

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S.** \_\_\_\_\_

To amend the Safe Drinking Water Act to update and modernize the reporting requirements for contaminants, including lead, in drinking water.

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IN THE SENATE OF THE UNITED STATES

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Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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## A BILL

To amend the Safe Drinking Water Act to update and modernize the reporting requirements for contaminants, including lead, in drinking water.

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 “Contaminant and Lead  
5 Electronic Accounting and Reporting Requirements  
6 (CLEAR) for Drinking Water Act of 2016”.

7 **SEC. 2. ASSISTANCE FOR DISADVANTAGED COMMUNITIES.**

8 (a) ASSISTANCE TO INCREASE COMPLIANCE WITH  
9 NATIONAL DRINKING WATER STANDARDS.—Section

1 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–  
2 12) is amended—

3 (1) in subsection (b)(3), by adding at the end  
4 the following:

5 “(C) ASSISTANCE TO INCREASE COMPLI-  
6 ANCE.—An intended use plan shall provide  
7 that, of the funds received by the State in a fis-  
8 cal year through a capitalization grant under  
9 this section, the State shall, to the extent that  
10 the State receives sufficient eligible project ap-  
11 plications, reserve not less than 6 percent of  
12 those funds to provide assistance under sub-  
13 section (d) to 1 or more public water systems  
14 described in a list included in an intended use  
15 plan under paragraph (2)(D).”; and

16 (2) in subsection (d)—

17 (A) by redesignating paragraphs (1), (2),  
18 and (3) as paragraphs (2), (3), and (1), respec-  
19 tively;

20 (B) by moving the paragraphs so as to ap-  
21 pear in numerical order;

22 (C) in paragraph (1) (as redesignated by  
23 subparagraph (A))—

24 (i) in the first sentence—

1 (I) by striking “In this sub-  
2 section” and inserting the following:

3 “(A) IN GENERAL.—In this subsection”;

4 and

5 (II) by inserting “, or a portion  
6 of the service area,” after “service  
7 area”; and

8 (ii) in the second sentence, by striking  
9 “The Administrator” and inserting the fol-  
10 lowing:

11 “(B) AFFORDABILITY CRITERIA FOR DIS-  
12 ADVANTAGED COMMUNITIES.—

13 “(i) IN GENERAL.—In establishing af-  
14 fordability criteria, each State that has en-  
15 tered into a capitalization agreement under  
16 this section shall consider, solicit public  
17 comment on, and include in the afford-  
18 ability criteria, as appropriate—

19 “(I) the methods or criteria that  
20 the State intends to use to identify  
21 disadvantaged communities;

22 “(II) a description of the institu-  
23 tional, regulatory, financial, tax, or  
24 legal factors at the Federal, State, or

1 local level that affect the affordability  
2 criteria; and

3 “(III) a description of the man-  
4 ner in which the State will assist a  
5 disadvantaged community under this  
6 subsection.

7 “(ii) ASSISTANCE TO STATES.—The  
8 Administrator”;

9 (D) in paragraph (2) (as redesignated by  
10 subparagraph (A))—

11 (i) by striking “Notwithstanding” and  
12 inserting the following:

13 “(A) ADDITIONAL SUBSIDIZATION.—Not-  
14 withstanding”; and

15 (ii) by adding at the end the fol-  
16 lowing:

17 “(B) DIRECT AND PRIMARY BENEFIT.—  
18 Any additional subsidization provided under  
19 subparagraph (A) shall directly and primarily  
20 benefit the disadvantaged community.”; and

21 (E) in paragraph (3) (as redesignated by  
22 subparagraph (A)), by striking “paragraph (1)”  
23 and inserting “paragraph (2)”.

24 (b) CONFORMING AMENDMENT.—Section  
25 1452(f)(1)(B) of the Safe Drinking Water Act (42 U.S.C.

1 300j-12(f)(1)(B)) is amended by striking “subsection  
2 (d)(3)” and inserting “subsection (d)(1)”.

3 **SEC. 3. DRINKING WATER QUALITY IMPROVEMENT FOR MI-**  
4 **NORITY, TRIBAL, AND LOW-INCOME COMMU-**  
5 **NITIES.**

6 (a) DEFINITIONS.—In this section:

7 (1) ADMINISTRATOR.—The term “Adminis-  
8 trator” means the Administrator of the Environ-  
9 mental Protection Agency.

10 (2) WATER QUALITY TESTING.—The term  
11 “water quality testing” means the testing of drink-  
12 ing water for the presence of lead or any other con-  
13 taminant that poses a public health risk.

14 (b) FORMAL GUIDANCE.—The Administrator shall  
15 issue formal guidance to develop a process to protect and  
16 improve the drinking water of minority, tribal, and low-  
17 income communities.

18 (c) EXPEDITED WATER QUALITY TESTING.—

19 (1) IN GENERAL.—In developing the process  
20 described in subsection (b), the Administrator shall  
21 establish and maintain, within the Office of Environ-  
22 mental Justice of the Environmental Protection  
23 Agency, a process by which a minority, tribal, or  
24 low-income community, as defined by the Director of  
25 the Office of Environmental Justice of the Environ-

1       mental Protection Agency, may request expedited  
2       water quality testing of the drinking water of the  
3       community for the presence of lead or any other  
4       contaminant that poses a public health risk to indi-  
5       viduals in the community.

6               (2) RESULTS.—The Administrator shall provide  
7       to the requestor the results of an expedited water  
8       quality testing carried out in accordance with para-  
9       graph (1) in a timely manner.

10              (3) WEBSITE.—The Administrator shall develop  
11       and maintain a publicly accessible website through  
12       which a request for expedited water quality testing  
13       in accordance with paragraph (1) may be submitted,  
14       in compliance with applicable Federal law (including  
15       regulations) and policies relating to the protection of  
16       individual privacy.

17              (4) PERFORMANCE MEASURE.—

18                   (A) IN GENERAL.—The Administrator  
19       shall develop a performance measure for the ex-  
20       pedited water quality testing carried out in ac-  
21       cordance with paragraph (1) to determine the  
22       average number of days between the date of  
23       submission of a request for expedited water  
24       quality testing and the date of completion of a  
25       request.

1 (B) REPORTING.—The performance meas-  
2 ure described in subparagraph (A) shall be pub-  
3 lished on the website described in paragraph (3)  
4 not less frequently than once each calendar  
5 year.

6 (d) ELECTRONIC DATABASE.—The Administrator  
7 shall develop and maintain an electronic database of water  
8 quality and health screening tests that includes the results  
9 of any—

10 (1) water system supplier water quality test re-  
11 quired under the Safe Drinking Water Act (42  
12 U.S.C. 300f et seq.);

13 (2) health screening, including blood lead test  
14 results, aggregated not less frequently than once  
15 each month on a geographic scale not smaller than  
16 county level, to be coordinated with the Director of  
17 the Centers for Disease Control and Prevention, re-  
18 quired under section 317A of the Public Health  
19 Service Act (42 U.S.C. 247b–1) and in accordance  
20 with the Health Insurance Portability and Account-  
21 ability Act of 1996 (42 U.S.C. 201 et seq.); and

22 (3) expedited water quality testing carried out  
23 in accordance with subsection (c)(1).

24 (e) REGIONAL LIAISON.—

1           (1) IN GENERAL.—In developing the process  
2 described in subsection (b), the Administrator shall  
3 ensure that not fewer than 1 employee in each re-  
4 gional office of the Environmental Protection Agency  
5 will serve as a liaison to minority, tribal, and low-  
6 income communities in the relevant region.

7           (2) PUBLIC IDENTIFICATION.—The Adminis-  
8 trator shall prominently identify each regional liai-  
9 son selected under paragraph (1) on the website  
10 of—

11                   (A) the relevant regional office of the Envi-  
12 ronmental Protection Agency; and

13                   (B) the Office of Environmental Justice of  
14 the Environmental Protection Agency.

15           (f) COMMUNITY PARTNERSHIP.—The Administrator  
16 may make grants to community organizations that rep-  
17 resent, operate in, or serve a minority, tribal, or low-in-  
18 come community, as determined by the Administrator, to  
19 educate the residents of the community on—

20                   (1) contaminants in drinking water that may  
21 have an adverse effect on human health; and

22                   (2) assistance that the Administrator may pro-  
23 vide to residents to identify and address a drinking  
24 water contaminant that may have an adverse effect  
25 on human health.

1 (g) PUBLIC INTEREST SCIENCE PARTNERSHIPS.—

2 The Administrator may create a partnership with an aca-  
3 demic or research institution, including another Federal  
4 agency, to conduct or promote science that serves the pub-  
5 lic interest by sharing data or costs or engaging in any  
6 other activity of mutual benefit—

7 (1) to identify—

8 (A) any contaminant in drinking water  
9 that may have an adverse effect on human  
10 health; and

11 (B) a significant public health crisis caused  
12 by any violation or contamination that—

13 (i) has the potential to have a serious  
14 adverse effect on human health that re-  
15 quires notice under section 1414(c)(2)(C)  
16 of the Safe Drinking Water Act (42 U.S.C.  
17 300g-3(c)(2)(C)); or

18 (ii) may present an imminent and  
19 substantial endangerment to the health of  
20 persons (within the meaning of section  
21 1431(a) of the Safe Drinking Water Act  
22 (42 U.S.C. 300i(a))); and

23 (2) to measure the risk that a minority, tribal,  
24 or low-income community faces from contaminants

1 in drinking water that may have an adverse effect  
2 on human health.

3 (h) AUTHORIZATION OF APPROPRIATIONS.—There  
4 are authorized to be appropriated for the period of fiscal  
5 years 2018 through 2022—

6 (1) to carry out subsection (c), \$2,000,000;

7 (2) to provide grants to community partners to  
8 carry out subsection (f), \$5,000,000; and

9 (3) to carry out subsection (g), \$10,000,000.

10 **SEC. 4. COMPLIANCE AND INSPECTIONS OF PUBLIC WATER**

11 **SUPPLIES.**

12 (a) REPORTING NONCOMPLIANCE.—Section  
13 1452(b)(2) of the Safe Drinking Water Act (42 U.S.C.  
14 300j-12(b)(2)) is amended—

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

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

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

20 “(D) a list that includes—

21 “(i) any public water system in the  
22 State that—

23 “(I) has in effect an exemption  
24 or variance for any national primary  
25 drinking water regulation;

1 “(II) is in persistent violation of  
2 any requirement for a maximum con-  
3 taminant level or treatment technique  
4 under a national primary drinking  
5 water regulation; or

6 “(III) the State or Administrator  
7 determines may present an imminent  
8 and substantial endangerment to the  
9 health of persons (within the meaning  
10 of section 1431(a));

11 “(ii) the relevant national primary  
12 drinking regulation for the exemption,  
13 variance, or violation; and

14 “(iii)(I) the effective date of the ex-  
15 emption or variance; or

16 “(II) the date on which the persistent  
17 violation began.”.

18 (b) ADVICE AND TECHNICAL ASSISTANCE.—Section  
19 1414(a)(1) of the Safe Drinking Water Act (42 U.S.C.  
20 300g-3(a)(1)) is amended—

21 (1) in subparagraph (A)—

22 (A) in the undesignated matter preceding  
23 clause (i), by striking “Whenever” and insert-  
24 ing “The Administrator shall notify the State

1 and the public water system of noncompliance  
2 by the public water system if”;

3 (B) in clause (ii), by striking “pursuant  
4 thereto,” and inserting “in accordance with  
5 that variance or exemption.”; and

6 (C) by striking the undesignated matter  
7 following clause (ii); and

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

9 “(C) ADVICE AND TECHNICAL ASSIST-  
10 ANCE.—

11 “(i) IN GENERAL.—After providing  
12 notice of noncompliance to the State and  
13 the public water system under subpara-  
14 graph (A), the Administrator may provide  
15 such advice and technical assistance to the  
16 State and public water system as the Ad-  
17 ministrator determines appropriate to  
18 bring the public water system into compli-  
19 ance with the variance or exemption by the  
20 earliest date feasible.

21 “(ii) CONSIDERATIONS.—In making a  
22 determination to provide advice and tech-  
23 nical assistance under clause (i), the Ad-  
24 ministrator may consider—

1                   “(I) the potential for the non-  
2                   compliance to result in a serious ad-  
3                   verse effect to human health;

4                   “(II) whether the noncompliance  
5                   has occurred continuously or fre-  
6                   quently; and

7                   “(III) the effectiveness of any  
8                   past technical assistance effort.”.

9           (c) ADDITIONAL INSPECTIONS.—Section 1414 of the  
10 Safe Drinking Water Act (42 U.S.C. 300g-3) is amend-  
11 ed—

12           (1) by redesignating subsections (d) through (i)  
13           as subsections (e) through (j), respectively; and

14           (2) by inserting after subsection (c) the fol-  
15           lowing:

16           “(d) ADDITIONAL INSPECTIONS AFTER A VIOLA-  
17           TION.—

18           “(1) IN GENERAL.—After consultation with the  
19           States, the Administrator shall, by regulation, pre-  
20           scribe the number, frequency, and type of additional  
21           inspections that shall be carried out after any viola-  
22           tion that requires notice under subsection (c).

23           “(2) REGULATIONS.—The regulations issued  
24           under paragraph (1) shall—

25           “(A) take into account—

1 “(i) the difference between—

2 “(I) intermittent or infrequent  
3 violations; and

4 “(II) continuous or frequent vio-  
5 lations;

6 “(ii) the seriousness of any potential  
7 adverse health effect that may be related  
8 to a violation; and

9 “(iii) the number and severity of a  
10 past violation by a public water system;  
11 and

12 “(B) specify the procedure for an inspec-  
13 tion after a violation by a public water system  
14 that has the potential to cause a serious adverse  
15 effect on human health due to short-term expo-  
16 sure to a contaminant.”.

17 (3) CONFORMING AMENDMENTS.—

18 (A) Section 1414 of the Safe Drinking  
19 Water Act (42 U.S.C. 300g-3) is amended—

20 (i) in subsection (a)—

21 (I) in paragraph (1)(B), by strik-  
22 ing “subsection (g)” and inserting  
23 “subsection (h)”; and

24 (II) in paragraph (2)(A), in the  
25 undesignated matter following clause

1 (ii), by striking “subsection (g)” and  
2 inserting “subsection (h)”; and  
3 (ii) in subsection (b), in the undesig-  
4 nated matter preceding paragraph (1), by  
5 striking “subsection (g)” and inserting  
6 “subsection (h)”.

7 (B) Section 1448(a) of the Safe Drinking  
8 Water Act (42 U.S.C. 300j-7(a)) is amended in  
9 the third sentence of the undesignated matter  
10 following paragraph (2) by striking  
11 “1414(g)(3)(B)” and inserting  
12 “1414(h)(3)(B)”.

13 **SEC. 5. ELECTRONIC REPORTING OF TEST RESULTS.**

14 Section 1414 of the Safe Drinking Water Act (42  
15 U.S.C. 300g-3) (as amended by section 4(c)(1)) is amend-  
16 ed by adding at the end the following:

17 “(k) ELECTRONIC REPORTING OF COMPLIANCE  
18 MONITORING DATA.—Not later than 1 year after the date  
19 of enactment of this subsection, the Administrator shall  
20 issue a final rule that establishes requirements for elec-  
21 tronic submission—

22 “(1) by public water systems of all compliance  
23 monitoring data—

24 “(A) to the Administrator; or

1           “(B) with respect to a public water system  
2           in a State that has primary enforcement re-  
3           sponsibility under section 1413, to that State;  
4           and

5           “(2) by each State that has primary enforce-  
6           ment responsibility under section 1413 to the Ad-  
7           ministrator all compliance monitoring data sub-  
8           mitted by a public water system to the State under  
9           paragraph (1)(B).”.

10 **SEC. 6. PRIORITY OF APPLICATIONS.**

11           Section 1452(b)(3)(A) of the Safe Drinking Water  
12 Act (42 U.S.C. 300j-12(b)(3)(A)) is amended—

13           (1) in clause (ii), by striking “and” at the end;

14           (2) in clause (iii), by striking the period at the  
15 end and inserting a semicolon; and

16           (3) by inserting at the end the following:

17                   “(iv) improve—

18                           “(I) real-time continuous on-site  
19                           electronic monitoring; or

20                           “(II) transmission of testing re-  
21                           sults; and

22                           “(v) improve the ability of a public  
23                           water system—

24                                   “(I) to protect human health;

25                                   and

1 “(II) to comply with this title in  
2 manner that is affordable.”.

3 **SEC. 7. NOTIFICATION OF THE CENTERS FOR DISEASE**  
4 **CONTROL AND PREVENTION AND STATE**  
5 **HEALTH AGENCIES.**

6 Section 1414(c)(2)(C) of the Safe Drinking Water  
7 Act (42 U.S.C. 300g-3(c)(2)(C)) is amended—

8 (1) in clause (iii)—

9 (A) by striking “Administrator or” and in-  
10 sserting “Administrator, the Director of the  
11 Centers for Disease Control and Prevention,  
12 and, if applicable,”;

13 (B) by inserting “and the appropriate  
14 State and county health agencies” after  
15 “1413”; and

16 (C) by striking “and” at the end;

17 (2) by redesignating clause (iv) as clause (v);

18 and

19 (3) by inserting after clause (iii) the following:

20 “(iv) be provided to each person  
21 served by the public water system—

22 “(I) in the first billing statement  
23 that the public water system prepares  
24 after the date on which the violation  
25 occurs; and

1 “(II) in a manner consistent with  
2 clause (ii); and”.