

PUBLIC LAW 115-436—JAN. 14, 2019

WATER INFRASTRUCTURE
IMPROVEMENT ACT

Public Law 115–436
115th Congress

An Act

Jan. 14, 2019
[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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Water
Infrastructure
Improvement
Act.
33 USC 1251
note.

SECTION 1. SHORT TITLE.

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

42 USC 4370j
note.

SEC. 2. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

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

SEC. 3. INTEGRATED PLANS.

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

“(s) INTEGRATED PLANS.—

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

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

“(3) SCOPE.—

“(A) SCOPE OF PERMIT INCORPORATING INTEGRATED PLAN.—A permit issued under this section that incorporates an integrated plan may integrate all requirements under this Act addressed in the integrated plan, including requirements relating to—

“(i) a combined sewer overflow;

“(ii) a capacity, management, operation, and maintenance program for sanitary sewer collection systems;

“(iii) a municipal stormwater discharge;

“(iv) a municipal wastewater discharge; and

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

“(B) INCLUSIONS IN INTEGRATED PLAN.—An integrated plan incorporated into a permit issued under this section may include the implementation of—

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

“(ii) green infrastructure.

“(4) COMPLIANCE SCHEDULES.—

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

“(i) is authorized by State water quality standards; and

“(ii) meets the requirements of section 122.47 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection).

“(B) TIME FOR COMPLIANCE.—For purposes of subparagraph (A)(ii), the requirement of section 122.47 of title 40, Code of Federal Regulations, for compliance by an applicable statutory deadline under this Act does not prohibit implementation of an applicable water quality-based effluent limitation over more than 1 permit term.

“(C) REVIEW.—A schedule of compliance incorporated into a permit issued under this section may be reviewed at the time the permit is renewed to determine whether the schedule should be modified.

“(5) EXISTING AUTHORITIES RETAINED.—

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

“(B) FLEXIBILITY.—Nothing in this subsection reduces or eliminates any flexibility available under this Act, including the authority of a State to revise a water quality standard after a use attainability analysis under section 131.10(g) of title 40, Code of Federal Regulations (or a successor regulation), subject to the approval of the Administrator under section 303(c).

“(6) CLARIFICATION OF STATE AUTHORITY.—

“(A) IN GENERAL.—Nothing in section 301(b)(1)(C) precludes a State from authorizing in the water quality standards of the State the issuance of a schedule of compliance to meet water quality-based effluent limitations in permits that incorporate provisions of an integrated plan.

“(B) TRANSITION RULE.—In any case in which a discharge is subject to a judicial order or consent decree, as of the date of enactment of this subsection, resolving an enforcement action under this Act, any schedule of compliance issued pursuant to an authorization in a State water quality standard may not revise a schedule of compliance in that order or decree to be less stringent, unless

the order or decree is modified by agreement of the parties and the court.”.

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

“(h) **IMPLEMENTATION OF INTEGRATED PLANS.**—

“(1) **IN GENERAL.**—In conjunction with an enforcement action under subsection (a) or (b) relating to municipal discharges, the Administrator shall inform a municipality of the opportunity to develop an integrated plan, as defined in section 402(s).

“(2) **MODIFICATION.**—Any municipality under an administrative order under subsection (a) or settlement agreement (including a judicial consent decree) under subsection (b) that has developed an integrated plan consistent with section 402(s) may request a modification of the administrative order or settlement agreement based on that integrated plan.”.

Public
information.

(c) **REPORT TO CONGRESS.**—Not later than 2 years after the date of enactment of this Act, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, and make publicly available, a report on each integrated plan developed and implemented through a permit, order, or judicial consent decree pursuant to the Federal Water Pollution Control Act since the date of publication of the “Integrated Municipal Stormwater and Wastewater Planning Approach Framework” issued by the Environmental Protection Agency and dated June 5, 2012, including a description of the control measures, levels of control, estimated costs, and compliance schedules for the requirements implemented through such an integrated plan.

42 USC 4370j.

SEC. 4. MUNICIPAL OMBUDSMAN.

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

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

(1) technical assistance to municipalities seeking to comply with the Federal Water Pollution Control Act; and

(2) information to the Administrator to help the Administrator ensure that agency policies are implemented by all offices of the Environmental Protection Agency, including regional offices.

(c) **ACTIONS REQUIRED.**—The Municipal Ombudsman shall work with appropriate offices at the headquarters and regional offices of the Environmental Protection Agency to ensure that a municipality seeking assistance is provided information regarding—

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

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

(3) the opportunity to develop an integrated plan under section 402(s) of the Federal Water Pollution Control Act.

Web posting.

(d) **INFORMATION SHARING.**—The Municipal Ombudsman shall publish on the website of the Environmental Protection Agency—

(1) general information relating to—

- (A) the technical assistance referred to in subsection (b)(1);
 - (B) the financial assistance referred to in subsection (c)(1);
 - (C) the flexibility referred to in subsection (c)(2); and
 - (D) any resources developed by the Administrator related to integrated plans under section 402(s) of the Federal Water Pollution Control Act; and
- (2) a copy of each permit, order, or judicial consent decree that implements or incorporates such an integrated plan.

SEC. 5. GREEN INFRASTRUCTURE.

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

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

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

- (1) by redesignating section 519 as section 520; and
- (2) by inserting after section 518 the following:

“SEC. 519. GREEN INFRASTRUCTURE PROMOTION.

“(a) **IN GENERAL.**—The Administrator shall promote the use of green infrastructure in, and coordinate the integration of green infrastructure into, permitting and enforcement under this Act, planning efforts, research, technical assistance, and funding guidance of the Environmental Protection Agency.

“(b) **COORDINATION OF EFFORTS.**—The Administrator shall ensure that the Office of Water coordinates efforts to increase the use of green infrastructure with—

- “(1) other Federal departments and agencies;
- “(2) State, tribal, and local governments; and
- “(3) the private sector.

“(c) **REGIONAL GREEN INFRASTRUCTURE PROMOTION.**—The Administrator shall direct each regional office of the Environmental Protection Agency, as appropriate based on local factors, and consistent with the requirements of this Act, to promote and integrate the use of green infrastructure within the region, including through—

- “(1) outreach and training regarding green infrastructure implementation for State, tribal, and local governments, tribal communities, and the private sector; and
- “(2) the incorporation of green infrastructure into permitting and other regulatory programs, codes, and ordinance development, including the requirements under consent decrees and settlement agreements in enforcement actions.

“(d) **GREEN INFRASTRUCTURE INFORMATION-SHARING.**—The Administrator shall promote green infrastructure information-sharing, including through an internet website, to share information with, and provide technical assistance to, State, tribal, and local governments, tribal communities, the private sector, and the public, regarding green infrastructure approaches for—

- “(1) reducing water pollution;

33 USC 1251
note.

Coordination.
33 USC 1377a.

Website.

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“(2) protecting water resources;
“(3) complying with regulatory requirements; and
“(4) achieving other environmental, public health, and
community goals.”.

Approved January 14, 2019.

LEGISLATIVE HISTORY—H.R. 7279:

CONGRESSIONAL RECORD, Vol. 164 (2018):

Dec. 19, considered and passed House.

Dec. 22, considered and passed Senate.

