

Association of State Drinking Water Administrators

**Testimony on
Assistance, Quality, and Affordability Act of 2010
Before the
House Energy and Commerce Subcommittee on Energy & Environment
May 13, 2010**

I am Roger Crouse, the drinking water administrator for the state of Maine, with responsibility for both the state's drinking water program and the state's drinking water State Revolving Fund (SRF). I am representing the Association of State Drinking Water Administrators and appreciate this opportunity to offer testimony today on this important subject.

We applaud the efforts of the committee to reauthorize the SRF portions of the Safe Drinking Water Act. The basic provisions of the Act have served us well over the past 13 years, but we appreciate many of the proposed changes the committee has included in this draft bill. Our reaction to the package, taken as a whole, is quite positive. However, several of the provisions will be challenging and resource-intensive for states to implement. Our perspectives on the key provisions of the bill are as follows:

Competitive Contracts: We believe the changes contemplated should take place at the *national level* and believe the bill needs to be clarified in this regard. We would object to this provision if it's intended to apply to technical assistance contracts issued by states -- because such a restriction could take away a state's ability to hire the best qualified 3rd party technical assistance providers.

Davis-Bacon Provisions: States are split on this element of the draft bill. States with comparable provisions in their state laws recommend adding a phrase acknowledging that a state may satisfy Davis-Bacon requirements by implementing comparable and equivalent state prevailing wage rate laws. Other states feel that including Davis-Bacon provisions unnecessarily inflates the cost of drinking water infrastructure projects.

List of Systems with Variances, Exemptions or Persistent Enforcement Violations:

It doesn't serve a practical purpose to include a system with a Variance, Exemption or persistent violations in a state's Intended Use Plan -- *if* the system has not expressed an interest in participating in the SRF. We recommend that this provision be changed to only require this information for systems wishing to participate in the loan fund.

Priority for Disadvantaged Systems Out of Compliance: We support the approach of allowing states, rather than EPA, to make and apply disadvantaged system definitions. However, the evaluation criteria provision will be very challenging for states to implement because of the need to determine the affordability of new standards. While some states have longstanding programs; this will be a new requirement for many that will need to be carefully administered.

Weight Given to Applications – General Observations: We believe the various weighting factors listed in the draft bill are a sound and appropriate set of considerations.

Nonetheless, states will be challenged to develop new methods of assessing managerial and financial stability and to adjust the SRF scoring systems accordingly.

Weight Given to Applications – Green Projects: States support energy and water-conservation projects and continue to seek those projects in SRF applications. We appreciate that green projects would be considered in the bill in terms of a weighting factor, rather than as a mandatory percentage (as was the case under ARRA).

4% for Disadvantaged Communities: States generally agree with the requirement to use 4% of their funds on disadvantaged communities and many are doing so now.

Changes to State Set-Asides:

- States very much appreciate that the bill would increase the administrative set-aside from 4-6%.
- We also appreciate removal of the 100% Match for 10% State Program Management Set-Aside.
- Although not a feature of the current version of the proposed bill, we recommend that states be allowed to use the 15% Set-Aside on state source water *protection* activities, in addition to assessment activities, as the SDWA currently provides.

Realloted Funds for Disproportionately Impacted Systems: States generally support this provision. However, many states don't currently have the staffing, tools, or expertise to evaluate, identify, and track each disadvantaged system impacted.

Prescriptive Inspection Requirements: States generally do *not* support this provision and prefer the existing framework of escalating enforcement responses (including inspections, where appropriate) to return facilities to compliance. The requirement envisioned will have resource implications, in terms of additional staff time and documentation, and not necessarily produce the intended results.

Definition of Lead Free: States believe manufacturers have already adjusted to the proposed new definition. Some state laws would need to be changed; however, revisions to state laws are not expected to be a major undertaking.

These are our views on selected provisions. We've provided a more detailed version of these comments to Committee staff. The Committee is on the right track with this draft bill. I'd be happy to answer any questions you may have about our perspectives on the bill or how states administer their DWSRF programs