

DRINKING WATER SYSTEM IMPROVEMENT ACT OF 2017

NOVEMBER 1, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WALDEN, from the Committee on Energy and Commerce,  
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 3387]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3387) to amend the Safe Drinking Water Act to improve public water systems and enhance compliance with such Act, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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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 “Drinking Water System Improvement Act of 2017”.

**SEC. 2. IMPROVED CONSUMER CONFIDENCE REPORTS.**

Section 1414(c)(4) of the Safe Drinking Water Act (42 U.S.C. 300g–3(c)(4)) is amended—

(1) in the heading for subparagraph (A), by striking “ANNUAL REPORTS” and inserting “REPORTS”;

(2) in subparagraph (A), by inserting “, or provide by electronic means,” after “to mail”;

(3) in subparagraph (B)—

(A) in clause (iv), by striking “the Administrator, and” and inserting “the Administrator, including corrosion control efforts, and”; and

(B) by adding at the end the following clause:

“(vii) Identification of, if any—

“(I) exceedances described in paragraph (1)(D) for which corrective action has been required by the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) during the monitoring period covered by the consumer confidence report; and

“(II) violations that occurred during the monitoring period covered by the consumer confidence report.”; and

(4) by adding at the end the following new subparagraph:

“(F) REVISIONS.—

“(i) UNDERSTANDABILITY AND FREQUENCY.—Not later than 24 months after the Drinking Water System Improvement Act of 2017, the Administrator, in consultation with the parties identified in subparagraph (A), shall issue revisions to the regulations issued under subparagraph (A)—

“(I) to increase—

“(aa) the readability, clarity, and understandability of the information presented in consumer confidence reports; and

“(bb) the accuracy of information presented, and risk communication, in consumer confidence reports; and

“(II) with respect to community water systems that serve 10,000 or more persons, to require each such community water system to provide, by mail, electronic means, or other methods described in clause (ii), a consumer confidence report to each customer of the system at least biannually.

“(ii) ELECTRONIC DELIVERY.—Any revision of regulations pursuant to clause (i) shall allow delivery of consumer confidence reports by methods consistent with methods described in the memorandum ‘Safe Drinking Water Act–Consumer Confidence Report Rule Delivery Options’ issued by the Environmental Protection Agency on January 3, 2013.”.

**SEC. 3. CONTRACTUAL AGREEMENTS.**

(a) IN GENERAL.—Section 1414(h)(1) of the Safe Drinking Water Act (42 U.S.C. 300g–3(h)(1)) is amended—

(1) in subparagraph (B), by striking “or” after the semicolon;

(2) in subparagraph (C), by striking the period at the end and inserting “; or”;

and

(3) by adding at the end the following new subparagraph:

“(D) entering into a contractual agreement for significant management or administrative functions of the system to correct violations identified in the plan.”.

(b) TECHNICAL AMENDMENT.—Section 1414(i)(1) of the Safe Drinking Water Act (42 U.S.C. 300g–3(i)(1)) is amended by inserting a comma after “1417”.

**SEC. 4. CONSOLIDATION.**

(a) MANDATORY ASSESSMENT AND CONSOLIDATION.—Subsection (h) of section 1414 of the Safe Drinking Water Act (42 U.S.C. 300g–3) is amended by adding at the end the following:

“(3) AUTHORITY FOR MANDATORY ASSESSMENT AND MANDATORY CONSOLIDATION.—

“(A) MANDATORY ASSESSMENT.—A State with primary enforcement responsibility or the Administrator (if the State does not have primary enforcement responsibility) may require the owner or operator of a public water system to assess options for consolidation, or transfer of ownership of the system, as described in paragraph (1), if—

“(i) the public water system—

“(I) has repeatedly violated one or more national primary drinking water regulations and such repeated violations are likely to adversely affect human health; and

“(II)(aa) is unable or unwilling to take feasible and affordable actions, as identified by the State with primary enforcement responsibility or the Administrator (if the State does not have primary enforcement responsibility), that will result in the public water system complying with the national primary drinking water regulations described in subclause (I), including accessing technical assistance and financial assistance through the State loan fund pursuant to section 1452; or

“(bb) has already undertaken actions described in item (aa) without achieving compliance;

“(ii) such consolidation or transfer is feasible; and

“(iii) such consolidation or transfer could result in greater compliance with national primary drinking water regulations.

“(B) MANDATORY CONSOLIDATION.—After review of an assessment under subparagraph (A), a State with primary enforcement responsibility or the Administrator (if the State does not have primary enforcement responsibility) may require the owner or operator of a public water system that completed such assessment to submit a plan for consolidation, or transfer of ownership of the system, under paragraph (1), and complete the actions required under such plan if—

“(i) the owner or operator of the public water system—

“(I) has not taken steps to complete consolidation;

“(II) has not transferred ownership of the system; or

“(III) was unable to achieve compliance after taking the actions described in clause (i)(II)(aa) of subparagraph (A);

“(ii) since completing such assessment, the public water system has violated one or more national primary drinking water regulations and such violations are likely to adversely affect human health; and

“(iii) such consolidation or transfer is feasible.

“(4) FINANCIAL ASSISTANCE.—Notwithstanding section 1452(a)(3), a public water system undertaking consolidation or transfer of ownership or alternative actions to achieve compliance pursuant to this subsection may receive assistance under section 1452 to carry out such consolidation, transfer, or alternative actions.

“(5) PROTECTION OF NONRESPONSIBLE SYSTEM.—

“(A) IDENTIFICATION OF LIABILITIES.—

“(i) IN GENERAL.—An owner or operator of a public water system submitting a plan pursuant to paragraph (3) shall identify as part of such plan—

“(I) any potential liability for damages arising from each specific violation identified in the plan of which the owner or operator is aware; and

“(II) any funds or other assets that are available to satisfy such liability, as of the date of submission of such plan, to the public water system that committed such violation.

“(ii) INCLUSION.—In carrying out clause (i), the owner or operator shall take reasonable steps to ensure that all potential liabilities for damages arising from each specific violation identified in the plan submitted pursuant to paragraph (3) are identified.

“(B) RESERVATION OF FUNDS.—A public water system that has completed the actions required under a plan submitted and approved pursuant to paragraph (3) shall not be liable under this title for a violation of this title identified in the plan, except to the extent to which funds or other assets are identified pursuant to subparagraph (A)(i)(II) as available to satisfy such liability.

“(6) REGULATIONS.—Not later than 2 years after the date of enactment of the Drinking Water System Improvement Act of 2017, the Administrator shall promulgate regulations to implement paragraphs (3), (4), and (5).”.

**(b) RETENTION OF PRIMARY ENFORCEMENT AUTHORITY.—**

(1) **IN GENERAL.**—Section 1413(a) of the Safe Drinking Water Act (42 U.S.C. 300g-2(a)) is amended—

(A) in paragraph (5), by striking “; and” and inserting a semicolon;

(B) by redesignating paragraph (6) as paragraph (7); and

(C) by inserting after paragraph (5) the following new paragraph:

“(6) has adopted and is implementing procedures for requiring public water systems to assess options for, and complete, consolidation or transfer of ownership, in accordance with the regulations issued by the Administrator under section 1414(h)(6); and”.

(2) **CONFORMING AMENDMENT.**—Section 1413(b)(1) of the Safe Drinking Water Act (42 U.S.C. 300g-2(b)(1)) is amended by striking “of paragraphs (1), (2), (3), and (4)”.

**SEC. 5. IMPROVED ACCURACY AND AVAILABILITY OF COMPLIANCE MONITORING DATA.**

Section 1414 of the Safe Drinking Water Act (42 U.S.C. 300g-3) is amended by adding at the end the following new subsection:

“(j) **IMPROVED ACCURACY AND AVAILABILITY OF COMPLIANCE MONITORING DATA.**—

“(1) **STRATEGIC PLAN.**—Not later than 1 year after the date of enactment of this subsection, the Administrator, in coordination with States, public water systems, and other interested stakeholders, shall develop and provide to Congress a strategic plan for improving the accuracy and availability of monitoring data collected to demonstrate compliance with national primary drinking water regulations and submitted—

“(A) by public water systems to States; or

“(B) by States to the Administrator.

“(2) **EVALUATION.**—In developing the strategic plan under paragraph (1), the Administrator shall evaluate any challenges faced—

“(A) in ensuring the accuracy and integrity of submitted data described in paragraph (1);

“(B) by States and public water systems in implementing an electronic system for submitting such data, including the technical and economic feasibility of implementing such a system; and

“(C) by users of such electronic systems in being able to access such data.

“(3) **FINDINGS AND RECOMMENDATIONS.**—The Administrator shall include in the strategic plan provided to Congress under paragraph (1)—

“(A) a summary of the findings of the evaluation under paragraph (2); and

“(B) recommendations on practicable, cost-effective methods and means that can be employed to improve the accuracy and availability of submitted data described in paragraph (1).

“(4) **CONSULTATION.**—In developing the strategic plan under paragraph (1), the Administrator may, as appropriate, consult with States or other Federal agencies that have experience using practicable methods and means to improve the accuracy and availability of submitted data described in such paragraph.”.

**SEC. 6. ASSET MANAGEMENT.**

Section 1420 of the Safe Drinking Water Act (42 U.S.C. 300g-9) is amended—

(1) in subsection (c)(2)—

(A) in subparagraph (D), by striking “; and” and inserting a semicolon;

(B) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(F) a description of how the State will, as appropriate—

“(i) encourage development by public water systems of asset management plans that include best practices for asset management; and

“(ii) assist, including through the provision of technical assistance, public water systems in training operators or other relevant and appropriate persons in implementing such asset management plans.”;

(2) in subsection (c)(3), by inserting “, including efforts of the State to encourage development by public water systems of asset management plans and to assist public water systems in training relevant and appropriate persons in implementing such asset management plans” after “public water systems in the State”; and

(3) in subsection (d), by adding at the end the following new paragraph:

“(5) **INFORMATION ON ASSET MANAGEMENT PRACTICES.**—Not later than 5 years after the date of enactment of this paragraph, and not less often than every 5 years thereafter, the Administrator shall review and, if appropriate, update educational materials, including handbooks, training materials, and technical information, made available by the Administrator to owners, managers, and op-

erators of public water systems, local officials, technical assistance providers (including nonprofit water associations), and State personnel concerning best practices for asset management strategies that may be used by public water systems.”.

**SEC. 7. COMMUNITY WATER SYSTEM RISK AND RESILIENCE.**

(a) **IN GENERAL.**—Section 1433 of the Safe Drinking Water Act (42 U.S.C. 300i-2) is amended to read as follows:

**“SEC. 1433. COMMUNITY WATER SYSTEM RISK AND RESILIENCE.**

**“(a) RISK AND RESILIENCE ASSESSMENTS.—**

**“(1) IN GENERAL.—**Each community water system serving a population of greater than 3,300 persons shall conduct an assessment of the risks to, and resilience of, its system. Such an assessment—

**“(A) shall include an assessment of—**

**“(i) the risk to the system from malevolent acts and natural hazards;**

**“(ii) the resilience of the pipes and constructed conveyances, physical barriers, source water, water collection and intake, pretreatment, treatment, storage and distribution facilities, electronic, computer, or other automated systems (including the security of such systems) which are utilized by the system;**

**“(iii) the monitoring practices of the system;**

**“(iv) the financial infrastructure of the system;**

**“(v) the use, storage, or handling of various chemicals by the system;**

**and**

**“(vi) the operation and maintenance of the system; and**

**“(B) may include an evaluation of capital and operational needs for risk and resilience management for the system.**

**“(2) BASELINE INFORMATION.—**The Administrator, not later than August 1, 2019, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall provide baseline information on malevolent acts of relevance to community water systems, which shall include consideration of acts that may—

**“(A) substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water; or**

**“(B) otherwise present significant public health or economic concerns to the community served by the system.**

**“(3) CERTIFICATION.—**

**“(A) CERTIFICATION.—**Each community water system described in paragraph (1) shall submit to the Administrator a certification that the system has conducted an assessment complying with paragraph (1). Such certification shall be made prior to—

**“(i) March 31, 2020, in the case of systems serving a population of 100,000 or more;**

**“(ii) December 31, 2020, in the case of systems serving a population of 50,000 or more but less than 100,000; and**

**“(iii) June 30, 2021, in the case of systems serving a population greater than 3,300 but less than 50,000.**

**“(B) REVIEW AND REVISION.—**Each community water system described in paragraph (1) shall review the assessment of such system conducted under such paragraph at least once every 5 years after the applicable deadline for submission of its certification under subparagraph (A) to determine whether such assessment should be revised. Upon completion of such a review, the community water system shall submit to the Administrator a certification that the system has reviewed its assessment and, if applicable, revised such assessment.

**“(4) CONTENTS OF CERTIFICATIONS.—**A certification required under paragraph (3) shall contain only—

**“(A) information that identifies the community water system submitting the certification;**

**“(B) the date of the certification; and**

**“(C) a statement that the community water system has conducted, reviewed, or revised the assessment, as applicable.**

**“(5) PROVISION TO OTHER ENTITIES.—**No community water system shall be required under State or local law to provide an assessment described in this section (or revision thereof) to any State, regional, or local governmental entity solely by reason of the requirement set forth in paragraph (3) that the system submit a certification to the Administrator.

**“(b) EMERGENCY RESPONSE PLAN.—**Each community water system serving a population greater than 3,300 shall prepare or revise, where necessary, an emergency re-

response plan that incorporates findings of the assessment conducted under subsection (a) for such system (and any revisions thereto). Each community water system shall certify to the Administrator, as soon as reasonably possible after the date of enactment of the Drinking Water System Improvement Act of 2017, but not later than 6 months after completion of the assessment under subsection (a), that the system has completed such plan. The emergency response plan shall include—

“(1) strategies and resources to improve the resilience of the system, including the physical security and cybersecurity of the system;

“(2) plans and procedures that can be implemented, and identification of equipment that can be utilized, in the event of a malevolent act or natural hazard that threatens the ability of the community water system to deliver safe drinking water;

“(3) actions, procedures, and equipment which can obviate or significantly lessen the impact of a malevolent act or natural hazard on the public health and the safety and supply of drinking water provided to communities and individuals, including the development of alternative source water options, relocation of water intakes, and construction of flood protection barriers; and

“(4) strategies that can be used to aid in the detection of malevolent acts or natural hazards that threaten the security or resilience of the system.

“(c) COORDINATION.—Community water systems shall, to the extent possible, coordinate with existing local emergency planning committees established pursuant to the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.) when preparing or revising an assessment or emergency response plan under this section.

“(d) RECORD MAINTENANCE.—Each community water system shall maintain a copy of the assessment conducted under subsection (a) and the emergency response plan prepared under subsection (b) (including any revised assessment or plan) for 5 years after the date on which a certification of such assessment or plan is submitted to the Administrator under this section.

“(e) GUIDANCE TO SMALL PUBLIC WATER SYSTEMS.—The Administrator shall provide guidance and technical assistance to community water systems serving a population of less than 3,300 persons on how to conduct resilience assessments, prepare emergency response plans, and address threats from malevolent acts and natural hazards that threaten to disrupt the provision of safe drinking water or significantly affect the public health or significantly affect the safety or supply of drinking water provided to communities and individuals.

“(f) ALTERNATIVE PREPAREDNESS AND OPERATIONAL RESILIENCE PROGRAMS.—

“(1) SATISFACTION OF REQUIREMENT.—A community water system that is required to comply with the requirements of subsections (a) and (b) may satisfy such requirements by—

“(A) using and complying with technical standards that the Administrator has recognized under paragraph (2); and

“(B) submitting to the Administrator a certification that the community water system is complying with subparagraph (A).

“(2) AUTHORITY TO RECOGNIZE.—Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995, the Administrator shall recognize technical standards that are developed or adopted by third-party organizations or voluntary consensus standards bodies that carry out the objectives or activities required by this section as a means of satisfying the requirements under subsection (a) or (b).

“(g) TECHNICAL ASSISTANCE AND GRANTS.—

“(1) IN GENERAL.—The Administrator shall establish and implement a program, to be known as the Drinking Water Infrastructure Risk and Resilience Program, under which the Administrator may award grants in each of fiscal years 2018 through 2022 to owners or operators of community water systems for the purpose of increasing the resilience of such community water systems.

“(2) USE OF FUNDS.—As a condition on receipt of a grant under this section, an owner or operator of a community water system shall agree to use the grant funds exclusively to assist in the planning, design, construction, or implementation of a program or project consistent with an emergency response plan prepared pursuant to subsection (b), which may include—

“(A) the purchase and installation of equipment for detection of drinking water contaminants or malevolent acts;

“(B) the purchase and installation of fencing, gating, lighting, or security cameras;

“(C) the tamper-proofing of manhole covers, fire hydrants, and valve boxes;

“(D) the purchase and installation of improved treatment technologies and equipment to improve the resilience of the system;

“(E) improvements to electronic, computer, financial, or other automated systems and remote systems;

“(F) participation in training programs, and the purchase of training manuals and guidance materials, relating to security and resilience;

“(G) improvements in the use, storage, or handling of chemicals by the community water system;

“(H) security screening of employees or contractor support services;

“(I) equipment necessary to support emergency power or water supply, including standby and mobile sources; and

“(J) the development of alternative source water options, relocation of water intakes, and construction of flood protection barriers.

“(3) EXCLUSIONS.—A grant under this subsection may not be used for personnel costs, or for monitoring, operation, or maintenance of facilities, equipment, or systems.

“(4) TECHNICAL ASSISTANCE.—For each fiscal year, the Administrator may use not more than \$5,000,000 from the funds made available to carry out this subsection to provide technical assistance to community water systems to assist in responding to and alleviating a vulnerability that would substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water (including sources of water for such systems) which the Administrator determines to present an immediate and urgent need.

“(5) GRANTS FOR SMALL SYSTEMS.—For each fiscal year, the Administrator may use not more than \$10,000,000 from the funds made available to carry out this subsection to make grants to community water systems serving a population of less than 3,300 persons, or nonprofit organizations receiving assistance under section 1442(e), for activities and projects undertaken in accordance with the guidance provided to such systems under subsection (e) of this section.

“(6) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated \$35,000,000 for each of fiscal years 2018 through 2022.

“(h) DEFINITIONS.—In this section—

“(1) the term ‘resilience’ means the ability of a community water system or an asset of a community water system to adapt to or withstand the effects of a malevolent act or natural hazard without interruption to the asset’s or system’s function, or if the function is interrupted, to rapidly return to a normal operating condition; and

“(2) the term ‘natural hazard’ means a natural event that threatens the functioning of a community water system, including an earthquake, tornado, flood, hurricane, wildfire, and hydrologic changes.”.

(b) SENSITIVE INFORMATION.—

(1) PROTECTION FROM DISCLOSURE.—Information submitted to the Administrator of the Environmental Protection Agency pursuant to section 1433 of the Safe Drinking Water Act, as in effect on the day before the date of enactment of the Drinking Water System Improvement Act of 2017, shall be protected from disclosure in accordance with the provisions of such section as in effect on such day.

(2) DISPOSAL.—The Administrator, in partnership with community water systems (as defined in section 1401 of the Safe Drinking Water Act), shall develop a strategy to, in a timeframe determined appropriate by the Administrator, securely and permanently dispose of, or return to the applicable community water system, any information described in paragraph (1).

#### SEC. 8. AUTHORIZATION FOR GRANTS FOR STATE PROGRAMS.

Section 1443(a)(7) of the Safe Drinking Water Act (42 U.S.C. 300j–2(a)(7)) is amended by striking “\$100,000,000 for each of fiscal years 1997 through 2003” and inserting “\$150,000,000 for each of fiscal years 2018 through 2022”.

#### SEC. 9. MONITORING FOR UNREGULATED CONTAMINANTS.

(a) IN GENERAL.—Section 1445 of the Safe Drinking Water Act (42 U.S.C. 300j–4) is amended by adding at the end the following:

“(j) MONITORING BY CERTAIN SYSTEMS.—

“(1) IN GENERAL.—Notwithstanding subsection (a)(2)(A), the Administrator shall, subject to the availability of appropriations for such purpose—

“(A) require public water systems serving between 3,300 and 10,000 persons to monitor for unregulated contaminants in accordance with this section; and

“(B) ensure that only a representative sample of public water systems serving less than 3,300 persons are required to monitor.

“(2) EFFECTIVE DATE.—Paragraph (1) shall take effect 3 years after the date of enactment of this subsection.

“(3) LIMITATION.—Paragraph (1) shall take effect unless the Administrator determines that there is not sufficient laboratory capacity to accommodate the analysis necessary to carry out monitoring required under such paragraph.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$15,000,000 in each fiscal year for which monitoring is required to be carried out under this subsection for the Administrator to pay the reasonable cost of such testing and laboratory analysis as are necessary to carry out monitoring required under this subsection.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1445(a)(2)(H) of the Safe Drinking Water Act (42 U.S.C. 300j-4(a)(2)(H)) is amended by striking “1997 through 2003” and inserting “2018 through 2022”.

(c) INCLUSION IN DATA BASE.—Section 1445(g)(7) of the Safe Drinking Water Act (42 U.S.C. 300j-4(g)(7)) is amended by—

- (1) striking “and” at the end of subparagraph (B);
- (2) redesignating subparagraph (C) as subparagraph (D); and
- (3) inserting after subparagraph (B) the following:

“(C) if applicable, monitoring information collected by public water systems pursuant to subsection (j) that is not duplicative of monitoring information included in the data base under subparagraph (B) or (D); and”.

#### SEC. 10. STATE REVOLVING LOAN FUNDS.

(a) USE OF FUNDS.—Section 1452(a)(2)(B) of the Safe Drinking Water Act (42 U.S.C. 300j-12(a)(2)(B)) is amended by striking “(including expenditures for planning, design, and associated preconstruction activities, including activities relating to the siting of the facility, but not” and inserting “(including expenditures for planning, design, siting, and associated preconstruction activities, or for replacing or rehabilitating aging treatment, storage, or distribution facilities of public water systems, but not”.

(b) AMERICAN IRON AND STEEL PRODUCTS.—Section 1452(a)(4)(A) of the Safe Drinking Water Act (42 U.S.C. 300j-12(a)(4)(A)) is amended by striking “fiscal year 2017” and inserting “fiscal years 2018 through 2022”.

(c) EVALUATION.—Section 1452(a) of the Safe Drinking Water Act (42 U.S.C. 300j-12(a)) is amended by adding at the end the following:

“(5) EVALUATION.—During fiscal years 2018 through 2022, a State may provide financial assistance under this section to a public water system serving a population of more than 10,000 for an expenditure described in paragraph (2) only if the public water system—

“(A) considers the cost and effectiveness of relevant processes, materials, techniques, and technologies for carrying out the project or activity that is the subject of the expenditure; and

“(B) certifies to the State, in a form and manner determined by the State, that the public water system has made such consideration.”.

(d) PREVAILING WAGES.—Section 1452(a) of the Safe Drinking Water Act (42 U.S.C. 300j-12(a)) is further amended by adding at the end the following:

“(6) PREVAILING WAGES.—The requirements of section 1450(e) shall apply to any construction project carried out in whole or in part with assistance made available by a drinking water treatment revolving loan fund.”.

(e) ASSISTANCE FOR DISADVANTAGED COMMUNITIES.—Section 1452(d)(2) of the Safe Drinking Water Act (42 U.S.C. 300j-12(d)(2)) is amended to read as follows:

“(2) TOTAL AMOUNT OF SUBSIDIES.—For each fiscal year, of the amount of the capitalization grant received by the State for the year, the total amount of loan subsidies made by a State pursuant to paragraph (1)—

“(A) may not exceed 35 percent; and

“(B) to the extent that there are sufficient applications for loans to communities described in paragraph (1), may not be less than 6 percent.”.

(f) TYPES OF ASSISTANCE.—Section 1452(f)(1) of the Safe Drinking Water Act (42 U.S.C. 300j-12(f)(1)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph:

“(C) each loan will be fully amortized not later than 30 years after the completion of the project, except that in the case of a disadvantaged community (as defined in subsection (d)(3)) a State may provide an extended term for a loan, if the extended term—

“(i) terminates not later than the date that is 40 years after the date of project completion; and

“(ii) does not exceed the expected design life of the project;” and

(3) in subparagraph (B), by striking “1 year after completion of the project for which the loan was made” and all that follows through “design life of the

project;” and inserting “18 months after completion of the project for which the loan was made;”.

(g) NEEDS SURVEY.—Section 1452(h) of the Safe Drinking Water Act (42 U.S.C. 300j–12(h)) is amended—

(1) by striking “The Administrator” and inserting “(1) The Administrator”; and

(2) by adding at the end the following new paragraph:

“(2) Any assessment conducted under paragraph (1) after the date of enactment of the Drinking Water System Improvement Act of 2017 shall include an assessment of costs to replace all lead service lines (as defined in section 1459B(a)(4)) of all eligible public water systems in the United States, and such assessment shall describe separately the costs associated with replacing the portions of such lead service lines that are owned by an eligible public water system and the costs associated with replacing any remaining portions of such lead service lines, to the extent practicable.”.

(h) OTHER AUTHORIZED ACTIVITIES.—Section 1452(k)(1)(C) of the Safe Drinking Water Act (42 U.S.C. 300j–12(k)(1)(C)) is amended by striking “for fiscal years 1996 and 1997 to delineate and assess source water protection areas in accordance with section 1453” and inserting “to delineate, assess, and update assessments for source water protection areas in accordance with section 1453”.

(i) AUTHORIZATION FOR CAPITALIZATION GRANTS TO STATES FOR STATE DRINKING WATER TREATMENT REVOLVING LOAN FUNDS.—Section 1452(m) of the Safe Drinking Water Act (42 U.S.C. 300j–12(m)) is amended—

(1) by striking the first sentence and inserting the following:

“(1) There are authorized to be appropriated to carry out the purposes of this section—

- “(A) \$1,200,000,000 for fiscal year 2018;
- “(B) \$1,400,000,000 for fiscal year 2019;
- “(C) \$1,600,000,000 for fiscal year 2020;
- “(D) \$1,800,000,000 for fiscal year 2021; and
- “(E) \$2,000,000,000 for fiscal year 2022.”;

(2) by striking “To the extent amounts authorized to be” and inserting the following:

“(2) To the extent amounts authorized to be”; and

(3) by striking “(prior to the fiscal year 2004)”.

(j) BEST PRACTICES FOR ADMINISTRATION OF STATE REVOLVING LOAN FUNDS.—Section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12) is amended by adding after subsection (r) the following:

“(s) BEST PRACTICES FOR STATE LOAN FUND ADMINISTRATION.—The Administrator shall—

“(1) collect information from States on administration of State loan funds established pursuant to subsection (a)(1), including—

“(A) efforts to streamline the process for applying for assistance through such State loan funds;

“(B) programs in place to assist with the completion of applications for assistance through such State loan funds;

“(C) incentives provided to public water systems that partner with small public water systems to assist with the application process for assistance through such State loan funds;

“(D) practices to ensure that amounts in such State loan funds are used to provide loans, loan guarantees, or other authorized assistance in a timely fashion;

“(E) practices that support effective management of such State loan funds;

“(F) practices and tools to enhance financial management of such State loan funds; and

“(G) key financial measures for use in evaluating State loan fund operations, including—

“(i) measures of lending capacity, such as current assets and current liabilities or undisbursed loan assistance liability; and

“(ii) measures of growth or sustainability, such as return on net interest;

“(2) not later than 3 years after the date of enactment of the Drinking Water System Improvement Act of 2017, disseminate to the States best practices for administration of such State loan funds, based on the information collected pursuant to this subsection; and

“(3) periodically update such best practices, as appropriate.”.

**SEC. 11. AUTHORIZATION FOR SOURCE WATER PETITION PROGRAMS.**

Section 1454(e) of the Safe Drinking Water Act (42 U.S.C. 300j–14(e)) is amended by striking “1997 through 2003” and inserting “2018 through 2022”.

**SEC. 12. REVIEW OF TECHNOLOGIES.**

Part E of the Safe Drinking Water Act (42 U.S.C. 300j et seq.) is amended by adding at the end the following new section:

**“SEC. 1459C. REVIEW OF TECHNOLOGIES.**

“(a) REVIEW.—The Administrator, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall review (or enter into contracts or cooperative agreements to provide for a review of) existing and potential methods, means, equipment, and technologies (including review of cost, availability, and efficacy of such methods, means, equipment, and technologies) that—

“(1) ensure the physical integrity of community water systems;

“(2) prevent, detect, and respond to any contaminant for which a national primary drinking water regulation has been promulgated in community water systems and source water for community water systems;

“(3) allow for use of alternate drinking water supplies from nontraditional sources; and

“(4) facilitate source water assessment and protection.

“(b) INCLUSIONS.—The review under subsection (a) shall include review of methods, means, equipment, and technologies—

“(1) that are used for corrosion protection, metering, leak detection, or protection against water loss;

“(2) that are intelligent systems, including hardware, software, or other technology, used to assist in protection and detection described in paragraph (1);

“(3) that are point-of-use devices or point-of-entry devices;

“(4) that are physical or electronic systems that monitor, or assist in monitoring, contaminants in drinking water in real-time; and

“(5) that allow for the use of nontraditional sources for drinking water, including physical separation and chemical and biological transformation technologies.

“(c) AVAILABILITY.—The Administrator shall make the results of the review under subsection (a) available to the public.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section \$10,000,000 for fiscal year 2018, which shall remain available until expended.”.

**SEC. 13. DRINKING WATER FOUNTAIN REPLACEMENT FOR SCHOOLS.**

(a) IN GENERAL.—Part F of the Safe Drinking Water Act (42 U.S.C. 300j–21 et seq.) is amended by adding at the end the following:

**“SEC. 1465. DRINKING WATER FOUNTAIN REPLACEMENT FOR SCHOOLS.**

“(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this section, the Administrator shall establish a grant program to provide assistance to local educational agencies for the replacement of drinking water fountains manufactured prior to 1988.

“(b) USE OF FUNDS.—Funds awarded under the grant program—

“(1) shall be used to pay the costs of replacement of drinking water fountains in schools; and

“(2) may be used to pay the costs of monitoring and reporting of lead levels in the drinking water of schools of a local educational agency receiving such funds, as determined appropriate by the Administrator.

“(c) PRIORITY.—In awarding funds under the grant program, the Administrator shall give priority to local educational agencies based on economic need.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not more than \$5,000,000 for each of fiscal years 2018 through 2022.”.

(b) DEFINITIONS.—Section 1461(5) of the Safe Drinking Water Act (42 U.S.C. 300j–21(5)) is amended by inserting “or drinking water fountain” after “water cooler” each place it appears.

**SEC. 14. SOURCE WATER.**

(a) ADDRESSING SOURCE WATER USED FOR DRINKING WATER.—Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11004) is amended—

(1) in subsection (b)(1), by striking “State emergency planning commission” and inserting “State emergency response commission”; and

(2) by adding at the end the following new subsection:

“(e) ADDRESSING SOURCE WATER USED FOR DRINKING WATER.—

“(1) APPLICABLE STATE AGENCY NOTIFICATION.—A State emergency response commission shall—

“(A) promptly notify the applicable State agency of any release that requires notice under subsection (a);

“(B) provide to the applicable State agency the information identified in subsection (b)(2); and

“(C) provide to the applicable State agency a written followup emergency notice in accordance with subsection (c).

“(2) COMMUNITY WATER SYSTEM NOTIFICATION.—

“(A) IN GENERAL.—An applicable State agency receiving notice of a release under paragraph (1) shall—

“(i) promptly forward such notice to any community water system the source waters of which are affected by the release;

“(ii) forward to the community water system the information provided under paragraph (1)(B); and

“(iii) forward to the community water system the written followup emergency notice provided under paragraph (1)(C).

“(B) DIRECT NOTIFICATION.—In the case of a State that does not have an applicable State agency, the State emergency response commission shall provide the notices and information described in paragraph (1) directly to any community water system the source waters of which are affected by a release that requires notice under subsection (a).

“(3) DEFINITIONS.—In this subsection:

“(A) COMMUNITY WATER SYSTEM.—The term ‘community water system’ has the meaning given such term in section 1401(15) of the Safe Drinking Water Act.

“(B) APPLICABLE STATE AGENCY.—The term ‘applicable State agency’ means the State agency that has primary responsibility to enforce the requirements of the Safe Drinking Water Act in the State.”

(b) AVAILABILITY TO COMMUNITY WATER SYSTEMS.—Section 312(e) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11022(e)) is amended—

(1) in paragraph (1), by striking “State emergency planning commission” and inserting “State emergency response commission”; and

(2) by adding at the end the following new paragraph:

“(4) AVAILABILITY TO COMMUNITY WATER SYSTEMS.—

“(A) IN GENERAL.—An affected community water system may have access to tier II information by submitting a request to the State emergency response commission or the local emergency planning committee. Upon receipt of a request for tier II information, the State commission or local committee shall, pursuant to paragraph (1), request the facility owner or operator for the tier II information and make available such information to the affected community water system.

“(B) DEFINITION.—In this paragraph, the term ‘affected community water system’ means a community water system (as defined in section 1401(15) of the Safe Drinking Water Act) that receives supplies of drinking water from a source water area, delineated under section 1453 of the Safe Drinking Water Act, in which a facility that is required to prepare and submit an inventory form under subsection (a)(1) is located.”

#### SEC. 15. REPORT ON FEDERAL CROSS-CUTTING REQUIREMENTS.

(a) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report containing the results of a study, to be conducted in consultation with the Administrator of the Environmental Protection Agency, any State agency that has primary responsibility to enforce the requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) in a State, and public water systems, to identify demonstrations of compliance with a State or local environmental law that may be substantially equivalent to any demonstration required by the Administrator for compliance with a Federal cross-cutting requirement.

(b) DEFINITIONS.—In this subsection:

(1) FEDERAL CROSS-CUTTING REQUIREMENT.—The term “Federal cross-cutting requirement” means a requirement of a Federal law or regulation, compliance with which is a condition on receipt of a loan or loan guarantee pursuant to section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12), that, if applied with respect to projects and activities for which a public water system receives such a loan or loan guarantee, would be substantially equivalent to a requirement of an applicable State or local law.

(2) PUBLIC WATER SYSTEM.—The term “public water system” has the meaning given that term in section 1401 of the Safe Drinking Water Act (42 U.S.C. 300f).

#### PURPOSE AND SUMMARY

The purpose of the bill is to amend the Safe Drinking Water Act to improve public water systems and enhance compliance with such Act.

#### BACKGROUND AND NEED FOR LEGISLATION

The United States uses 42 billion gallons of water a day—treated to meet Federal drinking water standards—to support a variety of needs.<sup>1</sup> According to the Congressional Research Service (CRS), more than 299 million Americans are served by more than 51,300 community water systems (CWSs). Most community water systems (82 percent of all CWSs) are relatively small, serving 3,300 people or fewer; but these systems provide water to just 9 percent of the total population served by community water systems. In contrast, 8 percent of all CWSs serve 82 percent of the population served.<sup>2</sup>

Treated drinking water is delivered across the United States, via one million miles of pipes, by privately and publicly owned water systems. Many of these pipes were laid in the early to mid-20th century and have a lifespan of 75 to 100 years.<sup>3</sup> While the American Society of Civil Engineers (ASCE) reports the quality of drinking water in the United States remains high, ASCE and others also spotlight concerns directly related to water system integrity, efficiency, and affordability. Specifically, they point to an estimated 240,000 water main breaks per year in the United States that waste over two trillion gallons of treated drinking water. These leaks waste 14 to 18 percent of treated water per day—an amount that could support 15 million households.<sup>4</sup>

In April 2013, the Environmental Protection Agency (EPA) published its most recent survey of capital improvement needs for drinking water infrastructure. That survey indicated that water systems need to invest \$384.2 billion on infrastructure improvements over 20 years (from 2011 to 2030) to ensure the provision of safe tap water.<sup>5</sup> EPA also reported that \$42.0 billion (10.9 percent) of reported drinking water system needs are attributable to Safe Drinking Water Act (SDWA) compliance. The remaining 89.1 percent of EPA-identified needs are for projects that are not regulatory, but are needed to meet the Act’s health protection objectives. A study by the American Water Works Association (AWWA) projects that restoring infrastructure and expanding water systems to keep up with population growth would require a nationwide investment of at least \$1 trillion through 2035.<sup>6</sup>

The Congressional Budget Office reports that, in 2014, the Federal share of total public spending on water and wastewater utili-

<sup>1</sup> <http://www.infrastructurereportcard.org/wp-content/uploads/2017/01/Drinking-Water-Final.pdf>

<sup>2</sup> <http://www.crs.gov/Reports/RL31243?source=search&guid=c987b8c3502d477b8842999a6ea62e7a&index=10>

<sup>3</sup> American Water Works Association, *Buried No Longer: Confronting American’s Water Infrastructure Challenge*, 2012, <http://www.awwa.org/legislation-regulation/issues/infrastructure-financing.aspx>.

<sup>4</sup> *Op. Cit.*

<sup>5</sup> <https://www.epa.gov/sites/production/files/2015-07/documents/epa816r13006.pdf>

<sup>6</sup> [http://www.crs.gov/Reports/RS22037?source=search&guid=923f50f6c1274772996da7f8f1a3551b&index=6#\\_Toc466362844](http://www.crs.gov/Reports/RS22037?source=search&guid=923f50f6c1274772996da7f8f1a3551b&index=6#_Toc466362844)

ties was 4 percent, while State and local government expenditures accounted for 94 percent of all public spending on this infrastructure.<sup>7</sup>

User fees, primarily in the form of water utility rates, typically generate funds for daily operation and maintenance and long-term capital investments for drinking water and wastewater systems. Both the EPA and the United Nation's Development Program recommend affordability thresholds for water and wastewater services of 2.5 percent and 3 percent, respectively, of median household income.<sup>8</sup> The average price of treating and distributing water in the United States is about \$1.50 for 1,000 gallons—at that price, a gallon of water costs less than one penny.<sup>9</sup> While the AWWA estimates that drinking water rates, annualized from 2004 to 2014, have increased 5.5 percent, AWWA also shows that water rates have dropped three percent between 2012 and 2014.<sup>10</sup>

However, an ongoing problem for local water systems is how to finance major projects—increasing rates, borrowing on the private market, seeking Federal or State assistance, or some combination of these.

#### SAFE DRINKING WATER ACT

The Safe Drinking Water Act (SDWA) not only contains Federal authority for regulating contaminants in drinking water delivery systems, it also includes the Drinking Water State Revolving Fund (DWSRF) program.<sup>11</sup> The DWSRF was created by Congress in the 1996 SDWA Amendments to provide financing for infrastructure improvements at drinking water systems. Congress envisioned a program operating in perpetuity from which the principal and interest payments on old loans would be used to issue new loans, and from which a portion of each State's allotment could be set aside for State drinking water agencies to provide regulatory oversight and direct assistance to water systems.<sup>12</sup>

Specifically, the DWSRF program permits EPA to make grants to States to capitalize DWSRFs, which States may then use to make low-interest loans to public water systems (PWSs) for activities EPA determines facilitate compliance or significantly further the SDWA's health protection objectives. States must match 20 percent of the Federal grant. Grants are allotted based on the results of needs surveys issued quadrennially by EPA. Each State and the District of Columbia must receive at least 1 percent of the appropriated funds.<sup>13</sup>

In addition, States must make available 15 percent of their annual DWSRF allotment for loan assistance to systems that serve 10,000 or fewer persons to the extent that there are systems of that size within a State applying for funding of qualifying activities. States may also use up to 30 percent of their DWSRF grant to pro-

<sup>7</sup> Congressional Budget Office, *Public Spending on Transportation and Water Infrastructure, 1956 to 2014*, March 2015, p. 28.

<sup>8</sup> <http://www2.pacinst.org/wp-content/uploads/2013/01/water-rates-affordability.pdf>

<sup>9</sup> [https://www.fcwa.org/story\\_of\\_water/html/costs.htm](https://www.fcwa.org/story_of_water/html/costs.htm)

<sup>10</sup> <https://www.awwa.org/resources-tools/water-and-wastewater-utility-management/water-wastewater-rates.aspx>

<sup>11</sup> SDWA § 1412 and § 1452

<sup>12</sup> <http://www.asdwa.org/document/docWindow.cfm?fuseaction=document.viewDocument&documentid=2683&documentFormatId=3404>

<sup>13</sup> [http://www.crs.gov/Reports/RL31243?source=search&guid=c987b8c3502d477b8842999a6ea62e7a&index=10#\\_Toc476131535](http://www.crs.gov/Reports/RL31243?source=search&guid=c987b8c3502d477b8842999a6ea62e7a&index=10#_Toc476131535).

vide loan subsidies (including forgiveness of principal) to help economically disadvantaged communities. Finally, States may also use up to 4 percent of funds for technical assistance, source water protection and capacity development programs, and operator certification.<sup>14</sup>

When last reauthorized in 1996, SDWA authorized appropriations of \$599 million for fiscal year 1994 and \$1 billion per year for fiscal year 1995 through fiscal year 2003 for DWSRF capitalization grants. Of those amounts, EPA was either directed or given the ability to reserve, from annual DWSRF appropriations, 0.33 percent for financial assistance to territories and 1.5 percent for Indian tribes and Alaska Native Villages, \$10 million for health effects research on drinking water contaminants, \$2 million for the costs of monitoring for unregulated contaminants, and up to 2 percent for technical assistance. Between fiscal year 1997 and fiscal year 2016, Congress appropriated over \$20 billion, and more than 12,400 projects received assistance through the program.<sup>15</sup>

The Water Infrastructure Improvements for the Nation Act (WIIN Act, section 322 of P.L. 114–322) made several amendments to the DWSRF provisions. Among other changes, the amendments increased the portion of the annual DWSRF capitalization grants that States may use to cover program administration costs and authorized \$300 million over five years for lead pipe replacement and \$300 million over five years for aid to disadvantaged and underserved communities.<sup>16</sup> Further, the WIIN Act amended SDWA to require, with some exceptions, that funds made available from a State DWSRF during fiscal year 2017 may not be used for water system projects unless all iron and steel products to be used in the project are produced in the United States.

#### WATER INFRASTRUCTURE FINANCE AND INNOVATION ACT

According to CRS, a chronic concern is the need for communities to address drinking water infrastructure requirements that are outside the scope of the DWSRF program since they are unrelated to SDWA compliance.<sup>17</sup> These categories include future growth, ongoing rehabilitation, and operation and maintenance of systems. EPA has reported that outdated and deteriorated drinking water infrastructure poses a fundamental long-term threat to drinking water safety and that, in many communities, basic infrastructure costs can far exceed SDWA compliance costs. As reported in EPA's most recent drinking water needs assessment, less than 11 percent of the 20-year estimated need is directly related to compliance with SDWA regulations.<sup>18</sup>

Congress enacted the Water Infrastructure Finance and Innovation Act (WIFIA) in June 2014,<sup>19</sup> which authorized a pilot loan guarantee program to test the ability of innovative financing tools to promote increased development of, and private investment in, water infrastructure projects while reducing costs to the Federal government. The pilot program is intended to complement, and not

<sup>14</sup>SDWA 1452(g).

<sup>15</sup>*Id.*

<sup>16</sup>WIIN 2102–2105.

<sup>17</sup>Op. Cit.

<sup>18</sup>Op. Cit.

<sup>19</sup>(P.L. 113–121, H.R. 3080) includes in Title V, Subtitle C

replace, the clean water and drinking water SRF programs. The Act authorized \$20 million each for fiscal year 2015 and \$25 million each for fiscal year 2016 to the Secretary of the Interior and the EPA Administrator, with amounts increasing annually to \$50 million each for fiscal year 2019.

Eligible projects include clean water and drinking water SRF-eligible projects and a wide range of water resource development projects that must generally have costs of at least \$20.0 million. Such large projects face difficulty securing significant funding through the SRF programs. Moreover, unlike the SRF programs, WIFIA is not focused on regulatory compliance and, therefore, may be more available for other large-scale water infrastructure projects. For projects serving areas with a population of 25,000 or fewer individuals, eligible projects must have a total cost of at least \$5 million.

Congress appropriated \$20 million in funds for the program in fiscal year 2017. It is estimated that using WIFIA's full financial leveraging ability that a single dollar injected into the program can create \$50 dollars for project lending.<sup>20</sup> Under current appropriations, EPA estimates that current budget authority may provide more than \$1 billion in credit assistance and may finance over \$2 billion in water infrastructure investment.<sup>21</sup>

#### CLEAN WATER ACT SRF

Congress provided States flexibility in setting priorities between the DWSRF and the Clean Water Act SRF (CWSRF) programs to accommodate the divergent drinking water and wastewater needs and priorities among the States. Section 302(a) of the 1996 SDWA Amendments authorized States to transfer as much as 33 percent of the annual DWSRF allotment to the CWSRF or an equivalent amount from the CWSRF to the DWSRF. The Act authorized these transfers through fiscal year 2001. In 2000, EPA recommended that Congress continue to authorize transfers between the SRF programs to give States flexibility to address their most pressing water infrastructure needs.<sup>22</sup> Several annual appropriations acts authorized States to continue to transfer as much as 33 percent of funds between the two programs, and in the Department of Interior and Related Agencies Appropriations Act, FY 2006, Congress made this authority permanent.<sup>23</sup>

#### COMMITTEE ACTION

On May 19, 2017, the Subcommittee on the Environment held a hearing on a Discussion Draft, entitled "Drinking Water System Improvement Act." The Subcommittee received testimony from:

- Lisa Daniels, Director, Bureau of Safe Drinking Water, Pennsylvania Department of Environmental Protection, on behalf of the Association of State Drinking Water Administrators;

<sup>20</sup> <http://www.infrastructurereportcard.org/wp-content/uploads/2017/01/Drinking-Water-Final.pdf>

<sup>21</sup> *Id.*

<sup>22</sup> <http://www.crs.gov/Reports/RS22037?source=search&guid=923f50f6c1274772996da7f8f1a3551b&index=6#fn2>.

<sup>23</sup> The Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006, P.L. 109-54, Title II, August 2, 2005, 119 Stat. 530, provided: "That for fiscal year 2006 and thereafter, State authority under section 302(a) of P.L. 104-182 shall remain in effect."

- Steve Fletcher, Manager, Washington County Water Company, Nashville, IL, on behalf of the National Rural Water Association;
- Martin Kropelnicki, President and CEO, California Water Service Group, on behalf of the National Association of Water Companies;
- Scott Potter, Director, Nashville Metro Water Services, Nashville, TN, on behalf of the Association of Metropolitan Water Agencies;
- James Proctor, Senior Vice President and General Counsel, McWane, Inc.;
- Lynn Thorp, National Campaigns Director, Clean Water Action; and
- Kurt Vause, Special Projects Director, Anchorage Water and Wastewater Utility, on behalf of the American Water Works Association.

On March 16, 2017, the Subcommittee on the Environment held a hearing entitled, “Reinvestment and Rehabilitation of Our Nation’s Drinking Water Delivery Systems.” The Subcommittee received testimony from:

- Rudolph Chow, P.E., Director, Baltimore City Department of Public Works, on behalf of the American Municipal Water Association;
- Greg DiLoreto, Chairman, Committee for America’s Infrastructure, American Society of Civil Engineers;
- John Donahue, CEO, North Park Public Water District (Machesney Park, IL), on behalf of the American Water Works Association;
- Randy Ellingboe, Minnesota Department of Health, on behalf of the Association of State Drinking Water Administrators;
- Martin A. Kropelnicki, President and CEO, California Water Service Group, on behalf of the National Association of Water Companies; and
- Erik Olson, Director, Health and Environment Program, Natural Resources Defense Council.

On July 13, 2017, the Subcommittee on the Environment met in open markup session and forwarded the Discussion Draft, entitled “Drinking Water System Improvement Act,” as amended, to the full Committee by a voice vote. On July 25, 2017, the Drinking Water System Improvement Act of 2017 was introduced in the House as H.R. 3387. On July 27, 2017, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 3387, as amended, favorably reported to the House by a voice vote.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 3387 reported.

#### OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee held hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX  
EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 3387 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 22, 2017.*

Hon. GREG WALDEN,  
*Chairman, Committee on Energy and Commerce,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3387, the Drinking Water System Improvement Act of 2017.

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

Sincerely,

KEITH HALL,  
*Director.*

Enclosure.

*H.R. 3387—Drinking Water System Improvement Act of 2017*

Summary: H.R. 3387 would authorize the appropriation of about \$9 billion for the Environmental Protection Agency (EPA) to provide grants to public water systems, as well as to state, local, and tribal governments, to support drinking water infrastructure projects and to promote compliance with regulations that implement the Safe Drinking Water Act (SDWA).

CBO estimates that implementing this legislation would cost about \$6 billion over the next five years and an additional \$3 billion after 2022, assuming appropriation of the authorized amounts.

The staff of the Joint Committee on Taxation (JCT) estimates that enacting the bill would reduce revenues by \$572 million over the next 10 years. Because enacting the bill would reduce revenues, pay-as-you-go procedures apply. Enacting the bill would not affect direct spending.

CBO estimates that enacting H.R. 3387 would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2028.

H.R. 3387 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) on public and private owners and operators of public water systems that are regulated by the SDWA, and on other state and local government entities. Based on information provided by the EPA, public water systems, and state and local agencies, CBO estimates that the total cost of complying with the mandates would fall below the annual thresholds for intergovernmental and private-

sector mandates established in UMRA (\$78 million and \$156 million in 2017, respectively, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary effects of the bill are summarized in Table 1. The costs of this legislation fall within budget function 300 (natural resources and environment).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 3387

	By fiscal year, in millions of dollars—												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2017– 2022	2017– 2027
<b>INCREASES IN SPENDING SUBJECT TO APPROPRIATION</b>													
Estimated Authorization Level .....	0	1,420	1,610	1,824	2,023	2,222	17	17	17	17	17	9,100	9,186
Estimated Outlays .....	0	263	805	1,408	1,735	1,923	1,760	1,022	219	24	24	6,135	9,185
<b>DECREASES IN REVENUES</b>													
Estimated Revenues .....	0	*	-3	-10	-25	-46	-72	-95	-106	-108	-107	-84	-572

Sources: CBO and the staff of the Joint Committee on Taxation.

Note: \* = between zero and -\$500,000. Details may not sum to totals because of rounding.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the beginning of fiscal year 2018, that the full amounts authorized or estimated to be necessary will be appropriated for each year, and that outlays will follow historical patterns of spending for existing and similar programs.

*Spending subject to appropriation*

H.R. 3387 would authorize appropriations totaling about \$9.1 billion over the 2018–2022 period for the EPA to administer different grant programs that support drinking water infrastructure and help public water systems comply with regulations under the Safe Drinking Water Act (see Table 2).

TABLE 2.—AMOUNTS AUTHORIZED TO BE APPROPRIATED FOR EPA PROGRAMS UNDER H.R. 3387

	By fiscal year, in millions of dollars—												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2017– 2022	2017– 2027
<b>Drinking Water SRF Grants:</b>													
Authorization Level .....	0	1,200	1,400	1,600	1,800	2,000	0	0	0	0	0	8,000	8,000
Estimated Outlays .....	0	120	620	1,200	1,500	1,700	1,680	980	200	0	0	5,140	8,000
<b>Public Water System Supervision Program:</b>													
Authorization Level .....	0	150	150	150	150	150	0	0	0	0	0	750	750
Estimated Outlays .....	0	135	150	150	150	150	15	0	0	0	0	735	750
<b>Drinking Water Risk and Resilience Grant Program:</b>													
Authorization Level .....	0	35	35	35	35	35	0	0	0	0	0	175	175
Estimated Outlays .....	0	0	11	25	35	35	35	25	11	0	0	105	175
<b>Source Water Petition Programs:</b>													
Authorization Level .....	0	5	5	5	5	5	0	0	0	0	0	25	25
Estimated Outlays .....	0	0	2	4	5	5	5	4	2	0	0	15	25
<b>Drinking Water Fountain Replacement Grants:</b>													
Authorization Level .....	0	5	5	5	5	5	0	0	0	0	0	25	25
Estimated Outlays .....	0	0	2	4	5	5	5	4	2	0	0	15	25
<b>Reauthorize Monitoring for Unregulated Contaminants:</b>													
Authorization Level .....	0	10	10	10	10	10	0	0	0	0	0	50	50
Estimated Outlays .....	0	2	15	15	13	5	0	0	0	0	0	50	50
<b>Expand Monitoring for Unregulated Contaminants:</b>													
Authorization Level .....	0	0	0	15	15	15	15	15	15	15	15	45	120
Estimated Outlays .....	0	0	0	4	21	21	18	8	4	21	21	45	120
<b>Technology Review:</b>													
Authorization Level .....	0	10	0	0	0	0	0	0	0	0	0	10	10
Estimated Outlays .....	0	1	1	4	4	0	0	0	0	0	0	10	10
<b>Other Activities:</b>													
Estimated Authorization Level .....	0	5	5	4	3	2	2	2	2	2	2	20	31
Estimated Outlays .....	0	5	5	4	3	2	2	2	2	2	2	20	31
<b>Total Changes:</b>													
Estimated Authorization Level .....	0	1,420	1,610	1,824	2,023	2,222	17	17	17	17	17	9,100	9,186
Estimated Outlays .....	0	263	805	1,408	1,735	1,923	1,760	1,022	219	24	24	6,135	9,185

Note: Details may not sum to totals because of rounding. SRF = State Revolving Fund.

The bill would authorize the appropriation of \$8 billion over the next five years for the EPA to provide capitalization grants for the Drinking Water State Revolving Fund (DWSRF) programs. States use such grants, along with their own funds, to make low-interest loans to communities to build or improve drinking water facilities and infrastructure, and for other projects that improve the quality of drinking water. In addition to reauthorizing federal funding for states' DWSRF programs, the bill also would make several revisions to those programs, including allowing states to direct a greater percentage of funds to disadvantaged communities, extending the repayment terms for loans made by states, and requiring recipients of loans to certify that proposed projects meet certain cost-effectiveness criteria.

H.R. 3387 also would authorize the appropriation of about \$1 billion over the next five years for the EPA implement several other grant programs. Specifically, the bill would authorize the appropriation of:

- \$750 million for state and tribal agencies to implement programs that enforce compliance with drinking water regulations under the SDWA and provide technical assistance to public water systems;
- \$175 million for grants to public water systems to implement projects that mitigate risks to drinking water from natural hazards and security threats;
- \$25 million to states to implement partnership programs with public water systems that petition the states for assistance in complying with drinking water regulations;
- \$25 million for local educational agencies to pay the costs of replacing drinking water fountains in schools and monitoring for lead contamination;
- \$50 million for the EPA to continue funding the laboratory analysis costs of monitoring for unregulated contaminants in drinking water systems;
- Daniels, Dirthe number of small systems that monitor for unregulated contaminants; and
- \$10 million in 2018 for the EPA to conduct a comprehensive review of technologies, equipment, and methods that effectively detect and prevent contamination of public drinking water systems.

CBO estimates that the cost to implement the remaining requirements in the bill, (for which the legislation does not specify an authorization level,) would total about \$20 million over the next five years, assuming appropriation of the necessary amounts. That funding would be used for various purposes, including providing technical assistance to state agencies, developing guidance and updating tools for risk assessments, conducting a national inventory of any pipes or fittings that are used to connect buildings with the drinking water main supply pipes and are not lead free, and reporting on how water systems can more easily comply with cross-cutting federal, state, and local requirements.

#### *Revenues*

H.R. 3387 would authorize the appropriation of \$8 billion over the 2018–2022 period for the EPA to make grants to capitalize state revolving loan funds, from which states make loans to finance

drinking water infrastructure projects. JCT expects that states would use a portion of those grants to leverage additional funds by issuing tax-exempt bonds. JCT estimates that issuing additional tax-exempt bonds would reduce federal revenues by \$572 million over the next 10 years.

**Pay-As-You-Go Considerations:** The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 3387, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON ENERGY AND COMMERCE ON JULY 27, 2017

	By fiscal year, in millions of dollars—													2017–2022	2017–2027
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027				
	NET INCREASE IN THE DEFICIT														
Statutory Pay-As-You-Go Impact	0	0	3	10	25	46	72	95	106	108	107	84	572		

**Increase in long-term direct spending and deficits:** CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2028.

**Intergovernmental and private-sector impact:** H.R. 3387 would impose intergovernmental and private-sector mandates as defined in UMRA on public and private owners and operators of public water systems that are regulated by the Safe Drinking Water Act. The bill also would impose intergovernmental mandates on state emergency response commissions (SERCs), local emergency planning committees, and state water agencies that are responsible for notifying the public in the event of a release of hazardous chemicals that affects drinking water. Based on information provided by the EPA, public water systems, and state and local agencies, CBO estimates that the total costs of complying with the mandates would range from \$14 million to \$36 million per year over the 2018–2022 period for water systems owned by public entities; for water systems owned by private entities, CBO estimates the total costs to comply with the mandates would range from \$3 million to \$6 million per year over that period. Therefore, CBO estimates that the costs of the mandates would fall below the annual thresholds for intergovernmental and private-sector mandates established in UMRA (\$78 million and \$156 million in 2017, respectively, adjusted annually for inflation).

*Mandates that apply to both public and private entities*

The bill would impose several mandates on owners and operators of public water systems that are regulated by the Safe Drinking Water Act. Public water systems may be publicly or privately owned. Systems owned by local governments serve the majority of the U.S. population, while many smaller systems are owned by private entities. The bill would require public water systems that serve populations larger than 10,000 to send consumer confidence reports to their customers twice per year; under current law, those systems must send reports once per year. In addition, the bill

would require all public water systems to include information in consumer confidence reports about actions taken to control corrosion in pipes. While an increasing number of systems send such reports electronically at low cost, the requirement would increase costs for systems that still send reports by mail. Based on information from public water systems and state water agencies about the costs of complying with current requirements, CBO estimates that public water systems would spend about \$14 million per year to comply with these requirements.

The bill would require public water systems that serve populations larger than 3,300 to conduct assessments of the risks posed to their systems by security threats and natural hazards and to prepare response plans. The bill would require those systems to certify to the EPA that they have conducted such assessments once every five years. Alternatively, systems could satisfy those requirements by certifying to the EPA that they are following consensus technical standards developed by the water industry and recognized by the EPA. Risk assessments are increasingly common in the water industry, and CBO expects that many systems, especially those that serve major populations, would already be in compliance because they follow industry standards; additional costs to them resulting from the mandate would be small. However, CBO expects that other systems, particularly those that are smaller in size, would need to conduct risk assessments and prepare response plans at varying costs, depending on their size and complexity. Based on information from the EPA and the American Water Works Association, CBO estimates that systems would spend an additional \$25 million to comply with those requirements. That estimate is based on the expectation that many smaller systems would comply by conducting assessments at low cost using free assessment tools, while larger systems would undertake much more expensive and comprehensive analyses ranging into the hundreds of thousands of dollars.

The bill would impose a mandate by requiring the EPA to expand the number of small public water systems (those serving fewer than 10,000 people) that must monitor drinking water for unregulated contaminants. The EPA would select a representative sample of those systems to conduct monitoring. The bill would authorize the appropriation of \$15 million per year to cover the costs of laboratory analysis of samples. However, systems would incur costs to collect samples and to train staff. Based on information from public water systems and state water agencies about the costs of sample collection under current requirements, CBO estimates that systems selected for monitoring would spend, in the aggregate, \$2 million to \$3 million each year to comply with those requirements.

#### *Mandates on public entities*

The bill would require SERCs and local emergency planning committees to notify state water agencies whenever there is a release of hazardous chemicals into water bodies used for drinking water and also would require water agencies to in turn notify public water systems in the affected area. Additionally, the bill would require SERCs and local emergency planning committees to provide information about chemicals stored at specific facilities whenever

local public water systems request that information. Because it is already common practice for SERCs and local emergency committees to conduct such activities, CBO estimates that the costs of compliance would be small.

*Other effects on public entities*

Under the bill, state and tribal agencies that have chosen to implement the Safe Drinking Water Act would likely incur additional costs to provide financial and technical assistance to public water systems that are subject to federal regulations under that act. Specifically, state and tribal water agencies would work with public water systems to meet requirements under the bill relating to consumer confidence reports, risk assessments, and monitoring for unregulated contaminants. Costs incurred by those agencies, however, would result from participation in a voluntary federal program.

The bill also includes a provision that would provide state and tribal governments with the authority to compel public water systems that are out-of-compliance with federal drinking water standards to undergo consolidation with another system, or to transfer ownership. In cases where the targeted systems are unable to meet federal drinking water standards, and are either financially unable or unwilling to take actions that would result in compliance, states and tribes with primary enforcement responsibility for the SDWA could require the owner or operator of such a system to assess options for consolidation or transfer and then carry out those actions if doing so is economically feasible and likely to result in greater compliance with federal standards. CBO expects that state and tribal agencies would generally use the authority selectively to focus on systems that have serious violations of drinking water standards; however, use of this authority could result in significant costs for some water systems, depending on how the authority is exercised, and the size and complexity of the systems affected. Because state and tribal water agencies would exercise the authority at their discretion, any costs incurred by affected water systems would not stem from a federal intergovernmental mandate under UMRA. Based on evidence from consolidation efforts in California and other states, CBO expects that many state and tribal agencies would provide financial assistance to cover necessary interconnection, improvement, and administrative costs for systems required to undergo consolidation or transfer. The bill also would authorize states and tribes to use federal funds provided through the DWSRF programs to cover the costs of consolidations and transfers.

Finally, the bill would benefit public water systems, as well as state, local, and tribal agencies that implement federal drinking water regulations, by authorizing federal financial and technical assistance for several drinking water grant programs. Public water systems would benefit from loans provided by state agencies for drinking water infrastructure projects. The bill would authorize the appropriation of \$8 billion over the 2018–2022 period for the EPA to provide capitalization grants to DWSRFs to finance those loans. Any costs public entities might incur relating to grant and loan programs, including matching contributions, would result from conditions of federal assistance.

Estimate prepared by: Federal spending: Jon Sperl; Federal revenues: Staff of the Joint Committee on Taxation; Impact on state,

local, and tribal governments: Jon Sperl; Impact on the private sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### 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.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to amend the Safe Drinking Water Act to improve public water systems and enhance compliance with such Act.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 3387 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111-139 or the most recent Catalog of Federal Domestic Assistance.

#### COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. At the time this report was filed, the estimate was not available.

#### earmark, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 3387 contains no earmarks, limited tax benefits, or limited tariff benefits.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, the following directed rule makings are contained in H.R. 3387:

- In section 2: Revision of regulations affecting consumer confidence reports under the amendment to SDWA section 1414(c)(4).
- In section 4: Promulgation of regulations implementing water system consolidation mandates under the amendment to SDWA section 1414(h).

#### 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 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.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1. Short title*

Section 1 establishes the short title of the legislation as “the Drinking Water System Improvement Act of 2017”.

##### *Section 2. Improved Consumer Confidence Reports*

Section 2 amends SDWA section 1414(c)(4) to institute certain changes related to requirements on the form, manner, and frequency that consumer confidence reports (CCR) are issued by community water systems.

First, section 2 amends SDWA section 1414(c)(4)(A) to permit CCRs to be mailed or provided by electronic means to drinking water system customers. The Committee understands that Americans are increasingly going away from a paper-driven society and instead relying on electronic technologies to access data, including real-time information. The Committee also recognizes that not all persons have access to or are comfortable using these means and intends that this new option not be used as an opportunity to avoid making paper copies available to those customers that want them.

Second, section 2 requires, under SDWA section 1414(c)(4)(B), three new types of information—relevant to the community water system’s reporting period—that a system must report in its CCR. These include: (1) its compliance with corrosion control requirements, (2) identification, if any, of system-wide exceedances of the lead action level that required corrective action by EPA or a State exercising primary enforcement responsibility, and (3) an identification, if any, of SDWA violations that occurred.

Third, section 2 requires EPA, within 24 months of the date of enactment of the Drinking Water System Improvement Act, to revise the regulations implementing the CCR requirements for two issues: CCR content understandability and electronic delivery. Section 2 is intentionally narrow to these two issues to permit a targeted correction of these concerns and avoid reopening the entire rule. Specifically, in response to the December 2012 CCR Rule Retrospective Review, section 2 requires the rule revision to increase both the readability, clarity, and understandability of the information presented in the CCR as well as the accuracy and risk communication of the information presented. In addition, to reduce EPA’s burden for issuing this rule revision, section 2 permits EPA to allow delivery of consumer confidence reports by methods consistent with methods described in the memorandum “Safe Drinking Water Act—Consumer Confidence Report Rule Delivery Options” issued by the Environmental Protection Agency on January 3, 2013.

Finally, section 2 requires as part of the rule revision to the requirements of SDWA section 1414(c)(4)(A) that community water systems serving 10,000 or more persons be obligated to provide, by mail, electronic means, or other methods permitted by the Administrator, a CCR to each customer of the system at least biannually. The Committee expects that when issuing these regulations, EPA will include feasible implementation options that reduce the burden

on community water systems, States, and other relevant parties subject to the new requirements while maintaining the quality and availability of information for community water system customers.

### *Section 3. Contractual agreements*

During hearings by the Subcommittee on the Environment, the Subcommittee heard repeated testimony on the importance of encouraging partnerships between struggling public water systems and outside interests whose technical, financial, or managerial expertise would help that utility achieve compliance. Section 3 expands SDWA section 1414(h)(1) to permit an owner or operator of a public water system to enter into a contractual agreement for significant management or administrative functions of its public water system to correct its identified SDWA violations. The contract is intended to be part of a larger plan that is subject to approval by its State (if that State has primary enforcement responsibility for SDWA) or the EPA Administrator (if the State does not have primary enforcement responsibility). An approved plan would provide two years for the public water system to achieve compliance with its identified violations.

Section 3 also makes a technical change to correct the punctuation in SDWA section 1414(i)(1).

### *Section 4. Consolidation*

Section 4(a) establishes new language at the end of SDWA section 1414(h) regarding transfers of ownership or consolidations that will help ensure safe drinking water. Specifically, the provisions are focused on the use of assessments, by public water systems whose produced drinking water creates a public health threat, to determine whether it makes sense for that utility to seek a transfer of ownership or consolidation with another utility.

In proposed SDWA section 1414(h)(3)(A), either a State with primary enforcement responsibility for SDWA or EPA, if the State does not have that authority under SDWA section 1413(a), may require the owner or operator of certain public water systems to assess their options for consolidation or transfer of ownership based on the presence of three conditions.

The first condition is that the public water system in question has repeatedly violated one or more SDWA requirements and this lack of compliance is likely to adversely affect human health. In addition, the public water system in question must have unsuccessfully tried to remedy these violations using technical assistance and a DWSRF loan or is unable or unwilling to undertake feasible and affordable actions suggested by either the State with primary enforcement or EPA to bring the water system into compliance.

In choosing the wording of the first prong of the first condition, the Committee does not intend any type of violation by a public water system to activate these provisions. Rather, the authority provided in proposed SDWA section 1414(h)(3) is limited to repeated and significant non-compliers whose systems are producing water that is unsafe for human consumption. The Committee does not intend this authority to be used for paperwork violations or when the water system is in significant compliance with SDWA requirements and is not producing water that threatens its customers' health.

The second condition is that a consolidation or transfer of the public water system is feasible, including feasibility based upon geographic considerations, technical concerns, access to capital, and chances for long-term success.

The last condition is that consolidation or transfer by the public water system could result in greater compliance with national primary drinking water regulations. The Committee intends that this condition be more than theoretical and incremental.

If all three conditions have been met and an assessment has been done, the State with primary enforcement responsibility or EPA, as appropriate, reviews the assessment. Upon completion of this review, under proposed SDWA section 1414(h)(3)(B), the State or EPA may require the owner or operator of the public water system to submit a plan for consolidation or transfer ownership. The plan's implementation becomes mandatory if three conditions are met: (1) the owner or operator of that water system has not taken steps to complete consolidation, not transferred ownership of the system, or could not achieve compliance after receiving technical assistance and a DWSRF loan; (2) after completing its assessment, the public water system violated another national primary drinking water regulation in a way that makes its produced water likely to adversely affect human health; and (3) the consolidation or transfer is feasible.

Section 4(a) also creates a new SDWA section 1414(h)(4) that permits, notwithstanding the limitation in SDWA section 1452(a)(3), DWSRF loans to be provided to public water systems trying to achieve compliance under this section through consolidation, transfer of ownership, or other means. SDWA section 1452(a)(3) generally prohibits the provision of DWSRF loans to public water systems in significant non-compliance or that lack certain technical, managerial, or financial capabilities.

Finally, section 4(a) contains provisions extending legal protections for non-responsible parties consolidating with or acquiring ownership in a non-compliant public water system. In general, section 4(a) proposes a new SDWA section 1414(h)(5) that provides protection from any potential liability for damages arising from violations of the Safe Drinking Water Act that are identified in a plan for consolidation or ownership under SDWA section 1414(h)(3)(B).

To obtain this protection, the owner or operator of a public water system must take reasonable steps to identify, in the consolidation or ownership transfer plan they are submitting under proposed SDWA section 1414(h)(3), all potential violations of which they are aware and—as of the date the plan is submitted—any funds or other assets available to the public water system that committed such violation to satisfy its liability.

If, as appropriate, the State or the Administrator approves the public water system's plan for consolidation or transfer of ownership, under proposed SDWA section 1414(h)(5)(B), the public water system is not liable for a violation of the Safe Drinking Water Act identified in its plan, except to the extent to which funds or other assets have been identified in its plan to satisfy that liability.

Section 4 contains three other features. First, it requires, in proposed SDWA section 1414(h)(6), regulations to implement the consolidation or ownership transfer provisions within proposed paragraphs (3) through (5) to SDWA section 1414(h). Second, section 4(b) adds a new SDWA section 1413(a)(6) to require that States, as

a condition of the primary enforcement delegation, have adopted and are implementing procedures consistent with the provisions in proposed paragraphs (3) through (6) to SDWA section 1414(h). Last, it makes a conforming amendment to SDWA section 1413(b), relating to EPA providing written notification to States about determinations of the primary enforcement authority status, to account for the proposed change to SDWA section 1413(a).

*Section 5. Improved accuracy and availability of compliance monitoring data*

Section 5 requires EPA, in coordination with the State, public water systems, and other interested stakeholders to create a strategic plan for improving the accuracy and availability of monitoring data collected to demonstrate SDWA compliance, particularly data submitted by public water systems to States and data submitted by States to EPA. This strategic plan, including a summary of its findings and practicable and cost-effective recommendations to improve accuracy and availability of monitoring data collected to demonstrate SDWA compliance, is due to Congress not later than 1 year after the date of enactment of the Drinking Water System Improvement Act.

Due to software compatibility, budgeting, and management issues the Agency and States have faced in other electronic reporting programs, like the electronic manifest program for hazardous water under section 3024 of the Solid Waste Disposal Act (42 U.S.C. 6969g), the Committee is reluctant to require a solution without EPA working out potential issues on the front end. In developing the strategic plan and its recommendations under section 4, the Administrator is obligated to evaluate any challenges: (1) faced by States and public water systems in using electronic systems for data collection and dissemination, (2) in ensuring the accuracy and integrity of submitted data, and (3) regarding access to information and the usability of an electronic system. The Committee hopes the Administrator will take advantage of the authorities in section 5 that permit consultation with States and other Federal agencies that have experience using these kinds of systems.

*Section 6. Asset management*

Section 6 amends SDWA section 1420 in three places to encourage the use of asset management by drinking water delivery systems.

The Subcommittee on the Environment received testimony about the importance of asset management in helping drinking water systems become economically sustainable. At the same time, witnesses stated that it was better to encourage this practice rather than mandate its use. The Committee believes technical assistance in this area, especially for smaller and rural systems, will be the most beneficial to seeing wider deployment of these practices.

First, section 6 requires States, as part of the Capacity Development Strategy, to consider, solicit, and include as appropriate, how the State will encourage the use of asset management plans and assist, including technical assistance, in the use of asset management best practices by public water systems as part of these plans. The Committee envisions that States, as appropriate, will revise

their Capacity Development Strategies to incorporate this new information.

Second, section 6 requires that when the State publishes its Capacity Development Strategy report to detail the efficacy of and progress made on the State's efforts to encourage development of asset management plans and engage of relevant training to implement asset management plans.

Last, section 6 requires the Administrator to, every five years, review and update, if appropriate, educational materials made available by the Agency to owners, managers, and operators of public water systems, local officials, technical assistance providers (including non-profit water associations), and State personnel concerning best practices for asset management strategies that may be used.

#### *Section 7. Community Water System risk and resilience*

Using much of the architecture and policy objectives contained in existing SDWA section 1433, section 6(a) replaces the provisions in SDWA section 1433 regarding the creation of risk and resilience assessments and emergency response plans by community water systems serving more than 3,300 persons.

Proposed SDWA section 1433(a)(1) requires community water systems serving over 3,300 persons to assess the risks to, and resilience of, their system. Proposed SDWA section 1433(a)(1)(A) mandates that this assessment include a review of six elements. These include: (1) the CWS's risk from malevolent acts and natural hazards; (2) the resilience of the pipes and constructed conveyances, physical barriers, source water, water collection and intake, pretreatment, treatment, storage and distribution facilities, electronic, computer, or other automated systems (including the cyber security of such systems) utilized by the CWS; (3) the community water system's monitoring practices; (4) the financial infrastructure of the community water system, including cyber protections, for infrastructure of the CWS; (5) the CWS's use, storage, or handling of various chemicals; and (6) the CWS's operation and maintenance. In addition, proposed SDWA section 1433(a)(1)(B) permits the CWS to include in its assessment an evaluation of capital and operational needs for its risk and resilience management.

The Committee notes that proposed section 1433 uses the term "malevolent act" in place of the terms "terrorist attack or other intentional acts." The Committee does not intend the switching of these terms to be interpreted to mean that these activities are no longer covered. Rather, the Committee used the term "malevolent acts" to capture the term used in the drinking water utility sector to encompass the range of threats facing CWSs. When it comes to matters surrounding acts meant to substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water, the Committee wants no ambiguity within the CWS sector about what types of assessments or responses need to be made.

The Committee also defined and included resilience to natural hazards in this section because the Committee understands that the drinking water utility sector currently assesses and addresses their risks holistically, looking at both intentional acts and natural hazards such as extreme weather. In the wake of Hurricanes Harvey, Irma, and Maria, resilience efforts like this by drinking water

systems can prepare for and mitigate help impacts from extreme weather.

To aid community water systems in assessing potential risks from malevolent acts, proposed SDWA section 1433(a)(2) requires EPA, after consultation with appropriate Federal, State, and local departments and agencies and not later than August 1, 2019, to provide relevant baseline information to community water systems on malevolent acts that may substantially disrupt the ability of the CWS to provide a safe and reliable supply of drinking water or might otherwise present significant public health or economic concerns to the community served by the CWS.

Proposed SDWA section 1433(a)(3)(A) requires community water systems serving more than more 3,300 persons to submit a certification to EPA that the CWS has completed the assessment it is mandated to do under proposed SDWA section 1433(a)(1). As is done in existing SDWA section 1433(a)(2), proposed SDWA section 1433(a)(3)(A) creates a staggered deadline for submission of the required certification based on the size of the CWS. Specifically, CWSs serving a population of 100,000 or more persons must submit their certification by March 31, 2020; CWSs serving a population of between 50,000 and 99,999 persons must submit their certification by December 31, 2020; and CWSs serving a population between 3,301 persons and 49,999 must submit their certification by June 30, 2021.

Of note, proposed SDWA section 1433(a)(3)(B) requires each CWS that performed a risk and resilience assessment to review their assessment every 5 years—from the date that its certification was due to EPA under proposed section 1433(a)(3)(A)—to determine whether its assessment needs to be revised. Similar to proposed SDWA section 1433(a)(3)(A), once the CWS completes its quintennial review of its assessment, proposed SDWA section 1433(a)(3)(B) requires the CWS to submit a certification to EPA that it has reviewed its assessment and, if applicable, revised its risk and resilience assessment.

Proposed SDWA section 1433(a)(4) details the contents required to be made a part of the certification. This section states that the certifications are limited to three pieces of information: (1) the identity of the community water system submitting the certification, (2) the date of the certification, and (3) a statement that the community water system has conducted, reviewed, or revised the assessment. Since proposed SDWA section 1433 removes the broad information protections in existing SDWA section 1433, any information protection afforded to a CWS will come from EPA's determination that it meets the criteria of the Freedom of Information Act (FOIA). Any CWS unsure whether submitting additional information on their certification will be protected by FOIA, submits that data at it and its customers' risk.

Proposed SDWA section 1433(a)(5) also retains existing provisions in SDWA section 1433 that prevent a CWS from being required to provide, under State or local law, a risk and resilience assessment (or any revision of it) to any State, regional, or local governmental entity solely because proposed SDWA section 1433 required the CWS to submit a certification to EPA.

The Committee believes the use of certifications in the newly proposed SDWA section 1433 represents an important compromise

from existing law and one that addresses concerns about protecting very sensitive information from public disclosure, while at the same time removing obligations on EPA that made use of the information difficult and erected substantial financial, storage, and disposal challenges for the EPA.

Section 7(a) also retains the existing SDWA requirement for emergency response plans. Proposed SDWA section 1433(b) requires a CWS serving more than 3,300 people to prepare or revise an emergency response plan that incorporates findings of its risk and resilience assessment under proposed SDWA section 1433(a)(1). In the same form and manner as established under proposed SDWA section 1433(a)(3), proposed SDWA section 1433(b)(1) requires each CWS to certify to EPA, as soon as reasonably possible after the date of enactment of the Drinking Water System Improvement Act of 2017, but not later than six months after completion of its risk and resilience assessment, that the CWS complete its emergency response plan. Proposed SDWA section 1433(b) requires four elements be included in the emergency response plan: (1) strategies and resources to improve the resilience of the CWS, including the physical and cyber security of the CWS; (2) implementable plans and procedures and identification of equipment that can be utilized in the event of a malevolent act or natural hazard that threatens the ability of the CWS to deliver safe drinking water; (3) actions, procedures, and equipment that can obviate or significantly lessen the impact of a malevolent act or natural hazards on public health and the supply of drinking water; and (4) usable strategies to aid in the detection of malevolent acts or natural hazards that threaten the security or resilience of the CWS.

Proposed SDWA section 1433(c) is designed to ensure a harmonized response to actual events at the CWS. Specifically, the CWSs is mandated, to the extent possible, to coordinate with existing local emergency planning committees established under the Emergency Planning and Community Right-To-Know Act of 1986 when preparing or revising a risk and resilience assessment or emergency response plan.

Newly proposed SDWA section 1433(d), which requires each CWS required to do a risk and resilience assessment or emergency response plan under section 1433 to maintain, for five years, a copy of the assessment and the emergency response plan (including any revised assessment or plan) submitted to EPA.

Proposed SDWA section 1433(e) requires EPA to provide guidance and technical assistance to community water systems serving a population of less than 3,300 persons on how to conduct resilience assessments, prepare emergency response plans, and address threats from malevolent acts and natural hazards that threaten to disrupt the provision of safe drinking water or significantly affect the public health or the safety or supply of drinking water. Even though these sized water systems are not required to do a risk and resilience assessment or devise an emergency response plan, the Committee notes the value that programs like this provided to smaller utilities trying to protect themselves from malevolent acts.

Proposed SDWA section 1433(f) creates a path to compliance with this section that is separate from the requirements contained in proposed subsections (a)(1) and (b) of SDWA section 1433. Spe-

cifically, proposed SDWA section 1433(f)(1) permits a CWS to meet some of its compliance obligations under this section by using and complying with technical standards that the EPA Administrator, pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995, has recognized as a means of satisfying the requirements proposed in sections 1433(a)(1) and 1433(b). Regardless of its use of proposed section 1433(f) to satisfy compliance with risk and resilience assessment and emergency response plans, the CWS is still obligated to submit certifications to EPA acknowledging completion of the assessment and plan requirements.

The Committee believes the alternate compliance path provided in proposed SDWA section 1433(f) will increase overall compliance by CWSs and reduce the administrative burden on EPA and regulated stakeholders. The Committee recognizes that, because of changes in technology and emerging threats, water systems may be reluctant to make upgrades if they are concerned with ensuring regulatory compliance. The Committee's language intends to capitalize on efforts that have been organically occurring over the last 10 years in the drinking water sector to improve detection and response to terrorism and other natural disasters. The Committee has taken specific notice of efforts taken by drinking water utilities, such as J-100, the American Water Works Association/American National Standards Institute voluntary consensus standard encompassing an all-hazards risk and resilience management process, and EPA's workshops and tabletop exercises for terrorism and other national hazards facing drinking water systems in smaller and rural communities. For this reason, the language of proposed section 1433(f)(2) deploys the Federal government's existing practice, under section 12(d) of the National Technology Transfer and Advancement Act of 1995, of recognizing technical standards developed or adopted by third-party organizations or voluntary consensus standards bodies that carry out the policy objectives of or activities required by Federal law.

Proposed SDWA section 1433(g) creates an EPA program, called the Drinking Water Infrastructure Risk and Resilience Program, under which EPA can award grants to owners or operators of CWSs to help increase their resilience. Grants made available under this subsection are authorized for five years, from fiscal year 2018 through 2022.

Under proposed SDWA section 1433(g)(2), an owner or operator of a CWS receiving a grant from the Drinking Water Infrastructure Risk and Resilience Program is required to use the grant funds exclusively to assist in the planning, design, construction, or implementation of a program or project consistent with its emergency response plan. Eligible expenses include a range of items and activities, including the purchase and installation of equipment to detect drinking water contaminants or malevolent acts; fencing, gating, lighting, or security cameras; treatment technologies and equipment to improve drinking water system resilience; improvements to electronic, computer, financial, or other automated systems and remote systems; and participation in training programs, and the purchase of training manuals and guidance materials, relating to security and resilience.

Proposed SDWA section 1433(g)(3) precludes grants awarded from the Drinking Water Infrastructure Risk and Resilience Pro-

gram from being used for used for personnel costs, or for monitoring, operation, or maintenance of facilities, equipment, or systems.

Proposed SDWA section 1433(h)(4) authorizes, for fiscal years 2018 through 2022, \$5,000,000 from the funds provided to the Drinking Water Infrastructure Risk and Resilience Program to provide technical assistance to community water systems to assist in responding to and alleviating a vulnerability that would substantially disrupt the CWS system from providing a safe and reliable supply of drinking water that EPA determines to present an immediate and urgent need.

Proposed SDWA section 1433(h)(5) authorizes, for fiscal years 2018 through 2022, \$10,000,000 from the funds provided to the Drinking Water Infrastructure Risk and Resilience Program to provide grants to community water systems serving a population of less than 3,300 persons, or nonprofit organizations receiving assistance under SDWA section 1442(e), for technical assistance activities that are consistent with proposed SDWA section 1433(e).

Proposed SDWA section 1433(h)(6) authorizes appropriations of \$35,000,000 for each of fiscal years 2018 to 2022 to carry out SDWA section 1433(h).

Finally, proposed section 1433(h) creates the operable definitions for proposed for use in SDWA section 1433.

The term “resilience” means the ability of a community water system or an asset of a community water system to adapt to or withstand the effects of a malevolent act or natural hazard without interruption to the asset’s or system’s function, or if the function is interrupted, to rapidly return to a normal operating condition.

The term “natural hazard” means a natural event that threatens the functioning of a community water system, including an earthquake, tornado, flood, hurricane, wildfire, and hydrologic changes.

Section 7(b)(1) makes a clarification regarding the treatment of information obtained by EPA under SDWA section 1433 prior to the date of enactment the Drinking Water System Improvement Act. The Committee understands that even though many years have passed since community water systems submitted their vulnerability information to EPA, even an accidental release of information could compromise the security of America’s water system or the public’s health. For this reason, section 7(b) retains, for information previously submitted to EPA pursuant to SDWA section 1433, the protections from public disclosure that were in effect on the day before enactment of the Drinking Water System Improvement Act.

Section 7(b)(2) attempts to address whether and how to dispose of vulnerability assessments and related information obtained by EPA more than 10 years ago. Due to stringent statutory requirements on access controls, handling, and providing this sensitive information submitted to others, EPA has been unable to find a cost-effective way to return potentially outdated vulnerability assessments to the submitting CWS without risking unauthorized disclosure or otherwise violating the law. Section 7(b)(2) requires EPA, in partnership with community water systems to develop a strategy to, timely, securely, and permanently dispose of, or return to the applicable community water system, any information EPA obtained from it that contains protected information.

*Section 8. Authorization for grants for state programs*

Section 8 reauthorizes appropriations for the Public Water System Supervision grants under SDWA section 1443(a)(7) at \$150,000,000 in each of fiscal years 2018 through 2022.

*Section 9. Monitoring for unregulated contaminants*

Section 9 amends SDWA section 1445 to require, no earlier than three years after the date of enactment of the Drinking Water System Improvement Act and subject to certain conditions, monitoring of unregulated contaminants by public water systems serving between 3,300 and 10,000 persons.

Specifically, section 9(a) suspends the SDWA section 1445(a)(2)(A) requirement to only require a representative sample of public water systems serving 10,000 persons or fewer to monitor for unregulated contaminants. In its place, section 9(a) requires, subject to the availability of appropriations and a determination of sufficient laboratory capacity to accommodate the additional analyses, that public water systems serving between 3,300 and 10,000 persons be subject to monitoring requirements and that a system serving less than 3,300 be subject to monitoring only as part of a representative sample.

Finally, section 9(c) amends SDWA section 1445(g)(7) to require unregulated contaminant monitoring data collected using this new, broader universe of systems serving between 3,300 and 10,000 persons, be included in EPA's Unregulated Contaminants Data Base unless it duplicates monitoring information obtained from similarly sized public water systems.

The Committee is aware of the compliance burden that new monitoring could create for many smaller public water systems, especially since utilities subject to monitoring as part of a representative sample have their mailing and testing costs paid for by the Federal government. The Committee took care to protect against this burden in two ways. First, section 9(b) does not affect the intent and operation of SDWA sections 1445(a)(2)(H) and 1452(o)—but extends the authorization in SDWA section 1445(a)(2)(H) through fiscal year 2022—and section 9(a) adds an additional authorization of \$15,000,000 in appropriations for this purpose. Second, to avoid systems' non-compliance due to their inability to afford it without Federal aid, the Committee conditioned the requirement on EPA, in proposed SDWA section 1445(j)(1), to require monitoring for systems serving between 3,300 and 10,000 on the availability of appropriations. If the appropriations are not available to address the burdens to EPA and water systems, the Committee intends that EPA revert to its existing practice of using a representative sample for systems serving a population of 10,000 or fewer.

The Committee supports EPA's use of high quality science in its work, but is concerned that invalid, incomplete, or incorrectly gathered monitoring data will compromise its value to EPA, particularly in terms of meeting EPA's statistical modeling and analysis of it. Since the Committee does not wish to place water systems in the "Catch-22" position of complying with the requirement to obtain the sample, but unable to have an approved laboratory to analyze the sample; section 9(a) contains proposed SDWA section 1445(j)(3), which permits EPA to stop these new monitoring re-

quirements if there is not sufficient laboratory capacity to carry out the sample analysis. Should EPA determine there is not sufficient laboratory capacity to handle the increase in required monitoring, the Committee intends that EPA revert to its existing practice of using a representative sample for systems serving a population of 10,000 or fewer.

*Section 10. State Revolving Loan Funds*

Section 10 makes different amendments to provisions related to State Revolving Loan Funds under SDWA section 1452.

Section 10(a) clarifies and expands the types of eligible expenditures permitted from a State DWSRF under SDWA section 1452(a)(2)(B), conditioned on the EPA Administrator determining that they facilitate compliance with national primary drinking water standards or significantly further the public health objectives of the SDWA. Specifically, “siting” is now its own expenditure—and not a subset of “an associated preconstruction activity”—and “replacing or rehabilitating aging treatment, storage, or distribution facilities of public water systems” becomes an explicit eligible use.

Section 10(b) also amends the American Iron and Steel Products purchase requirements in SDWA section 1452(a)(4) by extending its application to fiscal years 2018 through 2022.

Section 10(c) adds a new SDWA section 1452(a)(5) that requires, between fiscal years 2018 and 2022, water utilities serving a population of more than 10,000 can only obtain DWSRF funding if they considered the cost and effectiveness of the relevant processes, materials, techniques, and technologies for carrying out their project and certified this consideration to its State.

This provision is not meant to convey a preference for any materials nor to make cost the sole feature of any consideration. Rather, this language is an effort to ensure DWSRF money is going to projects where recipients have considered both the cost as well as the effectiveness of the relevant processes, materials, techniques, and technologies that public money is purchasing.

The Committee is aware that section 602(b)(13) of the Federal Water Pollution Control Act (Clean Water Act) currently contains a related mandate on recipients of Clean Water Act State Revolving Funds that could serve as a model. Rather than using the exact same mandate in the Safe Drinking Water Act, the Committee was worried about the potential burden this could place on States and those receiving assistance from the DWSRF. The Committee consciously chose to use a less prescriptive and burdensome version of Clean Water Act section 602(b)(13).

Whereas the Clean Water Act language requires a waste water utility to “study and evaluate” the cost and effectiveness of the processes, materials, techniques, and technologies used in the project funded by the SRF money, section 10(c) of the Drinking Water System Improvement Act only requires the system to “consider” them. The Committee does not intend this consideration to be a perfunctory exercise, an endless analysis by the community, or litigated by goods or services providers that are not selected for a project. Consideration is satisfied when a community’s relevant authority thinks about reasonably available, technically and economically feasible products to complete the project, what their re-

spective costs might be, and whether the technical or environmental conditions merit their use.

Importantly, the required consideration is not binding on the decision made by a community. Communities have several reasons for making the decisions that they do and the Committee believes those are discussions that need to occur between community decision makers and the users of the system.

The Clean Water Act language places requirements on the selection of projects by SRF applicants as well as certain needs that must be achieved through the selection process. The language in section 10(c), however, intentionally omits selection criteria mandates. The Committee is concerned that doing so would sever the important relationship between local communities and their engineer of record in designing a water project in the manner that best serves the unique needs and considerations of local communities.

Finally, section 10(c), like the Clean Water Act, requires a certification to the State—presumably the office responsible for operating its DWSRF—that the consideration has been made by the DWSRF applicant. The Committee does not intend this to be a burdensome or involved process and is concerned this requirement could be misunderstood and develop into an onerous approval process, which could unnecessarily delay projects. The Committee understands that some States require only a signed check list to demonstrate compliance to the State under the Clean Water Act; that simple arrangement would more than meet the Committee's expectation for fulfillment of the certification.

Section 10(d) institutes a new SDWA section 1452(a)(6) that applies Federal requirements regarding prevailing wage treatment for laborers and mechanics to drinking water loan funded construction under the Safe Drinking Water Act. The practical value of this provision is that it locates the prevailing wage requirement in the SDWA. Congress already has applied Davis-Bacon prevailing wage requirements through appropriations law to DWSRF program funding for fiscal year 2012 and all future years.

Section 10(e) makes two changes to SDWA section 1452(d)(2) related to the amount of loan subsidies made available to disadvantaged communities by a State DWSRF in a fiscal year, including those communities a State expects to become disadvantaged because of its proposed project.

Under section 10(e), the ceiling on the amount of DWSRF assistance used for these purposes is raised from 30 percent to 35 percent of the State's capitalization grant.

Additionally, section 10(e) institutes a minimum requirement that 6 percent of a State's annual DWSRF capitalization grant be dedicated to loan subsidies made available to eligible water systems meeting the definition of a disadvantaged community under SDWA section 1452(d)(3). If a State does not have enough applications for DWSRF assistance from eligible disadvantaged communities that total 6 percent of the State's annual DWSRF capitalization grant, the State may use these funds for other worthy DWSRF applicants.

Section 10(f) makes changes to SDWA section 1452(f)(1) regarding repayment of principal and interest on loans issued by a State DWSRF. Existing law provides that principal and interest payments begin no later than one year after completion of the project;

that each loan to be fully amortized within 20 years of the project's completion; and that States may provide disadvantaged communities an extended loan period of 30 years after the date of project's completion so long as the extended term does not exceed the expected design life of the project.

Under section 10(f), principal and interest payments cannot begin later than 18 months after completion of the project on which the loan was made; requires each loan to be fully amortized within 30 years of the project's completion; and permits States to allow disadvantaged communities an extended loan period of 40 years after the date of project's completion so long as the extended term does not exceed the expected design life of the project.

Section 10(g) amends SDWA section 1452(h) to require EPA, in any needs assessment after the date of enactment of the Drinking Water System Improvement Act, to include an assessment of costs to replace all lead service lines (as defined in SDWA section 1459B(a)(4)) of all eligible public water systems in the United States. To help provide a more granular picture of lead service lines, section 10(g) requires EPA's assessment to separately describe the costs associated with replacing the portions of lead service lines that are owned by an eligible public water system and, to the extent practicable, the costs associated with replacing any remaining portions of lead service lines, including those owned by private residences.

The Committee wishes to note here that it is aware of ongoing legal questions related to the ownership of lead service lines. The Committee does not wish to use this bill to take a position on that question and intentionally drafted to avoid any implication that Congress was taking an opinion on this matter.

Section 10(h) removes the current restriction in SDWA section 1452(k)(1)(C) on States using a portion of their DWSRF capitalization grant to delineate and assess source water protection areas in accordance with SDWA section 1453. Section 10(h) retains the requirement in SDWA section 1452(k)(1)(C) that funds set aside for this purpose be obligated within four fiscal years.

Section 10(i) reauthorizes appropriations to carry out SDWA section 1452 and operation of the DWSRF, providing \$8 million over five years. Specifically, section 10(i) authorizes \$1.2 billion in fiscal year 2018, \$1.4 billion in fiscal year 2019, \$1.6 billion in fiscal year 2020, \$1.8 billion in fiscal year 2021, and \$2 billion in fiscal year 2022.

Section 10(j) creates a new SDWA section 1452(s) related to best practices for the DWSRF. Specifically, EPA is authorized to collect—within three years—information from States on efforts and practices related to streamlining and aiding the DWSRF application process; spending of DWSRF funds and types of assistance granted; and enhancing management of and use of key financial measures for their DWSRFs. EPA is then required to take this information and make publicly available those best practices from among the data it has collected.

#### *Section 11. Authorization for Source Water Petition Programs*

Section 11 extends the reauthorization of appropriations from fiscal years 2018 through 2022 to carry out the Source Water Petition Program under SDWA section 1454(e). The program provides

grants to States that establish a voluntary source water protection partnership program that meets EPA guidelines and is approved by the Administrator.

*Section 12. Review of technologies*

Section 12 creates a new SDWA section 1459C dedicated to innovative efforts to protect public health. This section authorizes \$10 million for EPA to review existing and potential methods, means, equipment, and intelligent systems or other smart smart-technology to: (1) ensure the physical integrity of a community water system; (2) prevent, detect, or respond in real-time to regulated contaminants in drinking water and source water; (3) allows for use of alternate drinking water supplies from non-traditional sources; and (4) facilitate source water assessments and protection.

*Section 13. Drinking water fountain replacement for schools*

Section 13 creates a new SDWA section 1465. Under this section, EPA is required to establish a grant program, authorized at \$5,000,000 per year for fiscal years 2018 through 2022, to provide assistance to schools and daycare centers containing drinking water fountains manufactured before 1988. Specifically, the grants are to be used to replace those drinking water fountains and may be used to pay for monitoring lead levels in those schools or daycare centers.

Section 13 also requires that priority for awarding these grants should go to schools and daycare centers based upon economic need. The Committee intends “economic need” to be interpreted to mean that the school or daycare would otherwise have trouble obtaining the resources to make this improvement.

*Section 14. Source water*

Section 14 amends the Emergency Planning and Community Right to Know Act (EPCRA) to help community water systems better understand real and potential threats to the source water they treat for drinking water.

First, section 14 amends EPCRA section 304 to have a State emergency response commission notify the State office primarily responsible for drinking water if a regulated entity has an unauthorized release to the source water of a community water system. Once notified, the State office primarily responsible for drinking water then alerts any community water system whose source water is affected by such release.

In addition, section 14 amends EPCRA section 312(e) to permit community water systems to have access to information on the types of hazardous chemicals located at facilities near the source water they use for drinking water.

*Section 15. Report on Federal cross-cutting requirements*

The Subcommittee on the Environment received testimony on the impact of cross-cutting requirements.

Section 15 requires the Government Accountability Office, within one year of the date of enactment of the Drinking Water System Improvement Act, to conduct a study and issue a report to Congress that identifies demonstrations of compliance with a State or local environmental law that may be substantially equivalent to

any demonstration required by the Administrator for compliance with a Federal cross-cutting requirement (a requirement that is a condition for receipt of Federal funding). The study is supposed to be conducted in consultation with EPA, State agencies that have primary enforcement responsibility for SDWA, and public water systems.

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 (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**SAFE DRINKING WATER ACT**

**TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS**

\* \* \* \* \*

**PART B—PUBLIC WATER SYSTEMS**

\* \* \* \* \*

**STATE PRIMARY ENFORCEMENT RESPONSIBILITY**

SEC. 1413. (a) For purposes of this title, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b)) that such State—

(1) has adopted drinking water regulations that are no less stringent than the national primary drinking water regulations promulgated by the Administrator under subsections (a) and (b) of section 1412 not later than 2 years after the date on which the regulations are promulgated by the Administrator, except that the Administrator may provide for an extension of not more than 2 years if, after submission and review of appropriate, adequate documentation from the State, the Administrator determines that the extension is necessary and justified;

(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations, including conducting such monitoring and making such inspections as the Administrator may require by regulation;

(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation;

(4) if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meet the requirements of paragraph (1), permits such variances and exemptions under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416;

(5) has adopted and can implement an adequate plan for the provision of safe drinking water under emergency cir-

cumstances including earthquakes, floods, hurricanes, and other natural disasters, as appropriate [; and];

*(6) has adopted and is implementing procedures for requiring public water systems to assess options for, and complete, consolidation or transfer of ownership, in accordance with the regulations issued by the Administrator under section 1414(h)(6); and*

**[(6)]** (7) has adopted authority for administrative penalties (unless the constitution of the State prohibits the adoption of the authority) in a maximum amount—

(A) in the case of a system serving a population of more than 10,000, that is not less than \$1,000 per day per violation; and

(B) in the case of any other system, that is adequate to ensure compliance (as determined by the State);

except that a State may establish a maximum limitation on the total amount of administrative penalties that may be imposed on a public water system per violation.

(b)(1) The Administrator shall, by regulation (proposed within 180 days of the date of the enactment of this title), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements [of paragraphs (1), (2), (3), and (4)] of subsection (a) are satisfied with respect to the State, the manner in which the determination is made, the period for which the determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall require that before a determination of the Administrator that such requirements are met or are no longer met with respect to a State may become effective, the Administrator shall notify such State of the determination and the reasons therefor and shall provide an opportunity for public hearing on the determination. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this title when it is determined to have primary enforcement responsibility for public water systems.

(2) When an application is submitted in accordance with the Administrator's regulations under paragraph (1), the Administrator shall within 90 days of the date on which such application is submitted (A) make the determination applied for, or (B) deny the application and notify the applicant in writing of the reasons for his denial.

(c) INTERIM PRIMARY ENFORCEMENT AUTHORITY.—A State that has primary enforcement authority under this section with respect to each existing national primary drinking water regulation shall be considered to have primary enforcement authority with respect to each new or revised national primary drinking water regulation during the period beginning on the effective date of a regulation adopted and submitted by the State with respect to the new or revised national primary drinking water regulation in accordance with subsection (b)(1) and ending at such time as the Adminis-

trator makes a determination under subsection (b)(2)(B) with respect to the regulation.

ENFORCEMENT OF DRINKING WATER REGULATIONS

SEC. 1414. (a)(1)(A) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 1413(a)) that any public water system—

(i) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any applicable requirement, or

(ii) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule or other requirement imposed pursuant thereto, he shall so notify the State and such public water system and provide such advice and technical assistance to such State and public water system as may be appropriate to bring the system into compliance with the requirement by the earliest feasible time.

(B) If, beyond the thirtieth day after the Administrator's notification under subparagraph (A), the State has not commenced appropriate enforcement action, the Administrator shall issue an order under subsection (g) requiring the public water system to comply with such applicable requirement or the Administrator shall commence a civil action under subsection (b).

(2) ENFORCEMENT IN NONPRIMACY STATES.—

(A) IN GENERAL.—If, on the basis of information available to the Administrator, the Administrator finds, with respect to a period in which a State does not have primary enforcement responsibility for public water systems, that a public water system in the State—

(i) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any applicable requirement; or

(ii) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule or other requirement imposed pursuant to the variance or exemption;

the Administrator shall issue an order under subsection (g) requiring the public water system to comply with the requirement, or commence a civil action under subsection (b).

(B) NOTICE.—If the Administrator takes any action pursuant to this paragraph, the Administrator shall notify an appropriate local elected official, if any, with jurisdiction over the public water system of the action prior to the time that the action is taken.

(b) The Administrator may bring a civil action in the appropriate United States district court to require compliance with any applicable requirement, with an order issued under subsection (g), or with any schedule or other requirement imposed pursuant to a variance or exemption granted under section 1415 or 1416 if—

(1) authorized under paragraph (1) or (2) of subsection (a),

or

(2) if requested by (A) the chief executive officer of the State in which is located the public water system which is not in

compliance with such regulation or requirement, or (B) the agency of such State which has jurisdiction over compliance by public water systems in the State with national primary drinking water regulations or State drinking water regulations.

The court may enter, in an action brought under this subsection, such judgment as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies; and, if the court determines that there has been a violation of the regulation or schedule or other requirement with respect to which the action was brought, the court may, taking into account the seriousness of the violation, the population at risk, and other appropriate factors, impose on the violator a civil penalty of not to exceed \$25,000 for each day in which such violation occurs.

(c) NOTICE TO STATES, THE ADMINISTRATOR, AND PERSONS SERVED.—

(1) IN GENERAL.—Each owner or operator of a public water system shall give notice of each of the following to the persons served by the system:

(A) Notice of any failure on the part of the public water system to—

(i) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation; or

(ii) perform monitoring required by section 1445(a).

(B) If the public water system is subject to a variance granted under subsection (a)(1)(A), (a)(2), or (e) of section 1415 for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, notice of—

(i) the existence of the variance or exemption; and

(ii) any failure to comply with the requirements of any schedule prescribed pursuant to the variance or exemption.

(C) Notice of the concentration level of any unregulated contaminant for which the Administrator has required public notice pursuant to paragraph (2)(F).

(D) Notice that the public water system exceeded the lead action level under section 141.80(c) of title 40, Code of Federal Regulations (or a prescribed level of lead that the Administrator establishes for public education or notification in a successor regulation promulgated pursuant to section 1412).

(2) FORM, MANNER, AND FREQUENCY OF NOTICE.—

(A) IN GENERAL.—The Administrator shall, by regulation, and after consultation with the States, prescribe the manner, frequency, form, and content for giving notice under this subsection. The regulations shall—

(i) provide for different frequencies of notice based on the differences between violations that are intermittent or infrequent and violations that are continuous or frequent; and

(ii) take into account the seriousness of any potential adverse health effects that may be involved.

## (B) STATE REQUIREMENTS.—

(i) IN GENERAL.—A State may, by rule, establish alternative notification requirements—

(I) with respect to the form and content of notice given under and in a manner in accordance with subparagraph (C); and

(II) with respect to the form and content of notice given under subparagraph (E).

(ii) CONTENTS.—The alternative requirements shall provide the same type and amount of information as required pursuant to this subsection and regulations issued under subparagraph (A).

(iii) RELATIONSHIP TO SECTION 1413.—Nothing in this subparagraph shall be construed or applied to modify the requirements of section 1413.

(C) NOTICE OF VIOLATIONS OR EXCEEDANCES WITH POTENTIAL TO HAVE SERIOUS ADVERSE EFFECTS ON HUMAN HEALTH.—Regulations issued under subparagraph (A) shall specify notification procedures for each violation, and each exceedance described in paragraph (1)(D), by a public water system that has the potential to have serious adverse effects on human health as a result of short-term exposure. Each notice of violation or exceedance provided under this subparagraph shall—

(i) be distributed as soon as practicable, but not later than 24 hours, after the public water system learns of the violation or exceedance;

(ii) provide a clear and readily understandable explanation of—

(I) the violation or exceedance;

(II) the potential adverse effects on human health;

(III) the steps that the public water system is taking to correct the violation or exceedance; and

(IV) the necessity of seeking alternative water supplies until the violation or exceedance is corrected;

(iii) be provided to the Administrator and the head of the State agency that has primary enforcement responsibility under section 1413, as applicable, as soon as practicable, but not later than 24 hours after the public water system learns of the violation or exceedance; and

(iv) as required by the State agency in general regulations of the State agency, or on a case-by-case basis after the consultation referred to in clause (iii), considering the health risks involved—

(I) be provided to appropriate media, including broadcast media;

(II) be prominently published in a newspaper of general circulation serving the area not later than 1 day after distribution of a notice pursuant to clause (i) or the date of publication of the next issue of the newspaper; or

(III) be provided by posting or door-to-door notification.

(D) NOTICE BY THE ADMINISTRATOR.—If the State with primary enforcement responsibility or the owner or operator of a public water system has not issued a notice under subparagraph (C) for an exceedance of the lead action level under section 141.80(c) of title 40, Code of Federal Regulations (or a prescribed level of lead that the Administrator establishes for public education or notification in a successor regulation promulgated pursuant to section 1412) that has the potential to have serious adverse effects on human health as a result of short-term exposure, not later than 24 hours after the Administrator is notified of the exceedance, the Administrator shall issue the required notice under that subparagraph.

(E) WRITTEN NOTICE.—

(i) IN GENERAL.—Regulations issued under subparagraph (A) shall specify notification procedures for violations other than the violations covered by subparagraph (C). The procedures shall specify that a public water system shall provide written notice to each person served by the system by notice (I) in the first bill (if any) prepared after the date of occurrence of the violation, (II) in an annual report issued not later than 1 year after the date of occurrence of the violation, or (III) by mail or direct delivery as soon as practicable, but not later than 1 year after the date of occurrence of the violation.

(ii) FORM AND MANNER OF NOTICE.—The Administrator shall prescribe the form and manner of the notice to provide a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps that the system is taking to seek alternative water supplies, if any, until the violation is corrected.

(F) UNREGULATED CONTAMINANTS.—The Administrator may require the owner or operator of a public water system to give notice to the persons served by the system of the concentration levels of an unregulated contaminant required to be monitored under section 1445(a).

(3) REPORTS.—

(A) ANNUAL REPORT BY STATE.—

(i) IN GENERAL.—Not later than January 1, 1998, and annually thereafter, each State that has primary enforcement responsibility under section 1413 shall prepare, make readily available to the public, and submit to the Administrator an annual report on violations of national primary drinking water regulations by public water systems in the State, including violations with respect to (I) maximum contaminant levels, (II) treatment requirements, (III) variances and exemptions, and (IV) monitoring requirements determined to be significant by the Administrator after consultation with the States.

(ii) DISTRIBUTION.—The State shall publish and distribute summaries of the report and indicate where the full report is available for review.

(B) ANNUAL REPORT BY ADMINISTRATOR.—Not later than July 1, 1998, and annually thereafter, the Administrator shall prepare and make available to the public an annual report summarizing and evaluating reports submitted by States pursuant to subparagraph (A), notices submitted by public water systems serving Indian Tribes provided to the Administrator pursuant to subparagraph (C) or (E) of paragraph (2), and notices issued by the Administrator with respect to public water systems serving Indian Tribes under subparagraph (D) of that paragraph and making recommendations concerning the resources needed to improve compliance with this title. The report shall include information about public water system compliance on Indian reservations and about enforcement activities undertaken and financial assistance provided by the Administrator on Indian reservations, and shall make specific recommendations concerning the resources needed to improve compliance with this title on Indian reservations.

(4) CONSUMER CONFIDENCE REPORTS BY COMMUNITY WATER SYSTEMS.—

(A) [ANNUAL REPORTS] *REPORTS TO CONSUMERS*.—The Administrator, in consultation with public water systems, environmental groups, public interest groups, risk communication experts, and the States, and other interested parties, shall issue regulations within 24 months after the date of enactment of this paragraph to require each community water system to mail, *or provide by electronic means*, to each customer of the system at least once annually a report on the level of contaminants in the drinking water purveyed by that system (referred to in this paragraph as a “consumer confidence report”). Such regulations shall provide a brief and plainly worded definition of the terms “maximum contaminant level goal”, “maximum contaminant level”, “variances”, and “exemptions” and brief statements in plain language regarding the health concerns that resulted in regulation of each regulated contaminant. The regulations shall also include a brief and plainly worded explanation regarding contaminants that may reasonably be expected to be present in drinking water, including bottled water. The regulations shall also provide for an Environmental Protection Agency toll-free hotline that consumers can call for more information and explanation.

(B) CONTENTS OF REPORT.—The consumer confidence reports under this paragraph shall include, but not be limited to, each of the following:

- (i) Information on the source of the water purveyed.
- (ii) A brief and plainly worded definition of the terms “action level”, “maximum contaminant level goal”, “maximum contaminant level”, “variances”, and “exemptions” as provided in the regulations of the Administrator.

(iii) If any regulated contaminant is detected in the water purveyed by the public water system, a statement describing, as applicable—

- (I) the maximum contaminant level goal;
- (II) the maximum contaminant level;
- (III) the level of the contaminant in the water system;
- (IV) the action level for the contaminant; and
- (V) for any contaminant for which there has been a violation of the maximum contaminant level during the year concerned, a brief statement in plain language regarding the health concerns that resulted in regulation of the contaminant, as provided by the Administrator in regulations under subparagraph (A).

(iv) Information on compliance with national primary drinking water regulations, as required by [the Administrator, and] *the Administrator, including corrosion control efforts, and* notice if the system is operating under a variance or exemption and the basis on which the variance or exemption was granted.

(v) Information on the levels of unregulated contaminants for which monitoring is required under section 1445(a)(2) (including levels of cryptosporidium and radon where States determine they may be found).

(vi) A statement that the presence of contaminants in drinking water does not necessarily indicate that the drinking water poses a health risk and that more information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency hotline.

(vii) *Identification of, if any—*

*(I) exceedances described in paragraph (1)(D) for which corrective action has been required by the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) during the monitoring period covered by the consumer confidence report; and*

*(II) violations that occurred during the monitoring period covered by the consumer confidence report.*

A public water system may include such additional information as it deems appropriate for public education. The Administrator may, for not more than 3 regulated contaminants other than those referred to in clause (iii)(V), require a consumer confidence report under this paragraph to include the brief statement in plain language regarding the health concerns that resulted in regulation of the contaminant or contaminants concerned, as provided by the Administrator in regulations under subparagraph (A).

(C) COVERAGE.—The Governor of a State may determine not to apply the mailing requirement of subparagraph (A)

to a community water system serving fewer than 10,000 persons. Any such system shall—

(i) inform, in the newspaper notice required by clause (iii) or by other means, its customers that the system will not be mailing the report as required by subparagraph (A);

(ii) make the consumer confidence report available upon request to the public; and

(iii) publish the report referred to in subparagraph (A) annually in one or more local newspapers serving the area in which customers of the system are located.

(D) ALTERNATIVE TO PUBLICATION.—For any community water system which, pursuant to subparagraph (C), is not required to meet the mailing requirement of subparagraph (A) and which serves 500 persons or fewer, the community water system may elect not to comply with clause (i) or (iii) of subparagraph (C). If the community water system so elects, the system shall, at a minimum—

(i) prepare an annual consumer confidence report pursuant to subparagraph (B); and

(ii) provide notice at least once per year to each of its customers by mail, by door-to-door delivery, by posting or by other means authorized by the regulations of the Administrator that the consumer confidence report is available upon request.

(E) ALTERNATIVE FORM AND CONTENT.—A State exercising primary enforcement responsibility may establish, by rule, after notice and public comment, alternative requirements with respect to the form and content of consumer confidence reports under this paragraph.

(F) REVISIONS.—

(i) UNDERSTANDABILITY AND FREQUENCY.—*Not later than 24 months after the Drinking Water System Improvement Act of 2017, the Administrator, in consultation with the parties identified in subparagraph (A), shall issue revisions to the regulations issued under subparagraph (A)—*

*(I) to increase—*

*(aa) the readability, clarity, and understandability of the information presented in consumer confidence reports; and*

*(bb) the accuracy of information presented, and risk communication, in consumer confidence reports; and*

*(II) with respect to community water systems that serve 10,000 or more persons, to require each such community water system to provide, by mail, electronic means, or other methods described in clause (ii), a consumer confidence report to each customer of the system at least biannually.*

(ii) ELECTRONIC DELIVERY.—*Any revision of regulations pursuant to clause (i) shall allow delivery of consumer confidence reports by methods consistent with methods described in the memorandum “Safe Drinking Water Act–Consumer Confidence Report Rule Delivery*

*Options” issued by the Environmental Protection Agency on January 3, 2013.*

(5) EXCEEDANCE OF LEAD LEVEL AT HOUSEHOLDS.—

(A) STRATEGIC PLAN.—Not later than 180 days after the date of enactment of this paragraph, the Administrator shall, in collaboration with owners and operators of public water systems and States, establish a strategic plan for how the Administrator, a State with primary enforcement responsibility, and owners and operators of public water systems shall provide targeted outreach, education, technical assistance, and risk communication to populations affected by the concentration of lead in a public water system, including dissemination of information described in subparagraph (C).

(B) EPA INITIATION OF NOTICE.—

(i) FORWARDING OF DATA BY EMPLOYEE OF THE AGENCY.—If the Agency develops, or receives from a source other than a State or a public water system, data that meets the requirements of section 1412(b)(3)(A)(ii) that indicates that the drinking water of a household served by a public water system contains a level of lead that exceeds the lead action level under section 141.80(c) of title 40, Code of Federal Regulations (or a prescribed level of lead that the Administrator establishes for public education or notification in a successor regulation promulgated pursuant to section 1412) (referred to in this paragraph as an “affected household”), the Administrator shall require an appropriate employee of the Agency to forward the data, and information on the sampling techniques used to obtain the data, to the owner or operator of the public water system and the State in which the affected household is located within a time period determined by the Administrator.

(ii) DISSEMINATION OF INFORMATION BY OWNER OR OPERATOR.—The owner or operator of a public water system shall disseminate to affected households the information described in subparagraph (C) within a time period established by the Administrator, if the owner or operator—

(I) receives data and information under clause (i); and

(II) has not, since the date of the test that developed the data, notified the affected households—

(aa) with respect to the concentration of lead in the drinking water of the affected households; and

(bb) that the concentration of lead in the drinking water of the affected households exceeds the lead action level under section 141.80(c) of title 40, Code of Federal Regulations (or a prescribed level of lead that the Administrator establishes for public education

or notification in a successor regulation promulgated pursuant to section 1412).

(iii) CONSULTATION.—

(I) DEADLINE.—If the owner or operator of the public water system does not disseminate to the affected households the information described in subparagraph (C) as required under clause (ii) within the time period established by the Administrator, not later than 24 hours after the Administrator becomes aware of the failure by the owner or operator of the public water system to disseminate the information, the Administrator shall consult, within a period not to exceed 24 hours, with the applicable Governor to develop a plan, in accordance with the strategic plan, to disseminate the information to the affected households not later than 24 hours after the end of the consultation period.

(II) DELEGATION.—The Administrator may only delegate the duty to consult under subclause (I) to an employee of the Agency who, as of the date of the delegation, works in the Office of Water at the headquarters of the Agency.

(iv) DISSEMINATION BY ADMINISTRATOR.—The Administrator shall, as soon as practicable, disseminate to affected households the information described in subparagraph (C) if—

(I) the owner or operator of the public water system does not disseminate the information to the affected households within the time period determined by the Administrator, as required by clause (ii); and

(II)(aa) the Administrator and the applicable Governor do not agree on a plan described in clause (iii)(I) during the consultation period under that clause; or

(bb) the applicable Governor does not disseminate the information within 24 hours after the end of the consultation period.

(C) INFORMATION REQUIRED.—The information described in this subparagraph includes—

(i) a clear explanation of the potential adverse effects on human health of drinking water that contains a concentration of lead that exceeds the lead action level under section 141.80(c) of title 40, Code of Federal Regulations (or a prescribed level of lead that the Administrator establishes for public education or notification in a successor regulation promulgated pursuant to section 1412);

(ii) the steps that the owner or operator of the public water system is taking to mitigate the concentration of lead; and

(iii) the necessity of seeking alternative water supplies until the date on which the concentration of lead is mitigated.

(6) PRIVACY.—Any notice to the public or an affected household under this subsection shall protect the privacy of individual customer information.

(d) Whenever, on the basis of information available to him, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been promulgated, one or more public water systems in a State do not comply with such secondary regulations, and that such noncompliance appears to result from a failure of such State to take reasonable action to assure that public water systems throughout such State meet such secondary regulations, he shall so notify the State.

(e) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting drinking water regulations or public water systems, but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

(f) If the Administrator makes a finding of noncompliance (described in subparagraph (A) or (B) of subsection (a)(1)) with respect to a public water system in a State which has primary enforcement responsibility, the Administrator may, for the purpose of assisting that State in carrying out such responsibility and upon the petition of such State or public water system or persons served by such system, hold, after appropriate notice, public hearings for the purpose of gathering information from technical or other experts, Federal, State, or other public officials, representatives of such public water system, persons served by such system, and other interested persons on—

(1) the ways in which such system can within the earliest feasible time be brought into compliance with the regulation or requirement with respect to which such finding was made, and

(2) the means for the maximum feasible protection of the public health during any period in which such system is not in compliance with a national primary drinking water regulation or requirement applicable to a variance or exemption.

On the basis of such hearings the Administrator shall issue recommendations which shall be sent to such State and public water system and shall be made available to the public and communications media.

(g)(1) In any case in which the Administrator is authorized to bring a civil action under this section or under section 1445 with respect to any applicable requirement, the Administrator also may issue an order to require compliance with such applicable requirement.

(2) An order issued under this subsection shall not take effect, in the case of a State having primary enforcement responsibility for public water systems in that State, until after the Administrator has provided the State with an opportunity to confer with the Administrator regarding the order. A copy of any order issued under this subsection shall be sent to the appropriate State agency of the State involved if the State has primary enforcement responsibility for public water systems in that State. Any order issued under this subsection shall state with reasonable specificity the nature of the violation. In any case in which an order under this subsection is issued to a corporation, a copy of such order shall be issued to appropriate corporate officers.

(3)(A) Any person who violates, or fails or refuses to comply with, an order under this subsection shall be liable to the United States for a civil penalty of not more than \$25,000 per day of violation.

(B) In a case in which a civil penalty sought by the Administrator under this paragraph does not exceed \$5,000, the penalty shall be assessed by the Administrator after notice and opportunity for a public hearing (unless the person against whom the penalty is assessed requests a hearing on the record in accordance with section 554 of title 5, United States Code). In a case in which a civil penalty sought by the Administrator under this paragraph exceeds \$5,000, but does not exceed \$25,000, the penalty shall be assessed by the Administrator after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

(C) Whenever any civil penalty sought by the Administrator under this subsection for a violation of an applicable requirement exceeds \$25,000, the penalty shall be assessed by a civil action brought by the Administrator in the appropriate United States district court (as determined under the provisions of title 28 of the United States Code).

(D) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Administrator, the Attorney General shall recover the amount for which such person is liable in any appropriate district court of the United States. In any such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(h) CONSOLIDATION INCENTIVE.—

(1) IN GENERAL.—An owner or operator of a public water system may submit to the State in which the system is located (if the State has primary enforcement responsibility under section 1413) or to the Administrator (if the State does not have primary enforcement responsibility) a plan (including specific measures and schedules) for—

(A) the physical consolidation of the system with 1 or more other systems;

(B) the consolidation of significant management and administrative functions of the system with 1 or more other systems; **[or]**

(C) the transfer of ownership of the system that may reasonably be expected to improve drinking water quality~~].~~; *or*

(D) *entering into a contractual agreement for significant management or administrative functions of the system to correct violations identified in the plan.*

(2) CONSEQUENCES OF APPROVAL.—If the State or the Administrator approves a plan pursuant to paragraph (1), no enforcement action shall be taken pursuant to this part with respect to a specific violation identified in the approved plan prior to the date that is the earlier of the date on which consolidation is completed according to the plan or the date that is 2 years after the plan is approved.

(3) *AUTHORITY FOR MANDATORY ASSESSMENT AND MANDATORY CONSOLIDATION.*—

(A) *MANDATORY ASSESSMENT.*—A State with primary enforcement responsibility or the Administrator (if the State does not have primary enforcement responsibility) may require the owner or operator of a public water system to assess options for consolidation, or transfer of ownership of the system, as described in paragraph (1), if—

(i) the public water system—

(I) has repeatedly violated one or more national primary drinking water regulations and such repeated violations are likely to adversely affect human health; and

(II)(aa) is unable or unwilling to take feasible and affordable actions, as identified by the State with primary enforcement responsibility or the Administrator (if the State does not have primary enforcement responsibility), that will result in the public water system complying with the national primary drinking water regulations described in subclause (I), including accessing technical assistance and financial assistance through the State loan fund pursuant to section 1452; or

(bb) has already undertaken actions described in item (aa) without achieving compliance;

(ii) such consolidation or transfer is feasible; and

(iii) such consolidation or transfer could result in greater compliance with national primary drinking water regulations.

(B) *MANDATORY CONSOLIDATION.*—After review of an assessment under subparagraph (A), a State with primary enforcement responsibility or the Administrator (if the State does not have primary enforcement responsibility) may require the owner or operator of a public water system that completed such assessment to submit a plan for consolidation, or transfer of ownership of the system, under paragraph (1), and complete the actions required under such plan if—

(i) the owner or operator of the public water system—

(I) has not taken steps to complete consolidation;

(II) has not transferred ownership of the system;

or

(III) was unable to achieve compliance after taking the actions described in clause (i)(II)(aa) of subparagraph (A);

(ii) since completing such assessment, the public water system has violated one or more national primary drinking water regulations and such violations are likely to adversely affect human health; and

(iii) such consolidation or transfer is feasible.

(4) *FINANCIAL ASSISTANCE.*—Notwithstanding section 1452(a)(3), a public water system undertaking consolidation or transfer of ownership or alternative actions to achieve compliance pursuant to this subsection may receive assistance under section 1452 to carry out such consolidation, transfer, or alternative actions.

(5) *PROTECTION OF NONRESPONSIBLE SYSTEM.*—

## (A) IDENTIFICATION OF LIABILITIES.—

(i) *IN GENERAL.*—An owner or operator of a public water system submitting a plan pursuant to paragraph (3) shall identify as part of such plan—

(I) any potential liability for damages arising from each specific violation identified in the plan of which the owner or operator is aware; and

(II) any funds or other assets that are available to satisfy such liability, as of the date of submission of such plan, to the public water system that committed such violation.

(ii) *INCLUSION.*—In carrying out clause (i), the owner or operator shall take reasonable steps to ensure that all potential liabilities for damages arising from each specific violation identified in the plan submitted pursuant to paragraph (3) are identified.

(B) *RESERVATION OF FUNDS.*—A public water system that has completed the actions required under a plan submitted and approved pursuant to paragraph (3) shall not be liable under this title for a violation of this title identified in the plan, except to the extent to which funds or other assets are identified pursuant to subparagraph (A)(i)(II) as available to satisfy such liability.

(6) *REGULATIONS.*—Not later than 2 years after the date of enactment of the Drinking Water System Improvement Act of 2017, the Administrator shall promulgate regulations to implement paragraphs (3), (4), and (5).

(i) *DEFINITION OF APPLICABLE REQUIREMENT.*—In this section, the term “applicable requirement” means—

(1) a requirement of section 1412, 1414, 1415, 1416, 1417, 1433, 1441, or 1445;

(2) a regulation promulgated pursuant to a section referred to in paragraph (1);

(3) a schedule or requirement imposed pursuant to a section referred to in paragraph (1); and

(4) a requirement of, or permit issued under, an applicable State program for which the Administrator has made a determination that the requirements of section 1413 have been satisfied, or an applicable State program approved pursuant to this part.

(j) *IMPROVED ACCURACY AND AVAILABILITY OF COMPLIANCE MONITORING DATA.*—

(1) *STRATEGIC PLAN.*—Not later than 1 year after the date of enactment of this subsection, the Administrator, in coordination with States, public water systems, and other interested stakeholders, shall develop and provide to Congress a strategic plan for improving the accuracy and availability of monitoring data collected to demonstrate compliance with national primary drinking water regulations and submitted—

(A) by public water systems to States; or

(B) by States to the Administrator.

(2) *EVALUATION.*—In developing the strategic plan under paragraph (1), the Administrator shall evaluate any challenges faced—

(A) in ensuring the accuracy and integrity of submitted data described in paragraph (1);

(B) by States and public water systems in implementing an electronic system for submitting such data, including the technical and economic feasibility of implementing such a system; and

(C) by users of such electronic systems in being able to access such data.

(3) *FINDINGS AND RECOMMENDATIONS.*—The Administrator shall include in the strategic plan provided to Congress under paragraph (1)—

(A) a summary of the findings of the evaluation under paragraph (2); and

(B) recommendations on practicable, cost-effective methods and means that can be employed to improve the accuracy and availability of submitted data described in paragraph (1).

(4) *CONSULTATION.*—In developing the strategic plan under paragraph (1), the Administrator may, as appropriate, consult with States or other Federal agencies that have experience using practicable methods and means to improve the accuracy and availability of submitted data described in such paragraph.

\* \* \* \* \*

#### CAPACITY DEVELOPMENT

SEC. 1420. (a) *STATE AUTHORITY FOR NEW SYSTEMS.*—A State shall receive only 80 percent of the allotment that the State is otherwise entitled to receive under section 1452 (relating to State loan funds) unless the State has obtained the legal authority or other means to ensure that all new community water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each national primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations.

(b) *SYSTEMS IN SIGNIFICANT NONCOMPLIANCE.*—

(1) *LIST.*—Beginning not later than 1 year after the date of enactment of this section, each State shall prepare, periodically update, and submit to the Administrator a list of community water systems and nontransient, noncommunity water systems that have a history of significant noncompliance with this title (as defined in guidelines issued prior to the date of enactment of this section or any revisions of the guidelines that have been made in consultation with the States) and, to the extent practicable, the reasons for noncompliance.

(2) *REPORT.*—Not later than 5 years after the date of enactment of this section and as part of the capacity development strategy of the State, each State shall report to the Administrator on the success of enforcement mechanisms and initial capacity development efforts in assisting the public water systems listed under paragraph (1) to improve technical, managerial, and financial capacity.

(3) *WITHHOLDING.*—The list and report under this subsection shall be considered part of the capacity development strategy

of the State required under subsection (c) of this section for purposes of the withholding requirements of section 1452(a)(1)(G)(i) (relating to State loan funds).

(c) CAPACITY DEVELOPMENT STRATEGY.—

(1) IN GENERAL.—Beginning 4 years after the date of enactment of this section, a State shall receive only—

- (A) 90 percent in fiscal year 2001;
- (B) 85 percent in fiscal year 2002; and
- (C) 80 percent in each subsequent fiscal year,

of the allotment that the State is otherwise entitled to receive under section 1452 (relating to State loan funds), unless the State is developing and implementing a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity.

(2) CONTENT.—In preparing the capacity development strategy, the State shall consider, solicit public comment on, and include as appropriate—

(A) the methods or criteria that the State will use to identify and prioritize the public water systems most in need of improving technical, managerial, and financial capacity;

(B) a description of the institutional, regulatory, financial, tax, or legal factors at the Federal, State, or local level that encourage or impair capacity development;

(C) a description of how the State will use the authorities and resources of this title or other means to—

- (i) assist public water systems in complying with national primary drinking water regulations;
- (ii) encourage the development of partnerships between public water systems to enhance the technical, managerial, and financial capacity of the systems; and
- (iii) assist public water systems in the training and certification of operators;

(D) a description of how the State will establish a baseline and measure improvements in capacity with respect to national primary drinking water regulations and State drinking water law [; and];

(E) an identification of the persons that have an interest in and are involved in the development and implementation of the capacity development strategy (including all appropriate agencies of Federal, State, and local governments, private and nonprofit public water systems, and public water system customers) [; and];

(F) a description of how the State will, as appropriate—

- (i) encourage development by public water systems of asset management plans that include best practices for asset management; and
- (ii) assist, including through the provision of technical assistance, public water systems in training operators or other relevant and appropriate persons in implementing such asset management plans.

(3) REPORT.—Not later than 2 years after the date on which a State first adopts a capacity development strategy under this subsection, and every 3 years thereafter, the head of the State agency that has primary responsibility to carry out this title in

the State shall submit to the Governor a report that shall also be available to the public on the efficacy of the strategy and progress made toward improving the technical, managerial, and financial capacity of public water systems in the State, *including efforts of the State to encourage development by public water systems of asset management plans and to assist public water systems in training relevant and appropriate persons in implementing such asset management plans.*

(4) REVIEW.—The decisions of the State under this section regarding any particular public water system are not subject to review by the Administrator and may not serve as the basis for withholding funds under section 1452.

(d) FEDERAL ASSISTANCE.—

(1) IN GENERAL.—The Administrator shall support the States in developing capacity development strategies.

(2) INFORMATIONAL ASSISTANCE.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator shall—

(i) conduct a review of State capacity development efforts in existence on the date of enactment of this section and publish information to assist States and public water systems in capacity development efforts; and

(ii) initiate a partnership with States, public water systems, and the public to develop information for States on recommended operator certification requirements.

(B) PUBLICATION OF INFORMATION.—The Administrator shall publish the information developed through the partnership under subparagraph (A)(ii) not later than 18 months after the date of enactment of this section.

(3) PROMULGATION OF DRINKING WATER REGULATIONS.—In promulgating a national primary drinking water regulation, the Administrator shall include an analysis of the likely effect of compliance with the regulation on the technical, financial, and managerial capacity of public water systems.

(4) GUIDANCE FOR NEW SYSTEMS.—Not later than 2 years after the date of enactment of this section, the Administrator shall publish guidance developed in consultation with the States describing legal authorities and other means to ensure that all new community water systems and new nontransient, noncommunity water systems demonstrate technical, managerial, and financial capacity with respect to national primary drinking water regulations.

(5) INFORMATION ON ASSET MANAGEMENT PRACTICES.—*Not later than 5 years after the date of enactment of this paragraph, and not less often than every 5 years thereafter, the Administrator shall review and, if appropriate, update educational materials, including handbooks, training materials, and technical information, made available by the Administrator to owners, managers, and operators of public water systems, local officials, technical assistance providers (including nonprofit water associations), and State personnel concerning best practices for asset management strategies that may be used by public water systems.*

(e) VARIANCES AND EXEMPTIONS.—Based on information obtained under subsection (c)(3), the Administrator shall, as appropriate, modify regulations concerning variances and exemptions for small public water systems to ensure flexibility in the use of the variances and exemptions. Nothing in this subsection shall be interpreted, construed, or applied to affect or alter the requirements of section 1415 or 1416.

(f) SMALL PUBLIC WATER SYSTEMS TECHNOLOGY ASSISTANCE CENTERS.—

(1) GRANT PROGRAM.—The Administrator is authorized to make grants to institutions of higher learning to establish and operate small public water system technology assistance centers in the United States.

(2) RESPONSIBILITIES OF THE CENTERS.—The responsibilities of the small public water system technology assistance centers established under this subsection shall include the conduct of training and technical assistance relating to the information, performance, and technical needs of small public water systems or public water systems that serve Indian Tribes.

(3) APPLICATIONS.—Any institution of higher learning interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

(4) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

(A) The small public water system technology assistance center shall be located in a State that is representative of the needs of the region in which the State is located for addressing the drinking water needs of small and rural communities or Indian Tribes.

(B) The grant recipient shall be located in a region that has experienced problems, or may reasonably be foreseen to experience problems, with small and rural public water systems.

(C) The grant recipient shall have access to expertise in small public water system technology management.

(D) The grant recipient shall have the capability to disseminate the results of small public water system technology and training programs.

(E) The projects that the grant recipient proposes to carry out under the grant are necessary and appropriate.

(F) The grant recipient has regional support beyond the host institution.

(5) CONSORTIA OF STATES.—At least 2 of the grants under this subsection shall be made to consortia of States with low population densities.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this subsection \$2,000,000 for each of the fiscal years 1997 through 1999, and \$5,000,000 for each of the fiscal years 2000 through 2003.

(g) ENVIRONMENTAL FINANCE CENTERS.—

(1) IN GENERAL.—The Administrator shall provide initial funding for one or more university-based environmental fi-

nance centers for activities that provide technical assistance to State and local officials in developing the capacity of public water systems. Any such funds shall be used only for activities that are directly related to this title.

(2) NATIONAL CAPACITY DEVELOPMENT CLEARINGHOUSE.—The Administrator shall establish a national public water system capacity development clearinghouse to receive and disseminate information with respect to developing, improving, and maintaining financial and managerial capacity at public water systems. The Administrator shall ensure that the clearinghouse does not duplicate other federally supported clearinghouse activities.

(3) CAPACITY DEVELOPMENT TECHNIQUES.—The Administrator may request an environmental finance center funded under paragraph (1) to develop and test managerial, financial, and institutional techniques for capacity development. The techniques may include capacity assessment methodologies, manual and computer based public water system rate models and capital planning models, public water system consolidation procedures, and regionalization models.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection \$1,500,000 for each of the fiscal years 1997 through 2003.

(5) LIMITATION.—No portion of any funds made available under this subsection may be used for lobbying expenses.

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PART D—EMERGENCY POWERS

\* \* \* \* \*

**[SEC. 1433. TERRORIST AND OTHER INTENTIONAL ACTS.**

**[(a) VULNERABILITY ASSESSMENTS.—(1) Each community water system serving a population of greater than 3,300 persons shall conduct an assessment of the vulnerability of its system to a terrorist attack or other intentional acts intended to substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water. The vulnerability assessment shall include, but not be limited to, a review of pipes and constructed conveyances, physical barriers, water collection, pretreatment, treatment, storage and distribution facilities, electronic, computer or other automated systems which are utilized by the public water system, the use, storage, or handling of various chemicals, and the operation and maintenance of such system. The Administrator, not later than August 1, 2002, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall provide baseline information to community water systems required to conduct vulnerability assessments regarding which kinds of terrorist attacks or other intentional acts are the probable threats to—**

**[(A) substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water; or**

**[(B) otherwise present significant public health concerns.**

**[(2) Each community water system referred to in paragraph (1) shall certify to the Administrator that the system has conducted an assessment complying with paragraph (1) and shall submit to the**

Administrator a written copy of the assessment. Such certification and submission shall be made prior to:

[(A) March 31, 2003, in the case of systems serving a population of 100,000 or more.

[(B) December 31, 2003, in the case of systems serving a population of 50,000 or more but less than 100,000.

[(C) June 30, 2004, in the case of systems serving a population greater than 3,300 but less than 50,000.

[(3) Except for information contained in a certification under this subsection identifying the system submitting the certification and the date of the certification, all information provided to the Administrator under this subsection and all information derived therefrom shall be exempt from disclosure under section 552 of title 5 of the United States Code.

[(4) No community water system shall be required under State or local law to provide an assessment described in this section to any State, regional, or local governmental entity solely by reason of the requirement set forth in paragraph (2) that the system submit such assessment to the Administrator.

[(5) Not later than November 30, 2002, the Administrator, in consultation with appropriate Federal law enforcement and intelligence officials, shall develop such protocols as may be necessary to protect the copies of the assessments required to be submitted under this subsection (and the information contained therein) from unauthorized disclosure. Such protocols shall ensure that—

[(A) each copy of such assessment, and all information contained in or derived from the assessment, is kept in a secure location;

[(B) only individuals designated by the Administrator may have access to the copies of the assessments; and

[(C) no copy of an assessment, or part of an assessment, or information contained in or derived from an assessment shall be available to anyone other than an individual designated by the Administrator.

At the earliest possible time prior to November 30, 2002, the Administrator shall complete the development of such protocols for the purpose of having them in place prior to receiving any vulnerability assessments from community water systems under this subsection.

[(6)(A) Except as provided in subparagraph (B), any individual referred to in paragraph (5)(B) who acquires the assessment submitted under paragraph (2), or any reproduction of such assessment, or any information derived from such assessment, and who knowingly or recklessly reveals such assessment, reproduction, or information other than—

[(i) to an individual designated by the Administrator under paragraph (5),

[(ii) for purposes of section 1445 or for actions under section 1431, or

[(iii) for use in any administrative or judicial proceeding to impose a penalty for failure to comply with this section,

shall upon conviction be imprisoned for not more than one year or fined in accordance with the provisions of chapter 227 of title 18, United States Code, applicable to class A misdemeanors, or both, and shall be removed from Federal office or employment.

[(B) Notwithstanding subparagraph (A), an individual referred to in paragraph (5)(B) who is an officer or employee of the United States may discuss the contents of a vulnerability assessment submitted under this section with a State or local official.

[(7) Nothing in this section authorizes any person to withhold any information from Congress or from any committee or subcommittee of Congress.

[(b) EMERGENCY RESPONSE PLAN.—Each community water system serving a population greater than 3,300 shall prepare or revise, where necessary, an emergency response plan that incorporates the results of vulnerability assessments that have been completed. Each such community water system shall certify to the Administrator, as soon as reasonably possible after the enactment of this section, but not later than 6 months after the completion of the vulnerability assessment under subsection (a), that the system has completed such plan. The emergency response plan shall include, but not be limited to, plans, procedures, and identification of equipment that can be implemented or utilized in the event of a terrorist or other intentional attack on the public water system. The emergency response plan shall also include actions, procedures, and identification of equipment which can obviate or significantly lessen the impact of terrorist attacks or other intentional actions on the public health and the safety and supply of drinking water provided to communities and individuals. Community water systems shall, to the extent possible, coordinate with existing Local Emergency Planning Committees established under the Emergency Planning and Community Right-to-Know Act (42 U.S.C. 11001 et seq.) when preparing or revising an emergency response plan under this subsection.

[(c) RECORD MAINTENANCE.—Each community water system shall maintain a copy of the emergency response plan completed pursuant to subsection (b) for 5 years after such plan has been certified to the Administrator under this section.

[(d) GUIDANCE TO SMALL PUBLIC WATER SYSTEMS.—The Administrator shall provide guidance to community water systems serving a population of less than 3,300 persons on how to conduct vulnerability assessments, prepare emergency response plans, and address threats from terrorist attacks or other intentional actions designed to disrupt the provision of safe drinking water or significantly affect the public health or significantly affect the safety or supply of drinking water provided to communities and individuals.

[(e) FUNDING.—(1) There are authorized to be appropriated to carry out this section not more than \$160,000,000 for the fiscal year 2002 and such sums as may be necessary for the fiscal years 2003 through 2005.

[(2) The Administrator, in coordination with State and local governments, may use funds made available under paragraph (1) to provide financial assistance to community water systems for purposes of compliance with the requirements of subsections (a) and (b) and to community water systems for expenses and contracts designed to address basic security enhancements of critical importance and significant threats to public health and the supply of drinking water as determined by a vulnerability assessment conducted under subsection (a). Such basic security enhancements may include, but shall not be limited to the following:

[(A) the purchase and installation of equipment for detection of intruders;

[(B) the purchase and installation of fencing, gating, lighting, or security cameras;

[(C) the tamper-proofing of manhole covers, fire hydrants, and valve boxes;

[(D) the rekeying of doors and locks;

[(E) improvements to electronic, computer, or other automated systems and remote security systems;

[(F) participation in training programs, and the purchase of training manuals and guidance materials, relating to security against terrorist attacks;

[(G) improvements in the use, storage, or handling of various chemicals; and

[(H) security screening of employees or contractor support services.

Funding under this subsection for basic security enhancements shall not include expenditures for personnel costs, or monitoring, operation, or maintenance of facilities, equipment, or systems.

[(3) The Administrator may use not more than \$5,000,000 from the funds made available under paragraph (1) to make grants to community water systems to assist in responding to and alleviating any vulnerability to a terrorist attack or other intentional acts intended to substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water (including sources of water for such systems) which the Administrator determines to present an immediate and urgent security need.

[(4) The Administrator may use not more than \$5,000,000 from the funds made available under paragraph (1) to make grants to community water systems serving a population of less than 3,300 persons for activities and projects undertaken in accordance with the guidance provided to such systems under subsection (d).]

**SEC. 1433. COMMUNITY WATER SYSTEM RISK AND RESILIENCE.**

*(a) RISK AND RESILIENCE ASSESSMENTS.—*

*(1) IN GENERAL.—Each community water system serving a population of greater than 3,300 persons shall conduct an assessment of the risks to, and resilience of, its system. Such an assessment—*

*(A) shall include an assessment of—*

*(i) the risk to the system from malevolent acts and natural hazards;*

*(ii) the resilience of the pipes and constructed conveyances, physical barriers, source water, water collection and intake, pretreatment, treatment, storage and distribution facilities, electronic, computer, or other automated systems (including the security of such systems) which are utilized by the system;*

*(iii) the monitoring practices of the system;*

*(iv) the financial infrastructure of the system;*

*(v) the use, storage, or handling of various chemicals by the system; and*

*(vi) the operation and maintenance of the system; and*

*(B) may include an evaluation of capital and operational needs for risk and resilience management for the system.*

(2) *BASELINE INFORMATION.*—The Administrator, not later than August 1, 2019, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall provide baseline information on malevolent acts of relevance to community water systems, which shall include consideration of acts that may—

(A) substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water; or

(B) otherwise present significant public health or economic concerns to the community served by the system.

(3) *CERTIFICATION.*—

(A) *CERTIFICATION.*—Each community water system described in paragraph (1) shall submit to the Administrator a certification that the system has conducted an assessment complying with paragraph (1). Such certification shall be made prior to—

(i) March 31, 2020, in the case of systems serving a population of 100,000 or more;

(ii) December 31, 2020, in the case of systems serving a population of 50,000 or more but less than 100,000; and

(iii) June 30, 2021, in the case of systems serving a population greater than 3,300 but less than 50,000.

(B) *REVIEW AND REVISION.*—Each community water system described in paragraph (1) shall review the assessment of such system conducted under such paragraph at least once every 5 years after the applicable deadline for submission of its certification under subparagraph (A) to determine whether such assessment should be revised. Upon completion of such a review, the community water system shall submit to the Administrator a certification that the system has reviewed its assessment and, if applicable, revised such assessment.

(4) *CONTENTS OF CERTIFICATIONS.*—A certification required under paragraph (3) shall contain only—

(A) information that identifies the community water system submitting the certification;

(B) the date of the certification; and

(C) a statement that the community water system has conducted, reviewed, or revised the assessment, as applicable.

(5) *PROVISION TO OTHER ENTITIES.*—No community water system shall be required under State or local law to provide an assessment described in this section (or revision thereof) to any State, regional, or local governmental entity solely by reason of the requirement set forth in paragraph (3) that the system submit a certification to the Administrator.

(b) *EMERGENCY RESPONSE PLAN.*—Each community water system serving a population greater than 3,300 shall prepare or revise, where necessary, an emergency response plan that incorporates findings of the assessment conducted under subsection (a) for such system (and any revisions thereto). Each community water system shall certify to the Administrator, as soon as reasonably possible after the date of enactment of the Drinking Water System Improvement Act of 2017, but not later than 6 months after completion of the assess-

ment under subsection (a), that the system has completed such plan. The emergency response plan shall include—

(1) strategies and resources to improve the resilience of the system, including the physical security and cybersecurity of the system;

(2) plans and procedures that can be implemented, and identification of equipment that can be utilized, in the event of a malevolent act or natural hazard that threatens the ability of the community water system to deliver safe drinking water;

(3) actions, procedures, and equipment which can obviate or significantly lessen the impact of a malevolent act or natural hazard on the public health and the safety and supply of drinking water provided to communities and individuals, including the development of alternative source water options, relocation of water intakes, and construction of flood protection barriers; and

(4) strategies that can be used to aid in the detection of malevolent acts or natural hazards that threaten the security or resilience of the system.

(c) **COORDINATION.**—Community water systems shall, to the extent possible, coordinate with existing local emergency planning committees established pursuant to the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.) when preparing or revising an assessment or emergency response plan under this section.

(d) **RECORD MAINTENANCE.**—Each community water system shall maintain a copy of the assessment conducted under subsection (a) and the emergency response plan prepared under subsection (b) (including any revised assessment or plan) for 5 years after the date on which a certification of such assessment or plan is submitted to the Administrator under this section.

(e) **GUIDANCE TO SMALL PUBLIC WATER SYSTEMS.**—The Administrator shall provide guidance and technical assistance to community water systems serving a population of less than 3,300 persons on how to conduct resilience assessments, prepare emergency response plans, and address threats from malevolent acts and natural hazards that threaten to disrupt the provision of safe drinking water or significantly affect the public health or significantly affect the safety or supply of drinking water provided to communities and individuals.

(f) **ALTERNATIVE PREPAREDNESS AND OPERATIONAL RESILIENCE PROGRAMS.**—

(1) **SATISFACTION OF REQUIREMENT.**—A community water system that is required to comply with the requirements of subsections (a) and (b) may satisfy such requirements by—

(A) using and complying with technical standards that the Administrator has recognized under paragraph (2); and

(B) submitting to the Administrator a certification that the community water system is complying with subparagraph (A).

(2) **AUTHORITY TO RECOGNIZE.**—Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995, the Administrator shall recognize technical standards that are developed or adopted by third-party organizations or voluntary consensus standards bodies that carry out the objec-

*tives or activities required by this section as a means of satisfying the requirements under subsection (a) or (b).*

**(g) TECHNICAL ASSISTANCE AND GRANTS.—**

*(1) IN GENERAL.—The Administrator shall establish and implement a program, to be known as the Drinking Water Infrastructure Risk and Resilience Program, under which the Administrator may award grants in each of fiscal years 2018 through 2022 to owners or operators of community water systems for the purpose of increasing the resilience of such community water systems.*

*(2) USE OF FUNDS.—As a condition on receipt of a grant under this section, an owner or operator of a community water system shall agree to use the grant funds exclusively to assist in the planning, design, construction, or implementation of a program or project consistent with an emergency response plan prepared pursuant to subsection (b), which may include—*

*(A) the purchase and installation of equipment for detection of drinking water contaminants or malevolent acts;*

*(B) the purchase and installation of fencing, gating, lighting, or security cameras;*

*(C) the tamper-proofing of manhole covers, fire hydrants, and valve boxes;*

*(D) the purchase and installation of improved treatment technologies and equipment to improve the resilience of the system;*

*(E) improvements to electronic, computer, financial, or other automated systems and remote systems;*

*(F) participation in training programs, and the purchase of training manuals and guidance materials, relating to security and resilience;*

*(G) improvements in the use, storage, or handling of chemicals by the community water system;*

*(H) security screening of employees or contractor support services;*

*(I) equipment necessary to support emergency power or water supply, including standby and mobile sources; and*

*(J) the development of alternative source water options, relocation of water intakes, and construction of flood protection barriers.*

*(3) EXCLUSIONS.—A grant under this subsection may not be used for personnel costs, or for monitoring, operation, or maintenance of facilities, equipment, or systems.*

*(4) TECHNICAL ASSISTANCE.—For each fiscal year, the Administrator may use not more than \$5,000,000 from the funds made available to carry out this subsection to provide technical assistance to community water systems to assist in responding to and alleviating a vulnerability that would substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water (including sources of water for such systems) which the Administrator determines to present an immediate and urgent need.*

*(5) GRANTS FOR SMALL SYSTEMS.—For each fiscal year, the Administrator may use not more than \$10,000,000 from the funds made available to carry out this subsection to make grants to community water systems serving a population of less*

than 3,300 persons, or nonprofit organizations receiving assistance under section 1442(e), for activities and projects undertaken in accordance with the guidance provided to such systems under subsection (e) of this section.

(6) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated \$35,000,000 for each of fiscal years 2018 through 2022.

(h) DEFINITIONS.—In this section—

(1) the term “resilience” means the ability of a community water system or an asset of a community water system to adapt to or withstand the effects of a malevolent act or natural hazard without interruption to the asset’s or system’s function, or if the function is interrupted, to rapidly return to a normal operating condition; and

(2) the term “natural hazard” means a natural event that threatens the functioning of a community water system, including an earthquake, tornado, flood, hurricane, wildfire, and hydrologic changes.

\* \* \* \* \*

PART E—GENERAL PROVISIONS

\* \* \* \* \*

GRANTS FOR STATE PROGRAMS

SEC. 1443. (a)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out public water system supervision programs.

(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

(A) has established or will establish within one year from the date of such grant a public water system supervision program, and

(B) will, within that one year, assume primary enforcement responsibility for public water systems within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than one year after the date of the State’s first grant unless the State has assumed and maintains primary enforcement responsibility for public water systems within the State. The prohibitions contained in the preceding two sentences shall not apply to such grants when made to Indian Tribes.

(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient’s costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, a public water system supervision program.

(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, number of public water systems, and other relevant factors. No State shall receive less than 1 per centum of the annual appropriation for grants under paragraph (1): *Provided*, That the

Administrator may, by regulation, reduce such percentage in accordance with the criteria specified in this paragraph: *And provided further*, That such percentage shall not apply to grants allotted to Guam, American Samoa, or the Virgin Islands.

(5) The prohibition contained in the last sentence of paragraph (2) may be waived by the Administrator with respect to a grant to a State through fiscal year 1979 but such prohibition may only be waived if, in the judgment of the Administrator—

(A) the State is making a diligent effort to assume and maintain primary enforcement responsibility for public water systems within the State;

(B) the State has made significant progress toward assuming and maintaining such primary enforcement responsibility; and

(C) there is reason to believe the State will assume such primary enforcement responsibility by October 1, 1979.

The amount of any grant awarded for the fiscal years 1978 and 1979 pursuant to a waiver under this paragraph may not exceed 75 per centum of the allotment which the State would have received for such fiscal year if it had assumed and maintained such primary enforcement responsibility. The remaining 25 per centum of the amount allotted to such State for such fiscal year shall be retained by the Administrator, and the Administrator may award such amount to such State at such time as the State assumes such responsibility before the beginning of fiscal year 1980. At the beginning of each fiscal years 1979 and 1980 the amounts retained by the Administrator for any preceding fiscal year and not awarded by the beginning of fiscal year 1979 or 1980 to the States to which such amounts were originally allotted may be removed from the original allotment and reallocated for fiscal year 1979 or 1980 (as the case may be) to States which have assumed primary enforcement responsibility by the beginning of such fiscal year.

(6) The Administrator shall notify the State of the approval or disapproval of any application for a grant under this section—

(A) within ninety days after receipt of such application, or

(B) not later than the first day of the fiscal year for which the grant application is made, whichever is later.

(7) AUTHORIZATION.—For the purpose of making grants under paragraph (1), there are authorized to be appropriated **[\$100,000,000 for each of fiscal years 1997 through 2003]** *\$150,000,000 for each of fiscal years 2018 through 2022.*

(8) RESERVATION OF FUNDS BY THE ADMINISTRATOR.—If the Administrator assumes the primary enforcement responsibility of a State public water system supervision program, the Administrator may reserve from funds made available pursuant to this subsection an amount equal to the amount that would otherwise have been provided to the State pursuant to this subsection. The Administrator shall use the funds reserved pursuant to this paragraph to ensure the full and effective administration of a public water system supervision program in the State.

(9) STATE LOAN FUNDS.—

(A) RESERVATION OF FUNDS.—For any fiscal year for which the amount made available to the Administrator by appropriations to carry out this subsection is less than the amount that the Administrator determines is necessary to

supplement funds made available pursuant to paragraph (8) to ensure the full and effective administration of a public water system supervision program in a State, the Administrator may reserve from the funds made available to the State under section 1452 (relating to State loan funds) an amount that is equal to the amount of the shortfall. This paragraph shall not apply to any State not exercising primary enforcement responsibility for public water systems as of the date of enactment of the Safe Drinking Water Act Amendments of 1996.

(B) DUTY OF ADMINISTRATOR.—If the Administrator reserves funds from the allocation of a State under subparagraph (A), the Administrator shall carry out in the State each of the activities that would be required of the State if the State had primary enforcement authority under section 1413.

(b)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out underground water source protection programs.

(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. No grant may be made to any State under paragraph (1) unless the State has assumed primary enforcement responsibility within two years after the date the Administrator promulgates regulations for State underground injection control programs under section 1421. The prohibition contained in the preceding sentence shall not apply to such grants when made to Indian Tribes.

(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, an underground water source protection program.

(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, and other relevant factors.

(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated \$5,000,000 for the fiscal year ending June 30, 1976, \$7,500,000 for the fiscal year ending June 30, 1977, \$10,000,000 for each of the fiscal years 1978 and 1979, \$7,795,000 for the fiscal year ending September 30, 1980, \$18,000,000 for the fiscal year ending September 30, 1981, and \$21,000,000 for the fiscal year ending September 30, 1982. For the purpose of making grants under paragraph (1) there are authorized to be appropriated not more than the following amounts:

Fiscal year:	<i>Amount</i>
1987 .....	\$19,700,000
1988 .....	19,700,000
1989 .....	20,850,000
1990 .....	20,850,000
1991 .....	20,850,000
1992-2003 .....	15,000,000.

(c) For purposes of this section:

(1) The term “public water system supervision program” means a program for the adoption and enforcement of drinking water regulations (with such variances and exemptions from such regulations under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416) which are no less stringent than the national primary drinking water regulations under section 1412, and for keeping records and making reports required by section 1413(a)(3).

(2) The term “underground water source protection program” means a program for the adoption and enforcement of a program which meets the requirements of regulations under section 1421 and for keeping records and making reports required by section 1422(b)(1)(A)(ii). Such term includes, where applicable, a program which meets the requirements of section 1425.

(d) NEW YORK CITY WATERSHED PROTECTION PROGRAM.—

(1) IN GENERAL.—The Administrator is authorized 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 contained in 40 CFR 141.71. Demonstration projects which shall be eligible for financial assistance shall be certified to the Administrator by the State of New York as satisfying the purposes of this subsection. In certifying projects to the Administrator, the State of New York shall give priority to monitoring projects that have undergone peer review.

(2) REPORT.—Not later than 5 years after the date on which the Administrator first provides assistance pursuant to this paragraph, the Governor of the State of New York shall submit a report to the Administrator on the results of projects assisted.

(3) MATCHING REQUIREMENTS.—Federal assistance provided under this subsection shall not exceed 50 percent of the total cost of the protection program being carried out for any particular watershed or ground water recharge area.

(4) AUTHORIZATION.—There are authorized to be appropriated to the Administrator to carry out this subsection for each of fiscal years 2003 through 2010, \$15,000,000 for the purpose of providing assistance to the State of New York to carry out paragraph (1).

\* \* \* \* \*

RECORDS AND INSPECTIONS

SEC. 1445. (a)(1)(A) Every person who is subject to any requirement of this title or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist the Administrator in establishing regulations under this title, in determining whether such person has

acted or is acting in compliance with this title, in administering any program of financial assistance under this title, in evaluating the health risks of unregulated contaminants, or in advising the public of such risks. In requiring a public water system to monitor under this subsection, the Administrator may take into consideration the system size and the contaminants likely to be found in the system's drinking water.

(B) Every person who is subject to a national primary drinking water regulation under section 1412 shall provide such information as the Administrator may reasonably require, after consultation with the State in which such person is located if such State has primary enforcement responsibility for public water systems, on a case-by-case basis, to determine whether such person has acted or is acting in compliance with this title.

(C) Every person who is subject to a national primary drinking water regulation under section 1412 shall provide such information as the Administrator may reasonably require to assist the Administrator in establishing regulations under section 1412 of this title, after consultation with States and suppliers of water. The Administrator may not require under this subparagraph the installation of treatment equipment or process changes, the testing of treatment technology, or the analysis or processing of monitoring samples, except where the Administrator provides the funding for such activities. Before exercising this authority, the Administrator shall first seek to obtain the information by voluntary submission.

(D) The Administrator shall not later than 2 years after the date of enactment of this subparagraph, after consultation with public health experts, representatives of the general public, and officials of State and local governments, review the monitoring requirements for not fewer than 12 contaminants identified by the Administrator, and promulgate any necessary modifications.

(2) MONITORING PROGRAM FOR UNREGULATED CONTAMINANTS.—

(A) ESTABLISHMENT.—The Administrator shall promulgate regulations establishing the criteria for a monitoring program for unregulated contaminants. The regulations shall require monitoring of drinking water supplied by public water systems and shall vary the frequency and schedule for monitoring requirements for systems based on the number of persons served by the system, the source of supply, and the contaminants likely to be found, ensuring that only a representative sample of systems serving 10,000 persons or fewer are required to monitor.

(B) MONITORING PROGRAM FOR CERTAIN UNREGULATED CONTAMINANTS.—

(i) INITIAL LIST.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996 and every 5 years thereafter, the Administrator shall issue a list pursuant to subparagraph (A) of not more than 30 unregulated contaminants to be monitored by public water systems and to be included in the national drinking water occurrence data base maintained pursuant to subsection (g).

(ii) GOVERNORS' PETITION.—The Administrator shall include among the list of contaminants for which mon-

itoring is required under this paragraph each contaminant recommended in a petition signed by the Governor of each of 7 or more States, unless the Administrator determines that the action would prevent the listing of other contaminants of a higher public health concern.

(C) MONITORING PLAN FOR SMALL AND MEDIUM SYSTEMS.—

(i) IN GENERAL.—Based on the regulations promulgated by the Administrator, each State may develop a representative monitoring plan to assess the occurrence of unregulated contaminants in public water systems that serve a population of 10,000 or fewer in that State. The plan shall require monitoring for systems representative of different sizes, types, and geographic locations in the State.

(ii) GRANTS FOR SMALL SYSTEM COSTS.—From funds reserved under section 1452(o) or appropriated under subparagraph (H), the Administrator shall pay the reasonable cost of such testing and laboratory analysis as are necessary to carry out monitoring under the plan.

(D) MONITORING RESULTS.—Each public water system that conducts monitoring of unregulated contaminants pursuant to this paragraph shall provide the results of the monitoring to the primary enforcement authority for the system.

(E) NOTIFICATION.—Notification of the availability of the results of monitoring programs required under paragraph (2)(A) shall be given to the persons served by the system.

(F) WAIVER OF MONITORING REQUIREMENT.—The Administrator shall waive the requirement for monitoring for a contaminant under this paragraph in a State, if the State demonstrates that the criteria for listing the contaminant do not apply in that State.

(G) ANALYTICAL METHODS.—The State may use screening methods approved by the Administrator under subsection (i) in lieu of monitoring for particular contaminants under this paragraph.

(H) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph \$10,000,000 for each of the fiscal years ~~1997 through 2003~~ *2018 through 2022*.

(b)(1) Except as provided in paragraph (2), the Administrator, or representatives of the Administrator duly designated by him, upon presenting appropriate credentials and a written notice to any supplier of water or other person subject to (A) a national primary drinking water regulation prescribed under section 1412, (B) an applicable underground injection control program, or (C) any requirement to monitor an unregulated contaminant pursuant to subsection (a), or person in charge of any of the property of such supplier or other person referred to in clause (A), (B), or (C), is authorized to enter any establishment, facility, or other property of such supplier or other person in order to determine whether such supplier or other person has acted or is acting in compliance with this

title, including for this purpose, inspection, at reasonable times, of records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. The Administrator or the Comptroller General (or any representative designated by either) shall have access for the purpose of audit and examination to any records, reports, or information of a grantee which are required to be maintained under subsection (a) or which are pertinent to any financial assistance under this title.

(2) No entry may be made under the first sentence of paragraph (1) in an establishment, facility, or other property of a supplier of water or other person subject to a national primary drinking water regulation if the establishment, facility, or other property is located in a State which has primary enforcement responsibility for public water systems unless, before written notice of such entry is made, the Administrator (or his representative) notifies the State agency charged with responsibility for safe drinking water of the reasons for such entry. The Administrator shall, upon a showing by the State agency that such an entry will be detrimental to the administration of the State's program of primary enforcement responsibility, take such showing into consideration in determining whether to make such entry. No State agency which receives notice under this paragraph of an entry proposed to be made under paragraph (1) may use the information contained in the notice to inform the person whose property is proposed to be entered of the proposed entry; and if a State agency so uses such information, notice to the agency under this paragraph is not required until such time as the Administrator determines the agency has provided him satisfactory assurances that it will no longer so use information contained in a notice under this paragraph.

(c) Whoever fails or refuses to comply with any requirement of subsection (a) or to allow the Administrator, the Comptroller General, or representatives of either, to enter and conduct any audit or inspection authorized by subsection (b) shall be subject to a civil penalty of not to exceed \$25,000.

(d)(1) Subject to paragraph (2), upon a showing satisfactory to the Administrator by any person that any information required under this section from such person, if made public, would divulge trade secrets or secret processes of such person, the Administrator shall consider such information confidential in accordance with the purposes of section 1905 of title 18 of the United States Code. If the applicant fails to make a showing satisfactory to the Administrator, the Administrator shall give such applicant thirty days' notice before releasing the information to which the application relates (unless the public health or safety requires an earlier release of such information).

(2) Any information required under this section (A) may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this title or to committees of the Congress, or when relevant in any proceeding under this title, and (B) shall be disclosed to the extent it deals with the level of contaminants in drinking water. For purposes of this subsection the term "information required under this section" means any papers, books, documents, or information, or any particular

part thereof, reported to or otherwise obtained by the Administrator under this section.

(e) For purposes of this section, (1) the term “grantee” means any person who applies for or receives financial assistance, by grant, contract, or loan guarantee under this title, and (2) the term “person” includes a Federal agency.

(f) INFORMATION REGARDING DRINKING WATER COOLERS.—The Administrator may utilize the authorities of this section for purposes of part F. Any person who manufactures, imports, sells, or distributes drinking water coolers in interstate commerce shall be treated as a supplier of water for purposes of applying the provisions of this section in the case of persons subject to part F.

(g) OCCURRENCE DATA BASE.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996, the Administrator shall assemble and maintain a national drinking water contaminant occurrence data base, using information on the occurrence of both regulated and unregulated contaminants in public water systems obtained under subsection (a)(1)(A) or subsection (a)(2) and reliable information from other public and private sources.

(2) PUBLIC INPUT.—In establishing the occurrence data base, the Administrator shall solicit recommendations from the Science Advisory Board, the States, and other interested parties concerning the development and maintenance of a national drinking water contaminant occurrence data base, including such issues as the structure and design of the data base, data input parameters and requirements, and the use and interpretation of data.

(3) USE.—The data shall be used by the Administrator in making determinations under section 1412(b)(1) with respect to the occurrence of a contaminant in drinking water at a level of public health concern.

(4) PUBLIC RECOMMENDATIONS.—The Administrator shall periodically solicit recommendations from the appropriate officials of the National Academy of Sciences and the States, and any person may submit recommendations to the Administrator, with respect to contaminants that should be included in the national drinking water contaminant occurrence data base, including recommendations with respect to additional unregulated contaminants that should be listed under subsection (a)(2). Any recommendation submitted under this clause shall be accompanied by reasonable documentation that—

(A) the contaminant occurs or is likely to occur in drinking water; and

(B) the contaminant poses a risk to public health.

(5) PUBLIC AVAILABILITY.—The information from the data base shall be available to the public in readily accessible form.

(6) REGULATED CONTAMINANTS.—With respect to each contaminant for which a national primary drinking water regulation has been established, the data base shall include information on the detection of the contaminant at a quantifiable level in public water systems (including detection of the contaminant at levels not constituting a violation of the maximum contaminant level for the contaminant).

(7) UNREGULATED CONTAMINANTS.—With respect to contaminants for which a national primary drinking water regulation has not been established, the data base shall include—

(A) monitoring information collected by public water systems that serve a population of more than 10,000, as required by the Administrator under subsection (a);

(B) monitoring information collected from a representative sampling of public water systems that serve a population of 10,000 or fewer; **[and]**

*(C) if applicable, monitoring information collected by public water systems pursuant to subsection (j) that is not duplicative of monitoring information included in the data base under subparagraph (B) or (D); and*

**[(C)] (D)** other reliable and appropriate monitoring information on the occurrence of the contaminants in public water systems that is available to the Administrator.

(h) AVAILABILITY OF INFORMATION ON SMALL SYSTEM TECHNOLOGIES.—For purposes of sections 1412(b)(4)(E) and 1415(e) (relating to small system variance program), the Administrator may request information on the characteristics of commercially available treatment systems and technologies, including the effectiveness and performance of the systems and technologies under various operating conditions. The Administrator may specify the form, content, and submission date of information to be submitted by manufacturers, States, and other interested persons for the purpose of considering the systems and technologies in the development of regulations or guidance under sections 1412(b)(4)(E) and 1415(e).

(i) SCREENING METHODS.—The Administrator shall review new analytical methods to screen for regulated contaminants and may approve such methods as are more accurate or cost-effective than established reference methods for use in compliance monitoring.

(j) MONITORING BY CERTAIN SYSTEMS.—

(1) *IN GENERAL.*—Notwithstanding subsection (a)(2)(A), the Administrator shall, subject to the availability of appropriations for such purpose—

(A) *require public water systems serving between 3,300 and 10,000 persons to monitor for unregulated contaminants in accordance with this section; and*

(B) *ensure that only a representative sample of public water systems serving less than 3,300 persons are required to monitor.*

(2) *EFFECTIVE DATE.*—Paragraph (1) shall take effect 3 years after the date of enactment of this subsection.

(3) *LIMITATION.*—Paragraph (1) shall take effect unless the Administrator determines that there is not sufficient laboratory capacity to accommodate the analysis necessary to carry out monitoring required under such paragraph.

(4) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated \$15,000,000 in each fiscal year for which monitoring is required to be carried out under this subsection for the Administrator to pay the reasonable cost of such testing and laboratory analysis as are necessary to carry out monitoring required under this subsection.

\* \* \* \* \*

## STATE REVOLVING LOAN FUNDS

## SEC. 1452. (a) GENERAL AUTHORITY.—

## (1) GRANTS TO STATES TO ESTABLISH STATE LOAN FUNDS.—

(A) IN GENERAL.—The Administrator shall offer to enter into agreements with eligible States to make capitalization grants, including letters of credit, to the States under this subsection to further the health protection objectives of this title, promote the efficient use of fund resources, and for other purposes as are specified in this title.

(B) ESTABLISHMENT OF FUND.—To be eligible to receive a capitalization grant under this section, a State shall establish a drinking water treatment revolving loan fund (referred to in this section as a “State loan fund”) and comply with the other requirements of this section. Each grant to a State under this section shall be deposited in the State loan fund established by the State, except as otherwise provided in this section and in other provisions of this title. No funds authorized by other provisions of this title to be used for other purposes specified in this title shall be deposited in any State loan fund.

(C) EXTENDED PERIOD.—The grant to a State shall be available to the State for obligation during the fiscal year for which the funds are authorized and during the following fiscal year, except that grants made available from funds provided prior to fiscal year 1997 shall be available for obligation during each of the fiscal years 1997 and 1998.

(D) ALLOTMENT FORMULA.—Except as otherwise provided in this section, funds made available to carry out this section shall be allotted to States that have entered into an agreement pursuant to this section (other than the District of Columbia) in accordance with—

(i) for each of fiscal years 1995 through 1997, a formula that is the same as the formula used to distribute public water system supervision grant funds under section 1443 in fiscal year 1995, except that the minimum proportionate share established in the formula shall be 1 percent of available funds and the formula shall be adjusted to include a minimum proportionate share for the State of Wyoming and the District of Columbia; and

(ii) for fiscal year 1998 and each subsequent fiscal year, a formula that allocates to each State the proportional share of the State needs identified in the most recent survey conducted pursuant to subsection (h), except that the minimum proportionate share provided to each State shall be the same as the minimum proportionate share provided under clause (i).

(E) REALLOTMENT.—The grants not obligated by the last day of the period for which the grants are available shall be reallocated according to the appropriate criteria set forth in subparagraph (D), except that the Administrator may reserve and allocate 10 percent of the remaining amount for financial assistance to Indian Tribes in addition to the

amount allotted under subsection (i) and none of the funds reallocated by the Administrator shall be reallocated to any State that has not obligated all sums allotted to the State pursuant to this section during the period in which the sums were available for obligation.

(F) NONPRIMACY STATES.—The State allotment for a State not exercising primary enforcement responsibility for public water systems shall not be deposited in any such fund but shall be allotted by the Administrator under this subparagraph. Pursuant to section 1443(a)(9)(A) such sums allotted under this subparagraph shall be reserved as needed by the Administrator to exercise primary enforcement responsibility under this title in such State and the remainder shall be reallocated to States exercising primary enforcement responsibility for public water systems for deposit in such funds. Whenever the Administrator makes a final determination pursuant to section 1413(b) that the requirements of section 1413(a) are no longer being met by a State, additional grants for such State under this title shall be immediately terminated by the Administrator. This subparagraph shall not apply to any State not exercising primary enforcement responsibility for public water systems as of the date of enactment of the Safe Drinking Water Act Amendments of 1996.

(G) OTHER PROGRAMS.—

(i) NEW SYSTEM CAPACITY.—Beginning in fiscal year 1999, the Administrator shall withhold 20 percent of each capitalization grant made pursuant to this section to a State unless the State has met the requirements of section 1420(a) (relating to capacity development) and shall withhold 10 percent for fiscal year 2001, 15 percent for fiscal year 2002, and 20 percent for fiscal year 2003 if the State has not complied with the provisions of section 1420(c) (relating to capacity development strategies). Not more than a total of 20 percent of the capitalization grants made to a State in any fiscal year may be withheld under the preceding provisions of this clause. All funds withheld by the Administrator pursuant to this clause shall be reallocated by the Administrator on the basis of the same ratio as is applicable to funds allotted under subparagraph (D). None of the funds reallocated by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of section 1420 (relating to capacity development).

(ii) OPERATOR CERTIFICATION.—The Administrator shall withhold 20 percent of each capitalization grant made pursuant to this section unless the State has met the requirements of 1419 (relating to operator certification). All funds withheld by the Administrator pursuant to this clause shall be reallocated by the Administrator on the basis of the same ratio as applicable to funds allotted under subparagraph (D). None of the funds reallocated by the Administrator pursuant to this paragraph shall be allotted to a State unless the

State has met the requirements of section 1419 (relating to operator certification).

(2) USE OF FUNDS.—

(A) IN GENERAL.—Except as otherwise authorized by this title, amounts deposited in a State loan fund, including loan repayments and interest earned on such amounts, shall be used only for providing loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in a State loan fund established under paragraph (1), or other financial assistance authorized under this section to community water systems and nonprofit noncommunity water systems, other than systems owned by Federal agencies.

(B) LIMITATION.—Financial assistance under this section may be used by a public water system only for expenditures [(including expenditures for planning, design, and associated preconstruction activities, including activities relating to the siting of the facility, but not] *(including expenditures for planning, design, siting, and associated preconstruction activities, or for replacing or rehabilitating aging treatment, storage, or distribution facilities of public water systems, but not including monitoring, operation, and maintenance expenditures)* of a type or category which the Administrator has determined, through guidance, will facilitate compliance with national primary drinking water regulations applicable to the system under section 1412 or otherwise significantly further the health protection objectives of this title.

(C) SALE OF BONDS.—Funds may also be used by a public water system as a source of revenue (restricted solely to interest earnings of the applicable State loan fund) or security for payment of the principal and interest on revenue or general obligation bonds issued by the State to provide matching funds under subsection (e), if the proceeds of the sale of the bonds will be deposited in the State loan fund.

(D) WATER TREATMENT LOANS.—The funds under this section may also be used to provide loans to a system referred to in section 1401(4)(B) for the purpose of providing the treatment described in section 1401(4)(B)(i)(III).

(E) ACQUISITION OF REAL PROPERTY.—The funds under this section shall not be used for the acquisition of real property or interests therein, unless the acquisition is integral to a project authorized by this paragraph and the purchase is from a willing seller.

(F) LOAN ASSISTANCE.—Of the amount credited to any State loan fund established under this section in any fiscal year, 15 percent shall be available solely for providing loan assistance to public water systems which regularly serve fewer than 10,000 persons to the extent such funds can be obligated for eligible projects of public water systems.

(3) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no assistance under this section shall be provided to a public water system that—

(i) does not have the technical, managerial, and financial capability to ensure compliance with the requirements of this title; or

(ii) is in significant noncompliance with any requirement of a national primary drinking water regulation or variance.

(B) RESTRUCTURING.—A public water system described in subparagraph (A) may receive assistance under this section if—

(i) the use of the assistance will ensure compliance; and

(ii) if subparagraph (A)(i) applies to the system, the owner or operator of the system agrees to undertake feasible and appropriate changes in operations (including ownership, management, accounting, rates, maintenance, consolidation, alternative water supply, or other procedures) if the State determines that the measures are necessary to ensure that the system has the technical, managerial, and financial capability to comply with the requirements of this title over the long term.

(C) REVIEW.—Prior to providing assistance under this section to a public water system that is in significant noncompliance with any requirement of a national primary drinking water regulation or variance, the State shall conduct a review to determine whether subparagraph (A)(i) applies to the system.

(4) AMERICAN IRON AND STEEL PRODUCTS.—

(A) IN GENERAL.—During **【fiscal year 2017】** *fiscal years 2018 through 2022*, funds made available from a State loan fund established pursuant to this section may not be used for a project for the construction, alteration, or repair of a public water system unless all of the iron and steel products used in the project are produced in the United States.

(B) DEFINITION OF IRON AND STEEL PRODUCTS.—In this paragraph, the term “iron and steel products” means the following products made primarily of iron or steel:

- (i) Lined or unlined pipes and fittings.
- (ii) Manhole covers and other municipal castings.
- (iii) Hydrants.
- (iv) Tanks.
- (v) Flanges.
- (vi) Pipe clamps and restraints.
- (vii) Valves.
- (viii) Structural steel.
- (ix) Reinforced precast concrete.
- (x) Construction materials.

(C) APPLICATION.—Subparagraph (A) shall be waived in any case or category of cases in which the Administrator finds that—

- (i) applying subparagraph (A) would be inconsistent with the public interest;

(ii) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(iii) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(D) WAIVER.—If the Administrator receives a request for a waiver under this paragraph, the Administrator shall make available to the public, on an informal basis, a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet site of the Agency.

(E) INTERNATIONAL AGREEMENTS.—This paragraph shall be applied in a manner consistent with United States obligations under international agreements.

(F) MANAGEMENT AND OVERSIGHT.—The Administrator may retain up to 0.25 percent of the funds appropriated for this section for management and oversight of the requirements of this paragraph.

(G) EFFECTIVE DATE.—This paragraph does not apply with respect to a project if a State agency approves the engineering plans and specifications for the project, in that agency's capacity to approve such plans and specifications prior to a project requesting bids, prior to the date of enactment of this paragraph.

(5) EVALUATION.—*During fiscal years 2018 through 2022, a State may provide financial assistance under this section to a public water system serving a population of more than 10,000 for an expenditure described in paragraph (2) only if the public water system—*

*(A) considers the cost and effectiveness of relevant processes, materials, techniques, and technologies for carrying out the project or activity that is the subject of the expenditure; and*

*(B) certifies to the State, in a form and manner determined by the State, that the public water system has made such consideration.*

(6) PREVAILING WAGES.—*The requirements of section 1450(e) shall apply to any construction project carried out in whole or in part with assistance made available by a drinking water treatment revolving loan fund.*

(b) INTENDED USE PLANS.—

(1) IN GENERAL.—After providing for public review and comment, each State that has entered into a capitalization agreement pursuant to this section shall annually prepare a plan that identifies the intended uses of the amounts available to the State loan fund of the State.

(2) CONTENTS.—An intended use plan shall include—

(A) a list of the projects to be assisted in the first fiscal year that begins after the date of the plan, including a de-

scription of the project, the expected terms of financial assistance, and the size of the community served;

(B) the criteria and methods established for the distribution of funds; and

(C) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund.

(3) USE OF FUNDS.—

(A) IN GENERAL.—An intended use plan shall provide, to the maximum extent practicable, that priority for the use of funds be given to projects that—

(i) address the most serious risk to human health;

(ii) are necessary to ensure compliance with the requirements of this title (including requirements for filtration); and

(iii) assist systems most in need on a per household basis according to State affordability criteria.

(B) LIST OF PROJECTS.—Each State shall, after notice and opportunity for public comment, publish and periodically update a list of projects in the State that are eligible for assistance under this section, including the priority assigned to each project and, to the extent known, the expected funding schedule for each project.

(c) FUND MANAGEMENT.—Each State loan fund under this section shall be established, maintained, and credited with repayments and interest. The fund corpus shall be available in perpetuity for providing financial assistance under this section. To the extent amounts in the fund are not required for current obligation or expenditure, such amounts shall be invested in interest bearing obligations.

(d) ASSISTANCE FOR DISADVANTAGED COMMUNITIES.—

(1) LOAN SUBSIDY.—Notwithstanding any other provision of this section, in any case in which the State makes a loan pursuant to subsection (a)(2) to a disadvantaged community or to a community that the State expects to become a disadvantaged community as the result of a proposed project, the State may provide additional subsidization (including forgiveness of principal).

[(2) TOTAL AMOUNT OF SUBSIDIES.—For each fiscal year, the total amount of loan subsidies made by a State pursuant to paragraph (1) may not exceed 30 percent of the amount of the capitalization grant received by the State for the year.]

(2) TOTAL AMOUNT OF SUBSIDIES.—*For each fiscal year, of the amount of the capitalization grant received by the State for the year, the total amount of loan subsidies made by a State pursuant to paragraph (1)—*

*(A) may not exceed 35 percent; and*

*(B) to the extent that there are sufficient applications for loans to communities described in paragraph (1), may not be less than 6 percent.*

(3) DEFINITION OF DISADVANTAGED COMMUNITY.—In this subsection, the term “disadvantaged community” means the service area of a public water system that meets affordability criteria established after public review and comment by the State in which the public water system is located. The Administrator

may publish information to assist States in establishing affordability criteria.

(e) STATE CONTRIBUTION.—Each agreement under subsection (a) shall require that the State deposit in the State loan fund from State moneys an amount equal to at least 20 percent of the total amount of the grant to be made to the State on or before the date on which the grant payment is made to the State, except that a State shall not be required to deposit such amount into the fund prior to the date on which each grant payment is made for fiscal years 1994, 1995, 1996, and 1997 if the State deposits the State contribution amount into the State loan fund prior to September 30, 1999.

(f) TYPES OF ASSISTANCE.—Except as otherwise limited by State law, the amounts deposited into a State loan fund under this section may be used only—

(1) to make loans, on the condition that—

(A) the interest rate for each loan is less than or equal to the market interest rate, including an interest free loan;

(B) principal and interest payments on each loan will commence not later than **1** year after completion of the project for which the loan was made, and each loan will be fully amortized not later than 20 years after the completion of the project, except that in the case of a disadvantaged community (as defined in subsection (d)(3)), a State may provide an extended term for a loan, if the extended term—

**[(i) terminates not later than the date that is 30 years after the date of project completion; and]**

**[(ii) does not exceed the expected design life of the project;] 18 months after completion of the project for which the loan was made;**

**(C) each loan will be fully amortized not later than 30 years after the completion of the project, except that in the case of a disadvantaged community (as defined in subsection (d)(3)) a State may provide an extended term for a loan, if the extended term—**

**(i) terminates not later than the date that is 40 years after the date of project completion; and**

**(ii) does not exceed the expected design life of the project;**

**[(C)] (D) the recipient of each loan will establish a dedicated source of revenue (or, in the case of a privately owned system, demonstrate that there is adequate security) for the repayment of the loan; and**

**[(D)] (E) the State loan fund will be credited with all payments of principal and interest on each loan;**

(2) to buy or refinance the debt obligation of a municipality or an intermunicipal or interstate agency within the State at an interest rate that is less than or equal to the market interest rate in any case in which a debt obligation is incurred after July 1, 1993;

(3) to guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this section) if the guarantee or purchase would im-

prove credit market access or reduce the interest rate applicable to the obligation;

(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of the bonds will be deposited into the State loan fund; and

(5) to earn interest on the amounts deposited into the State loan fund.

(g) ADMINISTRATION OF STATE LOAN FUNDS.—

(1) COMBINED FINANCIAL ADMINISTRATION.—Notwithstanding subsection (c), a State may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with State law, the financial administration of a State loan fund established under this section with the financial administration of any other revolving fund established by the State if otherwise not prohibited by the law under which the State loan fund was established and if the Administrator determines that—

(A) the grants under this section, together with loan repayments and interest, will be separately accounted for and used solely for the purposes specified in subsection (a); and

(B) the authority to establish assistance priorities and carry out oversight and related activities (other than financial administration) with respect to assistance remains with the State agency having primary responsibility for administration of the State program under section 1413, after consultation with other appropriate State agencies (as determined by the State): *Provided*, That in nonprimacy States eligible to receive assistance under this section, the Governor shall determine which State agency will have authority to establish priorities for financial assistance from the State loan fund.

(2) COST OF ADMINISTERING FUND.—

(A) AUTHORIZATION.—

(i) IN GENERAL.—For each fiscal year, a State may use the amount described in clause (ii)—

(I) to cover the reasonable costs of administration of the programs under this section, including the recovery of reasonable costs expended to establish a State loan fund that are incurred after the date of enactment of this section; and

(II) to provide technical assistance to public water systems within the State.

(ii) DESCRIPTION OF AMOUNT.—The amount referred to in clause (i) is an amount equal to the sum of—

(I) the amount of any fees collected by the State for use in accordance with clause (i)(I), regardless of the source; and

(II) the greatest of—

(aa) \$400,000;

(bb)  $\frac{1}{5}$  percent of the current valuation of the fund; and

(cc) an amount equal to 4 percent of all grant awards to the fund under this section for the fiscal year.

(B) ADDITIONAL USE OF FUNDS.—For fiscal year 1995 and each fiscal year thereafter, each State may use up to an additional 10 percent of the funds allotted to the State under this section—

- (i) for public water system supervision programs under section 1443(a);
- (ii) to administer or provide technical assistance through source water protection programs;
- (iii) to develop and implement a capacity development strategy under section 1420(c); and
- (iv) for an operator certification program for purposes of meeting the requirements of section 1419.

(C) TECHNICAL ASSISTANCE.—An additional 2 percent of the funds annually allotted to each State under this section may be used by the State to provide technical assistance to public water systems serving 10,000 or fewer persons in the State.

(D) ENFORCEMENT ACTIONS.—Funds used under subparagraph (B)(ii) shall not be used for enforcement actions.

(3) GUIDANCE AND REGULATIONS.—The Administrator shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this section, including—

(A) provisions to ensure that each State commits and expends funds allotted to the State under this section as efficiently as possible in accordance with this title and applicable State laws;

(B) guidance to prevent waste, fraud, and abuse; and

(C) guidance to avoid the use of funds made available under this section to finance the expansion of any public water system in anticipation of future population growth. The guidance and regulations shall also ensure that the States, and public water systems receiving assistance under this section, use accounting, audit, and fiscal procedures that conform to generally accepted accounting standards.

(4) STATE REPORT.—Each State administering a loan fund and assistance program under this subsection shall publish and submit to the Administrator a report every 2 years on its activities under this section, including the findings of the most recent audit of the fund and the entire State allotment. The Administrator shall periodically audit all State loan funds established by, and all other amounts allotted to, the States pursuant to this section in accordance with procedures established by the Comptroller General.

(h) NEEDS SURVEY.—**[The Administrator]** (1) *The Administrator* shall conduct an assessment of water system capital improvement needs of all eligible public water systems in the United States and submit a report to the Congress containing the results of the assessment within 180 days after the date of enactment of the Safe Drinking Water Act Amendments of 1996 and every 4 years thereafter.

(2) *Any assessment conducted under paragraph (1) after the date of enactment of the Drinking Water System Improvement Act of 2017 shall include an assessment of costs to replace all lead service lines (as defined in section 1459B(a)(4)) of all eligible public water systems in the United States, and such assessment shall describe*

*separately the costs associated with replacing the portions of such lead service lines that are owned by an eligible public water system and the costs associated with replacing any remaining portions of such lead service lines, to the extent practicable.*

(i) INDIAN TRIBES.—

(1) IN GENERAL.—1½ percent of the amounts appropriated annually to carry out this section may be used by the Administrator to make grants to Indian Tribes, Alaska Native villages, and, for the purpose of carrying out paragraph (5), intertribal consortia or tribal organizations, that have not otherwise received either grants from the Administrator under this section or assistance from State loan funds established under this section. Except as otherwise provided, the grants may only be used for expenditures by tribes and villages for public water system expenditures referred to in subsection (a)(2).

(2) USE OF FUNDS.—Funds reserved pursuant to paragraph (1) shall be used to address the most significant threats to public health associated with public water systems that serve Indian Tribes, as determined by the Administrator in consultation with the Director of the Indian Health Service and Indian Tribes.

(3) ALASKA NATIVE VILLAGES.—In the case of a grant for a project under this subsection in an Alaska Native village, the Administrator is also authorized to make grants to the State of Alaska for the benefit of Native villages. An amount not to exceed 4 percent of the grant amount may be used by the State of Alaska for project management.

(4) NEEDS ASSESSMENT.—The Administrator, in consultation with the Director of the Indian Health Service and Indian Tribes, shall, in accordance with a schedule that is consistent with the needs surveys conducted pursuant to subsection (h), prepare surveys and assess the needs of drinking water treatment facilities to serve Indian Tribes, including an evaluation of the public water systems that pose the most significant threats to public health.

(5) TRAINING AND OPERATOR CERTIFICATION.—

(A) IN GENERAL.—The Administrator may use funds made available under this subsection and section 1442(e)(7) to make grants to intertribal consortia or tribal organizations for the purpose of providing operations and maintenance training and operator certification services to Indian Tribes to enable public water systems that serve Indian Tribes to achieve and maintain compliance with applicable national primary drinking water regulations.

(B) ELIGIBLE TRIBAL ORGANIZATIONS.—Intertribal consortia or tribal organizations eligible for a grant under subparagraph (A) are intertribal consortia or tribal organizations that—

(i) as determined by the Administrator, are the most qualified and experienced to provide training and technical assistance to Indian Tribes; and

(ii) the Indian Tribes find to be the most beneficial and effective.

(j) OTHER AREAS.—Of the funds annually available under this section for grants to States, the Administrator shall make allot-

ments in accordance with section 1443(a)(4) for the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and Guam. The grants allotted as provided in this subsection may be provided by the Administrator to the governments of such areas, to public water systems in such areas, or to both, to be used for the public water system expenditures referred to in subsection (a)(2). The grants, and grants for the District of Columbia, shall not be deposited in State loan funds. The total allotment of grants under this section for all areas described in this subsection in any fiscal year shall not exceed 0.33 percent of the aggregate amount made available to carry out this section in that fiscal year.

(k) OTHER AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Notwithstanding subsection (a)(2), a State may take each of the following actions:

(A) Provide assistance, only in the form of a loan, to one or more of the following:

(i) Any public water system described in subsection (a)(2) to acquire land or a conservation easement from a willing seller or grantor, if the purpose of the acquisition is to protect the source water of the system from contamination and to ensure compliance with national primary drinking water regulations.

(ii) Any community water system to implement local, voluntary source water protection measures to protect source water in areas delineated pursuant to section 1453, in order to facilitate compliance with national primary drinking water regulations applicable to the system under section 1412 or otherwise significantly further the health protection objectives of this title. Funds authorized under this clause may be used to fund only voluntary, incentive-based mechanisms.

(iii) Any community water system to provide funding in accordance with section 1454(a)(1)(B)(i).

(B) Provide assistance, including technical and financial assistance, to any public water system as part of a capacity development strategy developed and implemented in accordance with section 1420(c).

(C) Make expenditures from the capitalization grant of the State **for fiscal years 1996 and 1997 to delineate and assess source water protection areas in accordance with section 1453** *to delineate, assess, and update assessments for source water protection areas in accordance with section 1453*, except that funds set aside for such expenditure shall be obligated within 4 fiscal years.

(D) Make expenditures from the fund for the establishment and implementation of wellhead protection programs under section 1428.

(2) LIMITATION.—For each fiscal year, the total amount of assistance provided and expenditures made by a State under this subsection may not exceed 15 percent of the amount of the capitalization grant received by the State for that year and may not exceed 10 percent of that amount for any one of the following activities:

(A) To acquire land or conservation easements pursuant to paragraph (1)(A)(i).

(B) To provide funding to implement voluntary, incentive-based source water quality protection measures pursuant to clauses (ii) and (iii) of paragraph (1)(A).

(C) To provide assistance through a capacity development strategy pursuant to paragraph (1)(B).

(D) To make expenditures to delineate or assess source water protection areas pursuant to paragraph (1)(C).

(E) To make expenditures to establish and implement wellhead protection programs pursuant to paragraph (1)(D).

(3) STATUTORY CONSTRUCTION.—Nothing in this section creates or conveys any new authority to a State, political subdivision of a State, or community water system for any new regulatory measure, or limits any authority of a State, political subdivision of a State or community water system.

(1) SAVINGS.—The failure or inability of any public water system to receive funds under this section or any other loan or grant program, or any delay in obtaining the funds, shall not alter the obligation of the system to comply in a timely manner with all applicable drinking water standards and requirements of this title.

(m) AUTHORIZATION OF APPROPRIATIONS.—**【There are authorized to be appropriated to carry out the purposes of this section \$599,000,000 for the fiscal year 1994 and \$1,000,000,000 for each of the fiscal years 1995 through 2003.】**

(1) *There are authorized to be appropriated to carry out the purposes of this section—*

(A) \$1,200,000,000 for fiscal year 2018;

(B) \$1,400,000,000 for fiscal year 2019;

(C) \$1,600,000,000 for fiscal year 2020;

(D) \$1,800,000,000 for fiscal year 2021; and

(E) \$2,000,000,000 for fiscal year 2022. **【To the extent amounts authorized to be】**

(2) *To the extent amounts authorized to be appropriated under this subsection in any fiscal year are not appropriated in that fiscal year, such amounts are authorized to be appropriated in a subsequent fiscal year **【(prior to the fiscal year 2004)】**. Such sums shall remain available until expended.*

(n) HEALTH EFFECTS STUDIES.—From funds appropriated pursuant to this section for each fiscal year, the Administrator shall reserve \$10,000,000 for health effects studies on drinking water contaminants authorized by the Safe Drinking Water Act Amendments of 1996. In allocating funds made available under this subsection, the Administrator shall give priority to studies concerning the health effects of cryptosporidium (as authorized by section 1458(c)), disinfection byproducts (as authorized by section 1458(c)), and arsenic (as authorized by section 1412(b)(12)(A)), and the implementation of a plan for studies of subpopulations at greater risk of adverse effects (as authorized by section 1458(a)).

(o) MONITORING FOR UNREGULATED CONTAMINANTS.—From funds appropriated pursuant to this section for each fiscal year beginning with fiscal year 1998, the Administrator shall reserve \$2,000,000 to pay the costs of monitoring for unregulated contaminants under section 1445(a)(2)(C).

(p) DEMONSTRATION PROJECT FOR STATE OF VIRGINIA.—Notwithstanding the other provisions of this section limiting the use of funds deposited in a State loan fund from any State allotment, the State of Virginia may, as a single demonstration and with the approval of the Virginia General Assembly and the Administrator, conduct a program to demonstrate alternative approaches to inter-governmental coordination to assist in the financing of new drinking water facilities in the following rural communities in southwestern Virginia where none exists on the date of enactment of the Safe Drinking Water Act Amendments of 1996 and where such communities are experiencing economic hardship: Lee County, Wise County, Scott County, Dickenson County, Russell County, Buchanan County, Tazewell County, and the city of Norton, Virginia. The funds allotted to that State and deposited in the State loan fund may be loaned to a regional endowment fund for the purpose set forth in this subsection under a plan to be approved by the Administrator. The plan may include an advisory group that includes representatives of such counties.

(q) SMALL SYSTEM TECHNICAL ASSISTANCE.—The Administrator may reserve up to 2 percent of the total funds made available to carry out this section for each of fiscal years 2016 through 2021 to carry out the provisions of section 1442(e) (relating to technical assistance for small systems), except that the total amount of funds made available for such purpose in any fiscal year through appropriations (as authorized by section 1442(e)) and reservations made pursuant to this subsection shall not exceed the amount authorized by section 1442(e).

(r) EVALUATION.—The Administrator shall conduct an evaluation of the effectiveness of the State loan funds through fiscal year 2001. The evaluation shall be submitted to the Congress at the same time as the President submits to the Congress, pursuant to section 1108 of title 31, United States Code, an appropriations request for fiscal year 2003 relating to the budget of the Environmental Protection Agency.

(s) BEST PRACTICES FOR STATE LOAN FUND ADMINISTRATION.—The Administrator shall—

(1) collect information from States on administration of State loan funds established pursuant to subsection (a)(1), including—

(A) efforts to streamline the process for applying for assistance through such State loan funds;

(B) programs in place to assist with the completion of applications for assistance through such State loan funds;

(C) incentives provided to public water systems that partner with small public water systems to assist with the application process for assistance through such State loan funds;

(D) practices to ensure that amounts in such State loan funds are used to provide loans, loan guarantees, or other authorized assistance in a timely fashion;

(E) practices that support effective management of such State loan funds;

(F) practices and tools to enhance financial management of such State loan funds; and

- (G) *key financial measures for use in evaluating State loan fund operations, including—*
  - (i) *measures of lending capacity, such as current assets and current liabilities or undisbursed loan assistance liability; and*
  - (ii) *measures of growth or sustainability, such as return on net interest;*
- (2) *not later than 3 years after the date of enactment of the Drinking Water System Improvement Act of 2017, disseminate to the States best practices for administration of such State loan funds, based on the information collected pursuant to this subsection; and*
- (3) *periodically update such best practices, as appropriate.*

\* \* \* \* \*

SOURCE WATER PETITION PROGRAM

SEC. 1454. (a) PETITION PROGRAM.—

(1) IN GENERAL.—

(A) ESTABLISHMENT.—A State may establish a program under which an owner or operator of a community water system in the State, or a municipal or local government or political subdivision of a State, may submit a source water quality protection partnership petition to the State requesting that the State assist in the local development of a voluntary, incentive-based partnership, among the owner, operator, or government and other persons likely to be affected by the recommendations of the partnership, to—

- (i) reduce the presence in drinking water of contaminants that may be addressed by a petition by considering the origins of the contaminants, including to the maximum extent practicable the specific activities that affect the drinking water supply of a community;
- (ii) obtain financial or technical assistance necessary to facilitate establishment of a partnership, or to develop and implement recommendations of a partnership for the protection of source water to assist in the provision of drinking water that complies with national primary drinking water regulations with respect to contaminants addressed by a petition; and
- (iii) develop recommendations regarding voluntary and incentive-based strategies for the long-term protection of the source water of community water systems.

(B) FUNDING.—Each State may—

- (i) use funds set aside pursuant to section 1452(k)(1)(A)(iii) by the State to carry out a program described in subparagraph (A), including assistance to voluntary local partnerships for the development and implementation of partnership recommendations for the protection of source water such as source water quality assessment, contingency plans, and demonstration projects for partners within a source water area delineated under section 1453(a); and

- (ii) provide assistance in response to a petition submitted under this subsection using funds referred to in subsection (b)(2)(B).
- (2) OBJECTIVES.—The objectives of a petition submitted under this subsection shall be to—
  - (A) facilitate the local development of voluntary, incentive-based partnerships among owners and operators of community water systems, governments, and other persons in source water areas; and
  - (B) obtain assistance from the State in identifying resources which are available to implement the recommendations of the partnerships to address the origins of drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities contributing to the presence of the contaminants) that affect the drinking water supply of a community.
- (3) CONTAMINANTS ADDRESSED BY A PETITION.—A petition submitted to a State under this subsection may address only those contaminants—
  - (A) that are pathogenic organisms for which a national primary drinking water regulation has been established or is required under section 1412; or
  - (B) for which a national primary drinking water regulation has been promulgated or proposed and that are detected by adequate monitoring methods in the source water at the intake structure or in any collection, treatment, storage, or distribution facilities by the community water systems at levels—
    - (i) above the maximum contaminant level; or
    - (ii) that are not reliably and consistently below the maximum contaminant level.
- (4) CONTENTS.—A petition submitted under this subsection shall, at a minimum—
  - (A) include a delineation of the source water area in the State that is the subject of the petition;
  - (B) identify, to the maximum extent practicable, the origins of the drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities contributing to the presence of the contaminants) in the source water area delineated under section 1453;
  - (C) identify any deficiencies in information that will impair the development of recommendations by the voluntary local partnership to address drinking water contaminants that may be addressed by a petition;
  - (D) specify the efforts made to establish the voluntary local partnership and obtain the participation of—
    - (i) the municipal or local government or other political subdivision of the State with jurisdiction over the source water area delineated under section 1453; and
    - (ii) each person in the source water area delineated under section 1453—
      - (I) who is likely to be affected by recommendations of the voluntary local partnership; and

(II) whose participation is essential to the success of the partnership;

(E) outline how the voluntary local partnership has or will, during development and implementation of recommendations of the voluntary local partnership, identify, recognize and take into account any voluntary or other activities already being undertaken by persons in the source water area delineated under section 1453 under Federal or State law to reduce the likelihood that contaminants will occur in drinking water at levels of public health concern; and

(F) specify the technical, financial, or other assistance that the voluntary local partnership requests of the State to develop the partnership or to implement recommendations of the partnership.

(b) APPROVAL OR DISAPPROVAL OF PETITIONS.—

(1) IN GENERAL.—After providing notice and an opportunity for public comment on a petition submitted under subsection (a), the State shall approve or disapprove the petition, in whole or in part, not later than 120 days after the date of submission of the petition.

(2) APPROVAL.—The State may approve a petition if the petition meets the requirements established under subsection (a). The notice of approval shall, at a minimum, include for informational purposes—

(A) an identification of technical, financial, or other assistance that the State will provide to assist in addressing the drinking water contaminants that may be addressed by a petition based on—

(i) the relative priority of the public health concern identified in the petition with respect to the other water quality needs identified by the State;

(ii) any necessary coordination that the State will perform of the program established under this section with programs implemented or planned by other States under this section; and

(iii) funds available (including funds available from a State revolving loan fund established under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.)) or section 1452;

(B) a description of technical or financial assistance pursuant to Federal and State programs that is available to assist in implementing recommendations of the partnership in the petition, including—

(i) any program established under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(ii) the program established under section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1455b);

(iii) the agricultural water quality protection program established under chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.);

(iv) the sole source aquifer protection program established under section 1427;

(v) the community wellhead protection program established under section 1428;

(vi) any pesticide or ground water management plan;

(vii) any voluntary agricultural resource management plan or voluntary whole farm or whole ranch management plan developed and implemented under a process established by the Secretary of Agriculture; and

(viii) any abandoned well closure program; and

(C) a description of activities that will be undertaken to coordinate Federal and State programs to respond to the petition.

(3) DISAPPROVAL.—If the State disapproves a petition submitted under subsection (a), the State shall notify the entity submitting the petition in writing of the reasons for disapproval. A petition may be resubmitted at any time if—

(A) new information becomes available;

(B) conditions affecting the source water that is the subject of the petition change; or

(C) modifications are made in the type of assistance being requested.

(c) GRANTS TO SUPPORT STATE PROGRAMS.—

(1) IN GENERAL.—The Administrator may make a grant to each State that establishes a program under this section that is approved under paragraph (2). The amount of each grant shall not exceed 50 percent of the cost of administering the program for the year in which the grant is available.

(2) APPROVAL.—In order to receive grant assistance under this subsection, a State shall submit to the Administrator for approval a plan for a source water quality protection partnership program that is consistent with the guidance published under subsection (d). The Administrator shall approve the plan if the plan is consistent with the guidance published under subsection (d).

(d) GUIDANCE.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator, in consultation with the States, shall publish guidance to assist—

(A) States in the development of a source water quality protection partnership program; and

(B) municipal or local governments or political subdivisions of a State and community water systems in the development of source water quality protection partnerships and in the assessment of source water quality.

(2) CONTENTS OF THE GUIDANCE.—The guidance shall, at a minimum—

(A) recommend procedures for the approval or disapproval by a State of a petition submitted under subsection (a);

(B) recommend procedures for the submission of petitions developed under subsection (a);

(C) recommend criteria for the assessment of source water areas within a State; and

(D) describe technical or financial assistance pursuant to Federal and State programs that is available to address the contamination of sources of drinking water and to develop and respond to petitions submitted under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$5,000,000 for each of the fiscal years ~~【1997 through 2003】~~ *2018 through 2022*. Each State with a plan for a program approved under subsection (b) shall receive an equitable portion of the funds available for any fiscal year.

(f) STATUTORY CONSTRUCTION.—Nothing in this section—

(1)(A) creates or conveys new authority to a State, political subdivision of a State, or community water system for any new regulatory measure; or

(B) limits any authority of a State, political subdivision, or community water system; or

(2) precludes a community water system, municipal or local government, or political subdivision of a government from locally developing and carrying out a voluntary, incentive-based, source water quality protection partnership to address the origins of drinking water contaminants of public health concern.

\* \* \* \* \*

**SEC. 1459C. REVIEW OF TECHNOLOGIES.**

(a) REVIEW.—*The Administrator, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall review (or enter into contracts or cooperative agreements to provide for a review of) existing and potential methods, means, equipment, and technologies (including review of cost, availability, and efficacy of such methods, means, equipment, and technologies) that—*

(1) *ensure the physical integrity of community water systems;*

(2) *prevent, detect, and respond to any contaminant for which a national primary drinking water regulation has been promulgated in community water systems and source water for community water systems;*

(3) *allow for use of alternate drinking water supplies from nontraditional sources; and*

(4) *facilitate source water assessment and protection.*

(b) INCLUSIONS.—*The review under subsection (a) shall include review of methods, means, equipment, and technologies—*

(1) *that are used for corrosion protection, metering, leak detection, or protection against water loss;*

(2) *that are intelligent systems, including hardware, software, or other technology, used to assist in protection and detection described in paragraph (1);*

(3) *that are point-of-use devices or point-of-entry devices;*

(4) *that are physical or electronic systems that monitor, or assist in monitoring, contaminants in drinking water in real-time; and*

(5) *that allow for the use of nontraditional sources for drinking water, including physical separation and chemical and biological transformation technologies.*

(c) AVAILABILITY.—*The Administrator shall make the results of the review under subsection (a) available to the public.*

(d) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to the Administrator to carry out this section \$10,000,000 for fiscal year 2018, which shall remain available until expended.

PART F—ADDITIONAL REQUIREMENTS TO REGULATE THE SAFETY OF DRINKING WATER

DEFINITIONS

SEC. 1461. As used in this part—

(1) **DRINKING WATER COOLER.**—The term “drinking water cooler” means any mechanical device affixed to drinking water supply plumbing which actively cools water for human consumption.

(2) **LEAD FREE.**—The term “lead free” means, with respect to a drinking water cooler, that each part or component of the cooler which may come in contact with drinking water contains not more than 8 percent lead, except that no drinking water cooler which contains any solder, flux, or storage tank interior surface which may come in contact with drinking water shall be considered lead free if the solder, flux, or storage tank interior surface contains more than 0.2 percent lead. The Administrator may establish more stringent requirements for treating any part or component of a drinking water cooler as lead free for purposes of this part whenever he determines that any such part may constitute an important source of lead in drinking water.

(3) **LOCAL EDUCATIONAL AGENCY.**—The term “local educational agency” means—

(A) any local educational agency as defined in section 8101 of the Elementary and Secondary Education Act of 1965,

(B) the owner of any private, nonprofit elementary or secondary school building, and

(C) the governing authority of any school operating under the defense dependent’s education system provided for under the Defense Dependent’s Education Act of 1978 (20 U.S.C. 921 and following).

(4) **REPAIR.**—The term “repair” means, with respect to a drinking water cooler, to take such corrective action as is necessary to ensure that water cooler is lead free.

(5) **REPLACEMENT.**—The term “replacement”, when used with respect to a drinking water cooler *or drinking water fountain*, means the permanent removal of the water cooler *or drinking water fountain* and the installation of a lead free water cooler *or drinking water fountain*.

(6) **SCHOOL.**—The term “school” means any elementary school or secondary school as defined in section 8101 of the Elementary and Secondary Education Act of 1965 and any kindergarten or day care facility.

(7) **LEAD-LINED TANK.**—The term “lead-lined tank” means a water reservoir container in a drinking water cooler which con-

tainer is constructed of lead or which has an interior surface which is not leadfree.

\* \* \* \* \*

**SEC. 1465. DRINKING WATER FOUNTAIN REPLACEMENT FOR SCHOOLS.**

(a) *ESTABLISHMENT.*—Not later than 1 year after the date of enactment of this section, the Administrator shall establish a grant program to provide assistance to local educational agencies for the replacement of drinking water fountains manufactured prior to 1988.

(b) *USE OF FUNDS.*—Funds awarded under the grant program—

(1) shall be used to pay the costs of replacement of drinking water fountains in schools; and

(2) may be used to pay the costs of monitoring and reporting of lead levels in the drinking water of schools of a local educational agency receiving such funds, as determined appropriate by the Administrator.

(c) *PRIORITY.*—In awarding funds under the grant program, the Administrator shall give priority to local educational agencies based on economic need.

(d) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to carry out this section not more than \$5,000,000 for each of fiscal years 2018 through 2022.

**EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT OF 1986**

**TITLE III—EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW**

\* \* \* \* \*

**Subtitle A—Emergency Planning and Notification**

**SEC. 304. EMERGENCY NOTIFICATION.**

(a) *TYPES OF RELEASES.*—

(1) *302 302(A) substance which requires cercla notice.*—If a release of an extremely hazardous substance referred to in section 302(a) occurs from a facility at which a hazardous chemical is produced, used, or stored, and such release requires a notification under section 103(a) of the Comprehensive Environmental Response, compensation, and Liability Act of 1980 (hereafter in this section referred to as “CERCLA”) (42 U.S.C. 9601 et seq.), the owner or operator of the facility shall immediately provide notice as described in subsection (b).

(2) *OTHER 302(A) substance.*—If a release of an extremely hazardous substance referred to in section 302(a) occurs from a facility at which a hazardous chemical is produced, used, or stored, and such release is not subject to the notification requirements under section 103(a) of CERCLA, the owner or operator of the facility shall immediately provide notice as described in subsection (b), but only if the release—

(A) is not a federally permitted release as defined in section 101(10) of CERCLA,

(B) is in an amount in excess of a quantity which the Administrator has determined (by regulation) requires notice, and (C) occurs in a manner which would require notification under section 103(a) of CERCLA.

Unless and until superseded by regulations establishing a quantity for an extremely hazardous substance described in this paragraph, a quantity of 1 pound shall be deemed that quantity the release of which requires notice as described in subsection (b).

(3) NON-302 NON-302(A) substance which requires cercla notice.—If a release of a substance which is not on the list referred to in section 302(a) occurs at a facility at which a hazardous chemical is produced, used, or stored, and such release requires notification under section 103(a) of CERCLA, the owner or operator shall provide notice as follows:

(A) If the substance is one for which a reportable quantity has been established under section 102(a) of CERCLA, the owner or operator shall provide notice as described in subsection (b).

(B) If the substance is one for which a reportable quantity has not been established under section 102(a) of CERCLA—

(i) Until April 30, 1988, the owner or operator shall provide, for releases of one pound or more of the substance, the same notice to the community emergency coordinator for the local emergency planning committee, at the same time and in the same form, as notice is provided to the National Response Center under section 103(a) of CERCLA.

(ii) On and after April 30, 1988, the owner or operator shall provide, for releases of one pound or more of the substance, the notice as described in subsection (b).

(4) EXEMPTED LEASES.—This section does not apply to any release which results in exposure to persons solely within the site or sites on which a facility is located.

(b) NOTIFICATION.—

(1) RECIPIENT OF NOTICE.—Notice required under subsection (a) shall be given immediately after the release by the owner or operator of a facility (by such means as telephone, radio, or in person) to the community emergency coordinator for the local emergency planning committees, if established pursuant to section 301(c), for any area likely to be affected by the release and to the [State emergency planning commission] *State emergency response commission* of any State likely to be affected by the release. With respect to transportation of a substance subject to the requirements of this section, or storage incident to such transportation, the notice requirements of this section with respect to a release shall be satisfied by dialing 911 or, in the absence of a 911 emergency telephone number, calling the operator.

(2) CONTENTS.—Notice required under subsection (a) shall include each of the following (to the extent known at the time of the notice and so long as no delay in responding to the emergency results):

- (A) The chemical name or identity of any substance involved in the release.
  - (B) An indication of whether the substance is on the list referred to in section 302(a).
  - (C) An estimate of the quantity of any such substance that was released into the environment.
  - (D) The time and duration of the release.
  - (E) The medium or media into which the release occurred.
  - (F) Any known or anticipated acute or chronic health risks associated with the emergency and, where appropriate, advice regarding medical attention necessary for exposed individuals.
  - (G) Proper precautions to take as a result of the release, including evacuation (unless such information is readily available to the community emergency coordinator pursuant to the emergency plan).
  - (H) The name and telephone number of the person or persons to be contacted for further information.
- (c) FOLLOWUP EMERGENCY NOTICE.—AS soon as practicable after a release which requires notice under subsection (a), such owner or operator shall provide a written followup emergency notice (or notices, as more information becomes available) setting forth and updating the information required under subsection (b), and including additional information with respect to—
- (1) actions taken to respond to and contain the release,
  - (2) any known or anticipated acute or chronic health risks associated with the release, and
  - (3) where appropriate, advice regarding medical attention necessary for exposed individuals.
- (d) TRANSPORTATION EXEMPTION NOT APPLICABLE.—The exemption provided in section 327 (relating to transportation) does not apply to this section.
- (e) ADDRESSING SOURCE WATER USED FOR DRINKING WATER.—
- (1) APPLICABLE STATE AGENCY NOTIFICATION.—A State emergency response commission shall—
    - (A) promptly notify the applicable State agency of any release that requires notice under subsection (a);
    - (B) provide to the applicable State agency the information identified in subsection (b)(2); and
    - (C) provide to the applicable State agency a written followup emergency notice in accordance with subsection (c).
  - (2) COMMUNITY WATER SYSTEM NOTIFICATION.—
    - (A) IN GENERAL.—An applicable State agency receiving notice of a release under paragraph (1) shall—
      - (i) promptly forward such notice to any community water system the source waters of which are affected by the release;
      - (ii) forward to the community water system the information provided under paragraph (1)(B); and
      - (iii) forward to the community water system the written followup emergency notice provided under paragraph (1)(C).
    - (B) DIRECT NOTIFICATION.—In the case of a State that does not have an applicable State agency, the State emer-

*gency response commission shall provide the notices and information described in paragraph (1) directly to any community water system the source waters of which are affected by a release that requires notice under subsection (a).*

(3) **DEFINITIONS.**—*In this subsection:*

(A) **COMMUNITY WATER SYSTEM.**—*The term “community water system” has the meaning given such term in section 1401(15) of the Safe Drinking Water Act.*

(B) **APPLICABLE STATE AGENCY.**—*The term “applicable State agency” means the State agency that has primary responsibility to enforce the requirements of the Safe Drinking Water Act in the State.*

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Subtitle B—Reporting Requirements

\* \* \* \* \*

**SEC. 312. EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY FORMS.**

(a) **BASIC REQUIREMENT.**—(1) The owner or operator of any facility which is required to prepare or have available a material safety data sheet for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act shall prepare and submit an emergency and hazardous chemical inventory form (hereafter in this title referred to as an “inventory form”) to each of the following:

- (A) The appropriate local emergency planning committee.
- (B) The State emergency response commission.
- (C) The fire department with jurisdiction over the facility.

(2) The inventory form containing tier I information (as described in subsection (d)(1)) shall be submitted on or before March 1, 1988, and annually thereafter on March 1, and shall contain data with respect to the preceding calendar year. The preceding sentence does not apply if an owner or operator provides, by the same deadline and with respect to the same calendar year, tier II information (as described in subsection (d)(2)) to the recipients described in paragraph (1).

(3) An owner or operator may meet the requirements of this section with respect to a hazardous chemical which is a mixture by doing one of the following:

- (A) Providing information on the inventory form on each element or compound in the mixture which is a hazardous chemical. If more than one mixture has the same element or compound, only one listing on the inventory form for the element or compound at the facility is necessary.
- (B) Providing information on the inventory form on the mixture itself.

(b) **THRESHOLDS.**—The Administrator may establish threshold quantities for hazardous chemicals covered by this section below which no facility shall be subject to the provisions of this section. The threshold quantities may, in the Administrator’s discretion, be based on classes of chemicals or categories of facilities.

(c) **HAZARDOUS CHEMICALS COVERED.**—A hazardous chemical subject to the requirements of this section is any hazardous chem-

ical for which a material safety data sheet or a listing is required under section 311.

(d) CONTENTS OF FORM.—

(1) TIER I INFORMATION.—

(A) AGGREGATE INFORMATION BY CATEGORY.—An inventory form shall provide the information described in subparagraph (B) in aggregate terms for hazardous chemicals in categories of health and physical hazards as set forth under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act.

(B) REQUIRED INFORMATION.—The information referred to in subparagraph (A) is the following:

(i) An estimate (in ranges) of the maximum amount of hazardous chemicals in each category present at the facility at any time during the preceding calendar year.

(ii) An estimate (in ranges) of the average daily amount of hazardous chemicals in each category present at the facility during the preceding calendar year.

(iii) The general location of hazardous chemicals in each category.

(C) MODIFICATIONS.—For purposes of reporting information under this paragraph, the Administrator may—

(i) modify the categories of health and physical hazards as set forth under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act by requiring information to be reported in terms of groups of hazardous chemicals which present similar hazards in an emergency, or

(ii) require reporting on individual hazardous chemicals of special concern to emergency response personnel.

(2) TIER II INFORMATION.—An inventory form shall provide the following additional information for each hazardous chemical present at the facility, but only upon request and in accordance with subsection (e):

(A) The chemical name or the common name of the chemical as provided on the material safety data sheet.

(B) An estimate (in ranges) of the maximum amount of the hazardous chemical present at the facility at any time during the preceding calendar year.

(C) An estimate (in ranges) of the average daily amount of the hazardous chemical present at the facility during the preceding calendar year.

(D) A brief description of the manner of storage of the hazardous chemical.

(E) The location at the facility of the hazardous chemical.

(F) An indication of whether the owner elects to withhold location information of a specific hazardous chemical from disclosure to the public under section 324.

(e) AVAILABILITY OF TIER II INFORMATION.—

(1) AVAILABILITY TO STATE COMMISSIONS, LOCAL COMMITTEES, AND FIRE DEPARTMENTS.—Upon request by a [State emergency

planning commission] *State emergency response commission*, a local emergency planning committee, or a fire department with jurisdiction over the facility, the owner or operator of a facility shall provide tier II information, as described in subsection (d), to the person making the request. Any such request shall be with respect to a specific facility.

(2) AVAILABILITY TO OTHER STATE AND LOCAL OFFICIALS.—A State or local official acting in his or her official capacity may have access to tier II information by submitting a request to the State emergency response commission or the local emergency planning committee. Upon receipt of a request for tier II information, the State commission or local committee shall, pursuant to paragraph (1), request the facility owner or operator for the tier II information and make available such information to the official.

(3) AVAILABILITY TO PUBLIC.—

(A) IN GENERAL.—Any person may request a State emergency response commission or local emergency planning committee for tier II information relating to the preceding calendar year with respect to a facility. Any such request shall be in writing and shall be with respect to a specific facility.

(B) AUTOMATIC PROVISION OF INFORMATION TO PUBLIC.—Any tier II information which a State emergency response commission or local emergency planning committee has in its possession shall be made available to a person making a request under this paragraph in accordance with section 324. If the State emergency response commission or local emergency planning committee does not have the tier II information in its possession, upon a request for tier II information the State emergency response commission or local emergency planning committee shall, pursuant to paragraph (1), request the facility owner or operator for tier II information with respect to a hazardous chemical which a facility has stored in an amount in excess of 10,000 pounds present at the facility at any time during the preceding calendar year and make such information available in accordance with section 324 to the person making the request.

(C) DISCRETIONARY PROVISION OF INFORMATION TO PUBLIC.—In the case of tier II information which is not in the possession of a State emergency response commission or local emergency planning committee and which is with respect to a hazardous chemical which a facility has stored in an amount less than 10,000 pounds present at the facility at any time during the preceding calendar year, a request from a person must include the general need for the information. The State emergency response commission or local emergency planning committee may, pursuant to paragraph (1), request the facility owner or operator for the tier II information on behalf of the person making the request. Upon receipt of any information requested on behalf of such person, the State emergency response commission or local emergency planning committee shall make

the information available in accordance with section 324 to the person.

(D) RESPONSE IN 45 DAYS.—A State emergency response commission or local emergency planning committee shall respond to a request for tier II information under this paragraph no later than 45 days after the date of receipt of the request.

(4) AVAILABILITY TO COMMUNITY WATER SYSTEMS.—

(A) IN GENERAL.—An affected community water system may have access to tier II information by submitting a request to the State emergency response commission or the local emergency planning committee. Upon receipt of a request for tier II information, the State commission or local committee shall, pursuant to paragraph (1), request the facility owner or operator for the tier II information and make available such information to the affected community water system.

(B) DEFINITION.—In this paragraph, the term “affected community water system” means a community water system (as defined in section 1401(15) of the Safe Drinking Water Act) that receives supplies of drinking water from a source water area, delineated under section 1453 of the Safe Drinking Water Act, in which a facility that is required to prepare and submit an inventory form under subsection (a)(1) is located.

(f) FIRE DEPARTMENT ACCESS.—Upon request to an owner or operator of a facility which files an inventory form under this section by the fire department with jurisdiction over the facility, the owner or operator of the facility shall allow the fire department to conduct an on-site inspection of the facility and shall provide to the fire department specific location information on hazardous chemicals at the facility.

(g) FORMAT OF FORMS.—The Administrator shall publish a uniform format for inventory forms within three months after the date of the enactment of this title. If the Administrator does not publish such forms, owners and operators of facilities subject to the requirements of this section shall provide the information required under this section by letter.

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## ADDITIONAL VIEWS

Our nation's public drinking water systems serve over 300 million people, but aging and failing infrastructure threatens reliable access to safe drinking water. Earlier this year, the American Society of Civil Engineers published its periodic infrastructure report card, and rated our drinking water infrastructure a "D" grade.<sup>1</sup> Most of the pipes in this country are between 75 and 110 years old—at or beyond the expected limits of their useful life. Because of this, an estimated 240,000 water main breaks occur every year, wasting money, disrupting service, and compromising water quality.<sup>2</sup>

Lead is also a significant and growing threat from our aging infrastructure. Lead is present in our drinking water distribution systems in service lines, solder, and fixtures. As that infrastructure ages and corrodes, more lead can leach into drinking water.

To maintain safe drinking water delivery, public water systems will need to make significant investments to repair or replace infrastructure and equipment. EPA's most recent needs assessment for drinking water infrastructure estimated that \$384 billion will be necessary for infrastructure repairs by 2030.<sup>3</sup> This amount grew significantly since the agency's last assessment, demonstrating that investment has not kept pace with need.<sup>4</sup>

Delaying these investments will increase costs because repairing damaged pipes is more expensive than replacing them before breakage.<sup>5</sup> Old pipes will continue to break resulting in massive quantities of lost treated water, and prompting inefficient emergency repair expenditures. These costs are then passed onto the consumer in higher utility bills and increased service disruptions. We support the Drinking Water System Improvement Act, but believe that higher funding levels will ultimately be needed to address our drinking water infrastructure needs.

Over the course of the Committee's consideration of this bill, provisions were added to address several serious drinking water challenges, including resiliency to extreme weather and intentional attacks, improved consumer notification requirements, and improved monitoring. We strongly support these provisions, but note that some serious drinking water challenges are still not addressed by the bill. In particular, the onerous and unworkable standard setting process in place since the 1996 Safe Drinking Water Act Amendments is not changed by this bill. That ineffectual process

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<sup>1</sup> American Society of Civil Engineers, *2017 Report Card for America's Infrastructure*, (online at [www.infrastructurereportcard.org](http://www.infrastructurereportcard.org)).

<sup>2</sup> *Id.*

<sup>3</sup> U.S. Environmental Protection Agency, *Drinking Water Infrastructure Needs Survey and Assessment, Fifth Report to Congress* (April 2013) (EPA-816-R-13-006) (online at [water.epa.gov/grants\\_funding/dwsrf/index.cfm](http://water.epa.gov/grants_funding/dwsrf/index.cfm)).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

has prevented EPA from revising and setting needed drinking water standards, including standards for lead, perchlorate, perfluorinated chemicals, and algal toxins.

Additionally, the impacts of Hurricanes Irma and Maria in Puerto Rico and the U.S. Virgin Islands show that the federal government must take a more active role in addressing drinking water needs throughout all of our nation. As we write, more than one month after Hurricane Maria hit Puerto Rico, roughly a quarter of the residents of Puerto Rico have no access to drinking water. Providing access to safe drinking water is a fundamental function of our government, and we must do more to meet our responsibility in U.S. territories.

We hope to build on the Drinking Water System Improvement Act in the coming months and years to address these remaining challenges and remaining funding needs.

FRANK PALLONE, Jr.,  
*Ranking Member, Committee  
on Energy and Commerce.*

PAUL D. TONKO,  
*Ranking Member, Sub-  
committee on Environ-  
ment.*

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