

112TH CONGRESS  
1ST SESSION

# S. 999

To amend the Safe Drinking Water Act to prevent the enforcement of certain national primary drinking water regulations unless sufficient funding is available.

---

## IN THE SENATE OF THE UNITED STATES

MAY 16, 2011

Mr. INHOFE (for himself, Mr. COCHRAN, Mr. VITTER, Mr. BOOZMAN, Mr. RISCH, and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

---

## A BILL

To amend the Safe Drinking Water Act to prevent the enforcement of certain national primary drinking water regulations unless sufficient funding is available.

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.**

4 This Act may be cited as the “Small System Safe  
5 Drinking Water Act of 2011”.

6 **SEC. 2. COMPLIANCE AND ENFORCEMENT.**

7 (a) GUIDANCE.—Section 1412(b)(4)(E) of the Safe  
8 Drinking Water Act (42 U.S.C. 300g–1(b)(4)(E)) is  
9 amended by adding at the end the following:

1           “(vi) GUIDANCE.—As soon as prac-  
2           ticable after the date of enactment of this  
3           clause, the Administrator shall—

4                   “(I) convene a working group  
5                   composed of representatives from  
6                   States, small publicly owned water  
7                   systems, and treatment manufactur-  
8                   ers, which shall, not later than 180  
9                   days after the date of enactment of  
10                  this clause, conduct a study of, and  
11                  submit to Congress a report on, bar-  
12                  riers to the use of point-of-use and  
13                  point-of-entry treatment units, pack-  
14                  age plants (including water bottled by  
15                  the public water system), and modular  
16                  units;

17                   “(II) develop a model guidance  
18                   document based on recommendations  
19                   received from the working group  
20                   under subclause (I) and similar State  
21                   guidance documents for distribution  
22                   to States to assist States in regulating  
23                   and promoting the treatment options  
24                   described in subclause (I); and

1 “(III) distribute to small water  
2 systems—

3 “(aa) the model guidance  
4 document developed under sub-  
5 clause (II); and

6 “(bb) such other information  
7 relating to the treatment options  
8 described in subclause (I) as the  
9 Administrator considers to be ap-  
10 propriate.”.

11 (b) ENFORCEMENT OF NATIONAL PRIMARY DRINK-  
12 ING WATER REGULATIONS.—

13 (1) VARIANCE TECHNOLOGIES.—Section  
14 1412(b)(15)(A) of the Safe Drinking Water Act (42  
15 U.S.C. 300g-1(b)(15)(A)) is amended—

16 (A) by redesignating clauses (i) through  
17 (iii) as subclauses (I) through (III), respec-  
18 tively, and indenting appropriately;

19 (B) by striking “(A) IN GENERAL.—At  
20 the” and inserting the following:

21 “(A) TECHNOLOGIES.—

22 “(i) IN GENERAL.—At the”; and

23 (C) by adding after the matter following  
24 subparagraph (A)(i)(III) (as redesignated by  
25 subparagraph (A)) the following:

1           “(ii) AFFORDABILITY.—In estab-  
2           lishing affordability criteria under this sub-  
3           paragraph, the Administrator shall—

4                   “(I) in determining whether a  
5                   treatment technology or treatment  
6                   technique is affordable, include con-  
7                   sideration of costs associated with  
8                   complying with all relevant regulations  
9                   promulgated in accordance with this  
10                  Act and the Federal Water Pollution  
11                  Control Act (33 U.S.C. 1251 et seq.)  
12                  with which a municipality or small  
13                  public water system may be required  
14                  to comply;

15                  “(II) give extra weight to house-  
16                  holds the total income of which is  
17                  below the poverty level, and to com-  
18                  munities that meet the affordability  
19                  criteria of a State established in ac-  
20                  cordance with section  
21                  1452(b)(3)(A)(iii), as determined by  
22                  the Administrator; and

23                  “(III) ensure that the afford-  
24                  ability criteria are not more costly, on  
25                  a per-capita basis, to a small public

1 water system than the cost, on a per-  
2 capita basis, to a large water system  
3 of acquiring feasible technology de-  
4 scribed in paragraph (4).”.

5 (2) STATE REVOLVING LOAN FUNDS.—Section  
6 1452 of the Safe Drinking Water Act (42 U.S.C.  
7 300j–12) is amended—

8 (A) by redesignating subsections (n), (o),  
9 (p), (q), and (r) as subsection (o), (p), (q), (r),  
10 and (s) respectively; and

11 (B) by inserting after subsection (m) the  
12 following:

13 “(n) ENFORCEMENT.—Before initiating any enforce-  
14 ment action, the Administrator or the State shall ensure  
15 that sufficient funds have been made available under this  
16 title to assist each public water system that serves fewer  
17 than 10,000 individuals in meeting requirements under  
18 the regulation.”.

19 (c) RENEWAL OF EXEMPTION.—Section 1416(b)(2)  
20 of the Safe Drinking Water Act (42 U.S.C. 300g–5(b)(2))  
21 is amended by striking subparagraph (C) and inserting  
22 the following:

23 “(C) In the case of a system that does not  
24 serve more than a population of 10,000 and  
25 that needs financial assistance for the necessary

1 improvements, an exemption granted under  
 2 clause (i) or (ii) of subparagraph (B) may be  
 3 renewed for such period as the State determines  
 4 to be appropriate, if the system establishes that  
 5 it is taking all practicable steps to meet the re-  
 6 quirements of subparagraph (B).”.

7 (d) RESEARCH, TECHNICAL ASSISTANCE, INFORMA-  
 8 TION, AND TRAINING OF PERSONNEL.—Section 1442 of  
 9 the Safe Drinking Water Act (42 U.S.C. 300j-1) is  
 10 amended—

11 (1) in subsection (e)—

12 (A) in the first sentence, by striking “The  
 13 Administrator” and inserting the following:

14 “(1) IN GENERAL.—The Administrator”;

15 (B) in the second sentence, by striking  
 16 “Such assistance” and inserting the following:

17 “(2) TYPES OF ASSISTANCE.—Assistance pro-  
 18 vided under paragraph (1)”;

19 (C) in the third sentence, by striking “The  
 20 Administrator” and inserting the following:

21 “(3) AVAILABILITY OF ASSISTANCE.—The Ad-  
 22 ministrator”;

23 (D) in the fourth sentence, by striking  
 24 “Each nonprofit” and inserting the following:

1           “(4) CONSULTATION WITH STATE.—Each non-  
2 profit”; and

3           (E) by striking the fifth sentence and all  
4 that follows through the end of the subsection  
5 and inserting the following:

6           “(5) ASSISTANCE IN COMPLYING WITH  
7 RULES.—The Administrator shall ensure, to the  
8 maximum extent practicable, that each water system  
9 serving fewer than 10,000 individuals that is re-  
10 quired to comply with Federal drinking water rules  
11 receives adequate technical assistance and training  
12 to meet the requirements of those final rules, includ-  
13 ing through assistance to be provided by qualified  
14 nonprofit associations with expertise in public water  
15 systems.

16           “(6) PRIORITY.—The Administrator shall give  
17 priority for assistance under this section to water  
18 systems that, as of the date of enactment of this  
19 paragraph, are not in compliance with, as deter-  
20 mined by the Administrator—

21           “(A) the final rule entitled ‘Disinfectants  
22 and Disinfection Byproducts’ and published by  
23 the Administrator on December 16, 1998 (63  
24 Fed. Reg. 69390);

1           “(B) the final rule entitled ‘Arsenic and  
2           Clarifications to Compliance and New Source  
3           Contaminants Monitoring’ and published by the  
4           Administrator on January 22, 2001 (66 Fed.  
5           Reg. 6976);

6           “(C) the final rule entitled ‘Stage 2 Dis-  
7           infectants and Disinfection Byproducts Rule’  
8           and published by the Administrator on January  
9           4, 2006 (71 Fed. Reg. 388);

10           “(D) the final rule entitled ‘Ground Water  
11           Rule’ and published by the Administrator on  
12           November 8, 2006 (71 Fed. Reg. 65574); and

13           “(E) any other final rule promulgated by  
14           the Administrator after the date of enactment  
15           of this paragraph.

16           “(7) ENFORCEMENT ACTION.—Before initiating  
17           any enforcement action, the Administrator or the  
18           State shall ensure that sufficient funds have been  
19           made available under this title to assist each public  
20           water system that serves fewer than 10,000 individ-  
21           uals in meeting requirements under the regulation.”;  
22           and

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

24           “(f) RESEARCH AND DEVELOPMENT PILOT  
25           PROJECTS.—



1           “(1) IN GENERAL.—The Administrator shall es-  
2           tablish a research pilot program (referred to in this  
3           subsection as the ‘program’) to explore new tech-  
4           nologies or approaches that public water systems  
5           may use to comply with a public drinking water  
6           standard promulgated under this Act.

7           “(2) RESPONSIBILITIES OF ADMINISTRATOR.—  
8           In carrying out this subsection, the Administrator  
9           shall—

10                   “(A) establish an application process that  
11                   includes criteria that may be used to assess  
12                   water systems applying for participation in the  
13                   program;

14                   “(B) based on applications received under  
15                   subparagraph (A), select 20 communities with  
16                   various populations and water sources in dif-  
17                   ferent regions of the United States for partici-  
18                   pation in the program;

19                   “(C) fund projects that develop or imple-  
20                   ment new technologies or approaches for imple-  
21                   mentation of Federal drinking water standards;  
22                   and

23                   “(D) coordinate projects with the Arsenic  
24                   Water Technology Partnership program of the  
25                   Department of Energy.

1           “(3) TECHNOLOGY TRANSFER AND DISINFEC-  
2           TION STRATEGIES.—The Administrator shall carry  
3           out a pilot program to conduct research into tech-  
4           nology transfer issues and disinfection strategies re-  
5           lating to drinking water, including risks associated  
6           with the migration to chloramines for the purpose of  
7           water disinfection.

8           “(4) FUNDING.—

9           “(A) AUTHORIZATION OF APPROPRIA-  
10           TIONS.—There is authorized to be appropriated  
11           to carry out this subsection and subsection (e)  
12           \$15,000,000 for each of fiscal years 2011  
13           through 2015.

14           “(B) LOBBYING EXPENSES.—No portion  
15           of any State revolving loan fund established  
16           under section 1452, and no portion of any  
17           funds made available under this subsection,  
18           may be used for lobbying expenses.

19           “(C) TRIBAL ASSISTANCE.—Of the amount  
20           made available under subparagraph (A) for a  
21           fiscal year, at least 3 percent shall be used for  
22           technical assistance to public water systems  
23           owned or operated by Indian Tribes.”.

○