



CRS Report for Congress

Wastewater Treatment: Overview and Background

Claudia Copeland
Specialist in Resources and Environmental Policy
Resources, Science, and Industry Division

Summary

The Clean Water Act prescribes performance levels to be attained by municipal sewage treatment plants in order to prevent the discharge of harmful wastes into surface waters. The act also provides financial assistance so that cities can construct treatment facilities in compliance with the law. The availability of funding for this purpose continues to be a major concern of cities and states. This report provides background on municipal wastewater treatment issues, federal treatment requirements and funding, and recent legislative activity. Meeting the nation's wastewater infrastructure needs efficiently and effectively is likely to remain an issue of considerable interest in the 110th Congress.

Introduction

Waste discharges from municipal sewage treatment plants into rivers and streams, lakes, and estuaries and coastal waters are a significant source of water quality problems throughout the country. States report that municipal discharges are the second leading source of water quality impairment in all of the nation's waters. Pollutants associated with municipal discharges include nutrients (which can stimulate growth of algae that deplete dissolved oxygen, a process that harms aquatic ecosystems, since most fish and other aquatic organisms "breathe" oxygen dissolved in the water column), bacteria and other pathogens (which may impair drinking water supplies and recreation uses), and metals and toxic chemicals from industrial and commercial activities and households.

The Clean Water Act (CWA) prescribes performance levels to be attained by municipal sewage treatment plants in order to prevent the discharge of harmful quantities of waste into surface waters, and to ensure that residual sewage sludge meets environmental quality standards. It requires secondary treatment of sewage (equivalent to removing 85% of raw wastes), or treatment more stringent than secondary where needed to achieve water quality standards necessary for recreational and other uses of a river, stream, or lake.

Federal Aid for Wastewater Treatment

In addition to prescribing municipal treatment requirements, the CWA authorizes the principal federal program to aid wastewater treatment plant construction. Congress established this program in the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500), significantly enhancing what previously had been a modest grant program. Since then, Congress has appropriated \$76.5 billion to assist cities in complying with the act and achieving the overall objectives of the act: restoring and maintaining the chemical, physical, and biological integrity of the nation's waters (see **Table 1**).

Title II of P.L. 92-500 authorized grants to states for wastewater treatment plant construction under a program administered by the Environmental Protection Agency (EPA). Federal funds are provided through annual appropriations under a state-by-state allocation formula contained in the act; the formula (which has been modified several times since 1972) is based on states' financial needs for treatment plant construction and population. States used their allotments to make grants to cities to build or upgrade categories of wastewater treatment projects including treatment plants, related interceptor sewers, correction of infiltration/inflow of sewer lines, and sewer rehabilitation.

Amendments enacted in 1987 (P.L. 100-4) initiated a new program to support State Water Pollution Control Revolving Funds (SRFs). States continue to receive federal grants, but now they provide a 20% match and use the combined funds to make loans to communities. Monies used for construction are repaid to states to create a "revolving" source of assistance for other communities. The SRF program replaced the previous Title II program in FY1991. Federal contributions to SRFs were intended to assist a transition to full state and local financing by FY1995; SRFs were to be sustained through repayment of loans made from the fund after that date. The intention was that states would have greater flexibility to set priorities and administer funding in exchange for an end to federal aid after 1994, when the original CWA authorizations expired. However, although most states believe that the SRF is working well today, early funding and administrative problems, plus remaining funding needs (discussed below), delayed the anticipated shift to full state responsibility. Congress has continued to appropriate funds to assist wastewater construction activities, as shown in **Table 1**. (This table excludes appropriations for congressionally earmarked water infrastructure grants in individual communities, which totaled \$7.0 billion from FY1989 through FY2008.)

Table 1. CWA Wastewater Treatment Funding

(\$ in millions)		
Fiscal Year	Authorizations	Appropriations
1973-1984	46,180	40,544
1985-1989	12,000	10,747
1990-1994	8,400	9,869
1995-1999		6,657
2000-2004		6,724
2005-2008		3,751
Total:	66,580	78,292

Source: *Budget of the United States Government, Appendix, various years.*

How the SRF Works. The SRF program represents a major shift in how the nation finances wastewater treatment needs. In contrast to the Title II construction grants program, which provided grants directly to localities, SRFs are loan programs. States use their SRFs to provide several types of loan assistance to communities, including project construction loans made at or below market rates (interest-free loans are permitted), refinancing of local debt obligations, and providing loan guarantees or purchasing insurance. Loans are to be repaid to the SRF within 20 years, beginning within one year after project completion, and the locality must dedicate a revenue stream (from user fees or other sources) to repay the loan to the state.

States must agree to use SRF monies first to ensure that wastewater treatment facilities are in compliance with deadlines, goals, and requirements of the act. After meeting this “first use” requirement, states may also use the funds to support other types of water quality programs specified in the law, such as those dealing with nonpoint source pollution and protection of estuaries.

In addition, states must agree to ensure that communities meet a range of specifications (such as requiring the applicant to study innovative and alternative treatment technologies in project design and requiring that locally prevailing wages be paid for wastewater treatment plant construction, pursuant to the Davis-Bacon Act). States also must comply with “cross-cutting” requirements associated with receipt of federal grants, such as promotion of equal employment opportunities and participation by minority-owned businesses. These requirements, which promote a variety of national policy goals, also applied under the Title II program.

As under the previous Title II program, decisions on which projects will receive assistance are made by states using a priority ranking system that typically considers the severity of local water pollution problems, among other factors. Financial considerations of the loan agreement (interest rate, repayment schedule, the recipient’s dedicated source of repayment) are also evaluated by states under the SRF program.

All states have established the legal and procedural mechanisms to administer the loan program and are eligible to receive SRF capitalization grants. Some with prior experience using similar financing programs moved quickly, while others had difficulty in making a transition from the previous grants program to one that requires greater financial management expertise for all concerned. More than half of the states currently leverage their funds by using federal capital grants and state matching funds as collateral to borrow in the public bond market for purposes of increasing the pool of available funds for project lending. Cumulatively since 1988, leveraged bonds have comprised 31% of total SRF funds available for projects; loan repayments comprise 24%.

Small communities and states with large rural populations had the largest problems with the SRF program. Many small towns did not participate in the previous grants program and were more likely to require major projects to achieve compliance with the law. Yet many have limited financial, technical, and legal resources and encountered difficulties in qualifying for and repaying SRF loans. These communities often lack an industrial tax base and thus face the prospect of very high per capita user fees to repay a loan for the full capital cost of sewage treatment projects. Compared with larger cities, many are unable to benefit from economies of scale which can affect project costs. Still, small communities have been participating in the SRF program: since 1989, nationally,

63% of all loans and other assistance (comprising 23% of total funds loaned) have gone to assist towns and cities with less than 10,000 population.

Other Federal Assistance. While the Clean Water Act is the principal federal program of this type, some other assistance is available. (For additional information, see CRS Report RL30478, *Federally Supported Water Supply and Wastewater Treatment Programs*.) For example, the Department of Agriculture (USDA) operates grant and loan programs for water supply and wastewater facilities in rural areas, defined as areas of not more than 10,000 persons. FY2008 appropriations totaled \$535 million, sufficient to support more than \$1.6 billion in program activity (counting both appropriations and repaid loans). Two other programs are:

- The Community Development Block Grant (CDBG) program administered by the Department of Housing and Urban Development (HUD). FY2008 funds totaled \$3.6 billion. Water and waste disposal projects compete with many other funded public activities and are estimated by HUD to account for less than 20% of CDBG obligations.
- The Economic Development Administration (EDA) of the Department of Commerce. EDA provides project grants for construction of public facilities, including but not limited to water and sewer systems, as part of approved overall economic development programs in areas of lagging economic growth. In FY2008, EDA's public works and economic development program was funded at \$146 million.

How Localities Pay for Construction Costs. SRFs fund 10% to 20% of the nation's annual wastewater treatment capital investment. Cities, states, and other federal programs provide the remainder. Local governments have primary responsibility for wastewater treatment; they own and operate 16,000 treatment plants and 24,000 collection systems nationwide. Construction of these facilities has historically been financed with revenues from federal grants, state grants to supplement federal aid, and broad-based local taxes (property tax, retail sales tax, or in some cases, local income tax). More recently, cities and counties have turned to fees or charges levied on users of public services to cover all or a portion of local capital costs.

Shifting the Clean Water Act aid program from categorical grants to the SRF loan program had the practical effect of making localities ultimately responsible for 100% of project costs, rather than less than 50% of costs. This has occurred concurrently with other financing challenges: the need to fund other environmental services, such as drinking water and solid waste management; and increased operating costs (new facilities with more complex treatment processes are more costly to operate). Options that localities face, if intergovernmental aid is not available, include raising additional local funds (through increased user fees, developer charges, general or dedicated taxes), reallocating funds from other local programs, or failing to comply with federal standards. Each option carries with it certain practical, legal, and political problems.

Water Quality Improvements. Over the past 35 years, the nation has made considerable progress in controlling and reducing certain kinds of chemical pollution of rivers, lakes, and streams, much of it because of investments in wastewater treatment. Between 1968 and 1995, biological oxygen demand (BOD) pollutant loadings discharged

from sewage treatment plants declined by 45%, despite increased industrial activity and a 35% growth in population. EPA and others argue that without continued infrastructure improvements, future population growth will erode many of the CWA achievements made to date in pollution reduction.

The total population served by sewage treatment plants that provide a minimum of secondary treatment increased from 85 million in 1972 to 208 million in 2000, representing 75% of the U.S. population. However, about 6.4 million people are served by facilities that provide less than secondary treatment, which is the basic requirement of federal law. About 60 million people are served by well functioning on-site septic systems and do not need centralized municipal treatment.

Despite improvements, other water quality problems related to municipalities remain to be addressed. A key concern is “wet weather” pollution: overflows from combined sewers (from sewers that carry sanitary and industrial wastewater, groundwater infiltration, and stormwater runoff which may discharge untreated wastes into streams) and separate stormwater sewers (sewers that carry only sanitary waste). Untreated discharges from these sewers, which typically occur during rainfall events, can cause serious public health and environmental problems, yet costs to control wet weather problems are high in many cases. In addition, toxic wastes discharged from industries and households to sewage treatment plants cause water quality impairments, operational upsets, and contamination of sewage sludge.

Remaining Needs. Although more than \$78 billion in federal aid has been provided since 1972, funding needs remain very high: an additional \$221 billion nationwide, according to the most recent Needs Survey estimate by EPA and the states, published in January 2008. Needs for wastewater treatment and collection are \$134 billion, or 61% of the total. In this survey, total needs increased 9% between 2000 and 2004, in part reflecting costs of improvements needed to meet increasingly stringent water quality standards for treatment plants, as well as correction of storm sewer overflows, and repair of aging infrastructure built decades ago. Needs for small communities represent about 9% of the total. The largest needs in small communities are for improved secondary treatment and new collector sewers. These estimates do not include potential costs, largely unknown, to upgrade physical protection of wastewater facilities against possible terrorist attacks that could threaten water infrastructure systems, an issue of great interest since September 11, 2001.

In September 2002, EPA released a study called the Gap Analysis that assessed the difference between current spending for wastewater infrastructure and total funding needs (both capital and operation and maintenance). EPA estimated that, over the next two decades, the United States needs to spend nearly \$390 billion to replace existing wastewater systems (including for some projects not eligible for CWA funding, such as system replacement) and to build new ones. According to the Gap Analysis, if there is no increase in investment, there will be about a \$6 billion annual gap between current capital expenditures for wastewater treatment and projected spending needs. The study also estimated that, if wastewater spending increases by 3% annually, the gap would shrink by nearly 90%. At issue has been what should the federal role be in assisting states and cities, especially in view of such high projected funding needs.

Interest groups, including a coalition called the Water Infrastructure Network (WIN), have offered proposals that have attracted some congressional interest for a new multi-billion dollar investment program in wastewater and drinking water infrastructure through a federal trust fund. At issue is these groups' interest in developing new mechanisms to help localities pay for water infrastructure projects, beyond federal grants or SRFs, which appear insufficient to fully meet the nation's funding needs. Legislation to establish such a trust fund was introduced in the 109th Congress (H.R. 4560), but was not enacted. Finding consensus on the revenues to support such a large spending increase is a challenge that has eluded proponents so far. Bush Administration officials have said that funding needs go beyond what the federal government can do on its own, and they advocate a combination of strategies including utility management practices (improved rate structures, system consolidation) and efficiencies (asset management to better anticipate future needs).

Legislative Activity

Authorizations for SRF capitalization grants expired in FY1994, making this an issue of congressional interest. (Appropriations have continued, as shown in **Table 1**.) In the 104th Congress, the House passed a comprehensive reauthorization bill (H.R. 961), which included SRF provisions to address problems that have arisen since 1987, including assistance for small and disadvantaged communities and expansion of projects and activities eligible for SRF assistance. However, no legislation was enacted, because of controversies over other parts of the bill.

One recent focus has been on projects needed to control wet weather water pollution, overflows from combined and separate stormwater sewer systems. The 106th Congress passed a bill authorizing \$1.5 billion of CWA grant funding for wet weather sewerage projects (in P.L. 106-554). Authorization for these "wet weather" project grants expired in FY2003 and has not been renewed. No funds were appropriated.

In three successive Congresses (the 107th, 108th, and 109th), House and Senate committees approved bills to extend the act's SRF program and increase funds to capitalize SRF grants. However, no bill received further action, in large part due to controversies over application of the Davis-Bacon Act, which requires that contractors, engaging in certain federal contract construction, pay workers on such projects not less than the locally prevailing wage for comparable work, and over the statutory formula for allocating SRF grants among states. Critics of Davis-Bacon say that it unnecessarily increases public construction costs and hampers competition, while supporters say that it helps stabilize the local construction industry by preventing competition that would undercut wages and working conditions.

The issue of meeting the nation's wastewater infrastructure needs efficiently and effectively has received attention in the 110th Congress: in March 2007, the House passed H.R. 720, a bill to reauthorize the clean water SRF program with \$14 billion in funds through FY2011. (See CRS Report RL33800, *Water Quality Issues in the 110th Congress*, for information.) Issues debated include extending SRF assistance to help states and cities meet the estimated \$221 billion or more in funding needs; modifying the program to assist small and economically disadvantaged communities; and enhancing the SRF program to address a number of water quality priorities beyond traditional treatment plant construction, particularly managing wet weather pollutant runoff from numerous sources, which is the leading cause of stream and lake impairment nationally.