

EPA PROVISIONS OF INTEREST IN S. 3021, AMERICA’S WATER INFRASTRUCTURE ACT OF 2018

(Focus for public water systems in Washington State).

TITLE II—DRINKING WATER SYSTEM IMPROVEMENT

SEC. 2001. INDIAN RESERVATION DRINKING WATER PROGRAM. OW/OGWDW

- Subject to the availability of appropriations, requires EPA to carry out projects on Indian reservations to connect, expand, or repair existing public water systems in order to improve water quality, water pressure, or water services.
- EPA must implement at least 10 projects in the Upper Missouri River Basin and 10 within the Upper Rio Grande Basin.
- EPA must select at least one eligible project for a reservation serving >1 tribe. Authorizes \$20m for each of FY19-22.

SEC. 2002. CLEAN, SAFE, RELIABLE WATER INFRASTRUCTURE. OW/OGWDW

- Expands authorized DWSRF activities to enable states to use up to 10 percent of their DWSRF capitalization grant to implement source water protection plans.

SEC. 2003. STUDY ON INTRACTABLE WATER SYSTEMS. OW/OGWDW

- Defines “intractable water system” for use under section 1459c of SDWA as systems serving fewer than 1,000 individuals as systems unable/unwilling to provide safe water, that are abandoned, have defaulted, or fail to maintain the system, and that are in significant noncompliance.
- Requires EPA, in consultation with HHS and USDA, to complete a study identifying intractable water systems and describing barriers to delivery of potable water to individuals.

SEC. 2004. SENSE OF CONGRESS RELATING TO ACCESS TO NONPOTABLE WATER. OW/OGWDW and OW/OWM

- States the sense of Congress that access to nonpotable water sources for industry can relieve the supply and demand challenges for potable water in water-stressed regions throughout the United States.
- Encourages water users to continue implementing and incentivizing nonpotable water reuse programs that will achieve greater water savings and conservation needs.

SEC. 2005. DRINKING WATER INFRASTRUCTURE RESILIENCE AND SUSTAINABILITY. OW/OGWDW

- Amends small and disadvantaged community provisions added by the 2016 WIIN Act by authorizing EPA to provide grants to underserved communities impacted by contaminants that have not been sufficiently addressed; also authorizes recovery of funds in case of EPA actions
- Creates new, competitive Drinking Water System Infrastructure Resilience and Sustainability grant program for FY19 and FY20; authorizes \$4m per year.

SEC. 2006. VOLUNTARY SCHOOL AND CHILD CARE PROGRAM LEAD TESTING GRANT PROGRAM ENHANCEMENT. OW/OGWDW

- Amends new grant program established in 2016 WIIN Act by authorizing EPA to provide technical assistance to grant recipients, giving priority to schools and child-care programs in low-income areas, and increasing authorized funding from \$20m to \$25m

- Creates new grant program for pre-1988 drinking water fountain monitoring and replacement, with priority given to areas of economic need. Authorizes \$5m for FY19-FY21.
- Clarifies SDWA to ensure replacement of drinking water *fountains* (as well as *coolers* already specified in the statute)

SEC. 2007. INNOVATIVE WATER TECHNOLOGY GRANT PROGRAM. OW/OGWDW

- Creates new competitive EPA grant program to provide assistance to public water systems, educational institutions, or NGOs to develop or deploy innovative water technologies. Requires non-federal cost share of at least 35%.
- Requires annual Report to Congress on the technologies funded by the program.
- Authorizes \$10m in both FY19 and FY20.

SEC. 2008. IMPROVED CONSUMER CONFIDENCE REPORTS. OW/OGWDW

- Amends existing SDWA provisions regarding annual consumer confidence reports (CCRs) by requiring reports to include additional information on corrosion control, exceedances, and violations.
- Requires EPA to revise its CCR regulations to improve readability and accuracy, provide biannual delivery for large systems, and facilitate electronic delivery.

SEC. 2009. CONTRACTUAL AGREEMENTS. OW/OGWDW

- Amends SDWA provisions for drinking water systems with preexisting violations to enable systems that enter into contractual agreements for management or administrative functions to receive no-enforcement incentives.

SEC. 2010. ADDITIONAL CONSIDERATIONS FOR COMPLIANCE. OW/OGWDW

- Authorizes EPA or SDWA primacy state to require water systems to assess options for consolidation or ownership transfer in cases of repeated violations, authorizes DWSRF assistance for such consolidation or transfer, and limits liability of the system into which a violating system consolidates.
- Requires EPA to develop regulations implementing this section within two years.

SEC. 2011. IMPROVED ACCURACY AND AVAILABILITY OF COMPLIANCE MONITORING DATA. OW/OGWDW

- Requires EPA, in consultation with states, water systems, and other stakeholders, to develop a strategic plan for improving the accuracy and availability of drinking-water monitoring data within one year.

SEC. 2012. ASSET MANAGEMENT. OW/OGWDW

- Requires state capacity-development strategies to include a description of how the state will encourage systems to develop and implement asset management plans.
- Requires EPA, at least every five years, to review and update EPA materials on asset management best practices.

SEC. 2013. COMMUNITY WATER SYSTEM RISK AND RESILIENCE. OW/OGWDW

- Replaces the existing SDWA section that requires water systems serving >3,300 to prepare vulnerability assessments.

- Broadens the scope of vulnerability assessments from focusing on “terrorist attack or other intentional acts” to focusing on malevolent acts, natural hazards, and resilience.
- Requires EPA to provide baseline threat information to public water systems by August 2018, and to provide guidance and technical assistance to small water systems.
- Requires public water systems to certify to EPA that they have prepared a vulnerability assessment by 2020/2021, and requires review and revision by systems at least every five years. (Eliminates existing requirement that the assessment itself be provided to EPA.) Also authorizes EPA to dispose of previously submitted emergency response plans.
- Requires systems to develop emergency response plans and certify those plans to EPA.
- Allows systems to waive the requirement for vulnerability assessments and response plans if systems comply with technical standards recognized by EPA
- Creates new Drinking Water Infrastructure Risk and Resilience program under which EPA may award grants in 2020 and 2021 to develop and implement plans, including purchasing equipment. Authorizes \$25m per year, with no more than \$5m for technical assistance and \$10m for small systems.

SEC. 2014. AUTHORIZATION FOR GRANTS FOR STATE PROGRAMS. OW/OGWDW

- Reauthorizes EPA’s Public Water System Supervision grant program and increases authorization from \$100m to \$125m.

SEC. 2015. STATE REVOLVING LOAN FUNDS. OW/OGWDW

- Codifies existing DWSRF provisions that authorize infrastructure rehabilitation or replacement activities for DWSRF assistance, and that apply Davis-Bacon requirements to the DWSRF
- Increases the *ceiling* for states to offer DWSRF assistance to disadvantaged communities from 30 to 35%, and also adds a new *floor* of 6% (only applies if sufficient applications for such assistance exist).
- Extends the maximum amortization period for DWSRF loans to 30 years (from 20), increases the period for disadvantaged communities to 40 years, and extends the time period for initial DWSRF repayments from 12 months after project completion to 18 months.
- Requires future EPA drinking water needs surveys to include an estimate of replacement costs for all lead service lines, both the portion owned by the public water system and the remaining portion.
- Reauthorizes the use of DWSRF assistance for delineating and assessing source water protection areas (for which authorization ended in 1997), and also authorizes funding for updating existing assessments.
- Requires EPA to collect state best practices on DWSRF administration and disseminate them to states within 3 years.

SEC. 2016. AUTHORIZATION FOR SOURCE WATER PETITION PROGRAMS. OW/OGWDW

- Reauthorizes funding for FY20 and FY2021 for the SDWA Source Water Petition Program, which promotes partnerships for protecting drinking water sources.

SEC. 2017. REVIEW OF TECHNOLOGIES. OW/OGWDW

- Requires EPA to conduct a drinking water technology review and authorizes \$10m in appropriations for FY19.

SEC. 2018. SOURCE WATER. OLEM and OW/OGWDW

- Requires state emergency response commissions to notify state drinking water agencies and community water systems of hazardous substance releases; authorizes affected water systems to access tier II information upon request.

SEC. 2019. REPORT ON FEDERAL CROSS-CUTTING REQUIREMENTS. OW/OGWDW

- Requires GAO, within one year, to conduct a study of state or local environmental requirements that may be substantially equivalent to existing federal cross-cutting requirements of the DWSRF.

SEC. 2020. ASSISTANCE FOR AREAS AFFECTED BY NATURAL DISASTERS. OW/OGWDW

- Authorizes \$100 million in DWSRF assistance to water systems impacted by natural disasters since January 1, 2017, in order to assist underserved areas in returning to or improving compliance with SDWA requirements.
- Authorizes additional subsidy under the DWSRF to be provided to such systems in underserved areas.
- Requires states to submit plans to EPA regarding projects to receive assistance; requires EPA to act on state plans and obligate funds within 30 days. Funds not obligated within 24 months are reallocated to other DWSRF programs.
- Prohibits assistance authorized by this section for any project funded by tax-exempt bonds.
- Waives matching requirements for any assistance provided to Puerto Rico.

SEC. 2021. MONITORING FOR UNREGULATED CONTAMINANTS. OW/OGWDW

- Creates new requirement, subject to the availability of appropriations, that all drinking water systems serving between 3,300 and 10,000 persons monitor for unregulated contaminants. (Currently, only all systems >10,000 must monitor.)
- Requires this new program to take effect in three years, unless laboratory capacity is insufficient.
- Prohibits EPA from taking enforcement actions, including civil penalties, against systems <3,300 who fail to monitor.
- Authorizes \$15 million per year in each fiscal year in which monitoring is required to be carried out.

SEC. 2022. AMERICAN IRON AND STEEL PRODUCTS. OW/OGWDW

- Reauthorizes DWSRF American Iron and Steel requirements for FY19-FY23.

SEC. 2023. AUTHORIZATION FOR CAPITALIZATION GRANTS TO STATES FOR STATE DRINKING WATER TREATMENT REVOLVING LOAN FUNDS. OW/OGWDW

- Reauthorizes the DWSRF and increases authorized amounts to \$1.174b in FY19, \$1.3b in FY20, and \$1.95b in FY21.

TITLE IV—OTHER MATTERS

SEC. 4105. AUTHORIZATION OF APPROPRIATIONS FOR COLUMBIA RIVER BASIN RESTORATION. R10 and OW/OWOW

- Reauthorizes Columbia River Restoration competitive grant program at a level of \$30m per year for FY20 and FY21.

SEC. 4107. ASSISTANCE FOR INDIVIDUAL HOUSEHOLD DECENTRALIZED WASTEWATER SYSTEMS OF INDIVIDUALS WITH LOW OR MODERATE INCOME. OW/OWM

- Amends CWSRF eligibility provisions to authorize assistance to nonprofit entities for repair or replacement of individual-household decentralized wastewater treatment systems, or to connect individual households to a POTW. Eligible households must have a combined income <50% of the state’s median nonmetropolitan household income.
- Requires EPA Report to Congress within two years describing the prevalence of low- and moderate-income households who lack access to wastewater treatment, and outlining how states have utilized this new assistance.

SEC. 4201. WIFIA REAUTHORIZATION AND INNOVATIVE FINANCING FOR STATE LOAN FUNDS. OW/OWM

- Reauthorizes WIFIA and removes its characterization as a “pilot”; authorizes \$50m for each of FY20 and FY21 and up to \$5m per year in administrative costs.
- Reduces the number of required rating opinion letters from 2 to 1 for state SRF program prospective borrowers.
- Prohibits recipients from using federal SRF capitalization grant funds to repay WIFIA loans.
- Prohibits state SRF programs who receive WIFIA funding from passing WIFIA fees along to individual SRF projects.
- Requires state SRF projects receiving WIFIA assistance to comply with applicable State environmental or engineering review requirements pursuant to the CWA and SDWA (but does not require any new reviews).
- Requires EPA to act on a WIFIA application from a State SRF program within 180 days; if application is not approved, EPA must provide detailed guidance and an explanation of necessary changes to make the application approvable.
- Authorizes \$5m in each of FY20 and FY21 for WIFIA assistance to state SRF authorities, but only if EPA has been appropriated at least \$50m for WIFIA in that fiscal year AND CWSRF/DWSRF appropriations do not decrease. Allows states to finance up to 100% of project costs using WIFIA (increased from the usual 49%).
- Authorizes EPA to enter into agreements with other federal agencies to administer and service WIFIA credit instruments, subject to the availability and transfer of funds from the other agency.
- Requires EPA Report to Congress within three years on WIFIA results and recommendations for future action (if any).

SEC. 4304. WATER INFRASTRUCTURE AND WORKFORCE INVESTMENT. OW/OWM and OW/OGWDW

- Requires EPA, in consultation with USDA, to establish a competitive grant program to promote water utility workforce development and increase public awareness of water utilities and careers. EPA should select non-profit, labor, or educational institutions that are experienced and qualified and that will address diverse types of water utilities.
- Authorizes \$1m per year in each of FY19 and FY20.