

Water System Restructuring Assessment Rule/Safe Drinking Water Act: U.S. Environmental Protection Agency Announces Proposed Rule



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05/29/2024

The United States Environmental Protection Agency (“EPA”) announced what it describes as the: *Water System Restructuring Assessment Rule (“WSRA”)*.

The WSRA is described as outlining a framework for states, public water systems (“PWS”), and the communities they serve to evaluate options for restructuring to help ensure safe, reliable drinking water.

Water system restructuring changes are stated to potentially include:

- Operational changes.
- Upgrades to or replacement of water system infrastructure.
- Interconnection with another system.
- Consolidation.
- Transfer of ownership.

EPA states that the proposed rule is mandated by Section 1414(h)(6) of the Safe Drinking Water Act (“SDWA”). The Arkansas Department of Health has been delegated the authority to implement and enforce the SDWA in the state of Arkansas.

3 key elements of the WSRA include:

- Mandatory assessment authority for states:
- States would mandate restructuring assessments.
- States would approve restructuring plans eligible for restructuring incentives.
- Requirements for performing mandatory restructuring assessments that would involve:
- Notifying the PWS that is the subject of a mandatory restructuring assessment.
- Performing an evaluation to identify feasible restructuring alternatives.
- Preparing a detailed assessment report.
- Holding a public meeting with community members.
- Making physical and electronic copies of the assessment report publicly available.
- Consulting with the PWS and the community about the assessment and any next steps.
- Eligibility requirements for restructuring incentives:
- If a state approves a completed mandatory restructuring assessment (assessed water system may apply for funding to implement the restructuring activities).

- Enforcement relief if a state approves an eligible restructuring plan (enforcement action can be forgone for 2 years against the noncompliance system for any violation identified in the approved plan).
- Liability protection (if a state determines that all restructuring activities under a state-approved plan are complete, then a compliant water system acquiring or consolidating with an assessed water system is not liable for the assessed system's fines or penalties).

The proposed WSRA provides that a state may mandate a restructuring assessment if it finds that:

- PWS has repeatedly violated one or more health-based drinking standards.
- PWS is unable or unwilling to implement restructuring activities or has already attempted to implement such activities but has not achieved compliance.
- Restructuring of PWS, including a form of consolidation or a transfer of ownership is feasible.
- Restructuring of PWS could result in greater compliance with health-based drinking water standards.

WSRA would revise the SDWA delegation (primacy) regulations to require that states develop programs with the authority to mandate restructuring assessments and to review and approved restructuring plans. In other words, to obtain this authority, states would be required to submit primacy revision applications for EPA's approval. This will include new reporting and record keeping requirements for the states.

A link to the pre-publication version of the proposed WSRA can be found [here](#).