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H.R. ____ ASSISTANCE, QUALITY,
AND AFFORDABILITY ACT OF 2010
THURSDAY, MAY 13, 2010

House of Representatives,
Subcommittee on Energy and Environment,
Committee on Energy and Commerce,
Washington, D.C.

The subcommittee met, pursuant to call, at 9:35 a.m., in Room 2322, Rayburn House Office Building, Hon. Edward J. Markey [chairman of the subcommittee] presiding.

Present: Representatives Markey, Inslee, Butterfield, Capps, Baldwin, Barrow, Waxman, Upton, Shimkus, Shadegg, Pitts, Burgess, Scalise, Griffith, and Barton.

Staff Present: Greg Dotson, Chief Counsel, Environment and Energy Subcommittee; Tracy Sheppard, Senior Environmental Counsel; Peter Ketcham-Colwill, Special Assistant; Jacqueline Cohen,

Counsel; Melissa Cheatham, Professional Staff; Caitlin Haberman, Special Assistant; Mitchell Smiley, Special Assistant; Lindsay Vidal, Press Assistant; Jerry Couri, Minority Professional Staff; and Garrett Golding, Minority Legislative Analyst.

Mr. Markey. Good morning. Welcome to the Subcommittee on Energy and Environment.

We have a very important hearing today. Because when people turn on their bathroom or kitchen faucets, they often take for granted that an abundant supply of clean water flows freely into their taps. It is only when the water stops flowing due to a catastrophic failure that attention is given to the complexities of providing clean, safe drinking water.

A prime example of such a catastrophic failure occurred just over a week ago in Massachusetts when a breach in a 7-year-old pipe caused a water supply emergency that affected over 2 million residents of Boston and its surrounding areas, including a large portion of my congressional district. A boil water advisory lasted for several days. People swarmed the Stop and Shop and other grocery stores to stock up on bottled water. Restaurants and diners had to close because they had no water to serve or to wash dishes with. And people had to go through Monday without their morning cup of Dunkin' Donuts coffee, which resulted in a near riot at the Dunkin' Donuts across from my district office in Medford Square. In the Boston papers, the entire incident became known as "Aquapocalypse".

Although the MWRA, the agency in charge of this water project, could not have anticipated this incident because the pipe

that broke was so new, public attention immediately turned to the need for increased Federal funding for infrastructure projects that ensure a safe drinking water supply for years to come; and the MWRA did an excellent job in restoring service in a very short period of time.

The reality is that the country's drinking water infrastructure is aging rapidly. EPA estimates that over the next 20 years water systems will need to invest nearly \$335 billion on infrastructure improvements to ensure safe water to our Nation. Water systems simply can't afford to do this on their own, and people who are already struggling to pay their water bills can't absorb their cost either. We cannot turn off the flow of Federal funding for this essential infrastructure at a time when our water systems need it most.

The Assistance, Quality, and Affordability Act that Chairman Waxman and I introduced will reauthorize the Safe Drinking Water Act State Revolving Fund for the first time since its creation in 1996 and will make a number of changes to invest in our future. The bill increases water project funding from \$1.5 billion in 2011 to \$6 billion in 2015. This will mean that more drinking water projects can be completed and that more jobs are created for people who need them. A December, 2008, report from the U.S. Conference of Mayors estimated that every million dollars of drinking water and wastewater infrastructure investment directly creates 8.7 jobs. Over the next 5 years, our legislation would

therefore lead to more than 100,000 more jobs.

We have also included a new emphasis on cutting-edge projects to allow funding priority to be granted for projects that will make drinking water safe and affordable for years to come. We will also encourage projects that increase water and energy efficiency and projects that anticipate future problems and propose repairs before a crisis occurs.

We have ensured that we are directing resources to those who need it most so that water systems serving communities that can't afford to pay for the upgrades necessary to comply with Safe Drinking Water Act standards are given what they need to do.

We have also included a change in drinking water enforcement requirements that will ensure that systems that have violated drinking water standards in the past are inspected to ensure they stay compliant.

I would like to thank Congressman Bobby Rush for his work in this area following a truly horrific case in the village of Crestwood, Illinois, in which people were literally and knowingly poisoned by the water they were drinking for decades.

And, finally, this bill also includes my language to strengthen EPA's Endocrine Disruptor Screening Program. Endocrine Disrupting chemicals are like computer viruses that over time can severely disrupt our body's operating system, and it is vital that EPA have a more robust and transparent program that screens drinking water contaminants to identify the chemicals that pose

such concerns.

So I thank all of the witnesses for being here today.

Let me turn now and recognize the ranking member of the subcommittee, the gentleman from Michigan, Mr. Upton.

Mr. Upton. Thank you, Mr. Chairman.

I ask unanimous consent that all members put in their opening statements as part of the record.

Mr. Markey. Without objection, so ordered.

[The information follows:]

***** COMMITTEE INSERT *****

Mr. Upton. Thank you for calling this hearing today.

Certainly, access to clean and safe drinking water is one of the most basic environmental issues. Changes in the Safe Drinking Water Act funding allocations and uses must be measured not just to what our suggested needs are but also what we as Americans can afford. We need to focus our attention on those items that help drinking water systems address immediate threats, comply with the law, and avoid the unfunded mandate issue that bedeviled States and municipalities and drove changes to the Safe Drinking Water Act back in 1996.

In looking at the proposed reforms, we should be particularly sensitive to the rate base of various communities, particularly rural communities and their ability to afford the mandates required of the Act. We need to make sure evaluations of cost for feasible treatment, technologies, and techniques are appropriate and meaningful when drinking water contaminant regulations are issued.

At a time when increasing debt is a major national and global issue, we need to be very careful about overspending and overexpanding eligible uses of the Drinking Water State Fund. The legislation in front of us authorizes nearly \$15 billion over the next 5 years. This amount for only 5 years represents the entire amount appropriated for Congress for the Drinking Water State Revolving Fund over the last 14 years.

Finally, we need to understand what the new Endocrine Disruptor provisions in section 16 mean for EPA's existing programs. Program changes should be focused based on good science and complement the ongoing public and private investments in that effort.

I yield back my time.

Mr. Markey. The gentleman's time is expired.

The chair recognizes the gentlelady from California, Mrs. Capps.

Mrs. Capps. Thank you, Mr. Chairman.

I poured this glass of water, and I am assuming everything is safe to drink. It is an essential resource that we take for granted.

When Congress passed the Safe Drinking Water Act, the EPA gained the authority to regulate chemicals in our drinking water. But even with that authority there is troubling evidence that chemicals and other substances are polluting the Nation's water supply. Right now, there are more than 140 chemicals in our drinking water that EPA does not regulate. These pollutants include gasoline additives, pesticides, and even rocket fuel. They have proven negative effects on people's health, indeed, some can even cause cancer; and we know that infants and pregnant women are especially vulnerable to their toxic effects.

Treating these and other emerging pollutants in our drinking water is extremely costly. The best way to keep them out of the

water is to prevent them from getting there in the first place; and that is why I am pleased, Mr. Chairman, that you have convened this morning's hearing on the Assistance, Quality, and Affordability Act, AQUA.

As others have stated, our drinking water infrastructure is aging and in desperate need of upgrading. Unfortunately, it may take some serious money to do that. As you mentioned, Mr. Chairman, in 2007, EPA estimated \$335 billion needed over 20 years to protect public health and ensure compliance with the law.

AQUA would authorize a much-needed increase in funding for the Drinking Water SRF. AQUA also provides incentives for public drinking water systems to ensure that they can better provide safe and affordable drinking water to their customers well into the future.

Greater weight is given to applications for funding that include, for example, measures to improve a system's energy and water efficiency or reduce its environmental impact. These are the types of projects that many water systems are already investing in as they prepare for the impacts of climate change.

I know there are many more topics that we could bring up in my opening statement, and I am looking forward to hear our witnesses talking about this in greater detail.

The legislation before us begins to make the steps and changes that we need to do, giving EPA the tools needed to protect our children and our communities across the country from dangerous

water contamination. So I thank you, Mr. Chairman, for convening this hearing. I look forward to hearing from our witnesses, and I yield back.

Mr. Markey. I thank the gentlewoman.

The chair recognizes the gentleman from Pennsylvania, Mr. Pitts.

Mr. Pitts. Thank you, Mr. Chairman. Thank you for convening this hearing today on legislation to amend the Safe Drinking Water Act.

Like all of us, I believe it is essential to assure the quality of our public water supplies. Here in the United States, public water systems must meet extensive regulations, and water utility management has become a much more complex and professional endeavor. In 2007, the number of community water systems reporting no violations of drinking water standards was 89.5 percent, yet some issues and challenges remain despite this progress. It is imperative that we focus our attention on matters that help drinking water systems address immediate threats and comply with the law.

As we consider this bill before us, we need to be sensitive to the rate bases of various communities and their ability to afford the mandates required in the legislation. We also need to make sure evaluations of cost for treatment, technologies, and techniques are appropriate and meaningful when drinking water contaminant regulations are issued.

Finally, we need to be extremely careful about spending and expanding eligible uses of the Drinking Water State Fund. The proposed authorization of \$14.7 billion over the next 5 years is the entire amount appropriated by Congress for the Drinking Water State Loan Fund over the last 14 years.

I look forward to hearing from our witnesses today, and I yield back.

Mr. Markey. The gentleman's time has expired.

The chair recognizes the gentleman from Georgia.

Mr. Barrow. I thank the gentleman. I waive an opening.

Mr. Markey. The gentleman waives his time for an opening statement.

The chair recognizes the gentlelady from Wisconsin, Ms. Baldwin.

Ms. Baldwin. Thank you, Mr. Chairman. I appreciate your work on this very important piece of legislation.

The Safe Drinking Water Act is a critical measure that helps to ensure the quality of Americans' drinking water. Our Nation's water system serves over 272 million people; and, as such, maintaining drinking water infrastructure, improving the sustainability and long-term viability of water systems, and enforcing drinking water violations are of utmost importance.

Among the concerns I have as we ensure a safe water supply is the presence of prescription drugs and other personal care product residues in our water supply. In 2008, the Associated Press in a

study found pharmaceuticals in the drinking water supplies that serve approximately 46 million Americans. A vast array of pharmaceuticals, including antibiotics, mood stabilizers, and hormones were found in this examination. In my district, in particular in Dane County, Wisconsin, traces of acetaminophen and hormones have been found in some of the water systems. I am concerned that this problem will only increase as prescription drugs are used more frequently in American society.

While the concentrations of these pharmaceutical products are reportedly quite tiny, little is known about the effect these drugs and other personal care product residues have on health and the environment. The Federal Government currently does not require any testing and has not set safety limits for prescription drugs and personal care product residues in water. Much research still needs to be done to identify the sources of these elements so that we can effectively limit and prevent their presence. This bill provides an opportunity for us to investigate this further.

I look forward to hearing from our panel today and their thoughts on how we can address prescription drugs in our water through this AQUA bill.

Thank you, Mr. Chairman. I look forward to this hearing.

Mr. Markey. The gentlelady's time has expired.

The chair recognizes the gentleman from Louisiana,
Mr. Scalise.

Mr. Scalise. Thank you, Mr. Chairman. I appreciate the

opportunity to discuss the Safe Drinking Water Act. Obviously, a clean water supply that is both safe and affordable is critical to the public health of our Nation, and I look forward to working with this committee as we work to ensure the integrity of our drinking water supply.

I do have concerns with the proposed legislation as it stands today, however. Particularly, it is important that we make sure that any legislation that we pass is both workable and avoids creating duplication of existing efforts. I look forward to working with the chairman as we continue to discuss the issues of this bill.

Also, as our unemployment rate hovers near 10 percent, I would like to encourage the Democrats who are running Congress to focus on finding ways to improve the job outlook in the private sector. While government seems to be the only part of our economy that is growing and more Federal spending continues to reign the day and we see continued growth in the size of the Federal Government, families and small businesses in our districts are cutting back. So, as Congress refuses to pass any kind of budget, American families are having to tighten their belts and make tough decisions on how to keep their household budgets fiscally responsible and manageable.

So I would hope as we talk about this legislation and other areas where government spending seems to be increasing we need to make sure that we are not duplicating efforts and not doing things

that are going to hurt families out there even more than they are already hurting. We need to focus on creating jobs.

Thank you, and I yield back.

Mr. Markey. The gentleman's time has expired.

We move to our first witness. Cynthia Dougherty serves as the Director of the Environmental Protection Agency's Office of Ground Water and Drinking Water. As Director, Ms. Dougherty oversees the Drinking Water State Revolving Fund, which provides drinking water systems with funds to finance infrastructure improvements that protect human health and ensure the safety of our drinking water.

We welcome you, Ms. Dougherty. Whenever you are ready, please begin.

STATEMENTS OF CYNTHIA DOUGHERTY, DIRECTOR, OFFICE OF WATER, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY; ROGER CROUSE, DIRECTOR, DRINKING WATER PROGRAM, MAINE DEPARTMENT OF HEALTH AND HUMAN SERVICES; STEPHEN ESTES-SMARGIASSI, DIRECTOR OF PLANNING, MASSACHUSETTS WATER RESOURCES AUTHORITY; SARAH JANSSEN, STAFF SCIENTIST, NATURAL RESOURCES DEFENSE COUNCIL; STEVE LEVY, EXECUTIVE DIRECTOR, MAINE RURAL WATER ASSOCIATION; AND TERRY QUILL, QUILL LAW GROUP, LLC

STATEMENT OF CYNTHIA DOUGHERTY

Ms. Dougherty. Thank you, Chairman Markey, Congressman Scalise, and members of the committee. As you said, I am Cynthia Dougherty, the Director of the Office of Ground Water and Drinking Water at the U.S. EPA. Thank you for inviting me to testify today.

Administrator Jackson has expressed her commitment for ensuring the safety of our drinking water as a fundamental element of EPA's overall mission. Strong and reliable drinking water infrastructure is an essential component of public health protection.

For more than a decade, the Drinking Water State Revolving Fund has supported investment, upgrade, and improvement to maintain the Nation's drinking water infrastructure by offering

public water systems, including small systems, access to financing for infrastructure improvements.

Implementation of the Endocrine Disruptor Screening Program is also part of one of Administrator Jackson's top priorities to make significant and long-overdue progress in assuring the safety of chemicals in our products, our environment, and our bodies. Issuing test orders for the generation of data to better understand potential endocrine effects is an important step in improving our ability to protect the public health and the environment from chemicals.

Under the Drinking Water SRF program, States provide low-cost loans and other types of assistance to public water systems to finance the cost of infrastructure projects needed to achieve or maintain compliance with drinking water requirements and otherwise improve public health. Since its inception, the Drinking Water SRF has provided over \$16.2 billion of Federal and State assistance to over 6,600 projects that have improved public health protection for millions of people, with almost 40 percent of the assistance and more than 70 percent of the loans provided to systems serving fewer than 10,000 people.

To be sustainable in the long term, a water system must have the capacity to address existing needs as well as to be prepared for the future so it can continue to provide safe water today, tomorrow, and into that future. EPA recognizes our responsibility to ensure that all Americans, including those served by small

water systems and in disadvantaged communities, receive safe drinking water.

The Safe Drinking Water Act currently provides tools to support sustainability through the SRF. These include the flexibility that States have to use optional set-asides that support capacity development and technical assistance. The Act also allows States to use up to 30 percent of their capitalization grant to provide additional subsidized assistance for communities that meet affordability criteria established by the State. All but 14 States have used this authority at some level over the years for an estimated 19 percent of the Drinking Water SRF funds.

Given the accomplishments of the Drinking Water SRF to date and funding drinking water infrastructure improvements, there is some room to enhance aspects of the program to allow States to make better progress in key areas. We need to make sure we do that without diminishing the attractiveness to water systems of Drinking Water SRF funding. We appreciate the efforts of the committee to consider improvements in the program that focus on support for small systems and long-term sustainability.

The proposed legislation would also amend provisions of the Act related to the Endocrine Disruptor Screening Program. Public health protection from contaminants that may be in drinking water is of the highest priority for the EPA. By providing information to help us better understand potential endocrine effects of these chemicals, test orders issued through the screening program will

be an important step in improving our ability to protect public health and the environment.

Under the requirements of the Food Quality Protection Act, we have already issued test orders covering 67 different pesticides chemicals; and, as instructed by the House Appropriation Committee this past year, EPA is preparing a second list of no less than 100 chemicals that will be drawn from the National Primary Drinking Water Regulations, the Contaminant Candidate List, and pesticides that are on the re-registration schedule for 2007 through 2008. We expect to begin issuing those test orders shortly and have that list out as well.

We look forward to working with the committee to continue our efforts to more effectively implement the screening program. Thank you very much.

[The prepared statement of Ms. Dougherty follows:]

***** INSERT 1-1 *****

Mr. Markey. Thank you, Ms. Dougherty, very much.

Our next witness, Roger Crouse, serves as the Director of the State of Maine Drinking Water Program, overseeing field inspection, operator licensing, and administration of the Drinking Water State Revolving Fund. Mr. Crouse is a licensed professional engineer with a master of science degree in civil engineering from Brigham Young University.

Welcome, sir.

STATEMENT OF ROGER CROUSE

Mr. Crouse. Thank you, Mr. Chairman and members of the committee.

I am Roger Crouse, the Drinking Water Administrator from the State of Maine with responsibility for both the State's Drinking Water Program and the State's Drinking Water State Revolving Fund. 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 for 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 key provisions of the bill are as follows:

Competitive Contracts: We believe that 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 is intended to apply to technical assistance contracted issued by States, because such a restriction could take away the State's ability to hire the best qualified third-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 Davis-Bacon provisions unnecessarily inflate the cost of drinking water infrastructure projects.

Lists 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 violation 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 challenging for States to implement because of the need to determine the affordability of new standards. While some States have longstanding disadvantaged system 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.

Four Percent for Disadvantaged Communities: States generally agree with this requirement to use 4 percent 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 to 6 percent. We also appreciate removal of the 100 percent match

for 10 percent 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 percent Set-Aside on State source water protection activities in addition to the assessment activities, as the Safe Drinking Water Act currently provides.

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

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 States 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 have provided a more detailed version of these comments to committee staff. This committee is on the right track with this draft bill.

I would be happy to answer any questions you may have about

our perspective on the bill or how States administer the Drinking Water State Revolving Fund program.

Thank you.

[The prepared statement of Mr. Crouse follows:]

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Mr. Markey. Thank you, Mr. Crouse, very much.

Our next witness is Steven Levy. He is the Executive Director of the Maine Rural Water Association and the Atlantic States Rural Water Association, which serves Rhode Island and Connecticut. He has over 30 years of experience in the financing and organization of water systems.

Welcome, sir.

Mr. Levy. I am not very good with technology.

Mr. Markey. With the exception of water technology, hopefully.

STATEMENT OF STEVEN LEVY

Mr. Levy. Well, I am better with money than technology.

Good morning, Mr. Chair and committee members. Thank you for the opportunity to testify.

As said earlier, I have worked for over 30 years for the Maine Rural Water Association and Atlantic States Rural Water Association, and I focus more on funding than on technology.

I am here today representing over 24,000 community members in the National Rural Water Association. As you know, when it comes to providing safe water and compliance with Federal standards, small and rural communities have a difficult time due to their limited customer base. This is compounded by the fact that these

communities often have low or medium household incomes and higher water rates compared to larger communities. As a result, the cost of compliance is dramatically higher for small systems on a per-household basis. However, the vast majority of U.S. water supplies are small. Ninety-two percent of the country's 52,000 community water supplies serve less than 10,000 people.

We want to thank the committee for the important new policy directions in the Assistance, Quality, and Affordability Act, your SRF authorization bill that, if enacted, will improve the current program.

The proposed bill increases the role of technical assistance in the Nation's drinking water safety program. Its reliance and recognition of technical assistance will ensure small communities will have access to technical resources needed to operate and maintain water infrastructure, comply with standards in an economical way, and obtain assistance in applying for State Revolving Loan Funds.

The NRWA technical assistance effort is truly unique in the Federal system to protect public health because it accomplishes progressive environmental protection with the support of the local community. Without these initiatives, the effective implementation of the Safe Drinking Water Act in our rural and community water supplies would be nearly impossible.

The need for rural water systems continues to increase with the expansion of Federal water regulations. The bill includes new

provisions for solving two of the most pressing and intractable issues in the current drinking water program: affordability of the rules in disadvantaged communities and ensuring SRF funding is targeted to the most needy communities.

Communities exhibiting the greatest need should receive funding first. Commonly, low-income communities do not have the ability to pay back a loan, even with very low interest rates, and require some portion of grant or principal forgiveness funding to make a project affordable to the ratepayers.

The proposed bill retains key elements that ensure targeting of funding to the most needy communities, including a minimum set-aside for small systems, a disadvantaged community subsidy, and a prioritization for the most serious risk to human health.

The 1996 Act grants States considerable discretion in the operation of their revolving loan fund with regard to providing principal forgiveness and defining disadvantaged communities and in targeting funds. As a result, there is a great variety in their programs throughout the country.

The proposed bill recognizes small system funding constraints in the newly drafted provisions contained in section 8 and section 7.

The Priority and Weight of Application section includes a process for States to consider affordability of new standards, which we support. We urge you to consider applying this provision to all existing standards because many of the current standards

are resulting in affordability problems.

The new Disadvantaged Communities section targets SRF funding to the systems identified in a new IUP approach. We support these innovative provisions.

We urge the committee to reconsider a provision in section 8 regarding the proposal to allow funding a portion of the system under the Disadvantaged provision of the SRF. This fundamentally changes the relationship between a primary agency and a regulated water system. This proposal could also serve as a disincentive for water systems to view their systems as a whole and may in fact generate reverse cherry-picking for infrastructure replacement.

Finally, we ask the committee to please consider including an Etheridge bill type provision to attempt to direct technical assistance funding to be most beneficial to small communities.

As currently written, the bill would retain the current process where EPA chooses not to fund the most effective and beneficial drinking water safety assistance initiatives for small communities but instead fund other EPA priorities. Representative Etheridge's bill requires EPA to weigh what small communities believe is most beneficial when making decisions on providing assistance to them. This seems only reasonable in making assistance the most beneficial.

Thank you again, Mr. Chairman, and members of the committee, for this opportunity to testify today. I look forward to answering any questions.

And in my last two seconds, I want to thank Maine for being such a strong advocate for rural water systems. They have done a fabulous job.

[The prepared statement of Mr. Levy follows:]

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Mr. Markey. Maine has done a great job. And Massachusetts did a good job in breaking off Maine and making it a State in 1820 as part of the Missouri Compromise, where Maine would have two Senators opposed to slavery and Missouri would have two Senators in favor of slavery. So Maine was part of Massachusetts, and we are very proud of how well they have done since we broke them up.

So let's move to our next witness.

Stephen Estes-Smargiassi is the Director of Planning at the Massachusetts Water Resources Authority, where he has worked for 23 years. I want to note that I have the third-most Italian of 435 congressional seats.

He is an engineer and planner with a bachelors of science in civil engineering from MIT and a masters in planning from Harvard University.

Stephen and the rest of the MWRA team have had their hands full addressing the recent water main break in the greater Boston area and taking all of the corrective actions necessary.

I can imagine how valuable your time is right now, so we very much appreciate your being here. Thank you.

STATEMENT OF STEPHEN ESTES-SMARGIASSI

Mr. Estes-Smargiassi. Good morning. I am Steve Estes-Smargiassi, Director of Planning at the MWRA in Boston.

MWRA is the wholesale water supplier to 61 cities and towns in eastern and central Massachusetts, serving about 2.8 million people. We are an active member of the American Water Works Association and the Association of Metropolitan Water Agencies. MWRA appreciates the opportunity to testify here this morning on the Assistance, Quality, and Affordability Act of 2010.

As Chairman Markey has indicated, MWRA experienced a major water supply emergency 2 weeks ago. While the causes of the incident won't be known for some time, as the full-scale investigation is really just in its infancy, I can certainly say that it galvanized public attention on the value of water supply infrastructure.

We all take for granted, even those of us in the business, that when we open the tap a plentiful supply of safe drinking water will flow. Only when it stops flowing or when we tell people they have to boil it do we stop to think about how much goes into turning rainwater into drinking water.

Two Saturdays ago, a major leak erupted on a 120-inch steel pipe connecting two major tunnels. The pipeline was part of a new project, a new tunnel system built to enable us to take the now

7-decade-old Hultman Aqueduct out of service for inspection and repairs. We, fortunately, were able to reroute water around the break, activate emergency sources and a pump station using facilities and plans developed over the last decade to ensure that our customers had water for flushing toilets, fighting fires, and, with the serious inconvenience of having to boil it, drinking and cooking. In less than 2 days we were able to make the repair to the pipeline, and before 4 days had elapsed Governor Patrick was able to lift the boil water order for our system.

MWRA, like many older urban areas, has a significant amount of older piping. In 1985, when we were created, over half of our pipe was over 80 years old; a fifth of our pipe was over 100 years old. Aging facilities can contribute to degradation of water quality, including aesthetic concerns, problems with compliance with distribution system water quality rules, and increased frequency of leaks and breaks.

Inclusion of replacement and rehabilitation of aging facilities as an eligible SRF item will assist utilities in maintaining and improving system water quality all the way to the tap, while helping to control costs to our repairs.

MWRA is fortunate that the Commonwealth of Massachusetts has a forward-looking environmental agency overseeing the SRF. Our State Department of Environmental Protection has already added green infrastructure and an emphasis on rehabilitating old water and sewer assets to the program guidelines, and we have been able

to fund a significant number of projects through that. We are here today in support of this bill because that increased funding flexibility and focus on aging water assets should be available to systems nationwide.

The SRF program has proven to be an important component of managing the MWRA's cost of capital. We have realized debt service savings of over \$700 million since our 1993 program.

It is difficult for any utility to sustain support for yearly rate increases sufficient to fully cover the need to rehabilitate aging infrastructure, and this legislation's expansion of the SRF eligibility will help communities afford well-maintained water systems.

Switching gears, I would like to say lead in drinking water is the number one water quality concern for our customers. While there is no lead in our source water, consumers can have lead leach out of their home plumbing. After the Lead and Copper Rule was issued by EPA in 1991, we moved rapidly to build modern corrosion treatment; and, as a result, our lead levels have dropped by almost 90 percent.

You undoubtedly recall the Washington, D.C., lead issues of several years ago. A common theme which arose out of the efforts to understand and respond to that issue was the fact that common plumbing fixtures, such as faucets and drinking water fountains, could leach excessive amounts of lead and still be available for sale and use under current Federal law. The Safe Drinking Water

Act defines lead free as up to 8 percent lead in a brass component. This is simply wrong and should be remedied as soon as possible. However, to date, no Federal action on the allowable amount of lead in brass has occurred, and only two States have taken the necessary legislative action to resolve the outrage that a consumer can walk into a home improvement center and buy a fixture that may poison his or her child. California and Vermont now mandate that no more than one-quarter of 1 percent brass be lead. Making that national would make a big step forward, ensuring sure access to safe products and safe water for all Americans.

In conclusion, MWRA utilities across the country must make difficult choices in determining the best ways to spend limited ratepayer funds because our needs far exceed our ability to raise rates. Adequate funding and flexibility to move forward will help us meet those critical needs.

Thank you.

[The prepared statement of Mr. Estes-Smargiassi follows:]

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Mr. Markey. Thank you very much.

Our next witness is Sarah Janssen, who is a staff scientist in the Health and Environment Program of the Natural Resources Defense Council. She is board certified in preventive medicine, with a subspecialty in occupational and environmental medicine. Dr. Janssen is also an assistant clinical professor at the University of California-San Francisco in the Division of Occupational and Environmental Medicine.

So we welcome you. Whenever you are ready, please begin.

STATEMENT OF SARAH JANSSEN

Dr. Janssen. Thank you.

Good morning, Chairman Markey and other members of the committee. My name is Dr. Sarah Janssen. I am a staff scientist in the health program at NRDC, and I am representing NRDC here today. I am also a practicing physician and also trained as a reproductive biologist with expertise in endocrine-disrupting chemicals.

My oral testimony to you this morning will focus on improvements to the Endocrine Disruptor Screening Program, or the EDSP, as proposed in this legislation.

Endocrine disruption was first described in the early 1990s when chemical contamination in water was linked to feminized male

fish, alligators with small penises, and impaired reproduction in birds. These abnormalities were caused by endocrine disruption contaminants; and subsequent studies in laboratory animals have confirmed that exposure to some endocrine-disrupting chemicals, especially early in development, can result in a wide range of adverse effects, including reproductive harm, cancer, and altered development of the brain.

The effects described in wildlife and laboratory animals, coupled with observations of reproductive harm, including birth defects of baby boy genitals, poor sperm quality, infertility, and altered development of the brain in humans, have raised concern that endocrine-disrupting chemicals could also be harming human health.

Though EPA has not yet prioritized drinking water contaminants in the implementation of the long-delayed EDSP, recent scientific studies have documented multiple endocrine-disrupting contaminants in our Nation's waterways. A recent USGS surface water study found an average of seven and as many as 38 chemical contaminants in any given water sample. Among the chemicals most commonly detected in this national survey are known and suspected endocrine-disrupting chemicals, including various pesticides, antibacterials, detergents, cosmetics, fragrances, plastics, rocket fuel, and steroid hormones.

In addition, there are potentially hundreds of other chemical contaminants for which we have no information about their

endocrine-disrupting potential. This legislation will begin to solve this problem by requiring EPA to expand the EDSP to include water contaminants.

AQUA will strengthen the EDSP by requiring four major and necessary changes. Number one is testing of drinking water contaminants on a reasonable and achievable timeline. Under the proposed legislation, EPA will publish a list of 100 drinking water contaminants within 1 year and require that they be screened within 4 years. This is a realistic time frame since EPA has recently issued test orders for just 67 chemicals with test results expected in 2 years.

The Act further requires EPA to identify and schedule testing of other substances, including all of the chemicals on the preliminary Contaminant Candidate List within 10 years of enactment. Again, this represents an average of less than 60 chemicals a year for issuing test orders and should be easily within EPA's capabilities. The legislation will also prioritize testing of substances that pose the greatest threat to the health of vulnerable populations.

The second improvement is a fast track for substances known or suspected of endocrine-disrupting effects. EPA can place the screening of these substances on an accelerated track by substituting scientifically relevant information, such as scientific studies published in peer-reviewed publications. This provision is necessary to prevent redundancy in testing for known

endocrine disruptors such as perchlorate, where the mode of action has already been well described and there is evidence for widespread contamination of drinking water and of people.

Perchlorate is a component of rocket fuel and is known to interfere with thyroid hormone production by inhibiting the uptake of iodide. In fact, perchlorate was once used as a prescription medication to treat patients with elevated thyroid levels. Chemicals as well studied as perchlorate should not be subject to repeat and redundant testing that will cost only more time and money and delays in regulation.

A third improvement is increased transparency and public participation in the EDSP by creating a publicly searchable database, a public petition process for requesting test orders of potential endocrine-disrupting chemicals, and opportunities for public comment, all of which are necessary for informing and engaging the public in the progress and process of testing for endocrine disruptors.

The fourth and final improvement that I want to highlight today is updating and revising the testing protocols to be consistent with our current scientific knowledge. The screening and testing protocols required under the current EDSP are outdated, time consuming, and expensive. EPA should be able to replace these screens with newer, more efficient, and less expensive tests which rely less on the use of animals. EPA should also expand the EDSP to include endpoints beyond estrogen,

androgen, and thyroid hormones.

The need to expand and improve the EDSP has been called for by EPA's own science advisory panel and prominent scientific societies, such as the Endocrine Society, the American Medical Association, and the American Chemical Society.

In conclusion, AQUA will provide much-needed improvements to the EDSP by making it more relevant to known sources of exposure of endocrine-disrupting chemicals in drinking water, more transparent and understandable to the public, and more scientifically valid by updating and revising the protocols to be consistent with our current scientific knowledge base.

We commend Mr. Markey for taking a leadership role in protecting the public's health by identifying endocrine disruptors in our drinking water, and we look forward to working with you and your staff as this bill moves forward.

Thank you for inviting me to testify today, and I would be happy to answer your questions.

[The prepared statement of Dr. Janssen follows:]

***** INSERT 1-5 *****

Mrs. Capps. [Presiding.] Thank you for your testimony,
Ms. Janssen.

For our last witness, we now turn to Terry Quill. Mr. Quill is an attorney and has 15 years of experience representing the chemical and pesticide industries on legal and technical issues related to enactment of endocrine testing provisions of the Food Quality Protection Act and EPA's development and implementation of its Endocrine Disruptor Screening and Testing Program.

In addition to his law degree, Mr. Quill has masters degrees in biology and toxicology from Wayne State University and the University of Michigan, respectively.

And you are now recognized for 5 minutes of testimony, Mr. Quill.

STATEMENT OF TERRY QUILL

Mr. Quill. Thank you. I want to thank the committee for inviting me to testify today.

I have been involved in endocrine issues, including issues related to development and implementation of EPA's EDSP, for well over 15 years. Much of my legal practice centers on regulatory science, and I often deal with issues concerning statutory interpretation. So when I look at the legislation today, I try to think ahead to issues concerning how this will be interpreted and

used in the future.

In that regard, my written testimony lays out a number of improvements that I believe could be made to the legislation. However, I do want to commend the committee for drafting a bill that in many respects is reasonable, calls for the use of scientifically relevant information -- although I will mention a few points concerning that -- directs EPA to develop a weight of evidence process -- we have been asking EPA to do that for years now, and I think that needs to be done soon -- directs EPA to assess and update screening assays -- EPA intends to do that, we have been also asking them to do that -- and provides for cost sharing. EPA has been reluctant to apply those provisions to non-pesticide chemicals.

My written testimony suggests a few ways in which I believe the bill can be improved to best ensure the use of best available science, and I would like to just highlight a few of the issues I raise in my written testimony.

First, I believe that the requirement that EPA publish a list of 100 drinking water contaminants within 1 year and require that EPA order screening of 25 of those chemicals per year appears reasonable. However, I think it could turn out to be more challenging to EPA than many think, but I will leave that to EPA to comment on that.

My only concern with that is the idea of the EDSP, as it currently is, is that, initially, EPA would require testing 67

chemicals that would be assessed to improve the battery. One thing that I think the committee needs to understand is that there is still great uncertainty regarding how the assays will perform and how the battery in general will perform. In many senses, this first round of screening is to validate the assays in the battery. With this bill, we have may have two more rounds of orders before we even have a chance to review the performance of the assays. That is why in my written testimony I suggest it would be better if additional testing didn't commence for 2 years.

What really needs to happen in the next year is EPA needs to develop the weight of evidence approach, it needs to develop a procedure for updating its screening battery, and it needs to develop procedures for considering other scientifically relevant information. That needs to be done right away.

Second, I outline in my written testimony basic scientific principles that I believe are applicable to endocrine screening. I have tried to point out areas in the bill where those principles are especially applicable. My general concern is that too often in this endocrine debate there has been a failure to, one, consider all the data; secondly, to assess the reliability of the data -- and that goes to the three basic scientific principles I outline; and determine the relevance of the data. Too often, we see individuals take just a piece of information, maybe some molecular data or biochemical data, and then apply to that a hypothesis for how this is relevant to adverse effects in humans

and then not bother trying to test that hypothesis but instead evoke the precautionary principle to move right to regulation. Well, that is not how we regulate in this country; and I would be greatly concerned if this bill reflected any of that thinking.

Richard Sharpe, one of the leading researchers on endocrine disruptors, has put it pretty well. He says that we should stay true to the scientific method and not to strong convictions. I think that that is what we need to do in this bill and throughout the process.

In regards to the bill itself, let me give just a few examples of how basic scientific principles might be applied.

While I support the bill's call for the use of scientifically relevant information, I am concerned that, unless that information is required to comport with minimum criteria for reliable and relevant scientific information, the term "scientifically relevant information" can mean almost anything. Without some objective measure, you can just basically put anything up as relevant scientific information. That is why I laid out the principles that might be applied.

This concern also applies to otherwise reasonable provisions, such as the provision to accelerate the identification of substances for which it will be necessary to identify suspected endocrine disruptors. Well, what is a suspected endocrine disruptor? What kind of data are we going to rely on to determine that? Well, we need some kind of objective principles applied to

that, also. I think the bill would be ideal if it could talk to that point and make sure that it is understood that this science has to be objective. There needs to be a procedure for assessing it.

Finally, I would like to express what was my major concern, that the bill might be interpreted as suggesting that it is appropriate to base chemical regulation on a mode or mechanism of action, such as the interaction with the endocrine system. Chemical regulation in the United States is typically based on the potential for a substance to cause a harm or an adverse effect.

My concern is derived from three things: First of all, the definition of endocrine disruption, which doesn't even address the concept of harm. Secondly, the provision that requires EPA to determine whether to take administrative action based on testing, and testing in the bill includes screening.

Mrs. Capps. Mr. Quill, your time is up.

Mr. Quill. Okay. I will finish then.

So my concern is that the bill suggests that screening data can lead to regulation, and that concerns me.

Thank you very much.

[The prepared statement of Mr. Quill follows:]

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Mrs. Capps. Thank you, Mr. Quill.

Before we begin with questions, I would like to ask unanimous consent to include several letters and statements that we have received on this legislation, to include these in the record.

Without objection, so ordered.

[The information follows:]

***** COMMITTEE INSERT *****

Mrs. Capps. I will begin with my questions, and I am going to turn first to Ms. Dougherty.

Currently, EPA is exploring whether to develop a drinking water standard for perchlorate. Some are arguing that EPA should stop this work. For example, one argument is made that the thyroid effect caused by perchlorate is also sometimes caused by eating foods, and so addressing the contaminant in drinking water might not even eliminate the risk.

Now, let me draw a parallel. EPA currently has a drinking water standard to ensure that there aren't harmful levels of E. coli in drinking water, even though E. coli can also be found in food. Do you think EPA should rescind its E. coli drinking water standard because it can also be found in food?

Ms. Dougherty. No.

Mrs. Capps. Some people also say that pregnant women could just take iodine supplements to prevent the adverse health effects caused by perchlorate. Do you think that EPA should stop regulating E. coli in drinking water and instead advise people to just take antibiotics to prevent E. coli infections?

Ms. Dougherty. No.

Mrs. Capps. So, just to sum up, even though the health risk may exist in more than just drinking water -- and medication could be used to treat that health risk -- you would agree that those are not reasons why EPA should cease its efforts to regulate

perchlorate.

Ms. Dougherty. I would agree that it is not necessarily the reason to do that.

Mrs. Capps. Thank you.

Mr. Estes-Smargiassi, a study released last year by the Association of Metropolitan Water Agencies and the National Association of Clean Water Agencies found that the Nation's drinking water systems alone would need \$692 billion through 2050 to adapt their operations and their infrastructure to the impacts of climate change. AQUA directs States to give greater weight to Drinking Water SRF applications if the system improves its efficiency or reduces its environmental impact through measures like increased water efficiency or conservation, greater source water protections, and actions to develop sustainable energy on site. Do you believe that these types of projects will help water systems prepare for the impacts of climate change?

Mr. Estes-Smargiassi. All of those things increase our flexibility and should make it easier for systems to adapt to climate change, yes.

Mrs. Capps. Are there some additional types of projects that you would like to list that would help you do this?

Mr. Estes-Smargiassi. I would say what we can use from EPA and from the Federal Government is more detailed information, more research on the specific impacts for every use system. It is very different from place to place. So maybe not projects, because I

can't say what any individual system would require, but information and technical assistance would help us move that forward.

Mrs. Capps. Thank you very much.

And I turn now to Mr. Levy.

Several government reports have concluded that climate change will lead to increased heavy precipitation events in the Northeast and rising sea levels along the coast. What is Maine Rural Water Association or other rural water agencies doing to prepare for these impacts and how can the Federal Government help, either through Drinking Water SRFs or some other program?

Mr. Levy. That is an interesting question. As you know, we have about 3,000 miles of coastline in Maine. I would say that climate change will probably be less of an issue for water systems typically because the water supplies aren't located next to the ocean. That being said, the wastewater facilities are often discharging into the ocean and in fact are often located nearby. So I would say that the clean water SRF fund would be a very, very valuable source of funding to help them either to move or to protect their resources due to climate change.

Mrs. Capps. Thank you very much. Your prompt answers are allowing me to ask another question, and I can turn to Dr. Janssen.

My State has defined, the State of California -- I am not Mr. Markey, by the way. I am Mrs. Capps, from a different coastline,

where we are impacted by climate change as well. My State has defined lead free as 0.25 percent lead content, rather than the extraordinarily high 8 percent lead content currently permitted under the Safe Drinking Water Act. The AQUA Act adopts this 0.25 percent lead content standard. You are from California as well. In your opinion, why is it unacceptable to define lead free as containing no more than 8 percent lead content?

Dr. Janssen. Thank you for your question.

We know that lead is a potent neurotoxin which has strong neurodevelopmental impacts, especially in babies and infants who are exposed to that. So, therefore, we really worry about even very low levels of exposure. So 8 percent might not seem like very much, but, in actuality, it is a level of lead exposure that could cause a loss of IQ points, a change in behavior, impairments in learning and memory. And so 0.25 percent is a much better level of exposure than a much higher percentage.

Mrs. Capps. Thank you.

Mr. Crouse, I am over time, but would you offer two words in response to that? Do you agree or disagree?

Mr. Crouse. We agree.

Mrs. Capps. Two words. Thank you very much.

And now I turn to Mr. Scalise for questions.

Mr. Scalise. I thank the chairman.

For Dr. Janssen, right now, in an ideal world, of course, we would have unlimited resources to address potential health issues,

such as aging drinking water systems. I don't think anybody up here would disagree with that. However, we are most decidedly not living in an ideal world, and we have very limited resources. According to a report yesterday, the Federal Government ran a deficit in April for the first time in 26 years. We spent \$20.9 billion more than we took in for last month alone. Since October, our overdraft account has a balance of a record \$802 billion; and at that pace we are on the road to our Nation's first-ever \$1 trillion annual deficit.

So is it wise to say that some of the extra funds authorized in this bill, funds that we clearly don't have, should, as a priority, go to projects like the fourth priority, which was added in section seven of this bill, which makes preventative projects as much of a priority as the systems in most need or present the most danger to human health?

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Dr. Janssen. When I took an oath as a physician, prevention was a big part of that. That is part of the Hippocratic Oath. Preventing disease is much less costly than treating disease.

So bacterial contamination has been associated with not just nausea and vomiting and having to be in bed all day with diarrhea and staying home from work, which is costly to businesses, but also has resulted in kidney failure, hospitalization in the ICU, and even --

Mr. Scalise. Right. And so we have got a host of problems that you deal with, that we all deal with.

But, again, with unlimited resources, we could address each of those. But if you've got a situation -- if a doctor is treating patients at a hospital and three people come in all at the same time with various levels of degrees, wouldn't you take the patient who is the most in dire need of attention? If you have only got one doctor and three patients, the one that is near death versus the one that might just need an aspirin, wouldn't you take the one with near death first or would you --

Dr. Janssen. I think that is true, but I would say our aging infrastructure is a dire situation.

Mr. Scalise. Right. But until they change the priorities so that a system that is most severely in need gets the same attention as one that is not severely in need when you have

limited resources -- when you don't have limited resources, I understand it would be fine to treat all of those, but do you think it is appropriate that this bill changes that priority so that you as an administrator or somebody who is an administrator of a water system can't treat the most-in-need system, even if they have limited resources?

Dr. Janssen. Well, I am here to speak about the endocrine disruptor screening provisions in the bill, but my read of the bill and my interpretation of it is that prevention becomes an equal priority with the other priorities that you are describing. So it is not placing that priority above the other ones and the water system could --

Mr. Scalise. Let me ask Mr. Crouse, who deals with the water system in Maine. What is your take on that?

Mr. Crouse. When we look at projects that -- we always get more project requests than we have money available, so we do prioritize based on those systems that are in violation. So our scoring system is weighted to the ones that are out of compliance with Safe Drinking Water Act regulations. Those are our highest priority. The ones that are lower priority are the ones that are maintenance, infrastructure, replacement, those types of activities.

Mr. Scalise. Mr. Levy, your take on that, representing rural water systems.

Mr. Levy. Representative, I probably spend 2 nights a week

out raising water rates for some small town, and I understand what you are getting at. What I am seeing, frankly, is small communities being unable to keep up with both aging infrastructure and complicated rules and regulations, and it is an ongoing struggle. I think this bill does a lot to put the greatest needs first, and I think that is important.

Now, let me just share a little story we are doing --

Mr. Scalise. I am almost out of time, so I apologize.

If I could go on, back to Mr. Crouse, why do some States' analysis conclude the Davis-Bacon provisions will inflate the cost of drinking water projects and how would you remedy that?

Mr. Crouse. Well, in Maine, we do not have a State prevailing wage rate requirement. So when ARRA came along with the Davis-Bacon provision attached, we had to begin implementing that, so we did see some increases in costs, project costs, as a result of contractors having to meet the Davis-Bacon wage rate requirements.

Mr. Scalise. Okay. Mr. Levy, in terms of the prevailing wage, how would that increase costs for you? Any kind of quantitative analysis?

Mr. Levy. In terms of -- we have seen some project costs go up. We have seen some project costs stay the same. I would say that there is a mixed opinion on it. We are basically deferring to Congress on the implementation of Davis-Bacon. We feel that this is an issue that you are going to need to wrestle with.

I would say --

Mr. Scalise. But it does, in cases, increase the cost and make it to where you are not able to fix as many water systems if that cost is increased on particular projects?

Mr. Levy. I would say it is catch as catch can in terms of individual projects. Some of them are going up; some are staying the same.

Mr. Scalise. Thank you. I yield back.

Mrs. Capps. I now recognize Mr. Inslee for 5 minutes.

Mr. Inslee. Thank you.

I wanted to ask some of the witnesses about endocrine disruptors specifically. We have certainly had a problem. I am from the State of Washington, and we have found these disruptors in Puget Sound. We have got male fish with female proteins in Elliot Bay. We are finding there is 150,000 pounds of untreated toxic finding its way into Puget Sound every day. We have got the endocrine-disrupting chemicals found in numerous King County waters, and I won't list the names of them.

But I wanted to ask witnesses about the ability to keep endocrine disruptors out of the waterways in general. I have introduced a bill to create a legal pathway to dispose of pharmaceuticals so they don't get flushed down the toilet and end up in our waterways. We are particularly concerned about endocrine disruptors, and I just wanted to ask -- maybe I would start with Ms. Dougherty -- what advice you could give us.

I am trying to keep these things out of the waterway in general. We have suggested a way to allow communities to do drug take-back programs to keep these out of our sewer systems which are not designed to segregate this stuff from going into the bays and estuaries. But I just wondered -- and I will start with Ms. Dougherty -- what comments you would give us on trying to keep this out of the water system in general.

Ms. Dougherty. I think improving the ability for communities to have drug take-back programs is a good idea and something to follow through on. We have done some work over the last couple of years to try to see what could be done with that. That doesn't completely solve the problem, because, obviously, what goes through people's bodies also comes out; and we need to look at what we do in terms of the wastewater treatment plants and whether there are things that can be done to understand what comes out of wastewater treatment plants and goes into the environment.

Mr. Inslee. Ms. Dougherty, you could help us. The bill that I have introduced -- there are two concerns about leftover pharmaceuticals. One, they end up getting into the hands of our kids who then sell them on the street; and prescription drug abuse is now the fastest-growing problem with drug abuse right now. So that is one of the problems. The other thing is these endocrine disruptors and other chemicals getting in our natural water systems.

Our bill would address both of these issues. I hope you

might think about trying to alert other members of my committee, frankly, of the necessity of making sure we deal with both of the problems, including the ones that we are here talking about of endocrine disruptors. Some of us suggested we don't deal with the environmental issue, we only deal with the drug abuse problem. We think we should deal with both.

Ms. Dougherty. I agree you need to deal with both.

Mr. Inslee. I appreciate that, and I will quote you widely. And if you can let others know in the House your thoughts on that, that would be appreciated, because we are trying to move this bill.

Does anyone want to comment on this issue on the panel?

Dr. Janssen. I can comment on this.

Thank you for your questions and for your efforts to reduce the upstream of these chemicals into the environment. NRDC published what we call a scoping paper on pharmaceuticals in the environment, and I will provide that to this committee for your pleasure in reading.

[The information follows:]

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Dr. Janssen. We talk about the whole entire lifecycle of the pharmaceuticals so not just the disposal practices but also designing better drugs to begin with. Because we know that some drugs are more likely to remain in the environment than others and especially drugs which are not necessarily the most prescribed by volume or in terms of numbers but drugs which for whatever reason are very persistent because of the way that they are structured and developed.

A second is to have better physician practices in prescribing medications. I think physicians have largely gotten the message about reducing prescriptions for antibiotics, for example, for a viral infection. Well, we know they are not going to do any good to the patient. But patients still go in and expect to get an antibiotic when they see their doctor. So we have to do better education of both patients and physicians to decrease the prescriptions of unnecessary drugs.

And, finally, I do agree that we need better treatments in our wastewater plants and better research into methodologies that can remove these things before they are put back into the wastewater stream.

Mr. Inslee. Thank you.

Anyone else.

Mr. Quill. Yes, if I may.

I think your approach is rational, but I don't know why it

would be limited to so-called endocrine disruptors. It is always good to limit the release of any chemical to the environment.

I would say, on the fish issue, you may regulate or prevent the release of drugs per se, but it doesn't address other issues. You know, there's estrogens that come from female urine that are not related to pharmaceuticals. Those would have to be regulated. And there are other sources such as runoff, just what are called phytoestrogens from plants. There are a number of things that have to be regulated, and pharmaceuticals may be one, but there are other places to look.

Mr. Inslee. I can assure you I will not be offering a bill to regulate the female constituents of the First Congressional District. And, by the way, our bill does deal with all chemicals and prescriptions, not just endocrine disruptors. Thank you.

Mrs. Capps. Dr. Burgess is recognized for your questions, 5 minutes, please.

Dr. Burgess. Thank you. I appreciate that.

As a public service announcement, the water in your pitchers is either taken from a plastic bottle in the back which has not been screened for BPA or, worse yet, it came from the tap, and we are advised not to drink the water in the Capitol because of the high lead content. Just so you know.

Ms. Dougherty, let me ask you a couple of questions, if I could, because you are the director of one of the major offices in the Office of Water in the EPA; is that correct?

Ms. Dougherty. Yes.

Dr. Burgess. In March of this year, there is a report that came from the EPA Inspector General concerning recommendations from past Inspector General reports, and the report delineates down to the Office of Water, and some of these programs I think would fall under the jurisdiction of the Office of Ground Water and Drinking Water. So if I mention programs that are handled by another office, please let me know that.

But the report is the compendium of unimplemented recommendations as of March 31, 2010; and the report itself is dated April 28, 2010. The Inspector General lists six reports that involve unimplemented recommendations. One of the reports was issued in 2002, another in 2004, another in 2006. No other EPA program office was close to this record. If you could, tell us why the Office of Water has such a problem in implementing recommendations from the EPA Inspector General compared to other EPA program offices.

Ms. Dougherty. I am afraid I will have to get back to you on that, since I don't have the list in front of me. But, normally, the Inspector General reports have recommendations for actions for EPA to take and EPA responds with what actions we plan to take and tracks those actions. So I am not familiar with exactly which --

Dr. Burgess. I think there is --

Ms. Dougherty. Occasionally, there are some differences in what we think meets what we have said we would do and what the

Inspector General thinks meets what we are expected to do. But
let me get back to you on that.

[The information follows:]

***** COMMITTEE INSERT *****

Dr. Burgess. But we are not just necessarily as a Federal agency free to ignore those IG recommendations because we disagree.

Ms. Dougherty. What they track is not so much their recommendations but what we have said we would do about them, I believe, and --

Dr. Burgess. Well, just a couple of specifics on the April 28 report which I will make available to your office.

Ms. Dougherty. I am sure I have it. Thank you.

Dr. Burgess. The EPA Office of Water agreed to complete implementation of a recommendation from a 2002 IG report on wastewater management by September 30, 2009, but as of the April 28 report it was still unimplemented. We are a few weeks past that point at this juncture. Is it still unimplemented at this time?

Ms. Dougherty. I can assure you that it is not my office. That one is not my office, but I will go back and respond back to you on that.

[The information follows:]

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Dr. Burgess. Very good. Also, according to this same report, the Office of Water has not implemented a recommendation in which the Office of Water agreed to take corrective action by September 30. This action would be in response to a recommendation from a 2004 IG report that found that the EPA needed to reinforce its national pretreatment program; and, in particular, the Office of Water was to develop a long-term strategy to identify the data it needs for developing pretreatment results-based measurements. The IG says the Office of Water has not implemented the recommendations as of March 31, 2010.

I would ask you today, have those recommendations been implemented?

Ms. Dougherty. I can't answer that. Again, that is not my particular office within the Office of Water, but I can get you a response.

[The information follows:]

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Dr. Burgess. I would appreciate that; and we will provide you the several things here that we have got, recommendations that haven't been implemented.

Mr. Quill, let me ask you, because you were building up to what sounded like an important apex in your testimony, and we unfortunately cut you off. You were making the point that the screening data sometimes can lead to regulation that, if I understood you correctly, that may be jumping the gun or missing the mark. Would you care to finish that thought that you had when you were giving your opening statement?

Mr. Quill. Yes, sir. And thank you for the question.

The point I was making is, in the bill, there is a definition of endocrine disruptor which basically includes anything. If you don't incorporate into that definition the idea of adversity -- although the term "disruptor" suggests adversity -- what you have defined as an endocrine disruptor is anything. It could be soy, it could be baby formula, anything that interacts with the hormone system, with the endocrine system.

On top of that, you have a definition of testing which includes screening, and it is important to understand that screening merely tells you whether something has the ability to interact with the endocrine system. It kind of tells you a mechanism of action. Not only that, screening tests are designed to be highly sensitive, which means there is a high false-positive

rate.

Really, screening tests are valuable for prompting more definitive testing. So the idea is you have a definition of an endocrine disruptor, you have a definition of testing which includes screening, and then you have a provision that says, based on the results of testing -- read screening or mechanistic data -- the agency shall take action. And that action some might perceive to be regulatory action, and therefore what we might see is regulatory action based on mechanistic information. That is not the way science-based regulation is done currently in the country.

However, the thing that concerned me is there is this trend to not rely on data, to rely on some very basic screening-type data and use precautionary principles and call for regulation. That was my concern.

Dr. Burgess. I know we have gone over time, but let me just ask you if you all will work with us on the language of that so maybe we could possibly get it right in the underlying bill. We would appreciate that very much.

Mr. Quill. Thank you.

Mrs. Capps. Thank you.

Now turning to Mr. Shadegg for your questions, 5 minutes.

Mr. Shadegg. Thank you, Madam Chairman.

Dr. Burgess hit upon the line of questioning that I would like to go ahead with, Mr. Quill, and I am interested in getting further definition. You say that there are various provisions of

the bill that you believe are contrary to good science and fail to use good science either intentionally or unintentionally, significantly undermining existing, well-established procedures for science-based regulation. Can you compare the concerns you have or illustrate the concerns you have with what is in the proposed legislation compared to the program that is currently going on?

Mr. Quill. Yes, sir. If we go back to the 96 amendments to the Safe Drink Watering Act that include the endocrine provisions, EPA was granted full authority to do pretty much everything that is in the current bill. The big difference here is that the bill orders the EPA to act, as opposed to just granting it authority, and it has some hard deadlines.

Mr. Shadegg. Could you stop -- it orders it to test or does it do more than order it to test? Because ordering it to test --

Mr. Quill. It orders the agency to list and then test 25 chemicals per year. Okay.

Mr. Shadegg. I thought you said it was going to be up to the EPA to determine whether or not they could achieve --

Mr. Quill. Well, that is always the case. In the Food Quality Protection Act that EPA bases its current EDSP on, the bill expected EPA to take certain action within 2 years. The science didn't allow it. So you know --

Mr. Shadegg. Apparently. Okay. Proceed.

Mr. Quill. In any event, the current EDSP envisions that

endocrine disruptors are substances that cause adverse effects. That is a change in the new bill.

I have this overarching concern that -- I am not sure what the bill intends to do, but I have a concern that it might promote regulation based on screening data. The current EDSP makes it clear that that is not what is supposed to happen with screening data. Screening data are supposed to be used to prompt Tier 2 testing. And just in reading the bill, I was just concerned that it wasn't clear that it fully understood the value of screening data versus testing data and how regulations are typically done. And perhaps the committee fully understands this. However, as a person who has to deal with the interpretation of this Act down the road, I have some concerns.

Mr. Shadegg. In your oral testimony, you said that we needed to stay true to the scientific method, not avoid, I guess, preconditions or preconclusions. But you also said that it was important to tie the definition to the potential for harm or adverse effect. From what you have just said, I gather what you are saying is that the current law says, in defining endocrine disruptors, that they are those with adverse effect and your concern is this legislation removes the requirement that there be adverse effect or that criteria?

Mr. Quill. No, sir, not precisely. There is no definition in the current law. The current definition is in the EPA's EDSP, and there are a variety of definitions out there but the only one

that really makes any sense is to have adversity incorporated in the definition. Even during the hearing today, the term "endocrine disruptor" is thrown around. Frankly, I don't know what it means. I don't know whether it means something that there is evidence of a molecular interaction or does it mean something where there is evidence of an adverse effect? Because we don't define our terms well.

Mr. Shadegg. And you believe that a definition should be added to that law making that clear?

Mr. Quill. Well, to the extent that the definition is added to law as it would be in this Act, it ought to be improved to include the concept of adverse effects.

Mr. Shadegg. I appreciate that answer. And I would echo what Dr. Burgess said. I appreciate your assistance in clarifying that point.

I think often when we write laws we don't clarify the terms, and failing to define those terms then leaves vast discretion.

I yield back the balance of my time, ma'am.

Mrs. Capps. Thank you.

We have completed our first round of questions. If there are no objections, we will do a second round; and I will begin for 5 minutes.

Ms. Dougherty, one of our witnesses says that EPA shouldn't issue any more test orders for chemicals under the endocrine disruptor screening program until its first set of test results

come back in the next year or two. Isn't it true that EPA is already finalizing its next list of 100 chemicals for testing, and this is following direction from the House appropriators?

Ms. Dougherty. Yes. As I mentioned in my oral testimony, we have a list of a hundred that we are doing based on current drinking -- regulated drinking water contaminants, the contaminant candidate list of potential future drinking water regulations, and the pesticides that are up for review in the next 2 years.

Mrs. Capps. And isn't it true that the tests EPA has required have been validated by multiple laboratories? Is this the case?

Ms. Dougherty. We have gone through a process to validate the tests, and they have been also peer reviewed by the Science Advisory Panel that the pesticides program has.

Mrs. Capps. Do you think the results of these tests will yield valuable information?

Ms. Dougherty. I believe that they will, and we will be able to use that information then to evaluate the next steps that we would need to take on particular contaminants.

Mrs. Capps. So do you have the belief or opinion that there is any reason we should stop in our tracks and disrupt the continuation --

Ms. Dougherty. No. I think that we need to have a process over time as the bill considers to relook at how we are doing the testing and improve things over time, but I think that we are fine

with starting what we have and improving that over time.

Mrs. Capps. I will turn to you, Ms. Janssen.

One of our witnesses stated in his testimony that the endocrine disruptor screening language in the bill requires EPA to regulate endocrine disruptors even when there is no adverse health effect found. Isn't it true that the definition of testing in our legislation requires EPA to determine whether something is an endocrine disruptor as well as to determine what the effects of the substance are? And you can expound on that if you wish.

Dr. Janssen. Yes. Thank you for the question.

I agree that is correct. My reading of the bill is that it is requiring EPA to issue test orders which will be carried out by the manufacturers with these contract labs to determine whether or not they have endocrine disrupting effects. Right now, that protocol is both screening and testing; and then at the end of that EPA will have the discretion to decide the next steps that they will take based on the information.

Mrs. Capps. Isn't it also true that nothing in our legislation requires EPA to regulate any substance? In fact, really all the legislation does is to require EPA to determine whether or not to do so based on the result of the testing?

Dr. Janssen. Yes, that is correct.

Mrs. Capps. So, basically, all legal thresholds that must be met for substances to be regulated under the Safe Drinking Water Act would still apply to endocrine disruptors under our language;

is that correct?

Dr. Janssen. That is correct. Thank you.

Mrs. Capps. And I will turn back to you for final agreement or disagreement, Ms. Dougherty.

Ms. Dougherty. Yes. We would still have the statutory criteria that we use to make a determination as to whether to regulate, and we would still be required to establish our regulations on the same basis that we do now.

Mrs. Capps. Thank you.

I am going to yield back the balance of my time and turn to Mr. Scalise for any questions you may have.

Mr. Scalise. Thank you.

Ms. Dougherty, section 16 in the bill establishes an endocrine disruption screen and testing program for 100 substances over 4 years. Is that a realistic set of criteria?

Ms. Dougherty. It is consistent with what we are doing right now in terms of identifying the next list of a hundred.

Mr. Scalise. So it is something that you think you all can meet?

Ms. Dougherty. I believe so, yes.

Mr. Scalise. Okay. Thanks.

Mr. Levy, section 7 of the bill contains a new series of reporting requirements for SRF applicants. In your testimony you state that the new reporting could overwhelm many smaller communities' ability to apply for funding. What specific fix do

you suggest be added to the bill to address this concern for the smaller water systems?

Mr. Levy. Congressman, my understanding is the reporting is more based -- is more a requirement of the primacy agencies than the drinking water systems themselves. That being said, small water systems and large water system always have enormous difficulties providing the reports that are required by the primacy agencies, which is why we contend that technical assistance is so important for our programs.

Thank you.

Mr. Scalise. Thank you.

Mr. Crouse, you recommended that States be allowed to use the 15 percent set-aside for source water protection activities in addition to the assessment activities currently proposed. What are these activities and why shouldn't the States pay for them?

Mr. Crouse. Under the '96 amendments, the 15 percent set-aside allowed us to assess source water protection needs, and most of that assessment work is done in the States, I believe, at least in Maine, and we are trying to implement those recommendations that we found in the source water assessments.

So we still have the 15 percent set-aside available. We have done the majority of the assessments. We would like to now move to the next phase of actually implementing a number of those recommendations.

Mr. Scalise. Okay. Why do the States need the

administrative set-aside to increase? Because in the bill -- and it is in section 9 -- they actually allow for a 50 percent increase in administrative costs for 4 percent up to 6 percent; and in these tight economic times when you have got families and businesses that are tightening their belt, why would you want the increase in administrative costs to go up by 50 percent?

Mr. Crouse. Well, the 4 percent generally has not been adequate to finance the staff time and expenses needed to administer the Drinking Water State Revolving Fund, in Maine, anyway, where 1 percent stays so we get 1 percent of the national cap grant. So 4 percent of that has not been enough to cover all our staff costs to administer this area.

Mr. Scalise. But a 50 percent increase seems like a pretty dramatic and to many people offensive increase when you are considering that people in businesses are cutting back, that here in this bill you are actually allowing for a 50 percent increase. What percent are systems? What is it costing systems right now? If 4 percent isn't enough, what is the kind of going rate? I mean, if they are doing it, if there is a cap now, they are making by.

Mr. Crouse. Right now, we are using funds from other sources to supplement the administration of the SRF program, whether it be other set-asides, using the 10 percent set-aside or some other State money or fees on loans that are administered.

You now, there is a certain amount of staff that is needed to

administer the SRF and there is a certain amount of costs associated with that. So we are just trying to meet those needs.

Mr. Scalise. And clearly we can look at that as well.

On the 10 percent State set-aside you just talked about, the legislation removes the 100 percent State match. Shouldn't States have to put up money in order to be able to get money under this? Why take away the interest? If a State is that vested that they are putting up money, it seems like you should want to incentivize them to have a stake in it. This bill completely takes that away.

Mr. Crouse. Well, with the SRF, States are required to come up with a 20 percent State match for the overall capitalization grant. So, in Maine, we are getting \$13 million. So we have got to match 20 percent of that, \$2.7 million.

So the 100 percent State match, the 100 percent match on the 10 percent set-aside is an additional match in addition to the 20 percent. So it is almost like there is a double match requirement on this. Where we have already matched based on the 20 percent, now with the 10 percent we are asked to match it once again, and so that is why we would like to remove that --

Mr. Scalise. I have got just a few seconds left. I wanted to ask one quick question for Mr. Smargiassi.

You talked about faucets in your testimony. Right now, there is legislation in this committee that looks at products with any kinds of chemicals in them. No-lead faucets that you talked about, it seems no-lead faucets would be taken off the market

because of the legislation that is also moving through here. Would you want to comment on that since no-lead faucets seem something you promote? There is other legislation moving through that would actually take them off the market.

Mr. Estes-Smargiassi. I am not familiar with the specific legislation and this piece of legislation. What was done in California was to go from an unreasonable 8 percent lead in brass to a practical, reasonable one-quarter of 1 percent that the manufacturers can actually produce a salable product that homeowners will buy and install. Our goal is to make sure that, as people renovate, that they actually do change out those faucets with ones which leach less lead but not to ban a product.

Mr. Scalise. You would promote no-lead faucets, wouldn't you?

Mr. Estes-Smargiassi. The question is, would you -- it is, again, a definitional question. In this case, we are talking about allowing the manufacturer to include a very small amount of lead which is necessary to machine the brass components so they can actually produce it. It is hopeful at some point in the future plumbing manufacturers will come up with adequate substitutes so that -- absolutely no lead would be a long-term goal, but in the short term we need a product that actually can be produced and sold.

Mr. Scalise. Thank you. I yield back.

Mrs. Capps. Thank you.

And now the chair recognizes the chairman of the committee who has returned and prefers to ask his questions from our far right but, of course, the witnesses' far left of the dias. So recognized.

Mr. Markey. I thank the gentlelady very much.

Mr. Estes-Smargiassi, Massachusetts is extremely progressive when it comes to funding State revolving funds projects. It allows for funding to be used for rehabilitation of all systems, creating system redundancies, and the incorporation of water and energy efficiency technologies. But I have heard from the water sector that other States do not consistently fund these types of projects which is why our bill explicitly authorizes the use of a State revolving fund for a wide range of forward-thinking projects. Why is it important, in your opinion, for water systems to be able to get funding for these types of projects?

Mr. Estes-Smargiassi. Well, I think that encouraging systems to think about fixing things before they are broken, to plan for problems which may occur, in the case of making sure that you have got redundant facilities, and to think long term, not to only think about the problem at hand but to think 20, 30, 40, 60 years out and make sure you are doing something that is not just cost effective today but cost effective long term makes good sense. We are fortunate that our State has opened up the rules so that systems can set those priorities in their own system, and it just makes common sense that that be available elsewhere in the

country.

Mr. Markey. So what you are basically saying is that ensuring that these sorts of cutting-edge projects are eligible for funding can actually help to boost compliance with drinking water standards and save drinking water systems money in the long run?

Mr. Estes-Smargiassi. I think that is a fair statement.

Mr. Markey. As you know, our legislation also expands the eligibility for extra assistance for disadvantaged communities to portions of water systems that are disadvantaged. Water systems that serve big cities typically can't receive such assistance even though portions of their service areas can include extremely poor neighborhoods whose residents can't afford the rate increases necessary to bring their systems into compliance with safe drinking water standards. For example, El Paso, Texas, is one of the poorest cities in the country, but it still can't qualify for this funding. Do you think that poor urban areas should qualify for extra assistance just as poor rural areas do?

Mr. Estes-Smargiassi. I think it is definitely a problem, that in large metropolitan areas, if we think of the system simply as a broad system, then we are going to have some of our ratepayers pay more than they can afford. That is clearly the case in our service area with a city like Chelsea being among the poorest in the State is grouped and averaged in with towns like Weston, among the richest in the State. This bill takes some

steps forward which should help some metropolitan areas with some increased flexibility for State programs to give a little bit extra umph there. It is a difficult problem. Won't solve every problem, but it is a step forward.

Mr. Markey. But, again, going to El Paso or other poor cities, obviously, there should be some way that we think this thing through to ensure that poor urban areas do get to qualify.

Mr. Estes-Smargiassi. Absolutely.

Mr. Markey. Now, the State revolving fund has not been this reauthorized since it was originally passed and appropriations levels decreased steadily until we passed the Recovery Act. We need to reauthorize this fund and raise the authorization levels.

This legislation will provide \$1.5 billion in 2011, and the authorization will grow each year, reaching \$6 billion in 2015. There are water systems ready and waiting for these funds, and people across the country are counting on these funds to keep them safe.

I would like to hear a little bit more from our panel about their views on the funding levels. Ms. Dougherty, can you give the committee a sense of how these levels compare to past appropriations for the State revolving funds?

Ms. Dougherty. Historically, the SRF has been appropriated at about a little bit under a billion dollars a year, in the range of 850 or so. So this would be a significant increase of that. When we received the appropriation for the Recovery Act of \$2

billion more on top of the 2009 appropriation of about 850, that was almost tripling the size of the appropriation available to States; and they were able to move projects very quickly, find good projects, and move those projects very quickly.

Mr. Markey. Now, how does this can compare to EPA estimates of the infrastructure costs facing our Nation's water systems?

Ms. Dougherty. Our latest needs survey estimated about \$334 billion of need over 20 years for all the eligible categories of projects, which includes the rehabilitation kind of projects.

Mr. Markey. Mr. Crouse, how would these authorization increases affect your State's program?

Mr. Crouse. The State of Maine is a 1 percent State, so we get 1 percent of whatever comes naturally. So next year we would get \$15 million. In the past, we have gotten around \$8 million; and this year, through the 2010 appropriation, we are going to get about \$13.5 million.

Mr. Markey. Mr. Levy, how would these increases impact on rural systems across the country? You are here to testify on behalf of rural systems.

Mr. Levy. I am. I would say that small utilities are the bottomless pit for financing. They are old. They need to be replaced. They need to come into compliance with new rules and regulations. So, frankly, we will use your money and put it to good use. Small water systems, large systems --

Mr. Markey. Do they need it?

Mr. Levy. They do need it. Just in the three States that I work in on a daily basis, most of the water utilities are somewhere between 75 and 110 years old; and they need the money because the pipes are leaking and because they also need to put in sort of the cutting-edge projects, green things, new pumps, et cetera, to save their operating costs.

Thank you.

Mr. Markey. And, Ms. Janssen, could you talk a little bit about how these increases could help enhance public health?

Dr. Janssen. Thank you, Representative.

As I submitted in my written testimony, the deteriorating condition of our water infrastructure is concerning for public health reasons in part because when things like main pipes break, like happened recently in Massachusetts, people are forced to boil their water. We are not really sure exactly how to do that always, and it requires an inconvenience that some people might forego and subject themselves to a water-borne illness.

We also know that there are throughout the aging water infrastructure small leaks in the distribution lines, which create opportunities, especially when these lines are close to sewer lines, for sewerage waste to enter into the drinking water lines; and this has been documented to result in water-borne illnesses in the population. So shoring up our water infrastructure will go a long ways to prevent these bacterial illnesses in the public.

Mr. Markey. Thank you, Dr. Janssen.

I yield back the balance of my time. Thank you, Madam Chairman.

Mrs. Capps. Thank you, Mr. Chairman.

And final questions come from Mr. Shimkus.

Mr. Shimkus. Thank you very much.

I want to, to the panel and our guests, thank you for coming. It is a very busy time, and members are coming and going, and it is a very important issue. So I appreciate the chairman for holding the hearing and your testimony.

Just a comment. If we have people who don't understand how to boil water, we are in a world of hurt. So not belittling that point, but that is that is a very great statement to be said.

I want to start with Ms. Dougherty, because there is a vested interest. I am a cosponsor of Bob Etheridge's bill, H.R. 2206, which requires EPA to give priority to what assistance small communities believe is working the best to help their compliance needs. Is this something the EPA is capable of?

Ms. Dougherty. I think in terms of how we do the technical assistance grants it is important for us to make sure we understand the issues that need to be addressed by technical assistance, and what we have tried to do over the last several years with the earmarks that we have received is to make sure that the technical assistance providers and the States work together to identify the priorities that need to be dealt with in a particular State so that the technical assistance providers are providing

small systems the help that they need.

Mr. Shimkus. Yes. Because I have been here longer than I would like to admit sometimes and you learn that really the water supply is very diverse throughout the country and the people that have had to deal with it, especially in small town, rural areas, and they have to address the needs. There really is some expertise there on the localism issue. So we would hope that that would be a focus.

I have a question to, if I can find it -- Mr. Quill, I noticed that the legislation has a petition process to have substances included on this list, but I am curious that I don't see a process or at least a formalized process where substances could be removed. And the issue is, if there is -- I always want to focus on real science, real data, the ability to replicate through the scientific method. If the scientific process poses a point that a substance should not be on the list, should there be a process by which an element can be removed?

Mr. Quill. Well, that would make sense. I would think, though, that it could be a different process and there could be different requirements for adding a substance to the list or removing a substance to the list.

Keep in mind the point of adding a substance to the list now is just for it to undergo screening where we intend that there is going to be a high false-positive rate. What would it take to remove something from the list? It may take more evidence that a

substance either doesn't interact with the endocrine system or, more importantly, evidence either for or against regulating. Because, at the end of the day, the point here should be to determine what substances cause an adverse effect and to manage those effects, not necessarily just to gather a bunch of facts about interactions with the endocrine system molecular data. So I think you make a very good point. I would just say it could be different types of data.

Mr. Shimkus. Because everything we do -- and we are all in it -- we want to make sure folks are safe and systems are sound, but for every addition there is an additional cost, especially in some of the systems. So I would think that we would focus on some real science and have a process.

Mr. Quill. Yes, sir.

And if I may add one thing, the earlier question about the billions of dollars for infrastructure, the thing that popped in my mind was, jeez, if we had 5 to \$10 billion, we might be able to screen and test a thousand chemicals. Well, that really raises the issue as to where is money best spent and how can we do the screening and testing in a more efficient manner so that funds can actually be used where they may have a greater impact.

Mr. Shimkus. Yes. And I want to end with this -- and those bells are votes, and it looks like I am the last person -- but, Mr. Estes-Smargiassi, this question is for you. It talks about the risk-risk tradeoff of implementation and it uses the D.C. lead

removal fixture story as a case study that, in trying to solve a problem, we may create more. And I think in essence shaving off to replace lead pipes may, in essence -- our understanding is more lead contamination versus what was, in essence, a mitigated amount if you would have kept it.

Can you talk to that? How do we address this risk-risk tradeoff.

Mr. Estes-Smargiassi. I think it is important to be thoughtful whenever you take an action that you understand the potential adverse impacts.

In the instance you are referring to, when you disturb a lead service line, the pipe connecting the main to the house, the evidence does seem to indicate that you do get some additional lead for release during at least a short period of time after that. If you don't remove the whole lead service line, you see an increase in lead levels at the tap perhaps or certainly in the water that you are sampling for a period of time, and then the lead level returns pretty close to where it was before from the remaining lead pipe, at least in the research data we have seen.

So that says you want to be thoughtful and make sure that if you are spending money having a short-term adverse impact that you are actually getting a benefit at the back end, and that may not be the case for every lead service line replacement program. They need to be designed carefully, thoughtfully, and hopefully get all the lead out, if that is what you are trying to do.

Mr. Shimkus. Thank you.

Mr. Chairman, that is all the questions I have.

Mr. Markey. [Presiding.] Thank you.

Here is what we will do. We will wrap up the hearing this way. We will give each one of you 1 minute to tell us what you want us to remember.

Mr. Shimkus. Lightning round.

Mr. Markey. Yes. This is it. This is the moment where you get to talk to America. We have C-SPAN covering this.

What do you want us to know as we are looking at the water that people drink in our country, that comes into their homes, into their children's bodies. What do you want us to know about these issues as we are --

So, this way, we will go in opposite order of the original testimony. We will begin with you, Mr. Quill. We will give each one of you 1 minute.

Mr. Quill. Thank you.

I think my major issue, again, is the message that the Act sends concerning regulation. In earlier questions, it was suggested that there was no intent to regulate based solely on mechanism of action. I would say that the legislation is not clear in that regard. It may be misinterpreted. I would urge the committee to, in that regard and throughout the bill, improve the language so it is very clear that the bill accomplishes the committee's purposes.

Mr. Markey. Okay. Well, we want to work with you to make sure it is crystal clear. Thank you.

Dr. Janssen.

Dr. Janssen. Thank you.

I would like to say that -- I didn't get a chance to mention it in my testimony, but the bigger picture problem is that, because of the weak chemical regulation laws that we have in this country, we have virtually no information about the majority of chemicals which are in our drinking water as well as in our food and our consumer products and inside of our homes, including whether or not these chemicals are endocrine disruptors.

Congress recognized that endocrine disruptors present a threat to human health in 1996, and then here we are 14 years later. They have spent a lot of money at the Environmental Protection Agency, but we have not yet tested one chemical for its endocrine-disrupting potential. The point of the screening and testing program is not to regulate these chemicals but rather to be identifying them so that we know where we are being exposed to these chemicals which do likely present a threat to our health.

Thank you.

Mr. Markey. Thank you.

Mr. Estes-Smargiassi.

Mr. Estes-Smargiassi. Our goal as water supply systems is to provide safe, reliable, affordable water for our customers. So in my remaining 40-some seconds, more SRF funding, that is helpful in

making sure that we can accomplish what we need to do and not make our bills so high that our customers can't afford the water. More flexibility so that we can actually manage the problems that we see at the local level, whether it be aging infrastructure or our need for redundancy. And other portions of the system we don't control, such as the plumbing in people's homes. Less lead there so that our customers receive the high-quality water that comes out of our reservoirs and through our treatment plants all the way to their tap. It doesn't do any good for us to spend a lot of money on treatment if at the end the water is degraded in that last few feet of pipe.

Mr. Markey. Thank you.

Mr. Levy.

Mr. Levy. Thank you for my 60 seconds.

The National Rural Water Association represents over 20,000 small water systems. These small water systems are mostly run by locally elected people, and they take public health very seriously.

They have special challenges. We feel this bill is an improvement because it helps target more resources to the most needy and helps prioritize that funding. There is never enough money, because there is just not enough money.

We also thank you for providing more technical assistance through rural water to these small towns who have these special circumstances, and we intend to work with the committee and EPA

for the next 30 years.

Thank you.

Mr. Markey. Thank you. Thank you for the 18 seconds back.

Mr. Crouse.

Mr. Crouse. Thank you.

The Association of State Drinking Water Administrators appreciates the opportunity to be here and to provide testimony, and I will speak specifically again on the SRF. We feel like it is not all doom and gloom. There are incredible things going on across the country with water systems and infrastructure improvement. The SRF has served us well, tremendously well over the last 13 years, and this reauthorization has the opportunity to continue to provide great work both on the Federal, State, and local levels to enhance our water systems' abilities to provide safe, reliable drinking water 24 hours a day, 7 days a week, and we very much appreciate being here.

Mr. Markey. Thank you, Mr. Crouse.

Ms. Dougherty.

Ms. Dougherty. EPA's goal is to make sure everyone has safe water everywhere every day. The SRF has been an important tool in helping make that happen in a number of places, and we think it is important as we look at improvements to the SRF that we make sure that it still is a valuable tool for States to use and for systems to get financing from. The endocrine disruptor testing program provides us with an opportunity to get better information on a

number of chemicals that we are looking at in the drinking program that will help us make our decisions down the road in terms of regulatory decisions.

Mr. Markey. Thank you, Ms. Dougherty, very much.

This is obviously a very important piece of legislation because it deal with something that affects every American every day, the water that we put into our bodies, and we have to make sure that we have policies in place that ensure that it is dependable. That is a daunting challenge, because many of our systems are 75, 100 years old, especially in rural America, so that we ensure that the funding is there. And as we are looking at reliable funding sources, we also want to find ways of encouraging systems to use new, innovative technologies so that we move to the future, we capture the innovations that have been made.

And, finally, I would say that, because children especially are very vulnerable to chemicals that can impact on their endocrine system -- and the endocrine system is no more, no less than just the computer system of the body and in children that computer system is still developing and if chemicals impact on any part of that endocrine system, that computer system for young people's bodies, it can change the way in which the genetic makeup of that body is then structured for the rest of those children's lives. We have a responsibility to make sure that we learn as much as we can about those chemicals that are in the water that

are going into small children's bodies, especially because the impact on those children for the rest of their lives, if their DNA, if their genetic makeup is altered because they are so vulnerable, they are so fragile in the early years, that this responsibility falls to the government to ensure that we learn about these chemicals.

Because we know that while we have cured most of the diseases that affected people a hundred years ago, we know now that most of the diseases that people suffer from are diseases that we give ourselves, too much smoking, too much drinking, other dangerous activities that people might engage in, obesity, putting food in our bodies, but, also, what are those chemicals that are in people's bodies? What are those things that are now causing these extra levels of diseases that we are seeing?

And we do know that children are the most vulnerable and this water contains, we know, chemicals that did not exist 100 years ago, did not exist 50 years ago, and could, in fact, provide, if we learn more about the chemicals, the clues that we need in order to avoid the genetic makeup of children being altered as it is in its formative stage.

That is why this legislation is so important. Because it might give us that chance to begin to track those clues a little bit more closely. And then, in doing that research, because research is medicine's field of dreams from which we will harvest the findings that will give hope to families, that perhaps we can

prevent children from growing up with disorders, diseases, or vulnerability to diseases that was preventable because we allowed their bodies to grow strongly and not have them damaged in their early years through the water they were drinking.

And that is all we really are trying to do here, just get the information. Because information ultimately will allow us to put together the most commonsense and smart ways of protecting those children.

So we you thank all of you for being here. We want to work with you. We want to make sure that everything that we do is, Mr. Quill, crystal clear, but that the goals that we have should in fact be clear as well, and as long as we are achieving those goals, I think that we can all work together. That is our hope.

We thank all of you for your testimony. We would like you all to work closely with this subcommittee and the full committee over the next month or so, because we are going to continue to need to have access to your expert insight, and if we do that, I think we can put something together that will really work for the American people.

Thank you.

With that, this hearing is adjourned.

[Whereupon, at 11:30 a.m., the subcommittee was adjourned.]