

115TH CONGRESS
2D SESSION

H. R. 7279

IN THE SENATE OF THE UNITED STATES

DECEMBER 20, 2018

Received

AN ACT

To amend the Federal Water Pollution Control Act to provide for an integrated planning process, to promote green infrastructure, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Water Infrastructure
3 Improvement Act”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) ADMINISTRATOR.—The term “Adminis-
7 trator” means the Administrator of the Environ-
8 mental Protection Agency.

9 (2) MUNICIPALITY.—The term “municipality”
10 has the meaning given that term in section 502 of
11 the Federal Water Pollution Control Act (33 U.S.C.
12 1362).

13 **SEC. 3. INTEGRATED PLANS.**

14 (a) INTEGRATED PLANS.—Section 402 of the Fed-
15 eral Water Pollution Control Act (33 U.S.C. 1342) is
16 amended by adding at the end the following:

17 “(s) INTEGRATED PLANS.—

18 “(1) DEFINITION OF INTEGRATED PLAN.—In
19 this subsection, the term ‘integrated plan’ means a
20 plan developed in accordance with the Integrated
21 Municipal Stormwater and Wastewater Planning
22 Approach Framework, issued by the Environmental
23 Protection Agency and dated June 5, 2012.

24 “(2) IN GENERAL.—The Administrator (or a
25 State, in the case of a permit program approved by
26 the Administrator) shall inform municipalities of the

1 opportunity to develop an integrated plan that may
2 be incorporated into a permit under this section.

3 “(3) SCOPE.—

4 “(A) SCOPE OF PERMIT INCORPORATING
5 INTEGRATED PLAN.—A permit issued under
6 this section that incorporates an integrated plan
7 may integrate all requirements under this Act
8 addressed in the integrated plan, including re-
9 quirements relating to—

10 “(i) a combined sewer overflow;

11 “(ii) a capacity, management, oper-
12 ation, and maintenance program for sani-
13 tary sewer collection systems;

14 “(iii) a municipal stormwater dis-
15 charge;

16 “(iv) a municipal wastewater dis-
17 charge; and

18 “(v) a water quality-based effluent
19 limitation to implement an applicable
20 wasteload allocation in a total maximum
21 daily load.

22 “(B) INCLUSIONS IN INTEGRATED PLAN.—

23 An integrated plan incorporated into a permit
24 issued under this section may include the imple-
25 mentation of—

1 “(i) projects, including innovative
2 projects, to reclaim, recycle, or reuse
3 water; and

4 “(ii) green infrastructure.

5 “(4) COMPLIANCE SCHEDULES.—

6 “(A) IN GENERAL.—A permit issued under
7 this section that incorporates an integrated plan
8 may include a schedule of compliance, under
9 which actions taken to meet any applicable
10 water quality-based effluent limitation may be
11 implemented over more than 1 permit term if
12 the schedule of compliance—

13 “(i) is authorized by State water qual-
14 ity standards; and

15 “(ii) meets the requirements of sec-
16 tion 122.47 of title 40, Code of Federal
17 Regulations (as in effect on the date of en-
18 actment of this subsection).

19 “(B) TIME FOR COMPLIANCE.—For pur-
20 poses of subparagraph (A)(ii), the requirement
21 of section 122.47 of title 40, Code of Federal
22 Regulations, for compliance by an applicable
23 statutory deadline under this Act does not pro-
24 hibit implementation of an applicable water

1 quality-based effluent limitation over more than
2 1 permit term.

3 “(C) REVIEW.—A schedule of compliance
4 incorporated into a permit issued under this
5 section may be reviewed at the time the permit
6 is renewed to determine whether the schedule
7 should be modified.

8 “(5) EXISTING AUTHORITIES RETAINED.—

9 “(A) APPLICABLE STANDARDS.—Nothing
10 in this subsection modifies any obligation to
11 comply with applicable technology and water
12 quality-based effluent limitations under this
13 Act.

14 “(B) FLEXIBILITY.—Nothing in this sub-
15 section reduces or eliminates any flexibility
16 available under this Act, including the authority
17 of a State to revise a water quality standard
18 after a use attainability analysis under section
19 131.10(g) of title 40, Code of Federal Regula-
20 tions (or a successor regulation), subject to the
21 approval of the Administrator under section
22 303(c).

23 “(6) CLARIFICATION OF STATE AUTHORITY.—

24 “(A) IN GENERAL.—Nothing in section
25 301(b)(1)(C) precludes a State from author-

1 izing in the water quality standards of the
2 State the issuance of a schedule of compliance
3 to meet water quality-based effluent limitations
4 in permits that incorporate provisions of an in-
5 tegrated plan.

6 “(B) TRANSITION RULE.—In any case in
7 which a discharge is subject to a judicial order
8 or consent decree, as of the date of enactment
9 of this subsection, resolving an enforcement ac-
10 tion under this Act, any schedule of compliance
11 issued pursuant to an authorization in a State
12 water quality standard may not revise a sched-
13 ule of compliance in that order or decree to be
14 less stringent, unless the order or decree is
15 modified by agreement of the parties and the
16 court.”.

17 (b) IMPLEMENTATION OF INTEGRATED PLANS
18 THROUGH ENFORCEMENT TOOLS.—Section 309 of the
19 Federal Water Pollution Control Act (33 U.S.C. 1319) is
20 amended by adding at the end the following:

21 “(h) IMPLEMENTATION OF INTEGRATED PLANS.—

22 “(1) IN GENERAL.—In conjunction with an en-
23 forcement action under subsection (a) or (b) relating
24 to municipal discharges, the Administrator shall in-

1 form a municipality of the opportunity to develop an
2 integrated plan, as defined in section 402(s).

3 “(2) MODIFICATION.—Any municipality under
4 an administrative order under subsection (a) or set-
5 tlement agreement (including a judicial consent de-
6 cree) under subsection (b) that has developed an in-
7 tegrated plan consistent with section 402(s) may re-
8 quest a modification of the administrative order or
9 settlement agreement based on that integrated
10 plan.”.

11 (c) REPORT TO CONGRESS.—Not later than 2 years
12 after the date of enactment of this Act, the Administrator
13 shall submit to the Committee on Environment and Public
14 Works of the Senate and the Committee on Transpor-
15 tation and Infrastructure of the House of Representatives,
16 and make publicly available, a report on each integrated
17 plan developed and implemented through a permit, order,
18 or judicial consent decree pursuant to the Federal Water
19 Pollution Control Act since the date of publication of the
20 “Integrated Municipal Stormwater and Wastewater Plan-
21 ning Approach Framework” issued by the Environmental
22 Protection Agency and dated June 5, 2012, including a
23 description of the control measures, levels of control, esti-
24 mated costs, and compliance schedules for the require-
25 ments implemented through such an integrated plan.

1 **SEC. 4. MUNICIPAL OMBUDSMAN.**

2 (a) ESTABLISHMENT.—There is established within
3 the Office of the Administrator an Office of the Municipal
4 Ombudsman, to be headed by a Municipal Ombudsman.

5 (b) GENERAL DUTIES.—The duties of the Municipal
6 Ombudsman shall include the provision of—

7 (1) technical assistance to municipalities seek-
8 ing to comply with the Federal Water Pollution Con-
9 trol Act; and

10 (2) information to the Administrator to help the
11 Administrator ensure that agency policies are imple-
12 mented by all offices of the Environmental Protec-
13 tion Agency, including regional offices.

14 (c) ACTIONS REQUIRED.—The Municipal Ombuds-
15 man shall work with appropriate offices at the head-
16 quarters and regional offices of the Environmental Protec-
17 tion Agency to ensure that a municipality seeking assist-
18 ance is provided information regarding—

19 (1) available Federal financial assistance for
20 which the municipality is eligible;

21 (2) flexibility available under the Federal Water
22 Pollution Control Act; and

23 (3) the opportunity to develop an integrated
24 plan under section 402(s) of the Federal Water Pol-
25 lution Control Act.

1 (d) INFORMATION SHARING.—The Municipal Om-
2 budsman shall publish on the website of the Environ-
3 mental Protection Agency—

4 (1) general information relating to—

5 (A) the technical assistance referred to in
6 subsection (b)(1);

7 (B) the financial assistance referred to in
8 subsection (c)(1);

9 (C) the flexibility referred to in subsection
10 (c)(2); and

11 (D) any resources developed by the Admin-
12 istrator related to integrated plans under sec-
13 tion 402(s) of the Federal Water Pollution Con-
14 trol Act; and

15 (2) a copy of each permit, order, or judicial
16 consent decree that implements or incorporates such
17 an integrated plan.

18 **SEC. 5. GREEN INFRASTRUCTURE.**

19 (a) DEFINITION.—Section 502 of the Federal Water
20 Pollution Control Act (33 U.S.C. 1362) is amended by
21 adding at the end the following:

22 “(27) GREEN INFRASTRUCTURE.—The term
23 ‘green infrastructure’ means the range of measures
24 that use plant or soil systems, permeable pavement
25 or other permeable surfaces or substrates,

1 stormwater harvest and reuse, or landscaping to
2 store, infiltrate, or evapotranspire stormwater and
3 reduce flows to sewer systems or to surface waters.”.

4 (b) GREEN INFRASTRUCTURE PROMOTION.—Title V
5 of the Federal Water Pollution Control Act (33 U.S.C.
6 1361 et seq.) is amended—

7 (1) by redesignating section 519 as section 520;

8 and

9 (2) by inserting after section 518 the following:

10 **“SEC. 519. GREEN INFRASTRUCTURE PROMOTION.**

11 “(a) IN GENERAL.—The Administrator shall promote
12 the use of green infrastructure in, and coordinate the inte-
13 gration of green infrastructure into, permitting and en-
14 forcement under this Act, planning efforts, research, tech-
15 nical assistance, and funding guidance of the Environ-
16 mental Protection Agency.

17 “(b) COORDINATION OF EFFORTS.—The Adminis-
18 trator shall ensure that the Office of Water coordinates
19 efforts to increase the use of green infrastructure with—

20 “(1) other Federal departments and agencies;

21 “(2) State, tribal, and local governments; and

22 “(3) the private sector.

23 “(c) REGIONAL GREEN INFRASTRUCTURE PRO-
24 MOTION.—The Administrator shall direct each regional of-
25 fice of the Environmental Protection Agency, as appro-

1 priate based on local factors, and consistent with the re-
2 quirements of this Act, to promote and integrate the use
3 of green infrastructure within the region, including
4 through—

5 “(1) outreach and training regarding green in-
6 frastructure implementation for State, tribal, and
7 local governments, tribal communities, and the pri-
8 vate sector; and

9 “(2) the incorporation of green infrastructure
10 into permitting and other regulatory programs,
11 codes, and ordinance development, including the re-
12 quirements under consent decrees and settlement
13 agreements in enforcement actions.

14 “(d) GREEN INFRASTRUCTURE INFORMATION-SHAR-
15 ING.—The Administrator shall promote green infrastruc-
16 ture information-sharing, including through an internet
17 website, to share information with, and provide technical
18 assistance to, State, tribal, and local governments, tribal
19 communities, the private sector, and the public, regarding
20 green infrastructure approaches for—

21 “(1) reducing water pollution;

22 “(2) protecting water resources;

23 “(3) complying with regulatory requirements;

24 and

1 “(4) achieving other environmental, public
2 health, and community goals.”.

 Passed the House of Representatives December 19,
2018.

Attest:

KAREN L. HAAS,

Clerk.