



Section-by-Section of the "Assistance, Quality, and Affordability Act of 2010" Committee on Energy and Commerce

Section 1. Short Title.

This Act may be cited as the "Assistance, Quality, and Affordability Act of 2010".

Section 2. Technical Assistance for Small Public Water Systems.

This section amends the technical assistance provisions of the Safe Drinking Water Act (SDWA) to ensure that funds are awarded through a competitive process to the most qualified non-profits, to help small public water systems comply with SDWA requirements and protect public health.

Section 3. 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 4. Use of Funds.

This section amends the list of activities for which funds from the drinking water state revolving funds (SRF) 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. This section also codifies the existing practice of using funds for issuance of bonds.

Section 5. 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 6. Assistance for Restructuring.

This section adds a new definition to the Safe Drinking Water Act.

Section 7. Priority and Weight of Applications.

This section amends the provisions describing the SRF and the procedures for prioritizing applications for funds from the SRF.

This section adds an additional priority for the use of funds from the SRF. Existing law includes three priorities: addressing the most serious risks to human health, ensuring compliance with SDWA requirements, and assisting systems most in need on a per household basis. This amendment adds consideration of sustainability, by prioritizing projects that increase a system's ability to provide safe, affordable water for years to come. This will allow projects that anticipate significant needs and offer improvements that will benefit a system for many years to receive funding before public health concerns become acute.

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.

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. Individual states may select qualifying measures in their Intended Use Plans, and this section provides several examples of measures that could qualify.

In order to ensure that small systems have the ability to evaluate and undertake qualifying measures, this section allows the Administrator to provide guidance, software, and tools to those systems. This guidance will supplement the assistance available under the technical assistance provisions of SDWA.

Section 8. Disadvantaged Communities.

This section amends the disadvantaged community provisions of SDWA which allows states to provide additional assistance to public water systems serving disadvantaged communities. This section will, for the first time, require states with a demonstrated need to provide assistance through the disadvantaged community provisions of SDWA. Any state that reports exemptions or persistent violations by one or more systems serving disadvantaged communities will be required to reserve at least 4% of their SRF funds for assistance to those systems.

Additionally, this section will make disadvantaged community assistance available to public water systems whose service areas include a disadvantaged portion, and will require that the assistance is provided to that portion.

Section 9. Administration of State Loan Funds.

This section increases the portion of SRF funds which states may use for administration of their SRF programs. It also codifies the current practice of allowing states to transfer a portion of funds between the drinking water SRF and the Clean Water Act's state revolving funds.

Section 10. Authorization of Appropriations.

This section authorizes appropriations in line with demonstrated need and ability to execute contracts.

Section 11. Negotiation of Contracts.

This section requires that contracts to be carried out using federal funds provided through the SRF program be negotiated in keeping with federal qualifications-based requirements, or equivalent state or local requirements. This section applies only to communities of 10,000 or more, and leaves discretion to the states to determine what state or local requirements are equivalent.

Section 12. Affordability of New Standards.

This section amends several provisions of the Safe Drinking Water Act 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.

This new requirement complements the new requirement for state drinking water administrators, described in Section 6, to evaluate the affordability of new drinking water standards on a state level. Any state finding that a new 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.

These funding priorities will replace the current small system variance mechanism, which has never been used. The variance mechanism would not provide funds to small systems to come into compliance, but would instead create a different standard. This section is designed to direct SRF funds to help make new standards affordable for all systems and customers.

Section 13. Focus on Lifecycle Costs.

Just as Section 6 of this bill will require water systems and states to look at sustainability and the lifecycle costs of assets in applying for funds, 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 14. Enforcement.

This section will amend the enforcement provisions of the Safe Drinking Water Act to ensure that technical assistance is provided to bring systems into compliance where appropriate, and that follow up inspections are conducted to ensure that systems stay in compliance.

Violations under the Safe Drinking Water Act have been divided into classes, by the current statute and regulations, based on their frequency, severity, and public health risk. That classification has been used to determine what notice must be provided to customers of violating systems. This section would apply the same classification, and require the Administrator to determine what types, number, and frequency of follow up inspections should be conducted for each class of violation.

Section 15. Reducing Lead in Drinking Water.

This section amends existing provisions in the Safe Drinking Water Act related to lead fixtures, to change the legal definition of “lead-free” from 8% lead to 0.25% lead in wetted surfaces. This section will bring the federal definition in line with stricter state definitions, provide greater notice to consumers purchasing faucets and fixtures, and reduce exposure to lead through drinking water.

Section 16. Endocrine Disruptor Screening Program.

This section amends section 1457 of the Safe Drinking Water Act to make changes to the Endocrine Disruptor Screening Program. This section will require the Administrator to test substances found in drinking water to determine if they are endocrine disruptors and if so, how the substance may affect human health. The section also sets in place timelines for the Administrator to develop a transparent process by which substances will be selected for testing, new testing technologies and scientific developments will be considered and incorporated, substances will be accelerated through the program based on existing data, and information about the program’s progress will be shared with the public and other federal agencies.