

## SAFE DRINKING WATER ACT REAUTHORIZATION

ISSUES	ADMIN./EPA POSITION	S. 2019 (Baucus) SENATE PASSED 5/19/94
SRF	<ul style="list-style-type: none"> <li>- \$599 million for FY 94, \$1 billion FY 95-98</li> <li>- 20% state match</li> <li>- Allotment by formula used to distribute state drinking water program grants</li> <li>- Needs Survey within 2 years and 4 years thereafter to determine future allotment formula</li> <li>- Zero interest loans allowed</li> <li>- 4% set aside for SRF administration.</li> <li>- 1% set aside for technical assistance/planning</li> <li>- Davis-Bacon applies only to Fed. Cap. grant.</li> </ul>	<ul style="list-style-type: none"> <li>- \$600 mil. in FY 94, \$1 bil./yr FY 95-2000.</li> <li>- 20% match (State may delay FY 94/95 match through FY 98).</li> <li>- Allotment by formula used to distribute State drinking water program grants.</li> <li>- Needs survey within 2 years, and every 2 years thereafter.</li> <li>- 4% for SRF administration.</li> <li>- Gov. may reserve up to 50% of SDWA SRF and add to CWA SRF or reserve an equal amount of CWA SRF in any given year and add to SDWA SRF.</li> <li>- State may reserve up to \$300,000 or 2% of the Fed. cap grant for technical assistance to small systems -- includes developing source-water protection plans, alternative DW supplies, consolidation/restructuring, treatment to comply with regs.</li> <li>- Davis-Bacon applies to Fed. cap. grant and loan repayments.</li> </ul>

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	<p>Eligibility limited to.</p> <ul style="list-style-type: none"> <li>-capital costs of SDWA compliance</li> <li>-consolidation of systems</li> <li>-must have ability to repay loans</li> <li>-no land acquisition</li> <li>-existing systems only</li> <li>-funds may be used to buy/refinance debt incurred for eligible purposes after enactment</li> <li>-source water protection projects</li> </ul>	<ul style="list-style-type: none"> <li>- SRF can be used to cover up to 50% of the resource shortfall in State drinking water programs in FY95 and FY99, 100% in FY96-98. State support for the program must = funds provided in FY 93.</li> <li>- Eligibility: Land acquisition for a treatment facility or consolidation project; capital costs of compliance, to consolidate (or for alt. water supply), upgrade a DW treatment system, to replace a private system if the water possesses "significant threat to human health." A State cannot loan \$ for project if consolidation is appropriate (except to assist consolidation).</li> <li>- No \$ for nonviable systems w/history of violations, unless system restructures.</li> <li>- Zero interest loans and up to 30% of Fed. cap grant can be used for loan subsidies to "disadvantaged communities" as defined by State.</li> <li>- Intended Use Plans - Priority for projects addressing most serious risk to human health and where residential water costs are high.</li> </ul>
PWSS State Grants	Not addressed in Administration's 10 Principles	<ul style="list-style-type: none"> <li>- \$100 million per year in FY 94-2000.</li> <li>- SRF monies can be used to fund resource shortfalls in state drinking water programs and source water protection programs at States' discretion. (See SRF above)</li> <li>- EPA/ASDWA resource model to be used to identify resource shortfalls (estimates subject to revision at State's request).</li> </ul>
User Fees	<ul style="list-style-type: none"> <li>-Adjustable SDWA fee, which States can use to supplement existing State resources.</li> <li>-Fee available to EPA if EPA withdraws primacy</li> <li>-Fee can be used for source water protection, other SDWA services and functions, etc.</li> </ul>	<ul style="list-style-type: none"> <li>-Fed. backstop fee is <u>eliminated</u>. Administrator can tap into the SRF cap grant where EPA has primacy to run the state drinking water program.</li> </ul>

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Source Water Protection Program (Pollution Prevention Section)	<ul style="list-style-type: none"> <li>-Protection programs for both groundwater and surface water</li> <li>- "Mandatory" state/local baseline protection program, voluntary "enhanced" local program.</li> <li>-Allows EPA approval of alternate monitoring and treatment requirements if prevention programs are comprehensive and enforceable.</li> <li>-Allows citizen/PWS suits against pollution sources in protected areas, where there is evidence that a release of regulated contaminants may cause or contribute to a significant threat.</li> <li>-Source water protection projects eligible for DW SRF funding.</li> </ul>	<ul style="list-style-type: none"> <li>- States may establish voluntary petition process for locals to seek assistance in addressing contaminants of public health concern.</li> <li>- State wellhead protection programs, currently required under SDWA, are made voluntary.</li> <li>- Authorizations: critical aquifer protection programs (\$20 mil./yr for FY 94- 2000); wellhead protection programs (\$35 mil./yr for FY92-2000); source water programs ("such sums as are necessary," for FY 95-2000); ground water protection grants (\$20 mil./yr for FY94-2000).</li> <li>- Source water measures and wellhead/sole source plans eligible for CWA sec. 319 \$ and CWA SRF \$ Limited eligibility for source water plans under SDWA SRF (see SRF section above).</li> </ul>
Monitoring Requirements	<p>EPA encourages States to adopt waiver programs based on sound science and to use additional flexibility in current law that can lower monitoring costs by 80%. Without a waiver, EPA believes it is appropriate for systems to conduct 4 quarterly samples for volatile and synthetic organic chemicals before testing freq. drops to once every 3yrs for small systems and twice in 3yrs for large systems</p>	<ul style="list-style-type: none"> <li>- EPA to establish a national database on the occurrence of contaminants in drinking water.</li> <li>- W/in 1 yr., EPA to review monitoring req'ments of 12 regulated contaminants and promulgate revisions w/in 2yrs.</li> <li>- States may develop alternative monitoring programs for NPDWR's (except microbials) based on occurrence data and previous detections. (EPA shall modify req'ments at non-primacy State's request.)</li> <li>- For systems &lt; 10,000, the State may waive quarterly monitoring for carcinogens for 3 yrs. if not initially detected</li> <li>- See Contaminant Selection below for unregulated contaminant monitoring</li> </ul>

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Small System BAT/Variations and Exemptions	<ul style="list-style-type: none"> <li>- EPA to designate small system BAT for a contaminant, State reviews/approves a system's notice of intent to use small system BAT and any renewal requests.</li> <li>- Small systems eligible for the BAT only if they cannot achieve compliance through restructuring or consolidation; apply to State for the variance.</li> <li>- State may grant exemption from small system BAT where restructuring/small BAT infeasible.</li> </ul>	<ul style="list-style-type: none"> <li>- Allows States to grant small systems (&lt; 10,000-- 94% of all systems) a 5 yr. variance from complying with an MCL if the system uses a treatment technology EPA deems "feasible" (incl. effectiveness and cost) for small systems. Technology must "adequately protects human health."</li> <li>- To be eligible for a small syst. treatment tech. variance, system must be unable to afford to comply w/ the MCL based on State criteria, cannot find an alternative water supply, cannot restructure or consolidate, and the terms of the variance ensure adequate protection of human health.</li> <li>- Moratorium on enforcement penalties while State reviews a variance application.</li> <li>- System has 3 yrs. to install technology w/possible 2 yr. extension.</li> <li>- System w/disapproved variance request has up to 4 yrs. to meet MCL.</li> <li>- EPA to review State variance decisions periodically.</li> <li>- Consumers may petition EPA to object to variances</li> <li>- States shall review each variance at least every 5 years.</li> <li>- No variance for pre-'86 MCL or for a microbial contaminant.</li> <li>- Systems up to 3,300 eligible for a 2 yr. non-renewable extension of a Section 1416 exemption</li> <li>- Adds forthcoming SRF or other assistance as additional grounds for exemptions for all systems</li> </ul>

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Viability Programs	<ul style="list-style-type: none"> <li>- As a condition of primacy, States to implement programs to prevent new non-viable systems and w/legal authority to require restructuring of existing systems where needed to ensure safe water supply.</li> </ul>	<ul style="list-style-type: none"> <li>- State must have a viability program, including authority to prevent formation of new non-viable systems after 1/97 and a program for voluntary restructuring for existing systems that are in violation and lack capacity to comply.</li> <li>- 3 yr. moratorium on enforcement penalties for systems complying w/State restructuring order.</li> <li>- States shall not prohibit operation of complying systems.</li> <li>- EPA may withhold SRF funds from States w/out viability programs -- 10% in FY 98, 30% in FY 99 and 50% thereafter.</li> <li>- EPA guidance on factors that cause non-viability and options for addressing.</li> <li>- EPA survey to identify likely non-viable systems</li> </ul>
Training, certification of system operators	<ul style="list-style-type: none"> <li>- As a condition of primacy, States must implement an operator training/certification program, including all small systems.</li> <li>- "Circuit rider" or part-time operators allowed.</li> <li>- EPA to define minimum program criteria.</li> </ul>	<ul style="list-style-type: none"> <li>- State certification of operators &amp; labs required.</li> <li>- EPA to publish guidance w/in 2 yrs. setting minimum operator certification standards.</li> <li>- Community and nontransient noncommunity systems to have a certified operator within 4 years.</li> <li>- EPA may withhold SRF \$ if State program is lacking or inconsistent w/guidance -- 10% in FY 99, 30% in FY 2000 and 50% thereafter.</li> <li>- Authorizes \$10 mil./yr for FY94-2000 for education/training.</li> <li>- Authorizes \$10 mil./yr for FY94-2000 for at least 5 small system technology research centers.</li> </ul>

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Contaminant Selection	<p>Replaces "25 contaminants every 3 years" with a risk-based 2 track system giving the Administrator greater flexibility to regulate only contaminants that occur in drinking water and pose real risks to health.</p> <p>-In consultation with SAB, EPA to ID a certain # of contaminants and place in two categories: Track 1:immediate regulation based on existing data that a contaminant poses real risks to health.</p> <p>Track 2:further study - EPA would either regulate, issue an advisory, or drop the contaminant after determining whether the contaminant poses real risks to health.</p> <p>-opportunity for public comment provided.</p>	<p>- EPA to <u>list</u> 15 contaminants with greatest public health risk w/in 3 yrs.</p> <p>- W/in 18 months of listing, EPA shall propose regs for contaminants known or anticipated to occur at levels and frequencies of public health concern, publish a study plan (5 yrs. maximum), or determine not to regulate.</p> <p>- EPA has 2 yrs. to promulgate regs after proposal</p> <p>- Every 5 yrs. after initial list, EPA to identify 7 additional contaminants for further study or regulation if warranted.</p> <p>- W/in 3 yrs., EPA must establish a national DW contaminant occurrence database.</p> <p>-EPA to publish criteria for monitoring unregulated contaminants. Gov.'s of 7 or more States may petition for a contaminant to be included. W/in 3 yrs, &amp; every 5 yrs. thereafter, EPA to issue list of not more than 30 contaminants to be monitored by systems &gt; 10,000 (States complete representative monitoring plans for smaller systems). States may waive monitoring if criteria for listing contaminant do not apply in that State.</p> <p>-EPA must review NPDWRs every 6 years (3 years in current statute).</p>

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Standard Setting	<ul style="list-style-type: none"> <li>- EPA would take into account risk when selecting contaminants for regulation (see Contaminant Selection above)</li> </ul>	<ul style="list-style-type: none"> <li>- Allows EPA to establish MCL which is less stringent than feasible (as currently defined), if it results in "substantially less" compliance costs and no significant increase in individual lifetime risks (for carcinogens) or "reasonable certainty of no harm" (for non-carcinogens, after development of NAS-approved guidelines).</li> <li>- Requires EPA to consider risk reduction benefits, cost and effects on sensitive subpopulations.</li> <li>- "Less stringent than feasible" MCLs may be established to avoid increasing the concentration of other drinking water contaminants or interfering with treatment processes for other contaminants.</li> </ul>
Anomaly Contaminants (DBPs, Corrosion Byproducts, Sulfate and Radon)	Not addressed in Administration's 10 Principles.	<ul style="list-style-type: none"> <li>- Codifies schedule for disinfectant/disinfection by product (D/DBP) reg neg. Stage 1 regs by 12/31/96, Information Collection Rule (ICR) by 7/29/94 - includes information on microbials (cryptosporidium listed). Revised D/DBP rule based on ICR by 6/30/2000.</li> <li>- Also, see Radon in Drinking Water below.</li> </ul>

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Radon in Drinking Water	<ul style="list-style-type: none"> <li>- A multi-media approach to radon should ensure that verifiable risk reduction occurs in communities that choose an alternate compliance level for radon in drinking water. (10/27/93 Congressional testimony)</li> </ul>	<ul style="list-style-type: none"> <li>- Establishes a multi-media radon program, w/ NPDWR for radon w/in 1 year.</li> <li>- An alternative contaminant level (based on outdoor air radon level) available to systems in States w/indoor air radon programs. After NAS study, level could be set at 50% of national average radon concentration in outdoor air.</li> <li>- If no State program, local system can comply w/alternative program that includes indoor air testing for 50% of homes w/in 5 yrs., require new homes to be built to comply w/radon mitigation stds. developed by EPA and ed. materials.</li> <li>- EPA report to Congress in 7 yrs.</li> </ul>
Extension of Compliance Timeframe	<ul style="list-style-type: none"> <li>- EPA authority to specify up to 60 months for compliance with NPDWRs if construction needed.</li> </ul>	<ul style="list-style-type: none"> <li>- 3 yrs. for compliance. EPA/States may approve a 2 yr. extension for capital improvements.</li> <li>- Additional extensions available for small systems that apply to State for a small system BAT variance and to all systems eligible for the expanded section 1416 exemption process (see above).</li> </ul>



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Enforcement	<p>Strengthen and streamline enforcement provisions.</p> <ul style="list-style-type: none"> <li>-Administrative, civil and criminal enforcement strengthened to reflect consistency with other environmental laws (increase penalty caps, etc.)</li> <li>-Waiver of sovereign immunity</li> <li>-Strengthen lead plumbing materials enforcement</li> <li>-Information gathering/inspection authorities are enhanced.</li> <li>-Eliminates pre-enforcement review of admin orders.</li> </ul>	<p>Similar, but with these differences:</p> <ul style="list-style-type: none"> <li>- Strengthen req'ments that systems notify public of violations that could cause serious adverse effects on human health, other violations reported annually.</li> <li>- Regs w/in 2 yrs. for new pipe/fixture and water pump maximum lead leaching levels, <u>if voluntary standards not effective</u>.</li> <li>- 3 yr moratorium on penalties for State/EPA approved system consolidation.</li> <li>- Does not establish criminal penalties for knowing endangerment violations.</li> <li>- States required to have administrative penalties comparable to EPA as a condition of primacy.</li> <li>- "Public water system" defined -- applies to pipes and other constructed conveyances. Under limited conditions, exempts non-piped water where principal use is non-residential and piped water for existing irrigation districts.</li> </ul>
Tribes	<ul style="list-style-type: none"> <li>- 1.5% of SRF reserved for Tribes.</li> </ul>	<ul style="list-style-type: none"> <li>- 1.5% of SRF reserved for Tribes (includes Alaska Native villages).</li> <li>- Governor may elect to have unobligated SRF funds reallocated to Tribes or EPA may reallocate up to 10% of such funds to Tribes.</li> <li>- EPA shall consult Tribes on use of SRF funds and needs assessments.</li> <li>- EPA shall provide information on violations, compliance and enforcement on Indian reservations as part of an annual report which includes similar information from States.</li> </ul>

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Research & Education	Not addressed in Administration's ten Principles	<ul style="list-style-type: none"> <li>- \$25 mil./yr for FY 94-2000 for general DW research. General research authorities are clarified.</li> <li>- Education/training authorities are consolidated. \$10 mil./yr. authorization.</li> <li>- EPA to carry out regulatory research and field studies on DBP and microbials (inc. crypto). Authorizations: \$12.5 mil./yr., FY 95-98.</li> <li>- EPA to prepare and implement plan to address long-term research needs.</li> </ul>

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