

111TH CONGRESS
1ST SESSION

H. R. 1262

AN ACT

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

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) IN GENERAL.—This Act may be cited as the
3 “Water Quality Investment Act of 2009”.

4 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Amendment of Federal Water Pollution Control Act.

TITLE I—WATER QUALITY FINANCING

Subtitle A—Technical and Management Assistance

Sec. 1101. Technical assistance.

Sec. 1102. State management assistance.

Sec. 1103. Watershed pilot projects.

Subtitle B—Construction of Treatment Works

Sec. 1201. Sewage collection systems.

Sec. 1202. Treatment works defined.

Subtitle C—State Water Pollution Control Revolving Funds

Sec. 1301. General authority for capitalization grants.

Sec. 1302. Capitalization grant agreements.

Sec. 1303. Water pollution control revolving loan funds.

Sec. 1304. Allotment of funds.

Sec. 1305. Intended use plan.

Sec. 1306. Annual Reports.

Sec. 1307. Technical assistance; requirements for use of American materials.

Sec. 1308. Authorization of appropriations.

Subtitle D—General Provisions

Sec. 1401. Definition of treatment works.

Sec. 1402. Funding for Indian programs.

Subtitle E—Tonnage Duties

Sec. 1501. Tonnage duties.

Sec. 1502. United States-Mexican border water infrastructure studies.

TITLE II—ALTERNATIVE WATER SOURCE PROJECTS

Sec. 2001. Pilot program for alternative water source projects.

TITLE III—SEWER OVERFLOW CONTROL GRANTS

Sec. 3001. Sewer overflow control grants.

**TITLE IV—MONITORING, REPORTING, AND PUBLIC NOTIFICATION
OF SEWER OVERFLOWS**

Sec. 4001. Monitoring, reporting, and public notification of sewer overflows.

TITLE V—GREAT LAKES LEGACY REAUTHORIZATION

- Sec. 5001. Remediation of sediment contamination in areas of concern.
- Sec. 5002. Public information program.
- Sec. 5003. Contaminated sediment remediation approaches, technologies, and techniques.
- Sec. 5004. Great Lakes water quality.

TITLE VI—PHARMACEUTICALS AND PERSONAL CARE PRODUCTS

- Sec. 6001. Presence of pharmaceuticals and personal care products in waters of the United States.

TITLE VII—MISCELLANEOUS

- Sec. 7001. Task force on proper disposal of unused pharmaceuticals.

TITLE VIII—OMB STUDY

- Sec. 8001. Evaluation using program assessment rating tool.

TITLE IX—CHESAPEAKE BAY ACCOUNTABILITY AND RECOVERY

- Sec. 9001. Chesapeake Bay Crosseut Budget.
- Sec. 9002. Adaptive Management Plan.
- Sec. 9003. Definitions.

1 **SEC. 2. AMENDMENT OF FEDERAL WATER POLLUTION CON-** 2 **TROL ACT.**

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

TITLE I—WATER QUALITY
FINANCING
Subtitle A—Technical and
Management Assistance

SEC. 1101. 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 para-
graph (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 and tribal gov-
ernments for the purpose of assisting, in con-
sultation with the State in which the assistance
is provided, such municipalities and tribal gov-
ernments in the planning, developing, and ac-
quisition of financing for eligible projects de-
scribed in section 603(c);

“(B) to provide technical assistance and
training for rural, small, and tribal publicly
owned treatment works and decentralized

1 wastewater treatment systems to enable such
2 treatment works and systems to protect water
3 quality and achieve and maintain compliance
4 with the requirements of this Act; and

5 “(C) to disseminate information to rural,
6 small, and tribal municipalities and municipali-
7 ties that meet the affordability criteria estab-
8 lished under section 603(i)(2) by the State in
9 which the municipality is located with respect to
10 planning, design, construction, and operation of
11 publicly owned treatment works and decentral-
12 ized wastewater treatment systems.”.

13 (b) AUTHORIZATION OF APPROPRIATIONS.—Section

14 104(u) (33 U.S.C. 1254(u)) is amended—

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

16 and

17 (2) by inserting before the period at the end the
18 following: “; and (7) not to exceed \$100,000,000 for
19 each of fiscal years 2010 through 2014 for carrying
20 out subsections (b)(3), (b)(8), and (g), except that
21 not less than 20 percent of the amounts appro-
22 priated pursuant to this paragraph in a fiscal year
23 shall be used for carrying out subsection (b)(8)”.

24 (c) SMALL FLOWS CLEARINGHOUSE.—Section

25 104(q)(4) (33 U.S.C. 1254(q)(4)) is amended—

1 (1) in the first sentence by striking
2 “\$1,000,000” and inserting “\$3,000,000”; and
3 (2) in the second sentence by striking “1986”
4 and inserting “2011”.

5 **SEC. 1102. STATE MANAGEMENT ASSISTANCE.**

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

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

9 (2) by striking the semicolon at the end of
10 paragraph (2) and inserting “; and”; and

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

13 “(3) such sums as may be necessary for each
14 of fiscal years 1991 through 2009, and
15 \$300,000,000 for each of fiscal years 2010 through
16 2014;”.

17 **SEC. 1103. WATERSHED PILOT PROJECTS.**

18 (a) PILOT PROJECTS.—Section 122 (33 U.S.C.
19 1274) is amended—

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

22 (2) in subsection (a)—

23 (A) in the matter preceding paragraph

24 (1)—

1 (i) by striking “for treatment works”
2 and inserting “to a municipality or munic-
3 ipal entity”; and

4 (ii) by striking “wet weather dis-
5 charge”;

6 (B) in paragraph (2) by striking “in reduc-
7 ing such pollutants” and all that follows before
8 the period at the end and inserting “to manage,
9 reduce, treat, or reuse municipal stormwater,
10 including low-impact development technologies
11 and other techniques that utilize infiltration,
12 evapotranspiration, and reuse of storm water on
13 site”; and

14 (C) by adding at the end the following:

15 “(3) WATERSHED PARTNERSHIPS.—Efforts of
16 municipalities and property owners to demonstrate
17 cooperative ways to address nonpoint sources of pol-
18 lution to reduce adverse impacts on water quality.

19 “(4) INTEGRATED WATER RESOURCE PLAN.—
20 The development of an integrated water resource
21 plan for the coordinated management and protection
22 of surface water, ground water, and stormwater re-
23 sources on a watershed or subwatershed basis to
24 meet the objectives, goals, and policies of this Act.

1 “(5) MUNICIPALITY-WIDE STORM WATER MAN-
 2 AGEMENT PLANNING.—The development of a mu-
 3 nicipality-wide plan that identifies the most effective
 4 placement of storm water technologies and manage-
 5 ment approaches, including green infrastructure, to
 6 reduce water quality impairments from storm water
 7 on a municipality-wide basis.”.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—The first
 9 sentence of section 122(c)(1) is amended—

10 (1) by striking “and”; and

11 (2) by striking the period and inserting “, such
 12 sums as may be necessary for each of fiscal years
 13 2005 through 2009, and \$100,000,000 for each of
 14 fiscal years 2010 through 2014”.

15 (c) REPORT TO CONGRESS.—Section 122(d) is
 16 amended by striking “5 years after the date of enactment
 17 of this section,” and inserting “October 1, 2011,”.

18 **Subtitle B—Construction of** 19 **Treatment Works**

20 **SEC. 1201. SEWAGE COLLECTION SYSTEMS.**

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

22 (1) by striking the section heading and all that
 23 follows through “(a) No” and inserting the fol-
 24 lowing:

1 **“SEC. 211. SEWAGE COLLECTION SYSTEMS.**

2 “(a) IN GENERAL.—No”;

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

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

7 “(c) EXCEPTIONS.—

8 “(1) REPLACEMENT AND MAJOR REHABILITA-
9 TION.—Notwithstanding the requirement of sub-
10 section (a)(1) concerning the existence of a collection
11 system as a condition of eligibility, a project for re-
12 placement or major rehabilitation of a collection sys-
13 tem existing on January 1, 2007, shall be eligible for
14 a grant under this title if the project otherwise
15 meets the requirements of subsection (a)(1) and
16 meets the requirement of paragraph (3).

17 “(2) NEW SYSTEMS.—Notwithstanding the re-
18 quirement of subsection (a)(2) concerning the exist-
19 ence of a community as a condition of eligibility, a
20 project for a new collection system to serve a com-
21 munity existing on January 1, 2007, shall be eligible
22 for a grant under this title if the project otherwise
23 meets the requirements of subsection (a)(2) and
24 meets the requirement of paragraph (3).

25 “(3) REQUIREMENT.—A project meets the re-
26 quirement of this paragraph if the purpose of the

1 project is to accomplish the objectives, goals, and
 2 policies of this Act by addressing an adverse envi-
 3 ronmental condition existing on the date of enact-
 4 ment of this paragraph.”.

5 **SEC. 1202. TREATMENT WORKS DEFINED.**

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

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

9 (2) by striking “is used for ultimate” and in-
 10 sserting “will be used for ultimate”; and

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

14 **Subtitle C—State Water Pollution**
 15 **Control Revolving Funds**

16 **SEC. 1301. GENERAL AUTHORITY FOR CAPITALIZATION**
 17 **GRANTS.**

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

1 **SEC. 1302. CAPITALIZATION GRANT AGREEMENTS.**

2 (a) REPORTING INFRASTRUCTURE ASSETS.—Section
3 602(b)(9) (33 U.S.C. 1382(b)(9)) is amended by striking
4 “standards” and inserting “standards, including stand-
5 ards relating to the reporting of infrastructure assets”.

6 (b) ADDITIONAL REQUIREMENTS.—Section 602(b)
7 (33 U.S.C. 1382(b)) is amended—

8 (1) in paragraph (6)—

9 (A) by striking “before fiscal year 1995”;

10 (B) by striking “funds directly made avail-
11 able by capitalization grants under this title
12 and section 205(m) of this Act” and inserting
13 “assistance made available by a State water
14 pollution control revolving fund as authorized
15 under this title, or with assistance made avail-
16 able under section 205(m), or both,”; and

17 (C) by striking “201(b)” and all that fol-
18 lows through “513” and inserting “211 and
19 511(c)(1)”;

20 (2) by striking “and” at the end of paragraph
21 (9);

22 (3) by striking the period at the end of para-
23 graph (10) and inserting a semicolon; and

24 (4) by adding at the end the following:

25 “(11) the State will establish, maintain, invest,
26 and credit the fund with repayments, such that the

1 fund balance will be available in perpetuity for pro-
2 viding financial assistance in accordance with this
3 title;

4 “(12) any fees charged by the State to recipi-
5 ents of assistance that are considered program in-
6 come will be used for the purpose of financing the
7 cost of administering the fund or financing projects
8 or activities eligible for assistance from the fund;

9 “(13) beginning in fiscal year 2011, the State
10 will include as a condition of providing assistance to
11 a municipality or intermunicipal, interstate, or State
12 agency that the recipient of such assistance certify,
13 in a manner determined by the Governor of the
14 State, that the recipient—

15 “(A) has studied and evaluated the cost
16 and effectiveness of the processes, materials,
17 techniques, and technologies for carrying out
18 the proposed project or activity for which assist-
19 ance is sought under this title, and has selected,
20 to the extent practicable, a project or activity
21 that maximizes the potential for efficient water
22 use, reuse, and conservation, and energy con-
23 servation, taking into account the cost of con-
24 structing the project or activity, the cost of op-
25 erating and maintaining the project or activity

1 over its life, and the cost of replacing the
2 project or activity; and

3 “(B) has considered, to the maximum ex-
4 tent practicable and as determined appropriate
5 by the recipient, the costs and effectiveness of
6 other design, management, and financing ap-
7 proaches for carrying out a project or activity
8 for which assistance is sought under this title,
9 taking into account the cost of constructing the
10 project or activity, the cost of operating and
11 maintaining the project or activity over its life,
12 and the cost of replacing the project or activity;

13 “(14) the State will use at least 15 percent of
14 the amount of each capitalization grant received by
15 the State under this title after September 30, 2010,
16 to provide assistance to municipalities of fewer than
17 10,000 individuals that meet the affordability cri-
18 teria established by the State under section
19 603(i)(2) for activities included on the State’s pri-
20 ority list established under section 603(g), to the ex-
21 tent that there are sufficient applications for such
22 assistance;

23 “(15) a contract to be carried out using funds
24 directly made available by a capitalization grant
25 under this title for program management, construc-

tion 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 requirement (as determined by the Governor of the State); and

“(16) the requirements of section 513 will apply to the construction of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund as authorized under this title, or with assistance made available under section 205(m), or both, in the same manner as treatment works for which grants are made under this Act.”.

SEC. 1303. 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 “(1) to any municipality or intermunicipal,
2 interstate, or State agency for construction of pub-
3 licly owned treatment works;

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

6 “(3) for development and implementation of a
7 conservation and management plan under section
8 320;

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

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

14 “(6) for measures to manage, reduce, treat, or
15 reuse municipal stormwater, agricultural
16 stormwater, and return flows from irrigated agri-
17 culture;

18 “(7) to any municipality or intermunicipal,
19 interstate, or State agency for measures to reduce
20 the demand for publicly owned treatment works ca-
21 pacity through water conservation, efficiency, or
22 reuse;

23 “(8) for the development and implementation of
24 watershed projects meeting the criteria set forth in
25 section 122; and

1 “(9) to any municipality or intermunicipal,
2 interstate, or State agency for measures to reduce
3 the energy consumption needs for publicly owned
4 treatment works, including the implementation of
5 energy-efficient or renewable-energy generation tech-
6 nologies.”.

7 (b) EXTENDED REPAYMENT PERIOD.—Section
8 603(d)(1) (33 U.S.C. 1383(d)(1)) is amended—

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

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

16 (c) FISCAL SUSTAINABILITY PLAN.—Section
17 603(d)(1) (33 U.S.C. 1383(d)(1)) is further amended—

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

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

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

23 “(E) for any portion of a treatment works
24 proposed for repair, replacement, or expansion,
25 and eligible for assistance under section

1 603(c)(1), the recipient of a loan will develop
2 and implement a fiscal sustainability plan that
3 includes—

4 “(i) an inventory of critical assets
5 that are a part of that portion of the treat-
6 ment works;

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

10 “(iii) a certification that the recipient
11 has evaluated and will be implementing
12 water and energy conservation efforts as
13 part of the plan; and

14 “(iv) a plan for maintaining, repair-
15 ing, and, as necessary, replacing that por-
16 tion of the treatment works and a plan for
17 funding such activities;”.

18 (d) ADMINISTRATIVE EXPENSES.—Section 603(d)(7)
19 (33 U.S.C. 1383(d)(7)) is amended by inserting before the
20 period at the end the following: “, \$400,000 per year, or
21 $\frac{1}{5}$ percent per year of the current valuation of the fund,
22 whichever amount is greatest, plus the amount of any fees
23 collected by the State for such purpose regardless of the
24 source”.

1 (e) TECHNICAL AND PLANNING ASSISTANCE FOR
2 SMALL SYSTEMS.—Section 603(d) (33 U.S.C. 1383(d)) is
3 amended—

4 (1) by striking “and” at the end of paragraph
5 (6);

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

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

9 “(8) to provide grants to owners and operators
10 of treatment works that serve a population of
11 10,000 or fewer for obtaining technical and planning
12 assistance and assistance in financial management,
13 user fee analysis, budgeting, capital improvement
14 planning, facility operation and maintenance, equip-
15 ment replacement, repair schedules, and other activi-
16 ties to improve wastewater treatment plant manage-
17 ment and operations, except that the total amount
18 provided by the State in grants under this para-
19 graph for a fiscal year may not exceed one percent
20 of the total amount of assistance provided by the
21 State from the fund in the preceding fiscal year, or
22 2 percent of the total amount received by the State
23 in capitalization grants under this title in the pre-
24 ceding fiscal year, whichever amount is greatest; and

1 “(9) to provide grants to owners and operators
2 of treatment works for conducting an assessment of
3 the energy and water consumption of the treatment
4 works, and evaluating potential opportunities for en-
5 ergy and water conservation through facility oper-
6 ation and maintenance, equipment replacement, and
7 projects or activities that promote the efficient use
8 of energy and water by the treatment works, except
9 that the total amount provided by the State in
10 grants under this paragraph for a fiscal year may
11 not exceed one percent of the total amount of assist-
12 ance provided by the State from the fund in the pre-
13 ceding fiscal year, or 2 percent of the total amount
14 received by the State in capitalization grants under
15 this title in the preceding fiscal year, whichever
16 amount is greatest.”.

17 (f) ADDITIONAL SUBSIDIZATION.—Section 603 (33
18 U.S.C. 1383) is amended by adding at the end the fol-
19 lowing:

20 “(i) ADDITIONAL SUBSIDIZATION.—

21 “(1) IN GENERAL.—In any case in which a
22 State provides assistance to a municipality or inter-
23 municipal, interstate, or State agency under sub-
24 section (d), the State may provide additional sub-

1 subsidization, including forgiveness of principal and
2 negative interest loans—

3 “(A) to benefit a municipality that—

4 “(i) meets the State’s affordability
5 criteria established under paragraph (2);
6 or

7 “(ii) does not meet the State’s afford-
8 ability criteria if the recipient—

9 “(I) seeks additional subsidiza-
10 tion to benefit individual ratepayers in
11 the residential user rate class;

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

18 “(III) ensures, as part of an as-
19 sistance agreement between the State
20 and the recipient, that the additional
21 subsidization provided under this
22 paragraph is directed through a user
23 charge rate system (or other appro-
24 priate method) to such ratepayers; or

1 “(B) to implement a process, material,
2 technique, or technology to address water-effi-
3 ciency goals, address energy-efficiency goals,
4 mitigate stormwater runoff, or encourage envi-
5 ronmentally sensitive project planning, design,
6 and construction.

7 “(2) AFFORDABILITY CRITERIA.—

8 “(A) ESTABLISHMENT.—On or before Sep-
9 tember 30, 2010, and after providing notice
10 and an opportunity for public comment, a State
11 shall establish affordability criteria to assist in
12 identifying municipalities that would experience
13 a significant hardship raising the revenue nec-
14 essary to finance a project or activity eligible
15 for assistance under section 603(c)(1) if addi-
16 tional subsidization is not provided. Such cri-
17 teria shall be based on income data, population
18 trends, and other data determined relevant by
19 the State, including whether the project or ac-
20 tivity is to be carried out in an economically
21 distressed area, as described in section 301 of
22 the Public Works and Economic Development
23 Act of 1965 (42 U.S.C. 3161).

24 “(B) EXISTING CRITERIA.—If a State has
25 previously established, after providing notice

1 and an opportunity for public comment, afford-
2 ability criteria that meet the requirements of
3 subparagraph (A), the State may use the cri-
4 teria for the purposes of this subsection. For
5 purposes of this Act, any such criteria shall be
6 treated as affordability criteria established
7 under this paragraph.

8 “(C) INFORMATION TO ASSIST STATES.—

9 The Administrator may publish information to
10 assist States in establishing affordability cri-
11 teria under subparagraph (A).

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

16 “(4) SET-ASIDE.—

17 “(A) IN GENERAL.—In any fiscal year in
18 which the Administrator has available for obli-
19 gation more than \$1,000,000,000 for the pur-
20 poses of this title, a State shall provide addi-
21 tional subsidization under this subsection in the
22 amount specified in subparagraph (B) to eligi-
23 ble entities described in paragraph (1) for
24 projects and activities identified in the State’s
25 intended use plan prepared under section

1 606(c) to the extent that there are sufficient
2 applications for such assistance.

3 “(B) AMOUNT.—In a fiscal year described
4 in subparagraph (A), a State shall set aside for
5 purposes of subparagraph (A) an amount not
6 less than 25 percent of the difference be-
7 tween—

8 “(i) the total amount that would have
9 been allotted to the State under section
10 604 for such fiscal year if the amount
11 available to the Administrator for obliga-
12 tion under this title for such fiscal year
13 had been equal to \$1,000,000,000; and

14 “(ii) the total amount allotted to the
15 State under section 604 for such fiscal
16 year.

17 “(5) LIMITATION.—The total amount of addi-
18 tional subsidization provided under this subsection
19 by a State may not exceed 30 percent of the total
20 amount of capitalization grants received by the State
21 under this title in fiscal years beginning after Sep-
22 tember 30, 2009.”.

23 **SEC. 1304. ALLOTMENT OF FUNDS.**

24 (a) IN GENERAL.—Section 604(a) (33 U.S.C.
25 1384(a)) is amended to read as follows:

1 “(a) ALLOTMENTS.—

2 “(1) FISCAL YEARS 2010 AND 2011.—Sums ap-
3 propriated to carry out this title for each of fiscal
4 years 2010 and 2011 shall be allotted by the Admin-
5 istrator in accordance with the formula used to allot
6 sums appropriated to carry out this title for fiscal
7 year 2009.

8 “(2) FISCAL YEAR 2012 AND THEREAFTER.—
9 Sums appropriated to carry out this title for fiscal
10 year 2012 and each fiscal year thereafter shall be al-
11 lotted by the Administrator as follows:

12 “(A) Amounts that do not exceed
13 \$1,350,000,000 shall be allotted in accordance
14 with the formula described in paragraph (1).

15 “(B) Amounts that exceed \$1,350,000,000
16 shall be allotted in accordance with the formula
17 developed by the Administrator under sub-
18 section (d).”.

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

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

24 “(d) FORMULA BASED ON WATER QUALITY
25 NEEDS.—Not later than September 30, 2011, and after

1 providing notice and an opportunity for public comment,
2 the Administrator shall publish an allotment formula
3 based on water quality needs in accordance with the most
4 recent survey of needs developed by the Administrator
5 under section 516(b).”.

6 **SEC. 1305. INTENDED USE PLAN.**

7 (a) INTEGRATED PRIORITY LIST.—Section 603(g)
8 (33 U.S.C. 1383(g)) is amended to read as follows:

9 “(g) PRIORITY LIST.—

10 “(1) IN GENERAL.—For fiscal year 2011 and
11 each fiscal year thereafter, a State shall establish or
12 update a list of projects and activities for which as-
13 sistance is sought from the State’s water pollution
14 control revolving fund. Such projects and activities
15 shall be listed in priority order based on the method-
16 ology established under paragraph (2). The State
17 may provide financial assistance from the State’s
18 water pollution control revolving fund only with re-
19 spect to a project or activity included on such list.
20 In the case of projects and activities eligible for as-
21 sistance under section 603(c)(2), the State may in-
22 clude a category or subcategory of nonpoint sources
23 of pollution on such list in lieu of a specific project
24 or activity.

25 “(2) METHODOLOGY.—

1 “(A) IN GENERAL.—Not later than 1 year
2 after the date of enactment of this paragraph,
3 and after providing notice and opportunity for
4 public comment, each State (acting through the
5 State’s water quality management agency and
6 other appropriate agencies of the State) shall
7 establish a methodology for developing a pri-
8 ority list under paragraph (1).

9 “(B) PRIORITY FOR PROJECTS AND AC-
10 TIVITIES THAT ACHIEVE GREATEST WATER
11 QUALITY IMPROVEMENT.—In developing the
12 methodology, the State shall seek to achieve the
13 greatest degree of water quality improvement,
14 taking into consideration the requirements of
15 section 602(b)(5) and section 603(i)(3), wheth-
16 er such water quality improvements would be
17 realized without assistance under this title, and
18 whether the proposed projects and activities
19 would address water quality impairments asso-
20 ciated with existing treatment works.

21 “(C) CONSIDERATIONS IN SELECTING
22 PROJECTS AND ACTIVITIES.—In determining
23 which projects and activities will achieve the
24 greatest degree of water quality improvement,
25 the State shall consider—

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

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

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

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

9 “(D) NONPOINT SOURCES.—For categories
10 or subcategories of nonpoint sources of pollu-
11 tion that a State may include on its priority list
12 under paragraph (1), the State shall consider
13 the cumulative water quality improvements as-
14 sociated with projects or activities in such cat-
15 egories or subcategories.

16 “(E) EXISTING METHODOLOGIES.—If a
17 State has previously developed, after providing
18 notice and an opportunity for public comment,
19 a methodology that meets the requirements of
20 this paragraph, the State may use the method-
21 ology for the purposes of this subsection.”.

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

24 (1) in the matter preceding paragraph (1) by
25 striking “each State shall annually prepare” and in-

1 serting “each State (acting through the State’s
2 water quality management agency and other appro-
3 priate agencies of the State) shall annually prepare
4 and publish”;

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

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

9 (3) in paragraph (4)—

10 (A) by striking “and (6)” and inserting

11 “(6), (15), and (17)”; and

12 (B) by striking “and” at the end;

13 (4) by striking the period at the end of para-

14 graph (5) and inserting “; and”; and

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

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

20 (c) TRANSITIONAL PROVISION.—Before completion
21 of a priority list based on a methodology established under
22 section 603(g) of the Federal Water Pollution Control Act
23 (as amended by this section), a State shall continue to
24 comply with the requirements of sections 603(g) and

1 606(c) of such Act, as in effect on the day before the date
2 of enactment of this Act.

3 **SEC. 1306. ANNUAL REPORTS.**

4 Section 606(d) (33 U.S.C. 1386(d)) is amended—

5 (1) by striking “(d) ANNUAL REPORT.—Begin-
6 ning” and inserting the following:

7 “(d) ANNUAL REPORTS.—

8 “(1) STATE REPORT.—Beginning”;

9 (2) in paragraph (1) (as so designated) by
10 striking “loan amounts,” and inserting “loan
11 amounts, the eligible purposes under section 603(c)
12 for which the assistance has been provided,”; and

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

14 “(2) FEDERAL REPORT.—The Administrator
15 shall annually prepare, and make publicly available,
16 a report on the performance of the projects and ac-
17 tivities carried out in whole or in part with assist-
18 ance made available by a State water pollution con-
19 trol revolving fund as authorized under this title
20 during the previous fiscal year, including—

21 “(A) the annual and cumulative financial
22 assistance provided to States under this title;

23 “(B) the categories and types of such
24 projects and activities;

1 “(C) an estimate of the number of jobs
2 created through carrying out such projects and
3 activities;

4 “(D) an assessment of the progress made
5 toward meeting the goals and purposes of this
6 Act through such projects and activities; and

7 “(E) any additional information that the
8 Administrator considers appropriate.”.

9 **SEC. 1307. TECHNICAL ASSISTANCE; REQUIREMENTS FOR**
10 **USE OF AMERICAN MATERIALS.**

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

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

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

15 **“SEC. 607. TECHNICAL ASSISTANCE.**

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

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

1 publish in the Federal Register notice of the availability
2 of the manual.

3 “(c) COMPLIANCE CRITERIA.—At the request of any
4 State, the Administrator, after providing notice and an op-
5 portunity for public comment, shall assist in the develop-
6 ment of criteria for a State to determine compliance with
7 the conditions of funding assistance established under sec-
8 tions 602(b)(13) and 603(d)(1)(E).

9 **“SEC. 608. REQUIREMENTS FOR USE OF AMERICAN MATE-**
10 **RIALS.**

11 “(a) IN GENERAL.—Notwithstanding any other pro-
12 vision of law, none of the funds made available by a State
13 water pollution control revolving fund as authorized under
14 this title may be used for the construction of treatment
15 works unless the steel, iron, and manufactured goods used
16 in such treatment works are produced in the United
17 States.

18 “(b) EXCEPTIONS.—Subsection (a) shall not apply in
19 any case in which the Administrator (in consultation with
20 the Governor of the State) finds that—

21 “(1) applying subsection (a) would be incon-
22 sistent with the public interest;

23 “(2) steel, iron, and manufactured goods are
24 not produced in the United States in sufficient and

1 reasonably available quantities and of a satisfactory
2 quality; or

3 “(3) inclusion of steel, iron, and manufactured
4 goods produced in the United States will increase
5 the cost of the overall project by more than 25 per-
6 cent.

7 “(c) PUBLIC NOTIFICATION AND WRITTEN JUS-
8 TIFICATION FOR WAIVER.—If the Administrator deter-
9 mines that it is necessary to waive the application of sub-
10 section (a) based on a finding under subsection (b), the
11 Administrator shall—

12 “(1) not less than 15 days prior to waiving ap-
13 plication of subsection (a), provide public notice and
14 the opportunity to comment on the Administrator’s
15 intent to issue such waiver; and

16 “(2) upon issuing such waiver, publish in the
17 Federal Register a detailed written justification as
18 to why the provision is being waived.

19 “(d) CONSISTENCY WITH INTERNATIONAL AGREE-
20 MENTS.—This section shall be applied in a manner con-
21 sistent with United States obligations under international
22 agreements.”.

1 **SEC. 1308. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 609 (as redesignated by section 1307 of this
3 Act) is amended by striking paragraphs (1) through (5)
4 and inserting the following:

5 “(a) AUTHORIZATION OF APPROPRIATIONS.—

6 “(1) \$2,400,000,000 for fiscal year 2010;

7 “(2) \$2,700,000,000 for fiscal year 2011;

8 “(3) \$2,800,000,000 for fiscal year 2012;

9 “(4) \$2,900,000,000 for fiscal year 2013; and

10 “(5) \$3,000,000,000 for fiscal year 2014.

11 “(b) PROHIBITION ON EARMARKS.—None of the
12 funds appropriated pursuant to subsection (a) may be
13 used for a congressional earmark as defined in clause 9d,
14 of Rule XXI of the rules of the House of Representa-
15 tives.”.

16 **Subtitle D—General Provisions**

17 **SEC. 1401. DEFINITION OF TREATMENT WORKS.**

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

20 “(26) TREATMENT WORKS.—The term ‘treat-
21 ment works’ has the meaning given that term in sec-
22 tion 212.”.

23 **SEC. 1402. FUNDING FOR INDIAN PROGRAMS.**

24 Section 518(c) (33 U.S.C. 1377) is amended—

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

1 “(1) FISCAL YEARS 1987–2008.—The Adminis-
2 trator”;

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

4 (A) by inserting “and ending before Octo-
5 ber 1, 2008,” after “1986,”; and

6 (B) by striking the second sentence; and

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

8 “(2) FISCAL YEAR 2009 AND THEREAFTER.—

9 For fiscal year 2009 and each fiscal year thereafter,
10 the Administrator shall reserve, before allotments to
11 the States under section 604(a), not less than 0.5
12 percent and not more than 1.5 percent of the funds
13 made available to carry out title VI.

14 “(3) USE OF FUNDS.—Funds reserved under
15 this subsection shall be available only for grants for
16 projects and activities eligible for assistance under
17 section 603(c) to serve—

18 “(A) Indian tribes (as defined in section
19 518(h));

20 “(B) former Indian reservations in Okla-
21 homa (as determined by the Secretary of the
22 Interior); and

23 “(C) Native villages (as defined in section
24 3 of the Alaska Native Claims Settlement Act
25 (43 U.S.C. 1602)).”.

1 **Subtitle E—Tonnage Duties**

2 **SEC. 1501. TONNAGE DUTIES.**

3 (a) IN GENERAL.—Section 60301 of title 46, United
4 State Code, is amended by striking subsections (a) and
5 (b) and inserting the following:

6 “(a) LOWER RATE.—

7 “(1) IMPOSITION OF DUTY.—A duty is imposed
8 at the rate described in paragraph (2) at each entry
9 in a port of the United States of—

10 “(A) a vessel entering from a foreign port
11 or place in North America, Central America,
12 the West Indies Islands, the Bahama Islands,
13 the Bermuda Islands, or the coast of South
14 America bordering the Caribbean Sea; or

15 “(B) a vessel returning to the same port or
16 place in the United States from which it de-
17 parted, and not entering the United States
18 from another port or place, except—

19 “(i) a vessel of the United States;

20 “(ii) a recreational vessel (as defined
21 in section 2101 of this title); or

22 “(iii) a barge.

23 “(2) RATE.—The rate referred to in paragraph
24 (1) shall be—

1 “(A) 4.5 cents per ton (but not more than
2 a total of 22.5 cents per ton per year) for fiscal
3 years 2006 through 2009;

4 “(B) 9.0 cents per ton (but not more than
5 a total of 45 cents per ton per year) for fiscal
6 years 2010 through 2019; and

7 “(C) 2 cents per ton (but not more than
8 a total of 10 cents per ton per year) for each
9 fiscal year thereafter.

10 “(b) HIGHER RATE.—

11 “(1) IMPOSITION OF DUTY.—A duty is imposed
12 at the rate described in paragraph (2) on a vessel
13 at each entry in a port of the United States from
14 a foreign port or place not named in subsection
15 (a)(1).

16 “(2) RATE.—The rate referred to in paragraph
17 (1) shall be—

18 “(A) 13.5 cents per ton (but not more
19 than a total of 67.5 cents per ton per year) for
20 fiscal years 2006 through 2009;

21 “(B) 27 cents per ton (but not more than
22 a total of \$1.35 per ton per year) for fiscal
23 years 2010 through 2019, and

1 “(C) 6 cents per ton (but not more than
2 a total of 30 cents per ton per year) for each
3 fiscal year thereafter.”.

4 (b) CONFORMING AMENDMENTS.—Such title is fur-
5 ther amended—

6 (1) by striking the heading for subtitle VI and
7 inserting the following:

8 **“Subtitle VI—Clearance and**
9 **Tonnage Duties”;**

10 (2) in the heading for chapter 603, by striking
11 **“TAXES”** and inserting **“DUTIES”**;

12 (3) in the headings of sections in chapter 603,
13 by striking **“taxes”** each place it appears and in-
14 serting **“duties”**;

15 (4) in the heading for subsection (a) of section
16 60303, by striking **“TAX”** and inserting **“DUTY”**;

17 (5) in the text of sections in chapter 603, by
18 striking **“taxes”** each place it appears and inserting
19 **“duties”**; and

20 (6) in the text of sections in chapter 603, by
21 striking **“tax”** each place it appears and inserting
22 **“duty”**.

23 (c) CLERICAL AMENDMENTS.—Such title is further
24 amended—

1 (1) in the title analysis by striking the item re-
 2 lating to subtitle VI and inserting the following:

“VI. CLEARANCE AND TONNAGE DUTIES60101”;

3 (2) in the analysis for subtitle VI by striking
 4 the item relating to chapter 603 and inserting the
 5 following:

“603. Tonnage Duties and Light Money 60301”;

6 and

7 (3) in the analysis for chapter 603—

8 (A) by striking the items relating to sec-
 9 tions 60301 and 60302 and inserting the fol-
 10 lowing:

“60301. Regular tonnage duties.

“60302. Special tonnage duties.”;

11 and

12 (B) by striking the item relating to section
 13 60304 and inserting the following:

“60304. Presidential suspension of tonnage duties and light money.”.

14 **SEC. 1502. UNITED STATES-MEXICAN BORDER WATER IN-**
 15 **FRAStructure STUDIES.**

16 (a) STUDY OF INFRASTRUCTURE ALONG THE RIO
 17 GRANDE RIVER.—

18 (1) IN GENERAL.—The Administrator of the
 19 Environmental Protection Agency shall conduct a
 20 study of wastewater treatment facilities that dis-
 21 charge into the Rio Grande River and develop rec-
 22 ommendations for improving monitoring, informa-

1 tion sharing, and cooperation between the United
2 States and Mexico.

3 (2) CONSULTATION.—The Administrator shall
4 conduct the study in consultation with the Secretary
5 of State, appropriate representatives of the Mexican
6 government, and the International Boundary Waters
7 Commission.

8 (3) REPORT.—Not later than 12 months after
9 the date of enactment of this Act, the Administrator
10 shall submit to Congress a report on the results of
11 the study, together with the recommendations devel-
12 oped under paragraph (1).

13 (b) STUDY OF WATER INFRASTRUCTURE ALONG THE
14 UNITED STATES-MEXICO BORDER.—

15 (1) STUDY.—The Comptroller General shall
16 conduct a study on water infrastructure along the
17 border between the United States and Mexico to
18 augment current studies relating to colonias develop-
19 ment.

20 (2) CONTENTS.—In conducting the study, the
21 Comptroller General shall examine the comprehen-
22 sive planning needs relating to water and wastewater
23 infrastructure for colonias along the border between
24 the United States and Mexico.

1 (3) REPORT.—Not later than 12 months after
2 the date of enactment of this Act, the Comptroller
3 General shall submit to Congress a report on the re-
4 sults of the study.

5 **TITLE II—ALTERNATIVE WATER** 6 **SOURCE PROJECTS**

7 **SEC. 2001. PILOT PROGRAM FOR ALTERNATIVE WATER** 8 **SOURCE PROJECTS.**

9 (a) SELECTION OF PROJECTS.—Section 220(d)(2)
10 (33 U.S.C. 1300(d)(2)) is amended by inserting before the
11 period at the end the following: “or whether the project
12 is located in an area which is served by a public water
13 system serving 10,000 individuals or fewer”.

14 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
15 220(j) (33 U.S.C. 1300(j)) is amended by striking
16 “\$75,000,000 for fiscal years 2002 through 2004” and
17 inserting “\$50,000,000 for each of fiscal years 2010
18 through 2014”.

19 **TITLE III—SEWER OVERFLOW** 20 **CONTROL GRANTS**

21 **SEC. 3001. SEWER OVERFLOW CONTROL GRANTS.**

22 (a) ADMINISTRATIVE REQUIREMENTS.—Section
23 221(e) (33 U.S.C. 1301(e)) is amended to read as follows:
24 “(e) ADMINISTRATIVE REQUIREMENTS.—A project
25 that receives assistance under this section shall be carried

1 out subject to the same requirements as a project that
2 receives assistance from a State water pollution control
3 revolving fund under title VI, except to the extent that
4 the Governor of the State in which the project is located
5 determines that a requirement of title VI is inconsistent
6 with the purposes of this section.”.

7 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
8 221(f) (33 U.S.C. 1301(f)) is amended to read as follows:

9 “(f) AUTHORIZATION OF APPROPRIATIONS.—

10 “(1) IN GENERAL.—There is authorized to be
11 appropriated to carry out this section \$500,000,000
12 for each of fiscal years 2010 through 2014.

13 “(2) MINIMUM ALLOCATIONS.—To the extent
14 there are sufficient eligible project applications, the
15 Administrator shall ensure that a State uses not less
16 than 20 percent of the amount of the grants made
17 to the State under subsection (a) in a fiscal year to
18 carry out projects to control municipal combined
19 sewer overflows and sanitary sewer overflows
20 through the use of green infrastructure, water and
21 energy efficiency improvements, and other environ-
22 mentally innovative activities.”.

23 (c) ALLOCATION OF FUNDS.—Section 221(g) of such
24 Act (33 U.S.C. 1301(g)) is amended to read as follows:

25 “(g) ALLOCATION OF FUNDS.—

1 “(1) FISCAL YEAR 2010.—Subject to subsection
2 (h), the Administrator shall use the amounts appro-
3 priated to carry out this section for fiscal year 2010
4 for making grants to municipalities and municipal
5 entities under subsection (a)(2) in accordance with
6 the criteria set forth in subsection (b).

7 “(2) FISCAL YEAR 2011 AND THEREAFTER.—
8 Subject to subsection (h), the Administrator shall
9 use the amounts appropriated to carry out this sec-
10 tion for fiscal year 2011 and each fiscal year there-
11 after for making grants to States under subsection
12 (a)(1) in accordance with a formula to be established
13 by the Administrator, after providing notice and an
14 opportunity for public comment, that allocates to
15 each State a proportional share of such amounts
16 based on the total needs of the State for municipal
17 combined sewer overflow controls and sanitary sewer
18 overflow controls identified in the most recent survey
19 conducted pursuant to section 516.”.

20 (d) REPORTS.—The first sentence of section 221(i)
21 (33 U.S.C. 1301(i)) is amended by striking “2003” and
22 inserting “2012”.

1 **TITLE IV—MONITORING, RE-**
2 **PORTING, AND PUBLIC NOTI-**
3 **FICATION OF SEWER OVER-**
4 **FLWS**

5 **SEC. 4001. MONITORING, REPORTING, AND PUBLIC NOTIFI-**
6 **CATION OF SEWER OVERFLOWS.**

7 Section 402 (33 U.S.C. 1342) is amended by adding
8 at the end the following:

9 “(s) SEWER OVERFLOW MONITORING, REPORTING,
10 AND NOTIFICATIONS.—

11 “(1) GENERAL REQUIREMENTS.—After the last
12 day of the 180-day period beginning on the date on
13 which regulations are issued under paragraph (4), a
14 permit issued, renewed, or modified under this sec-
15 tion by the Administrator or the State, as the case
16 may be, for a publicly owned treatment works shall
17 require, at a minimum, beginning on the date of the
18 issuance, modification, or renewal, that the owner or
19 operator of the treatment works—

20 “(A) institute and utilize a feasible meth-
21 odology, technology, or management program
22 for monitoring sewer overflows to alert the
23 owner or operator to the occurrence of a sewer
24 overflow in a timely manner;

1 “(B) in the case of a sewer overflow that
2 has the potential to affect human health, notify
3 the public of the overflow as soon as practicable
4 but not later than 24 hours after the time the
5 owner or operator knows of the overflow;

6 “(C) in the case of a sewer overflow that
7 may imminently and substantially endanger
8 human health, notify public health authorities
9 and other affected entities, such as public water
10 systems, of the overflow immediately after the
11 owner or operator knows of the overflow;

12 “(D) report each sewer overflow on its dis-
13 charge monitoring report to the Administrator
14 or the State, as the case may be, by describ-
15 ing—

16 “(i) the magnitude, duration, and sus-
17 pected cause of the overflow;

18 “(ii) the steps taken or planned to re-
19 duce, eliminate, or prevent recurrence of
20 the overflow; and

21 “(iii) the steps taken or planned to
22 mitigate the impact of the overflow; and

23 “(E) annually report to the Administrator
24 or the State, as the case may be, the total num-

1 ber of sewer overflows in a calendar year, in-
2 cluding—

3 “(i) the details of how much waste-
4 water was released per incident;

5 “(ii) the duration of each sewer over-
6 flow;

7 “(iii) the location of the overflow and
8 any potentially affected receiving waters;

9 “(iv) the responses taken to clean up
10 the overflow; and

11 “(v) the actions taken to mitigate im-
12 pacts and avoid further sewer overflows at
13 the site.

14 “(2) EXCEPTIONS.—

15 “(A) NOTIFICATION REQUIREMENTS.—The
16 notification requirements of paragraphs (1)(B)
17 and (1)(C) shall not apply to a sewer overflow
18 that is a wastewater backup into a single-family
19 residence.

20 “(B) REPORTING REQUIREMENTS.—The
21 reporting requirements of paragraphs (1)(D)
22 and (1)(E) shall not apply to a sewer overflow
23 that is a release of wastewater that occurs in
24 the course of maintenance of the treatment
25 works, is managed consistently with the treat-

1 ment works’ best management practices, and is
2 intended to prevent sewer overflows.

3 “(3) REPORT TO EPA.—Each State shall pro-
4 vide to the Administrator annually a summary of
5 sewer overflows that occurred in the State.

6 “(4) RULEMAKING BY EPA.—Not later than one
7 year after the date of enactment of this subsection,
8 the Administrator, after providing notice and an op-
9 portunity for public comment, shall issue regulations
10 to implement this subsection, including regulations
11 to—

12 “(A) establish a set of criteria to guide the
13 owner or operator of a publicly owned treat-
14 ment works in—

15 “(i) assessing whether a sewer over-
16 flow has the potential to affect human
17 health or may imminently and substan-
18 tially endanger human health; and

19 “(ii) developing communication meas-
20 ures that are sufficient to give notice
21 under paragraphs (1)(B) and (1)(C); and

22 “(B) define the terms ‘feasible’ and ‘time-
23 ly’ as such terms apply to paragraph (1)(A), in-
24 cluding site specific conditions.

1 “(5) APPROVAL OF STATE NOTIFICATION PRO-
2 GRAMS.—

3 “(A) REQUESTS FOR APPROVAL.—

4 “(i) IN GENERAL.—After the date of
5 issuance of regulations under paragraph
6 (4), a State may submit to the Adminis-
7 trator evidence that the State has in place
8 a legally enforceable notification program
9 that is substantially equivalent to or ex-
10 ceeds the requirements of paragraphs
11 (1)(B) and (1)(C).

12 “(ii) PROGRAM REVIEW AND AUTHOR-
13 IZATION.—If the evidence submitted by a
14 State under clause (i) shows the notifica-
15 tion program of the State to be substan-
16 tially equivalent to or exceeds the require-
17 ments of paragraphs (1)(B) and (1)(C),
18 the Administrator shall authorize the State
19 to carry out such program instead of the
20 requirements of paragraphs (1)(B) and
21 (1)(C).

22 “(iii) FACTORS FOR DETERMINING
23 SUBSTANTIAL EQUIVALENCY.—In carrying
24 out a review of a State notification pro-
25 gram under clause (ii), the Administrator

1 shall take into account the scope of sewer
2 overflows for which notification is required,
3 the length of time during which notifica-
4 tion must be made, the scope of persons
5 who must be notified of sewer overflows,
6 the scope of enforcement activities ensur-
7 ing that notifications of sewer overflows
8 are made, and such other factors as the
9 Administrator considers appropriate.

10 “(B) REVIEW PERIOD.—If a State submits
11 evidence with respect to a notification program
12 under subparagraph (A)(i) on or before the last
13 day of the 30-day period beginning on the date
14 of issuance of regulations under paragraph (4),
15 the requirements of paragraphs (1)(B) and
16 (1)(C) shall not begin to apply to a publicly
17 owned treatment works located in the State
18 until the date on which the Administrator com-
19 pletes a review of the notification program
20 under subparagraph (A)(ii).

21 “(C) WITHDRAWAL OF AUTHORIZATION.—
22 If the Administrator, after conducting a public
23 hearing, determines that a State is not admin-
24 istering and enforcing a State notification pro-
25 gram authorized under subparagraph (A)(ii) in

1 accordance with the requirements of this para-
2 graph, the Administrator shall so notify the
3 State and, if appropriate corrective action is not
4 taken within a reasonable time, not to exceed
5 90 days, the Administrator shall withdraw au-
6 thorization of such program and enforce the re-
7 quirements of paragraphs (1)(B) and (1)(C)
8 with respect to the State.

9 “(6) SPECIAL RULES CONCERNING APPLICA-
10 TION OF NOTIFICATION REQUIREMENTS.—After the
11 last day of the 30-day period beginning on the date
12 of issuance of regulations under paragraph (4), the
13 requirements of paragraphs (1)(B) and (1)(C)
14 shall—

15 “(A) apply to the owner or operator of a
16 publicly owned treatment works and be subject
17 to enforcement under section 309, and

18 “(B) supersede any notification require-
19 ments contained in a permit issued under this
20 section for the treatment works to the extent
21 that the notification requirements are less strin-
22 gent than the notification requirements of para-
23 graphs (1)(B) and (1)(C),

1 until such date as a permit is issued, renewed, or
2 modified under this section for the treatment works
3 in accordance with paragraph (1).

4 “(7) DEFINITIONS.—In this subsection, the fol-
5 lowing definitions apply:

6 “(A) SANITARY SEWER OVERFLOW.—The
7 term ‘sanitary sewer overflow’ means an over-
8 flow, spill, release, or diversion of wastewater
9 from a sanitary sewer system. Such term does
10 not include municipal combined sewer overflows
11 or other discharges from the combined portion
12 of a municipal combined storm and sanitary
13 sewer system and does not include wastewater
14 backups into buildings caused by a blockage or
15 other malfunction of a building lateral that is
16 privately owned. Such term includes overflows
17 or releases of wastewater that reach waters of
18 the United States, overflows or releases of
19 wastewater in the United States that do not
20 reach waters of the United States, and waste-
21 water backups into buildings that are caused by
22 blockages or flow conditions in a sanitary sewer
23 other than a building lateral.

1 “(B) SEWER OVERFLOW.—The term
2 ‘sewer overflow’ means a sanitary sewer over-
3 flow or a municipal combined sewer overflow.

4 “(C) SINGLE-FAMILY RESIDENCE.—The
5 term ‘single-family residence’ means an indi-
6 vidual dwelling unit, including an apartment,
7 condominium, house, or dormitory. Such term
8 does not include the common areas of a multi-
9 dwelling structure.”.

10 **TITLE V—GREAT LAKES LEGACY** 11 **REAUTHORIZATION**

12 **SEC. 5001. REMEDIATION OF SEDIMENT CONTAMINATION** 13 **IN AREAS OF CONCERN.**

14 Section 118(c)(12)(H) of the Federal Water Pollu-
15 tion Control Act (33 U.S.C. 1268(c)(12)(H)) is amended
16 by striking clause (i) and inserting the following:

17 “(i) IN GENERAL.—In addition to
18 other amounts authorized under this sec-
19 tion, there is authorized to be appropriated
20 to carry out this paragraph—

21 “(I) \$50,000,000 for each of the
22 fiscal years 2004 through 2009; and

23 “(II) \$150,000,000 for each of
24 the fiscal years 2010 through 2014.”.

1 **SEC. 5002. PUBLIC INFORMATION PROGRAM.**

2 Section 118(c)(13)(B) (33 U.S.C. 1268(c)(13)(B)) is
3 amended by striking “2010” and inserting “2014”.

4 **SEC. 5003. CONTAMINATED SEDIMENT REMEDIATION AP-**
5 **PROACHES, TECHNOLOGIES, AND TECH-**
6 **NIQUES.**

7 Section 106(b) of the Great Lakes Legacy Act of
8 2002 (33 U.S.C. 1271a(b)) is amended by striking para-
9 graph (1) and inserting the following:

10 “(1) IN GENERAL.—In addition to amounts au-
11 thorized under other laws, there is authorized to be
12 appropriated to carry out this section—

13 “(A) \$3,000,000 for each of the fiscal
14 years 2004 through 2009; and

15 “(B) \$5,000,000 for each of the fiscal
16 years 2010 through 2014.”.

17 **SEC. 5004. GREAT LAKES WATER QUALITY.**

18 (a) STUDY.—The Administrator of the Environ-
19 mental Protection Agency, in consultation with the Sec-
20 retary of State and the Government of Canada, shall con-
21 duct a study of the condition of wastewater treatment fa-
22 cilities located in the United States and Canada that dis-
23 charge into the Great Lakes.

24 (b) CONTENTS.—In conducting the study, the Ad-
25 ministrator shall—

1 (1) determine the effect that such treatment fa-
2 cilities have on the water quality of the Great Lakes;
3 and

4 (2) develop recommendations—

5 (A) to improve water quality monitoring by
6 the operators of such treatment facilities;

7 (B) to establish a protocol for improved
8 notification and information sharing between
9 the United States and Canada; and

10 (C) to promote cooperation between the
11 United States and Canada to prevent the dis-
12 charge of untreated and undertreated waste-
13 water into the Great Lakes.

14 (c) CONSULTATION.—In conducting the study, the
15 Administrator shall consult with the International Joint
16 Commission.

17 (d) REPORT.—Not later than 12 months after the
18 date of enactment of this Act, the Administrator shall sub-
19 mit to Congress a report on the results of the study, to-
20 gether with the recommendations developed under sub-
21 section (b)(2).

1 **TITLE VI—PHARMACEUTICALS**
2 **AND PERSONAL CARE PROD-**
3 **UCTS**

4 **SEC. 6001. PRESENCE OF PHARMACEUTICALS AND PER-**
5 **SONAL CARE PRODUCTS IN WATERS OF THE**
6 **UNITED STATES.**

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

9 “(w) PRESENCE OF PHARMACEUTICALS AND PER-
10 SONAL CARE PRODUCTS IN WATERS OF THE UNITED
11 STATES.—

12 “(1) STUDY.—The Administrator, in consulta-
13 tion with appropriate Federal agencies (including
14 the National Institute of Environmental Health
15 Sciences), shall conduct a study on the presence of
16 pharmaceuticals and personal care products (in this
17 subsection referred to as ‘PPCPs’) in the waters of
18 the United States.

19 “(2) CONTENTS.—In conducting the study
20 under paragraph (1), the Administrator shall—

21 “(A) identify PPCPs that have been de-
22 tected in the waters of the United States and
23 the levels at which such PPCPs have been de-
24 tected;

1 “(B) identify the sources of PPCPs in the
 2 waters of the United States, including point
 3 sources and nonpoint sources of PPCP contami-
 4 nation; and

5 “(C) identify methods to control, limit,
 6 treat, or prevent PPCPs in the waters of the
 7 United States.

8 “(3) REPORT.—Not later than 12 months after
 9 the date of enactment of this subsection, the Admin-
 10 istrator shall submit to Congress a report on the re-
 11 sults of the study conducted under this subsection,
 12 including the potential effects of PPCPs in the wa-
 13 ters of the United States on human health and
 14 aquatic wildlife.

15 “(4) PHARMACEUTICALS AND PERSONAL CARE
 16 PRODUCTS DEFINED.—In this subsection, the terms
 17 ‘pharmaceuticals and personal care products’ and
 18 ‘PPCPs’ mean products used by individuals for per-
 19 sonal health or cosmetic reasons or used to enhance
 20 growth or health of livestock.”.

21 **TITLE VII—MISCELLANEOUS**

22 **SEC. 7001. TASK FORCE ON PROPER DISPOSAL OF UNUSED** 23 **PHARMACEUTICALS.**

24 (a) IN GENERAL.—In furtherance of the national
 25 goals and policies set forth in section 101 of the Federal

1 Water Pollution Control Act (33 U.S.C. 1251), the Ad-
2 ministrator of the Environmental Protection Agency (in
3 this Act referred to as the “Administrator”) shall convene
4 a task force (in this Act referred to as the “task force”)
5 to develop—

6 (1) recommendations on the proper disposal of
7 unused pharmaceuticals by consumers, health care
8 providers, and others, which recommendations
9 shall—

10 (A) be calculated to prevent or reduce the
11 detrimental effects on the environment and
12 human health caused by introducing unused
13 pharmaceuticals, directly or indirectly, into
14 water systems; and

15 (B) provide for limiting the disposal of un-
16 used pharmaceuticals through treatment works
17 in accordance with the Federal Water Pollution
18 Control Act (33 U.S.C. 1251 et seq.); and

19 (2) a strategy for the Federal Government to
20 educate the public on such recommendations.

21 (b) MEMBERSHIP.—The task force shall be composed
22 of—

23 (1) the Administrator (or the Administrator’s
24 designee), who shall serve as the Chair of the task
25 force;

1 (2) the Commissioner of Food and Drugs (or
2 the Commissioner’s designee); and

3 (3) such other members as the Administrator
4 may appoint.

5 (c) REPORT.—Not later than 1 year after the date
6 of the enactment of this Act, the task force shall submit
7 a report to the Congress containing the recommendations
8 and strategy required by subsection (a).

9 (d) STAFF OF FEDERAL AGENCIES.—Upon request
10 of the task force, the head of any department or agency
11 of the United States may detail any of the personnel of
12 that department or agency to the task force to assist in
13 carrying out its duties under this section.

14 (e) TERMINATION.—The task force shall terminate
15 180 days after submitting the report required by sub-
16 section (c).

17 **TITLE VIII—OMB STUDY**

18 **SEC. 8001. EVALUATION USING PROGRAM ASSESSMENT**

19 **RATING TOOL.**

20 (a) STUDY.—The Director of the Office of Manage-
21 ment and Budget shall conduct a study to evaluate the
22 programs authorized by this Act, including the amend-
23 ments made by this Act, under the Program Assessment
24 Rating Tool (PART) or a successor performance assess-

1 ment tool that is developed by the Office of Management
2 and Budget.

3 (b) REPORT.—The Director shall transmit to Con-
4 gress a report on the results of the study.

5 **TITLE IX—CHESAPEAKE BAY AC-**
6 **COUNTABILITY AND RECOV-**
7 **ERY**

8 **SEC. 9001. CHESAPEAKE BAY CROSSCUT BUDGET.**

9 (a) CROSSCUT BUDGET.—The Director, in consulta-
10 tion with the Chesapeake Executive Council, the chief ex-
11 ecutive of each Chesapeake Bay State, and the Chesa-
12 peake Bay Commission, shall submit to Congress a finan-
13 cial report containing—

14 (1) an interagency crosscut budget that dis-
15 plays—

16 (A) the proposed funding for any Federal
17 restoration activity to be carried out in the suc-
18 ceeding fiscal year, including any planned inter-
19 agency or intra-agency transfer, for each of the
20 Federal agencies that carry out restoration ac-
21 tivities;

22 (B) to the extent that information is avail-
23 able, the estimated funding for any State res-
24 toration activity to be carried out in the suc-
25 ceeding fiscal year;

1 (C) all expenditures for Federal restoration
2 activities from the preceding 3 fiscal years, the
3 current fiscal year, and the succeeding fiscal
4 year; and

5 (D) all expenditures, to the extent that in-
6 formation is available, for State restoration ac-
7 tivities during the equivalent time period de-
8 scribed in subparagraph (C);

9 (2) a detailed accounting of all funds received
10 and obligated by all Federal agencies for restoration
11 activities during the current and preceding fiscal
12 years, including the identification of funds which
13 were transferred to a Chesapeake Bay State for res-
14 toration activities;

15 (3) to the extent that information is available,
16 a detailed accounting from each State of all funds
17 received and obligated from a Federal agency for
18 restoration activities during the current and pre-
19 ceding fiscal years; and

20 (4) a description of each of the proposed Fed-
21 eral and State restoration activities to be carried out
22 in the succeeding fiscal year (corresponding to those
23 activities listed in subparagraphs (A) and (B) of
24 paragraph (1)), including the—

25 (A) project description;

1 (B) current status of the project;

2 (C) Federal or State statutory or regu-
3 latory authority, programs, or responsible agen-
4 cies;

5 (D) authorization level for appropriations;

6 (E) project timeline, including benchmarks;

7 (F) references to project documents;

8 (G) descriptions of risks and uncertainties
9 of project implementation;

10 (H) adaptive management actions or
11 framework;

12 (I) coordinating entities;

13 (J) funding history;

14 (K) cost-sharing; and

15 (L) alignment with existing Chesapeake
16 Bay Agreement and Chesapeake Executive
17 Council goals and priorities.

18 (b) MINIMUM FUNDING LEVELS.—The Director shall
19 only describe restoration activities in the report required
20 under subsection (a) that—

21 (1) for Federal restoration activities, have fund-
22 ing amounts greater than or equal to \$100,000; and

23 (2) for State restoration activities, have funding
24 amounts greater than or equal to \$50,000.

1 (c) DEADLINE.—The Director shall submit to Con-
2 gress the report required by subsection (a) not later than
3 30 days after the submission by the President of the Presi-
4 dent’s annual budget to Congress.

5 (d) REPORT.—Copies of the financial report required
6 by subsection (a) shall be submitted to the Committees
7 on Appropriations, Natural Resources, Energy and Com-
8 merce, and Transportation and Infrastructure of the
9 House of Representatives and the Committees on Appro-
10 priations, Environment and Public Works, and Commerce,
11 Science, and Transportation of the Senate.

12 (e) EFFECTIVE DATE.—This section shall apply be-
13 ginning with the first fiscal year after the date of enact-
14 ment of this Act for which the President submits a budget
15 to Congress.

16 **SEC. 9002. ADAPTIVE MANAGEMENT PLAN.**

17 (a) IN GENERAL.—Not later than 1 year after the
18 date of enactment of this Act, the Administrator, in con-
19 sultation with other Federal and State agencies, shall de-
20 velop an adaptive management plan for restoration activi-
21 ties that includes—

- 22 (1) definition of specific and measurable objec-
23 tives to improve water quality;
24 (2) a process for stakeholder participation;

1 (3) monitoring, modeling, experimentation, and
2 other research and evaluation practices;

3 (4) a process for modification of restoration ac-
4 tivities that have not attained or will not attain the
5 specific and measurable objectives set forth under
6 paragraph (1); and

7 (5) a process for prioritizing restoration activi-
8 ties and programs to which adaptive management
9 shall be applied.

10 (b) IMPLEMENTATION.—The Administrator shall im-
11 plement the adaptive management plan developed under
12 subsection (a).

13 (c) UPDATES.—The Administrator shall update the
14 adaptive management plan developed under subsection (a)
15 every 3 years.

16 (d) REPORT TO CONGRESS.—

17 (1) IN GENERAL.—Not later than 60 days after
18 the end of a fiscal year, the Administrator shall
19 transmit to Congress an annual report on the imple-
20 mentation of the adaptive management plan required
21 under this section for such fiscal year.

22 (2) CONTENTS.—The report required under
23 paragraph (1) shall contain information about the
24 application of adaptive management to restoration
25 activities and programs, including programmatic and

1 project level changes implemented through the proc-
2 ess of adaptive management.

3 (3) EFFECTIVE DATE.—Paragraph (1) shall
4 apply to the first fiscal year that begins after the
5 date of enactment of this Act.

6 **SEC. 9003. DEFINITIONS.**

7 In this title, the following definitions apply:

8 (1) ADAPTIVE MANAGEMENT.—The term
9 “adaptive management” means a management tech-
10 nique in which project and program decisions are
11 made as part of an ongoing science-based process.
12 Adaptive management involves testing, monitoring,
13 and evaluating applied strategies and incorporating
14 new knowledge into programs and restoration activi-
15 ties that are based on scientific findings and the
16 needs of society. Results are used to modify manage-
17 ment policy, strategies, practices, programs, and res-
18 toration activities.

19 (2) ADMINISTRATOR.—The term “Adminis-
20 trator” means the Administrator of the Environ-
21 mental Protection Agency.

22 (3) CHESAPEAKE BAY STATE.—The term
23 “Chesapeake Bay State” or “State” means the
24 States of Maryland, West Virginia, Delaware, and

1 New York, the Commonwealths of Virginia and
2 Pennsylvania, and the District of Columbia.

3 (4) CHESAPEAKE BAY WATERSHED.—The term
4 “Chesapeake Bay watershed” means the Chesapeake
5 Bay and the geographic area, as determined by the
6 Secretary of the Interior, consisting of 36 tributary
7 basins, within the Chesapeake Bay States, through
8 which precipitation drains into the Chesapeake Bay.

9 (5) CHIEF EXECUTIVE.—The term “chief execu-
10 tive” means, in the case of a State or Common-
11 wealth, the Governor of each such State or Common-
12 wealth and, in the case of the District of Columbia,
13 the Mayor of the District of Columbia.

14 (6) DIRECTOR.—The term “Director” means
15 the Director of the Office of Management and Budg-
16 et.

17 (7) RESTORATION ACTIVITIES.—The term “res-
18 toration activities” means any Federal or State pro-
19 grams or projects that directly or indirectly protect,
20 conserve, or restore water quality in the Chesapeake
21 Bay watershed, including programs or projects that
22 promote responsible land use, stewardship, and com-
23 munity engagement in the Chesapeake Bay water-
24 shed. Restoration activities may be categorized as
25 follows:

- 1 (A) Physical restoration.
- 2 (B) Planning.
- 3 (C) Feasibility studies.
- 4 (D) Scientific research.
- 5 (E) Monitoring.
- 6 (F) Education.
- 7 (G) Infrastructure Development.

Passed the House of Representatives March 12,
2009.

Attest:

Clerk.

11TH CONGRESS
1ST Session

H. R. 1262

AN ACT

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