

114TH CONGRESS
2D SESSION

S. 2820

To amend the Safe Drinking Water Act to update and modernize the reporting requirements for contaminants, including lead, in drinking water.

IN THE SENATE OF THE UNITED STATES

APRIL 20, 2016

Mr. MARKEY 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 update and modernize the reporting requirements for contaminants, including lead, in drinking water.

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 “Contaminant and Lead
5 Electronic Accounting and Reporting Requirements
6 (CLEAR) for Drinking Water Act of 2016”.

7 **SEC. 2. ASSISTANCE FOR DISADVANTAGED COMMUNITIES.**

8 (a) ASSISTANCE TO INCREASE COMPLIANCE WITH
9 NATIONAL DRINKING WATER STANDARDS.—Section

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

3 (1) in subsection (b)(3), by adding at the end
4 the following:

5 “(C) ASSISTANCE TO INCREASE COMPLI-
6 ANCE.—An intended use plan shall provide
7 that, of the funds received by the State in a fis-
8 cal year through a capitalization grant under
9 this section, the State shall, to the extent that
10 the State receives sufficient eligible project ap-
11 plications, reserve not less than 6 percent of
12 those funds to provide assistance under sub-
13 section (d) to one or more public water systems
14 described in a list included in an intended use
15 plan under paragraph (2)(D).”; and

16 (2) in subsection (d)—

17 (A) by redesignating paragraphs (1), (2),
18 and (3) as paragraphs (2), (3), and (1), respec-
19 tively;

20 (B) by moving the paragraphs so as to ap-
21 pear in numerical order;

22 (C) in paragraph (1) (as redesignated by
23 subparagraph (A))—

24 (i) in the first sentence—

1 (I) by striking “In this sub-
2 section” and inserting the following:

3 “(A) IN GENERAL.—In this subsection”;

4 and

5 (II) by inserting “, or a portion
6 of the service area,” after “service
7 area”; and

8 (ii) in the second sentence, by striking
9 “The Administrator” and inserting the fol-
10 lowing:

11 “(B) AFFORDABILITY CRITERIA FOR DIS-
12 ADVANTAGED COMMUNITIES.—

13 “(i) IN GENERAL.—In establishing af-
14 fordability criteria, each State that has en-
15 tered into a capitalization agreement under
16 this section shall consider, solicit public
17 comment on, and include in the afford-
18 ability criteria, as appropriate—

19 “(I) the methods or criteria that
20 the State intends to use to identify
21 disadvantaged communities;

22 “(II) a description of the institu-
23 tional, regulatory, financial, tax, or
24 legal factors at the Federal, State, or

1 local level that affect the affordability
2 criteria; and

3 “(III) a description of the man-
4 ner in which the State will assist a
5 disadvantaged community under this
6 subsection.

7 “(ii) ASSISTANCE TO STATES.—The
8 Administrator”;

9 (D) in paragraph (2) (as redesignated by
10 subparagraph (A))—

11 (i) by striking “Notwithstanding” and
12 inserting the following:

13 “(A) ADDITIONAL SUBSIDIZATION.—Not-
14 withstanding”; and

15 (ii) by adding at the end the fol-
16 lowing:

17 “(B) DIRECT AND PRIMARY BENEFIT.—
18 Any additional subsidization provided under
19 subparagraph (A) shall directly and primarily
20 benefit the disadvantaged community.”; and

21 (E) in paragraph (3) (as redesignated by
22 subparagraph (A)), by striking “paragraph (1)”
23 and inserting “paragraph (2)”.

24 (b) CONFORMING AMENDMENT.—Section
25 1452(f)(1)(B) of the Safe Drinking Water Act (42 U.S.C.

1 300j-12(f)(1)(B)) is amended by striking “subsection
2 (d)(3)” and inserting “subsection (d)(1)”.

3 **SEC. 3. DRINKING WATER QUALITY IMPROVEMENT FOR MI-**
4 **NORITY, TRIBAL, AND LOW-INCOME COMMU-**
5 **NITIES.**

6 (a) DEFINITIONS.—In this section:

7 (1) ADMINISTRATOR.—The term “Adminis-
8 trator” means the Administrator of the Environ-
9 mental Protection Agency.

10 (2) WATER QUALITY TESTING.—The term
11 “water quality testing” means the testing of drink-
12 ing water for the presence of lead or any other con-
13 taminant that poses a public health risk.

14 (b) FORMAL GUIDANCE.—The Administrator shall
15 issue formal guidance to develop a process to protect and
16 improve the drinking water of minority, tribal, and low-
17 income communities.

18 (c) EXPEDITED WATER QUALITY TESTING.—

19 (1) IN GENERAL.—In developing the process
20 described in subsection (b), the Administrator shall
21 establish and maintain, within the Office of Environ-
22 mental Justice of the Environmental Protection
23 Agency, a process by which a minority, tribal, or
24 low-income community, as defined by the Director of
25 the Office of Environmental Justice of the Environ-

1 mental Protection Agency, may request expedited
2 water quality testing of the drinking water of the
3 community for the presence of lead or any other
4 contaminant that poses a public health risk to indi-
5 viduals in the community.

6 (2) RESULTS.—The Administrator shall provide
7 to the requestor the results of an expedited water
8 quality testing carried out in accordance with para-
9 graph (1) in a timely manner.

10 (3) WEBSITE.—The Administrator shall develop
11 and maintain a publicly accessible website through
12 which a request for expedited water quality testing
13 in accordance with paragraph (1) may be submitted,
14 in compliance with applicable Federal law (including
15 regulations) and policies relating to the protection of
16 individual privacy.

17 (4) PERFORMANCE MEASURE.—

18 (A) IN GENERAL.—The Administrator
19 shall develop a performance measure for the ex-
20 pedited water quality testing carried out in ac-
21 cordance with paragraph (1) to determine the
22 average number of days between the date of
23 submission of a request for expedited water
24 quality testing and the date of completion of a
25 request.

1 (B) REPORTING.—The performance meas-
2 ure described in subparagraph (A) shall be pub-
3 lished on the website described in paragraph (3)
4 not less frequently than once each calendar
5 year.

6 (d) ELECTRONIC DATABASE.—The Administrator
7 shall develop and maintain an electronic database of water
8 quality and health screening tests that includes the results
9 of any—

10 (1) water system supplier water quality test re-
11 quired under the Safe Drinking Water Act (42
12 U.S.C. 300f et seq.);

13 (2) health screening, including blood lead test
14 results, aggregated not less frequently than once
15 each month on a geographic scale not smaller than
16 county level, to be coordinated with the Director of
17 the Centers for Disease Control and Prevention, re-
18 quired under section 317A of the Public Health
19 Service Act (42 U.S.C. 247b–1) and in accordance
20 with the Health Insurance Portability and Account-
21 ability Act of 1996 (42 U.S.C. 201 et seq.); and

22 (3) expedited water quality testing carried out
23 in accordance with subsection (c)(1).

24 (e) REGIONAL LIAISON.—

1 (1) IN GENERAL.—In developing the process
2 described in subsection (b), the Administrator shall
3 ensure that not fewer than 1 employee in each re-
4 gional office of the Environmental Protection Agency
5 will serve as a liaison to minority, tribal, and low-
6 income communities in the relevant region.

7 (2) PUBLIC IDENTIFICATION.—The Adminis-
8 trator shall prominently identify each regional liai-
9 son selected under paragraph (1) on the website
10 of—

11 (A) the relevant regional office of the Envi-
12 ronmental Protection Agency; and

13 (B) the Office of Environmental Justice of
14 the Environmental Protection Agency.

15 (f) COMMUNITY PARTNERSHIP.—The Administrator
16 may make grants to community organizations that rep-
17 resent, operate in, or serve a minority, tribal, or low-in-
18 come community, as determined by the Administrator, to
19 educate the residents of the community on—

20 (1) contaminants in drinking water that may
21 have an adverse effect on human health; and

22 (2) assistance that the Administrator may pro-
23 vide to residents to identify and address a drinking
24 water contaminant that may have an adverse effect
25 on human health.

1 (g) PUBLIC INTEREST SCIENCE PARTNERSHIPS.—

2 The Administrator may create a partnership with an aca-
3 demic or research institution, including another Federal
4 agency, to conduct or promote science that serves the pub-
5 lic interest by sharing data or costs or engaging in any
6 other activity of mutual benefit—

7 (1) to identify—

8 (A) any contaminant in drinking water
9 that may have an adverse effect on human
10 health; and

11 (B) a significant public health crisis caused
12 by any violation or contamination that—

13 (i) has the potential to have a serious
14 adverse effect on human health that re-
15 quires notice under section 1414(c)(2)(C)
16 of the Safe Drinking Water Act (42 U.S.C.
17 300g-3(c)(2)(C)); or

18 (ii) may present an imminent and
19 substantial endangerment to the health of
20 persons (within the meaning of section
21 1431(a) of the Safe Drinking Water Act
22 (42 U.S.C. 300i(a))); and

23 (2) to measure the risk that a minority, tribal,
24 or low-income community faces from contaminants

1 in drinking water that may have an adverse effect
2 on human health.

3 (h) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated for the period of fiscal
5 years 2018 through 2022—

6 (1) to carry out subsection (c), \$2,000,000;

7 (2) to provide grants to community partners to
8 carry out subsection (f), \$5,000,000; and

9 (3) to carry out subsection (g), \$10,000,000.

10 **SEC. 4. COMPLIANCE AND INSPECTIONS OF PUBLIC WATER**

11 **SUPPLIES.**

12 (a) REPORTING NONCOMPLIANCE.—Section
13 1452(b)(2) of the Safe Drinking Water Act (42 U.S.C.
14 300j–12(b)(2)) is amended—

15 (1) in subparagraph (B), by striking “and” at
16 the end;

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

19 (3) by adding at the end the following:

20 “(D) a list that includes—

21 “(i) any public water system in the
22 State that—

23 “(I) has in effect an exemption
24 or variance for any national primary
25 drinking water regulation;

1 “(II) is in persistent violation of
2 any requirement for a maximum con-
3 taminant level or treatment technique
4 under a national primary drinking
5 water regulation; or

6 “(III) the State or Administrator
7 determines may present an imminent
8 and substantial endangerment to the
9 health of persons (within the meaning
10 of section 1431(a));

11 “(ii) the relevant national primary
12 drinking regulation for the exemption,
13 variance, or violation; and

14 “(iii)(I) the effective date of the ex-
15 emption or variance; or

16 “(II) the date on which the persistent
17 violation began.”.

18 (b) ADVICE AND TECHNICAL ASSISTANCE.—Section
19 1414(a)(1) of the Safe Drinking Water Act (42 U.S.C.
20 300g-3(a)(1)) is amended—

21 (1) in subparagraph (A)—

22 (A) in the undesignated matter preceding
23 clause (i), by striking “Whenever” and insert-
24 ing “The Administrator shall notify the State

1 and the public water system of noncompliance
2 by the public water system if”;

3 (B) in clause (ii), by striking “pursuant
4 thereto,” and inserting “in accordance with
5 that variance or exemption.”; and

6 (C) by striking the undesignated matter
7 following clause (ii); and

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

9 “(C) ADVICE AND TECHNICAL ASSIST-
10 ANCE.—

11 “(i) IN GENERAL.—After providing
12 notice of noncompliance to the State and
13 the public water system under subpara-
14 graph (A), the Administrator may provide
15 such advice and technical assistance to the
16 State and public water system as the Ad-
17 ministrator determines appropriate to
18 bring the public water system into compli-
19 ance with the variance or exemption by the
20 earliest date feasible.

21 “(ii) CONSIDERATIONS.—In making a
22 determination to provide advice and tech-
23 nical assistance under clause (i), the Ad-
24 ministrator may consider—

1 “(I) the potential for the non-
2 compliance to result in a serious ad-
3 verse effect to human health;

4 “(II) whether the noncompliance
5 has occurred continuously or fre-
6 quently; and

7 “(III) the effectiveness of any
8 past technical assistance effort.”.

9 (c) ADDITIONAL INSPECTIONS.—Section 1414 of the
10 Safe Drinking Water Act (42 U.S.C. 300g-3) is amend-
11 ed—

12 (1) by redesignating subsections (d) through (i)
13 as subsections (e) through (j), respectively; and

14 (2) by inserting after subsection (c) the fol-
15 lowing:

16 “(d) ADDITIONAL INSPECTIONS AFTER A VIOLA-
17 TION.—

18 “(1) IN GENERAL.—After consultation with the
19 States, the Administrator shall, by regulation, pre-
20 scribe the number, frequency, and type of additional
21 inspections that shall be carried out after any viola-
22 tion that requires notice under subsection (c).

23 “(2) REGULATIONS.—The regulations issued
24 under paragraph (1) shall—

25 “(A) take into account—

1 “(i) the difference between—

2 “(I) intermittent or infrequent
3 violations; and

4 “(II) continuous or frequent vio-
5 lations;

6 “(ii) the seriousness of any potential
7 adverse health effect that may be related
8 to a violation; and

9 “(iii) the number and severity of a
10 past violation by a public water system;
11 and

12 “(B) specify the procedure for an inspec-
13 tion after a violation by a public water system
14 that has the potential to cause a serious adverse
15 effect on human health due to short-term expo-
16 sure to a contaminant.”.

17 (3) CONFORMING AMENDMENTS.—

18 (A) Section 1414 of the Safe Drinking
19 Water Act (42 U.S.C. 300g-3) is amended—

20 (i) in subsection (a)—

21 (I) in paragraph (1)(B), by strik-
22 ing “subsection (g)” and inserting
23 “subsection (h)”; and

24 (II) in paragraph (2)(A), in the
25 undesignated matter following clause

1 (ii), by striking “subsection (g)” and
 2 inserting “subsection (h)”; and

3 (ii) in subsection (b), in the undesig-
 4 nated matter preceding paragraph (1), by
 5 striking “subsection (g)” and inserting
 6 “subsection (h)”.

7 (B) Section 1448(a) of the Safe Drinking
 8 Water Act (42 U.S.C. 300j-7(a)) is amended in
 9 the third sentence of the undesignated matter
 10 following paragraph (2) by striking
 11 “1414(g)(3)(B)” and inserting
 12 “1414(h)(3)(B)”.

13 **SEC. 5. ELECTRONIC REPORTING OF TEST RESULTS.**

14 Section 1414 of the Safe Drinking Water Act (42
 15 U.S.C. 300g-3) (as amended by section 4(c)(1)) is amend-
 16 ed by adding at the end the following:

17 “(k) ELECTRONIC REPORTING OF COMPLIANCE
 18 MONITORING DATA.—Not later than 1 year after the date
 19 of enactment of this subsection, the Administrator shall
 20 issue a final rule that establishes requirements for elec-
 21 tronic submission—

22 “(1) by public water systems of all compliance
 23 monitoring data—

24 “(A) to the Administrator; or

1 “(B) with respect to a public water system
 2 in a State that has primary enforcement re-
 3 sponsibility under section 1413, to that State;
 4 and

5 “(2) by each State that has primary enforce-
 6 ment responsibility under section 1413 to the Ad-
 7 ministrator all compliance monitoring data sub-
 8 mitted by a public water system to the State under
 9 paragraph (1)(B).”.

10 **SEC. 6. PRIORITY OF APPLICATIONS.**

11 Section 1452(b)(3)(A) of the Safe Drinking Water
 12 Act (42 U.S.C. 300j-12(b)(3)(A)) is amended—

13 (1) in clause (ii), by striking “and” at the end;

14 (2) in clause (iii), by striking the period at the
 15 end and inserting a semicolon; and

16 (3) by inserting at the end the following:

17 “(iv) improve—

18 “(I) real-time continuous on-site
 19 electronic monitoring; or

20 “(II) transmission of testing re-
 21 sults; and

22 “(v) improve the ability of a public
 23 water system—

24 “(I) to protect human health;

25 and

1 “(II) to comply with this title in
2 manner that is affordable.”.

3 **SEC. 7. NOTIFICATION OF THE CENTERS FOR DISEASE**
4 **CONTROL AND PREVENTION AND STATE**
5 **HEALTH AGENCIES.**

6 Section 1414(c)(2)(C) of the Safe Drinking Water
7 Act (42 U.S.C. 300g-3(c)(2)(C)) is amended—

8 (1) in clause (iii)—

9 (A) by striking “Administrator or” and in-
10 sserting “Administrator, the Director of the
11 Centers for Disease Control and Prevention,
12 and, if applicable,”;

13 (B) by inserting “and the appropriate
14 State and county health agencies” after
15 “1413”; and

16 (C) by striking “and” at the end;

17 (2) by redesignating clause (iv) as clause (v);

18 and

19 (3) by inserting after clause (iii) the following:

20 “(iv) be provided to each person
21 served by the public water system—

22 “(I) in the first billing statement
23 that the public water system prepares
24 after the date on which the violation
25 occurs; and

1 “(II) in a manner consistent with
2 clause (ii); and”.

○