

117TH CONGRESS  
1ST SESSION

# S. 3031

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

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 20, 2021

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

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## 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 2021”.

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

8       Section 205 of the Federal Water Pollution Control  
9       Act (33 U.S.C. 1285) is amended by striking the section

1 designation and heading and all that follows through the  
 2 end of subsection (a) and inserting 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 2022 THROUGH 2026.—

5 “(A) BUY AMERICAN OVERSIGHT.—For  
6 each of fiscal years 2022 through 2026, 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 2022 through 2026, 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 2021.

19 “(C) ADDITIONAL ALLOTMENTS TO  
20 STATES.—Notwithstanding any other provision  
21 of this section, for each of fiscal years 2022  
22 through 2026, of the amounts made available to  
23 carry out this section for a fiscal year that re-  
24 main available after application of subpara-  
25 graph (B), the Administrator shall provide an

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

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

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

8 “(D) ALLOTMENTS TO INDIAN TRIBES.—

9 For each of fiscal years 2022 through 2026, of  
10 the amounts made available to carry out this  
11 section for a fiscal year, the Administrator shall  
12 provide an allotment of 2 percent to Indian  
13 tribes.

14 “(E) ALLOTMENTS TO UNITED STATES  
15 TERRITORIES.—For each of fiscal years 2022  
16 through 2026, of the amounts made available to  
17 carry out this section for a fiscal year, the Ad-  
18 ministrator shall provide an allotment of 1.5  
19 percent to United States territories.

20 “(3) SUBSEQUENT FISCAL YEARS.—

21 “(A) IN GENERAL.—For fiscal year 2027  
22 and each fiscal year thereafter, in allotting  
23 amounts made available to carry out this sec-  
24 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, 2026, to ensure  
16 that the formula is in effect for fiscal year  
17 2027.

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

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

11                 (1) by striking paragraph (2);

12                 (2) in paragraph (1)—

13                         (A) in the third sentence, by striking  
 14                         “Whenever the Administrator,” and inserting  
 15                         the following:

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

18                         (B) in the second sentence, by striking  
 19                         “The Administrator shall” and inserting the  
 20                         following:

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

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

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



1 “(1) IN GENERAL.—The Administrator,”; and  
 2 (4) in paragraph (1) (as so amended)—

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

5 “(D) a comprehensive”;

6 (B) by striking “(C) a comprehensive” and  
 7 inserting the following:

8 “(C) a comprehensive”;

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

12 “(B) a detailed estimate, biennially revised,  
 13 of the cost of construction of all planned pub-  
 14 licly owned treatment works in each State, and  
 15 all needed publicly owned treatment works in  
 16 each State, which shall include a detailed esti-  
 17 mate of—

18 “(i) the cost of construction for reha-  
 19 bilitating or upgrading all existing publicly  
 20 owned treatment works (excluding any pipe  
 21 or other device or system for the convey-  
 22 ance of wastewater) every 20 years, includ-  
 23 ing the cost of implementing measures nec-  
 24 essary to address the resilience and sus-  
 25 tainability of publicly owned treatment

1 works to manmade or natural disasters;  
 2 and

3 “(ii) the cost of construction for re-  
 4 placing 10 percent of existing publicly  
 5 owned pipes and other devices and systems  
 6 for the conveyance of wastewater to pub-  
 7 licly owned treatment works over the 20-  
 8 year period following the date of the esti-  
 9 mate;”; and

10 (D) by striking “shall make (A) a detailed  
 11 estimate” and inserting the following: “shall  
 12 make—

13 “(A) a detailed estimate”.

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

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

18 “(k) **ADDITIONAL ELIGIBLE USE OF ALLOTTED**  
 19 **FUNDS.**—Notwithstanding any other provision of this sec-  
 20 tion, each fiscal year, a State may reserve up to 0.5 per-  
 21 cent of the amounts allotted to the State under this title  
 22 and section 205(m) for that fiscal year to carry out activi-  
 23 ties necessary to create the detailed estimate under section  
 24 516(b)(1)(B).”.

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