

COMMITTEE PRINT

[SHOWING THE TEXT OF H.R. 5320 AS FORWARDED BY THE SUBCOMMITTEE
ON ENERGY AND ENVIRONMENT ON MAY 19, 2010]

111TH CONGRESS
2^D SESSION

H. R. 5320

To amend the Safe Drinking Water Act to increase assistance for States, water systems, and disadvantaged communities; to encourage good financial and environmental management of water systems; to strengthen the Environmental Protection Agency's ability to enforce the requirements of the Act; to reduce lead in drinking water; to strengthen the endocrine disruptor screening program; and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2010

Mr. WAXMAN (for himself and Mr. MARKEY of Massachusetts) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Safe Drinking Water Act to increase assistance for States, water systems, and disadvantaged communities; to encourage good financial and environmental management of water systems; to strengthen the Environmental Protection Agency's ability to enforce the requirements of the Act; to reduce lead in drinking water; to strengthen the endocrine disruptor screening program; and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REF-**
4 **ERENCES.**

5 (a) **SHORT TITLE.**—This Act may be cited as the
6 “Assistance, Quality, and Affordability Act of 2010”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of
8 this Act is as follows:

- Sec. 1. Short title; table of contents; references.
- Sec. 2. Technical assistance for small public water systems.
- Sec. 3. Prevailing wages.
- Sec. 4. Use of funds.
- Sec. 5. Data on variances, exemptions, and persistent violations.
- Sec. 6. Assistance for restructuring.
- Sec. 7. Priority and weight of applications.
- Sec. 8. Disadvantaged communities.
- Sec. 9. Administration of State loan funds.
- Sec. 10. Authorization of appropriations.
- Sec. 11. Negotiation of contracts.
- Sec. 12. Affordability of new standards.
- Sec. 13. Focus on lifecycle costs.
- Sec. 14. Enforcement.
- Sec. 15. Reducing lead in drinking water.
- Sec. 16. Endocrine disruptor screening program.
- Sec. 17. Presence of pharmaceuticals and personal care products in sources of drinking water.

9 (c) **REFERENCES.**—Except as otherwise specified,
10 whenever in this Act an amendment is expressed in terms
11 of an amendment to a section or other provision, the ref-
12 erence shall be considered to be made to a section or other
13 provision of the Safe Drinking Water Act (42 U.S.C. 300f
14 et seq.).

1 **SEC. 2. TECHNICAL ASSISTANCE FOR SMALL PUBLIC**
2 **WATER SYSTEMS.**

3 Subsection (e) of section 1442 (42 U.S.C. 300j-1(e))
4 is amended to read as follows:

5 “(e) TECHNICAL ASSISTANCE.—

6 “(1) IN GENERAL.—The Administrator, directly
7 or through grants or cooperative agreements with
8 nonprofit organizations, may provide technical as-
9 sistance to small public water systems to enable such
10 systems to achieve and maintain compliance with ap-
11 plicable national primary drinking water regulations.

12 “(2) TYPES OF ASSISTANCE.—Technical assist-
13 ance under paragraph (1) may include onsite tech-
14 nical assistance and compliance assistance; circuit-
15 rider technical assistance programs; onsite and re-
16 gional training; assistance with implementing source
17 water protection programs; assistance with increas-
18 ing water or energy efficiency; assistance with de-
19 signing, installing, or operating sustainable energy
20 infrastructure to produce or capture sustainable en-
21 ergy on site or through water transport; assistance
22 with developing technical, financial, and managerial
23 capacity; assistance with long-term infrastructure
24 planning; assistance with applying for funds from a
25 State loan fund under section 1452; and assistance

1 with implementation of monitoring plans, rules, reg-
2 ulations, and water security enhancements.

3 “(3) PRIORITY.—In providing assistance under
4 this subsection, the Administrator shall give priority
5 to assistance that will promote compliance with na-
6 tional primary drinking water standards, public
7 health protection, and long-term sustainability of
8 small public water systems. In awarding grants and
9 cooperative assistance under paragraph (1) to non-
10 profit organizations, the Administrator shall (subject
11 to the preceding sentence) give greater weight to
12 nonprofit organizations that, as determined by the
13 Administrator, are most qualified and most effective
14 and that, as determined by the Administrator using
15 information where available, are providing the types
16 of technical assistance that are preferred by small
17 public water systems.

18 “(4) COMPETITIVE PROCEDURES.—It is the
19 presumption of Congress that any award of assist-
20 ance under this subsection will be awarded using
21 competitive procedures based on merit. If assistance
22 is awarded under this subsection using procedures
23 other than competitive procedures, the Adminis-
24 trator shall submit to the Congress, within 90 days

1 of the award decision, a report explaining why com-
2 petitive procedures were not used.

3 “(5) FUNDING.—

4 “(A) AUTHORIZATION OF APPROPRIA-
5 TIONS.—There is authorized to be appropriated
6 to carry out this subsection \$20,000,000 for
7 each of fiscal years 2011 through 2015.

8 “(B) PROHIBITION ON EARMARKS.—No
9 funds made available under this subsection may
10 be used to carry out a provision or report lan-
11 guage included primarily at the request of a
12 Member, Delegate, Resident Commissioner, or
13 Senator providing, authorizing, or recom-
14 mending a specific amount of discretionary
15 budget authority, credit authority, or other
16 spending authority for a contract, loan, loan
17 guarantee, grant, loan authority, or other ex-
18 penditure with or to an entity, or targeted to a
19 specific State, locality, or congressional district,
20 other than through a statutory or administra-
21 tive formula-driven or competitive award proc-
22 ess.

23 “(C) LOBBYING EXPENSES.—No portion of
24 any State loan fund established under section
25 1452 and no portion of any funds made avail-

1 able under this subsection may be used for lob-
2 bying expenses.

3 “(D) INDIAN TRIBES.—Of the total
4 amount made available under this section for
5 each fiscal year, 3 percent shall be used for
6 technical assistance to public water systems
7 owned or operated by Indian Tribes.”.

8 **SEC. 3. PREVAILING WAGES.**

9 Subsection (e) of section 1450 (42 U.S.C. 300j–9)
10 is amended to read as follows:

11 “(e) LABOR STANDARDS.—

12 “(1) IN GENERAL.—The Administrator shall
13 take such action as the Administrator determines to
14 be necessary to ensure that each laborer and me-
15 chanic employed by a contractor or subcontractor of
16 a construction project financed, in whole or in part,
17 by a grant, loan, loan guarantee, refinancing, or any
18 other form of financial assistance provided under
19 this title (including assistance provided by a State
20 loan fund established under section 1452) is paid
21 wages at a rate of not less than the wages prevailing
22 for the same type of work on similar construction in
23 the immediate locality, as determined by the Sec-
24 retary of Labor in accordance with subchapter IV of
25 chapter 31 of title 40, United States Code.

1 “(2) AUTHORITY OF SECRETARY OF LABOR.—
2 With respect to the labor standards specified in this
3 subsection, the Secretary of Labor shall have the au-
4 thority and functions established in Reorganization
5 Plan Numbered 14 of 1950 (5 U.S.C. App.) and sec-
6 tion 3145 of title 40, United States Code.”.

7 **SEC. 4. USE OF FUNDS.**

8 Section 1452(a)(2) (42 U.S.C. 300j-12(a)(2)) is
9 amended—

10 (1) by striking “Except as otherwise” and in-
11 serting the following:

12 “(A) IN GENERAL.—Except as otherwise”;

13 (2) by striking “Financial assistance under this
14 section” and inserting the following:

15 “(B) PERMISSIBLE EXPENDITURES.—Fi-
16 nancial assistance under this section”;

17 (3) by striking “The funds may also be used”
18 and inserting the following:

19 “(D) CERTAIN LOANS.—Financial assist-
20 ance under this section may also be used”;

21 (4) by striking “The funds shall not be used”
22 and inserting the following:

23 “(E) LIMITATION.—Financial assistance
24 under this section shall not be used”;

1 (5) by striking “Of the amount credited” and
2 inserting the following:

3 “(F) SET-ASIDE.—Of the amount cred-
4 ited”;

5 (6) in subparagraph (B) (as designated by
6 paragraph (2)) by striking “(not” and inserting
7 “(including expenditures for planning, design, siting,
8 and associated preconstruction activities, for replac-
9 ing or rehabilitating aging treatment, storage, or
10 distribution facilities of public water systems, or for
11 producing or capturing sustainable energy on site or
12 through the transportation of water through the
13 public water system, but not”;

14 (7) by inserting after such subparagraph (B)
15 the following:

16 “(C) SALE OF BONDS.—If a State issues
17 revenue or general obligation bonds to provide
18 all or part of the State contribution required by
19 subsection (e), and the proceeds of the sale of
20 such bonds will be deposited into the State loan
21 fund—

22 “(i) financial assistance made avail-
23 able under this section may be used by the
24 State as security for payment of the prin-
25 cipal and interest on such bonds; and

1 “(ii) interest earnings of the State
2 loan fund may be used by the State as rev-
3 enue for payment of the principal and in-
4 terest on such bonds.”.

5 **SEC. 5. DATA ON VARIANCES, EXEMPTIONS, AND PER-**
6 **SISTENT VIOLATIONS.**

7 Section 1452(b)(2) (42 U.S.C. 300j-12(b)(2)) is
8 amended—

9 (1) in subparagraph (B), by striking “and” at
10 the end;

11 (2) in subparagraph (C), by striking the period
12 at the end and inserting “; and”; and

13 (3) by adding at the end the following:

14 “(D) a list of all water systems within the
15 State that have in effect an exemption or vari-
16 ance for any national primary drinking water
17 regulation or that are in persistent violation of
18 the requirements for any maximum contami-
19 nant level or treatment technique under a na-
20 tional primary drinking water regulation, in-
21 cluding identification of—

22 “(i) the national primary drinking
23 water regulation in question for each such
24 exemption, variance, or violation; and

1 “(ii) the date on which the exemption
2 or variance came into effect or the viola-
3 tion began.”.

4 **SEC. 6. ASSISTANCE FOR RESTRUCTURING.**

5 (a) DEFINITION.—Section 1401 (42 U.S.C. 300f) is
6 amended by adding at the end the following:

7 “(17) RESTRUCTURING.—The term ‘restruc-
8 turing’ means changes in operations (including own-
9 ership, management, cooperative partnerships, joint
10 purchasing arrangements, consolidation, and alter-
11 native water supply).”.

12 (b) RESTRUCTURING.—Clause (ii) of section
13 1452(a)(3)(B) (42 U.S.C. 300j–12(a)(3)(B)) is amended
14 by striking “changes in operations (including ownership,
15 management, accounting, rates, maintenance, consolida-
16 tion, alternative water supply, or other procedures)” and
17 inserting “restructuring”.

18 **SEC. 7. PRIORITY AND WEIGHT OF APPLICATIONS.**

19 (a) PRIORITY.—Section 1452(b)(3) (42 U.S.C. 300j–
20 12(b)(3)) is amended—

21 (1) in subparagraph (A)—

22 (A) in clause (ii), by striking “and” at the
23 end;

24 (B) in clause (iii), by striking the period at
25 the end and inserting “; and”; and

1 (C) by adding at the end the following:

2 “(iv) improve the ability of systems to
3 protect human health and comply with the
4 requirements of this title affordably in the
5 future.”;

6 (2) by redesignating subparagraph (B) as sub-
7 paragraph (D);

8 (3) by inserting after subparagraph (A) the fol-
9 lowing:

10 “(B) AFFORDABILITY OF NEW STAND-
11 ARDS.—For any year in which enforcement be-
12 gins for a new national primary drinking water
13 standard, each State that has entered into a
14 capitalization agreement pursuant to this sec-
15 tion shall evaluate whether capital improve-
16 ments required to meet the standard are afford-
17 able for disadvantaged communities in the
18 State. If the State finds that such capital im-
19 provements do not meet affordability criteria
20 for disadvantaged communities in the State, the
21 State’s intended use plan shall provide that pri-
22 ority for the use of funds for such year be given
23 to public water systems affected by the stand-
24 ard and serving disadvantaged communities.

1 “(C) WEIGHT GIVEN TO APPLICATIONS.—
2 After determining priority under subparagraphs
3 (A) and (B), an intended use plan shall provide
4 that the State will give greater weight to an ap-
5 plication for assistance if the application con-
6 tains—

7 “(i) a description of measures under-
8 taken by the system to improve the man-
9 agement and financial stability of the sys-
10 tem, which may include—

11 “(I) an inventory of assets, in-
12 cluding a description of the condition
13 of the assets;

14 “(II) a schedule for replacement
15 of assets;

16 “(III) an audit of water losses;

17 “(IV) a financing plan that fac-
18 tors in all lifecycle costs indicating
19 sources of revenue from ratepayers,
20 grants, bonds, other loans, and other
21 sources to meet the costs; and

22 “(V) a review of options for re-
23 structuring;

1 “(ii) a demonstration of consistency
2 with State, regional, and municipal water-
3 shed plans;

4 “(iii) a water conservation plan con-
5 sistent with guidelines developed for such
6 plans by the Administrator under section
7 1455(a); and

8 “(iv) a description of measures under-
9 taken by the system to improve the effi-
10 ciency of the system or reduce the system’s
11 environmental impact, which may in-
12 clude—

13 “(I) water efficiency or conserva-
14 tion, including the rehabilitation or re-
15 placement of existing leaking pipes;

16 “(II) use of reclaimed water;

17 “(III) actions to increase energy
18 efficiency;

19 “(IV) actions to generate or cap-
20 ture sustainable energy on site or
21 through the transportation of water
22 through the system;

23 “(V) actions to protect source
24 water; and

1 “(VI) actions to reduce disinfection byproducts.”; and
2

3 (4) in subparagraph (D) (as redesignated by
4 paragraph (2)) by striking “periodically” and inserting
5 “at least biennially”.

6 (b) GUIDANCE.—Section 1452 (42 U.S.C. 300j–12)
7 is amended—

8 (1) by redesignating subsection (r) as subsection (s); and
9

10 (2) by inserting after subsection (q) the following:
11

12 “(r) SMALL SYSTEM GUIDANCE.—The Administrator
13 may provide guidance and, as appropriate, tools, methodologies,
14 or computer software, to assist small systems
15 in undertaking measures to improve the management, financial
16 stability, and efficiency of the system or reduce
17 the system’s environmental impact.”.

18 **SEC. 8. DISADVANTAGED COMMUNITIES.**

19 (a) ASSISTANCE TO INCREASE COMPLIANCE.—Section
20 1452(b)(3) (42 U.S.C. 300j–12(b)(3)), as amended,
21 is further amended by adding at the end the following:

22 “(E) ASSISTANCE TO INCREASE COMPLIANCE.—A State’s intended use plan shall provide that, of the funds received by the State
23 through a capitalization grant under this sec-
24
25

1 tion for a fiscal year, the State will, to the ex-
2 tent that there are sufficient eligible project ap-
3 plications, reserve not less than 6 percent to be
4 spent on assistance under subsection (d) to
5 public water systems included in the State's
6 most recent list under paragraph (2)(D).”.

7 (b) ASSISTANCE FOR DISADVANTAGED COMMU-
8 NITIES.—Section 1452(d) (42 U.S.C. 300j–12(d)) is
9 amended—

10 (1) in paragraph (1), by adding at the end the
11 following: “Such additional subsidization shall di-
12 rectly and primarily benefit the disadvantaged com-
13 munity.”; and

14 (2) in paragraph (3), by inserting “, or portion
15 of a service area,” after “service area”.

16 **SEC. 9. ADMINISTRATION OF STATE LOAN FUNDS.**

17 Section 1452(g) (42 U.S.C. 300j–12(g)) is amend-
18 ed—

19 (1) in paragraph (2)—

20 (A) in the first sentence, by striking “up
21 to 4 percent of the funds allotted to the State
22 under this section” and inserting “, for each
23 fiscal year, an amount that does not exceed the
24 sum of the amount of any fees collected by the
25 State for use in covering reasonable costs of ad-

1 ministration of programs under this section, re-
2 gardless of the source, and an amount equal to
3 the greatest of \$400,000, $\frac{1}{5}$ of one percent of
4 the current valuation of the State loan fund, or
5 6 percent of all grant awards to the State loan
6 fund under this section for the fiscal year.”;

7 (B) by striking “1419,” and all that fol-
8 lows through “1993.” and inserting “1419.”;
9 and

10 (C) in the matter following subparagraph
11 (D), by striking “2 percent” and inserting “4
12 percent”; and

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

14 “(5) TRANSFER OF FUNDS.—

15 “(A) IN GENERAL.—The Governor of a
16 State may—

17 “(i) reserve for any fiscal year not
18 more than the lesser of—

19 “(I) 33 percent of a capitaliza-
20 tion grant made under this section; or

21 “(II) 33 percent of a capitaliza-
22 tion grant made under section 601 of
23 the Federal Water Pollution Control
24 Act; and

1 “(ii) add the funds so reserved to any
2 funds provided to the State under this sec-
3 tion or section 601 of the Federal Water
4 Pollution Control Act.

5 “(B) STATE MATCHING FUNDS.—Funds
6 reserved under this paragraph shall not be con-
7 sidered for purposes of calculating the amount
8 of a State contribution required by subsection
9 (e) of this section or section 602(b) of the Fed-
10 eral Water Pollution Control Act.”.

11 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

12 Subsection (m) of section 1452 (42 U.S.C. 300j–12)
13 is amended to read as follows:

14 “(m) AUTHORIZATION OF APPROPRIATIONS.—

15 “(1) IN GENERAL.—There are authorized to be
16 appropriated to carry out this section—

17 “(A) \$1,500,000,000 for fiscal year 2011;

18 “(B) \$2,000,000,000 for each of fiscal
19 years 2012 and 2013;

20 “(C) \$3,200,000,000 for fiscal year 2014;

21 and

22 “(D) \$6,000,000,000 for fiscal year 2015.

23 “(2) AVAILABILITY.—Amounts made available
24 pursuant to this subsection shall remain available
25 until expended.

1 “(3) RESERVATION FOR NEEDS SURVEYS.—Of
2 the amount made available under paragraph (1) to
3 carry out this section for a fiscal year, the Adminis-
4 trator may reserve not more than \$1,000,000 per
5 year to pay the costs of conducting needs surveys
6 under subsection (h).”.

7 **SEC. 11. NEGOTIATION OF CONTRACTS.**

8 Section 1452 (42 U.S.C. 300j–12), as amended, is
9 further amended by adding at the end the following:

10 “(t) NEGOTIATION OF CONTRACTS.—For community
11 water systems serving communities with populations of
12 more than 10,000 individuals, a contract to be carried out
13 using funds made available through a capitalization grant
14 under this section for program management, construction
15 management, feasibility studies, preliminary engineering,
16 design, engineering, surveying, mapping, or architectural
17 or related services shall be negotiated in the same manner
18 as—

19 “(1) a contract for architectural and engineer-
20 ing services is negotiated under chapter 11 of title
21 40, United States Code; or

22 “(2) a contract subject to an equivalent State
23 or local qualifications-based requirement (as deter-
24 mined by the Governor of the State).”.

1 **SEC. 12. AFFORDABILITY OF NEW STANDARDS.**

2 (a) TREATMENT TECHNOLOGIES FOR SMALL PUBLIC
3 WATER SYSTEMS.—Clause (ii) of section 1412(b)(4)(E)
4 (42 U.S.C. 300g–1(b)(4)(E)) is amended by adding at the
5 end the following: “If no technology, treatment technique,
6 or other means is included in a list under this subpara-
7 graph for a category of small public water systems, the
8 Administrator shall periodically review the list and supple-
9 ment it when new technology becomes available.”.

10 (b) ASSISTANCE FOR DISADVANTAGED COMMU-
11 NITIES.—

12 (1) IN GENERAL.—Subparagraph (E) of section
13 1452(a)(1) (42 U.S.C. 300j–12(a)(1)) is amended—

14 (A) by striking “except that the Adminis-
15 trator may reserve” and inserting “except
16 that—

17 “(i) in any year in which enforcement
18 of a new national primary drinking water
19 standard begins, the Administrator may
20 use the remaining amount to make grants
21 to States whose public water systems are
22 disproportionately affected by the new
23 standard for the provision of assistance
24 under subsection (d) to such public water
25 systems;

1 “(ii) the Administrator may reserve”;

2 and

3 (B) by striking “and none of the funds re-
4 allotted” and inserting “; and

5 “(iii) none of the funds reallocated”.

6 (2) ELIMINATION OF CERTAIN PROVISIONS.—

7 (A) Section 1412(b) (42 U.S.C. 300g-
8 1(b)) is amended by striking paragraph (15).

9 (B) Section 1415 (42 U.S.C. 300g-4) is
10 amended by striking subsection (e).

11 (3) CONFORMING AMENDMENT.—Subparagraph
12 (B) of section 1414(c)(1) (42 U.S.C. 300g-
13 3(c)(1)(B)) is amended by striking “(a)(2), or (e)”
14 and inserting “or (a)(2)”.

15 **SEC. 13. FOCUS ON LIFECYCLE COSTS.**

16 Section 1412(b)(4) (42 U.S.C. 300g-1(b)(4)) is
17 amended—

18 (1) in subparagraph (D), by striking “taking
19 cost into consideration” and inserting “taking
20 lifecycle costs, including maintenance, replacement,
21 and avoided costs, into consideration”; and

22 (2) in the matter preceding subclause (I) in
23 subparagraph (E)(ii), by inserting “taking lifecycle
24 costs, including maintenance, replacement, and
25 avoided costs, into consideration,” after “as deter-

1 mined by the Administrator in consultation with the
2 States,”.

3 **SEC. 14. ENFORCEMENT.**

4 (a) **ADVICE AND TECHNICAL ASSISTANCE.**—Section
5 1414 (42 U.S.C. 300g–3) is amended—

6 (1) in the matter following clause (ii) in sub-
7 section (a)(1)(A), by striking “and provide such ad-
8 vice and technical assistance to such State and pub-
9 lic water system as may be appropriate to bring the
10 system into compliance with the requirement by the
11 earliest feasible time”; and

12 (2) in subsection (a)(1), by adding at the end
13 the following:

14 “(C) At any time after providing notice of
15 a violation to a State and public water system
16 under subparagraph (A), the Administrator
17 may provide such advice and technical assist-
18 ance to such State and public water system as
19 may be appropriate to bring the system into
20 compliance with the requirement by the earliest
21 feasible time. In deciding whether the provision
22 of advice or technical assistance is appropriate,
23 the Administrator may consider the potential
24 for the violation to result in serious adverse ef-
25 fects to human health, whether the violation

1 has occurred continuously or frequently, and
2 the effectiveness of past technical assistance ef-
3 forts.”.

4 (b) ADDITIONAL INSPECTIONS.—

5 (1) IN GENERAL.—Section 1414 (42 U.S.C.
6 300g-3) is amended—

7 (A) by redesignating subsections (d)
8 through (i) as subsections (e) through (j), re-
9 spectively; and

10 (B) by inserting after subsection (c) the
11 following:

12 “(d) ADDITIONAL INSPECTIONS FOLLOWING VIOLA-
13 TIONS.—

14 “(1) IN GENERAL.—The Administrator shall,
15 by regulation, and after consultation with the States,
16 prescribe the number, frequency, and type of addi-
17 tional inspections to follow any violation requiring
18 notice under subsection (c). Regulations under this
19 subsection shall—

20 “(A) take into account—

21 “(i) differences between violations
22 that are intermittent or infrequent and vio-
23 lations that are continuous or frequent;

1 “(ii) the seriousness of any potential
2 adverse health effects that may be in-
3 volved; and

4 “(iii) the number and severity of past
5 violations by the public water system; and

6 “(B) specify procedures for inspections fol-
7 lowing a violation by a public water system that
8 has the potential to have serious adverse effects
9 on human health as a result of short-term expo-
10 sure.

11 “(2) STATE PRIMARY ENFORCEMENT RESPONSI-
12 BILITY.—Nothing in this subsection shall be con-
13 strued or applied to modify the requirements of sec-
14 tion 1413.”.

15 (2) CONFORMING AMENDMENTS.—

16 (A) Subsections (a)(1)(B), (a)(2)(A), and
17 (b) of section 1414 (42 U.S.C. 300g-3) are
18 amended by striking “subsection (g)” each
19 place it appears and inserting “subsection (h)”.

20 (B) Section 1448(a) is amended by strik-
21 ing “1414(g)(3)(B)” and inserting
22 “1414(h)(3)(B)”.

23 **SEC. 15. REDUCING LEAD IN DRINKING WATER.**

24 (a) IN GENERAL.—Section 1417 (42 U.S.C. 300g-
25 6) is amended—

1 (1) by adding at the end of subsection (a) the
2 following:

3 “(4) EXEMPTIONS.—The prohibitions in para-
4 graphs (1) and (3) shall not apply to—

5 “(A) pipes, pipe fittings, plumbing fittings,
6 or fixtures, including backflow preventers, that
7 are used exclusively for nonpotable services
8 such as manufacturing, industrial processing,
9 irrigation, outdoor watering, or any other uses
10 where the water is not anticipated to be used
11 for human consumption; or

12 “(B) toilets, bidets, urinals, fill valves,
13 flushometer valves, tub fillers, shower valves,
14 service saddles, or water distribution main gate
15 valves that are 2 inches in diameter or larger.”;
16 and

17 (2) by amending subsection (d) to read as fol-
18 lows:

19 “(d) DEFINITION OF LEAD FREE.—

20 “(1) IN GENERAL.—For the purposes of this
21 section, the term ‘lead free’ means—

22 “(A) not containing more than 0.2 percent
23 lead when used with respect to solder and flux;
24 and

1 “(B) not more than a weighted average of
2 0.25 percent when used with respect to the
3 wetted surfaces of pipes, pipe fittings, plumbing
4 fittings, and fixtures.

5 “(2) CALCULATION.—The weighted average
6 lead content of a pipe, pipe fitting, plumbing fitting,
7 or fixture shall be calculated by using the following
8 formula: For each wetted component, the percentage
9 of lead in the component shall be multiplied by the
10 ratio of the wetted surface area of that component
11 to the total wetted surface area of the entire product
12 to arrive at the weighted percentage of lead of the
13 component. The weighted percentage of lead of each
14 wetted component shall be added together, and the
15 sum of these weighted percentages shall constitute
16 the weighted average lead content of the product.
17 The lead content of the material used to produce
18 wetted components shall be used to determine com-
19 pliance with paragraph (1)(B). For lead content of
20 materials that are provided as a range, the max-
21 imum content of the range shall be used.”.

22 (b) EFFECTIVE DATE.—The provisions of sub-
23 sections (a)(4) and (d) of section 1417 of the Safe Drink-
24 ing Water Act, as added by this section, apply beginning

1 on the day that is 36 months after the date of the enact-
2 ment of this Act.

3 **SEC. 16. ENDOCRINE DISRUPTOR SCREENING PROGRAM.**

4 Section 1457 of the Safe Drinking Water Act (42
5 U.S.C. 300j-17) is amended to read as follows:

6 “ENDOCRINE DISRUPTOR SCREENING PROGRAM

7 “SEC. 1457. (a) TESTING OF SUBSTANCES.—

8 “(1) IN GENERAL.—In carrying out the screening
9 program under section 408(p) of the Federal Food, Drug,
10 and Cosmetic Act, the Administrator shall provide for the
11 testing of substances described in paragraph (2) in addi-
12 tion to the substances described in section 408(p)(3) of
13 such Act.

14 “(2) COVERED SUBSTANCES.—A substance is subject
15 to testing pursuant to paragraph (1) if—

16 “(A) the substance may be found in sources of
17 drinking water; and

18 “(B) the Administrator determines that a sub-
19 stantial population may be exposed to such sub-
20 stance.

21 “(3) SUBSTANCES ALREADY SUBJECT TO TEST-
22 ING.—Notwithstanding paragraph (2), a substance is not
23 subject to testing pursuant to paragraph (1) if—

24 “(A) the substance is already subject to evalua-
25 tion determined by the Administrator to be equiva-
26 lent to testing pursuant to paragraph (1); or

1 “(B) the Administrator has already determined
2 the effect of the substance on the endocrine system.

3 “(4) SUBSTANCES DERIVED FROM DEGRADATION OR
4 METABOLISM OF ANOTHER SUBSTANCE.—If a substance
5 subject to testing pursuant to paragraph (1) (in this para-
6 graph referred to as the ‘covered substance’) is derived
7 from the degradation or metabolism of another substance,
8 or is used in or generated by the manufacture of another
9 substance, the Administrator shall provide for such testing
10 of the covered substance by the importer or manufacturer
11 of the other substance.

12 “(b) IDENTIFICATION AND TESTING OF ENDOCRINE
13 DISRUPTING SUBSTANCES THAT MAY BE IN DRINKING
14 WATER.—

15 “(1) IDENTIFICATION.—Not later than 1 year
16 after the date of the enactment of the Assistance,
17 Quality, and Affordability Act of 2010, after oppor-
18 tunity for comment, the Administrator shall pub-
19 lish—

20 “(A) a list of no fewer than 100 sub-
21 stances for testing pursuant to subsection
22 (a)(1) (in accordance with the schedule speci-
23 fied in paragraph (3)); and

24 “(B) a plan for the identification of addi-
25 tional substances for testing pursuant to sub-

1 section (a)(1), and a schedule for issuing test
2 orders for all such additional substances by not
3 later than 10 years after the date of the enact-
4 ment of the Assistance, Quality, and Afford-
5 ability Act of 2010, with the goal of testing, at
6 a minimum and consistent with subsection (a),
7 all substances that have been placed on the
8 Drinking Water Preliminary Contaminant Can-
9 didate List published pursuant to section
10 1412(b)(1)(B)(i).

11 In publishing the plan and schedule required by sub-
12 paragraph (B), the Administrator shall obtain advice
13 and direction from the Science Advisory Board.

14 “(2) PRIORITIZATION; CONSIDERATIONS.—In
15 selecting substances for listing under paragraph
16 (1)(A) or identification pursuant to the plan under
17 paragraph (1)(B), the Administrator—

18 “(A) shall prioritize the selection of sub-
19 stances that pose the greatest public health con-
20 cern, taking into consideration (among other
21 factors of public health concern) the effect of
22 such substances on subgroups that comprise a
23 meaningful portion of the general population
24 (such as infants, children, pregnant women, the
25 elderly, individuals with a history of serious ill-

1 ness, and other subpopulations) that are identi-
2 fiable as being at greater risk of adverse health
3 effects due to exposure to substances in drink-
4 ing water; and

5 “(B) shall take into consideration—

6 “(i) available information on the ex-
7 tent of potential public exposures to the
8 substances through drinking water; and

9 “(ii) the Drinking Water Preliminary
10 Contaminant Candidate List published
11 pursuant to section 1412(b)(1)(B)(i).

12 “(3) SCHEDULE.—After publication of the list
13 under paragraph (1)(A), the Administrator shall
14 issue test orders for—

15 “(A) at least 25 substances on the list by
16 the end of each year during the 4-year period
17 following the date of the enactment of the As-
18 sistance, Quality, and Affordability Act of 2010;
19 and

20 “(B) all substances on the list by the end
21 of such 4-year period.

22 “(c) TESTING PROTOCOL PROCESS.—

23 “(1) IN GENERAL.—Not later than 2 years
24 after the date of the enactment of the Assistance,
25 Quality, and Affordability Act of 2010, the Adminis-

1 trator shall, after opportunity for comment, and
2 after obtaining advice and direction from the Science
3 Advisory Board, publish guidance on developing and
4 updating protocols for testing of possible endocrine
5 disruptors. The guidance shall specify—

6 “(A) the manner in which the Adminis-
7 trator will evaluate and, where necessary, revise
8 such protocols;

9 “(B) the manner in which the Adminis-
10 trator will determine when testing of substances
11 will be required; and

12 “(C) the procedures by which other sci-
13 entifically relevant information can be used in
14 lieu of some or all of the information that oth-
15 erwise would be collected pursuant to testing
16 under section 408(p) of the Federal Food,
17 Drug, and Cosmetic Act.

18 “(2) MINIMUM CONTENTS.—The procedures
19 specified pursuant to paragraph (1)(C) shall ensure
20 that the Administrator may use information that is
21 prepared or provided by any person (including a reg-
22 istrant, manufacturer, or importer of a substance for
23 which testing is required, and any other entity) and
24 shall apply equally with respect to any such person.

1 “(3) AMENDMENTS.—The Administrator may,
2 after opportunity for comment, and after obtaining
3 advice and direction from the Science Advisory
4 Board, amend any guidance published pursuant to
5 this subsection.

6 “(d) REVISION OF TESTING PROTOCOLS.—Not later
7 than 2 years after the date of the enactment of the Assist-
8 ance, Quality, and Affordability Act of 2010, the Adminis-
9 trator shall, after opportunity for comment, determine
10 whether sufficient scientific information has been devel-
11 oped to warrant updating the screening protocols devel-
12 oped under section 408(p) of the Federal Food, Drug, and
13 Cosmetic Act. Not later than 5 years after the date of
14 the enactment of the Assistance, Quality, and Afford-
15 ability Act of 2010 and every 3 years thereafter, the Ad-
16 ministrators shall determine, consistent with the guidance
17 published under subsection (c), whether to revise screening
18 protocols under such section based on significant improve-
19 ments in the sensitivity, accuracy, reliability, reproduc-
20 ibility, or efficiency of such protocols. Whenever the Ad-
21 ministrators revise such a protocol, the Administrator
22 shall also determine, after obtaining advice and direction
23 from the Science Advisory Board or the advisory panel re-
24 ferred to in section 25(d) of the Federal Insecticide, Fun-
25 gicide, and Rodenticide Act, as appropriate, whether any

1 substance that has already been subjected to testing
2 should be tested using the revised protocol.

3 “(e) ACCELERATION OF TESTING FOR CERTAIN SUB-
4 STANCES.—

5 “(1) IN GENERAL.—If the Administrator deter-
6 mines that—

7 “(A) a substance is known to be found in
8 sources of drinking water,

9 “(B) a substantial population is known to
10 be exposed to the substance, and

11 “(C) the substance is either suspected to
12 be an endocrine disruptor or has a structural
13 similarity to a substance known to be an endo-
14 crine disruptor,

15 the Administrator shall determine whether to require
16 the completion of testing for such substance on an
17 accelerated schedule, to enable the Administrator to
18 determine the effect of such substance on the endo-
19 crine system and ensure the protection of public
20 health.

21 “(2) SCIENTIFICALLY RELEVANT INFORMA-
22 TION.—The Administrator shall make any deter-
23 mination under paragraph (1) using scientifically
24 relevant information. In carrying out the preceding
25 sentence, the Administrator may rely on any avail-

1 able scientifically relevant information, prepared or
2 provided by any person.

3 “(3) GUIDANCE.—Not later than 1 year after
4 the date of the enactment of the Assistance, Quality,
5 and Affordability Act of 2010, the Administrator
6 shall, after opportunity for comment, publish guid-
7 ance on how the Administrator will make determina-
8 tions under paragraph (1).

9 “(f) RESULTS OF TESTING.—

10 “(1) PUBLICATION OF DATA EVALUATION
11 RECORDS.—Not later than 6 months after receipt of
12 testing results for a substance, the Administrator
13 shall prepare and, consistent with subsection (g),
14 publish data evaluation records for such results in a
15 publicly searchable database.

16 “(2) ADMINISTRATIVE ACTION.—Not later than
17 6 months after receipt of test results that determine
18 the endocrine-related effects caused by a substance,
19 the Administrator shall—

20 “(A) determine whether to take action re-
21 lated to the substance under section 1412(b) or
22 1445, or other appropriate statutory authority;
23 and

1 “(B) consistent with subsection (g), pub-
2 lish such determination in a publicly searchable
3 database.

4 Nothing in this section shall be construed to affect
5 the Administrator’s authority to take action under
6 other provisions of law, including action under sec-
7 tion 1412(b) or 1445.

8 “(3) STRUCTURED EVALUATION FRAME-
9 WORK.—To assess the overall weight of the evidence
10 and relevance to humans and wildlife of results of
11 testing, the Administrator shall develop and use a
12 structured evaluative framework consisting of
13 science-based criteria, consistent with the protection
14 of public health and the environment, for systemati-
15 cally evaluating endocrine mode of action and for de-
16 termining data relevance, quality, and reliability.

17 “(g) PUBLIC DATABASE.—Beginning not later than
18 180 days after the date of the enactment of the Assist-
19 ance, Quality, and Affordability Act of 2010 and con-
20 sistent with section 552 of title 5, United States Code,
21 the Administrator shall publish, in electronic format, a
22 publicly searchable database that contains information re-
23 garding the testing program. Not later than 30 days after
24 the date on which the information becomes available, the

1 Administrator shall ensure that, at a minimum, the data-
2 base—

3 “(1) identifies the substances selected for test-
4 ing under the program; and

5 “(2) includes the documents and information
6 pertaining to the status of testing activities for each
7 such substance, including test orders, deadlines for
8 submission, the Environmental Protection Agency’s
9 data evaluation records, the Administrator’s deter-
10 mination under subsection (f) on whether regulatory
11 action will be taken under other statutory authority,
12 and the summary of chemical test results.

13 “(h) PETITION FOR INCLUSION OF A SUBSTANCE IN
14 THE PROGRAM.—

15 “(1) IN GENERAL.—Any person may submit a
16 petition to the Administrator to—

17 “(A) add a substance to the list under sub-
18 section (b)(1)(A) or identify a substance pursu-
19 ant to the plan under subsection (b)(1)(B); or

20 “(B) issue a test order requiring that a
21 substance be tested on an accelerated basis in
22 accordance with subsection (e).

23 “(2) SPECIFICATION OF FACTS.—Any petition
24 under paragraph (1) shall specify the facts that are

1 claimed to establish that an action described in sub-
2 paragraph (A) or (B) of paragraph (1) is warranted.

3 “(3) ADMINISTRATIVE ACTION.—Not later than
4 90 days after the filing of a petition described under
5 paragraph (1), the Administrator shall determine
6 whether the petition has established that an action
7 described in subparagraph (A) or (B) of paragraph
8 (1) is warranted and shall grant or deny the peti-
9 tion. If the Administrator grants such petition, the
10 Administrator shall promptly add the substance to
11 the list under subsection (b)(1)(A), identify the sub-
12 stance pursuant to the plan under subsection
13 (b)(1)(B), or issue an order requiring testing on an
14 accelerated basis in accordance with subsection (e),
15 as applicable. If the Administrator denies the peti-
16 tion, the Administrator shall publish the reasons for
17 such denial in the Federal Register.

18 “(i) COORDINATION WITH OTHER FEDERAL AGEN-
19 CIES.—After the Administrator—

20 “(1) requires testing of a substance, or

21 “(2) based in whole or in part on the results of
22 testing, takes action related to a substance under
23 section 1412(b) or 1445 or other appropriate statu-
24 tory authority,

1 the Administrator shall give notice of such testing or ac-
2 tion to Federal agencies which are authorized by other
3 provisions of law to regulate the substance or products,
4 materials, medications, processes, or practices that use the
5 substance.

6 “(j) REPORTING REQUIREMENT.—Not later than 1
7 year after the date of the enactment of the Assistance,
8 Quality, and Affordability Act of 2010 and every 3 years
9 thereafter, the Administrator shall provide a report to the
10 Committee on Energy and Commerce of the House of
11 Representatives and the Committee on Environment and
12 Public Works of the Senate that describes—

13 “(1) progress made in identifying and testing
14 potential endocrine disruptors as well as plans for
15 future activities;

16 “(2) any change in screening or testing method-
17 ology and evaluation or criteria for evaluating sci-
18 entifically relevant information;

19 “(3) actions taken to ensure communication
20 and sharing of scientific information with other Fed-
21 eral agencies and the public; and

22 “(4) any deviations from the plan or schedule
23 published under subsection (b)(1)(B) as well as the
24 reasons therefor.

1 “(k) TESTING CONSORTIA, COMPENSATION, AND
2 COMPLIANCE.—

3 “(1) IN GENERAL.—Any person required by the
4 Administrator to conduct testing of an endocrine
5 disruptor may—

6 “(A) submit, on its own, data in response
7 to an order for such testing; and

8 “(B) form (on a voluntary basis) a consor-
9 tium in order to satisfy the requirements of one
10 or more orders for such testing.

11 “(2) RELIANCE ON CONSORTIUM SUBMIS-
12 SIONS.—Each member of a consortium described in
13 paragraph (1)(B) shall have full rights to rely on all
14 submissions of the consortium to satisfy the require-
15 ments of any order for testing, but continues to be
16 individually subject to such requirements.

17 “(3) SHARING OF COSTS.—

18 “(A) IN GENERAL.—Each member of a
19 consortium described in paragraph (1)(B) shall
20 share the applicable costs according to appro-
21 priate arrangements established by the consor-
22 tium members.

23 “(B) BINDING OFFER.—Whenever, to sat-
24 isfy the requirements of one or more orders for
25 testing, any person offers to form or join a con-

1 sortium described in paragraph (1)(B), or of-
2 fers compensation to a person that has already
3 submitted data to the Administrator satisfying
4 an order for testing, such offer shall constitute
5 a binding offer to share an appropriate portion
6 of the applicable costs.

7 “(C) APPLICABLE COSTS.—In this sub-
8 section, the term ‘applicable costs’ includes the
9 costs—

10 “(i) incurred to generate and report
11 information to comply with an order for
12 testing; or

13 “(ii) associated with the organization
14 and administration of the consortium.

15 “(4) DISPUTE RESOLUTION.—

16 “(A) IN GENERAL.—In the event of any
17 dispute about an appropriate share or a fair
18 method of determining an appropriate share of
19 applicable costs of the testing requirements in
20 a test order, any person involved in the dispute
21 may initiate binding arbitration proceedings by
22 requesting the Federal Mediation and Concilia-
23 tion Service to appoint an arbitrator from the
24 roster of arbitrators maintained by such Service
25 or a hearing with a regional office of the Amer-

1 ican Arbitration Association. A copy of the re-
2 quest shall be sent to each person from whom
3 the requesting party seeks compensation or who
4 seeks compensation from that party.

5 “(B) NO REVIEW OF FINDINGS AND DE-
6 TERMINATION.—The findings and determina-
7 tion of the arbitrator in a dispute initiated pur-
8 suant to subparagraph (A) shall be final and
9 conclusive, and no official or court of the
10 United States shall have power or jurisdiction
11 to review any such findings and determination,
12 except in the case of fraud, misrepresentation,
13 or other misconduct by one of the parties to the
14 arbitration or by the arbitrator.

15 “(C) PAYMENT OF FEE AND EXPENSES.—
16 The parties to arbitration initiated pursuant to
17 subparagraph (A) shall share equally in the
18 payment of the fee and expenses of the arbi-
19 trator.

20 “(5) ENFORCEMENT.—If the Administrator de-
21 termines that any person seeking to comply with an
22 order for testing by relying on a submission made by
23 a consortium or an original data submitter has
24 failed to make an offer in accordance with para-
25 graph (3)(B), to participate in an arbitration pro-

1 ceeding under paragraph (4), or to comply with the
2 terms of an agreement or arbitration decision con-
3 cerning sharing of applicable costs under paragraph
4 (3), that person is deemed to have failed to comply
5 with an order under subparagraph (A) of section
6 408(p)(5) of the Federal Food, Drug, and Cosmetic
7 Act for purposes of subparagraphs (B) and (C) of
8 such section.

9 “(l) DEFINITIONS.—In this section:

10 “(1) The term ‘endocrine disruptor’ means an
11 exogenous agent or mixture of agents that interferes
12 or alters the synthesis, secretion, transport, metabo-
13 lism, binding action, or elimination of hormones that
14 are present in the body and are responsible for ho-
15 meostasis, growth, neurological signaling, reproduc-
16 tion and developmental process, or any other effect
17 that the Administrator has designated as an ‘endo-
18 crine effect’ pursuant to section 408(p)(1) of the
19 Federal Food, Drug, and Cosmetic Act.

20 “(2) The term ‘testing’ means the testing of a
21 substance pursuant to the screening program under
22 section 408(p) of the Federal Food, Drug, and Cos-
23 metic Act, including a test of a substance that is in-
24 tended to identify substances that have the potential
25 to interact with the endocrine system or that is in-

1 tended to determine the endocrine-related effects
2 caused by such substance and obtain information
3 about effects at various doses.

4 “(m) AUTHORIZATION OF APPROPRIATIONS.—To
5 carry out this section, there is authorized to be appro-
6 priated \$5,000,000 for each of fiscal years 2011 through
7 2015.”.

8 **SEC. 17. PRESENCE OF PHARMACEUTICALS AND PERSONAL**
9 **CARE PRODUCTS IN SOURCES OF DRINKING**
10 **WATER.**

11 Subsection (a) of section 1442 (42 U.S.C. 300j-1)
12 is amended by adding at the end the following:

13 “(11) PRESENCE OF PHARMACEUTICALS AND PER-
14 SONAL CARE PRODUCTS IN SOURCES OF DRINKING
15 WATER.—

16 “(A) STUDY.—The Administrator shall carry
17 out a study on the presence of pharmaceuticals and
18 personal care products in sources of drinking water,
19 which shall—

20 “(i) identify pharmaceuticals and personal
21 care products that have been detected in
22 sources of drinking water and the levels at
23 which such pharmaceuticals and personal care
24 products have been detected;

1 “(ii) identify the sources of pharma-
2 ceuticals and personal care products in sources
3 of drinking water, including point sources and
4 nonpoint sources of pharmaceutical and per-
5 sonal care products;

6 “(iii) identify the effects of such products
7 on humans, the environment, and the safety of
8 drinking water; and

9 “(iv) identify methods to control, limit,
10 treat, or prevent the presence of such products.

11 “(B) CONSULTATION.—The Administrator shall
12 conduct the study described in subparagraph (A) in
13 consultation with the Secretary of Health and
14 Human Services (acting through the Commissioner
15 of Food and Drugs), the Director of the United
16 States Geological Survey, the heads of other appro-
17 priate Federal agencies (including the National In-
18 stitute of Environmental Health Sciences), and other
19 interested stakeholders (including manufacturers of
20 pharmaceuticals and personal care products and
21 consumer groups and advocates).

22 “(C) REPORT.—Not later than 2 years after
23 the date of the enactment of this paragraph, the Ad-
24 ministrator shall submit to the Congress a report on

1 the results of the study carried out under this para-
2 graph.

3 “(D) DEFINITIONS.—In this paragraph:

4 “(i) The term ‘personal care product’ has
5 the meaning given the term ‘cosmetic’ in section
6 201 of the Federal Food, Drug, and Cosmetic
7 Act.

8 “(ii) The term ‘pharmaceutical’ has the
9 meaning given the term ‘drug’ in section 201 of
10 the Federal Food, Drug, and Cosmetic Act.”.