

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

**MEMORANDUM**

**March 13, 2017**

**To: Subcommittee on Environment Democratic Members and Staff**

**Fr: Committee on Energy and Commerce Democratic Staff**

**Re: Hearing on “Reinvestment and Rehabilitation of Our Nation’s Safe Drinking Water Delivery Systems”**

On **Thursday, March 16, 2017, at 10:00 a.m. in room 2322 of the Rayburn House Office Building**, the Subcommittee on Environment will hold an oversight hearing entitled, “Reinvestment and Rehabilitation of Our Nation’s Safe Drinking Water Delivery Systems.” This hearing will explore challenges facing the nation’s drinking water system and which Democratic legislative proposals in the Safe Drinking Water Act Amendments of 2017 and the Assistance, Quality, and Accountability (AQUA) Act of 2017 mean to address.

**I. DRINKING WATER INFRASTRUCTURE NEED**

Our nation’s public drinking water systems serve over 300 million people, but aging and failing infrastructure threatens reliable access to safe drinking water. Last week, the American Society of Civil Engineers published its periodic infrastructure report card, rating our drinking water infrastructure with a “D” grade.<sup>1</sup> Most pipes in this country are between 75 and 110 years old – at or beyond the expected limits of their useful life. Because of this, an estimated 240,000 water main breaks occur every year, wasting money, disrupting service, and compromising water quality.<sup>2</sup>

---

<sup>1</sup> American Society of Civil Engineers, *2017 Report Card for America’s Infrastructure*, (online at [www.infrastructurereportcard.org](http://www.infrastructurereportcard.org)).

<sup>2</sup> *Id.*

Lead is also a significant and growing threat from our aging infrastructure. Lead is present in our drinking water distribution systems in service lines, solder, and fixtures. As that infrastructure ages and corrodes, more lead can leach into drinking water.

To maintain safe drinking water delivery, public water systems will need to make significant investments to repair or replace infrastructure and equipment. The Environmental Protection Agency's (EPA's) most recent needs assessment for drinking water infrastructure estimated that \$384 billion will be necessary for infrastructure repairs by 2030.<sup>3</sup> This amount grew significantly since EPA's last assessment, demonstrating that investment has not kept pace with need.<sup>4</sup>

Delaying these investments will increase needed costs because repairing broken pipes costs more than replacing them before breakage.<sup>5</sup> Old pipes will continue to break resulting in massive quantities of lost treated water, and prompting inefficient emergency repair expenditures. These costs are then passed onto the consumer in higher utility bills and increased service disruptions.

## II. THE DRINKING WATER SRF

The Safe Drinking Water Act (SDWA) Amendments of 1996 created the Drinking Water State Revolving Fund (SRF), the primary mechanism for federal drinking water infrastructure assistance.<sup>6</sup> The SRF provides loans and grants to states to use for water infrastructure, source water protection, and management of public water systems. Funds from the SRF are allotted to the states based on need, with no state receiving less than one percent of the fund.<sup>7</sup> Each state then administers its fund according to an approved intended use plan.

The priorities for these funds are addressing the most serious risks to human health, ensuring compliance with SDWA requirements, and assisting systems most in need on a per-household basis. The SRF program also confers discretionary authority on the states to provide additional assistance to disadvantaged systems, including zero interest loans and principal forgiveness.<sup>8</sup>

The SRF has not been reauthorized since it expired in 2003. Two Democratic bills referred to this subcommittee – H.R. 1071 the Assistance, Quality, and Affordability Act of 2017 introduced by Ranking Member Tonko, and H.R. 1068 the Safe Drinking Water Act

---

<sup>3</sup> U.S. Environmental Protection Agency, *Drinking Water Infrastructure Needs Survey and Assessment, Fifth Report to Congress* (Apr. 2013) (EPA-816-R-13-006) ([water.epa.gov/grants\\_funding/dwsrf/index.cfm](http://water.epa.gov/grants_funding/dwsrf/index.cfm)).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Safe Drinking Water Act Amendments of 1996, Pub. L. No. 104-182 (1996).

<sup>7</sup> Safe Drinking Water Act §1452, 42 U.S.C. 300j-12.

<sup>8</sup> Safe Drinking Water Act §1452(d).

Amendments of 2017 introduced by Ranking Member Pallone - include provisions to reauthorize and improve the SRF. These proposals would increase funding, increase assistance for disadvantaged communities, encourage good management of water systems, and prioritize sustainability in water infrastructure projects.

### **III. ADDITIONAL DRINKING WATER CHALLENGES**

Aging infrastructure is one of several significant challenges facing customers of public drinking water systems. Other challenges include cumbersome statutory requirements that have prevented EPA from adopting needed drinking water standards, limited notification requirements when drinking water is not safe, emerging contaminants such as PFOA, and climate change. The Safe Drinking Water Act Amendments of 2017 (H.R. 1068) would address each of these challenges. For more information about this particular bill, please see the attached section-by-section summary.

### **IV. WITNESSES**

The following witnesses have been invited to testify:

**Rudolph S. Chow, P.E.**

Director, Baltimore, MD Department of Public Works  
*On behalf of the American Municipal Water Association*

**Randy Ellingboe**

Minnesota Department of Health  
*On behalf of the Association of State Drinking Water Administrators*

**Greg DiLoreto**

Chairman, Committee for America's Infrastructure  
American Society of Civil Engineers

**John Donahue**

Chief Executive Officer  
North Park Public Water District, Machesney Park, IL  
*On behalf of the American Water Works Association*

**Martin A. Kropelnicki**

President and CEO  
California Water Service Group  
*On behalf of the National Association of Water Companies*

**Erik D. Olson**

Director, Health and Environmental Program  
Natural Resources Defense Council



---

## **Section-by-Section of the “Safe Drinking Water Act Amendments of 2017” Committee on Energy and Commerce, Democratic Staff**

---

The Safe Drinking Water Act Amendments (SDWA) of 2017 would ensure safer water for communities nationwide. The bill would empower EPA to set needed drinking water standards; require water systems to address risks to their source water from climate change, industrial activity, and terrorism; authorize new investments in replacement of lead-containing service lines and school drinking fountains, climate resiliency, monitoring technology, and overall drinking water infrastructure; and improve compliance and community right to know.

### **TITLE I: Regulating Dangerous Drinking Water Contaminants**

#### **Section 101. Enabling EPA to Set Standards for Drinking Water Contaminants.**

This section will remove procedural hurdles that have prevented EPA from setting needed drinking water standards and require EPA to make regulatory determinations for 10 potential contaminants every 3 years.

#### **Section 102. Deadlines for Standards on Known Dangerous Contaminants.**

This section sets aggressive deadlines for the completion of four drinking water standards to address risks from lead, perchlorate, perfluorinated compounds, and algal toxins. The section identifies several requirements for the final Lead and Copper Rule (LCR) based on recommendations of the National Drinking Water Advisory Council and lessons from the Flint crisis. The LCR revisions will include re-evaluation of corrosion control when source water or treatment is altered, testing technique requirements to ensure valid results, school monitoring, clear and effective communication of lead issues, and lead service line replacement requirements.

### **TITLE II: Reducing Lead in Drinking Water**

#### **Section 201. Lead Line Replacement for Public Water Systems.**

This section increases the authorization amounts for the EPA lead service line removal grant program, created by the Water Infrastructure Improvement Act of 2016, to \$100 million for each of five years.

#### **Section 202. Drinking Water Fountain Replacement Program.**

This section authorizes \$5 million for each of five years to schools to replace drinking water fountains that were manufactured prior to 1988. These fountains are likely to contain lead and pose a health risk to students and staff.

#### **Section 203. Aligning Definitions of Lead-Free.**

This section removes potential ambiguity in the definition of “Lead free” for drinking fountains.

#### **Section 204. Guidance to Schools and Child Care Centers.**

This section requires EPA to update guidance to schools and child care centers regarding testing for lead in drinking water, reducing lead levels, planning for lead infrastructure replacement as part of school renovations, and communicating lead testing results, health risks, and response actions to the community.

#### **Section 205. Lead Service Line Replacements in Schools.**

This section authorizes \$50 million for each of five years for a grant program to replace lead service lines and solder in schools. The grant program prioritizes schools that have experienced lead level exceedances in the past 3 years.

**Section 206. School Remedial Action Program.**

This section increases the authorization amounts for the school lead monitoring program, created by the Water Infrastructure Improvement Act of 2016, to \$100 million for each of five years.

**TITLE III: Climate Resiliency, Security, and Source ~~w~~Water Protection**

**Section 301. Climate Resiliency, Security, and Source Water Protection Planning.**

This section requires drinking water systems assess their vulnerabilities to upstream contamination (from industrial activities, oil and gas production, and other threats), climate change (including extreme weather and drought), and terrorism (including intentional contamination and sabotage). Those water systems will then be required to develop plans to mitigate those vulnerabilities and respond to emergencies. The section requires EPA to provide guidance to systems for both the vulnerability assessments and response plans.

The section also authorizes \$50 million for each of five years to carry out changes identified in the response plans and increase the resiliency of systems to threats from climate change, terrorism, and source water contamination.

**Section 302. The FRAC Act.**

This section would remove the Halliburton loophole, which exempted hydraulic fracturing from regulation under the Underground Injection Control Program, and require disclosure of the chemicals used in fracking fluids.

**Section 303. Drought Strategic Plan.**

This section requires the Administrator to develop a strategic plan for assessing and managing the risks of drought to drinking water.

**TITLE IV: Assistance, Quality, and Affordability Act**

**Section 402. Prevailing Wages.**

This section requires that laborers and mechanics employed under a project financed with funds from the state revolving funds are paid at a rate not less than the prevailing wage in the area.

**Section 403. Use of Funds.**

This section amends the list of activities for which funds from the state revolving funds may be used to clarify that preconstruction activities, rehabilitation and replacement of aging infrastructure, and production or capture of sustainable energy are eligible for funding through the revolving funds.

**Section 404. Requirements for Use of American Materials.**

This section would amend the requirement that water systems purchase iron and steel that have been produced in the United States for use in projects funded through the Safe Drinking Water Act State Revolving Fund (“SRF”) enacted in the Water Infrastructure Improvement Act of 2016 to make it permanent. The current requirement applies only to Fiscal Year 2017.

**Section 405. Data on Variances, Exemptions, and Persistent Violations.**

This section amends the list of items that must be included by states in their Intended Use Plans, so that EPA can use information about noncompliance in evaluating whether a state plan will serve the priorities of the SRF.

**Section 406. Definition of Restructuring.**

This section adds a new definition to the SDWA.

**Section 407. Weight of Applications.**

This section adds sustainability to the list of priorities for the use of SRF funds to support projects that increase a system's ability to provide safe, affordable water for years to come. This section also establishes a system for giving greater weight to applications from systems that have taken measures to improve their management and financial stability, efficiency, and environmental impact.

Additionally, and separate from the overall priority scheme, this section makes clear that SRF funds should be available for systems serving disadvantaged communities and facing unaffordable capital costs to come into compliance with a new national primary drinking water standard.

**Section 408. Disadvantaged Communities.**

This section amends the disadvantaged community provisions of SDWA to require states with a demonstrated need to provide assistance through the disadvantaged community provisions of SDWA and to allow public water systems whose service areas include a disadvantaged portion to qualify for assistance.

**Section 409. Administration of State Loan Funds.**

This section codifies the current practice of allowing states to transfer a portion of funds between the Drinking Water and Clean Water State Revolving Funds.

**Section 410. State Loan Funds for American Samoa, Northern Mariana Islands, Guam, and the Virgin Islands.**

This section increases the portion of SRF funds which may be reserved by the Administrator for infrastructure projects in the Territories from 0.33 percent to 1.5 percent of the fund.

**Section 411. Authorization of Appropriations.**

This section authorizes appropriations for fiscal years 2018 through 2022 at increasing levels.

**Section 412. Affordability of New Standards.**

This section requires EPA to regularly update and supplement the list of technologies that are affordable for different classes of systems to drive innovation and provide information for small systems.

Also under this section, a state that finds that a new drinking water standard poses affordability issues for disadvantaged communities in that state will be required to prioritize projects for those systems under the SRF. Any state which is disproportionately affected by a new standard will be eligible, under this section, for additional funds from the SRF program to ensure that prioritizing projects for the new system does not limit funding for other projects. This additional assistance would replace the current small system variance mechanism, which has never been used.

**Section 413. Focus on Lifecycle Costs.**

This section will require the Administrator to look at the lifecycle costs, including maintenance, replacement, and avoided costs, in determining what technologies are feasible for new standards.

**Section 414. Best Practices for Administration of State Revolving Loan Fund Programs.**

This section requires the Administrator to collect and disseminate information on best practices for administration of state revolving loan fund programs, including efforts to streamline the process of applying for loans and techniques to ensure that obligated balances are liquidated in a timely fashion.

## **TITLE V: Increasing Compliance and Community Right to Know**

### **Section 501. Consolidations.**

This section authorizes programs at EPA, and States with primary enforcement authority, to require water systems that have repeatedly failed to comply with drinking water standards to assess options for consolidation. This section also makes clear that consolidation activities under those programs are eligible for SRF funds. To protect the customers of compliant water systems that consolidate with non-compliant systems, the section provides some liability protection to such compliant systems.

### **Section 502. Electronic Reporting and Enforcement.**

This section amends several provisions of the SDWA to adapt affordability considerations for new standards to reflect lessons learned since the 1996 amendments. In promulgating new standards, the Administrator will now be required to regularly update and supplement the list of technologies that are affordable for different classes of systems to drive innovation and provide information for small systems.

### **Section 503. Drinking Water Violation Inventory.**

This section requires EPA to create and share all reported water quality data on a public website that can be searched by zip code and is cross-referenced to census data.

## **TITLE VI: Research**

### **Section 601. Development of Real-time Monitoring Technology.**

This section authorizes research grants to spur the development of real-time monitoring technology for drinking water.

### **Section 602. Presence of Pharmaceuticals and Personal Care Products in Sources of Drinking Water.**

This section requires the Administrator to study the presence of pharmaceuticals and personal care products in sources of drinking water.

### **Section 603. Water Loss and Leak Control Technology.**

This section requires the Administrator to develop criteria and establish a voluntary certification program for effective water loss and leak control technology to allow water systems to make informed purchasing decisions.