

Special Single Issue Edition

U.S. House of Representatives Advances Amendments to the Safe Drinking Water Act (SDWA): On Thursday, the House Energy and Commerce Committee approved [H.R. 3387](#), the Drinking Water System Improvement Act ([hearing video](#)). The bill would authorize \$8 billion over 5 years for the drinking water revolving loan fund program among numerous additional provisions. NRWA initially supported the bill and testified in favor of the bill on May 19, 2017 (NRWA [statement](#) and [testimony](#)).

In order to reach a bipartisan compromise on the bill, however, the committee republicans (led by Representatives Shimkus [IL] and Walden [OR]) supported a number of amendments supported by committee democrats (led by Representatives Tonko [NY] and Pallone [NJ]) to expand and increase U.S. Environmental Protection Agency (EPA) regulatory authority ([amendment package](#)).

Key provisions in the compromise amendment package include:

- A new requirement for communities with over 10,000 persons to issue Consumer Confidence Reports biannually.
- A new requirement for communities with over 10,000 persons to “considers the cost and effectiveness of relevant processes, materials, etc.”
- A new requirement for communities with between 3,300-10,000 persons to conduct unregulated contaminant monitoring (UCMR) if EPA pays the cost.
- A new requirement for communities with over 3,300 persons to certify they have conducted assessment of their risks and resilience from malevolent acts and natural hazards including assessment of their cybersecurity.
- A new program to allow states or EPA to require “mandatory consolidation” for communities that have repeatedly violated EPA rules and where the violations are likely to have an adverse effect as well as where the community is “unable or unwilling” to take “feasible and affordable actions” to return to compliance.

Many of the provisions exempted small communities and included specific protections and limitations for small communities to garner NRWA support. NRWA has long opposed any type of regulatory authority for consolidation. Our strategy for this provision was to advocate for many limitations, prerequisite determinations, safe harbors, and alternatives for small communities so that the new authority would be made non-threatening. Even with all the modifications to the initial proposal,

however, it may still be unacceptable.

The NRWA Regulatory Committee discussed the legislation during a conference call on Friday and raised the following concerns with the legislation:

- States already have an instrument to consolidate systems -- receivership which may provide more due process and protect consumers from additional costs (George Hanson, Maryland)
- In Pennsylvania, some small communities are being forced to consolidate with private systems which is resulting in precipitous rate increases (George Crum, Pennsylvania).
- Privatization is resulting in high rates on consumers (John Sasur, Massachusetts).
- Burdensome cost of compliance is resulting in some communities abandoning their public water supplies for private wells (Jana Littlewood, Alaska).
- UCMR reporting is causing public confusion because EPA is now requiring reporting for all detects -- not just detects about health advisory levels (Jill Miller, South Carolina).
- UCMR also has an administrative burden that will not be paid for the EPA (Bob Freudenthal, Tennessee).
- Mandatory consolidation may not be supported by the local public that the law is intended to protect (Kirby Mayfield, Mississippi).
- If EPA is going to increase UCMR reporting, they need to have a 1-800 number for consumers to call because there is not sufficient health effects information for consumers' questions (George Hanson, Maryland).
- Consolidation can result in overbuilding of infrastructure to the point that it becomes unaffordable for the consumers (Tom Goulette, Nebraska).
- Biannual reporting could be problematic for many rural water members that have just over 10,000 persons (Frank Dunmire, Illinois).

Regulatory Committee Chairman Paul Fulgham (Utah) directed the NRWA staff to raise the small and rural community issues with the legislation raised by the committee with the bill sponsors and report back to the Regulatory Committee before determining a NRWA position and strategy for the bill. The Regulatory Committee is very interested in receiving comments on the legislation. Please reply to this e-report with any comments that will be distributed to the committee members.

In addition to the regulatory provisions, there are numerous helpful provisions in the bill for small communities including an increase in the

portion of the state revolving funds that can be used for grants to disadvantaged communities, additional technical assistance to help communities with the new risk assessments, extension of loan terms up to 40 years, and the increased authorization levels. The legislation is being supported by the House Energy and Commerce leadership and will be introduced by committee member and Mississippi Congressman Gregg Harper. Representative Harper's office called Mississippi Rural Water Association (MRWA) on Thursday to ask for comments. MRWA has offered to assist NRWA (including traveling to DC to meet with Representative Harper) to make this legislation the best possible for all state associations' members.

When discussing the bipartisan amendments, the SDWA Subcommittee Chairman John Shimkus (IL) commented, *"Both sides needed to make not just difficult decisions but hard choices...The amendment before us will advance infrastructure and move us towards more modern drinking water systems...The amendment is not perfect but it is a step forward and worthy of member support."*

National Rural Water Association

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