

114TH CONGRESS
1ST SESSION

S. 2358

To direct the Administrator of the Environmental Protection Agency to carry out a pilot program to work with municipalities that are seeking to develop and implement integrated plans to meet wastewater and stormwater obligations under the Federal Water Pollution Control Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 3, 2015

Mr. BROWN (for himself and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To direct the Administrator of the Environmental Protection Agency to carry out a pilot program to work with municipalities that are seeking to develop and implement integrated plans to meet wastewater and stormwater obligations under the Federal Water Pollution Control Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Clean Water Compli-
5 ance and Affordability Act”.

1 **SEC. 2. INTEGRATED MUNICIPAL STORMWATER AND**
2 **WASTEWATER APPROACH FRAMEWORK.**

3 (a) IN GENERAL.—In the first 5 fiscal years begin-
4 ning after the date of enactment of this Act, the Adminis-
5 trator of the Environmental Protection Agency (referred
6 to in this section as the “Administrator”), in coordination
7 with appropriate State, local, and regional authorities,
8 shall carry out a pilot program under which the Adminis-
9 trator shall work cooperatively with and facilitate the ef-
10 forts of eligible municipalities to develop and implement
11 integrated plans to meet wastewater and stormwater obli-
12 gations of the eligible municipalities under the Federal
13 Water Pollution Control Act (33 U.S.C. 1251 et seq.) in
14 a more cost-effective and flexible manner.

15 (b) FRAMEWORK.—The Administrator shall carry out
16 the pilot program in a manner that is consistent with the
17 Integrated Municipal Stormwater and Wastewater Ap-
18 proach Framework issued by the Environmental Protec-
19 tion Agency and dated May 2012.

20 (c) SELECTION OF ELIGIBLE MUNICIPALITIES.—

21 (1) IN GENERAL.—The Administrator, in con-
22 sultation with States that have approved National
23 Pollutant Discharge Elimination System programs,
24 shall select not less than 15 eligible municipalities to
25 participate in the pilot program.

1 (2) ELIGIBLE MUNICIPALITY.—An eligible mu-
2 nicipality is a county, city, town, township, or sub-
3 division of a State or local government that—

4 (A) qualifies as a National Pollutant Dis-
5 charge Elimination System permit holder or
6 designee; or

7 (B) is a party to an administrative order,
8 administrative consent agreement, or judicial
9 consent decree to comply with the requirements
10 of the Federal Water Pollution Control Act (33
11 U.S.C. 1251 et seq.).

12 (3) SELECTION FACTORS.—

13 (A) IN GENERAL.—In selecting the eligible
14 municipalities to participate in the pilot pro-
15 gram, the Administrator shall give priority to—

16 (i) eligible municipalities that are op-
17 erating under an administrative order, ad-
18 ministrative consent agreement, or judicial
19 consent decree to comply with the require-
20 ments of the Federal Water Pollution Con-
21 trol Act (33 U.S.C. 1251 et seq.);

22 (ii) eligible municipalities that are af-
23 fected by affordability constraints in plan-
24 ning and implementing control measures to
25 address wet weather discharges from

wastewater and stormwater facilities of the eligible municipalities; and

(iii) eligible municipalities with a history of knowledgeable, detailed, and comprehensive efforts to develop integrated and adaptive clean water management practices.

(B) USE OF ADAPTIVE MANAGEMENT APPROACHES.—In selecting eligible municipalities to participate in the pilot program, the Administrator may give priority to an eligible municipality that is seeking to develop and implement an integrated plan that includes adaptive approaches to account for changed or future uncertain circumstances, including—

(i) the use of new innovative technical or institutional approaches; and

(ii) the ability to adapt the integrated plan in response to new regulatory requirements and reductions in financial capability.

(d) APPROVAL OF INTEGRATED PLANS.—

(1) IN GENERAL.—In approving the integrated plan of an eligible municipality under the pilot pro-

1 gram established under subsection (a), the Adminis-
2 trator shall—

3 (A) account for the financial capability of
4 the eligible municipality to adequately address
5 the requirements of the Federal Water Pollu-
6 tion Control Act (33 U.S.C. 1251 et seq.) that
7 apply to the eligible municipality;

8 (B) prioritize the obligations of the eligible
9 municipality under the Federal Water Pollution
10 Control Act (33 U.S.C. 1251 et seq.) according
11 to the most cost-effective and environmentally
12 beneficial outcomes;

13 (C) account for the maintenance, oper-
14 ational, and regulatory obligations of the eligi-
15 ble municipality; and

16 (D) enable the eligible municipality to im-
17 plement innovative and flexible approaches to
18 meet the obligations of the eligible municipality
19 under the Federal Water Pollution Control Act
20 (33 U.S.C. 1251 et seq.).

21 (2) ADDITIONAL AUTHORITIES.—In carrying
22 out the pilot program established under subsection
23 (a), the Administrator may, in full coordination and
24 mutual agreement with an eligible municipality se-
25 lected to participate in the pilot program—

1 (A) extend the allowable national pollutant
2 discharge elimination system permit term under
3 section 402 of the Federal Water Pollution
4 Control Act (33 U.S.C. 1342) to a maximum of
5 25 years, and make corresponding changes to
6 any associated implementation schedule;

7 (B) modify the implementation terms of a
8 consent decree entered into by the eligible mu-
9 nicipality with the Administrator pursuant to
10 that Act; and

11 (C) provide additional regulatory flexibility
12 under the Federal Water Pollution Control Act
13 (33 U.S.C. 1251 et seq.) in approving and im-
14 plementing an integrated plan that includes
15 adaptive approaches in order to encourage the
16 innovation integral to such approaches.

17 (e) REPORT TO CONGRESS.—Not later than 1 year
18 after the date of enactment of this Act, and each year
19 thereafter for 5 years, the Administrator shall submit to
20 Congress a report on the results of the pilot program es-
21 tablished under subsection (a), including a description of
22 the specific outcomes expected to be achieved that will re-
23 duce the costs of complying with the requirements of the
24 Federal Water Pollution Control Act (33 U.S.C. 1251 et
25 seq.) for—

- 1 (1) eligible municipalities participating in the
- 2 pilot program; and
- 3 (2) eligible municipalities that are similarly sit-
- 4 uated but not participating in the pilot program.

○