

114TH CONGRESS
1ST SESSION

H. R. 1705

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

MARCH 26, 2015

Mr. LATTA (for himself and Mr. WALZ) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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 Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Clean Water Affordability Act of 2015”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CLEAN WATER AFFORDABILITY

Sec. 101. Integrated planning process.

Sec. 102. Updating of guidance.

Sec. 103. Capitalization grant agreements.

TITLE II—WET WEATHER MANAGEMENT

Sec. 201. Technology-based controls for peak wet weather management.

Sec. 202. Wet weather water quality-based standards.

Sec. 203. Peak wet weather waste water management techniques.

3 **TITLE I—CLEAN WATER**
 4 **AFFORDABILITY**

5 **SEC. 101. INTEGRATED PLANNING PROCESS.**

6 (a) IN GENERAL.—Section 402(a) of the Federal
 7 Water Pollution Control Act (33 U.S.C. 1342(a)) is
 8 amended by adding at the end the following:

9 “(6) INTEGRATED PERMITS.—

10 “(A) DEFINITION OF PUBLICLY OWNED
 11 PERMITTEE.—In this paragraph, the term ‘pub-
 12 licly owned permittee’ means either—

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

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

17 “(B) PLANNING APPROACH.—The Admin-
 18 istrator shall establish a comprehensive and in-
 19 tegrated planning approach to the obligations

1 under this section of a publicly owned per-
2 mittee—

3 “(i) under which permit obligations
4 may be implemented according to a sched-
5 ule that—

6 “(I) accounts for the financial ca-
7 pability of the publicly owned per-
8 mittee;

9 “(II) prioritizes permit obliga-
10 tions according to the most cost-effec-
11 tive and environmentally beneficial
12 outcomes;

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

18 “(IV) enables the publicly owned
19 permittee to implement innovative ap-
20 proaches to meet those obligations;
21 and

22 “(ii) that accounts for changed cir-
23 cumstances in the obligations of the pub-
24 licly owned permittee, such as—

1 “(I) new innovative treatment
2 approaches;

3 “(II) new regulatory require-
4 ments; and

5 “(III) changes in financial capa-
6 bility.”.

7 (b) DURATION OF PERMITS.—Section 402(b)(1)(B)
8 of the Federal Water Pollution Control Act (33 U.S.C.
9 1342(b)(1)(B)) is amended by inserting before the semi-
10 colon at the end the following: “, except that a permit with
11 a term of more than 5 years but not more than 25 years
12 may be approved if the permittee has an approved inte-
13 grated plan established under subsection (a)(6)”.

14 **SEC. 102. UPDATING OF GUIDANCE.**

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

17 (1) ADMINISTRATOR.—The term “Adminis-
18 trator” means the Administrator of the Environ-
19 mental Protection Agency.

20 (2) AFFORDABILITY.—The term “affordability”
21 means, with respect to payment of a utility bill, a
22 measure of whether an individual customer or house-
23 hold can pay the bill without undue hardship or un-
24 reasonable sacrifice in the essential lifestyle or

1 spending patterns of the individual or household, as
2 determined by the Administrator.

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

9 (4) GUIDANCE.—The term “guidance” means
10 the guidance published by the Administrator entitled
11 “Combined Sewer Overflows—Guidance for Finan-
12 cial Capability Assessment and Schedule Develop-
13 ment” and dated February 1997, as applicable to
14 combined sewer overflows and sanitary sewer over-
15 flows.

16 (b) UPDATING.—

17 (1) IN GENERAL.—Not later than 1 year after
18 the date of enactment of this Act, the Administrator
19 shall update the guidance to ensure that the evalua-
20 tions by the Administrator of financial capability as-
21 sessment and schedule development meet the criteria
22 described in paragraph (2).

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

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

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

5 (ii) for regional systems, consideration
6 should be given to the economic conditions
7 of political jurisdictions and significant de-
8 mographic groups within each region;

9 (iii) prescriptive formulas for use in
10 calculating financial capability and thresh-
11 olds for expenditure should not be consid-
12 ered to be the only indicator of the finan-
13 cial capability of a community;

14 (iv) site-specific local conditions
15 should be taken into consideration in ana-
16 lyzing financial capability;

17 (v) a single measure of financial capa-
18 bility or affordability (such as median
19 household income) should be viewed in the
20 context of other economic measures, rather
21 than as a threshold to be achieved; and

22 (vi)(I) consideration should be given
23 to the economic outlook of a community,
24 including the potential impact of program

1 requirements over time, in the development
2 of implementation schedules; and

3 (II) the assessment should take into
4 consideration other essential community
5 investments relating to water quality im-
6 provements;

7 (B) with respect to the timing of imple-
8 mentation of water quality-related improve-
9 ments—

10 (i) environmental improvement imple-
11 mentation schedules should be structured
12 to mitigate the potential adverse impact on
13 distressed populations resulting from the
14 costs of the improvements;

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

18 (iii) implementation schedules should
19 allow permittees up to 30 years to imple-
20 ment water quality-related improvements
21 in appropriate cases in which the cost of
22 implementing the improvements places a
23 high financial burden on the permittee;
24 and

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

5 (C) with respect to implementation—

6 (i) a determination of local financial
7 capability may be achieved through an
8 evaluation of an array of factors the rel-
9 ative importance of which may vary across
10 regions and localities; and

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

16 (D) the residential indicator should be re-
17 vised to include—

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

20 (ii) increased consideration and quan-
21 tification of local community-imposed costs
22 in regional systems;

23 (iii) a mechanism to assess impacts on
24 communities with disparate economic con-

1 ditions throughout the entire service area
2 of a utility;

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

5 (v) recognition that—

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

10 (II) more representative methods
11 of determining affordability, such as
12 shelter costs, essential utility pay-
13 ments, State affordability criteria, and
14 State and local tax efforts, should be
15 considered;

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

18 (vii) impacts relating to program de-
19 livery, such as water quality infrastructure
20 market saturation and program manage-
21 ment.

22 (3) IMPLEMENTATION.—The updated guidance
23 should indicate that, in a case in which a previously
24 approved long-term control plan or associated en-
25 forceable agreement does not prohibit modification

1 of the plan or terms of the agreement (including fi-
2 nancial capability considerations), and all parties are
3 in agreement that a change is needed or that the
4 plan or agreement does not prohibit reopening to ad-
5 dress changes in the economic or financial status of
6 the community since the effective date of the plan or
7 agreement, reconsideration and modification of fi-
8 nancial capability determinations and implementa-
9 tion schedules based on the criteria described in
10 paragraph (2) is appropriate.

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

19 (c) PUBLICATION AND SUBMISSION.—Upon comple-
20 tion of the updating of guidance under subsection (b), the
21 Administrator shall publish in the Federal Register and
22 submit to the Committee on Environment and Public
23 Works of the Senate and the Committee on Transpor-
24 tation and Infrastructure of the House of Representatives
25 the updated guidance.

1 **SEC. 103. CAPITALIZATION GRANT AGREEMENTS.**

2 Section 602(b) of the Federal Water Pollution Con-
3 trol Act (33 U.S.C. 1382(b)) is amended—

4 (1) by striking “and” at the end of paragraph
5 (9);

6 (2) by striking the period at the end of para-
7 graph (10) and inserting “; and”; and

8 (3) by adding at the end the following:

9 “(11) the State will use at least 15 percent of
10 the amount of each capitalization grant received by
11 the State under this title after September 30, 2016,
12 to provide assistance to municipalities of fewer than
13 10,000 individuals that meet the affordability cri-
14 teria established by the State under section
15 603(i)(2) for activities included on the State’s pri-
16 ority list established under section 603(g), to the ex-
17 tent that there are sufficient applications for such
18 assistance.”.

19 **TITLE II—WET WEATHER**
20 **MANAGEMENT**

21 **SEC. 201. TECHNOLOGY-BASED CONTROLS FOR PEAK WET**
22 **WEATHER MANAGEMENT.**

23 (a) **APPLICABILITY OF EFFLUENT LIMITATIONS.—**

24 Section 301(b)(1)(B) of the Federal Water Pollution Con-
25 trol Act (33 U.S.C. 1311(b)(1)(B)) is amended by striking
26 the semicolon and inserting “, which effluent limitations

1 shall apply at the final point of discharge from the treat-
2 ment facility and not to flows within the treatment facil-
3 ity;”.

4 (b) MODIFICATION OF EFFLUENT LIMITATIONS
5 DURING PEAK WET WEATHER.—Section 301 of such Act
6 (33 U.S.C. 1311) is amended by adding at the end the
7 following:

8 “(q) MODIFICATION OF EFFLUENT LIMITATIONS
9 DURING PEAK WET WEATHER.—The Administrator, with
10 concurrence of the State, may issue permits pursuant to
11 section 402 that modify the requirements of subsection
12 (b)(1)(B) with respect to the discharge of any pollutant
13 from a collection system servicing a publicly owned treat-
14 ment works during periods of peak wet weather, if the ap-
15 plicant demonstrates to the satisfaction of the Adminis-
16 trator that the applicant has a peak wet weather manage-
17 ment plan approved by the Administrator or State that—

18 “(1) defines the peak wet weather event during
19 which the plan will apply; and

20 “(2) describes the management practices to be
21 used by the applicant during peak wet weather
22 events pursuant to guidelines established by the Ad-
23 ministrator under section 304(d)(2).”.

1 **SEC. 202. WET WEATHER WATER QUALITY-BASED STAND-**
2 **ARDS.**

3 Section 303(c)(2) of the Federal Water Pollution
4 Control Act (33 U.S.C. 1313(c)(2)) is amended by adding
5 at the end the following:

6 “(C)(i) States may adopt peak wet weather-re-
7 lated water quality standards for receiving waters
8 during periods of peak wet weather events (as deter-
9 mined pursuant to section 304(d)(2)).

10 “(ii) The Administrator, after consultation with
11 States and not later than 12 months after the date
12 of enactment of this subparagraph, and from time to
13 time thereafter, shall develop and publish guidance
14 to States on developing and implementing peak wet
15 weather-related water quality standards to accommo-
16 date peak wet weather discharges.”.

17 **SEC. 203. PEAK WET WEATHER WASTE WATER MANAGE-**
18 **MENT TECHNIQUES.**

19 Section 304(d) of the Federal Water Pollution Con-
20 trol Act (33 U.S.C. 1314(d)) is amended—

21 (1) by redesignating paragraphs (2) through
22 (4) as paragraphs (3) through (5), respectively; and

23 (2) by inserting after paragraph (1) the fol-
24 lowing:

25 “(2) PEAK WET WEATHER FLOW PRACTICES
26 AND TECHNIQUES.—

1 “(A) INFORMATION AND GUIDELINES.—
2 The Administrator, after consultation with ap-
3 propriate Federal and State agencies and other
4 interested parties, shall publish not later than
5 12 months after the date of enactment of the
6 Clean Water Affordability Act of 2015, and
7 from time to time thereafter, information and
8 guidelines for peak wet weather waste water
9 management practices available for use during
10 periods of peak wet weather events by a collec-
11 tion system servicing a publicly owned treat-
12 ment works to—

13 “(i) prevent damage to the treatment
14 facility;

15 “(ii) maximize the delivery of flow to
16 the treatment facility; and

17 “(iii) provide for appropriate cost-ef-
18 fective controls during peak wet weather
19 events.

20 “(B) CONTENTS OF GUIDELINES.—The
21 guidelines shall include options for the types of
22 technologies and management approaches avail-
23 able to manage peak wet weather-related waste-
24 water flows, including—

- 1 “(i) technologies and management ap-
2 proaches relating to facility and collection
3 system storage methods (including in-sys-
4 tem treatment methods throughout the col-
5 lection system);
- 6 “(ii) facility and collection systems op-
7 erations and maintenance systems;
- 8 “(iii) monitoring and reporting sys-
9 tems; and
- 10 “(iv) alternative treatment methods
11 and technologies that can achieve applica-
12 ble water quality.”.

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