

# DESCRIPTION OF THE CLEAN WATER TRUST ACT OF 2005

## INTRODUCTION & SUMMARY

When Congress enacted the Clean Water Act in 1972, a key committee said that “the lack of adequate funding of grants to assist States and localities in constructing sewage treatment plants is causing critical problems,” and that “the need for Federal spending is rising rapidly.”

More than 30 years later, the effort has fallen short. Studies estimate a huge gap between our nation’s water pollution control needs and the committed resources, with the Chairman of House Water Resources and Environment Subcommittee, Congressman John Duncan, recently saying that, over the next 20 years, “capital needs are expected to be in the order of \$400 billion” and that, “to meet that need, we need to double the amount of money we are investing in wastewater infrastructure each year.”

When facing similar gaps between needs and resources for critical national infrastructure, Congress has established trust funds supported by dedicated revenue sources. For example, Congress has established trust funds for transportation infrastructure (\$35 billion/year) and airport infrastructure (\$8 billion/year).

To similarly address the dramatic and growing gap between needs and available funds, the National Association of Clean Water Agencies convened a group of stakeholders to consider ways to provide increased funding for the nation’s water quality needs.

Participants included representatives from national and regional resource management,

conservation, and environmental organizations, as well as representatives from wastewater utilities and various infrastructure and utility-related associations.

The group held a series of meetings in 2004 and 2005, to develop a framework for the proposal. The group then considered a series of drafts; extensive comments were received and extensive revisions were made in response.

The Clean Water Trust Act is the result of that work. The Act would make several important changes to our nation's water infrastructure program:

- First and foremost, it creates a new federal trust fund, the Clean Water Trust Fund, to provide an assured source of funding to meet the nation's water infrastructure needs. The Trust Fund is funded at \$36.75 billion over five years, and is dedicated to meeting a broad range of needs.
- The Act establishes a dedicated revenue source for the Trust Fund, consisting of an excise tax on flushable products and a reinstatement of the Corporate Environmental Income Tax.
- The Act establishes a new program to provide grants to local wastewater systems.
- The Act increases funding for research and establishes new programs for developing new technology and improving utility management.
- The Act establishes a new program to enhance fisheries habitat and improve public access to fisheries resources.

## DESCRIPTION

## TITLE I—CLEAN WATER TRUST FUND

To provide the funds necessary to meet water quality needs, the bill creates the Clean Water Trust Fund, authorized at a total of \$7.35 billion a year, or \$36.75 billion for 2006-2010.

Expenditures are made from the Trust Fund for the following purposes:

## Clean Water Act Fund

Grants	\$4.5 billion	
Loans	\$1.5 billion	
<u>Total</u>		<u>\$6 billion</u>

## Technology Programs

Technology demo grants	\$195 million	
Utility Management	\$ 5 million	
Small/Rural Systems	\$50 million	
Research	\$100 million	
<u>Total</u>		<u>\$350 million</u>

Assistance to States (section 106) \$200 million

Fisheries Enhancement \$250 million

State Wetlands Program Grants \$100 million

Nonpoint Source Controls (Section 319) \$200 million

Regional Programs \$250 million

TOTAL \$ 7.35 billion/year

Revenue for the Trust Fund comes from two sources, which were developed in order to establish a broad funding base that is related to water pollution problems.

The first source is an excise tax, of 5 percent, on “flushable products,” such as soaps and detergents, toiletries, toilet tissue, water softeners, and cooking oils. These are consumer products that are typically introduced directly into wastewater following use, contributing to the treatment burden faced at facilities downstream. This tax is estimated to raise \$14 billion over five years.

The second source is a reinstatement of the Corporate Environmental Income Tax, at the rate of .55 percent. This tax, which previously funded the Superfund program but which has expired, would apply to corporations with an alternative minimum tax greater than \$2 million. This tax is estimated to raise \$22 billion over five years.

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

### Authorizations from the Clean Water Fund

The bill amends the Clean Water Act to authorize the appropriation, from the new Clean Water Trust Fund, of funds for grants to state revolving funds under section 601 (\$6 billion a year), for grants to state programs under section 106 (\$200 million a year), and for nonpoint source management program grants under section 319 (\$200 million a year). To reduce the incentive to accumulate balances in the Trust Fund, the Fund is made “off-budget.”

### Expanded Eligibility/High Priority Water Pollution Control Projects

The bill clarifies and expands eligibility under the Clean Water Act SRF. Specifically, it amends section 603 to authorize the use of the SRF not only for the construction and rehabilitation of POTWs and for the nonpoint and estuary programs, but also for security enhancements, stormwater controls (including nonstructural controls), CSOs/SSOs, water conservation measures undertaken by public entities, projects to correct failed septic systems and cesspools, and water quality assessments.

Further, to create an infusion of funding to address the most pressing water pollution control needs in each state, the bill provides that, each year, a state must use 75% of the funds that it receives under section 601 for grants for high priority water pollution control projects. A state has the flexibility to determine which projects eligible under section 603 will receive grants, pursuant to a public decision-making process. Grant recipients must provide a 35% match.

### Program Improvements

The bill makes several improvements in the operation of the SRF program.

- The bill increases funding for state administration by allowing a state to recover state revolving loan funds to the extent of the greater of ½ percent of the current valuation of the fund or \$400,000 (currently, states can use 4% of the amount of grants awarded to the fund).
- The bill also increases funding for state administration by authorizing appropriations of \$200 million a year, from the Clean Water Trust Fund, for the operation of State Clean Water Act programs.
- The bill requires that all engineering, architecture, construction management, and related professional services contracts be awarded in compliance with the Brooks Act, (Public Law 92-582), which establishes the procurement process by which architectural, engineering, and related services are selected.

- The bill authorizes states to provide additional forms of financial assistance, including extended repayment periods, principal subsidization, and loan guarantees.

### Critical Regional Waters

The bill provides an authorization of \$250 million, from the Trust Fund, for the funding of programs to restore and protect four critical regional waters--Chesapeake Bay, the Great Lakes, Long Island Sound, and the Gulf of Mexico (through the Hypoxia Action Plan). The EPA Administrator has the flexibility to allocate funding among the programs and also can allocate funding to other programs that will restore and protect critical regional waters.

## TITLE III—TECHNOLOGY AND MANAGEMENT

### National Water Infrastructure Technology Development Program

To address the lack of sufficient investment in the development of new wastewater technologies, the bill directs the EPA Administrator to implement a nationwide technology demonstration program. Each year, the Administrator is to make 20 grants to test projects that have the potential to advance innovative or alternative approaches to meet any of the following goals: reducing nutrient pollution; improving the safety and purity of source waters; improving methods for water conservation and safe re-use; improving tools and technologies to rehabilitate and replace water supplies; improving monitoring and data analysis; reducing nonpoint source water pollution; reducing municipal stormwater pollution; reducing sanitary sewer overflows and combined sewer overflows; minimizing the contamination of water supplies by naturally occurring constituents of concern; reducing erosion, scouring, and siltation; and developing more effective methods for collecting and treating wastewater (including system design and nonstructural alternatives).

The program is authorized at \$195 million a year, from the Clean Water Trust Fund. Each year, \$50 million is set-aside for “green technology” projects that primarily utilize one or more of the following approaches: decentralized or distributed stormwater controls, enhanced decentralized wastewater treatment, low-impact development practices, conservation easements, stream buffers, or wetlands restoration.

### National Center for Utility Management

Wastewater utilities can benefit from greater use of various management tools, such as comprehensive asset management, improved worker training, and improved financial reporting. Accordingly, the bill directs the Administrator to contract with an appropriate

nonprofit organization to establish the National Center for Utility Management, which is responsible for developing and promoting best practices for utility management.

The program is authorized at \$5 million a year, from the Clean Water Trust Fund.

#### Technical Assistance for Small Communities

Although several existing programs are aimed at helping small rural systems maintain and upgrade their wastewater systems, there continues to be a need for targeted assistance, including with predevelopment costs. Accordingly, the bill authorizes the Administrator to provide grants to qualified nonprofit technical assistance providers to assist small rural wastewater utilities (no more than 10,000 users/located in a rural area) in four ways:

- Planning, developing, and obtaining financing for eligible projects
- Technical assistance and training
- Disseminating information with respect to planning, design, construction, and operation of wastewater systems
- Capitalizing revolving loan funds for predevelopment costs and related activities

The program is authorized at \$50 million a year, from the Clean Water Trust Fund.

#### Research

To restore a significant federal research program, the bill reauthorizes the research program under section 104 of the Clean Water Act, and authorizes appropriations of \$100 million a year, from the Clean Water Trust Fund.

## TITLE IV—FISHERIES AND WETLANDS

#### Habitat Protection, Restoration, and Enhancement

To increase the resources devoted to restoring and protecting fisheries, the bill creates a new program, as Title VII of the Clean Water Act, to restore fisheries habitat and enhance public access to fisheries.

A state seeking funding must establish a program, based on the use of local watershed councils, for the development of watershed plans. Each plan, which will be developed by a local watershed council, must address the following: characterization of the watershed, objectives, ongoing factors affecting habitat and access, specific projects and measures to

improve fisheries habitat and access, and necessary incentives to facilitate implementation of best management practices.

The plan also must designate priority projects and measures, based on the likelihood that the projects will achieve significant progress toward the protection or restoration of habitat or the enhancement of access for recreational fishing. States are eligible for grants to manage and implement their plans. The program is authorized at \$250 million a year, from the Clean Water Trust Fund.

#### State Wetlands Programs

The bill establishes a new wetlands restoration program. The Administrator is to make annual grants of \$2 million to each state fish and wildlife program, to fund projects that restore functions, including the filtration of surface and ground water, the mitigation of flooding and the enhancement of wildlife habitat. The program is authorized at \$100 million a year, from the Clean Water Trust Fund.