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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. FINDINGS.

Congress finds that—
(1) safe and clean drinking water is essential to the health, well-being, comfort, and standard of living of every person of the United States;

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

(3) prolonged exposure to unregulated drinking water contaminants, including emerging contaminants, may pose human health risks, particularly to vulnerable populations;

(4) the Safe Drinking Water Act (42 U.S.C. 300f et seq.) requires the Administrator of the Environmental Protection Agency—

(A) to periodically make regulatory determinations with respect to unregulated contaminants; and

(B) not less frequently than once every 5 years, to identify and publish a description of unregulated contaminants that may require regulation;

(5) in a 2011 report of the Government Accountability Office, the Comptroller General of the United States found, with respect to unregulated drinking water contaminants, that—
(A) the Administrator has made limited progress in prioritizing drinking water contaminants based on greatest public health concern;

(B) the lack of data relating to the exposure of the public to potentially harmful drinking water contaminants and the related health effects of that exposure continues to limit the ability of the Administrator to make regulatory determinations; and

(C) in many cases, gathering sufficient data to address contaminants awaiting regulatory determinations by the Administrator has taken the Administrator more than 10 years, and obtaining data on other contaminants that are currently awaiting regulatory determinations may take decades;

(6) in the 2016 Drinking Water Action Plan of the Environmental Protection Agency, the Administrator recommended that the Federal Government and key water stakeholders strengthen the effectiveness of drinking water health advisories through enhanced collaboration and increased focus on risk management and risk communication approaches;

(7) in response to the report of the Committee on Appropriations of the Senate accompanying S.
1662 of the 115th Congress (S. Rept. 115–139), the Office of Science and Technology Policy developed a coordinated cross-agency plan for addressing critical research gaps related to detecting, assessing exposure to, and identifying the adverse health effects of emerging contaminants in drinking water; and

(8) it is vital that legislators, regulatory officials, public water system owners and operators, scientists, and environmental advocacy groups continue to work to ensure that the public water systems of the United States are among the safest in the world.

SEC. 3. DEFINITIONS.

In this Act:

(1) Administrator.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) Contaminant.—The term “contaminant” means any physical, chemical, biological, or radiological substance or matter in water.

(3) Contaminant of emerging concern; emerging contaminant.—The terms “contaminant of emerging concern” and “emerging contaminant” mean a contaminant—
(A) for which the Administrator has not promulgated a national primary drinking water regulation; and

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

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

(5) Technical assistance and support.—The term “technical assistance and support” includes—

(A) assistance with—

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

(ii) understanding the strengths and limitations of the analytical methods described in clause (i); and

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

(B) providing advice on laboratory certification program elements;

(C) interpreting sample analysis results;

(D) providing training with respect to proper analytical techniques;
(E) identifying appropriate technology for the treatment of contaminants; and

(F) analyzing samples, if—

(i) the analysis cannot be otherwise obtained in a practicable manner otherwise; and

(ii) the capability and capacity to perform the analysis is available at a Federal facility.

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

SEC. 4. RESEARCH AND COORDINATION PLAN FOR ENHANCED RESPONSE ON EMERGING CONTAMINANTS.

(a) IN GENERAL.—The Administrator shall—

(1) review Federal efforts—

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

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

(2) in collaboration with owners and operators of public water systems, States, and other interested
stakeholders, establish a strategic plan for improving the Federal efforts referred to in paragraph (1).

(b) INTERAGENCY WORKING GROUP ON EMERGING CONTAMINANTS.—

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

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

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

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

(i) The National Institutes of Health.

(ii) The Centers for Disease Control and Prevention.

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

(C) The United States Geological Survey, appointed by the Secretary of the Interior.
(D) Any other Federal agency the assistance of which the Administrator determines to be necessary to carry out this subsection, appointed by the head of the respective agency.

(3) EXISTING WORKING GROUP.—The Administrator may expand or modify the duties of an existing working group to perform the duties of the Working Group under this subsection.

(e) NATIONAL EMERGING CONTAMINANT RESEARCH INITIATIVE.—

(1) FEDERAL RESEARCH STRATEGY.—

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

(i) use the Federal research strategy to improve the identification, analysis, monitoring, and treatment methods of contaminants of emerging concern; and
(ii) develop any necessary program, policy, or budget to support the implementation of the Federal research strategy, including mechanisms for joint agency review of research proposals, for interagency co-funding of research activities, and for information sharing across agencies.

(B) RESEARCH ON EMERGING CONTAMINANTS.—In carrying out subparagraph (A), the Director shall—

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

(ii) in consultation with the Administrator, identify priority emerging contaminants for research emphasis.

(C) FEDERAL PARTICIPATION.—The agencies referred to in subparagraph (A) include—

(i) the National Science Foundation;

(ii) the National Institutes of Health;

(iii) the Environmental Protection Agency;

(iv) the National Institute of Standards and Technology;
(v) the United States Geological Survey; and

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

(D) PARTICIPATION FROM ADDITIONAL ENTITIES.—In carrying out subparagraph (A), the Director shall consult with nongovernmental organizations, State and local governments, and science and research institutions determined by the Director to have scientific or material interest in the National Emerging Contaminant Research Initiative.

(2) IMPLEMENTATION OF RESEARCH RECOMMENDATIONS.—

(A) IN GENERAL.—Not later than 1 year after the date on which the Director and heads of the agencies described in paragraph (1)(C) establish the National Emerging Contaminant Research Initiative under paragraph (1)(A), the head of each agency described in paragraph (1)(C) shall—
(i) issue a solicitation for research proposals consistent with the Federal research strategy; and

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

(B) SELECTION OF RESEARCH PROPOSALS.—The National Emerging Contaminant Research Initiative shall select research proposals to receive grants under this paragraph on the basis of merit, using criteria identified by the Director, including the likelihood that the proposed research will result in significant progress toward achieving the objectives identified in the Federal research strategy.

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

(i) State and local agencies;
(ii) public institutions, including public institutions of higher education;

(iii) private corporations; and

(iv) nonprofit organizations.

(d) Federal Technical Assistance and Support for States.—

(1) Study.—

(A) In general.—Not later than 180 days after the date of enactment of this Act, the Administrator shall conduct a study on actions the Administrator can take to increase technical assistance and support for States with respect to emerging contaminants in drinking water samples.

(B) Contents of study.—In carrying out the study described in subparagraph (A), the Administrator shall identify—

(i) methods and effective treatment options to increase technical assistance and support with respect to emerging contaminants to States, including identifying opportunities for States to improve communication with various audiences about the risks associated with emerging contaminants;
(ii) means to facilitate access to qualified contract testing laboratory facilities that conduct analyses for emerging contaminants; and

(iii) actions to be carried out at existing Federal laboratory facilities, including the research facilities of the Administrator, to provide technical assistance and support for States that require testing facilities for emerging contaminants.

(C) AVAILABILITY OF ANALYTICAL RESOURCES.—In carrying out the study described in subparagraph (A), the Administrator shall consider—

(i) the availability of—

(I) Federal and non-Federal laboratory capacity; and

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

(ii) other factors determined to be appropriate by the Administrator.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report describing the results of the study described in paragraph (1).
(3) Program to provide federal assistance to states.—

(A) In general.—Not later than 3 years after the date of enactment of this Act, based on the findings in the report described in paragraph (2), the Administrator shall develop a program to provide technical assistance and support to eligible States for the testing and analysis of emerging contaminants.

(B) Application.—

(i) In general.—To be eligible for technical assistance and support under this paragraph, a State shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

(ii) Criteria.—The Administrator shall evaluate an application for technical assistance and support under this paragraph on the basis of merit using criteria identified by the Administrator, including—

(I) the laboratory facilities available to the State;
(II) the availability and applicability of existing analytical methodologies;

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

(IV) the prevalence and magnitude of the emerging contaminant.

(iii) Prioritization.—In selecting States to receive technical assistance and support under this paragraph, the Administrator—

(I) shall give priority to States with affected areas primarily in financially distressed communities;

(II) may—

(aa) waive the application process in an emergency situation; and

(bb) require an abbreviated application process for the continuation of work specified in a previously approved application that continues to meet the criteria described in clause (ii); and
(III) shall consider the relative expertise and availability of—

(aa) Federal and non-Federal laboratory capacity available to the State;

(bb) analytical resources available to the State; and

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

(C) DATABASE OF AVAILABLE RESOURCES.—The Administrator shall establish and maintain a database of resources available through the program developed under subparagraph (A) to assist States with testing for emerging contaminants that—

(i) is—

(I) available to States and stakeholder groups determined by the Administrator to have scientific or material interest in emerging contaminants, including—

(aa) drinking water and wastewater utilities;

(bb) laboratories;
(cc) Federal and State emergency responders;

(dd) State primacy agencies;

(ee) public health agencies;

and

(ff) water associations;

(II) searchable; and

(III) accessible through the website of the Administrator; and

(ii) includes a description of—

(I) qualified contract testing laboratory facilities that conduct analyses for emerging contaminants; and

(II) the resources available in Federal laboratory facilities to test for emerging contaminants.

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

(4) FUNDING.—Of the amounts available to the Administrator, the Administrator may use not more than $15,000,000 in a fiscal year to carry out this subsection.
(e) REPORT.—Not less frequently than once every 2 years until 2029, the Administrator shall submit to Congress a report that describes the progress made in carrying out this Act.

(f) EFFECT.—Nothing in this section modifies any obligation of a State, local government, or Indian Tribe with respect to treatment methods for, or testing or monitoring of, drinking water.