

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**TO H.R. 5320**  
**OFFERED BY M. \_\_\_\_\_**

Strike all after the enacting clause and insert the following:

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

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

5 (b) **TABLE OF CONTENTS.**—The table of contents of  
6 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. State revolving loan funds for American Samoa, Northern Mariana Islands, Guam, and the Virgin Islands.
- Sec. 11. Authorization of appropriations.
- Sec. 12. Negotiation of contracts.
- Sec. 13. Affordability of new standards.
- Sec. 14. Focus on lifecycle costs.
- Sec. 15. Enforcement.
- Sec. 16. Reducing lead in drinking water.
- Sec. 17. Endocrine disruptor screening program.
- Sec. 18. Presence of pharmaceuticals and personal care products in sources of drinking water.

7 (c) **REFERENCES.**—Except as otherwise specified,  
8 whenever in this Act an amendment is expressed in terms

1 of an amendment to a section or other provision, the ref-  
2 erence shall be considered to be made to a section or other  
3 provision of the Safe Drinking Water Act (42 U.S.C. 300f  
4 et seq.).

5 **SEC. 2. TECHNICAL ASSISTANCE FOR SMALL PUBLIC**  
6 **WATER SYSTEMS.**

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

9 “(e) TECHNICAL ASSISTANCE.—

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

16 “(2) TYPES OF ASSISTANCE.—Technical assist-  
17 ance under paragraph (1) may include onsite tech-  
18 nical assistance and compliance assistance; circuit-  
19 rider and multi-State regional technical assistance  
20 programs; training; assistance with implementing  
21 source water protection programs; assistance with  
22 increasing water or energy efficiency; assistance with  
23 designing, installing, or operating sustainable energy  
24 infrastructure to produce or capture sustainable en-  
25 ergy on site or through water transport; assistance

1 with developing technical, financial, and managerial  
2 capacity; assistance with long-term infrastructure  
3 planning; assistance with applying for funds from a  
4 State loan fund under section 1452; and assistance  
5 with implementation of monitoring plans, rules, reg-  
6 ulations, and water security enhancements.

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

22 “(4) COMPETITIVE PROCEDURES.—It is the  
23 presumption of Congress that any award of assist-  
24 ance under this subsection will be awarded using  
25 competitive procedures based on merit. If assistance

1 is awarded under this subsection using procedures  
2 other than competitive procedures, the Adminis-  
3 trator shall submit to the Congress, within 90 days  
4 of the award decision, a report explaining why com-  
5 petitive procedures were not used.

6 “(5) FUNDING.—

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

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

1           “(C) LOBBYING EXPENSES.—No portion of  
2           any State loan fund established under section  
3           1452 and no portion of any funds made avail-  
4           able under this subsection may be used for lob-  
5           bying expenses.

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

11 **SEC. 3. PREVAILING WAGES.**

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

14          “(e) LABOR STANDARDS.—

15               “(1) IN GENERAL.—The Administrator shall  
16               take such action as the Administrator determines to  
17               be necessary to ensure that each laborer and me-  
18               chanic employed by a contractor or subcontractor in  
19               connection with a construction project financed, in  
20               whole or in part, by a grant, loan, loan guarantee,  
21               refinancing, or any other form of financial assistance  
22               provided under this title (including assistance pro-  
23               vided by a State loan fund established under section  
24               1452) is paid wages at a rate of not less than the  
25               wages prevailing for the same type of work on simi-

1 lar construction in the immediate locality, as deter-  
2 mined by the Secretary of Labor in accordance with  
3 subchapter IV of chapter 31 of title 40, United  
4 States Code.

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

11 **SEC. 4. USE OF FUNDS.**

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

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

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

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

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

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

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

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

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

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

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

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

18          (7) by inserting after such subparagraph (B)  
19          the following:

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

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

5           “(ii) interest earnings of the State  
6           loan fund may be used by the State as rev-  
7           enue for payment of the principal and in-  
8           terest on such bonds.”.

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

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

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

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

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

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



1                   “(i) the national primary drinking  
2                   water regulation in question for each such  
3                   exemption, variance, or violation; and

4                   “(ii) the date on which the exemption  
5                   or variance came into effect or the viola-  
6                   tion began.”.

7 **SEC. 6. ASSISTANCE FOR RESTRUCTURING.**

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

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

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

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

22           (a) PRIORITY.—Section 1452(b)(3) (42 U.S.C. 300j–  
23 12(b)(3)) is amended—

24                   (1) in subparagraph (A)—

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

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

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

6 “(iv) improve the ability of systems to  
7 protect human health and comply with the  
8 requirements of this title affordably in the  
9 future.”;

10 (2) by redesignating subparagraph (B) as sub-  
11 paragraph (D);

12 (3) by inserting after subparagraph (A) the fol-  
13 lowing:

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

1           ority for the use of funds for such year be given  
2           to public water systems affected by the stand-  
3           ard and serving disadvantaged communities.

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

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

14                   “(I) an inventory of assets, in-  
15           cluding a description of the condition  
16           of the assets;

17                   “(II) a schedule for replacement  
18           of assets;

19                   “(III) an audit of water losses;

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

1                   “(V) a review of options for re-  
2                   structuring;

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

6                   “(iii) a water conservation plan con-  
7                   sistent with guidelines developed for such  
8                   plans by the Administrator under section  
9                   1455(a); and

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

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

18                               “(II) use of reclaimed water;

19                               “(III) actions to increase energy  
20                               efficiency;

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

1 “(V) actions to protect source  
2 water;

3 “(VI) actions to mitigate or pre-  
4 vent corrosion, including design, selec-  
5 tion of materials, selection of coating,  
6 and cathodic protection; and

7 “(VII) actions to reduce disinfec-  
8 tion byproducts.”; and

9 (4) in subparagraph (D) (as redesignated by  
10 paragraph (2)) by striking “periodically” and insert-  
11 ing “at least biennially”.

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

14 (1) by redesignating subsection (r) as sub-  
15 section (s); and

16 (2) by inserting after subsection (q) the fol-  
17 lowing:

18 “(r) SMALL SYSTEM GUIDANCE.—The Administrator  
19 may provide guidance and, as appropriate, tools, meth-  
20 odologies, or computer software, to assist small systems  
21 in undertaking measures to improve the management, fi-  
22 nancial stability, and efficiency of the system or reduce  
23 the system’s environmental impact.”.

1 **SEC. 8. DISADVANTAGED COMMUNITIES.**

2 (a) ASSISTANCE TO INCREASE COMPLIANCE.—Sec-  
3 tion 1452(b)(3) (42 U.S.C. 300j–12(b)(3)), as amended,  
4 is further amended by adding at the end the following:

5 “(E) ASSISTANCE TO INCREASE COMPLI-  
6 ANCE.—A State’s intended use plan shall pro-  
7 vide that, of the funds received by the State  
8 through a capitalization grant under this sec-  
9 tion for a fiscal year, the State will, to the ex-  
10 tent that there are sufficient eligible project ap-  
11 plications, reserve not less than 6 percent to be  
12 spent on assistance under subsection (d) to  
13 public water systems included in the State’s  
14 most recent list under paragraph (2)(D).”.

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

18 (1) in paragraph (1), by adding at the end the  
19 following: “Such additional subsidization shall di-  
20 rectly and primarily benefit the disadvantaged com-  
21 munity.”; and

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

24 (c) AFFORDABILITY CRITERIA.—Section 1452(d)(3)  
25 is amended by adding at the end: “Each State that has  
26 entered into a capitalization agreement pursuant to this

1 section shall, in establishing affordability criteria, con-  
2 sider, solicit public comment on, and include as appro-  
3 priate—

4 “(A) the methods or criteria that the State  
5 will use to identify disadvantaged communities;

6 “(B) a description of the institutional, reg-  
7 ulatory, financial, tax, or legal factors at the  
8 Federal, State, or local level that affect identi-  
9 fied affordability criteria; and

10 “(C) a description of how the State will  
11 use the authorities and resources under this  
12 subsection to assist communities meeting the  
13 identified criteria.”.

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

15 Section 1452(g) (42 U.S.C. 300j-12(g)) is amend-  
16 ed—

17 (1) in paragraph (2)—

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

1 the greatest of \$400,000,  $\frac{1}{5}$  of one percent of  
2 the current valuation of the State loan fund, or  
3 6 percent of all grant awards to the State loan  
4 fund under this section for the fiscal year.”;

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

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

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

12 “(5) TRANSFER OF FUNDS.—

13 “(A) IN GENERAL.—The Governor of a  
14 State may—

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

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

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

23 “(ii) add the funds so reserved to any  
24 funds provided to the State under this sec-



1                   tion or section 601 of the Federal Water  
2                   Pollution Control Act.

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

9   **SEC. 10. STATE REVOLVING LOAN FUNDS FOR AMERICAN**  
10                   **SAMOA, NORTHERN MARIANA ISLANDS,**  
11                   **GUAM, AND THE VIRGIN ISLANDS.**

12               Section 1452(j) (42 U.S.C. 300j–12(j)) is amended  
13 by striking “0.33 percent” and inserting “1 percent”.

14   **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

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

17               “(m) AUTHORIZATION OF APPROPRIATIONS.—

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

20                               “(A) \$1,400,000,000 for fiscal year 2011;

21                               “(B) \$1,600,000,000 for fiscal year 2012;

22                               and

23                               “(C) \$1,800,000,000 for fiscal year 2013.

1           “(2) AVAILABILITY.—Amounts made available  
2           pursuant to this subsection shall remain available  
3           until expended.

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

10 **SEC. 12. NEGOTIATION OF CONTRACTS.**

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

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

22           “(1) a contract for architectural and engineer-  
23           ing services is negotiated under chapter 11 of title  
24           40, United States Code; or

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

4 **SEC. 13. AFFORDABILITY OF NEW STANDARDS.**

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

13           (b) ASSISTANCE FOR DISADVANTAGED COMMU-  
14 NITIES.—

15           (1) IN GENERAL.—Subparagraph (E) of section  
16 1452(a)(1) (42 U.S.C. 300j–12(a)(1)) is amended—

17           (A) by striking “except that the Adminis-  
18           trator may reserve” and inserting “except  
19           that—

20                   “(i) in any year in which enforcement  
21                   of a new national primary drinking water  
22                   standard begins, the Administrator may  
23                   use the remaining amount to make grants  
24                   to States whose public water systems are  
25                   disproportionately affected by the new

1 standard for the provision of assistance  
2 under subsection (d) to such public water  
3 systems;

4 “(ii) the Administrator may reserve”;

5 and

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

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

9 (2) **ELIMINATION OF CERTAIN PROVISIONS.**—

10 (A) Section 1412(b) (42 U.S.C. 300g-  
11 1(b)) is amended by striking paragraph (15).

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

14 (3) **CONFORMING AMENDMENT.**—Subparagraph

15 (B) of section 1414(c)(1) (42 U.S.C. 300g-  
16 3(c)(1)(B)) is amended by striking “(a)(2), or (e)”  
17 and inserting “or (a)(2)”.

18 **SEC. 14. FOCUS ON LIFECYCLE COSTS.**

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

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

1           (2) in the matter preceding subclause (I) in  
2           subparagraph (E)(ii), by inserting “taking lifecycle  
3           costs, including maintenance, replacement, and  
4           avoided costs, into consideration,” after “as deter-  
5           mined by the Administrator in consultation with the  
6           States,”.

7   **SEC. 15. ENFORCEMENT.**

8           (a) **ADVICE AND TECHNICAL ASSISTANCE.**—Section  
9   1414 (42 U.S.C. 300g–3) is amended—

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

16           (2) in subsection (a)(1), by adding at the end  
17           the following:

18                   “(C) At any time after providing notice of  
19                   a violation to a State and public water system  
20                   under subparagraph (A), the Administrator  
21                   may provide such advice and technical assist-  
22                   ance to such State and public water system as  
23                   may be appropriate to bring the system into  
24                   compliance with the requirement by the earliest  
25                   feasible time. In deciding whether the provision

1 of advice or technical assistance is appropriate,  
2 the Administrator may consider the potential  
3 for the violation to result in serious adverse ef-  
4 fects to human health, whether the violation  
5 has occurred continuously or frequently, and  
6 the effectiveness of past technical assistance ef-  
7 forts.”.

8 (b) ADDITIONAL INSPECTIONS.—

9 (1) IN GENERAL.—Section 1414 (42 U.S.C.  
10 300g-3) is amended—

11 (A) by redesignating subsections (d)  
12 through (i) as subsections (e) through (j), re-  
13 spectively; and

14 (B) by inserting after subsection (c) the  
15 following:

16 “(d) ADDITIONAL INSPECTIONS FOLLOWING VIOLA-  
17 TIONS.—

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

24 “(A) take into account—

1 “(i) differences between violations  
2 that are intermittent or infrequent and vio-  
3 lations that are continuous or frequent;

4 “(ii) the seriousness of any potential  
5 adverse health effects that may be in-  
6 volved; and

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

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

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

18 (2) CONFORMING AMENDMENTS.—

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

23 (B) Section 1448(a) is amended by strik-  
24 ing “1414(g)(3)(B)” and inserting  
25 “1414(h)(3)(B)”.

1 **SEC. 16. REDUCING LEAD IN DRINKING WATER.**

2 (a) IN GENERAL.—Section 1417 (42 U.S.C. 300g–  
3 6) is amended—

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

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

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

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

20 (2) by amending subsection (d) to read as fol-  
21 lows:

22 “(d) DEFINITION OF LEAD FREE.—

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



1                   “(A) not containing more than 0.2 percent  
2                   lead when used with respect to solder and flux;  
3                   and

4                   “(B) not more than a weighted average of  
5                   0.25 percent lead when used with respect to the  
6                   wetted surfaces of pipes, pipe fittings, plumbing  
7                   fittings, and fixtures.

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

1 (b) EFFECTIVE DATE.—The provisions of sub-  
2 sections (a)(4) and (d) of section 1417 of the Safe Drink-  
3 ing Water Act, as added by this section, apply beginning  
4 on the day that is 36 months after the date of the enact-  
5 ment of this Act.

6 **SEC. 17. ENDOCRINE DISRUPTOR SCREENING PROGRAM.**

7 Section 1457 (42 U.S.C. 300j–17) is amended to  
8 read as follows:

9 “ENDOCRINE DISRUPTOR SCREENING PROGRAM

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

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

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

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

21 “(B) the Administrator determines that a sub-  
22 stantial population may be exposed to such sub-  
23 stance.

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

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

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

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

15          “(b) IDENTIFICATION AND TESTING OF ENDOCRINE  
16          DISRUPTING SUBSTANCES THAT MAY BE IN DRINKING  
17          WATER.—

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

23                         “(A) a list of no fewer than 100 sub-  
24                         stances for testing pursuant to subsection

1 (a)(1) (in accordance with the schedule speci-  
2 fied in paragraph (3)); and

3 “(B) a plan for the identification of addi-  
4 tional substances for testing pursuant to sub-  
5 section (a)(1), and a schedule for issuing test  
6 orders for all such additional substances by not  
7 later than 10 years after the date of the enact-  
8 ment of the Assistance, Quality, and Afford-  
9 ability Act of 2010, with the goal of testing, at  
10 a minimum and consistent with subsection (a),  
11 all substances that have been placed on the  
12 Drinking Water Preliminary Contaminant Can-  
13 didate List published pursuant to section  
14 1412(b)(1)(B)(i).

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

18 “(2) PRIORITIZATION; CONSIDERATIONS.—In  
19 selecting substances for listing under paragraph  
20 (1)(A) or identification pursuant to the plan under  
21 paragraph (1)(B), the Administrator—

22 “(A) shall prioritize the selection of sub-  
23 stances that pose the greatest public health con-  
24 cern, using the best available science and taking  
25 into consideration (among other factors of pub-

1           lic health concern) the effect of such substances  
2           on subgroups that comprise a meaningful por-  
3           tion of the general population (such as infants,  
4           children, pregnant women, the elderly, individ-  
5           uals with a history of serious illness, and other  
6           subpopulations) that are identifiable as being at  
7           greater risk of adverse health effects due to ex-  
8           posure to substances in drinking water; and

9           “(B) shall take into consideration—

10           “(i) available information on the ex-  
11           tent of potential public exposures to the  
12           substances through drinking water; and

13           “(ii) the Drinking Water Preliminary  
14           Contaminant Candidate List published  
15           pursuant to section 1412(b)(1)(B)(i).

16           “(3) SCHEDULE.—After publication of the list  
17           under paragraph (1)(A), the Administrator shall  
18           issue test orders for—

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

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

1 “(c) TESTING PROTOCOL PROCESS.—

2 “(1) IN GENERAL.—Not later than 2 years  
3 after the date of the enactment of the Assistance,  
4 Quality, and Affordability Act of 2010, the Adminis-  
5 trator shall, after opportunity for comment, and  
6 after obtaining advice and direction from the Science  
7 Advisory Board, publish guidance on developing and  
8 updating protocols for testing of possible endocrine  
9 disruptors that may be found in sources of drinking  
10 water. The guidance shall specify—

11 “(A) the manner in which the Adminis-  
12 trator will evaluate and, where necessary, revise  
13 such protocols;

14 “(B) the manner in which the Adminis-  
15 trator will determine when testing of substances  
16 will be required; and

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

23 “(2) MINIMUM CONTENTS.—The procedures  
24 specified pursuant to paragraph (1)(C) shall ensure  
25 that the Administrator may use information that is

1 prepared or provided by any person (including a reg-  
2 istrant, manufacturer, or importer of a substance for  
3 which testing is required, and any other entity) and  
4 shall apply equally with respect to any such person.

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

10 “(d) REVISION OF TESTING PROTOCOLS.—Not later  
11 than 2 years after the date of the enactment of the Assist-  
12 ance, Quality, and Affordability Act of 2010, the Adminis-  
13 trator shall, after opportunity for comment, determine  
14 whether sufficient scientific information has been devel-  
15 oped to warrant updating the screening protocols devel-  
16 oped under section 408(p) of the Federal Food, Drug, and  
17 Cosmetic Act for substances that may be found in sources  
18 of drinking water. Not later than 5 years after the date  
19 of the enactment of the Assistance, Quality, and Afford-  
20 ability Act of 2010 and every 3 years thereafter, the Ad-  
21 ministrator shall determine, consistent with the guidance  
22 published under subsection (c), whether to revise screening  
23 protocols under such section for substances that may be  
24 found in sources of drinking water based on significant  
25 improvements in the sensitivity, accuracy, reliability, re-

1 producibility, or efficiency of such protocols, or a reduction  
2 in the number of animals required to conduct such proto-  
3 cols. Whenever the Administrator revises such a protocol,  
4 the Administrator shall also determine, after obtaining ad-  
5 vice and direction from the Science Advisory Board,  
6 whether any substance that has already been subjected to  
7 testing should be tested using the revised protocol.

8 “(e) VALID SCIENTIFIC DATA.—Any testing proto-  
9 cols pursuant to this section shall be designed to produce  
10 scientific results that are based on—

11 “(1) verifiable measurements with sufficiently  
12 small error rates;

13 “(2) well-controlled measurements whose inter-  
14 pretation is not confounded by extraneous influ-  
15 ences; and

16 “(3) results that are repeatable by independent  
17 scientists.

18 “(f) RESULTS OF TESTING.—

19 “(1) PUBLICATION OF DATA EVALUATION  
20 RECORDS.—Not later than 6 months after receipt of  
21 testing results for a substance that may be found in  
22 sources of drinking water, the Administrator shall  
23 prepare and, consistent with subsection (g), publish  
24 data evaluation records for such results in a publicly  
25 searchable database.



1           “(2) ADMINISTRATIVE ACTION.—Not later than  
2           6 months after receipt of test results that determine  
3           the endocrine-related effects caused by a substance  
4           that may be found in sources of drinking water, the  
5           Administrator shall—

6                   “(A) determine whether to take action re-  
7                   lated to the substance pursuant to the agency’s  
8                   statutory authority; and

9                   “(B) consistent with subsection (g), pub-  
10                  lish such determination in a publicly searchable  
11                  database.

12           Nothing in this section shall be construed to affect  
13           the Administrator’s authority to take action under  
14           other provisions of law.

15           “(3) STRUCTURED EVALUATION FRAME-  
16           WORK.—To assess the overall weight of the evidence  
17           and relevance to human health of results of testing  
18           for substances that may be found in sources of  
19           drinking water, the Administrator shall develop and  
20           use a structured evaluative framework consisting of  
21           science-based criteria, consistent with the protection  
22           of public health, for systematically evaluating endo-  
23           crine mode of action and for determining data rel-  
24           evance, quality, and reliability.

1           “(g) PUBLIC DATABASE.—Beginning not later than  
2 180 days after the date of the enactment of the Assist-  
3 ance, Quality, and Affordability Act of 2010 and con-  
4 sistent with section 552 of title 5, United States Code,  
5 the Administrator shall publish, in electronic format, a  
6 publicly searchable database that contains information re-  
7 garding the testing program. Not later than 30 days after  
8 the date on which the information becomes available, the  
9 Administrator shall ensure that, at a minimum, the data-  
10 base—

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

13                   “(2) includes the documents and information  
14           pertaining to the status of testing activities for each  
15           such substance, including test orders, deadlines for  
16           submission, the Environmental Protection Agency’s  
17           data evaluation records, any scientific information  
18           on which the Administrator based actions under sub-  
19           section (f), the Administrator’s determination under  
20           subsection (f) on whether action will be taken under  
21           other statutory authority, and the summary of  
22           chemical test results.

23           “(h) PETITION FOR INCLUSION OF A SUBSTANCE IN  
24 THE PROGRAM.—

1           “(1) IN GENERAL.—Any person may submit a  
2 petition to the Administrator to add a substance to  
3 the list under subsection (b)(1)(A) or identify a sub-  
4 stance pursuant to the plan under subsection  
5 (b)(1)(B).

6           “(2) SPECIFICATION OF FACTS.—Any petition  
7 under paragraph (1) shall specify the facts that are  
8 claimed to establish that an action described in  
9 paragraph (1) is warranted.

10           “(3) ADMINISTRATIVE ACTION.—Not later than  
11 90 days after the filing of a petition described under  
12 paragraph (1), the Administrator shall determine  
13 whether the petition has established that an action  
14 described in paragraph (1) is warranted and shall  
15 grant or deny the petition. If the Administrator  
16 grants such petition, the Administrator shall  
17 promptly add the substance to the list under sub-  
18 section (b)(1)(A) or identify the substance pursuant  
19 to the plan under subsection (b)(1)(B), as applica-  
20 ble. If the Administrator denies the petition, the Ad-  
21 ministrator shall publish the reasons for such denial  
22 in the Federal Register.

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

1           “(1) requires testing of a substance that may  
2           be found in sources of drinking water, or

3           “(2) based in whole or in part on the results of  
4           testing of such a substance, takes action related to  
5           the substance pursuant to the agency’s statutory au-  
6           thority,

7 the Administrator shall give notice of such testing or ac-  
8 tion to Federal agencies which are authorized by other  
9 provisions of law to regulate the substance or products,  
10 materials, medications, processes, or practices that use the  
11 substance.

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

19           “(1) progress made in identifying and testing  
20           potential endocrine disruptors as well as plans for  
21           future activities;

22           “(2) any change in screening or testing method-  
23           ology and evaluation or criteria for evaluating sci-  
24           entifically relevant information;

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

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

7           “(k) TESTING CONSORTIA, COMPENSATION, AND  
8 COMPLIANCE.—

9           “(1) IN GENERAL.—Any person required by the  
10          Administrator to conduct testing of an endocrine  
11          disruptor that may be found in sources of drinking  
12          water may—

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

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

18           “(2) RELIANCE ON CONSORTIUM SUBMIS-  
19          SIONS.—Each member of a consortium described in  
20          paragraph (1)(B) shall have full rights to rely on all  
21          submissions of the consortium to satisfy the require-  
22          ments of any order for testing, but continues to be  
23          individually subject to such requirements.

24           “(3) SHARING OF COSTS.—

1           “(A) IN GENERAL.—Each member of a  
2 consortium described in paragraph (1)(B) shall  
3 share the applicable costs according to appro-  
4 priate arrangements established by the consor-  
5 tium members.

6           “(B) BINDING OFFER.—Whenever, to sat-  
7 isfy the requirements of one or more orders for  
8 testing, any person offers to form or join a con-  
9 sortium described in paragraph (1)(B), or of-  
10 fers compensation to a person that has already  
11 submitted data to the Administrator satisfying  
12 an order for testing, such offer shall constitute  
13 a binding offer to share an appropriate portion  
14 of the applicable costs.

15           “(C) APPLICABLE COSTS.—In this sub-  
16 section, the term ‘applicable costs’ includes the  
17 costs—

18                   “(i) incurred to generate and report  
19 information to comply with an order for  
20 testing; or

21                   “(ii) associated with the organization  
22 and administration of the consortium.

23           “(4) DISPUTE RESOLUTION.—

24           “(A) IN GENERAL.—In the event of any  
25 dispute about an appropriate share or a fair

1 method of determining an appropriate share of  
2 applicable costs of the testing requirements in  
3 a test order, any person involved in the dispute  
4 may initiate binding arbitration proceedings by  
5 requesting the Federal Mediation and Concilia-  
6 tion Service to appoint an arbitrator from the  
7 roster of arbitrators maintained by such Service  
8 or a hearing with a regional office of the Amer-  
9 ican Arbitration Association. A copy of the re-  
10 quest shall be sent to each person from whom  
11 the requesting party seeks compensation or who  
12 seeks compensation from that party.

13 “(B) NO REVIEW OF FINDINGS AND DE-  
14 TERMINATION.—The findings and determina-  
15 tion of the arbitrator in a dispute initiated pur-  
16 suant to subparagraph (A) shall be final and  
17 conclusive, and no official or court of the  
18 United States shall have power or jurisdiction  
19 to review any such findings and determination,  
20 except in the case of fraud, misrepresentation,  
21 or other misconduct by one of the parties to the  
22 arbitration or by the arbitrator.

23 “(C) PAYMENT OF FEE AND EXPENSES.—  
24 The parties to arbitration initiated pursuant to  
25 subparagraph (A) shall share equally in the

1           payment of the fee and expenses of the arbi-  
2           trator.

3           “(5) ENFORCEMENT.—If the Administrator de-  
4           termines that any person seeking to comply with an  
5           order for testing by relying on a submission made by  
6           a consortium or an original data submitter has  
7           failed to make an offer in accordance with para-  
8           graph (3)(B), to participate in an arbitration pro-  
9           ceeding under paragraph (4), or to comply with the  
10          terms of an agreement or arbitration decision con-  
11          cerning sharing of applicable costs under paragraph  
12          (3), that person is deemed to have failed to comply  
13          with an order under subparagraph (A) of section  
14          408(p)(5) of the Federal Food, Drug, and Cosmetic  
15          Act for purposes of subparagraphs (B) and (C) of  
16          such section.

17          “(1) DEFINITIONS.—In this section:

18                 “(1) The term ‘endocrine disruptor’ means an  
19                 exogenous agent or mixture of agents that interferes  
20                 or alters the synthesis, secretion, transport, metabo-  
21                 lism, binding action, or elimination of hormones that  
22                 are present in the body and are responsible for ho-  
23                 meostasis, growth, neurological signaling, reproduc-  
24                 tion and developmental process, or any other effect  
25                 that the Administrator has designated as an ‘endo-



1       crine effect’ pursuant to section 408(p)(1) of the  
2       Federal Food, Drug, and Cosmetic Act.

3               “(2) The term ‘testing’ means the testing of a  
4       substance pursuant to the screening program under  
5       section 408(p) of the Federal Food, Drug, and Cos-  
6       metic Act, including a test of a substance that is in-  
7       tended to identify substances that have the potential  
8       to interact with the endocrine system or that is in-  
9       tended to determine the endocrine-related effects  
10      caused by such substance and obtain information  
11      about effects at various doses.

12      “(m) AUTHORIZATION OF APPROPRIATIONS.—To  
13      carry out this section, there is authorized to be appro-  
14      priated \$5,000,000 for each of fiscal years 2011 through  
15      2015.”.

16      **SEC. 18. PRESENCE OF PHARMACEUTICALS AND PERSONAL**  
17                               **CARE PRODUCTS IN SOURCES OF DRINKING**  
18                               **WATER.**

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

21               “(11) PRESENCE OF PHARMACEUTICALS AND PER-  
22      SONAL CARE PRODUCTS IN SOURCES OF DRINKING  
23      WATER.—

24               “(A) STUDY.—The Administrator shall carry  
25      out a study on the presence of pharmaceuticals and

1 personal care products in sources of drinking water,  
2 which shall—

3 “(i) identify pharmaceuticals and personal  
4 care products that have been detected in  
5 sources of drinking water and the levels at  
6 which such pharmaceuticals and personal care  
7 products have been detected;

8 “(ii) identify the sources of pharma-  
9 ceuticals and personal care products in sources  
10 of drinking water, including point sources and  
11 nonpoint sources of pharmaceutical and per-  
12 sonal care products;

13 “(iii) identify the effects of such products  
14 on humans, the environment, and the safety of  
15 drinking water; and

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

18 “(B) CONSULTATION.—The Administrator shall  
19 conduct the study described in subparagraph (A) in  
20 consultation with the Secretary of Health and  
21 Human Services (acting through the Commissioner  
22 of Food and Drugs), the Director of the United  
23 States Geological Survey, the heads of other appro-  
24 priate Federal agencies (including the National In-  
25 stitute of Environmental Health Sciences), and other

1 interested stakeholders (including manufacturers of  
2 pharmaceuticals and personal care products and  
3 consumer groups and advocates).

4 “(C) REPORT.—Not later than 2 years after  
5 the date of the enactment of this paragraph, the Ad-  
6 ministrator shall submit to the Congress a report on  
7 the results of the study carried out under this para-  
8 graph.

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

10 “(i) The term ‘personal care product’ has  
11 the meaning given the term ‘cosmetic’ in section  
12 201 of the Federal Food, Drug, and Cosmetic  
13 Act.

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

