

Rural Drinking Water

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Rural communities face heavy burdens under uniform federal drinking water standards that force them to make considerable sacrifices. The executive director of the Maine Rural Water Association provides some examples:

Tiny Hebron Water Company, with all of its 26 customers, must spend \$350,000 to meet this rule [the Surface Water Treatment Rule (SWTR)]. Milo Water District's 700 customers have spent \$7.3 million to meet the SDWA [Safe Drinking Water Act] and SWTR requirements. This cost puts the viability of the town in jeopardy. There is a tax lien on one out of ten homes. We are rapidly approaching a time when people on fixed incomes can expect to pay

10 percent of their income for just water and sewer.¹

Controlling costs is critical because standards can produce net negative benefits. A U.S. Congressional Budget Office (CBO) study notes that uniform federal standards translate into what CBO calls "welfare costs"—which basically means that a regulation costs more than the benefits it returns. The reason for using the word *welfare* is to remind us that those financial losses translate into reductions in quality of life. As the law is now written, the U.S. Environ-

1. Statement of Steve Levy, executive director of the Maine Rural Water Association, on behalf of the National Rural Water Association, before the Subcommittee on Health and the Environment, Commerce Committee, U.S. House of Representatives, January 31, 1996.

mental Protection Agency (EPA) considers costs to large systems when conducting cost-benefit analyses, but because of the economies of scale, the costs to households in small systems are far higher than those of the large systems on which the standards are based. Heavy burdens on rural communities have not disappeared under the 1996 law:

- According to the General Accounting Office, now the Government Accountability Office, the annual existing compliance cost (not the total water bill, just compliance) of systems serving 100 to 250 people is \$145 a year, and that number is expected to multiply as new rules come out.²
- A representative from the National Rural Water Association noted to Congress that the some households must pay as much as \$50 per month to receive water service.³ Such costs are not affordable for many rural Americans who are living on fixed incomes.
- Systems must spend thousands of dollars every year to test water for the presence of contaminants that pose very little risk or that are very rare. Yet many systems might find it more logical to test for those contaminants less often and to use the funds that would have gone to testing to address pressing needs.

2. General Accounting Office, *Safe Drinking Water: Progress and Future Challenges in Implementing the 1996 Amendments* (Washington, DC: General Accounting Office, January 1999), 7.

3. Statement of Steve Levy, executive director of the Maine Rural Water Association, on behalf of the National Rural Water Association before the Subcommittee on Fisheries, Wildlife, and Drinking Water of the Senate Environment and Public Works Committee, March 3, 1999.

- A 1994 National Rural Water Association survey found that monitoring regulations would prevent 80 percent of small communities from devoting resources to hook up more families, to provide routine maintenance and systems improvements, to engage in pollution prevention activities, to pay for additional training for systems operators, and to make improvements in water treatment and in operation and maintenance activities.⁴

Regulatory Relief or Mirage?

The law gives the EPA specific authority to provide some regulatory relief to small systems. Systems that cannot afford to meet the rule can request variances, exemptions, or both. Variances allow a system to delay meeting a standard if the system uses EPA-designated “variance technologies.” The EPA has a process to directly grant variances to communities serving 3,300 households or fewer when a standard is not deemed affordable. States can also issue variances—provided that they obtain EPA approval—to systems serving between 3,300 and 10,000 customers. Communities can also apply for exemptions to a rule if they do not have the financial resources to meet it and if they have taken “all practical steps” to meet the rule.⁵

Yet EPA implementation of the law makes these provisions practically useless. For example, even though the EPA is supposed to consider affordability to small systems, these criteria are based on what the agency deems acceptable costs for the typical American household—which is

4. Statement of Dan Keil on behalf of the National Rural Water Association before the Environment and Public Works Committee, U.S. Senate, October 19, 1995.

5. Scott Rubin, *Affordability of Water Service* (Duncan, OK: National Rural Water Association, 2001).

not particularly relevant to the low-income rural Americans served by small systems. The EPA deems that a standard passes the affordability test if it keeps the total water bill costs at 2.5 percent of a *median* family income. This amount seems high even for median income Americans. With an estimated median family income at about \$40,000 a year, 2.5 percent amounts to \$1,000 a year per household.⁶ EPA has proposed more reasonable standards, but they will only to future rules, keeping the unreasonable standard in place for all existing regulations. EPA has yet to finalize its proposal.⁷

In theory, the affordability test means that if households are estimated to spend \$500 a year for water, the EPA could add a total of \$500 in regulatory costs. However, it is not clear that EPA fully considers existing regulatory costs when adding new ones.

In any case, \$1,000 might be affordable for some Americans, but it is not affordable for the families that the affordability provisions are supposed to benefit. This amount is too much for low-income Americans, and it is certainly more than 2.5 percent of their incomes.⁸ Given such ridiculous affordability assumptions, it is not surprising that the EPA issues few variances or exemptions.

On top of that, procedures for obtaining variances and exemptions are so bureaucratic

that few communities ever benefit, and state government find the process too complex to implement well.⁹ The CBO notes that between 1990 and 1994, public water systems obtained no variances and only 15 exemptions. “Given that approximately 200,000 public water systems are subject to federal regulations (of which over 85 percent are small), that is a strikingly small number,” noted the CBO.¹⁰ Little has changed since the passage of the 1996 amendments. In a compliance report published in 2000, the EPA stated that “few public water systems were operating under a variance or exemption, and only 8 new variances or exemptions were granted.”¹¹

Legislative Bias against Rural America

In addition to the high costs of uniform standards to existing systems, the law has several provisions that actually prevent many communities from gaining access to piped water. Allegedly, these provisions are designed to help systems come on line, but instead they erect high hurdles:

- One of these provisions specifies that states may use federal drinking water loans only to assist “public water systems,” denying

6. Personal conversation with Mike Keegan, National Rural Water Association, July 27, 2004. See also the Rural Water Washington News Blog at <http://www.rural-water.org>, which posts letters documenting EPA variance rejections, and Scott Rubin, *Economic Characteristics of Small Systems* (Duncan, OK: National Rural Water Association, 2001).

7. *Federal Register* 71, no. 41, (March 4, 2006): 10671-10685; For more information see EPA’s website: <http://epa.gov/OGWDW/smallsys/affordability.html>.

8. Rubin, *Economic Characteristics of Small Systems*.

9. EPA, *Report to Congress: Small Systems Arsenic Implementation Issues* (Washington, DC: EPA, 2002), 7, http://www.epa.gov/OGWDW/arsenic/pdfs/congr_ars_mar_02.pdf.

10. CBO, *Federalism and Environmental Protection: Case Studies for Drinking Water and Ground-Level Ozone* (Washington, DC: CBO, 1997), 20, <http://www.cbo.gov/ftpdocs/2xx/doc250/drinkwat.pdf>.

11. EPA, Office of Enforcement and Compliance Assurance, *Providing Safe Drinking Water in America: 1998 National Public Water Systems Compliance Report* (Washington, DC: U.S. EPA, 2000), 4.

states the flexibility to assist communities with nonpiped water supplies.¹²

- Another provision holds that the federal government will reduce federal funding to states that help communities develop new systems if those systems cannot immediately meet all 80-plus SDWA standards.¹³ Though this provision has been lauded as a “capacity development policy,” one public official revealed its real purpose in testimony to Congress. He praised the program for producing “five state programs to prevent the formation of new non-viable water systems.”¹⁴ Thirty-six similar programs were “on track,” he noted. This provision is essentially equivalent to telling the poor that if they cannot afford caviar they should starve.

If Congress does anything in the near future about drinking water, it should be to find means to provide regulatory relief to rural Americans.

Among the reforms might be a proposal to grant states full authority (without any EPA approval) to issue variances and exemptions and to decide how to expend revolving loan funds. In addition, Congress should engage in vigorous review of all upcoming standards to prevent the agency from passing new regulations that are not supported by strong science. The costs of misguided rules, particularly to rural communities, can reduce quality of life and public health.

Key Experts

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For additional information, see <http://www.ruralwater.org>.

12. 42 USC §300j-12(a)(2).

13. 42 USC §300g-9(a), §300j-12(a)(1)(G).

14. Testimony of Gerry C. Biberstine on implementation of the SDWA of 1996 before the Committee on the Environment and Public Works, prepared by the Association of State Drinking Water Administrators, U.S. Senate, March 1, 1999.