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CONGRESS
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H. R. 4560

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

IN THE HOUSE OF REPRESENTATIVES

December 15, 2005

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

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **In General.**—This Act may be cited as the “Clean Water Trust Act

of 2005”.

(b) Table of Contents.—

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SEC. 2. PURPOSE.

The purpose of this Act is to make further progress towards the achievement of the Nation's water quality goals by establishing and

providing funding for a clean water trust fund, which will provide for increased investment in critical water infrastructure, improvements in technology and management, greater funding for critical regional programs, and increased attention to fishable uses.

SEC. 3. AMENDMENT OF FEDERAL WATER POLLUTION CONTROL ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Water Pollution Control Act ([33 U.S.C. 1251 et seq.](#)).

TITLE I—TECHNICAL AND MANAGEMENT ASSISTANCE

SEC. 101. TECHNICAL ASSISTANCE.

(a) Technical Assistance for Rural and Small Treatment Works.—
Section 104(b) ([33 U.S.C. 1254\(b\)](#)) is amended—

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

(2) by striking the period at the end of paragraph (7) and inserting “; and”; and

(3) by adding at the end the following:

“(8) make grants to nonprofit organizations—

“(A) to provide technical assistance to rural and small municipalities for the purpose of assisting, in consultation with the State in which the assistance is provided, such municipalities in the planning, developing, and acquisition

of financing for wastewater infrastructure assistance;

“(B) to capitalize revolving loan funds for the purpose of providing loans, in consultation with the State in which the assistance is provided, to rural and small municipalities for predevelopment costs associated with wastewater infrastructure projects or short-term costs incurred for equipment replacement that is not part of regular operation and maintenance activities for existing wastewater systems, subject to the conditions that any loan from the fund will be made at a below market interest rate, for a term not to exceed 10 years, and in an amount not to exceed \$100,000 and that all loan repayments will be credited to the fund;

“(C) to provide technical assistance and training for rural and small 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

“(D) to disseminate information to rural and small municipalities and municipalities that meet the affordability criteria established under section 603(i) 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.”.

(b) Authorization of Appropriations.—Section 104(u) ([33 U.S.C. 1254\(u\)](#)) is amended—

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

(2) by inserting before the period at the end the following: “; (7) not to exceed \$50,000,000 from the Clean Water Trust Fund

established by section 701 for each of fiscal years 2006 through 2010 for carrying out subsection (b)(8), except that not more than one-third of such amount may be used in a fiscal year for carrying out subsection (b)(8)(B); and (8) not to exceed \$295,000,000 from the Clean Water Trust Fund for each of fiscal years 2006 through 2010 for carrying out subsection (b)(3).”.

(c) Competitive Procedures for Awarding Grants.—Section 104 ([33 U.S.C. 1254\(b\)](#)) is amended by adding at the end the following:

“(w) Competitive Procedures for Awarding Grants.—The Administrator shall establish procedures that, to the maximum extent practicable, promote competition and openness in the award of grants to nonprofit private agencies, institutions, and organizations under this section.”.

[SEC. 102. NATIONAL CENTER FOR UTILITY MANAGEMENT.](#)

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

“(x) Establishment of a national center for utility management.—

“(1) Grant.—The Administrator may make a grant to an appropriate nonprofit organization to establish a National Center for Utility Management for the purpose of promoting improved management of public wastewater utilities, including the use of best management practices with respect to comprehensive asset management, worker training and flexibility, information systems, financial planning, and financial reporting.

“(2) Functions.—The functions of the National Center for Utility Management shall include, at a minimum, the following:

“(A) Developing best practices for utility management.

“(B) Coordinating relevant studies and development activities conducted at university-based training and technical assistance centers.

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

“(D) Exploring opportunities to take advantage of best management practices and informational materials developed by other agencies (including the Office of Asset Management in the Federal Highway Administration).

“(E) Strengthening efforts to educate utilities and local government leaders about the optimal use of best practices for utility management, through handbooks, software, workshops, the establishment of a website, and other steps to assure that wastewater utilities, regardless of size, have easy access to information about best practices for utility management.

“(F) In undertaking these functions, providing appropriate attention to the needs and circumstances of utilities that serve not more than 20,000 users and are located in a rural area.

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

SEC. 103. STATE MANAGEMENT ASSISTANCE.

Section 106(a) ([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 2005; and

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

SEC. 104. WATERSHED PILOT PROJECTS.

(a) **Section redesignation.**—The second section 121 ([33 U.S.C. 1274](#)) relating to watershed pilot projects is redesignated as section 122.

(b) **Pilot Projects.**—Section 122 (as so redesignated) is amended—

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

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

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

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

“(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.”.

(c) **Authorization of Appropriations.**—Section 122(c)(1) (as so redesignated) is amended by inserting after “for fiscal year 2004” the following: “and from the Clean Water Trust Fund established by section

701 \$20,000,000 for each of fiscal years 2006 through 2010”.

(d) **Report to Congress.**—Section 122(d) (as so redesignated) is amended by striking “5 years” and inserting “7 years”.

SEC. 105. CRITICAL REGIONAL WATERS.

(a) **Critical regional waters.**—Title I ([33 U.S.C. 1251–1274](#)) is amended by adding at the end the following:

“SEC. 123. CRITICAL REGIONAL WATERS.

“(a) **Generally.**—In addition to amounts otherwise authorized to be appropriated, there is authorized to be appropriated from the Clean Water Trust Fund established by section 701 \$250,000,000 for each of fiscal years 2006 through 2010 for the following:

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

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

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

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

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

“(6) Implementing section 320, relating to estuaries of national significance.

“(7) Making grants to States to protect and improve water quality of waters in the Gulf of Mexico impaired by hypoxia.

“(b) **Limitations.**—

“(1) **Maximum amount of grant.**—The maximum amount of a

grant for a project or activity under subsection (a)(7) may not exceed 65 percent of the cost of the project or activity, as determined by the Administrator.

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

TITLE II—CONSTRUCTION OF TREATMENT WORKS

SEC. 201. SEWAGE COLLECTION SYSTEMS.

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

(1) by striking the section designation and all that follows through “(a) No” and inserting the following:

“SEC. 211. SEWAGE COLLECTION SYSTEMS.

“(a) **In General.**—No”;

(2) in subsection (b) by inserting “**POPULATION DENSITY.**—” after “(b)”;

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

“(c) **Exceptions.**—

“(1) **Replacement and major rehabilitation.**—Notwithstanding the requirement of subsection (a)(1) concerning the existence of a collection system as a condition of eligibility, a project for replacement or major rehabilitation of a collection system existing

on January 1, 2006, shall be eligible for a grant under this title if the project otherwise meets the requirements of subsection (a)(1) and meets the requirement of paragraph (3).

“(2) **New systems.**—Notwithstanding the requirement of subsection (a)(2) concerning the existence of a community as a condition of eligibility, a project for a new collection system to serve a community existing on January 1, 2006, shall be eligible for a grant under this title if the project otherwise meets the requirements of subsection (a)(2) and meets the requirement of paragraph (3).

“(3) **Requirement.**—A project meets the requirement of this paragraph if the purpose of the project is to accomplish the objectives, goals, and policies of this Act by addressing an adverse environmental condition existing on the date of enactment of this paragraph.”.

SEC. 202. TREATMENT WORKS DEFINED.

Section 212(2)(A) ([33 U.S.C. 1292\(2\)\(A\)](#)) is amended—

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

(2) by striking “is used for ultimate” and inserting “will be used for ultimate”; and

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

SEC. 203. POLICY ON COST EFFECTIVENESS.

Section 218(a) ([33 U.S.C. 1298\(a\)](#)) is amended by striking “combination of devices and systems” and all that follows through

“from such treatment;” and inserting “treatment works;”.

SEC. 204. PILOT PROGRAM FOR ALTERNATIVE WATER SOURCE PROJECTS.

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

SEC. 205. SEWER OVERFLOW CONTROL GRANTS.

(a) **Administrative requirements.**—Section 221(e) ([33 U.S.C. 1301\(e\)](#)) is amended to read as follows:

“(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.”.

(b) **Authorization of appropriations.**—The first sentence of section 221(f) ([33 U.S.C. 1301\(f\)](#)) is amended by striking “\$750,000,000” and all that follows before the period and inserting “from the Clean Water Trust Fund established by section 701 \$250,000,000 for each of fiscal years 2006 through 2010”.

(c) **Allocation of funds.**—Section 221(g) ([33 U.S.C. 1301\(g\)](#)) is amended to read as follows:

“(g) **Allocation of funds.**—

“(1) **Fiscal year 2006.**—Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this

section for fiscal year 2006 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 2007 and thereafter.**—Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2007 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 and sanitary sewer overflow controls identified in the most recent survey conducted pursuant to section 516.”.

(d) **Reports.**—The first sentence of section 221(i) ([33 U.S.C. 1301\(i\)](#)) is amended by striking “2003” and inserting “2008”.

TITLE III—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

SEC. 301. GENERAL AUTHORITY FOR CAPITALIZATION GRANTS.

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

SEC. 302. CAPITALIZATION GRANT AGREEMENTS.

(a) **Reporting Infrastructure Assets.**—Section 602(b)(9) ([33 U.S.C. 1382\(b\)\(9\)](#)) is amended by striking “standards” and inserting

“standards, including standards relating to the reporting of infrastructure assets”.

(b) **Additional Requirements.**—Section 602(b) ([33 U.S.C. 1382\(b\)](#)) is amended—

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

(2) by striking the period at the end of paragraph (10) and inserting a semicolon; and

(3) by adding at the end the following:

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

“(12) any fees charged by the State to recipients of assistance will be used for the purpose of financing the cost of administering the fund or financing activities eligible for assistance from the fund;

“(13) beginning in fiscal year 2008, the State will include 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 innovative and alternative processes, materials, and techniques for carrying out the proposed project or activity for which assistance is sought under this title, and has selected, to the extent practicable, a project or activity that more efficiently uses energy and natural and financial resources or provides greater environmental benefits; and

“(B) has considered the cost and effectiveness of alternative management and financing approaches (including, as appropriate, rate structures, issuance of bonds, restructuring, regional alternatives, consolidation, and public-private partnerships) for carrying out a project or activity for which assistance is sought under this title, taking into account the cost of operating and maintaining the project or activity over its life, as well as the cost of constructing the project or activity;

“(14) the State will use at least 15 percent of the amount of each capitalization grant received by the State under this title after September 30, 2007, to provide assistance to municipalities of fewer than 20,000 individuals that meet the affordability criteria established by the State under section 603(i)(2) for activities included on the State’s priority list established under section 603 (g), to the extent that there are sufficient applications for such assistance;

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

“(16) contracts and subcontracts to be carried out using funds under this title for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, and related services shall be awarded in the same manner as contracts for architectural and engineering services are awarded under [chapter 11](#) of title 40, United States Code, or an

equivalent qualifications-based method of selection (as determined by the Governor of the State).”.

SEC. 303. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

(a) **Projects and Activities Eligible for Assistance.**—Section 603(c) (33 U.S.C. 1383(c)) is amended to read as follows:

“(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;

“(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 implementation of lake protection programs and projects under section 314;

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

“(6) for measures to manage or reduce municipal stormwater runoff;

“(7) to any public entity for a water conservation project or activity the primary purpose of which is the protection, preservation, or enhancement of water quality, including—

“(A) piping or lining an irrigation canal;

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

“(C) irrigation scheduling;

“(D) measurement or metering of water use;

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

“(F) improving on-field irrigation efficiency; or

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

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

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

(b) Extended Repayment Period.—Section 603(d)(1) ([33 U.S.C. 1383\(d\)\(1\)](#)) is amended—

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

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

(c) Fiscal sustainability plan.—Section 603(d)(1) ([33 U.S.C. 1383\(d\)](#))

(1) is further amended—

- (1) by striking “and” at the end of subparagraph (C);
- (2) by inserting “and” at the end of subparagraph (D); and
- (3) by adding at the end the following:

“(E) for any portion of a treatment works proposed for repair, replacement, or expansion, and eligible for assistance under section 603(c)(1), the recipient of assistance will develop and implement a fiscal sustainability plan that includes—

“(i) an inventory of critical assets that are a part of that portion of the treatment works;

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

“(iii) a plan for maintaining, repairing, and, as necessary, replacing that portion of the treatment works and a plan for funding such activities.”.

(d) **Expenses of administering the state fund.**—Section 603(d)(7) ([33 U.S.C. 1383\(d\)\(7\)](#)) is amended by inserting before the period at the end the following: “, \$400,000 per year, or 1/5 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) **Types of assistance.**—Section 603(d) ([33 U.S.C. 1383\(d\)](#)) is amended—

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

(2) by striking the period at the end of paragraph (7) and inserting a semicolon; and

(3) by adding at the end the following:

“(8) to provide owners and operators of treatment works that serve a population of 20,000 or fewer with technical and planning assistance and assistance in financial management, user fee analysis, budgeting, capital improvement planning, facility operation and maintenance, repair schedules, and other activities to improve wastewater treatment plant management and operations; except that such amounts shall not exceed 2 percent of grant awards to such fund under this title; and

“(9) to make grants to States for high priority partnership projects under section 608 on the condition that the requirements of paragraph (1)(E) are met in the case of any grant by a State for the repair, replacement, or expansion of a treatment works.”.

(f) **Affordability criteria.**—Section 603 ([33 U.S.C. 1383](#)) is amended by adding at the end the following:

“(i) **Affordability criteria.**—

“(1) **Establishment.**—On or before September 30, 2007, 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 section 603(c)(1) if additional subsidization is not provided. Such criteria shall be based on income data, population trends, and other data determined relevant by the State.

“(2) **Existing criteria.**—If a State has previously established, after

providing notice and an opportunity for public comment, affordability criteria that meet the requirements of paragraph (1), the State may use the criteria for the purposes of this subsection. For purposes of this Act, any such criteria shall be treated as affordability criteria established under this paragraph.

“(3) **Information to assist states.**—The Administrator may publish information to assist States in establishing affordability criteria under paragraph (1).

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

SEC. 304. ALLOTMENT OF FUNDS.

(a) **In General.**—Section 604(a) ([33 U.S.C. 1384\(a\)](#)) is amended to read as follows:

“(a) **Allotments.**—

“(1) **Fiscal years 2006 and 2007.**—Sums appropriated to carry out this title for each of fiscal years 2006 and 2007 shall be allotted by the Administrator in accordance with the formula used to allot sums appropriated to carry out this title for fiscal year 2005.

“(2) **Fiscal year 2008 and thereafter.**—Sums appropriated to carry out this title for fiscal year 2008 and each fiscal year thereafter shall be allotted by the Administrator as follows:

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

“(B) Amounts that exceed \$1,350,000,000 shall be allotted in accordance with the formula developed by the Administrator under subsection (d).”.

(b) **Planning Assistance.**—Section 604(b) ([33 U.S.C. 1384\(b\)](#)) is amended by striking “1 percent” and inserting “2 percent”.

(c) **Formula.**—Section 604 ([33 U.S.C. 1384](#)) is amended by adding at the end the following:

“(d) **Formula Based on Water Quality Needs.**—Not later than September 30, 2007, and after providing notice and an opportunity for public comment, the Administrator shall publish an allotment formula based on water quality needs in accordance with the most recent survey of needs developed by the Administrator under section 516(b).”.

SEC. 305. INTENDED USE PLAN.

(a) **Integrated Priority List.**—Section 603(g) ([33 U.S.C. 1383\(g\)](#)) is amended to read as follows:

“(g) **Priority List.**—

“(1) **In general.**—For fiscal year 2008 and each fiscal year thereafter, a State shall establish or update a list of projects and activities for which assistance is sought from the State’s water pollution control revolving fund. Such projects and activities shall be listed in priority order based on the methodology established under paragraph (2). The State may provide financial assistance from the State’s water pollution control revolving fund only with respect to a project or activity included on such list. In the case of projects and activities eligible for assistance under section 603(c) (2), the State may include a category or subcategory of nonpoint sources of pollution on such list in lieu of a specific project or activity.

“(2) Methodology.—

“(A) In general.—Not later than 1 year after the date of enactment of this paragraph, and after providing notice and opportunity for public comment, each State (acting through the State’s water quality management agency and other appropriate agencies of the State) shall establish a methodology for developing a priority list under paragraph (1).

“(B) Priority for projects and activities that achieve greatest water quality improvement.—In developing the methodology, the State shall seek to achieve the greatest degree of water quality improvement, taking into consideration the requirement of section 602(b)(5), section 603(i), and whether such water quality improvements would be realized without assistance under this title.

“(C) Considerations in selecting projects and activities.—In determining which projects and activities will achieve the greatest degree of water quality improvement, the State shall consider—

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

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

“(iii) the State’s management program developed under section 319; and

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

“(D) **Nonpoint sources.**—For categories or subcategories of nonpoint sources of pollution that a State may include on its priority list under paragraph (1), the State may consider the cumulative water quality improvements associated with projects or activities in such categories or subcategories.

“(E) **Existing methodologies.**—If a State has previously developed, after providing notice and an opportunity for public comment, a methodology that meets the requirements of this paragraph, the State may use the methodology for the purposes of this subsection.”.

(b) **Intended Use Plan.**—Section 606(c) ([33 U.S.C. 1386\(c\)](#)) is amended—

(1) in the matter preceding paragraph (1) by striking “each State shall annually prepare” and inserting “each State (acting through the State’s water quality management agency and other appropriate agencies of the State) shall annually prepare and publish”;

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

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

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

(4) by striking the period at the end of paragraph (5) and inserting “; and”; and

(5) by adding at the end the following:

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

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

SEC. 306. FEDERAL OVERSIGHT.

(a) **Annual Report.**—Section 606(d) ([33 U.S.C. 1386\(d\)](#)) is amended—

- (1) by inserting “or grant” after “loan” each place it appears; and
- (2) by inserting “the eligible purpose under section 603(c) for which the assistance is provided,” after “loan amounts,”.

(b) **Annual Federal Oversight Review.**—Section 606(e) ([33 U.S.C. 1386\(e\)](#)) is amended—

- (1) by inserting “or the recipient of a grant under section 608” after “revolving fund”; and
- (2) by inserting “or grant” after “loan”; and
- (3) by adding at the end the following: “In carrying out an oversight review under this subsection, the Administrator may allow a State to certify, with supporting documentation, its compliance with the requirements of this title.”.

SEC. 307. TECHNICAL ASSISTANCE.

Title VI ([33 U.S.C. 1381 et seq.](#)) is amended—

- (1) by redesignating section 607 as section 609; and

(2) by inserting after section 606 the following:

“SEC. 607. TECHNICAL ASSISTANCE.

“(a) Simplified Procedures.—Not later than 1 year after the date of enactment of this section, the Administrator shall assist the States in establishing simplified procedures for treatment works to obtain assistance under this title.

“(b) Publication of Manual.—Not later than 2 years after the date of the enactment of this section, and after providing notice and opportunity for public comment, the Administrator shall publish a manual to assist treatment works in obtaining assistance under this title and publish in the Federal Register notice of the availability of the manual.

“(c) Assistance for Improving the Management of Water Quality Infrastructure and Increasing Cost-Effectiveness of Infrastructure Improvements.—At the request of any State, the Administrator shall assist in the development of criteria for a State to determine compliance with the conditions of funding assistance established under section 602 (b)(13).”

SEC. 308. HIGH PRIORITY PARTNERSHIP GRANTS.

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

“SEC. 608. HIGH PRIORITY PARTNERSHIP GRANTS.

“(a) Establishment of program.—The Administrator is authorized to make grants to States for the purpose of providing grants to entities eligible for assistance under section 603(c) for projects and activities that are eligible under section 603(c) based on the selection criteria in subsection (b).

“(b) **Criteria.**—In selecting from among applications for grants under this section, a State shall give priority, to the maximum extent practicable, to projects and activities that—

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

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

“(3) benefit communities with the greatest need (determined on the basis of affordability criteria established by the State under section 603(i)).

“(c) **Federal share.**—The amount of Federal funds granted by a State for a project or activity under this section may not exceed 65 percent of the cost of the project or activity.”.

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

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

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

“There is authorized to be appropriated from the Clean Water Trust Fund established by section 701 \$6,000,000,000 for grants to States under section 601(a) for each of fiscal years 2006 through 2010, of which the first \$1,500,000,000 shall be available only for the purpose of providing assistance under paragraphs (1) through (8) of section 603(d). The remainder of the amount made available under this section for a fiscal year shall be available for grants for high priority partnerships under section 608 for such fiscal year.”.

TITLE IV—CLEAN WATER TRUST FUND

SEC. 401. ESTABLISHMENT OF CLEAN WATER TRUST FUND.

The Federal Water Pollution Control Act ([33 U.S.C. 1251 et seq.](#)) is amended by adding at the end the following:

“TITLE VII—CLEAN WATER TRUST FUND

“SEC. 701. CLEAN WATER TRUST FUND.

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

“(b) Transfers to the trust fund.—There are hereby appropriated to the Clean Water Trust Fund amounts equivalent to fees collected and deposited in the Fund under section 702.

“(c) Expenditures from the trust fund.—Amounts in the Trust Fund are available, as provided by appropriations acts, for—

“(1) water pollution reduction and control activities under section 104(b)(3);

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

“(3) the National Center for Utility Management program under section 104(x);

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

“(5) carrying out section 122, relating to watershed pilot projects;

“(6) critical regional waters under section 123;

“(7) carrying out section 220 relating to alternative water source projects;

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

“(9) grants to States under section 601;

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

“(11) grants for wetlands restoration under section 502 of the Clean Water Trust Act of 2005.

“(d) **Budgetary treatment of the fund.**—Notwithstanding any other provision of law, the receipts and disbursements of the Clean Water Trust Fund—

“(1) shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

“(A) the budget of the United States submitted by the President; or

“(B) the congressional budget (including allocations of budget authority and outlays provided therein); and

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

“**SEC. 702. REVENUE.**

“[The Administrator shall submit to Congress for consideration, within

180 days of enactment of this section, an equitable system of user fees to fund this title.]”.

TITLE V—FISHERIES

SEC. 501. FISHERIES HABITAT PROTECTION, RESTORATION, AND ENHANCEMENT GRANTS.

(a) **Grants.**—The Administrator of the Environmental Protection Agency is authorized to make grants to any State (as defined in section 502 of the Federal Water Pollution Control Act ([33 U.S.C. 1362](#)), municipality, intermunicipal or interstate agency, nonprofit organization, or institution of higher education for the purpose of assisting in the protection, preservation, and restoration of fresh water, estuarine, and marine fisheries habitat and uses and for the enhancement of access within a watershed for fisheries uses.

(b) **Watershed plans.**—Activities to be funded shall be based on a comprehensive assessment and plan for the watershed. All funded activities must directly support the described plan, and grant funds must be used in accordance with the plan.

(c) **Limitations.**—

(1) **Maximum amount.**—The maximum amount of a grant under this section for any activity may not exceed 65 percent of the cost of the activity, as determined by the Administrator.

(2) **Administrative expenses.**—Not more than 4 percent of the amount of any grant made under this section may be used to pay administrative expenses in connection with the activity for which the grant is made.

(d) **Authorization of appropriations.**—There is authorized to be appropriated to the Administrator from the Clean Water Trust Fund

\$250,000,000 for each of fiscal years 2006 through 2010 to carry out this section.

SEC. 502. STATE WETLANDS RESTORATION GRANTS.

(a) **Grants to states.**—The Administrator of the Environmental Protection Agency is authorized to make grants of up to \$2,000,000 to each State (as defined in section 502 of the Federal Water Pollution Control Act ([33 U.S.C. 1362](#))) for fiscal years 2006 through 2010 to carry out this section.

(b) **Wetland restoration project defined.**—For the purposes of this section, a “wetland restoration project” means an activity to improve wetland functions, including the filtration of surface and ground water, the mitigation of flooding, and the enhancement of wildlife habitat.

(c) **Project grants.**—

(1) **Distribution of funds.**—A State receiving a grant under this section shall distribute funds received under the grant for wetland restoration projects to appropriate State, municipal, intermunicipal, and interstate agencies, nonprofit organizations, and institutions of higher education that have expertise in wetlands restoration.

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

(d) **Project administration.**—A State receiving a grant under this section may use up to 4 percent of the funds received under the grant for administrative expenses in carrying out this section.

(e) **Reporting.**—Each State receiving a grant under this section shall

provide annually to the Administrator a summary of the wetland restoration projects funded under this section.

(f) **Authorization.**—There is authorized to be appropriated to the Administrator from the Clean Water Trust Fund \$112,000,000 for each of fiscal years 2006 through 2010 to carry out this section.

TITLE VI—GENERAL PROVISIONS

SEC. 601. DEFINITION OF TREATMENT WORKS.

Section 502 ([33 U.S.C. 1362](#)) is amended by adding at the end the following:

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

SEC. 602. FUNDING FOR INDIAN PROGRAMS.

(a) **Reservation of funds.**—Section 518(c) ([33 U.S.C. 1377\(c\)](#)) is amended—

(1) by striking “The Administrator” and inserting the following:

“(1) **Fiscal years 1987–2006.**—The Administrator”;

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

(A) by inserting “and ending before October 1, 2006,” after “1986,”; and

(B) by striking the second sentence; and

(3) by adding at the end the following:

“(2) **Fiscal year 2007 and thereafter.**—For fiscal year 2007 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 1.5 percent of the funds made available to carry out title VI.

“(3) **Use of funds.**—Funds reserved under this subsection shall be available only for grants for projects and activities eligible for assistance under section 603(c) to serve—

“(A) Indian tribes;

“(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](#))).”.

(b) **Eligibility of Indian Tribes.**—Section 518(e) of such Act ([33 U.S.C. 1377\(e\)](#)) is amended by striking “and 406” and inserting “406, and 608”.

SEC. 603. PRIVATE PROPERTY NOT AFFECTED.

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