

THE CLEAN AND SAFE WATER TRUST FUND ACT OF 2005

SEC. 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Clean and Safe Water Trust Fund 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 AND SAFE WATER TRUST FUND.

Section 101. Establishment of the Clean and Safe 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.

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

Section 301. Authorization of Appropriations from the Trust Fund.

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TITLE IV—TECHNOLOGY AND MANAGEMENT.

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.

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

TITLE VI.—CRITICAL REGIONAL PROGRAMS.

Section 601. Increased Authorization of the Chesapeake Bay, Great Lakes, and Long Island Sound Programs.

Section 602. Establishment of the Gulf of Mexico Program.

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 and providing the safe drinking water essential to public health.

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

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

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

(5) In other cases where there has been a huge gap between available assistance and public infrastructure needs, Congress has established a trust fund, funded by a dedicated revenue source, as an appropriate way to meet the nation's needs. Prominent examples are the Highway Trust Fund and the Airport and Airways Trust Fund.

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

(7) Significant further progress requires that investments be quickly focused on high priority projects that address our most pressing national needs, including the replacement and rehabilitation sanitary/combined sewer overflows, water reclamation and conservation, the cleanup of abandoned mines, the protection of fisheries habitat, the control of nonpoint source pollution, the replacement of lead drinking water service lines, water desalinization, and the abatement of arsenic in drinking water sources.

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

(9) Significant further progress also requires that additional resources be made available to State and local governments that implement water quality and drinking water safety programs.

(10) Significant further progress also requires a greater effort to provide for the protection and propagation of fish, shellfish, and wildlife through a renewed commitment

and sustained effort to address nonpoint source pollution and to protect and restore freshwater and marine fisheries habitat, and this can be accomplished through voluntary programs that combine Federal assistance with planning and implementation by local, regional, and State organizations.

(11) Significant further progress also requires additional efforts to address the specific water quality problems of critical regional waters, including the Chesapeake Bay, the Great Lakes, Long Island Sound, and the Gulf of Mexico.

(12) The Water Pollution Control Act and the Safe Drinking Water Act should be amended to authorize more flexible forms of financial assistance, make additional activities eligible for assistance, and make other improvements.

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

1 **TITLE I—CREATION AND FUNDING OF**
 2 **THE CLEAN AND SAFE WATER TRUST**
 3 **FUND.**

4
 5 **SEC. 101. ESTABLISHMENT OF THE CLEAN AND SAFE WATER TRUST**
 6 **FUND.**

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

3 **“SEC. 9511. CLEAN AND SAFE WATER TRUST FUND.—**

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

6 “(b) TRANSFERS TO THE TRUST FUND.—There are hereby appropriated to the
7 Clean and Safe Water Trust Fund such amounts—

8 “(1) appropriated pursuant to appropriations acts;

9 “(2) equivalent to the taxes received in the Treasury under section ___ of
10 this Act [section 102 of this bill].

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

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

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

17 “(3) grants to States pursuant to section 106(a) of the Federal Water
18 Pollution Control Act (33 U.S.C. 1256(a))(expenses of administering State
19 programs);

20 “(4) grants under the following programs established under the Clean and
21 Safe Water Act of 2005:

22 (A) the Technology Demonstration Program (section 401),

1 (B) the National Center for Utility Management program (section
2 402),

3 (c) the Technical Assistance for Small Rural Communities
4 program (section 403);

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

7 (6) grants to States under section 319 of the Federal Water Pollution
8 Control Act (nonpoint source management programs);

9 “(7) funding for the following critical regional programs:

10 “(A) grants pursuant to section 117(d) and (e) of the Act
11 (Chesapeake Bay);

12 “(B) projects pursuant to section 118 of the Act (Great Lakes);

13 “(C) grants pursuant to section 119(d) of the Act (Long Island
14 Sound); and

15 “(D) grants pursuant to section 124 (Gulf of Mexico).”.

16 Sec. 2. Revenue.—[The bill would establish a fee of five cents per container on bottled
17 beverages, excluding milk and fruit juices/concentrates. The fee would raise
18 approximately \$35 billion over five years, which would be dedicated to the Clean and
19 Safe Water Trust Fund.]

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

3
4 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS FROM THE CLEAN**
5 **AND SAFE 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 and Safe Water Trust
9 Fund, for grants to States under section 601(a), \$5,000,000,000 for each of fiscal
10 years 2006 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 appropriated from the Clean and Safe Water Act Trust Fund, for grants
15 to States under subsections (h) and (i), \$200,000,000 for each of fiscal years 2006
16 through 2011. Such funds shall remain available until expended.”.

17 (c) STATE MANAGEMENT OF PROGRAMS.—Section 106(a) of the Federal Water
18 Pollution Control Act is amended to read as follows:

19 “There is hereby authorized to be appropriated from the Clean and Safe Water
20 Fund, \$50,000,000 for each of fiscal years 2006 through 2011 for grants to States
21 and to interstate agencies to assist them in administering programs for the
22 prevention, reduction, and elimination of pollution, including enforcement
23 directly or through appropriate State law enforcement officers or agencies.”.

24 **SEC. 202. HIGH PRIORITY PROJECT GRANTS.**

1 (a) ESTABLISHMENT OF PROGRAM.—Title VI of the Federal Water Pollution Control
2 Act is amended by adding at the end the following new section:

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

4 “(a) GENERALLY.—

5 “(1) CREATION OF PROGRAM.—Each state receiving a capitalization grant
6 under section 601 shall allocate 60 percent of the funds that it receives each
7 year for grants to municipal, intermunicipal, interstate, or State agencies for
8 high priority water pollution control projects.

9 “(b) ELIGIBLE ACTIVITIES.—The following activities qualify as high priority water
10 pollution control projects:

11 “(1) financial assistance to a municipality or an intermunicipal, interstate,
12 or State agency for measures to control municipal stormwater;

13 “(2) water conservation projects or activities the primary purpose of which
14 is the protection, preservation, or enhancement of water quality, including
15 through—

16 “(A) piping or lining of an irrigation canal,

17 “(B) recovery or recycling of wastewater or runoff from irrigation,

18 “(C) irrigation scheduling,

19 “(D) measurement or metering of water use, or

20 “(E) improvement of on-field irrigation efficiency;

21 “(3) replacement and rehabilitation of treatment works to intercept,
22 transport, control, or treat municipal combined sewer overflows and
23 sanitary sewer overflows;

1 “(4) reclamation and restoration activities to reduce water pollution from
2 inactive or abandoned mined land, including—

3 “(A) reclamation and restoration of abandoned surface mined
4 areas,

5 “(B) reclamation and restoration of abandoned milling and
6 processing areas,

7 “(C) sealing, filling, and grading abandoned deep mine entries,

8 “(D) planting of land adversely affected by past mining to prevent
9 erosion and sedimentation,

10 “(E) prevention, abatement, treatment, and control of water
11 pollution created by abandoned mine drainage, or

12 “(F) control of surface subsidence due to abandoned deep mines;

13 “(5) the construction of publicly owned treatment works in a service
14 area or portion of service area that meets affordability criteria
15 established after public review and comment by the State in which the
16 service area or portion of service area is located;

17 “(6) implementing best management practices that reduce pollutant
18 loads in an impaired or threatened body of water;

19 “(7) other projects identified by a state that contribute to water quality
20 improvement.

21 “(c) PRIORITY SETTING.—Each State shall determine the priorities for financial
22 assistance under this section, in accordance with the procedures of sections 216,
23 603(f), and 603(g), of this Act.

1 “(d) FEDERAL SHARE.—The Federal share of the cost of a project under this
2 section shall be 65 percent of the total cost of a project for which a grant is
3 made.”.

4 (b) TECHNICAL AMENDMENTS.—

5 (1) AMENDMENT TO SECTION 601.—Section 601(a) of the Water Pollution
6 Control Act (33 U.S.C. 1381) is amended by deleting the period at the end and
7 adding the following:

8 “(4) to any municipality, intermunicipal, interstate, or State agency for
9 undertaking high priority water pollution control projects under Title VII
10 of this Act.”.

11 (2) AMENDMENT TO SECTION 603.—Section 603 of the Water Pollution Control
12 Act (33 U.S.C. 1383) is amended in the first sentence by—

13 (A) replacing “section 1329 of this title, and” with “section 1329 of this
14 title,” ,

15 (B) replacing “section 1330 of this title.” with “section 1330 of this title,
16 and”, and

17 (C) adding at the end “(4) to any municipality, intermunicipal, interstate,
18 or State agency for undertaking high priority water pollution control
19 projects under section 608 of this Act.”.

20 **SEC. 203.—PROGRAM IMPROVEMENTS.**

21 (a) ADDITIONAL FORMS OF FINANCIAL ASSISTANCE.—

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

- 1 (A) in subparagraph (A), by striking “20 years” and inserting “30
2 years or the expected life of the project to be financed with the
3 proceeds of the loan”; and
4 (B) in subparagraph (B), by striking “not later than 20 years after
5 project completion” and inserting “on the expiration of the term of
6 the loan”.

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

9 “(i) PRINCIPAL SUBSIDY.—

10 “(1) IN GENERAL.—A state shall provide additional subsidization to selected
11 loan recipient (including forgiveness of principal).

12 “(2) LIMITATION.—For each fiscal year, the total amount of loan subsidies
13 made by a State under this subsection shall not exceed 25 percent or be less
14 than 10 percent of the amount of the capitalization grant received by the State
15 for that fiscal year.’.

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

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

20 “(A) similar revolving funds established by municipalities or
21 intermunicipal agencies; and

22 “(B) developing and implementing innovative technologies;”.

1 (b) EXPENSES OF ADMINISTERING THE STATE FUND.—Section 603(d)(7) of the
2 Federal Water Pollution Control Act (33 U.S.C. 1383(d)(7)) is amended by
3 inserting before the period at the end the following: “or the greater of
4 \$400,000 per year or an amount equal to 1/2 percent per year of the current
5 valuation of the fund, plus the amount of any fees collected by the State under
6 subsection (c)(2)(C)”.

7 (c) ARCHITECTURAL AND ENGINEERING CONTRACTS.—Section 602(b) (33 U.S.C.
8 1382(b)) is amended--

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

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

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

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

21

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

4 “(c) ACTIVITIES ELIGIBLE FOR ASSISTANCE-

5 “(1) IN GENERAL- The water pollution control revolving fund of a State shall be
6 used only for providing financial assistance for activities that have, as a
7 principal benefit, the improvement or protection of the water quality of
8 navigable waters to a municipality, intermunicipal, interstate, or State agency,
9 or other person, including activities such as--

10 “(A) Construction of a publicly owned treatment works;

11 “(B) Implementation of measures to enhance the security of publicly owned
12 treatment works;

13 “(C) Replacement and rehabilitation of treatment works to intercept, transport,
14 control, or treat municipal combined sewer overflows and sanitary sewer
15 overflows;

16 “(D) Development and implementation of plans by a public recipient to prevent
17 water pollution.

18 “(E) Implementation of measures to improve the efficiency of public water use;
19 and

20 “(F) Implementation of a nonpoint source management program under section
21 319; and

22 “(G) Stormwater collection and treatment infrastructure.
23

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

3
4 **SEC. 301. AUTHORIZATION OF APPROPRIATIONS FROM THE CLEAN**
5 **AND SAFE WATER TRUST 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 CLEAN AND SAFE WATER
9 ACT TRUST FUND.—There is authorized to be appropriated from the Clean and Safe
10 Water Act Trust Fund, to carry out the purposes of this section, \$3,000,000 for each of
11 fiscal years 2006 through 2010. Amounts made available under this section shall remain
12 available until expended.”.

13 **SEC. 302. HIGH PRIORITY GRANT PROGRAM.**

14 (a) ESTABLISHMENT OF HIGH PRIORITY GRANT PROGRAM.—Section 1452(f) of the Safe
15 Drinking Water Act (42 U.S.C. 300j-12(f)) is amended by adding the following new
16 paragraph:

17 “(6) to make grants to community water systems and nonprofit noncommunity
18 water systems for any of the following projects—

19 “(A) the replacement of lead service lines,

20 “(B) an activity eligible for assistance under section 1452(a)(2) that
21 provides service to an economically disadvantaged community within the
22 meaning of section 1452(d)(3);

23 “(C) the desalinization of water for drinking water purposes, and

1 “(D) projects and activities to comply with the drinking water standard for
2 arsenic.”.

3 (b) ALLOCATION OF FUNDING FOR HIGH PRIORITY PROJECTS.—Section 1452(a)(2) is
4 amended by adding at the end the following sentence: “Of the amount credited to any
5 State loan fund established under this section in any fiscal year, 50 percent shall be
6 available solely for providing grants under subsection (f)(6).”.

7 **SEC. 303. PROGRAM IMPROVEMENTS.**

8 (a) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—

9 (1) In General.—Section 1452(a)(2) of the Safe Drinking Water Act (42 U.S.C.
10 300j-12(a)(2) is amended by replacing the second sentence with the following:

11 “Financial assistance under this section may be used by a public water
12 system only for expenditures (not including monitoring, operation, and
13 maintenance expenditures) of a type or category that the Administrator has
14 determined, through guidance, will (1) facilitate compliance with national
15 primary drinking water regulations applicable to the system under section
16 300g-1 of this title; (2) replace or rehabilitate aging collection, treatment,
17 and distribution systems of public water facilities; (3) construct or
18 rehabilitate raw and treated drinking water storage facilities; (4) replace
19 lead service lines; (5) provide for capital projects to upgrade security
20 systems; (6) provide for capital projects to desalinate water for drinking
21 water purposes.”.

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

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

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

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

16 (c) EXTENDED REPAYMENT PERIOD.—Section 1452(f) of the Safe Drinking Water Act (42
17 U.S.C. 300j-12(f)) is amended by striking subparagraph (B) and inserting the 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. 300 –j12) 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, or an equivalent qualifications-based
 10 requirement prescribed by the State, except that such an award shall not be
 11 construed as conferring a proprietary interest upon the United States.”.

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

15 **TITLE IV. TECHNOLOGY AND** 16 **MANAGEMENT**

17 **SECTION 401.—NATIONAL CLEAN AND SAFE WATER TECHNOLOGY** 18 **DEVELOPMENT PROGRAM**

19 (a) ESTABLISHMENT—

20 (1) IN GENERAL.—As soon as practicable after the date of enactment of
 21 this section, the Administrator shall establish a nationwide demonstration
 22 program to--
 23

1 (A) promote innovations in technology and alternative approaches
2 to water quality management; and

3 (B) reduce costs to municipalities incurred in complying with the
4 Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and
5 the Safe Drinking Water Act (42 U.S.C. 1251 et seq.).

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

9 (b) SELECTION OF MUNICIPALITIES.—

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

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

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

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

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

5 (2) TYPES OF PROJECTS.—In carrying out the demonstration program, the
6 Administrator may select projects which have the potential to advance
7 innovative or alternative approaches to addressing--

8 (A) excessive nutrient growth;

9 (B) urban or rural population pressure;

10 (C) lack of an alternative water supply;

11 (D) difficulties in water conservation and efficiency;

12 (E) lack of support tools and technologies to rehabilitate and
13 replace water supplies;

14 (F) lack of monitoring and data analysis for water distribution
15 systems;

16 (G) nonpoint source water pollution (including stormwater);

17 (H) sanitary overflows;

18 (I) combined sewer overflows;

19 (J) problems with naturally occurring constituents of concern;

20 (K) problems with erosion and excess sediment;

21 (L) new approaches to water treatment, distribution, and collection
22 systems;

1 (M) new methods for collecting and treating wastewater (including
2 system design and nonstructural alternatives);

3 (N) water desalinization;

4 (O) the development of cost-effective treatment technologies for
5 drinking water systems.

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

8 (A) ensure, to the maximum extent practicable, that--

9 (i) the demonstration program includes a variety of projects
10 that reflect a broad geographic distribution and
11 nontraditional approaches (including low-impact
12 development technologies) used for the projects; and

13 (ii) each category of project described in paragraph (2) is
14 adequately represented;

15 (B) give higher priority to projects that address multiple problems
16 and are regionally applicable;

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

20 (D) ensure that, for each fiscal year, no municipality receives more
21 than 25 percent of the total amount of funds made available for the
22 fiscal year to provide grants under this section.

1 (4) COST SHARING.—The non-Federal share of the cost of a project carried
2 out under this section shall be not less than 20 percent.

3 (c) REPORTS.—

4 (1) REPORTS FROM MUNICIPALITIES.—A municipality that is selected for
5 participation in the demonstration program shall submit to the
6 Administrator, on the date of completion of a project of the municipality
7 and on each of the dates that is 1, 2, and 3 years after that date, a report
8 that describes the effectiveness of the project.

9 (2) REPORTS TO CONGRESS.—Not later than 2 years after the date of
10 enactment of this section, and every 2 years thereafter, the Administrator
11 shall compile, and submit to Congress, a report that describes the status
12 and results of the demonstration program.

13 (d) INCORPORATION OF RESULTS AND INFORMATION.—To the maximum extent
14 practicable, the Administrator shall incorporate the results of, and information
15 obtained from, successful projects under this section into programs administered
16 by the Administrator.

17 (e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated
18 to carry out this section, from the Clean and Safe Water Trust Fund established in
19 section 101 of this Act, \$145,000,000 for each of fiscal years 2006 through 2010.”

20 **Sec. 402.—NATIONAL CENTER FOR UTILITY MANAGEMENT**

21 (a) ESTABLISHMENT OF THE NATIONAL CENTER.—The Administrator shall
22 establish a National Center for Utility Management.

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

3 (1) developing fully the concept, data and analytical tools and
4 technologies to help utility managers employ comprehensive asset
5 management and other best management practices, including coordinating
6 the relevant research conducted at university-based training and technical
7 assistance centers;

8 (2) coordinating ongoing and planned initiatives to promote asset
9 management within and across the drinking water and wastewater
10 programs;

11 (3) exploring opportunities to take advantage of asset management tools
12 and informational materials developed by other agencies (including the
13 Office of Asset Management in the Federal Highway Administration); and

14 (4) strengthening efforts to educate utilities and local government leaders
15 about the optimal use of comprehensive asset management and other best
16 management practices, through handbooks, software, workshops, the
17 establishment of a website, and other steps to assure that wastewater and
18 drinking water utilities, including small wastewater and drinking water
19 utilities, have easy access to information about comprehensive asset
20 management.

21 (c) GRANTS.—

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

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

2 (B) a non-for profit association representing wastewater or

3 drinking water utilities; or

4 (C) an institution of higher education.

5 (2) MATCH.—Federal funds for any project under this section shall not
6 exceed 75 percent of the total cost of such project.

7 (d) AUTHORIZATION.—There is authorized to be appropriated under this section,
8 from the Clean and Safe Water Trust Fund established in section 101 of this Act,
9 \$5,000,000 for fiscal years 2006 through 2010.

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

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

13 (A) assist rural and small publicly-owned utilities in planning, developing,
14 and obtaining financing for eligible projects described in section 603(c) of
15 the Federal Water Pollution Control Act (33 U.S.C. 1883(c) or section
16 1452(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j-12(a)(2));

17 (B) provide technical assistance and training for small rural utilities to
18 enable them to protect water quality and achieve and maintain compliance
19 with the Federal Water Pollution Control Act and the Safe Drinking Water
20 Act;

21 (C) disseminate information to small rural municipalities with respect to
22 planning, design, construction, and operation of publicly owned treatment

1 works, decentralized wastewater treatment systems, and drinking water
2 systems; and
3 (D) capitalize revolving loan funds to provide loans, in consultation with
4 the State in which the assistance is provided, to small rural municipalities
5 for predevelopment costs (including costs for planning, design, associated
6 preconstruction, and necessary activities for siting the facility and related
7 elements associated preconstruction, and necessary activities for siting the
8 facility and related elements) associated with wastewater or drinking water
9 infrastructure projects or short-term costs incurred for equipment
10 replacement that is not part of regular operation and maintenance activities
11 for existing wastewater or drinking water systems if—

- 12 (i) any loan from the fund is made at or below market interest rate,
13 for a term not to exceed 10 years;
14 (ii) the amount of a single loan does not exceed \$100,000; and
15 (iii) all loan repayments are credited to the fund.

16 (2) DEFINITIONS. In this section, the following terms have the following
17 definitions:

18 (A) QUALIFIED NONPROFIT TECHNICAL ASSISTANCE PROVIDER.—The
19 term ‘qualified nonprofit technical assistance provider’ means a qualified
20 nonprofit technical assistance provider of wastewater or drinking water
21 services to a small rural utility.

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

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

5 (ii) a community water system or nonprofit noncommunity water
6 system, within the meaning of section 1401 of the Safe Drinking
7 Water Act (42 U.S.C. 300f), 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 under to carry out
10 this section, from the Clean and Safe Water Trust Fund established under section
11 101 of this Act, \$50,000,000 for each of fiscal years 2006 through 2010.

12 **SEC 404. REAUTHORIZATION OF THE RESEARCH, TRAINING, AND**
13 **INFORMATION PROGRAM.**

14 Section 104(u) of the Federal Water Pollution Control Act (33 U.S.C. 1254(u)) is
15 amended—

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

17 (2) by inserting before the period at the end the following: “and (7) , from
18 the Clean and Safe Water Act Trust Fund, \$50,000,000 for each of fiscal years
19 2006 through 2011 for carrying out the provisions of section (b)(3).”.

1 **TITLE V—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) IN GENERAL.—To be eligible for assistance under this section, a State
11 shall establish a program for--

12 “(i) the protection and restoration of fresh water, estuarine,
13 and marine fisheries habitat; and

14 “(ii) the enhancement of access for fisheries uses through
15 watershed planning and the implementation of projects,
16 activities, and measures that meet the requirements of this
17 section.

18 “(2) APPLICATION FOR PROGRAM APPROVAL.—

19 “(A) IN GENERAL.—A State, in cooperation with and, wherever
20 applicable, through the authority of the State fish and wildlife
21 agency or regional fisheries commission, may submit to the
22 Secretary for approval a program described in paragraph (1).

23 “(B) APPROVAL.—The Secretary shall approve the program if the
24 Secretary finds, after public notice and opportunity for public

1 comment, that the program satisfies, and the State has the
2 capability to implement, the conditions described in paragraph (3).

3 “(3) CONDITIONS FOR PROGRAM APPROVAL.—

4 “(A) ESTABLISHMENT OF ADVISORY REVIEW BOARD.—

5 “(i) IN GENERAL.— A State shall establish an advisory
6 review board, committee, or other advisory body (or
7 expand the authority and duties of any body) to provide
8 recommendations with respect to each decision taken under
9 the program.

10 “(ii) MEMBERSHIP.—The membership of the advisory
11 review board shall—

12 “(I) be fairly balanced in terms of the points of view
13 represented and the functions to be performed;

14 “(II) be representative of interests affected by
15 activities carried out under the program (including
16 tribal, private, public, governmental, and nonprofit
17 interests); and

18 “(III) include 1 or more members who represent the
19 interests of designated watershed councils.

20 “(B) DESIGNATION AND TERMINATION OF COUNCILS.—

21 “(i) IN GENERAL.—State shall designate (or terminate the
22 designation of) councils and associated watersheds in
23 accordance with subsection (c)(4).

1 “(ii) DETERMINATION OF HIGH PRIORITY.—In designating a
2 watershed, the State shall determine, based on a review of
3 the best available scientific information collected in
4 cooperation with appropriate State fish and wildlife
5 agencies, whether the watershed shall be considered a high
6 priority watershed.

7 “(iii) FORMATION.—A State shall--

8 “(I) solicit, encourage, and facilitate the formation
9 of councils for high priority watersheds; and

10 “(II) support the formation of councils voluntarily
11 proposed in other watersheds.

12 “(C) PRIORITY RANKING SYSTEM.—

13 “(i) IN GENERAL.—A State shall develop, in cooperation
14 with appropriate State fish and wildlife agencies and State
15 technical committees, and provide to councils, a uniform
16 system for assigning priority rankings for recommended
17 projects and measures contained in plans submitted for
18 review under the program.

19 “(ii) SIGNIFICANT PROGRESS.—A priority ranking system
20 shall be based primarily on the likelihood that
21 recommended projects would achieve significant progress
22 toward protection or restoration of habitat or enhancement

1 of uses for important (or potentially important) recreational
2 and subsistence fisheries.

3 “(D) REVIEW OF DECISIONS.—

4 “(i) IN GENERAL.—A State shall review and issue, in
5 cooperation with appropriate State fish and wildlife
6 agencies, decisions concerning—

7 “(I) fisheries habitat protection, restoration, and
8 enhancement plans; and

9 “(II) all interim recommendations to the plans
10 developed, revised, or updated by councils.

11 “(ii) JUDICIAL REVIEW.—

12 “(I) IN GENERAL.—A decision referred to under
13 clause (i) shall be subject to judicial review under
14 State law.

15 “(II) NO FEDERAL REQUIREMENT.—Nothing in this
16 paragraph authorizes the Secretary to require any
17 particular form of judicial review, standard of
18 review, or standing requirements to obtain judicial
19 review.

20 “(E) FUNDS.—A State shall—

21 “(i) receive and administer funds provided and reserved
22 under this section; and

1 “(ii) maintain and administer a fisheries habitat account for
2 the purpose of providing funds for implementation of
3 council recommendations.

4 “(F) COORDINATION.—A State shall coordinate (in the case of a
5 shared fisheries habitat, with the watershed planning programs of
6 another State) the development of complementary approaches to--

7 “(i) the protection and restoration of fisheries habitat; and

8 “(ii) the enhancement of access for uses in watersheds.

9 “(G) REPORT.—A State shall annually submit to the Administrator,
10 and make available publicly within each designated watershed, a
11 report that describes--

12 “(i) the progress achieved, funds expended, and monitoring
13 results obtained by councils in the State under the program;

14 and

15 “(ii) the plans and objectives of the State for future
16 activities under the program.

17 “(H) RECOMMENDATIONS.—A State shall submit to each affected
18 and interested department and agency of the Federal Government
19 all recommendations contained in approved plans and interim
20 recommendations that pertain to the activities or land under the
21 jurisdiction of the department or agency.

22 “(I) MAJOR WATERWAY SEGMENTS.—A State that elects to
23 consider planning for major waterway segments under the program

1 shall review and issue decisions accepting or rejecting any
2 recommendation provided by the Secretary of the Interior under
3 subsection (h)(4).

4 “(b) WATERSHED COUNCILS.—

5 “(1) IN GENERAL.—A State, under a program approved under subsection
6 (a)--

7 “(A) may designate 1 or more councils to carry out the planning
8 functions identified in subsection (d); and

9 “(B) shall designate and describe the watershed for which each
10 council has planning responsibility.

11 “(2) CAPABILITIES AND PURPOSES OF COUNCILS.—A council shall be
12 eligible for designation under an approved State program if the council—

13 “(A) is a voluntary organization that—

14 “(i) possesses no direct or indirect regulatory authority; and

15 “(ii) is convened by a State; a local governing body, such as
16 a city, county, town, water supply or sewer district,
17 watershed district, drainage district, soil and water
18 conservation district, flood control district, or irrigation
19 district; or any combination of thereof.

20 “(B) has a membership that is fairly balanced, in terms of the
21 points of view represented and the functions to be performed, and
22 is representative of interests within the watershed that may be
23 affected by the activities of the council (including tribal, private,

1 public, governmental, and nonprofit interests, and the interests of
2 special purpose districts, as appropriate);
3 “(C) has a specific charter, to be approved by the State on
4 designation, that commits the council to achieving the objectives of
5 this section in a timely manner;
6 “(D) has access to expertise that is necessary to perform the
7 objectives of this section in a timely manner, including expertise of
8 members of the council, the State fish and wildlife agency and the
9 State technical committee, or identified advisory groups,
10 institutions, or individuals;
11 “(E) has adopted procedures to ensure public participation in the
12 activities of the council; and
13 “(F) has authority, through an agreement with the member
14 agencies of the council (including conservation districts and
15 resource conservation districts), to ensure proper administration of
16 and accounting for grant funds provided under this section and
17 other public or private funds.

18 “(3) OTHER CONSIDERATIONS.—

19 “(A) WATERSHEDS LOCATED IN MORE THAN 1 STATE-

20 “(i) IN GENERAL.— In the case of a watershed, the land and
21 water of which lie within the jurisdiction of more than 1
22 State, the States exercising jurisdiction over the watershed
23 may—

1 “(I) jointly designate a council to carry out planning
2 functions for the watershed; and

3 “(II) choose to facilitate a program through
4 establishment of an appropriate regional fisheries
5 commission.

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

12 “(B) PREFERENCE FOR EXISTING COUNCILS.—In designating
13 councils under this subsection, a State shall give preference to
14 councils or similar bodies (or portions of councils or similar
15 bodies) that—

16 “(i) are in existence on the date of enactment of this
17 section;

18 “(ii) are organized under other authorities for purposes
19 similar to the purposes of this section;

20 “(iii) are local or regional resource planning organizations;
21 and

22 “(iv) substantially satisfy the requirements of paragraph (2).

23 “(4) APPLICATION AND DESIGNATION PROCESS.—

1 “(A) APPLICATIONS.—An organization that meets the requirements
2 of paragraph (2) may apply for designation as a council by
3 submitting to a State with a program that has been approved under
4 subsection (b)—

5 “(i) a description of the capabilities and purpose of the
6 organization;

7 “(ii) the proposed charter of the organization; and

8 “(iii) a description of the relevant watershed.

9 “(B) DESIGNATIONS.—The State shall--

10 “(i) review and evaluate the adequacy of the materials
11 submitted under subparagraph (A);

12 “(ii) publish the materials for public comment, if the State
13 determines that all required materials have been submitted;
14 and

15 “(iii) within a reasonable time after the close of the public
16 comment period, issue a decision (including a response to
17 significant public comments) that--

18 “(I) designates the organization as a council, with or
19 without conditions; or

20 “(II) denies the application for designation.

21 “(C) EFFECT OF DESIGNATIONS.—If a council continues to serve
22 the purposes of the charter of the council, as determined by the
23 State, the council shall be eligible to receive--

1 “(i) funding to carry out planning functions under
2 subsection (h); and

3 “(ii) approval of the plan or revisions to the plan in
4 accordance with this section.

5 “(c) WATERSHED PLANNING PROCESS.—

6 “(1) COMPREHENSIVE PLANS.—

7 “(A) IN GENERAL.—Each council shall develop a comprehensive
8 fisheries habitat protection, restoration, and enhancement plan for
9 submission to the State that, at a minimum, meets the requirements
10 of paragraph (4).

11 “(B) CONSIDERATIONS.—In developing a plan under subparagraph
12 (A), a council shall—

13 “(i) consider the views of the appropriate State fish and
14 wildlife agency to ensure that the plan will complement the
15 implementation of fisheries-related plans developed under
16 other laws or requirements; and

17 “(ii) consult with the State technical committee, the State
18 department of agriculture, and other appropriate
19 organizations with relevant expertise to ensure that the
20 plan—

21 “(I) will complement the implementation of existing
22 State committee plans; and

1 “(II) reflects a thorough evaluation of the effect of
2 the recommendations of the council on land use
3 activities (including agricultural uses).

4 “(2) PLANNING ELEMENTS.—

5 ‘(A) IN GENERAL.—A plan developed and submitted for approval
6 under this section shall include a description of each of the
7 planning elements described in subparagraphs (B) through (H).

8 “(B) CHARACTERIZATION OF WATER AND WATERSHEDS.—A plan
9 described in subparagraph (A) shall include an analysis of the
10 water of the watershed in terms of—

11 “(i)(I) any fisheries-related indicators and habitat
12 characteristics that have been established by the State fish
13 and wildlife agency under subsection (h)(2); or

14 “(II) before the establishment of those indicators and
15 characteristics, the information issued by the Secretary of
16 the Interior under that subsection;

17 “(ii) geomorphological characteristics;

18 “(iii) manmade topographic features that govern the
19 quantity or flow of water;

20 “(iv) wetland, channels, meander belts, erosion zones, and
21 low-lying areas of the floodplain (including a description of
22 any historic and present flooding patterns);

23 “(v) watershed soils that are present, including—

1 “(I) the potential of the soil to erode; and
2 “(II) measures taken by landowners to prevent
3 runoff and erosion;
4 “(vi) land cover and land uses that affect the ability of the
5 watershed ability to support fishery resources;
6 “(vii) existing and potential fisheries-related uses of the
7 watershed (including recreational, subsistence, and
8 economic uses) that are or may be affected by—
9 “(I) adverse impacts on fisheries habitats; or
10 “(II) restrictions on public access;
11 “(viii) whether certain water in the watershed should be
12 considered to be habitat limited, of high value, or access
13 restricted for fisheries uses; and
14 “(ix) protections for fishery and habitat values in existence
15 on the date of receipt of the materials under this
16 subparagraph.
17 “(C) RECOMMENDED OBJECTIVES.—The council shall develop
18 near-term and long-term objectives for the protection and
19 restoration of fisheries habitat and enhancement of access within
20 the watershed, including, as relevant and appropriate,
21 recommendations for—

1 “(i) protection of high-value water through implementation
2 of measures to maintain habitat conditions that will sustain
3 a healthy, resilient, diverse, and productive aquatic system;
4 “(ii) restoration of habitat limited water or portions of
5 habitat limited water through the implementation of
6 measures to produce habitat conditions that will sustain a
7 healthy, resilient, diverse, and productive aquatic system;
8 and
9 “(iii) enhancement of access for fisheries uses in restricted
10 water through implementation of projects or measures to
11 increase public access, use, and enjoyment.

12 “(D) IDENTIFICATION OF EXISTING FACTORS, ACTIVITIES,
13 PROJECTS, AND MEASURES.—

14 “(i) IN GENERAL- The council shall identify--
15 “(I) the factors and activities causing adverse
16 impacts or threats to fisheries habitat in the
17 watershed;
18 “(II) restrictions on access for fisheries uses within
19 the watershed; and
20 “(III) the projects and measures, in the planning and
21 implementation stages, that are designed to address
22 the adverse impacts, threats, or restrictions.

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

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

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

14 “(III) flood control measures and other floodplain
15 management factors that may have an adverse
16 impact on fisheries habitat;

17 “(IV) the alteration or reduction of water flows, the
18 timing and magnitude of water-flow management
19 measures, and the acceleration of runoff that have
20 an adverse impact on fisheries habitat; and

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

1 “(E) RECOMMENDED PROJECTS AND MEASURES.—

2 “(i) IN GENERAL.—A plan shall describe the
3 recommendations of the council for specific projects and
4 measures that should be carried out, strengthened,
5 supported, or modified—

6 “(I) to achieve the objectives recommended under
7 subparagraph (C); and

8 “(II) to address the factors and activities identified
9 under subparagraph (D).

10 “(ii) PRIORITY RANKINGS.—The council shall assign a
11 priority ranking to each project and measure for which
12 implementation payments are recommended under
13 subsection (e).

14 “(iii) ANTICIPATED EFFECTS.—The plan shall identify
15 anticipated effects on land use activities in existence on the
16 date of completion of the plan.

17 “(iv) SOURCES OF FUNDING.—For each recommendation,
18 the plan shall identify potential sources of Federal, State,
19 local, or other financial support to facilitate implementation
20 of the recommendation.

21 “(F) CATEGORIES.—In making recommendations, the council shall
22 consider—

1 “(i) for high value and habitat limited water, any necessary
2 projects and measures that should be carried out,
3 strengthened, supported, or modified, with the willing
4 consent of persons holding a property interest or interests in
5 affected land, to protect or improve physical fisheries
6 habitat conditions such as—

- 7 “(I) instream modifications and structures;
8 “(II) streamside vegetation;
9 “(III) modifications to flood control measures and
10 structures to improve the connection of rivers to
11 low-lying areas such as backwaters, side channels,
12 oxbows, and tributary mouths;
13 “(IV) improved floodplain management practices
14 and flood control programs;
15 “(V) improved stream flow control practices;
16 “(VI) flood-response and disaster-relief planning
17 and measures that will preserve or improve habitat
18 integrity in connection with decisions regarding
19 flood response, cleanup, levee restoration, or other
20 alternatives following future floods; and
21 “(VII) other appropriate techniques for the
22 protection or improvement of fisheries habitat;

1 “(ii) for nonpoint sources or categories of nonpoint
2 sources—
3 “(I) contributing pollutants (including sediments) to
4 habitat limited water; and
5 “(II) any necessary incentives, funding, or other
6 assistance to facilitate the implementation, with the
7 willing consent of each person holding a property
8 interest in affected land, of additional or different
9 best management practices;
10 “(iii) for high value and habitat limited waters, any
11 necessary incentives, funding, or other assistance, to be
12 carried out with the willing consent of each person holding
13 a property interest in affected land, for the prevention or
14 mitigation of adverse impacts on fisheries habitat from the
15 destruction or modification of wetlands; and
16 “(iv) for restricted water, any necessary incentives, funding,
17 or other assistance, to be carried out with the willing
18 consent of each person holding a property interest in
19 affected land, for improvement of public access to the
20 water for enhancement of fisheries uses (including a
21 determination that recommended enhancements of fisheries
22 uses would be consistent with sustaining a healthy,

1 resilient, diverse, and productive aquatic system in the
2 affected water).

3 “(3) PERIODIC REVIEW AND REVISION.—

4 “(A) IN GENERAL.—Each council shall review and, as necessary or
5 appropriate, revise or update an approved plan on a regular basis
6 for as long as the council continues to be authorized, but not less
7 frequently than once every 5 years.

8 “(B) APPROVAL.—A revised or updated plan—

9 “(i) shall be submitted by a council for approval under
10 subsection (d); and

11 “(ii) if the plan is approved under that subsection, shall
12 have the effect of a plan approved under subsection (e).

13 “(C) PLANS OF TERMINATED COUNCILS.—The State shall—

14 “(i) periodically review each approved plan, the
15 administering council of which has been terminated; and

16 “(ii) decide whether to continue, terminate, or modify the
17 plan in accordance with subsection (d).

18 “(d) APPROVAL OF PLANS AND INTERIM RECOMMENDATIONS.—

19 “(1) SUBMISSION OF PLANS.—Each council shall submit for approval by
20 the State the plan or interim recommendations in accordance with this
21 subsection.

22 “(2) PUBLIC PARTICIPATION.—

1 “(A) IN GENERAL.—If a State preliminarily determines that a plan
2 or interim recommendations submitted under paragraph (1) meet
3 the requirements of subsection (c), the State shall—

4 “(i) promptly issue public notice and provide an
5 opportunity for a public comment period on the plan or
6 recommendations; and

7 “(ii) ensure that each Federal and State agency with
8 jurisdiction over any expenditures, projects, measures, or
9 management decisions that are the subject of any
10 recommendation—

11 “(I) receives a copy of the plan or interim
12 recommendations submitted for approval; and

13 “(II) is given an opportunity to consult with the
14 State before the State finalizes the decision on
15 approval of the plan or recommendations.

16 “(B) HEARING.—A public hearing shall be held during the public
17 comment period referred to in subparagraph (A)(i) if any interested
18 person—

19 “(i) requests a hearing; and

20 “(ii) raises significant issues.

21 “(3) DECISION.—

22 “(A) IN GENERAL.—As soon as practicable after the close of the
23 public comment period, the State shall issue, and provide public

1 notice of, a final decision approving or disapproving, in whole or
2 in part, the plan or interim recommendations.

3 “(B) COMPONENTS OF DECISION.—The decision shall—

4 “(i) describe any necessary conditions of, or limitations on,
5 an approval or partial approval;

6 “(ii) (I) describe the grounds for any disapproval or
7 partial disapproval; and

8 “(II) specify changes that are required before the
9 plan or interim recommendations may be fully
10 approved;

11 “(iii) indicate whether the appropriate Federal agencies
12 have expressly supported, conditionally supported, or
13 disagreed with any recommendations applicable to the
14 agencies;

15 “(iv) take into consideration—

16 “(I) the balance and representation of the
17 membership of the council at the time of
18 submission; and

19 “(II) the views expressed by council members who
20 do not support 1 or more of the recommendations;

21 “(v) respond to all significant comments received during
22 the public comment process; and

1 “(vi) prescribe a specific date that is not later than 30 days
2 after the date of the decision on which the decision shall be
3 effective.

4 “(4) RESUBMISSION OF PLANS.—A council may—

5 “(A) revise a plan or interim recommendation (or a portion of a
6 disapproved plan or interim recommendation) that is disapproved
7 or for which conditions or limitations are prescribed under
8 paragraph (3) in response to the conditions, limitations, or grounds
9 for disapproval; and

10 “(B) resubmit the plan or interim recommendation for
11 reconsideration in accordance with the requirements of this
12 subsection.

13 “(e) EFFECT OF PLAN APPROVAL.—

14 “(1) IN GENERAL.—

15 “(A) CONDITIONS AND PROCEDURES.—After the effective date of
16 any approved plan or interim recommendation, the expenditures,
17 management, planning, and activities described in this subsection
18 shall be subject to the conditions and procedures of this subsection
19 only to the extent that the expenditures, management, planning, or
20 activities take place on or directly affect land or water within the
21 watershed.

22 “(B) CONSENT OF WILLING SELLER.—Nothing in this section
23 requires any person to undertake or refrain from taking any action

1 under any recommendation contained in an approved plan or
2 interim recommendation unless willing written consent is obtained
3 from each person holding a property interest in the land affected by
4 the action.

5 “(2) IMPLEMENTATION EXPENDITURES.—

6 “(A) IN GENERAL.—Subject to the requirements of this paragraph,
7 projects and measures that support or implement specific
8 recommendations contained in an approved plan or interim
9 recommendation shall be eligible for financial support from
10 fisheries habitat account of the State established under subsection
11 (h)(3)(B).

12 “(B) USE OF FUNDS IN STATE FISHERIES HABITAT ACCOUNTS.—

13 “(i) PROVISION OF FUNDS.—A State may provide funds
14 from the fisheries habitat account of the State to person that
15 enters into a legally binding contract or other agreement for
16 implementation of existing or new projects and measures
17 recommended by a council under an approved plan or
18 interim recommendation.

19 “(ii) PERMITTED USES OF FUNDS.—Funds from a fisheries
20 habitat account of a State may be provided for any purpose
21 identified in an approved plan or interim recommendation,
22 including—

- 1 “(I) the design, construction, operation,
2 maintenance, or removal of any structures;
3 “(II) the conduct of activities, such as management
4 practices, that are not otherwise prohibited by law;
5 “(III) the acquisition of land or easements with the
6 written consent of each person holding a property
7 interest in the affected land;
8 “(IV) offset payments to local governments when
9 acquisitions reduce local tax revenues;
10 “(V) the restriction of access to water by, and
11 related provision of alternative water supplies for,
12 livestock; and
13 “(VI) payments for the purpose of funding, in whole
14 or in part, the increased premiums for crop
15 insurance made necessary by, and for a period
16 consistent with, reduced flood protection caused by
17 projects or measures recommended under
18 subsection (c)(4)(E)(i).
- 19 “(iii) PROHIBITED USES OF FUNDS.—No funds may be
20 expended from a fisheries habitat account of a State for the
21 planning, engineering, design, or construction of—
22 “(I) dams; or
23 “(II) roads on public land.

1 “(C) LIMITATION ON COSTS.—

2 “(i) IN GENERAL.—Each State shall establish a system of
3 appropriate limits on the maximum percentage of total
4 costs for a project or measure that may be provided from
5 the fisheries habitat account of the State.

6 “(ii) REFLECTION OF PRIORITY RANKINGS.—The system
7 established under clause (i) shall reflect the priority
8 rankings assigned to recommendations contained in
9 approved plans and interim recommendations.

10 “(iii) PRIORITY SEQUENCE.—Each State shall use the
11 priority ranking system to establish, and revise annually, a
12 comprehensive priority sequence for funding the projects
13 and measures that have been recommended by councils.

14 “(f) FUNDING.—

15 “(1) GRANTS FOR OPERATION OF STATE PROGRAMS.—

16 “(A) IN GENERAL.—The Administrator shall make grants to any
17 State with a program approved under subsection (a) for payment of
18 the reasonable costs of carrying out the responsibilities described
19 in paragraph (2).

20 “(B) PERCENT OF FUNDING FOR ACTIVITIES OF COUNCILS.—Not
21 less than 90 percent of the amount of a grant made under this
22 paragraph shall be reserved for supporting the implementation of
23 approved activities of councils.

1 “(C) MEMORANDUM OF UNDERSTANDING.—As a condition of
2 receiving a grant under clause (i), a State shall enter into a
3 memorandum of understanding with the Secretary that describes
4 the objectives and funding priorities for the program, including
5 conditions that require--

6 “(i) the State to carry out specific activities to promote the
7 formation of councils through education, outreach, and the
8 provision of funding for organizational and planning efforts
9 to develop requests for designation; and

10 “(ii) the State or regional commission to provide a
11 substantial portion of the funds available for watershed
12 planning to councils associated with high priority
13 watersheds.

14 “(D) LIMITATION ON ADMINISTRATIVE EXPENSES.—Not more than
15 10 percent of the amount of any grant made by a State to a council
16 from funds awarded under clause (i) may be used to pay the
17 administrative expenses or overhead in connection with the
18 activities of the council.

19 (2) FISHERIES HABITAT ACCOUNTS.—

20 (A) ESTABLISHMENT.—Each State with a program approved under
21 subsection (a) shall establish a fisheries habitat account to provide
22 financial support for the implementation of projects and measures

1 recommended by councils under approved plans and interim
2 recommendations.

3 “(B) TRANSFERS.—Each State with a program approved
4 under subsection (a) may reserve and transfer into the
5 fisheries habitat account of the State established under
6 subparagraph (A), in accordance with section 319, an
7 amount not to exceed 20 percent of the funds received for
8 fiscal year 2001 and each fiscal year thereafter. Amounts
9 transferred shall remain available until expended.

10 “(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be
11 appropriated to the Administrator, from the Clean and Safe Water Trust
12 Fund, not to exceed \$250,000,000 for each of fiscal years 2006 through
13 2010 for the purpose of making grants to States with programs approved
14 under subsection (b), to remain available until expended, to enable a State
15 to provide funds to any person, through the fisheries habitat account of the
16 State, for implementation of approved recommendations under subsection
17 (e)(2).

18 “(4) ALLOCATIONS OF AMOUNTS- Amounts appropriated under clause (iv)
19 shall be allocated among States with programs approved under subsection
20 (b), giving priority consideration to States that exceed other States in the
21 following categories:

22 “(A) The amount of hydroelectric instream use
23 (millions of gallons per day) in the State in the

1 previous calendar year, as identified by the United
2 States Geological Service.

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

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

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

9 “(g) DEFINITIONS.— In this section:

10 “(1) COUNCIL.—The term “council” means a watershed council
11 designated under subsection (c)(4).

12 “(2) HABITAT LIMITED WATER.—The term “habitat limited water” means
13 water in which the attainment of healthy, resilient, diverse, and productive
14 aquatic systems necessary to sustain socially, ecologically, or
15 economically important fisheries is adversely affected by physical,
16 chemical, or biological conditions that can be remediated.

17 “(3) HIGH PRIORITY WATERSHED.—The term “high priority watershed”
18 means a watershed designated under State law, as described in subsection
19 (b), for which available information demonstrates a high likelihood that
20 the planning and other activities authorized under this section could
21 achieve significant progress toward protection or restoration of habitat for
22 fisheries that exhibit substantial existing or potential biological,
23 commercial, or recreational value.

1 “(4) STATE FISH AND WILDLIFE AGENCY.—The term “State fish and
2 wildlife agency” means the commission, department, agency, or agencies
3 within each State that has or have primary legal authority for the
4 conservation of fish and wildlife in the State.

5 “(5) STATE.—The term ‘State’, when used in a political sense, means any
6 1 or more of the following authorities of a State receiving assistance under
7 this section acting under jurisdiction provided under State law:

8 “(A) The chief executive officer of a State.

9 “(B) A State agency charged with ensuring water quality standards.

10 “(C) A State fish and wildlife agency.

11 “(6) STATE TECHNICAL COMMITTEE.—The term “State technical
12 committee” means a State technical committee established by the
13 Secretary under subtitle G of the Food Security Act of 1985 (16 U.S.C.
14 3861 et seq.) to provide technical assistance relating to conservation.

15 “(7) WATERSHED.—The term “watershed” means, with respect to a river,
16 stream, or other surface water body, the drainage area that contributes
17 water to that river, stream, or water body.

18 “(h) EFFECT OF SECTION.—Nothing in this section—

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

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

1 “(3) except as specifically provided in this section, affects, alters,
2 suspends, or delays implementation of any other provision of this Act
3 (including any requirement under a program established under this Act),
4 or the obligations of any party under such a provision; or
5 “(4) authorizes any council, State, or Indian tribe to recommend or
6 approve the imposition of any new or more stringent regulatory or
7 compliance obligations under any provision of this Act (including any
8 requirement under a program established under this Act).”.

9 **TITLE VI—CRITICAL REGIONAL** 10 **PROGRAMS.**

11 12 **SEC. 601. INCREASED AUTHORIZATION FOR THE CHESAPEAKE BAY,** 13 **GREAT LAKES, AND LONG ISLAND SOUND PROGRAMS.**

14 (a) CHESAPEAKE BAY.—Section 117(j) of the Federal Water Pollution Control
15 Act, (33 U.S.C. 1267(j) is amended to read as follows:

16 “(j) Authorization of Appropriations.—There is authorized to be
17 appropriated from the Clean and Safe Water Trust Fund, to carry out this
18 section, \$60,000,000 for each of fiscal years 2006 through 2010. Such
19 amounts shall remain available until expended.”.

20 (b) GREAT LAKES.—Section 118(b)(12)(H) of the Federal Water Pollution
21 Control Act (33 U.S.C. 1268(b)(12)(H) is amended to read as follows:

22 “(H) Authorization of Appropriations.—There is authorized to be
23 appropriated to carry out this paragraph \$75,000,000 for each of fiscal

1 years 2006 through 2010. Such amounts shall remain available until
2 expended.”.

3 (c) LONG ISLAND SOUND.—Section 118(f)(2) of the Federal Water Pollution
4 Control Act (33 U.S.C. 1269(f)(2) is amended to read as follows:

5 “(2) There is authorized to be appropriated \$60,000,000 for each of fiscal
6 years 1006 through 2010. Such amounts shall remain available until
7 expended.”.

8 **SEC. 206. ESTABLISHMENT OF THE GULF OF MEXICO PROGRAM.**

9 Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is
10 amended by adding at the end the following section

11 “Section 1274. GULF OF MEXICO.—

12 “(a) GOAL.— The goal of the Gulf of Mexico Program is to protect, restore, and
13 enhance the coastal and marine waters of the Gulf of Mexico and the coastal
14 natural habitats of the Gulf, to sustain living resources, to protect human health
15 and the food supply, and to ensure the recreational use of the Gulf shores,
16 beaches, and waters in ways consistent with the economic well being of the
17 region.

18 “(b) GULF OF MEXICO PROGRAM.—

19 “(1) ESTABLISHMENT.—There is established an intergovernmental
20 program, to be known as the “Gulf of Mexico Program”, to meet the goal
21 under subsection (a). The Program shall be headed by a Director, who
22 shall be selected by the President. The Program shall include
23 representation from each Federal agency and each Gulf State. The

1 Environmental Protection Agency shall serve as the lead agency for the
2 program.

3 “(2) AGREEMENTS.—The Administrator shall enter into an agreement or
4 memorandum of understanding with the head of each Federal agency for
5 the participation of the Federal agency in the activities of the Program.
6 The head of each Federal agency that participates in the Program may
7 enter into such agreements with 1 or more heads of other Federal agencies
8 as are necessary to carry out this section.

9 “(3) ACTIVITIES.—The activities of the program shall include--

10 “(A) coordinating activities of Federal agencies and the Gulf
11 States;

12 “(B) providing administrative and technical support for the
13 Commission and the Committee in carrying out the duties of the
14 Commission and the Committee;

15 “(C) pursuant to paragraph (4), entering into agreements or
16 memoranda of understanding with the heads of other Federal
17 agencies for the participation of the Federal agencies in the
18 activities of the program;

19 “(D) assisting in the preparation of the Plan or report to be
20 submitted to Congress under this section; and

21 “(E) conducting such other activities as are necessary to carry out
22 this section.

23 “(c) GULF OF MEXICO COMMISSION.—

1 “(1) ESTABLISHMENT.—The President shall establish a Gulf of Mexico
2 Commission that shall advise and make recommendations to the Program
3 regarding appropriate actions that will promote successful implementation
4 of the goal described in subsection (a). The Commission shall consist
5 of the Governor (or designee of the Governor) of each of the Gulf States,
6 and 2 representatives of Federal agencies appointed by the President.

7 “(2) PURPOSE.—The Commission shall review and make specific
8 recommendations regarding the proposed Management and Restoration
9 Plan developed pursuant to subsection (e) and the implementation and
10 budget of the Plan.

11 “(3) ADVISORY COUNCILS.—The Commission shall establish a Citizens
12 Advisory Council and such other advisory councils as the Commission
13 considers necessary to assist the Program and the Commission in the
14 performance of the duties of the Program and the Commission.

15 “(d) MANAGEMENT AND POLICY REVIEW COMMITTEE—

16 “(1) IN GENERAL.—The Commission shall establish a Management and
17 Policy Review Committee.

18 “(2) MEMBERSHIP.—The Committee shall consist of a representative of an
19 environmental agency of each Gulf State appointed by the Governor of
20 each Gulf State, a Federal official from the Environmental Protection
21 Agency, the Department of Agriculture, the Department of Commerce, the
22 Department of the Interior, the Department of Transportation, the Army
23 Corps of Engineers, the Food and Drug Administration of the Department

1 of Health and Human Services, and the chairperson of the Citizens
2 Advisory Council established under subsection (c)(3).

3 “(3) DUTIES.—The Committee shall—

4 “(A) coordinate activities to support the Gulf of Mexico Program;

5 “(B) coordinate the development and implementation of the
6 Management and Restoration Plan under subsection (e);

7 “(C) coordinate such other restoration and protection activities as
8 may be requested by the Commission;

9 “(D) develop a list of prospective annual projects and programs as
10 an eligibility requirement for funding by an agency subject to the
11 approval of the Commission; and

12 “(E) assist the Commission in the performance of the duties of the
13 Commission, including issuing reports and holding hearings.

14 “(e) GULF OF MEXICO MANAGEMENT AND RESTORATION PLAN.—

15 “(1) IN GENERAL.—Not later than 2 years after the date of enactment of
16 this section, the Committee, in consultation with the Commission, each
17 advisory committee, and officials of the Federal and agencies of the Gulf
18 States concerning portions of the Plan within the jurisdiction of the
19 agencies, shall develop a Management and Restoration Plan for the Gulf
20 of Mexico.

21 “(2) PURPOSE.—The Gulf of Mexico Management and Restoration Plan
22 shall promote the Program goal as described in subsection (a), and shall—

1 “(A) assess the environmental quality of the Gulf, including the
2 status of critical habitats;
3 “(B) identify significant sources of pollution and activities
4 impacting the environmental quality of the Gulf;
5 “(C) incorporate actions and measures that will protect, enhance,
6 and restore the environmental quality of the Gulf ecosystem;
7 “(D) set priorities and schedules for action to be undertaken;
8 “(E) describe the process and institutional arrangements made
9 among the Federal agencies and State agencies of States and
10 political subdivisions of States that will serve to cooperatively
11 implement the actions and measures of the Plan, including the
12 identification of the governmental agency or other entity
13 responsible for carrying out the particular action or measure; and
14 “(F) describe a strategy for monitoring the effectiveness of the
15 actions or measures carried out under the Plan.

16 “(3) PUBLIC PARTICIPATION.—The Program shall make a reasonable effort
17 to ensure that the public is consulted with respect to actions undertaken
18 pursuant to the development and implementation of the Plan.

19 “(4) PLAN APPROVAL- Not later than 1 year after the date of development
20 of the Plan, and after providing for public review, comment, and
21 appropriate revision of the Plan, the Commission, with the concurrence of
22 the officials of Federal agencies concerning the portions of the Plan within
23 the jurisdiction of the Federal agencies, and with the concurrence of the

1 Gulf States concerning the portions of the plan relating to waters within
2 the jurisdiction of the Gulf States, shall approve the Plan if the Plan meets
3 the requirements of this section and other applicable Federal laws.

4 “(5) PLAN REVIEW.—The Plan approved under paragraph (4) shall be
5 reviewed, updated, and implemented under the conditions specified in this
6 subsection on the date that is 3 years after the date of initial approval, and
7 every 5 years thereafter.

8 “(f) INTERIM REPORT.—Not later than 1 year after the date of enactment of this
9 section, the Commission shall submit to Congress a report describing the
10 environmental quality of the Gulf of Mexico and the impact of environmental
11 problems of the Gulf on economic conditions and activities. The report shall
12 include—

13 “(1) a description of the information and research available to the
14 Commission concerning the environmental quality of the Gulf;

15 “(2) an inventory of relevant environmental research and monitoring
16 programs;

17 “(3) an identification of any deficiency in information and research needed
18 for the development and implementation of the plan developed pursuant to
19 subsection (e); and

20 “(4) an assessment of the economic importance and contributions of the
21 Gulf of Mexico to the Gulf States and to the United States, and an
22 identification of environmental problems relevant to the Gulf of Mexico
23 that pose a threat to the contributions.

1 “(g) GRANT PROGRAM.—

2 “(1) IN GENERAL.—The Administrator may, upon approval of an
3 application submitted by a Gulf State or a group of Gulf States, make a
4 grant to the Gulf State or group of Gulf States for the purpose of furthering
5 the development and implementation of the Plan.

6 “(2) APPLICATION REQUIREMENTS.—The Program Office shall establish
7 guidelines regarding the application and submission of a grant under this
8 section, in accordance with applicable Federal grant procedures. The
9 guidelines shall, at a minimum, include the following:

10 “(A) FEDERAL SHARE.—The amount of a grant made by the
11 Administrator under this section shall not exceed 50 percent of the
12 amount of funds necessary to carry out the activities for which the
13 grant is awarded.

14 “(B) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of
15 the amount of any grant awarded under this section may be
16 expended by a Gulf State (or group of Gulf States) for
17 administrative expenses.

18 “(C) LIABILITY.—A grant made under this section may not be used
19 for the purpose of relieving from liability any person who may
20 otherwise be liable under Federal or State law for damages,
21 response costs, natural resource damages, restitution, equitable
22 relief, or any other relief.

1 “(3) APPROVAL.—If the Administrator determines that an application for a
2 grant under this subsection has been approved by the Commission and is
3 consistent with applicable Federal laws, including this section, and with
4 the policies of the Environmental Protection Agency, the Administrator
5 may approve the application, and from available funds, award a grant
6 upon approval.

7 “(h) DEFINITIONS.—In this section, the following terms have the following
8 meanings:

9 “(1) COMMISSION.—The term “Commission” means the Gulf of Mexico
10 Commission established under subsection (b).

11 “(2) COMMITTEE.—The term “Committee” means the Gulf of Mexico
12 Management and Policy Review Committee established under subsection
13 (c).

14 “(3) FEDERAL AGENCY.—The term “Federal Agency” means the
15 Environmental Protection Agency, the Army Corps of Engineers, the
16 Department of Agriculture, the National Oceanic and Atmospheric
17 Administration of the Department of Commerce, the Department of the
18 Interior, the Department of Transportation, the Food and Drug
19 Administration of the Department of Health and Human Services, and any
20 other Federal agency with jurisdiction over coastal and marine resources.

21 “(4) GULF OF MEXICO.—The term “Gulf of Mexico” means the Gulf of
22 Mexico and the straits of Florida, and all contiguous bays, estuaries, and
23 beaches.

1 “(5) GULF STATES.— The term “Gulf States” means Alabama, Florida,
2 Louisiana, Mississippi, and Texas.

3 “(6) PLAN.—The term “Plan” means the Gulf of Mexico Management and
4 Restoration Plan.

5 “(7) PROGRAM.—The term “Program” means the Gulf of Mexico
6 Program.

7 “(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be
8 appropriated to the Administrator to carry out this section \$60,000,000 for each of
9 fiscal years 2006 through 2010.