To amend the Federal Water Pollution Control Act to assist municipalities and regional sewer authorities that would experience a significant hardship raising the revenue necessary to finance projects and activities for the construction of wastewater treatment works, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Latta introduced the following bill; which was referred to the Committee on

A BILL

To amend the Federal Water Pollution Control Act to assist municipalities and regional sewer authorities that would experience a significant hardship raising the revenue necessary to finance projects and activities for the construction of wastewater treatment works, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Clean Water Afford-ability Act of 2014”.

SEC. 2. INTEGRATED PERMITTING PROCESS.

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

“(6) INTEGRATED PERMITS.—

“(A) DEFINITION OF PUBLICLY OWNED PERMITTEE.—In this paragraph, the term ‘publicly owned permittee’ means either—

“(i) a treatment works (as defined in section 212) that is publicly owned; or

“(ii) a municipal separate storm sewer system referred to in this section.

“(B) PLANNING APPROACH.—The Administrator shall establish a comprehensive and integrated planning approach to the obligations under this section of a publicly owned permittee—

“(i) under which permit obligations may be implemented according to a schedule that—

“(I) accounts for the financial capability of the publicly owned permittee;
“(II) prioritizes permit obligations according to the most cost-effective and environmentally beneficial outcomes;

“(III) accounts for the pre-existing maintenance, operational, and regulatory obligations of the publicly owned permittee under this section; and

“(IV) enables the publicly owned permittee to implement innovative approaches to meet those obligations; and

“(ii) that accounts for changed circumstances in the obligations of the publicly owned permittee, such as—

“(I) new innovative treatment approaches;

“(II) new regulatory requirements; and

“(III) changes in financial capability.”.

(b) DURATION OF PERMITS.—Section 402(b)(1)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1342(b)(1)(B)) is amended by inserting before the semi-
colon at the end the following: “, except that a permit with
a term of more than 5 years but not more than 25 years
may be approved if the permittee has an approved inte-
grated plan established under subsection (a)(6)”.

SEC. 3. UPDATING OF GUIDANCE.

(a) DEFINITIONS.—In this section, the following defi-
nitions apply:

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

(2) AFFORDABILITY.—The term “affordability”
means, with respect to payment of a utility bill, a
measure of whether an individual customer or house-
hold can pay the bill without undue hardship or un-
reasonable sacrifice in the essential lifestyle or
spending patterns of the individual or household, as
determined by the Administrator.

(3) FINANCIAL CAPABILITY.—The term “financial capability” means the financial capability of a
community to make investments necessary to make
water quality-related improvements, taking into con-
sideration the criteria described in subsection
(b)(2)(A).

(4) GUIDANCE.—The term “guidance” means
the guidance published by the Administrator entitled
“Combined Sewer Overflows—Guidance for Financial Capability Assessment and Schedule Development” and dated February 1997, as applicable to combined sewer overflows and sanitary sewer overflows.

(b) UPDATING.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall update the guidance to ensure that the evaluations by the Administrator of financial capability assessment and schedule development meet the criteria described in paragraph (2).

(2) CRITERIA.—The criteria described in this paragraph are that, under the updated guidance—

(A) in assessing the financial capability of a community—

(i) greater emphasis should be placed on local economic conditions;

(ii) for regional systems, consideration should be given to the economic conditions of political jurisdictions and significant demographic groups within each region;

(iii) prescriptive formulas for use in calculating financial capability and thresholds for expenditure should not be consid-
erred to be the only indicator of the financial capability of a community;

(iv) site-specific local conditions should be taken into consideration in analyzing financial capability;

(v) a single measure of financial capability or affordability (such as median household income) should be viewed in the context of other economic measures, rather than as a threshold to be achieved; and

(vi)(I) consideration should be given to the economic outlook of a community, including the potential impact of program requirements over time, in the development of implementation schedules; and

(II) the assessment should take into consideration other essential community investments relating to water quality improvements;

(B) with respect to the timing of implementation of water quality-related improvements—

(i) environmental improvement implementation schedules should be structured to mitigate the potential adverse impact on
distressed populations resulting from the costs of the improvements;

(ii) implementation schedules should reflect local community financial conditions and economic impacts;

(iii) implementation schedules should allow permittees up to 30 years to implement water quality-related improvements in appropriate cases in which the cost of implementing the improvements places a high financial burden on the permittee; and

(iv) existing implementation schedules should be modified in appropriate cases taking into consideration the criteria set forth in this subparagraph;

(C) with respect to implementation—

(i) a determination of local financial capability may be achieved through an evaluation of an array of factors the relative importance of which may vary across regions and localities; and

(ii) an appropriate methodology should give consideration to such various factors as are appropriate to recognize the
prevailing and projected economic concerns in a community; and

(D) the residential indicator should be revised to include—

(i) a consideration of costs imposed upon ratepayers for essential utilities;

(ii) increased consideration and quantification of local community-imposed costs in regional systems;

(iii) a mechanism to assess impacts on communities with disparate economic conditions throughout the entire service area of a utility;

(iv) a consideration of the industrial and population trends of a community;

(v) recognition that—

(I) the median household income of a service area reflects a numerical median rather than the distribution of incomes within the service area; and

(II) more representative methods of determining affordability, such as shelter costs, essential utility payments, State affordability criteria, and
State and local tax efforts, should be considered;

(vi) a consideration of low-income ratepayer percentages; and

(vii) impacts relating to program delivery, such as water quality infrastructure market saturation and program management.

(3) IMPLEMENTATION.—The updated guidance should indicate that, in a case in which a previously approved long-term control plan or associated enforceable agreement does not prohibit modification of the plan or terms of the agreement (including financial capability considerations), and all parties are in agreement that a change is needed or that the plan or agreement does not prohibit reopening to address changes in the economic or financial status of the community since the effective date of the plan or agreement, reconsideration and modification of financial capability determinations and implementation schedules based on the criteria described in paragraph (2) is appropriate.

(4) APPLICABILITY.—The Administrator shall apply the updated guidance, including the criteria described in paragraph (2), to each determination
and analysis of affordability, financial capability, or widespread and substantial economic impact related to implementation of a program under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(c) PUBLICATION AND SUBMISSION.—Upon completion of the updating of guidance under subsection (b), the Administrator shall publish in the Federal Register and submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the updated guidance.

SEC. 4. CAPITALIZATION GRANT AGREEMENTS.

Section 602(b) of the Federal Water Pollution Control Act (33 U.S.C. 1382(b)) is amended—

(1) by striking “and” at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting “; and”; and

(3) by adding at the end the following:

“(11) the State will use at least 15 percent of the amount of each capitalization grant received by the State under this title after September 30, 2015, to provide assistance to municipalities of fewer than 10,000 individuals that meet the affordability cri-
teria established by the State under section 603(i)(2) for activities included on the State’s priority list established under section 603(g), to the extent that there are sufficient applications for such assistance.”.

SEC. 5. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

(a) EXTENDED REPAYMENT PERIOD.—Section 603(d)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)(1)) is amended—

(1) in subparagraph (A) by striking “20 years” and inserting “the lesser of 30 years or the design life of the project to be financed with the proceeds of the loan”; and

(2) in subparagraph (B) by striking “not later than 20 years after project completion” and inserting “upon the expiration of the term of the loan”.

(b) ADDITIONAL SUBSIDIZATION.—Section 603 of such Act (33 U.S.C. 1383) is amended by adding at the end the following:

“(i) ADDITIONAL SUBSIDIZATION.—

“(1) IN GENERAL.—In any case in which a State provides assistance to a municipality or intermunicipal, interstate, or State agency under subsection (d), the State may provide additional sub-
sidization, including forgiveness of principal, negative interest loans, and grants to benefit a municipality that—

“(A) meets the State’s affordability criteria established under paragraph (2); or

“(B) does not meet the State’s affordability criteria if the recipient—

“(i) seeks additional subsidization to benefit individual ratepayers in the residential user rate class; and

“(ii) demonstrates to the State that such ratepayers will experience a significant hardship from the increase in rates necessary to finance the project or activity for which assistance is sought.

“(2) AFFORDABILITY CRITERIA.—

“(A) ESTABLISHMENT.—On or before September 30, 2015, and after providing notice and an opportunity for public comment, a State shall establish affordability criteria to assist in identifying municipalities that would experience a significant hardship raising the revenue necessary to finance a project or activity eligible for assistance under section 603(c)(1) if additional subsidization is not provided. Such cri-
teria shall be based on income data, population
trends, and other data determined relevant by
the State, including whether the project or ac-
tivity is to be carried out in an economically
distressed area, as described in section 301 of
the Public Works and Economic Development

“(B) EXISTING CRITERIA.—If a State has
previously established, after providing notice
and an opportunity for public comment, afford-
ability criteria that meet the requirements of
subsection (A), the State may use the cri-
teria for the purposes of this subsection. For
purposes of this Act, any such criteria shall be
treated as affordability criteria established
under this paragraph.

“(C) INFORMATION TO ASSIST STATES.—
The Administrator may publish information to
assist States in establishing affordability cri-
teria under subparagraph (A).

“(3) USE OF CAPITALIZATION GRANTS.—A
State shall use not less than 20 percent but not
more than 30 percent of the amount of the capital-
ization grants received by the State under this title
in fiscal years beginning after September 30, 2015,
to provide additional subsidization to eligible recipients under paragraph (1).”.