

116TH CONGRESS
1ST SESSION

S. 1251

To improve and coordinate interagency Federal actions and provide assistance to States for responding to public health challenges posed by emerging contaminants, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 30, 2019

Mrs. SHAHEEN (for herself and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To improve and coordinate interagency Federal actions and provide assistance to States for responding to public health challenges posed by emerging contaminants, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe Drinking Water
5 Assistance Act of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) safe and clean drinking water is essential to
2 the health, well-being, comfort, and standard of liv-
3 ing of every person of the United States;

4 (2) emerging contaminants in drinking water
5 systems are increasingly being detected at low levels;

6 (3) prolonged exposure to unregulated drinking
7 water contaminants, including emerging contami-
8 nants, may pose human health risks, particularly to
9 vulnerable populations;

10 (4) the Safe Drinking Water Act (42 U.S.C.
11 300f et seq.) requires the Administrator of the Envi-
12 ronmental Protection Agency—

13 (A) to periodically make regulatory deter-
14 minations with respect to unregulated contami-
15 nants; and

16 (B) not less frequently than once every 5
17 years, to identify and publish a description of
18 unregulated contaminants that may require reg-
19 ulation;

20 (5) in a 2011 report of the Government Ac-
21 countability Office, the Comptroller General of the
22 United States found, with respect to unregulated
23 drinking water contaminants, that—

1 (A) the Administrator has made limited
2 progress in prioritizing drinking water contami-
3 nants based on greatest public health concern;

4 (B) the lack of data relating to the expo-
5 sure of the public to potentially harmful drink-
6 ing water contaminants and the related health
7 effects of that exposure continues to limit the
8 ability of the Administrator to make regulatory
9 determinations; and

10 (C) in many cases, gathering sufficient
11 data to address contaminants awaiting regu-
12 latory determinations by the Administrator has
13 taken the Administrator more than 10 years,
14 and obtaining data on other contaminants that
15 are currently awaiting regulatory determina-
16 tions may take decades;

17 (6) in the 2016 Drinking Water Action Plan of
18 the Environmental Protection Agency, the Adminis-
19 trator recommended that the Federal Government
20 and key water stakeholders strengthen the effective-
21 ness of drinking water health advisories through en-
22 hanced collaboration and increased focus on risk
23 management and risk communication approaches;

24 (7) in response to the report of the Committee
25 on Appropriations of the Senate accompanying S.

1 1662 of the 115th Congress (S. Rept. 115–139), the
2 Office of Science and Technology Policy developed a
3 coordinated cross-agency plan for addressing critical
4 research gaps related to detecting, assessing expo-
5 sure to, and identifying the adverse health effects of
6 emerging contaminants in drinking water; and

7 (8) it is vital that legislators, regulatory offi-
8 cials, public water system owners and operators, sci-
9 entists, and environmental advocacy groups continue
10 to work to ensure that the public water systems of
11 the United States are among the safest in the world.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) ADMINISTRATOR.—The term “Adminis-
15 trator” means the Administrator of the Environ-
16 mental Protection Agency.

17 (2) CONTAMINANT.—The term “contaminant”
18 means any physical, chemical, biological, or radio-
19 logical substance or matter in water.

20 (3) CONTAMINANT OF EMERGING CONCERN;
21 EMERGING CONTAMINANT.—The terms “contami-
22 nant of emerging concern” and “emerging contami-
23 nant” mean a contaminant—

1 (A) for which the Administrator has not
2 promulgated a national primary drinking water
3 regulation; and

4 (B) that may have an adverse effect on the
5 health of individuals.

6 (4) FEDERAL RESEARCH STRATEGY.—The term
7 “Federal research strategy” means the cross-agency
8 plan described in section 2(7).

9 (5) TECHNICAL ASSISTANCE AND SUPPORT.—
10 The term “technical assistance and support” in-
11 cludes—

12 (A) assistance with—

13 (i) identifying appropriate analytical
14 methods for the detection of contaminants;

15 (ii) understanding the strengths and
16 limitations of the analytical methods de-
17 scribed in clause (i); and

18 (iii) troubleshooting the analytical
19 methods described in clause (i);

20 (B) providing advice on laboratory certifi-
21 cation program elements;

22 (C) interpreting sample analysis results;

23 (D) providing training with respect to
24 proper analytical techniques;

1 (E) identifying appropriate technology for
2 the treatment of contaminants; and

3 (F) analyzing samples, if—

4 (i) the analysis cannot be otherwise
5 obtained in a practicable manner other-
6 wise; and

7 (ii) the capability and capacity to per-
8 form the analysis is available at a Federal
9 facility.

10 (6) WORKING GROUP.—The term “Working
11 Group” means the Working Group established under
12 section 4(b)(1).

13 **SEC. 4. RESEARCH AND COORDINATION PLAN FOR EN-**
14 **HANCED RESPONSE ON EMERGING CONTAMI-**
15 **NANTS.**

16 (a) IN GENERAL.—The Administrator shall—

17 (1) review Federal efforts—

18 (A) to identify, monitor, and assist in the
19 development of treatment methods for emerging
20 contaminants; and

21 (B) to assist States in responding to the
22 human health risks posed by contaminants of
23 emerging concern; and

24 (2) in collaboration with owners and operators
25 of public water systems, States, and other interested

1 stakeholders, establish a strategic plan for improving
2 the Federal efforts referred to in paragraph (1).

3 (b) INTERAGENCY WORKING GROUP ON EMERGING
4 CONTAMINANTS.—

5 (1) IN GENERAL.—Not later than 90 days after
6 the date of enactment of this Act, the Administrator
7 and the Secretary of Health and Human Services
8 shall jointly establish a Working Group to coordinate
9 the activities of the Federal Government to identify
10 and analyze the public health effects of drinking
11 water contaminants of emerging concern.

12 (2) MEMBERSHIP.—The Working Group shall
13 include representatives of the following:

14 (A) The Environmental Protection Agency,
15 appointed by the Administrator.

16 (B) The following agencies, appointed by
17 the Secretary of Health and Human Services:

18 (i) The National Institutes of Health.

19 (ii) The Centers for Disease Control
20 and Prevention.

21 (iii) The Agency for Toxic Substances
22 and Disease Registry.

23 (C) The United States Geological Survey,
24 appointed by the Secretary of the Interior.

1 (D) Any other Federal agency the assist-
2 ance of which the Administrator determines to
3 be necessary to carry out this subsection, ap-
4 pointed by the head of the respective agency.

5 (3) EXISTING WORKING GROUP.—The Adminis-
6 trator may expand or modify the duties of an exist-
7 ing working group to perform the duties of the
8 Working Group under this subsection.

9 (c) NATIONAL EMERGING CONTAMINANT RESEARCH
10 INITIATIVE.—

11 (1) FEDERAL RESEARCH STRATEGY.—

12 (A) IN GENERAL.—Not later than 90 days
13 after the date of enactment of this Act, the Di-
14 rector of the Office of Science and Technology
15 Policy (referred to in this subsection as the
16 “Director”) shall coordinate with the heads of
17 the agencies described in subparagraph (C) to
18 establish a research initiative, to be known as
19 the “National Emerging Contaminant Research
20 Initiative”, that shall—

21 (i) use the Federal research strategy
22 to improve the identification, analysis,
23 monitoring, and treatment methods of con-
24 taminants of emerging concern; and

1 (ii) develop any necessary program,
2 policy, or budget to support the implemen-
3 tation of the Federal research strategy, in-
4 cluding mechanisms for joint agency review
5 of research proposals, for interagency co-
6 funding of research activities, and for in-
7 formation sharing across agencies.

8 (B) RESEARCH ON EMERGING CONTAMI-
9 NANTS.—In carrying out subparagraph (A), the
10 Director shall—

11 (i) take into consideration consensus
12 conclusions from peer-reviewed, pertinent
13 research on emerging contaminants; and

14 (ii) in consultation with the Adminis-
15 trator, identify priority emerging contami-
16 nants for research emphasis.

17 (C) FEDERAL PARTICIPATION.—The agen-
18 cies referred to in subparagraph (A) include—

19 (i) the National Science Foundation;

20 (ii) the National Institutes of Health;

21 (iii) the Environmental Protection
22 Agency;

23 (iv) the National Institute of Stand-
24 ards and Technology;

1 (v) the United States Geological Sur-
2 vey; and

3 (vi) any other Federal agency that
4 contributes to research in water quality,
5 environmental exposures, and public
6 health, as determined by the Director.

7 (D) PARTICIPATION FROM ADDITIONAL
8 ENTITIES.—In carrying out subparagraph (A),
9 the Director shall consult with nongovernmental
10 organizations, State and local governments, and
11 science and research institutions determined by
12 the Director to have scientific or material inter-
13 est in the National Emerging Contaminant Re-
14 search Initiative.

15 (2) IMPLEMENTATION OF RESEARCH REC-
16 OMMENDATIONS.—

17 (A) IN GENERAL.—Not later than 1 year
18 after the date on which the Director and heads
19 of the agencies described in paragraph (1)(C)
20 establish the National Emerging Contaminant
21 Research Initiative under paragraph (1)(A), the
22 head of each agency described in paragraph
23 (1)(C) shall—

1 (i) issue a solicitation for research
2 proposals consistent with the Federal re-
3 search strategy; and

4 (ii) make grants to applicants that
5 submit research proposals selected by the
6 National Emerging Contaminant Research
7 Initiative in accordance with subparagraph
8 (B).

9 (B) SELECTION OF RESEARCH PRO-
10 POSALS.—The National Emerging Contaminant
11 Research Initiative shall select research pro-
12 posals to receive grants under this paragraph
13 on the basis of merit, using criteria identified
14 by the Director, including the likelihood that
15 the proposed research will result in significant
16 progress toward achieving the objectives identi-
17 fied in the Federal research strategy.

18 (C) ELIGIBLE ENTITIES.—Any entity or
19 group of two or more entities may submit to the
20 head of each agency described in paragraph
21 (1)(C) a research proposal in response to the
22 solicitation for research proposals described in
23 subparagraph (A)(i), including—

24 (i) State and local agencies;

- 1 (ii) public institutions, including pub-
2 lie institutions of higher education;
3 (iii) private corporations; and
4 (iv) nonprofit organizations.

5 (d) FEDERAL TECHNICAL ASSISTANCE AND SUP-
6 PORT FOR STATES.—

7 (1) STUDY.—

8 (A) IN GENERAL.—Not later than 180
9 days after the date of enactment of this Act,
10 the Administrator shall conduct a study on ac-
11 tions the Administrator can take to increase
12 technical assistance and support for States with
13 respect to emerging contaminants in drinking
14 water samples.

15 (B) CONTENTS OF STUDY.—In carrying
16 out the study described in subparagraph (A),
17 the Administrator shall identify—

18 (i) methods and effective treatment
19 options to increase technical assistance and
20 support with respect to emerging contami-
21 nants to States, including identifying op-
22 portunities for States to improve commu-
23 nication with various audiences about the
24 risks associated with emerging contami-
25 nants;

1 (ii) means to facilitate access to quali-
2 fied contract testing laboratory facilities
3 that conduct analyses for emerging con-
4 taminants; and

5 (iii) actions to be carried out at exist-
6 ing Federal laboratory facilities, including
7 the research facilities of the Administrator,
8 to provide technical assistance and support
9 for States that require testing facilities for
10 emerging contaminants.

11 (C) AVAILABILITY OF ANALYTICAL RE-
12 SOURCES.—In carrying out the study described
13 in subparagraph (A), the Administrator shall
14 consider—

15 (i) the availability of—

16 (I) Federal and non-Federal lab-
17 oratory capacity; and

18 (II) validated methods to detect
19 and analyze contaminants; and

20 (ii) other factors determined to be ap-
21 propriate by the Administrator.

22 (2) REPORT.—Not later than 1 year after the
23 date of enactment of this Act, the Administrator
24 shall submit to Congress a report describing the re-
25 sults of the study described in paragraph (1).

1 (3) PROGRAM TO PROVIDE FEDERAL ASSIST-
2 ANCE TO STATES.—

3 (A) IN GENERAL.—Not later than 3 years
4 after the date of enactment of this Act, based
5 on the findings in the report described in para-
6 graph (2), the Administrator shall develop a
7 program to provide technical assistance and
8 support to eligible States for the testing and
9 analysis of emerging contaminants.

10 (B) APPLICATION.—

11 (i) IN GENERAL.—To be eligible for
12 technical assistance and support under this
13 paragraph, a State shall submit to the Ad-
14 ministrator an application at such time, in
15 such manner, and containing such infor-
16 mation as the Administrator may require.

17 (ii) CRITERIA.—The Administrator
18 shall evaluate an application for technical
19 assistance and support under this para-
20 graph on the basis of merit using criteria
21 identified by the Administrator, includ-
22 ing—

23 (I) the laboratory facilities avail-
24 able to the State;

1 (II) the availability and applica-
2 bility of existing analytical methodolo-
3 gies;

4 (III) the potency and severity of
5 the emerging contaminant, if known;
6 and

7 (IV) the prevalence and mag-
8 nitude of the emerging contaminant.

9 (iii) PRIORITIZATION.—In selecting
10 States to receive technical assistance and
11 support under this paragraph, the Admin-
12 istrator—

13 (I) shall give priority to States
14 with affected areas primarily in finan-
15 cially distressed communities;

16 (II) may—

17 (aa) waive the application
18 process in an emergency situa-
19 tion; and

20 (bb) require an abbreviated
21 application process for the con-
22 tinuation of work specified in a
23 previously approved application
24 that continues to meet the cri-
25 teria described in clause (ii); and

1 (III) shall consider the relative
2 expertise and availability of—

3 (aa) Federal and non-Fed-
4 eral laboratory capacity available
5 to the State;

6 (bb) analytical resources
7 available to the State; and

8 (cc) other types of technical
9 assistance available to the State.

10 (C) DATABASE OF AVAILABLE RE-
11 SOURCES.—The Administrator shall establish
12 and maintain a database of resources available
13 through the program developed under subpara-
14 graph (A) to assist States with testing for
15 emerging contaminants that—

16 (i) is—

17 (I) available to States and stake-
18 holder groups determined by the Ad-
19 ministrator to have scientific or mate-
20 rial interest in emerging contami-
21 nants, including—

22 (aa) drinking water and
23 wastewater utilities;

24 (bb) laboratories;

- 1 (cc) Federal and State emer-
2 gency responders;
3 (dd) State primacy agencies;
4 (ee) public health agencies;
5 and
6 (ff) water associations;
7 (II) searchable; and
8 (III) accessible through the web-
9 site of the Administrator; and
10 (ii) includes a description of—
11 (I) qualified contract testing lab-
12 oratory facilities that conduct analyses
13 for emerging contaminants; and
14 (II) the resources available in
15 Federal laboratory facilities to test for
16 emerging contaminants.

17 (D) WATER CONTAMINANT INFORMATION
18 TOOL.—The Administrator shall integrate the
19 database established under subparagraph (C)
20 into the Water Contaminant Information Tool
21 of the Environmental Protection Agency.

22 (4) FUNDING.—Of the amounts available to the
23 Administrator, the Administrator may use not more
24 than \$15,000,000 in a fiscal year to carry out this
25 subsection.

1 (e) REPORT.—Not less frequently than once every 2
2 years until 2029, the Administrator shall submit to Con-
3 gress a report that describes the progress made in car-
4 rying out this Act.

5 (f) EFFECT.—Nothing in this section modifies any
6 obligation of a State, local government, or Indian Tribe
7 with respect to treatment methods for, or testing or moni-
8 toring of, drinking water.

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