

112TH CONGRESS
1ST SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Mr. INHOFE (for himself, Mr. COCHRAN, Mr. VITTER, Mr. BOOZMAN, Mr. RISCH, and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on _____

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 2011”.

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

1 improvements, an exemption granted under
2 clause (i) or (ii) of subparagraph (B) may be
3 renewed for such period as the State determines
4 to be appropriate, if the system establishes that
5 it is taking all practicable steps to meet the re-
6 quirements of subparagraph (B).”.

7 (d) RESEARCH, TECHNICAL ASSISTANCE, INFORMA-
8 TION, AND TRAINING OF PERSONNEL.—Section 1442 of
9 the Safe Drinking Water Act (42 U.S.C. 300j-1) is
10 amended—

11 (1) in subsection (e)—

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

14 “(1) IN GENERAL.—The Administrator”;

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

17 “(2) TYPES OF ASSISTANCE.—Assistance pro-
18 vided under paragraph (1)”;

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

21 “(3) AVAILABILITY OF ASSISTANCE.—The Ad-
22 ministrator”;

23 (D) in the fourth sentence, by striking
24 “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);

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

13 “(E) any other final rule promulgated by
14 the Administrator after the date of enactment
15 of this paragraph.

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

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

24 “(f) RESEARCH AND DEVELOPMENT PILOT
25 PROJECTS.—

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

7 “(2) RESPONSIBILITIES OF ADMINISTRATOR.—
8 In carrying out this subsection, the Administrator
9 shall—

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

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

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

23 “(D) coordinate projects with the Arsenic
24 Water Technology Partnership program of the
25 Department of Energy.

1 “(3) TECHNOLOGY TRANSFER AND DISINFEC-
2 TION STRATEGIES.—The Administrator shall carry
3 out a pilot program to conduct research into tech-
4 nology transfer issues and disinfection strategies re-
5 lating to drinking water, including risks associated
6 with the migration to chloramines for the purpose of
7 water disinfection.

8 “(4) FUNDING.—

9 “(A) AUTHORIZATION OF APPROPRIA-
10 TIONS.—There is authorized to be appropriated
11 to carry out this subsection and subsection (e)
12 \$15,000,000 for each of fiscal years 2011
13 through 2015.

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

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