

## Union Calendar No. 9

111TH CONGRESS  
1ST SESSION

# H. R. 1262

[Report No. 111-26]

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

MARCH 3, 2009

Mr. OBERSTAR (for himself, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. YOUNG of Alaska, Mrs. TAUSCHER, Mr. BISHOP of New York, Mr. LOBIONDO, Mrs. NAPOLITANO, Mr. ARCURI, Mr. PASCRELL, and Mr. MCNERNEY) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

MARCH 9, 2009

Additional sponsors: Ms. NORTON, Mr. CAPUANO, Mr. FILNER, Mr. KAGEN, and Ms. EDWARDS of Maryland

MARCH 9, 2009

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on March 3, 2009]

---

## A BILL

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

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

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

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

6        (b) *TABLE OF CONTENTS.*—

1. *Short title; table of contents.*
2. *Amendment of Federal Water Pollution Control Act.*

*TITLE I—WATER QUALITY FINANCING*

*Subtitle A—Technical and Management Assistance*

1101. *Technical assistance.*
1102. *State management assistance.*
1103. *Watershed pilot projects.*

*Subtitle B—Construction of Treatment Works*

1201. *Sewage collection systems.*
1202. *Treatment works defined.*

*Subtitle C—State Water Pollution Control Revolving Funds*

1301. *General authority for capitalization grants.*
1302. *Capitalization grant agreements.*
1303. *Water pollution control revolving loan funds.*
1304. *Allotment of funds.*
1305. *Intended use plan.*
1306. *Annual reports.*
1307. *Technical assistance; requirements for use of American materials.*
1308. *Authorization of appropriations.*

*Subtitle D—General Provisions*

1401. *Definition of treatment works.*
1402. *Funding for Indian programs.*

*Subtitle E—Tonnage Duties*

1501. *Tonnage duties.*

*TITLE II—ALTERNATIVE WATER SOURCE PROJECTS*

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

*TITLE III—SEWER OVERFLOW CONTROL GRANTS*

3001. *Sewer overflow control grants.*

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

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

*TITLE V—GREAT LAKES LEGACY REAUTHORIZATION*

5001. *Remediation of sediment contamination in areas of concern.*

5002. *Public information program.*

5003. *Contaminated sediment remediation approaches, technologies, and techniques.*

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 of*  
5 *an amendment to, or repeal of, a section or other provision,*  
6 *the reference shall be considered to be made to a section or*  
7 *other provision of the Federal Water Pollution Control Act*  
8 *(33 U.S.C. 1251 et seq.).*

9 **TITLE I—WATER QUALITY**  
10 **FINANCING**  
11 **Subtitle A—Technical and**  
12 **Management Assistance**

13 **SEC. 1101. TECHNICAL ASSISTANCE.**

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

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

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

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

2           “(8) make grants to nonprofit organizations—

3                   “(A) to provide technical assistance to rural  
4           and small municipalities for the purpose of as-  
5           sisting, in consultation with the State in which  
6           the assistance is provided, such municipalities in  
7           the planning, developing, and acquisition of fi-  
8           nancing for eligible projects described in section  
9           603(c);

10                   “(B) to provide technical assistance and  
11           training for rural and small publicly owned  
12           treatment works and decentralized wastewater  
13           treatment systems to enable such treatment  
14           works and systems to protect water quality and  
15           achieve and maintain compliance with the re-  
16           quirements of this Act; and

17                   “(C) to disseminate information to rural  
18           and small municipalities and municipalities  
19           that meet the affordability criteria established  
20           under section 603(i)(2) by the State in which the  
21           municipality is located with respect to planning,  
22           design, construction, and operation of publicly  
23           owned treatment works and decentralized waste-  
24           water treatment systems.”.

1       (b) *AUTHORIZATION OF APPROPRIATIONS.*—Section  
 2   104(u) (33 U.S.C. 1254(u)) is amended—

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

5           (2) by inserting before the period at the end the  
 6       following: “; and (7) not to exceed \$100,000,000 for  
 7       each of fiscal years 2010 through 2014 for carrying  
 8       out subsections (b)(3), (b)(8), and (g), except that not  
 9       less than 20 percent of the amounts appropriated pur-  
 10      suant to this paragraph in a fiscal year shall be used  
 11      for carrying out subsection (b)(8)”.

12      (c) *SMALL FLOWS CLEARINGHOUSE.*—Section  
 13   104(q)(4) (33 U.S.C. 1254(q)(4)) is amended—

14           (1) in the first sentence by striking “\$1,000,000”  
 15       and inserting “\$3,000,000”; and

16           (2) in the second sentence by striking “1986”  
 17       and inserting “2011”.

18   **SEC. 1102. STATE MANAGEMENT ASSISTANCE.**

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

20           (1) by striking “and” at the end of paragraph  
 21       (1);

22           (2) by striking the semicolon at the end of para-  
 23       graph (2) and inserting “; and”; and

24           (3) by inserting after paragraph (2) the fol-  
 25       lowing:

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

4   **SEC. 1103. WATERSHED PILOT PROJECTS.**

5       (a) *PILOT PROJECTS.*—Section 122 (33 U.S.C. 1274)  
 6   *is amended—*

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

9           (2) *in subsection (a)—*

10               (A) *in the matter preceding paragraph (1)*  
 11       *by striking “wet weather discharge”;*

12               (B) *in paragraph (2) by striking “in reduc-*  
 13       *ing such pollutants” and all that follows before*  
 14       *the period at the end and inserting “to manage,*  
 15       *reduce, treat, or reuse municipal stormwater, in-*  
 16       *cluding low-impact development technologies”;*  
 17       *and*

18               (C) *by adding at the end the following:*

19               “(3) *WATERSHED PARTNERSHIPS.*—Efforts of  
 20       *municipalities and property owners to demonstrate*  
 21       *cooperative ways to address nonpoint sources of pollu-*  
 22       *tion to reduce adverse impacts on water quality.*

23               “(4) *INTEGRATED WATER RESOURCE PLAN.*—The  
 24       *development of an integrated water resource plan for*  
 25       *the coordinated management and protection of surface*

1        *water, ground water, and stormwater resources on a*  
 2        *watershed or subwatershed basis to meet the objectives,*  
 3        *goals, and policies of this Act.”.*

4        *(b) AUTHORIZATION OF APPROPRIATIONS.—Section*  
 5        *122(c)(1) is amended by striking “for fiscal year 2004” and*  
 6        *inserting “for each of fiscal years 2004 through 2014”.*

7        *(c) REPORT TO CONGRESS.—Section 122(d) is amend-*  
 8        *ed by striking “5 years after the date of enactment of this*  
 9        *section,” and inserting “October 1, 2011,”.*

## 10                    ***Subtitle B—Construction of*** 11                    ***Treatment Works***

### 12        ***SEC. 1201. SEWAGE COLLECTION SYSTEMS.***

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

14                *(1) by striking the section heading and all that*  
 15        *follows through “(a) No” and inserting the following:*

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

17                *“(a) IN GENERAL.—No”;*

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

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

22                *“(c) EXCEPTIONS.—*

23                *“(1) REPLACEMENT AND MAJOR REHABILITA-*  
 24        *TION.—Notwithstanding the requirement of subsection*

25        *(a)(1) concerning the existence of a collection system*

1     *as a condition of eligibility, a project for replacement*  
 2     *or major rehabilitation of a collection system existing*  
 3     *on January 1, 2007, shall be eligible for a grant*  
 4     *under this title if the project otherwise meets the re-*  
 5     *quirements of subsection (a)(1) and meets the require-*  
 6     *ment of paragraph (3).*

7             “(2) *NEW SYSTEMS.*—*Notwithstanding the re-*  
 8     *quirement of subsection (a)(2) concerning the exist-*  
 9     *ence of a community as a condition of eligibility, a*  
 10    *project for a new collection system to serve a commu-*  
 11    *nity existing on January 1, 2007, shall be eligible for*  
 12    *a grant under this title if the project otherwise meets*  
 13    *the requirements of subsection (a)(2) and meets the re-*  
 14    *quirement of paragraph (3).*

15            “(3) *REQUIREMENT.*—*A project meets the re-*  
 16    *quirement of this paragraph if the purpose of the*  
 17    *project is to accomplish the objectives, goals, and poli-*  
 18    *cies of this Act by addressing an adverse environ-*  
 19    *mental condition existing on the date of enactment of*  
 20    *this paragraph.”.*

21    **SEC. 1202. TREATMENT WORKS DEFINED.**

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

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



1           (2) by striking “is used for ultimate” and insert-  
 2           ing “will be used for ultimate”; and

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

6           ***Subtitle C—State Water Pollution***  
 7           ***Control Revolving Funds***

8           ***SEC. 1301. GENERAL AUTHORITY FOR CAPITALIZATION***  
 9           ***GRANTS.***

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

16          ***SEC. 1302. CAPITALIZATION GRANT AGREEMENTS.***

17          (a) *REPORTING INFRASTRUCTURE ASSETS.*—Section  
 18          602(b)(9) (33 U.S.C. 1382(b)(9)) is amended by striking  
 19          “standards” and inserting “standards, including standards  
 20          relating to the reporting of infrastructure assets”.

21          (b) *ADDITIONAL REQUIREMENTS.*—Section 602(b) (33  
 22          U.S.C. 1382(b)) is amended—

23                  (1) in paragraph (6)—

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

1           (B) by striking “funds directly made avail-  
2           able by capitalization grants under this title and  
3           section 205(m) of this Act” and inserting “as-  
4           sistance made available by a State water pollu-  
5           tion control revolving fund as authorized under  
6           this title, or with assistance made available  
7           under section 205(m), or both,”; and

8           (C) by striking “201(b)” and all that fol-  
9           lows through “513” and inserting “211 and  
10          511(c)(1)”;

11          (2) by striking “and” at the end of paragraph  
12          (9);

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

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

16          “(11) the State will establish, maintain, invest,  
17          and credit the fund with repayments, such that the  
18          fund balance will be available in perpetuity for pro-  
19          viding financial assistance in accordance with this  
20          title;

21          “(12) any fees charged by the State to recipients  
22          of assistance that are considered program income will  
23          be used for the purpose of financing the cost of ad-  
24          ministering the fund or financing projects or activi-  
25          ties eligible for assistance from the fund;

1           “(13) beginning in fiscal year 2011, the State  
2           will include as a condition of providing assistance to  
3           a municipality or intermunicipal, interstate, or State  
4           agency that the recipient of such assistance certify, in  
5           a manner determined by the Governor of the State,  
6           that the recipient—

7                   “(A) has studied and evaluated the cost and  
8                   effectiveness of the processes, materials, tech-  
9                   niques, and technologies for carrying out the pro-  
10                  posed project or activity for which assistance is  
11                  sought under this title, and has selected, to the  
12                  extent practicable, a project or activity that  
13                  maximizes the potential for efficient water use,  
14                  reuse, and conservation, and energy conserva-  
15                  tion, taking into account the cost of constructing  
16                  the project or activity, the cost of operating and  
17                  maintaining the project or activity over its life,  
18                  and the cost of replacing the project or activity;  
19                  and

20                   “(B) has considered, to the maximum extent  
21                   practicable and as determined appropriate by  
22                   the recipient, the costs and effectiveness of other  
23                   design, management, and financing approaches  
24                   for carrying out a project or activity for which  
25                   assistance is sought under this title, taking into

1           *account the cost of constructing the project or ac-*  
2           *tivity, the cost of operating and maintaining the*  
3           *project or activity over its life, and the cost of*  
4           *replacing the project or activity;*

5           *“(14) the State will use at least 10 percent of the*  
6           *amount of each capitalization grant received by the*  
7           *State under this title after September 30, 2010, to*  
8           *provide assistance to municipalities of fewer than*  
9           *10,000 individuals that meet the affordability criteria*  
10          *established by the State under section 603(i)(2) for*  
11          *activities included on the State’s priority list estab-*  
12          *lished under section 603(g), to the extent that there*  
13          *are sufficient applications for such assistance;*

14          *“(15) a contract to be carried out using funds*  
15          *directly made available by a capitalization grant*  
16          *under this title for program management, construc-*  
17          *tion management, feasibility studies, preliminary en-*  
18          *gineering, design, engineering, surveying, mapping,*  
19          *or architectural related services shall be negotiated in*  
20          *the same manner as a contract for architectural and*  
21          *engineering services is negotiated under chapter 11 of*  
22          *title 40, United States Code, or an equivalent State*  
23          *qualifications-based requirement (as determined by*  
24          *the Governor of the State); and*

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

9   **SEC. 1303. WATER POLLUTION CONTROL REVOLVING LOAN**  
 10                   **FUNDS.**

11           (a) *PROJECTS AND ACTIVITIES ELIGIBLE FOR ASSIST-*  
 12 *ANCE.*—Section 603(c) (33 U.S.C. 1383(c)) is amended to  
 13 *read as follows:*

14           “(c) *PROJECTS AND ACTIVITIES ELIGIBLE FOR AS-*  
 15 *SISTANCE.*—The amounts of funds available to each State  
 16 *water pollution control revolving fund shall be used only*  
 17 *for providing financial assistance—*

18                   “(1) *to any municipality or intermunicipal,*  
 19                   *interstate, or State agency for construction of publicly*  
 20                   *owned treatment works;*

21                   “(2) *for the implementation of a management*  
 22                   *program established under section 319;*

23                   “(3) *for development and implementation of a*  
 24                   *conservation and management plan under section*  
 25                   *320;*

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

3           “(5) for repair or replacement of decentralized  
4       wastewater treatment systems that treat domestic sew-  
5       age;

6           “(6) for measures to manage, reduce, treat, or  
7       reuse municipal stormwater, agricultural stormwater,  
8       and return flows from irrigated agriculture;

9           “(7) to any municipality or intermunicipal,  
10      interstate, or State agency for measures to reduce the  
11      demand for publicly owned treatment works capacity  
12      through water conservation, efficiency, or reuse; and

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

16      (b) *EXTENDED REPAYMENT PERIOD.*—Section  
17      603(d)(1) (33 U.S.C. 1383(d)(1)) is amended—

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

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

1       (c) *FISCAL SUSTAINABILITY PLAN*.—Section 603(d)(1)  
2   (33 U.S.C. 1383(d)(1)) is further amended—

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

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

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

8               “(E) for any portion of a treatment works  
9       proposed for repair, replacement, or expansion,  
10      and eligible for assistance under section  
11      603(c)(1), the recipient of a loan will develop  
12      and implement a fiscal sustainability plan that  
13      includes—

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

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

20               “(iii) a plan for maintaining, repair-  
21      ing, and, as necessary, replacing that por-  
22      tion of the treatment works and a plan for  
23      funding such activities;”.

24       (d) *ADMINISTRATIVE EXPENSES*.—Section 603(d)(7)  
25   (33 U.S.C. 1383(d)(7)) is amended by inserting before the

1 *period at the end the following: “, \$400,000 per year, or*  
 2 *2 1/5 percent per year of the current valuation of the fund,*  
 3 *whichever amount is greatest, plus the amount of any fees*  
 4 *collected by the State for such purpose regardless of the*  
 5 *source”.*

6 *(e) TECHNICAL AND PLANNING ASSISTANCE FOR*  
 7 *SMALL SYSTEMS.—Section 603(d) (33 U.S.C. 1383(d)) is*  
 8 *amended—*

9 *(1) by striking “and” at the end of paragraph*  
 10 *(6);*

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

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

14 *“(8) to provide grants to owners and operators*  
 15 *of treatment works that serve a population of 10,000*  
 16 *or fewer for obtaining technical and planning assist-*  
 17 *ance and assistance in financial management, user*  
 18 *fee analysis, budgeting, capital improvement plan-*  
 19 *ning, facility operation and maintenance, equipment*  
 20 *replacement, repair schedules, and other activities to*  
 21 *improve wastewater treatment plant management*  
 22 *and operations, except that the total amount provided*  
 23 *by the State in grants under this paragraph for a fis-*  
 24 *cal year may not exceed one percent of the total*  
 25 *amount of assistance provided by the State from the*



1 *fund in the preceding fiscal year, or 2 percent of the*  
 2 *total amount received by the State in capitalization*  
 3 *grants under this title in the preceding fiscal year,*  
 4 *whichever amount is greatest; and*

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

20 *(f) ADDITIONAL SUBSIDIZATION.—Section 603 (33*  
 21 *U.S.C. 1383) is amended by adding at the end the following:*

22 *“(i) ADDITIONAL SUBSIDIZATION.—*

23 *“(1) IN GENERAL.—In any case in which a*  
 24 *State provides assistance to a municipality or inter-*  
 25 *municipal, interstate, or State agency under sub-*

1        *section (d), the State may provide additional sub-*  
2        *sidization, including forgiveness of principal and neg-*  
3        *ative interest loans—*

4                *“(A) to benefit a municipality that—*

5                        *“(i) meets the State’s affordability cri-*  
6                        *teria established under paragraph (2); or*

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

9                                *“(I) seeks additional subsidization*  
10                               *to benefit individual ratepayers in the*  
11                               *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, tech-*  
2           *nique, or technology to address water-efficiency*  
3           *goals, address energy-efficiency goals, mitigate*  
4           *stormwater runoff, or encourage environmentally*  
5           *sensitive project planning, design, and construc-*  
6           *tion.*

7           “(2) *AFFORDABILITY CRITERIA.—*

8           “(A) *ESTABLISHMENT.—On or before Sep-*  
9           *tember 30, 2010, and after providing notice and*  
10           *an opportunity for public comment, a State shall*  
11           *establish affordability criteria to assist in identi-*  
12           *fying municipalities that would experience a sig-*  
13           *nificant hardship raising the revenue necessary*  
14           *to finance a project or activity eligible for assist-*  
15           *ance under section 603(c)(1) if additional sub-*  
16           *sidization is not provided. Such criteria shall be*  
17           *based on income data, population trends, and*  
18           *other data determined relevant by the State.*

19           “(B) *EXISTING CRITERIA.—If a State has*  
20           *previously established, after providing notice and*  
21           *an opportunity for public comment, affordability*  
22           *criteria that meet the requirements of subpara-*  
23           *graph (A), the State may use the criteria for the*  
24           *purposes of this subsection. For purposes of this*

1       *Act, any such criteria shall be treated as afford-*  
 2       *ability criteria established under this paragraph.*

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

7               “(3) *PRIORITY.—A State may give priority to a*  
 8       *recipient for a project or activity eligible for funding*  
 9       *under section 603(c)(1) if the recipient meets the*  
 10       *State’s affordability criteria.*

11              “(4) *SET-ASIDE.—*

12              “(A) *IN GENERAL.—In any fiscal year in*  
 13       *which the Administrator has available for obliga-*  
 14       *tion more than \$1,000,000,000 for the purposes*  
 15       *of this title, a State shall provide additional sub-*  
 16       *sidization under this subsection in the amount*  
 17       *specified in subparagraph (B) to eligible entities*  
 18       *described in paragraph (1) for projects and ac-*  
 19       *tivities identified in the State’s intended use*  
 20       *plan prepared under section 606(c) to the extent*  
 21       *that there are sufficient applications for such as-*  
 22       *sistance.*

23              “(B) *AMOUNT.—In a fiscal year described*  
 24       *in subparagraph (A), a State shall set aside for*

1           purposes of subparagraph (A) an amount not  
2           less than 25 percent of the difference between—

3                   “(i) the total amount that would have  
4                   been allotted to the State under section 604  
5                   for such fiscal year if the amount available  
6                   to the Administrator for obligation under  
7                   this title for such fiscal year had been equal  
8                   to \$1,000,000,000; and

9                   “(ii) the total amount allotted to the  
10                  State under section 604 for such fiscal year.

11           “(5) *LIMITATION.*—The total amount of addi-  
12           tional subsidization provided under this subsection by  
13           a State may not exceed 30 percent of the total amount  
14           of capitalization grants received by the State under  
15           this title in fiscal years beginning after September 30,  
16           2009.”.

17 **SEC. 1304. ALLOTMENT OF FUNDS.**

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

20                   “(a) *ALLOTMENTS.*—

21                           “(1) *FISCAL YEARS 2010 AND 2011.*—Sums appro-  
22                           priated to carry out this title for each of fiscal years  
23                           2010 and 2011 shall be allotted by the Administrator  
24                           in accordance with the formula used to allot sums ap-  
25                           propriated to carry out this title for fiscal year 2009.

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

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

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

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

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

17       “(d) *FORMULA BASED ON WATER QUALITY NEEDS.*—  
 18 *Not later than September 30, 2011, and after providing no-*  
 19 *tice and an opportunity for public comment, the Adminis-*  
 20 *trator shall publish an allotment formula based on water*  
 21 *quality needs in accordance with the most recent survey of*  
 22 *needs developed by the Administrator under section*  
 23 *516(b).’’.*

1 **SEC. 1305. INTENDED USE PLAN.**

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

4       “(g) *PRIORITY LIST.*—

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

19       “(2) *METHODOLOGY.*—

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

1        *tablish a methodology for developing a priority*  
2        *list under paragraph (1).*

3                “(B) *PRIORITY FOR PROJECTS AND ACTIVITIES THAT ACHIEVE GREATEST WATER QUALITY*  
4        *IMPROVEMENT.—In developing the methodology,*  
5        *the State shall seek to achieve the greatest degree*  
6        *of water quality improvement, taking into con-*  
7        *sideration the requirements of section 602(b)(5)*  
8        *and section 603(i)(3), whether such water qual-*  
9        *ity improvements would be realized without as-*  
10        *sistance under this title, and whether the pro-*  
11        *posed projects and activities would address water*  
12        *quality impairments associated with existing*  
13        *treatment works.*

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

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

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

23                “(iii) *the State’s management program*  
24        *developed under section 319; and*  
25



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

3                   “(D) NONPOINT SOURCES.—For categories  
4                   or subcategories of nonpoint sources of pollution  
5                   that a State may include on its priority list  
6                   under paragraph (1), the State shall consider the  
7                   cumulative water quality improvements associ-  
8                   ated with projects or activities in such categories  
9                   or subcategories.

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

16                  (b) INTENDED USE PLAN.—Section 606(c) (33 U.S.C.  
17 1386(c)) is amended—

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

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

1           “(1) the State’s priority list developed under sec-  
2           tion 603(g);”;

3           (3) in paragraph (4)—

4                   (A) by striking “and (6)” and inserting  
5                   “(6), (15), and (17)”; and

6                   (B) by striking “and” at the end;

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

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

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

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

21   **SEC. 1306. ANNUAL REPORTS.**

22           Section 606(d) (33 U.S.C. 1386(d)) is amended by in-  
23           serting “the eligible purpose under section 603(c) for which  
24           the assistance is provided,” after “loan amounts,”.

1 **SEC. 1307. TECHNICAL ASSISTANCE; REQUIREMENTS FOR**  
2 **USE OF AMERICAN MATERIALS.**

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

4 *(1) by redesignating section 607 as section 609;*

5 *and*

6 *(2) by inserting after section 606 the following:*

7 **“SEC. 607. TECHNICAL ASSISTANCE.**

8 *“(a) SIMPLIFIED PROCEDURES.—Not later than 1*  
9 *year after the date of enactment of this section, the Admin-*  
10 *istrator shall assist the States in establishing simplified*  
11 *procedures for treatment works to obtain assistance under*  
12 *this title.*

13 *“(b) PUBLICATION OF MANUAL.—Not later than 2*  
14 *years after the date of the enactment of this section, and*  
15 *after providing notice and opportunity for public comment,*  
16 *the Administrator shall publish a manual to assist treat-*  
17 *ment works in obtaining assistance under this title and*  
18 *publish in the Federal Register notice of the availability*  
19 *of the manual.*

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

1   **“SEC. 608. REQUIREMENTS FOR USE OF AMERICAN MATE-**  
 2                                   **RIALS.**

3           “(a) *IN GENERAL.*—Notwithstanding any other provi-  
 4   sion of law, none of the funds made available by a State  
 5   water pollution control revolving fund as authorized under  
 6   this title may be used for the construction of treatment  
 7   works unless the steel, iron, and manufactured goods used  
 8   in such treatment works are produced in the United States.

9           “(b) *EXCEPTIONS.*—Subsection (a) shall not apply in  
 10   any case in which the Administrator (in consultation with  
 11   the Governor of the State) finds that—

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

14                   “(2) steel, iron, and manufactured goods are not  
 15                   produced in the United States in sufficient and rea-  
 16                   sonably available quantities and of a satisfactory  
 17                   quality; or

18                   “(3) inclusion of steel, iron, and manufactured  
 19                   goods produced in the United States will increase the  
 20                   cost of the overall project by more than 25 percent.

21           “(c) *PUBLIC NOTIFICATION AND WRITTEN JUSTIFICA-*  
 22   *TION FOR WAIVER.*—If the Administrator determines that  
 23   it is necessary to waive the application of subsection (a)  
 24   based on a finding under subsection (b), the Administrator  
 25   shall—

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

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

8           “(d) *CONSISTENCY WITH INTERNATIONAL AGREE-*  
 9           *MENTS.—This section shall be applied in a manner con-*  
 10          *sistent with United States obligations under international*  
 11          *agreements.”.*

12       **SEC. 1308. AUTHORIZATION OF APPROPRIATIONS.**

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

16               “(1) \$2,400,000,000 for fiscal year 2010;

17               “(2) \$2,700,000,000 for fiscal year 2011;

18               “(3) \$2,800,000,000 for fiscal year 2012;

19               “(4) \$2,900,000,000 for fiscal year 2013; and

20               “(5) \$3,000,000,000 for fiscal year 2014.”.

21       **Subtitle D—General Provisions**

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

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

1           “(26) *TREATMENT WORKS*.—*The term ‘treatment*  
 2           *works’ has the meaning given that term in section*  
 3           *212.’.*”

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

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

6                   *(1) by striking “The Administrator” and insert-*  
 7           *ing the following:*

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

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

11                           *(A) by inserting “and ending before October*  
 12                   *1, 2008,” after “1986,”; and*

13                           *(B) by striking the second sentence; and*

14                   *(3) by adding at the end the following:*

15                   “(2) *FISCAL YEAR 2009 AND THEREAFTER*.—*For*  
 16           *fiscal year 2009 and each fiscal year thereafter, the*  
 17           *Administrator shall reserve, before allotments to the*  
 18           *States under section 604(a), not less than 0.5 percent*  
 19           *and not more than 1.5 percent of the funds made*  
 20           *available to carry out title VI.*

21                   “(3) *USE OF FUNDS*.—*Funds reserved under this*  
 22           *subsection shall be available only for grants for*  
 23           *projects and activities eligible for assistance under*  
 24           *section 603(c) to serve—*

1                   “(A) *Indian tribes (as defined in section*  
2                   *518(h))*;

3                   “(B) *former Indian reservations in Okla-*  
4                   *homa (as determined by the Secretary of the In-*  
5                   *terior)*; and

6                   “(C) *Native villages (as defined in section 3*  
7                   *of the Alaska Native Claims Settlement Act (43*  
8                   *U.S.C. 1602))*.”.

## 9                   ***Subtitle E—Tonnage Duties***

### 10       ***SEC. 1501. TONNAGE DUTIES.***

11           (a) *IN GENERAL*.—Section 60301 of title 46, United  
12       State Code, is amended by striking subsections (a) and (b)  
13       and inserting the following:

14           “(a) *LOWER RATE*.—

15                   “(1) *IMPOSITION OF DUTY*.—A duty is imposed  
16                   at the rate described in paragraph (2) at each entry  
17                   in a port of the United States of—

18                           “(A) *a vessel entering from a foreign port or*  
19                           *place in North America, Central America, the*  
20                           *West Indies Islands, the Bahama Islands, the*  
21                           *Bermuda Islands, or the coast of South America*  
22                           *bordering the Caribbean Sea; or*

23                           “(B) *a vessel returning to the same port or*  
24                           *place in the United States from which it de-*

1           *parted, and not entering the United States from*  
 2           *another port or place, except—*

3                     *“(i) a vessel of the United States;*

4                     *“(ii) a recreational vessel (as defined*  
 5                     *in section 2101 of this title); or*

6                     *“(iii) a barge.*

7           *“(2) RATE.—The rate referred to in paragraph*  
 8           *(1) shall be—*

9                     *“(A) 4.5 cents per ton (but not more than*  
 10                     *a total of 22.5 cents per ton per year) for fiscal*  
 11                     *years 2006 through 2009;*

12                     *“(B) 9.0 cents per ton (but not more than*  
 13                     *a total of 45 cents per ton per year) for fiscal*  
 14                     *years 2010 through 2019; and*

15                     *“(C) 2 cents per ton (but not more than a*  
 16                     *total of 10 cents per ton per year) for each fiscal*  
 17                     *year thereafter.*

18           *“(b) HIGHER RATE.—*

19                     *“(1) IMPOSITION OF DUTY.—A duty is imposed*  
 20                     *at the rate described in paragraph (2) on a vessel at*  
 21                     *each entry in a port of the United States from a for-*  
 22                     *foreign port or place not named in subsection (a)(1).*

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



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

4           “(B) 27 cents per ton (but not more than a  
5           total of \$1.35 per ton per year) for fiscal years  
6           2010 through 2019, and

7           “(C) 6 cents per ton (but not more than a  
8           total of 30 cents per ton per year) for each fiscal  
9           year thereafter.”.

10       (b) *LIABILITY IN REM*.—Chapter 603 of title 46,  
11       *United States Code*, is amended by adding at the end the  
12       *following*:

13       **“§ 60313. Liability in rem for costs**

14       “A vessel is liable in rem for any amount due under  
15       this chapter for that vessel and may be proceeded against  
16       for that liability in the United States district court for any  
17       district in which the vessel may be found.”.

18       (c) *CONFORMING AMENDMENTS*.—Such title is further  
19       amended—

20       (1) by striking the heading for subtitle VI and  
21       inserting the following:

22       **“Subtitle VI—Clearance and**  
23       **Tonnage Duties”;**

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

1           (3) *in the headings of sections in chapter 603, by*  
 2           *striking “**taxes**” each place it appears and inserting*  
 3           *“**duties**”;*

4           (4) *in the heading for subsection (a) of section*  
 5           *60303, by striking “TAX” and inserting “DUTY”;*

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

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

12          (d) *CLERICAL AMENDMENTS.—Such title is further*  
 13          *amended—*

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

**“VI. CLEARANCE AND TONNAGE DUTIES .....60101”;**

16               (2) *in the analysis for subtitle VI by striking the*  
 17               *item relating to chapter 603 and inserting the fol-*  
 18               *lowing:*

*“603. Tonnage Duties and Light Money ..... 60301”;*

19               *and*

20               (3) *in the analysis for chapter 603—*

21                       (A) *by striking the items relating to sections*  
 22                       *60301 and 60302 and inserting the following:*

*“60301. Regular tonnage duties.*

*“60302. Special tonnage duties.”;*

1                   (B) by striking the item relating to section  
2                   60304 and inserting the following:

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

3                   and

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

“60313. Liability in rem for costs.”.

## 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) (33  
10       U.S.C. 1300(d)(2)) is amended by inserting before the pe-  
11       riod at the end the following: “or whether the project is lo-  
12       cated in an area which is served by a public water system  
13       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 in-  
17       serting “\$50,000,000 for each of fiscal years 2010 through  
18       2014”.

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

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

22           (a) *ADMINISTRATIVE REQUIREMENTS.*—Section 221(e)  
23       (33 U.S.C. 1301(e)) is amended to read as follows:

1       “(e) *ADMINISTRATIVE REQUIREMENTS.*—A project  
 2 that receives assistance under this section shall be carried  
 3 out subject to the same requirements as a project that re-  
 4 ceives assistance from a State water pollution control re-  
 5 volving fund under title VI, except to the extent that the  
 6 Governor of the State in which the project is located deter-  
 7 mines that a requirement of title VI is inconsistent with  
 8 the purposes of this section.”.

9       (b) *AUTHORIZATION OF APPROPRIATIONS.*—The first  
 10 sentence of section 221(f) (33 U.S.C. 1301(f)) is amended  
 11 by striking “this section \$750,000,000” and all that follows  
 12 through the period at the end and inserting “this section  
 13 \$250,000,000 for fiscal year 2010, \$300,000,000 for fiscal  
 14 year 2011, \$350,000,000 for fiscal year 2012, \$400,000,000  
 15 for fiscal year 2013, and \$500,000,000 for fiscal year  
 16 2014.”.

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

19       “(g) *ALLOCATION OF FUNDS.*—

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

1           “(2) *FISCAL YEAR 2011 AND THEREAFTER.*—Sub-  
 2       *ject to subsection (h), the Administrator shall use the*  
 3       *amounts appropriated to carry out this section for*  
 4       *fiscal year 2011 and each fiscal year thereafter for*  
 5       *making grants to States under subsection (a)(1) in*  
 6       *accordance with a formula to be established by the*  
 7       *Administrator, after providing notice and an oppor-*  
 8       *tunity for public comment, that allocates to each*  
 9       *State a proportional share of such amounts based on*  
 10      *the total needs of the State for municipal combined*  
 11      *sewer overflow controls and sanitary sewer overflow*  
 12      *controls identified in the most recent survey con-*  
 13      *ducted pursuant to section 516.”.*

14       (d) *REPORTS.*—*The first sentence of section 221(i) (33*  
 15      *U.S.C. 1301(i)) is amended by striking “2003” and insert-*  
 16      *ing “2012”.*

17      ***TITLE IV—MONITORING, RE-***  
 18      ***PORTING, AND PUBLIC NOTI-***  
 19      ***FICATION OF SEWER OVER-***  
 20      ***FLWS***

21      ***SEC. 4001. MONITORING, REPORTING, AND PUBLIC NOTIFI-***  
 22      ***CATION OF SEWER OVERFLOWS.***

23       *Section 402 (33 U.S.C. 1342) is amended by adding*  
 24      *at the end the following:*

1       “(s) *SEWER OVERFLOW MONITORING, REPORTING,*  
2 *AND NOTIFICATIONS.*—

3               “(1) *GENERAL REQUIREMENTS.*—*After the last*  
4 *day of the 180-day period beginning on the date on*  
5 *which regulations are issued under paragraph (4), a*  
6 *permit issued, renewed, or modified under this section*  
7 *by the Administrator or the State, as the case may*  
8 *be, for a publicly owned treatment works shall re-*  
9 *quire, at a minimum, beginning on the date of the*  
10 *issuance, modification, or renewal, that the owner or*  
11 *operator of the treatment works—*

12               “(A) *institute and utilize a feasible method-*  
13 *ology, technology, or management program for*  
14 *monitoring sewer overflows to alert the owner or*  
15 *operator to the occurrence of a sewer overflow in*  
16 *a timely manner;*

17               “(B) *in the case of a sewer overflow that has*  
18 *the potential to affect human health, notify the*  
19 *public of the overflow as soon as practicable but*  
20 *not later than 24 hours after the time the owner*  
21 *or operator knows of the overflow;*

22               “(C) *in the case of a sewer overflow that*  
23 *may imminently and substantially endanger*  
24 *human health, notify public health authorities*  
25 *and other affected entities, such as public water*

1        *systems, of the overflow immediately after the*  
2        *owner or operator knows of the overflow;*

3                *“(D) report each sewer overflow on its dis-*  
4        *charge monitoring report to the Administrator or*  
5        *the State, as the case may be, by describing—*

6                *“(i) the magnitude, duration, and sus-*  
7        *pected cause of the overflow;*

8                *“(ii) the steps taken or planned to re-*  
9        *duce, eliminate, or prevent recurrence of the*  
10       *overflow; and*

11               *“(iii) the steps taken or planned to*  
12       *mitigate the impact of the overflow; and*

13               *“(E) annually report to the Administrator*  
14       *or the State, as the case may be, the total num-*  
15       *ber of sewer overflows in a calendar year, includ-*  
16       *ing—*

17               *“(i) the details of how much waste-*  
18       *water was released per incident;*

19               *“(ii) the duration of each sewer over-*  
20       *flow;*

21               *“(iii) the location of the overflow and*  
22       *any potentially affected receiving waters;*

23               *“(iv) the responses taken to clean up*  
24       *the overflow; and*

1                   “(v) the actions taken to mitigate im-  
2                   pacts and avoid further sewer overflows at  
3                   the site.

4                   “(2) *EXCEPTIONS.*—

5                   “(A) *NOTIFICATION REQUIREMENTS.*—*The*  
6                   *notification requirements of paragraphs (1)(B)*  
7                   *and (1)(C) shall not apply to a sewer overflow*  
8                   *that is a wastewater backup into a single-family*  
9                   *residence.*

10                  “(B) *REPORTING REQUIREMENTS.*—*The re-*  
11                  *porting requirements of paragraphs (1)(D) and*  
12                  *(1)(E) shall not apply to a sewer overflow that*  
13                  *is a release of wastewater that occurs in the*  
14                  *course of maintenance of the treatment works, is*  
15                  *managed consistently with the treatment works’*  
16                  *best management practices, and is intended to*  
17                  *prevent sewer overflows.*

18                  “(3) *REPORT TO EPA.*—*Each State shall provide*  
19                  *to the Administrator annually a summary of sewer*  
20                  *overflows that occurred in the State.*

21                  “(4) *RULEMAKING BY EPA.*—*Not later than one*  
22                  *year after the date of enactment of this subsection, the*  
23                  *Administrator, after providing notice and an oppor-*  
24                  *tunity for public comment, shall issue regulations to*  
25                  *implement this subsection, including regulations to—*



1           “(A) establish a set of criteria to guide the  
2 owner or operator of a publicly owned treatment  
3 works in—

4           “(i) assessing whether a sewer overflow  
5 has the potential to affect human health or  
6 may imminently and substantially endan-  
7 ger human health; and

8           “(ii) developing communication meas-  
9 ures that are sufficient to give notice under  
10 paragraphs (1)(B) and (1)(C); and

11           “(B) define the terms ‘feasible’ and ‘timely’  
12 as such terms apply to paragraph (1)(A), includ-  
13 ing site specific conditions.

14           “(5) APPROVAL OF STATE NOTIFICATION PRO-  
15 GRAMS.—

16           “(A) REQUESTS FOR APPROVAL.—

17           “(i) IN GENERAL.—After the date of  
18 issuance of regulations under paragraph  
19 (4), a State may submit to the Adminis-  
20 trator evidence that the State has in place  
21 a legally enforceable notification program  
22 that is substantially equivalent to or exceeds  
23 the requirements of paragraphs (1)(B) and  
24 (1)(C).

1           “(ii) *PROGRAM REVIEW AND AUTHOR-*  
2           *IZATION.—If the evidence submitted by a*  
3           *State under clause (i) shows the notification*  
4           *program of the State to be substantially*  
5           *equivalent to or exceeds the requirements of*  
6           *paragraphs (1)(B) and (1)(C), the Adminis-*  
7           *trator shall authorize the State to carry out*  
8           *such program instead of the requirements of*  
9           *paragraphs (1)(B) and (1)(C).*

10           “(iii) *FACTORS FOR DETERMINING*  
11           *SUBSTANTIAL EQUIVALENCY.—In carrying*  
12           *out a review of a State notification pro-*  
13           *gram under clause (ii), the Administrator*  
14           *shall take into account the scope of sewer*  
15           *overflows for which notification is required,*  
16           *the length of time during which notification*  
17           *must be made, the scope of persons who*  
18           *must be notified of sewer overflows, the*  
19           *scope of enforcement activities ensuring that*  
20           *notifications of sewer overflows are made,*  
21           *and such other factors as the Administrator*  
22           *considers appropriate.*

23           “(B) *REVIEW PERIOD.—If a State submits*  
24           *evidence with respect to a notification program*  
25           *under subparagraph (A)(i) on or before the last*

1        *day of the 30-day period beginning on the date*  
 2        *of issuance of regulations under paragraph (4),*  
 3        *the requirements of paragraphs (1)(B) and*  
 4        *(1)(C) shall not begin to apply to a publicly*  
 5        *owned treatment works located in the State until*  
 6        *the date on which the Administrator completes a*  
 7        *review of the notification program under sub-*  
 8        *paragraph (A)(ii).*

9                *“(C) WITHDRAWAL OF AUTHORIZATION.—If*  
 10        *the Administrator, after conducting a public*  
 11        *hearing, determines that a State is not admin-*  
 12        *istering and enforcing a State notification pro-*  
 13        *gram authorized under subparagraph (A)(ii) in*  
 14        *accordance with the requirements of this para-*  
 15        *graph, the Administrator shall so notify the*  
 16        *State and, if appropriate corrective action is not*  
 17        *taken within a reasonable time, not to exceed 90*  
 18        *days, the Administrator shall withdraw author-*  
 19        *ization of such program and enforce the require-*  
 20        *ments of paragraphs (1)(B) and (1)(C) with re-*  
 21        *spect to the State.*

22                *“(6) SPECIAL RULES CONCERNING APPLICATION*  
 23        *OF NOTIFICATION REQUIREMENTS.—After the last day*  
 24        *of the 30-day period beginning on the date of issuance*

1 of regulations under paragraph (4), the requirements  
2 of paragraphs (1)(B) and (1)(C) shall—

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

6 “(B) supersede any notification require-  
7 ments contained in a permit issued under this  
8 section for the treatment works to the extent that  
9 the notification requirements are less stringent  
10 than the notification requirements of paragraphs  
11 (1)(B) and (1)(C),

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

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

17 “(A) SANITARY SEWER OVERFLOW.—The  
18 term ‘sanitary sewer overflow’ means an over-  
19 flow, spill, release, or diversion of wastewater  
20 from a sanitary sewer system. Such term does  
21 not include municipal combined sewer overflows  
22 or other discharges from the combined portion of  
23 a municipal combined storm and sanitary sewer  
24 system and does not include wastewater backups  
25 into buildings caused by a blockage or other mal-

1 *function of a building lateral that is privately*  
 2 *owned. Such term includes overflows or releases*  
 3 *of wastewater that reach waters of the United*  
 4 *States, overflows or releases of wastewater in the*  
 5 *United States that do not reach waters of the*  
 6 *United States, and wastewater backups into*  
 7 *buildings that are caused by blockages or flow*  
 8 *conditions in a sanitary sewer other than a*  
 9 *building lateral.*

10 “(B) *SEWER OVERFLOW.*—The term ‘sewer  
 11 *overflow’ means a sanitary sewer overflow or a*  
 12 *municipal combined sewer overflow.*

13 “(C) *SINGLE-FAMILY RESIDENCE.*—The  
 14 *term ‘single-family residence’ means an indi-*  
 15 *vidual dwelling unit, including an apartment,*  
 16 *condominium, house, or dormitory. Such term*  
 17 *does not include the common areas of a multi-*  
 18 *dwelling structure.”.*

## 19 ***TITLE V—GREAT LAKES LEGACY*** 20 ***REAUTHORIZATION***

### 21 ***SEC. 5001. REMEDIATION OF SEDIMENT CONTAMINATION*** 22 ***IN AREAS OF CONCERN.***

23 *Section 118(c)(12)(H) of the Federal Water Pollution*  
 24 *Control Act (33 U.S.C. 1268(c)(12)(H)) is amended by*  
 25 *striking clause (i) and inserting the following:*

1                   “(i) *IN GENERAL.*—*In addition to*  
 2                   *other amounts authorized under this sec-*  
 3                   *tion, there is authorized to be appropriated*  
 4                   *to carry out this paragraph—*

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

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

9   **SEC. 5002. PUBLIC INFORMATION PROGRAM.**

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

12   **SEC. 5003. CONTAMINATED SEDIMENT REMEDIATION AP-**  
 13                   **PROACHES, TECHNOLOGIES, AND TECH-**  
 14                   **NIQUES.**

15       *Section 106(b) of the Great Lakes Legacy Act of 2002*  
 16       *(33 U.S.C. 1271a(b)) is amended by striking paragraph (1)*  
 17       *and inserting the following:*

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

21                   “(A) \$3,000,000 for each of the *fiscal years*  
 22                   *2004 through 2009; and*

23                   “(B) \$5,000,000 for each of the *fiscal years*  
 24                   *2010 through 2014.”.*



Union Calendar No. 9

11<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 1262**

[Report No. 111-26]

**A BILL**

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

MARCH 9, 2009

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed