



July 29, 2024

Will Bowman  
Drinking Water Capacity & Compliance Assistance Division  
Office of Groundwater and Drinking Water (MC-4606M)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20036

Submitted via: <https://www.regulations.gov>

RE: *NACWA Comments on U.S. Environmental Protection Agency's Proposed Rule on Water Systems Restructuring Assessment Rule (EPA-HQ-OW-2022-0678)*

Dear Mr. Bowman:

The National Association of Clean Water Agencies (NACWA) appreciates the opportunity to comment on the U.S. Environment Protection Agency's (EPA) proposed Water System Restructuring Assessment Rule (WSRAR)<sup>1</sup>.

NACWA represents the interests of nearly 350 publicly-owned wastewater and stormwater agencies of all sizes throughout the country. Each day, these utilities provide the essential services of treating billions of gallons of our nation's wastewater and stormwater along with managing the millions of tons of biosolids generated as a byproduct of the wastewater treatment process in a manner that ensures the continued protection of public health and the environment. Our members are anchor institutions in their communities that invest the time and resources necessary to meet the obligations under the Clean Water Act and other federal and state environmental statutes.

NACWA appreciates EPA's ongoing efforts to address the multifaceted challenges that public drinking water systems face in evaluating options for restructuring to help ensure safe, reliable drinking water. However, NACWA has several concerns with the proposed rulemaking, and we echo many of the concerns raised by our sister national drinking water associations, including the Association of Metropolitan Water Agencies (AMWA), the American Water Works Association (AWWA), and the National Rural Water Association (NRWA). These organizations have greater experience on drinking water issues and NACWA defers to their expertise. At the same time, NACWA wants to flag some specific issues with the proposed rule for EPA.

Primarily, NACWA is concerned that the proposed rule underestimates costs and allows for the use of funds through an already dwindling Drinking Water State Revolving Fund. NACWA also supports the need for more robust safe harbor provisions for community water systems and shares concern that the rule fails to include proper oversight provisions on third-party assessors. In addition, the proposed rule's mandatory nature requiring states to conduct restructuring assessments for systems that are "failing" does not adequately allow for comprehensive and necessary follow-

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<sup>1</sup> <https://www.federalregister.gov/documents/2024/05/30/2024-11687/water-system-restructuring-assessment-rule>

July 29, 2024

Page 2 of 2

through requirements once an assessment is completed, especially if the assessment was conducted by non-responsible entities.

NACWA is also concerned that the proposed rule does not address drinking water systems that are part of a dual utility that supplies both drinking water and wastewater service to the community, and the impact that a restructuring assessment could have on the wastewater side. It is imperative that EPA recognize in its rulemaking that wastewater systems are not the primary focus of this rulemaking and consider any direct or indirect impact that restructuring these dual systems could have on maintaining affordable and reliable sewer and stormwater service. To achieve sustainable compliance options under the proposed rule the restructuring assessments need to be straightforward, cost-effective, and have a net public benefit, while also considering the impacts on clean water and stormwater utility customers' rates.

EPA needs to build in adequate time to identify drinking water systems that will be subject to the mandatory assessments and allow for more flexibility to decide whether they need to conduct self-assessments or hire a third-party assessor. NACWA suggests the proposed thirty-day period be increased to a minimum of ninety days. EPA also needs to build in requirements for third-party assessors that conduct restructuring assessments to ensure there is transparent accountability and there is no way the third parties can benefit financially from the assessment process.

Additionally, EPA must develop a meaningful definition of "affordability," so that communities can best determine the appropriate course of action if restructuring is to take place. Having quantifiable and objective criteria will provide increased financial, technical, and managerial benefits and outcomes for local communities.

Lastly, any assessment, whether conducted through a self-assessment or third-party assessment, must provide a thorough explanation and analysis for options that are selected and options that are not selected. This way, utilities and the public alike will have the best opportunity for engagement in a process that will help build public trust and ensure the greatest net public benefit.

NACWA appreciates the opportunity to provide these comments. If you have any additional questions, please contact Matthew McKenna at [mmckenna@nacwa.org](mailto:mmckenna@nacwa.org).

Sincerely,



Matthew McKenna  
Director, Government Affairs