

THE WATER ASSISTANCE TRUST AND ENVIRONMENTAL RESTORATION ACT OF 2005

SEC. 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Water Trust and Environmental Restoration Act of 2005.”

(b) Table of Contents.—The table of contents of this Act is as follows:

Section 1. Short Title and Table of Contents.
Section 2. Findings and Purpose.

TITLE I. ESTABLISHMENT AND FUNDING OF THE WATER TRUST AND ENVIRONMENTAL RESTORATION FUND.

Section 101. Establishment of the Water Trust and Environmental Restoration Fund.
Section 102. Beverage Fee.

TITLE II.—AMENDMENTS TO THE FEDERAL WATER POLLUTION CONTROL ACT.

Section 201. Authorization of Appropriations from the Trust Fund.
Section 202. Activities Eligible for Assistance
Section 203. High Priority Project Grants.
Section 204. Program Improvements.
Section 205. Critical Regional Waters.

TITLE III.—AMENDMENTS TO THE SAFE DRINKING WATER ACT.

Section 301. Authorization of Appropriations from the Trust Fund.
Section 302. Activities Eligible for Assistance
Section 303. High Priority Project Grants.
Section 304. Program Improvements.

TITLE IV—TECHNOLOGY, MANAGEMENT, AND RESEARCH.

Section 401. National Water Infrastructure Technology Development Program.
Section 402. National Center for Utility Management.
Section 403. Technical Assistance for Small Rural Communities.
Section 404. Research.

1 TITLE V—FISHERIES HABITAT PROTECTION, RESTORATION, AND ENHANCEMENT.

2

3 **SEC. 2. FINDINGS AND PURPOSE.**

4 (a) FINDINGS.—Congress finds the following:

5 (1) It is national policy that Federal financial assistance should be made available
6 to achieve the goals of restoring and maintaining the chemical, physical, and biological
7 integrity of the Nation’s waters and providing the safe drinking water essential to public
8 health.

9 (2) According to studies by the Environmental Protection Agency, the
10 Government Accountability Office, the Congressional Budget Office, and the Water
11 Infrastructure Network, there will be a huge gap between the level of Federal financial
12 assistance that is available for investments in water infrastructure and the level that is
13 necessary to meet national water quality and drinking water safety needs. The Water
14 Infrastructure Network estimates that the gap is \$23 billion a year for the next 20 years.

15 (3) This gap will not only prevent the achievement of national water quality and
16 drinking water safety goals, but will also erode progress that has been made to date.

17 (4) Given the current level of the Federal budget deficit, it is highly unlikely that
18 all of the necessary financial assistance will come from the conventional sources, such as
19 funds appropriated from general revenues under existing programs of the Federal Water
20 Pollution Control Act and the Safe Drinking Water Act.

21 (5) In other cases where there has been a huge gap between available assistance
22 and public infrastructure needs, Congress has established trust funds, funded by
23 dedicated revenue sources, as an appropriate way to meet the Nation’s needs. Prominent
24 examples are the Highway Trust Fund and the Airport and Airways Trust Fund.

1 (6) Given the enormous public health, economic, recreational, and environmental
2 benefits provided by clean and safe water, it is appropriate to establish a national trust
3 fund, funded by a dedicated revenue source, to provide stepped-up investments in the
4 infrastructure necessary to meet national water quality and drinking water safety needs.

5 (7) A fee on beverages, the production of which requires an abundant supply of
6 clean water, is an appropriate revenue source.

7 (8) Significant further progress requires that investments be quickly focused on
8 high priority projects that address our most pressing needs.

9 (9) The Federal Government will not be able to provide sufficient new funding to
10 address all of the water and wastewater problems using current technologies. As a result,
11 significant further progress also requires the development of new wastewater and
12 drinking water technologies, improved management techniques, and intensified research.

13 (10) Significant further progress also requires a greater effort to provide for the
14 protection and propagation of fish, shellfish, and wildlife through a renewed commitment
15 and sustained effort to protect and restore fisheries habitat, and this can be accomplished
16 through voluntary programs that combine Federal assistance with planning and
17 implementation by local, regional, and State entities.

18 (11) Significant further progress also requires additional efforts to address the
19 specific water quality problems of critical regional waters, including but not limited to the
20 Chesapeake Bay, the Great Lakes, Long Island Sound, and the Gulf of Mexico.

21 (b) PURPOSE.—The purpose of this Act is to make dramatic progress towards the
22 achievement of the Nation’s water quality and drinking water quality goals by
23 establishing and providing funding for a Water Assistance Trust and Environmental

1 Restoration Fund, which will provide for increased investment in critical water
2 infrastructure; improvements in technology, management, and research; increased
3 attention to fisheries habitat and nonpoint source pollution; and greater funding for
4 critical regional programs.

5 **TITLE I—ESTABLISHMENT AND FUNDING**
6 **OF THE WATER ASSISTANCE TRUST AND**
7 **ENVIRONMENTAL RESTORATION FUND.**

8
9 **SEC. 101. ESTABLISHMENT OF THE WATER ASSISTANCE TRUST AND**
10 **ENVIRONMENTAL RESTORATION FUND.**

11 (a) ESTABLISHMENT OF FUND.—Subchapter A of Chapter 98 of the Internal Revenue
12 Code of 1986 (26 U.S.C. 9500 et seq.) is amended by adding at the end the following
13 new section—

14 **“SEC. 9511. WATER ASSISTANCE TRUST AND ENVIRONMENTAL**
15 **RESTORATION FUND.**

16 “(a) ESTABLISHMENT.—There is established in the Treasury of the United States a
17 trust fund to be known as the “Water Assistance Trust and Environmental
18 Restoration Fund.”

19 “(b) TRANSFERS TO THE TRUST FUND.—There are hereby appropriated to the
20 Water Assistance Trust and Environmental Restoration Fund such amounts—

21 “(1) appropriated pursuant to appropriations acts;

22 “(2) equivalent to the taxes received in the Treasury under section 4171 of
23 this Act.

1 “(c) EXPENDITURES FROM THE TRUST FUND.—Amounts in the Trust Fund are
2 available, as provided by appropriations acts, for—

3 “(1) capitalization grants to states pursuant to section 601 of the Federal
4 Water Pollution Control Act (33 U.S.C. 1381);

5 “(2) funding under section 122 of the Federal Water Pollution Control Act
6 (Critical Regional Waters);

7 “(3) capitalization grants to states pursuant to section 1452 of the Safe
8 Drinking Water Act (42 U.S.C. 300j-12);

9 “(4) grants under the following programs established under the Water
10 Assistance Trust and Environmental Restoration Act of 2005:

11 “(A) the Technology Demonstration Program (section 401),

12 “(B) the National Center for Utility Management program (section
13 402),

14 “(C) the Technical Assistance for Small Rural Communities
15 program (section 403);

16 “(5) funding under section 104(u) of the Federal Water Pollution Control
17 Act (33 U.S.C. 1254(u))(water pollution control research) and section
18 1442 of the Safe Drinking Water Act (42 U.S.C. 300j-1)(drinking water
19 safety research);

20 “(6) grants to States under Section 321 of the Federal Water Pollution
21 Control Act (Fisheries Habitat Protection, Restoration, and Enhancement);

22 “(7) grants to States under section 319 of the Federal Water Pollution
23 Control Act (33 U.S.C. 1329)(nonpoint source management programs).”.

1 (b) BUDGETARY TREATMENT OF THE FUND.—Notwithstanding any other provision of law,
2 the receipts and disbursements of the Water Assistance Trust and Environmental
3 Restoration Fund—

4 (1) shall not be counted as new budget authority, outlays, receipts, or deficit or
5 surplus for purposes of—

6 (A) the budget of the United States submitted by the President;

7 (B) the congressional budget (including allocations of budget authority
8 and outlays provided therein); or

9 (C) the Balanced Budget and Emergency Deficit Control Act of 1985; and

10 (2) shall be exempt from any general budget limitation imposed by statute on
11 expenditures and net lending (budget outlays) of the United States Government.

12 **SECTION 102. BEVERAGE FEE.**

13 (a) ESTABLISHMENT OF FEE.—Chapter 32 of the Internal Revenue Code of 1986 (26
14 U.S.C. 4061 et seq.) is amended by adding the following new subchapter:

15 **“SUBCHAPTER E—BEVERAGE FEE.**

16 **“SEC. 4171. IMPOSITION OF FEE.**

17 “There is hereby imposed on the sale of any beverage by the manufacturer, producer, or
18 importer a fee equal to 6.6 percent of the price for which the beverage is sold.

19 **““SECTION 4172. DEFINITION.**

20 “(a) GENERALLY.—For purposes of this section, the term ‘beverage’ means any
21 of the following:

22 “(1) Carbonated soft drinks;

23 “(2) Noncarbonated soft drinks;

- 1 “(3) Bottled water, including carbonated water, soda water, and
2 carbonated mineral water;
3 “(4) Beer;
4 “(5) Wine; and
5 “(6) Distilled spirits.

6 “(2) EXCLUSIONS.—The term ‘beverage’ does not include:

- 7 “(1) Milk, medical food (within the meaning of the Federal Food,
8 Drug, and Cosmetic Act, 21 U.S.C. 360ee(b)(3)), or infant
9 formula; or
10 “(2) One-hundred percent fruit juice.”

11 (b) AMENDMENT TO SECTION 4221.—Section 4221(a) is amended by inserting “4171”
12 after “4081”.

13 **[Note: Additional and alternative revenue sources are being considered, including a**
14 **clean and safe water restoration fee that applies to a broad range of activities.]**

15 **TITLE II—AMENDMENTS TO THE FEDERAL** 16 **WATER POLLUTION CONTROL ACT**

17 18 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS FROM THE WATER** 19 **ASSISTANCE TRUST AND ENVIRONMENTAL RESTORATION FUND.**

20 (a) GRANTS TO STATE FUNDS.—Section 607 of the Federal Water Pollution Control
21 Act (33 U.S.C. 1387) is amended to read as follows:

22 “There is authorized to be appropriated from the Water Assistance Trust and
23 Environmental Restoration Fund, for grants to States under section 601(a),
24 \$5,000,000,000 for each of fiscal years 2006 through 2010.”.

1 (b) NONPOINT SOURCE MANAGEMENT PROGRAM GRANTS.—Section 319(j) of the
2 Federal Water Pollution Control Act (33 U.S.C. 1329(j)) is amended to read as
3 follows:

4 “There is authorized to be appropriated from the Water Assistance Trust and
5 Environmental Restoration Fund, for grants to States under subsections (h) and
6 (i), \$200,000,000 for each of fiscal years 2006 through 2010. Such funds shall
7 remain available until expended.”.

8 **SECTION 202. ACTIVITIES ELIGIBLE FOR ASSISTANCE.**

9 (a) GENERALLY.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C.
10 1383) is amended by striking subsection (c) and inserting the following:

11 “(c) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—

12 “(1) IN GENERAL—The water pollution control revolving fund of a State shall be
13 used only to provide financial assistance to a municipality or an intermunicipal,
14 interstate, or State agency for the following—

15 (A) construction of publicly owned treatment works (as defined in
16 section 212 of this Act), including implementing measures to enhance the
17 security of publicly owned treatment works;

18 “(B) implementation of nonpoint source management program under
19 section 319;

20 “(C) development and implementation of a conservation and
21 management plan under section 320;

1 “(D) construction, replacement, or rehabilitation of collection systems
2 and treatment works to monitor intercept, transport, control, or treat
3 municipal combined sewer overflows and sanitary sewer overflows;

4 “(E) implementation of measures to control, treat, capture, or re-use
5 municipal stormwater, including measures that provide treatment for or
6 that minimize sewage or stormwater discharges using decentralized or
7 distributed stormwater controls, decentralized wastewater treatment, low-
8 impact development practices, conservation easements, stream buffers, or
9 wetlands restoration;

10 “(F) implementation by public entities or water conservation projects or
11 activities the primary purpose of which is the protection, preservation, or
12 enhancement of water quality, including through—

13 “(1) piping or lining an irrigation canal,

14 “(2) recovery or recycling of wastewater or runoff from irrigation,

15 “(3) irrigation scheduling,

16 “(4) measurement or metering of water use,

17 “(5) installation of water conservation measures by public utilities,

18 “(6) improving on-field irrigation efficiency’ or

19 “(7) measures to enable customers to make more efficient use of
20 treated water;

21 “(G) extension of sewer service to areas with failed septic systems; and

22 “(H) water quality monitoring.”.

23 **SEC. 203. HIGH PRIORITY PROJECT GRANTS.**

1 Title VI of the Federal Water Pollution Control Act is amended by adding at the end the
2 following new section:

3 **“SECTION 608. HIGH PRIORITY PROJECT GRANTS.**

4 “(a) ESTABLISHMENT OF PROGRAM.—Each state receiving a capitalization grant under
5 section 601 shall allocate 75 percent of the funds that it receives each year for grants for
6 projects that are eligible under section 603(c) and are determined to be high priority
7 projects under subsection (b).

8 “(b) DETERMINATION OF HIGH PRIORITY PROJECTS.—

9 “(1) GENERALLY.—In addition to developing its priority list under sections 603(g)
10 and 216, each State shall, after notice and opportunity for public comment,
11 annually prepare a plan that identifies the high priority projects for which it
12 intends to make grants under this subsection.

13 “(2) CRITERIA.—The plan shall provide, to the maximum extent practicable, that
14 priority for the use of grant funds be given to projects that—

- 15 (i) address the most serious water pollution problems;
- 16 (ii) are necessary to ensure compliance with the requirements of this Act,
17 and
- 18 (iii) benefit communities with the greatest need (determined on the basis
19 of affordability criteria established by the State).

20 (3) LIST.—Each such State shall, after notice and opportunity for public comment,
21 publish and periodically update a list of projects that are eligible for high priority
22 grants under this section, including the priority assigned to each project and, to
23 the extent known, the expected funding schedule for the project.

1 “(c) ALLOTMENT OF FUNDS.—Sums attributable to grants under this program shall be
2 allotted by the Administrator in accordance with the table in section 205(c)(3)(33 U.S.C.
3 1285(c)(3)).

4 “(d) MATCH.—The amount of grant funds provided for a project under this section may
5 not exceed 65 percent of the project cost.

6 “(e) NO SUBSIDY FOR GROWTH.—No assistance may be provided under this section if the
7 project will provide substantial benefits to new communities, new subdivisions, or newly
8 developed urban areas.”.

9 (b) TECHNICAL AMENDMENTS.—

10 (1) AMENDMENT TO SECTION 601.—Section 601(a) of the Water Pollution Control
11 Act (33 U.S.C. 1381) is amended by—

12 (A) deleting “and” before “(3);

13 (B) deleting the period at the end and inserting “; and”; and

14 (C) adding the following:

15 “(4) to any municipality, intermunicipal, interstate, or State agency for
16 undertaking high priority water pollution control projects under section
17 608 of this Act.”.

18 (2) AMENDMENT TO SECTION 603.—Section 603(d) of the Water Pollution Control
19 Act (33 U.S.C. 1383) is amended by—

20 (A) deleting the period at the end of paragraph (7) and inserting “; and”;

21 and

22 (B) adding at the end “(8) to make grants for high priority projects under
23 section 608 of this Act.”.

1 (3) AMENDMENT TO SECTION 216.—Section 216 of the Federal Water Pollution
2 Control Act (33 U.S.C. 1296) is amended by adding in the first sentence, after
3 “publicly owned treatment works” the phrase “or other projects or activities
4 authorized under section 603 of this Act”.

5 **SEC. 204. PROGRAM IMPROVEMENTS.**

6 (a) ADDITIONAL FORMS OF FINANCIAL ASSISTANCE.—

7 (1) EXTENDED REPAYMENT PERIODS.—Section 603(d)(1) of the Federal Water
8 Pollution Control Act (33 U.S.C. 1383(d)(1)) is amended—

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

12 (B) in subparagraph (B), by striking “not later than 20 years after project
13 completion” and inserting “on the expiration of the term of the loan”.

14 (2) PRINCIPAL SUBSIDY.—Section 603 of the Federal Water Pollution Control Act
15 (33 U.S.C. 1383) is amended by adding at the end the following:

16 “(i) PRINCIPAL SUBSIDY.—

17 “(1) IN GENERAL.—A state may provide additional subsidization to
18 selected loan recipients (including forgiveness of principal).

19 “(2) LIMITATION.—For each fiscal year, the total amount of loan subsidies
20 made by a State under this subsection shall not exceed 10 percent of the
21 amount of the capitalization grant received by the State for that fiscal
22 year.’.

1 (3) LOAN GUARANTEES.—Section 603(d) of the Federal Water Pollution Control
2 Act (33 U.S.C. 1383(d)) is amended by striking paragraph (5) and inserting the
3 following:

4 “(5) to provide loan guarantees for--

5 “(A) similar revolving funds established by municipalities
6 or intermunicipal agencies; and

7 “(B) developing and implementing innovative
8 technologies.”.

9 (b) EXPENSES OF ADMINISTERING THE STATE FUND.—Section 603(d)(7) of the Federal
10 Water Pollution Control Act (33 U.S.C. 1383(d)(7)) is amended by inserting before the
11 period at the end the following: “or the greater of \$400,000 per year or an amount equal
12 to 1/2 percent per year of the current valuation of the fund.”.

13 (c) ARCHITECTURAL AND ENGINEERING CONTRACTS.—Section 602(b) (33 U.S.C.
14 1382(b)) is amended—

15 (1) by striking “and” at the end of paragraph (9);

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

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

18 “(11) the State will require that each contract and subcontract for program
19 management, construction management, planning studies, feasibility
20 studies, architectural services, preliminary engineering, design,
21 engineering, surveying, mapping, and related services entered into using
22 amounts from the fund will be awarded in the same way that a contract for
23 architectural and engineering services is awarded under chapter 11 of title

1 40, United States Code, except that such an award shall not be construed
2 as conferring a proprietary interest upon the United States.”.

3 **SEC. 601. CRITICAL REGIONAL WATERS.**

4 Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by
5 adding the following new section—

6 **“SECTION 122. CRITICAL REGIONAL WATERS.**

7 **“(a) GENERALLY.—**The Administrator may make grants or provide other financial
8 assistance to carry out any of the following:

9 “(1) implementing section 117 of the Federal Water Pollution Control
10 Act, (33 U.S.C. 1267)(Chesapeake Bay);

11 “(2) implementing section 118 of the Federal Water Pollution
12 Control Act (33 U.S.C. 1268)(Great Lakes);

13 “(3) implementing section 119 of the Federal Water Pollution
14 Control Act (33 U.S.C. 1269)(Long Island Sound);

15 “(4) implementing the Action Plan for Reducing Mitigation and
16 Controlling Hypoxia in the Northern Gulf of Mexico (January, 2001),
17 issued pursuant to the Harmful Algal Bloom and Hypoxia Research and
18 Control Act of 1998 (16 U.S.C. 1451 note);

19 “(5) implementing other programs to protect and improve water quality in
20 critical regional waters.

21 **“(b) AUTHORIZATION.—**There are authorized to be appropriated from the Water
22 Trust and Environmental Restoration Fund, for carrying out this section,
23 \$250,000,000 for each of fiscal years 2006 through 2010.”.

1 **TITLE III—AMENDMENTS TO THE SAFE**
2 **DRINKING WATER ACT**

3
4 **SEC. 301. AUTHORIZATION OF APPROPRIATIONS FROM THE WATER**
5 **ASSISTANCE TRUST AND ENVIRONMENTAL RESTORATION FUND.**

6 Section 1452 of the Safe Drinking Water Act, (42 U.S.C. 300j-12) is amended by striking
7 subsection (m) and inserting the following:

8 “(m) AUTHORIZATION OF APPROPRIATIONS FROM THE WATER ASSISTANCE
9 TRUST AND ENVIRONMENTAL RESTORATION FUND.—There is authorized to be
10 appropriated from the Water Assistance Trust and Environmental Restoration
11 Fund, to carry out the purposes of this section, \$4,000,000,000 for each of fiscal
12 years 2006 through 2010. Amounts made available under this section shall
13 remain available until expended.”.

14 **SEC. 302. ACTIVITIES ELIGIBLE FOR ASSISTANCE.**

15 (a) IN GENERAL.—Section 1452(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j-
16 12(a)(2) is amended by replacing the second sentence with the following:

17 “Financial assistance under this section may be used by a public water
18 system only for expenditures (not including monitoring, operation, and
19 maintenance expenditures) of a type or category that the Administrator has
20 determined, through guidance, will (1) facilitate compliance with national
21 primary drinking water regulations applicable to the system under section
22 300g-1 of this title; (2) replace or rehabilitate aging collection, treatment,
23 and distribution systems of public water facilities; (3) construct or
24 rehabilitate raw and treated drinking water storage facilities; (4) replace

1 lead service lines; (5) provide for capital projects to upgrade security
2 systems; (6) provide for capital projects for alternative water supply
3 development for drinking water purposes; (7) provide for capital projects to
4 voluntarily interconnect the distribution systems of public water systems to
5 consolidate systems or improve the technical, managerial or financial capability
6 of one or more systems, or (7) provide for a water conservation project.”.

7 (b) DEFINITION OF WATER CONSERVATION PROJECT.—Section 1401 of the Safe Drinking
8 Water Act (42 U.S.C. 300f-1) is amended by adding the following:

9 “(17) WATER CONSERVATION PROJECT.—The term ‘water conservation project’
10 means a project or activity the primary purpose of which is the protection,
11 preservation, or enhancement of water quality, including through—

12 “(i) piping or lining of an irrigation canal,

13 “(ii) recovery or recycling of wastewater or runoff from irrigation,

14 “(iii) irrigation scheduling,

15 “(iv) measurement or metering of water use,

16 “(v) improvement of on-field irrigation efficiency, or

17 “(vi) measures to enable customers to make more efficient use of treated
18 water.”.

19 **SECTION 303. HIGH PRIORITY GRANT PROGRAM.**

20 (a) ESTABLISHMENT OF PROGRAM.—Section 1452 of the Safe Drinking Water Act (42
21 U.S.C. 300j-12) is amended by adding at the end the following new section:

22 “(s) HIGH PRIORITY PROJECT GRANTS.—

1 “(1) ESTABLISHMENT OF PROGRAM.—A state receiving a capitalization grant
2 under section 1452(a)(1)(A) shall allocate 75 percent of the funds that it receives
3 each year for grants for projects that are eligible under section 1452(a)(2) and are
4 determined to be high priority projects under paragraph (2).

5 “(2) DETERMINATION OF HIGH PRIORITY PROJECTS.—As part of its annual
6 intended use plan under section 1452(b), a state shall determine which projects
7 shall receive grants pursuant to paragraph (1).

8 “(3) ALLOTMENT OF FUNDS.—The Administrator shall allot sums attributable to
9 grants under this program in accordance with section 1452(a)(1)(D)(ii).

10 “(4) MATCH.—The amount of grant funds provided for a project under this
11 section may not exceed 65 percent of the project cost.”.

12 (b) TECHNICAL AMENDMENTS.—

13 (1) GENERALLY.—Section 1452(f) of the Safe Drinking Water Act (42
14 U.S.C.300j-12(f)) is amended by—

15 (A) deleting “and” at the end of paragraph (4);

16 (B) replacing the period at the end of paragraph (5) with “; and”, and

17 (C) inserting the following:

18 “(6) to make grants for high priority projects under subsection (s).”.

19 (2) INTENDED USE PLAN.—Section 1452(b)(1) of the Safe Drinking Water Act (42
20 U.S.C. 300j-12(b)(1) is amended by deleting the period at the end and inserting “,
21 including an indication of the projects that will receive high priority project grants
22 under subsection (s).”.

23 **SEC. 304. PROGRAM IMPROVEMENTS.**

1 (a) AVAILABILITY OF FUNDS.—Subsection 1452(a)(2) of the Safe Drinking Water Act
2 ((42 U.S.C.300j-12(a)(2)) is amended by adding at the end the following sentence:

3 “Of the amount credited to any State loan fund established under this
4 section in any fiscal year, funds available for the replacement and
5 rehabilitation of aging collection, treatment, storage, and distribution
6 facilities shall be allocated in proportion to the amount identified in the
7 Needs Survey for those purposes, and such funds shall be made available
8 proportionately according to need, based on the Needs Survey, among
9 small, medium and large public water systems.”.

10 (b) SOURCE WATER PROTECTION.—Section 1452(k)(2)(D) of the Safe Drinking Water
11 Act (42 U.S.C. 300-j(k)(2)(D)) is amended by replacing subparagraph (D) with the
12 following:

13 “(D) Make expenditures for the development of source water protection programs
14 (including wellhead protection programs under section 1428).”.

15 (c) EXTENDED REPAYMENT PERIOD.—Section 1452(f) of the Safe Drinking Water Act
16 (42 U.S.C. 300j-12(f)) is amended by striking subparagraph (B) and inserting the
17 following:

18 “(B) principal and interest payments on each loan will commence not later than 1
19 year after completion of the project for which the loan was made, and each loan
20 will be fully amortized not later than 30 years after the completion of the project
21 provided the amortization period does not exceed the expected design life of the
22 project.”.

1 (d) ARCHITECTURAL AND ENGINEERING CONTRACTS.—Section 1452 of the Safe Drinking
2 Water Act (42 U.S.C. 300j–12) is amended by adding at the end the following:

3 “(t) ARCHITECTURAL AND ENGINEERING CONTRACTS.—The State will require that
4 each contract and subcontract for program management, construction
5 management, planning studies, feasibility studies, architectural services,
6 preliminary engineering, design, engineering, surveying, mapping, and related
7 services entered into using amounts from the fund will be awarded in the same
8 way that a contract for architectural and engineering services is awarded under
9 chapter 11 of title 40, United States Code, except that such an award shall not be
10 construed as conferring a proprietary interest upon the United States.”.

11 (e) POCKETS OF POVERTY ELIGIBLE AS DISADVANTAGED COMMUNITIES. —Section
12 1452(d)(3) of the Safe Drinking Water Act (42 U.S.C. 300j-12(d)(3)) is amended in the
13 first sentence by inserting after "service area" the phrase "or portion of service area".

14 **TITLE IV. TECHNOLOGY,** 15 **MANAGEMENT, AND RESEARCH**

16 **SECTION 401. NATIONAL CLEAN AND SAFE WATER TECHNOLOGY**

17 **DEVELOPMENT PROGRAM.**

18 (a) ESTABLISHMENT—

19 (1) IN GENERAL.—As soon as practicable after the date of enactment of
20 this section, the Administrator shall establish a nationwide demonstration
21 program to--
22

23 (A) promote innovations in technology and alternative approaches
24 to improve water quality and drinking water safety;

1 (B) promote innovations in technology and alternative approaches
2 to improve sustainability of long-term water resources; and
3 (B) reduce costs to municipalities incurred in complying with and
4 obtaining equivalent or improved water quality under the Federal
5 Water Pollution Control Act (33 U.S.C. 1251 et seq.) and the Safe
6 Drinking Water Act (42 U.S.C. 300f et seq.).

7 (2) SCOPE.—The demonstration program shall consist of 10 projects per
8 year, to be carried out in municipalities selected by the Administrator
9 under subsection (b).

10 (b) SELECTION OF MUNICIPALITIES.—

11 (1) APPLICATION.—A municipality that seeks to be selected to participate
12 in the demonstration program shall submit to the Administrator a plan
13 that—

14 (A) is developed in coordination with the agency of the State
15 having jurisdiction over water quality and with interested
16 stakeholders;

17 (B) describes adverse water quality impacts specific to surrounding
18 watersheds or drinking water safety problems;

19 (C) includes a strategy under which the municipality, through
20 participation in the demonstration program, could effectively
21 address those impacts and achieve or improve upon the same water
22 quality or drinking water safety goals as could be achieved using
23 more traditional methods or methods that are required under the

1 Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or
2 the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and
3 (D) includes a schedule for achieving the water quality or drinking
4 water supply goals of the municipality.

5 (2) TYPES OF PROJECTS.—In carrying out the demonstration program, the
6 Administrator shall select projects which have the greatest potential to
7 advance innovative or alternative approaches to achieve one or more of
8 the following goals—

9 (A) reducing nutrient pollution;

10 (B) improving the safety and purity of drinking water source
11 waters;

12 (C) improving methods for water conservation and safe re-use;

13 (D) improving tools and technologies to rehabilitate and replace
14 water supplies;

15 (E) improving monitoring and data analysis for water distribution
16 systems;

17 (F) reducing nonpoint source water pollution;

18 (G) reducing municipal stormwater pollution;

19 (H) reducing sanitary sewer overflows;

20 (I) reducing combined sewer overflows;

21 (J) minimizing the contamination of water supplies by naturally
22 occurring constituents of concern;

23 (K) reducing erosion, scouring, and siltation of waterbodies;

1 (L) developing more effective approaches to water treatment,
2 distribution, and collection systems;

3 (M) developing more effective methods for collecting and treating
4 wastewater (including system design and nonstructural
5 alternatives);

6 (N) developing improved methods for identifying and obtaining
7 potable water supplies without causing adverse secondary environmental
8 impacts; and

9 (O) developing more effective filtration methods for
10 drinking water systems.

11 (3) RESPONSIBILITIES OF ADMINISTRATOR.—In selecting municipalities
12 under this subsection, the Administrator shall—

13 (A) give priority to projects that appear to have the greatest
14 potential to improve environmental protection or reduce public
15 health risk;

16 (B) select projects that reflect a broad geographic distribution and
17 nontraditional approaches (including low-impact development
18 technologies) used for the projects; and

19 (C) give priority to projects that, if successful, will provide benefits
20 in multiple communities;

21 (D) ensure, to the maximum extent practicable, that at least 1 small
22 community having a population of 10,000 or fewer individuals
23 receives a grant each year; and

1 (E) ensure that, for each fiscal year, no municipality receives more
2 than 25 percent of the total amount of funds made available for the
3 fiscal year to provide grants under this section.

4 (4) COST SHARING.—The Federal share of the cost of a project carried out
5 under this section may not exceed 80 percent.

6 (d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated
7 to carry out this section, from the Water Assistance Trust and Environmental
8 Restoration Fund established in section 101 of this Act, \$145,000,000 for each of
9 fiscal years 2006 through 2010.”

10 **Sec. 402. NATIONAL CENTER FOR UTILITY MANAGEMENT.**

11 (a) ESTABLISHMENT OF THE NATIONAL CENTER.—The Administrator shall
12 establish a National Center for Utility Management, for the purpose of promoting
13 improved management of public wastewater and drinking water utilities,
14 including the use of best management practices with respect to comprehensive
15 asset management, worker training and flexibility, information systems, financial
16 planning, and financial reporting.

17 (b) FUNCTIONS.—The functions of the National Center for Utility Management
18 shall include:

19 (1) developing best practices for utility management;

20 (2) coordinating the relevant research conducted at university-based
21 training and technical assistance centers;

1 (3) coordinating ongoing and planned initiatives to promote best practices
2 for utility management within and across the drinking water and
3 wastewater programs;

4 (4) exploring opportunities to take advantage of best management
5 practices and informational materials developed by other agencies
6 (including the Office of Asset Management in the Federal Highway
7 Administration); and

8 (5) strengthening efforts to educate utilities and local government leaders
9 about the optimal use of best practices for utility management, through
10 handbooks, software, workshops, the establishment of a website, and other
11 steps to assure that wastewater and drinking water utilities, regardless of
12 size, have easy access to information about best practices for utility
13 management.

14 (c) GRANTS.—

15 (1) ELIGIBLE ENTITIES.—The Administrator may make grants under this
16 program to any of the following:

17 (A) a municipal, intermunicipal, interstate, or state agency;

18 (B) a not-for profit association representing wastewater or
19 drinking water utilities, including the Water Environment Research
20 Foundation, the American Water Works Research Foundation, and
21 the WateReuse Research Foundation; or

22 (C) an institution of higher education.

1 (2) MATCH.—The Federal share for any project under this section may
2 not exceed 75 percent.

3 (d) AUTHORIZATION.—There is authorized to be appropriated under this section,
4 from the Water Assistance and Environmental Restoration Fund established in
5 section 101 of this Act, \$5,000,000 for each of fiscal years 2006 through 2010.

6 **SEC. 403. TECHNICAL ASSISTANCE FOR SMALL RURAL COMMUNITIES.**

7 (1) IN GENERAL.—The Administrator may make grants to qualified nonprofit
8 technical assistance providers to enable those providers to—

9 (A) assist rural and small publicly-owned utilities in planning, developing,
10 and obtaining financing for eligible projects described in section 603(c) of
11 the Federal Water Pollution Control Act (33 U.S.C. 1383(c)) or section
12 1452(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j-12(a)(2));

13 (B) provide technical assistance and training for small rural utilities to
14 enable them to protect water quality and achieve and maintain compliance
15 with the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and
16 the Safe Drinking Water Act (42 U.S.C. 300f et seq.) ;

17 (C) disseminate information to small rural municipalities with respect to
18 planning, design, construction, and operation of publicly owned treatment
19 works, decentralized wastewater treatment systems, and drinking water
20 systems; and

21 (D) capitalize revolving loan funds to provide loans, in consultation with
22 the State in which the assistance is provided, to small rural municipalities
23 for predevelopment costs (including costs for planning, design, associated

1 preconstruction, and necessary activities for siting the facility and related
2 elements associated preconstruction, and necessary activities for siting the
3 facility and related elements) associated with wastewater or drinking water
4 infrastructure projects or short-term costs incurred for equipment
5 replacement that is not part of regular operation and maintenance activities
6 for existing wastewater or drinking water systems if—

7 (i) any loan from the fund is made at or below market interest rate,
8 for a term not to exceed 10 years;

9 (ii) the amount of a single loan does not exceed \$100,000; and

10 (iii) all loan repayments are credited to the fund.

11 (2) DEFINITIONS. In this section, the following terms have the following
12 definitions:

13 (A) QUALIFIED NONPROFIT TECHNICAL ASSISTANCE PROVIDER.—The
14 term ‘qualified nonprofit technical assistance provider’ means a qualified
15 nonprofit technical assistance provider of wastewater or drinking water
16 services to a small rural utility.

17 (B) SMALL RURAL UTILITY.—The term “small rural utility means—

18 (i) a treatment works within the meaning of section 212(2)(A) of
19 the Federal Water Pollution Control Act (33 U.S.C. 1292(2)(A))
20 that serves not more than 10,000 users and is located in a rural
21 area; or

22 (ii) a community water system or nonprofit noncommunity water
23 system, within the meaning of section 1401 of the Safe Drinking

1 Water Act (42 U.S.C. 300f), that serves not more than 10,000
2 users and is located in a rural area.

3 (3) AUTHORIZATION.—There is authorized to be appropriated to carry out this
4 section, from the Water Assistance Trust and Environmental Restoration Fund
5 established under section 101 of this Act, \$50,000,000 for each of fiscal years
6 2006 through 2010.

7 **SEC 404. RESEARCH.**

8 (a) WATER POLLUTION REDUCTION AND CONTROL RESEARCH.—Section 104(u) of
9 the Federal Water Pollution Control Act (33 U.S.C. 1254(u)) is amended—

- 10 (1) by striking the “and” before “(6)” and
11 (2) by inserting before the period at the end the following: “and (7), from
12 the Water Assistance Trust and Environmental Restoration Fund,
13 \$50,000,000 for each of fiscal years 2006 through 2010 for carrying out
14 the provisions of subsection (b)(3).”.

15 (b) DRINKING WATER RESEARCH.—Section 1442 of the Safe Drinking Water Act
16 is amended by adding the following subsection:

- 17 “(f) There are authorized to be appropriated, from the Water Assistance
18 Trust and Environmental Restoration Fund, \$50,000,000 for each of fiscal
19 years 2006 through 2010 for carrying out the provisions of this
20 subsection.”.

21 (c) CONTRACTING WITH EXPERT ENTITIES.—To the extent practicable, the
22 Administrator shall enter into contracts with appropriate not-for-profit entities,
23 including the Water Environment Research Foundation, the American Water

1 Works Association Research Foundation, and the Water Reuse Research
2 Foundation, to carry out the research authorized by this section.

3 **TITLE V—FISHERIES HABITAT**
4 **PROTECTION, RESTORATION, AND**
5 **ENHANCEMENT**

6
7 Title III of the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.) is
8 amended by adding at the end the following:

9 **“SEC. 321. FISHERIES HABITAT PROTECTION, RESTORATION, AND**
10 **ENHANCEMENT.**

11 **“(a) STATE PROGRAMS.—**

12 **“(1) GENERALLY.—**A State may establish a program for the protection and
13 restoration of fresh water, estuarine, and marine fisheries habitat, and for the
14 enhancement of access for fisheries uses through watershed planning and the
15 implementation of projects, activities, and measures that meet the requirements of
16 this section. The Administrator shall approve a State program if the
17 Administrator finds that the program contains the elements described in
18 paragraph (2).

19 **“(2) PROGRAM ELEMENTS.—**

20 **“(A) ADVISORY COUNCIL.—**A State shall establish an advisory council to
21 provide recommendations with respect to the program. The
22 membership of the council shall be fairly balanced in terms of the
23 points of view represented and the functions to be performed, and be
24 representative of interests affected by activities carried out under the

1 program (including tribal, private, public, governmental, and
2 nonprofit interests).

3 “(B) PLANNING PROCESS.—

4 “(i) GENERALLY.—The State shall establish a process for
5 developing a comprehensive fisheries habitat protection,
6 restoration, and enhancement plan.

7 “(ii) PROCESS.—The process for developing a plan shall include—

8 (I) consultation with the advisory council,

9 (II) consideration of the views of the appropriate State fish
10 and wildlife agency; and

11 (III) public notice and comment.

12 “(iii) PRIORITY RANKINGS.—The State shall establish a system for
13 assigning priority rankings for recommended projects and
14 measures contained in plans submitted for review under the
15 program. A priority ranking system shall be based primarily on the
16 likelihood that recommended projects will achieve significant
17 progress toward protection or restoration of habitat or enhancement
18 of uses for important (or potentially important) fisheries.

19 “(b) COMPREHENSIVE PLANS.—

20 “(1) IN GENERAL.—A State with an approved program may develop a
21 comprehensive fisheries habitat protection, restoration, and enhancement
22 plan that, at a minimum, meets the requirements of paragraph (2).

23 “(2) PLAN ELEMENTS.—

1 (A) IN GENERAL.—A plan shall include a description of each of
2 the planning elements described in subparagraphs (B) through (H).

3 (B) CHARACTERIZATION OF WATER AND WATERSHEDS.—A plan
4 shall include an analysis of the water of the watershed in terms
5 of—

6 (i) any fisheries-related indicators and habitat
7 characteristics that have been established by the State fish
8 and wildlife agency or, before the establishment of those
9 indicators and characteristics, any relevant information
10 issued by the Secretary of the Interior;

11 (ii) geomorphological characteristics;

12 (iii) manmade topographic features that govern the
13 quantity or flow of water;

14 (iv) wetland, channels, meander belts, erosion zones, and
15 low-lying areas of the floodplain (including a description of
16 any historic and present flooding patterns);

17 (v) watershed soils that are present, including—

18 (I) the potential of the soil to erode; and

19 (II) measures taken by landowners to prevent
20 runoff and erosion;

21 (vi) land cover and land uses that affect the ability of the
22 watershed ability to support fishery resources;

1 “(vii) existing and potential fisheries-related uses of the
2 watershed (including recreational, subsistence, and
3 economic uses) that are or may be affected by—

4 “(I) adverse impacts on fisheries habitats; or

5 “(II) restrictions on public access; and

6 “(viii) protections for fishery and habitat values in
7 existence on the date of receipt of the materials under this
8 subparagraph.

9 “(C) OBJECTIVES.—A plan shall describe near-term and long-term
10 objectives for the protection and restoration of fisheries habitat and
11 enhancement of access within the watershed, including, as relevant
12 and appropriate, recommendations for—

13 “(i) implementing measures to maintain habitat conditions
14 that will sustain a healthy, resilient, diverse, and productive
15 aquatic system;

16 “(ii) implementing measures to produce habitat conditions
17 that will sustain a healthy, resilient, diverse, and productive
18 aquatic system; and

19 “(iii) enhancing access for fisheries through
20 implementation of projects or measures to increase public
21 access, use, and enjoyment.

22 “(D) IDENTIFICATION OF EXISTING FACTORS, ACTIVITIES,
23 PROJECTS, AND MEASURES.—

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“(i) IN GENERAL- The plan shall identify--

“(I) the factors and activities causing adverse impacts or threats to fisheries habitat in the watershed;

“(II) restrictions on access for fisheries uses within the watershed; and

“(III) the projects and measures, in the planning and implementation stages, that are designed to address the adverse impacts, threats, or restrictions.

“(ii) SPECIFIC FACTORS AND ACTIVITIES.— At a minimum, a plan shall specifically consider—

“(I) the causes of degradation or modification of fisheries habitat (such as channelized streams, erosion sources, reduced or modified in-stream flows, disrupted sediment transport mechanisms, damaged or destroyed riparian vegetation, damaged or destroyed spawning beds, and drained backwater or wetland), including any upland activity that contributes to the degradation or modification;

“(II) the principal categories of point and nonpoint sources of pollution adversely affecting fisheries habitat;

1 “(III) flood control measures and other floodplain
2 management factors that may have an adverse
3 impact on fisheries habitat;

4 “(IV) the alteration or reduction of water flows, the
5 timing and magnitude of water-flow management
6 measures, and the acceleration of runoff that have
7 an adverse impact on fisheries habitat; and

8 “(V) factors and activities causing the destruction,
9 modification, or degradation of wetland that may
10 have an adverse impact on fisheries habitat.

11 “(E) PROJECTS AND MEASURES.—

12 “(i) IN GENERAL.—A plan shall describe specific projects
13 and measures that should be carried out, strengthened,
14 supported, or modified—

15 “(I) to achieve the objectives recommended under
16 subparagraph (C); and

17 “(II) to address the factors and activities identified
18 under subparagraph (D).

19 “(ii) ANTICIPATED EFFECTS.—The plan shall identify
20 anticipated effects on land use activities in existence on the
21 date of completion of the plan.

22 “(iii) SOURCES OF FUNDING.—For each recommendation,
23 the plan shall identify potential sources of Federal, State,

1 local, or other financial support to facilitate implementation
2 of the recommendation.

3 “(3) PERIODIC REVIEW AND REVISION.—A State shall review and, as
4 necessary or appropriate, revise or update a plan on a regular basis for as
5 long as the program continues to be authorized, but not less frequently
6 than once every 5 years.

7 “(4) PERMITTED USES OF FUNDS.—Funds from a fisheries habitat account
8 of a State may be provided for any purpose identified in a plan,
9 including—

10 “(A) the design, construction, operation,

11 maintenance, or removal of any structures;

12 “(B) the conduct of activities, such as management
13 practices, that are not otherwise prohibited by law;

14 “(C) the acquisition of land or easements with the
15 written consent of each person holding a property
16 interest in the affected land;

17 “(D) offset payments to local governments when
18 acquisitions reduce local tax revenues;

19 “(E) the restriction of access to water by, and
20 related provision of alternative water supplies for,
21 livestock; and

22 “(F) payments for the purpose of funding, in whole
23 or in part, the increased premiums for crop

1 insurance made necessary by, and for a period
2 consistent with, reduced flood protection caused by
3 projects or measures recommended under
4 subsection (c)(4)(E)(i).

5 “(5) PROHIBITED USES OF FUNDS.—No funds may be expended from a
6 fisheries habitat account of a State for the planning, engineering, design,
7 or construction of—

8 “(A) dams; or

9 “(B) roads on public land.

10 “(6) SCHEDULE.—A State shall, in consultation with the advisory council
11 and after public notice and comment, publish and periodically update a
12 list of projects in the State that are eligible for assistance under this
13 subsection, including the priority assigned to each project and, to the
14 extent known, the expected funding schedule for each project.

15 “(e) FUNDING.—

16 “(1) GRANTS FOR OPERATION OF STATE PROGRAMS.—The Administrator
17 shall make grants to any State with a program approved under subsection
18 (a) for payment of the reasonable costs of carrying out the responsibilities
19 described in this section.

20 (2) FISHERIES HABITAT ACCOUNTS.—Each State with a program approved
21 under subsection (a) shall establish a fisheries habitat account to provide
22 financial support for the implementation of projects and measures under
23 subsection (b)(2)(E).

1 “(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be
2 appropriated to the Administrator, from the Water Trust and
3 Environmental Restoration Fund, not to exceed \$250,000,000 for each of
4 fiscal years 2006 through 2010 for the purpose of making grants to States
5 with programs approved under subsection (a)(2), to remain available until
6 expended, to enable a State to provide funds to any person, through the
7 fisheries habitat account of the State, for implementation of projects and
8 measures under subsection (b)(2)(E).

9 “(4) ALLOCATIONS OF AMOUNTS- Amounts appropriated under paragraph
10 (3) shall be allocated among States with programs approved under
11 subsection (b), giving priority consideration to States that exceed other
12 States in the following categories:

13 “(A) The amount of hydroelectric instream use
14 (millions of gallons per day) in the State in the
15 previous calendar year, as identified by the United
16 States Geological Service.

17 “(B) The total number of fishing and migratory bird
18 hunting licenses, tags, permits, and stamps sold by the
19 State in the previous calendar year.

20 “(C) The degree of degraded water in the State.

21 “(D) The number of river miles and lake acres in the
22 State.

23 “(e) EFFECT OF SECTION.—Nothing in this section—

1 “(1) alters, or requires alteration of, the authority or jurisdiction of a State
2 fish and wildlife agency;

3 “(2) affects the authority, jurisdiction, or responsibility of a State to
4 manage, control, and regulate fish and resident wildlife (including habitat
5 of fish and resident wildlife) under State law (including regulations);

6 “(3) except as specifically provided in this section, affects, alters,
7 suspends, or delays implementation of any other provision of this Act
8 (including any requirement under a program established under this Act),
9 or the obligations of any party under such a provision; or

10 “(4) authorizes any council, State, or Indian tribe to recommend or
11 approve the imposition of any new or more stringent regulatory or
12 compliance obligations under any provision of this Act (including any
13 requirement under a program established under this Act).”.