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106TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 106–943

WET WEATHER WATER QUALITY ACT OF 2000

OCTOBER 6, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 828]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 828) to amend the Federal Water Pollution Control Act to require that discharges from combined storm and sanitary sewers conform to the Combined Sewer Overflow Control Policy of the Environmental Protection Agency, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wet Weather Water Quality Act of 2000".

SEC. 2. COMBINED SEWER OVERFLOWS.

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

"(q) COMBINED SEWER OVERFLOWS.—

"(1) REQUIREMENT FOR PERMITS, ORDERS, AND DECREES.—Each permit, order, or decree issued pursuant to this Act after the date of enactment of this subsection for a discharge from a municipal combined storm and sanitary sewer shall conform to the Combined Sewer Overflow Control Policy signed by the Administrator on April 11, 1994 (in this subsection referred to as the 'CSO control policy'), and shall provide for the development and implementation of long-term control plans to meet applicable water quality standards as expeditiously as possible.

"(2) WATER QUALITY AND DESIGNATED USE REVIEW GUIDANCE.—Not later than December 31, 2000, and after providing notice and opportunity for public comment, the Administrator shall issue guidance to facilitate the conduct of water quality and designated use reviews for municipal combined sewer overflow receiving waters.

"(3) REPORT.—Not later than September 1, 2001, the Administrator shall transmit to Congress a report on the progress made by the Environmental Pro-

tection Agency, States, and municipalities in implementing and enforcing the CSO control policy.".

SEC. 3. WET WEATHER PILOT PROGRAM.

Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end the following:

"SEC. 121. WET WEATHER WATERSHED PILOT PROJECTS.

"(a) IN GENERAL.—The Administrator, in coordination with the States, may provide technical assistance and grants for treatment works to carry out pilot projects relating to the following areas of wet weather discharge control:

"(1) WATERSHED MANAGEMENT OF WET WEATHER DISCHARGES.—The management of municipal combined sewer overflows, sanitary sewer overflows, and stormwater discharges, on an integrated watershed or subwatershed basis for the purpose of demonstrating the effectiveness of a unified wet weather approach.

"(2) STORMWATER BEST MANAGEMENT PRACTICES.—The control of pollutants from municipal separate storm sewer systems for the purpose of demonstrating and determining controls that are cost-effective and that use innovative technologies in reducing such pollutants from stormwater discharges.

"(b) ADMINISTRATION.—The Administrator, in coordination with the States, shall provide municipalities participating in a pilot project under this section the ability to engage in innovative practices, including the ability to unify separate wet weather control efforts under a single permit.

"(c) FUNDING.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2002, $15,000,000 for fiscal year 2003, and $20,000,000 for fiscal year 2004. Such funds shall remain available until expended.

"(2) STORMWATER.—The Administrator shall make available not less than 20 percent of amounts appropriated for a fiscal year pursuant to this subsection to carry out the purposes of subsection (a)(2).

"(3) ADMINISTRATIVE EXPENSES.—The Administrator may retain not to exceed 4 percent of any amounts appropriated for a fiscal year pursuant to this subsection for the reasonable and necessary costs of administering this section.

"(d) REPORT TO CONGRESS.—Not later than 5 years after the date of enactment of this section, the Administrator shall transmit to Congress a report on the results of the pilot projects conducted under this section and their possible application nationwide.".

SEC. 4. SEWER OVERFLOW CONTROL GRANTS.

Title II of the Federal Water Pollution Control Act (33 U.S.C. 1342 et seq.) is amended by adding at the end the following:

"SEC. 220. SEWER OVERFLOW CONTROL GRANTS.

"(a) IN GENERAL.—In any fiscal year in which the Administrator has available for obligation at least $1,200,000,000 for the purposes of section 601—

"(1) the Administrator may make grants to States for the purpose of providing grants to a municipality or municipal entity for planning, design, and construction of treatment works to intercept, transport, control, or treat municipal combined sewer overflows and sanitary sewer overflows; and

"(2) subject to subsection (g), the Administrator may make a direct grant to a municipality or municipal entity for the purposes described in paragraph (1).

"(b) PRIORITIZATION.—In selecting from among municipalities applying for grants under subsection (a), a State or the Administrator shall give priority to an applicant that—

"(1) is a municipality that is a financially distressed community under subsection (c);

"(2) has implemented or is complying with an implementation schedule for the 9 minimum controls specified in the CSO control policy referred to in section 402(q)(1) and has begun implementing a long-term municipal combined sewer overflow control plan or a separate sanitary sewer overflow control plan; or

"(3) is requesting a grant for a project that is on a State's intended use plan pursuant to section 606(c).

"(c) FINANCIALLY DISTRESSED COMMUNITY.—

"(1) DEFINITION.—In subsection (b), the term 'financially distressed community' means a community that meets affordability criteria established by the State in which the community is located, if such criteria are developed after public review and comment.

"(2) CONSIDERATION OF IMPACT ON WATER AND SEWER RATES.—In determining if a community is a distressed community for the purposes of subsection (b), the State shall consider, among other factors, the extent to which the rate of growth of a community's tax base has been historically slow such that implementing a plan described in subsection (b)(2) would result in a significant increase in any water or sewer rate charged by the community's publicly owned wastewater treatment facility.

"(3) INFORMATION TO ASSIST STATES.—The Administrator may publish information to assist States in establishing affordability criteria under paragraph (1).

"(d) COST SHARING.—The Federal share of the cost of activities carried out using amounts from a grant made under subsection (a) shall be not less than 55 percent of the cost. The non-Federal share of the cost may include, in any amount, public and private funds and in-kind services, and may include, notwithstanding section 603(h), financial assistance, including loans, from a State water pollution control revolving fund.

"(e) ADMINISTRATIVE REPORTING REQUIREMENTS.—If a project receives grant assistance under subsection (a) and loan assistance from a State water pollution control revolving fund and the loan assistance is for 15 percent or more of the cost of the project, the project may be administered in accordance with State water pollution control revolving fund administrative reporting requirements for the purposes of streamlining such requirements.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $750,000,000 for each of fiscal years 2002 and 2003. Such sums shall remain available until expended.

"(g) ALLOCATION OF FUNDS.—

"(1) FISCAL YEAR 2002.—Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2002 for making grants to municipalities and municipal entities under subsection (a)(2), in accordance with the criteria set forth in subsection (b).

"(2) FISCAL YEAR 2003.—Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2003 as follows:

"(A) Not to exceed $250,000,000 for making grants to municipalities and municipal entities under subsection (a)(2), in accordance with the criteria set forth in subsection (b).

"(B) All remaining amounts for making grants to States under subsection (a)(1), in accordance with a formula to be established by the Administrator, after providing notice and an opportunity for public comment, that allocates to each State a proportional share of such amounts based on the total needs of the State for municipal combined sewer overflow controls and sanitary sewer overflow controls identified in the most recent survey conducted pursuant to section 516(b)(1).

"(h) ADMINISTRATIVE EXPENSES.—Of the amounts appropriated to carry out this section for each fiscal year—

"(1) the Administrator may retain an amount not to exceed 1 percent for the reasonable and necessary costs of administering this section; and

"(2) the Administrator, or a State, may retain an amount not to exceed 4 percent of any grant made to a municipality or municipal entity under subsection (a), for the reasonable and necessary costs of administering the grant.

"(i) REPORTS.—Not later than December 31, 2003, and periodically thereafter, the Administrator shall transmit to Congress a report containing recommended funding levels for grants under this section. The recommended funding levels shall be sufficient to ensure the continued expeditious implementation of municipal combined sewer overflow and sanitary sewer overflow controls nationwide.".

SEC. 5. INFORMATION ON CSOS AND SSOS.

(a) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall transmit to Congress a report summarizing—

(1) the extent of the human health and environmental impacts caused by municipal combined sewer overflows and sanitary sewer overflows, including the location of discharges causing such impacts, the volume of pollutants discharged, and the constituents discharged;

(2) the resources spent by municipalities to address these impacts; and

(3) an evaluation of the technologies used by municipalities to address these impacts.

(b) TECHNOLOGY CLEARINGHOUSE.—After transmitting a report under subsection (a), the Administrator shall maintain a clearinghouse of cost-effective and efficient

technologies for addressing human health and environmental impacts due to municipal combined sewer overflows and sanitary sewer overflows.

PURPOSE AND SUMMARY

The purpose of H.R. 828, as amended, is to prevent and reduce water quality problems caused by wet weather flows throughout the U.S. by taking various actions, including authorizing grants to municipalities and to states for combined sewer overflow (CSO) and sanitary sewer overflow (SSO) projects, authorizing grants for a wet weather pilot program, and codifying the Environmental Protection Agency's (EPA) existing CSO Control Policy.

BACKGROUND AND NEED FOR LEGISLATION

Overview

Our national wastewater infrastructure is aging and its capacity has not kept pace with economic and population growth, leading to increased sewer system overflows. Combined sewer systems, which carry both storm water and sanitary (municipal and industrial) flows, and separate sanitary sewer systems often overflow with untreated (or partially treated) waste during wet weather episodes, like rain or snow melts. CSOs and SSOs may also occur during dry weather periods due to poor maintenance, deteriorating infrastructure, or infiltration and inflow, among other factors.

Over 1,100 communities across the U.S. have combined sewer systems. The combined sewer systems are remnants of the country's early wastewater infrastructure, constructed before wastewater treatment standards and requirements were established. These systems were constructed with approximately 15,000 relief outlets designed to prevent flows in excess of system capacity from damaging the treatment plant, by allowing discharges ("overflows") to occur before the water reaches the plant. CSOs typically occur in nearby streams, rivers, lakes or estuaries, and are among the major sources responsible for beach closures, shell fish restrictions and exceedances in water quality standards.

Separate sanitary sewer systems, on the other hand, are not designed to carry stormwater flows, therefore, generally do not have built-in relief outlets like combined sewer systems. Although these systems are intended to carry all the sewage that flows into them to a treatment works, EPA has estimated that more than 40,000 SSOs a year occur from the nation's 19,500 sanitary sewer systems often as a result of undersized or deteriorating systems, or failures within the system. SSOs can occur in parks, streets, and basements, among other areas.

CSOs and SSOs present significant public health and safety concerns because they often occur in areas of potential human exposure, and result in exceedances of water quality standards negatively impacting the environment.

Combined sewer overflows

CSOs are point source discharges under the Clean Water Act, subject to permitting under the National Pollutant Discharge Elimination System (NPDES) by EPA or authorized states. Given that causes of CSOs are typically site-specific, permits usually include technology-based standards determined on a case-by-case

basis (rather than categorical standards) and appropriate water quality standards.

Over the years concerns have been raised over whether NPDES requirements have been applied consistently across the U.S. regarding the control of CSOs. In order to achieve national consistency and clarity, EPA issued a CSO Control Policy in April 1994. The CSO Control Policy provides guidance to states and municipalities on the minimum necessary controls to develop appropriate, site-specific permits to address the unique nature of CSOs, and provides municipalities with flexible solutions for controlling CSOs by taking into consideration not only the CSO's environmental impacts, but how long it will take and how much it will cost to develop and implement appropriate controls.

The CSO Control Policy requires immediate implementation of nine minimum controls, such as proper system operation and maintenance and pollution prevention, followed by implementation of a long-term control plan so that municipalities will come into compliance with Clean Water Act requirements and water quality standards can be achieved.

Sanitary sewer overflows

Similar to CSOs, SSOs are also point source discharges under the Clean Water Act, and generally are considered to be unauthorized, unpermitted discharges in violation of the Clean Water Act. However, some permits have authorized SSOs under limited circumstances (e.g. if they occur through "peak excess flow treatment facilties," analogous to the CSO built-in relief outlets). Questions about the regulatory treatment of SSOs remain, such as whether separate sanitary sewer systems should be permitted to allow such discharges, and what level of treatment should be required. EPA has not issued formal guidance for addressing the control of SSOs, although the Agency is currently working on proposed regulations to provide clarification and consistency on this issue.

Estimated costs to control CSOs and SSOs

Recent EPA and industry analyses have revealed that a significant investment in the nation's wastewater infrastructure is needed to achieve water quality standards. The Water Infrastructure Network's April 2000 report, "Clean and Safe Water for the 21st Century", and EPA's recent draft "Needs Gap" study estimate more than $300 billion over the next 20 years in wastewater infrastructure needs, and that there is an enormous gap between such needs and current federal, state, and local spending trends.

While the EPA "Needs Gap" study is not yet final, it currently estimates $45 billion will be needed over the next 20 years to control CSOs, and $80 to $90 billion will be needed to control SSOs. (These estimates do not include operations and maintenance or all sewer system replacement costs, which typically are a local responsibility.)

Congress, EPA, states, municipalities and other stakeholders agree that both nationally consistent regulatory treatment and additional funding are needed for controlling CSOs and SSOs. This bill codifies the CSO Control Policy to help ensure its implementation and consistent application, and provides an initial modest authorization of funding needed to control wet weather flows until a

more comprehensive, long-term approach can be developed and implemented.

DISCUSSION OF COMMITTEE BILL AND SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides that the Act may be cited as the "Wet Weather Quality Act of 2000."

Section 2. Combined sewer overflows

This section amends section 402 of the Clean Water Act by adding a new subsection (q) entitled "Combined Sewer Overflows" that codifies EPA's CSO Control Policy. Specifically, it requires that each permit, order, or decree related to CSOs issued after enactment of this Act pursuant to the Clean Water Act, at a minimum, conform to the CSO Control Policy and provide for the development and implementation of long-term control plans to meet water quality standards as expeditiously as possible.

This section also requires the EPA Administrator to issue guidance by December 31, 2000 to assist states in conducting water quality and designated use reviews for CSO receiving waters. Finally, EPA is required to report to Congress by September 1, 2001 on progress made in implementing and enforcing the CSO Control Policy.

Section 3. Wet Weather Pilot Program

This section creates a new Clean Water Act section 121 entitled "Wet Weather Watershed Pilot Projects." Under the new section 121, the EPA Administrator is authorized, in coordination with states, to provide technical assistance and grants for wet weather watershed pilot projects. The technical assistance and grants are to be used for projects involving treatment works (as defined in Clean Water Act section 212) that control CSO, SSO and stormwater discharges on an integrated, watershed or subwatershed basis to demonstrate the effectiveness of a unified wet weather approach.

Regarding controlling pollutants from municipal separate stormwater systems, this section emphasizes the use of pilot projects to demonstrate controls that are cost-effective and that use innovative technologies. The Committee is aware of one particular new technology that involves "stormwater inserts." These so-called "smart sponges" have been utilized in Springfield, Massachusetts and other locations to trap debris and soak up hydrocarbons and other contaminants. The pollutants are then encapsulated in fiber that can be burned as a fuel source. The Committee intends that stormwater controls funded under this new section should be demonstrated in different locations and under different situations, and the results of those tests should be made available to communities around the country.

In order to facilitate the development of wet weather watershed pilot projects, this section states that the EPA Administrator, in coordination with the states, shall provide municipalities the ability to engage in innovative practices, including the ability to unify separate wet weather control efforts under a single permit. The EPA Administrator should afford municipalities the maximum flexibility

possible within existing statutory and regulatory authorities to engage in the innovative practices envisioned under this provision.

To carry out the pilot projects, $10 million, $15 million and $20 million are authorized for fiscal years 2002, 2003 and 2004, respectively. The EPA Administrator is directed to set aside at least 20 percent of annual appropriated amounts for pilot projects related to stormwater controls, and may retain up to 4 percent of annual appropriated amounts for administering this section.

Finally, the EPA Administrator is directed to report to Congress not later than five years after the date of enactment of this Act on the results of the wet weather watershed pilot projects and their possible application nationwide.

Section 4. Sewer overflow control grants

If at least $1.2 billion per year is available for obligation for the Clean Water State Revolving Loan Fund (Clean Water SRF) program, this section authorizes the EPA Administrator to make grants to states for the purpose of providing grants to a municipality or to make a direct grant to a municipality for the planning, design, and construction of treatment works to intercept, transport, control, or treat CSOs and SSOs.

When EPA or the states are selecting among municipalities applying for these grants, EPA or the state shall give priority to municipalities that: are financially distressed communities; have implemented or are complying with the implementation of the nine minimum controls of the CSO Control Policy, and have begun implementing a long-term CSO or SSO control plan; or, are requesting a grant for a project that is on a state's intended use plan that states develop to identify priority projects to receive Clean Water SRF assistance pursuant to Clean Water Act section 606(c).

State-established affordability criteria determine whether or not a community is "financially distressed," if such criteria are developed after public review and comment. States are to consider, among other factors, if the rate of growth of a community's tax base has been historically slow such that implementing any CSO or SSO long-term control plans would significantly increase water or sewer rates. The EPA Administrator is authorized to publish information to assist states in developing the affordability criteria.

The Federal cost-share of projects under this section is not less than 55 percent. The non-federal cost-share may include public and private funds and in-kind services in any amount. To help ensure the grant program authorized under this Act is coordinated with the Clean Water SRF program, this section: authorizes municipalities to use Clean Water SRF assistance as the non-federal match; and, if a project receives Clean Water SRF assistance that is more than 15 percent of the cost of the project, the applicant may apply Clean Water SRF administrative reporting requirements to the entire project for the purpose of streamlining such requirements.

This section authorizes $750 million for each of fiscal years 2002 and 2003 for sewer overflow control assistance. For fiscal year 2002, all amounts authorized to be appropriated are for grants to municipalities. For fiscal year 2003, the EPA Administrator is authorized to award not more than $250 million to municipalities, and to award all remaining amounts to states to award to municipalities.

To allocate the grants to states in fiscal year 2003, EPA is directed to develop a formula, with an opportunity for public review and comment, that calculates the proportional share of available amounts to each state based on the total state CSO and SSO needs identified in the most recent Clean Water Needs survey conducted pursuant to Clean Water Act section 516(b)(1).

The EPA Administrator is authorized to use up to 1 percent of appropriated amounts for administering the overall grant program, and the EPA Administrator or a state, may use up to 4 percent of any grant to a municipality for administering such grant.

The EPA Administrator is required to transmit a report to Congress by December 31, 2003, and periodically thereafter, recommending funding levels sufficient to continue implementing CSO and SSO controls nationwide.

Section 5. Information on CSOs and SSOs

This section requires the EPA Administrator to transmit a report to Congress no later than three years after enactment of this Act, summarizing: the extent of human health and environmental impacts caused by CSOs and SSOs, including the location of discharges causing the impacts, the volume of pollutants and the constituents discharged; how much municipalities have spent to address such impacts; and, an evaluation of the technologies municipalities used to address these impacts.

After transmitting this report to Congress, the EPA Administrator is required to maintain a technology clearinghouse on cost-effective and efficient technologies for addressing the human health and environmental impacts from CSOs and SSOs.

HEARINGS

On June 22, 1999, the Water Resources and Environment Subcommittee held a hearing on clean water infrastructure and wet weather flows legislation, including H.R. 828, the "Combined Sewer Overflow Control and Partnership Act of 1999," and a draft of H.R. 3570, "The Urban Wet Weather Priorities Act of 1999." The Subcommittee heard testimony from EPA, state and local officials, and representatives of environmental, and water and sewer infrastructure groups.

COMMITTEE CONSIDERATION

On September 27, 2000, the Committee on Transportation and Infrastructure met in open session, discharged H.R. 828 from the Subcommittee on Water Resources and Environment, and ordered the bill reported, as amended, to the House by voice vote.

The Committee adopted an amendment in the nature of a substitute that, in general, combines portions of H.R. 828 and H.R. 3570, and specifically: authorizes $1.5 billion total for fiscal years 2002 and 2003 for grants to municipalities and to states for CSO and SSO projects; authorizes $45 million total for fiscal years 2002 through 2004 for grants for a wet weather pilot program to demonstrate the effectiveness of a unified approach to wet weather flows and the application of stormwater best management practices; and, requires reports to Congress on CSO and SSO related

matters, and the maintenance of a technology clearinghouse on controlling CSOs and SSOs.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each rollcall vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with ordering H.R. 828 reported.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.
2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on the subject of H.R. 828.
3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 828 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 5, 2000.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 828, the Wet Weather Water Quality Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman.

Sincerely,

STEVEN LIEBERMAN
(For Dan L. Crippen, Director).

Enclosure.

H.R. 828—Wet Weather Water Quality Act of 2000

Summary: CBO estimates that implementing this legislation would cost about $1 billion over the next five years, assuming appropriation of the necessary amounts. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 828 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

H.R. 828 would authorize the appropriation of $45 million over the 2002–2004 period for the Environmental Protection Agency (EPA) to provide new grants to states to conduct pilot projects related to the control of stormwater and improved sewer management practices. The bill also would authorize the appropriation of $1.5 billion over the 2002–2003 period for new grants to states and municipalities to address sewer overflow problems. In addition, this legislation would require EPA to report to the Congress on local government resource needs to improve sewer management practices, and to maintain a clearinghouse for technologies used to control sewer management problems. We estimate that these activities would cost about $1 million in 2003, subject to the availability of appropriated funds. In subsequent years, the cost of maintaining the clearinghouse would be less than $500,000 a year.

Estimated cost to the Federal Government: For this estimate, CBO assumes that the amounts authorized will be appropriated for each fiscal year and that outlays will occur at rates similar to those of other grant programs to control water pollution. The estimated budgetary impact of H.R. 828 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2001	2002	2003	204	2005
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	0	760	766	20	0
Estimated Outlay	0	40	153	345	460

Pay-as-you-go considerations: None.

Intergovernmental and private-sector imact: H.R. 828 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Enacting sections 3 and 4 would benefit state and local governments by authorizing the Environmental Protection Agency to make grants for projects to control stormwater discharges and sewer overflows.

Estimate prepared by: Federal Costs: Susanne S. Mehlman. Impact on State, Local, and Tribal Governments: Victoria Heid Hall. Impact on the Private Sector: Tim VandenBerg.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act. (Public Law 104–4.)

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act. (Public Law 104–1.)

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

FEDERAL WATER POLLUTION CONTROL ACT

TITLE I—RESEARCH AND RELATED PROGRAMS

* * * * * * *

SEC. 121. WET WEATHER WATERSHED PILOT PROJECTS.

(a) IN GENERAL.—The Administrator, in coordination with the States, may provide technical assistance and grants for treatment works to carry out pilot projects relating to the following areas of wet weather discharge control:

(1) WATERSHED MANAGEMENT OF WET WEATHER DISCHARGES.—The management of municipal combined sewer overflows, sanitary sewer overflows, and stormwater discharges, on an integrated watershed or subwatershed basis for the purpose of demonstrating the effectiveness of a unified wet weather approach.

(2) STORMWATER BEST MANAGEMENT PRACTICES.—The control of pollutants from municipal separate storm sewer systems for the purpose of demonstrating and determining controls that are

cost-effective and that use innovative technologies in reducing such pollutants from stormwater discharges.

(b) ADMINISTRATION.—The Administrator, in coordination with the States, shall provide municipalities participating in a pilot project under this section the ability to engage in innovative practices, including the ability to unify separate wet weather control efforts under a single permit.

(c) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2002, $15,000,000 for fiscal year 2003, and $20,000,000 for fiscal year 2004. Such funds shall remain available until expended.

(2) STORMWATER.—The Administrator shall make available not less than 20 percent of amounts appropriated for a fiscal year pursuant to this subsection to carry out the purposes of subsection (a)(2).

(3) ADMINISTRATIVE EXPENSES.—The Administrator may retain not to exceed 4 percent of any amounts appropriated for a fiscal year pursuant to this subsection for the reasonable and necessary costs of administering this section.

(d) REPORT TO CONGRESS.—Not later than 5 years after the date of enactment of this section, the Administrator shall transmit to Congress a report on the results of the pilot projects conducted under this section and their possible application nationwide.

TITLE II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

* * * * * * *

SEC. 220. SEWER OVERFLOW CONTROL GRANTS.

(a) IN GENERAL.—In any fiscal year in which the Administrator has available for obligation at least $1,200,000,000 for the purposes of section 601—

(1) the Administrator may make grants to States for the purpose of providing grants to a municipality or municipal entity for planning, design, and construction of treatment works to intercept, transport, control, or treat municipal combined sewer overflows and sanitary sewer overflows; and

(2) subject to subsection (g), the Administrator may make a direct grant to a municipality or municipal entity for the purposes described in paragraph (1).

(b) PRIORITIZATION.—In selecting from among municipalities applying for grants under subsection (a), a State or the Administrator shall give priority to an applicant that—

(1) is a municipality that is a financially distressed community under subsection (c);

(2) has implemented or is complying with an implementation schedule for the 9 minimum controls specified in the CSO control policy referred to in section 402(q)(1) and has begun implementing a long-term municipal combined sewer overflow control plan or a separate sanitary sewer overflow control plan; or

(3) is requesting a grant for a project that is on a State's intended use plan pursuant to section 606(c).

(c) FINANCIALLY DISTRESSED COMMUNITY.—

(1) DEFINITION.—In subsection (b), the term "financially distressed community" means a community that meets affordability criteria established by the State in which the community is located, if such criteria are developed after public review and comment.

(2) CONSIDERATION OF IMPACT ON WATER AND SEWER RATES.—In determining if a community is a distressed community for the purposes of subsection (b), the State shall consider, among other factors, the extent to which the rate of growth of a community's tax base has been historically slow such that implementing a plan described in subsection (b)(2) would result in a significant increase in any water or sewer rate charged by the community's publicly owned wastewater treatment facility.

(3) INFORMATION TO ASSIST STATES.—The Administrator may publish information to assist States in establishing affordability criteria under paragraph (1).

(d) COST SHARING.—The Federal share of the cost of activities carried out using amounts from a grant made under subsection (a) shall be not less than 55 percent of the cost. The non-Federal share of the cost may include, in any amount, public and private funds and in-kind services, and may include, notwithstanding section 603(h), financial assistance, including loans, from a State water pollution control revolving fund.

(e) ADMINISTRATIVE REPORTING REQUIREMENTS.—If a project receives grant assistance under subsection (a) and loan assistance from a State water pollution control revolving fund and the loan assistance is for 15 percent or more of the cost of the project, the project may be administered in accordance with State water pollution control revolving fund administrative reporting requirements for the purposes of streamlining such requirements.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $750,000,000 for each of fiscal years 2002 and 2003. Such sums shall remain available until expended.

(g) ALLOCATION OF FUNDS.—

(1) FISCAL YEAR 2002.—Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2002 for making grants to municipalities and municipal entities under subsection (a)(2), in accordance with the criteria set forth in subsection (b).

(2) FISCAL YEAR 2003.—Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2003 as follows:

(A) Not to exceed $250,000,000 for making grants to municipalities and municipal entities under subsection (a)(2), in accordance with the criteria set forth in subsection (b).

(B) All remaining amounts for making grants to States under subsection (a)(1), in accordance with a formula to be established by the Administrator, after providing notice and an opportunity for public comment, that allocates to each State a proportional share of such amounts based on the total needs of the State for municipal combined sewer overflow controls and sanitary sewer overflow controls identified in the most recent survey conducted pursuant to section 516(b)(1).

(h) ADMINISTRATIVE EXPENSES.—Of the amounts appropriated to carry out this section for each fiscal year—

(1) the Administrator may retain an amount not to exceed 1 percent for the reasonable and necessary costs of administering this section; and

(2) the Administrator, or a State, may retain an amount not to exceed 4 percent of any grant made to a municipality or municipal entity under subsection (a), for the reasonable and necessary costs of administering the grant.

(i) REPORTS.—Not later than December 31, 2003, and periodically thereafter, the Administrator shall transmit to Congress a report containing recommended funding levels for grants under this section. The recommended funding levels shall be sufficient to ensure the continued expeditious implementation of municipal combined sewer overflow and sanitary sewer overflow controls nationwide.

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TITLE IV—PERMITS AND LICENSES

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NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

SEC. 402. (a) * * *

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(q) COMBINED SEWER OVERFLOWS.—

(1) REQUIREMENT FOR PERMITS, ORDERS, AND DECREES.—Each permit, order, or decree issued pursuant to this Act after the date of enactment of this subsection for a discharge from a municipal combined storm and sanitary sewer shall conform to the Combined Sewer Overflow Control Policy signed by the Administrator on April 11, 1994 (in this subsection referred to as the "CSO control policy"), and shall provide for the development and implementation of long-term control plans to meet applicable water quality standards as expeditiously as possible.

(2) WATER QUALITY AND DESIGNATED USE REVIEW GUIDANCE.—Not later than December 31, 2000, and after providing notice and opportunity for public comment, the Administrator shall issue guidance to facilitate the conduct of water quality and designated use reviews for municipal combined sewer overflow receiving waters.

(3) REPORT.—Not later than September 1, 2001, the Administrator shall transmit to Congress a report on the progress made by the Environmental Protection Agency, States, and municipalities in implementing and enforcing the CSO control policy.

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