117TH CONGRESS
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HOUSE OF REPRESENTATIVES
REPORT
117–76

# ASSISTANCE, QUALITY, AND AFFORDABILITY ACT OF 2021

JUNE 29, 2021.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

# R E P O R T

together with

## DISSENTING VIEWS

[To accompany H.R. 3291]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3291) to amend the Safe Drinking Water Act to provide assistance for States, territories, areas affected by natural disasters, and water systems and schools affected by PFAS or lead, and to require the Environmental Protection Agency to promulgate national primary drinking water regulations for PFAS, microcystin toxin, and 1,4-dioxane, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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19–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

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

(a) SHORT TITLE.—This Act may be cited as the "Assistance, Quality, and Affordability Act of 2021".

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



# TITLE I—INFRASTRUCTURE

**SEC. 101. DRINKING WATER SYSTEM RESILIENCE FUNDING.**

Section 1433(g) of the Safe Drinking Water Act (42 U.S.C. 300i–2(g)) is amended—

(1) in paragraph (1), by striking "and 2021" and inserting "through 2031"; and

(2) in paragraph (6)—

(A) by striking "25,000,000" and inserting "50,000,000"; and

(B) by striking "2020 and 2021" and inserting "2022 through 2031".

**SEC. 102. 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 "and 2021" and inserting "through 2031".

**SEC. 103. 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 "During fiscal years 2019 through 2023, funds" and inserting "Funds".

**SEC. 104. ASSISTANCE FOR DISADVANTAGED COMMUNITIES.**

Section 1452(d)(2)(A) of the Safe Drinking Water Act (42 U.S.C. 300j–12(d)(2)(A)) is amended by striking "35 percent" and inserting "40 percent".

**SEC. 105. ALLOTMENTS FOR TERRITORIES.**

Section 1452(j) of the Safe Drinking Water Act (42 U.S.C. 300j–12(j)) is amended by striking "0.33 percent" and inserting "1.5 percent".

**SEC. 106. DRINKING WATER SRF FUNDING.**

Section 1452(m)(1) of the Safe Drinking Water Act (42 U.S.C. 300j–12(m)(1)) is amended—

(1) in subparagraph (B), by striking "and";

(2) in subparagraph (C), by striking "2021." and inserting "2021;"; and

(3) by adding at the end the following:

"(D) $4,140,000,000 for fiscal year 2022;
"(E) $4,800,000,000 for fiscal year 2023; and
"(F) $5,500,000,000 for each of fiscal years 2024 through 2031.".

**SEC. 107. LEAD SERVICE LINE REPLACEMENT.**

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

"(u) LEAD SERVICE LINE REPLACEMENT.—

"(1) IN GENERAL.—In addition to the capitalization grants to eligible States under subsection (a)(1), the Administrator shall offer to enter into agreements with States, Indian Tribes, and the territories described in subsection (j) to make grants, including letters of credit, to such States, Indian Tribes, and territories under this subsection to fund the replacement of lead service lines.

"(2) ALLOTMENTS.—

"(A) STATES.—Funds made available to carry out this subsection shall be—

"(i) allotted and reallotted to the extent practicable to States as if allotted or reallotted under subsection (a)(1) as a capitalization grant under such subsection; and

"(ii) deposited into the State loan fund of a State receiving such funds pursuant to an agreement entered into pursuant to this subsection.

"(B) INDIAN TRIBES.—The Administrator shall set aside 1½ percent of the amounts made available each fiscal year to carry out this subsection to make grants to Indian Tribes.

"(C) OTHER AREAS.—Funds made available to carry out this subsection shall be allotted to territories described in subsection (j) in accordance with such subsection.

"(3) GRANTS.—Notwithstanding any other provision of this section, funds made available under this subsection shall be used only for providing grants for the replacement of lead service lines.

"(4) PRIORITY.—Each State, Indian Tribe, and territory that has entered into an agreement pursuant to this subsection shall annually prepare a plan that identifies the intended uses of the amounts made available to such State, Indian Tribe, or territory under this subsection, and any such plan shall—

"(A) not be required to comply with subsection (b)(3); and

"(B) provide, to the maximum extent practicable, that priority for the use of funds be given to projects that replace lead service lines serving disadvantaged communities and environmental justice communities.

"(5) PLAN FOR REPLACEMENT.—Each State, Indian Tribe, and territory that has entered into an agreement pursuant to this subsection shall require each recipient of funds made available pursuant to this subsection to submit to the State, Indian Tribe, or territory a plan to replace all lead service lines in the applicable public water system within 10 years of receiving such funds.

"(6) AMERICAN MADE IRON AND STEEL AND PREVAILING WAGES.—The requirements of paragraphs (4) and (5) of subsection (a) shall apply to any project carried out in whole or in part with funds made available under or pursuant to this subsection.

"(7) LIMITATION.—

"(A) PROHIBITION ON PARTIAL LINE REPLACEMENT.—No funds made available pursuant to this subsection may be used for partial lead service line replacement if, at the conclusion of the service line replacement, drinking water is delivered through a publicly or privately owned portion of a lead service line.

"(B) NO PRIVATE OWNER CONTRIBUTION.—Any recipient of funds made available pursuant to this subsection for lead service line replacement shall offer to replace any privately owned portion of any lead service line with respect to which such funds are used at no cost to the private owner.

"(8) DISADVANTAGED COMMUNITY ASSISTANCE.—All funds made available pursuant to this subsection to fund the replacement of lead service lines may be used to replace lead service lines serving disadvantaged communities.

"(9) STATE CONTRIBUTION NOT REQUIRED.—No agreement entered into pursuant to paragraph (1) shall require that a State deposit, at any time, in the applicable State loan fund from State moneys any contribution in order to receive funds under this subsection.

"(10) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There are authorized to be appropriated to carry out this subsection $4,500,000,000 for each of fiscal years 2022 through 2031. Such sums shall remain available until expended.

"(B) ADDITIONAL AMOUNTS.—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. Such sums shall remain available until expended.

"(11) DEFINITIONS.—For purposes of this subsection:

"(A) DISADVANTAGED COMMUNITY.—The term 'disadvantaged community' has the meaning given such term in subsection (d)(3).

"(B) ENVIRONMENTAL JUSTICE COMMUNITY.—The term 'environmental justice community' means any population of color, community of color, indigenous community, or low-income community that experiences a disproportionate burden of the negative human health and environmental impacts of pollution or other environmental hazards.

"(C) LEAD SERVICE LINE.—The term 'lead service line' means a pipe and its fittings, which are not lead free (as defined in section 1417(d)), that connect the drinking water main to the building inlet.".

(b) CONFORMING AMENDMENT.—Section 1452(m)(1) of the Safe Drinking Water Act (42 U.S.C. 300j–12(m)(1)) is amended by striking "(a)(2)(G) and (t)" and inserting "(a)(2)(G), (t), and (u)".

**SEC. 108. DRINKING WATER ASSISTANCE TO COLONIAS.**

Section 1456 of the Safe Drinking Water Act (42 U.S.C. 300j–16) is amended—

(1) in subsection (a)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) COVERED ENTITY.—The term 'covered entity' means each of the following:

"(A) A border State.

"(B) A local government with jurisdiction over an eligible community.";

(2) in subsection (b), by striking "border State" and inserting "covered entity";

(3) in subsection (d), by striking "shall not exceed 50 percent" and inserting "may not be less than 80 percent"; and

(4) in subsection (e)—

(A) by striking "$25,000,000" and inserting "$100,000,000"; and

(B) by striking "1997 through 1999" and inserting "2022 through 2026".

**SEC. 109. PFAS TREATMENT GRANTS.**

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. 1459E. ASSISTANCE FOR COMMUNITY WATER SYSTEMS AFFECTED BY PFAS.**

"(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Administrator shall establish a program to award grants to affected community water systems to pay for capital costs associated with the implementation of eligible treatment technologies.

"(b) APPLICATIONS.—

"(1) GUIDANCE.—Not later than 12 months after the date of enactment of this section, the Administrator shall publish guidance describing the form and timing for community water systems to apply for grants under this section.

"(2) REQUIRED INFORMATION.—The Administrator shall require a community water system applying for a grant under this section to submit—

"(A) information showing the presence of a perfluoroalkyl or polyfluoroalkyl substance in water of the community water system; and

"(B) a certification that the treatment technology in use by the community water system at the time of application is not sufficient to meet all applicable standards, and all applicable health advisories published pursuant to section 1412(b)(1)(F), for perfluoroalkyl and polyfluoroalkyl substances.

"(c) LIST OF ELIGIBLE TREATMENT TECHNOLOGIES.—Not later than 150 days after the date of enactment of this section, and every 2 years thereafter, the Administrator shall publish a list of treatment technologies that the Administrator determines are the most effective at removing perfluoroalkyl and polyfluoroalkyl substances from drinking water.

"(d) PRIORITY FOR FUNDING.—In awarding grants under this section, the Administrator shall prioritize an affected community water system that—

"(1) serves a disadvantaged community;

"(2) will provide at least a 10-percent cost share for the cost of implementing an eligible treatment technology;

"(3) demonstrates the capacity to maintain the eligible treatment technology to be implemented using the grant; or

"(4) is located within an area with respect to which the Administrator has published a determination under the first sentence of section 1424(e) relating to an aquifer that is the sole or principal drinking water source for the area.

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $500,000,000 for each of the fiscal years 2022 through 2031.

"(2) SPECIAL RULE.—Of the amounts authorized to be appropriated by paragraph (1), $25,000,000 are authorized to be appropriated for each of fiscal years 2022 and 2023 for grants under subsection (a) to pay for capital costs associated with the implementation of eligible treatment technologies during the period beginning on October 1, 2014, and ending on the date of enactment of this section.

"(f) DEFINITIONS.—In this section:

"(1) AFFECTED COMMUNITY WATER SYSTEM.—The term 'affected community water system' means a community water system that is affected by the presence of a perfluoroalkyl or polyfluoroalkyl substance in the water in the community water system.

"(2) DISADVANTAGED COMMUNITY.—The term 'disadvantaged community' has the meaning given that term in section 1452.

"(3) ELIGIBLE TREATMENT TECHNOLOGY.—The term 'eligible treatment technology' means a treatment technology included on the list published under subsection (c).".

**SEC. 110. VOLUNTARY SCHOOL AND CHILD CARE PROGRAM LEAD TESTING GRANT PROGRAM.**

Section 1464(d)(8) of the Safe Drinking Water Act (42 U.S.C. 300j–24(d)(8)) is amended by striking "and 2021" and inserting "through 2031".

**SEC. 111. GRANT PROGRAM FOR INSTALLATION OF FILTRATION STATIONS AT SCHOOLS AND CHILD CARE PROGRAMS.**

Section 1464 of the Safe Drinking Water Act (42 U.S.C. 300j–24) is amended by adding at the end the following:

"(e) GRANT PROGRAM FOR INSTALLATION AND MAINTENANCE OF FILTRATION STATIONS.—

"(1) PROGRAM.—The Administrator shall establish a program to make grants to States to assist local educational agencies in voluntary installation and maintenance of filtration stations at schools and child care programs under the jurisdiction of the local educational agencies.

"(2) DIRECT GRANTS TO LOCAL EDUCATIONAL AGENCIES.—The Administrator may make a grant described in paragraph (1) directly available to—

"(A) any local educational agency described in clause (i) or (iii) of subsection (d)(1)(B) located in a State that does not participate in the program established under paragraph (1); or

"(B) any local educational agency described in clause (ii) of subsection (d)(1)(B).

"(3) USE OF FUNDS.—Grants made under the program established under this subsection may be used to pay the costs of—

"(A) installation and maintenance of filtration stations at schools and child care programs; and

"(B) annual testing of drinking water at such schools and child care programs following the installation of filtration stations.

"(4) PRIORITY.—In making grants under the program established under this subsection, the Administrator shall give priority to States and local educational agencies that will assist in voluntary installation and maintenance of filtration stations at schools and child care programs that are in low-income areas.

"(5) GUIDANCE.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall establish guidance to carry out the program established under this subsection.

"(6) NO PRIOR TESTING REQUIRED.—The program established under this subsection shall not require testing for lead contamination in drinking water at schools and child care programs prior to participation in such program.

"(7) DEFINITIONS.—In this subsection:

"(A) CHILD CARE PROGRAM AND LOCAL EDUCATIONAL AGENCY.—The terms 'child care program' and 'local educational agency' have the meaning given such terms in subsection (d).

"(B) FILTRATION STATION.—The term 'filtration station' means an apparatus that—

"(i) is connected to building plumbing;

"(ii) is certified to the latest version of NSF/ANSI 53 for lead reduction and NSF/ANSI 42 for particulate reduction (Class I) by a certification body accredited by the American National Standards Institute National Accreditation Board;

"(iii) has an indicator to show filter performance;

"(iv) can fill bottles or containers for water consumption; and

"(v) allows users to drink directly from a stream of flowing water.

"(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $50,000,000 for each of fiscal years 2022 through 2031.".

**SEC. 112. DRINKING WATER FOUNTAIN REPLACEMENT FOR SCHOOLS.**

Section 1465(d) of the Safe Drinking Water Act (42 U.S.C. 300j–25(d)) is amended by striking "2021" and inserting "2031".

**SEC. 113. INDIAN RESERVATION DRINKING WATER PROGRAM.**

Section 2001(d) of America's Water Infrastructure Act of 2018 (Public Law 115–270) is amended by striking "2022" and inserting "2031".

**SEC. 114. ASSISTANCE FOR AREAS AFFECTED BY NATURAL DISASTERS.**

Section 2020 of America's Water Infrastructure Act of 2018 (Public Law 115–270) is amended—

(1) in subsection (b)(1), by striking "subsection (e)(1)" and inserting "subsection (f)(1)";

(2) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively;

(3) by inserting after subsection (b) the following:

"(c) ASSISTANCE FOR TERRITORIES.—The Administrator may use funds made available under subsection (f)(1) to make grants to Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands for the purposes of providing assistance to eligible systems to restore or increase compliance with national primary drinking water regulations."; and

(4) in subsection (f), as so redesignated—

(A) in the heading, by striking "STATE REVOLVING FUND CAPITALIZATION"; and

(B) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting "and to make grants under subsection (c) of this section," before "to be available"; and

(ii) in subparagraph (A), by inserting "or subsection (c), as applicable" after "subsection (b)(1)".

# TITLE II—SAFETY

**SEC. 201. ENABLING EPA TO SET STANDARDS FOR NEW DRINKING WATER CONTAMINANTS.**

(a) IN GENERAL.—Section 1412(b)(6) of the Safe Drinking Water Act (42 U.S.C. 300g–1(b)(6)) is repealed.

(b) CONFORMING AMENDMENTS.—Section 1412(b) of the Safe Drinking Water Act (42 U.S.C. 300g–1(b)) is amended—

(1) in paragraph (3)(C)(i)—

(A) by striking "paragraph (5) or (6)(A)" and inserting "paragraph (5)"; and

(B) by striking "paragraphs (4), (5), and (6)" and inserting "paragraphs (4) and (5)"; and

(2) in paragraph (4)(B), by striking "paragraphs (5) and (6)" and inserting "paragraph (5)".

**SEC. 202. NATIONAL PRIMARY DRINKING WATER REGULATIONS FOR PFAS.**

Section 1412(b) of the Safe Drinking Water Act (42 U.S.C. 300g–1(b)) is amended by adding at the end the following:

"(16) PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES.—

"(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall, after notice and opportunity for public comment, promulgate a national primary drinking water regulation for perfluoroalkyl and polyfluoroalkyl substances, which shall, at a minimum, include standards for—

"(i) perfluorooctanoic acid (commonly referred to as 'PFOA'); and

"(ii) perfluorooctane sulfonic acid (commonly referred to as 'PFOS').

"(B) ALTERNATIVE PROCEDURES.—

"(i) IN GENERAL.—Not later than 1 year after the validation by the Administrator of an equally effective quality control and testing procedure to ensure compliance with the national primary drinking water regulation promulgated under subparagraph (A) to measure the levels described in clause (ii) or other methods to detect and monitor perfluoroalkyl and polyfluoroalkyl substances in drinking water, the Administrator shall add the procedure or method as an alternative to

the quality control and testing procedure described in such national primary drinking water regulation by publishing the procedure or method in the Federal Register in accordance with section 1401(1)(D).

"(ii) LEVELS DESCRIBED.—The levels referred to in clause (i) are—

"(I) the level of a perfluoroalkyl or polyfluoroalkyl substance;

"(II) the total levels of perfluoroalkyl and polyfluoroalkyl substances; and

"(III) the total levels of organic fluorine.

"(C) INCLUSIONS.—The Administrator may include a perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances on—

"(i) the list of contaminants for consideration of regulation under paragraph (1)(B)(i), in accordance with such paragraph; and

"(ii) the list of unregulated contaminants to be monitored under section 1445(a)(2)(B)(i), in accordance with such section.

"(D) MONITORING.—When establishing monitoring requirements for public water systems as part of a national primary drinking water regulation under subparagraph (A) or subparagraph (G)(ii), the Administrator shall tailor the monitoring requirements for public water systems that do not detect or are reliably and consistently below the maximum contaminant level (as defined in section 1418(b)(2)(B)) for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances subject to the national primary drinking water regulation.

"(E) HEALTH PROTECTION.—The national primary drinking water regulation promulgated under subparagraph (A) shall be protective of the health of subpopulations at greater risk, as described in section 1458.

"(F) HEALTH RISK REDUCTION AND COST ANALYSIS.—In meeting the requirements of paragraph (3)(C), the Administrator may rely on information available to the Administrator with respect to one or more specific perfluoroalkyl or polyfluoroalkyl substances to extrapolate reasoned conclusions regarding the health risks and effects of a class of perfluoroalkyl or polyfluoroalkyl substances of which the specific perfluoroalkyl or polyfluoroalkyl substances are a part.

"(G) REGULATION OF ADDITIONAL SUBSTANCES.—

"(i) DETERMINATION.—The Administrator shall make a determination under paragraph (1)(A), using the criteria described in clauses (i) through (iii) of that paragraph, whether to include a perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances in the national primary drinking water regulation under subparagraph (A) not later than 18 months after the later of—

"(I) the date on which the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances is listed on the list of contaminants for consideration of regulation under paragraph (1)(B)(i); and

"(II) the date on which—

"(aa) the Administrator has received the results of monitoring under section 1445(a)(2)(B) for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances; or

"(bb) the Administrator has received reliable water data or water monitoring surveys for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances from a Federal or State agency that the Administrator determines to be of a quality sufficient to make a determination under paragraph (1)(A).

"(ii) PRIMARY DRINKING WATER REGULATIONS.—

"(I) IN GENERAL.—For each perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances that the Administrator determines to regulate under clause (i), the Administrator—

"(aa) not later than 18 months after the date on which the Administrator makes the determination, shall propose a national primary drinking water regulation for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances; and

"(bb) may publish the proposed national primary drinking water regulation described in item (aa) concurrently with the publication of the determination to regulate the perfluoroalkyl

or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances.

"(II) DEADLINE.—

"(aa) IN GENERAL.—Not later than 1 year after the date on which the Administrator publishes a proposed national primary drinking water regulation under clause (i)(I) and subject to item (bb), the Administrator shall take final action on the proposed national primary drinking water regulation.

"(bb) EXTENSION.—The Administrator, on publication of notice in the Federal Register, may extend the deadline under item (aa) by not more than 6 months.

"(H) HEALTH ADVISORY.—

"(i) IN GENERAL.—Subject to clause (ii), the Administrator shall publish a health advisory under paragraph (1)(F) for a perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances not subject to a national primary drinking water regulation not later than 1 year after the later of—

"(I) the date on which the Administrator finalizes a toxicity value for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances; and

"(II) the date on which the Administrator validates an effective quality control and testing procedure for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances.

"(ii) WAIVER.—The Administrator may waive the requirements of clause (i) with respect to a perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl and polyfluoroalkyl substances if the Administrator determines that there is a substantial likelihood that the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances will not occur in drinking water with sufficient frequency to justify the publication of a health advisory, and publishes such determination, including the information and analysis used, and basis for, such determination, in the Federal Register.".

**SEC. 203. NATIONAL PRIMARY DRINKING WATER REGULATIONS FOR MICROCYSTIN TOXIN.**

Section 1412(b) of the Safe Drinking Water Act (42 U.S.C. 300g–1(b)) is further amended by adding at the end the following:

"(17) MICROCYSTIN TOXIN.—

"(A) IN GENERAL.—Notwithstanding any other deadline established in this subsection, not later than 2 years after the date of enactment of the Assistance, Quality, and Affordability Act of 2021, the Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for microcystin toxin.

"(B) HEALTH PROTECTION.—The maximum contaminant level goal and national primary drinking water regulation promulgated under subparagraph (A) shall be protective of the health of subpopulations at greater risk, as described in section 1458.".

**SEC. 204. NATIONAL PRIMARY DRINKING WATER REGULATIONS FOR 1,4–DIOXANE.**

Section 1412(b) of the Safe Drinking Water Act (42 U.S.C. 300g–1(b)) is further amended by adding at the end the following:

"(18) 1,4–DIOXANE.—

"(A) IN GENERAL.—Notwithstanding any other deadline established in this subsection, not later than 2 years after the date of enactment of the Assistance, Quality, and Affordability Act of 2021, the Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for 1,4–dioxane.

"(B) HEALTH PROTECTION.—The maximum contaminant level goal and national primary drinking water regulation promulgated under subparagraph (A) shall be protective of the health of subpopulations at greater risk, as described in section 1458.".

**SEC. 205. ELIMINATION OF SMALL SYSTEM VARIANCES.**

(a) SMALL SYSTEM VARIANCES.—Section 1415 (42 U.S.C. 300g–4) of the Safe Drinking Water Act is amended by striking subsection (e).

(b) CONFORMING AMENDMENTS.—

(1) Section 1412(b)(15) of the Safe Drinking Water Act (42 U.S.C. 300g–1(b)(15)) is amended by striking subparagraph (D).

(2) Section 1414(c)(1)(B) of the Safe Drinking Water Act (42 U.S.C. 300g–3(c)(1)(B)) is amended by striking ", (a)(2), or (e)" and inserting "or (a)(2)".

(3) Section 1416(b)(2) of the Safe Drinking Water Act (42 U.S.C. 300g–5(b)(2)) is amended by striking subparagraph (D).

(4) Section 1445(h) of the Safe Drinking Water Act (42 U.S.C. 300j–4(h)) is amended—

(A) by striking "sections 1412(b)(4)(E) and 1415(e) (relating to small system variance program)" and inserting "section 1412(b)(4)(E)"; and

(B) by striking "guidance under sections 1412(b)(4)(E) and 1415(e)" and inserting "guidance under section 1412(b)(4)(E)".

# TITLE III—AFFORDABILITY

**SEC. 301. EMERGENCY RELIEF PROGRAM.**

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 new section:

**"SEC. 1466. EMERGENCY RELIEF PROGRAM.**

"(a) EMERGENCY RELIEF PROGRAM.—The Administrator shall establish and carry out a residential emergency relief program to provide payments to public water systems to reimburse such public water systems for providing forgiveness of arrearages and fees incurred by eligible residential customers before the date of enactment of this section to help such eligible residential customers retain, or reconnect or restore, water service.

"(b) CONDITIONS.—To receive funds under this section, a public water system shall agree to—

"(1) except as otherwise provided in this section, use such funds to forgive all arrearages and fees relating to nonpayment or arrearages incurred by eligible residential customers before the date of enactment of this section;

"(2) if forgiveness of all arrearages and fees described in paragraph (1) is not possible given the amount of funds received, except as otherwise provided in this section, use such funds to reduce such arrearages and fees for each eligible residential customer by, to the extent practicable, a consistent percentage;

"(3) take no action that negatively affects the credit score of an eligible residential customer, or pursue any type of collection action against such eligible residential customer, during the 5-year period that begins on the date on which the public water system receives such funds;

"(4) not disconnect or interrupt the service of any eligible residential customer as a result of nonpayment or arrearages during such 5-year period; and

"(5) provide to the Administrator such information as the Administrator determines appropriate.

"(c) ELIGIBLE CUSTOMERS.—To be eligible for forgiveness or reduction of arrearages and fees pursuant to the program established under subsection (a), a residential customer of a public water system shall have accrued new arrearages on or after March 1, 2020.

"(d) RECONNECTION EXPENSES.—The Administrator, or a State that is, pursuant to subsection (e), implementing the program established under subsection (a), may authorize a public water system receiving funds under this section to use up to 5 percent of such funds for expenses relating to reconnecting or restoring water service, including expenses relating to plumbing repairs and pipe flushing, as needed, for eligible residential customers.

"(e) ADMINISTRATIVE EXPENSES.—The Administrator may authorize—

"(1) States to implement the program established under subsection (a); and

"(2) a State implementing such program to use up to 4 percent of funds made available to carry out such program in such State for administrative expenses.

"(f) SUBMISSIONS TO CONGRESS.—Not later than 180 days after the date of enactment of this section, and every other month thereafter until all amounts made available under this section are expended, the Administrator shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes—

"(1) each public water system that received a payment under or pursuant to this section;

"(2) the total amount of each payment provided under or pursuant to this section;

"(3) for each public water system receiving a payment under or pursuant to this section—

"(A) the amount of arrearages and fees forgiven or reduced;

"(B) the number of eligible residential customers benefitting from forgiveness or reduction of arrearages and fees under this section;

"(C) the amount of arrearages and fees of customers described in subparagraph (B) incurred before the date of enactment of this section that remain outstanding;

"(D) the number of eligible residential customers that did not benefit from forgiveness or reduction of arrearages and fees under this section; and

"(E) the amount of arrearages and fees of customers described in subparagraph (D) incurred before the date of enactment of this section that remain outstanding; and

"(4) a summary of any other information provided to the Administrator by public water systems that receive a payment pursuant to this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $4,000,000,000, to remain available until expended.".

# TITLE IV—OTHER MATTERS

**SEC. 401. SMALL URBAN AND RURAL WATER SYSTEM CONSOLIDATION REPORT.**

(a) REPORT.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on issues relating to the potential for consolidation of distressed small water systems.

(2) INCLUSIONS.—The report submitted under paragraph (1) shall include—

(A) information on—

(i) the amount of debt of covered small water systems;

(ii) whether the budgets of covered small water systems are balanced;

(iii) the degree to which covered small water systems defer infrastructure improvements;

(iv) the degree to which covered small water systems are not in compliance with applicable Federal and State water quality standards;

(v) how rates charged by covered small water systems for service relate to the costs for maintenance of, and improvements to, such systems; and

(vi) how the management, financial, and technical capacity of covered small water systems affects the ability of such systems to provide service at affordable rates;

(B) an evaluation of—

(i) whether covered small water system infrastructure is failing, resulting in a temporary or permanent loss of essential functions or services; and

(ii) how to prevent covered small water systems from becoming distressed small water systems;

(C) policy recommendations for how Congress may support the consolidation of distressed small water systems; and

(D) best practices and guidelines the Administrator of the Environmental Protection Agency may use to assist State and local governments with facilitating the consolidation of distressed small water systems.

(b) DEFINITIONS.—In this section:

(1) CONSOLIDATION.—The term "consolidation" means, with respect to a public water system, any of the actions described in subparagraphs (A) through (D) of section 1414(h)(1) of the Safe Drinking Water Act (42 U.S.C. 300g–3(h)(1)).

(2) COVERED SMALL WATER SYSTEM.—The term "covered small water system" means a public water system that serves—

(A) fewer than 50,000 individuals; and

(B) a disadvantaged community or an environmental justice community.

(3) DISADVANTAGED COMMUNITY.—The term "disadvantaged community" has the meaning given such term in section 1452(d)(3) of the Safe Drinking Water Act (42 U.S.C. 300j–12(d)(3)).

(4) DISTRESSED SMALL WATER SYSTEM.—The term "distressed small water system" means a covered small water system—

(A) that is unable to carry out necessary maintenance of, and improvements to, such system in order to—

(i) comply with applicable Federal and State water quality standards; or

(ii) provide reliable and affordable service to customers while complying with such water quality standards; and

(B) with respect to which consolidation may be necessary to address the issues described in subparagraph (A).

(5) ENVIRONMENTAL JUSTICE COMMUNITY.—The term "environmental justice community" has the meaning given such term in section 1452(u)(11) of the Safe Drinking Water Act.

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

## I. PURPOSE AND SUMMARY

H.R. 3291, the "Assistance, Quality, and Affordability Act of 2021", includes provisions to improve our nation's drinking water infrastructure, increase the safety of our drinking water, and make water service more affordable.

The infrastructure title extends and increases authorizations for existing drinking water grant programs, including the Drinking Water State Revolving Fund (SRF) and existing programs to reduce lead in drinking water. It also creates new funding programs for lead service line replacement and per- and polyfluoroalkyl substances (PFAS) treatment. In total, the bill authorizes $105.19 billion over ten years and makes permanent the Buy American requirements that currently apply to projects funded through the Drinking Water SRF.

The safety title sets deadlines for the adoption of drinking water standards for PFAS, microcystins, and 1,4 dioxane. It also amends the standard setting process under the Safe Drinking Water Act (SDWA) by removing both the authority to set drinking water standards that are weaker than what is feasible and the authority to set weaker standards for some systems. These changes will limit the role of cost-benefit analysis and ensure consistent standards nationwide.

The affordability title creates a new emergency grant program, administered by the Environmental Protection Agency (EPA), to provide funding to water systems to pay down customer water debt. Assistance under the program would be available to residential customers who incurred drinking water debt during the Covid–19 pandemic. To receive funds from the program, water systems will agree to a five-year moratorium on shut-offs for customers eligible to receive assistance through the program.

## II. BACKGROUND AND NEED FOR LEGISLATION

Congress enacted SDWA in 1974 to protect the quality of drinking water in the United States.[1] The Act requires EPA to set standards for naturally-occurring and man-made contaminants in the nation's public water supply, and requires public water system operators or owners to comply with these standards.[2] The statute also governs underground injection of fluids, including for oil and gas recovery, to protect underground sources of drinking water.

The SDWA Amendments of 1996 significantly changed the process for setting drinking water standards and created new funding mechanisms for drinking water infrastructure improvements. Now, SDWA includes an array of grant programs through which EPA can provide funding and technical assistance to states, water utili-

[1] U.S. Environmental Protection Agency, *Summary of the Safe Drinking Water Act* (updated Aug. 3, 2020) (www.epa.gov/laws-regulations/summary-safe-drinking-water-act#:~:text=The%20Safe%20Drinking%20Water%20Act%20(SDWA)%20was%20established%20to%20protect,above%20ground%20or%20underground%20sources).

[2] 42 U.S.C. § 300f.

ties, school districts, and others. The primary funding mechanism, the Drinking Water SRF, was created through the 1996 Amendments and reauthorized under the America's Water Infrastructure Act of 2018 (AWIA). The authorizations for the SRF, and other drinking water grant programs extended in 2018, will expire at the end of the current fiscal year (FY).

Under the 1996 Amendments, the drinking water standard setting process begins with the publication of the Contaminant Candidate List (CCL), which the law requires to be revised every five years. Next, the Unregulated Contaminant Monitoring Rule (UCMR), which serves to develop occurrence data needed to make regulatory decisions for the candidate contaminants, is published. Like the CCL, the UCMR is also required under the law to be revised every five years. The third step requires EPA to make regulatory determinations to decide whether or not to regulate at least five contaminants.[3] If EPA determines regulation is warranted based on certain criteria, it begins the rulemaking process.

Since 1996, all determinations made have been not to regulate, except for one regulatory determination on perchlorate, which EPA reversed in 2019.[4] Currently, national primary drinking water standards regulate more than 90 contaminants or contaminant groups, including microorganisms, disinfection byproducts, radionuclides, and heavy metals like arsenic, mercury, and lead.[5] All standards that have been adopted since 1996 were promulgated pursuant to specific deadlines and alternative processes in the law, not under the general process established by the 1996 Amendments.[6]

Drinking water standards include two primary components: a maximum contaminant level goal (MCLG) and either a maximum contaminant level (MCL) or treatment technique. The MCLG is a purely health-based target, set at the maximum level of a contaminant in drinking water at which no anticipated adverse health effect would occur. The MCL or treatment technique is an enforceable standard, required under the statute to be set as close to the MCLG as feasible. However, under current law, EPA has authority to set a weaker standard than what is feasible, based on a cost-benefit analysis. EPA also has authority, under current law, to issue "small system variances" which establish weaker standards for small water systems. H.R. 3291 would remove both of those authorities.

SDWA requires EPA to review and revise, as necessary, existing drinking water standards every six years,[7] but the revision process takes considerably longer. For example, EPA determined in 2003, pursuant to the first six-year review, that the standard for fecal coliform in drinking water needed revision but did not publish that revision until 2013. In the second six-year review, which actually

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[3] U.S. Environmental Protection Agency, *How EPA Regulates Drinking Water Contaminants* (updated Jan. 27, 2020) (www.epa.gov/sdwa/how-epa-regulates-drinking-water-contaminants).

[4] The final regulatory determination for perchlorate was published in 2011, and the proposed rule was published in June 2019. See Environmental Protection Agency, *National Primary Drinking Water Regulations: Perchlorate,* 84 Fed. Reg. 30524 (Jun. 26, 2019) (proposed rule) and Environmental Protection Agency, *Drinking Water: Final Action on Perchlorate,* 85 Fed. Reg. 43990 (Jul. 21, 2020).

[5] U.S. Environmental Protection Agency, *National Primary Drinking Water Regulations* (May 2009) (epa.gov/sites/production/files/2016-06/documents/npwdr_complete_table.pdf).

[6] SDWA § 1412(b)(12).

[7] SDWA § 1412(b)(9).

took seven years, EPA determined that the standard for acrylamide needed revision.[8] Six years later, in the third six-year review, EPA reversed course and labeled acrylamide a low priority for revision.[9] Of the 13 standards EPA identified for revision, the agency has only revised one. H.R. 3291 would set deadlines for the completion of several standards that have been under consideration for many years.

In its 2021 Report Card, the American Society of Civil Engineers (ACSE) rated the nation's drinking water infrastructure system a "C−" grade.[10] The United States drinking water infrastructure system is composed of 2.2 million miles of pipe, and the system is aging and underfunded. It is estimated that there is a water main break every two minutes, and an estimated 6 billion gallons of treated water is lost each day, equating to 2.1 trillion gallons per year. Between 2012 and 2018, the rate of water main breaks increased by 27 percent.[11] The EPA's 2018 Report to Congress on Drinking Water Infrastructure Needs concluded that an investment of $472.6 billion is required to maintain and improve the nation's drinking water and infrastructure over the next 20 years.[12] Increased funding for the Drinking Water State Revolving Loan Fund would address this need and allow communities to make much-needed improvements.

Lead exposure leads to developmental delays and learning difficulties in children, as well as difficulties with memory and concentration, joint and muscle pain, and high blood pressure in adults.[13] Lead service lines can unpredictably release lead into the drinking water they transport, thereby contaminating the supply for homes and communities that rely upon and use them.[14] By 2023, EPA estimates there will be nearly 9.3 million lead service lines remaining in homes across the United States.[15] According to a recent report by the United States Government Accountability Office, lead service lines are most likely to be found in low income communities, communities with older housing stock, and communities of color.[16] Lead pipes are being replaced annually at an average rate of 0.5 percent of all the remaining lead service lines. At that pace, replacing all lead service lines in the United States would take approximately two centuries.[17] Funding for lead service

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[8] Environmental Protection Agency, *National Primary Drinking Water Regulations; Announcement of the Results of EPA's Review of Existing Drinking Water Standards and Request for Public Comment and/or Information on Related Issues,* 75 Fed. Reg. 15499 (Mar. 29, 2010).

[9] Environmental Protection Agency, *National Primary Drinking Water Regulations; Announcement of the Results of EPA's Review of Existing Drinking Water Standards and Request for Public Comment and/or Information on Related Issues,* 82 Fed. Reg. 3518 (Jan. 11, 2017).

[10] American Society of Civil Engineers (ASCE), *Report Card for America's Infrastructure: Drinking Water* (Mar. 3, 2021) (infrastructurereportcard.org/cat-item/drinking-water/).

[11] Value of Water Campaign, ACSE, *The Economic Benefits of Investing in Water Infrastructure: How a Failure to Act Would Affect the US Economic Recovery* (www.uswateralliance.org/sites/uswateralliance.org/files/publications/The%20Economic%20Benefits%20of%20Investing%20in%20Water%20Infrastructure_final.pdf).

[12] U.S. Environmental Protection Agency, Drinking Water Infrastructure Needs Survey and Assessment, Sixth Report to Congress (Mar. 2018) (EPA 816–K–17–002).

[13] World Health Organization, *Lead poisoning and health* (Aug. 23, 2019) (www.who.int/news-room/fact-sheets/detail/lead-poisoning-and-health).

[14] Environmental Defense Fund, *Recognizing efforts to replace lead service lines* (accessed May 19, 2021) (www.edf.org/health/recognizing-efforts-replace-lead-service-lines).

[15] U.S. Environmental Protection Agency, Economic *Analysis for the Proposed Lead and Copper Rule Revisions* (Oct. 2019).

[16] U.S. Government Accountability Office, *Drinking Water: EPA Could Use Available Data to Better Identify Neighborhoods at Risk of Lead Exposure* (Dec. 2020) (GAO–21–78).

[17] *Lead in America's water systems is a national problem,* CBS News (Nov. 21, 2018).

line replacement across the United States would protect the health and safety of Americans and their drinking water.

## III. COMMITTEE HEARINGS

For the purposes of section 3(c) of rule XIII of the Rules of the House of Representatives, the following hearing was used to develop or consider H.R. 3291:

The Subcommittee on Environment and Climate Change held a legislative hearing on May 25, 2021. The hearing was entitled, "The CLEAN Future Act and Drinking Water: Legislation to Ensure Drinking Water is Safe and Clean." The Subcommittee received testimony from the following witness:

- Jennifer McLain, Ph.D., Director, Office of Ground Water and Drinking Water, U.S. Environmental Protection Agency.

The Subcommittee on Environment and Climate Change held a hearing on July 28, 2020. The hearing was entitled, "There's Something in the Water" Reforming Our Nation's Drinking Water Standards." The Subcommittee received testimony from the following witnesses:

- Shellie Chard, Director, Oklahoma Department of Environmental Quality, *on behalf of* Association of State Drinking Water Administrators;
- Diane VanDe Hei, Chief Executive Officer, Association of Metropolitan Water Agencies; and
- Mae Wu, Senior Director, Health and Food, Healthy People and Thriving Communities Program, Natural Resources Defense Council.

The Subcommittee on Environment and Climate Change held a hearing on February 11, 2020. The hearing was entitled, "EPA's Lead and Copper Proposal: Falling Short of Protecting Public Health." The Subcommittee received testimony from the following witnesses:

- Kim Gaddy, Environmental Justice Organizer, Clean Water Action of New Jersey;
- Mona Hanna-Attisha, M.D., M.P.H., F.A.A.P., Director, Pediatric Public Health Initiative, C.S. Mott Endowed Professor of Public Health, Division of Public Health, Associate Professor, Department of Pediatrics and Human Development, Michigan State University College of Human Medicine;
- Angela Licata, Deputy Commissioner, New York City Department of Environmental Protection, *on behalf of* Association of Metropolitan Water Administrators;
- Cathy Tucker-Vogel, Public Water Supply Section Chief, Kansas Department of Health & Environment, *on behalf of* Association of State Drinking Administrators;
- Mae Wu, Senior Director, Health and Food, Senior Attorney, Healthy People and Thriving Communities Program, Natural Resources Defense Council;
- Steve Estes-Smargiassi, Director of Planning and Sustainability, Massachusetts Water Resources Authority, *on behalf of* American Water Works Association; and
- Cindy R. Bobbitt, Commissioner, Grant County, Oklahoma, *on behalf of* National Association of Counties.

## IV. COMMITTEE CONSIDERATION

H.R. 3291, the "Assistance, Quality, and Affordability Act of 2021", was introduced on May 18, 2021, by Representatives Paul Tonko (D–NY) and Frank Pallone, Jr. (D–NJ) and referred to the Committee on Energy and Commerce. The bill was subsequently referred to the Subcommittee on Environment and Climate Change on May 21, 2021. A legislative hearing was held on May 25, 2021.

The Subcommittee met, pursuant to notice, on June 16, 2021, in virtual open markup session to consider H.R. 3291 and two other bills. During consideration of the bill, an amendment in the nature of a substitute, offered by Representative Tonko, was agreed to by a voice vote. An amendment to the Tonko AINS, offered by Representative Rodgers (R–WA), was defeated by a roll call vote of 8 yeas to 14 nays (ECC roll call no. 1). An amendment to the Tonko AINS, offered by Representative McKinley (R–WV), was defeated by a roll call vote of 8 yeas to 14 nays (ECC roll call no. 2). An amendment to the Tonko AINS, offered by Representative Clarke (D–NY), was agreed to by a voice vote. Representative Tonko, Chairman of the Subcommittee, offered a motion to favorably forward H.R. 3291 to the full Committee on Energy and Commerce, amended. The motion was agreed to by a roll call vote of 14 yeas to 9 nays (ECC roll call no. 3), a quorum being present.

The full Committee met, pursuant to notice, on June 23, 2021, in open markup session to consider H.R. 3291 and two other bills. During consideration of the bill, an amendment in the nature of a substitute, offered by Representative Tonko, was agreed to by a voice vote. An amendment to the Tonko AINS, offered by Representative Rodgers, was defeated by a roll call vote of 23 yeas to 30 nays (roll call no. 29). An amendment to the Tonko AINS, offered by Representative Ruiz (D–CA), was agreed to by a voice vote. An amendment to the Tonko AINS, offered by Representative McKinley, was defeated by a roll call vote of 25 yeas to 31 nays (roll call no. 30). An amendment to the Tonko AINS, offered by Representative Dingell (D–MI), was agreed to by a voice vote. An amendment to the Tonko AINS, offered by Representative Curtis (R–UT), was withdrawn. An amendment to the Tonko AINS, offered by Representative Barragán (D–CA), was agreed to by a voice vote. Representative Pallone, Chairman of the Committee, offered a motion to order H.R. 3291 reported favorably to the House, amended. The motion on final passage was agreed to by a roll call vote of 32 yeas and 24 nays (roll call no. 31), a quorum being present.

## V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list each record vote on the motion to report legislation and amendments thereto. The Committee advises that there were six record votes taken on H.R. 3291, including a motion by Chairman Pallone ordering H.R. 3291 favorably reported to the House, amended. The motion on final passage of the bill was approved by a record vote of 32 yeas to 24 nays. The following are the record votes taken during Committee consideration, including the names of those members voting for and against:

**Committee on Energy and Commerce**
**117th Congress**

**Subcommittee on Environment and Climate Change**
***(ratio: 14-10)***
ROLL CALL VOTE #1

Bill: **H.R. 3291**, the "Assistance, Quality, and Affordability Act of 2021"

Amendment. An amendment to the amendment in the nature of a substitute, offered by Mrs Rodgers of Washington, No 1a

Disposition. **NOT AGREED TO** by a roll call vote of 9 yeas to 14 nays

| REPRESENTATIVE | YEAS | NAYS | PRESENT | REPRESENTATIVE | YEAS | NAYS | PRESENT |
|---|---|---|---|---|---|---|---|
| Mr Tonko | | X | | Mr McKinley | X | | |
| Ms DeGette | | X | | Mr. Johnson | X | | |
| Ms. Schakowsky | | X | | Mr Mullin | X | | |
| Mr Sarbanes | | X | | Mr Hudson | X | | |
| Ms Clarke | | X | | Mr Carter | X | | |
| Mr Ruiz | | X | | Mr Duncan | X | | |
| Mr Peters | | X | | Mr Palmer | X | | |
| Mrs. Dingell | | X | | Mr Curtis | X | | |
| Ms. Barragán | | X | | Mr Crenshaw | | | |
| Mr McEachin | | X | | Mrs Rodgers | X | | |
| Ms Blunt Rochester | | X | | | | | |
| Mr. Soto | | X | | | | | |
| Mr O'Halleran | | X | | | | | |
| Mr Pallone | | X | | | | | |

Committee on Energy and Commerce
**117th Congress**

**Subcommittee on Environment and Climate Change**
***(ratio: 14-10)***
ROLL CALL VOTE #2

Bill **H.R. 3291**, the "Assistance, Quality, and Affordability Act of 2021"

Amendment An amendment to the amendment in the nature of a substitute, offered by Mr. McKinley of West Virginia, No. 1b

Disposition **NOT AGREED TO** by a roll call vote of 8 yeas to 14 nays

| REPRESENTATIVE | YEAS | NAYS | PRESENT | REPRESENTATIVE | YEAS | NAYS | PRESENT |
|---|---|---|---|---|---|---|---|
| Mr Tonko | | X | | Mr. McKinley | X | | |
| Ms. DeGette | | X | | Mr Johnson | X | | |
| Ms. Schakowsky | | X | | Mr Mullin | X | | |
| Mr. Sarbanes | | X | | Mr Hudson | X | | |
| Ms. Clarke | | X | | Mr. Carter | X | | |
| Mr Ruiz | | X | | Mr. Duncan | X | | |
| Mr Peters | | X | | Mr Palmer | X | | |
| Mrs Dingell | | X | | Mr. Curtis | | | |
| Ms Barragán | | X | | Mr Crenshaw | | | |
| Mr. McEachin | | X | | Mrs. Rodgers | X | | |
| Ms Blunt Rochester | | X | | | | | |
| Mr Soto | | X | | | | | |
| Mr O'Halleran | | X | | | | | |
| Mr. Pallone | | X | | | | | |

**Committee on Energy and Commerce**
**117th Congress**

**Subcommittee on Environment and Climate Change**
***(ratio. 14-10)***
ROLL CALL VOTE #3

Bill: **H.R. 3291**, the "Assistance, Quality, and Affordability Act of 2021"

Motion. A motion by Mr. Tonko of New York to order **H.R. 3291** transmitted favorably to the full committee, amended

Disposition. **AGREED TO** by a roll call vote of 14 yeas to 9 nays

| REPRESENTATIVE | YEAS | NAYS | PRESENT | REPRESENTATIVE | YEAS | NAYS | PRESENT |
|---|---|---|---|---|---|---|---|
| Mr. Tonko | X | | | Mr McKinley | | X | |
| Ms. DeGette | X | | | Mr Johnson | | X | |
| Ms. Schakowsky | X | | | Mr Mullin | | X | |
| Mr Sarbanes | X | | | Mr. Hudson | | X | |
| Ms. Clarke | X | | | Mr. Carter | | X | |
| Mr Ruiz | X | | | Mr Duncan | | X | |
| Mr Peters | X | | | Mr Palmer | | X | |
| Mrs. Dingell | X | | | Mr. Curtis | | X | |
| Ms. Barragán | X | | | Mr Crenshaw | | | |
| Mr McEachin | X | | | Mrs Rodgers | | X | |
| Ms Blunt Rochester | X | | | | | | |
| Mr Soto | X | | | | | | |
| Mr. O'Halleran | X | | | | | | |
| Mr. Pallone | X | | | | | | |

Committee on Energy and Commerce
117th Congress

**Full Committee**
*(ratio: 32-26)*
ROLL CALL VOTE #29

Bill: H.R 3291, the "Assistance, Quality, and Affordability Act of 2021"

Amendment. An amendment (FCAMDT7) to the amendment in the nature of a substitute, offered by Mrs. Rodgers of Washington, No 1a

Disposition **NOT AGREED TO** by a roll call vote of 23 yeas to 30 nays

| REPRESENTATIVE | YEAS | NAYS | PRESENT | REPRESENTATIVE | YEAS | NAYS | PRESENT |
|---|---|---|---|---|---|---|---|
| Mr. Pallone | | X | | Mrs. Rodgers | X | | |
| Mr Rush | | X | | Mr Upton | X | | |
| Ms Eshoo | | X | | Mr. Burgess | | | |
| Ms. DeGette | | X | | Mr. Scalise | X | | |
| Mr. Doyle | | X | | Mr. Latta | X | | |
| Ms. Schakowsky | | X | | Mr. Guthrie | X | | |
| Mr Butterfield | | X | | Mr. McKinley | X | | |
| Ms Matsui | | X | | Mr Kinzinger | | | |
| Ms Castor | | X | | Mr. Griffith | | | |
| Mr Sarbanes | | X | | Mr. Bilirakis | X | | |
| Mr. McNerney | | X | | Mr. Johnson | X | | |
| Mr Welch | | X | | Mr. Long | X | | |
| Mr. Tonko | | X | | Mr. Bucshon | X | | |
| Ms Clarke | | X | | Mr Mullin | X | | |
| Mr Schrader | | X | | Mr. Hudson | X | | |
| Mr Cárdenas | | X | | Mr Walberg | X | | |
| Mr Ruiz | | X | | Mr. Carter | X | | |
| Mr Peters | | X | | Mr Duncan | X | | |
| Mrs. Dingell | | X | | Mr Palmer | X | | |
| Mr. Veasey | | | | Mr Dunn | X | | |
| Ms. Kuster | | X | | Mr Curtis | X | | |
| Ms Kelly | | | | Ms. Lesko | X | | |
| Ms Barragán | | X | | Mr. Pence | X | | |
| Mr. McEachin | | X | | Mr Crenshaw | X | | |
| Ms. Blunt Rochester | | X | | Mr Joyce | X | | |
| Mr Soto | | X | | Mr. Armstrong | X | | |
| Mr O'Halleran | | X | | | | | |
| Ms. Rice | | X | | | | | |
| Ms Craig | | X | | | | | |
| Ms Schrier | | X | | | | | |
| Ms. Trahan | | X | | | | | |
| Ms. Fletcher | | X | | | | | |

06/23/21

Committee on Energy and Commerce
117th Congress

**Full Committee**
*(ratio: 32-26)*
ROLL CALL VOTE #30

Bill H.R. 3291, the "Assistance, Quality, and Affordability Act of 2021"

Amendment An amendment (FCAMDT8) to the amendment in the nature of a substitute, offered by Mr McKinley of West Virginia, No 1c

Disposition. **NOT AGREED TO** by a roll call vote of 25 yeas to 31 nays

| REPRESENTATIVE | YEAS | NAYS | PRESENT | REPRESENTATIVE | YEAS | NAYS | PRESENT |
|---|---|---|---|---|---|---|---|
| Mr Pallone | | X | | Mrs. Rodgers | X | | |
| Mr Rush | | X | | Mr Upton | X | | |
| Ms. Eshoo | | X | | Mr. Burgess | | | |
| Ms. DeGette | | X | | Mr Scalise | X | | |
| Mr Doyle | | X | | Mr. Latta | X | | |
| Ms. Schakowsky | | X | | Mr. Guthrie | X | | |
| Mr Butterfield | | X | | Mr McKinley | X | | |
| Ms Matsui | | X | | Mr Kinzinger | X | | |
| Ms. Castor | | X | | Mr Griffith | | | |
| Mr Sarbanes | | X | | Mr. Bilirakis | X | | |
| Mr McNerney | | X | | Mr Johnson | X | | |
| Mr Welch | | X | | Mr Long | X | | |
| Mr Tonko | | X | | Mr Bucshon | X | | |
| Ms. Clarke | | X | | Mr Mullin | X | | |
| Mr Schrader | X | | | Mr Hudson | X | | |
| Mr Cárdenas | | X | | Mr Walberg | X | | |
| Mr. Ruiz | | X | | Mr Carter | X | | |
| Mr Peters | | X | | Mr Duncan | X | | |
| Mrs Dingell | | X | | Mr Palmer | X | | |
| Mr Veasey | | X | | Mr Dunn | X | | |
| Ms Kuster | | X | | Mr Curtis | X | | |
| Ms. Kelly | | X | | Ms. Lesko | X | | |
| Ms. Barragán | | X | | Mr Pence | X | | |
| Mr McEachin | | X | | Mr Crenshaw | X | | |
| Ms Blunt Rochester | | X | | Mr Joyce | X | | |
| Mr. Soto | | X | | Mr. Armstrong | X | | |
| Mr. O'Halleran | | X | | | | | |
| Ms Rice | | X | | | | | |
| Ms Craig | | X | | | | | |
| Ms. Schrier | | X | | | | | |
| Ms. Trahan | | X | | | | | |
| Ms Fletcher | | X | | | | | |

06/23/21

**Committee on Energy and Commerce**
**117th Congress**

**Full Committee**
***(ratio: 32-26)***
ROLL CALL VOTE #31

Bill. H.R 3291, the "Assistance, Quality, and Affordability Act of 2021"

Motion: A motion by Mr Pallone of New Jersey to order **H.R. 3291** transmitted favorably to the House, amended (Final Passage)

Disposition: **AGREED TO** by a roll call vote of 32 yeas to 24 nays

| REPRESENTATIVE | YEAS | NAYS | PRESENT | REPRESENTATIVE | YEAS | NAYS | PRESENT |
|---|---|---|---|---|---|---|---|
| Mr. Pallone | X | | | Mrs. Rodgers | | X | |
| Mr. Rush | X | | | Mr Upton | | X | |
| Ms. Eshoo | X | | | Mr. Burgess | | | |
| Ms DeGette | X | | | Mr Scalise | | X | |
| Mr Doyle | X | | | Mr Latta | | X | |
| Ms. Schakowsky | X | | | Mr. Guthrie | | X | |
| Mr. Butterfield | X | | | Mr. McKinley | | X | |
| Ms. Matsui | X | | | Mr. Kinzinger | | X | |
| Ms. Castor | X | | | Mr. Griffith | | | |
| Mr Sarbanes | X | | | Mr Bilirakis | | X | |
| Mr McNerney | X | | | Mr. Johnson | | X | |
| Mr Welch | X | | | Mr. Long | | X | |
| Mr. Tonko | X | | | Mr Bucshon | | X | |
| Ms. Clarke | X | | | Mr Mullin | | X | |
| Mr Schrader | X | | | Mr. Hudson | | X | |
| Mr Cárdenas | X | | | Mr Walberg | | X | |
| Mr Ruiz | X | | | Mr Carter | | X | |
| Mr. Peters | X | | | Mr Duncan | | X | |
| Mrs. Dingell | X | | | Mr. Palmer | | X | |
| Mr. Veasey | X | | | Mr. Dunn | | X | |
| Ms. Kuster | X | | | Mr Curtis | | X | |
| Ms Kelly | X | | | Ms. Lesko | | X | |
| Ms Barragán | X | | | Mr Pence | | X | |
| Mr. McEachin | X | | | Mr Crenshaw | | X | |
| Ms. Blunt Rochester | X | | | Mr Joyce | | X | |
| Mr Soto | X | | | Mr. Armstrong | | X | |
| Mr. O'Halleran | X | | | | | | |
| Ms Rice | X | | | | | | |
| Ms. Craig | X | | | | | | |
| Ms Schrier | X | | | | | | |
| Ms Trahan | X | | | | | | |
| Ms Fletcher | X | | | | | | |

06/23/21

## VI. Oversight Findings

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee are reflected in the descriptive portion of the report.

## VII. New Budget Authority, Entitlement Authority, and Tax Expenditures

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

## VIII. 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.

## IX. 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 provide assistance for capital improvements to our nation's drinking water infrastructure, replace lead service lines nationwide, improve the resiliency of our water systems to natural and intentional threats, provide assistance to States, territories, water systems, and schools affected by PFAS, lead, and natural disasters, and to require the Environmental Protection Agency to promulgate national primary drinking water regulations for PFAS, microcystin toxin, and 1,4-dioxane.

## X. Duplication of Federal Programs

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 3291 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.

## XI. 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.

## XII. Earmarks, 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. 3291 contains no earmarks, limited tax benefits, or limited tariff benefits.

## XIII. Advisory Committee Statement

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

## XIV. 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.

## XV. Section-by-Section Analysis of the Legislation

*Section 1. Short title; Table of contents*

Section 1 designates that the short title may be cited as the "Assistance, Quality, and Affordability Act of 2021". This section also designates a table of contents.

*Sec. 101. Drinking water system resilience funding*

Section 101 increases and extends the authorization for the Drinking Water System Resilience Funding program.

*Sec. 102. Grants for State programs*

Section 102 increases and extends the authorization for Public Water System Supervision (PWSS) grants to states.

*Sec. 103. American iron and steel products*

Section 103 makes permanent existing requirements for projects receiving funds through the Drinking Water SRF to purchase American-made iron and steel products.

*Sec. 104. Allotments for territories*

Section 104 increases the allotment of Drinking Water SRF funding reserved for the territories from 0.33 percent to 1.5 percent of the aggregate amount available.

*Sec. 105. Drinking water SRF funding*

Section 105 increases and extends the Drinking Water SRF authorization to $52.94 billion from FY 2022 through FY 2031.

*Sec. 106. Lead service line replacement*

Section 106 authorizes $4.5 billion per year from FY 2022 through FY 2031 to replace lead service lines with priority for replacing lines in disadvantaged and environmental justice communities.

*Sec. 107. Drinking water assistance to colonias*

Section 107 authorizes $100 million per year from FY 2022 through FY 2026 for drinking water assistance to colonias.

*Sec. 108. PFAS treatment grants*

Section 108 establishes a grant program under SDWA to aid water utilities to pay capital costs associated with treatment for PFAS.

*Sec. 109. Voluntary school and child care program lead testing grant program*

Section 109 extends the authorization for voluntary school and childcare program lead testing under SDWA Section 1464.

*Sec. 110. Grant program for installation of filtration stations at schools and child care programs*

Section 110 directs the EPA Administrator to establish a grant program to provide assistance to schools to install and maintain filtration systems. This section authorizes $50 million per year from FY 2022 through FY 2031.

*Sec. 111. Drinking water fountain replacement for schools*

Section 111 extends the authorization for the grant program under Section 1465 of SDWA to replace school drinking water fountains that may contain lead.

*Sec. 112. Indian reservation drinking water program*

Section 112 extends the authorization for the Indian Reservation Drinking Water program created under AWIA.

*Sec. 113. Assistance for areas affected by natural disasters*

Section 113 extends the authorization for a program created under AWIA to encourage the extension of drinking water service into underserved areas affected by natural disasters and clarifies that the territories are eligible for the program.

*Sec. 201. Enabling EPA to set standards for new drinking water contaminants*

Section 201 repeals section 1412(b)(6) of SDWA, which authorizes EPA to set national primary drinking water standards at levels that are weaker than what is feasible, to ensure that new drinking water standards are as close to maximum contaminant level goals as feasible.

*Sec. 202. National primary drinking water regulations for PFAS*

Section 202 directs the Administrator to promulgate a national primary drinking water regulation for PFAS that protects the health of vulnerable and disproportionately exposed subpopulations. The standard will include, at a minimum, perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS).

*Sec. 203. National primary drinking water regulations for microcystin toxin*

Section 203 requires the Administrator to publish a MCLG and promulgate a national primary drinking water regulation for microcystin toxin that protects the health of vulnerable and disproportionately exposed subpopulations.

*Sec. 204. National primary drinking water regulations for 1,4-dioxane*

Section 204 directs the Administrator to publish a MCLG and promulgate a national primary drinking water regulation for 1,4-dioxane that protects the health of vulnerable and disproportionately exposed subpopulations.

*Sec. 205. Elimination of small system variances*

Section 205 eliminates small system variances authorized under 1415(e) of SDWA, which allow for the establishment of weaker drinking water standards for small systems.

*Sec. 301. Emergency relief program*

Section 301 directs the Administrator to establish a residential emergency relief program to provide grants to public water systems for the purpose of reducing or eliminating customer debt. The section requires any water system receiving funds to halt all water shut-offs for non-payment for a period of five years after receipt of those funds. It also authorizes $4 billion for the program to remain available until expended.

## XVI. 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 italics, and existing law in which no change is proposed is shown in roman):

## SAFE DRINKING WATER ACT

### TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS

#### SHORT TITLE

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

* * * * * * *

### PART B—PUBLIC WATER SYSTEMS

* * * * * * *

#### NATIONAL DRINKING WATER REGULATIONS

SEC. 1412. (a)(1) Effective on the enactment of the Safe Drinking Water Act Amendments of 1986, each national interim or revised primary drinking water regulation promulgated under this section before such enactment shall be deemed to be a national primary drinking water regulation under subsection (b). No such regulation shall be required to comply with the standards set forth in subsection (b)(4) unless such regulation is amended to establish a different maximum contaminant level after the enactment of such amendments.

(2) After the enactment of the Safe Drinking Water Act Amendments of 1986 each recommended maximum contaminant level

published before the enactment of such amendments shall be treated as a maximum contaminant level goal.

(3) Whenever a national primary drinking water regulation is proposed under subsection (b) for any contaminant, the maximum contaminant level goal for such contaminant shall be proposed simultaneously. Whenever a national primary drinking water regulation is promulgated under subsection (b) for any contaminant, the maximum contaminant level goal for such contaminant shall be published simultaneously.

(4) Paragraph (3) shall not apply to any recommended maximum contaminant level published before the enactment of the Safe Drinking Water Act Amendments of 1986.

(b) STANDARDS.—

(1) IDENTIFICATION OF CONTAMINANTS FOR LISTING.—

(A) GENERAL AUTHORITY.—The Administrator shall, in accordance with the procedures established by this subsection, publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for a contaminant (other than a contaminant referred to in paragraph (2) for which a national primary drinking water regulation has been promulgated as of the date of enactment of the Safe Drinking Water Act Amendments of 1996) if the Administrator determines that—

(i) the contaminant may have an adverse effect on the health of persons;

(ii) the contaminant is known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern; and

(iii) in the sole judgment of the Administrator, regulation of such contaminant presents a meaningful opportunity for health risk reduction for persons served by public water systems.

(B) REGULATION OF UNREGULATED CONTAMINANTS.—

(i) LISTING OF CONTAMINANTS FOR CONSIDERATION.—

(I) Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996 and every 5 years thereafter, the Administrator, after consultation with the scientific community, including the Science Advisory Board, after notice and opportunity for public comment, and after considering the occurrence data base established under section 1445(g), shall publish a list of contaminants which, at the time of publication, are not subject to any proposed or promulgated national primary drinking water regulation, which are known or anticipated to occur in public water systems, and which may require regulation under this title.

(II) The unregulated contaminants considered under subclause (I) shall include, but not be limited to, substances referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and substances registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act.

(III) The Administrator's decision whether or not to select an unregulated contaminant for a list under this clause shall not be subject to judicial review.

(ii) DETERMINATION TO REGULATE.—(I) Not later than 5 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996, and every 5 years thereafter, the Administrator shall, after notice of the preliminary determination and opportunity for public comment, for not fewer than 5 contaminants included on the list published under clause (i), make determinations of whether or not to regulate such contaminants.

(II) A determination to regulate a contaminant shall be based on findings that the criteria of clauses (i), (ii), and (iii) of subparagraph (A) are satisfied. Such findings shall be based on the best available public health information, including the occurrence data base established under section 1445(g).

(III) The Administrator may make a determination to regulate a contaminant that does not appear on a list under clause (i) if the determination to regulate is made pursuant to subclause (II).

(IV) A determination under this clause not to regulate a contaminant shall be considered final agency action and subject to judicial review.

(iii) REVIEW.—Each document setting forth the determination for a contaminant under clause (ii) shall be available for public comment at such time as the determination is published.

(C) PRIORITIES.—In selecting unregulated contaminants for consideration under subparagraph (B), the Administrator shall select contaminants that present the greatest public health concern. The Administrator, in making such selection, shall take into consideration, among other factors of public health concern, the effect of such contaminants upon subgroups that comprise a meaningful portion of the general population (such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations) that are identifiable as being at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population.

(D) URGENT THREATS TO PUBLIC HEALTH.—The Administrator may promulgate an interim national primary drinking water regulation for a contaminant without making a determination for the contaminant under paragraph (4)(C), or completing the analysis under paragraph (3)(C), to address an urgent threat to public health as determined by the Administrator after consultation with and written response to any comments provided by the Secretary of Health and Human Services, acting through the director of the Centers for Disease Control and Prevention or the director of the National Institutes of Health. A determination for any contaminant in accordance with paragraph (4)(C) subject to an interim regulation under this subpara-

graph shall be issued, and a completed analysis meeting the requirements of paragraph (3)(C) shall be published, not later than 3 years after the date on which the regulation is promulgated and the regulation shall be repromulgated, or revised if appropriate, not later than 5 years after that date.

(E) REGULATION.—For each contaminant that the Administrator determines to regulate under subparagraph (B), the Administrator shall publish maximum contaminant level goals and promulgate, by rule, national primary drinking water regulations under this subsection. The Administrator shall propose the maximum contaminant level goal and national primary drinking water regulation for a contaminant not later than 24 months after the determination to regulate under subparagraph (B), and may publish such proposed regulation concurrent with the determination to regulate. The Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation within 18 months after the proposal thereof. The Administrator, by notice in the Federal Register, may extend the deadline for such promulgation for up to 9 months.

(F) HEALTH ADVISORIES AND OTHER ACTIONS.—The Administrator may publish health advisories (which are not regulations) or take other appropriate actions for contaminants not subject to any national primary drinking water regulation.

(2) SCHEDULES AND DEADLINES.—

(A) IN GENERAL.—In the case of the contaminants listed in the Advance Notice of Proposed Rulemaking published in volume 47, Federal Register, page 9352, and in volume 48, Federal Register, page 45502, the Administrator shall publish maximum contaminant level goals and promulgate national primary drinking water regulations—

(i) not later than 1 year after June 19, 1986, for not fewer than 9 of the listed contaminants;

(ii) not later than 2 years after June 19, 1986, for not fewer than 40 of the listed contaminants; and

(iii) not later than 3 years after June 19, 1986, for the remainder of the listed contaminants.

(B) SUBSTITUTION OF CONTAMINANTS.—If the Administrator identifies a drinking water contaminant the regulation of which, in the judgment of the Administrator, is more likely to be protective of public health (taking into account the schedule for regulation under subparagraph (A)) than a contaminant referred to in subparagraph (A), the Administrator may publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for the identified contaminant in lieu of regulating the contaminant referred to in subparagraph (A). Substitutions may be made for not more than 7 contaminants referred to in subparagraph (A). Regulation of a contaminant identified under this subparagraph shall be in accordance with the schedule applicable to the contaminant for which the substitution is made.

(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator shall promulgate an Interim Enhanced Surface Water Treatment Rule, a Final Enhanced Surface Water Treatment Rule, a Stage I Disinfectants and Disinfection Byproducts Rule, and a Stage II Disinfectants and Disinfection Byproducts Rule in accordance with the schedule published in volume 59, Federal Register, page 6361 (February 10, 1994), in table III.13 of the proposed Information Collection Rule. If a delay occurs with respect to the promulgation of any rule in the schedule referred to in this subparagraph, all subsequent rules shall be completed as expeditiously as practicable but no later than a revised date that reflects the interval or intervals for the rules in the schedule.

(3) RISK ASSESSMENT, MANAGEMENT, AND COMMUNICATION.—

(A) USE OF SCIENCE IN DECISIONMAKING.—In carrying out this section, and, to the degree that an Agency action is based on science, the Administrator shall use—

(i) the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

(ii) data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data).

(B) PUBLIC INFORMATION.—In carrying out this section, the Administrator shall ensure that the presentation of information on public health effects is comprehensive, informative, and understandable. The Administrator shall, in a document made available to the public in support of a regulation promulgated under this section, specify, to the extent practicable—

(i) each population addressed by any estimate of public health effects;

(ii) the expected risk or central estimate of risk for the specific populations;

(iii) each appropriate upper-bound or lower-bound estimate of risk;

(iv) each significant uncertainty identified in the process of the assessment of public health effects and studies that would assist in resolving the uncertainty; and

(v) peer-reviewed studies known to the Administrator that support, are directly relevant to, or fail to support any estimate of public health effects and the methodology used to reconcile inconsistencies in the scientific data.

(C) HEALTH RISK REDUCTION AND COST ANALYSIS.—

(i) MAXIMUM CONTAMINANT LEVELS.—When proposing any national primary drinking water regulation that includes a maximum contaminant level, the Administrator shall, with respect to a maximum contaminant level that is being considered in accordance with paragraph (4) and each alternative maximum contaminant level that is being considered pursuant to [paragraph (5) or (6)(A)] *paragraph (5)*, publish, seek public

comment on, and use for the purposes of [paragraphs (4), (5), and (6)] *paragraphs (4) and (5)* an analysis of each of the following:

(I) Quantifiable and nonquantifiable health risk reduction benefits for which there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur as the result of treatment to comply with each level.

(II) Quantifiable and nonquantifiable health risk reduction benefits for which there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur from reductions in co-occurring contaminants that may be attributed solely to compliance with the maximum contaminant level, excluding benefits resulting from compliance with other proposed or promulgated regulations.

(III) Quantifiable and nonquantifiable costs for which there is a factual basis in the rulemaking record to conclude that such costs are likely to occur solely as a result of compliance with the maximum contaminant level, including monitoring, treatment, and other costs and excluding costs resulting from compliance with other proposed or promulgated regulations.

(IV) The incremental costs and benefits associated with each alternative maximum contaminant level considered.

(V) The effects of the contaminant on the general population and on groups within the general population such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that are identified as likely to be at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population.

(VI) Any increased health risk that may occur as the result of compliance, including risks associated with co-occurring contaminants.

(VII) Other relevant factors, including the quality and extent of the information, the uncertainties in the analysis supporting subclauses (I) through (VI), and factors with respect to the degree and nature of the risk.

(ii) TREATMENT TECHNIQUES.—When proposing a national primary drinking water regulation that includes a treatment technique in accordance with paragraph (7)(A), the Administrator shall publish and seek public comment on an analysis of the health risk reduction benefits and costs likely to be experienced as the result of compliance with the treatment technique and alternative treatment techniques that are being considered, taking into account, as appropriate, the factors described in clause (i).

(iii) APPROACHES TO MEASURE AND VALUE BENEFITS.—The Administrator may identify valid approaches for the measurement and valuation of benefits under this subparagraph, including approaches to identify consumer willingness to pay for reductions in health risks from drinking water contaminants.

(iv) AUTHORIZATION.—There are authorized to be appropriated to the Administrator, acting through the Office of Ground Water and Drinking Water, to conduct studies, assessments, and analyses in support of regulations or the development of methods, $35,000,000 for each of fiscal years 1996 through 2003.

(4) GOALS AND STANDARDS.—

(A) MAXIMUM CONTAMINANT LEVEL GOALS.—Each maximum contaminant level goal established under this subsection shall be set at the level at which no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety.

(B) MAXIMUM CONTAMINANT LEVELS.—Except as provided in [paragraphs (5) and (6)] *paragraph (5)*, each national primary drinking water regulation for a contaminant for which a maximum contaminant level goal is established under this subsection shall specify a maximum contaminant level for such contaminant which is as close to the maximum contaminant level goal as is feasible.

(C) DETERMINATION.—At the time the Administrator proposes a national primary drinking water regulation under this paragraph, the Administrator shall publish a determination as to whether the benefits of the maximum contaminant level justify, or do not justify, the costs based on the analysis conducted under paragraph (3)(C).

(D) DEFINITION OF FEASIBLE.—For the purposes of this subsection, the term "feasible" means feasible with the use of the best technology, treatment techniques and other means which the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration). For the purpose of this paragraph, granular activated carbon is feasible for the control of synthetic organic chemicals, and any technology, treatment technique, or other means found to be the best available for the control of synthetic organic chemicals must be at least as effective in controlling synthetic organic chemicals as granular activated carbon.

(E) FEASIBLE TECHNOLOGIES.—

(i) IN GENERAL.—Each national primary drinking water regulation which establishes a maximum contaminant level shall list the technology, treatment techniques, and other means which the Administrator finds to be feasible for purposes of meeting such maximum contaminant level, but a regulation under this subsection shall not require that any specified technology, treatment technique, or other means be used for purposes of meeting such maximum contaminant level.

(ii) LIST OF TECHNOLOGIES FOR SMALL SYSTEMS.—The Administrator shall include in the list any technology, treatment technique, or other means that is affordable, as determined by the Administrator in consultation with the States, for small public water systems serving—

(I) a population of 10,000 or fewer but more than 3,300;

(II) a population of 3,300 or fewer but more than 500; and

(III) a population of 500 or fewer but more than 25;

and that achieves compliance with the maximum contaminant level or treatment technique, including packaged or modular systems and point-of-entry or point-of-use treatment units. Point-of-entry and point-of-use treatment units shall be owned, controlled and maintained by the public water system or by a person under contract with the public water system to ensure proper operation and maintenance and compliance with the maximum contaminant level or treatment technique and equipped with mechanical warnings to ensure that customers are automatically notified of operational problems. The Administrator shall not include in the list any point-of-use treatment technology, treatment technique, or other means to achieve compliance with a maximum contaminant level or treatment technique requirement for a microbial contaminant (or an indicator of a microbial contaminant). If the American National Standards Institute has issued product standards applicable to a specific type of point-of-entry or point-of-use treatment unit, individual units of that type shall not be accepted for compliance with a maximum contaminant level or treatment technique requirement unless they are independently certified in accordance with such standards. In listing any technology, treatment technique, or other means pursuant to this clause, the Administrator shall consider the quality of the source water to be treated.

(iii) LIST OF TECHNOLOGIES THAT ACHIEVE COMPLIANCE.—Except as provided in clause (v), not later than 2 years after the date of enactment of this clause and after consultation with the States, the Administrator shall issue a list of technologies that achieve compliance with the maximum contaminant level or treatment technique for each category of public water systems described in subclauses (I), (II), and (III) of clause (ii) for each national primary drinking water regulation promulgated prior to the date of enactment of this paragraph.

(iv) ADDITIONAL TECHNOLOGIES.—The Administrator may, at any time after a national primary drinking water regulation has been promulgated, supplement the list of technologies describing additional or new or innovative treatment technologies that meet the re-

quirements of this paragraph for categories of small public water systems described in subclauses (I), (II), and (III) of clause (ii) that are subject to the regulation.

(v) TECHNOLOGIES THAT MEET SURFACE WATER TREATMENT RULE.—Within one year after the date of enactment of this clause, the Administrator shall list technologies that meet the Surface Water Treatment Rule for each category of public water systems described in subclauses (I), (II), and (III) of clause (ii).

(5) ADDITIONAL HEALTH RISK CONSIDERATIONS.—

(A) IN GENERAL.—Notwithstanding paragraph (4), the Administrator may establish a maximum contaminant level for a contaminant at a level other than the feasible level, if the technology, treatment techniques, and other means used to determine the feasible level would result in an increase in the health risk from drinking water by—

(i) increasing the concentration of other contaminants in drinking water; or

(ii) interfering with the efficacy of drinking water treatment techniques or processes that are used to comply with other national primary drinking water regulations.

(B) ESTABLISHMENT OF LEVEL.—If the Administrator establishes a maximum contaminant level or levels or requires the use of treatment techniques for any contaminant or contaminants pursuant to the authority of this paragraph—

(i) the level or levels or treatment techniques shall minimize the overall risk of adverse health effects by balancing the risk from the contaminant and the risk from other contaminants the concentrations of which may be affected by the use of a treatment technique or process that would be employed to attain the maximum contaminant level or levels; and

(ii) the combination of technology, treatment techniques, or other means required to meet the level or levels shall not be more stringent than is feasible (as defined in paragraph (4)(D)).

[(6) ADDITIONAL HEALTH RISK REDUCTION AND COST CONSIDERATIONS.—

[(A) IN GENERAL.—Notwithstanding paragraph (4), if the Administrator determines based on an analysis conducted under paragraph (3)(C) that the benefits of a maximum contaminant level promulgated in accordance with paragraph (4) would not justify the costs of complying with the level, the Administrator may, after notice and opportunity for public comment, promulgate a maximum contaminant level for the contaminant that maximizes health risk reduction benefits at a cost that is justified by the benefits.

[(B) EXCEPTION.—The Administrator shall not use the authority of this paragraph to promulgate a maximum contaminant level for a contaminant, if the benefits of compliance with a national primary drinking water regulation for

the contaminant that would be promulgated in accordance with paragraph (4) experienced by—

[(i) persons served by large public water systems; and

[(ii) persons served by such other systems as are unlikely, based on information provided by the States, to receive a variance under section 1415(e) (relating to small system variances);

would justify the costs to the systems of complying with the regulation. This subparagraph shall not apply if the contaminant is found almost exclusively in small systems eligible under section 1415(e) for a small system variance.

[(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator may not use the authority of this paragraph to establish a maximum contaminant level in a Stage I or Stage II national primary drinking water regulation (as described in paragraph (2)(C)) for contaminants that are disinfectants or disinfection byproducts, or to establish a maximum contaminant level or treatment technique requirement for the control of cryptosporidium. The authority of this paragraph may be used to establish regulations for the use of disinfection by systems relying on ground water sources as required by paragraph (8).

[(D) JUDICIAL REVIEW.—A determination by the Administrator that the benefits of a maximum contaminant level or treatment requirement justify or do not justify the costs of complying with the level shall be reviewed by the court pursuant to section 1448 only as part of a review of a final national primary drinking water regulation that has been promulgated based on the determination and shall not be set aside by the court under that section unless the court finds that the determination is arbitrary and capricious.]

(7)(A) The Administrator is authorized to promulgate a national primary drinking water regulation that requires the use of a treatment technique in lieu of establishing a maximum contaminant level, if the Administrator makes a finding that it is not economically or technologically feasible to ascertain the level of the contaminant. In such case, the Administrator shall identify those treatment techniques which, in the Administrator's judgment, would prevent known or anticipated adverse effects on the health of persons to the extent feasible. Such regulations shall specify each treatment technique known to the Administrator which meets the requirements of this paragraph, but the Administrator may grant a variance from any specified treatment technique in accordance with section 1415(a)(3).

(B) Any schedule referred to in this subsection for the promulgation of a national primary drinking water regulation for any contaminant shall apply in the same manner if the regulation requires a treatment technique in lieu of establishing a maximum contaminant level.

(C)(i) Not later than 18 months after the enactment of the Safe Drinking Water Act Amendments of 1986, the Administrator shall propose and promulgate national primary drinking water regulations specifying criteria under which filtration (including coagulation and sedimentation, as appropriate) is required as a treatment

technique for public water systems supplied by surface water sources. In promulgating such rules, the Administrator shall consider the quality of source waters, protection afforded by watershed management, treatment practices (such as disinfection and length of water storage) and other factors relevant to protection of health.

(ii) In lieu of the provisions of section 1415 the Administrator shall specify procedures by which the State determines which public water systems within its jurisdiction shall adopt filtration under the criteria of clause (i). The State may require the public water system to provide studies or other information to assist in this determination. The procedures shall provide notice and opportunity for public hearing on this determination. If the State determines that filtration is required, the State shall prescribe a schedule for compliance by the public water system with the filtration requirement. A schedule shall require compliance within 18 months of a determination made under clause (iii).

(iii) Within 18 months from the time that the Administrator establishes the criteria and procedures under this subparagraph, a State with primary enforcement responsibility shall adopt any necessary regulations to implement this subparagraph. Within 12 months of adoption of such regulations the State shall make determinations regarding filtration for all the public water systems within its jurisdiction supplied by surface waters.

(iv) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to make the determination in clause (ii) in such State as the State would have under that clause. Any filtration requirement or schedule under this subparagraph shall be treated as if it were a requirement of a national primary drinking water regulation.

(v) As an additional alternative to the regulations promulgated pursuant to clauses (i) and (iii), including the criteria for avoiding filtration contained in 40 CFR 141.71, a State exercising primary enforcement responsibility for public water systems may, on a case-by-case basis, and after notice and opportunity for public comment, establish treatment requirements as an alternative to filtration in the case of systems having uninhabited, undeveloped watersheds in consolidated ownership, and having control over access to, and activities in, those watersheds, if the State determines (and the Administrator concurs) that the quality of the source water and the alternative treatment requirements established by the State ensure greater removal or inactivation efficiencies of pathogenic organisms for which national primary drinking water regulations have been promulgated or that are of public health concern than would be achieved by the combination of filtration and chlorine disinfection (in compliance with this section).

(8) DISINFECTION.—At any time after the end of the 3-year period that begins on the date of enactment of the Safe Drinking Water Act Amendments of 1996, but not later than the date on which the Administrator promulgates a Stage II rulemaking for disinfectants and disinfection byproducts (as described in paragraph (2)(C)), the Administrator shall also promulgate national primary drinking water regulations requiring disinfection as a treatment technique for all public water systems, including surface water systems and, as necessary, ground water systems. After consultation with the States, the

Administrator shall (as part of the regulations) promulgate criteria that the Administrator, or a State that has primary enforcement responsibility under section 1413, shall apply to determine whether disinfection shall be required as a treatment technique for any public water system served by ground water. The Administrator shall simultaneously promulgate a rule specifying criteria that will be used by the Administrator (or delegated State authorities) to grant variances from this requirement according to the provisions of sections 1415(a)(1)(B) and 1415(a)(3). In implementing section 1442(e) the Administrator or the delegated State authority shall, where appropriate, give special consideration to providing technical assistance to small public water systems in complying with the regulations promulgated under this paragraph.

(9) REVIEW AND REVISION.—The Administrator shall, not less often than every 6 years, review and revise, as appropriate, each national primary drinking water regulation promulgated under this title. Any revision of a national primary drinking water regulation shall be promulgated in accordance with this section, except that each revision shall maintain, or provide for greater, protection of the health of persons.

(10) EFFECTIVE DATE.—A national primary drinking water regulation promulgated under this section (and any amendment thereto) shall take effect on the date that is 3 years after the date on which the regulation is promulgated unless the Administrator determines that an earlier date is practicable, except that the Administrator, or a State (in the case of an individual system), may allow up to 2 additional years to comply with a maximum contaminant level or treatment technique if the Administrator or State (in the case of an individual system) determines that additional time is necessary for capital improvements.

(11) No national primary drinking water regulation may require the addition of any substance for preventive health care purposes unrelated to contamination of drinking water.

(12) CERTAIN CONTAMINANTS.—

(A) ARSENIC.—

(i) SCHEDULE AND STANDARD.—Notwithstanding the deadlines set forth in paragraph (1), the Administrator shall promulgate a national primary drinking water regulation for arsenic pursuant to this subsection, in accordance with the schedule established by this paragraph.

(ii) STUDY PLAN.—Not later than 180 days after the date of enactment of this paragraph, the Administrator shall develop a comprehensive plan for study in support of drinking water rulemaking to reduce the uncertainty in assessing health risks associated with exposure to low levels of arsenic. In conducting such study, the Administrator shall consult with the National Academy of Sciences, other Federal agencies, and interested public and private entities.

(iii) COOPERATIVE AGREEMENTS.—In carrying out the study plan, the Administrator may enter into cooperative agreements with other Federal agencies, State

and local governments, and other interested public and private entities.

(iv) PROPOSED REGULATIONS.—The Administrator shall propose a national primary drinking water regulation for arsenic not later than January 1, 2000.

(v) FINAL REGULATIONS.—Not later than January 1, 2001, after notice and opportunity for public comment, the Administrator shall promulgate a national primary drinking water regulation for arsenic.

(vi) AUTHORIZATION.—There are authorized to be appropriated $2,500,000 for each of fiscal years 1997 through 2000 for the studies required by this paragraph.

(B) SULFATE.—

(i) ADDITIONAL STUDY.—Prior to promulgating a national primary drinking water regulation for sulfate, the Administrator and the Director of the Centers for Disease Control and Prevention shall jointly conduct an additional study to establish a reliable dose-response relationship for the adverse human health effects that may result from exposure to sulfate in drinking water, including the health effects that may be experienced by groups within the general population (including infants and travelers) that are potentially at greater risk of adverse health effects as the result of such exposure. The study shall be conducted in consultation with interested States, shall be based on the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices, and shall be completed not later than 30 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996.

(ii) DETERMINATION.—The Administrator shall include sulfate among the 5 or more contaminants for which a determination is made pursuant to paragraph (3)(B) not later than 5 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996.

(iii) PROPOSED AND FINAL RULE.—Notwithstanding the deadlines set forth in paragraph (2), the Administrator may, pursuant to the authorities of this subsection and after notice and opportunity for public comment, promulgate a final national primary drinking water regulation for sulfate. Any such regulation shall include requirements for public notification and options for the provision of alternative water supplies to populations at risk as a means of complying with the regulation in lieu of a best available treatment technology or other means.

(13) RADON IN DRINKING WATER.—

(A) NATIONAL PRIMARY DRINKING WATER REGULATION.—Notwithstanding paragraph (2), the Administrator shall withdraw any national primary drinking water regulation for radon proposed prior to the date of enactment of this paragraph and shall propose and promulgate a regulation

for radon under this section, as amended by the Safe Drinking Water Act Amendments of 1996.

(B) RISK ASSESSMENT AND STUDIES.—

(i) ASSESSMENT BY NAS.—Prior to proposing a national primary drinking water regulation for radon, the Administrator shall arrange for the National Academy of Sciences to prepare a risk assessment for radon in drinking water using the best available science in accordance with the requirements of paragraph (3). The risk assessment shall consider each of the risks associated with exposure to radon from drinking water and consider studies on the health effects of radon at levels and under conditions likely to be experienced through residential exposure. The risk assessment shall be peer-reviewed.

(ii) STUDY OF OTHER MEASURES.—The Administrator shall arrange for the National Academy of Sciences to prepare an assessment of the health risk reduction benefits associated with various mitigation measures to reduce radon levels in indoor air. The assessment may be conducted as part of the risk assessment authorized by clause (i) and shall be used by the Administrator to prepare the guidance and approve State programs under subparagraph (G).

(iii) OTHER ORGANIZATION.—If the National Academy of Sciences declines to prepare the risk assessment or studies required by this subparagraph, the Administrator shall enter into a contract or cooperative agreement with another independent, scientific organization to prepare such assessments or studies.

(C) HEALTH RISK REDUCTION AND COST ANALYSIS.—Not later than 30 months after the date of enactment of this paragraph, the Administrator shall publish, and seek public comment on, a health risk reduction and cost analysis meeting the requirements of paragraph (3)(C) for potential maximum contaminant levels that are being considered for radon in drinking water. The Administrator shall include a response to all significant public comments received on the analysis with the preamble for the proposed rule published under subparagraph (D).

(D) PROPOSED REGULATION.—Not later than 36 months after the date of enactment of this paragraph, the Administrator shall propose a maximum contaminant level goal and a national primary drinking water regulation for radon pursuant to this section.

(E) FINAL REGULATION.—Not later than 12 months after the date of the proposal under subparagraph (D), the Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for radon pursuant to this section based on the risk assessment prepared pursuant to subparagraph (B) and the health risk reduction and cost analysis published pursuant to subparagraph (C). In considering the risk assessment and the health risk reduction and cost analysis in connection with the promulgation of such a standard,

the Administrator shall take into account the costs and benefits of control programs for radon from other sources.

(F) ALTERNATIVE MAXIMUM CONTAMINANT LEVEL.—If the maximum contaminant level for radon in drinking water promulgated pursuant to subparagraph (E) is more stringent than necessary to reduce the contribution to radon in indoor air from drinking water to a concentration that is equivalent to the national average concentration of radon in outdoor air, the Administrator shall, simultaneously with the promulgation of such level, promulgate an alternative maximum contaminant level for radon that would result in a contribution of radon from drinking water to radon levels in indoor air equivalent to the national average concentration of radon in outdoor air. If the Administrator promulgates an alternative maximum contaminant level under this subparagraph, the Administrator shall, after notice and opportunity for public comment and in consultation with the States, publish guidelines for State programs, including criteria for multimedia measures to mitigate radon levels in indoor air, to be used by the States in preparing programs under subparagraph (G). The guidelines shall take into account data from existing radon mitigation programs and the assessment of mitigation measures prepared under subparagraph (B).

(G) MULTIMEDIA RADON MITIGATION PROGRAMS.—

(i) IN GENERAL.—A State may develop and submit a multimedia program to mitigate radon levels in indoor air for approval by the Administrator under this subparagraph. If, after notice and the opportunity for public comment, such program is approved by the Administrator, public water systems in the State may comply with the alternative maximum contaminant level promulgated under subparagraph (F) in lieu of the maximum contaminant level in the national primary drinking water regulation promulgated under subparagraph (E).

(ii) ELEMENTS OF PROGRAMS.—State programs may rely on a variety of mitigation measures including public education, testing, training, technical assistance, remediation grant and loan or incentive programs, or other regulatory or nonregulatory measures. The effectiveness of elements in State programs shall be evaluated by the Administrator based on the assessment prepared by the National Academy of Sciences under subparagraph (B) and the guidelines published by the Administrator under subparagraph (F).

(iii) APPROVAL.—The Administrator shall approve a State program submitted under this paragraph if the health risk reduction benefits expected to be achieved by the program are equal to or greater than the health risk reduction benefits that would be achieved if each public water system in the State complied with the maximum contaminant level promulgated under subparagraph (E). The Administrator shall approve or dis-

approve a program submitted under this paragraph within 180 days of receipt. A program that is not disapproved during such period shall be deemed approved. A program that is disapproved may be modified to address the objections of the Administrator and be resubmitted for approval.

(iv) REVIEW.—The Administrator shall periodically, but not less often than every 5 years, review each multimedia mitigation program approved under this subparagraph to determine whether it continues to meet the requirements of clause (iii) and shall, after written notice to the State and an opportunity for the State to correct any deficiency in the program, withdraw approval of programs that no longer comply with such requirements.

(v) EXTENSION.—If, within 90 days after the promulgation of an alternative maximum contaminant level under subparagraph (F), the Governor of a State submits a letter to the Administrator committing to develop a multimedia mitigation program under this subparagraph, the effective date of the national primary drinking water regulation for radon in the State that would be applicable under paragraph (10) shall be extended for a period of 18 months.

(vi) LOCAL PROGRAMS.—In the event that a State chooses not to submit a multimedia mitigation program for approval under this subparagraph or has submitted a program that has been disapproved, any public water system in the State may submit a program for approval by the Administrator according to the same criteria, conditions, and approval process that would apply to a State program. The Administrator shall approve a multimedia mitigation program if the health risk reduction benefits expected to be achieved by the program are equal to or greater than the health risk reduction benefits that would result from compliance by the public water system with the maximum contaminant level for radon promulgated under subparagraph (E).

(14) RECYCLING OF FILTER BACKWASH.—The Administrator shall promulgate a regulation to govern the recycling of filter backwash water within the treatment process of a public water system. The Administrator shall promulgate such regulation not later than 4 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996 unless such recycling has been addressed by the Administrator's Enhanced Surface Water Treatment Rule prior to such date.

(15) VARIANCE TECHNOLOGIES.—

(A) IN GENERAL.—At the same time as the Administrator promulgates a national primary drinking water regulation for a contaminant pursuant to this section, the Administrator shall issue guidance or regulations describing the best treatment technologies, treatment techniques, or other means (referred to in this paragraph as "variance technology") for the contaminant that the Administrator

finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available and affordable, as determined by the Administrator in consultation with the States, for public water systems of varying size, considering the quality of the source water to be treated. The Administrator shall identify such variance technologies for public water systems serving—

(i) a population of 10,000 or fewer but more than 3,300;

(ii) a population of 3,300 or fewer but more than 500; and

(iii) a population of 500 or fewer but more than 25, if, considering the quality of the source water to be treated, no treatment technology is listed for public water systems of that size under paragraph (4)(E). Variance technologies identified by the Administrator pursuant to this paragraph may not achieve compliance with the maximum contaminant level or treatment technique requirement of such regulation, but shall achieve the maximum reduction or inactivation efficiency that is affordable considering the size of the system and the quality of the source water. The guidance or regulations shall not require the use of a technology from a specific manufacturer or brand.

(B) LIMITATION.—The Administrator shall not identify any variance technology under this paragraph, unless the Administrator has determined, considering the quality of the source water to be treated and the expected useful life of the technology, that the variance technology is protective of public health.

(C) ADDITIONAL INFORMATION.—The Administrator shall include in the guidance or regulations identifying variance technologies under this paragraph any assumptions supporting the public health determination referred to in subparagraph (B), where such assumptions concern the public water system to which the technology may be applied, or its source waters. The Administrator shall provide any assumptions used in determining affordability, taking into consideration the number of persons served by such systems. The Administrator shall provide as much reliable information as practicable on performance, effectiveness, limitations, costs, and other relevant factors including the applicability of variance technology to waters from surface and underground sources.

[(D) REGULATIONS AND GUIDANCE.—Not later than 2 years after the date of enactment of this paragraph and after consultation with the States, the Administrator shall issue guidance or regulations under subparagraph (A) for each national primary drinking water regulation promulgated prior to the date of enactment of this paragraph for which a variance may be granted under section 1415(e). The Administrator may, at any time after a national primary drinking water regulation has been promulgated, issue guidance or regulations describing additional variance technologies. The Administrator shall, not less often than every 7 years, or upon receipt of a petition supported

by substantial information, review variance technologies identified under this paragraph. The Administrator shall issue revised guidance or regulations if new or innovative variance technologies become available that meet the requirements of this paragraph and achieve an equal or greater reduction or inactivation efficiency than the variance technologies previously identified under this subparagraph. No public water system shall be required to replace a variance technology during the useful life of the technology for the sole reason that a more efficient variance technology has been listed under this subparagraph.]

*(16) PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES.—*

*(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall, after notice and opportunity for public comment, promulgate a national primary drinking water regulation for perfluoroalkyl and polyfluoroalkyl substances, which shall, at a minimum, include standards for—*

*(i) perfluorooctanoic acid (commonly referred to as "PFOA"); and*

*(ii) perfluorooctane sulfonic acid (commonly referred to as "PFOS").*

*(B) ALTERNATIVE PROCEDURES.—*

*(i) IN GENERAL.—Not later than 1 year after the validation by the Administrator of an equally effective quality control and testing procedure to ensure compliance with the national primary drinking water regulation promulgated under subparagraph (A) to measure the levels described in clause (ii) or other methods to detect and monitor perfluoroalkyl and polyfluoroalkyl substances in drinking water, the Administrator shall add the procedure or method as an alternative to the quality control and testing procedure described in such national primary drinking water regulation by publishing the procedure or method in the Federal Register in accordance with section 1401(1)(D).*

*(ii) LEVELS DESCRIBED.—The levels referred to in clause (i) are—*

*(I) the level of a perfluoroalkyl or polyfluoroalkyl substance;*

*(II) the total levels of perfluoroalkyl and polyfluoroalkyl substances; and*

*(III) the total levels of organic fluorine.*

*(C) INCLUSIONS.—The Administrator may include a perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances on—*

*(i) the list of contaminants for consideration of regulation under paragraph (1)(B)(i), in accordance with such paragraph; and*

*(ii) the list of unregulated contaminants to be monitored under section 1445(a)(2)(B)(i), in accordance with such section.*

*(D) MONITORING.—When establishing monitoring requirements for public water systems as part of a national primary drinking water regulation under subparagraph (A)*

*or subparagraph (G)(ii), the Administrator shall tailor the monitoring requirements for public water systems that do not detect or are reliably and consistently below the maximum contaminant level (as defined in section 1418(b)(2)(B)) for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances subject to the national primary drinking water regulation.*

*(E) HEALTH PROTECTION.—The national primary drinking water regulation promulgated under subparagraph (A) shall be protective of the health of subpopulations at greater risk, as described in section 1458.*

*(F) HEALTH RISK REDUCTION AND COST ANALYSIS.—In meeting the requirements of paragraph (3)(C), the Administrator may rely on information available to the Administrator with respect to one or more specific perfluoroalkyl or polyfluoroalkyl substances to extrapolate reasoned conclusions regarding the health risks and effects of a class of perfluoroalkyl or polyfluoroalkyl substances of which the specific perfluoroalkyl or polyfluoroalkyl substances are a part.*

*(G) REGULATION OF ADDITIONAL SUBSTANCES.—*

*(i) DETERMINATION.—The Administrator shall make a determination under paragraph (1)(A), using the criteria described in clauses (i) through (iii) of that paragraph, whether to include a perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances in the national primary drinking water regulation under subparagraph (A) not later than 18 months after the later of—*

*(I) the date on which the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances is listed on the list of contaminants for consideration of regulation under paragraph (1)(B)(i); and*

*(II) the date on which—*

*(aa) the Administrator has received the results of monitoring under section 1445(a)(2)(B) for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances; or*

*(bb) the Administrator has received reliable water data or water monitoring surveys for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances from a Federal or State agency that the Administrator determines to be of a quality sufficient to make a determination under paragraph (1)(A).*

*(ii) PRIMARY DRINKING WATER REGULATIONS.—*

*(I) IN GENERAL.—For each perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances that the Administrator determines to regulate under clause (i), the Administrator—*

*(aa) not later than 18 months after the date on which the Administrator makes the determination, shall propose a national primary drinking water regulation for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances; and*

*(bb) may publish the proposed national primary drinking water regulation described in item (aa) concurrently with the publication of the determination to regulate the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances.*

*(II) DEADLINE.—*

*(aa) IN GENERAL.—Not later than 1 year after the date on which the Administrator publishes a proposed national primary drinking water regulation under clause (i)(I) and subject to item (bb), the Administrator shall take final action on the proposed national primary drinking water regulation.*

*(bb) EXTENSION.—The Administrator, on publication of notice in the Federal Register, may extend the deadline under item (aa) by not more than 6 months.*

*(H) HEALTH ADVISORY.—*

*(i) IN GENERAL.—Subject to clause (ii), the Administrator shall publish a health advisory under paragraph (1)(F) for a perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances not subject to a national primary drinking water regulation not later than 1 year after the later of—*

*(I) the date on which the Administrator finalizes a toxicity value for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances; and*

*(II) the date on which the Administrator validates an effective quality control and testing procedure for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances.*

*(ii) WAIVER.—The Administrator may waive the requirements of clause (i) with respect to a perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl and polyfluoroalkyl substances if the Administrator determines that there is a substantial likelihood that the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances will not occur in drinking water with sufficient frequency to justify the publication of a health advisory, and publishes such determination, including the information and analysis used, and basis for, such determination, in the Federal Register.*

*(17) MICROCYSTIN TOXIN.—*

*(A) IN GENERAL.—Notwithstanding any other deadline established in this subsection, not later than 2 years after the date of enactment of the Assistance, Quality, and Affordability Act of 2021, the Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for microcystin toxin.*

*(B) HEALTH PROTECTION.—The maximum contaminant level goal and national primary drinking water regulation promulgated under subparagraph (A) shall be protective of the health of subpopulations at greater risk, as described in section 1458.*

*(18) 1,4–DIOXANE.—*

*(A) IN GENERAL.—Notwithstanding any other deadline established in this subsection, not later than 2 years after the date of enactment of the Assistance, Quality, and Affordability Act of 2021, the Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for 1,4–dioxane.*

*(B) HEALTH PROTECTION.—The maximum contaminant level goal and national primary drinking water regulation promulgated under subparagraph (A) shall be protective of the health of subpopulations at greater risk, as described in section 1458.*

(c) The Administrator shall publish proposed national secondary drinking water regulations within 270 days after the date of enactment of this title. Within 90 days after publication of any such regulation, he shall promulgate such regulation with such modifications as he deems appropriate. Regulations under this subsection may be amended from time to time.

(d) Regulations under this section shall be prescribed in accordance with section 553 of title 5, United States Code (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary and the National Drinking Water Advisory Council.

(e) The Administrator shall request comments from the Science Advisory Board (established under the Environmental Research, Development, and Demonstration Act of 1978) prior to proposal of a maximum contaminant level goal and national primary drinking water regulation. The Board shall respond, as it deems appropriate, within the time period applicable for promulgation of the national primary drinking water standard concerned. This subsection shall, under no circumstances, be used to delay final promulgation of any national primary drinking water standard.

* * * * * * *

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)] *or (a)(2)* 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 suc-

cessor 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) 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, 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 date of enactment of America's Water Infrastructure Act of 2018, 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 af-

fected 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 con-

sult, 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;

(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.—

(A) AUTHORITY.—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), or other actions expected to achieve compliance with national primary drinking water regulations described in clause (i)(I), if—

(i) the public water system—

(I) has repeatedly violated one or more national primary drinking water regulations and such re-

peated violations are likely to adversely affect human health; and

(II)(aa) is unable or unwilling to take feasible and affordable actions, as determined 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, transfer, or other action is feasible; and

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

(B) TAILORING OF ASSESSMENTS.—Requirements for any assessment to be conducted pursuant to subparagraph (A) shall be tailored with respect to the size, type, and characteristics, of the public water system to be assessed.

(C) APPROVED ENTITIES.—An assessment conducted pursuant to subparagraph (A) may be conducted by an entity approved by the State requiring such assessment (or the Administrator, if the State does not have primary enforcement responsibility), which may include such State (or the Administrator, as applicable), the public water system, or a third party.

(D) BURDEN OF ASSESSMENTS.—It is the sense of Congress that any assessment required pursuant to subparagraph (A) should not be overly burdensome on the public water system that is assessed.

(4) FINANCIAL ASSISTANCE.—Notwithstanding section 1452(a)(3), a public water system undertaking consolidation or transfer of ownership or other actions pursuant to an assessment completed under paragraph (3) may receive a loan described in section 1452(a)(2)(A) to carry out such consolidation, transfer, or other action.

(5) PROTECTION OF NONRESPONSIBLE SYSTEM.—

(A) IDENTIFICATION OF LIABILITIES.—

(i) IN GENERAL.—An owner or operator of a public water system that submits a plan pursuant to paragraph (1) based on an assessment conducted with respect to such public water system under paragraph (3) shall identify as part of such plan—

(I) any potential and existing liability for penalties and 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 and existing liabilities for penalties and damages arising from each specific violation identified in the plan are identified.

(B) RESERVATION OF FUNDS.—A public water system that, consistent with the findings of an assessment conducted pursuant to paragraph (3), has completed the actions under a plan submitted and approved pursuant to this subsection 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 America's Water Infrastructure Act of 2018, 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 (including States without primary enforcement responsibility under section 1413), 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.

VARIANCES

SEC. 1415. (a) Notwithstanding any other provision of this part, variances from national primary drinking water regulations may be granted as follows:

(1)(A) A State which has primary enforcement responsibility for public water systems may grant one or more variances from an applicable national primary drinking water regulation to one or more public water systems within its jurisdiction which, because of characteristics of the raw water sources which are reasonably available to the systems, cannot meet the requirements respecting the maximum contaminant levels of such drinking water regulation. A variance may be issued to a system on condition that the system install the best technology, treatment techniques, or other means, which the Administrator finds are available (taking costs into consideration), and based upon an evaluation satisfactory to the State that indicates that alternative sources of water are not reasonably available to the system. The Administrator shall propose and promulgate his finding of the best available technology, treatment techniques or other means available for each contaminant for purposes of this subsection at the time he proposes and promulgates a maximum contaminant level for each such contaminant. The Administrator's finding of best available technology, treatment techniques or other means for purposes of this subsection may vary depending on the number of persons served by the system or for other physical conditions related to engineering feasibility and costs of compliance with maximum contaminant levels as considered approprate by Administrator. Before a State may grant a variance under this subparagraph, the State must find that the variance will not result in an unreasonable risk to health. If a State grants a public water system a variance under this subparagraph, the State shall prescribe at the the time the variance is granted, a schedule for—

(i) compliance (including increments of progress) by the public water system with each contaminant level requirement with respect to which the variance was granted, and

(ii) implementation by the public water system of such additional control measures as the State may require for each contaminant, subject to such contaminant level re-

quirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subparagraph may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice. A schedule prescribed pursuant to this subparagraph for a public water system granted a variance shall require compliance by the system with each contaminant level requirement with respect to which the variance was granted as expeditiously as practicable (as the State may reasonably determine).

(B) A State which has primary enforcement responsibility for public water systems may grant to one or more public water systems within its jurisdiction one or more variances from any provision of a national primary drinking water regulation which requires the use of a specified treatment technique with respect to a contaminant if the public water system applying for the variance demonstrates to the satisfaction of the State that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system. A variance granted under this subparagraph shall be conditioned on such monitoring and other requirements as the Administrator may prescribe.

(C) Before a variance proposed to be granted by a State under subparagraph (A) or (B) may take effect, such State shall provide notice and opportunity for public hearing on the proposed variance. A notice given pursuant to the preceding sentence may cover the granting of more than one variance and a hearing held pursuant to such notice shall include each of the variances covered by the notice. The State shall promptly notify the Administrator of all variances granted by it. Such notification shall contain the reason for the variance (and in the case of a variance under subparagraph (A), the basis for the finding required by that subparagraph before the granting of the variance) and documentation of the need for the variance.

(D) Each public water system's variance granted by a State under subparagraph (A) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to that subparagraph. The requirements of each schedule prescribed by a State pursuant to that subparagraph shall be enforceable by the State under its laws. Any requirement of a schedule on which a variance granted under that subparagraph is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.

(E) Each schedule prescribed by a State pursuant to subparagraph (A) shall be deemed approved by the Administrator unless the variance for which it was prescribed is revoked by the Administrator under such subparagraph.

(F) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Ad-

ministrator shall complete a comprehensive review of the variances granted under subparagraph (A) (and schedules prescribed pursuant thereto) and under subparagraph (B) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of variances and schedules as he deems necessary to carry out the purposes of this title, but each subsequent review shall be completed within each 3-year period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the Administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (i) provide information respecting the location of data and other information respecting the variances to be reviewed (including data and other information concerning new scientific matters bearing on such variances), and (ii) advise of the opportunity to submit comments on the variances reviewed and on the need for continuing them. Upon completion of any such review, the Administrator shall publish in the Federal Register the results of his review together with findings responsive to comments submitted in connection with such review.

(G)(i) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting variances under subparagraph (A) or (B) or that in a substantial number of cases the State has failed to prescribe schedules in accordance with subparagraph (A), the Administrator shall notify the State of his findings. In determining if a State has abused its discretion in granting variances in a substantial number of instances, the Administrator shall consider the number of persons who are affected by the variances and if the requirements applicable to the granting of the variances were complied with. A notice under this clause shall—

(I) identify each public water system with respect to which the finding was made,

(II) specify the reasons for the finding, and

(III) as appropriate, propose revocations of specific variances or propose revised schedules or other requirements for specific public water systems granted variances, or both.

(ii) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to clause (i) of this subparagraph. After a hearing on a notice pursuant to such clause, the Administrator shall (I) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (II) promulgate (with such modifications as he deems appropriate) such variance revocations and revised schedules or other requirements proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to clause (i) of this subparagraph, the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

(iii) If a State is notified under clause (i) of this subparagraph of a finding of the Administrator made with respect to a variance granted a public water system within that State or to a schedule or other requirement for a variance and if, before

a revocation of such variance or a revision of such schedule or other requirement promulgated by the Administrator takes effect, the State takes corrective action with respect to such variance or schedule or other requirement which the Administrator determines makes his finding inapplicable to such variance or schedule or other requirement, the Administrator shall rescind the application of his finding to that variance or schedule or other requirement. No variance revocation or revised schedule or other requirement may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule or other requirement was proposed.

(2) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to grant variances in such State as the State would have under paragraph (1) if it had primary enforcement responsibility.

(3) The Administrator may grant a variance from any treatment technique requirement of a national primary drinking water regulation upon a showing by any person that an alternative treatment technique not included in such requirement is at least as efficient in lowering the level of the contaminant with respect to which such requirement was prescribed. A variance under this paragraph shall be conditioned on the use of the alternative treatment technique which is the basis of the variance.

(b) Any schedule or other requirement on which a variance granted under paragraph (1)(B) or (2) of subsection (a) is conditioned may be enforced under section 1414 as if such schedule or other requirement was part of a national primary drinking water regulation.

(c) If an application for a variance under subsection (a) is made, the State receiving the application or the Administrator, as the case may be, shall act upon such application within a reasonable period (as determined under regulations prescribed by the Administrator) after the date of its submission.

(d) For purposes of this section, the term "treatment technique requirement" means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b).

[(e) SMALL SYSTEM VARIANCES.—

[(1) IN GENERAL.—A State exercising primary enforcement responsibility for public water systems under section 1413 (or the Administrator in nonprimacy States) may grant a variance under this subsection for compliance with a requirement specifying a maximum contaminant level or treatment technique contained in a national primary drinking water regulation to—

[(A) public water systems serving 3,300 or fewer persons; and

[(B) with the approval of the Administrator pursuant to paragraph (9), public water systems serving more than 3,300 persons but fewer than 10,000 persons,

if the variance meets each requirement of this subsection.

[(2) AVAILABILITY OF VARIANCES.—A public water system may receive a variance pursuant to paragraph (1), if—

[(A) the Administrator has identified a variance technology under section 1412(b)(15) that is applicable to the size and source water quality conditions of the public water system;

[(B) the public water system installs, operates, and maintains, in accordance with guidance or regulations issued by the Administrator, such treatment technology, treatment technique, or other means; and

[(C) the State in which the system is located determines that the conditions of paragraph (3) are met.

[(3) CONDITIONS FOR GRANTING VARIANCES.—A variance under this subsection shall be available only to a system—

[(A) that cannot afford to comply, in accordance with affordability criteria established by the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413), with a national primary drinking water regulation, including compliance through—

[(i) treatment;

[(ii) alternative source of water supply; or

[(iii) restructuring or consolidation (unless the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) makes a written determination that restructuring or consolidation is not practicable); and

[(B) for which the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) determines that the terms of the variance ensure adequate protection of human health, considering the quality of the source water for the system and the removal efficiencies and expected useful life of the treatment technology required by the variance.

[(4) COMPLIANCE SCHEDULES.—A variance granted under this subsection shall require compliance with the conditions of the variance not later than 3 years after the date on which the variance is granted, except that the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) may allow up to 2 additional years to comply with a variance technology, secure an alternative source of water, restructure or consolidate if the Administrator (or the State) determines that additional time is necessary for capital improvements, or to allow for financial assistance provided pursuant to section 1452 or any other Federal or State program.

[(5) DURATION OF VARIANCES.—The Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) shall review each variance granted under this subsection not less often than every 5 years after the compliance date established in the variance to determine whether the system remains eligible for the variance and is conforming to each condition of the variance.

[(6) INELIGIBILITY FOR VARIANCES.—A variance shall not be available under this subsection for—

[(A) any maximum contaminant level or treatment technique for a contaminant with respect to which a national primary drinking water regulation was promulgated prior to January 1, 1986; or

[(B) a national primary drinking water regulation for a microbial contaminant (including a bacterium, virus, or other organism) or an indicator or treatment technique for a microbial contaminant.

[(7) REGULATIONS AND GUIDANCE.—

[(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection and in consultation with the States, the Administrator shall promulgate regulations for variances to be granted under this subsection. The regulations shall, at a minimum, specify—

[(i) procedures to be used by the Administrator or a State to grant or deny variances, including requirements for notifying the Administrator and consumers of the public water system that a variance is proposed to be granted (including information regarding the contaminant and variance) and requirements for a public hearing on the variance before the variance is granted;

[(ii) requirements for the installation and proper operation of variance technology that is identified (pursuant to section 1412(b)(15)) for small systems and the financial and technical capability to operate the treatment system, including operator training and certification;

[(iii) eligibility criteria for a variance for each national primary drinking water regulation, including requirements for the quality of the source water (pursuant to section 1412(b)(15)(A)); and

[(iv) information requirements for variance applications.

[(B) AFFORDABILITY CRITERIA.—Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996, the Administrator, in consultation with the States and the Rural Utilities Service of the Department of Agriculture, shall publish information to assist the States in developing affordability criteria. The affordability criteria shall be reviewed by the States not less often than every 5 years to determine if changes are needed to the criteria.

[(8) REVIEW BY THE ADMINISTRATOR.—

[(A) IN GENERAL.—The Administrator shall periodically review the program of each State that has primary enforcement responsibility for public water systems under section 1413 with respect to variances to determine whether the variances granted by the State comply with the requirements of this subsection. With respect to affordability, the determination of the Administrator shall be limited to whether the variances granted by the State comply with the affordability criteria developed by the State.

[(B) NOTICE AND PUBLICATION.—If the Administrator determines that variances granted by a State are not in com-

pliance with affordability criteria developed by the State and the requirements of this subsection, the Administrator shall notify the State in writing of the deficiencies and make public the determination.

[(9) APPROVAL OF VARIANCES.—A State proposing to grant a variance under this subsection to a public water system serving more than 3,300 and fewer than 10,000 persons shall submit the variance to the Administrator for review and approval prior to the issuance of the variance. The Administrator shall approve the variance if it meets each of the requirements of this subsection. The Administrator shall approve or disapprove the variance within 90 days. If the Administrator disapproves a variance under this paragraph, the Administrator shall notify the State in writing of the reasons for disapproval and the variance may be resubmitted with modifications to address the objections stated by the Administrator.

[(10) OBJECTIONS TO VARIANCES.—

[(A) BY THE ADMINISTRATOR.—The Administrator may review and object to any variance proposed to be granted by a State, if the objection is communicated to the State not later than 90 days after the State proposes to grant the variance. If the Administrator objects to the granting of a variance, the Administrator shall notify the State in writing of each basis for the objection and propose a modification to the variance to resolve the concerns of the Administrator. The State shall make the recommended modification or respond in writing to each objection. If the State issues the variance without resolving the concerns of the Administrator, the Administrator may overturn the State decision to grant the variance if the Administrator determines that the State decision does not comply with this subsection.

[(B) PETITION BY CONSUMERS.—Not later than 30 days after a State exercising primary enforcement responsibility for public water systems under section 1413 proposes to grant a variance for a public water system, any person served by the system may petition the Administrator to object to the granting of a variance. The Administrator shall respond to the petition and determine whether to object to the variance under subparagraph (A) not later than 60 days after the receipt of the petition.

[(C) TIMING.—No variance shall be granted by a State until the later of the following:

[(i) 90 days after the State proposes to grant a variance.

[(ii) If the Administrator objects to the variance, the date on which the State makes the recommended modifications or responds in writing to each objection.]

EXEMPTIONS

SEC. 1416. (a) A State which has primary enforcement responsibility may exempt any public water system within the State's jurisdiction from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an

applicable national primary drinking water regulation upon a finding that—

(1) due to compelling factors (which may include economic factors, including qualification of the public water system as a system serving a disadvantaged community pursuant to section 1452(d)), the public water system is unable to comply with such contaminant level or treatment technique requirement, or to implement measures to develop an alternative source of water supply,

(2) the public water system was in operation on the effective date of such contaminant level or treatment technique requirement, a system that was not in operation by that date, only if no reasonable alternative source of drinking water is available to such new system,

(3) the granting of the exemption will not result in an unreasonable risk to health; and

(4) management or restructuring changes (or both) cannot reasonably be made that will result in compliance with this title or, if compliance cannot be achieved, improve the quality of the drinking water.

(b)(1) If a State grants a public water system an exemption under subsection (a), the State shall prescribe, at the time the exemption is granted, a schedule for—

(A) compliance (including increments of progress or measures to develop an alternative source of water supply) by the public water system with each contaminant level requirement or treatment technique requirement with respect to which the exemption was granted, and

(B) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement or treatment technique requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subsection may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

(2)(A) A schedule prescribed pursuant to this subsection for a public water system granted an exemption under subsection (a) shall require compliance by the system with each contaminant level and treatment technique requirement with respect to which the exemption was granted as expeditiously as practicable (as the State may reasonably determine) but not later than 3 years after the otherwise applicable compliance date established in section 1412(b)(10).

(B) No exemption shall be granted unless the public water system establishes that—

(i) the system cannot meet the standard without capital improvements which cannot be completed prior to the date established pursuant to section 1412(b)(10);

(ii) in the case of a system which needs financial assistance for the necessary improvement, the system has entered into an agreement to obtain such financial assistance or assistance

pursuant to section 1452, or any other Federal or State program is reasonably likely to be available within the period of the exemption; or

(iii) the system has entered into an enforceable agreement to become a part of a regional public water system; and

the system is taking all practicable steps to meet the standard.

(C) In the case of a system which does not serve more than a population of 3,300 and which needs financial assistance for the necessary improvements, an exemption granted under clause (i) or (ii) of subparagraph (B) may be renewed for one or more additional 2-year periods, but not to exceed a total of 6 years, if the system establishes that it is taking all practicable steps to meet the requirements of subparagraph (B).

[(D) LIMITATION.—A public water system may not receive an exemption under this section if the system was granted a variance under section 1415(e).]

(3) Each public water system's exemption granted by a State under subsection (a) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to this subsection. The requirements of each schedule prescribed by a State pursuant to this subsection shall be enforceable by the State under its laws. Any requirement of a schedule on which an exemption granted under this section is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.

(4) Each schedule prescribed by a State pursuant to this subsection shall be deemed approved by the Administrator unless the exemption for which it was prescribed is revoked by the Administrator under subsection (d)(2) or the schedule is revised by the Administrator under such subsection.

(c) Each State which grants an exemption under subsection (a) shall promptly notify the Administrator of the granting of such exemption. Such notification shall contain the reasons for the exemption (including the basis for the finding required by subsection (a)(3) before the exemption may be granted) and document the need for the exemption.

(d)(1) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the exemptions granted (and schedules prescribed pursuant thereto) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of exemptions and schedules as he deems necessary to carry out the purposes of this title, but each subsequent review shall be completed within each 3-year period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the Administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (A) provide information respecting the location of data and other information respecting the exemptions to be reviewed (including data and other information concerning new scientific matters bearing on such exemptions), and (B) advise of the opportunity to submit comments on the exemptions reviewed and on the need for continuing them. Upon completion of any such review, the Administrator shall publish in the Federal Register the results of his review together with

findings responsive to comments submitted in connection with such review.

(2)(A) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting exemptions under subsection (a) or failed to prescribe schedules in accordance with subsection (b), the Administrator shall notify the State of his finding. In determining if a State has abused its discretion in granting exemptions in a substantial number of instances, the Administrator shall consider the number of persons who are affected by the exemptions and if the requirements applicable to the granting of the exemptions were complied with. A notice under this subparagraph shall—

(i) identify each exempt public water system with respect to which the finding was made,

(ii) specify the reasons for the finding, and

(iii) as appropriate, propose revocations of specific exemptions or propose revised schedules for specific exempt public water systems, or both.

(B) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to subparagraph (A). After a hearing on a notice pursuant to subparagraph (A), the Administrator shall (i) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (ii) promulgate (with such modifications as he deems appropriate) such exemption revocations and revised schedules proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to subparagraph (A), the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

(C) If a State is notified under subparagraph (A) of a finding of the Administrator made with respect to an exemption granted a public water system within that State or to a schedule prescribed pursuant to such an exemption and if before a revocation of such exemption or a revision of such schedule promulgated by the Administrator takes effect the State takes corrective action with respect to such exemption or schedule which the Administrator determines makes his finding inapplicable to such exemption or schedule, the Administrator shall rescind the application of his finding to that exemption or schedule. No exemption revocation or revised schedule may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule was proposed.

(e) For purposes of this section, the term "treatment technique requirement" means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b).

(f) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to exempt public water systems in such State from maximum contaminant level requirements and treatment technique requirements under the same conditions and in the same manner as the State would be authorized to grant exemptions under this section if it had primary enforcement responsibility.

(g) If an application for an exemption under this section is made, the State receiving the application or the Administrator, as the case may be, shall act upon such application within a reasonable period (as determined under regulations prescribed by the Administrator) after the date of its submission.

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PART D—EMERGENCY POWERS

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**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 America's Water Infrastructure Act of 2018, 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 2020 [and 2021] *through 2031* 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 $[25,000,000] *50,000,000* for each of fiscal years [2020 and 2021] *2022 through 2031*.

(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.

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PART E—GENERAL PROVISIONS

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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 reallotted 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 $125,000,000 for each of fiscal years 2020 [and 2021] *through 2031*.

(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: | *Amount* |
|---|---|
| 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).

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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 monitoring 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 2019 through 2021.

(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 wheth-

er 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;

(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

(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)⟧ *section 1412(b)(4)(E)*, the Administrator may request information on the characteristics of commercially available treatment systems and technologies, includ-

ing 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)] *guidance under section 1412(b)(4)(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 fewer 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) LIMITATION ON ENFORCEMENT.—The Administrator may not enforce a requirement to monitor pursuant to paragraph (1) with respect to any public water system serving fewer than 3,300 persons, including by subjecting such a public water system to any civil penalty.

(5) 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 reallotted 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 reallotted by the Administrator shall be reallotted 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 reallotted 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 reallotted by the Administrator on the basis of the same ratio as is applicable to funds allotted under subparagraph (D). None of the funds reallotted 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 reallotted by the Administrator on the basis of the same ratio as applicable to funds allotted under subparagraph (D). None of the funds reallotted 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 expendi-

tures (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.

(G) EMERGING CONTAMINANTS.—

(i) IN GENERAL.—Notwithstanding any other provision of law and subject to clause (ii), amounts deposited under subsection (t) in a State loan fund established under this section may only be used to provide grants for the purpose of addressing emerging contaminants, with a focus on perfluoroalkyl and polyfluoroalkyl substances.

(ii) REQUIREMENTS.—

(I) SMALL AND DISADVANTAGED COMMUNITIES.—Not less than 25 percent of the amounts described in clause (i) shall be used to provide grants to—

(aa) disadvantaged communities (as defined in subsection (d)(3)); or

(bb) public water systems serving fewer than 25,000 persons.

(II) PRIORITIES.—In selecting the recipient of a grant using amounts described in clause (i), a State shall use the priorities described in subsection (b)(3)(A).

(iii) NO INCREASED BONDING AUTHORITY.—The amounts deposited in the State loan fund of a State

under subsection (t) may not be used as a source of payment of, or security for (directly or indirectly), in whole or in part, any obligation the interest on which is exempt from the tax imposed under chapter 1 of the Internal Revenue Code of 1986.

(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 years 2019 through 2023, funds**]** *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) 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 State 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 description 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, 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⟧ *40 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 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;

(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

(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 improve 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 finan-

cial 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) ⅕ 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.—(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 America's Water Infrastructure Act of 2018 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 allotments 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⟧ *1.5 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 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 and for the implementation of efforts (other than actions authorized under subparagraph (A)) to protect source water in areas delineated pursuant to section 1453.

(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, and to implement efforts to protect source water, 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.

(l) 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.—

(1) There are authorized to be appropriated to carry out the purposes of this section, except for subsections [(a)(2)(G) and (t)] *(a)(2)(G), (t), and (u)*—

(A) $1,174,000,000 for fiscal year 2019;

(B) $1,300,000,000 for fiscal year 2020; [and]

(C) $1,950,000,000 for fiscal year [2021.] *2021;*

*(D) $4,140,000,000 for fiscal year 2022;*

*(E) $4,800,000,000 for fiscal year 2023; and*

*(F) $5,500,000,000 for each of fiscal years 2024 through 2031.*

(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. 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 intergovernmental 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 appro-

priations (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 America's Water Infrastructure Act of 2018, 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.

(t) EMERGING CONTAMINANTS.—

(1) IN GENERAL.—Amounts made available under this subsection shall be allotted to a State as if allotted under subsection (a)(1)(D) as a capitalization grant, for deposit into the State loan fund of the State, for the purposes described in subsection (a)(2)(G).

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $100,000,000 for each of fiscal years 2020 through 2024, to remain available until expended.

*(u) LEAD SERVICE LINE REPLACEMENT.—*

*(1) IN GENERAL.—In addition to the capitalization grants to eligible States under subsection (a)(1), the Administrator shall offer to enter into agreements with States, Indian Tribes, and the territories described in subsection (j) to make grants, including letters of credit, to such States, Indian Tribes, and territories under this subsection to fund the replacement of lead service lines.*

*(2) ALLOTMENTS.—*

*(A) STATES.—Funds made available to carry out this subsection shall be—*

*(i) allotted and reallotted to the extent practicable to States as if allotted or reallotted under subsection (a)(1) as a capitalization grant under such subsection; and*

*(ii) deposited into the State loan fund of a State receiving such funds pursuant to an agreement entered into pursuant to this subsection.*

*(B) INDIAN TRIBES.—The Administrator shall set aside 1½ percent of the amounts made available each fiscal year to carry out this subsection to make grants to Indian Tribes.*

*(C) OTHER AREAS.—Funds made available to carry out this subsection shall be allotted to territories described in subsection (j) in accordance with such subsection.*

*(3) GRANTS.—Notwithstanding any other provision of this section, funds made available under this subsection shall be used only for providing grants for the replacement of lead service lines.*

*(4) PRIORITY.—Each State, Indian Tribe, and territory that has entered into an agreement pursuant to this subsection shall annually prepare a plan that identifies the intended uses of the amounts made available to such State, Indian Tribe, or territory under this subsection, and any such plan shall—*

*(A) not be required to comply with subsection (b)(3); and*

*(B) provide, to the maximum extent practicable, that priority for the use of funds be given to projects that replace lead service lines serving disadvantaged communities and environmental justice communities.*

*(5) PLAN FOR REPLACEMENT.—Each State, Indian Tribe, and territory that has entered into an agreement pursuant to this subsection shall require each recipient of funds made available pursuant to this subsection to submit to the State, Indian Tribe, or territory a plan to replace all lead service lines in the applicable public water system within 10 years of receiving such funds.*

*(6) AMERICAN MADE IRON AND STEEL AND PREVAILING WAGES.—The requirements of paragraphs (4) and (5) of subsection (a) shall apply to any project carried out in whole or in part with funds made available under or pursuant to this subsection.*

*(7) LIMITATION.—*

*(A) PROHIBITION ON PARTIAL LINE REPLACEMENT.—No funds made available pursuant to this subsection may be used for partial lead service line replacement if, at the conclusion of the service line replacement, drinking water is*

*delivered through a publicly or privately owned portion of a lead service line.*

*(B) NO PRIVATE OWNER CONTRIBUTION.—Any recipient of funds made available pursuant to this subsection for lead service line replacement shall offer to replace any privately owned portion of any lead service line with respect to which such funds are used at no cost to the private owner.*

*(8) DISADVANTAGED COMMUNITY ASSISTANCE.—All funds made available pursuant to this subsection to fund the replacement of lead service lines may be used to replace lead service lines serving disadvantaged communities.*

*(9) STATE CONTRIBUTION NOT REQUIRED.—No agreement entered into pursuant to paragraph (1) shall require that a State deposit, at any time, in the applicable State loan fund from State moneys any contribution in order to receive funds under this subsection.*

*(10) AUTHORIZATION OF APPROPRIATIONS.—*

*(A) IN GENERAL.—There are authorized to be appropriated to carry out this subsection $4,500,000,000 for each of fiscal years 2022 through 2031. Such sums shall remain available until expended.*

*(B) ADDITIONAL AMOUNTS.—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. Such sums shall remain available until expended.*

*(11) DEFINITIONS.—For purposes of this subsection:*

*(A) DISADVANTAGED COMMUNITY.—The term "disadvantaged community" has the meaning given such term in subsection (d)(3).*

*(B) ENVIRONMENTAL JUSTICE COMMUNITY.—The term "environmental justice community" means any population of color, community of color, indigenous community, or low-income community that experiences a disproportionate burden of the negative human health and environmental impacts of pollution or other environmental hazards.*

*(C) LEAD SERVICE LINE.—The term "lead service line" means a pipe and its fittings, which are not lead free (as defined in section 1417(d)), that connect the drinking water main to the building inlet.*

* * * * * * *

ASSISTANCE TO COLONIAS

SEC. 1456. (a) DEFINITIONS.—As used in this section:

(1) BORDER STATE.—The term "border State" means Arizona, California, New Mexico, and Texas.

*(2) COVERED ENTITY.—The term "covered entity" means each of the following:*

*(A) A border State.*

*(B) A local government with jurisdiction over an eligible community.*

[(2)] *(3)* ELIGIBLE COMMUNITY.—The term "eligible community" means a low-income community with economic hardship that—

(A) is commonly referred to as a colonia;

(B) is located along the United States-Mexico border (generally in an unincorporated area); and

(C) lacks a safe drinking water supply or adequate facilities for the provision of safe drinking water for human consumption.

(b) GRANTS TO ALLEVIATE HEALTH RISKS.—The Administrator of the Environmental Protection Agency and the heads of other appropriate Federal agencies are authorized to award grants to a [border State] *covered entity* to provide assistance to eligible communities to facilitate compliance with national primary drinking water regulations or otherwise significantly further the health protection objectives of this title.

(c) USE OF FUNDS.—Each grant awarded pursuant to subsection (b) shall be used to provide assistance to one or more eligible communities with respect to which the residents are subject to a significant health risk (as determined by the Administrator or the head of the Federal agency making the grant) attributable to the lack of access to an adequate and affordable drinking water supply system.

(d) COST SHARING.—The amount of a grant awarded pursuant to this section [shall not exceed 50 percent] *may not be less than 80 percent* of the costs of carrying out the project that is the subject of the grant.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section [$25,000,000] *$100,000,000* for each of the fiscal years [1997 through 1999] *2022 through 2026*.

* * * * * * *

***SEC. 1459E. ASSISTANCE FOR COMMUNITY WATER SYSTEMS AFFECTED BY PFAS.***

*(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Administrator shall establish a program to award grants to affected community water systems to pay for capital costs associated with the implementation of eligible treatment technologies.*

*(b) APPLICATIONS.—*

*(1) GUIDANCE.—Not later than 12 months after the date of enactment of this section, the Administrator shall publish guidance describing the form and timing for community water systems to apply for grants under this section.*

*(2) REQUIRED INFORMATION.—The Administrator shall require a community water system applying for a grant under this section to submit—*

*(A) information showing the presence of a perfluoroalkyl or polyfluoroalkyl substance in water of the community water system; and*

*(B) a certification that the treatment technology in use by the community water system at the time of application is not sufficient to meet all applicable standards, and all applicable health advisories published pursuant to section*

*1412(b)(1)(F), for perfluoroalkyl and polyfluoroalkyl substances.*

*(c) LIST OF ELIGIBLE TREATMENT TECHNOLOGIES.—Not later than 150 days after the date of enactment of this section, and every 2 years thereafter, the Administrator shall publish a list of treatment technologies that the Administrator determines are the most effective at removing perfluoroalkyl and polyfluoroalkyl substances from drinking water.*

*(d) PRIORITY FOR FUNDING.—In awarding grants under this section, the Administrator shall prioritize an affected community water system that—*

*(1) serves a disadvantaged community;*

*(2) will provide at least a 10-percent cost share for the cost of implementing an eligible treatment technology;*

*(3) demonstrates the capacity to maintain the eligible treatment technology to be implemented using the grant; or*

*(4) is located within an area with respect to which the Administrator has published a determination under the first sentence of section 1424(e) relating to an aquifer that is the sole or principal drinking water source for the area.*

*(e) AUTHORIZATION OF APPROPRIATIONS.—*

*(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $500,000,000 for each of the fiscal years 2022 through 2031.*

*(2) SPECIAL RULE.—Of the amounts authorized to be appropriated by paragraph (1), $25,000,000 are authorized to be appropriated for each of fiscal years 2022 and 2023 for grants under subsection (a) to pay for capital costs associated with the implementation of eligible treatment technologies during the period beginning on October 1, 2014, and ending on the date of enactment of this section.*

*(f) DEFINITIONS.—In this section:*

*(1) AFFECTED COMMUNITY WATER SYSTEM.—The term "affected community water system" means a community water system that is affected by the presence of a perfluoroalkyl or polyfluoroalkyl substance in the water in the community water system.*

*(2) DISADVANTAGED COMMUNITY.—The term "disadvantaged community" has the meaning given that term in section 1452.*

*(3) ELIGIBLE TREATMENT TECHNOLOGY.—The term "eligible treatment technology" means a treatment technology included on the list published under subsection (c).*

## PART F—ADDITIONAL REQUIREMENTS TO REGULATE THE SAFETY OF DRINKING WATER

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### LEAD CONTAMINATION IN SCHOOL DRINKING WATER

SEC. 1464. (a) DISTRIBUTION OF DRINKING WATER COOLER LIST.—Within 100 days after the enactment of this section, the Administrator shall distribute to the States a list of each brand and model of drinking water cooler identified and listed by the Administrator under section 1463(a).

(b) GUIDANCE DOCUMENT AND TESTING PROTOCOL.—The Administrator shall publish a guidance document and a testing protocol to assist schools in determining the source and degree of lead contamination in school drinking water supplies and in remedying such contamination. The guidance document shall include guidelines for sample preservation. The guidance document shall also include guidance to assist States, schools, and the general public in ascertaining the levels of lead contamination in drinking water coolers and in taking appropriate action to reduce or eliminate such contamination. The guidance document shall contain a testing protocol for the identification of drinking water coolers which contribute to lead contamination in drinking water. Such document and protocol may be revised, republished and redistributed as the Administrator deems necessary. The Administrator shall distribute the guidance document and testing protocol to the States within 100 days after the enactment of this section.

(c) DISSEMINATION TO SCHOOLS, ETC.—Each State shall provide for the dissemination to local educational agencies, private nonprofit elementary or secondary schools and to day care centers of the guidance document and testing protocol published under subsection (b), together with the list of drinking water coolers published under section 1463(a).

(d) VOLUNTARY SCHOOL AND CHILD CARE PROGRAM LEAD TESTING GRANT PROGRAM.—

(1) DEFINITIONS.—In this subsection:

(A) CHILD CARE PROGRAM.—The term "child care program" has the meaning given the term "early childhood education program" in section 103(8) of the Higher Education Act of 1965 (20 U.S.C. 1003(8)).

(B) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" means—

(i) a local educational agency (as defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801));

(ii) a tribal education agency (as defined in section 3 of the National Environmental Education Act (20 U.S.C. 5502)); and

(iii) a person that owns or operates a child care program facility.

(2) ESTABLISHMENT.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Water and Waste Act of 2016, the Administrator shall establish a voluntary school and child care program lead testing grant program to make grants available to States to assist local educational agencies in voluntary testing for lead contamination in drinking water at schools and child care programs under the jurisdiction of the local educational agencies.

(B) DIRECT GRANTS TO LOCAL EDUCATIONAL AGENCIES.—The Administrator may make a grant for the voluntary testing described in subparagraph (A) directly available to—

(i) any local educational agency described in clause (i) or (iii) of paragraph (1)(B) located in a State that

does not participate in the voluntary grant program established under subparagraph (A); or

(ii) any local educational agency described in clause (ii) of paragraph (1)(B).

(C) TECHNICAL ASSISTANCE.—In carrying out the grant program under subparagraph (A), beginning not later than 1 year after the date of enactment of America's Water Infrastructure Act of 2018, the Administrator shall provide technical assistance to recipients of grants under this subsection—

(i) to assist in identifying the source of lead contamination in drinking water at schools and child care programs under the jurisdiction of the grant recipient;

(ii) to assist in identifying and applying for other Federal and State grant programs that may assist the grant recipient in eliminating lead contamination described in clause (i);

(iii) to provide information on other financing options in eliminating lead contamination described in clause (i); and

(iv) to connect grant recipients with nonprofit and other organizations that may be able to assist with the elimination of lead contamination described in clause (i).

(3) APPLICATION.—To be eligible to receive a grant under this subsection, a State or local educational agency shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

(4) PRIORITY.—In making grants under this subsection, the Administrator shall give priority to States and local educational agencies that will assist in voluntary testing for lead contamination in drinking water at schools and child care programs that are in low-income areas.

(5) LIMITATION ON USE OF FUNDS.—Not more than 4 percent of grant funds accepted by a State or local educational agency for a fiscal year under this subsection shall be used to pay the administrative costs of carrying out this subsection.

(6) GUIDANCE; PUBLIC AVAILABILITY.—As a condition of receiving a grant under this subsection, the recipient State or local educational agency shall ensure that each local educational agency to which grant funds are distributed shall—

(A) expend grant funds in accordance with—

(i) the guidance of the Environmental Protection Agency entitled "3Ts for Reducing Lead in Drinking Water in Schools: Revised Technical Guidance" and dated October 2006 (or any successor guidance); or

(ii) applicable State regulations or guidance regarding reducing lead in drinking water in schools and child care programs that are not less stringent than the guidance referred to in clause (i); and

(B)(i) make available, if applicable, in the administrative offices and, to the extent practicable, on the Internet website of the local educational agency for inspection by the public (including teachers, other school personnel, and

parents) a copy of the results of any voluntary testing for lead contamination in school and child care program drinking water carried out using grant funds under this subsection; and

(ii) notify parent, teacher, and employee organizations of the availability of the results described in clause (i).

(7) MAINTENANCE OF EFFORT.—If resources are available to a State or local educational agency from any other Federal agency, a State, or a private foundation for testing for lead contamination in drinking water, the State or local educational agency shall demonstrate that the funds provided under this subsection will not displace those resources.

(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $20,000,000 for each of fiscal years 2017 through 2019, and $25,000,000 for each of fiscal years 2020 [and 2021] *through 2031*.

*(e) GRANT PROGRAM FOR INSTALLATION AND MAINTENANCE OF FILTRATION STATIONS.—*

*(1) PROGRAM.—The Administrator shall establish a program to make grants to States to assist local educational agencies in voluntary installation and maintenance of filtration stations at schools and child care programs under the jurisdiction of the local educational agencies.*

*(2) DIRECT GRANTS TO LOCAL EDUCATIONAL AGENCIES.—The Administrator may make a grant described in paragraph (1) directly available to—*

*(A) any local educational agency described in clause (i) or (iii) of subsection (d)(1)(B) located in a State that does not participate in the program established under paragraph (1); or*

*(B) any local educational agency described in clause (ii) of subsection (d)(1)(B).*

*(3) USE OF FUNDS.—Grants made under the program established under this subsection may be used to pay the costs of—*

*(A) installation and maintenance of filtration stations at schools and child care programs; and*

*(B) annual testing of drinking water at such schools and child care programs following the installation of filtration stations.*

*(4) PRIORITY.—In making grants under the program established under this subsection, the Administrator shall give priority to States and local educational agencies that will assist in voluntary installation and maintenance of filtration stations at schools and child care programs that are in low-income areas.*

*(5) GUIDANCE.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall establish guidance to carry out the program established under this subsection.*

*(6) NO PRIOR TESTING REQUIRED.—The program established under this subsection shall not require testing for lead contamination in drinking water at schools and child care programs prior to participation in such program.*

*(7) DEFINITIONS.—In this subsection:*

*(A) CHILD CARE PROGRAM AND LOCAL EDUCATIONAL AGENCY.—The terms "child care program" and "local edu-*

*cational agency" have the meaning given such terms in subsection (d).*

*(B) FILTRATION STATION.—The term "filtration station" means an apparatus that—*

*(i) is connected to building plumbing;*

*(ii) is certified to the latest version of NSF/ANSI 53 for lead reduction and NSF/ANSI 42 for particulate reduction (Class I) by a certification body accredited by the American National Standards Institute National Accreditation Board;*

*(iii) has an indicator to show filter performance;*

*(iv) can fill bottles or containers for water consumption; and*

*(v) allows users to drink directly from a stream of flowing water.*

*(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $50,000,000 for each of fiscal years 2022 through 2031.*

**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 $5,000,000 for each of fiscal years 2019 through [2021] *2031*.

***SEC. 1466. EMERGENCY RELIEF PROGRAM.***

*(a) EMERGENCY RELIEF PROGRAM.—The Administrator shall establish and carry out a residential emergency relief program to provide payments to public water systems to reimburse such public water systems for providing forgiveness of arrearages and fees incurred by eligible residential customers before the date of enactment of this section to help such eligible residential customers retain, or reconnect or restore, water service.*

*(b) CONDITIONS.—To receive funds under this section, a public water system shall agree to—*

*(1) except as otherwise provided in this section, use such funds to forgive all arrearages and fees relating to nonpayment or arrearages incurred by eligible residential customers before the date of enactment of this section;*

*(2) if forgiveness of all arrearages and fees described in paragraph (1) is not possible given the amount of funds received, ex-*

*cept as otherwise provided in this section, use such funds to reduce such arrearages and fees for each eligible residential customer by, to the extent practicable, a consistent percentage;*

*(3) take no action that negatively affects the credit score of an eligible residential customer, or pursue any type of collection action against such eligible residential customer, during the 5-year period that begins on the date on which the public water system receives such funds;*

*(4) not disconnect or interrupt the service of any eligible residential customer as a result of nonpayment or arrearages during such 5-year period; and*

*(5) provide to the Administrator such information as the Administrator determines appropriate.*

*(c) ELIGIBLE CUSTOMERS.—To be eligible for forgiveness or reduction of arrearages and fees pursuant to the program established under subsection (a), a residential customer of a public water system shall have accrued new arrearages on or after March 1, 2020.*

*(d) RECONNECTION EXPENSES.—The Administrator, or a State that is, pursuant to subsection (e), implementing the program established under subsection (a), may authorize a public water system receiving funds under this section to use up to 5 percent of such funds for expenses relating to reconnecting or restoring water service, including expenses relating to plumbing repairs and pipe flushing, as needed, for eligible residential customers.*

*(e) ADMINISTRATIVE EXPENSES.—The Administrator may authorize—*

*(1) States to implement the program established under subsection (a); and*

*(2) a State implementing such program to use up to 4 percent of funds made available to carry out such program in such State for administrative expenses.*

*(f) SUBMISSIONS TO CONGRESS.—Not later than 180 days after the date of enactment of this section, and every other month thereafter until all amounts made available under this section are expended, the Administrator shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes—*

*(1) each public water system that received a payment under or pursuant to this section;*

*(2) the total amount of each payment provided under or pursuant to this section;*

*(3) for each public water system receiving a payment under or pursuant to this section—*

*(A) the amount of arrearages and fees forgiven or reduced;*

*(B) the number of eligible residential customers benefitting from forgiveness or reduction of arrearages and fees under this section;*

*(C) the amount of arrearages and fees of customers described in subparagraph (B) incurred before the date of enactment of this section that remain outstanding;*

*(D) the number of eligible residential customers that did not benefit from forgiveness or reduction of arrearages and fees under this section; and*

*(E) the amount of arrearages and fees of customers described in subparagraph (D) incurred before the date of enactment of this section that remain outstanding; and*

*(4) a summary of any other information provided to the Administrator by public water systems that receive a payment pursuant to this section.*

*(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $4,000,000,000, to remain available until expended.*

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**AMERICA'S WATER INFRASTRUCTURE ACT OF 2018**

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# TITLE II—DRINKING WATER SYSTEM IMPROVEMENT

**SEC. 2001. INDIAN RESERVATION DRINKING WATER PROGRAM.**

(a) IN GENERAL.—Subject to the availability of appropriations, the Administrator of the Environmental Protection Agency shall carry out a program to implement—

(1) 10 eligible projects described in subsection (b) that are within the Upper Missouri River Basin; and

(2) 10 eligible projects described in subsection (b) that are within the Upper Rio Grande Basin.

(b) ELIGIBLE PROJECTS.—A project eligible to participate in the program under subsection (a) is a project—

(1) that is on a reservation (as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452)) that serves a federally recognized Indian Tribe; and

(2) the purpose of which is to connect, expand, or repair an existing public water system, as defined in section 1401(4) of the Safe Drinking Water Act (42 U.S.C. 300f(4)), in order to improve water quality, water pressure, or water services.

(c) REQUIREMENT.—In carrying out the program under subsection (a)(1), the Administrator of the Environmental Protection Agency shall select not less than one eligible project for a reservation that serves more than one federally recognized Indian Tribe.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program under subsection (a) $20,000,000 for each of fiscal years 2019 through [2022] *2031*.

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**SEC. 2020. ASSISTANCE FOR AREAS AFFECTED BY NATURAL DISASTERS.**

(a) DEFINITIONS.—In this section:

(1) COMMUNITY WATER SYSTEM.—The term "community water system" has the meaning given such term in section 1401(15) of the Safe Drinking Water Act (42 U.S.C. 300f(15)).

(2) ELIGIBLE STATE.—The term "eligible State" means a State, as defined in section 1401(13)(B) of the Safe Drinking Water Act (42 U.S.C. 300f(13)(B)).

(3) ELIGIBLE SYSTEM.—The term "eligible system" means a community water system—

(A) that serves an area for which, after January 1, 2017, the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)—

(i) has issued a major disaster declaration; and

(ii) provided disaster assistance; or

(B) that is capable of extending its potable drinking water service into an underserved area.

(4) NATIONAL PRIMARY DRINKING WATER REGULATION.—The term "national primary drinking water regulation" means a national primary drinking water regulation under section 1412 of the Safe Drinking Water Act (42 U.S.C. 300g-1).

(5) UNDERSERVED AREA.—The term "underserved area" means a geographic area in an eligible State that—

(A) is served by a community water system serving fewer than 50,000 persons where delivery of, or access to, potable water is or was disrupted; and

(B) received disaster assistance pursuant to a declaration described in paragraph (3)(A).

(b) STATE REVOLVING LOAN FUND ASSISTANCE.—

(1) IN GENERAL.—An eligible State may use funds provided pursuant to ⟦subsection (e)(1)⟧ *subsection (f)(1)* to provide assistance to an eligible system within the eligible State for the purpose of restoring or increasing compliance with national primary drinking water regulations in an underserved area.

(2) INCLUSION.—

(A) ADDITIONAL SUBSIDIZATION.—With respect to assistance provided under paragraph (1), an eligible system shall be eligible to receive loans with additional subsidization (including forgiveness of principal, negative-interest loans, or grants (or any combination thereof)) for the purpose described in paragraph (1).

(B) NONDESIGNATION.—Assistance provided under paragraph (1) may include additional subsidization, as described in subparagraph (A), even if the service area of the eligible system has not been designated by the applicable eligible State as a disadvantaged community pursuant to section 1452(d)(3) of the Safe Drinking Water Act (42 U.S.C. 300j-12(d)(3)).

*(c) ASSISTANCE FOR TERRITORIES.—The Administrator may use funds made available under subsection (f)(1) to make grants to Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands for the purposes of providing assistance to eligible systems to restore or increase compliance with national primary drinking water regulations.*

⟦(c)⟧ *(d)* EXCLUSION.—Assistance provided under this section shall not include assistance for a project that is financed (directly or indirectly), in whole or in part, with proceeds of any obligation issued after the date of enactment of this Act the interest of which is exempt from the tax imposed under chapter 1 of the Internal Revenue Code of 1986.

⟦(d)⟧ *(e)* NONDUPLICATION OF WORK.—An activity carried out pursuant to this section shall not duplicate the work or activity of any other Federal or State department or agency.

⟦(e)⟧ *(f)* ADDITIONAL DRINKING WATER ⟦STATE REVOLVING FUND CAPITALIZATION⟧ GRANTS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Administrator of the Environmental Protection Agency $100,000,000 to provide additional capitalization grants pursuant to section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12) to eligible States, *and to make grants under subsection (c) of this section,* to be available—

(A) for a period of 24 months beginning on the date on which the funds are made available for the purpose described in subsection (b)(1) *or subsection (c), as applicable*; and

(B) after the end of such 24-month period, until expended for the purpose described in paragraph (3) of this subsection.

(2) SUPPLEMENTED INTENDED USE PLANS.—

(A) OBLIGATION OF AMOUNTS.—Not later than 30 days after the date on which an eligible State submits to the Administrator a supplemental intended use plan under section 1452(b) of the Safe Drinking Water Act (42 U.S.C. 300j-12(b)), from funds made available under paragraph (1), the Administrator shall obligate to such eligible State such amounts as are appropriate to address the needs identified in such supplemental intended use plan for the purpose described in subsection (b)(1).

(B) PLANS.—A supplemental intended use plan described in subparagraph (A) shall include information regarding projects to be funded using the assistance provided under subsection (b)(1), including, with respect to each such project—

(i) a description of the project;

(ii) an explanation of the means by which the project will restore or improve compliance with national primary drinking water regulations in an underserved area;

(iii) the estimated cost of the project; and

(iv) the projected start date for the project.

(3) UNOBLIGATED AMOUNTS.—Any amounts made available to the Administrator under paragraph (1) that are unobligated on the date that is 24 months after the date on which the amounts are made available shall be available for the purpose of providing additional grants to States to capitalize State loan funds as provided under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12).

(4) APPLICABILITY.—

(A) IN GENERAL.—Except as otherwise provided in this section, all requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) shall apply to funding provided under this section.

(B) INTENDED USE PLANS.—Section 1452(b)(1) of the Safe Drinking Water Act (42 U.S.C. 300j-12(b)(1)) shall not apply to a supplemental intended use plan under paragraph (2).

(C) STATE CONTRIBUTION.—For amounts authorized to be appropriated under paragraph (1), the matching requirements in section 1452(e) of the Safe Drinking Water Act (42 U.S.C. 300j-12(e)) shall not apply to any funds pro-

vided to the Commonwealth of Puerto Rico under this section.

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## XVII. DISSENTING VIEWS

We oppose H.R. 3291 in its current form and urge others to do the same.

We agree that extending existing drinking water funding authorizations is important to expand compliance and purchasing power for drinking water systems as well as protect the public health needs of the nation's drinking water needs.

We support some provisions in Title I of the H.R. 3291, which are similar to those included in the Republican alternative, H.R. 3282, the Drinking Water Funding for the Future Act. Those provisions would extend many of the successes this committee achieved in the America's Water Infrastructure Act of 2018, including the risk and resilience grant funding under the Safe Drinking Water Act (SDWA), which addresses terrorism and climate related challenges at drinking water facilities.

However, many of these authorizations are excessive, particularly as Americans are paying $300 billion this fiscal year alone for interest payments on our national debt.

We offer some examples to illustrate our point of concern with Title I of this legislation:

- We support the Drinking Water State Revolving Fund (DWSRF) and recognize the help it has provided to so many communities across the country. Yet, the amounts authorized in section 105 for the DWSRF are 400 to 500 percent higher than the most recent amount appropriated by Congress.
- Section 1459B of the SDWA authorizes $60 million per year for lead service line replacement, prioritizing low-income persons and disadvantaged communities, and making the wealthy pay for at-cost replacements of their private lines. In addition, the DWSRF can be used to fund lead line replacements in communities. Yet, section 106 of this bill authorizes $45 billion over 10 years for a new, third program in the SDWA to give free private property upgrades, including to the wealthiest Americans. Even if this program is necessary to support local governments and low-income Americans with free lead service line replacement, Congress should wait until EPA complete its quadrennial Needs Survey, which is supposed to identify the lead pipes and how much it will cost to replace them. The EPA is still several years from completing the Needs Survey.
- Section 110 in the bill, which the Majority added during the subcommittee markup (Rep. Yvette Clark amendment), creates a new 10-year, $500 million program to purchase water filtration systems in schools and day care centers. This new program, which adds to existing SDWA lead reduction grant and water fountain replacement programs for schools and

daycares (SDWA sections 1464 and 1465), will pay for installation, servicing, and replacement filters.

- Section 108 contains a 10-year, $5 billion grant program to pay for the capital costs to implement treatment technologies that remove per- and polyfluoroalkyl substances from drinking water. This section also sets aside $50 million to reimburse communities that bought these technologies without the expectation of having the Federal government pay them for it, potentially leaving it to local communities and water utilities.

There are also several flaws with the provisions in Titles II and III, which are the reason this bill is opposed by the Association of Metropolitan Water Agencies, American Water Works Association, National Rural Water Association, National Association of Water Companies, National League of Cities, U.S. Conference of Mayors, and the National Association of Counties.

Sections 201 and 205 of H.R. 3291 are an attack on common sense. Instead of encouraging EPA to work with water systems to issue practical regulations to address contaminant problems, these provisions would require the EPA to issue the most stringent regulations, no matter the costs.

Section 201 removes SDWA section 1412(b)(6), a cost benefit provision that requires EPA to set the maximum contaminant level justified by the costs of compliance—that is, the benefits from the rule have to outweigh the costs. Our colleagues in the Majority argue that striking this provision is necessary to create requirements that protect public health. We vehemently disagree.

This provision doesn't cap how much a rule can cost, it doesn't restrain treatment techniques, it doesn't stop expensive regulations, and it doesn't prevent health from being protected. What it does is say that if a safe level exists that isn't the most stringent or expensive, EPA can stop right there and use that safe level. In other words, an expensive regulation is okay, but it must have significant health risk reduction benefits that correlate to its expense. We think this is common sense, and the best way to achieve actual results for the American people.

Section 205 removes the small system variance provisions in SDWA, permitting small communities temporarily to use drinking water treatments EPA, or a state with primary enforcement responsibility, find adequately protective when the Federally mandated ones are unaffordable. Again, this provision does not permit unsafe water; it grants financial flexibility.

Some will argue that increase rate assistance to low-income customers will offset more expensive regulations, but history shows that without these provisions: States face unfunded and underfunded mandates and water systems get into a spiral of debt, chronic non-compliance, or both; essentially small and rural systems are pushed into consolidation under the SDWA.

In addition, sections 202 through 204 of this legislation require the simultaneous, final regulation of per- and polyfluoroalkyl substances, especially PFOA and PFOS; microcystin; and 1,4-Dioxane within 2 years. These provisions will be expensive for water customers, but that is not our only concern.

As to section 202 and the regulation of per- and polyfluoroalkyl substances, EPA is already several months into establishing a max-

imum contaminant level goal and proposing a maximum contaminant level for PFOA and PFOS. Having Congress jump in to reorder this work will slow it down. EPA already has urgent threat authority in SDWA section 1412(b)(1)(D) to move more expeditiously if needed. In addition, this section would require EPA to either regulate, issue health advisories, or make reviewable determinations on the 9,252 chemicals in the PFAS family. This will be a tremendous burden on EPA resources.

Regarding section 203 and the requirements for regulation of microcystin toxin, we read this effort to limit notice and public comment. We also question whether this is the most appropriate decision to make for all water systems nationwide. EPA, in April 2021, published occurrence data from Unregulated Contaminant Monitoring Rule–4 showing this contaminant appearing above the established minimum reporting levels at only two-one-hundredths of one percent of drinking water systems nationwide. Rather than a one-size-fits-all approach, EPA can help affected local and State governments as needed and in a way that is tailored to a community's need.

Concerning section 204, it is premature to make a policy decision without the benefit of the science. On March 3, 2021, EPA announced that it was unable to decide yet about whether to regulate 1,4-Dioxane. The Agency stated that "that there is a need for additional information and analyses before a regulatory determination can be made for 1,4-dioxane." Yet, this section not only require EPA to regulate, it undermines the SDWA regulatory process, diminishes further scientific review, and truncates notice and comment procedures that might aid the quality of any final rule.

Title III of H.R. 3291 provides $4 billion for unpaid water bills during the pandemic. While this title dramatically increases the amount of temporary Federal assistance for Americans in need due to the COVID–19 pandemic, it also places a 5-year moratorium on water systems taking steps to get future, delinquent customers—regardless of income—to pay their bills. Utilities cannot operate without revenue and destroying their ability to collect it for 5 years will place substantial operational burdens on them. This is not the type of precedent we should set where the Federal government shuts down responsible public utilities from collecting the revenues they are owed and need to operate.

In addition, during markup, the Committee expanded the use of the funding for service reconnections, including private plumbing work. The Committee also required detailed, monthly reports to Congress on this program and its spending. While we support program oversight and accountability, this requirement will be extremely expensive burdensome for all parties.

Title IV was added during Committee consideration. It requires the Government Accountability Office (GAO) to conduct a detailed financial, operational, and regulatory audit of smaller and "distressed small water systems" and make recommendations on how to push distressed systems into consolidation. This report is unfair to rural systems and upends efforts to help these water systems get their "houses in order" before consolidation is necessary.

In summary, there are some provisions of this legislation that Republicans support, but the overall costs—both for the Federal

government and for small water systems—outweigh the benefits of those provisions. Therefore, we must oppose this legislation.

CATHY MCMORRIS RODGERS,
*Republican Leader, Energy and Commerce Committee.*
DAVID B. MCKINLEY,
*Republican Leader, Subcommittee on Environment and Climate Change.*

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