

Water System Restructuring Assessment Rule

The U.S. Environmental Protection Agency (EPA) is proposing the Water System Restructuring Assessment Rule (WSRAR), which would provide a regulatory framework for states¹, public water systems (PWSs), and the communities they serve to identify and assess restructuring options for systems that struggle to provide safe drinking water. The proposed regulation includes three main elements: a new mandatory assessment authority for states; requirements for performing mandatory restructuring assessments to help the water system sustainably provide safe, affordable drinking water; and eligibility requirements for three incentives for public water systems to restructure.

Why did EPA propose the Water System Restructuring Assessment Rule (WSRAR)?

As part of the America's Water Infrastructure Act of 2018 (AWIA), Congress amended the Safe Drinking Water Act (SDWA), directing EPA to promulgate a rule that implements the provisions of Section 1414(h). These provisions provide a structure for states and PWSs to identify, evaluate, and implement restructuring alternatives.

What does the Water System Restructuring Assessment Rule (WSRAR) propose?

The proposed regulation includes:

- *A New Mandatory Assessment Authority.* AWIA amended Section 1414(h)(3) of SDWA (42 U.S.C. 300g–3) to add a new mandatory assessment authority for states. As part of their approved program revisions, states would mandate restructuring assessments and approve restructuring plans eligible for restructuring incentives.
- *Requirements for Performing Mandatory Restructuring Assessments.* The proposed rule would require that mandatory restructuring assessments describe how restructuring would ensure that the community served by the assessed PWS would receive safe, affordable drinking water. A mandatory restructuring assessment would involve: notifying the public water system that it 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; and consulting with the PWS and community about the assessment and any next steps.

¹ *State* means the agency of the State or Tribal government which has jurisdiction over public water systems. During any period when a State or Tribal government does not have primary enforcement responsibility pursuant to section 1413 of the Act, the term "State" means the Regional Administrator, U.S. Environmental Protection Agency.

- *Eligibility Requirements for Three Restructuring Incentives.* The proposed WSRAR includes three restructuring incentives. DWSRF eligibility: If a state approves a completed mandatory restructuring assessment, the assessed water system may apply for DWSRF funding to implement the restructuring activities identified in the assessment. Additionally, PWSs may voluntarily develop and submit restructuring plans to become eligible for the SDWA restructuring incentives outlined in the rule. Enforcement relief: If a state approves an eligible restructuring plan, then for up to two years no enforcement action may be taken against the noncompliant system for any violation that is 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.

When may a state mandate a restructuring assessment?

A state may mandate a restructuring assessment if the state finds that:

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

What would a mandatory restructuring assessment include?

Under the proposed WSRAR, the mandatory assessment would include collecting data; identifying and evaluating feasible options based on the physical and socio-economic characteristics of the water system; preparing a detailed assessment report; holding a public meeting with community leaders and the broader community; making physical and electronic copies of the assessment report publicly available; and consulting with the assessed PWS and community about the assessment and any next steps. Although the assessed water system is not required to implement the restructuring options identified in the mandatory assessment, the proposed incentives could encourage the assessed system to restructure to sustainably provide safe drinking water.

What are EPA's guiding principles for water system restructuring?

As outlined in the proposal, EPA's three guiding principles of restructuring are:

- Evaluate restructuring alternatives based on the needs of the community.
- Engage affected communities directly in restructuring decision making.
- Ensure community capacity to make affordable investments in safe drinking water.

EPA is highlighting these three guiding principles to help ensure collaborative restructuring efforts between states, local authorities, water utilities, and community leaders and members. These guiding principles are applicable to all public water systems considering restructuring to ensure that every community receives safe, affordable, and reliable drinking water.

When would states and water systems need to comply?

EPA is proposing that the WSRAR would become effective 60 days from the date on which the final rule is published. States would be required to update their primacy requirements two years from the date of promulgation, with an optional two-year extension as described in [40 CFR Part 142.12\(b\)](#).

How can I get involved?

EPA will host an informational webinar for states, water systems, and other interested stakeholders to provide an overview of the proposed Water System Restructuring and Assessment Rule. In addition, during the comment period, EPA will host two listening sessions to provide opportunity for interested stakeholders to provide comment. EPA is also accepting comments in the public docket. Comments can be submitted at www.regulations.gov, Docket ID: EPA-HQ-OW-2022-0678. For more information on the proposed rule and to register for the webinars, please visit the project webpage: <https://www.epa.gov/dwcapacity/water-system-restructuring-assessment-rule>.