

110TH CONGRESS
1ST SESSION

S. 2509

To amend the Safe Drinking Water Act to prevent the enforcement of certain national primary drinking water regulations unless sufficient funding is available or variance technology has been identified.

IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2007

Mr. INHOFE (for himself, Mr. NELSON of Nebraska, and Mr. HAGEL) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Safe Drinking Water Act to prevent the enforcement of certain national primary drinking water regulations unless sufficient funding is available or variance technology has been identified.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small System Safe
5 Drinking Water Act of 2007”.

1 **SEC. 2. COMPLIANCE AND ENFORCEMENT.**

2 (a) GUIDANCE.—Section 1412(b)(4)(E) of the Safe
3 Drinking Water Act (42 U.S.C. 300g–1(b)(4)(E)) is
4 amended by adding at the end the following:

5 “(vi) GUIDANCE.—As soon as prac-
6 ticable after the date of enactment of this
7 clause, the Administrator shall—

8 “(I) convene a working group
9 composed of representatives from
10 States, small publicly owned water
11 systems, and treatment manufactur-
12 ers, which shall, not later than 180
13 days after the date of enactment of
14 this clause, conduct a study of, and
15 submit to Congress a report on, bar-
16 riers to the use of point-of-use and
17 point-of-entry treatment units, pack-
18 age plants (including water bottled by
19 the public water system), and modular
20 units;

21 “(II) develop a model guidance
22 document based on recommendations
23 received from the working group
24 under subclause (I) and similar State
25 guidance documents for distribution
26 to States to assist States in regulating

1 and promoting the treatment options
2 described in subclause (I); and

3 “(III) distribute to small water
4 systems—

5 “(aa) the model guidance
6 document developed under sub-
7 clause (II); and

8 “(bb) such other information
9 relating to the treatment options
10 described in subclause (I) as the
11 Administrator considers to be ap-
12 propriate.”.

13 (b) ENFORCEMENT OF NATIONAL PRIMARY DRINK-
14 ING WATER REGULATIONS.—

15 (1) VARIANCE TECHNOLOGIES.—Section
16 1412(b)(15)(A) of the Safe Drinking Water Act (42
17 U.S.C. 300g–1(b)(15)(A)) is amended—

18 (A) by redesignating clauses (i) through
19 (iii) as subclauses (I) through (III), respec-
20 tively, and indenting appropriately;

21 (B) by striking “(A) IN GENERAL.—At
22 the” and inserting the following:

23 “(A) TECHNOLOGIES.—

24 “(i) IN GENERAL.—At the”; and

1 (C) by adding after the matter following
2 subparagraph (A)(i)(III) (as redesignated by
3 subparagraph (A)) the following:

4 “(B) AFFORDABILITY.—In establishing af-
5 fordability criteria under this subparagraph, the
6 Administrator shall—

7 “(i) in determining whether a treat-
8 ment technology or treatment technique is
9 affordable, include consideration of costs
10 associated with complying with all relevant
11 regulations promulgated in accordance
12 with this Act and the Federal Water Pollu-
13 tion Control Act (33 U.S.C. 1251 et seq.)
14 with which a municipality or small public
15 water system may be required to comply;

16 “(ii) give extra weight to households
17 the total income of which is below the pov-
18 erty level, and to communities that meet
19 the affordability criteria of a State estab-
20 lished in accordance with section
21 1452(b)(3)(A)(iii), as determined by the
22 Administrator; and

23 “(iii) ensure that the affordability cri-
24 teria are not more costly, on a per-capita
25 basis, to a small public water system than

1 the cost, on a per-capita basis, to a large
2 water system of acquiring feasible tech-
3 nology described in paragraph (4).”.

4 (2) STATE REVOLVING LOAN FUNDS.—Section
5 1452 of the Safe Drinking Water Act (42 U.S.C.
6 300j–12) is amended—

7 (A) by redesignating subsections (n), (o),
8 (p), (q), and (r) as subsection (o), (p), (q), (r),
9 and (s) respectively; and

10 (B) by inserting after subsection (m) the
11 following:

12 “(n) ENFORCEMENT.—Before initiating any enforce-
13 ment action, the Administrator or the State shall ensure
14 that sufficient funds have been made available under this
15 title to assist each public water system that serves fewer
16 than 10,000 individuals in meeting requirements under
17 the regulation.”.

18 (c) RENEWAL OF EXEMPTION.—Section 1416(b)(2)
19 of the Safe Drinking Water Act (42 U.S.C. 300g–5(b)(2))
20 is amended by striking subparagraph (C) and inserting
21 the following:

22 “(C) In the case of a system that does not
23 serve more than a population of 10,000 and
24 that needs financial assistance for the necessary
25 improvements, an exemption granted under

clause (i) or (ii) of subparagraph (B) may be renewed for such period as the State determines to be appropriate, if the system establishes that it is taking all practicable steps to meet the requirements of subparagraph (B).”.

(d) RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, AND TRAINING OF PERSONNEL.—Section 1442 of the Safe Drinking Water Act (42 U.S.C. 300j–1) is amended—

(1) in subsection (e)—

(A) in the first sentence, by striking “The Administrator” and inserting the following:

“(1) IN GENERAL.—The Administrator”;

(B) in the second sentence, by striking “Such assistance” and inserting the following:

“(2) TYPES OF ASSISTANCE.—Assistance provided under paragraph (1)”;

(C) in the third sentence, by striking “The Administrator” and inserting the following:

“(3) AVAILABILITY OF ASSISTANCE.—The Administrator”;

(D) in the fourth sentence, by striking “Each nonprofit” and inserting the following:

“(4) CONSULTATION WITH STATE.—Each nonprofit”; and

1 (E) by striking the fifth sentence and all
2 that follows through the end of the subsection
3 and inserting the following:

4 “(5) ASSISTANCE IN COMPLYING WITH
5 RULES.—The Administrator shall ensure, to the
6 maximum extent practicable, that each water system
7 serving fewer than 10,000 individuals that is re-
8 quired to comply with Federal drinking water rules
9 receives adequate technical assistance and training
10 to meet the requirements of those final rules, includ-
11 ing through assistance to be provided by qualified
12 nonprofit associations with expertise in public water
13 systems.

14 “(6) PRIORITY.—The Administrator shall give
15 priority for assistance under this section to water
16 systems that, as of the date of enactment of this
17 paragraph, are not in compliance with, as deter-
18 mined by the Administrator—

19 “(A) the final rule entitled ‘Disinfectants
20 and Disinfection Byproducts’ and published by
21 the Administrator on December 16, 1998 (63
22 Fed. Reg. 69390);

23 “(B) the final rule entitled ‘Arsenic and
24 Clarifications to Compliance and New Source
25 Contaminants Monitoring’ and published by the

1 Administrator on January 22, 2001 (66 Fed.
2 Reg. 6976);

3 “(C) the final rule entitled ‘Stage 2 Dis-
4 infectants and Disinfection Byproducts Rule’
5 and published by the Administrator on January
6 4, 2006 (71 Fed. Reg. 388); and

7 “(D) the final rule entitled ‘Ground Water
8 Rule’ and published by the Administrator on
9 November 8, 2006 (71 Fed. Reg. 65574).

10 “(7) ENFORCEMENT ACTION.—Before initiating
11 any enforcement action, the Administrator or the
12 State shall ensure that sufficient funds have been
13 made available under this title to assist each public
14 water system that serves fewer than 10,000 individ-
15 uals in meeting requirements under the regulation.”;
16 and

17 (2) by adding at the end the following:

18 “(f) RESEARCH AND DEVELOPMENT PILOT
19 PROJECTS.—

20 “(1) IN GENERAL.—The Administrator shall es-
21 tablish a research pilot program (referred to in this
22 subsection as the ‘program’) to explore new tech-
23 nologies or approaches that public water systems
24 may use to comply with a public drinking water
25 standard promulgated under this Act.

1 “(2) RESPONSIBILITIES OF ADMINISTRATOR.—

2 In carrying out this subsection, the Administrator
3 shall—

4 “(A) establish an application process that
5 includes criteria that may be used to assess
6 water systems applying for participation in the
7 program;

8 “(B) based on applications received under
9 subparagraph (A), select 20 communities with
10 various populations and water sources in dif-
11 ferent regions of the United States for partici-
12 pation in the program;

13 “(C) fund projects that develop or imple-
14 ment new technologies or approaches for imple-
15 mentation of Federal drinking water standards;
16 and

17 “(D) coordinate projects with the Arsenic
18 Water Technology Partnership program of the
19 Department of Energy.

20 “(3) TECHNOLOGY TRANSFER AND DISINFEC-
21 TION STRATEGIES.—The Administrator shall carry
22 out a pilot program to conduct research into tech-
23 nology transfer issues and disinfection strategies re-
24 lating to drinking water, including risks associated

1 with the migration to chloramines for the purpose of
2 water disinfection.

3 “(4) FUNDING.—

4 “(A) AUTHORIZATION OF APPROPRIA-
5 TIONS.—There is authorized to be appropriated
6 to carry out this subsection and subsection (e)
7 \$15,000,000 for each of fiscal years 2008
8 through 2012.

9 “(B) LOBBYING EXPENSES.—No portion
10 of any State revolving loan fund established
11 under section 1452, and no portion of any
12 funds made available under this subsection,
13 may be used for lobbying expenses.

14 “(C) TRIBAL ASSISTANCE.—Of the amount
15 made available under subparagraph (A) for a
16 fiscal year, at least 3 percent shall be used for
17 technical assistance to public water systems
18 owned or operated by Indian Tribes.”.

19 (e) CONTAMINANT STUDY AND REPORT.—

20 (1) ESTABLISHMENT OF PANEL.—The Adminis-
21 trator of the Environmental Protection Agency (re-
22 ferred to in this subsection as the “Administrator”)
23 shall establish a panel of experts composed of not
24 more than 6 members appointed by the Adminis-
25 trator, of whom—

1 (A) 1 member shall be selected by the Ad-
2 ministrator;

3 (B) 1 member shall be appointed based on
4 the recommendation of State water administra-
5 tors;

6 (C) 3 members shall be appointed based on
7 the recommendation of associations rep-
8 resenting public water systems; and

9 (D) 1 member shall be appointed based on
10 the recommendation of the National Academy
11 of Sciences.

12 (2) DUTIES.—The panel of experts shall—

13 (A) conduct a review of studies on the
14 health effects of exposure to arsenic and dis-
15 infection byproducts; and

16 (B) not later than 180 days after the date
17 of enactment of this Act, submit to the Com-
18 mittee on Environment and Public Works of the
19 Senate and the Committee on Energy and Com-
20 merce of the House of Representatives a report
21 that includes—

22 (i) the results of the review; and

23 (ii) an assessment of the most recent
24 scientific findings relating to the health ef-
25 fects of exposure to the substances de-

1 scribed in subparagraph (A), including a
2 comparison of studies and research con-
3 ducted after the date on which maximum
4 contaminant levels and maximum contami-
5 nant level goals for those substances were
6 established in accordance with section
7 1412 of the Safe Drinking Water Act (42
8 U.S.C. 300g-1).

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