

# DESCRIPTION OF THE CLEAN WATER TRUST ACT

## INTRODUCTION

In 2004, the Association of Metropolitan Sewage Agencies sponsored two discussion sessions to discuss ways to provide increased funding for the nation's water quality needs. Participants included representatives from national and regional resource management, conservation, and environmental organizations, as well as representatives from wastewater utilities and various infrastructure and utility-related associations.

After the second session, AMSA developed a draft to serve as a focus for further discussion, in the hope that a broad range of groups could agree on legislation. During this process, the Water Infrastructure Network, especially its Legislative Committee, made important contributions.

On November 22, a draft bill was circulated to participants for comment. On December 2, a meeting was held to discuss the draft. Further written comments were invited, and many were received. A second draft was circulated in January, 2005. Additional comments were received and are incorporated into the final draft.

## SUMMARY

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

The necessary funding, however, has not been forthcoming. For example, studies estimate a huge gap between our nation's water pollution control needs and the committed resources, with the Water Infrastructure Network estimating a gap of \$23 billion a year for the next 20 years.

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

To address the dramatic and growing gap between needs and available funds, the Clean Water Trust Fund Act would make several important changes. First and foremost, it creates a new Clean Water Trust Fund, authorized at \$35.75 billion over five years and funded from a dedicated revenue source. It also makes improvements in the Clean Water Act or order to improve the operation of the SRF program; improve technology, management, and research; protect critical regional waters, and improve fisheries habitat.

## TITLE I—CLEAN WATER TRUST FUND

To provide the funds necessary to meet water quality needs, the bill creates the Clean Water Trust Fund, authorized at a total of \$7.15 billion a year, or \$35.75 billion for 2006-2010.

Trust Fund revenue will come from a dedicated revenue source. AMSA and other members of the working group are continuing to review revenue options.

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

### Clean Water Act Fund

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

### Technology Programs

Technology demo grants	\$95 million	
Utility Management	\$ 5 million	
Small/Rural Systems	\$50 million	
Research	\$50 million	
<u>Total</u>		<u>\$200 million</u>

Assistance to States (section 106) \$250 million

Fisheries Enhancement \$250 million

Nonpoint Source Controls (Section 319) \$200 million

Regional Programs \$250 million

TOTAL \$ 7.15 billion/year

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

### Authorizations from the Clean Water Fund

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

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

The bill clarifies and expands eligibility under the Clean Water Act SRF. Specifically, it amends section 603 to authorize the use of the SRF not only for the construction and rehabilitation of POTWs and for the nonpoint and estuary programs, but also for security enhancements, stormwater controls (including nonstructural controls), CSOs/SSOs, water conservation measures undertaken by public entities, the extension of sewer service to areas with failed septic systems, and water quality monitoring under section 305(b).

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

### Program Improvements

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

- The bill increases funding for state administration by allowing a state to recover state revolving loan funds to the extent of the greater of ½ percent of the current valuation of the fund or \$400,000 (currently, States can use 4% of the amount of grants awarded to the fund).
- The bill also increases funding for state administration by authorizing appropriations of \$250 million a year, from the Clean Water Trust Fund, for the operation of State Clean Water Act programs.
- The bill requires that all engineering and architecture contracts be awarded in compliance with the Brooks Act, (Public Law 92-582), which establishes the procurement process by which architects and engineers are selected for design contracts with federal agencies.

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

### Critical Regional Waters

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

## TITLE III—TECHNOLOGY AND MANAGEMENT

### National Water Infrastructure Technology Development Program

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

The program is authorized at \$95 million a year, from the Clean Water Trust Fund. Each year, \$20 million is set-aside for projects that primarily utilize one or more of the following approaches: decentralized or distributed stormwater controls, enhanced decentralized wastewater treatment, low-impact development practices, conservation easements, stream buffers, or wetlands restoration.

### National Center for Utility Management

Wastewater utilities can benefit from greater use of various management tools, such as comprehensive asset management, improved worker training, and improved financial reporting. Accordingly, the bill directs the Administrator to contract with an appropriate nonprofit organization to establish the National Center for Utility Management, which is responsible for developing and promoting best practices for utility management.

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

#### Technical Assistance for Small Communities

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

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

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

#### Research

To restore a significant federal research program, the bill reauthorizes the research program under section 104 of the Clean Water Act, and authorizes appropriations of \$50 million a year, from the Clean Water Trust Fund.

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

To increase the resources devoted to restoring and protecting fisheries, the bill creates a new program to restore fisheries habitat and to enhance access to fisheries.

A state seeking funding must establish a program, that includes consultation with an advisory group and public participation, for the development of watershed plans. Each plan must address the following: characterization of the watershed, objectives, ongoing factors affecting habitat and access, specific projects to improve fisheries habitat, and necessary incentives to facilitate implementation of best management practices.

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