

115TH CONGRESS
2D SESSION

H. R. 7279

To amend the Federal Water Pollution Control Act to provide for an integrated planning process, to promote green infrastructure, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 12, 2018

Mr. GIBBS (for himself, Mrs. NAPOLITANO, Mr. LATTA, Ms. FUDGE, Mr. CHABOT, and Mrs. BUSTOS) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the Federal Water Pollution Control Act to provide for an integrated planning process, to promote green infrastructure, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Water Infrastructure
5 Improvement Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Environ-
3 mental Protection Agency.

4 (2) MUNICIPALITY.—The term “municipality”
5 has the meaning given that term in section 502 of
6 the Federal Water Pollution Control Act (33 U.S.C.
7 1362).

8 **SEC. 3. INTEGRATED PLANS.**

9 (a) INTEGRATED PLANS.—Section 402 of the Fed-
10 eral Water Pollution Control Act (33 U.S.C. 1342) is
11 amended by adding at the end the following:

12 “(s) INTEGRATED PLANS.—

13 “(1) DEFINITION OF INTEGRATED PLAN.—In
14 this subsection, the term ‘integrated plan’ means a
15 plan developed in accordance with the Integrated
16 Municipal Stormwater and Wastewater Planning
17 Approach Framework, issued by the Environmental
18 Protection Agency and dated June 5, 2012.

19 “(2) IN GENERAL.—The Administrator (or a
20 State, in the case of a permit program approved by
21 the Administrator) shall inform municipalities of the
22 opportunity to develop an integrated plan that may
23 be incorporated into a permit under this section.

24 “(3) SCOPE.—

1 “(A) SCOPE OF PERMIT INCORPORATING
2 INTEGRATED PLAN.—A permit issued under
3 this section that incorporates an integrated plan
4 may integrate all requirements under this Act
5 addressed in the integrated plan, including re-
6 quirements relating to—

7 “(i) a combined sewer overflow;

8 “(ii) a capacity, management, oper-
9 ation, and maintenance program for sani-
10 tary sewer collection systems;

11 “(iii) a municipal stormwater dis-
12 charge;

13 “(iv) a municipal wastewater dis-
14 charge; and

15 “(v) a water quality-based effluent
16 limitation to implement an applicable
17 wasteload allocation in a total maximum
18 daily load.

19 “(B) INCLUSIONS IN INTEGRATED PLAN.—
20 An integrated plan incorporated into a permit
21 issued under this section may include the imple-
22 mentation of—

23 “(i) projects, including innovative
24 projects, to reclaim, recycle, or reuse
25 water; and

1 “(ii) green infrastructure.

2 “(4) COMPLIANCE SCHEDULES.—

3 “(A) IN GENERAL.—A permit issued under
4 this section that incorporates an integrated plan
5 may include a schedule of compliance, under
6 which actions taken to meet any applicable
7 water quality-based effluent limitation may be
8 implemented over more than 1 permit term if
9 the schedule of compliance—

10 “(i) is authorized by State water qual-
11 ity standards; and

12 “(ii) meets the requirements of sec-
13 tion 122.47 of title 40, Code of Federal
14 Regulations (as in effect on the date of en-
15 actment of this subsection).

16 “(B) TIME FOR COMPLIANCE.—For pur-
17 poses of subparagraph (A)(ii), the requirement
18 of section 122.47 of title 40, Code of Federal
19 Regulations, for compliance by an applicable
20 statutory deadline under this Act does not pro-
21 hibit implementation of an applicable water
22 quality-based effluent limitation over more than
23 1 permit term.

24 “(C) REVIEW.—A schedule of compliance
25 incorporated into a permit issued under this

1 section may be reviewed at the time the permit
2 is renewed to determine whether the schedule
3 should be modified.

4 “(5) EXISTING AUTHORITIES RETAINED.—

5 “(A) APPLICABLE STANDARDS.—Nothing
6 in this subsection modifies any obligation to
7 comply with applicable technology and water
8 quality-based effluent limitations under this
9 Act.

10 “(B) FLEXIBILITY.—Nothing in this sub-
11 section reduces or eliminates any flexibility
12 available under this Act, including the authority
13 of a State to revise a water quality standard
14 after a use attainability analysis under section
15 131.10(g) of title 40, Code of Federal Regula-
16 tions (or a successor regulation), subject to the
17 approval of the Administrator under section
18 303(c).

19 “(6) CLARIFICATION OF STATE AUTHORITY.—

20 “(A) IN GENERAL.—Nothing in section
21 301(b)(1)(C) precludes a State from author-
22 izing in the water quality standards of the
23 State the issuance of a schedule of compliance
24 to meet water quality-based effluent limitations

1 in permits that incorporate provisions of an in-
2 tegrated plan.

3 “(B) TRANSITION RULE.—In any case in
4 which a discharge is subject to a judicial order
5 or consent decree, as of the date of enactment
6 of this subsection, resolving an enforcement ac-
7 tion under this Act, any schedule of compliance
8 issued pursuant to an authorization in a State
9 water quality standard may not revise a sched-
10 ule of compliance in that order or decree to be
11 less stringent, unless the order or decree is
12 modified by agreement of the parties and the
13 court.”.

14 (b) IMPLEMENTATION OF INTEGRATED PLANS
15 THROUGH ENFORCEMENT TOOLS.—Section 309 of the
16 Federal Water Pollution Control Act (33 U.S.C. 1319) is
17 amended by adding at the end the following:

18 “(h) IMPLEMENTATION OF INTEGRATED PLANS.—

19 “(1) IN GENERAL.—In conjunction with an en-
20 forcement action under subsection (a) or (b) relating
21 to municipal discharges, the Administrator shall in-
22 form a municipality of the opportunity to develop an
23 integrated plan, as defined in section 402(s).

24 “(2) MODIFICATION.—Any municipality under
25 an administrative order under subsection (a) or set-

1 tlement agreement (including a judicial consent de-
2 cree) under subsection (b) that has developed an in-
3 tegrated plan consistent with section 402(s) may re-
4 quest a modification of the administrative order or
5 settlement agreement based on that integrated
6 plan.”.

7 (c) REPORT TO CONGRESS.—Not later than 2 years
8 after the date of enactment of this Act, the Administrator
9 shall submit to the Committee on Environment and Public
10 Works of the Senate and the Committee on Transpor-
11 tation and Infrastructure of the House of Representatives,
12 and make publicly available, a report on each integrated
13 plan developed and implemented through a permit, order,
14 or judicial consent decree pursuant to the Federal Water
15 Pollution Control Act since the date of publication of the
16 “Integrated Municipal Stormwater and Wastewater Plan-
17 ning Approach Framework” issued by the Environmental
18 Protection Agency and dated June 5, 2012, including a
19 description of the control measures, levels of control, esti-
20 mated costs, and compliance schedules for the require-
21 ments implemented through such an integrated plan.

22 **SEC. 4. MUNICIPAL OMBUDSMAN.**

23 (a) ESTABLISHMENT.—There is established within
24 the Office of the Administrator an Office of the Municipal
25 Ombudsman, to be headed by a Municipal Ombudsman.

1 (b) GENERAL DUTIES.—The duties of the Municipal
2 Ombudsman shall include the provision of—

3 (1) technical assistance to municipalities seek-
4 ing to comply with the Federal Water Pollution Con-
5 trol Act; and

6 (2) information to the Administrator to help the
7 Administrator ensure that agency policies are imple-
8 mented by all offices of the Environmental Protec-
9 tion Agency, including regional offices.

10 (c) ACTIONS REQUIRED.—The Municipal Ombuds-
11 man shall work with appropriate offices at the head-
12 quarters and regional offices of the Environmental Protec-
13 tion Agency to ensure that a municipality seeking assist-
14 ance is provided information regarding—

15 (1) available Federal financial assistance for
16 which the municipality is eligible;

17 (2) flexibility available under the Federal Water
18 Pollution Control Act; and

19 (3) the opportunity to develop an integrated
20 plan under section 402(s) of the Federal Water Pol-
21 lution Control Act.

22 (d) INFORMATION SHARING.—The Municipal Om-
23 budsman shall publish on the website of the Environ-
24 mental Protection Agency—

25 (1) general information relating to—

1 (A) the technical assistance referred to in
2 subsection (b)(1);

3 (B) the financial assistance referred to in
4 subsection (c)(1);

5 (C) the flexibility referred to in subsection
6 (c)(2); and

7 (D) any resources developed by the Admin-
8 istrator related to integrated plans under sec-
9 tion 402(s) of the Federal Water Pollution Con-
10 trol Act; and

11 (2) a copy of each permit, order, or judicial
12 consent decree that implements or incorporates such
13 an integrated plan.

14 **SEC. 5. GREEN INFRASTRUCTURE.**

15 (a) DEFINITION.—Section 502 of the Federal Water
16 Pollution Control Act (33 U.S.C. 1362) is amended by
17 adding at the end the following:

18 “(27) GREEN INFRASTRUCTURE.—The term
19 ‘green infrastructure’ means the range of measures
20 that use plant or soil systems, permeable pavement
21 or other permeable surfaces or substrates,
22 stormwater harvest and reuse, or landscaping to
23 store, infiltrate, or evapotranspire stormwater and
24 reduce flows to sewer systems or to surface waters.”.

1 (b) GREEN INFRASTRUCTURE PROMOTION.—Title V
2 of the Federal Water Pollution Control Act (33 U.S.C.
3 1361 et seq.) is amended—

4 (1) by redesignating section 519 as section 520;
5 and

6 (2) by inserting after section 518 the following:

7 **“SEC. 519. GREEN INFRASTRUCTURE PROMOTION.**

8 “(a) IN GENERAL.—The Administrator shall promote
9 the use of green infrastructure in, and coordinate the inte-
10 gration of green infrastructure into, permitting and en-
11 forcement under this Act, planning efforts, research, tech-
12 nical assistance, and funding guidance of the Environ-
13 mental Protection Agency.

14 “(b) COORDINATION OF EFFORTS.—The Adminis-
15 trator shall ensure that the Office of Water coordinates
16 efforts to increase the use of green infrastructure with—

17 “(1) other Federal departments and agencies;

18 “(2) State, tribal, and local governments; and

19 “(3) the private sector.

20 “(c) REGIONAL GREEN INFRASTRUCTURE PRO-
21 MOTION.—The Administrator shall direct each regional of-
22 fice of the Environmental Protection Agency, as appro-
23 priate based on local factors, and consistent with the re-
24 quirements of this Act, to promote and integrate the use

1 of green infrastructure within the region, including
2 through—

3 “(1) outreach and training regarding green in-
4 frastructure implementation for State, tribal, and
5 local governments, tribal communities, and the pri-
6 vate sector; and

7 “(2) the incorporation of green infrastructure
8 into permitting and other regulatory programs,
9 codes, and ordinance development, including the re-
10 quirements under consent decrees and settlement
11 agreements in enforcement actions.

12 “(d) GREEN INFRASTRUCTURE INFORMATION-SHAR-
13 ING.—The Administrator shall promote green infrastruc-
14 ture information-sharing, including through an internet
15 website, to share information with, and provide technical
16 assistance to, State, tribal, and local governments, tribal
17 communities, the private sector, and the public, regarding
18 green infrastructure approaches for—

19 “(1) reducing water pollution;

20 “(2) protecting water resources;

21 “(3) complying with regulatory requirements;

22 and

23 “(4) achieving other environmental, public
24 health, and community goals.”.

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