AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

111TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 111–26

WATER QUALITY INVESTMENT ACT OF 2009

MARCH 9, 2009.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 1262]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 1262) to amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) IN GENERAL.—This Act may be cited as the "Water Quality Investment Act of 2009".

(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.

79–006

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.

SEC. 2. AMENDMENT OF FEDERAL WATER POLLUTION CONTROL ACT.

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

TITLE I—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 paragraph (7) and inserting "; and"; and

(3) by adding at the end the following:

"(8) make grants to nonprofit organizations—

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

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

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

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

(1) by striking "and (6)" and inserting "(6)"; and

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

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

(1) in the first sentence by striking "$1,000,000" and inserting "$3,000,000"; and

(2) in the second sentence by striking "1986" and inserting "2011".

SEC. 1102. STATE MANAGEMENT ASSISTANCE.

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

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

(2) by striking the semicolon at the end of paragraph (2) and inserting "; and"; and

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

"(3) such sums as may be necessary for each of fiscal years 1991 through 2009, and $300,000,000 for each of fiscal years 2010 through 2014;".

SEC. 1103. WATERSHED PILOT PROJECTS.

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

(1) in the section heading by striking "**WET WEATHER**"; and

(2) in subsection (a)—

(A) in the matter preceding paragraph (1) by striking "wet weather discharge";

(B) in paragraph (2) by striking "in reducing such pollutants" and all that follows before the period at the end and inserting "to manage, reduce, treat, or reuse municipal stormwater, including low-impact development technologies"; and

(C) by adding at the end the following:

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

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

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 122(c)(1) is amended by striking "for fiscal year 2004" and inserting "for each of fiscal years 2004 through 2014".

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

Subtitle B—Construction of Treatment Works

SEC. 1201. SEWAGE COLLECTION SYSTEMS.

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

(1) by striking the section heading and all that follows through "(a) No" and inserting the following:

"SEC. 211. SEWAGE COLLECTION SYSTEMS.

"(a) IN GENERAL.—No";

(2) in subsection (b) by inserting "POPULATION DENSITY.—" after "(b)"; and

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

"(c) EXCEPTIONS.—

"(1) REPLACEMENT AND MAJOR REHABILITATION.—Notwithstanding the requirement of subsection (a)(1) concerning the existence of a collection system as a condition of eligibility, a project for replacement or major rehabilitation of a collection system existing on January 1, 2007, shall be eligible for a grant under this title if the project otherwise meets the requirements of subsection (a)(1) and meets the requirement of paragraph (3).

"(2) NEW SYSTEMS.—Notwithstanding the requirement of subsection (a)(2) concerning the existence of a community as a condition of eligibility, a project for a new collection system to serve a community existing on January 1, 2007, shall be eligible for a grant under this title if the project otherwise meets the requirements of subsection (a)(2) and meets the requirement of paragraph (3).

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

SEC. 1202. TREATMENT WORKS DEFINED.

Section 212(2)(A) (33 U.S.C. 1292(2)(A)) is amended—

(1) by striking "any works, including site";

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

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

Subtitle C—State Water Pollution Control Revolving Funds

SEC. 1301. GENERAL AUTHORITY FOR CAPITALIZATION GRANTS.

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

SEC. 1302. CAPITALIZATION GRANT AGREEMENTS.

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

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

(1) in paragraph (6)—

(A) by striking "before fiscal year 1995";

(B) by striking "funds directly made available by capitalization grants under this title and section 205(m) of this Act" and inserting "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,"; and

(C) by striking "201(b)" and all that follows through "513" and inserting "211 and 511(c)(1)";

(2) by striking "and" at the end of paragraph (9);

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

(4) by adding at the end the following:

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

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

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

"(A) has studied and evaluated the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the proposed project or activity for which assistance is sought under this title, and has selected, to the extent practicable, a project or activity that maximizes the potential for efficient water use, reuse, and conservation, and energy conservation, taking into account the cost of constructing the project or activity, the cost of operating and maintaining the project or activity over its life, and the cost of replacing the project or activity; and

"(B) has considered, to the maximum extent practicable and as determined appropriate by the recipient, the costs and effectiveness of other design, management, and financing approaches for carrying out a project or activity for which assistance is sought under this title, taking into account the cost of constructing the project or activity, the cost of operating and maintaining the project or activity over its life, and the cost of replacing the project or activity;

"(14) the State will use at least 10 percent of the amount of each capitalization grant received by the State under this title after September 30, 2010, to provide assistance to municipalities of fewer than 10,000 individuals that meet the affordability criteria established by the State under section 603(i)(2) for activities included on the State's priority list established under section 603(g), to the extent that there are sufficient applications for such assistance;

"(15) a contract to be carried out using funds directly made available by a capitalization grant under this title for program management, construction management, feasibility studies, preliminary engineering, design, engineering,

surveying, mapping, or architectural related services shall be negotiated in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, United States Code, or an equivalent State qualifications-based 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) to any municipality or intermunicipal, interstate, or State agency for construction of publicly owned treatment works;

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

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

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

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

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

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

"(8) for the development and implementation of watershed projects meeting the criteria set forth in section 122.".

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

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

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

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

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

(2) by inserting "and" at the end of subparagraph (D); and

(3) by adding at the end the following:

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

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

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

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

(d) ADMINISTRATIVE EXPENSES.—Section 603(d)(7) (33 U.S.C. 1383(d)(7)) is amended by inserting before the period at the end the following: ", $400,000 per year, or ⅕ percent per year of the current valuation of the fund, whichever amount is greatest, plus the amount of any fees collected by the State for such purpose regardless of the source".

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

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

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

(3) by adding at the end the following:

"(8) to provide grants to owners and operators of treatment works that serve a population of 10,000 or fewer for obtaining technical and planning assistance and assistance in financial management, user fee analysis, budgeting, capital improvement planning, facility operation and maintenance, equipment replacement, repair schedules, and other activities to improve wastewater treatment plant management and operations, except that the total amount provided by the State in grants under this paragraph for a fiscal year may not exceed one percent of the total amount of assistance provided by the State from the fund in the preceding fiscal year, or 2 percent of the total amount received by the State in capitalization grants under this title in the preceding fiscal year, whichever amount is greatest; and

"(9) to provide grants to owners and operators of treatment works for conducting an assessment of the energy and water consumption of the treatment works, and evaluating potential opportunities for energy and water conservation through facility operation and maintenance, equipment replacement, and projects or activities that promote the efficient use of energy and water by the treatment works, except that the total amount provided by the State in grants under this paragraph for a fiscal year may not exceed one percent of the total amount of assistance provided by the State from the fund in the preceding fiscal year, or 2 percent of the total amount received by the State in capitalization grants under this title in the preceding fiscal year, whichever amount is greatest.".

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

"(i) ADDITIONAL SUBSIDIZATION.—

"(1) IN GENERAL.—In any case in which a State provides assistance to a municipality or intermunicipal, interstate, or State agency under subsection (d), the State may provide additional subsidization, including forgiveness of principal and negative interest loans—

"(A) to benefit a municipality that—

"(i) meets the State's affordability criteria established under paragraph (2); or

"(ii) does not meet the State's affordability criteria if the recipient—

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

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

"(III) ensures, as part of an assistance agreement between the State and the recipient, that the additional subsidization provided under this paragraph is directed through a user charge rate system (or other appropriate method) to such ratepayers; or

"(B) to implement a process, material, technique, or technology to address water-efficiency goals, address energy-efficiency goals, mitigate stormwater runoff, or encourage environmentally sensitive project planning, design, and construction.

"(2) AFFORDABILITY CRITERIA.—

"(A) ESTABLISHMENT.—On or before September 30, 2010, and after providing notice and an opportunity for public comment, a State shall establish affordability criteria to assist in identifying municipalities that would experience a significant hardship raising the revenue necessary to finance a project or activity eligible for assistance under section 603(c)(1) if additional subsidization is not provided. Such criteria shall be based on income data, population trends, and other data determined relevant by the State.

"(B) EXISTING CRITERIA.—If a State has previously established, after providing notice and an opportunity for public comment, affordability criteria that meet the requirements of subparagraph (A), the State may use the criteria for the purposes of this subsection. For purposes of this Act, any such criteria shall be treated as affordability criteria established under this paragraph.

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

"(3) PRIORITY.—A State may give priority to a recipient for a project or activity eligible for funding under section 603(c)(1) if the recipient meets the State's affordability criteria.

"(4) SET-ASIDE.—

"(A) IN GENERAL.—In any fiscal year in which the Administrator has available for obligation more than $1,000,000,000 for the purposes of this

title, a State shall provide additional subsidization under this subsection in the amount specified in subparagraph (B) to eligible entities described in paragraph (1) for projects and activities identified in the State's intended use plan prepared under section 606(c) to the extent that there are sufficient applications for such assistance.

"(B) AMOUNT.—In a fiscal year described in subparagraph (A), a State shall set aside for purposes of subparagraph (A) an amount not less than 25 percent of the difference between—

"(i) the total amount that would have been allotted to the State under section 604 for such fiscal year if the amount available to the Administrator for obligation under this title for such fiscal year had been equal to $1,000,000,000; and

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

"(5) LIMITATION.—The total amount of additional subsidization provided under this subsection by a State may not exceed 30 percent of the total amount of capitalization grants received by the State under this title in fiscal years beginning after September 30, 2009.".

SEC. 1304. ALLOTMENT OF FUNDS.

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

"(a) ALLOTMENTS.—

"(1) FISCAL YEARS 2010 AND 2011.—Sums appropriated to carry out this title for each of fiscal years 2010 and 2011 shall be allotted by the Administrator in accordance with the formula used to allot sums appropriated to carry out this title for fiscal year 2009.

"(2) FISCAL YEAR 2012 AND THEREAFTER.—Sums appropriated to carry out this title for fiscal year 2012 and each fiscal year thereafter shall be allotted by the Administrator as follows:

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

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

(b) PLANNING ASSISTANCE.—Section 604(b) (33 U.S.C. 1384(b)) is amended by striking "1 percent" and inserting "2 percent".

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

"(d) FORMULA BASED ON WATER QUALITY NEEDS.—Not later than September 30, 2011, and after providing notice and an opportunity for public comment, the Administrator shall publish an allotment formula based on water quality needs in accordance with the most recent survey of needs developed by the Administrator under section 516(b).".

SEC. 1305. INTENDED USE PLAN.

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

"(g) PRIORITY LIST.—

"(1) IN GENERAL.—For fiscal year 2011 and each fiscal year thereafter, a State shall establish or update a list of projects and activities for which assistance is sought from the State's water pollution control revolving fund. Such projects and activities shall be listed in priority order based on the methodology established under paragraph (2). The State may provide financial assistance from the State's water pollution control revolving fund only with respect to a project or activity included on such list. In the case of projects and activities eligible for assistance under section 603(c)(2), the State may include a category or subcategory of nonpoint sources of pollution on such list in lieu of a specific project or activity.

"(2) METHODOLOGY.—

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

"(B) PRIORITY FOR PROJECTS AND ACTIVITIES THAT ACHIEVE GREATEST WATER QUALITY IMPROVEMENT.—In developing the methodology, the State shall seek to achieve the greatest degree of water quality improvement, taking into consideration the requirements of section 602(b)(5) and section 603(i)(3), whether such water quality improvements would be realized without assistance under this title, and whether the proposed projects and ac-

tivities would address water quality impairments associated with existing treatment works.

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

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

"(ii) the State's continuing planning process developed under section 303(e);

"(iii) the State's management program developed under section 319; and

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

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

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

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

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

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

"(1) the State's priority list developed under section 603(g);";

(3) in paragraph (4)—

(A) by striking "and (6)" and inserting "(6), (15), and (17)"; and

(B) by striking "and" at the end;

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

(5) by adding at the end the following:

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

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

SEC. 1306. ANNUAL REPORTS.

Section 606(d) (33 U.S.C. 1386(d)) is amended by inserting "the eligible purpose under section 603(c) for which the assistance is provided," after "loan amounts,".

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

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

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

(2) by inserting after section 606 the following:

"SEC. 607. TECHNICAL ASSISTANCE.

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

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

"(c) COMPLIANCE CRITERIA.—At the request of any State, the Administrator, after providing notice and an opportunity for public comment, shall assist in the development of criteria for a State to determine compliance with the conditions of funding assistance established under sections 602(b)(13) and 603(d)(1)(E).

"SEC. 608. REQUIREMENTS FOR USE OF AMERICAN MATERIALS.

"(a) IN GENERAL.—Notwithstanding any other provision of law, none of the funds made available by a State water pollution control revolving fund as authorized under this title may be used for the construction of treatment works unless the

steel, iron, and manufactured goods used in such treatment works are produced in the United States.

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

"(1) applying subsection (a) would be inconsistent with the public interest;

"(2) steel, iron, and manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

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

"(c) PUBLIC NOTIFICATION AND WRITTEN JUSTIFICATION FOR WAIVER.—If the Administrator determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the Administrator shall—

"(1) not less than 15 days prior to waiving application of subsection (a), provide public notice and the opportunity to comment on the Administrator's intent to issue such waiver; and

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

"(d) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner consistent with United States obligations under international agreements.".

SEC. 1308. AUTHORIZATION OF APPROPRIATIONS.

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

"(1) $2,400,000,000 for fiscal year 2010;

"(2) $2,700,000,000 for fiscal year 2011;

"(3) $2,800,000,000 for fiscal year 2012;

"(4) $2,900,000,000 for fiscal year 2013; and

"(5) $3,000,000,000 for fiscal year 2014.".

Subtitle D—General Provisions

SEC. 1401. DEFINITION OF TREATMENT WORKS.

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

"(26) TREATMENT WORKS.—The term 'treatment works' has the meaning given that term in section 212.".

SEC. 1402. FUNDING FOR INDIAN PROGRAMS.

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

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

"(1) FISCAL YEARS 1987–2008.—The Administrator";

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

(A) by inserting "and ending before October 1, 2008," after "1986,"; and

(B) by striking the second sentence; and

(3) by adding at the end the following:

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

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

"(A) Indian tribes (as defined in section 518(h));

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

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

Subtitle E—Tonnage Duties

SEC. 1501. TONNAGE DUTIES.

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

"(a) LOWER RATE.—

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

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

"(B) a vessel returning to the same port or place in the United States from which it departed, and not entering the United States from another port or place, except—

"(i) a vessel of the United States;

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

"(iii) a barge.

"(2) RATE.—The rate referred to in paragraph (1) shall be—

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

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

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

"(b) HIGHER RATE.—

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

"(2) RATE.—The rate referred to in paragraph (1) shall be—

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

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

"(C) 6 cents per ton (but not more than a total of 30 cents per ton per year) for each fiscal year thereafter.".

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

"§ 60313. Liability in rem for costs

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

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

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

"Subtitle VI—Clearance and Tonnage Duties";

(2) in the heading for chapter 603, by striking "**TAXES**" and inserting "**DUTIES**";

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

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

(5) in the text of sections in chapter 603, by striking "taxes" each place it appears and inserting "duties"; and

(6) in the text of sections in chapter 603, by striking "tax" each place it appears and inserting "duty".

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

(1) in the title analysis by striking the item relating to subtitle VI and inserting the following:

"VI. CLEARANCE AND TONNAGE DUTIES ..... 60101";

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

"603. Tonnage Duties and Light Money ..... 60301";

and

(3) in the analysis for chapter 603—

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

"60301. Regular tonnage duties.
"60302. Special tonnage duties.";

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

"60304. Presidential suspension of tonnage duties and light money.";

and

(C) by adding at the end the following:

"60313. Liability in rem for costs.".

TITLE II—ALTERNATIVE WATER SOURCE PROJECTS

SEC. 2001. PILOT PROGRAM FOR ALTERNATIVE WATER SOURCE PROJECTS.

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

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

TITLE III—SEWER OVERFLOW CONTROL GRANTS

SEC. 3001. SEWER OVERFLOW CONTROL GRANTS.

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

"(e) ADMINISTRATIVE REQUIREMENTS.—A project that receives assistance under this section shall be carried out subject to the same requirements as a project that receives assistance from a State water pollution control revolving fund under title VI, except to the extent that the Governor of the State in which the project is located determines that a requirement of title VI is inconsistent with the purposes of this section.".

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

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

"(g) ALLOCATION OF FUNDS.—

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

"(2) FISCAL YEAR 2011 AND THEREAFTER.—Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2011 and each fiscal year thereafter for making grants to States under subsection (a)(1) in accordance with a formula to be established by the Administrator, after providing notice and an opportunity for public comment, that allocates to each State a proportional share of such amounts based on the total needs of the State for municipal combined sewer overflow controls and sanitary sewer overflow controls identified in the most recent survey conducted pursuant to section 516.".

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

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

SEC. 4001. MONITORING, REPORTING, AND PUBLIC NOTIFICATION OF SEWER OVERFLOWS.

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

"(s) SEWER OVERFLOW MONITORING, REPORTING, AND NOTIFICATIONS.—

"(1) GENERAL REQUIREMENTS.—After the last day of the 180-day period beginning on the date on which regulations are issued under paragraph (4), a permit issued, renewed, or modified under this section by the Administrator or the

State, as the case may be, for a publicly owned treatment works shall require, at a minimum, beginning on the date of the issuance, modification, or renewal, that the owner or operator of the treatment works—

"(A) institute and utilize a feasible methodology, technology, or management program for monitoring sewer overflows to alert the owner or operator to the occurrence of a sewer overflow in a timely manner;

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

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

"(D) report each sewer overflow on its discharge monitoring report to the Administrator or the State, as the case may be, by describing—

"(i) the magnitude, duration, and suspected cause of the overflow;

"(ii) the steps taken or planned to reduce, eliminate, or prevent recurrence of the overflow; and

"(iii) the steps taken or planned to mitigate the impact of the overflow; and

"(E) annually report to the Administrator or the State, as the case may be, the total number of sewer overflows in a calendar year, including—

"(i) the details of how much wastewater was released per incident;

"(ii) the duration of each sewer overflow;

"(iii) the location of the overflow and any potentially affected receiving waters;

"(iv) the responses taken to clean up the overflow; and

"(v) the actions taken to mitigate impacts and avoid further sewer overflows at the site.

"(2) EXCEPTIONS.—

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

"(B) REPORTING REQUIREMENTS.—The reporting requirements of paragraphs (1)(D) and (1)(E) shall not apply to a sewer overflow that is a release of wastewater that occurs in the course of maintenance of the treatment works, is managed consistently with the treatment works' best management practices, and is intended to prevent sewer overflows.

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

"(4) RULEMAKING BY EPA.—Not later than one year after the date of enactment of this subsection, the Administrator, after providing notice and an opportunity for public comment, shall issue regulations to implement this subsection, including regulations to—

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

"(i) assessing whether a sewer overflow has the potential to affect human health or may imminently and substantially endanger human health; and

"(ii) developing communication measures that are sufficient to give notice under paragraphs (1)(B) and (1)(C); and

"(B) define the terms 'feasible' and 'timely' as such terms apply to paragraph (1)(A), including site specific conditions.

"(5) APPROVAL OF STATE NOTIFICATION PROGRAMS.—

"(A) REQUESTS FOR APPROVAL.—

"(i) IN GENERAL.—After the date of issuance of regulations under paragraph (4), a State may submit to the Administrator evidence that the State has in place a legally enforceable notification program that is substantially equivalent to or exceeds the requirements of paragraphs (1)(B) and (1)(C).

"(ii) PROGRAM REVIEW AND AUTHORIZATION.—If the evidence submitted by a State under clause (i) shows the notification program of the State to be substantially equivalent to or exceeds the requirements of paragraphs (1)(B) and (1)(C), the Administrator shall authorize the State to carry out such program instead of the requirements of paragraphs (1)(B) and (1)(C).

"(iii) FACTORS FOR DETERMINING SUBSTANTIAL EQUIVALENCY.—In carrying out a review of a State notification program under clause (ii), the Administrator shall take into account the scope of sewer overflows for

which notification is required, the length of time during which notification must be made, the scope of persons who must be notified of sewer overflows, the scope of enforcement activities ensuring that notifications of sewer overflows are made, and such other factors as the Administrator considers appropriate.

"(B) REVIEW PERIOD.—If a State submits evidence with respect to a notification program under subparagraph (A)(i) on or before the last day of the 30-day period beginning on the date of issuance of regulations under paragraph (4), the requirements of paragraphs (1)(B) and (1)(C) shall not begin to apply to a publicly owned treatment works located in the State until the date on which the Administrator completes a review of the notification program under subparagraph (A)(ii).

"(C) WITHDRAWAL OF AUTHORIZATION.—If the Administrator, after conducting a public hearing, determines that a State is not administering and enforcing a State notification program authorized under subparagraph (A)(ii) in accordance with the requirements of this paragraph, the Administrator shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed 90 days, the Administrator shall withdraw authorization of such program and enforce the requirements of paragraphs (1)(B) and (1)(C) with respect to the State.

"(6) SPECIAL RULES CONCERNING APPLICATION OF NOTIFICATION REQUIREMENTS.—After the last day of the 30-day period beginning on the date of issuance of regulations under paragraph (4), the requirements of paragraphs (1)(B) and (1)(C) shall—

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

"(B) supersede any notification requirements contained in a permit issued under this section for the treatment works to the extent that the notification requirements are less stringent than the notification requirements of paragraphs (1)(B) and (1)(C),

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

"(7) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) SANITARY SEWER OVERFLOW.—The term 'sanitary sewer overflow' means an overflow, spill, release, or diversion of wastewater from a sanitary sewer system. Such term does not include municipal combined sewer overflows or other discharges from the combined portion of a municipal combined storm and sanitary sewer system and does not include wastewater backups into buildings caused by a blockage or other malfunction of a building lateral that is privately owned. Such term includes overflows or releases of wastewater that reach waters of the United States, overflows or releases of wastewater in the United States that do not reach waters of the United States, and wastewater backups into buildings that are caused by blockages or flow conditions in a sanitary sewer other than a building lateral.

"(B) SEWER OVERFLOW.—The term 'sewer overflow' means a sanitary sewer overflow or a municipal combined sewer overflow.

"(C) SINGLE-FAMILY RESIDENCE.—The term 'single-family residence' means an individual dwelling unit, including an apartment, condominium, house, or dormitory. Such term does not include the common areas of a multi-dwelling structure.".

TITLE V—GREAT LAKES LEGACY REAUTHORIZATION

SEC. 5001. REMEDIATION OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN.

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

"(i) IN GENERAL.—In addition to other amounts authorized under this section, there is authorized to be appropriated to carry out this paragraph—

"(I) $50,000,000 for each of the fiscal years 2004 through 2009; and

"(II) $150,000,000 for each of the fiscal years 2010 through 2014.".

SEC. 5002. PUBLIC INFORMATION PROGRAM.

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

SEC. 5003. CONTAMINATED SEDIMENT REMEDIATION APPROACHES, TECHNOLOGIES, AND TECHNIQUES.

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

"(1) IN GENERAL.—In addition to amounts authorized under other laws, there is authorized to be appropriated to carry out this section—

"(A) $3,000,000 for each of the fiscal years 2004 through 2009; and

"(B) $5,000,000 for each of the fiscal years 2010 through 2014.".

PURPOSE OF THE LEGISLATION

H.R. 1262 , the "Water Quality Investment Act of 2009", amends the Federal Water Pollution Control Act ("Clean Water Act" or "Act") to reauthorize appropriations for capitalization grants to States for state water pollution control revolving funds; to reauthorize appropriations for the Environmental Protection Agency ("EPA") to provide grants for alternative water source projects to meet critical water supply needs; to reauthorize appropriations for grants to municipalities and States to control combined sewer overflows and sanitary sewer overflows; to provide a uniform, national standard for monitoring, reporting, and public notification of municipal combined sewer overflows and sanitary sewer overflows; and to reauthorize and increase appropriations for projects to remediate contaminated sediment in the Great Lakes areas of concern.

BACKGROUND AND NEED FOR LEGISLATION

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

REAUTHORIZATION OF APPROPRIATIONS FOR THE CLEAN WATER STATE REVOLVING FUND

The importance of investment in wastewater infrastructure

To a great extent, improvements in water quality since the passage of the 1972 Clean Water Act have resulted from a significant investment in wastewater infrastructure improvements throughout the country. Since 1972, the Federal Government has provided more than $82 billion for wastewater infrastructure and other assistance, which has dramatically improved water quality and the health of the economy and the environment. During the same time period, overall investment in the nation's wastewater infrastructure, from Federal, State, and local sources, has been over $250 billion. Today, the nationwide system of wastewater infrastructure includes 16,000 publicly owned wastewater treatment plants, 100,000 major pumping stations, 600,000 miles of sanitary sewers, and 200,000 miles of storm sewers.

Investment in wastewater infrastructure has provided significant environmental, public health, and economic benefits to the nation. First through the Federal construction grants program, and now the Clean Water State Revolving Fund ("Clean Water SRF") program, the investment in water infrastructure has been integral to

improving the quality of the nation's waters. The improvements to water quality realized through Federal, State, and local investment in wastewater infrastructure have been significant, helping to increase the number of fishable and swimmable waters throughout the nation. As a result of dramatic improvements in wastewater infrastructure, effluent discharges have decreased by one-half since 1970, despite the fact that waste loads grew by more than one-third due to population growth and an expanded economy. Today, the nation's farmers, fishermen, and manufacturing and tourism industries rely on clean water to carry out activities that contribute more than $300 billion to our economy each year.

However, these achievements are now at risk. According to a 2000 EPA report, entitled Progress in Water Quality, "without continued improvements in wastewater treatment infrastructure, future population growth will erode away many of the Clean Water Act achievements in effluent loading reduction."

Given the expansion of the U.S. population forecast over the next 20 years, EPA projects that by 2016, wastewater treatment plants nationwide may discharge pollutants into U.S. waters at levels similar to those that existed in the mid-1970s, only a few years after the enactment of the Clean Water Act. In addition, if these population forecasts are projected further to the year 2025, without significant investment in additional treatment capacity, the level of pollution being discharged into the nation's waters would reach rates not seen since 1968, four years before the enactment of the Act, when they reached the maximum level ever recorded.

Without increased investment in wastewater infrastructure, in less than a generation, the U.S. could lose much of the gains it has made thus far in improving water quality as a result the 1972 Clean Water Act.

An additional concern is that much of the wastewater infrastructure in this country is rapidly approaching or has already exceeded its projected useful life. Many cities and communities throughout the United States are currently facing a critical juncture in the age and reliability of their water infrastructure. For example, several major U.S. cities still rely on sewer pipes that were installed more than 100 years ago to collect and treat domestic sewage. In addition, many of the wastewater treatment facilities constructed soon after enactment of the Act are now reaching the end of their expected useful life and are in need of repair or replacement.

Another looming need centers on upgrading aging infrastructure to control and eliminate combined sewer overflows. Combined sewers are found in 33 States across the U.S. and the District of Columbia. To eliminate combined sewer overflows, communities must redesign their sewer systems to separate sewage flows from stormwater flows or provide significant additional capacity to eliminate the possibility that combined flows will exceed the limits of the infrastructure. Either way, this will be a massive undertaking, estimated by EPA to cost more than $50 billion.

In the near future, many communities will need to repair or replace large portions of their wastewater infrastructure or face the likelihood of increased failures in their ability to treat wastewater, posing a significant threat to the country's quality of life, economic prosperity, and the health and safety of both human populations and environmental quality.

Moreover, following the terrorist attacks of September 11, 2001, the identification and protection of critical infrastructure has become a national priority, and protection of critical wastewater infrastructure has become important to homeland security. Utilities need to increase security and implement measures to protect their wastewater treatment and collection systems, which is placing a further demand for resources on utilities.

The Clean Water Act requires EPA to report to Congress every two years with a detailed estimate of the costs of needed water infrastructure in each State. This report, which is compiled through a survey of the States, includes estimates of needed projects to achieve the improvements in water quality necessary to meet the goals of the Clean Water Act, including publicly owned municipal wastewater collection and treatment facilities, facilities for the control of combined sewer overflows, activities to control stormwater runoff and nonpoint source pollution, and programs designed to protect the nation's estuaries.

These state surveys show that the financial resources necessary for wastewater infrastructure improvements are substantial. According to EPA's most recent assessment of wastewater infrastructure needs, the Clean Watersheds Needs Survey 2004 Report to Congress, the existing documented needs for the nation are $202.5 billion. In addition, according to EPA's Clean Water and Drinking Water Infrastructure Gap Analysis, between $300 billion and $400 billion in capital investment is needed over the next 20 years for restoration and replacement of the nation's aging wastewater infrastructure. Considering that the average annual investment to the Clean Water SRFs by EPA over the past few years has trended downward from the recent long-term average of $1.35 billion, the level of investment necessary to address these needs and close the current funding gap requires a renewed and expanded commitment from all levels of government, including the Federal Government.

Other organizations, including the Congressional Budget Office (CBO) and a coalition of industry and other stakeholders, all have estimated that significant increases in investments are needed to address wastewater needs over the next 20 years—as much as twice the current level of investment by all levels of government. These estimates fall between CBO's low-cost estimate of a $3.2 billion annual gap, and CBO's high-cost estimate of an $11.1 billion annual gap. The needs are especially urgent for areas trying to remedy the problem of combined sewer overflows and sanitary sewer overflows, and for small communities lacking sufficient independent financing ability.

EPA is also examining how improved technologies and innovative financing options might help close the gap between projected needs and current expenditures. However, even if wastewater systems are able to implement cost savings and improved efficiencies, significant increases in investment from all levels of government will be needed to meet projected needs.

In addition, a significant number of small, rural, and disadvantaged communities throughout the nation face challenges financing wastewater infrastructure, either because of a lack of sufficient financial resources or a declining ratepayer base to address stranded infrastructure needs. In many of these communities, even with the assistance of below-market rate loans from the state revolving

fund, communities still face difficulties affording the increase in local wastewater rates that would otherwise be necessary to finance wastewater infrastructure needs. In many cases, addressing these affordability issues may require an increased level of Federal assistance through additional technical assistance, financial flexibility, or subsidization to targeted communities or ratepayers.

Finally, over the last decade, innovative technologies have emerged that provide similar (or increased) benefits to traditional wastewater infrastructure projects, but in a more cost-effective, sustainable, and environmentally-sensitive manner. These technologies, such as on-site source controls to capture stormwater, pervious pavement, green roofs, stream buffers, and other water reuse technologies, mimic natural processes to protect and enhance environmental quality, reduce wet-weather related "peak" loads, and promote water conservation and reuse. When used independently, or in conjunction with other traditional treatment technologies, the use of water-efficient technologies can provide the same, or greater, water quality benefits at a reduced cost, both in terms of capital investment and long-term operation and maintenance. For example, a 2007 EPA report, entitled Reducing Stormwater Costs through Low Impact Development (LID) Strategies and Practices, found that total capital cost savings ranged from 15 to 80 percent when LID methods were used when compared to conventional stormwater management costs.

In the same manner, investment in technologies that improve the overall energy-efficiency of a publicly owned wastewater treatment facility will enable owners and operators of such facilities to provide their essential services in a more cost-effective, and environmentally-sensitive manner. As noted in a recent hearing of the Subcommittee on Water Resources and Environment, the potential for energy conservation and operation and maintenance cost savings from implementation of energy-efficient technologies are substantial—including energy savings ranging from between 10 and 30 percent for the replacement and upgrading of existing components (e.g., aerator pumps and motors) to the potential for a treatment facility to generate 100 percent of its own power from the use of biogas (i.e., methane recapture), cogeneration (i.e., combined heat and power), or renewable sources of energy (e.g., wind and solar).

Several witnesses at a February 2009 hearing of the Subcommittee identified potential barriers to the comprehensive implementation of water- and energy-efficient technologies for wastewater treatment plants. Chief among these barriers are a lack of information on the potential cost savings and environmental benefit from implementation of water- and energy-efficient technologies, as well as the reality that certain water- and energy-efficient technologies may represent non-traditional ways of addressing wastewater treatment and, therefore, require additional financial incentives to be undertaken by local communities.

The Clean Water Act Program

Titles II and VI of the Clean Water Act provide authority for grants to States and municipalities and the establishment of Clean Water SRFs, respectively, for the construction of treatment works. The Construction Grants program, contained in Title II of the Act, funded approximately $60 billion in wastewater improvements over

the life of the program. This program was phased out in favor of state revolving loan funds in the Water Quality Act of 1987 (P.L. 100–4).

Title VI of the Clean Water Act provides for the establishment and capitalization of Clean Water SRFs to aid in funding the construction of wastewater infrastructure for the improvement of water quality throughout the nation.

Since 1987, the majority of Federal assistance for wastewater infrastructure improvements has been through the Clean Water SRF program. Through this program, individual States and Territories maintain revolving loan funds to provide low-cost financing for approved infrastructure projects. Funds to capitalize the Clean Water SRF programs are provided through Federal capitalization grants and state matching funds (equal to 20 percent of Federal Government grants). Since 1987, Congress has appropriated more than $24 billion in capitalization grants funded through general taxpayer revenues. Clean Water SRF revenues also include receipts from the sale of bonds, loan repayments, and interest earnings. From all sources, more than $55 billion has been deposited into the state revolving funds.

EPA has approved 57 States and Territories for funding under the Clean Water SRF program. Clean Water SRFs are available to make low-interest loans, buy or refinance local debt, subsidize or insure local bonds, make loan guarantees, act as security or guarantee of state debt, earn interest, and pay administrative expenses. Clean Water SRF monies also may be used to implement certain other water pollution control programs such as nonpoint source pollution management and national estuary programs. All projects must be those that will assure maintenance of progress toward the goals of the Clean Water Act and meet the standards and enforceable requirements of the Act.

Through fiscal year 2007, the Clean Water SRFs have provided $63 billion in loans for wastewater projects, including nearly $5.3 billion in loans in FY 2007 alone. Yet, the demand for financial assistance from the Clean Water SRFs continues to exceed available funds, forcing communities to look elsewhere for the additional capital necessary for wastewater infrastructure, or to defer wastewater infrastructure improvements.

Communities raise the rest of the capital they may require from other sources, primarily from banks and issuing municipal bonds. Communities use revenues collected from rate-payers to fund both operation and maintenance and repayment of the debt they have incurred. Very few communities have sufficient capital resources to fund infrastructure improvements without incurring debt. Small, rural, and disadvantaged communities face a shrinking pool of financing resources, and are especially at a disadvantage in financing water and wastewater infrastructure.

GRANTS FOR ALTERNATIVE WATER SOURCE PROJECTS

In recent years, there has been increasing interest by communities across the nation and by Congress in ensuring the availability of water sources to meet future water supply needs. Growth in population and increasing environmental awareness are causing many communities to explore alternative water supplies through reclamation, reuse, and conservation.

While the initial Clean Water Act Construction Grants program, and the Clean Water SRFs have been available for such activities, most expenditures to date have been for more traditional wastewater projects, and not for enhancing water supplies through wastewater reuse and water recycling.

To provide Federal assistance, in 2000, Congress amended the Clean Water Act to add section 220 (Title VI of Pub. L. 106–457). Section 220 authorized appropriations of $75 million for fiscal years 2002 through 2004 for EPA to make grants for alternative water source projects to entities with authority under State law to develop or provide water for municipal and industrial or agricultural uses in areas that are experiencing critical water supply needs, with a non-Federal cost share of 50 percent. This authorization has expired. Reauthorization of section 220 of the Clean Water Act provides an authority to help meet some of the critical water supply needs around the nation.

GRANTS FOR THE CONTROL OF COMBINED SEWER OVERFLOWS AND SANITARY SEWER OVERFLOWS

Municipal wastewater collection systems collect domestic sewage and other wastewater from homes and other buildings and convey it to wastewater treatment plants for proper treatment and disposal. These collection systems and treatment facilities are an extensive, valuable, and complex part of the nation's infrastructure. Sewage treatment operators perform an important job that helps protect the public, and are critical in achieving the goals of the Clean Water Act. The collection and treatment of domestic sewage and other wastewater is vital to the nation's economic and public health and the protection of the environment.

Two types of public sewer systems predominate in the United States—combined sewer systems and separate sanitary sewer systems. Municipal combined sewer systems utilize a joint-conveyance for the movement of wastewater (e.g., domestic sewage) and stormwater to wastewater treatment facilities. Separate sanitary sewer systems have individual (separated) conveyances for the movement of domestic sewage and for stormwater.

Combined sewer systems, which carry both storm water and sanitary (sewage) flows, and separate sanitary sewer systems can overflow with untreated waste during wet weather episodes such as rainfall or snow melts. These combined sewer overflows ("CSOs") and sanitary sewer overflows ("SSOs") may also occur outside of precipitation events because of insufficient system capacity, poor system design, inadequate maintenance, inflow from improper connections to the system, and infiltration from groundwater into deteriorated pipes, among other factors.

CSOs and SSOs present significant public health and safety concerns because raw sewage can overflow into rivers, lakes, streets, parks, basements, and other areas of potential human exposure, adversely impacting public health and the environment. These discharges are among the major sources responsible for beach closures, shellfish restrictions, and exceedances of water quality standards.

Combined sewer overflows

According to a December 2001 EPA Report to Congress, there are 772 communities across the United States that have combined sewer systems. These combined sewer systems have 9,471 built-in relief outlets designed to prevent wastewater flows in excess of system capacity from damaging the systems' treatment works, by allowing wastewater discharges ("overflows") directly into nearby streams, rivers, lakes, or estuaries, instead of going to the treatment works. Combined sewers are found in 31 States across the U.S. and the District of Columbia. The majority of combined sewers are located in communities in the Northeast and the Great Lakes regions, where much of the oldest water infrastructure in the nation is found. However, combined sewer overflows have also occurred in the West, including the States of Washington, Oregon, and California. To eliminate combined sewer overflows, communities must redesign their sewer systems to separate sewage flows from stormwater flows or provide significant additional capacity to eliminate the possibility that combined flows will exceed the limits of the infrastructure.

EPA has also estimated that more than 40,000 SSOs per year occur from the nation's 19,500 separate sanitary sewer systems. SSOs can have a major impact on human health and the environment through discharges into neighborhood streets, parks, individual homeowner basements, and other areas.

CSOs are point source discharges regulated under the Clean Water Act, and are subject to permitting under the National Pollutant Discharge Elimination System (NPDES) by EPA or authorized States. Permits include technology-based standards determined on a case-by-case basis (rather than categorical standards) and any appropriate water quality standards. Under the Combined Sewer Overflow Control Policy issued by EPA in 1994 (59 Fed. Reg. 18688) ("CSO Control Policy"), communities must adopt nine minimum controls and must develop long-term control plans. The CSO Control Policy requires these controls and plans to be incorporated into an NPDES permit or other enforceable mechanism that will ensure implementation by the CSO community. Section 402(q) of the Clean Water Act requires each permit, order, or decree issued after December 21, 2000, for a discharge from a municipal combined storm and sanitary sewer to conform to the CSO Control Policy.

Sanitary sewer overflows

Since the first part of the 20th Century, municipalities in the United States have generally constructed separate sanitary and stormwater sewer systems. Sanitary sewer systems are specifically designed to carry domestic sewage flows and stormwater runoff from precipitation events through different conveyances.

While sanitary sewer systems are designed to separate sewage from stormwater, sewer overflows from separated systems still may occur. Unlike CSOs, which are typically designed with a specific outfall for overflows, SSOs can occur at any point in a separate sewer system and during dry or wet weather. In its 2004 Report to Congress on the Impacts and Control of CSOs and SSOs ("CSO and SSO Report"), EPA defines SSOs to include those overflows that reach waters of the United States, as well as overflows out of

manholes and onto city streets, sidewalks, and other terrestrial locations. EPA estimates that 72 percent of all SSOs reach the waters of the United States, but SSOs also include overflows that remain entirely within terrestrial locations, including streets, parks, and sewage backups into buildings and private residences.

SSOs that reach the waters of the United States are point source discharges, and are prohibited under the Clean Water Act unless authorized by a NPDES permit under section 402 of the Act. In addition, all SSOs, including those that do not reach the waters of the United States, may be indicative of improper operation and maintenance of the sewer system, and thus may violate existing NPDES permit conditions (40 CFR 122.41 (2008)).

SSOs have a variety of causes including sewer line blockages, line breaks, or sewer defects that allow excess stormwater and groundwater to infiltrate and overload the system (also called infiltration and inflow), lapses in sewer operation and maintenance, inadequate sewer design and construction, power failures, and vandalism.

When sewage backups are caused by problems in the publicly owned portion of a sanitary sewer system, they are considered SSOs. Generally speaking, sewage backups that are caused by blockages or other malfunctions of privately-owned building laterals do not fall within EPA's definition of a SSO.

EPA estimates that between 23,000 and 75,000 SSOs occur per year in the United States, discharging a total volume of three to 10 billion gallons per year. According to EPA, this estimate does not account for discharges occurring after the headworks of the treatment plant or discharges into buildings caused by problems in the publicly owned portion of a sanitary sewer system, both of which would increase the annual total volume of SSOs.

Individual SSOs can range in volume from one gallon to millions of gallons. The majority of SSO events are caused by sewer blockages that can occur at any time, but the majority of SSO volume appears to be related to events caused by wet weather events and excessive inflow and infiltration.

Impacts of sewer overflows

Sewer overflows, whether from municipal combined sewer systems or sanitary sewer systems, can pose significant environmental impacts, as well as cause or contribute to human health impacts.

According to its 2000 National Water Quality Inventory Report, EPA has determined that three pollutants are most often associated with impaired waters in the United States—solids, pathogens, and nutrients. Under the Clean Water Act, a waterbody is impaired if it fails to meet water quality standards for a particular use for the water (e.g., drinking, fishing, recreation).

All three pollutants are contained in CSO and SSO discharges. Therefore, according to EPA, at a minimum, CSOs and SSOs contribute to the loadings of these pollutants in the receiving waters where they occur. Although EPA was not able to quantify a direct relationship in every state, in those states where EPA could identify an assessed segment of a particular waterbody located within one mile downstream of a CSO outfall, 75 percent of these waterbodies were listed as impaired.

States have identified CSOs and SSOs as the direct or a contributing cause of documented environmental impacts, including aquatic life impairments, fish kills, shellfish bed closures, and continuing discharges of toxic chemicals, such as polychlorinated biphenyls ("PCBs") and other priority pollutants.

In addition, CSOs and SSOs often contain microbial pathogens (e.g., bacteria, viruses, and parasites) that cause or contribute to human health impacts, including gastroenteritis, hepatitis, giardiasis, cryptosporidiosis, dysentery, and other gastrointestinal and respiratory diseases, and, in rare cases, death. The Centers for Disease Control and Prevention estimates that there are 7,100,000 cases of mild to moderate, and 560,000 cases of moderate to severe, infectious waterborne disease in the United States each year, though exactly how many of these are attributable to sewer overflows remains uncertain.

Although the potential for human exposure can come in many forms, EPA and public drinking water agencies have expressed specific concern about the potential for direct contamination of public drinking water sources from sewer overflows. For example, EPA has identified 59 CSO outfalls in seven states located within one mile upstream of a drinking water intake. However, public health authorities are not routinely notified of sewer overflows that threaten public health.

One recent example of the potential for drinking water contamination by a sewer overflow occurred in the spring of 1993, when more than 400,000 people in Milwaukee, Wisconsin, were infected by a microscopic parasite, cryptosporidium parvum, which entered the public drinking water supply for the city. This outbreak resulted in over 100 deaths. Although the exact source of the parasite was not discovered, studies suggest that untreated wastewater leaks in the Milwaukee area may have discharged the parasite to Lake Michigan, which serves as the primary drinking water source for the metropolitan region. Although impacts as large as the Milwaukee cryptosporidium outbreak are rare, similar parasitic outbreaks have contaminated drinking water sources in other U.S. cities, such as Brushy Creek, Texas (1998), Island Park, Idaho (1995), Las Vegas, Nevada (1993), Cabool, Missouri (1990), and Braun Station, Texas (1985).

Finally, EPA estimates that CSOs and SSOs cause between 3,448 and 5,576 individual cases of illness annually from direct exposure to pollutants at the nation's recognized recreational beaches. Yet, it its CSO and SSO Report, EPA stated that this range under-represents the likely number of annual illnesses (estimated by EPA to be between 1,800,000 and 3,500,000 individuals annually) attributable to CSO and SSO contamination of recreational beaches, and that a significant number of additional illnesses not captured in this range occur for exposed swimmers at inland and other coastal beaches.

Correcting these problems is expensive. In 2000, EPA estimated the cost to communities of addressing CSOs to be $50.6 billion, and the cost of addressing SSOs to be $88.5 billion. The vast majority of these costs will be borne by local communities and local ratepayers. Federal assistance has been small relative to the overall needs to address CSOs and SSOs. Through June 2006, States have made approximately $5.3 billion in loans for CSOs from Clean

Water SRFs and have made approximately $6 billion in loans to address the infiltration and inflow into sewer pipes that can cause SSOs.

To provide additional Federal assistance, in 2000, Congress amended the Clean Water Act to add section 221 (P.L. 106–554). Section 221 authorized appropriations of $750 million for each of fiscal years 2002 and 2003 for EPA to make grants to States and municipalities for controlling CSOs and SSOs. This authorization was conditioned upon the receipt of at least $1.35 billion in appropriations for the Clean Water State Revolving Loan Funds. No funds were appropriated for sewer overflow control grants in either fiscal year 2002 or 2003.

Reauthorization of appropriations for section 221 provides an authority to help municipalities and States control combined sewer overflows and sanitary sewer overflows.

SEWAGE OVERFLOW COMMUNITY RIGHT-TO-KNOW

The most reliable way to prevent human illness from waterborne diseases and pathogens is to eliminate the potential for human exposure to the discharge of pollutants from CSOs and SSOs. This can occur either through the elimination of the discharge, or, in the event that a release does occur, to minimize the potential human contact to pollutants. Currently, Federal law does not provide a uniform, national standard for public notification of combined and sanitary sewer overflows. Public notification of sewer overflows is governed by a variety of Federal regulations, state laws, and local initiatives aimed at limiting human exposure to discharges.

Potential human exposure to the pollutants found in sewer overflows can occur through several pathways. According to EPA, the most common pathways include direct contact with waters receiving CSO or SSO discharges, drinking water contaminated by sewer discharges, and consuming or handling contaminated fish or shellfish. However, humans are also at risk of direct exposure to sewer overflows, including sewer backups into residential buildings, city streets, and sidewalks.

As noted earlier, the cost of eliminating CSOs and SSOs throughout the nation is staggering. However, in the event that a release does occur, the most effective way to prevent illness is to provide timely and adequate public notice to minimize human exposure to pollutants.

Although public notification of sewer overflows is not uniformly required, some Federal statutes do provide specific requirements for the timely public notification of potential human health risks from waterborne contaminants.

For example, section 1414 of the Safe Drinking Water Act requires public water systems to notify the persons served by the system of any failure to comply with applicable Federal or state drinking water standards, the existence of any drinking water variance to safe drinking water standards, and the presence of any "unregulated contaminants" that pose a public health threat. The Act also requires public water systems to implement notification procedures to ensure that any violation of a drinking water standard with potential serious adverse effects on human health be made public as soon as practicable, but not later than 24 hours after the violation. Finally, the Act requires public water systems to provide written

notice and annual reports to Federal and State agencies, as well as to the public.

Similarly, section 406 of the Clean Water Act authorizes funding for state and local governments to implement coastal recreational water quality monitoring and notification programs. This authority, enacted as part of the Beaches Environmental Assessment and Coastal Health (BEACH) Act of 2000, requires as a Federal grant condition that state and local governments identify measures for the prompt communication of contamination of coastal water quality, as well as measures for the posting of appropriate public notice (e.g., beach signs) that the coastal waters fail to meet water quality standards.

Typically, the presence of waterborne contaminants in drinking water and surface waters utilized for recreation is detected through direct water quality sampling or national reports of waterborne illness outbreaks, coordinated through the Centers for Disease Control and Prevention's National Center for Infectious Diseases. The likelihood for detection of potential waterborne contaminants in drinking water and recreational waters would dramatically increase if local governmental officials and the public were provided with direct notification in the event of a sewer overflow, rather than waiting for the results of local water sampling or epidemiological studies.

Over the past decade, EPA has taken several administrative steps to encourage local governmental agencies, including sewerage agencies, to report sewer overflows to Federal and State agencies and the public.

EPA's CSO Control Policy requires owners and operators of combined sewer systems to implement minimum technology-based controls (the "nine minimum controls") that can reduce the prevalence and impacts of CSOs without significant engineering studies or major construction. These controls include a requirement for the public disclosure of CSOs. The policy does not require any particular methodology for notification, but identifies potential methods, including posting appropriate notices in affected use areas or public places, newspaper, radio, or television news programs, and direct mail contact for affected residents. The requirements of the control policy are limited to CSOs.

For SSOs, there is no consistent Federal requirement for public notification of sewer overflows. Under existing EPA regulations (40 CFR 122.41(l)(6)), NPDES permits should establish a process for requiring a permittee to report any noncompliance with the permit that may endanger health or the environment. However, EPA regulations do not specifically require notification of the public in the event of a sanitary sewer overflow.

To address this lack of a consistent Federal requirement for public notification, in January 2001, EPA issued a draft SSO rule that, among other issues, would have implemented a formal program for reporting, public notification, and recordkeeping for sanitary sewer systems and SSOs.

This draft rule would have required owners and operators of sanitary sewer systems to develop an overflow emergency plan describing how the owner or operator would immediately notify the public, public health agencies, and other similar entities (e.g., drinking water suppliers and beach monitoring authorities), of overflows

that may imminently and substantially endanger human health. In addition, the draft SSO rule would have required owners or operators of publicly owned treatment works to provide the appropriate Federal or state agencies with information on the magnitude, duration, and suspected cause of the overflow, as well as actions necessary to avoid future overflows.

EPA's draft SSO rule was never finalized, and was later withdrawn. No additional regulatory proposals for public notification of SSOs have been issued.

GREAT LAKES LEGACY ACT

The Great Lakes basin includes all of the state of Michigan, parts of Illinois, Indiana, Minnesota, New York, Ohio, Pennsylvania, Wisconsin, and the Canadian provinces of Ontario and Quebec. Approximately 40 million people live within the Great Lakes basin. Water in the Lakes is used for a multitude of activities including fishing, swimming, boating, agriculture, industry, and shipping. In addition, the Lakes contain around 84 percent of North America's and 21 percent of the world's surface fresh water supplies.

Industrialization and development have had a significant impact on the Great Lakes ecosystem. The region's industrial development has included mining, steel production, and machine tool and automobile manufacturing. Agriculture is also a significant component of the regional economy. The Great Lakes have historically provided convenient waterways for the movement of goods. They also provide process and cooling water for industrial users, and are used to generate hydroelectric power. While industrialization, agriculture, power generation, and other activities have produced significant economic development in the region, water quality has also been adversely impacted.

In its 2002 National Water Quality Inventory, the Environmental Protection Agency ("EPA") reports that 91 percent of assessed Great Lakes shoreline miles were impaired—meaning that the shoreline did not meet all of its designated uses, including fishing, swimming, and suitability for aquatic wildlife habitat. The leading causes of impairment include the presence of pathogens, metals, and toxic organic compounds in the shoreline waters of the Great Lakes. EPA notes that the dominant cause of reported shoreline impairment is legacy, or historical, pollution—chiefly contaminated sediment. In the same report, EPA reports that 99 percent of the assessed Great Lakes open waters were rated as impaired. The predominant causes of this impairment include the presence of priority organics, metals (primarily mercury), and pesticides in the open waters of the Great Lakes. The primary sources of open water impairments are atmospheric deposition, industrial sources, agriculture, and legacy (historical) pollutants.

The impaired nature of the Great Lakes is also reflected in the biennial assessment of EPA and Environment Canada, entitled the "State of the Great Lakes" report, which is carried out pursuant to the 1987 Great Lakes Water Quality Agreement. In 2007, this report identified the status of the Great Lakes ecosystem as "mixed", with the particular concern expressed on the localized toxic contamination that continues to exist in high levels in the Great Lakes areas of concern.

Under the Boundary Waters Treaty of 1909, the United States and Canada created the International Joint Commission ("IJC") to monitor, periodically inspect, and make recommendations on actions to be taken by the United States and Canada to protect the Great Lakes. The IJC has six commissioners, three from each nation. In 1972, the United States and Canada signed the Great Lakes Water Quality Agreement to address mutual interests and improve water quality. In 1987, the two nations revised the agreement and committed to ecosystem cleanup plans for "areas of concern". The IJC monitors progress toward these commitments and issues biennial reports.

To support the commitments made in the Great Lakes Water Quality Agreement, Congress added section 118 to the Clean Water Act in 1987. Section 118 formally established the Great Lakes National Program Office within EPA. One of the functions of the Office is to ensure that Remedial Action Plans are developed and implemented for the areas of concern identified by the United States and Canada.

At present, there are 43 areas of concern within the Great Lakes Basin, 26 areas wholly within the United States, 12 areas located wholly within Canada, and 5 areas that are shared by both countries. The areas of concern were defined under the Great Lakes Water Quality Agreement as "ecologically degraded geographic areas requiring remediation". An area is considered ecologically degraded if at least one of 14 beneficial use impairments is present as a result of contamination—restrictions on fish and wildlife consumption; tainting of fish and wildlife flavor; degradation of fish and wildlife populations; fish tumors or other deformities; bird or animal deformities or reproduction problems; degradation of benthos; restrictions on dredging activities; eutrophication or undesirable algae; restrictions on drinking water consumption, or taste and odor problems; beach closings; degradation of aesthetics; added costs to agriculture or industry; degradation of phytoplankton and zooplankton populations; or loss of fish and wildlife habitat.

SUMMARY OF THE LEGISLATION

Section 1. Short title; table of contents

This section designates the title of the bill as the "Water Quality Investment Act of 2009".

Section 2. Amendment of Federal Water Pollution Control Act

This section provides that, unless otherwise expressly provided, an amendment made by this legislation shall be considered to be made to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

Title I—Water Quality Financing

Subtitle A—Technical and Management Assistance

Section 1101. Technical assistance for rural and small treatment works

This section amends section 104 of the Clean Water Act to authorize appropriations of $100 million for each of fiscal years 2010 through 2014 for an existing program within the Environmental

Protection Agency to fund research, demonstrations, and studies relating to the causes, effects, extent, prevention, reduction, and elimination of pollution, including the authorization of $20 million in appropriations annually for a new program to provide financial and technical assistance to rural and small communities.

Subsection (a) amends section 104(b) of the Act to authorize EPA to make grants to nonprofit organizations to assist rural and small municipalities in planning, developing, and obtaining financing for projects and activities eligible for assistance under this Act; provide technical assistance and training for rural and small publicly owned treatment works and decentralized wastewater treatment systems to enable them to protect water quality and achieve and maintain compliance with the requirements of the Act; and disseminate information to rural and small municipalities and municipalities that meet a state's affordability criteria with respect to planning, design, construction, and operation of publicly owned treatment works and decentralized wastewater treatment systems. The Administrator of EPA ("Administrator") is to ensure that, to the maximum extent practicable, grants are made available to each state, and to prioritize grants to rural and small municipalities of 10,000 users or fewer. This subsection seeks to address the concern that certain rural and small municipalities may require additional technical assistance or resources to apply for wastewater infrastructure assistance under this Act.

Subsection (b) authorizes appropriations of $100 million for each of fiscal years 2010 through 2014 for carrying out existing sections 104(b)(3) and 104(g), and new section 104(b)(8) of the Act, and requires that at least 20 percent of amounts appropriated pursuant to this paragraph are used to carry out section 104(b)(8).

Subsection (c) increases the authorization of appropriations for EPA's national small flows clearinghouse, which collects and disseminates information on small flows of sewage and innovative or alternative wastewater treatment processes and techniques.

Section 1102. State management assistance

This section amends section 106 of the Act to authorize appropriations of $300 million for each of fiscal years 2010 through 2014 for an existing EPA program that provides financial assistance to state water quality management programs.

Section 1103. Watershed pilot projects

This section authorizes appropriations of $20 million for each of fiscal years 2010 through 2014 for an existing EPA pilot project program that provides technical assistance and grants for treatment works to carry out projects related to the management of combined sewer overflows, sanitary sewer overflows, and stormwater discharges, on a watershed or subwatershed basis.

Subsection 1103(a) broadens the existing authority (section 122 of the Act) to ensure that the Administrator considers the use of low-impact development technologies in evaluating pilot projects carried out under this section to demonstrate stormwater best management practices, and to authorize pilot projects that demonstrate cooperative ways to address nonpoint sources of pollution and reduce adverse impacts on water quality, on a watershed basis.

Subsection 1103(c) amends section 122(d) of the Act to extend the date for the submission of a report by the Administrator to Congress on the results of pilot projects carried out under this section until October 1, 2011.

Subtitle B—Construction of Treatment Works

Section 1201. Sewage collection systems

This section amends section 211 of the Act to clarify that a community seeking financial assistance from the state revolving fund for the replacement and rehabilitation of a collection system in existence on January 1, 2007, or for the construction of a new collection system for a community in existence on January 1, 2007, that is otherwise eligible for such assistance under section 211, shall be eligible for such assistance, provided that the replacement and rehabilitation of the existing collection system, or the new collection system is to address an adverse environmental condition that exists as of the date of enactment of this paragraph.

The Committee intends the pre-existing adverse environmental condition language to provide a balance between the need to address existing water quality concerns resulting from population growth through increased collection system capacity and the concern that collection system expansion could result in increased sprawl. The Committee is aware of efforts by several States to address similar water quality concerns through the expanded use of decentralized wastewater treatment systems, without the need to construct new collection systems or expand existing collection systems. The Committee does not intend the amendments made by section 1201 to affect these efforts, and encourages States to address ongoing water quality concerns in a manner that does not rely solely on collection systems or promote sprawl.

Section 1202. Treatment works defined

This section amends the definition of treatment works in section 212 of the Act to include, as an eligible cost, the acquisition of lands and interests in land, necessary for construction of the treatment works.

Subtitle C—State Water Pollution Control Revolving Funds

Section 1301. General authority for capitalization grants

This section amends section 601(a) of the Act to expand the general statement of authority for use of a state water pollution control revolving fund.

Section 1302. Capitalization grant agreements

Subsection 1302(a) requires loan recipients to comply with Federal accounting standards governing the reporting of infrastructure assets.

Subsection 1302(b) amends section 602(b) of the Act to add or renew several requirements as a condition of eligibility for a state to receive a capitalization grant for its revolving fund.

Paragraph 1302(b)(1) amends existing section 602(b)(6) of the Act to reinstate two requirements that were applied to projects for the construction of publicly owned treatment works prior to October 1,

1994, related to limitations on the replacement of existing sewage collection systems or the construction of new sewage collection systems, and the application of the National Environmental Policy Act ("NEPA") of 1969. The Committee has included language to reinstate the application of NEPA to publicly owned treatment works constructed in whole or in part with assistance made available by a State water pollution control revolving loan fund. The Committee understands that this requirement has been met by States in the Clean Water SRF program through the use of State Environmental Review Processes ("SERP") that conform generally to NEPA. It is the intent of the Committee that States continue the use of such SERPs to meet the requirements of section 511(c)(1) of this Act.

New section 602(b)(11) of the Act requires States to establish and maintain their revolving fund in perpetuity. This requirement exists in current law as the second sentence of existing section 603(c), but is added to section 602(b) to consolidate the list of conditions for state eligibility to receive a capitalization grant.

New section 602(b)(12) of the Act requires States to use any fees charged to loan applicants that are considered program income solely for the purpose of financing administrative costs or financing projects or activities eligible for assistance from the fund.

New section 602(b)(13) of the Act directs States, beginning in fiscal year 2011, to require loan applicants to evaluate the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the purposes of the Act, and alternative ways to finance and manage water infrastructure projects.

The Committee is aware that communities are feeling considerable pressure to improve the management of their wastewater systems to reduce capital, operation, and maintenance costs and maintain sustainable systems. Several communities have begun to utilize "innovative" ways of integrating decentralized, distributed, and nonstructural wastewater management approaches, including the use of trees or vegetation in urban areas ("green infrastructure"), to reduce the need for expanded publicly owned treatment works infrastructure, and to better manage, reduce, or reuse stormwater. Other communities are exploring alternative ways to design, finance, or manage wastewater infrastructure projects to reduce their overall capital, operation and maintenance costs, while providing the same or potentially greater water quality improvement benefits. Yet, communities may be reluctant to implement these innovative approaches or methods for various reasons.

The Committee has received testimony on the importance of encouraging communities to explore alternative means to address wastewater treatment needs, including alternative approaches to respond to local water quality needs, such as the use of decentralized, distributed, and nonstructural wastewater management approaches, addressing wastewater infrastructure needs on a regional basis, or the consolidation of smaller systems into larger treatment works. The Committee also has received testimony on the potential reductions in overall energy consumption that can be achieved at new and existing wastewater treatment operations through the use of existing energy efficiency technologies and renewable energy sources.

Finally, the Committee has received testimony on the importance of addressing the need for additional funding for wastewater infra-

structure projects, including through alternative financing approaches, such as increased leveraging of state revolving funds, rate structures, or encouraging additional capital investment, both public and private, to close the overall funding gap in wastewater infrastructure needs.

New section 602(b)(13) of the Act seeks to encourage loan recipients to explore additional options for processes, materials, techniques, and technologies for improving water quality, and, where possible, to maximize the potential for efficient water use, reuse, and conservation, and energy conservation.

This paragraph also seeks to encourage loan recipients to consider alternative approaches for designing, financing, and managing projects (including, where appropriate, rate structure, issuance of bonds, restructuring, regional alternatives, consolidation, and cooperation between the public and private sectors) for which assistance is sought under the Clean Water SRF program. This paragraph does not require that any particular option be selected or that every option need be analyzed, but encourages loan recipients to consider an array of options that are appropriate to meet their local needs and improve local water quality.

New section 602(b)(14) of the Act directs States to use at least 10 percent of their annual capitalization grant to assist small municipalities serving fewer than 10,000 individuals that meet a state's affordability criteria, to the extent that there are sufficient applications for such assistance. This percentage is consistent with EPA's assessment of the need for communities with populations of 10,000 or fewer, as identified in the Clean Watersheds Needs Survey 2004 Report to Congress.

New section 602(b)(15) of the Act requires States to utilize a Federal or equivalent state qualifications-based selection process for the negotiation of architectural and engineering services on the basis of demonstrated performance and qualification for the type of professional services required at a fair and reasonable price. A qualifications-based selection process is a competitive procedure that takes into account qualifications and experience, as well as cost, in relation to the work performed.

New section 602(b)(16) of the Act establishes the Davis-Bacon prevailing wage requirement for the construction of treatment works carried out with assistance made available by the state revolving fund, section 205(m), or both. Section 513 of the Act provides that "all laborers and mechanics employed by contractors or subcontractors on treatment works for which grants are made under this Act shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality." New section 602(b)(16) requires the application of the Davis-Bacon requirements for the construction of treatment works carried out in whole or in part with assistance made available from state revolving loan funds under Title VI, funds from section 205(m) of the Act, or both. This amendment authorizes the application of the prevailing wage requirements to construction projects carried out with any financial assistance from the state revolving fund, whether the source of assistance originates from Federal capitalization grant funds, state matching funds, repayments to the fund, interest payments, or other sources of income to the state revolving fund, and whether the character of the assistance

is through loans, loan guarantees, or other types of assistance authorized by section 603(d).

By establishing the Davis-Bacon prevailing wage requirement for the construction of treatment works, the Committee continues its long-standing practice of ensuring the application of Davis-Bacon where Federal funds are provided for construction, such as the State Infrastructure Banks (SIBs) established under the Transportation Equity Act for the 21st Century, and reauthorized in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. For the Clean Water SRFs, the most significant source of revenue in the state revolving funds is the Federal capitalization grant. As Congress has done in 63 separate instances for Federally-funded construction, the Davis-Bacon Act should permanently apply to the Clean Water SRFs.

Prevailing wage laws are intended to provide a fair wage for publicly funded construction. By requiring prevailing wages, lower cost, out-of-state contractors are prevented from having an unfair ability to compete for local publicly funded construction. Local interests are better able to compete when on equal footing with out-of-state competitors, and local construction workers are protected.

In addition, the Committee believes that the Davis-Bacon Act protects communities by ensuring that prevailing wage determinations for individual counties are based solely on the local workforce costs where the construction projects is to be undertaken. In 1981, the U.S. Department of Labor specifically amended the implementing regulations for the Davis-Bacon Act to prohibit the Department from including any wage data collected from urban areas, and applying the data in a wage determination for a nearby rural county.

As noted in the Code of Federal Regulations, "In making a wage determination * * * projects in metropolitan counties may not be used as a source of data for a wage determination in a rural county, and projects in rural counties may not be used as a source of data for a wage determination for a metropolitan county." (29 CFR Subtitle A 1.7 (a) and (b)).

Also, studies have shown that the application of the prevailing wage requirements of the Davis-Bacon Act attract more experienced and better trained workers who are often more productive than workers with less training and experience. This increase in productivity often results in the completion of construction project ahead of schedule, reducing the overall cost of the project, and offsetting any increased costs dues to higher hourly wage rates. Labor costs, traditionally speaking, account for less than one-third of total construction costs, with the costs of land and materials having a much larger impact on the total costs of projects.

Section 1303. Water pollution control revolving loan funds

(a) Projects and Activities Eligible for Assistance.—

Subsection (a) amends section 603(c) of the Act to expand the types of projects and activities eligible for assistance through each state revolving fund. Current law authorizes funds from the state revolving fund to be used for providing financial assistance (1) to any municipality or intermunicipal, interstate, or state agency for construction of publicly owned treatment works; (2) for the implementation of a nonpoint source management program under sec-

tion 319 of the Act; and (3) for the development and implementation of a conservation and management plan under the National Estuary Program (section 320 of the Act). Subsection (a) expands the types of projects and activities eligible for assistance to include: the implementation of lake protection programs and projects under section 314 of the Act; the repair and replacement of decentralized wastewater treatment systems that treat domestic sewage; measures to manage, reduce, treat, or reuse municipal stormwater, agricultural stormwater, and return flows from irrigated agriculture; projects for water conservation, efficiency, or reuse; and the development and implementation of watershed pilot projects under section 122 of the Act (as amended by this legislation).

In the 110th Congress, the Committee reported H.R. 720, the "Water Quality Financing Act of 2007", to reauthorize appropriations for the Clean Water SRFs. H.R. 720, as passed the House, included language that specifically enumerated "measures to increase the security of publicly owned treatment works" as an eligible use for the Clean Water SRFs. The Committee is aware that the implementation of certain security measures at publicly owned treatment works is an eligible use of the Clean Water SRF under current law, and, accordingly the measures do not need to be specifically enumerated in the potential amendments to section 603(c) contained in this Act. The Committee intends that the implementation of certain security measures continue to be an eligible use of the Clean Water SRFs, to the extent that such measures are eligible under existing law.

(b) Extended Repayment Period.—

Subsection (b) amends section 603(d)(1) of the Act to authorize States to extend the repayment period for a loan from the state revolving fund from the current statutory limit of 20 years to 30 years or the expected design life of the project financed with the proceeds of the loan, whichever period is shorter. A longer repayment period should assist in increasing the affordability of wastewater infrastructure projects.

(c) Fiscal Sustainability Plan.—

Subsection (c) amends section 603(d)(1) of the Act to require, as a condition of eligibility for a loan from the state revolving fund, that the loan recipient develop and implement, for any portion of the treatment works proposed for repair, replacement, or expansion, a fiscal sustainability plan for that portion. The fiscal sustainability plan shall include: an inventory of the critical assets for that portion of the treatment works proposed for repair, replacement, or expansion; an evaluation of the condition and performance of the inventory; and a plan for maintaining, repairing, and, as necessary, replacing that portion, including a plan for funding such activities. Implementation of a fiscal sustainability plan should encourage communities to more efficiently manage and maintain their wastewater infrastructure.

(d) Administrative Expenses.—

Subsection (d) amends section 603(d)(7) of the Act to authorize States to utilize either four percent of the capitalization grant (current law), $400,000 a year, or up to one-fifth of one percent of the total valuation of the state revolving fund, whichever amount is greatest, for administrative expenses, plus any fees collected for such purposes.

(e) Technical, Planning, and Equipment Replacement Expenses for Small Systems.—

Subsection (e) amends section 603(d) of the Act to authorize States to utilize a portion of their annual capitalization grant to provide assistance, in the form of a grant, to certain communities for technical, planning, and other assistance in the management of publicly owned treatment works.

New paragraph 603(d)(8) authorizes States to provide grants to owners and operators of publicly owned treatment works that serve a population of 10,000 or fewer for obtaining technical, planning, and equipment replacement assistance. This subsection should assist communities of fewer than 10,000 individuals plan, manage, and maintain their wastewater infrastructure.

New paragraph 603(d)(9) authorizes a state to provide grants to owners and operators of publicly owned treatment works for conducting an assessment of the energy and water consumption of the treatment works, and for evaluating potential opportunities for energy and water conservation through facility operation and maintenance, equipment replacement, and projects or activities that promote the efficient use of energy and water by the treatment works. The Committee has received testimony that a potential barrier to the implementation of energy- and water-efficient technologies is a lack of information on the potential benefits that implementation of these technologies can provide to publicly owned treatment works. For example, witnesses testified on the potential benefits of implementation of water- and energy-efficient technologies at publicly owned treatment works, including potential cost savings for both capital expenditures and short- and long-term operation and maintenance costs of the treatment works, as well as water quality improvements and measures to reduce carbon emissions by the use of renewable energy sources.

(f) Additional Subsidization.—

Subsection (f) amends section 603 of the Act to authorize States to provide increased financial flexibility in the form of additional subsidization, including forgiveness of principal and negative interest loans to municipalities: (1) that are economically disadvantaged based on affordability criteria established by the State; (2) that do not meet the State's affordability criteria as a whole, but have discrete, definable subpopulations or neighborhoods that will experience a significant hardship from increased rates, provided that any additional subsidization will directly benefit those ratepayers; or (3) that implement a process, material, technique, or technology to address water-efficient goals, address energy-efficiency goals, mitigate stormwater runoff, or encourage environmentally sensitive project planning, design, and construction.

The Committee has received testimony on the existence of disadvantaged communities throughout the nation that are experiencing significant challenges financing the wastewater infrastructure improvements necessary to achieve improvements in water quality, even with the advantage of below-market rates offered by the Clean Water SRF. Subsection 1303(f) authorizes a state revolving fund to provide certain disadvantaged communities, and targeted populations within communities, with additional financial subsidizations to assist them in meeting their wastewater infrastructure needs.

As noted in the discussion on section 1302(b), the Committee has also received testimony on the efforts of communities to reduce the need for expanded publicly owned treatment works infrastructure through the use of innovative and alternative means to respond to local water quality needs. Subsection 1303(f) also authorizes a state revolving fund to provide increased financial flexibility to implement processes, materials, techniques, and technologies, to address water-efficiency goals, to address energy-efficiency goals, to mitigate stormwater runoff, or to encourage environmentally sensitive project planning, design, and construction. The Committee intends that projects and project categories for water-efficient, energy-efficient, green infrastructure, and environmentally innovative projects that are identified in Attachment 7 of EPA's March 2, 2009 guidance for the "Award of Capitalization Grants with Funds Appropriated by P.L. 111–5, the 'American Recovery and Reinvestment Act of 2009'" would be eligible for the additional subsidization authorized by new section 603(i)(1)(B) of the Act.

Moreover, subsection (f) requires States to establish affordability criteria on or before September 30, 2010, to assist in identifying municipalities that would experience significant hardship from rate increases necessary to finance the construction of publicly owned treatment works. Subsection (f) allows States to use existing criteria that meet the requirements of this subsection.

New section 603(i)(3) of the Act, as amended by this legislation, authorizes States to give priority to a project by a municipality, or an intermunicipal, interstate, or state agency for the construction of a publicly owned treatment work if the recipient of the funds meets the State's affordability criteria.

New section 603(i)(4) of the Act, as amended by this subsection, requires States to use 25 percent of any increases in a Federal capitalization grant allotted to the State in fiscal years where the Administrator has available for obligation funds of more than $1 billion to provide additional subsidization, provided that eligible projects are identified for funding on a state's priority list. This subsection places an overall cap of 30 percent of the total amount of capitalization grants received by the State on the amount of additional subsidization that the State may provide.

Section 1304. Allotment of funds

Subsection (a)(1) preserves the current statutory state revolving fund allotment formula for capitalization grants (section 205 of the Act, as modified) for the first $1.35 billion of any future fiscal year appropriation. Subsection (c) directs the Administrator, after notice and public comment, to publish a new allotment formula based on water quality needs in accordance with the most recent state survey of needs. For fiscal year 2012 and thereafter, subsection (a)(2) directs the Administrator to allocate any appropriated funds for the state revolving fund in excess of $1.35 billion in accordance with the revised formula.

Subsection (b) amends section 604(b) of the Act to increase the amount States may reserve for water quality management planning (section 205(j) of the Act) and state continuing planning processes (section 303(e) of the Act) from the current statutory limit of one percent of the annual state capitalization grant to two percent of such grant.

Section 1305. Intended use plan

(a) Integrated Priority List.—

Section 1305(a) requires States to develop, after notice and comment and within one year, a methodology for prioritizing wastewater infrastructure projects and activities based on the greatest degree of water quality improvement, while taking into consideration whether funds will be used toward compliance with the enforceable deadlines, goals, and requirements of the Act, and the affordability of projects and activities to individual communities. This subsection requires States to use this methodology to develop, for each future fiscal year beginning in fiscal year 2011, an integrated priority list for all projects and activities for which financial assistance is sought from the state revolving fund.

To address the potential that smaller, individual projects or activities to address nonpoint sources of pollution may not rank sufficiently high on the State's priority list, this subsection directs States to group categories or subcategories of projects or activities to address nonpoint sources of pollution on the State's priority list in lieu of specific projects or activities.

(b) Intended Use Plan.—

Section 1305(b) amends section 606(c) of the Act to require States to annually prepare and publish its intended use plan, to provide notice and comment on the State's priority list, as part of the State's intended use plan, and to provide an explanation if the State does not fund projects on its intended use plan in priority order.

(c) Transitional Provision.—

Section 1305(c) allows States to use existing statutory provisions governing priority lists and intended use plans until the methodology required under this legislation is developed.

Section 1306. Annual reports

This section amends section 606(d) of the Act to require that States include, as part of their existing reporting requirements to EPA, a list of the eligible purposes for which state revolving funds are provided.

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

This section amends the Act to direct the Administrator to assist States in establishing simplified procedures for obtaining financial assistance from the state revolving fund, and to reinstate the applicability of the Buy American Act to the construction of treatment works funded by the Clean Water Act.

New section 607 of the Act requires the Administrator, after notice and comment, to publish a manual to assist eligible recipients in obtaining financial assistance from the state revolving fund. This section directs the Administrator, at the request of a State and after notice and comment, to assist in the development of criteria for a State to determine compliance with the conditions of funding assistance under sections 602(b)(13) and 603(d)(1)(E) of the Act.

New section 608 of the Act requires that treatment works constructed with funds made available by a state water pollution control revolving fund utilize steel, iron, and manufactured goods pro-

duced in the United States. New subsection 608(b) provides three exemptions from this requirement in any case in which the Administrator, in consultation with the Governor of the State, finds that: (1) the use of United States' steel, iron, and manufactured goods would be inconsistent with the public interest; (2) steel, iron, and manufactured goods are not produced in United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of steel, iron, and manufactured goods produced in the United States will increase the overall cost of the project by more than 25 percent. New subsection 608(c) provides specific requirements for public notification for, and written justification of, a waiver of the provisions in subsection 608(a).

Section 1308. Authorization of appropriations

This section authorizes appropriations of $13.8 billion over five years for the capitalization of state revolving funds, as follows: $2.4 billion in fiscal year 2010, $2.7 billion in fiscal year 2011, $2.8 billion in fiscal year 2012, $2.9 billion in fiscal year 2013, and $3 billion in fiscal year 2014.

Subtitle D—General Provisions

Section 1401. Definition of treatment works

This section amends the definitions section of the Act (section 502) to make the definition of "treatment works" found in section 212 of the Act applicable to the entire Act.

Section 1402. Funding for Indian Programs

This section increases the authorized set-aside from state revolving loan funding for Indian Programs from the current law amount of one-half of one percent to not more than 1.5 percent of the total Federal appropriation for the capitalization of state revolving funds.

Subtitle E—Tonnage Duties

Section 1501. Tonnage duties

This section restores the Vessel Tonnage Duties to the rates that were in effect from 1990 to 2002. Vessel Tonnage Duties are imposed on the cargo-carrying capacity of vessels that enter the United States from any foreign port or place, or depart from and return to a United States Port or place on a "voyage to nowhere". The Duties are assessed regardless of whether the vessel is empty or carrying cargo. These fees are intended to offset the cost of activities performed by the U.S. Coast Guard that benefit these vessels, such as marine safety, search and rescue, and aids to navigation. The Coast Guard spends far more on these activities than is currently being collected by this fee.

Beginning in 1909, a tonnage duty of two cents per ton, not to exceed ten cents per ton in a single year, was imposed on vessels arriving in the United States from a foreign port in North America, Central America, the West India Islands, the Bahaman Islands, and Newfoundland. A duty of six cents per ton, not to exceed 30 cents per ton in a single year, was imposed for vessels arriving in the United States from foreign ports anywhere else in the world.

In 1990, Congress adjusted the tonnage duties to reflect the inflation increase from 1915 to 1990. Congress extended the fees at the 1990–adjusted rates in 1993 and 1997. These tonnage duties remained in effect from fiscal years 1990 through 2002. In 2005, Congress partially reinstated the 1990–adjusted tonnage duties through fiscal year 2010.

Specifically, section 1501(a) increases the 4.5–cent-per-ton duty to nine cents per ton, not to exceed in the aggregate 45 cents per ton in any year, and the 13.5–cent-per-ton duty to 27 cents per ton, not to exceed $1.35 per ton in a year. The tonnage duty applies to the first five entries into the United States each year by a vessel. These rates would be in effect for fiscal years 2010 through 2019.

Section 1501(b) provides that any tonnage duties owed under Chapter 603 of title 46, United States Code, are a liability against the vessel in rem, and can be proceeded against in any United States district court in which the vessel may be found.

The Committee is concerned that increases and decreases in tonnage fees have not always been implemented by the Bureau of Customs and Border Protection (CBP) of the U.S. Department of Homeland Security in a timely manner. The current national deficit makes it imperative that the increase in tonnage duties under this section be collected as soon as possible. The Committee will vigorously oversee the implementation of this increase in tonnage duties to ensure that CBP implements and collects the increase in tonnage duties provided in this section in accordance with the law.

Title II—Alternative Water Source Projects

Section 2001 amends section 220 of the Clean Water Act to authorize appropriations of $50 million for each of fiscal years 2010 through 2014, for a total of $250 million, for EPA grants for alternative water source projects.

Title III—Sewer Overflow Control Grants

Section 3001. Sewer overflow control grants

Subsection (a) amends section 221(e) of the Act to require that a project that receives assistance under this section is carried out in accordance with the requirements for projects receiving assistance from State Revolving Loan Funds under title VI of the Clean Water Act, except to the extent that the Governor of the State in which the project is located determines that a requirement of title VI is inconsistent with the purposes of this section. This section allows States to implement grants under section 221 in conjunction with a state's Clean Water SRF program.

Subsection (b) amends section 221(f) of the Act to authorize appropriations of $1.8 billion over five years, providing $250 million in fiscal year 2010, $300 million in fiscal year 2011, $350 million in fiscal year 2012, $400 million in fiscal year 2013, and $500 million in fiscal year 2014.

Subsection (c) amends section 221(g) of the Act to update the provision for allocation of funds to reflect the new dates of authorization and reauthorized amounts. Specifically, consistent with section 221 as originally enacted, funding in the first year of authorization is to be used for direct grants by the Administrator to municipalities. For fiscal year 2011 and thereafter, the Administrator will al-

locate funds to States, in accordance with a needs-based formula to be established by the Administrator, and such funds are to be used by states to make grants to municipalities.

Subsection (d) amends section 221(i) of the Act to change the date that the Administrator is required to transmit to Congress a report containing recommended funding levels for grants under this section from December 31, 2003, to December 31, 2012.

Title IV—Monitoring, Reporting, and Public Notification of Sewer Overflows

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

This section amends section 402 of the Act by adding a new subsection (s) to provide a uniform, national standard for monitoring, reporting, and public notification of combined sewer overflows and sanitary sewer overflows. The monitoring, notification, and reporting requirements of this section are important steps to protect human health and the environment by ensuring that public health authorities (and other affected entities) and the public are aware of sewer overflows, may take steps to avoid contact with overflows, and that sewer overflows are addressed in an expedited manner. In addition, the availability of comprehensive information on the number, frequency, and location of sewer overflows may provide additional support for increased investment in the nation's water related infrastructure to reduce sewer overflows.

New subsection (s)(1) requires that, after the last day of the 180-day period beginning on the date on which regulations are issued under new subsection (s)(4), the Administrator (or the State, as the case may be) shall require that each permit issued under this section for a publicly owned treatment works shall require, at a minimum, that the owner or operator of the treatment works implement the monitoring, notification, and reporting requirements described in this subsection.

The Committee intends the term "publicly owned treatment works" to include those devices and systems included within the term "treatment works", as defined by section 212 of the Act, that are under the ownership or operational control of the Federal Government, or a state or a municipality as such terms are defined in section 502 of the Act. New subsection (s)(1) does not include treatment works that are not owned or under the operational control of the Federal Government, a state, or a municipality. New subsection (s)(1) also does not require a publicly owned treatment works to assume monitoring, notification, and reporting responsibility for satellite collection systems (portions of a sanitary sewer system) that may be connected to, but are not owned or operated by the publicly owned treatment works. The Committee notes that EPA's draft SSO rule (January 2001) would have included satellite collection systems within the scope of its authority. Satellite collection systems account for a majority of sanitary sewer overflows that occur throughout the nation. Although the provisions of this title do not require a publicly owned treatment works to assume monitoring, notification, and reporting responsibility for a satellite collection system which is not owned or operated by the treatment works, the Committee believes that implementation of a monitoring, notifica-

tion, and reporting program for satellite collection systems would further the goals of the Clean Water Act, as amended by this title.

New subsection (s)(1)(A) requires the owner or operator of a publicly owned treatment works to institute and utilize a feasible methodology, technology, or management program to alert the owner or operator of the publicly owned treatment works to the occurrence of a sewer overflow in a timely manner.

The Act, as amended by this title, does not define the terms "feasible" and "timely", but directs the Administrator to conduct a formal rulemaking to define such terms under new subsection (s)(4). The Committee expects that the implementation monitoring methodologies, technologies, or management programs that meet the "feasible" and "timely" requirements will be reasonably sufficient to provide the owner or operator with actual or constructive knowledge of the presence of a sewer overflow.

The Committee does not intend new subsection (s)(1)(A) to require the implementation of a technology-based system at every treatment works to monitor for potential sewer overflows, but allows individual publicly owned treatment works to utilize appropriate methodologies, technologies, or management programs that will alert the owner or operator of sewer overflows, consistent with the Agency's regulations under new subsection (s)(4). The Committee does intend that whatever approved methodology, technology, or management program is utilized for monitoring, that such methodology, technology, or management program is fully-implemented and adequately maintained, funded, or staffed to ensure that the owner or operator is alerted to the occurrence of a sewer overflow.

New subsection (s)(1)(B) and (C) require the owner or operator of a publicly owned treatment works to provide notice in the event of a sewer overflow. New subsection (s)(1)(B) requires owners and operators to notify the public of a sewer overflow that has the "potential to affect human health" as soon as practicable, but not later than 24 hours after the time the owner or operator knows of the overflow. New subsection (s)(1)(C) requires owners or operators to notify public health authorities and other affected entities, such as public water systems, of a sewer overflow that may imminently and substantially endanger human health immediately after the owner or operator knows of the overflow.

The Act, as amended by this title, does not define the terms "potential to affect human health" or "imminently and substantially endanger human health", but directs the Administrator to conduct a formal rulemaking to define such terms under new subsection (s)(4). In addition, new subsection (s)(4) directs the Administrator to establish a set of criteria for communication measures that are sufficient to give notice under new subsections (s)(1)(B) and (C).

The Committee intends that the regulations promulgated by the Environmental Protection Agency with respect to notification not preclude States, municipalities, or individual publicly owned treatment works from adopting more stringent notification requirements than called for by this title. The Committee intends to provide States, municipalities, and individual publicly owned treatment works with the maximum amount of flexibility for the adoption of individually tailored notification programs, provided that such programs meet the minimum standards called for by the Act, as

amended by this title, including any regulations promulgated pursuant to this title.

Subsection (s)(2)(A) provides a limited exemption from the notice requirements of subsections (s)(1)(B) and (s)(1)(C) for a sewer overflow that is limited to a wastewater backup into a single-family residence (as this term is defined in new subsection (s)(7)(C)). The Committee has provided this limited exemption because, in practice, it is likely that residents of the single-family residence will already know of the backup into the residence, and in many cases, will likely have provided notice to the owner or operator of the publicly owned treatment works. The Committee felt that a limited exemption from the notice was warranted to avoid the likelihood that the residents of the single-family residence will notify the publicly owned treatment works, only to be later notified by the same treatment works as to the presence of the sewer overflow. This exemption, however, does not apply to a sanitary sewer overflow or municipal combined sewer overflow that is released outside of a single-family residence, or to such overflows in a residence that does not meet the definition of a single-family residence found in new subsection (s)(7)(C). For example, if a sewer overflow occurs in a multi-family structure, such as an apartment building, condominium, or dormitory, and the overflow reaches the common areas of such structure (e.g., a common hallway, laundry facility, foyer, or entryway), the owner or operator of the treatment works is required to provide notice to appropriate persons under subsections (s)(1)(B) and (s)(1)(C).

New subsections (s)(1)(D) and (s)(1)(E) require the owner or operator of a publicly owned treatment works to report sewer overflows to the Administrator or the State. New subsection (s)(1)(D) requires an owner or operator to report each sewer overflow on its discharge monitoring report, including information on the magnitude, duration, and suspected cause of the overflow, the steps taken or planned to reduce, eliminate, or prevent the recurrence of the overflow, and the steps taken or planned to mitigate the impact of the overflow. New subsection (s)(1)(E) requires the owner or operator to report the total number of sewer overflows that occur in a calendar year, including specific details on the volume of wastewater released per incident, the duration of each sewer overflow, the location of the overflow and any potentially affected receiving waters, the responses taken to clean up the overflow, and any actions taken to mitigate the impacts of the overflow and to avoid further future overflows at the site.

New subsection (s)(2)(B) provides a limited exemption from the reporting requirements of subsections (s)(1)(D) and (s)(1)(E) for the release of wastewater that: (1) occurs in the course of maintenance of the treatment works; (2) is managed consistently with the treatment works' best management practices; and (3) is intended to prevent overflows. The Committee has provided this limited exemption to address routine maintenance of sewer systems, such as activities to clear our sewer lines. The Committee intends this exemption to be read narrowly, that it be limited to releases that are both de minimus in terms of both duration and volume, and meet all of the requirements listed in the exemption. The reporting requirement exemption in subsection (s)(2)(B) does not include releases in connection with a "bypass" or "upset", as those terms are defined in

the Code of Federal Regulations (40 CFR 122.41 (m) and (n) (2008)).

New subsection (s)(3) requires individual States to provide an annual summary report to the Administrator on sewer overflows that occurred within the State.

New subsection (s)(4) directs the Administrator, within one year of the date of enactment of this title, to finalize and issue regulations to implement new subsection (s), including regulations to provide additional clarity on the terms "feasible", "timely", "potential to affect human health", and "imminently and substantially endanger human health".

In defining the term "feasible", the Committee expects the Administrator to consider: (1) the availability of a monitoring technology, methodology, or management program; (2) the ability of a technology, methodology, or management program to reasonably detect the occurrence of a sewer overflow; (3) the cost of implementing the technology, methodology, or management program; (4) the designated use of potential receiving waters; (5) the proximity of an overflow to a source of drinking water or a recreation water; (6) the potential public health implications of an overflow to the public, with particular emphasis on susceptible populations; (7) the size of the publicly owned treatment works (in terms of population served and the treatment capacity of the treatment works); (8) the nature or quality of pollutants contained in the raw waste load of the treatment works wastewater; (9) the frequency, volume, and duration of past sewer overflows by a particular publicly owned treatment works; and (10) other factors that the Administrator considers appropriate.

In defining the term "timely", the Committee expects the Administrator to ensure that the owner or operator of the publicly owned treatment work has knowledge of the sewer overflow as quickly as practicable, depending upon the monitoring technology, methodology, or management program implemented by the owner or operator, and consistent with the public health goals of this title and goals of the Clean Water Act "to restore and maintain the chemical, and physical, and biological integrity of the Nation's waters."

New subsection (s)(4)(B) directs the Administrator to include site specific conditions within its regulatory definition for the terms "feasible" and "timely".

New subsection (s)(5) authorizes the Administrator to review and approve a legally enforceable state notification program that the Administrator determines is substantially equivalent to or exceeds the requirements of new subsections (s)(1)(B) and (s)(1)(C), and to withdraw authorization of such program if a state in not administering or enforcing the program.

New subsection (s)(6) provides that notification requirements contained in new subsections (s)(1)(B) and (s)(1)(C) shall apply to owners and operators of publicly owned treatment works beginning on the last day of the 30-day period beginning on the date of issuance of regulations under new subsection (s)(4). While the issuance of regulations under new subsection (s)(4) should serve as notice of the revised notification requirements applicable to owners and operators of publicly owned treatment works, the Committee encourages EPA (or the State, as the case may be) to provide such

owners and operators with reasonable notice of any new notification requirements established by such regulations.

New subsection (s)(7) defines the terms "sanitary sewer overflow", "sewer overflow", and "single family residence" as such terms are utilized in new subsection (s). The definition for "sanitary sewer overflows" is modeled after the definition for such term in EPA's proposed rule for "National Pollutant Discharge Elimination System (NPDES) Permit Requirements for Municipal Sanitary Sewer Collection Systems, Municipal Satellite Collection Systems, and Sanitary Sewer Overflows," signed by the Administrator on January 4, 2001.

The term "sewer overflow" is defined to include both sanitary sewer overflows and municipal combined sewer overflows.

The term "single-family residence" is defined as an individual dwelling unit, including an apartment, condominium, house, or dormitory, but specifically excludes common areas from multi-dwelling structures. The definition for "single-family residence" is utilized to define the scope of the limited exemption for notice of sewer overflows found in subsections (s)(1)(B) and (s)(1)(C).

Additional matters

The monitoring, notification, and reporting requirements of title IV of H.R. 1262 are not intended to preclude or deny any right of a State, municipality, or individual publicly owned treatment works from implementing monitoring, notification, or reporting requirements that are more stringent or comprehensive than those contained in such title or the regulations promulgated by the Environmental Protection Agency to implement such title. Accordingly, States, municipalities, and individual publicly owned treatment works may adopt or enforce any regulation, requirement, or permit condition with respect to the monitoring, notification, and reporting that is more stringent than a regulation, requirement, or permit condition issued under the Act, as amended by title IV of H.R. 1262.

In addition, the additional monitoring, notification, and reporting requirements made by title IV of H.R. 1262 do not explicitly or implicitly authorize sanitary sewer overflows or municipal combined sewer overflows outside of the existing statutory requirements of the Clean Water Act.

Finally, the Committee intends that the amendments to the Clean Water Act made by title IV of H.R. 1262 will continue to allow for the utilization of the Combined Sewer Overflow Control Policy (under § 402(q) of the Clean Water Act) to the extent that the monitoring, notification, and reporting requirements contained in the nine minimum controls and long term control plan of an individual publicly owned treatment works are not inconsistent with the requirements of title IV of H.R. 1262. To the extent that an individual publicly owned treatment works' nine minimum controls or long-term control plan either does not include monitoring, notification, or reporting requirements, or such requirements are inconsistent with the requirements of title IV of H.R. 1262, the monitoring, notification, or reporting requirements contained in title IV of H.R. 1262, and the implementing regulations promulgated by the Environmental Protection Agency shall apply.

Title V—Great Lakes Legacy Reauthorization

Section 5001. Remediation of sediment contamination in areas of concern

This section amends section 118(c)(12)(H) of the Act to increase the overall authorization of appropriations for section 118(c)(12) from $50 million to $150 million for each of fiscal years 2010 through 2014.

Section 5002. Public information program

This section amends section 118(c)(13) of the Act to reauthorize appropriations for EPA's public information program for each of fiscal years 2010 through 2014.

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

This section amends section 106(b)(1) of the Great Lakes Legacy Act of 2002 (33 U.S.C. 1271a) to reauthorize appropriations, at increased levels, for a program within the Environmental Protection Agency to demonstrate potential contaminated sediment remediation approaches, technologies, and techniques.

The Committee strongly supports the establishment of a program within EPA to develop innovative approaches, technologies, and techniques for the remediation of contaminated sediment within the Great Lakes areas of concern. The Committee believes that this program could be instrumental in developing new technologies for the remediation of contaminated sediment which could substantially reduce the overall cost of remediation activities for contaminate sediment projects, both within the Great Lakes areas of concern as well as nationwide.

Consistent with House Report 107–587 (Part 1), the Committee expects that the Administrator will collaborate with non-Federal entities, including colleges, universities, and private entities, in carrying out the Administrator's responsibilities under this section. In selecting non-Federal entities to participate in demonstration projects under this section, the Administrator is directed to give preference to non-Federal entities located within the Great Lakes watershed.

Legislative History and Committee Consideration

TITLE I—WATER QUALITY FINANCING

The Subcommittee on Water Resources and Environment has held numerous hearings on the nation's wastewater infrastructure needs and the importance of a renewed commitment to addressing these needs. On March 28, 2001, the Subcommittee held a hearing entitled "Water Infrastructure Needs". On March 19, 2003, the Subcommittee held a hearing entitled "Meeting the Nation's Wastewater Infrastructure Needs". On April 28, 2004, the Subcommittee held a hearing entitled "Aging Water Supply Infrastructure". On June 8 and 14, 2005, the Subcommittee held a series of hearings entitled "Financing Water Infrastructure Projects". On January 19, 2007, the Subcommittee held a hearing entitled "The Need for Renewed Investment in Clean Water Infrastructure". On February 4,

2009, the Subcommittee held a hearing entitled "Sustainable Wastewater Infrastructure".

In prior Congresses, the Subcommittee has also developed and considered numerous bills to reauthorize increasing appropriations for the Clean Water State Revolving Fund.

In the 107th Congress, Representative John J. Duncan introduced H.R. 3930, the Water Quality Financing Act of 2002. On March 13, 2002, the Subcommittee held a legislative hearing on H.R. 3930. On March 20, 2002, the Committee on Transportation and Infrastructure met in open session, and ordered H.R. 3930 reported, as amended, to the House by voice vote. No further action was taken on this bill.

In the 108th Congress, Representative John J. Duncan introduced H.R. 1560, the Water Quality Financing Act of 2003. This bill was largely based on H.R. 3930 from the 107th Congress. On July 17, 2003, the Subcommittee on Water Resources and Environment met in open session, and ordered H.R. 1560 reported, as amended, to the Committee on Transportation and Infrastructure by voice vote. No further action was taken on this bill.

In the 109th Congress, Representative John J. Duncan introduced H.R. 4560, the Clean Water Trust Act of 2005, to create a national clean water trust fund as a means for financing wastewater infrastructure needs. No further action was taken on this legislation.

In the 110th Congress, Chairman James L. Oberstar introduced H.R. 720, the Water Quality Financing Act of 2007. On January 31, 2007, the Subcommittee on Water Resources and Environment met in open session, and recommended H.R. 720, as amended, favorably to the Committee on Transportation and Infrastructure, by voice vote. On February 7, 2007, the Committee on Transportation and Infrastructure met in open session, and ordered the bill, as amended by the Subcommittee, reported favorably to the House by recorded vote of 55–13.

On March 1, 2007, the Committee on Transportation and Infrastructure met in open session, to reconsider H.R. 720, as ordered reported on February 7, 2007, to address a budget scoring issue with the bill. The Committee agreed by voice vote to a motion to reconsider the vote on ordering H.R. 720 reported favorably to the House as adopted by the Committee on February 7, 2007. By unanimous consent, the Committee vacated the question of ordering the bill reported, reconsidered the bill for amendment, and ordered the bill, as amended by the Committee, reported favorably to the House by voice vote. On March 5, 2007, the Committee reported the bill to the House. H. Rept. 110–30. On March 9, 2007, the House of Representatives passed H.R. 720 by a vote of 303 to 108.

On September 17, 2008, the Committee on Environment and Public Works of the Senate approved and ordered S. 3617, the "Water Infrastructure Financing Act", reported favorably to the Senate. This legislation authorized $20 billion for the Clean Water SRF program and $2 billion for grants to municipalities to control combined sewer overflows and sanitary sewer overflows under section 221 of the Clean Water Act. On September 26, 2008, the Committee on Environment and Public Works reported the bill to the Senate. S. Rept. 110–509. No further action was taken on H.R. 720,

as passed by the House, or S. 3617, as reported by the Environment and Public Works Committee.

On March 3, 2009, Chairman James L. Oberstar introduced H.R. 1262, the Water Quality Investment Act of 2009. On March 4, 2009, the Subcommittee on Water Resources and Environment met in open session to consider H.R. 1262 and recommended the bill favorably to the Committee on Transportation and Infrastructure by voice vote. On March 5, 2009, the Committee on Transportation and Infrastructure met in open session to consider H.R. 1262 and adopted, by voice vote, an amendment that made a technical change to the bill. The Committee ordered the bill, as amended, reported favorably to the House by voice vote.

TITLE II—ALTERNATIVE WATER SOURCE PROJECTS

On March 16, 2005, the Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure held a hearing on Member project requests for the Water Resources Development Act of 2005. Among the Member project requests discussed at the hearing and received by the Subcommittee were requests for water reuse projects to augment water supplies, although single-purpose municipal and industrial water supply projects are not a primary mission of the U.S. Army Corps of Engineers and are cost-shared as 100 percent reimbursable.

In the 109th Congress, H.R. 1359 was introduced on March 17, 2005, and referred to the Committee on Transportation and Infrastructure. The Committee on Transportation and Infrastructure met in open session on May 18, 2005, to consider H.R. 1359 and other legislation. The Committee adopted by voice vote an amendment in the nature of a substitute. The amendment removed the fiscal year limitation on the authorization of appropriations, leaving the total amount authorized at $125 million. The Committee ordered the bill, as amended, reported to the House by voice vote. On July 13, 2005, the Committee reported H.R. 1359 to the House. H. Rept. 109–167. No further action was taken on this bill.

In the 110th Congress, Representative Jerry McNerney introduced H.R. 700 on January 29, 2007. This legislation was modeled after H.R. 1359, as approved by the Committee on May 18, 2005, and authorized appropriations of $125 million for EPA to provide grants for alternative water source projects to meet critical water supply needs. On January 31, 2007, the Subcommittee on Water Resources and Environment considered H.R. 700 and recommended the bill favorably to the Committee on Transportation and Infrastructure by voice vote. On February 7, 2007, the Committee on Transportation and Infrastructure met in open session, and ordered the bill reported to the House by voice vote. On February 16, 2007, the Committee reported H.R. 700 to the House. H. Rept. 110–15. On March 8, 2007, the House of Representatives passed H.R. 700 by a vote of 368 to 59. No further action was taken on this legislation.

On January 27, 2009, Representative Jerry McNerney introduced H.R. 700. This legislation is modeled after H.R. 700, as approved by the Committee on February 7, 2007 and passed by the House on March 8, 2007. The text of H.R. 700 is incorporated as Title II of H.R. 1262. Further action is listed under the description of Title I of H.R. 1262.

TITLE III—SEWER OVERFLOW CONTROL GRANTS

Over the last four Congresses, the Committee on Transportation and Infrastructure has approved legislation to reauthorize appropriations for grants to address combined sewer overflows and sanitary sewer overflows.

In the 108th Congress, the Subcommittee held a legislative hearing on H.R. 784, the "Water Quality Investment Act of 2003", on July 8, 2004. On July 15, 2004, the Subcommittee adopted by voice vote an amendment to H.R. 784 in the nature of a substitute. The amendment authorized $250 million for each of fiscal years 2005 through 2010. The amendment also made other changes to section 221 to update the authority and to ensure that States may administer these grants in the same way that they administer loans from the State Revolving Loan Funds. The Subcommittee recommended the bill, as amended, favorably to the Committee on Transportation and Infrastructure, by voice vote. On July 21, 2004, the Committee on Transportation and Infrastructure met in open session, and ordered the bill, as amended by the Subcommittee, reported to the House by voice vote. On September 13, 2004, the Committee reported H.R. 784 to the House. H. Rept. 108–675. No further action was taken on this legislation.

In the 109th Congress, the Committee on Transportation and Infrastructure met on May 18, 2005, to consider H.R. 624, a bill to authorize appropriations for sewer overflow control grants. H.R. 624 was identical to H.R. 784, the Water Quality Investment Act of 2003, as reported by the Committee in the 108th Congress, with the exception of updating the authorization years from 2005 through 2010 to 2006 through 2011. The Committee on Transportation and Infrastructure met in open session and ordered H.R. 624 reported to the House by voice vote. On July 13, 2005, the Committee reported H.R. 624 to the House. H. Rept. 109–166. No further action was taken on this legislation.

In the 110th Congress, Representative Bill Pascrell, Jr. introduced H.R. 569 on January 18, 2007. This legislation was modeled after H.R. 624, as approved by the Committee on May 18, 2005, and authorized appropriations of $3 billion over six years for grants to address combined sewer overflows and sanitary sewer overflows. On January 31, 2007, the Subcommittee on Water Resources and Environment considered H.R. 569, and recommended the bill, as amended, favorably to the Committee on Transportation and Infrastructure, by voice vote. On February 7, 2007, the Committee on Transportation and Infrastructure met in open session, and ordered the bill, as amended by the Subcommittee, reported to the House by voice vote. On February 16, 2007, the Committee reported H.R. 569 to the House. H. Rept. 110–16. On March 7, 2007, the House of Representatives approved H.R. 569 by a vote of 367 to 58.

On September 17, 2008, the Committee on Environment and Public Works of the Senate approved and ordered S. 3617, the "Water Infrastructure Financing Act", reported favorably to the Senate. This legislation authorized $20 billion for the Clean Water SRF program and $2 billion for grants to municipalities to control combined sewer overflows and sanitary sewer overflows under section 221 of the Clean Water Act. On September 26, 2008, the Committee on Environment and Public Works reported the bill to the

Senate. S. Rept. 110–509. No further action was taken on H.R. 569, as passed by the House, or S. 3617, as reported by the Environment and Public Works Committee.

On February 4, 2009, Representative Bill Pascrell, Jr. introduced H.R. 895. This legislation is modeled after H.R. 569, as approved by the Committee on February 7, 2007. The text of H.R. 895 is incorporated as title III of H.R. 1262. Further action is listed under the description of Title I of H.R. 1262.

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

In the 109th Congress, Representative Timothy H. Bishop introduced H.R. 1720, the Raw Sewage Overflow Community Right-to-Know Act. No further action was taken on the legislation.

In the 110th Congress, Representative Timothy H. Bishop introduced H.R. 2452, the Raw Sewage Overflow Community Right-to-Know Act, which was modeled after H.R. 1720 from the 109th Congress.

On October 16, 2007, the Subcommittee on Water Resources and Environment held a hearing on the "Raw Sewage Overflow Community Right-to-Know Act" in which representatives from the Environmental Protection Agency, state and local government officials, public health officials, and other stakeholders testified on the issue of public notification of sewer overflow.

On May 7, 2008, the Subcommittee on Water Resources and Environment met to consider H.R. 2452. The Subcommittee adopted, by voice vote, an amendment in the nature of a substitute that made several technical and clarifying changes to the bill. The Subcommittee approved H.R. 2452, as amended, and favorably recommended it to the Committee on Transportation and Infrastructure by voice vote. On May 15, 2008, the Committee on Transportation and Infrastructure met in open session, and ordered H.R. 2452, as amended, reported to the House by voice vote. On June 19, 2008, the Committee reported H.R. 2452 to the House. H. Rept. 110–723.

On June 23, 2008, the House of Representatives considered H.R. 2452, with minor modifications from the version that was favorably reported from the Committee on Transportation and Infrastructure. These modifications were to address a few technical and transitional concerns that were unresolved before the Committee markup, as well as to provide a mechanism for States with active notification programs to petition EPA for the ability to carry out the existing programs provided these programs are determined to be functionally equivalent to the national standard for State notification programs. On June 23, 2008, the House of Representatives approved H.R. 2452 by voice vote. No further action was taken on this legislation.

On January 28, 2009, Representative Timothy H. Bishop introduced H.R. 752, the Sewage Overflow Community Right to Know Act. This legislation is modeled after H.R. 2452, as passed the House of Representatives on June 23, 2008, with minor changes. The text of sections 2 and 3 of H.R. 752 is incorporated as Title IV of H.R. 1262. Further action is listed under the description of Title I of H.R. 1262.

TITLE V—GREAT LAKES LEGACY REAUTHORIZATION

In the 110th Congress, the Subcommittee on Water Resources and Environment held a hearing, entitled "Reauthorization of the Great Lakes Legacy Act" on May 21, 2008.

On July 10, 2008, Representative Vernon Ehlers introduced H.R. 6460, the "Great Lakes Legacy Reauthorization Act of 2008". No similar legislative proposal was introduced in previous Congresses.

On July 31, 2008, the Committee on Transportation and Infrastructure met in open session to consider H.R. 6460. The Committee adopted by voice vote an amendment in the nature of a substitute that made several technical changes to the bill. The Committee ordered the bill, as amended, reported favorably to the House by voice vote with a quorum present. On September 18, 2008, the Committee reported H.R. 6460 to the House. H. Rept. 110–849 Part 1. On September 18, 2008, the House of Representatives approved H.R. 6460 by a vote of 371 to 20. On September 25, 2008, the United States Senate approved H.R. 6460 with an amendment that: (1) reduced the authorization of appropriations for projects to remediate contaminated sediments under section 118(c)(12)(H) from $150 million annually for fiscal years 2009 through 2013 to $50 million annually for fiscal years 2009 and 2010; and (2) reduced the authorization for section 106(b) of the Great Lakes Legacy Act of 2002 from $5 million for each of the fiscal years 2009 through 2013 to $3 million for fiscal years 2009 and 2010. On September 28, 2008, the House of Representatives approved H.R. 6460, as amended by the Senate. This legislation was signed by the President on October 8, 2008, as Pubic Law 110–365.

Title V of H.R. 1262 would increase the authorization of appropriations for projects to remediate contaminated sediment under section 118(c)(12)(H) to $150 million annually through 2014, and would increase the authorization of appropriations for section 106(b) of the Great Lakes Legacy Act of 2002 to $5 million for each of fiscal years 2010 through 2014. Further action is listed under the description of Title I of H.R. 1262.

RECORD VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with consideration of H.R. 1262 or ordering it reported. A motion to order H.R. 1262, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

COMMITTEE OVERSIGHT FINDINGS

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

COST OF LEGISLATION

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

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objective of this legislation are to accomplish the objectives, goals, and policies of the Federal Water Pollution Control Act by: (1) providing assistance for the construction of publicly owned treatment works; for the implementation of a nonpoint source management program under section 319 of the Act; for the development and implementation of a conservation and management plan under the National Estuary Program; for the implementation of lake protection programs and projects under section 314 of the Act; for the repair and replacement of decentralized wastewater treatment systems that treat domestic sewage; for measures to manage, reduce, treat, or reuse municipal stormwater, agricultural stormwater, and return flows from irrigated agriculture; for water conservation projects; and for the development and implementation of watershed pilot projects under section 122 of the Act; for alternative water source projects to meet critical water supply needs; for control combined sewer overflows and sanitary sewer overflows; and for projects to remediate contaminated sediment in the Great Lakes areas of concern; (2) reauthorizing funding, at increased levels, for EPA research grants and state management assistance; and (3) providing a uniform, national standard for monitoring, reporting, and public notification of municipal combined sewer overflows and sanitary sewer overflows.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1262 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 9, 2009.

Hon. JAMES L. OBERSTAR,
Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1262, the Water Quality Investment Act of 2009.

lf you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Susanne S. Mehlman and Deborah Reis.

Sincerely,

DOUGLAS W. ELMENDORF,
Director.

Enclosure.

H.R. 1262—Water Quality Investment Act of 2009

Summary: CB0 estimates that implementing this legislation would cost about $10.6 billion over the next five years and $17.7 billion over the next 10 years, assuming the appropriation of the necessary amounts, for the Environmental Protection Agency (EPA) to provide various types of grants to states and nonprofit organizations to support water quality projects and programs.

In addition to the effects on discretionary spending, enacting H.R. 1262 would affect both federal revenues and offsetting receipts. The Joint Committee on Taxation (JCT) estimates that enacting H.R. 1262 would reduce revenues by $85 million over the 2010–2014 period and by $700 million over the 2010–2019 period. CBO estimates that enacting this legislation also would increase tonnage charges on vessels entering the United States, effective for fiscal years 2010 through 2019. Those charges would increase offsetting receipts, which are credits against direct spending, by $700 million over that period.

The legislation's effects on direct spending and revenues over the 2009–2013 and 2009–2018 periods arc relevant for enforcing pay-as-you-go rules under the current budget resolution. CBO estimates that enacting this legislation would reduce revenues by about $36 million over that five-year period and by $547 million over the 2009–2018 period. Enacting the bill also would reduce direct spending by about $266 million over the 2009–2013 period and about $625 million over the 2009–2018 period. Together, those changes would yield net pay-as-you-go savings of $230 million over five years and about $78 million over 10 years.

H.R. 1262 contains several intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), including monitoring, reporting, and public notification requirements for publicly owned treatment systems. The bill also includes an additional reporting requirement for states. CBO estimates that the annual cost of complying with those mandates would likely exceed the threshold established in UMRA ($69 million for intergovernmental mandates in 2009, adjusted annually for inflation).

H.R. 1262 would impose private-sector mandates, as defined in UMRA, on operators of vessels entering the United States by increasing vessel tonnage duties over the 2010–2019 period. CBO estimates that the direct costs of complying with those mandates would fall below the annual threshold established in UMRA for private-sector mandates ($139 million in 2009, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1262 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

TABLE 1. ESTIMATED BUDGETARY EFFECTS OF H.R. 1262

	By fiscal year, in millions of dollars—												
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2009–2014	2009–2019
CHANGES IN REVENUE [1]													
Estimated Revenues [2]	0	*	−2	−9	−25	−49	−77	−107	−131	−147	−153	−85	−700
CHANGES IN DIRECT SPENDING													
Vessel Tonnage Charges [3]													
Estimated Budget Authority	0	−65	−66	−67	−68	−69	−70	−72	−73	−75	−75	−335	−700
Estimated Outlays	0	−65	−66	−67	−68	−69	−70	−72	−73	−75	−75	−335	−700
CHANGES IN SPENDING SUBJECT TO APPROPRIATION													
Authorization Level	0	3,275	3,625	3,775	3,925	4,125	0	0	0	0	0	18,725	18,725
Estimated Outlays	0	625	1,369	2,265	2,938	3,370	2,915	2,125	1,201	591	297	10,567	17,696

[1] Estimate provided by the Joint Committee on Taxation.
[2] Negative numbers reflect a reduction in receipts.
[3] Negative numbers reflect an increase in offsetting receipts (a credit against direct spending).

NOTE: * revenue loss of less than $500,000.

Basis of estimate: For this estimate, CBO assumes that H.R. 1262 will be enacted in fiscal year 2009, that the full amounts authorized will be appropriated, and that outlays will follow the historical patterns of similar EPA programs. Components of the estimated costs are described below.

Revenues

H.R. 1262 would increase the funds available under the clean water State Revolving Fund (SRF) program, which would result in some states leveraging SRF grants by issuing additional tax-exempt bonds. The JCT estimates that those additional bonds would result in reductions in revenue totaling $700 million over the next 10 years (see Table 1).

Direct spending

This legislation would increase, through fiscal year 2019, per-ton duties imposed on vessels arriving at U.S. ports from foreign ports. For vessels arriving from such ports in the western hemisphere, the rate would rise to 9 cents per ton (with a maximum of 45 cents per ton per year); for vessels arriving from other foreign ports, the rate would rise to 27 cents (with a maximum of $1.35 per year). The Department of Homeland Security currently collects 2 cents per ton (with a maximum of 10 cents per ton per year) on vessels arriving from western hemisphere ports and 6 cents (with a maximum of 30 cents per ton per year) on those arriving from other foreign ports.

CBO estimates that enacting this legislation would increase offsetting receipts from tonnage duties by $65 million to $75 million a year through 2019. Total estimated collections over the 2010–2019 period would be $700 million (see Table 1). This estimate is based on the additional receipts from tonnage duties collected before fiscal year 2002 (when those rates were temporarily increased to the levels specified in H.R. 1262), including an adjustment for changes in shipping traffic experienced since that time.

Spending subject to appropriation

This legislation would authorize appropriations totaling about $18.7 billion over the next five years for EPA's water infrastructure and grant programs. Amounts authorized to be appropriated for individual programs are shown in Table 2.

H.R. 1262 would authorize the appropriation of $13.8 billion over the 2010–2014 period for EPA to provide capitalization grants for the clean water (SRF) program. States would use such grants along with their own funds to make low-interest loans to communities and grants to Indian tribes to construct wastewater treatment facilities and to fund other related projects. This bill would make several amendments to this grant program, including allowing states to extend the repayment terms for SRF loans and expanding the types of projects eligible for assistance.

TABLE 2.—AMOUNTS AUTHORIZED TO BE APPROPRIATED FOR EPA PROGRAMS UNDER H.R. 1262, THE WATER QUALITY INVESTMENT ACT OF 2009

	By fiscal year in millions of dollars—					
	2010	2011	2012	2013	2014	2010–2014
Clean Water SRF Grants	2,400	2,700	2,800	2,900	3,000	13,800
Sewer Overflow Grants	250	300	350	400	500	1,800
State Management Assistance	300	300	300	300	300	1,500
Great Lakes Remediation	150	150	150	150	150	750
Technical Assistance for Rural/Small Treatment Works	100	100	100	100	100	500
Alternative Water Source Projects	50	50	50	50	50	250
Watershed Pilot Projects	20	20	20	20	20	100
Great Lakes Research and Development	5	5	5	5	5	25
Total Authorization Level	3,275	3,625	3,775	3,925	4,125	18,725

Note: EPA = Environmental Protection Agency; SRF = state revolving fund.

This legislation also would authorize the appropriation of $1.8 billion over the 2010–2014 period for EPA to make grants to states to address sewage overflows (that is, the discharge of untreated wastewater into waterways). In addition, H.R. 1262 would authorize the appropriation of $1.5 billion over the 2010–2014 period for EPA to make grants to states to support various activities associated with implementing state clean water programs; those funds would be available to pay the salaries of personnel working on water quality issues, establish regulations, and enforce clean water laws.

All of the remaining authorizations in the bill would total about $1.6 billion over the next five years. That funding would be used for various other purposes, including support for projects aimed at cleaning up certain areas of the Great Lakes region where contamination has settled into sediments at the bottom of the lakes, and grants to nonprofit organizations to provide technical assistance, such as training communities in methods for treating water.

Estimated impact on state, local, and tribal governments: H.R. 1262 would require treatment plants to comply with a number of new requirements, Those requirements are not conditions of federal assistance, and consequently, they would be intergovernmental mandates as defined in UMRA. Specifically, the bill would require:

- Institute and utilize a monitoring program for sewer overflows, including combined sewer overflows and sanitary sewer overflows;
- Notify the public of a sewer overflow within 24 hours;
- Notify public health authorities and other affected entities, such as public water systems, if there is an imminent and substantial risk to human health due to a sewer overflow;
- Provide a report of an overflow within 24 hours to the state or to the Administrator of EPA;
- Report each sewer overflow on its monthly discharge monitoring report to EPA or the treatment plant's state. This report must include the magnitude, cause, and mitigation efforts for the specific overflows; and
- Submit an annual report to EPA or the state on the number of overflows in a calendar year, including the details of magnitude, duration, location, potentially affected receiving waters, and mitigation efforts. If a state receives a report

under this requirement, that state must submit to EPA a summary of the report.

Without knowing the nature of the regulations that EPA would issue as a result of this bill, CBO cannot make a precise estimate of the costs of complying with the mandates. Based on information from affected entities, however, we estimate that such costs would likely exceed the threshold established in UMRA. The bill's new requirements would involve additional personnel costs and could necessitate new infrastructure and engineering expertise. According to EPA and the National Association of Clean Water Agencies, over 16,000 treatment plants operate in the United States, and each of those entities could be affected by the permitting requirements in H.R. 1262. Infrastructure improvements, if required by the regulations, could be particularly expensive. Given the large number of affected entities, even a small increase in additional costs (less than $4,500 per entity annually) would result in costs that exceed the threshold for intergovernmental mandates in at least one of the next five years ($69 million in 2009, adjusted annually for inflation).

Estimated impact on the private sector: H.R. 1262 would impose private-sector mandates on operators of vessels entering the United States by increasing vessel tonnage duties over the 2010–2019 period. The cost of complying with those mandates would be the incremental amounts paid to the federal government as a result of the higher rates. CBO estimates that the incremental cost for vessel operators would amount to about $67 million per year during the first live years the mandate is in effect. Consequently, the direct cost of the mandates would fall below the annual threshold established in UMRA for private-sector mandates ($139 million in 2009, adjusted annually for inflation).

Estimate prepared by: Federal Spending: Susanne S. Mehlman and Deborah Reis; Federal Revenues: Thomas Holtmann, Joint Committee On Taxation; Impact on State, Local, and Tribal Governments: Ryan Miller; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH HOUSE RULE XXI

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 1262, the Water Quality Investment Act of 2009, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under Article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

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

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 1262 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

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

APPLICABILITY TO THE LEGISLATIVE BRANCH

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

COMMITTEE CORRESPONDENCE

BART GORDON, TENNESSEE
CHAIRMAN

RALPH M. HALL, TEXAS
RANKING MEMBER

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SCIENCE AND TECHNOLOGY
SUITE 2320 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6301
(202) 225-6375
TTY: (202) 226-4410
http://science.house.gov

March 6, 2009

The Honorable James L. Oberstar
Chairman
Committee on Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman,

I am writing to you concerning the jurisdictional interest of the Committee on Science and Technology in H.R. 1262, the Water Quality Investment Act of 2009. The bill contains certain provisions which are within the Committee on Science and Technology's jurisdiction.

The Committee on Science and Technology acknowledges the importance of H.R. 1262 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over the bill, I agree not to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forgo a sequential referral waives, reduces or otherwise affects the jurisdiction of the Committee on Science and Technology and that a copy of this letter and of your response will be included in the legislative report on H.R. 1262 and the *Congressional Record* when the bill is considered on the House Floor.

The Committee on Science and Technology also asks that you support our request to be conferees on any provisions over which we have jurisdiction during any House-Senate conference on this legislation.

Thank you for your attention to this matter, and I look forward to working with you to pass this important legislation.

Sincerely,

BART GORDON
Chairman

cc: The Honorable Ralph Hall
The Honorable John L. Mica
The Honorable John Sullivan

U.S. House of Representatives
Committee on Transportation and Infrastructure

James L. Oberstar
Chairman

Washington, DC 20515

John L. Mica
Ranking Republican Member

David Heymsfeld, Chief of Staff
Ward W. McCarragher, Chief Counsel

James W. Coon II, Republican Chief of Staff

March 6, 2009

The Honorable Bart Gordon
Chairman
Committee on Science and Technology
U.S. House of Representatives
2321 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Gordon:

Thank you for your letter regarding H.R. 1262, the "Water Quality Investment Act of 2009".

I appreciate your willingness to waive rights to further consideration of H.R. 1262, notwithstanding the jurisdictional interest of the Committee on Science and Technology. Of course, this waiver does not prejudice any further jurisdictional claims by your Committee over this or similar legislation. Further, I will support your request to be represented in a House-Senate conference on those provisions over which the Committee on Science and Technology has jurisdiction in H.R. 1262.

This exchange of letters will be placed in the Committee Report on H.R. 1262 and inserted in the *Congressional Record* as part of the consideration of this legislation in the House. Thank you for the cooperative spirit in which you have worked regarding this matter and others between our respective committees.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

Jim Oberstar

James L. Oberstar, M.C.
Chairman

cc: The Honorable Nancy Pelosi, Speaker
The Honorable John L. Mica, Ranking Member
The Honorable Ralph M. Hall, Ranking Member, Committee on Science and Technology
The Honorable John Sullivan, Parliamentarian

Congress of the United States
House of Representatives
Washington, DC 20515

March 9, 2009

The Honorable James L. Oberstar
Chairman
Committee on Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

I write to you regarding H.R. 1262, "the Water Quality Investment Act of 2009."

Section 1501 of H.R. 1262, as ordered reported, increases vessel tonnage duties. This provision falls within the jurisdiction of the Committee on Ways and Means. In addition, H.R. 1262 violates clause 5(a) of Rule XXI, which restricts bills and amendments from carrying taxes and tariffs not reported by the Ways and Means Committee.

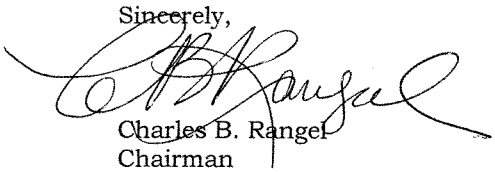
I recognize and appreciate your desire to bring this legislation before the House in an expeditious manner and, accordingly, I will not seek a sequential referral of the bill and will not oppose H.R. 1262 being given a waiver of Rule XXI. However, I agree to waive consideration of this bill with the understanding that this does not in any prejudice the Committee on Ways and Means or its jurisdictional prerogatives on H.R. 1262 or similar legislation.

Further, the Ways and Means Committee reserves the right to seek the appointment of conferees during any House-Senate conference convened on this legislation on provisions of the bill that are within the Committee's jurisdiction. I ask for your commitment to support any request by the Committee on Ways and Means for the appointment of conferees on H.R. 1262 or similar legislation. I also ask that a copy of this letter and your response be placed in the Committee report on

H.R. 1262 and in the *Congressional Record* during consideration of this bill by the House.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,



Charles B. Rangel
Chairman

cc: The Honorable Nancy Pelosi, Speaker
The Honorable John L. Mica, Ranking Member
The Honorable Dave Camp, Ranking Member, Committee on Ways and Means
The Honorable John Sullivan, Parliamentarian

U.S. House of Representatives
Committee on Transportation and Infrastructure

James L. Oberstar
Chairman

David Heymsfeld, Chief of Staff
Ward W. McCarragher, Chief Counsel

Washington, DC 20515

John L. Mica
Ranking Republican Member

James W. Coon II, Republican Chief of Staff

March 9, 2009

The Honorable Charles B. Rangel
Chairman
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Rangel:

Thank you for your recent letter regarding H.R. 1262, the "Water Quality Investment Act of 2009". Your support for this legislation and your assistance in ensuring its timely consideration are greatly appreciated.

I agree that section 1501 of H.R. 1262, as ordered reported, is of jurisdictional interest to the Committee on Ways and Means. I acknowledge that, by foregoing a sequential referral, your Committee is not relinquishing its jurisdiction and I will fully support your request to be represented in a House-Senate conference on those provisions over which the Committee on Ways and Means has jurisdiction in H.R. 1262.

This exchange of letters will be placed in the Committee Report on H.R. 1262 and inserted in the *Congressional Record* as part of the consideration of this legislation in the House. Thank you for the cooperative spirit in which you have worked regarding this matter and others between our respective committees.

I look forward to working with you as we move ahead with this important legislation.

Sincerely,

Jim Oberstar

James L. Oberstar, M.C.
Chairman

cc: The Honorable Nancy Pelosi, Speaker
The Honorable John L. Mica, Ranking Member
The Honorable Dave Camp, Ranking Member, Committee on Ways and Means
The Honorable John Sullivan, Parliamentarian

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

FEDERAL WATER POLLUTION CONTROL ACT

TITLE I—RESEARCH AND RELATED PROGRAMS

* * * * * * *

RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION

SEC. 104. (a) * * *

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

(1) * * *

* * * * * * *

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

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

(8) make grants to nonprofit organizations—

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

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

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

* * * * * * *

(q)(1) * * *

* * * * * * *

(4) SMALL FLOWS CLEARINGHOUSE.—Notwithstanding section 205(d) of this Act, from amounts that are set aside for a fiscal year under section 205(i) of this Act and are not obligated by the end

of the 24-month period of availability for such amounts under section 205(d), the Administrator shall make available [$1,000,000] *$3,000,000* or such unobligated amount, whichever is less, to support a national clearinghouse within the Environmental Protection Agency to collect and disseminate information on small flows of sewage and innovative or alternative wastewater treatment processes and techniques, consistent with paragraph (3). This paragraph shall apply with respect to amounts set aside under section 205(i) for which the 24-month period of availability referred to in the preceding sentence ends on or after September 30, [1986] *2011*.

* * * * * * *

(u) There is authorized to be appropriated (1) not to exceed $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, not to exceed $14,039,000 for the fiscal year ending September 30, 1980, not to exceed $20,697,000 for the fiscal year ending September 30, 1981, not to exceed $22,770,000 for the fiscal year ending September 30, 1982, such sums as may be necessary for fiscal years 1983 through 1985, and not to exceed $22,770,000 per fiscal year for each of the fiscal years 1986 through 1990, for carrying out the provisions of this section, other than subsections (g)(1) and (2), (p), (r), and (t), except that such authorizations are not for any research, development, or demonstration activity pursuant to such provisions; (2) not to exceed $7,500,000 for fiscal years 1973, 1974, and 1975, $2,000,000 for fiscal year 1977, $3,000,000 for fiscal year 1978, $3,000,000 for fiscal year 1979, $3,000,000 for fiscal year 1980, $3,000,000 for fiscal year 1981, $3,000,000 for fiscal year 1982, such sums as may be necessary for fiscal years 1983 through 1985, and $3,000,000 per fiscal year for each of the fiscal years 1986 through 1990, for carrying out the provisions of subsection (g)(1); (3) not to exceed $2,500,000 for fiscal years 1973, 1974, and 1975, $1,000,000 for fiscal year 1977, $1,500,000 for fiscal year 1978, $1,500,000 for fiscal year 1979, $1,500,000 for fiscal year 1980, $1,500,000 for fiscal year 1981, $1,500,000 for fiscal year 1982, such sums as may be necessary for fiscal years 1983 through 1985, and $1,500,000 per fiscal year for each of the fiscal years 1986 through 1990, for carrying out the provisions of subsection (g)(2); (4) not to exceed $10,000,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (p); (5) not to exceed $15,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (r); [and (6)] *(6)* not to exceed $10,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (t)*; and (7) not to exceed $100,000,000 for each of fiscal years 2010 through 2014 for carrying out subsections (b)(3), (b)(8), and (g), except that not less than 20 percent of the amounts appropriated pursuant to this paragraph in a fiscal year shall be used for carrying out subsection (b)(8)*.

* * * * * * *

GRANTS FOR POLLUTION CONTROL PROGRAMS

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

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

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

(3) such sums as may be necessary for each of fiscal years 1991 through 2009, and $300,000,000 for each of fiscal years 2010 through 2014;

* * * * * * *

SEC. 118. GREAT LAKES.

(a) * * *

* * * * * * *

(c) GREAT LAKES MANAGEMENT.—

(1) * * *

* * * * * * *

(12) REMEDIATION OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN.—

(A) * * *

* * * * * * *

(H) AUTHORIZATION OF APPROPRIATIONS.—

[(i) IN GENERAL.—In addition to other amounts authorized under this section, there is authorized to be appropriated to carry out this paragraph $50,000,000 for each of fiscal years 2004 through 2010.]

(i) IN GENERAL.—In addition to other amounts authorized under this section, there is authorized to be appropriated to carry out this paragraph—

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

(II) $150,000,000 for each of the fiscal years 2010 through 2014.

* * * * * * *

(13) PUBLIC INFORMATION PROGRAM.—

(A) * * *

(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $1,000,000 for each of fiscal years 2004 through [2010] *2014*.

* * * * * * *

SEC. 122. [WET WEATHER] WATERSHED PILOT PROJECTS.

(a) IN GENERAL.—The Administrator, in coordination with the States, may provide technical assistance and grants for treatment

works to carry out pilot projects relating to the following areas of [wet weather discharge] control:

(1) * * *

(2) STORMWATER BEST MANAGEMENT PRACTICES.—The control of pollutants from municipal separate storm sewer systems for the purpose of demonstrating and determining controls that are cost-effective and that use innovative technologies [in reducing such pollutants from stormwater discharges] *to manage, reduce, treat, or reuse municipal stormwater, including low-impact development technologies*.

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

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

* * * * * * *

(c) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2002, $15,000,000 for fiscal year 2003, and $20,000,000 [for fiscal year 2004] *for each of fiscal years 2004 through 2014*. Such funds shall remain available until expended.

* * * * * * *

(d) REPORT TO CONGRESS.—Not later than [5 years after the date of enactment of this section,] *October 1, 2011,* the Administrator shall transmit to Congress a report on the results of the pilot projects conducted under this section and their possible application nationwide.

TITLE II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

* * * * * * *

[SEWAGE COLLECTION SYSTEMS

[SEC. 211. (a) No]

SEC. 211. SEWAGE COLLECTION SYSTEMS.

(a) IN GENERAL.—No grant shall be made for a sewage collection system under this title unless such grant (1) is for replacement or major rehabilitation of an existing collection system and is necessary to the total integrity and performance of the waste treatment works serving such community, or (2) is for a new collection system in an existing community with sufficient existing or planned capacity adequately to treat such collected sewage and is consistent with section 201 of this Act.

(b) *POPULATION DENSITY*.—If the Administrator uses population density as a test for determining the eligibility of a collector sewer for assistance it shall be only for the purpose of evaluating alternatives and determining the needs for such system in relation to ground or surface water quality impact.

[(c) No grant shall be made under this title from funds authorized for any fiscal year during the period beginning October 1, 1977, and ending September 30, 1990, for treatment works for control of pollutant discharges from separate storm sewer systems.]

(c) EXCEPTIONS.—

(1) REPLACEMENT AND MAJOR REHABILITATION.—Notwithstanding the requirement of subsection (a)(1) concerning the existence of a collection system as a condition of eligibility, a project for replacement or major rehabilitation of a collection system existing on January 1, 2007, shall be eligible for a grant under this title if the project otherwise meets the requirements of subsection (a)(1) and meets the requirement of paragraph (3).

(2) NEW SYSTEMS.—Notwithstanding the requirement of subsection (a)(2) concerning the existence of a community as a condition of eligibility, a project for a new collection system to serve a community existing on January 1, 2007, shall be eligible for a grant under this title if the project otherwise meets the requirements of subsection (a)(2) and meets the requirement of paragraph (3).

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

DEFINITIONS

SEC. 212. As used in this title—

(1) * * *

(2)(A) The term "treatment works" means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of this act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and [any works, including site] acquisition of the land that will be an integral part of the treatment process (including land use for the storage of treated wastewater in land treatment systems prior to land application) or [is used for ultimate] *will be used for ultimate* disposal of residues resulting from such treatment *and acquisition of other lands, and interests in lands, which are necessary for construction*.

* * * * * * *

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

(a) * * *

* * * * * * *

(d) SELECTION OF PROJECTS.—

(1) * * *

(2) ADDITIONAL CONSIDERATION.—In making grants under this section, the Administrator shall consider whether the project is located within the boundaries of a State or area referred to in section 1 of the Reclamation Act of June 17, 1902 (32 Stat . 385), and within the geographic scope of the reclamation and reuse program conducted under the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.) *or whether the project is located in an area which is served by a public water system serving 10,000 individuals or fewer*.

* * * * * * *

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section a total of [$75,000,000 for fiscal years 2002 through 2004] *$50,000,000 for each of fiscal years 2010 through 2014*. Such sums shall remain available until expended.

SEC. 221. SEWER OVERFLOW CONTROL GRANTS.

(a) * * *

* * * * * * *

[(e) ADMINISTRATIVE REPORTING REQUIREMENTS.—If a project receives grant assistance under subsection (a) and loan assistance from a State water pollution control revolving fund and the loan assistance is for 15 percent or more of the cost of the project, the project may be administered in accordance with State water pollution control revolving fund administrative reporting requirements for the purposes of streamlining such requirements.]

(e) ADMINISTRATIVE REQUIREMENTS.—A project that receives assistance under this section shall be carried out subject to the same requirements as a project that receives assistance from a State water pollution control revolving fund under title VI, except to the extent that the Governor of the State in which the project is located determines that a requirement of title VI is inconsistent with the purposes of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out [this section $750,000,000 for each of fiscal years 2002 and 2003.] *this section $250,000,000 for fiscal year 2010, $300,000,000 for fiscal year 2011, $350,000,000 for fiscal year 2012, $400,000,000 for fiscal year 2013, and $500,000,000 for fiscal year 2014.* Such sums shall remain available until expended.

[(g) ALLOCATION OF FUNDS.—

[(1) FISCAL YEAR 2002.—Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2002 for making grants to municipalities and municipal entities under subsection (a)(2), in accordance with the criteria set forth in subsection (b).

[(2) FISCAL YEAR 2003.—Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2003 as follows:

[(A) Not to exceed $250,000,000 for making grants to municipalities and municipal entities under subsection (a)(2), in accordance with the criteria set forth in subsection (b).

[(B) All remaining amounts for making grants to States under subsection (a)(1), in accordance with a formula to be

established by the Administrator, after providing notice and an opportunity for public comment, that allocates to each State a proportional share of such amounts based on the total needs of the State for municipal combined sewer overflow controls and sanitary sewer overflow controls identified in the most recent survey conducted pursuant to section 516(b)(1).]

(g) ALLOCATION OF FUNDS.—

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

(2) FISCAL YEAR 2011 AND THEREAFTER.—Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2011 and each fiscal year thereafter for making grants to States under subsection (a)(1) in accordance with a formula to be established by the Administrator, after providing notice and an opportunity for public comment, that allocates to each State a proportional share of such amounts based on the total needs of the State for municipal combined sewer overflow controls and sanitary sewer overflow controls identified in the most recent survey conducted pursuant to section 516.

* * * * * * *

(i) REPORTS.—Not later than December 31, [2003] *2012*, and periodically thereafter, the Administrator shall transmit to Congress a report containing recommended funding levels for grants under this section. The recommended funding levels shall be sufficient to ensure the continued expeditious implementation of municipal combined sewer overflow and sanitary sewer overflow controls nationwide.

* * * * * * *

TITLE IV—PERMITS AND LICENSES

* * * * * * *

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

SEC. 402. (a) * * *

* * * * * * *

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

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

(A) institute and utilize a feasible methodology, technology, or management program for monitoring sewer over-

flows to alert the owner or operator to the occurrence of a sewer overflow in a timely manner;

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

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

(D) report each sewer overflow on its discharge monitoring report to the Administrator or the State, as the case may be, by describing—

(i) the magnitude, duration, and suspected cause of the overflow;

(ii) the steps taken or planned to reduce, eliminate, or prevent recurrence of the overflow; and

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

(E) annually report to the Administrator or the State, as the case may be, the total number of sewer overflows in a calendar year, including—

(i) the details of how much wastewater was released per incident;

(ii) the duration of each sewer overflow;

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

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

(v) the actions taken to mitigate impacts and avoid further sewer overflows at the site.

(2) EXCEPTIONS.—

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

(B) REPORTING REQUIREMENTS.—The reporting requirements of paragraphs (1)(D) and (1)(E) shall not apply to a sewer overflow that is a release of wastewater that occurs in the course of maintenance of the treatment works, is managed consistently with the treatment works' best management practices, and is intended to prevent sewer overflows.

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

(4) RULEMAKING BY EPA.—Not later than one year after the date of enactment of this subsection, the Administrator, after providing notice and an opportunity for public comment, shall issue regulations to implement this subsection, including regulations to—

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

(i) assessing whether a sewer overflow has the potential to affect human health or may imminently and substantially endanger human health; and

(ii) developing communication measures that are sufficient to give notice under paragraphs (1)(B) and (1)(C); and

(B) define the terms "feasible" and "timely" as such terms apply to paragraph (1)(A), including site specific conditions.

(5) APPROVAL OF STATE NOTIFICATION PROGRAMS.—

(A) REQUESTS FOR APPROVAL.—

(i) IN GENERAL.—After the date of issuance of regulations under paragraph (4), a State may submit to the Administrator evidence that the State has in place a legally enforceable notification program that is substantially equivalent to or exceeds the requirements of paragraphs (1)(B) and (1)(C).

(ii) PROGRAM REVIEW AND AUTHORIZATION.—If the evidence submitted by a State under clause (i) shows the notification program of the State to be substantially equivalent to or exceeds the requirements of paragraphs (1)(B) and (1)(C), the Administrator shall authorize the State to carry out such program instead of the requirements of paragraphs (1)(B) and (1)(C).

(iii) FACTORS FOR DETERMINING SUBSTANTIAL EQUIVALENCY.—In carrying out a review of a State notification program under clause (ii), the Administrator shall take into account the scope of sewer overflows for which notification is required, the length of time during which notification must be made, the scope of persons who must be notified of sewer overflows, the scope of enforcement activities ensuring that notifications of sewer overflows are made, and such other factors as the Administrator considers appropriate.

(B) REVIEW PERIOD.—If a State submits evidence with respect to a notification program under subparagraph (A)(i) on or before the last day of the 30-day period beginning on the date of issuance of regulations under paragraph (4), the requirements of paragraphs (1)(B) and (1)(C) shall not begin to apply to a publicly owned treatment works located in the State until the date on which the Administrator completes a review of the notification program under subparagraph (A)(ii).

(C) WITHDRAWAL OF AUTHORIZATION.—If the Administrator, after conducting a public hearing, determines that a State is not administering and enforcing a State notification program authorized under subparagraph (A)(ii) in accordance with the requirements of this paragraph, the Administrator shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed 90 days, the Administrator shall withdraw authorization of such program and enforce the requirements of paragraphs (1)(B) and (1)(C) with respect to the State.

(6) SPECIAL RULES CONCERNING APPLICATION OF NOTIFICATION REQUIREMENTS.—After the last day of the 30-day period

beginning on the date of issuance of regulations under paragraph (4), the requirements of paragraphs (1)(B) and (1)(C) shall—

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

(B) supersede any notification requirements contained in a permit issued under this section for the treatment works to the extent that the notification requirements are less stringent than the notification requirements of paragraphs (1)(B) and (1)(C),

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

(7) DEFINITIONS.—In this subsection, the following definitions apply:

(A) SANITARY SEWER OVERFLOW.—The term "sanitary sewer overflow" means an overflow, spill, release, or diversion of wastewater from a sanitary sewer system. Such term does not include municipal combined sewer overflows or other discharges from the combined portion of a municipal combined storm and sanitary sewer system and does not include wastewater backups into buildings caused by a blockage or other malfunction of a building lateral that is privately owned. Such term includes overflows or releases of wastewater that reach waters of the United States, overflows or releases of wastewater in the United States that do not reach waters of the United States, and wastewater backups into buildings that are caused by blockages or flow conditions in a sanitary sewer other than a building lateral.

(B) SEWER OVERFLOW.—The term "sewer overflow" means a sanitary sewer overflow or a municipal combined sewer overflow.

(C) SINGLE-FAMILY RESIDENCE.—The term "single-family residence" means an individual dwelling unit, including an apartment, condominium, house, or dormitory. Such term does not include the common areas of a multi-dwelling structure.

* * * * * * *

TITLE V—GENERAL PROVISIONS

* * * * * * *

GENERAL DEFINITIONS

SEC. 502. Except as otherwise specifically provided, when used in this Act:

(1) * * *

* * * * * * *

(26) TREATMENT WORKS.—The term "treatment works" has the meaning given that term in section 212.

* * * * * * *

SEC. 518. INDIAN TRIBES.

(a) * * *

* * * * * * *

(c) RESERVATION OF FUNDS.—[The Administrator]

(1) FISCAL YEARS 1987–2008.—The Administrator shall reserve each fiscal year beginning after September 30, 1986, *and ending before October 1, 2008,* before allotments to the States under section 205(e), one-half of one percent of the sums appropriated under section 207. [Sums reserved under this subsection shall be available only for grants for the develoment of waste treatment management plans and for the construction of sewage treatment works to serve Indian tribes, as defined in subsection (h) and former Indian reservations in Oklahoma (as determined by the Secretary of the Interior) and Alaska Native Villages as defined in Public Law 92–203.]

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

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

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

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

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

* * * * * * *

TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

SEC. 601. GRANTS TO STATES FOR ESTABLISHMENT OF REVOLVING FUNDS.

(a) GENERAL AUTHORITY.—Subject to the provisions of this title, the Administrator shall make capitalization grants to each State for the purpose of establishing a water pollution control revolving fund [for providing assistance (1) for construction of treatment works (as defined in section 212 of this Act) which are publicly owned, (2) for implementing a management program under section 319, and (3) for developing and implementing a conservation and management plan under section 320.] *to accomplish the objectives, goals, and policies of this Act by providing assistance for projects and activities identified in section 603(c).*

* * * * * * *

SEC. 602. CAPITALIZATION GRANT AGREEMENTS.

(a) * * *

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

(1) * * *

* * * * * * *

(6) treatment works eligible under section 603(c)(1) of this Act which will be constructed in whole or in part [before fiscal year 1995] with [funds directly made available by capitalization grants under this title and section 205(m) of this Act] *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,* will meet the requirements of, or otherwise be treated (as determined by the Governor of the State) under sections [201(b), 201(g)(1), 201(g)(2), 201(g)(3), 201(g)(5), 201(g)(6), 201(n)(1), 201(o), 204(a)(1), 204(a)(2), 204(b)(1), 204(d)(2), 211, 218, 511(c)(1), and 513] *211 and 511(c)(1)* of this Act in the same manner as treatment works constructed with assistance under title II of this Act;

* * * * * * *

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

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

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

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

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

(A) has studied and evaluated the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the proposed project or activity for which assistance is sought under this title, and has selected, to the extent practicable, a project or activity that maximizes the potential for efficient water use, reuse, and conservation, and energy conservation, taking into account the cost of constructing the project or activity, the cost of operating and maintaining the project or activity over its life, and the cost of replacing the project or activity; and

(B) has considered, to the maximum extent practicable and as determined appropriate by the recipient, the costs and effectiveness of other design, management, and financing approaches for carrying out a project or activity for

which assistance is sought under this title, taking into account the cost of constructing the project or activity, the cost of operating and maintaining the project or activity over its life, and the cost of replacing the project or activity;

(14) the State will use at least 10 percent of the amount of each capitalization grant received by the State under this title after September 30, 2010, to provide assistance to municipalities of fewer than 10,000 individuals that meet the affordability criteria established by the State under section 603(i)(2) for activities included on the State's priority list established under section 603(g), to the extent that there are sufficient applications for such assistance;

(15) a contract to be carried out using funds directly made available by a capitalization grant under this title for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services shall be negotiated in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, United States Code, or an equivalent State qualifications-based 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. 603. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

(a) * * *

* * * * * * *

[(c) PROJECTS ELIGIBLE FOR ASSISTANCE.—The amounts of funds available to each State water pollution control revolving fund shall be used only for providing financial assistance (1) to any municipality, intermunicipal, interstate, or State agency for construction of publicly owned treatment works (as defined in section 212 of this Act), (2) for the implementation of a management program established under section 319 of this Act, and (3) for development and implementation of a conservation and management plan under section 320 of this Act. The fund shall be established, maintained, and credited with repayments, and the fund balance shall be available in perpetuity for providing such financial assistance.]

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

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

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

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

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

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

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

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

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

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

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

(A) such loans are made at or below market interest rates, including interest free loans, at terms not to exceed [20 years] *the lesser of 30 years or the design life of the project to be financed with the proceeds of the loan*;

(B) annual principal and interest payments will commence not later than 1 year after completion of any project and all loans will be fully amortized [not later than 20 years after project completion] *upon the expiration of the term of the loan*;

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

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

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

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

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

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

* * * * * * *

(6) to earn interest on fund accounts; [and]

(7) for the reasonable costs of administering the fund and conducting activities under this title, except that such amounts shall not exceed 4 percent of all grant awards to such fund under this title[.]*, $400,000 per year, or 1/5 percent per year of the current valuation of the fund, whichever amount is greatest, plus the amount of any fees collected by the State for such purpose regardless of the source;*

(8) to provide grants to owners and operators of treatment works that serve a population of 10,000 or fewer for obtaining technical and planning assistance and assistance in financial management, user fee analysis, budgeting, capital improvement planning, facility operation and maintenance, equipment replacement, repair schedules, and other activities to improve wastewater treatment plant management and operations, except

that the total amount provided by the State in grants under this paragraph for a fiscal year may not exceed one percent of the total amount of assistance provided by the State from the fund in the preceding fiscal year, or 2 percent of the total amount received by the State in capitalization grants under this title in the preceding fiscal year, whichever amount is greatest; and

(9) to provide grants to owners and operators of treatment works for conducting an assessment of the energy and water consumption of the treatment works, and evaluating potential opportunities for energy and water conservation through facility operation and maintenance, equipment replacement, and projects or activities that promote the efficient use of energy and water by the treatment works, except that the total amount provided by the State in grants under this paragraph for a fiscal year may not exceed one percent of the total amount of assistance provided by the State from the fund in the preceding fiscal year, or 2 percent of the total amount received by the State in capitalization grants under this title in the preceding fiscal year, whichever amount is greatest.

* * * * * * *

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

(g) PRIORITY LIST.—

(1) IN GENERAL.—For fiscal year 2011 and each fiscal year thereafter, a State shall establish or update a list of projects and activities for which assistance is sought from the State's water pollution control revolving fund. Such projects and activities shall be listed in priority order based on the methodology established under paragraph (2). The State may provide financial assistance from the State's water pollution control revolving fund only with respect to a project or activity included on such list. In the case of projects and activities eligible for assistance under section 603(c)(2), the State may include a category or subcategory of nonpoint sources of pollution on such list in lieu of a specific project or activity.

(2) METHODOLOGY.—

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

(B) PRIORITY FOR PROJECTS AND ACTIVITIES THAT ACHIEVE GREATEST WATER QUALITY IMPROVEMENT.—In developing the methodology, the State shall seek to achieve the greatest degree of water quality improvement, taking into consideration the requirements of section 602(b)(5) and section 603(i)(3), whether such water quality improvements would be realized without assistance under this title, and

whether the proposed projects and activities would address water quality impairments associated with existing treatment works.

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

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

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

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

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

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

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

* * * * * * *

(i) ADDITIONAL SUBSIDIZATION.—

(1) IN GENERAL.—In any case in which a State provides assistance to a municipality or intermunicipal, interstate, or State agency under subsection (d), the State may provide additional subsidization, including forgiveness of principal and negative interest loans—

(A) to benefit a municipality that—

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

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

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

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

(III) ensures, as part of an assistance agreement between the State and the recipient, that the additional subsidization provided under this paragraph is directed through a user charge rate system (or other appropriate method) to such ratepayers; or

(B) to implement a process, material, technique, or technology to address water-efficiency goals, address energy-efficiency goals, mitigate stormwater runoff, or encourage en-

vironmentally sensitive project planning, design, and construction.

(2) AFFORDABILITY CRITERIA.—

(A) ESTABLISHMENT.—On or before September 30, 2010, and after providing notice and an opportunity for public comment, a State shall establish affordability criteria to assist in identifying municipalities that would experience a significant hardship raising the revenue necessary to finance a project or activity eligible for assistance under section 603(c)(1) if additional subsidization is not provided. Such criteria shall be based on income data, population trends, and other data determined relevant by the State.

(B) EXISTING CRITERIA.—If a State has previously established, after providing notice and an opportunity for public comment, affordability criteria that meet the requirements of subparagraph (A), the State may use the criteria for the purposes of this subsection. For purposes of this Act, any such criteria shall be treated as affordability criteria established under this paragraph.

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

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

(4) SET-ASIDE.—

(A) IN GENERAL.—In any fiscal year in which the Administrator has available for obligation more than $1,000,000,000 for the purposes of this title, a State shall provide additional subsidization under this subsection in the amount specified in subparagraph (B) to eligible entities described in paragraph (1) for projects and activities identified in the State's intended use plan prepared under section 606(c) to the extent that there are sufficient applications for such assistance.

(B) AMOUNT.—In a fiscal year described in subparagraph (A), a State shall set-aside for purposes of subparagraph (A) an amount not less than 25 percent of the difference between—

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

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

(5) LIMITATION.—The total amount of additional subsidization provided under this subsection by a State may not exceed 30 percent of the total amount of capitalization grants received by the State under this title in fiscal years beginning after September 30, 2009.

SEC. 604. ALLOTMENT OF FUNDS.

[(a) FORMULA.—Sums authorized to be appropriated to carry out this section for each of fiscal years 1989 and 1990 shall be allotted by the Administrator in accordance with section 205(c) of this Act.**]**

(a) ALLOTMENTS.—

(1) FISCAL YEARS 2010 AND 2011.—Sums appropriated to carry out this title for each of fiscal years 2010 and 2011 shall be allotted by the Administrator in accordance with the formula used to allot sums appropriated to carry out this title for fiscal year 2009.

(2) FISCAL YEAR 2012 AND THEREAFTER.—Sums appropriated to carry out this title for fiscal year 2012 and each fiscal year thereafter shall be allotted by the Administrator as follows:

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

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

(b) RESERVATION OF FUNDS FOR PLANNING.—Each State shall reserve each fiscal year [1 percent] *2 percent* of the sums allotted to such State under this section for such fiscal year, or $100,000, whichever amount is greater, to carry out planning under sections 205(j) and 303(e) of this Act.

* * * * * * *

(d) FORMULA BASED ON WATER QUALITY NEEDS.—Not later than September 30, 2011, and after providing notice and an opportunity for public comment, the Administrator shall publish an allotment formula based on water quality needs in accordance with the most recent survey of needs developed by the Administrator under section 516(b).

* * * * * * *

SEC. 606. AUDITS, REPORTS, AND FISCAL CONTROLS; INTENDED USE PLAN.

(a) * * *

* * * * * * *

(c) INTENDED USE PLAN.—After providing for public comment and review, [each State shall annually prepare] *each State (acting through the State's water quality management agency and other appropriate agencies of the State) shall annually prepare and publish* a plan identifying the intended uses of the amounts available to its water pollution control revolving fund. Such intended use plan shall include, but not be limited to—

[(1) a list of those projects for construction of publicly owned treatment works on the State's priority list developed pursuant to section 216 of this Act and a list of activities eligible for assistance under sections 319 and 320 of this Act;]

(1) the State's priority list developed under section 603(g);

* * * * * * *

(4) assurances and specific proposals for meeting the requirements of paragraphs (3), (4), (5), [and (6)] *(6), (15), and (17)* of section 602(b) of this Act; [and]

(5) the criteria and method established for the distribution of funds[.]*; and*

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

(d) ANNUAL REPORT.—Beginning the first fiscal year after the receipt of payments under this title, the State shall provide an annual report to the Administrator describing how the State has met the goals and objectives for the previous fiscal year as identified in the plan prepared for the previous fiscal year pursuant to subsection (c), including identification of loan recipients, loan amounts, *the eligible purpose under section 603(c) for which the assistance is provided,* and loan terms and similar details on other forms of financial assistance provided from the water pollution control revolving fund.

* * * * * * *

SEC. 607. TECHNICAL ASSISTANCE.

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

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

(c) COMPLIANCE CRITERIA.—At the request of any State, the Administrator, after providing notice and an opportunity for public comment, shall assist in the development of criteria for a State to determine compliance with the conditions of funding assistance established under sections 602(b)(13) and 603(d)(1)(E).

SEC. 608. REQUIREMENTS FOR USE OF AMERICAN MATERIALS.

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

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

(1) applying subsection (a) would be inconsistent with the public interest;

(2) steel, iron, and manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

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

(c) PUBLIC NOTIFICATION AND WRITTEN JUSTIFICATION FOR WAIVER.—If the Administrator determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the Administrator shall—

(1) not less than 15 days prior to waiving application of subsection (a), provide public notice and the opportunity to comment on the Administrator's intent to issue such waiver; and

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

(d) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner consistent with United States obligations under international agreements.

SEC. [607.] *609.* AUTHORIZATION OF APPROPRIATIONS.

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

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

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

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

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

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

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

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

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

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

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

TITLE 46, UNITED STATES CODE

Subtitle Sec.

* * * * * * *

[VI. CLEARANCE, TONNAGE TAXES, AND DUTIES ..... 60101]
VI. CLEARANCE AND TONNAGE DUTIES 60101

* * * * * * *

[Subtitle VI—Clearance, Tonnage Taxes, and Duties]

Subtitle VI—Clearance and Tonnage Duties

Chapter Sec.

601. Arrival and Departure Requirements 60101
[603 Tonnage Taxes and Light Money ..... 60301]
603. Tonnage Duties and Light Money 60301

* * * * * * *

CHAPTER 603—TONNAGE [TAXES] *DUTIES* AND LIGHT MONEY

Sec.
[60301. Regular tonnage taxes.
[60302. Special tonnage taxes.]
60301. Regular tonnage duties.
60302. Special tonnage duties.
60303. Light money.
[60304. Presidential suspension of tonnage taxes and light money.]
60304. Presidential suspension of tonnage duties and light money.

* * * * * * *

60313. Liability in rem for costs.

§ 60301. Regular tonnage [taxes] *duties*

[(a) LOWER RATE.—A duty is imposed at the rate of 4.5 cents per ton, not to exceed a total of 22.5 cents per ton per year, for fiscal years 2006 through 2010, and 2 cents per ton, not to exceed a total of 10 cents per ton per year, for each fiscal year thereafter, at each entry in a port of the United States of—

[(1) a vessel entering from a foreign port or place in North America, Central America, the West Indies Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering the Caribbean Sea; or

[(2) a vessel returning to the same port or place in the United States from which it departed, and not entering the United States from another port or place, except—

[(A) a vessel of the United States;

[(B) a recreational vessel (as defined in section 2101 of this title); or

[(C) a barge.

[(b) HIGHER RATE.—A duty is imposed at the rate of 13.5 cents per ton, not to exceed a total of 67.5 cents per ton per year, for fiscal years 2006 through 2010, and 6 cents per ton, not to exceed a total of 30 cents per ton per year, for each fiscal year thereafter, on a vessel at each entry in a port of the United States from a foreign port or place not named in subsection (a)(1).]

(a) LOWER RATE.—

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

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

(B) a vessel returning to the same port or place in the United States from which it departed, and not entering the United States from another port or place, except—

(i) a vessel of the United States;

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

(iii) a barge.

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

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

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

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

(b) HIGHER RATE.—

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

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

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

(B) 27 cents per ton (but not more than a total of $1.35 per ton per year) for fiscal years 2010 through 2019; and

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

(c) EXCEPTION FOR VESSELS ENTERING OTHER THAN BY SEA.—Subsection (a) does not apply to a vessel entering other than by sea from a foreign port or place at which tonnage, lighthouse, or other equivalent [taxes] *duties* are not imposed on vessels of the United States.

§ 60302. Special tonnage [taxes] *duties*

(a) ENTRY FROM FOREIGN PORT OR PLACE.—Regardless of whether a [tax] *duty* is imposed under section 60301 of this title, a [tax] *duty* is imposed on a vessel at each entry in a port of the United States from a foreign port or place at the following rates:

(1) * * *

* * * * * * *

(b) VESSELS NOT OF THE UNITED STATES TRANSPORTING PROPERTY BETWEEN DISTRICTS.—Regardless of whether a [tax] *duty* is imposed under section 60301 of this title, a [tax] *duty* of 50 cents per ton is imposed on a vessel not of the United States at each entry in one customs district from another district when transporting goods loaded in one district to be delivered in another district.

(c) EXCEPTION FOR VESSELS BECOMING DOCUMENTED.—The [tax] *duty* of 50 cents per ton under this section does not apply to a vessel that—

(1) * * *

* * * * * * *

§ 60303. Light money

(a) IMPOSITION OF [TAX] *DUTY*.—A [tax] *duty* of 50 cents per ton, to be called "light money", is imposed on a vessel not of the United States at each entry in a port of the United States. This [tax] *duty* shall be imposed and collected under the same regulations that apply to tonnage [taxes] *duties*.

* * * * * * *

§ 60304. Presidential suspension of tonnage [taxes] *duties* and light money

If the President is satisfied that the government of a foreign country does not impose discriminating or countervailing duties to the disadvantage of the United States, the President shall suspend the imposition of special tonnage [taxes] *duties* and light money under sections 60302 and 60303 of this title on vessels of that country.

§ 60305. Vessels in distress

A vessel is exempt from tonnage [taxes] *duties* and light money when it enters because it is in distress.

§ 60306. Vessels not engaged in trade

A vessel is exempt from tonnage [taxes] *duties* and light money when not engaged in trade.

§ 60307. Vessels engaged in coastwise trade or the fisheries

A vessel with a registry endorsement or a coastwise endorsement, trading from one port in the United States to another port in the United States or employed in the bank, whale, or other fisheries, is exempt from tonnage [taxes] *duties* and light money.

§ 60308. Vessels engaged in Great Lakes trade

A documented vessel with a registry endorsement, engaged in foreign trade on the Great Lakes or their tributary or connecting waters in trade with Canada, does not become subject to tonnage [taxes] *duties* or light money because of that trade.

§ 60309. Passenger vessels making trips between ports of the United States and foreign ports

A passenger vessel making at least 3 trips per week between a port of the United States and a foreign port is exempt from tonnage [taxes] *duties* and light money.

§ 60310. Vessels making daily trips on interior waters

A vessel making regular daily trips between a port of the United States and a port of Canada only on interior waters not navigable to the ocean is exempt from tonnage [taxes] *duties* and light money, except on its first clearing each year.

§ 60311. Hospital vessels in time of war

In time of war, a hospital vessel is exempt from tonnage [taxes] *duties*, light money, and pilotage charges in the ports of the United States if the vessel is one for which the conditions of the international convention for the exemption of hospital ships from taxation in time of war, concluded at The Hague on December 21, 1904, are satisfied. The President by proclamation shall name the vessels for which the conditions are satisfied and state when the exemption begins and ends.

§ 60312. Rights under treaties preserved

This chapter and chapter 605 of this title do not affect a right or privilege of a foreign country relating to tonnage [taxes] *duties* or other duties on vessels under a law or treaty of the United States.

§ 60313. Liability in rem for costs

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

* * * * * * *

GREAT LAKES LEGACY ACT OF 2002

* * * * * * *

TITLE I—GREAT LAKES

* * * * * * *

SEC. 106. RESEARCH AND DEVELOPMENT PROGRAM.

(a) * * *

(b) AUTHORIZATION OF APPROPRIATIONS.—

[(1) IN GENERAL.—In addition to any amounts authorized under other provisions of law, there is authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2004 through 2010.]

(1) IN GENERAL.—In addition to amounts authorized under other laws, there is authorized to be appropriated to carry out this section—

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

(B) $5,000,000 for each of the fiscal years 2010 through 2014.

* * * * * * *

MINORITY VIEWS OF MR. MICA, MR. BOOZMAN, MR. COBLE, MR. MACK, MR. SHUSTER, MR. MORAN, MR. DUNCAN, MR. MILLER, MR. EHLERS, MR. BROWN, MS. FALLIN, MR. LATTA, MR. OLSON

The reauthorization of the Clean Water State Revolving Loan Fund (SRF) Program is an important step towards addressing the needs of our critical and aging wastewater infrastructure. We welcome the environmental improvements that many provisions in this bill would bring. However, while H.R. 1262 represents an important step forward for clean water in many respects, it also takes a significant step backwards by mandating and expanding upon the past application of the Davis-Bacon Act's prevailing wage requirements in the SRF program.

This new expansion of Davis-Bacon requirements would inflate the cost of clean water projects across our nation and ultimately result in fewer projects being built, fewer jobs being created, and less clean water being achieved. By adding to the cost of public construction, the Davis-Bacon Act disproportionately impacts small, rural, and disadvantaged communities, which can least afford to pay the higher cost of projects. The revolving, non-federal component of the State Revolving Funds has operated successfully since 1987 without the onerous application of Davis-Bacon, the effect of which will be further restriction of state and local control.

It has become evident to the Minority on the Committee that the history of the Davis-Bacon Act is in need of clarification. The Act was created in 1931 with discriminatory intent to prevent low paid African Americans from taking jobs from other blue collar workers in New York. Even in recent history, only a few small and minority-owned firms could afford to pay the higher wages that the Davis-Bacon Act requires. As a result, they are disadvantaged by Davis-Bacon contracts, and many of them would not and will not pursue those contracts. Moreover, projects operating under Davis-Bacon requirements cannot hire local, lesser-skilled employees to work on these infrastructure projects, thereby limiting job opportunities for many workers and hindering state and local efforts to provide entry-level jobs.

Since the inception of the SRF, only the initial Federal seed money has been subject to Davis-Bacon prevailing wage requirements. State money, including the state match, loan repayments, interest, and other non-federal funds are not subject to these requirements. There is no precedent for applying the Davis-Bacon Act to state funds within this program.

For these reasons, we oppose the imposition of Davis-Bacon Act prevailing wage requirements on the Clean Water SRF Program.

JOHN L. MICA.
JOHN BOOZMAN.
HOWARD COBLE.
CONNIE MACK.
BILL SHUSTER.
JERRY MORAN.
JOHN J. DUNCAN, Jr.
GARY MILLER.
VERNON J. EHLERS.
HENRY E. BROWN, Jr.
MARY FALLIN.
ROBERT E. LATTA.
PETE OLSON.

○