, including through—

"(I) the use of green infrastructure; or

"(II) the reclamation and reuse of wastewater (including stormwater), such as through aquifer recharge zones;

"(iii) the modification or relocation of an existing publicly owned treatment works at risk of being significantly impaired or damaged by a manmade or natural disaster; or

"(iv) the enhancement of energy efficiency, or the use or generation of recovered or renewable energy, in the management, treatment, or conveyance of wastewater (including stormwater).".

(b) REQUIREMENTS; AUTHORIZATION OF APPROPRIATIONS.—Section 122 of the Federal Water Pollution Control Act (33 U.S.C. 1274) is amended by striking subsection (c) and inserting the following:

"(c) REQUIREMENTS.—The requirements of section 608 shall apply to any construction, alteration, maintenance, or repair of treatment works receiving a grant under this section.

"(d) ASSISTANCE.—The Administrator shall use not less than 15 percent of the amounts appropriated pursuant to this section in a fiscal year to provide assistance to municipalities with a population of less than 10,000, to the extent there are sufficient eligible applications.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $110,000,000, to remain available until expended.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) WATERSHED PILOT PROJECTS.—Section 122 of the Federal Water Pollution Control Act (33 U.S.C. 1274) is amended—

(A) in the section heading, by striking "**WATERSHED PILOT PROJECTS**" and inserting "**WATERSHED, WET WEATHER, AND RESILIENCY PROJECTS**"; and

(B) by striking "pilot" each place it appears.

(2) WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.—Section 603(c)(7) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)(7)) is amended by striking "watershed".

SEC. 5. PILOT PROGRAM FOR ALTERNATIVE WATER SOURCE PROJECTS.

(a) SELECTION OF PROJECTS.—Section 220(d) of the Federal Water Pollution Control Act (33 U.S.C. 1300(d)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) LIMITATION ON ELIGIBILITY.—A project that has received construction funds under the Reclamation Projects Authorization and Adjustment Act of 1992 shall not be eligible for grant assistance under this section."; and

(2) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(b) COMMITTEE RESOLUTION PROCEDURE; ASSISTANCE.—Section 220 of the Federal Water Pollution Control Act (33 U.S.C. 1300) is amended by striking subsection (e) and inserting the following:

"(e) ASSISTANCE.—The Administrator shall use not less than 15 percent of the amounts appropriated pursuant to this section in a fiscal year to provide assistance to eligible entities for projects designed to serve fewer than 10,000 individuals, to the extent there are sufficient eligible applications.".

(c) COST SHARING.—Section 220(g) of the Federal Water Pollution Control Act (33 U.S.C. 1300(g)) is amended—

(1) by striking "The Federal share" and inserting the following:

"(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share"; and

(2) by adding at the end the following:

"(2) RECLAMATION AND REUSE PROJECTS.—For an alternative water source project that has received funds under the Reclamation Projects Authorization and Adjustment Act of 1992 (other than funds referred to in subsection (d)(1)), the total Federal share of the costs of the project shall not exceed 25 percent or $20,000,000, whichever is less.".

(d) REQUIREMENTS.—Section 220 of the Federal Water Pollution Control Act (33 U.S.C. 1300) is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and inserting after subsection (h) the following:

"(i) REQUIREMENTS.—The requirements of section 608 shall apply to any construction of an alternative water source project carried out using assistance made available under this section.".

(e) DEFINITIONS.—Section 220(j)(1) of the Federal Water Pollution Control Act (as redesignated by subsection (d) of this section) is amended by striking "or wastewater or by treating wastewater" and inserting ", wastewater, or stormwater or by treating wastewater or stormwater".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 220(k) of the Federal Water Pollution Control Act (as redesignated by subsection (d) of this section) is amended by striking "$75,000,000 for fiscal years 2002 through 2004" and inserting "$150,000,000".

SEC. 6. SEWER OVERFLOW AND STORMWATER REUSE MUNICIPAL GRANTS.

Section 221 of the Federal Water Pollution Control Act (33 U.S.C. 1301) is amended—

(1) in subsection (c), by striking "subsection (b)," each place it appears and inserting "this section,";

(2) in subsection (d)—

(A) by striking "The Federal share" and inserting the following:

"(1) FEDERAL SHARE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share"; and

(B) by striking "The non-Federal share" and inserting the following:

"(B) FINANCIALLY DISTRESSED COMMUNITIES.—The Federal share of the cost of activities carried out using amounts from a grant made to a financially distressed community under subsection (a) shall be not less than 75 percent of the cost.

"(2) NON-FEDERAL SHARE.—The non-Federal share";

(3) in subsection (e), by striking "section 513" and inserting "section 513, or the requirements of section 608,"; and

(4) in subsection (f)—

(A) in paragraph (1), by striking "2020" and inserting "2025"; and

(B) by adding at the end the following:

"(3) ASSISTANCE.—In carrying out subsection (a), the Administrator shall ensure that, of the amounts granted to municipalities in a State, not less than 20 percent is granted to municipalities with a population of less than 20,000, to the extent there are sufficient eligible applications.".

SEC. 7. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM.

(a) TERMS.—Section 402(b)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1342(b)(1)) is amended—

(1) by amending subparagraph (B) to read as follows:

"(B) are for fixed terms—

"(i) not exceeding 10 years, for a permit issued in accordance with subsection (t); and

"(ii) not exceeding 5 years, for a permit not described in clause (i);"; and

(2) by redesignating subparagraph (D) as subparagraph (E), and inserting after subparagraph (C) the following:

"(D) do not continue in force beyond the last day of the fixed term, except as provided in subsection (k)(2); and".

(b) REQUIREMENTS.—Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) is amended—

(1) in subsection (k)—

(A) by inserting "(1)" before "Compliance with";

(B) by striking "of (1)" and inserting "of (A)";

(C) by striking "or (2)" and inserting "or (B)"; and

(D) by adding at the end the following:

"(2) PERMIT RENEWAL OR REISSUANCE.—If a permittee applies to a State to renew or reissue a permit under this section, in compliance with the approved State permit program under subsection (b), and the State does not make a final administrative disposition of the application by the last day of the term of the permit—

"(A) not later than 30 days after such last day of the term of the permit, the State shall notify the Administrator, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Environment and Public Works of the Senate of such failure to make a final administrative disposition;

"(B) if the State does not make a final administrative disposition of the application by the date that is 180 days after the last day of the term of the permit, the Administrator shall make a final administrative disposition of the application not later than 180 days after such date; and

"(C) the permit shall continue in effect until the date on which a final administrative disposition of the application is made."; and

(2) by adding at the end the following:

"(t) EXTENDED TERM FOR CERTAIN PERMITS.—

"(1) IN GENERAL.—A State with an approved permit program under subsection (b) may issue a permit under this section with a term authorized under subsection (b)(1)(B)(i) to an eligible municipality for a covered discharge.

"(2) REVIEW AND MODIFICATION OF PERMIT.—

"(A) STATE ACTION.—

"(i) REVIEW.—Not later than 60 days after a triggering event occurs with respect to a permit issued by a State pursuant to this subsection, the State shall review the permit and make publicly available a determination of whether any modifications to the permit are necessary to address the triggering event.

"(ii) MODIFICATION.—Not later than 90 days after making publicly available a determination under clause (i) that modifications to a permit are necessary, the State shall make such modifications in accordance with the requirements of this section.

"(B) EPA ACTION.—

"(i) REVIEW.—If a State fails to make publicly available a determination by the deadline required under subparagraph (A), the Administrator shall make publicly available such a determination not later than 30 days after such deadline.

"(ii) MODIFICATION.—If a State fails to modify a permit by the deadline required under subparagraph (A), or if the Administrator makes publicly available under this subparagraph a determination that modifications to a permit are necessary, the Administrator shall make such modifications in accordance with the requirements of this section not later than 90 days after the deadline required under subparagraph (A), or 90 days after the date on which the Administrator makes publicly available such determination under this subparagraph, as applicable.

"(iii) EFFECT ON STATE AUTHORITY.—A permit modified by the Administrator under clause (ii) shall be considered to be a permit issued by the State for the purposes of permit administration, and such modification shall not affect any other authority or responsibility of the State relating to the permit.

"(C) RIGHT OF ACTION.—A determination under this paragraph by a State or the Administrator of whether modifications to a permit are necessary to address a triggering event is a final agency action subject to judicial review in the same manner as a review under section 509(b)(1).

"(3) DEFINITIONS.—In this subsection:

"(A) COVERED DISCHARGE.—The term 'covered discharge' means a discharge from a publicly owned treatment works, which consists of municipal sewage treated, recycled, or reclaimed in accordance with this Act (and may include a municipal combined sewer overflow that is in compliance with the requirements of subsection (q))—

"(i) into a navigable water that is not identified by the State issuing the permit under section 303(d) as impaired for a pollutant specifically addressed by the permit; or

"(ii) in the case of a discharge into a navigable water that is so identified, that is subject to, and in compliance with, permit limits that are consistent with—

"(I) a judicial order or consent decree resolving an enforcement action related to such discharge under this Act; or

"(II) for each such pollutant, any applicable approved total maximum daily load allocation, or, if no such approved allocation exists, any applicable water quality standard for the pollutant (including any such standard as addressed in an integrated plan incorporated into a permit under subsection (s)).

"(B) ELIGIBLE MUNICIPALITY.—The term 'eligible municipality' means a municipality with a history of compliance with this Act, as determined in accordance with standards established by the Administrator.

"(C) TRIGGERING EVENT.—The term 'triggering event' means, with respect to a permit issued pursuant to this subsection, any of the following that happens after the date on which the permit is issued:

"(i) The State receives information that there may be a cause for modification, as identified in section 122.62 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection), of the permit.

"(ii) The State identifies under section 303(d) the navigable water into which a discharge is permitted pursuant to the permit as impaired for a pollutant known to be present in the discharge.

"(iii) The Administrator approves a new or modified total maximum daily load that applies with respect to a pollutant known to be present in a discharge permitted pursuant to the permit.

"(iv) The Administrator or the State determines that—

"(I) a pollutant known to be discharged under the permit is directly related to the contamination of a water designated for use as a public water supply source pursuant to section 303; and

"(II)(aa) the discharge of such pollutant is related to a violation of an applicable water quality standard; or

"(bb) such pollutant is subject to a health advisory published by the Administrator under section 1412(b)(1)(F) of the Safe Drinking Water Act.".

(c) IMPLEMENTATION RULE.—

(1) DEADLINE.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall publish in the Federal Register a rule to implement the amendments made by this section, including establishing standards for determining a history of compliance with the Federal Water Pollution Control Act for purposes of section 402(t) of such Act (as added by this section).

(2) CONSULTATION.—In carrying out this subsection, the Administrator shall consult with representatives of States, municipalities (as such term is defined in section 502 of the Federal Water Pollution Control Act), and other stakeholders and interested parties.

SEC. 8. REPORTS TO CONGRESS.

Section 516(b)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1375(b)(1)) is amended—

(1) by striking ", of the cost of construction" and inserting ", of (i) the cost of construction"; and

(2) by striking "each of the States;" and inserting "each of the States, and (ii) the costs to implement measures necessary to address the resilience and sustainability of publicly owned treatment works to manmade or natural disasters;".

SEC. 9. INDIAN TRIBES.

Section 518(c) of the Federal Water Pollution Control Act (33 U.S.C. 1377(c)) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

"(1) IN GENERAL.—For each fiscal year, the Administrator shall reserve, of the funds made available to carry out title VI (before allotments to the States under section 604(a)), the greater of—

"(A) 2 percent of such funds; or

"(B) $30,000,000.

"(2) USE OF FUNDS.—

"(A) GRANTS.—Funds reserved under this subsection shall be available only for grants to entities described in paragraph (3) for—

"(i) projects and activities eligible for assistance under section 603(c); and

"(ii) training, technical assistance, and educational programs relating to the operation and management of treatment works eligible for assistance pursuant to section 603(c).

"(B) LIMITATION.—Not more than $2,000,000 of the reserved funds may be used for grants under subparagraph (A)(ii).";

(2) in paragraph (3)—

(A) in the header, by striking "USE OF FUNDS" and inserting "ELIGIBLE ENTITIES"; and

(B) by striking "for projects and activities eligible for assistance under section 603(c) to serve" and inserting "to".

SEC. 10. CAPITALIZATION GRANTS.

Section 602(b) of the Federal Water Pollution Control Act (33 U.S.C. 1382(b)) is amended—

(1) in paragraph (13)(B)—

(A) in the matter preceding clause (i), by striking "and energy conservation" and inserting "and efficient energy use (including through the implementation of technologies to recapture and reuse energy produced in the treatment of wastewater)"; and

(B) in clause (iii), by striking "; and" and inserting a semicolon;

(2) in paragraph (14), by striking the period at the end and inserting "; and" ; and

(3) by adding at the end the following:

"(15) to the extent there are sufficient projects or activities eligible for assistance from the fund, with respect to funds for capitalization grants received by the State under this title and section 205(m) in each of fiscal years 2021

through 2025, the State will use not less than 15 percent of such funds for projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities.".

SEC. 11. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

Section 603(i) of the Federal Water Pollution Control Act (33 U.S.C. 1383(i)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ", including forgiveness of principal and negative interest loans" and inserting "(including in the form of forgiveness of principal, negative interest loans, or grants)"; and

(B) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking "in assistance"; and

(ii) in clause (ii)(III), by striking "to such ratepayers" and inserting "to help such ratepayers maintain access to wastewater and stormwater treatment services"; and

(2) by amending paragraph (3) to read as follows:

"(3) SUBSIDIZATION AMOUNTS.—

"(A) IN GENERAL.—A State may use for providing additional subsidization in a fiscal year under this subsection an amount that does not exceed the greater of—

"(i) 30 percent of the total amount received by the State in capitalization grants under this title for the fiscal year; or

"(ii) the annual average over the previous 10 fiscal years of the amounts deposited by the State in the State water pollution control revolving fund from State moneys that exceed the amounts required to be so deposited under section 602(b)(2).

"(B) MINIMUM.—For each of fiscal years 2021 through 2025, to the extent there are sufficient applications for additional subsidization under this subsection that meet the criteria under paragraph (1)(A), a State shall use for providing additional subsidization in a fiscal year under this subsection an amount that is not less than 10 percent of the total amount received by the State in capitalization grants under this title for the fiscal year.".

SEC. 12. ALLOTMENT OF FUNDS.

(a) FORMULA.—Section 604(a) of the Federal Water Pollution Control Act (33 U.S.C. 1384(a)) is amended by striking "each of fiscal years 1989 and 1990" and inserting "each fiscal year".

(b) WASTEWATER INFRASTRUCTURE WORKFORCE DEVELOPMENT.—Section 604 of the Federal Water Pollution Control Act (33 U.S.C. 1384) is amended by adding at the end the following:

"(d) WASTEWATER INFRASTRUCTURE WORKFORCE DEVELOPMENT.—A State may reserve each fiscal year up to 1 percent of the sums allotted to the State under this section for the fiscal year to carry out workforce development, training, and retraining activities described in section 104(g).".

SEC. 13. RESERVATION OF FUNDS FOR TERRITORIES OF THE UNITED STATES.

Title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) is amended by striking section 607 and inserting the following:

"SEC. 607. RESERVATION OF FUNDS FOR TERRITORIES OF THE UNITED STATES.

"(a) IN GENERAL.—

"(1) RESERVATION.—For each fiscal year, the Administrator shall reserve 1.5 percent of available funds, as calculated in accordance with paragraph (2).

"(2) CALCULATION OF AVAILABLE FUNDS.—The amount of available funds shall be calculated by subtracting the amount of any funds reserved under section 518(c) from the amount of funds made available to carry out this title (before allotments to the States under section 604(a)).

"(b) USE OF FUNDS.—Funds reserved under this section shall be available only for grants to American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands for projects and activities eligible for assistance under section 603(c).

"(c) LIMITATION.—American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands may not receive funds allotted under section 604(a).".

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

Title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) is amended by adding at the end the following:

"SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title the following sums:

"(1) $2,400,000,000 for fiscal year 2021.

"(2) $2,600,000,000 for fiscal year 2022.

"(3) $2,800,000,000 for fiscal year 2023.

"(4) $3,000,000,000 for fiscal year 2024.

"(5) $3,200,000,000 for fiscal year 2025.".

SEC. 15. TECHNICAL ASSISTANCE BY MUNICIPAL OMBUDSMAN.

Section 4(b)(1) of the Water Infrastructure Improvement Act (42 U.S.C. 4370j(b)(1)) is amended to read as follows:

"(1) technical and planning assistance to support municipalities, including municipalities that are rural, small, and tribal communities, in achieving and maintaining compliance with enforceable deadlines, goals, and requirements of the Federal Water Pollution Control Act; and".

SEC. 16. REPORT ON FINANCIAL CAPABILITY OF MUNICIPALITIES.

(a) REVIEW.—The Administrator of the Environmental Protection Agency shall conduct a review of existing implementation guidance of the Agency for evaluating the financial resources a municipality has available to implement the requirements of the Federal Water Pollution Control Act to determine whether, and if so, how, such guidance needs to be revised.

(b) CONSIDERATIONS.—In conducting the review under subsection (a), the Administrator shall consider—

(1) the report by the National Academy of Public Administration prepared for the Environmental Protection Agency entitled "Developing a New Framework for Community Affordability of Clean Water Services", dated October 2017;

(2) the report developed by the National Environmental Justice Advisory Council entitled "EPA's Role in Addressing the Urgent Water Infrastructure Needs of Environmental Justice Communities", dated August 2018, and made available on the website of the Administrator in March 2019;

(3) the report prepared for the American Water Works Association, the National Association of Clean Water Agencies, and the Water Environment Federation entitled "Developing a New Framework for Household Affordability and Financial Capability Assessment in the Water Sector", dated April 17, 2019;

(4) the recommendations of the Environmental Financial Advisory Board related to municipal financial capability assessments, prepared at the request of the Administrator; and

(5) any other information the Administrator considers appropriate.

(c) ENGAGEMENT AND TRANSPARENCY.—In conducting the review under subsection (a), the Administrator shall—

(1) after providing public notice, consult with, and solicit advice and recommendations from, State and local governmental officials and other stakeholders, including nongovernmental organizations; and

(2) ensure transparency in the consultation process.

(d) REPORT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, and make publicly available, a report on the results of the review conducted under subsection (a), including any recommendations for revisions to the guidance.

SEC. 17. REVIEW OF SECONDARY TREATMENT TECHNOLOGIES.

(a) IN GENERAL.—

(1) DEVELOPMENT OF DATA COLLECTION MEANS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall publish in the Federal Register a notice to solicit public comment (including the opportunity for public hearings and listening sessions) on the collection of data regarding the existing capabilities of publicly owned treatment works to reduce the effluent concentration of pathogens (or pathogen indicators) in the discharge of such treatment works, in order to determine an appropriate means to collect such data in a sufficient amount, and of a sufficient quality, to develop a representational sample of such capabilities.

(2) DATA COLLECTION.—Not later than 18 months after the date of enactment of this Act, the Administrator shall publish in the Federal Register the data collection means determined appropriate pursuant to paragraph (1) and initiate the collection of data using such means.

(3) DETERMINATION ON SECONDARY TREATMENT REGULATIONS.—Upon completion of data collection pursuant to paragraph (2), the Administrator shall make the data available to the public and make a determination whether such data

support a revision to the secondary treatment standard for pathogens (or pathogen indicators) pursuant to section 304(d)(1) of the Federal Water Pollution Control Act.

(4) LIMITATION.—The Administrator may not propose or finalize any modifications to requirements pursuant to section 402 of the Federal Water Pollution Control Act related to wastewater blending, bypass, or peak wet weather discharges from publicly owned treatment works until after the date on which the Administrator makes a determination under paragraph (3).

(b) DEFINITIONS.—In this section:

(1) BYPASS.—The term "bypass" has the meaning given that term in section 122.41(m) of title 40, Code of Federal Regulations.

(2) TREATMENT WORKS.—The term "treatment works" has the meaning given that term in section 212 of the Federal Water Pollution Control Act.

PURPOSE OF LEGISLATION

The purpose of H.R. 1497, the *Water Quality Protection and Job Creation Act of 2019*, as amended, is to restore and maintain the chemical, physical, and biological integrity of the nation's waters by reauthorizing Federal appropriations for capitalization grants to state water pollution control revolving funds and other clean water pollution control grant programs to address the discharge of pollution into jurisdictional waters.

BACKGROUND AND NEED FOR LEGISLATION

The Committee on Transportation and Infrastructure Subcommittee on Water Resources and Environment has jurisdiction over water quality and wastewater infrastructure programs administered by the U.S. Environmental Protection Agency (EPA) under the Federal Water Pollution Control Act, more commonly known as the Clean Water Act.

The Importance of Investment in Wastewater Infrastructure

To a great extent, improvements in water quality since the passage of the 1972 Clean Water Act have resulted from a significant investment in municipal wastewater infrastructure improvements throughout the nation. According to the Congressional Research Service, since 1972, the Federal government has provided more than $104 billion of financial assistance for wastewater infrastructure and other support to achieve compliance with the Clean Water Act, which has dramatically improved water quality and the health of the economy and the environment.[1] However, according to the Congressional Budget Office, Federal investment in municipal wastewater infrastructure, as a percentage of the total amount invested from all public sources (including State and local funds) has been declining, and now accounts for less than one-quarter of the total capital investment in municipal wastewater infrastructure.[2] Today, the nationwide system of municipal wastewater infrastructure includes 16,000 publicly owned wastewater treatment facilities, 100,000 major pumping stations, 600,000 miles of sanitary sewers, and 200,000 miles of storm sewers.[3]

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[1] See Ramseur, Jonathan L., "Wastewater Infrastructure: Overview, Funding, and Legislative Developments (R44963)", Congressional Research Service, May 2018.

[2] See "Public Spending on Transportation and Water Infrastructure, 1956 to 2014", Congressional Budget Office, March 2015. See also, "Public Spending on Transportation and Water Infrastructure, 1956 to 2017," Congressional Budget Office, October 2018.

[3] U.S. EPA., "Primer for Municipal Wastewater Treatment Systems" (EPA–832–R–04–001), September 2004.

Investment in wastewater infrastructure has provided significant environmental, public health, and economic benefits to the nation. First, through the Federal construction grants program (Title II of the Clean Water Act), and now the Clean Water State Revolving Fund (Clean Water SRF) program (Title VI of the Clean Water Act), the investment in wastewater infrastructure has been integral to improving the quality of the nation's waters. The improvements to water quality realized through Federal, State, and local investment in municipal wastewater infrastructure have been significant, helping to increase the number of fishable and swimmable waters throughout the nation. As a result of the dramatic improvements in municipal wastewater infrastructure, waste loadings in municipal effluent discharges have decreased by one-half since the 1970s, despite the fact that the amount of generated municipal wastewaters grew by more than one-third during the same time period due to population growth and an expanded economy. The nation's farmers, fishermen, manufacturers, and recreational industries rely on clean water. The outdoor recreation economy alone generates $887 billion annually.[4] Further, people spend approximately $70 billion per year on recreational boating and fishing.[5]

Clean Water Infrastructure Needs

America's wastewater infrastructure needs further financial investment. According to the American Society of Civil Engineers 2017 Infrastructure Report Card, America's wastewater treatment infrastructure receives a grade of D+, which is only a slight improvement from its previous grade of D in the 2013 Report Card.[6]

According to the EPA, the nation needs at least $271 billion of investment over the next 20 years to bring their systems to a state of good repair.[7] Given the current level of Federal investment to address these needs, States and cities are covering more than 95 percent of the total cost of water infrastructure (including capital and operations and maintenance costs).[8]

These statistics indicate a need for increased investment in our nation's water infrastructure, at all levels of government, and the benefits are numerous. Investing in clean water creates thousands of domestic jobs in the construction industry and reduces the overall costs of operating and maintaining that infrastructure. According to the National Utility Contractors Association, every $1 billion invested in our nation's water infrastructure can create or sustain nearly 27,000 jobs in communities across America, while improving public health and the environment at the same time.[9] In addition, water infrastructure helps prevent contamination of our nation's

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[4] Outdoor Industry Association. (2017). *The Outdoor Recreation Economy.* Retrieved from https://outdoorindustry.org/wp-content/uploads/2017/04/OIA_RecEconomy_FINAL_Single.pdf.

[5] U.S. Environmental Protection Agency. (2012). The Importance of Water to the U.S. Economy, Part I: Background Report.

[6] See 2017 Infrastructure Report Card ASCE. Retrieved from https://www.infrastructurereportcard.org/cat-item/wastewater/.

[7] U.S. Environmental Protection Agency. (2016). *Clean Watersheds Needs Survey 2012.* Report to Congress. (EPA–830–R–15005). Retrieved from https://www.epa.gov/sites/production/files/2015–12/documents/cwns_2012_report_to_congress-508-opt.pdf.

[8] Kane, Joseph W. (2016). *Investing in Water: Comparing Utility Finances and Economic Concerns across U.S. Cities.* Retrieved from https://www.brookings.edu/research/investing-in-water-comparing-utility-finances-and-economic-concerns-across-u-s-cities/.

[9] National Utility Contractors Association (NUCA). (March 4, 2019). Letter to Chairman Peter DeFazio in support of the Water Quality Protection and Job Creation Act of 2019. Retrieved from https://transportation.house.gov/imo/media/doc/NUCA%20Letter%20of%20Support%20-%20Water%20Quality%20Protection%20and%20Job%20Creation%20Act.pdf.

waters that are relied upon by the recreational industry. Fishing and water sports generates more than 1.52 million jobs.[10]

Clean Water Act Affordability

Communities and governments at all levels face growing challenges in effectively managing the water resources necessary to support growing and shifting populations, thriving residential, commercial, industrial, and agricultural sectors, and healthy and productive natural environments. Many local governments also face complex affordability challenges—with some communities facing shrinking rate bases, while others with growing populations having increasing segments of their rate base that are unable to afford the rising costs of clean water thereby disproportionately impacting the poorest economic segments of many communities. Nationwide, wastewater utilities and municipalities of all sizes are seeking to provide clean, safe, accessible, and affordable water, along with addressing other challenges, such as responding to effects of extreme weather events, water quantity, and emerging water quality issues.

In 2017, the National Academy of Public Administration (NAPA) issued a report that examined the challenges local communities face in providing clean, safe, and affordable water and wastewater services.[11] This report concluded that the governmental responsibility to assure clean water that is also affordable to both communities and individuals has become an increasing challenge.[12]

Among other things, the report recognized that water infrastructure in the United States is aging, thereby imposing additional costs on communities to both upgrade and maintain deteriorating infrastructure from deferred maintenance.[13] In addition, the report recognized the costs to communities to come into compliance with the Clean Water Act as an additional factor and highlighted the importance of more cost-effective and innovative solutions, such as increased use of green-infrastructure approaches, stormwater recapture and reuse, and integrated planning, to address these challenges.[14] Further, the report highlighted how affordability is an especially critical issue for low-income customers throughout the United States, noting that, while average annual expenditures for water are generally low relative to other utilities, they represent a higher share of income for those with the lowest 20 percent of income.[15]

In the 115th Congress, Congress approved two bills to address some of the challenges highlighted in the NAPA report. First, Congress approved the *America's Water Infrastructure Act of 2018* (Pub. L. 115–270), which, among other things, expanded the eligibility of communities to receive Clean Water Act grants to address sewer overflows and to capture, treat, and reuse wastewater and stormwater runoff. In addition, Congress passed the *Water Infrastructure Improvement Act* (Pub. L. 115–436), which codified the

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[10] Outdoor Industry Association. (2017). *The Outdoor Recreation Economy*. Retrieved from https://outdoorindustry.org/wp-content/uploads/2017/04/OIA_RecEconomy_FINAL_Single.pdf.

[11] Panel of the National Academy of Public Administrators for the U.S. Environmental Protection Agency. (2017). *Developing a New Framework for Community Affordability of Clean Water Services*. Academy Project Number: 2210. Retrieved from https://www.napawash.org/uploads/Academy_Studies/NAPA_EPA_FINAL_REPORT_110117.pdf.

[12] Id.

[13] Id.

[14] Id.

[15] Id.

voluntary planning process described in the "Integrated Municipal Stormwater and Wastewater Planning Approach Framework," issued by the EPA and dated June 5, 2012 (2012 IP Framework). The 2012 IP Framework was designed to help communities meet their affordability challenges by allowing communities to prioritize and sequence stormwater and wastewater compliance investments while maintaining their statutory obligation to achieve improvements in local water quality. The 2012 IP Framework also encouraged the use of green infrastructure in the permitting and enforcement of the Clean Water Act.

Federal Clean Water Investment: Clean Water State Revolving Fund

For more than 70 years, Congress has provided Federal funds to municipalities to address local water quality challenges, including sewage treatment needs. Initially, this assistance was provided as loans to States, municipalities, or interstate agencies for the construction of necessary treatment works to prevent the discharge by such State or municipality of untreated or inadequately treated sewage or other waste into interstate waters. (Federal Water Pollution Control Act (FWPCA) of 1948, Pub. L. 80–845, 62 Stat. 1155.) In later amendments to the FWPCA, Congress provided direct grants to municipalities. In the 1972 Amendments to the FWPCA, such grants covered 55 to 75 percent of the total costs of the projects. Then, in 1987, Congress converted the direct grant program to the current Clean Water SRF authority that provides capitalization grant funding directly to States to capitalize the States' Clean Water SRFs (Pub.L. 100–4). These SRFs in-turn, provide below-market rate loans to communities to finance local wastewater infrastructure needs (required to be fully-repaid over a 30-year term).

The authorization of appropriations for the Clean Water SRF expired after 1994. Yet, Congress has continued to fund, through annual appropriations legislation, the Clean Water SRF program because it provides a critical investment in the nation's wastewater infrastructure. Congressional appropriations have provided more than $43 billion in Federal capitalization assistance to States since 1987.[16] Congress provided an appropriation of $1.694 billion for the Clean Water SRF in the fiscal year 2019 appropriations bill (Pub. L. 116–6). In turn, this infusion of Federal capital to State revolving funds has leveraged over $133 billion in direct assistance to communities over this period.[17]

In 2014, Congress enacted amendments to the Clean Water Act which authorized States that provide assistance to communities under the Clean Water SRF program to provide additional subsidization, including forgiveness of principal and negative interest loans to benefit a municipality that meets the affordability criteria of the State; or that seeks additional subsidization to benefit individual ratepayers in the municipality's residential user rate class that will experience a significant hardship from the increase in rates necessary to finance the project or activity for which assistance is sought.

[16] U.S. Environmental Protection Agency, Clean Water State Revolving Fund (CWSRF), https://www.epa.gov/cwsrf.
[17] Id.

In addition, in recent years, the annual appropriations bills for EPA have included provisions to require States to use a portion of Clean Water SRF funding to provide communities with "additional subsidy to eligible recipients in the form of forgiveness of principal, negative interest loans, or grants," as well as to reserve an additional portion of Clean Water SRF funding for "projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities." In addition, the annual appropriations bills for EPA have included reservations of funds from the Clean Water State Revolving Fund for projects, training, technical assistance, or education for Indian Tribes, Reservations, and Native Villages, and reservations of Clean Water SRF funding for the U.S. Territories.

HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress, the following hearings were used to develop or consider H.R. 1497, as amended:

On February 7, 2019, the Committee on Transportation and Infrastructure held a hearing, entitled "The Cost of Doing Nothing: Why Investing in Our Nation's Infrastructure Cannot Wait." The Committee received testimony from several witnesses on the current state of the nation's roads, bridges, transit systems, clean water systems, ports and inland waterways, and airports, as well as testimony on what will happen if the nation does not begin to address the backlog of infrastructure needs. Witnesses providing testimony at the hearing were: The Honorable Tim Walz, Governor, State of Minnesota; the Honorable Eric Garcetti, Mayor, City of Los Angeles, California; Ms. Angela Lee, Director, Charlotte (North Carolina) Water; and Mr. Larry Willis, President, Transportation Trades Department, AFL–CIO.

On March 7, 2019, the Subcommittee on Water Resources and Environment held a hearing, entitled "The Clean Water State Revolving Fund: How Federal Infrastructure Investment Can Help Communities Modernize Water Infrastructure and Address Affordability Challenges." The Committee received testimony from Mayor David A. Condon, City of Spokane, Washington; Mr. John Mokszycki, Water and Sewer Superintendent, Town of Greenport, New York; Ms. Catherine Flowers, Rural Development Manager, The Equal Justice Initiative, Montgomery, Alabama; Ms. Maureen Taylor, State Chairperson, Michigan Welfare Rights Organization, Detroit, Michigan; Mr. Andrew Kricun, Executive Director/Chief Engineer, Camden County Municipal Utilities Authority, Camden, New Jersey; and Professor Jill Heaps, Assistant Professor of Law, Vermont Law School, Burlington, Vermont. The testimony examined the current state of the nation's clean water infrastructure needs and the infrastructure affordability challenges facing communities and American households. Witnesses also discussed the challenges facing urban and rural utilities, as well as individuals impacted by inadequate clean water infrastructure and affordability challenges and provided recommendations to address water infrastructure needs in communities.

LEGISLATIVE HISTORY AND CONSIDERATION

On March 5, 2019, Chair Peter A. DeFazio (D–OR), Subcommittee Chairwoman Grace F. Napolitano (D–CA), and Representatives Don Young (R–AK), and John Katko (R–NY) introduced H.R. 1497, the *Water Quality Protection and Job Creation Act of 2019*. H.R. 1497 was referred to the Committee on Transportation and Infrastructure. Within the Committee, H.R. 1497 was referred to the Subcommittee on Water Resources and Environment.

The Chair discharged the Subcommittee on Water Resources and Environment from further consideration of H.R. 1497 on October 29, 2019.

The Committee on Transportation and Infrastructure met in open session to consider H.R. 1497 on October 29, 2019, and ordered the measure to be reported to the House with a favorable recommendation, as amended, by voice vote with a quorum present.

During consideration, the following amendments were offered:

An Amendment in the Nature of a Substitute offered by Mr. DeFazio (#1); was AGREED TO by voice vote.

An en bloc amendment to the Amendment in the Nature of a Substitute offered by Mr. Garamendi (#1A); consisting of the following amendments:

Page 6, strike lines 7 through 18 and insert the following new paragraph entitled "(a) Geographic Distribution.".

Page 7, strike lines 4 through 18(and redesignate accordingly).

Page 7, insert after line 18 a new paragraph entitled "(3) Exception for certain funds." ; was withdrawn by unanimous consent.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against.

There were no recorded votes taken in connection with consideration of H.R. 1497, as amended.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the

Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 1497, as amended, from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 12, 2020.

Hon. PETER A. DEFAZIO,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1497, the Water Quality Protection and Job Creation Act of 2019.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephen Rabent.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

At a Glance

H.R. 1497, Water Quality Protection and Job Creation Act of 2019
As reported by the House Committee on Transportation and Infrastructure on October 29, 2019

By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	0	0	0
Revenues	0	-130	-932
Increase or Decrease (-) in the Deficit	0	-130	-932
Spending Subject to Appropriation (Outlays)	1	11,038	not estimated

		Mandate Effects	
Statutory pay-as-you-go procedures apply?	Yes		
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	< $5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

Sources: Congressional Budget Office; staff of the Joint Committee on Taxation.

The bill would

- Authorize appropriations for the Environmental Protection Agency's (EPA's) Clean Water State Revolving Fund program and amend the ways states may use those funds
- Authorize appropriations for state management assistance grants
- Authorize appropriations to fund grants for sewer and stormwater projects, alternative water source projects, and watershed pilot projects
- Amend the National Pollutant Discharge Elimination System to allow EPA and states to issue 10-year instead of 5-year permits in certain circumstances
- Require EPA to report to the Congress

Estimated budgetary effects would primarily stem from

- Amounts authorized to be appropriated to EPA

• Revenue losses from increased issuance of tax-exempt bonds
• EPA's administrative costs

Bill summary: H.R. 1497 would authorize appropriations for grants from the Environmental Protection Agency (EPA) for the current-law Clean Water State Revolving Fund (CWSRF) program and would change the ways that states can use those funds. The bill would authorize appropriations for EPA to provide grants for several types of water projects and to assist states in administering pollution control programs. In addition, under H.R. 1497, states and EPA could grant 10-year rather than 5-year permits under the National Pollution Discharge Elimination System in certain circumstances. Finally, H.R. 1497 would amend the duties of the municipal ombudsman at EPA and direct EPA to report to the Congress on several matters.

Estimated Federal cost: The estimated budgetary effect of H.R. 1497 is shown in Table 1. The costs of the legislation fall within budget function 300 (natural resources and environment).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 1497

	By fiscal year, millions of dollars—												
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2020–2025	2020–2030
Decreases in Revenues													
Estimated Revenues ..	0	*	−4	−16	−39	−71	−109	−145	−172	−185	−190	−130	−932
Increases in Spending Subject to Appropriation													
Estimated Authorization	262	2,878	3,091	3,301	3,511	3,716	n.e.	n.e.	n.e.	n.e	n.e	16,759	n.e.
Estimated Outlays	1	332	1,690	2,582	3,051	3,381	n.e.	n.e.	n.e.	n.e	n.e	11,038	n.e.

Sources: Congressional Budget Office; staff of the Joint Committee on Taxation.
Components may not sum to totals because of rounding; n.e. = not estimated; * = between −$500,000 and zero.

Basis of estimate: For this estimate, CBO assumes that H.R. 1497 will be enacted by the end of 2020, the authorized and estimated amounts will be appropriated for each fiscal year, and spending will follow historical patterns for similar projects and programs.

Revenues: The staff of the Joint Committee on Taxation (JCT) expects that some of the funds authorized to be appropriated by H.R. 1497 for CWSRF grants would be used by state and local governments to leverage additional funds through tax-exempt bonds. Therefore, JCT estimates that issuing additional tax-exempt bonds would reduce federal revenues by $932 million over the 2020–2030 period.

Spending subject to appropriation: H.R. 1497 would specifically authorize the appropriation of $16.7 billion over the 2020–2025 period. Assuming appropriation of those amounts plus amounts needed for other required activities, CBO estimates that the bill would cost $11 billion over the same period (see Table 2).

TABLE 2.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 1497

	By fiscal year, millions of dollars—						
	2020	2021	2022	2023	2024	2025	2020–2025
CWSRF Grants:							
Authorization	0	2,400	2,600	2,800	3,000	3,200	14,000
Estimated Outlays	0	240	1,220	2,040	2,560	2,870	8,930
State Management Grants:							
Authorization	0	240	250	260	270	275	1,295
Estimated Outlays	0	36	218	251	261	270	1,034
Municipal Grants:							
Authorization	0	225	225	225	225	225	1,125
Estimated Outlays	0	20	107	172	214	225	738
Other Grant Programs:							
Authorization	260	0	0	0	0	0	260
Estimated Outlays	*	26	130	104	0	0	260
Administrative Costs:							
Estimated Authorization	2	13	16	16	16	16	79
Estimated Outlays	1	11	16	16	16	16	76
Total Changes:							
Estimated Authorization	262	2,878	3,091	3,301	3,511	3,716	16,759
Estimated Outlays	1	332	1,690	2,582	3,051	3,381	11,038

Components may not sum to totals because of rounding; CWSRF = Clean Water State Revolving Fund; * = between zero and $500,000.

Provisions with specified authorizations: H.R. 1497 would authorize appropriations totaling $16.7 billion over the 2020–2025 period. CBO estimates that implementing those provisions would cost $11 billion over the 2020–2025 period and about $5.7 billion after 2025.

Clean Water State Revolving Fund Grants. H.R. 1497 would authorize the appropriation of specific amounts each year that total $14 billion over the 2021–2025 period for CWSRF grants to states. States use those amounts, along with state funds, to make loans and provide other assistance for water infrastructure projects. In 2020, $1.6 billion was appropriated to EPA for that purpose. The bill would change the distribution of funds among states by requiring EPA to reserve at least $30 million of appropriated funds to support grants for projects that serve Indian tribes and to reserve 1.5 percent of appropriated funds for grants to U.S. territories. H.R. 1497 also would amend states' use of capitalization grant funding by requiring at least 15 percent of funds to be used for green infrastructure, energy efficiency, or environmentally innovative projects; allowing states to provide additional loan subsidies; and permitting states to use 1 percent of funds on workforce development. Using information from EPA and historical spending information, CBO estimates that implementing those provisions would cost $8.9 billion over the 2020–2025 period and about $5.1 billion after 2025.

State Management Grants. H.R. 1497 would authorize the appropriation of specific amounts each year that total $1.3 billion over the 2021–2025 period for grants to states to establish and maintain pollution control programs. In 2020, $223 million was appropriated to EPA for that purpose. CBO estimates that implementing the provision would cost $1 billion over the 2021–2025 period and $300 million after 2025.

Municipal Grants. H.R. 1497 would authorize the appropriation of $225 million a year through 2025, totaling $1.1 billion, for grants to states to support planning, design, and construction of municipal

stormwater projects. In 2020, $28 million was appropriated to EPA for that purpose. CBO estimates that implementing the provision would cost $738 million over the 2020–2025 period and about $400 million after 2025.

Other Grant Programs. H.R. 1497 would authorize the appropriation of $110 million for technical assistance and grant funding to support watershed and stormwater pilot projects. The bill also would authorize the appropriation of $150 million for grants to support alternative water source projects. Because neither program received an appropriation in 2020, CBO assumes that the amounts authorized under H.R. 1497 would be for 2020. CBO estimates that implementing those provisions would cost $260 million over the 2020–2024 period.

Administrative costs: H.R. 1497 would authorize appropriations for five grant programs, and CBO expects that those amounts, other than the funds authorized for Sewer Overflow and Stormwater Reuse Municipal grants, would be used entirely for grants and could not be used for administrative costs. EPA also would require funding for the administrative costs of operating, and in some cases establishing, those programs. Using information from EPA about the resources required to operate the grant programs authorized under H.R. 1497, CBO estimates that the agency would eventually require about 65 employees, at a cost of $180,000 each, to develop and administer the authorized programs. The total cost would be about $55 million over the 2020–2025 period.

H.R. 1497 also would require EPA to promulgate rules, produce reviews and reports, and amend program rules. For example, EPA would be required to amend the National Pollution Elimination Discharge System regulations to allow a discharge permit to be granted for up to 10 years if the permittee meets certain requirements. EPA also would be required to collect and make publicly available data on the ability of water treatment works to reduce pathogen concentrations in their discharge. In total, CBO estimates, implementing those provisions would cost EPA $21 million over the 2020–2025 period.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in revenues that are subject to those pay-as-you-go procedures are shown in Table 3.

TABLE 3.—CBO'S ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS OF H.R. 1497, THE WATER QUALITY PROTECTION AND JOB CREATION ACT OF 2019, AS REPORTED BY THE HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON OCTOBER 29, 2019

	By fiscal year, millions of dollars—												
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2020–2025	2020–2030
Net Increase in the Deficit													
Pay-As-You-Go Effect	0	0	4	16	39	71	109	145	172	185	190	130	932

Increase in long-term deficits: CBO estimates that enacting H.R. 1497 would not increase on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2031.

Mandates: None.

Estimate prepared by: Federal costs: Stephen Rabent; Mandates: Lilia Ledezma.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Resources Cost Estimates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis; Theresa Gullo, Director of Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to restore and maintain the chemical, physical, and biological integrity of the nation's waters by reauthorizing Federal appropriations to provide financial assistance to States and communities for the construction of wastewater infrastructure, and for other purposes.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 1497, as amended, establishes or reauthorizes a program of the Federal government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee finds that H.R. 1497, as amended, does not preempt any State, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides that this bill may be cited as the "Water Quality Protection and Job Creation Act of 2019".

Sec. 2. Wastewater infrastructure workforce investment

This section requires the EPA Administrator to issue a report to Congress on the current and future workforce needs of public wastewater treatment utilities and actions, including Federal investments, that can be taken to promote workforce development to address these needs.

Sec. 3. State management assistance

This section authorizes a total of $1.295 billion of appropriations over fiscal years 2021 through 2024 in grants to States to assist in implementing State water quality improvement programs (under section 106 of the Clean Water Act).

Sec. 4. Watershed, wet weather, and resiliency projects

This section amends section 122 of the Clean Water Act to authorize a new grant eligibility for public wastewater utilities to assess and address future risks posed by manmade or natural disasters, including extreme weather events and sea-level rise. This section authorizes a total of $110 million of appropriations to municipalities to carry out watershed, wet weather, and resiliency projects.

The section also provides that not less than 15 percent of the amounts appropriated pursuant to this section in a fiscal year shall be used to provide assistance to municipalities with a population of less than 10,000, to the extent there are sufficient eligible applications.

Sec. 5. Pilot program for alternative water source projects

This section amends section 220 of the Clean Water Act to authorize a total of $150 million of appropriations for grants to eligible entities to carry out alternative water source projects. This section expands the types of projects eligible to receive funding under this authority to include projects that reclaim stormwater, as well as certain projects that may be authorized under the Reclamation Projects Authorization and Adjustment Act of 1992 (Reclamation Act).

However, this section explicitly excludes from eligibility for assistance under section 220 of the Clean Water Act any project authorized under the Reclamation Act that has received construction funding under that authority. Authorized projects under the Reclamation Act that have received planning or design (but not construction) funding under that authority may utilize funds under section 220 for planning, design, and construction. However, the

total Federal share of the costs for such projects from all sources (including both the Reclamation Act and section 220) shall not exceed 25 percent of the total cost of the project or $20 million, whichever is lower. In awarding grants under this section, the Committee expects that the Administrator will evaluate all proposals for alternative water source projects and award grants to eligible projects based on the criteria established by this section. The Committee does not intend for this authority simply to fund previously authorized projects under the Reclamation Act.

The section also provides that not less than 15 percent of the amounts appropriated pursuant to this section in a fiscal year shall be used to provide assistance to eligible entities for projects designed to serve fewer than 10,000 individuals, to the extent there are sufficient eligible applications.

Sec. 6. Sewer overflow and stormwater reuse municipal grants

This section amends section 221 of the Clean Water Act to extend the current authorization of appropriations ($225 million annually for fiscal years 2019 and 2020) for sewer overflow and stormwater reuse grants through fiscal year 2025, as well as provides for a greater Federal cost share of projects that serve financially distressed communities.

The section also provides that, of the amounts granted to municipalities in a State, not less than 20 percent shall be granted to municipalities with a population of less than 20,000, to the extent there are sufficient eligible applications.

Sec. 7. National Pollutant Discharge Elimination System

This section amends section 402 of the Clean Water Act to authorize approved States to issue a permit for "covered discharges" to an "eligible municipality" for up to 10 years in duration. This section creates a new subsection (t) within section 402 that defines the scope of covered discharges and eligible municipalities authorized to apply for extended permits terms; and directs the EPA Administrator, within 1 year of the date of enactment, to issue a rulemaking to implement the provisions of subsection (t). This modification to the NPDES permit program provides approved State permitting authorities with the ability to take into account circumstances unique to each eligible municipal permittee such as construction schedules and life cycles of treatment technologies.

Included within that rulemaking is a requirement that the Administrator define the term "eligible municipality," including establishing the criteria for a "municipality with a history of compliance with [the Clean Water Act]." The Committee intends that eligibility for extended permits (over 5 years) be limited to municipalities that are good actors and have been generally in compliance with the requirements of the Act. The Committee would expect that any municipality that is currently (or in the past 10 years has been) in significant noncompliance of the Act would not have a history of compliance with the Act.

Section 7 of the bill also amends section 402 of the Clean Water Act to limit the ability of NPDES permits to continue in force beyond the last day of a permit's fixed term, by stating that NPDES permits (both existing 5 year permits as well as potential future permits of up to 10 years in duration authorized by this section)

may not exceed their statutory duration term, except as provided in a process, described in this section, that is intended to ensure that States (and/or EPA) review, potentially revise, and reissue such permits.

Sec. 8. Reports to Congress

This section directs the Administrator to include in its statutorily required, biennial needs assessment report, an estimate of the costs to implement resiliency and sustainability measures at publicly owned treatment works.

Section 516 of the Clean Water Act requires the Administrator, in cooperation with the States, including water pollution control agencies and other water pollution control planning agencies, to prepare, and biennially revise, a detailed cost estimate on the cost of construction of all needed publicly owned treatment works in each of the States. This state-by-state survey on clean water infrastructure needs is critical to understanding the overall scale of wastewater infrastructure needs facing the nation, and for ensuring robust Federal participation in addressing that need. The Committee notes that the last Clean Water Needs Survey was provided to Congress in January 2016, and includes information gathered from the States prior to 2012.[18]

Pursuant to section 516 of the Clean Water Act, the EPA Administrator should have provided the Congress with a revised Clean Water Needs Survey in 2018; however, no such report has been released so far. The Committee expects the EPA Administrator to follow their legal responsibility under section 516 to report to Congress every two years on the overall clean water needs facing the nation and to immediately provide an updated Clean Water Needs Survey to Congress.

Sec. 9. Indian Tribes

This section codifies, in the Clean Water Act, the annual reservation of funds from the Clean Water State Revolving Fund (SRF), two percent of annual SRF capitalization grant or $30 million, whichever is greater, for projects, training, technical assistance, or education for Indian Tribes, Reservations, and Native Villages. This provision has been included in annual Congressional appropriations legislation covering the Clean Water SRF over the past several years.

Sec. 10. Capitalization grants

This section amends section 602 of the Clean Water Act to: (1) require utilities that utilize the Clean Water SRF to consider modifications that promote efficient energy use at the utility (such as technologies that capture and reuse methane produced in the treatment of wastewater); and (2) requires a minimum of 15 percent of Clean Water SRF capitalization grants be directed towards projects which address green infrastructure, water or energy efficiency improvements, or other environmentally innovative projects. Potentially eligible projects include, but are not limited to, replacing inef-

[18] U.S. Environmental Protection Agency. (2016). *Clean Watersheds Needs Survey 2012*. Report to Congress. (EPA–830–R–15005). Retrieved from https://www.epa.gov/sites/production/files/2015-12/documents/cwns_2012_report_to_congress-508-opt.pdf.

ficient pumps or pumping systems; rain gardens; permeable pavements; green roofs; bioswales; and rainwater harvesting.

Sec. 11. Water pollution control revolving loan funds

This section authorizes the use of grants as an eligible means of providing State assistance and directs States, for each of fiscal years 2021 through 2025, to utilize a minimum of 10 percent of their annual Clean Water SRF funding to provide additional subsidization (including grants) to municipalities that use SRF funds.

Sec. 12. Allotment of funds

This section authorizes States to use up to one percent of their annual Clean Water SRF capitalization grant to promote workforce development and utility worker training and education programs using existing Clean Water Act authorities.

Sec. 13. Reservation of funds for territories of the United States

This section codifies the annual reservation of 1.5 percent of Clean Water SRF funding for the U.S. Territories, and authorizes the U.S. Territories to use this funding for projects and activities eligible under section 603(c) of the Clean Water Act. This provision has been included in annual Congressional appropriations legislation covering the Clean Water SRF over the past several years.

Sec. 14. Authorization of appropriations

This section provides a total of $14 billion in funding authorizations for the Clean Water SRF program for fiscal years 2021 through 2025.

Sec. 15. Technical assistance by municipal ombudsman

This section amends the existing authority for EPA to establish a Municipal Ombudsman Office within the agency to include assistance to rural, small, and tribal communities.

Sec. 16. Report on financial capability of municipalities

This section directs the Administrator to review existing EPA guidance on evaluating the financial resources a municipality has available to implement the requirements of the Clean Water Act. The section directs the Administrator to consult with, and solicit advice and recommendations from, State and local government officials and other stakeholders, and to consider several public reports, as well as recommendations of the Environmental Financial Advisory Board. The section also directs the Administrator to report to Congress, within 18 months, on the results of this review, including any recommendations for revisions to the guidance.

Sec. 17. Review of secondary treatment technologies

This section directs the Administrator to investigate the capabilities of publicly owned treatment works to reduce the effluent concentrations of pathogens in their discharges, and to determine whether such information supports potential revisions to the secondary treatment standard under the Clean Water Act for pathogens. This section also prohibits any regulatory changes related to wastewater blending, bypass, or peak wet weather discharges, until this determination is completed.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

FEDERAL WATER POLLUTION CONTROL ACT

* * * * * * *

TITLE I—RESEARCH AND RELATED PROGRAMS

* * * * * * *

RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION

SEC. 104. (a) The Administrator shall establish national programs for the prevention, reduction, and elimination of pollution and as part of such programs shall—

(1) in cooperation with other Federal, State, and local agencies, conduct and promote the coordination and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, reduction, and elimination of pollution;

(2) encourage, cooperate with, and render technical services to pollution control agencies and other appropriate public or private agencies, institutions, and organizations, and individuals, including the general public, in the conduct of activities referred to in paragraph (1) of this subsection;

(3) conduct, in cooperation with State water pollution control agencies and other interested agencies, organizations and persons, public investigations concerning the pollution of any navigable waters, and report on the results of such investigations;

(4) establish advisory committees composed of recognized experts in various aspects of pollution and representatives of the public to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research;

(5) in cooperation with the States, and their political subdivisions, and other Federal agencies establish, equip, and maintain a water quality surveillance system for the purpose of monitoring the quality of the navigable waters and ground waters and the contiguous zone and the oceans and the Administrator shall, to the extent practicable, conduct such surveillance by utilizing the resources of the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the Geological Survey, and the Coast Guard, and shall report on such quality in the report required under subsection (a) of section 516; and

(6) initiate and promote the coordination and acceleration of research designed to develop the most effective practicable tools and techniques for measuring the social and economic costs and benefits of activities which are subject to regulations under this Act; and shall transmit a report on the results of such research to the Congress not later than January 1, 1974.

(b) In carrying out the provisions of subsection (a) of this section the Administrator is authorized to—

(1) collect and make available, through publications and other appropriate means, the results of and other information, including appropriate recommendations by him in connection therewith, pertaining to such research and other activities referred to in paragraph (1) of subsection (a);

(2) cooperate with other Federal departments and agencies, State water pollution control agencies, interstate agencies, other public and private agencies, institutions, organizations, industries involved, and individuals, in the preparation and conduct of such research and other activities referred to in paragraph (1) of subsection (a);

(3) make grants to State water pollution control agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals, for purposes stated in paragraph (1) of subsection (a) of this section;

(4) contract with public or private agencies, institutions, organizations, and individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5), referred to in paragraph (1) of subsection (a);

(5) establish and maintain research fellowships at public or nonprofit private educational institutions or research organizations;

(6) collect and disseminate, in cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and organizations having related responsibilities, basic data on chemical, physical, and biological effects of varying water quality and other information pertaining to pollution and the prevention, reduction, and elimination thereof;

(7) develop effective and practical processes, methods, and prototype devices for the prevention, reduction, and elimination of pollution; and

(8) make grants to nonprofit organizations—

(A) to provide technical assistance to rural, small, and tribal municipalities for the purpose of assisting, in consultation with the State in which the assistance is provided, such municipalities and tribal governments in the planning, developing, and acquisition of financing for eligible projects and activities described in section 603(c);

(B) to provide technical assistance and training for rural, small, and tribal publicly owned treatment works and decentralized wastewater treatment systems to enable such treatment works and systems to protect water quality and achieve and maintain compliance with the requirements of this Act; and

(C) to disseminate information to rural, small, and tribal municipalities and municipalities that meet the affordability criteria established under section 603(i)(2) by the State in which the municipality is located with respect to planning, design, construction, and operation of publicly owned treatment works and decentralized wastewater treatment systems.

(c) In carrying out the provisions of subsection (a) of this section the Administrator shall conduct research on, and survey the results of other scientific studies on, the harmful effects on the health or welfare of persons caused by pollutants. In order to avoid duplication of effort, the Administrator shall, to the extent practicable, conduct such research in cooperation with and through the facilities of the Secretary of Health, Education, and Welfare.

(d) In carrying out the provisions of this section the Administrator shall develop and demonstrate under varied conditions (including conducting such basic and applied research, studies, and experiments as may be necessary):

(1) Practicable means of treating municipal sewage, and other waterborne wastes to implement the requirements of section 201 of this Act;

(2) Improved methods and procedures to identify and measure the effects of pollutants, including those pollutants created by new technological developments; and

(3) Methods and procedures for evaluating the effects on water quality of augmented streamflows to control pollution not susceptible to other means of prevention, reduction, or elimination.

(e) The Administrator shall establish, equip, and maintain field laboratory and research facilities, including, but not limited to, one to be located in the northeastern area of the United States, one in the Middle Atlantic area, one in the southeastern area, one in the midwestern area, one in the southwestern area, one in the Pacific Northwest, and one in the State of Alaska, for the conduct of research, investigations, experiments, field demonstrations and studies, and training relating to the prevention, reduction and elimination of pollution. Insofar as practicable, each such facility shall be located near institutions of higher learning in which graduate training in such research might be carried out. In conjunction with the development of criteria under section 403 of this Act, the Administrator shall construct the facilities authorized for the National Marine Water Quality Laboratory established under this subsection.

(f) The Administrator shall conduct research and technical development work, and make studies, with respect to the quality of the waters of the Great Lakes, including an analysis of the present and projected future water quality of the Great Lakes under varying conditions of waste treatment and disposal, an evaluation of the water quality needs of those to be served by such waters, an evaluation of municipal, industrial, and vessel waste treatment and disposal practices with respect to such waters, and a study of alternate means of solving pollution problems (including additional waste treatment measures) with respect to such waters.

(g)(1) For the purpose of providing an adequate supply of trained personnel to operate and maintain existing and future treatment works and related activities, and for the purpose of enhancing substantially the proficiency of those engaged in such activities, the Administrator shall finance pilot programs, in cooperation with State and interstate agencies, municipalities, educational institutions, and other organizations and individuals, of [manpower] *workforce* development and training and retraining of persons in, on entering into, the field of operation and maintenance of treat-

ment works and related activities. Such program and any funds expended for such a program shall supplement, not supplant, other [manpower] *workforce* and training programs and funds available for the purposes of this paragraph. The Administrator is authorized, under such terms and conditions as he deems appropriate, to enter into agreements with one or more States, acting jointly or severally, or with other public or private agencies or institutions for the development and implementation of such a program.

(2) The Administrator is authorized to enter into agreements with public and private agencies and institutions, and individuals to develop and maintain an effective system for forecasting the supply of, and demand for, various professional and other occupational categories needed for the prevention, reduction, and elimination of pollution in each region, State, or area of the United States and, from time to time, to publish the results of such forecasts.

(3) In furtherance of the purposes of this Act, the Administrator is authorized to—

(A) make grants to public or private agencies and institutions and to individuals for training projects, and provide for the conduct of training by contract with public or private agencies and institutions and with individuals without regard to sections 3648 and 3709 of the Revised Statutes;

(B) establish and maintain research fellowships in the Environmental Protection Agency with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most promising research fellows; and

(C) provide, in addition to the program established under paragraph (1) of this subsection, training in technical matters relating to the causes, prevention, reduction, and elimination of pollution for personnel of public agencies and other persons with suitable qualifications.

[(4) The Administrator shall submit, through the President, a report to the Congress not later than December 31, 1973, summarizing the actions taken under this subsection and the effectiveness of such actions, and setting forth the number of persons trained, the occupational categories for which training was provided, the effectiveness of other Federal, State, and local training programs in this field, together with estimates of future needs, recommendations on improving training programs, and such other information and recommendations, including legislative recommendations, as he deems appropriate.]

(4) REPORT TO CONGRESS ON PUBLICLY OWNED TREATMENT WORKS WORKFORCE DEVELOPMENT.—Not later than 2 years after the date of enactment of the Water Quality Protection and Job Creation Act of 2019, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report containing—

(A) an assessment of the current and future workforce needs for publicly owned treatment works, including an estimate of the number of future positions needed for such treatment works and the technical skills and education needed for such positions;

(B) a summary of actions taken by the Administrator, including Federal investments under this Act, that promote workforce development to address such needs; and

(C) any recommendations of the Administrator to address such needs.

(h) The Administrator is authorized to enter into contracts, with, or make grants to, public or private agencies and organizations and individuals for (A) the purpose of developing and demonstrating new or improved methods for the prevention, removal, reduction, and elimination of pollution in lakes, including the undesirable effects of nutrients and vegetation, and (B) the construction of publicly owned research facilities for such purpose.

(i) The Administrator, in cooperation with the Secretary of the department in which the Coast Guard is operating, shall—

(1) engage in such research, studies, experiments, and demonstrations as he deems appropriate, relative to the removal of oil from any waters and to the prevention, control, and elimination of oil and hazardous substances pollution;

(2) publish from time to time the results of such activities; and

(3) from time to time, develop and publish in the Federal Register specifications and other technical information on the various chemical compounds used in the control of oil and hazardous substances spills.

In carrying out this subsection, the Administrator may enter into contracts with, or make grants to, public or private agencies and organizations and individuals.

(j) The Secretary of the department in which the Coast Guard is operating shall engage in such research, studies, experiments, and demonstrations as he deems appropriate relative to equipment which is to be installed on board a vessel and is designed to receive, retain, treat, or discharge human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes with particular emphasis on equipment to be installed on small recreational vessels. The Secretary of the department in which the Coast Guard is operating shall report to Congress the results of such research, studies, experiments, and demonstrations prior to the effective date of any regulations established under section 312 of this Act. In carrying out this subsection the Secretary of the department in which the Coast Guard is operating may enter into contracts with, or make grants to, public or private organizations and individuals.

(k) In carrying out the provisions of this section relating to the conduct by the Administrator of demonstration projects and the development of field laboratories and research facilities, the Administrator may acquire land and interests therein by purchase, with appropriated or donated funds, by donation, or by exchange for acquired or public lands under his jurisdiction which he classifies as suitable for disposition. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of cash to the grantor or to the Administrator as the circumstances require.

(l)(1) The Administrator shall, after consultation with appropriate local, State, and Federal agencies, public and private organi-

zations, and interested individuals, as soon as practicable but not later than January 1, 1973, develop and issue to the States for the purpose of carrying out this Act the latest scientific knowledge available in indicating the kind and extent of effects on health and welfare which may be expected from the presence of pesticides in the water in varying quantities. He shall revise and add to such information whenever necessary to reflect developing scientific knowledge.

(2) The President shall, in consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, conduct studies and investigations of methods to control the release of pesticides into the environment which study shall include examination of the persistency of pesticides in the water environment and alternatives thereto. The President shall submit reports, from time to time, on such investigations to Congress together with his recommendations for any necessary legislation.

(m)(1) The Administrator shall, in an effort to prevent degradation of the environment from the disposal of waste oil, conduct a study of (A) the generation of used engine, machine, cooling, and similar waste oil, including quantities generated, the nature and quality of such oil, present collecting methods and disposal practices, and alternate uses of such oil; (B) the long-term, chronic biological effects of the disposal of such waste oil; and (C) the potential market for such oils, including the economic and legal factors relating to the sale of products made from such oils, the level of subsidy, if any, needed to encourage the purchase by public and private nonprofit agencies of products from such oil, and the practicability of Federal procurement, on a priority basis, of products made from such oil. In conducting such study, the Administrator shall consult with affected industries and other persons.

(2) The Administrator shall report the preliminary results of such study to Congress within six months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, and shall submit a final report to Congress within 18 months after such date of enactment.

(n)(1) The Administrator shall, in cooperation with the Secretary of the Army, the Secretary of Agriculture, the Water Resources Council, and with other appropriate Federal, State, interstate, or local public bodies and private organizations, institutions, and individuals, conduct and promote, encourage contributions to, continuing comprehensive studies of the effects of pollution, including sedimentation, in the estuaries and estuarine zones of the United States on fish and wildlife, on sport and commercial fishing, on recreation, on water supply and water power, and on other beneficial purposes. Such studies shall also consider the effect of demographic trends, the exploitation of mineral resources and fossil fuels, land and industrial development, navigation, flood and erosion control, and other uses of estuaries and estuarine zones upon the pollution of the waters therein.

(2) In conducting such studies, the Administrator shall assemble, coordinate, and organize all existing pertinent information on the Nation's estuaries and estuarine zones; carry out a program of investigations and surveys to supplement existing information in rep-

resentative estuaries and estuarine zones; and identify the problems and areas where further research and study are required.

(3) The Administrator shall submit to Congress, from time to time, reports of the studies authorized by this subsection but at least one such report during any six-year period. Copies of each such report shall be made available to all interested parties, public and private.

(4) For the purpose of this subsection, the term "estuarine zones" means an environmental system consisting of an estuary and those transitional areas which are consistently influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, bays, harbors, lagoons, inshore waters, and channels, and the term "estuary" means all or part of the mouth of a river or stream or other body of water having unimpaired natural connection with open sea and within which the sea water is measurably diluted with fresh water derived from land drainage.

(o)(1) The Administrator shall conduct research and investigations on devices, systems, incentives, pricing policy, and other methods of reducing the total flow of sewage, including, but not limited to, unnecessary water consumption in order to reduce the requirements for, and the costs of, sewage and waste treatment services. Such research and investigations shall be directed to develop devices, systems, policies, and methods capable of achieving the maximum reduction of unnecessary water consumption.

(2) The Administrator shall report the preliminary results of such studies and investigations to the Congress within one year after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, and annually thereafter in the report required under subsection (a) of section 516. Such report shall include recommendations for any legislation that may be required to provide for the adoption and use of devices, systems, policies, or other methods of reducing water consumption and reducing the total flow of sewage. Such report shall include an estimate of the benefits to be derived from adoption and use of such devices, systems, policies, or other methods and also shall reflect estimates of any increase in private, public, or other cost that would be occasioned thereby.

(p) In carrying out the provisions of subsection (a) of this section the Administrator shall, in cooperation with the Secretary of Agriculture, other Federal agencies, and the States, carry out a comprehensive study and research program to determine new and improved methods and the better application of existing methods of preventing, reducing, and eliminating pollution from agriculture, including the legal, economic, and other implications of the use of such methods.

(q)(1) The Administrator shall conduct a comprehensive program of research and investigation and pilot project implementation into new and improved methods of preventing, reducing, storing, collecting, treating, or otherwise eliminating pollution from sewage in rural and other areas where collection of sewage in conventional, community-wide sewage collection systems is impractical, uneconomical, or otherwise infeasible, or where soil conditions or other factors preclude the use of septic tank and drainage field systems.

(2) The Administrator shall conduct a comprehensive program of research and investigation and pilot project implementation into new and improved methods for the collection and treatment of sewage and other liquid wastes combined with the treatment and disposal of solid wastes.

(3) The Administrator shall establish, either within the Environmental Protection Agency, or through contract with an appropriate public or private non-profit organization, a national clearinghouse which shall (A) receive reports and information resulting from research, demonstrations, and other projects funded under this Act related to paragraph (1) of this subsection and to subsection (e)(2) of section 105; (B) coordinate and disseminate such reports and information for use by Federal and State agencies, municipalities, institutions, and persons in developing new and improved methods pursuant to this subsection; and (C) provide for the collection and dissemination of reports and information relevant to this subsection from other Federal and State agencies, institutions, universities, and persons.

(4) SMALL FLOWS CLEARINGHOUSE.—Notwithstanding section 205(d) of this Act, from amounts that are set aside for a fiscal year under section 205(i) of this Act and are not obligated by the end of the 24-month period of availability for such amounts under section 205(d), the Administrator shall make available $1,000,000 or such unobligated amount, whichever is less, to support a national clearinghouse within the Environmental Protection Agency to collect and disseminate information on small flows of sewage and innovative or alternative wastewater treatment processes and techniques, consistent with paragraph (3). This paragraph shall apply with respect to amounts set aside under section 205(i) for which the 24-month period of availability referred to in the preceding sentence ends on or after September 30, 1986.

(r) The Administrator is authorized to make grants to colleges and universities to conduct basic research into the structure and function of fresh water aquatic ecosystems, and to improve understanding of the ecological characteristics necessary to the maintenance of the chemical, physical, and biological integrity of freshwater aquatic ecosystems.

(s) The Administrator is authorized to make grants to one or more institutions of higher education (regionally located and to be designated as "River Study Centers") for the purpose of conducting and reporting on interdisciplinary studies on the nature of river systems, including hydrology, biology, ecology, economics, the relationship between river uses and land uses, and the effects of development within river basins on river systems and on the value of water resources and water related activities. No such grant in any fiscal year shall exceed $1,000,000.

(t) The Administrator shall, in cooperation with State and Federal agencies and public and private organizations, conduct continuing comprehensive studies of the effects and methods of control of thermal discharges. In evaluating alternative methods of control the studies shall consider (1) such data as are available on the latest available technology, economic feasibility including cost-effectiveness analysis, and (2) the total impact on the environment, considering not only water quality but also air quality, land use, and

effective utilization and conservation of fresh water and other natural resources. Such studies shall consider methods of minimizing adverse effects and maximizing beneficial effects of thermal discharges. The results of these studies shall be reported by the Administrator as soon as practicable, but not later than 270 days after enactment of this subsection, and shall be made available to the public and the States, and considered as they become available by the Administrator in carrying out section 316 of this Act and by the State in proposing thermal water quality standards.

(u) There is authorized to be appropriated (1) not to exceed $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, not to exceed $14,039,000 for the fiscal year ending September 30, 1980, not to exceed $20,697,000 for the fiscal year ending September 30, 1981, not to exceed $22,770,000 for the fiscal year ending September 30, 1982, such sums as may be necessary for fiscal years 1983 through 1985, and not to exceed $22,770,000 per fiscal year for each of the fiscal years 1986 through 1990, for carrying out the provisions of this section, other than subsections (g)(1) and (2), (p), (r), and (t), except that such authorizations are not for any research, development, or demonstration activity pursuant to such provisions; (2) not to exceed $7,500,000 for fiscal years 1973, 1974, and 1975, $2,000,000 for fiscal year 1977, $3,000,000 for fiscal year 1978, $3,000,000 for fiscal year 1979, $3,000,000 for fiscal year 1980, $3,000,000 for fiscal year 1981, $3,000,000 for fiscal year 1982, such sums as may be necessary for fiscal years 1983 through 1985, and $3,000,000 per fiscal year for each of the fiscal years 1986 through 1990, for carrying out the provisions of subsection (g)(1); (3) not to exceed $2,500,000 for fiscal years 1973, 1974, and 1975, $1,000,000 for fiscal year 1977, $1,500,000 for fiscal year 1978, $1,500,000 for fiscal year 1979, $1,500,000 for fiscal year 1980, $1,500,000 for fiscal year 1981, $1,500,000 for fiscal year 1982, such sums as may be necessary for fiscal years 1983 through 1985, and $1,500,000 per fiscal year for each of the fiscal years 1986 through 1990, for carrying out the provisions of subsection (g)(2); (4) not to exceed $10,000,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (p); (5) not to exceed $15,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (r); (6) not to exceed $10,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (t); and (7) not to exceed $25,000,000 for each of fiscal years 2019 through 2023 for carrying out subsections (b)(3), (b)(8), and (g).

(v) STUDIES CONCERNING PATHOGEN INDICATORS IN COASTAL RECREATION WATERS.—Not later than 18 months after the date of the enactment of this subsection, after consultation and in cooperation with appropriate Federal, State, tribal, and local officials (including local health officials), the Administrator shall initiate, and, not later than 3 years after the date of the enactment of this subsection, shall complete, in cooperation with the heads of other Federal agencies, studies to provide additional information for use in developing—

(1) an assessment of potential human health risks resulting from exposure to pathogens in coastal recreation waters, including nongastrointestinal effects;

(2) appropriate and effective indicators for improving detection in a timely manner in coastal recreation waters of the presence of pathogens that are harmful to human health;

(3) appropriate, accurate, expeditious, and cost-effective methods (including predictive models) for detecting in a timely manner in coastal recreation waters the presence of pathogens that are harmful to human health; and

(4) guidance for State application of the criteria for pathogens and pathogen indicators to be published under section 304(a)(9) to account for the diversity of geographic and aquatic conditions.

(w) NONPROFIT ORGANIZATION.—For purposes of subsection (b)(8), the term "nonprofit organization" means a nonprofit organization that the Administrator determines, after consultation with the States regarding what small publicly owned treatments works in the State find to be most beneficial and effective, is qualified and experienced in providing on-site training and technical assistance to small publicly owned treatment works.

* * * * * * *

GRANTS FOR POLLUTION CONTROL PROGRAMS

SEC. 106. (a) There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purposes of this section—

(1) $60,000,000 for the fiscal year ending June 30, 1973; [and]

(2) $75,000,000 for the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, $100,000,000 per fiscal year for the fiscal years 1977, 1978, 1979, and 1980, $75,000,000 per fiscal year for the fiscal years 1981 and 1982, such sums as may be necessary for fiscal years 1983 through 1985, and $75,000,000 per fiscal year for each of the fiscal years 1986 through 1990;

(3) such sums as may be necessary for each of fiscal years 1991 through 2020;

(4) $240,000,000 for fiscal year 2021;

(5) $250,000,000 for fiscal year 2022;

(6) $260,000,000 for fiscal year 2023;

(7) $270,000,000 for fiscal year 2024; and

(8) $275,000,000 for fiscal year 2025;

for grants to States and to interstate agencies to assist them in administering programs for the prevention, reduction, and elimination of pollution, including enforcement directly or through appropriate State law enforcement officers or agencies.

(b) From the sums appropriated in any fiscal year, the Administrator shall make allotments to the several States and interstate agencies in accordance with regulations promulgated by him on the basis of the extent of the pollution problem in the respective States.

(c) The Administrator is authorized to pay to each State and interstate agency each fiscal year either—

(1) the allotment of such State or agency for such fiscal year under subsection (b), or

(2) the reasonable costs as determined by the Administrator of developing and carrying out a pollution program by such State or agency during such fiscal year,

which ever amount is the lesser.

(d) No grant shall be made under this section to any State or interstate agency for any fiscal year when the expenditure of non-Federal funds by such State or interstate agency during such fiscal year for the recurrent expenses of carrying out its pollution control program are less than the expenditure by such State or interstate agency of non-Federal funds for such recurrent program expenses during the fiscal year ending June 30, 1971.

(e) [Beginning in fiscal year 1974 the] *The* Administrator shall not make any grant under this section to any State which has not provided or is not carrying out as a part of its program—

(1) the establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, and to compile and analyze data on (including classification according to eutrophic condition), the quality of navigable waters and to the extent practicable, ground waters including biological monitoring; and provision for annually updating such data and including it in the report required under section 305 of this Act;

(2) authority comparable to that in section 504 of this Act and adequate contingency plans to implement such authority.

(f) Grants shall be made under this section on condition that—

(1) Such State (or interstate agency) filed with the Administrator within one hundred and twenty days after the date of enactment of this section:

(A) a summary report of the current status of the State pollution control program, including the criteria used by the State in determining priority of treatment works; and

(B) such additional information, data, and reports as the Administrator may require.

(2) No federally assumed enforcement as defined in section 309(a)(2) is in effect with respect to such State or interstate agency.

(3) Such State (or interstate agency) submits within one hundred and twenty days after the date of enactment of this section and before October 1 of each year thereafter for the Administrator's approval of its program for the prevention, reduction, and elimination of pollution in accordance with purposes and provisions of this Act in such form and content as the Administrator may prescribe.

(g) Any sums allotted under subsection (b) in any fiscal year which are not paid shall be reallotted by the Administrator in accordance with regulations promulgated by him.

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SEC. 122. [WATERSHED PILOT PROJECTS] *WATERSHED, WET WEATHER, AND RESILIENCY PROJECTS.*

(a) IN GENERAL.—The Administrator, in coordination with the States, may provide technical assistance and grants to a municipality or municipal entity to carry out [pilot] projects relating to the following areas:

(1) WATERSHED MANAGEMENT OF WET WEATHER DISCHARGES.—The management of municipal combined sewer overflows, sanitary sewer overflows, and stormwater discharges, on an integrated watershed or subwatershed basis for the purpose of demonstrating the effectiveness of a unified wet weather approach.

(2) STORMWATER BEST MANAGEMENT PRACTICES.—The control of pollutants from municipal separate storm sewer systems for the purpose of demonstrating and determining controls that are cost-effective and that use innovative technologies to manage, reduce, treat, recapture, or reuse municipal stormwater, including techniques that utilize infiltration, evapotranspiration, and reuse of stormwater onsite.

(3) WATERSHED PARTNERSHIPS.—Efforts of municipalities and property owners to demonstrate cooperative ways to address nonpoint sources of pollution to reduce adverse impacts on water quality.

(4) INTEGRATED WATER RESOURCE PLAN.—The development of an integrated water resource plan for the coordinated management and protection of surface water, ground water, and stormwater resources on a watershed or subwatershed basis to meet the objectives, goals, and policies of this Act.

(5) MUNICIPALITY-WIDE STORMWATER MANAGEMENT PLANNING.—The development of a municipality-wide plan that identifies the most effective placement of stormwater technologies and management approaches, to reduce water quality impairments from stormwater on a municipality-wide basis.

[(6) INCREASED RESILIENCE OF TREATMENT WORKS.—Efforts to assess future risks and vulnerabilities of publicly owned treatment works to manmade or natural disasters, including extreme weather events and sea-level rise, and to carry out measures, on a systemwide or area-wide basis, to increase the resiliency of publicly owned treatment works.**]**

(6) INCREASED RESILIENCE OF TREATMENT WORKS.—Efforts—

(A) to assess future risks and vulnerabilities of publicly owned treatment works to manmade or natural disasters, including extreme weather events and sea level rise; and

(B) to carry out the planning, designing, or constructing of projects, on a systemwide or areawide basis, to increase the resilience of publicly owned treatment works through—

(i) the conservation of water or the enhancement of water use efficiency;

(ii) the enhancement of wastewater (including stormwater) management by increasing watershed preservation and protection, including through—

(I) the use of green infrastructure; or

(II) the reclamation and reuse of wastewater (including stormwater), such as through aquifer recharge zones;

(iii) the modification or relocation of an existing publicly owned treatment works at risk of being significantly impaired or damaged by a manmade or natural disaster; or

(iv) the enhancement of energy efficiency, or the use or generation of recovered or renewable energy, in the

management, treatment, or conveyance of wastewater (including stormwater).

(b) ADMINISTRATION.—The Administrator, in coordination with the States, shall provide municipalities participating in a [pilot] project under this section the ability to engage in innovative practices, including the ability to unify separate wet weather control efforts under a single permit.

[(c) REPORT TO CONGRESS.—Not later than October 1, 2015, the Administrator shall transmit to Congress a report on the results of the pilot projects conducted under this section and their possible application nationwide.]

(c) REQUIREMENTS.—The requirements of section 608 shall apply to any construction, alteration, maintenance, or repair of treatment works receiving a grant under this section.

(d) ASSISTANCE.—The Administrator shall use not less than 15 percent of the amounts appropriated pursuant to this section in a fiscal year to provide assistance to municipalities with a population of less than 10,000, to the extent there are sufficient eligible applications.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $110,000,000, to remain available until expended.

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TITLE II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

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SEC. 220. PILOT PROGRAM FOR ALTERNATIVE WATER SOURCE PROJECTS.

(a) POLICY.—Nothing in this section shall be construed to affect the application of section 101(g) of this Act and all of the provisions of this section shall be carried out in accordance with the provisions of section 101(g).

(b) IN GENERAL.—The Administrator may establish a pilot program to make grants to State, interstate, and intrastate water resource development agencies (including water management districts and water supply authorities), local government agencies, private utilities, and nonprofit entities for alternative water source projects to meet critical water supply needs.

(c) ELIGIBLE ENTITY.—The Administrator may make grants under this section to an entity only if the entity has authority under State law to develop or provide water for municipal, industrial, and agricultural uses in an area of the State that is experiencing critical water supply needs.

(d) SELECTION OF PROJECTS.—

[(1) LIMITATION.—A project that has received funds under the reclamation and reuse program conducted under the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.) shall not be eligible for grant assistance under this section.

[(2) ADDITIONAL CONSIDERATION.—In making grants under this section, the Administrator shall consider whether the project is located within the boundaries of a State or area referred to in section 1 of the Reclamation Act of June 17, 1902

(32 Stat. 385), and within the geographic scope of the reclamation and reuse program conducted under the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.).]

(1) LIMITATION ON ELIGIBILITY.—A project that has received construction funds under the Reclamation Projects Authorization and Adjustment Act of 1992 shall not be eligible for grant assistance under this section.

[(3)] *(2)* GEOGRAPHICAL DISTRIBUTION.—Alternative water source projects selected by the Administrator under this section shall reflect a variety of geographical and environmental conditions.

[(e) COMMITTEE RESOLUTION PROCEDURE.—

[(1) IN GENERAL.—No appropriation shall be made for any alternative water source project under this section, the total Federal cost of which exceeds $3,000,000, if such project has not been approved by a resolution adopted by the Committee on Transportation and Infrastructure of the House of Representatives or the Committee on Environment and Public Works of the Senate.

[(2) REQUIREMENTS FOR SECURING CONSIDERATION.—For purposes of securing consideration of approval under paragraph (1), the Administrator shall provide to a committee referred to in paragraph (1) such information as the committee requests and the non-Federal sponsor shall provide to the committee information on the costs and relative needs for the alternative water source project.]

(e) ASSISTANCE.—The Administrator shall use not less than 15 percent of the amounts appropriated pursuant to this section in a fiscal year to provide assistance to eligible entities for projects designed to serve fewer than 10,000 individuals, to the extent there are sufficient eligible applications.

(f) USES OF GRANTS.—Amounts from grants received under this section may be used for engineering, design, construction, and final testing of alternative water source projects designed to meet critical water supply needs. Such amounts may not be used for planning, feasibility studies or for operation, maintenance, replacement, repair, or rehabilitation.

(g) COST SHARING.—[The Federal share]

(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of the eligible costs of an alternative water source project carried out using assistance made available under this section shall not exceed 50 percent.

(2) RECLAMATION AND REUSE PROJECTS.—For an alternative water source project that has received funds under the Reclamation Projects Authorization and Adjustment Act of 1992 (other than funds referred to in subsection (d)(1)), the total Federal share of the costs of the project shall not exceed 25 percent or $20,000,000, whichever is less.

(h) REPORTS.—On or before September 30, 2004, the Administrator shall transmit to Congress a report on the results of the pilot program established under this section, including progress made toward meeting the critical water supply needs of the participants in the pilot program.

(i) REQUIREMENTS.—The requirements of section 608 shall apply to any construction of an alternative water source project carried out using assistance made available under this section.

[(i)] *(j)* DEFINITIONS.—In this section, the following definitions apply:

(1) ALTERNATIVE WATER SOURCE PROJECT.—The term "alternative water source project" means a project designed to provide municipal, industrial, and agricultural water supplies in an environmentally sustainable manner by conserving, managing, reclaiming, or reusing water [or wastewater or by treating wastewater], *wastewater, or stormwater or by treating wastewater or stormwater*. Such term does not include water treatment or distribution facilities.

(2) CRITICAL WATER SUPPLY NEEDS.—The term "critical water supply needs" means existing or reasonably anticipated future water supply needs that cannot be met by existing water supplies, as identified in a comprehensive statewide or regional water supply plan or assessment projected over a planning period of at least 20 years.

[(j)] *(k)* AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section a total of [$75,000,000 for fiscal years 2002 through 2004] *$150,000,000*. Such sums shall remain available until expended.

SEC. 221. SEWER OVERFLOW AND STORMWATER REUSE MUNICIPAL GRANTS.

(a) IN GENERAL.—

(1) GRANTS TO STATES.—The Administrator may make grants to States for the purpose of providing grants to a municipality or municipal entity for planning, design, and construction of—

(A) treatment works to intercept, transport, control, treat, or reuse municipal combined sewer overflows, sanitary sewer overflows, or stormwater; and

(B) any other measures to manage, reduce, treat, or recapture stormwater or subsurface drainage water eligible for assistance under section 603(c).

(2) DIRECT MUNICIPAL GRANTS.—Subject to subsection (g), the Administrator may make a direct grant to a municipality or municipal entity for the purposes described in paragraph (1).

(b) PRIORITIZATION.—In selecting from among municipalities applying for grants under subsection (a), a State or the Administrator shall give priority to an applicant that—

(1) is a municipality that is a financially distressed community under subsection (c);

(2) has implemented or is complying with an implementation schedule for the nine minimum controls specified in the CSO control policy referred to in section 402(q)(1) and has begun implementing a long-term municipal combined sewer overflow control plan or a separate sanitary sewer overflow control plan;

(3) is requesting a grant for a project that is on a State's intended use plan pursuant to section 606(c); or

(4) is an Alaska Native Village.

(c) FINANCIALLY DISTRESSED COMMUNITY.—

(1) DEFINITION.—In [subsection (b),] *this section,* the term "financially distressed community" means a community that meets affordability criteria established by the State in which

the community is located, if such criteria are developed after public review and comment.

(2) CONSIDERATION OF IMPACT ON WATER AND SEWER RATES.—In determining if a community is a distressed community for the purposes of [subsection (b),] *this section,* the State shall consider, among other factors, the extent to which the rate of growth of a community's tax base has been historically slow such that implementing a plan described in subsection (b)(2) would result in a significant increase in any water or sewer rate charged by the community's publicly owned wastewater treatment facility.

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

(d) COST-SHARING.—[The Federal share]

(1) FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of activities carried out using amounts from a grant made under subsection (a) shall be not less than 55 percent of the cost. [The non-Federal share]

(B) FINANCIALLY DISTRESSED COMMUNITIES.—The Federal share of the cost of activities carried out using amounts from a grant made to a financially distressed community under subsection (a) shall be not less than 75 percent of the cost.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost may include, in any amount, public and private funds and in-kind services, and may include, notwithstanding section 603(h), financial assistance, including loans, from a State water pollution control revolving fund.

(e) ADMINISTRATIVE REQUIREMENTS.—A project that receives assistance under this section shall be carried out subject to the same requirements as a project that receives assistance from a State water pollution control revolving fund under title VI, except to the extent that the Governor of the State in which the project is located determines that a requirement of title VI is inconsistent with the purposes of this section. For the purposes of this subsection, a Governor may not determine that the requirements of title VI relating to the application of [section 513] *section 513, or the requirements of section 608,* are inconsistent with the purposes of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $225,000,000 for each of fiscal years 2019 through [2020] *2025*.

(2) MINIMUM ALLOCATIONS.—To the extent there are sufficient eligible project applications, the Administrator shall ensure that a State uses not less than 20 percent of the amount of the grants made to the State under subsection (a) in a fiscal year to carry out projects to intercept, transport, control, treat, or reuse municipal combined sewer overflows, sanitary sewer overflows, or stormwater through the use of green infrastructure, water and energy efficiency improvements, and other environmentally innovative activities.

(3) ASSISTANCE.—In carrying out subsection (a), the Administrator shall ensure that, of the amounts granted to municipalities in a State, not less than 20 percent is granted to municipalities with a population of less than 20,000, to the extent there are sufficient eligible applications.

(g) ALLOCATION OF FUNDS.—

(1) FISCAL YEAR 2019.—Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2019 for making grants to municipalities and municipal entities under subsection (a)(2) in accordance with the criteria set forth in subsection (b).

(2) FISCAL YEAR 2020 AND THEREAFTER.—Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2020 and each fiscal year thereafter for making grants to States under subsection (a)(1) in accordance with a formula to be established by the Administrator, after providing notice and an opportunity for public comment, that allocates to each State a proportional share of such amounts based on the total needs of the State for municipal combined sewer overflow controls, sanitary sewer overflow controls, and stormwater identified in the most recent detailed estimate and comprehensive study submitted pursuant to section 516 and any other information the Administrator considers appropriate.

(h) ADMINISTRATIVE EXPENSES.—Of the amounts appropriated to carry out this section for each fiscal year—

(1) the Administrator may retain an amount not to exceed 1 percent for the reasonable and necessary costs of administering this section; and

(2) the Administrator, or a State, may retain an amount not to exceed 4 percent of any grant made to a municipality or municipal entity under subsection (a), for the reasonable and necessary costs of administering the grant.

(i) REPORTS.—Not later than December 31, 2003, and periodically thereafter, the Administrator shall transmit to Congress a report containing recommended funding levels for grants under this section. The recommended funding levels shall be sufficient to ensure the continued expeditious implementation of municipal combined sewer overflow and sanitary sewer overflow controls nationwide.

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TITLE IV—PERMITS AND LICENSES

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NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

SEC. 402. (a)(1) Except as provided in sections 318 and 404 of this Act, the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 301(a), upon condition that such discharge will meet either (A) all applicable requirements under sections 301, 302, 306, 307, 308, and 403 of this Act, or (B) prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this Act.

(2) The Administrator shall prescribe conditions for such permits to assure compliance with the requirements of paragraph (1) of this subsection, including conditions on data and information collection, reporting, and such other requirements as he deems appropriate.

(3) The permit program of the Administrator under paragraph (1) of this subsection, and permits issued thereunder, shall be subject to the same terms, conditions, and requirements as apply to a State permit program and permits issued thereunder under subsection (b) of this section.

(4) All permits for discharges into the navigable waters issued pursuant to section 13 of the Act of March 3, 1899, shall be deemed to be permits issued under this title, and permits issued under this title shall be deemed to be permits issued under section 13 of the Act of March 3, 1899, and shall continue in force and effect for their term unless revoked, modified, or suspended in accordance with the provisions of this Act.

(5) No permit for a discharge into the navigable waters shall be issued under section 13 of the Act of March 3, 1899, after the date of enactment of this title. Each application for a permit under section 13 of the Act of March 3, 1899, pending on the date of enactment of this Act shall be deemed to be an application for a permit under this section. The Administrator shall authorize a State, which he determines has the capability of administering a permit program which will carry out the objective of this Act, to issue permits for discharges into the navigable waters within the jurisdiction of such State. The Administrator may exercise the authority granted him by the preceding sentence only during the period which begins on the date of enactment of this Act and ends either on the ninetieth day after the date of the first promulgation of guidelines required by section 304(i)(2) of this Act, or the date of approval by the Administrator of a permit program for such State under subsection (b) of this section, whichever date first occurs, and no such authorization to a State shall extend beyond the last day of such period. Each such permit shall be subject to such conditions as the Administrator determines are necessary to carry out the provisions of this Act. No such permit shall issue if the Administrator objects to such issuance.

(b) At any time after the promulgation of the guidelines required by subsection (i)(2) of section 304 of this Act, the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each such submitted program unless he determines that adequate authority does not exist:

(1) To issue permits which—

(A) apply, and insure compliance with, any applicable requirements of sections 301, 302, 306, 307, and 403;

[(B) are for fixed terms not exceeding five years; and]

(B) are for fixed terms—

(i) not exceeding 10 years, for a permit issued in accordance with subsection (t); and

(ii) not exceeding 5 years, for a permit not described in clause (i);

(C) can be terminated or modified for cause including, but not limited to, the following:

(i) violation of any condition of the permit;

(ii) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

(iii) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(D) do not continue in force beyond the last day of the fixed term, except as provided in subsection (k)(2); and

[(D)] *(E)* control the disposal of pollutants into wells;

(2)(A) To issue permits which apply, and insure compliance with, all applicable requirements of section 308 of this Act, or

(B) To inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of this Act;

(3) To insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application;

(4) To insure that the Administrator receives notice of each application (including a copy thereof) for a permit;

(5) To insure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing;

(6) To insure that no permit will be issued if, in the judgment of the Secretary of the Army acting through the Chief of Engineers, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby;

(7) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement;

(8) To insure that any permit for a discharge from a publicly owned treatment works includes conditions to require the identification in terms of character and volume of pollutants of any significant source introducing pollutants subject to pretreatment standards under section 307(b) of this Act into such works and a program to assure compliance with such pretreatment standards by each such source, in addition to adequate notice to the permitting agency of (A) new introductions into such works of pollutants from any source which would be a new source as defined in section 306 if such source were discharging pollutants, (B) new introductions of pollutants into such works from a source which would be subject to section 301 if it were discharging such pollutants, or (C) a sub-

stantial change in volume or character of pollutants being introduced into such works by a source introducing pollutants into such works at the time of issuance of the permit. Such notice shall include information on the quality and quantity of effluent to be introduced into such treatment works and any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works; and

(9) To insure that any industrial user of any publicly owned treatment works will comply with sections 204(b), 307, and 308.

(c)(1) Not later than ninety days after the date on which a State has submitted a program (or revision thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the issuance of permits under subsection (a) of this section as to those discharges subject to such program unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under section 304(i)(2) of this Act. If the Administrator so determines, he shall notify the State of any revisions or modifications necessary to conform to such requirements or guidelines.

(2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 304(i)(2) of this Act.

(3) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(4) LIMITATIONS ON PARTIAL PERMIT PROGRAM RETURNS AND WITHDRAWALS.—A State may return to the Administrator administration, and the Administrator may withdraw under paragraph (3) of this subsection approval, of—

(A) a State partial permit program approved under subsection (n)(3) only if the entire permit program being administered by the State department or agency at the time is returned or withdrawn; and

(B) a State partial permit program approved under subsection (n)(4) only if an entire phased component of the permit program being administered by the State at the time is returned or withdrawn.

(d)(1) Each State shall transmit to the Administrator a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State.

(2) No permit shall issue (A) if the Administrator within ninety days of the date of his notification under subsection (b)(5) of this section objects in writing to the issuance of such permit, or (B) if the Administrator within ninety days of the date of transmittal of the proposed permit by the State objects in writing to the issuance of such permit as being outside the guidelines and requirements of this Act. Whenever the Administrator objects to the issuance of a

permit under this paragraph such written objection shall contain a statement of the reasons for such objection and the effluent limitations and conditions which such permit would include if it were issued by the Administrator.

(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

(4) In any case where, after the date of enactment of this paragraph, the Administrator, pursuant to paragraph (2) of this subsection, objects to the issuance of a permit, on request of the State, a public hearing shall be held by the Administrator on such objection. If the State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing, or, if no hearing is requested within 90 days after the date of such objection, the Administrator may issue the permit pursuant to subsection (a) of this section for such source in accordance with the guidelines and requirements of this Act.

(e) In accordance with guidelines promulgated pursuant to subsection (i)(2) of section 304 of this Act, the Administrator is authorized to waive the requirements of subsection (d) of this section at the time he approves a program pursuant to subsection (b) of this section for any category (including any class, type, or size within such category) of point sources within the State submitting such program.

(f) The Administrator shall promulgate regulations establishing categories of point sources which he determines shall not be subject to the requirements of subsection (d) of this section in any State with a program approved pursuant to subsection (b) of this section. The Administrator may distinguish among classes, types, and sizes within any category of point sources.

(g) Any permit issued under this section for the discharge of pollutants into the navigable waters from a vessel or other floating craft shall be subject to any applicable regulations promulgated by the Secretary of the Department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

(h) In the event any condition of a permit for discharges from a treatment works (as defined in section 212 of this Act) which is publicly owned is violated, a State with a program approved under subsection (b) of this section or the Administrator, where no State program is approved or where the Administrator determines pursuant to section 309(a) of this Act that a State with an approved program has not commenced appropriate enforcement action with respect to such permit, may proceed in a court of competent jurisdiction to restrict or prohibit the introduction of any pollutant into such treatment works by a source not utilizing such treatment works prior to the finding that such condition was violated.

(i) Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of this Act.

(j) A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or permit, or portion thereof, shall further be available on request for the purpose of reproduction.

(k) *(1)* Compliance with a permit issued pursuant to this section shall be deemed compliance, for purposes of sections 309 and 505,

with sections 301, 302, 306, 307, and 403, except any standard imposed under section 307 for a toxic pollutant injurious to human health. Until December 31, 1974, in any case where a permit for discharge has been applied for pursuant to this section, but final administrative disposition of such application has not been made, such discharge shall not be a violation [of (1)]*of (A)* section 301, 306, or 402 of this Act, [or (2)]*or (B)* section 13 of the Act of March 3, 1899, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application. For the 180-day period beginning on the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, in the case of any point source discharging any pollutant or combination of pollutants immediately prior to such date of enactment which source is not subject to section 13 of the Act of March 3, 1899, the discharge by such source shall not be a violation of this Act if such a source applies for a permit for discharge pursuant to this section within such 180-day period.

(2) PERMIT RENEWAL OR REISSUANCE.—If a permittee applies to a State to renew or reissue a permit under this section, in compliance with the approved State permit program under subsection (b), and the State does not make a final administrative disposition of the application by the last day of the term of the permit—

(A) not later than 30 days after such last day of the term of the permit, the State shall notify the Administrator, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Environment and Public Works of the Senate of such failure to make a final administrative disposition;

(B) if the State does not make a final administrative disposition of the application by the date that is 180 days after the last day of the term of the permit, the Administrator shall make a final administrative disposition of the application not later than 180 days after such date; and

(C) the permit shall continue in effect until the date on which a final administrative disposition of the application is made.

(l) LIMITATION ON PERMIT REQUIREMENT.—

(1) AGRICULTURAL RETURN FLOWS.—The Administrator shall not require a permit under this section for discharges composed entirely of return flows from irrigated agriculture, nor shall the Administrator directly or indirectly, require any State to require such a permit.

(2) STORMWATER RUNOFF FROM OIL, GAS, AND MINING OPERATIONS.—The Administrator shall not require a permit under this section, nor shall the Administrator directly or indirectly require any State to require a permit, for discharges of stormwater runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not

contaminated by contact with, or do not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations.

(3) SILVICULTURAL ACTIVITIES.—

(A) NPDES PERMIT REQUIREMENTS FOR SILVICULTURAL ACTIVITIES.—The Administrator shall not require a permit under this section nor directly or indirectly require any State to require a permit under this section for a discharge from runoff resulting from the conduct of the following silviculture activities conducted in accordance with standard industry practice: nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance.

(B) OTHER REQUIREMENTS.—Nothing in this paragraph exempts a discharge from silvicultural activity from any permitting requirement under section 404, existing permitting requirements under section 402, or from any other federal law.

(C) The authorization provided in Section 505(a) does not apply to any non-permitting program established under 402(p)(6) for the silviculture activities listed in 402(l)(3)(A), or to any other limitations that might be deemed to apply to the silviculture activities listed in 402(l)(3)(A).

(m) ADDITIONAL PRETREATMENT OF CONVENTIONAL POLLUTANTS NOT REQUIRED.—To the extent a treatment works (as defined in section 212 of this Act) which is publicly owned is not meeting the requirements of a permit issued under this section for such treatment works as a result of inadequate design or operation of such treatment works, the Administrator, in issuing a permit under this section, shall not require pretreatment by a person introducing conventional pollutants identified pursuant to a section 304(a)(4) of this Act into such treatment works other than pretreatment required to assure compliance with pretreatment standards under subsection (b)(8) of this section and section 307(b)(1) of this Act. Nothing in this subsection shall affect the Administrator's authority under sections 307 and 309 of this Act, affect State and local authority under sections 307(b)(4) and 510 of this Act, relieve such treatment works of its obligations to meet requirements established under this Act, or otherwise preclude such works from pursuing whatever feasible options are available to meet its responsibility to comply with its permit under this section.

(n) PARTIAL PERMIT PROGRAM.—

(1) STATE SUBMISSION.—The Governor of a State may submit under subsection (b) of this section a permit program for a portion of the discharges into the navigable waters in such State.

(2) MINIMUM COVERAGE.—A partial permit program under this subsection shall cover, at a minimum, administration of a major category of the discharges into the navigable waters of the State or a major component of the permit program required by subsection (b).

(3) APPROVAL OF MAJOR CATEGORY PARTIAL PERMIT PROGRAMS.—The Administrator may approve a partial permit program covering administration of a major category of discharges under this subsection if—

(A) such program represents a complete permit program and covers all of the discharges under the jurisdiction of a department or agency of the State; and

(B) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b).

(4) APPROVAL OF MAJOR COMPONENT PARTIAL PERMIT PROGRAMS.—The Administrator may approve under this subsection a partial and phased permit program covering administration of a major component (including discharge categories) of a State permit program required by subsection (b) if—

(A) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b); and

(B) the State submits, and the Administrator approves, a plan for the State to assume administration by phases of the remainder of the State program required by subsection (b) by a specified date not more than 5 years after submission of the partial program under this subsection and agrees to make all reasonable efforts to assume such administration by such date.

(o) ANTI-BACKSLIDING.—

(1) GENERAL PROHIBITION.—In the case of effluent limitations established on the basis of subsection (a)(1)(B) of this section, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under section 304(b) subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit. In the case of effluent limitations established on the basis of section 301(b)(1)(C) or section 303(d) or (e), a permit may not be renewed, reissued, or modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit except in compliance with section 303(d)(4).

(2) EXCEPTIONS.—A permit with respect to which paragraph (1) applies may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant if—

(A) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation;

(B)(i) information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or

(ii) the Administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under subsection (a)(1)(B);

(C) a less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

(D) the permittee has received a permit modification under section 301(c), 301(g), 301(h), 301(i), 301(k), 301(n), or 316(a); or

(E) the permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification).

Subparagraph (B) shall not apply to any revised waste load allocations or any alternative grounds for translating water quality standards into effluent limitations, except where the cumulative effect of such revised allocations results in a decrease in the amount of pollutants discharged into the concerned waters, and such revised allocations are not the result of a discharger eliminating or substantially reducing its discharge of pollutants due to complying with the requirements of this Act or for reasons otherwise unrelated to water quality.

(3) LIMITATIONS.—In no event may a permit with respect to which paragraph (1) applies be renewed, reissued, or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, reissued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under section 303 applicable to such waters.

(p) MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.—

(1) GENERAL RULE.—Prior to October 1, 1994, the Administrator or the State (in the case of a permit program approved under section 402 of this Act) shall not require a permit under this section for discharges composed entirely of stormwater.

(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to the following stormwater discharges:

(A) A discharge with respect to which a permit has been issued under this section before the date of the enactment of this subsection.

(B) A discharge associated with industrial activity.

(C) A discharge from a municipal separate storm sewer system serving a population of 250,000 or more.

(D) A discharge from a municipal separate storm sewer system serving a population of 100,000 or more but less than 250,000.

(E) A discharge for which the Administrator or the State, as the case may be, determines that the stormwater discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

(3) PERMIT REQUIREMENTS.—

(A) INDUSTRIAL DISCHARGES.—Permits for discharges associated with industrial activity shall meet all applicable provisions of this section and section 301.

(B) MUNICIPAL DISCHARGE.—Permits for discharges from municipal storm sewers—

(i) may be issued on a system- or jurisdiction-wide basis;

(ii) shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and

(iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

(4) PERMIT APPLICATION REQUIREMENTS.—

(A) INDUSTRIAL AND LARGE MUNICIPAL DISCHARGES.—Not later than 2 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraphs (2)(B) and (2)(C). Applications for permits for such discharges shall be filed no later than 3 years after such date of enactment. Not later than 4 years after such date of enactment the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

(B) OTHER MUNICIPAL DISCHARGES.—Not later than 4 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraph (2)(D). Applications for permits for such discharges shall be filed no later than 5 years after such date of enactment. Not later than 6 years after such date of enactment, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

(5) STUDIES.—The Administrator, in consultation with the States, shall conduct a study for the purposes of—

(A) identifying those stormwater discharges or classes of stormwater discharges for which permits are not required pursuant to paragraphs (1) and (2) of this subsection;

(B) determining, to the maximum extent practicable, the nature and extent of pollutants in such discharges; and

(C) establishing procedures and methods to control stormwater discharges to the extent necessary to mitigate impacts on water quality.

Not later than October 1, 1988, the Administrator shall submit to Congress a report on the results of the study described in

subparagraphs (A) and (B). Not later than October 1, 1989, the Administrator shall submit to Congress a report on the results of the study described in subparagraph (C).

(6) REGULATIONS.—Not later than October 1, 1993, the Administrator, in consultation with State and local officials, shall issue regulations (based on the results of the studies conducted under paragraph (5)) which designate stormwater discharges, other than those discharges described in paragraph (2), to be regulated to protect water quality and shall establish a comprehensive program to regulate such designated sources. The program shall, at a minimum, (A) establish priorities, (B) establish requirements for State stormwater management programs, and (C) establish expeditious deadlines. The program may include performance standards, guidelines, guidance, and management practices and treatment requirements, as appropriate.

(q) COMBINED SEWER OVERFLOWS.—

(1) REQUIREMENT FOR PERMITS, ORDERS, AND DECREES.—Each permit, order, or decree issued pursuant to this Act after the date of enactment of this subsection for a discharge from a municipal combined storm and sanitary sewer shall conform to the Combined Sewer Overflow Control Policy signed by the Administrator on April 11, 1994 (in this subsection referred to as the "CSO control policy").

(2) WATER QUALITY AND DESIGNATED USE REVIEW GUIDANCE.—Not later than July 31, 2001, and after providing notice and opportunity for public comment, the Administrator shall issue guidance to facilitate the conduct of water quality and designated use reviews for municipal combined sewer overflow receiving waters.

(3) REPORT.—Not later than September 1, 2001, the Administrator shall transmit to Congress a report on the progress made by the Environmental Protection Agency, States, and municipalities in implementing and enforcing the CSO control policy.

(r) DISCHARGES INCIDENTAL TO THE NORMAL OPERATION OF RECREATIONAL VESSELS.—No permit shall be required under this Act by the Administrator (or a State, in the case of a permit program approved under subsection (b)) for the discharge of any graywater, bilge water, cooling water, weather deck runoff, oil water separator effluent, or effluent from properly functioning marine engines, or any other discharge that is incidental to the normal operation of a vessel, if the discharge is from a recreational vessel.

(s) INTEGRATED PLANS.—

(1) DEFINITION OF INTEGRATED PLAN.—In this subsection, the term "integrated plan" means a plan developed in accordance with the Integrated Municipal Stormwater and Wastewater Planning Approach Framework, issued by the Environmental Protection Agency and dated June 5, 2012.

(2) IN GENERAL.—The Administrator (or a State, in the case of a permit program approved by the Administrator) shall inform municipalities of the opportunity to develop an integrated plan that may be incorporated into a permit under this section.

(3) SCOPE.—

(A) SCOPE OF PERMIT INCORPORATING INTEGRATED PLAN.—A permit issued under this section that incorporates an integrated plan may integrate all requirements under this Act addressed in the integrated plan, including requirements relating to—

(i) a combined sewer overflow;

(ii) a capacity, management, operation, and maintenance program for sanitary sewer collection systems;

(iii) a municipal stormwater discharge;

(iv) a municipal wastewater discharge; and

(v) a water quality-based effluent limitation to implement an applicable wasteload allocation in a total maximum daily load.

(B) INCLUSIONS IN INTEGRATED PLAN.—An integrated plan incorporated into a permit issued under this section may include the implementation of—

(i) projects, including innovative projects, to reclaim, recycle, or reuse water; and

(ii) green infrastructure.

(4) COMPLIANCE SCHEDULES.—

(A) IN GENERAL.—A permit issued under this section that incorporates an integrated plan may include a schedule of compliance, under which actions taken to meet any applicable water quality-based effluent limitation may be implemented over more than 1 permit term if the schedule of compliance—

(i) is authorized by State water quality standards; and

(ii) meets the requirements of section 122.47 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection).

(B) TIME FOR COMPLIANCE.—For purposes of subparagraph (A)(ii), the requirement of section 122.47 of title 40, Code of Federal Regulations, for compliance by an applicable statutory deadline under this Act does not prohibit implementation of an applicable water quality-based effluent limitation over more than 1 permit term.

(C) REVIEW.—A schedule of compliance incorporated into a permit issued under this section may be reviewed at the time the permit is renewed to determine whether the schedule should be modified.

(5) EXISTING AUTHORITIES RETAINED.—

(A) APPLICABLE STANDARDS.—Nothing in this subsection modifies any obligation to comply with applicable technology and water quality-based effluent limitations under this Act.

(B) FLEXIBILITY.—Nothing in this subsection reduces or eliminates any flexibility available under this Act, including the authority of a State to revise a water quality standard after a use attainability analysis under section 131.10(g) of title 40, Code of Federal Regulations (or a successor regulation), subject to the approval of the Administrator under section 303(c).

(6) CLARIFICATION OF STATE AUTHORITY.—

(A) IN GENERAL.—Nothing in section 301(b)(1)(C) precludes a State from authorizing in the water quality standards of the State the issuance of a schedule of compliance to meet water quality-based effluent limitations in permits that incorporate provisions of an integrated plan.

(B) TRANSITION RULE.—In any case in which a discharge is subject to a judicial order or consent decree, as of the date of enactment of this subsection, resolving an enforcement action under this Act, any schedule of compliance issued pursuant to an authorization in a State water quality standard may not revise a schedule of compliance in that order or decree to be less stringent, unless the order or decree is modified by agreement of the parties and the court.

(t) EXTENDED TERM FOR CERTAIN PERMITS.—

(1) IN GENERAL.—A State with an approved permit program under subsection (b) may issue a permit under this section with a term authorized under subsection (b)(1)(B)(i) to an eligible municipality for a covered discharge.

(2) REVIEW AND MODIFICATION OF PERMIT.—

(A) STATE ACTION.—

(i) REVIEW.—Not later than 60 days after a triggering event occurs with respect to a permit issued by a State pursuant to this subsection, the State shall review the permit and make publicly available a determination of whether any modifications to the permit are necessary to address the triggering event.

(ii) MODIFICATION.—Not later than 90 days after making publicly available a determination under clause (i) that modifications to a permit are necessary, the State shall make such modifications in accordance with the requirements of this section.

(B) EPA ACTION.—

(i) REVIEW.—If a State fails to make publicly available a determination by the deadline required under subparagraph (A), the Administrator shall make publicly available such a determination not later than 30 days after such deadline.

(ii) MODIFICATION.—If a State fails to modify a permit by the deadline required under subparagraph (A), or if the Administrator makes publicly available under this subparagraph a determination that modifications to a permit are necessary, the Administrator shall make such modifications in accordance with the requirements of this section not later than 90 days after the deadline required under subparagraph (A), or 90 days after the date on which the Administrator makes publicly available such determination under this subparagraph, as applicable.

(iii) EFFECT ON STATE AUTHORITY.—A permit modified by the Administrator under clause (ii) shall be considered to be a permit issued by the State for the purposes of permit administration, and such modification shall not affect any other authority or responsibility of the State relating to the permit.

(C) RIGHT OF ACTION.—A determination under this paragraph by a State or the Administrator of whether modifications to a permit are necessary to address a triggering event is a final agency action subject to judicial review in the same manner as a review under section 509(b)(1).

(3) DEFINITIONS.—In this subsection:

(A) COVERED DISCHARGE.—The term "covered discharge" means a discharge from a publicly owned treatment works, which consists of municipal sewage treated, recycled, or reclaimed in accordance with this Act (and may include a municipal combined sewer overflow that is in compliance with the requirements of subsection (q))—

(i) into a navigable water that is not identified by the State issuing the permit under section 303(d) as impaired for a pollutant specifically addressed by the permit; or

(ii) in the case of a discharge into a navigable water that is so identified, that is subject to, and in compliance with, permit limits that are consistent with—

(I) a judicial order or consent decree resolving an enforcement action related to such discharge under this Act; or

(II) for each such pollutant, any applicable approved total maximum daily load allocation, or, if no such approved allocation exists, any applicable water quality standard for the pollutant (including any such standard as addressed in an integrated plan incorporated into a permit under subsection (s)).

(B) ELIGIBLE MUNICIPALITY.—The term "eligible municipality" means a municipality with a history of compliance with this Act, as determined in accordance with standards established by the Administrator.

(C) TRIGGERING EVENT.—The term "triggering event" means, with respect to a permit issued pursuant to this subsection, any of the following that happens after the date on which the permit is issued:

(i) The State receives information that there may be a cause for modification, as identified in section 122.62 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection), of the permit.

(ii) The State identifies under section 303(d) the navigable water into which a discharge is permitted pursuant to the permit as impaired for a pollutant known to be present in the discharge.

(iii) The Administrator approves a new or modified total maximum daily load that applies with respect to a pollutant known to be present in a discharge permitted pursuant to the permit.

(iv) The Administrator or the State determines that—

(I) a pollutant known to be discharged under the permit is directly related to the contamination of a water designated for use as a public water supply source pursuant to section 303; and

(II)(aa) the discharge of such pollutant is related to a violation of an applicable water quality standard; or

(bb) such pollutant is subject to a health advisory published by the Administrator under section 1412(b)(1)(F) of the Safe Drinking Water Act.

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TITLE V—GENERAL PROVISIONS

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REPORTS TO CONGRESS

SEC. 516. (a) Within ninety days following the convening of each session of Congress, the Administrator shall submit to the Congress a report, in addition to any other report required by this Act, on measures taken toward implementing the objective of this Act, including, but not limited to, (1) the progress and problems associated with developing comprehensive plans under section 102 of this Act, areawide plans under section 208 of this Act, basin plans under section 209 of this Act, and plans under section 303 (e) of this Act; (2) a summary of actions taken and results achieved in the field of water pollution control research, experiments, studies, and related matters by the Administrator and other Federal agencies and by other persons and agencies under Federal grants or contracts; (3) the progress and problems associated with the development of effluent limitations and recommended control techniques; (4) the status of State programs, including a detailed summary of the progress obtained as compared to that planned under State program plans for development and enforcement of water quality requirements; (5) the identification and status of enforcement actions pending or completed under such Act during the preceding year; (6) the status of State, interstate, and local pollution control programs established pursuant to, and assisted by, this Act; (7) a summary of the results of the survey required to be taken under section 210 of this Act; (8) his activities including recommendations under sections 109 through 111 of this Act; and (9) all reports and recommendations made by the Water Pollution Control Advisory Board.

(b)(1) The Administrator, in cooperation with the States, including water pollution control agencies and other water pollution control planning agencies, shall make (A) a detailed estimate of the cost of carrying out the provisions of this Act; (B) a detailed estimate, biennially revised[, of the cost of construction], *of (i) the cost of construction* of all needed publicly owned treatment works in all of the States and of the cost of construction of all needed publicly owned treatment works in [each of the States;] *each of the States, and (ii) the costs to implement measures necessary to address the resilience and sustainability of publicly owned treatment works to manmade or natural disasters;* (C) a comprehensive study of the economic impact on affected units of government of the cost of installation of treatment facilities; and (D) a comprehensive analysis of the national requirements for and the cost of treating municipal, industrial, and other effluent to attain the water quality objectives as established by this Act or applicable State law. The Adminis-

trator shall submit such detailed estimate and such comprehensive study of such cost to the Congress no later than February 10 of each odd-numbered year. Whenever the Administrator, pursuant to this subsection, requests and receives an estimate of cost from a State, he shall furnish copies of such estimate together with such detailed estimate to Congress.

(2) Notwithstanding the second sentence of paragraph (1) of this subsection, the Administrator shall make a preliminary detailed estimate called for by subparagraph (B) of such paragraph and shall submit such preliminary detailed estimate to the Congress no later than September 3, 1974. The Administrator shall require each State to prepare an estimate of cost for such State, and shall utilize the survey form EPA-1, O.M.B. No. 158-R0017, prepared for the 1973 detailed estimate, except that such estimate shall include all costs of compliance with section 201(g)(2)(A) of this Act and water quality standards established pursuant to section 303 of this Act, and all costs of treatment works as defined in section 212(2), including all eligible costs of constructing sewage collection systems and correcting excessive infiltration or inflow and all eligible costs of correcting combined storm and sanitary sewer problems and treating storm water flows. The survey form shall be distributed by the Administrator to each State no later than January 31, 1974.

(c) The Administrator shall submit to the Congress by October 1, 1978, a report on the status of combined sewer overflows in municipal treatment works operations. The report shall include (1) the status of any projects funded under this Act to address combined sewer overflows (2) a listing by State of combined sewer overflow needs identified in the 1977 State priority listings, (3) an estimate for each applicable municipality of the number of years necessary, assuming an annual authorization and appropriation for the construction grants program of $5,000,000,000, to correct combined sewer overflow problems, (4) an analysis using representative municipalities faced with major combined sewer overflow needs, of the annual discharges of pollutants from overflows in comparison to treated effluent discharges, (5) an analysis of the technological alternatives available to municipalities to correct major combined sewer overflow problems, and (6) any recommendations of the Administrator for legislation to address the problem of combined sewer overflows, including whether a separate authorization and grant program should be established by the Congress to address combined sewer overflows.

(d) The Administrator, in cooperation with the States, including water pollution control agencies, and other water pollution control planning agencies, and water supply and water resources agencies of the States and the United States shall submit to Congress, within two years of the date of enactment of this section, a report with recommendations for legislation on a program to require coordination between water supply and wastewater control plans as a condition to grants for construction of treatment works under this Act. No such report shall be submitted except after opportunity for public hearings on such proposed report.

(e) STATE REVOLVING FUND REPORT.—

(1) IN GENERAL.—Not later than February 10, 1990, the Administrator shall submit to Congress a report on the financial status and operations of water pollution control revolving

funds established by the States under title VI of this Act. The Administrator shall prepare such report in cooperation with the States, including water pollution control agencies and other water pollution control planning and financing agencies.

(2) CONTENTS.—The report under this subsection shall also include the following:

(A) an inventory of the facilities that are in significant noncompliance with the enforceable requirements of this Act;

(B) an estimate of the cost of construction necessary to bring such facilities into compliance with such requirements;

(C) an assessment of the availability of sources of funds for financing such needed construction, including an estimate of the amount of funds available for providing assistance for such construction through September 30, 1999, from the water pollution control revolving funds established by the States under title VI of this Act;

(D) an assessment of the operations, loan portfolio, and loan conditions of such revolving funds;

(E) an assessment of the effect on user charges of the assistance provided by such revolving funds compared to the assistance provided with funds appropriated pursuant to section 207 of this Act; and

(F) an assessment of the efficiency of the operation and maintenance of treatment works constructed with assistance provided by such revolving funds compared to the efficiency of the operation and maintenance of treatment works constructed with assistance provided under section 201 of this Act.

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SEC. 518. INDIAN TRIBES.

(a) POLICY.—Nothing in this section shall be construed to affect the application of section 101(g) of this Act, and all of the provisions of this section shall be carried out in accordance with the provisions of such section 101(g). Indian tribes shall be treated as States for purposes of such section 101(g).

(b) ASSESSMENT OF SEWAGE TREATMENT NEEDS; REPORT.—The Administrator, in cooperation with the Director of the Indian Health Service, shall assess the need for sewage treatment works to serve Indian tribes, the degree to which such needs will be met through funds allotted to States under section 205 of this Act and priority lists under section 216 of this Act, and any obstacles which prevent such needs from being met. Not later than one year after the date of the enactment of this section, the Administrator shall submit a report to Congress on the assessment under this subsection, along with recommendations specifying (1) how the Administrator intends to provide assistance to Indian tribes to develop waste treatment management plans and to construct treatment works under this Act, and (2) methods by which the participation in and administration of programs under this Act by Indian tribes can be maximized.

(c) RESERVATION OF FUNDS.—

[(1) FISCAL YEARS 1987–2014.—The Administrator shall reserve each of fiscal years 1987 through 2014, before allotments to the States under section 205(e), one-half of one percent of the sums appropriated under section 207.

[(2) FISCAL YEAR 2015 AND THEREAFTER.—For fiscal year 2015 and each fiscal year thereafter, the Administrator shall reserve, before allotments to the States under section 604(a), not less than 0.5 percent and not more than 2.0 percent of the funds made available to carry out title VI.]

(1) IN GENERAL.—For each fiscal year, the Administrator shall reserve, of the funds made available to carry out title VI (before allotments to the States under section 604(a)), the greater of—

(A) 2 percent of such funds; or

(B) $30,000,000.

(2) USE OF FUNDS.—

(A) GRANTS.—Funds reserved under this subsection shall be available only for grants to entities described in paragraph (3) for—

(i) projects and activities eligible for assistance under section 603(c); and

(ii) training, technical assistance, and educational programs relating to the operation and management of treatment works eligible for assistance pursuant to section 603(c).

(B) LIMITATION.—Not more than $2,000,000 of the reserved funds may be used for grants under subparagraph (A)(ii).

(3) [USE OF FUNDS] *ELIGIBLE ENTITIES*.—Funds reserved under this subsection shall be available only for grants [for projects and activities eligible for assistance under section 603(c) to serve] *to*—

(A) Indian tribes (as defined in subsection (h));

(B) former Indian reservations in Oklahoma (as determined by the Secretary of the Interior); and

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

(d) COOPERATIVE AGREEMENTS.—In order to ensure the consistent implementation of the requirements of this Act, an Indian tribe and the State or States in which the lands of such tribe are located may enter into a cooperative agreement, subject to the review and approval of the Administrator, to jointly plan and administer the requirements of this Act.

(e) TREATMENT AS STATES.—The Administrator is authorized to treat an Indian tribe as a State for purposes of title II and sections 104, 106, 303, 305, 308, 309, 314, 319, 401, 402, 404, and 406 of this Act to the degree necessary to carry out the objectives of this section, but only if—

(1) the Indian tribe has a governing body carrying out substantial governmental duties and powers;

(2) the functions to be exercised by the Indian tribe pertain to the management and protection of water resources which are held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe if such prop-

erty interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation; and

(3) the Indian tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this Act and of all applicable regulations.

Such treatment as a State may include the direct provision of funds reserved under subsection (c) to the governing bodies of Indian tribes, and the determination of priorities by Indian tribes, where not determined by the Administrator in cooperation with the Director of the Indian Health Service. The Administrator, in cooperation with the Director of the Indian Health Service, is authorized to make grants under title II of this Act in an amount not to exceed 100 percent of the cost of a project. Not later than 18 months after the date of the enactment of this section, the Administrator shall, in consultation with Indian tribes, promulgate final regulations which specify how Indian tribes shall be treated as States for purposes of this Act. The Administrator shall, in promulgating such regulations, consult affected States sharing common water bodies and provide a mechanism for the resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and Indian tribes located on common bodies of water. Such mechanism shall provide for explicit consideration of relevant factors including, but not limited to, the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to such standards. Such mechanism should provide for the avoidance of such unreasonable consequences in a manner consistent with the objective of this Act.

(f) GRANTS FOR NONPOINT SOURCE PROGRAMS.—The Administrator shall make grants to an Indian tribe under section 319 of this Act as though such tribe was a State. Not more than one-third of one percent of the amount appropriated for any fiscal year under section 319 may be used to make grants under this subsection. In addition to the requirements of section 319, an Indian tribe shall be required to meet the requirements of paragraphs (1), (2), and (3) of subsection (d) of this section in order to receive such a grant.

(g) ALASKA NATIVE ORGANIZATIONS.—No provision of this Act shall be construed to—

(1) grant, enlarge, or diminish, or in any way affect the scope of the governmental authority, if any, of any Alaska Native organization, including any federally-recognized tribe, traditional Alaska Native council, or Native council organized pursuant to the Act of June 18, 1934 (48 Stat. 987), over lands or persons in Alaska;

(2) create or validate any assertion by such organization or any form of governmental authority over lands or persons in Alaska; or

(3) in any way affect any assertion that Indian country, as defined in section 1151 of title 18, United States Code, exists or does not exist in Alaska.

(h) DEFINITIONS.—For purposes of this section, the term—

(1) "Federal Indian reservation" means all land within the limits of any Indian reservation under the jurisdiction of the

United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; and

(2) "Indian tribe" means any Indian tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation.

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TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

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SEC. 602. CAPITALIZATION GRANT AGREEMENTS.

(a) GENERAL RULE.—To receive a capitalization grant with funds made available under this title and section 205(m) of this Act, a State shall enter into an agreement with the Administrator which shall include but not be limited to the specifications set forth in subsection (b) of this section.

(b) SPECIFIC REQUIREMENTS.—The Administrator shall enter into an agreement under this section with a State only after the State has established to the satisfaction of the Administrator that—

(1) the State will accept grant payments with funds to be made available under this title and section 205(m) of this Act in accordance with a payment schedule established jointly by the Administrator under section 601(b) of this Act and will deposit all such payments in the water pollution control revolving fund established by the State in accordance with this title;

(2) the State will deposit in the fund from State moneys an amount equal to at least 20 percent of the total amount of all capitalization grants which will be made to the State with funds to be made available under this title and section 205(m) of this Act on or before the date on which each quarterly grant payment will be made to the State under this title;

(3) the State will enter into binding commitments to provide assistance in accordance with the requirements of this title in an amount equal to 120 percent of the amount of each such grant payment within 1 year after the receipt of such grant payment;

(4) all funds in the fund will be expended in an expeditious and timely manner;

(5) all funds in the fund as a result of capitalization grants under this title and section 205(m) of this Act will first be used to assure maintenance of progress, as determined by the Governor of the State, toward compliance with enforceable deadlines, goals, and requirements of this Act, including the municipal compliance deadline;

(6) treatment works eligible under this Act which will be constructed in whole or in part with assistance made available by a State water pollution control revolving fund authorized under this title, or section 205(m) of this Act, or both, will meet the requirements of, or otherwise be treated (as determined by the Governor of the State) under sections 511(c)(1) and 513 of this Act in the same manner as treatment works constructed with assistance under title II of this Act;

(7) in addition to complying with the requirements of this title, the State will commit or expend each quarterly grant payment which it will receive under this title in accordance with laws and procedures applicable to the commitment or expenditure of revenues of the State;

(8) in carrying out the requirements of section 606 of this Act, the State will use accounting, audit, and fiscal procedures conforming to generally accepted government accounting standards;

(9) the State will require as a condition of making a loan or providing other assistance, as described in section 603(d) of this Act, from the fund that the recipient of such assistance will maintain project accounts in accordance with generally accepted government accounting standards, including standards relating to the reporting of infrastructure assets;

(10) the State will make annual reports to the Administrator on the actual use of funds in accordance with section 606(d) of this Act;

(11) the State will establish, maintain, invest, and credit the fund with repayments, such that the fund balance will be available in perpetuity for activities under this Act;

(12) any fees charged by the State to recipients of assistance that are considered program income will be used for the purpose of financing the cost of administering the fund or financing projects or activities eligible for assistance from the fund;

(13) beginning in fiscal year 2016, the State will require as a condition of providing assistance to a municipality or intermunicipal, interstate, or State agency that the recipient of such assistance certify, in a manner determined by the Governor of the State, that the recipient—

(A) has studied and evaluated the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the proposed project or activity for which assistance is sought under this title; and

(B) has selected, to the maximum extent practicable, a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation, **[**and energy conservation**]** *and efficient energy use (including through the implementation of technologies to recapture and reuse energy produced in the treatment of wastewater)*, taking into account—

(i) the cost of constructing the project or activity;

(ii) the cost of operating and maintaining the project or activity over the life of the project or activity; and

(iii) the cost of replacing the project or activity**[**; and**]***;*

(14) a contract to be carried out using funds directly made available by a capitalization grant under this title for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services shall be negotiated in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, United States Code, or an equivalent State qualifications-based re-

quirement (as determined by the Governor of the State)[.]*; and*

(15) to the extent there are sufficient projects or activities eligible for assistance from the fund, with respect to funds for capitalization grants received by the State under this title and section 205(m) in each of fiscal years 2021 through 2025, the State will use not less than 15 percent of such funds for projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities.

SEC. 603. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

(a) REQUIREMENTS FOR OBLIGATION OF GRANT FUNDS.—Before a State may receive a capitalization grant with funds made available under this title and section 205(m) of this Act, the State shall first establish a water pollution control revolving fund which complies with the requirements of this section.

(b) ADMINISTRATOR.—Each State water pollution control revolving fund shall be administered by an instrumentality of the State with such powers and limitations as may be required to operate such fund in accordance with the requirements and objectives of this Act.

(c) PROJECTS AND ACTIVITIES ELIGIBLE FOR ASSISTANCE.—The amounts of funds available to each State water pollution control revolving fund shall be used only for providing financial assistance—

(1) to any municipality or intermunicipal, interstate, or State agency for construction of publicly owned treatment works (as defined in section 212);

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

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

(4) for the construction, repair, or replacement of decentralized wastewater treatment systems that treat municipal wastewater or domestic sewage;

(5) for measures to manage, reduce, treat, or recapture stormwater or subsurface drainage water;

(6) to any municipality or intermunicipal, interstate, or State agency for measures to reduce the demand for publicly owned treatment works capacity through water conservation, efficiency, or reuse;

(7) for the development and implementation of [watershed] projects meeting the criteria set forth in section 122;

(8) to any municipality or intermunicipal, interstate, or State agency for measures to reduce the energy consumption needs for publicly owned treatment works;

(9) for reusing or recycling wastewater, stormwater, or subsurface drainage water;

(10) for measures to increase the security of publicly owned treatment works;

(11) to any qualified nonprofit entity, as determined by the Administrator, to provide assistance to owners and operators of small and medium publicly owned treatment works—

(A) to plan, develop, and obtain financing for eligible projects under this subsection, including planning, design, and associated preconstruction activities; and

(B) to assist such treatment works in achieving compliance with this Act; and

(12) to any qualified nonprofit entity, as determined by the Administrator, to provide assistance to an eligible individual (as defined in subsection (j))—

(A) for the repair or replacement of existing individual household decentralized wastewater treatment systems; or

(B) in a case in which an eligible individual resides in a household that could be cost-effectively connected to an available publicly owned treatment works, for the connection of the applicable household to such treatment works.

(d) TYPES OF ASSISTANCE.—Except as otherwise limited by State law, a water pollution control revolving fund of a State under this section may be used only—

(1) to make loans, on the condition that—

(A) such loans are made at or below market interest rates, including interest free loans, at terms not to exceed the lesser of 30 years and the projected useful life (as determined by the State) of the project to be financed with the proceeds of the loan;

(B) annual principal and interest payments will commence not later than 1 year after completion of any project and all loans will be fully amortized upon the expiration of the term of the loan;

(C) the recipient of a loan will establish a dedicated source of revenue for repayment of loans;

(D) the fund will be credited with all payments of principal and interest on all loans; and

(E) for a treatment works proposed for repair, replacement, or expansion, and eligible for assistance under subsection (c)(1), the recipient of a loan shall—

(i) develop and implement a fiscal sustainability plan that includes—

(I) an inventory of critical assets that are a part of the treatment works;

(II) an evaluation of the condition and performance of inventoried assets or asset groupings;

(III) a certification that the recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan; and

(IV) a plan for maintaining, repairing, and, as necessary, replacing the treatment works and a plan for funding such activities; or

(ii) certify that the recipient has developed and implemented a plan that meets the requirements under clause (i);

(2) to buy or refinance the debt obligation of municipalities and intermunicipal and interstate agencies within the State at or below market rates, where such debt obligations were incurred after March 7, 1985;

(3) to guarantee, or purchase insurance for, local obligations where such action would improve credit market access or reduce interest rates;

(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds

issued by the State if the proceeds of the sale of such bonds will be deposited in the fund;

(5) to provide loan guarantees for similar revolving funds established by municipalities or intermunicipal agencies;

(6) to earn interest on fund accounts; and

(7) for the reasonable costs of administering the fund and conducting activities under this title, except that such amounts shall not exceed 4 percent of all grant awards to such fund under this title, $400,000 per year, or ⅕ percent per year of the current valuation of the fund, whichever amount is greatest, plus the amount of any fees collected by the State for such purpose regardless of the source.

(e) LIMITATION TO PREVENT DOUBLE BENEFITS.—If a State makes, from its water pollution revolving fund, a loan which will finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of publicly owned treatment works, the State shall ensure that if the recipient of such loan receives a grant under section 201(g) of this Act for construction of such treatment works and an allowance under section 201(l)(1) of this Act for non-federal funds expended for such planning and preparation, such recipient will promptly repay such loan to the extent of such allowance.

(f) CONSISTENCY WITH PLANNING REQUIREMENTS.—A State may provide financial assistance from its water pollution control revolving fund only with respect to a project which is consistent with plans, if any, developed under sections 205(j), 208, 303(e), 319, and 320 of this Act.

(g) PRIORITY LIST REQUIREMENT.—The State may provide financial assistance from its water pollution control revolving fund only with respect to a project for construction of a treatment works described in subsection (c)(1) if such project is on the State's priority list under section 216 of this Act. Such assistance may be provided regardless of the rank of such project on such list.

(h) ELIGIBILITY OF NON-FEDERAL SHARE OF CONSTRUCTION GRANT PROJECTS.—A State water pollution control revolving fund may provide assistance (other than under subsection (d)(1) of this section) to a municipality or intermunicipal or interstate agency with respect to the non-Federal share of the costs of a treatment works project for which such municipality or agency is receiving assistance from the Administrator under any other authority only if such assistance is necessary to allow such project to proceed.

(i) ADDITIONAL SUBSIDIZATION.—

(1) IN GENERAL.—In any case in which a State provides assistance to an eligible recipient under subsection (d), the State may provide additional subsidization[, including forgiveness of principal and negative interest loans] *(including in the form of forgiveness of principal, negative interest loans, or grants)*—

(A) [in assistance] to a municipality or intermunicipal, interstate, or State agency to benefit a municipality that—

(i) meets the affordability criteria of the State established under paragraph (2); or

(ii) does not meet the affordability criteria of the State if the recipient—

(I) seeks additional subsidization to benefit individual ratepayers in the residential user rate class;

(II) demonstrates to the State that such ratepayers will experience a significant hardship from the increase in rates necessary to finance the project or activity for which assistance is sought; and

(III) ensures, as part of an assistance agreement between the State and the recipient, that the additional subsidization provided under this paragraph is directed through a user charge rate system (or other appropriate method) [to such ratepayers] *to help such ratepayers maintain access to wastewater and stormwater treatment services*; or

(B) to implement a process, material, technique, or technology—

(i) to address water-efficiency goals;

(ii) to address energy-efficiency goals;

(iii) to mitigate stormwater runoff; or

(iv) to encourage sustainable project planning, design, and construction.

(2) AFFORDABILITY CRITERIA.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—Not later than September 30, 2015, and after providing notice and an opportunity for public comment, a State shall establish affordability criteria to assist in identifying municipalities that would experience a significant hardship raising the revenue necessary to finance a project or activity eligible for assistance under subsection (c)(1) if additional subsidization is not provided.

(ii) CONTENTS.—The criteria under clause (i) shall be based on income and unemployment data, population trends, and other data determined relevant by the State, including whether the project or activity is to be carried out in an economically distressed area, as described in section 301 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161).

(B) EXISTING CRITERIA.—If a State has previously established, after providing notice and an opportunity for public comment, affordability criteria that meet the requirements of subparagraph (A)—

(i) the State may use the criteria for the purposes of this subsection; and

(ii) those criteria shall be treated as affordability criteria established under this paragraph.

(C) INFORMATION TO ASSIST STATES.—The Administrator may publish information to assist States in establishing affordability criteria under subparagraph (A).

[(3) LIMITATIONS.—

[(A) IN GENERAL.—A State may provide additional subsidization in a fiscal year under this subsection only if the total amount appropriated for making capitalization grants

to all States under this title for the fiscal year exceeds $1,000,000,000.

[(B) ADDITIONAL LIMITATION.—

[(i) GENERAL RULE.—Subject to clause (ii), a State may use not more than 30 percent of the total amount received by the State in capitalization grants under this title for a fiscal year for providing additional subsidization under this subsection.

[(ii) EXCEPTION.—If, in a fiscal year, the amount appropriated for making capitalization grants to all States under this title exceeds $1,000,000,000 by a percentage that is less than 30 percent, clause (i) shall be applied by substituting that percentage for 30 percent.

[(C) APPLICABILITY.—The authority of a State to provide additional subsidization under this subsection shall apply to amounts received by the State in capitalization grants under this title for fiscal years beginning after September 30, 2014.

[(D) CONSIDERATION.—If the State provides additional subsidization to a municipality or intermunicipal, interstate, or State agency under this subsection that meets the criteria under paragraph (1)(A), the State shall take the criteria set forth in section 602(b)(5) into consideration.]

(3) SUBSIDIZATION AMOUNTS.—

(A) IN GENERAL.—A State may use for providing additional subsidization in a fiscal year under this subsection an amount that does not exceed the greater of—

(i) 30 percent of the total amount received by the State in capitalization grants under this title for the fiscal year; or

(ii) the annual average over the previous 10 fiscal years of the amounts deposited by the State in the State water pollution control revolving fund from State moneys that exceed the amounts required to be so deposited under section 602(b)(2).

(B) MINIMUM.—For each of fiscal years 2021 through 2025, to the extent there are sufficient applications for additional subsidization under this subsection that meet the criteria under paragraph (1)(A), a State shall use for providing additional subsidization in a fiscal year under this subsection an amount that is not less than 10 percent of the total amount received by the State in capitalization grants under this title for the fiscal year.

(j) DEFINITION OF ELIGIBLE INDIVIDUAL.—In subsection (c)(12), the term "eligible individual" means a member of a household, the members of which have a combined income (for the most recent 12-month period for which information is available) equal to not more than 50 percent of the median nonmetropolitan household income for the State in which the household is located, according to the most recent decennial census.

SEC. 604. ALLOTMENT OF FUNDS.

(a) FORMULA.—Sums authorized to be appropriated to carry out this section for [each of fiscal years 1989 and 1990] *each fiscal*

year shall be allotted by the Administrator in accordance with section 205(c) of this Act.

(b) RESERVATION OF FUNDS FOR PLANNING.—Each State shall reserve each fiscal year 1 percent of the sums allotted to such State under this section for such fiscal year, or $100,000, whichever amount is greater, to carry out planning under sections 205(j) and 303(e) of this Act.

(c) ALLOTMENT PERIOD.—

(1) PERIOD OF AVAILABILITY FOR GRANT AWARD.—Sums allotted to a State under this section for a fiscal year shall be available for obligation by the State during the fiscal year for which sums are authorized and during the following fiscal year.

(2) REALLOTMENT OF UNOBLIGATED FUNDS.—The amount of any allotment not obligated by the State by the last day of the 2-year period of availability established by paragraph (1) shall be immediately reallotted by the Administrator on the basis of the same ratio as is applicable to sums allotted under title II of this Act for the second fiscal year of such 2-year period. None of the funds reallotted by the Administrator shall be reallotted to any State which has not obligated all sums allotted to such State in the first fiscal year of such 2-year period.

(d) WASTEWATER INFRASTRUCTURE WORKFORCE DEVELOPMENT.—A State may reserve each fiscal year up to 1 percent of the sums allotted to the State under this section for the fiscal year to carry out workforce development, training, and retraining activities described in section 104(g).

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[SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

[There is authorized to be appropriated to carry out the purposes of this title the following sums:

[(1) $1,200,000,000 per fiscal year for each of fiscal year 1989 and 1990;

[(2) $2,400,000,000 for fiscal year 1991;

[(3) $1,800,000,000 for fiscal year 1992;

[(4) $1,200,000,000 for fiscal year 1993; and

[(5) $600,000,000 for fiscal year 1994.]

SEC. 607. RESERVATION OF FUNDS FOR TERRITORIES OF THE UNITED STATES.

(a) IN GENERAL.—

(1) RESERVATION.—For each fiscal year, the Administrator shall reserve 1.5 percent of available funds, as calculated in accordance with paragraph (2).

(2) CALCULATION OF AVAILABLE FUNDS.—The amount of available funds shall be calculated by subtracting the amount of any funds reserved under section 518(c) from the amount of funds made available to carry out this title (before allotments to the States under section 604(a)).

(b) USE OF FUNDS.—Funds reserved under this section shall be available only for grants to American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands for projects and activities eligible for assistance under section 603(c).

(c) LIMITATION.—American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands may not receive funds allotted under section 604(a).

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SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title the following sums:

(1) $2,400,000,000 for fiscal year 2021.
(2) $2,600,000,000 for fiscal year 2022.
(3) $2,800,000,000 for fiscal year 2023.
(4) $3,000,000,000 for fiscal year 2024.
(5) $3,200,000,000 for fiscal year 2025.

WATER INFRASTRUCTURE IMPROVEMENT ACT

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SEC. 4. MUNICIPAL OMBUDSMAN.

(a) ESTABLISHMENT.—There is established within the Office of the Administrator an Office of the Municipal Ombudsman, to be headed by a Municipal Ombudsman.

(b) GENERAL DUTIES.—The duties of the Municipal Ombudsman shall include the provision of—

[(1) technical assistance to municipalities seeking to comply with the Federal Water Pollution Control Act; and**]**

(1) technical and planning assistance to support municipalities, including municipalities that are rural, small, and tribal communities, in achieving and maintaining compliance with enforceable deadlines, goals, and requirements of the Federal Water Pollution Control Act; and

(2) information to the Administrator to help the Administrator ensure that agency policies are implemented by all offices of the Environmental Protection Agency, including regional offices.

(c) ACTIONS REQUIRED.—The Municipal Ombudsman shall work with appropriate offices at the headquarters and regional offices of the Environmental Protection Agency to ensure that a municipality seeking assistance is provided information regarding—

(1) available Federal financial assistance for which the municipality is eligible;

(2) flexibility available under the Federal Water Pollution Control Act; and

(3) the opportunity to develop an integrated plan under section 402(s) of the Federal Water Pollution Control Act.

(d) INFORMATION SHARING.—The Municipal Ombudsman shall publish on the website of the Environmental Protection Agency—

(1) general information relating to—

(A) the technical assistance referred to in subsection (b)(1);

(B) the financial assistance referred to in subsection (c)(1);

(C) the flexibility referred to in subsection (c)(2); and

(D) any resources developed by the Administrator related to integrated plans under section 402(s) of the Federal Water Pollution Control Act; and

(2) a copy of each permit, order, or judicial consent decree that implements or incorporates such an integrated plan.

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MINORITY VIEWS

The Republicans of the Committee on Transportation and Infrastructure joined with the Committee's Majority, after long and careful negotiations, to support H.R. 1497, the *Water Quality Protection and Job Creation Act of 2019*, on a bipartisan basis during the Committee markup of this bill. However, while we continue to support the intent behind H.R. 1497, we have some specific concerns about the bill and concerns regarding its future direction as it gets reported out of the Committee.

First, we are concerned about the potential unintended consequences of the legislation as reported out of the Committee on Transportation and Infrastructure (Committee or T&I), as it relates to section 7 of the reported bill (entitled "National Pollutant Discharge Elimination System") and the differing views on how section 7 would be interpreted under the law, if enacted. These concerns were exacerbated since our Majority counterparts have failed to fully acknowledge the need to continue conversations with interested parties that stand to be adversely impacted. Such conversations are necessary to ensure that these parties do not suffer greater, unnecessary regulatory burdens.

Specifically, the amendment in the nature of a substitute (ANS) to H.R. 1497 included a new section 7, which would amend the National Pollutant Discharge Elimination System (NPDES) permitting program under section 402 of the *Clean Water Act* (CWA). This section, based on H.R. 1764 introduced by Representative John Garamendi (D–CA), would lend permitting authorities under the NPDES program greater flexibility to tailor permits issued to a municipality with extended permit terms of up to 10 years. This flexibility would enable permitting authorities to take into account circumstances unique to each eligible permittee such as construction schedules and life cycles of treatment technologies.

However, rather than providing greater flexibility, the amended section 7 of H.R. 1497 would restrict the ability of NPDES permit writers to issue longer term permits, or to administratively continue permits, thereby limiting their discretion and flexibility in issuing and reissuing permits.

Section 7 ostensibly provides authority to the States to issue, to an eligible municipality for up to 10 years in duration, an NPDES permit for a covered discharge from a publicly owned treatment works. Section 7, however, would limit an "eligible municipality" to only those municipalities with a history of compliance with the CWA, as determined in accordance with undefined standards to be established by the Environmental Protection Agency (EPA) Administrator.

Section 7 would also create a new subsection (t) within CWA section 402 that defines the scope of covered discharges and eligible municipalities authorized to apply for extended permits terms; and

would direct the EPA Administrator, within 1 year of the date of enactment, to issue a rulemaking to implement the provisions of subsection (t).

Section 7 would further require that, within that rulemaking, the EPA Administrator establish standards for determining a history of compliance with the CWA that would apply to eligible municipalities. The Majority has stated, in the majority report on H.R. 1497, as amended, that it intends for eligibility for extended permits (more than 5 years) to be limited only to municipalities that are "good actors" and have been generally in compliance with the requirements of the CWA.

Committee Republicans do not take such a narrow and inflexible view on this section. In developing the criteria in the implementing regulations for eligible municipalities seeking extended permit terms, the EPA Administrator should provide flexibility to permitting authorities to issue, in their discretion (as guided by the criteria that the EPA Administrator develops), NPDES permits with extended terms for municipalities that have demonstrated competence in managing their water quality programs.

Committee Republicans believe that providing flexibility in the design of implementation criteria governing eligibility for extended permit terms is essential, given the many technical and legal issues that individual municipalities must address in carrying out clean water programs. A one-size-fits-all approach that exclusively emphasizes a municipality's past compliance record would serve to discriminate against conscientious municipalities.

For example, if the Majority's narrow view is implemented, municipalities that work diligently and in good faith to achieve compliance and to develop innovative treatment programs may be unjustifiably impacted. If they are to be issued a permit under section 402(t) of the CWA incorporating an integrated plan that includes a schedule of compliance under which actions taken to meet any applicable water quality-based effluent limitation may be implemented over more than one permit term, they are subject to disruptions to their treatment systems that are not within their control, or a permitting authority might otherwise determine is suitable for an extended permit.

Section 7 of the bill also would amend section 402 of the CWA to limit the ability of NPDES permits to continue in force beyond the last day of a permit's fixed term. It states that NPDES permits (both existing 5-year permits as well as potential future permits of up to 10 years in duration authorized by this section) may not exceed their statutory duration term, except as provided in a cumbersome new process that is intended to ensure that the State and/or EPA review, potentially revise, and reissue such permits.

Numerous municipalities, States, and other stakeholders have raised substantial concerns about the potential impacts of provisions in Section 7 of the bill, to limit the ability of NPDES permits to be administratively continued in force beyond the last day of a permit's fixed term.[1] Stakeholders are particularly concerned that

[1] Letter from California Association of Sanitation Agencies to Hon. Peter DeFazio, Hon. Sam Graves, Hon. Grace Napolitano and Hon. Bruce Westerman, (Oct. 28, 2019) (on File with Committee); see also Letter from Agricultural Retailers Association American Concrete Pipe Association, American Farm Bureau Federation, America Forest & Paper Association, American Iron

these provisions pertain to all NPDES permits issued by permitting authorities, including those with traditional 5-year permit terms, and would therefore impact a broad range of interests and industries far beyond the scope of the other provisions of this legislation, which is narrowly focused on municipal wastewater systems.[2]

Further, there is concern that, by mandating that EPA make a final decision on any NPDES permit that has not been renewed within 180 days of its expiration date, the legislation would unduly infringe on the role of the States in the NPDES permitting process. This would significantly increase regulatory uncertainty and the potential for unwarranted litigation over NPDES permits, likely impede the proper implementation of State water quality standards, further limit public participation in the reissuance process, provide little consideration for the root causes of reissuance delays, and fail to recognize that a significant percentage of all administratively continued permits are reissued within one year of the original permit term expiration. This is not the intention of this legislation or this section as envisioned by Committee Republicans.

States need and rely on the flexibility to administratively extend a permit where timely renewal may be difficult to achieve for a variety of reasons, including the oftentimes complicated nature of a given permit application. The need for a permit extension is frequently driven, not by lack of oversight by the regulatory authority or purposeful delay by the local agency, but rather by either technical or legal considerations that are being worked through by all parties.

This limitation on the ability of NPDES permits to continue in force beyond the last day of a permit's fixed term fails to acknowledge or account for this reality, and instead imposes a new and cumbersome review process that elevates permit renewals to EPA (thereby infringing on the role of the States in the NPDES permitting process), and serves to set into motion a process that can further delay decision-making and permit issuances. EPA would be required to dedicate significant staff resources to drafting new permits, including in circumstances where EPA staff may be unfamiliar with a permittee's needs, local considerations, the receiving water quality, and other factors. This proposed approach is unnecessary, unsupported, and creates new hurdles to the expressed desire to secure timely permit renewals.

The Republicans of the Committee on Transportation and Infrastructure acknowledge all of these concerns with the bill. As the bill moves forward, we look forward to working with all interested stakeholders on these issues to ensure that the provisions of the

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and Steel Institute, American Pipeline Contractors Association, American Public Power Association, American Road & Transportation Builders Association, Association Builders and Contractors, Associated General Contractors of America, Distribution Contractors Association, Edison Electric Institute, Golf Course Superintendents Association of America, Industrial Minerals Association—North America, International Liquid Terminals Association, National Association of Home Builders, National Cattlemen's Beef Association, National Council of Farmer Cooperatives, National Mining Association, National Ready Mixed Concrete Association, National Rural Electric Cooperative Association, National Stone, Sand and Gravel Association, National Utility Contractors Association, Power and Communication Contractors Association, RISE (Responsible Industry for a Sound Environment), Southeastern Lumber Manufacturers Association, The Fertilizer Institute, Treated Wood Council, and the U.S. Chamber of Commerce to Hon. John Barrasso, Hon. Tom Carper, Hon. Peter DeFazio, and Hon. Sam Graves, (June 26, 2020), (on file with Committee).

[2] *Id.*

legislation support regulatory certainty, do not unduly impact NPDES-permitted entities or State implementing agencies, and do not interfere with the proper implementation of State water quality standards.

Lastly, we want to express our disappointment about the future direction in which H.R. 1497 appears to be headed after it was reported out of the Committee. We note, for example, how the Committee's Majority ignored, in the Majority's partisan infrastructure bill, H.R. 2, the carefully crafted bipartisan agreement on H.R. 1497, as amended, that they reached with Committee Republicans. Instead of abiding by our bipartisan agreement, they chose to go in a different direction by cherry-picking and inflating to unrealistic levels many of the water funding provisions from H.R. 1497, and ignoring provisions of importance to Committee Republicans.

We agree there is a need to improve America's infrastructure. However, if the Majority was serious about achieving this goal, they would have remained supportive of the bipartisan agreement reached on H.R. 1497. Every Democrat and every Republican knows that a bipartisan agreement is the only way we are going to improve water infrastructure. That is why the Majority should be standing by the bipartisan agreement reached on H.R. 1497 and working with all interested stakeholders on the issues with the bill that remain outstanding.

SAM GRAVES,
Ranking Member.
BRUCE WESTERMAN,
Ranking Member, Subcommittee on Water Resources and Environment.

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