

THE CLEAN WATER TRUST ACT OF 2005

SEC. 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Clean Water Trust 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 CLEAN WATER TRUST FUND.

Section 101. Establishment of the Clean Water Trust Fund.

Section 102. Revenue.

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. Full Funding of the State Revolving Fund.

Section 204. High Priority Project Grants.

Section 205. Program Improvements.

Section 206. Critical Regional Waters.

TITLE III—TECHNOLOGY, MANAGEMENT, AND RESEARCH.

Section 301. National Water Infrastructure Technology Development Program.

Section 302. National Center for Utility Management.

Section 303. Technical Assistance for Small Rural Communities.

Section 304. Research.

TITLE IV—FISHERIES HABITAT PROTECTION, RESTORATION, AND ENHANCEMENT.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) It is national policy that Federal financial assistance should be made available to achieve the goals of restoring and maintaining the chemical, physical, and biological integrity of the Nation’s waters.

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

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

9 (4) The protection of wastewater infrastructure is critical to homeland security.
10 The President has urged measures for “increasing security at water treatment ... plants,”
11 and the Environmental Protection Agency has said that “it is essential that government
12 agencies, water utilities, state and local water agencies, public health organizations,
13 emergency and follow-up responders, academia, and the private sector from across the
14 country be ready to protect our water infrastructure,” including “protecting wastewater
15 treatment and collection systems.”

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

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

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

3 (8) The Federal Government will not be able to provide sufficient new funding to
4 address all of the wastewater problems using current technologies. As a result,
5 significant further progress also requires the development of new wastewater
6 technologies, improved management techniques, and intensified research.

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

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

15 (b) PURPOSE.—The purpose of this Act is to make dramatic progress towards the
16 achievement of the Nation’s water quality goals by establishing and providing funding
17 for a Clean Water Trust Fund, which will provide for increased investment in critical
18 water infrastructure; improvements in technology, management, and research; greater
19 funding for critical regional programs; and increased attention to fisheries habitat and
20 nonpoint source pollution.

21 **TITLE I—ESTABLISHMENT AND FUNDING** 22 **OF THE CLEAN WATER TRUST FUND.**

23 24 **SEC. 101. ESTABLISHMENT OF THE CLEAN WATER TRUST FUND.**

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

4 **“SEC. 9511. CLEAN WATER TRUST FUND.**

5 “(a) ESTABLISHMENT.—There is established in the Treasury of the United States a
6 trust fund to be known as the “Clean Water Trust Fund.”

7 “(b) TRANSFERS TO THE TRUST FUND.—There are hereby appropriated to the
8 Clean Water Trust Fund amounts equivalent to the taxes received in the Treasury
9 under section ___ of this Act.

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

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

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

16 “(3) grants to States under section 106(a) of the Federal Water Pollution
17 Control Act (33 U.S.C. 1256)(State programs);

18 “(4) grants under the following programs established under the Clean
19 Water Trust Act of 2005:

20 “(A) the Technology Demonstration Program (section 301),

21 “(B) the National Center for Utility Management program (section
22 302),

1 “(C) the Technical Assistance for Small Rural Communities
2 program (section 303);
3 “(5) funding under section 104(u) of the Federal Water Pollution Control
4 Act (33 U.S.C. 1254(u))(water pollution control research);
5 “(6) grants to States under section 319 of the Federal Water Pollution
6 Control Act (33 U.S.C. 1329)(nonpoint source management programs);
7 and
8 “(7) grants to States under Section 321 of the Federal Water Pollution
9 Control Act (Fisheries Habitat Protection, Restoration, and
10 Enhancement).”.

11 (b) BUDGETARY TREATMENT OF THE FUND.—Notwithstanding any other provision of law,
12 the receipts and disbursements of the Clean Water Trust Fund—

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

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

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

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

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

21 **SECTION 102. REVENUE [SEE REVENUE FUNDING OPTIONS**

22 **ATTACHMENT].**

1 **TITLE II—AMENDMENTS TO THE FEDERAL**
2 **WATER POLLUTION CONTROL ACT**

3
4 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS FROM THE CLEAN**
5 **WATER TRUST FUND.**

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

8 “There is authorized to be appropriated from the Clean Water Trust Fund, for
9 grants to States under section 601(a), \$6,000,000,000 for each of fiscal years 2006
10 through 2010.”.

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

14 “There is authorized to be appropriated from the Clean Water Trust Fund, for
15 grants to States under subsections (h) and (i), \$250,000,000 for each of fiscal
16 years 2006 through 2010. Such funds shall remain available until expended.”.

17 (c) STATE ADMINISTRATION OF PROGRAMS.—Section 106(a) of the Federal Water
18 Pollution Control Act (33 U.S.C. 1256(a)) is amended to read as follows:

19 “There is hereby authorized to be appropriated, from the Clean Water Trust Fund,
20 \$250,000,000 for each of fiscal years 2006 through 2011 for grants to States and
21 to interstate agencies to assist them in administering programs for the prevention,
22 reduction, and elimination of pollution, including enforcement directly or through
23 appropriate State law enforcement officers or agencies.”.

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

1 Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by
2 striking subsection (c) and inserting the following:

3 “(c) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—The water pollution control revolving fund
4 of a State shall be used only to provide financial assistance to a municipality or an
5 intermunicipal, interstate, or State agency for the following—

6 “(1) construction of publicly owned treatment works (as defined in
7 section 212 of this Act);

8 “(2) projects to increase the security of wastewater treatment works (excluding
9 any expenditure for operations or maintenance);

10 “(3) implementation of nonpoint source management program under section 319;

11 “(4) development and implementation of a conservation and management plan
12 under section 320;

13 “(5) construction, replacement, or rehabilitation of collection systems and
14 treatment works to monitor intercept, transport, control, or treat municipal
15 combined sewer overflows and sanitary sewer overflows;

16 “(6) implementation of measures to control, treat, capture, or re-use municipal
17 stormwater, including measures that provide treatment for or that minimize
18 sewage or stormwater discharges using decentralized or distributed stormwater
19 controls, decentralized wastewater treatment, low-impact development practices,
20 conservation easements, stream buffers, or wetlands restoration;

21 “(7) implementation by public entities or water conservation projects or activities
22 the primary purpose of which is the protection, preservation, or enhancement of
23 water quality, including through—

- 1 “(A) piping or lining an irrigation canal,
2 “(B) recovery or recycling of wastewater or runoff from irrigation,
3 “(C) irrigation scheduling,
4 “(D) measurement or metering of water use,
5 “(E) installation of water conservation measures by public utilities,
6 “(F) improving on-field irrigation efficiency; or
7 “(G) measures to enable customers to make more efficient use of
8 treated water;
9 “(8) extension of sewer service to areas that currently utilize residential septic
10 systems or cesspools (in each case, as defined by the Administrator); and
11 “(9) the assessment of water quality pursuant to section 305(b).”.

12 **SEC. 203. FULL FUNDING OF THE STATE REVOLVING FUND.**

13 Of the amount authorized to be appropriated from the Clean Water Trust Fund, for grants
14 to States under section 601(a) of the Federal Water Pollution Control Act (42 U.S.C.
15 1251 et seq.)((\$6,000,000,000), 25 percent of the annual amount (\$1,500,000,000) shall be
16 for the purpose of funding the capitalization of State revolving funds for each of fiscal
17 years 2006 through 2010.”.

18 **SEC. 204. HIGH PRIORITY PARTNERSHIP GRANTS.**

19 (a) **GENERALLY.**—Title VI of the Federal Water Pollution Control Act is amended by
20 adding at the end the following new section:

21 **“SECTION 608. HIGH PRIORITY PARTNERSHIP GRANTS.**

22 “(a) **ESTABLISHMENT OF PROGRAM.**—Each state receiving a grant under section 601 shall
23 allocate 75 percent of the funds that it receives each year for grants for projects that are

1 eligible under section 603(c) and are determined to be high priority partnerships under
2 subsection (b).

3 “(b) DETERMINATION OF HIGH PRIORITY PARTNERSHIPS.—

4 “(1) GENERALLY.—In addition to developing its priority list under sections
5 603(g) and 216, each State shall annually publish a plan that identifies the high
6 priority projects for which it intends to make grants under this subsection,
7 including a list of projects that are eligible for high priority partnership grants
8 under this section, the priority assigned to each project and, to the extent
9 known, the expected funding schedule for the project.

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

12 “(A) address the most serious water pollution problems;

13 “(B) are necessary to ensure compliance with the requirements of this
14 Act, and

15 “(C) benefit communities with the greatest need (determined on the
16 basis of affordability criteria established by the State).

17 “(3) PUBLIC PARTICIPATION. —

18 “(A) REVIEW COMMITTEE.—Each State shall establish a review
19 committee for the purpose of providing a review of the list of projects,
20 the system for assigning priorities, and the funding schedule. The
21 membership of the committee shall be fairly balanced in terms of the
22 points of view represented and be representative of interests affected

1 by the plan (including tribal, private, public, governmental, and
2 nonprofit interests).

3 “(B) REVIEW OF PLAN.—Before issuing its annual plan, a State shall—

4 “(i) provide a draft plan to the review committee and provide the
5 review committee with at least 60 days to comment on the draft
6 plan pursuant to paragraph (3), and

7 “(ii) provide public notice of the draft plan and an opportunity for
8 public comment.”.

9 “(c) ALLOTMENT OF FUNDS.—Sums attributable to grants under this program shall be
10 allotted by the Administrator in accordance with the table in section 205(c)(3)(33 U.S.C.
11 1285(c)(3)).

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

14 “(e) LIMITATION.—No assistance may be provided under this section if the project will
15 provide substantial benefits to new communities, new subdivisions, or newly developed
16 urban areas.”.

17 (b) ELIGIBILITY OF INDIAN TRIBES.—Section 518(a) of the Federal Water Pollution
18 Control Act (33 U.S.C. 1377(a)) is amended by striking “and 406” and inserting “406,
19 and 608”.

20 (c) TECHNICAL AMENDMENTS.—

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

23 (A) deleting “and” before “(3);

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

2 (C) adding the following:

3 “(4) to any municipality, intermunicipal, interstate, or State agency for
4 undertaking high priority water pollution control projects under section
5 608 of this Act.”.

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

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

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

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

16 **SEC. 205. PROGRAM IMPROVEMENTS.**

17 (a) ADDITIONAL FORMS OF FINANCIAL ASSISTANCE.—

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

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

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

3 (2) PRINCIPAL SUBSIDY.—Section 603 of the Federal Water Pollution Control Act
4 (33 U.S.C. 1383) is amended by adding at the end the following:

5 “(i) PRINCIPAL SUBSIDY.—

6 “(I) IN GENERAL.—A state may provide additional subsidization to
7 selected loan recipients (including forgiveness of principal).

8 “(II) LIMITATION.—For each fiscal year, the total amount of loan subsidies
9 made by a State under this subsection shall not exceed 10 percent of the
10 amount of the capitalization grant received by the State for that fiscal
11 year.’.

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

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

16 “(A) similar revolving funds established by municipalities
17 or intermunicipal agencies; and

18 “(B) developing and implementing innovative
19 technologies.”.

20 (b) EXPENSES OF ADMINISTERING THE STATE FUND.—Section 603(d)(7) of the Federal
21 Water Pollution Control Act (33 U.S.C. 1383(d)(7)) is amended by inserting before the
22 period at the end the following: “or the greater of \$400,000 per year or an amount equal

1 to 1/2 percent per year of the current valuation of the fund (including amounts that will be
2 distributed as high priority partnership grants under section 608).”.

3 (c) ARCHITECTURAL AND ENGINEERING CONTRACTS.—Section 602(b) (33 U.S.C.
4 1382(b)) is amended—

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

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

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

8 “(11) the State will require that each contract and subcontract for program
9 management, construction management, planning studies, feasibility
10 studies, architectural services, preliminary engineering, design,
11 engineering, surveying, mapping, and related services entered into using
12 amounts from the fund will be awarded in the same way that a contract for
13 architectural and engineering services is awarded under chapter 11 of title
14 40, United States Code, except that such an award shall not be construed
15 as conferring a proprietary interest upon the United States.”.

16 **SEC. 206. CRITICAL REGIONAL WATERS.**

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

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

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

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

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

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

5 “(4) implementing the Action Plan for Reducing Mitigation and Controlling
6 Hypoxia in the Northern Gulf of Mexico (January, 2001), issued pursuant to the
7 Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 (16 U.S.C.
8 1451 note);

9 “(5) implementing other programs to protect and improve water quality in critical
10 regional waters (as defined by the Administrator).

11 “(b) AUTHORIZATION.—There are authorized to be appropriated from the Clean Water
12 Trust Fund, for carrying out this section, \$250,000,000 for each of fiscal years 2006
13 through 2010.”.

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

16 **SECTION 301. NATIONAL CLEAN WATER TECHNOLOGY DEVELOPMENT**

17 **PROGRAM.**

18 (a) ESTABLISHMENT—

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

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

1 (B) promote innovations in technology and alternative approaches to
2 improve sustainability of long-term water resources; and

3 (C) reduce costs to municipalities incurred in complying with the Federal
4 Water Pollution Control Act (33 U.S.C. 1251 et seq.).

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

8 (b) SELECTION OF MUNICIPALITIES.—

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

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

15 (B) describes adverse water quality impacts specific to surrounding
16 watersheds;

17 (C) includes a strategy under which the municipality, through
18 participation in the demonstration program, can effectively address those
19 impacts and achieve or improve upon the same water quality goals as
20 could be achieved using more traditional methods or methods that are
21 required under the Federal Water Pollution Control Act (33 U.S.C. 1251
22 et seq); and

1 (D) includes a schedule for achieving the water quality goals of the
2 municipality.

3 (2) TYPES OF PROJECTS.—

4 (A) IN GENERAL.—In carrying out the demonstration program, the
5 Administrator shall select projects which have the greatest potential to
6 advance innovative or alternative approaches to achieve one or more of
7 the following goals—

8 (i) reducing nutrient pollution;

9 (ii) improving the safety and purity of drinking water source
10 waters;

11 (iii) improving methods for water conservation and safe re-use;

12 (iv) improving tools and technologies to rehabilitate and replace
13 water supplies;

14 (v) improving monitoring and data analysis for water distribution
15 systems;

16 (vi) reducing nonpoint source water pollution;

17 (vii) reducing municipal sewage or stormwater pollution;

18 (viii) reducing sanitary sewer overflows;

19 (ix) reducing combined sewer overflows;

20 (x) minimizing the contamination of water supplies by naturally
21 occurring constituents of concern;

22 (xi) reducing erosion, scouring, and siltation of waterbodies; and

1 (xii) developing more effective methods for collecting and treating
2 wastewater (including system design and nonstructural
3 alternatives).

4 (B) SET-ASIDE FOR GREEN TECHNOLOGY.—No less than \$20,000,000 of
5 the amount made available under this section shall be for projects that
6 primarily utilize one or more of the following approaches: decentralized
7 or distributed stormwater controls, enhanced decentralized wastewater
8 treatment, low-impact development practices, conservation easements,
9 stream buffers, or wetlands restoration.

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

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

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

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

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

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

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

6 (d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to
7 carry out this section, from the Clean Water Trust Fund established in section 101 of this
8 Act, \$95,000,000 for each of fiscal years 2006 through 2010.”

9 **Sec. 302. NATIONAL CENTER FOR UTILITY MANAGEMENT.**

10 (a) ESTABLISHMENT OF THE NATIONAL CENTER.—The Administrator shall make a grant to
11 an appropriate not-for-profit organization to establish a National Center for Utility
12 Management, for the purpose of promoting improved management of public wastewater
13 utilities, including the use of best management practices with respect to comprehensive
14 asset management, worker training and flexibility, information systems, financial
15 planning, and financial reporting.

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

- 18 (1) developing best practices for utility management;
- 19 (2) coordinating the relevant research conducted at university-based training and
20 technical assistance centers;
- 21 (3) coordinating ongoing and planned initiatives to promote best practices for
22 utility management within and across the wastewater program;

1 (4) exploring opportunities to take advantage of best management practices and
2 informational materials developed by other agencies (including the Office of
3 Asset Management in the Federal Highway Administration); and
4 (5) strengthening efforts to educate utilities and local government leaders about
5 the optimal use of best practices for utility management, through handbooks,
6 software, workshops, the establishment of a website, and other steps to assure that
7 wastewater utilities, regardless of size, have easy access to information about best
8 practices for utility management.

9 (c) GRANTS.—

10 (1) ELIGIBLE ENTITIES.—In carrying out its functions, the National Center for
11 Utility Management may make grants to any of the following:

- 12 (A) a municipal, intermunicipal, interstate, or state agency;
13 (B) a not-for profit association representing wastewater utilities, such as
14 the National Association of Clean Water Agencies and the Water
15 Environment Foundation; or
16 (C) an institution of higher education.

17 (2) MATCH.—The Federal share for any project under paragraph 1 may not
18 exceed 75 percent.

19 (d) AUTHORIZATION.—There is authorized to be appropriated under this section, from the
20 Clean Water Trust Fund established in section 101 of this Act, \$5,000,000 for each of
21 fiscal years 2006 through 2010.

22 **SEC. 303. TECHNICAL ASSISTANCE FOR SMALL RURAL COMMUNITIES.**

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

3 (1) assist rural and small publicly-owned utilities in planning, developing, and
4 obtaining financing for eligible projects described in section 603(c) of the Federal
5 Water Pollution Control Act (33 U.S.C. 1383(c));

6 (2) provide technical assistance and training for small rural utilities to enable them
7 to protect water quality and achieve and maintain compliance with the Federal
8 Water Pollution Control Act (33 U.S.C, 1251 et seq);

9 (3) disseminate information to small rural municipalities with respect to planning,
10 design, construction, and operation of publicly owned treatment works and
11 decentralized wastewater treatment systems; and

12 (4) capitalize revolving loan funds to provide loans, in consultation with the State
13 in which the assistance is provided, to small rural municipalities for
14 predevelopment costs (including costs for planning, design, associated
15 preconstruction, and necessary activities for siting the facility and related
16 elements associated preconstruction, and necessary activities for siting the facility
17 and related elements) associated with wastewater infrastructure projects or short-
18 term costs incurred for equipment replacement that is not part of regular operation
19 and maintenance activities for existing wastewater systems if—

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

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

23 (C) all loan repayments are credited to the fund.

1 (b) DEFINITIONS. In this section, the following terms have the following definitions:

2 (1) QUALIFIED NONPROFIT TECHNICAL ASSISTANCE PROVIDER.—The term
3 “qualified nonprofit technical assistance provider” means a qualified nonprofit
4 technical assistance provider of wastewater services to a small rural utility.

5 (2) SMALL RURAL UTILITY.—The term “small rural utility means
6 a treatment works within the meaning of section 212(2)(A) of the Federal Water
7 Pollution Control Act (33 U.S.C. 1292(2)(A)) that serves not more than 10,000
8 users and is located in a rural area.

9 (3) AUTHORIZATION.—There is authorized to be appropriated to carry out this
10 section, from the Clean Water Trust Fund established under section 101 of this
11 Act, \$50,000,000 for each of fiscal years 2006 through 2010.

12 **SEC 304. RESEARCH.**

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

15 (1) by striking the “and” before “(6)” and

16 (2) by inserting before the period at the end the following: “and (7), from the
17 Clean Water Trust Fund, \$50,000,000 for each of fiscal years 2006 through 2010
18 for carrying out the provisions of subsection (b)(3).”.

19 (c) CONTRACTING WITH EXPERT ENTITIES.—To the extent practicable, the Administrator
20 shall enter into contracts with appropriate not-for-profit entities, including the Water
21 Environment Research Foundation and the WaterReuse Research Foundation, to carry out
22 the research authorized by this section.

1 **TITLE IV—FISHERIES HABITAT**
2 **PROTECTION, RESTORATION, AND**
3 **ENHANCEMENT**

4
5 Title III of the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.) is
6 amended by adding at the end the following:

7 **“SEC. 321. FISHERIES HABITAT PROTECTION, RESTORATION, AND**
8 **ENHANCEMENT.**

9 “(a) STATE PROGRAMS.—

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

17 “(2) PROGRAM ELEMENTS.—

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

1 “(B) DEVELOPMENT OF STATE PROGRAMS.—

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

5 “(ii) PROCESS.—The process for developing a program shall
6 include—

7 (I) consultation with the advisory council,

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

10 (III) public notice and comment; and

11 (IV) a system for judicial review of decisions
12 made by the State under the program.

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

21 “(b) WATERSHED PLANS.—

22 “(1) IN GENERAL.—A State with an approved program may develop a fisheries
23 habitat protection, restoration, and enhancement plans for watersheds in the State.

1 The plans shall be developed in accordance with the requirements of paragraph
2 (2) and shall, at a minimum, contain the elements described in paragraph (3).

3 “(2) PLAN DEVELOPMENT.—

4 (A) CONSULTATION.—A plan shall be developed in consultation with
5 watershed councils convened by a State or local governing body (such as
6 a city, county, town, water supply or sewer district, watershed district,
7 drainage district, soil and water conservation district, flood control district,
8 or irrigation district).

9 (B) WATERSHED COUNCILS.—A watershed council shall have a
10 membership that is fairly balanced, in terms of the points of view
11 represented and the functions to be performed, and is representative of
12 interests within the watershed that may be affected by the activities of the
13 council (including tribal, private, public, governmental, and nonprofit
14 interests, and the interests of special purpose districts, as appropriate).

15 “(C) PREFERENCE FOR EXISTING COUNCILS.—In designating councils, a
16 State shall give preference to councils that are in existence on the date of
17 enactment of this section.

18 “(D) WATERSHEDS LOCATED IN MORE THAN ONE STATE.—

19 “(i) IN GENERAL.—In the case of a watershed the land and
20 water of which lie within the jurisdiction of more than 1
21 State, the States exercising jurisdiction over the watershed
22 may jointly designate a council to carry out planning
23 functions for the watershed.

1 “(ii) ELECTION NOT TO PARTICIPATE.—If a State that shares
2 jurisdiction over a watershed elects not to designate a
3 council as described in clause (1), the remaining State or
4 States with jurisdiction over the watershed may exercise the
5 authority under clause (i) with respect to the portions of the
6 watershed under their respective jurisdictions.

7 “(E) FEDERAL LAND.—Each Federal department or agency with
8 jurisdiction to manage Federal land within a watershed covered by a plan
9 shall—

10 “(i) consider recommendations related to improvements in the
11 management of the land that are contained in approved plans or
12 interim recommendations in all future decisions respecting
13 planning and activities on the land that would significantly affect
14 fisheries habitat and uses; and

15 “(ii) issue and make publicly available a written explanation of the
16 decisions of the Federal department or agency describing the
17 rationale for adopting or departing from the recommendations.

18 “(3) PLAN ELEMENTS.—

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

21 “(B) CHARACTERIZATION OF WATER AND WATERSHEDS.—A plan shall
22 include an analysis of the water of the watershed in terms of—

1 “(i) any fisheries-related indicators and habitat characteristics that
2 have been established by the State fish and wildlife agency or,
3 before the establishment of those indicators and characteristics,
4 any relevant information issued by the Secretary of the Interior;
5 “(ii) geomorphological characteristics;
6 “(iii) manmade topographic features that govern the quantity or
7 flow of water;
8 “(iv) wetland, channels, meander belts, erosion zones, and low-
9 lying areas of the floodplain (including a description of any
10 historic and present flooding patterns);
11 “(v) watershed soils that are present, including the potential of the
12 soil to erode and measures taken by landowners to prevent runoff
13 and erosion;
14 “(vi) land cover and land uses that affect the ability of the
15 watershed ability to support fishery resources;
16 “(vii) existing and potential fisheries-related uses of the watershed
17 (including recreational, subsistence, and economic uses) that are
18 or may be affected by adverse impacts on fisheries habitats or
19 restrictions on public access; and
20 “(viii) protections for fishery and habitat values in existence on
21 the date of receipt of the materials under this subparagraph.
22 “(C) OBJECTIVES.—A plan shall describe near-term and long-term
23 objectives for the protection and restoration of fisheries habitat and

1 enhancement of access within the watershed, including, as relevant and
2 appropriate, recommendations for—

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

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

7 and

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

10 “(D) IDENTIFICATION OF EXISTING FACTORS, ACTIVITIES, PROJECTS, AND
11 MEASURES.—

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

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

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

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

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

22 “(I) the causes of degradation or modification of fisheries
23 habitat (such as channelized streams, erosion sources,

1 reduced or modified in-stream flows, disrupted sediment
2 transport mechanisms, damaged or destroyed riparian
3 vegetation, damaged or destroyed spawning beds, and
4 drained backwater or wetland), including any upland
5 activity that contributes to the degradation or modification;
6 “(II) the principal categories of point and nonpoint sources
7 of pollution adversely affecting fisheries habitat;
8 “(III) flood control measures and other floodplain
9 management factors that may have an adverse impact on
10 fisheries habitat;
11 “(IV) the alteration or reduction of water flows, the timing
12 and magnitude of water-flow management measures, and
13 the acceleration of runoff that have an adverse impact on
14 fisheries habitat; and
15 “(V) factors and activities causing the destruction,
16 modification, or degradation of wetland that may have an
17 adverse impact on fisheries habitat.

18 “(E) PROJECTS AND MEASURES.—

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

22 “(I) to achieve the objectives recommended under
23 subparagraph (C); and

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

3 “(F) payments for the purpose of funding, in whole or in part, the
4 increased premiums for crop insurance made necessary by, and for a
5 period consistent with, reduced flood protection caused by projects or
6 measures recommended under subsection (c)(4)(E)(i).

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

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

15 “(d) FUNDING.—

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

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

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

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

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

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

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

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

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

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

1 “(2) affects the authority, jurisdiction, or responsibility of a State to manage,
2 control, and regulate fish and resident wildlife (including habitat of fish and
3 resident wildlife) under State law (including regulations);
4 “(3) affects, alters, suspends, or delays implementation of any other provision of
5 this Act (including any requirement under section 305(b) or under any other
6 program established under this Act), or the obligations of any party under such a
7 provision; or
8 “(4) authorizes any council, State, or Indian tribe to approve the imposition of any
9 new or more stringent regulatory or compliance obligations under any provision
10 of this Act (including any requirement under a program established under this
11 Act).”.