



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

WSG 211
Date Signed: May 24, 2019

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OFFICE OF WATER

MEMORANDUM

SUBJECT: Implementation of Public Water System Supervision Related Safe Drinking Water Act Amendments in the America's Water Infrastructure Act of 2018

FROM: Jennifer L. McLain, Acting Director
Office of Ground Water and Drinking Water

A handwritten signature in blue ink, appearing to read "Jennifer L. McLain".

TO: Water Division Directors
Regions 1 – 10

The purpose of this memorandum is to inform the EPA Regions and states of the Public Water System Supervision (PWSS) related amendments to the Safe Drinking Water Act (SDWA) as established by the America's Water Infrastructure Act (AWIA) of 2018 and provide a plain language explanation of each provision.

The EPA has annually received a Congressional appropriation under section 1443(a) of the SDWA to assist states, territories, and tribes in carrying out their PWSS programs. Entities that have been delegated primary enforcement responsibility (primacy) by the EPA for the PWSS program are eligible to receive these grants. These grants help eligible states, territories, and tribes develop and implement a PWSS program adequate to enforce the SDWA requirements. and ensure that water systems comply with the National Primary Drinking Water Regulations (NPDWR).

State PWSS managers should take particular note of America's Water Infrastructure Act (AWIA) amendments to the SDWA that require specific changes to the Consumer Confidence Reports (CCR) rule and the development of a rule to incentivize restructuring, including consolidation. The statutory deadline for these rule changes is October 2020. Other provisions involve the study of intractable water systems that requires a report submitted to Congress describing findings and recommendations; develop a strategic plan for improving the accuracy and availability of monitoring data collected to demonstrate compliance with the NPDWR; and updates to state capacity development strategies to encourage asset management.

Please share this memorandum with state PWSS program managers (including both Drinking Water State Revolving Fund and financial managers) as soon as possible. Questions may be directed to Anita Thompkins, Drinking Water Protection Division Director, at Thompkins.Anita@epa.gov.

Attachment

Implementation of Public Water System Supervision Related Amendments in the America's Water Infrastructure Act of 2018

On October 23, 2018, the President signed the America's Water Infrastructure Act (AWIA) of 2018 into law. Among its provisions are amendments to the Safe Drinking Water Act (SDWA) that provide changes to the PWSS program activities, as summarized in the section-specific explanations below. Text in *italics* is new and text in ~~strike through~~ was deleted.

AWIA §2003: Study of Intractable Water Systems

AWIA amended the SDWA by adding §1459(c):

SEC. 1459C. STUDY ON INTRACTABLE WATER SYSTEMS

(a) DEFINITION OF INTRACTABLE WATER SYSTEM.—In this section, the term ‘intractable water system’ means a community water system or a noncommunity water system—

(1) that serves fewer than 1,000 individuals;

(2) the owner or operator of which—

(A) is unable or unwilling to provide safe and adequate service to those individuals;

(B) has abandoned or effectively abandoned the community water system or noncommunity water system, as applicable;

(C) has defaulted on a financial obligation relating to the community water system or noncommunity water system, as applicable; or

(D) fails to maintain the facilities of the community water system or noncommunity water system, as applicable, in a manner so as to prevent a potential public health hazard; and

(3) that is, as of the date of enactment of America’s Water Infrastructure Act of 2018—

(A) in significant noncompliance with this Act or any regulation promulgated pursuant to this Act; or

(B) listed as having a history of significant noncompliance with this title pursuant to section 1420(b)(1).

(b) STUDY REQUIRED.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this section, the Administrator, in consultation with the Secretary of Agriculture and the Secretary of Health and Human Services, shall complete a study that—

(A) identifies intractable water systems; and

(B) describes barriers to delivery of potable water to individuals served by an intractable water system.

(2) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this section, the Administrator shall submit to Congress a report describing findings and recommendations based on the study under this subsection.

Explanation: The AWIA amended the SDWA by adding §1459(c) - *Study on Intractable Water Systems* which directs the EPA to conduct a study on small systems that are or have been in significant noncompliance no later than two years from the enactment of the Act. The act requires the EPA to identify the systems deemed as historical significant non-compliers that meet the definition of intractable water systems and describe the barriers these systems face in the delivery of potable water. In addition, the EPA will include recommendations, best practices and if possible case studies to showcase how some of these systems have returned to compliance. The EPA must coordinate with the United States Department of Agriculture (USDA) and the Department of Health & Human Services (HHS) during this effort.

The AWIA defines intractable water systems as, a community or noncommunity water systems, serving fewer than 1,000 individuals, that is in significant non-compliance with the SDWA NPDWRs or listed as having a history of significant non-compliance (HSNC). The EPA has defined in policy HSNC as health based violations for at least three quarters of the year for three years. In addition, the EPA must identify which of the following criteria applies to the systems ownership:

- owner is unable or unwilling to provide safe and adequate service to those individuals;
- owner has abandoned or effectively abandoned the water system;
- owner has defaulted on a financial obligation relating to the water system; or
- owner fails to maintain the facilities of the water system in a manner so as to prevent a potential public health hazard.

AWIA §2008: Improved Consumer Confidence Reports

As amended, the SDWA §1414(c)(4) now states:

(4) CONSUMER CONFIDENCE REPORTS BY COMMUNITY WATER SYSTEMS.—

(A) ~~ANNUAL~~ REPORTS TO CONSUMERS.—The Administrator, in consultation with public water systems, environmental groups, public interest groups, risk communication experts, and the States, and other interested parties, shall issue regulations within 24 months after the date of enactment of this paragraph to require each community water system to mail, *or provide by electronic means*, to each customer of the system at least once annually a report on the level of contaminants in the drinking water purveyed by that system (referred to in this paragraph as a “consumer confidence report”). Such regulations shall provide a brief and plainly worded definition of the terms “maximum contaminant level goal”, “maximum contaminant level”, “variances”, and “exemptions” and brief statements in plain language regarding the health concerns that resulted in regulation of each regulated contaminant. The regulations shall also include a brief and plainly worded explanation regarding contaminants that may reasonably be expected to be present in drinking water, including bottled water. The regulations shall also provide for an Environmental Protection Agency toll-free hotline that consumers can call for more information and explanation.

(B) CONTENTS OF REPORT.—The consumer confidence reports under this paragraph shall include, but not be limited to, each of the following:

- (i) Information on the source of the water purveyed.
- (ii) A brief and plainly worded definition of the terms “maximum contaminant level goal”, “maximum contaminant level”, “variances”, and “exemptions” as provided in the regulations of the Administrator.
- (iii) If any regulated contaminant is detected in the water purveyed by the public water system, a statement setting forth (I) the maximum contaminant level goal, (II) the maximum contaminant level, (III) the level of such contaminant in such water system, and (IV) for any regulated contaminant for which there has been a violation of the maximum contaminant level during the year concerned, the brief statement in plain language regarding the health concerns that resulted in regulation of such contaminant, as provided by the Administrator in regulations under subparagraph (A).
- (iv) Information on compliance with national primary drinking water regulations, as required by ~~the Administrator and~~ the Administrator, including corrosion control efforts, and notice if the system is operating under a variance or exemption and the basis on which the variance or exemption was granted.

(v) Information on the levels of unregulated contaminants for which monitoring is required under section

1445(a)(2) (including levels of cryptosporidium and radon where States determine they may be found).

(vi) A statement that the presence of contaminants in drinking water does not necessarily indicate that the drinking water poses a health risk and that more information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency hotline. A public water system may include such additional information as it deems appropriate for public education. The Administrator may, for not more than 3 regulated contaminants other than those referred to in subclause (IV) of clause (iii), require a consumer confidence report under this paragraph to include the brief statement in plain language regarding the health concerns that resulted in regulation of the contaminant or contaminants concerned, as provided by the Administrator in regulations under subparagraph (A).

(vii) Identification of, if any—

(I) exceedances described in paragraph (1)(D) for which corrective action has been required by the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) during the monitoring period covered by the consumer confidence report; and

(II) violations that occurred during the monitoring period covered by the consumer confidence report.

Subsections (C) – (E) were not modified.

(F) REVISIONS.—

(i) UNDERSTANDABILITY AND FREQUENCY.—Not later than 24 months after the date of enactment of America's Water Infrastructure Act of 2018, the Administrator, in consultation with the parties identified in subparagraph (A), shall issue revisions to the regulations issued under subparagraph (A)—

(I) to increase—

(aa) the readability, clarity, and understandability of the information presented in consumer confidence reports; and

(bb) the accuracy of information presented, and risk communication, in consumer confidence reports; and

(II) with respect to community water systems that serve 10,000 or more persons, to require each such community water system to provide, by mail, electronic means, or other methods described in clause (ii), a consumer confidence report to each customer of the system at least biannually.

(ii) ELECTRONIC DELIVERY.—Any revision of regulations pursuant to clause (i) shall allow delivery of consumer confidence reports by methods consistent with methods described in the memorandum 'Safe Drinking Water Act—Consumer Confidence Report Rule Delivery Options' issued by the Environmental Protection Agency on January 3, 2013.

Explanation: AWIA has directed the EPA, in consultation with public water systems (PWSs), environmental groups, public interest groups, risk communication experts, states, and other interested parties, to revise aspects of the federal Consumer Confidence Report (CCR) regulation. The statutory deadline for the revisions is October 2020. The revisions require CWSs serving 10,000 or more customers to provide CCRs twice per year. This affects roughly 4,400 CWSs (SDWIS 2019Q1); currently all community water systems (CWSs) must provide CCRs to customers once a year. AWIA also codifies electronic delivery options consistent with the EPA 2013 CCR Delivery Options memo. The memo interpreted current requirements to “mail or otherwise directly deliver” CCRs to include electronic methods, for example, including a direct URL on a bill, newsletter, postcard, etc., emailing the report directly to the customers, or another method approved by the primacy agency. The CWS must provide CCRs in another manner to

customers that request them. AWIA requires that CCRs must include information on corrosion control efforts under the Lead and Copper rule, in addition to identifying any action level exceedances for which corrective actions were required by the primacy agency for the monitoring period covered by the CCR. Lastly, the EPA must revise the CCR rule to increase readability, clarity, and understandability of the reports, as well as to increase the accuracy of information and risk communication in the reports.

AWIA §2009: Contractual Agreements and AWIA §2010: Additional Considerations for Compliance

As amended, the SDWA §1414(h) now states:

(h) CONSOLIDATION INCENTIVE.—

(1) IN GENERAL.—An owner or operator of a public water system may submit to the State in which the system is located (if the State has primary enforcement responsibility under section 1413) or to the Administrator (if the State does not have primary enforcement responsibility) a plan (including specific measures and schedules) for—

- (A) the physical consolidation of the system with 1 or more other systems;
- (B) the consolidation of significant management and administrative functions of the system with 1 or more other systems; ~~or~~
- (C) the transfer of ownership of the system that may reasonably be expected to improve drinking water quality; ~~;~~ or
- (D) entering into a contractual agreement for significant management or administrative functions of the system to correct violations identified in the plan.

(2) CONSEQUENCES OF APPROVAL.—If the State or the Administrator approves a plan pursuant to paragraph (1), no enforcement action shall be taken pursuant to this part with respect to a specific violation identified in the approved plan prior to the date that is the earlier of the date on which consolidation is completed according to the plan or the date that is 2 years after the plan is approved.

(i) DEFINITION OF APPLICABLE REQUIREMENT.—In this section, the term “applicable requirement” means—

- (1) a requirement of section 1412, 1414, 1415, 1416, 1417, 1433, 1441, or 1445;
- (2) a regulation promulgated pursuant to a section referred to in paragraph (1);
- (3) a schedule or requirement imposed pursuant to a section referred to in paragraph (1);

and

(4) a requirement of, or permit issued under, an applicable State program for which the Administrator has made a determination that the requirements of section 1413 have been satisfied, or an applicable State program approved pursuant to this part.

(3) AUTHORITY FOR MANDATORY ASSESSMENTS

(A) AUTHORITY.—A State with primary enforcement responsibility or the Administrator (if the State does not have primary enforcement responsibility) may require the owner or operator of a public water system to assess options for consolidation, or transfer of ownership of the system, as described in paragraph (1), or other actions expected to achieve compliance with national primary drinking water regulations described in clause (i)(I), if—

(i) the public water system—

- (I) has repeatedly violated one or more national primary drinking water regulations and such repeated violations are likely to adversely affect human health; and
- (II)(aa) is unable or unwilling to take feasible and affordable actions, as determined by the State with primary enforcement responsibility or the Administrator (if the State does not have primary enforcement responsibility), that will result in the public water system complying with the national primary drinking water regulations described in subclause (I), including accessing

technical assistance and financial assistance through the State loan fund pursuant to section 1452; or

- (bb) has already undertaken actions described in item (aa) without achieving compliance;*
- (ii) such consolidation, transfer, or other action is feasible; and*
- (iii) such consolidation, transfer, or other action could result in greater compliance with national primary drinking water regulations.*

(B) TAILORING OF ASSESSMENTS.—Requirements for any assessment to be conducted pursuant to subparagraph (A) shall be tailored with respect to the size, type, and characteristics, of the public water system to be assessed.

(C) APPROVED ENTITIES.—An assessment conducted pursuant to subparagraph (A) may be conducted by an entity approved by the State requiring such assessment (or the Administrator, if the State does not have primary enforcement responsibility), which may include such State (or the Administrator, as applicable), the public water system, or a third party.

(D) BURDEN OF ASSESSMENTS.—It is the sense of Congress that any assessment required pursuant to subparagraph (A) should not be overly burdensome on the public water system that is assessed.

(4) FINANCIAL ASSISTANCE.—Notwithstanding section 1452(a)(3), a public water system undertaking consolidation or transfer of ownership or other actions pursuant to an assessment completed under paragraph (3) may receive a loan described in section 1452(a)(2)(A) to carry out such consolidation, transfer, or other action.

(5) PROTECTION OF NONRESPONSIBLE SYSTEM.—

(A) IDENTIFICATION OF LIABILITIES.—

(i) IN GENERAL.—An owner or operator of a public water system that submits a plan pursuant to paragraph (1) based on an assessment conducted with respect to such public water system under paragraph (3) shall identify as part of such plan—

(I) any potential and existing liability for penalties and damages arising from each specific violation identified in the plan of which the owner or operator is aware; and

(II) any funds or other assets that are available to satisfy such liability, as of the date of submission of such plan, to the public water system that committed such violation.

(ii) INCLUSION.—In carrying out clause (i), the owner or operator shall take reasonable steps to ensure that all potential and existing liabilities for penalties and damages arising from each specific violation identified in the plan are identified.

(B) RESERVATION OF FUNDS.—A public water system that, consistent with the findings of an assessment conducted pursuant to paragraph (3), has completed the actions under a plan submitted and approved pursuant to this subsection shall not be liable under this title for a violation of this title identified in the plan, except to the extent to which funds or other assets are identified pursuant to subparagraph (A)(i)(II) as available to satisfy such liability.

(6) REGULATIONS.—Not later than 2 years after the date of enactment of America’s Water Infrastructure Act of 2018, the Administrator shall promulgate regulations to implement paragraphs (3), (4), and (5).

And also amended the SDWA §1413(a) as follows:

(a) For purposes of this title, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b)) that such State—

(1) has adopted drinking water regulations that are no less stringent than the national primary drinking water regulations promulgated by the Administrator under subsections (a) and (b) of section 1412 not later than 2 years after the date on which the regulations are promulgated by the Administrator, except that the Administrator may provide for an extension of not more than 2 years if, after submission and review of appropriate, adequate documentation from the State, the Administrator determines that the extension is necessary and justified;

(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations, including conducting such monitoring and making such inspections as the Administrator may require by regulation;

(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation;

(4) if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meet the requirements of paragraph (1), permits such variances and exemptions under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416;

(5) has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances including earthquakes, floods, hurricanes, and other natural disasters, as appropriate; ~~and~~

~~(6) has adopted and is implementing procedures for requiring public water systems to assess options for consolidation or transfer of ownership or other actions in accordance with the regulations issued by the Administrator under section 1414(h)(6); and~~

~~(7) has adopted authority for administrative penalties (unless the constitution of the State prohibits the adoption of the authority) in a maximum amount—~~

~~(A) in the case of a system serving a population of more than 10,000, that is not less than \$1,000 per day per violation; and~~

~~(B) in the case of any other system, that is adequate to ensure compliance (as determined by the State); except that a State may establish a maximum limitation on the total amount of administrative penalties that may be imposed on a public water system per violation.~~

There also was a conforming amendment to SDWA §1413(b)(1):

(b)(1) The Administrator shall, by regulation (proposed within 180 days of the date of the enactment of this title), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), (3), and (4) of subsection (a) are satisfied with respect to the State, the manner in which the determination is made, the period for which the determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall require that before a determination of the Administrator that such requirements are met or are no longer met with respect to a State may become effective, the Administrator shall notify such State of the determination and the reasons therefor and shall provide an opportunity for public hearing on the determination. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this title when it is determined to have primary enforcement responsibility for public water systems.

Explanation: AWIA Sections 2009 and 2010 amend the SDWA to incentivize restructuring, including consolidation, as a long-term solution to end recurring noncompliance with health-based standards by creating a *National Restructuring Assessment Program*. AWIA mandates that the EPA promulgate a rule by October 2020 and that states must update primacy to include the new assessment authority. This assessment authority is aimed at PWSs with repeated health-based violations due to a lack of technical, managerial and financial (TMF) capacity to comply, which will result in adverse human health effects.

A state with primacy authority may require a **restructuring assessment**, a study of a PWS's options for restructuring, including consolidation, that will result in long-term TMF capacity to comply with health-based standards. Options can include:

- Physical consolidation
- Managerial/administrative consolidation
- Transfer of ownership
- Managerial or administrative functions to resolve underlying violations
- Other types of restructuring, e.g., sharing an operator or billing system

The results of the restructuring assessment can be used to develop a *restructuring plan* which includes specific measures and schedules for the restructuring option(s) selected. The restructuring plan may be based on the restructuring assessment or it may be submitted independent of an assessment.

Note that AWIA does *not* mandate restructuring assessments *or* any type of restructuring, including consolidation.

AWIA §2011: Improved accuracy and availability of compliance monitoring data

SDWA §1414 is amended by adding at the following new subsection:

(j) IMPROVED ACCURACY AND AVAILABILITY OF COMPLIANCE MONITORING DATA.—

(1) STRATEGIC PLAN.—Not later than 1 year after the date of enactment of this subsection, the Administrator, in coordination with States (including States without primary enforcement responsibility under section 1413), public water systems, and other interested stakeholders, shall develop and provide to Congress a strategic plan for improving the accuracy and availability of monitoring data collected to demonstrate compliance with national primary drinking water regulations and submitted—

(A) by public water systems to States; or

(B) by States to the Administrator.

(2) EVALUATION.—In developing the strategic plan under paragraph (1), the Administrator shall evaluate any challenges faced—

(A) in ensuring the accuracy and integrity of submitted data described in paragraph (1);

(B) by States and public water systems in implementing an electronic system for submitting such data, including the technical and economic feasibility of implementing such a system; and

(C) by users of such electronic systems in being able to access such data.

(3) FINDINGS AND RECOMMENDATIONS.—The Administrator shall include in the strategic plan provided to Congress under paragraph (1)—

(A) a summary of the findings of the evaluation under paragraph (2); and

(B) recommendations on practicable, cost-effective methods and means that can be employed to improve the accuracy and availability of submitted data described in paragraph (1).

(4) CONSULTATION.—In developing the strategic plan under paragraph (1), the Administrator may, as appropriate, consult with States or other Federal agencies that have experience using practicable methods and means to improve the accuracy and availability of submitted data described in such paragraph.

Explanation: AWIA amended the SDWA §1414 by adding a new subsection - *Improved Accuracy and Availability of Compliance Monitoring Data*, which directs the EPA to develop a strategic plan for improving the accuracy and availability of monitoring data collected to demonstrate compliance with NPDWRs. The strategic plan will evaluate methods for sharing data between public water systems, States and the EPA. In developing this report, the EPA shall evaluate any challenges faced in ensuring the accuracy and integrity of data submitted, implementing electronic submission of data, and accessing of electronic data. AWIA requires the EPA to coordinate with States, public water systems and other interested stakeholders during this effort.

AWIA §2012: Asset Management

AWIA amended the SDWA §1420(c) and (d) as follows:

(c) CAPACITY DEVELOPMENT STRATEGY.—

(1) IN GENERAL.—Beginning 4 years after the date of enactment of this section, a State shall receive only—

(A) 90 percent in fiscal year 2001;

(B) 85 percent in fiscal year 2002; and

(C) 80 percent in each subsequent fiscal year, of the allotment that the State is otherwise entitled to receive under section 1452 (relating to State loan funds), unless the State is developing and implementing a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity.

(2) CONTENT.—In preparing the capacity development strategy, the State shall consider, solicit public comment on, and include as appropriate—

(A) the methods or criteria that the State will use to identify and prioritize the public water systems most in need of improving technical, managerial, and financial capacity;

(B) a description of the institutional, regulatory, financial, tax, or legal factors at the Federal, State, or local level that encourage or impair capacity development;

(C) a description of how the State will use the authorities and resources of this title or other means to—

(i) assist public water systems in complying with national primary drinking water regulations;

(ii) encourage the development of partnerships between public water systems to enhance the technical, managerial, and financial capacity of the systems; and

(iii) assist public water systems in the training and certification of operators;

(D) a description of how the State will establish a baseline and measure improvements in capacity with respect to national primary drinking water regulations and State drinking water law; ~~and~~

(E) an identification of the persons that have an interest in and are involved in the development and implementation of the capacity development strategy (including all appropriate agencies of Federal, State, and local governments, private and nonprofit public water systems, and public water system customers); ~~and~~

(F) a description of how the State will, as appropriate—

(i) encourage development by public water systems of asset management plans that include best practices for asset management; and

(ii) assist, including through the provision of technical assistance, public water systems in training operators or other relevant and appropriate persons in implementing such asset management plans.

(3) REPORT.—Not later than 2 years after the date on which a State first adopts a capacity development strategy under this subsection, and every 3 years thereafter, the head of the State agency that has primary responsibility to carry out this title in the State shall submit to the Governor a report that shall also be available to the public on the efficacy of the strategy and progress made toward improving the technical, managerial, and financial capacity of public water systems in the State, *including efforts of the State to encourage development by public water systems of asset management plans and to assist public water systems in training relevant and appropriate persons in implementing such asset management plans.*

(4) REVIEW.—The decisions of the State under this section regarding any particular public water system are not subject to review by the Administrator and may not serve as the basis for withholding funds under section 1452.

(d) FEDERAL ASSISTANCE.—

(1) IN GENERAL.—The Administrator shall support the States in developing capacity development strategies.

(2) INFORMATIONAL ASSISTANCE.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator shall—

(i) conduct a review of State capacity development efforts in existence on the date of enactment of this section and publish information to assist States and public water systems in capacity development efforts; and

(ii) initiate a partnership with States, public water systems, and the public to develop information for States on recommended operator certification requirements.

(B) PUBLICATION OF INFORMATION.—The Administrator shall publish the information developed through the partnership under subparagraph (A)(ii) not later than 18 months after the date of enactment of this section.

(3) PROMULGATION OF DRINKING WATER REGULATIONS.—In promulgating a national primary drinking water regulation, the Administrator shall include an analysis of the likely effect of compliance with the regulation on the technical, financial, and managerial capacity of public water systems.

(4) GUIDANCE FOR NEW SYSTEMS.—Not later than 2 years after the date of enactment of this section, the Administrator shall publish guidance developed in consultation with the States describing legal authorities and other means to ensure that all new community water systems and new nontransient, noncommunity water systems demonstrate technical, managerial, and financial capacity with respect to national primary drinking water regulations.

(5) INFORMATION ON ASSET MANAGEMENT PRACTICES.—*Not later than 5 years after the date of enactment of this paragraph, and not less often than every 5 years thereafter, the Administrator shall review and, if appropriate, update educational materials, including handbooks, training materials, and technical information, made available by the Administrator to owners, managers, and operators of public water systems, local officials, technical assistance providers (including nonprofit water associations), and State personnel concerning best practices for asset management strategies that may be used by public water systems.*

Explanation: AWIA amends the SDWA to require that states consider and include, as appropriate in their state capacity development strategy, a description of how the state will encourage the development of asset management plans. To help implement asset management plans the state can include best practices, training, technical assistance and other activities. The section also mandates that primacy agencies include in their triennial capacity development report to the Governors a description of how the state will encourage water systems to develop asset management plans, including the provision of technical assistance. This section also mandates that the EPA review and, if appropriate, update technical assistance and best practice documents for asset management. To address AWIA §2012, the EPA plans to develop implementation guidance for state and regional capacity development coordinators.