

111TH CONGRESS  
2D SESSION

# S. 3038

To amend the Safe Drinking Water Act to prevent the enforcement of certain national primary drinking water regulations unless sufficient funding is available.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 2010

Mr. INHOFE (for himself, Mr. CRAPO, Mr. RISCH, Mr. BARRASSO, and Mr. VITTER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## 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.

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 2010”.

6       **SEC. 2. COMPLIANCE AND ENFORCEMENT.**

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

1 “(vi) GUIDANCE.—As soon as prac-  
2 ticable after the date of enactment of this  
3 clause, the Administrator shall—

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

17 “(II) develop a model guidance  
18 document based on recommendations  
19 received from the working group  
20 under subclause (I) and similar State  
21 guidance documents for distribution  
22 to States to assist States in regulating  
23 and promoting the treatment options  
24 described in subclause (I); and

1 “(III) distribute to small water  
2 systems—

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

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

11 (b) ENFORCEMENT OF NATIONAL PRIMARY DRINK-  
12 ING WATER REGULATIONS.—

13 (1) VARIANCE TECHNOLOGIES.—Section  
14 1412(b)(15)(A) of the Safe Drinking Water Act (42  
15 U.S.C. 300g–1(b)(15)(A)) is amended—

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

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

21 “(A) TECHNOLOGIES.—

22 “(i) IN GENERAL.—At the”; and

23 (C) by adding after the matter following  
24 subparagraph (A)(i)(III) (as redesignated by  
25 subparagraph (A)) the following:

1           “(ii) AFFORDABILITY.—In estab-  
2           lishing affordability criteria under this sub-  
3           paragraph, the Administrator shall—

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

15                  “(II) give extra weight to house-  
16                  holds the total income of which is  
17                  below the poverty level, and to com-  
18                  munities that meet the affordability  
19                  criteria of a State established in ac-  
20                  cordance with section  
21                  1452(b)(3)(A)(iii), as determined by  
22                  the Administrator; and

23                  “(III) ensure that the afford-  
24                  ability criteria are not more costly, on  
25                  a per-capita basis, to a small public

1                   water system than the cost, on a per-  
 2                   capita basis, to a large water system  
 3                   of acquiring feasible technology de-  
 4                   scribed in paragraph (4).”.

5                   (2) STATE REVOLVING LOAN FUNDS.—Section  
 6           1452 of the Safe Drinking Water Act (42 U.S.C.  
 7           300j–12) is amended—

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

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

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

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

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

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:

1           “(4) CONSULTATION WITH STATE.—Each non-  
2       profit”; and

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

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

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

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

1 “(B) the final rule entitled ‘Arsenic and  
2 Clarifications to Compliance and New Source  
3 Contaminants Monitoring’ and published by the  
4 Administrator on January 22, 2001 (66 Fed.  
5 Reg. 6976);

6 “(C) the final rule entitled ‘Stage 2 Dis-  
7 infectants and Disinfection Byproducts Rule’  
8 and published by the Administrator on January  
9 4, 2006 (71 Fed. Reg. 388); and

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

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

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

21 “(f) RESEARCH AND DEVELOPMENT PILOT  
22 PROJECTS.—

23 “(1) IN GENERAL.—The Administrator shall es-  
24 tablish a research pilot program (referred to in this  
25 subsection as the ‘program’) to explore new tech-



1 nologies or approaches that public water systems  
2 may use to comply with a public drinking water  
3 standard promulgated under this Act.

4 “(2) RESPONSIBILITIES OF ADMINISTRATOR.—

5 In carrying out this subsection, the Administrator  
6 shall—

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

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

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

20 “(D) coordinate projects with the Arsenic  
21 Water Technology Partnership program of the  
22 Department of Energy.

23 “(3) TECHNOLOGY TRANSFER AND DISINFEC-  
24 TION STRATEGIES.—The Administrator shall carry  
25 out a pilot program to conduct research into tech-

1 nology transfer issues and disinfection strategies re-  
2 lating to drinking water, including risks associated  
3 with the migration to chloramines for the purpose of  
4 water disinfection.

5 “(4) FUNDING.—

6 “(A) AUTHORIZATION OF APPROPRIA-  
7 TIONS.—There is authorized to be appropriated  
8 to carry out this subsection and subsection (e)  
9 \$15,000,000 for each of fiscal years 2010  
10 through 2014.

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

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

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