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{ REPORT
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NEW YORK CITY WATERSHED PROTECTION PROGRAM

NOVEMBER 20, 2003.—Ordered to be printed

Mr. INHOFE, from the Committee on Environment and Public Works, submitted the following

REPORT

[to accompany S. 1425]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 1425) to amend the Safe Drinking Water Act to reauthorize the New York City Watershed Protection Program, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

GENERAL STATEMENT AND BACKGROUND

The New York City watershed covers an area of over 1,900 square miles in the Catskill Mountains and the Hudson River Valley. The watershed is divided into two reservoir systems: the Catskill/Delaware watershed located West of the Hudson River and the Croton watershed, located East of the Hudson River. Together, the two reservoir systems deliver approximately 1.4 billion gallons of water each day to nearly 9 million people in New York City, much of Westchester County, and areas of Orange, Putnam, and Ulster Counties.

The Catskill/Delaware watershed covers 1,600 square miles and provides about 90 percent of New York's water supply. Water from the Catskill/Delaware system is ultimately collected into two sequential reservoirs, the Kensico and the Hillview reservoirs, before entering the distribution system. Drinking water from the Catskill/Delaware System is of high quality and is currently delivered to New York residents without conventional filtration.

The Safe Drinking Water Act (Section 1412(b)(7)(C)(i)) requires the Administrator to promulgate regulations specifying the criteria under which filtration (including coagulation and sedimentation, as appropriate) is required as a treatment technique for public water systems supplied by surface water sources.

However, the law does allow EPA to grant a waiver from these requirements to water suppliers if they demonstrate that they have an effective watershed control program and that their water meets strict quality standards.

Due to the high volume of water delivered by New York City's water supply system, the cost of retrofitting filtration technology onto the existing water system would have been prohibitively expensive both for rate payers and for government agencies. Because its high water quality, on January 19, 1993, EPA issued an initial determination granting filtration avoidance to the City of New York. In order to maintain its high quality of water and satisfy the requirements for filtration avoidance, in September 1993, the City submitted "New York City's 1993 Long-Term Watershed Protection and Filtration Avoidance Program" to demonstrate that the Catskill/Delaware system could and would continue to meet the filtration avoidance criteria in the future. In 1996, the EPA re-evaluated the filtration avoidance it had granted, but did not reissue it due to concern over the City's failure to meet several conditions of the 1993 program. Specifically, the City was unable to obtain a land acquisition permit or approval of revised watershed regulations from the State of New York. It was also unable to upgrade wastewater treatment plans located outside New York City limits which were necessary to ensure watershed protection from point discharges of contaminants and excess nutrients.

In order to ensure that the high quality of New York City's water was maintained, the State of New York engaged the watershed stakeholders in a consensus-building approach to negotiate a watershed protection program. In 1997, New York State, the City of New York, the Environmental Protection Agency, the counties of Delaware, Greene, Schoharie, Sullivan, Ulster, Putnam, and Westchester, watershed municipalities, and a number of environmental groups entered into a watershed protection agreement, called the Watershed Memorandum of Agreement (MOA), that is designed to protect New York's drinking water supply source and maintain high water quality.

The MOA is an example of EPA's successful use of the filtration avoidance authority provided in the Safe Drinking Water Act (Section 1412(b)(7)(C)(v)). Full support from the EPA is essential to both the success of the program and to the safety of the drinking water provided to the residents of New York City. Even though EPA is a partner with the city and the State in signing a memorandum of agreement, and has recently reissued a filtration avoidance determination for the City of New York which is contingent on many of the projects funded by the program, the committee is concerned that EPA has failed, in recent years, to include funding for the program in its annual budget submission to Congress.

The MOA includes a large community involvement component and formalized the innovative use of voluntary partnerships and locally based watershed protection programs. Some initiatives, such

as the Watershed Agricultural Program, are designed to target specific communities or stakeholders such as the agricultural community to reduce pollution from farms within the watershed through rational incentive based agricultural practices. Another example of community involvement is the Catskill Watershed Corporation (CWC), which was established when the Watershed Memorandum of Agreement was signed. The CWC is a non-profit organization directed by local government officials and created to implement a number of watershed protection programs.

In May 2000, the EPA, in consultation with the New York State Department of Health and the City, conducted a formal mid-course review of the 1997 filtration avoidance determination and found that the City had made significant progress, but needed to work on long-term efforts. In November 2002, EPA issued its New York City filtration avoidance determination for the Catskill/Delaware Water Supplies which established that the City has an adequate long-term watershed protection program.

In support of this process, the Safe Drinking Water Act Amendments of 1996, authorized the Administrator to provide financial assistance to the State of New York for demonstration projects implemented as part of the watershed program for the protection and enhancement of the quality of source waters of the New York City water supply system, including projects that demonstrate, assess, or provide for comprehensive monitoring and surveillance and projects necessary to comply with the criteria for avoiding filtration. (42 U.S.C. 300j-2)

OBJECTIVES OF THE LEGISLATION

This legislation seeks to facilitate New York City's compliance with the requirements of its filtration avoidance determination by reauthorizing the New York City Watershed Protection Program at the existing authorized funding level of \$15,000,000 for fiscal year 2004.

SECTION-BY-SECTION ANALYSIS

Section 1. New York City Watershed Protection Program

This section amends Section 1443(d)(4) of the Safe Drinking Water Act (42 U.S.C. 300j-2(d)(4)) to reauthorize the New York City Watershed Protection Program at the existing authorized funding level of \$15,000,000 for fiscal year 2004.

In providing funds to the State of New York under this section, the Administrator is strongly encouraged to give priority to projects that demonstrate, assess, or provide for comprehensive monitoring, surveillance, and research with respect to the efficacy of various source water protection activities, or that establish watershed or basin-wide coordinating planning or governing organizations. Moreover the Administrator is expected to incorporate funding for the program into the agency's budget at a level commensurate with the agency's commitment to the program.

LEGISLATIVE HISTORY

Both S. 1425, sponsored by Senator Clinton, and the companion legislation, H.R. 2771, sponsored by Congressman Fossella, were both introduced on July 17, 2003. No hearings were held on S. 1425.

ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 1425 on July 30, 2003. The committee favorably reported the bill by voice vote as amended.

REGULATORY IMPACT STATEMENT

In compliance of section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee finds that S. 1425 does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the committee finds that S. 1425 would impose no new Federal intergovernmental unfunded mandates on State, local, or tribal governments.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 29, 2003.

Hon. JAMES M. INHOFE, *Chairman,*
Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1425, a bill to authorize the New York City Watershed Protection Program.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff is Susanne S. Mehlman, who can be reached at 226-2860.

Sincerely,

DOUGLAS HOLTZ-EAKIN

S. 1425, A bill to amend the Safe Drinking Water Act to reauthorize the New York City Watershed Protection Program, as ordered reported by the Senate Committee on Environment and Public Works, on July 30, 2003

Summary

S. 1425 would reauthorize the New York City Watershed Protection program for fiscal year 2004 and would authorize the appropriation of \$15 million for the program in that year. Under current law, the program will expire at the end of fiscal year 2003. Under the bill, the Environmental Protection Agency EPA would provide the State of New York with grants to assist in protecting New York City's water sources.

CBO estimates that implementing S. 1425 would cost a total of \$15 million over the 2004–2008 period, assuming appropriation of the authorized amount in 2004. Enacting S. 1425 would not affect direct spending or revenues. S. 1425 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.

Estimated Cost to the Federal Government

For this estimate, CBO assumes that the bill will be enacted in the fall of 2003. CBO estimates that implementing the bill would cost \$15 million over the 2004–2008 period, assuming appropriation of the amount authorized for 2004. Those estimated outlays are based on historical spending patterns for the New York City Watershed Protection Program. The estimated budgetary impact of S. 1425 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

	2003	2004	2005	2006	2007	2008
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for New York City Watershed Protection						
Budget Authority	5	0	0	0	0	0
Estimated Outlays	2	3	0	0	0	0
Proposed Changes						
Authorization Level	0	15	0	0	0	0
Estimated Outlays	0	8	5	2	0	0
Spending Under S. 1425 for New York City Watershed Protection						
Authorization Level	5	15	0	0	0	0
Estimated Outlays	2	11	5	2	0	0

a. The 2004 level is the amount appropriated that year for the New York City Watershed Protection Program.

Intergovernmental and Private-Sector Impact

S. 1425 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on State, local, or tribal governments. The State of New York would benefit from Federal assistance in protecting and enhancing the water supply system of New York City. Any costs to the State, including matching funds, would be conditions of aid.

Estimate Prepared By: Federal Costs: Susanne S. Mehlman; Impact on State, Local, and Tribal Governments: Greg Waring; Impact on the Private Sector: Cecil McPherson.

Estimate Approved By: Peter H. Fontaine Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in [black brackets], new matter is printed in italic, existing law in which no change is proposed is shown in roman:

TITLE XIV OF THE PUBLIC HEALTH SERVICE ACT
SAFETY OF PUBLIC WATER SYSTEMS (SAFE DRINKING WATER ACT)

* * * * *

SHORT TITLE

SEC. 1400. This title may be cited as the "Safe Drinking Water Act".

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SEC. 1443. (a)(1) * * *

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(d) NEW YORK CITY WATERSHED PROTECTION PROGRAM.—
(1) * * *

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(4) AUTHORIZATION.—There are authorized to be appropriated to the Administrator to carry out this subsection for each of fiscal years **[1997 through 2003]** *1997 through 2004*, \$15,000,000 for the purpose of providing assistance to the State of New York to carry out paragraph (1).

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