

118TH CONGRESS
1ST SESSION

S. 115

To amend the Federal Water Pollution Control Act to modify certain allotments under that Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 26, 2023

Mr. RUBIO (for himself, Mr. KELLY, and Mr. SCOTT of Florida) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Federal Water Pollution Control Act to modify certain allotments under that Act, 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 “Clean Water Allotment
5 Modernization Act of 2023”.

6 **SEC. 2. MODIFICATION TO ALLOTMENTS UNDER THE FED-**
7 **ERAL WATER POLLUTION CONTROL ACT.**

8 (a) IN GENERAL.—Section 205 of the Federal Water
9 Pollution Control Act (33 U.S.C. 1285) is amended by
10 striking the section designation and heading and all that

1 follows through the end of subsection (a) and inserting
 2 the following:

3 **“SEC. 205. ALLOTMENTS.**

4 “(a) IN GENERAL.—

5 “(1) DEFINITIONS.—In this subsection:

6 “(A) BUY AMERICAN OVERSIGHT.—The
 7 term ‘Buy American oversight’ means any ac-
 8 tivity carried out by the Administrator for the
 9 purposes of management or oversight with re-
 10 spect to section 608.

11 “(B) CLEAN WATERSHEDS NEEDS SUR-
 12 VEY.—The term ‘clean watersheds needs sur-
 13 vey’ means the detailed estimate prepared by
 14 the Administrator under section 516(b)(1)(B).

15 “(C) STATE.—The term ‘State’ means—

16 “(i) each of the 50 States;

17 “(ii) the District of Columbia; and

18 “(iii) the Commonwealth of Puerto
 19 Rico.

20 “(D) UNITED STATES TERRITORY.—The
 21 term ‘United States territory’ means—

22 “(i) American Samoa;

23 “(ii) the Commonwealth of the North-
 24 ern Mariana Islands;

1 “(iii) the United States Virgin Is-
2 lands; and

3 “(iv) Guam.

4 “(2) FISCAL YEARS 2024 THROUGH 2028.—

5 “(A) BUY AMERICAN OVERSIGHT.—For
6 each of fiscal years 2024 through 2028, of the
7 amounts made available to carry out this sec-
8 tion for a fiscal year, the Administrator shall
9 provide an allotment of not less than 0.1 per-
10 cent for Buy American oversight.

11 “(B) INITIAL ALLOTMENTS TO STATES.—
12 For each of fiscal years 2024 through 2028, of
13 the amounts made available to carry out this
14 section for a fiscal year, the Administrator shall
15 provide an allotment to each State in an
16 amount that is not less than the amount re-
17 ceived by the State under this section in fiscal
18 year 2023 under the Consolidated Appropria-
19 tions Act, 2023 (Public Law 117–328).

20 “(C) ADDITIONAL ALLOTMENTS TO
21 STATES.—Notwithstanding any other provision
22 of this section, for each of fiscal years 2024
23 through 2028, of the amounts made available to
24 carry out this section for a fiscal year that re-
25 main available after application of subpara-

1 graph (B), the Administrator shall provide an
2 additional allotment to each State in an amount
3 that is based on the proportion that, as deter-
4 mined using the most recently published annual
5 estimate of the Bureau of the Census—

6 “(i) the population of the State; bears

7 to

8 “(ii) the total population of all States.

9 “(D) ALLOTMENTS TO INDIAN TRIBES.—

10 For each of fiscal years 2024 through 2028, of
11 the amounts made available to carry out this
12 section for a fiscal year, the Administrator shall
13 provide an allotment of 2 percent to Indian
14 tribes.

15 “(E) ALLOTMENTS TO UNITED STATES

16 TERRITORIES.—For each of fiscal years 2024
17 through 2028, of the amounts made available to
18 carry out this section for a fiscal year, the Ad-
19 ministrator shall provide an allotment of 1.5
20 percent to United States territories.

21 “(3) SUBSEQUENT FISCAL YEARS.—

22 “(A) IN GENERAL.—For fiscal year 2029
23 and each fiscal year thereafter, in allotting
24 amounts made available to carry out this sec-
25 tion for a fiscal year, the Administrator shall

1 use an updated allotment formula consistent
2 with subparagraph (B).

3 “(B) FORMULA.—

4 “(i) DEVELOPMENT.—The Adminis-
5 trator shall, by regulation, develop a for-
6 mula—

7 “(I) for the calculation of allot-
8 ments of amounts made available to
9 carry out this section for a fiscal year
10 to States in accordance with clause
11 (ii); and

12 “(II) that includes allotments of
13 amounts made available to carry out
14 this section for a fiscal year—

15 “(aa) to provide to Indian
16 tribes in accordance with clause
17 (iii);

18 “(bb) to provide to United
19 States territories in accordance
20 with clause (iv); and

21 “(cc) for Buy American
22 oversight in accordance with
23 clause (v).

24 “(ii) ALLOTMENTS FOR STATES.—In
25 developing the formula required under sub-

1 paragraph (A) for the allotments described
2 in clause (i)(I), the Administrator shall—

3 “(I) base the formula on the
4 needs of the States, as identified in
5 the most recently available clean wa-
6 tersheds needs survey; and

7 “(II) ensure that each State re-
8 ceives not less than 1 percent of the
9 amounts made available to carry out
10 this section for a fiscal year.

11 “(iii) ALLOTMENTS FOR INDIAN
12 TRIBES.—In developing the formula re-
13 quired under subparagraph (A) for the al-
14 lotments described in clause (i)(II)(aa), the
15 Administrator shall provide 2 percent of
16 the amounts made available to carry out
17 this section for a fiscal year to Indian
18 tribes.

19 “(iv) ALLOTMENTS FOR UNITED
20 STATES TERRITORIES.—In developing the
21 formula required under subparagraph (A)
22 for the allotments described in clause
23 (i)(II)(bb), the Administrator shall provide
24 1.5 percent of the amounts made available

1 to carry out this section for a fiscal year
2 to United States territories.

3 “(v) BUY AMERICAN OVERSIGHT.—In
4 developing the formula required under sub-
5 paragraph (A) for the allotments described
6 in clause (i)(II)(cc), the Administrator
7 shall ensure that 0.1 percent of the
8 amounts made available to carry out this
9 section for a fiscal year are used for Buy
10 American oversight.

11 “(C) TIMELINE.—

12 “(i) INITIAL FORMULA.—The Admin-
13 istrator shall develop the initial formula re-
14 quired under subparagraph (A) by not
15 later than September 30, 2028, to ensure
16 that the formula is in effect for fiscal year
17 2029.

18 “(ii) UPDATES REQUIRED.—After de-
19 veloping the formula required under sub-
20 paragraph (A) by the date described in
21 clause (i), the Administrator shall update
22 that formula by not later than the date
23 that is 1 year after the date on which the
24 Administrator submits a new clean water-
25 sheds needs survey to Congress.

1 “(4) SAVINGS PROVISION.—To the extent prac-
2 ticable, the Administrator shall continue developing
3 the allotment formula under paragraph (2) until the
4 date on which the Administrator submits to Con-
5 gress a new clean watersheds needs survey for pur-
6 poses of the formula required under paragraph
7 (3)(A).”.

8 (b) NO EFFECT ON INFRASTRUCTURE FUNDS.—
9 Nothing in this section or an amendment made by this
10 section affects—

11 (1) amounts made available to carry out section
12 205 of the Federal Water Pollution Control Act (33
13 U.S.C. 1285) or title VI of that Act (33 U.S.C.
14 1381 et seq.) under division J of the Infrastructure
15 Investment and Jobs Act (Public Law 117–58; 135
16 Stat. 1350); or

17 (2) any allocations of those amounts.

18 **SEC. 3. CLEAN WATERSHEDS NEEDS SURVEY.**

19 Section 516(b) of the Federal Water Pollution Con-
20 trol Act (33 U.S.C. 1375(b)) is amended—

21 (1) by striking paragraph (2);

22 (2) in paragraph (1)—

23 (A) in the third sentence, by striking
24 “Whenever the Administrator,” and inserting
25 the following:

1 “(3) SUBMISSION TO CONGRESS.—Whenever
2 the Administrator,”; and

3 (B) in the second sentence, by striking
4 “The Administrator shall” and inserting the
5 following:

6 “(2) DEADLINE.—The Administrator shall”;

7 (3) by striking the subsection designation and
8 all that follows through “The Administrator,” in
9 paragraph (1) and inserting the following:

10 “(b) ESTIMATES; STUDIES; ANALYSES.—

11 “(1) IN GENERAL.—The Administrator,”; and

12 (4) in paragraph (1) (as so amended)—

13 (A) by striking “; and (D) a comprehen-
14 sive” and inserting the following: “; and

15 “(D) a comprehensive”;

16 (B) by striking “(C) a comprehensive” and
17 inserting the following:

18 “(C) a comprehensive”;

19 (C) by striking “(B) a detailed estimate”
20 and all that follows through “in each of the
21 States;” and inserting the following:

22 “(B) a detailed estimate, biennially revised,
23 of the cost of construction of all planned pub-
24 licly owned treatment works in each State, and
25 all needed publicly owned treatment works in

1 each State, which shall include a detailed esti-
2 mate of—

3 “(i) the cost of construction for reha-
4 bilitating or upgrading all existing publicly
5 owned treatment works (excluding any pipe
6 or other device or system for the convey-
7 ance of wastewater) every 20 years, includ-
8 ing the cost of implementing measures nec-
9 essary to address the resilience and sus-
10 tainability of publicly owned treatment
11 works to manmade or natural disasters;
12 and

13 “(ii) the cost of construction for re-
14 placing 10 percent of existing publicly
15 owned pipes and other devices and systems
16 for the conveyance of wastewater to pub-
17 licly owned treatment works over the 20-
18 year period following the date of the esti-
19 mate;” and

20 (D) by striking “shall make (A) a detailed
21 estimate” and inserting the following: “shall
22 make—

23 “(A) a detailed estimate”.

1 **SEC. 4. ADDITIONAL ELIGIBLE USE OF ALLOTTED FUNDS.**

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

5 “(k) **ADDITIONAL ELIGIBLE USE OF ALLOTTED**
6 **FUNDS.**—Notwithstanding any other provision of this sec-
7 tion, each fiscal year, a State may reserve up to 0.5 per-
8 cent of the amounts allotted to the State under this title
9 and section 205(m) for that fiscal year to carry out activi-
10 ties necessary to create the detailed estimate under section
11 516(b)(1)(B).”.

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