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113TH CONGRESS
2D SESSION

H. R. 4739

To provide assistance to communities affected by total maximum daily loads established by the Administrator of the Environmental Protection Agency, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2014

Mr. REED (for himself and Mr. MURPHY of Florida) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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A BILL

To provide assistance to communities affected by total maximum daily loads established by the Administrator of the Environmental Protection Agency, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Impaired Waters Improvement Act''.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) COVERED TMDL.—The term ''covered TMDL'' means a total maximum daily load for nitrogen, phosphorus, or sediment established under section 303(d) of the Federal Water Pollution Control Act (33 U.S.C. 1313(d)).

(3) COVERED TMDL JURISDICTION.—

(A) IN GENERAL.—The term ''covered TMDL jurisdiction'' means a geographic area that is subject to a covered TMDL.

(B) INCLUSION OF CHESAPEAKE BAY.—The term ''covered TMDL jurisdiction'' includes the geographic area subject to total maximum daily load for pollutants for the Chesapeake Bay and its tidal tributaries established by the Administrator on December 29, 2010, and noticed at 76 Fed. Reg. 549 (January 5, 2011).

(4) PUBLICLY OWNED STORMWATER MANAGEMENT PRACTICES.—The term ''publicly owned stormwater management practices'' means techniques for managing and treating rainwater runoff that are the responsibility of the public sector, in-

cluding, and by order of preference, practices which—

(A) utilize or mimic natural infiltration of rainwater into the ground;

(B) hold and treat runoff by allowing plant materials to take up pollutants; and

(C) capture runoff and hold it for a period of time sufficient to allow pollutants to settle out or evaporate, and which substantially reduce the volume of runoff in local waters during peak runoff periods.

(5) TREATMENT WORKS.—The term ''treatment works'' has the meaning given the term in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292).

SEC. 3. GRANTS TO ASSIST COVERED TMDL JURISDICTIONS.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency may make grants to the owner or operator of—

(1) a publicly owned treatment works serving a covered TMDL jurisdiction;

(2) publicly owned storm water management practices serving a covered TMDL jurisdiction; or

(3) a privately owned farm implementing methods to reduce discharges of nitrogen, phosphorus, or sediment in a covered TMDL jurisdiction.

(b) APPLICATIONS.—

(1) IN GENERAL.—To be eligible for a grant under this section, an owner or operator referred to in subsection (a) shall submit to the Administrator an application at such time, in such form, and containing such information as the Administrator may require.

(2) REQUIRED INFORMATION.—The application, at a minimum, shall contain a description of how the amounts of the grant will be used to assist the applicant in meeting a covered TMDL.

(c) AWARD OF GRANTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Administrator shall award grants to applicants under this section on a competitive basis.

(2) CONSIDERATIONS.—In awarding grants to applicants under this section, the Administrator shall consider—

(A) the demonstrated need of the applicant for the grant; and

(B) with respect to the project to be funded using the grant—

(i) the effectiveness of any technologies that will be used;

(ii) the ecological sensitivity of the geographic area involved; and

(iii) whether the use of existing facilities, if any, will be maximized.

(d) USE OF GRANTS.—

(1) IN GENERAL.—A recipient of a grant under this section shall use the amounts of the grant to implement methods to reduce discharges of nitrogen, phosphorus, and sediment—

(A) using proven technology and practices; or

(B) using an innovative practice, subject to a determination by the Administrator that the innovative practice is reasonably expected to reduce the discharges.

(2) GRANTS TO FARMS.—

(A) ENGINEERING OR CONSULTATION WORK FOR WATER STORAGE PROJECTS.—In the case of a grant made to an owner or operator referred to in subsection (a)(3), amounts of the grant may be used for engineering or consultation work in designing a water storage project if—

(i) the project complies with the limitation in paragraph (3); and

(ii) the project is completed within 5 years of the date of receipt of the grant.

(B) REPAYMENT OF CERTAIN GRANT AMOUNTS.—The Administrator shall require repayment of a grant made to carry out a project described in subparagraph (A) if the project is not completed within 5 years of the date of receipt of the grant.

(3) LIMITATION.—A recipient of a grant under this section may not use the amounts of the grant—

(A) to pay the salary of any individual who is employed by the recipient as of the date of receipt of the grant; or

(B) to pay the salary of any individual hired by the recipient after that date unless—

(i) the individual is an expert in the field of reducing discharges from treatment works; and

(ii) the recipient can demonstrate, to the satisfaction of the Administrator, that the individual will assist in meeting a covered TMDL.

(e) GRANT AMOUNT.—The Administrator may not make grants under this section to a grant recipient in an amount that exceeds $2,000,000 in a fiscal year.

(f) FEDERAL SHARE.—The Federal share of the cost of a program or activity carried out using amounts from a grant received under this section may not exceed two-thirds of the cost of the program or activity.

SEC. 4. IMPAIRED WATERS IMPROVEMENT FUND.

(a) INCREASE IN CIVIL PENALTIES.—

(1) IN GENERAL.—The Administrator shall prescribe by regulation an increase in the amount of a civil penalty assessed for a violation of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(2) AMOUNT OF INCREASE.—The amount of the increase shall be 5 percent of the civil penalty amount determined under that Act for the violation.

(3) APPLICABILITY.—The regulations shall apply the increased civil penalty amount only to violations occurring after the date of enactment of this Act.

(b) ESTABLISHMENT OF IMPAIRED WATERS IMPROVEMENT FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the Impaired Waters Improvement Fund.

(2) TRANSFER TO FUND.—There are hereby appropriated to the Impaired Waters Improvement Fund for each of fiscal years 2015 through 2019 amounts equivalent to amounts received in the Treasury that are attributable to increases in civil penalty amounts assessed pursuant to subsection (a) or $100,000,000, whichever is less.

(3) EXPENDITURES.—Amounts in the Impaired Waters Improvement Fund shall be available, as provided in appropriations Acts, for making expenditures to carry out section 3.

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