

**SUPPORTING STATEMENT PART A:  
INFORMATION COLLECTION REQUEST FOR  
EPA PROGRAM INFORMATION ON  
SOURCE WATER PROTECTION**

**OMB Control No. 2040-0197  
EPA ICR No. 1816.08**

**March 2022**

## **1. Identification of the Information Collection**

### **1(a) Title of the Information Collection**

EPA Program Information on Source Water Protection (Renewal)  
(OMB Control No. 2040-0197/ EPA ICR No. 1816.08)

### **1(b) Short Characterization/Abstract**

Section 1453 (a)(3) of the Safe Drinking Water Act (SDWA) required states to submit a Source Water Assessment within 18 months after the U.S. Environmental Protection Agency (EPA or the Agency) published its State Source Water Assessment and Protection Programs Guidance: Final Guidance. Upon EPA approval of their programs in the late 1990s, states conducted source water assessments of their public water systems. State assessments were required to be completed three and a half years after approval of a state's program; the assessment program is therefore complete relative to the SDWA requirements. The burden and cost associated with the assessment process was accounted for in previous information collection requests (ICRs). While Section 1453 (a)(3) of the SDWA does not authorize implementation of source water protection, states are encouraged to use the data collected in the source water assessments to develop protection plans for source water areas. Drinking Water State Revolving Fund monies authorized in Section 1452(g)(2)(B) may be used for activities to support efforts in source water protection.

EPA's Source Water Protection program strives to protect sources of drinking water by developing tools and supporting voluntary partnerships and approaches that can prevent contamination of sources of drinking water. The program is primarily voluntary for state and local governments and other stakeholders; with help from a wide array of partners, EPA has made considerable strides. EPA's goal is to increase the number of community water systems (CWSs) with minimized risk to public health through development and implementation of source water protection (SWP) strategies for source water areas. Information on progress toward this goal is reported by the states via the following measure: Percent of community water systems where risk to public health is minimized through source water protection. Source water protection data that states submit directly to the Source Water Protection Information System (SDWIS) is accessible to the public via the EPA website. Availability of this information, together with source water and demographic indicators available via EPA's Drinking Water Mapping Application to Protect Source Waters (DWMAPS), promotes equity by empowering communities to include these considerations in their own analyses and outreach efforts.

EPA is collecting, on a voluntary basis, data from the states on their progress toward substantial implementation of source water protection strategies for all CWSs.<sup>1</sup> EPA estimates that the annual total non-Agency respondent burden associated with this voluntary reporting will

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<sup>1</sup> The term "states" includes tribal lands.

be 288 hours, and the cost to respondents of the information collection will be \$17,074.

## **2. Need for and Use of the Collection**

### **2(a) Need/Authority for the Collection**

The information to be collected will help states and EPA understand the progress toward increasing the number of CWSs with minimized risk to public health through development and implementation of SWP strategies for source water areas.

EPA wants to understand whether protection efforts are working to reduce risks to water quality and thereby reducing risks to public health. Measures and other information at the state, regional, and national levels provide guideposts for judging the success of the program actions. They also provide key information for targeting actions and resources to prevent contamination from the most serious threats to drinking water. State-wide, regional and national information also provides accountability to legislative bodies (state legislatures and Congress) for SDWA implementation and demonstrates that tax dollars are being well spent. The information reported will help to demonstrate the results achieved from categorical grants and Performance Partnership Grants. In addition, EPA will be able to measure its own program outputs and whether they are leading toward contamination prevention and risk reduction, and provide feedback and opportunities for national, regional, state and local program refinement and improvement.

EPA is collecting, on a voluntary basis, data from the states related to the progress toward substantial implementation of source water protection strategies for all CWS. Section 1453 (a)(3) of the SDWA (see Appendix A) required states to complete source water assessments of potential contamination for source water areas. The information collected in the source water assessments may be used to implement source water protection programs. While implementing a source water protection program is not required under Section 1453, Drinking Water State Revolving Fund monies authorized in Section 1452(g)(2)(B) (Appendix B) may be used for activities to support these efforts.

### **2(b) Practical Utility/Users of the Data**

EPA has developed a set of measures to assess the degree to which states are attaining source water contamination prevention goals and to demonstrate that reducing risks to public health through source water protection is being attained. The SWP measures have evolved over time and some of the original performance measures data are no longer collected. The measures attempt to answer four key questions about the SWP Program.

1. Are the state and tribal source water assessments being completed?
2. What threats to sources of drinking water are being found in assessment results?
3. How are current and future drinking water supplies being protected?
4. Are source water protection actions decreasing public health risks by preventing contamination of drinking water supplies?

Data collected under earlier ICRs answered the first two questions. EPA is now focusing on gauging progress toward addressing threats identified during the source water assessment process. States and the federal government will use the answers to these key questions to understand whether protection program actions are reducing risks from source waters; these reductions are presumed to increase public health protection. This information will also help SWP program managers better manage resources and reduce risks from the most threatening sources of contamination and protect the most threatened source waters. Lastly, the collected data will be used to inform state and federal managers and legislators regarding the success of prevention program actions to reduce the risks to source waters.

This information will also promote the integration of source water contamination prevention policies into other programs. This data is linked with work done under the Public Water System Supervision (PWSS) program and the Underground Injection Control (UIC) program. Some of this information will increase the public's awareness of issues related to protecting drinking water sources and, hopefully, their involvement in protection activities. EPA anticipates that these measures will provide states, regions, and the federal government with a focus for prevention efforts with local communities implementing actions in a timely and cost-effective manner.

### **3. Non-duplication, Consultations, and Other Collection Criteria**

#### **3(a) Non-duplication**

EPA is not aware of any similar reporting activities related to the status of source water protection efforts within the states. States are encouraged to track the requested information using databases. This approach should allow state reporters to take advantage of existing information and not duplicate other efforts.

States can use appropriate existing resources. These resources include sanitary surveys of local CWS, state source water protection programs, state wellhead protection programs, state pesticide management programs, state watershed approaches including efforts under the Surface Water Treatment Rule, monitoring waiver programs, or the Federal Water Pollution Control Act (Clean Water Act).

#### **3(b) Consultations**

State agency staff provided input on the hourly burden and cost associated with compiling data and reporting on the status of substantially implementing prevention plans in their states. The burden and cost estimates in this ICR reflect these estimates.

### **3(d) Effects of Less Frequent Collection**

EPA is requesting that states voluntarily report annual data on the status of the source water protection measure. EPA continues to emphasize the importance of using this measure to gauge program success, and improvement. After considering quarterly voluntary reporting, the Agency determined that annual reporting would be less burdensome. While states are not obligated to provide information for these measures, EPA is strongly encouraging states to provide such information.

### **3(e) General Guidelines**

All data collections covered by this ICR comply with the Office of Management and Budget's (OMB's) general guidelines for information collections in 5 CFR 1320.5(d)(2).

### **3(f) Confidentiality**

No confidential data is collected.

### **3(g) Sensitive Questions**

No questions concerning sexual behavior or attitudes, religious beliefs, or other matters usually considered private are included in this information collection.

## **4. The Respondents and the Information Requested**

### **4(a) Respondents/SIC Codes**

The respondents for this information collection are state environmental and health agencies. The Standard Industrial Classification (SIC) code for state respondents is 9511 (Air and Water Resource and Solid Waste Management); the North American Industry Classification System (NAICS) code is 92411, Administration of Air and Water Resource and Solid Waste Management Programs.

### **4(b) Information Requested**

#### *Data Items, Including Recordkeeping Requirements*

Under this collection, state respondents submit two data items annually to their EPA Regions. States are asked to report the following information:

- Number of CWSs with source water protection strategies in place and substantially implemented (states are requested to submit their definition of "substantial implementation" only if it has changed); and

- The population served by those CWSs.

### *Respondent Activities*

For this voluntary information collection, states can submit the information via e-mail. States are assumed to have already developed databases to collect, compile and store this information. States can also provide the information via SDWIS.

There are no recordkeeping requirements associated with this information collection. However, EPA anticipates that states will maintain or have access to the data used to compile the summary of substantial SWP implementation and will provide the data to interested stakeholders on request.

## **5. The Information Collected – Agency Activities, Collection Methodology, and Information Management**

### **5(a) Agency Activities**

EPA Regions will compile data submitted by states on the numbers of CWSs that have substantially implemented SWP programs and the populations served by these systems. Based on the data submitted by the Regions and data from the SDWIS, for each state and Region, the Regions calculate the percentages of CWSs and population served that have substantially implemented SWP programs. The data is as of December 31 of each year. The Regions include this information on the State Grant Performance Measure template.

EPA Headquarters will use data from the states to respond to inquiries from and communicates with state managers, the public and Congress on progress being made toward protection activities that minimize risks to source waters and public health.

EPA is committed to successful source water protection activities. EPA provides assistance to the states in the form of the Drinking Water State Revolving Fund, the Clean Water Act Section 106 funds, Clean Water Act Section 319 funds, and PWSS monies designed to aid state and local staff in substantially implementing source water protection strategies, facilitating information exchange and encouraging involvement of all capable participants and contributors at state, local and regional levels.

### **5(b) Collection Methodology and Management**

EPA anticipates that states may use a variety of methods to maintain the relevant data and report to EPA on the status of contamination prevention efforts.

- Some states will collect and store the data on each CWS or source water assessment in a state database. When EPA requests information each quarter on the status of SWP efforts,

these states will report the number of CWSs with SWP strategies and associated population served to each state's EPA regional contact via e-mail.

- Other states will report via SDWIS. Beginning in 2010, states have had the option of including information about SWP activities in SDWIS. (To report this way, states must have at least FedRep 3.1 and SDWIS/State 2.2 versions of the SDWIS software). State staff that enter SWP-related information about their CWSs into SDWIS and notify EPA of their intention to report SP-4 using SDWIS are not required to reply to EPA's request for information on the status of SWP efforts. Instead, EPA will draw this information directly from SDWIS.

### **5(c) Small Entity Flexibility**

The Regulatory Flexibility Act, 5 U.S.C. 602 et seq., requires the Agency to explicitly consider the effects of regulations on small entities and to develop (under certain circumstances) a Regulatory Flexibility Analysis describing these impacts. The respondents for this information collection are state environmental and health agencies, which are not small businesses or organizations, as defined in the Regulatory Flexibility Act.

### **5(d) Collection Schedule**

EPA is collecting measures data from the states on an annual basis.

## **6. Estimating the Burden and Cost of the Collection**

EPA is collecting, on a voluntary basis, data from the states and Regions related to progress toward substantial implementation of prevention strategies for all CWSs. EPA estimates that over time many of the approximately 50,000 CWSs in the nation will develop and substantially implement voluntary contamination prevention strategies for drinking water supplies. The burden and cost associated with these individual plans is not included in this ICR, as there is no associated federal reporting or record keeping requirement.

EPA estimates that, over the three years covered by this request, the total respondent burden associated with this reporting will average 288 hours per year and the cost to respondents of the information collection will average \$17,074 per year. The total burden and cost, presented in Section 6(e), are the product of the annual burden and cost per response, presented in Sections 6(a) and 6(b), respectively, and the number of responses, which are presented in Section 6(d). Section 6(c) presents the burden and cost to EPA; Section 6(f) discusses the change in the burden and cost estimates between the last information collection request (EPA ICR No. 1816.06) and this ICR.

## 6(a) Estimating Respondent Burden

Respondent burden estimates associated with progress toward developing and substantially implementing prevention strategies for all CWSs are presented in Exhibit 6-1. Column A of Exhibit 6-1 presents the annual unit burden to states for each activity.

- EPA estimates that states reporting SWP measures data to the Regions will devote an average of 8 hours annually (over the next three years) to collecting the requested data, discussing the status of SWP efforts with EPA staff, and reporting this information to EPA. This estimate reflects the fact that some states (e.g., states with fewer systems or with definitions of source water protection that require less rigor to track) will be able to complete the reporting in less than 8 hours, while other states with more complex reporting issues may take more time, i.e., up to 20 hours, for reporting activities. EPA assumes that, to compile the reports, states will use databases that track the implementation status of prevention strategies for each CWS in their state. EPA anticipates that state staff will report to the EPA regions via email.
- EPA estimates that states reporting via SDWIS will spend an average of 2 hours annually reporting this information to EPA. EPA assumes that this burden will involve states performing quality checks of the data.

**Exhibit 6-1  
Annual Respondent Burden and Cost**

|                                  | A                           | B            | C              | D                   | E                        | F                         |
|----------------------------------|-----------------------------|--------------|----------------|---------------------|--------------------------|---------------------------|
|                                  | Hours and Cost Per Response |              |                | Total Hour and Cost |                          |                           |
| Information Collection Activity  | Respondent Hours            | Labor Cost   | Non-labor Cost | Responses/Year      | Total Hours/Year (A * D) | Total Cost/Year (B+C) * D |
| <b>State activities</b>          |                             |              |                |                     |                          |                           |
| Report progress to EPA via email | 8                           | \$474        | \$0            | 31                  | 248                      | \$14,694                  |
| Report progress to EPA via SDWIS | 2                           | \$ 119       | \$0            | 20                  | 40                       | \$2,380                   |
| <b>TOTAL</b>                     |                             | <b>\$593</b> |                | <b>51</b>           | <b>288</b>               | <b>\$17,074</b>           |

## 6(b) Estimating Respondent Costs

EPA estimates that, over the next three years, the total annual labor cost per state associated with this information collection is \$593 (see Column B of Exhibit 6-1). For this ICR, EPA assumed that the average hourly labor rate for a state employee is \$59.34. This estimate is



based on a federal GS12, Step 5 on the Office of Personnel Management’s “Salary Table 2022-GS Incorporating the 2.2% General Schedule Increase Effective January 2022,” (\$37.09) increased by 60 percent to account for overhead costs. (This is the inflation factor recommended in EPA’s *ICR Handbook*).

There are no non-labor (capital or operation and maintenance) costs associated with this information collection. See Columns C through E of Exhibit 6-1.

### 6(c) Estimating Agency Burden and Cost

The federal burden associated with prevention strategy implementation during this clearance period includes the time spent by EPA Regional and Headquarters staff to collect and analyze state measures data and report on findings. Federal burden and cost are presented in Columns A through F of Exhibit 6-2.

In the three years of this collection, EPA estimates that Headquarters and the Regions will spend 204 hours per year compiling protection data. EPA assumes that each Region will spend approximately 20 hours per year (200 hours total) gathering data from the states and submitting it to Headquarters. EPA estimates that Headquarters will devote 4 hours to collecting and analyzing regional data and discussing this data with the regions.

**Exhibit 6-2  
Annual Agency Burden and Cost**

|  | <b>A</b>                    | <b>B</b>          | <b>C</b>              | <b>D</b>               | <b>E</b>                         | <b>F</b>                           |
|--|-----------------------------|-------------------|-----------------------|------------------------|----------------------------------|------------------------------------|
|  | Hours and Cost Per Response |                   |                       | Total Hours and Cost   |                                  |                                    |
| <b>Information Collection Activity</b> | <b>Agency Hours</b>         | <b>Labor Cost</b> | <b>Non-Labor Cost</b> | <b>Responses/ Year</b> | <b>Total Hours/ Year (A * D)</b> | <b>Total Cost/Year (B + C) * D</b> |
| Regions compile data.                  | 20                          | \$1,187           | \$0                   | 10                     | 200                              | \$11,870                           |
| Headquarters reviews data.             | 4                           | \$237             | \$0                   | 1                      | 4                                | \$237                              |
| <b>TOTAL</b>                           |                             | \$1,424           |                       | 11                     | 204                              | \$12,107                           |

Numbers may not appear to add due to rounding.

EPA estimates that the annual federal labor cost associated with compiling and analyzing data on the progress of assessment and prevention efforts will be \$12,107. In developing Agency labor costs, EPA estimates the average hourly labor rate for salary and overhead and benefits for Agency staff to be \$59.34. To derive this figure, EPA multiplied the hourly compensation at GS12, Step 5 on the Office of Personnel Management’s “Salary Table 2022-GS Incorporating the 2.2% General Schedule Increase Effective January 2022,” (\$37.09) by the standard government

benefits multiplication factor of 1.6 to account for overhead and benefits. There are no non-labor (capital or operation and maintenance) Agency costs associated with this information collection.

**6(d) Estimating the Respondent Universe and Total Burden and Cost**

Staff in 49 states, Puerto Rico, and the District of Columbia are expected to report once annually to EPA on the status of protection efforts. The number of responses is shown in Column F of Exhibit 6-1.

**6(e) Bottom Line Burden Hours and Cost/Burden Tables**

*Respondent Tally*

The total annual burden to states associated with compiling information related to source water assessments and implementing protection strategies and reporting on the status over the next three years is 288 hours, and the total annual cost to states is \$17,074. Exhibit 6-3 presents the total respondent burden and cost.

Over the three years covered by this request, the total respondent burden associated with this information collection will be 864 hours. The cost to respondents of the information collection will be \$53,112.

**Exhibit 6-3  
Summary of Annual Respondent Burden and Costs**

| <b>Response</b>                    | <b>Number of Responses</b> | <b>Total Hours/ Year</b> | <b>Total Annual Labor Cost</b> | <b>Total Annual Non-Labor Cost</b> | <b>Total Annual Respondent Cost</b> |
|------------------------------------|----------------------------|--------------------------|--------------------------------|------------------------------------|-------------------------------------|
| Report progress                    | 51                         | 288                      | \$17,074                       | \$0                                | \$17,074                            |
| <b>Average Burden per response</b> |                            |                          |                                |                                    | <b>5.65</b>                         |
| <b>Cost per response</b>           |                            |                          |                                |                                    | <b>\$335</b>                        |

*Agency Tally*

The total annual Agency burden is 204 hours, and the total annual Agency cost is \$12,107. Exhibit 6-4 presents the total annual Agency burden and cost associated with reviewing measures data.

Over the three years covered by this request, the total Agency burden associated with this voluntary reporting will be 612 hours. The total Agency cost over the three years covered by this ICR will be \$36,321.

**Exhibit 6-4**  
**Summary of Annual Agency Burden and Costs**

| Activity                    | Total Number of Responses | Total Hours/Year | Total Annual Labor Cost | Total Annual Nonlabor Cost | Total Annual Agency Cost |
|-----------------------------|---------------------------|------------------|-------------------------|----------------------------|--------------------------|
| Compile data (Regions)      | 10                        | 200              | \$11,870                | \$0                        | \$11,870                 |
| Analyze data (Headquarters) | 1                         | 4                | \$237                   | \$0                        | \$237                    |
| <b>Total</b>                | <b>11</b>                 | <b>204</b>       | <b>\$12,107</b>         | <b>\$0</b>                 | <b>\$12,107</b>          |

**6(f) Reasons for Change in Burden**

EPA estimates that, over the three years covered by this ICR renewal request, the total respondent burden associated with this voluntary reporting will be 864 hours (an average of 288 hours per year) and that, over the three years covered by this renewal request, the cost to respondents of the information collection will be \$51,222 (an average of \$17,074 per year). The decrease in burden is estimated based on each state’s method to submit the information to the EPA. For those states that report the information into an electronic database, the decrease in burden for annual reporting is minimal. For other states reporting the information in emails to the EPA regions, the decrease in burden is four-fold. The net decrease in burden estimates over all states is a two-fold decrease from quarterly to annual reporting. For states with fully developed (electronic) databases, tracking is routine and annual reporting can be provided easily. EPA believes that states can be more efficient and minimize their hourly burden and cost by moving to electronic reporting.

While states will continue to devote a significant amount of time to developing and implementing protection strategies in the coming years, this ICR does not include the burden associated with the source water protection activities themselves because the data reported only relates to tracking source water protection activities, not performing them. Exhibit 6-5 presents the approved and estimated annual burden and costs from the previous ICR and this ICR, and the change between the clearance periods.

**Exhibit 6-5**  
**Change in Annual Burden and Cost**  
**(Excluding Agency Burden and Cost)**

| Activity          | Annual Burden   |          |        | Annual Cost     |          |           | Reason  |
|-------------------|-----------------|----------|--------|-----------------|----------|-----------|---|
|                   | Approved (2019) | This ICR | Change | Approved (2019) | This ICR | Change    |   |
| Report progresses | 684             | 288      | -398   | \$29,874        | \$17,074 | \$-12,170 | Voluntary reporting decrease from quarterly to annual; and more states reporting through SDWIS. |

**6(g) Burden Statement**

EPA estimates that, over the three years covered by this request, the total non-Agency respondent burden associated with this voluntary reporting will be 864 hours (an average of 288 hours per year), and the cost to respondents of the information collection will be \$51,222 (an average of \$17,074 per year).

State reporting burden for this ICR is estimated to average 5.7 hours per response, or \$328 per response, annually (see Exhibit 6-3). Burden means the total time, effort or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

To facilitate comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-OW-2004-0013, which is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), WJC West, Room B3334, 1301 Constitution Ave., NW, Washington, DC. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426. An electronic version of the public docket is available through the EPA Docket Center at <http://www.regulations.gov>. Use regulations.gov to submit or view public comments, access the

index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select “search,” then key in the docket ID number identified above. Also, you can send comments to the Water Docket, Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode: 2822IT, 1200 Pennsylvania Ave., NW, Washington, DC 20460. Please include the EPA Docket ID No. EPAHQ-OW-2004-0013 and OMB control number 2040-0197 in any correspondence.

## **Appendix A**

Section 1453 of the Safe Drinking Water Act

4SEC. 132. SOURCE WATER ASSESSMENT.

(a) IN GENERAL- Part E (42 U.S.C. 300j et seq.) is amended by adding at the end the following:

SOURCE WATER QUALITY ASSESSMENT

SEC. 1453. (a) SOURCE WATER ASSESSMENT-

(1) GUIDANCE- Within 12 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996, after notice and comment, the Administrator shall publish guidance for States exercising primary enforcement responsibility for public water systems to carry out directly or through delegation (for the protection and benefit of public water systems and for the support of monitoring flexibility) a source water assessment program within the State's boundaries. Each State adopting modifications to monitoring requirements pursuant to section 1418(b) shall, prior to adopting such modifications, have an approved source water assessment program under this section and shall carry out the program either directly or through delegation.

(2) PROGRAM REQUIREMENTS- A source water assessment program under this subsection shall--

(A) delineate the boundaries of the assessment areas in such State from which one or more public water systems in the State receive supplies of drinking water, using all reasonably available hydrogeologic information on the sources of the supply of drinking water in the State and the water flow, recharge, and discharge and any other reliable information as the State deems necessary to adequately determine such areas; and

(B) identify for contaminants regulated under this title for which monitoring is required under this title (or any unregulated contaminants selected by the State, in its discretion, which the State, for the purposes of this subsection, has determined may present a threat to public health), to the extent practical, the origins within each delineated area of such contaminants to determine the susceptibility of the public water systems in the delineated area to such contaminants.

(3) APPROVAL, IMPLEMENTATION, AND MONITORING RELIEF- A State source water assessment program under this subsection shall be submitted to the Administrator within 18 months after the Administrator's guidance is issued under this subsection and shall be deemed approved 9 months after the date of such submittal unless the Administrator disapproves the program as provided in section 1428(c). States shall begin implementation of the program immediately after its approval. The Administrator's approval of a State program under this subsection shall include a timetable, established in consultation with the State, allowing not more than 2 years for completion after approval of the program. Public water systems seeking monitoring relief in addition to the interim relief provided under section 1418(a) shall be eligible for monitoring relief, consistent with section 1418(b), upon completion of the assessment in the delineated source water assessment area or areas concerned.

(4) TIMETABLE- The timetable referred to in paragraph (3) shall take into consideration the availability to the State of funds under section 1452 (relating to State loan funds) for assessments and other relevant factors. The Administrator may extend any timetable included in a State program approved under paragraph (3) to extend the period for completion by an additional 18 months.

(5) DEMONSTRATION PROJECT- The Administrator shall, as soon as practicable, conduct a demonstration project, in consultation with other Federal agencies, to demonstrate the most effective and protective means of assessing and protecting source waters serving large metropolitan areas and located on Federal lands.

(6) USE OF OTHER PROGRAMS- To avoid duplication and to encourage efficiency, the program under this section may make use of any of the following:

- (A) Vulnerability assessments, sanitary surveys, and monitoring programs.
  - (B) Delineations or assessments of ground water sources under a State wellhead protection program developed pursuant to this section.
  - (C) Delineations or assessments of surface or ground water sources under a State pesticide management plan developed pursuant to the Pesticide and Ground Water State Management Plan Regulation (subparts I and J of part 152 of title 40, Code of Federal Regulations), promulgated under section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(d)).
  - (D) Delineations or assessments of surface water sources under a State watershed initiative or to satisfy the watershed criterion for determining if filtration is required under the Surface Water Treatment Rule (section 141.70 of title 40, Code of Federal Regulations).
  - (E) Delineations or assessments of surface or ground water sources under programs or plans pursuant to the Federal Water Pollution Control Act.
- (7) PUBLIC AVAILABILITY- The State shall make the results of the source water assessments conducted under this subsection available to the public.
- (b) APPROVAL AND DISAPPROVAL- For provisions relating to program approval and disapproval, see section 1428(c).’.
- (b) APPROVAL AND DISAPPROVAL OF STATE PROGRAMS- Section 1428 (42 U.S.C. 300h-7) is amended as follows:
- (1) Amend the first sentence of subsection (c)(1) to read as follows: If, in the judgment of the Administrator, a State program or portion thereof under subsection (a) is not adequate to protect public water systems as required by subsection (a) or a State program under section 1453 or section 1418(b) does not meet the applicable requirements of section 1453 or section 1418(b), the Administrator shall disapprove such program or portion thereof.’.
  - (2) Add after the second sentence of subsection (c)(1) the following: A State program developed pursuant to section 1453 or section 1418(b) shall be deemed to meet the applicable requirements of section 1453 or section 1418(b) unless the Administrator determines within 9 months of the receipt of the program that such program (or portion thereof) does not meet such requirements.’.
  - (3) In the third sentence of subsection (c)(1) and in subsection (c)(2), strike is inadequate’ and insert is disapproved’.
  - (4) In subsection (b), add the following before the period at the end of the first sentence: and source water assessment programs under section 1453’.



## **Appendix B**

Section 1452 of the Safe Drinking Water Act

SEC. 130. STATE REVOLVING LOAN FUNDS.

Part E (42 U.S.C. 300j et seq.) is amended by adding the following new section after section 1451: SEC. 1452.

(a) GENERAL AUTHORITY-

(1) GRANTS TO STATES TO ESTABLISH STATE LOAN FUNDS-

(A) IN GENERAL- The Administrator shall offer to enter into agreements with eligible States to make capitalization grants, including letters of credit, to the States under this subsection to further the health protection objectives of this title, promote the efficient use of fund resources, and for other purposes as are specified in this title.

(B) ESTABLISHMENT OF FUND- To be eligible to receive a capitalization grant under this section, a State shall establish a drinking water treatment revolving loan fund (referred to in this section as a `State loan fund') and comply with the other requirements of this section. Each grant to a State under this section shall be deposited in the State loan fund established by the State, except as otherwise provided in this section and in other provisions of this title. No funds authorized by other provisions of this title to be used for other purposes specified in this title shall be deposited in any State loan fund.

(C) EXTENDED PERIOD- The grant to a State shall be available to the State for obligation during the fiscal year for which the funds are authorized and during the following fiscal year, except that grants made available from funds provided prior to fiscal year 1997 shall be available for obligation during each of the fiscal years 1997 and 1998.

(D) ALLOTMENT FORMULA- Except as otherwise provided in this section, funds made available to carry out this section shall be allotted to States that have entered into an agreement pursuant to this section (other than the District of Columbia) in accordance with--

(i) for each of fiscal years 1995 through 1997, a formula that is the same as the formula used to distribute public water system supervision grant funds under section 1443 in fiscal year 1995, except that the minimum proportionate share established in the formula shall be 1 percent of available funds and the formula shall be adjusted to include a minimum proportionate share for the State of Wyoming and the District of Columbia; and

(ii) for fiscal year 1998 and each subsequent fiscal year, a formula that allocates to each State the proportional share of the State needs identified in the most recent survey conducted pursuant to subsection (h), except that the minimum proportionate share provided to each State shall be the same as the minimum proportionate share provided under clause (I).

(E) REALLOTMENT- The grants not obligated by the last day of the period for which the grants are available shall be reallocated according to the appropriate criteria set forth in subparagraph (D), except that the Administrator may reserve and allocate 10 percent of the remaining amount for financial assistance to Indian Tribes in addition to the amount allotted under subsection (i) and none of the funds reallocated by the Administrator shall be reallocated to any State that has not obligated all sums allotted to the State pursuant to this section during the period in which the sums were available for obligation.

(F) NONPRIMACY STATES- The State allotment for a State not exercising primary enforcement responsibility for public water systems shall not be deposited in any such fund but shall be allotted by the Administrator under this subparagraph. Pursuant to section 1443(a)(9)(A) such sums allotted under this subparagraph shall be reserved as needed by the Administrator to exercise primary enforcement responsibility under this title in such State and the remainder shall be reallocated to States exercising primary enforcement responsibility for public water systems for deposit in such funds. Whenever the

Administrator makes a final determination pursuant to section 1413(b) that the requirements of section 1413(a) are no longer being met by a State, additional grants for such State under this title shall be immediately terminated by the Administrator. This subparagraph shall not apply to any State not

exercising primary enforcement responsibility for public water systems as of the date of enactment of the Safe Drinking Water Act Amendments of 1996.

(G) OTHER PROGRAMS-

(i) NEW SYSTEM CAPACITY- Beginning in fiscal year 1999, the Administrator shall withhold 20 percent of each capitalization grant made pursuant to this section to a State unless the State has met the requirements of section 1420(a) (relating to capacity development) and shall withhold 10 percent for fiscal year 2001, 15 percent for fiscal year 2002, and 20 percent for fiscal year 2003 if the State has not complied with the provisions of section 1420(c) (relating to capacity development strategies). Not more than a total of 20 percent of the capitalization grants made to a State in any fiscal year may be withheld under the preceding provisions of this clause. All funds withheld by the Administrator pursuant to this clause shall be reallocated by the Administrator on the basis of the same ratio as is applicable to funds allotted under subparagraph (D). None of the funds reallocated by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of section 1420 (relating to capacity development).

(ii) OPERATOR CERTIFICATION- The Administrator shall withhold 20 percent of each capitalization grant made pursuant to this section unless the State has met the requirements of 1419 (relating to operator certification). All funds withheld by the Administrator pursuant to this clause shall be reallocated by the Administrator on the basis of the same ratio as applicable to funds allotted under subparagraph (D). None of the funds reallocated by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of section 1419 (relating to operator certification).

(2) USE OF FUNDS- Except as otherwise authorized by this title, amounts deposited in a State loan fund, including loan repayments and interest earned on such amounts, shall be used only for providing loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in a State loan fund established under paragraph (1), or other financial assistance authorized under this section to community water systems and nonprofit noncommunity water systems, other than systems owned by Federal agencies. Financial assistance under this section may be used by a public water system only for expenditures (not including monitoring, operation, and maintenance expenditures) of a type or category which the Administrator has determined, through guidance, will facilitate compliance with national primary drinking water regulations applicable to the system under section 1412 or otherwise significantly further the health protection objectives of this title. The funds may also be used to provide loans to a system referred to in section 1401(4)(B) for the purpose of providing the treatment described in section 1401(4)(B)(i)(III). The funds shall not be used for the acquisition of real property or interests therein, unless the acquisition is integral to a project authorized by this paragraph and the purchase is from a willing seller. Of the amount credited to any State loan fund established under this section in any fiscal year, 15 percent shall be available solely for providing loan assistance to public water systems which regularly serve fewer than 10,000 persons to the extent such funds can be obligated for eligible projects of public water systems.

(3) LIMITATION-

(A) IN GENERAL- Except as provided in subparagraph (B), no assistance under this section shall be provided to a public water system that--

- (i) does not have the technical, managerial, and financial capability to ensure compliance with the requirements of this title; or
- (ii) is in significant noncompliance with any requirement of a national primary drinking water regulation or variance.

(B) RESTRUCTURING- A public water system described in subparagraph (A) may receive assistance under this section if--

- (i) the use of the assistance will ensure compliance; and

- (ii) if subparagraph (A)(i) applies to the system, the owner or operator of the system agrees to undertake feasible and appropriate changes in operations (including ownership, management, accounting, rates, maintenance, consolidation, alternative water supply, or other procedures) if the State determines that the measures are necessary to ensure that the system has the technical, managerial, and financial capability to comply with the requirements of this title over the long term.

(C) REVIEW- Prior to providing assistance under this section to a public water system that is in significant noncompliance with any requirement of a national primary drinking water regulation or variance, the State shall conduct a review to determine whether subparagraph (A)(i) applies to the system.

(b) INTENDED USE PLANS-

(1) IN GENERAL- After providing for public review and comment, each State that has entered into a capitalization agreement pursuant to this section shall annually prepare a plan that identifies the intended uses of the amounts available to the State loan fund of the State.

(2) CONTENTS- An intended use plan shall include--

(A) a list of the projects to be assisted in the first fiscal year that begins after the date of the plan, including a description of the project, the expected terms of financial assistance, and the size of the community served;

(B) the criteria and methods established for the distribution of funds; and

(C) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund.

(3) USE OF FUNDS-

(A) IN GENERAL- An intended use plan shall provide, to the maximum extent practicable, that priority for the use of funds be given to projects that-- (i) address the most serious risk to human health;

(ii) are necessary to ensure compliance with the requirements of this title (including requirements for filtration); and

(iii) assist systems most in need on a per household basis according to State affordability criteria.

(B) LIST OF PROJECTS- Each State shall, after notice and opportunity for public comment, publish and periodically update a list of projects in the State that are eligible for assistance under this section, including the priority assigned to each project and, to the extent known, the expected funding schedule for each project.

(C) FUND MANAGEMENT- Each State loan fund under this section shall be established, maintained, and credited with repayments and interest. The fund corpus shall be available in perpetuity for providing financial assistance under this section. To the extent amounts in the fund are not required for current obligation or expenditure, such amounts shall be invested in interest bearing obligations.

(D) ASSISTANCE FOR DISADVANTAGED COMMUNITIES-

(1) LOAN SUBSIDY- Notwithstanding any other provision of this section, in any case in which the State makes a loan pursuant to subsection (a)(2) to a disadvantaged community or to a community that the State expects to become a disadvantaged community as the result of a proposed project, the State may provide additional subsidization (including forgiveness of principal).

(2) TOTAL AMOUNT OF SUBSIDIES- For each fiscal year, the total amount of loan subsidies made by a State pursuant to paragraph (1) may not exceed 30 percent of the amount of the capitalization grant received by the State for the year.

(3) DEFINITION OF DISADVANTAGED COMMUNITY- In this subsection, the term

'disadvantaged community' means the service area of a public water system that meets affordability criteria established after public review and comment by the State in which the public water system is located. The Administrator may publish information to assist States in establishing affordability criteria.

(E) STATE CONTRIBUTION- Each agreement under subsection (a) shall require that the State deposit in the State loan fund from State moneys an amount equal to at least 20 percent of the total amount of the grant to be made to the State on or before the date on which the grant payment is made to the State, except that a State shall not be required to deposit such amount into the fund prior to the date on which each grant payment is made for fiscal years 1994, 1995, 1996, and 1997 if the State deposits the State contribution amount into the State loan fund prior to September 30, 1999.

(F) TYPES OF ASSISTANCE- Except as otherwise limited by State law, the amounts deposited into a State loan fund under this section may be used only-- (1) to make loans, on the condition that--

(A) the interest rate for each loan is less than or equal to the market interest rate, including an interest free loan;

(B) principal and interest payments on each loan will commence not later than 1 year after completion of the project for which the loan was made, and each loan will be fully amortized not later than 20 years after the completion of the project, except that in the case of a disadvantaged community (as defined in subsection (d)(3)), a State may provide an extended term for a loan, if the extended term--

(i) terminates not later than the date that is 30 years after the date of project completion; and

(ii) does not exceed the expected design life of the project;

(C) the recipient of each loan will establish a dedicated source of revenue (or, in the case of a privately owned system, demonstrate that there is adequate security) for the repayment of the loan; and

(D) the State loan fund will be credited with all payments of principal and interest on each loan;

(2) to buy or refinance the debt obligation of a municipality or an intermunicipal or interstate agency within the State at an interest rate that is less than or equal to the market interest rate in any case in which a debt obligation is incurred after July 1, 1993;

(3) to guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this section) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation;

(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of the bonds will be deposited into the State loan fund; and

(5) to earn interest on the amounts deposited into the State loan fund.

(G) ADMINISTRATION OF STATE LOAN FUNDS-

(1) COMBINED FINANCIAL ADMINISTRATION- Notwithstanding subsection (c), a State may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with State law, the financial administration of a State loan fund established under this section with the financial administration of any other revolving fund established by the State if otherwise not prohibited by the law under which the State loan fund was established and if the Administrator determines that--

(A) the grants under this section, together with loan repayments and interest, will be separately accounted for and used solely for the purposes specified in subsection (a); and

(B) the authority to establish assistance priorities and carry out oversight and related activities (other than financial administration) with respect to assistance remains with the State agency having primary responsibility for administration of the State program under section 1413, after consultation with other appropriate State agencies (as determined by the State): *Provided*

That in nonprimacy States eligible to receive assistance under this section, the Governor shall determine which State agency will have authority to establish priorities for financial assistance from the State loan fund.

(2) COST OF ADMINISTERING FUND- Each State may annually use up to 4 percent of the funds allotted to the State under this section to cover the reasonable costs of administration of the programs under this section, including the recovery of reasonable costs expended to establish a State loan fund which are incurred after the date of enactment of this section, and to provide technical assistance to public water systems within the State. For fiscal year 1995 and each fiscal year thereafter, each State may use up to an additional 10 percent of the funds allotted to the State under this section-- (A) for public water system supervision programs under section 1443(a);

(B) to administer or provide technical assistance through source water protection programs;

(C) to develop and implement a capacity development strategy under section 1420(c); and

(D) for an operator certification program for purposes of meeting the requirements of section 1419, if the State matches the expenditures with at least an equal amount of State funds. At least half of the match must be additional to the amount expended by the State for public water supervision in fiscal year 1993. An additional 2 percent of the funds annually allotted to each State under this section may be used by the State to provide technical assistance to public water systems serving 10,000 or fewer persons in the State. Funds utilized under subparagraph (B) shall not be used for enforcement actions.

(3) GUIDANCE AND REGULATIONS- The Administrator shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this section, including--

(A) provisions to ensure that each State commits and expends funds allotted to the State under this section as efficiently as possible in accordance with this title and applicable State laws;

(B) guidance to prevent waste, fraud, and abuse; and

(C) guidance to avoid the use of funds made available under this section to finance the expansion of any public water system in anticipation of future population growth. The guidance and regulations shall also ensure that the States, and public water systems receiving assistance under this section, use accounting, audit, and fiscal procedures that conform to generally accepted accounting standards.

(4) STATE REPORT- Each State administering a loan fund and assistance program under this subsection shall publish and submit to the Administrator a report every 2 years on its activities under this section, including the findings of the most recent audit of the fund and the entire State allotment. The Administrator shall periodically audit all State loan funds established by, and all other amounts allotted to, the States pursuant to this section in accordance with procedures established by the Comptroller General.

(H) NEEDS SURVEY- The Administrator shall conduct an assessment of water system capital improvement needs of all eligible public water systems in the United States and submit a report to the Congress containing the results of the assessment within 180 days after the date of enactment of the Safe Drinking Water Act Amendments of 1996 and every 4 years thereafter.

(I) INDIAN TRIBES-

(1) IN GENERAL- 1 1/2 percent of the amounts appropriated annually to carry out this section may be used by the Administrator to make grants to Indian Tribes and Alaska Native villages that have not otherwise received either grants from the Administrator under this section or assistance from State loan funds established under this section. The grants may only be used for expenditures by tribes and villages for public water system expenditures referred to in subsection (a)(2).

(2) USE OF FUNDS- Funds reserved pursuant to paragraph (1) shall be used to address the most significant threats to public health associated with public water systems that

serve Indian Tribes, as determined by the Administrator in consultation with the Director of the Indian Health Service and Indian Tribes.

(3) ALASKA NATIVE VILLAGES- In the case of a grant for a project under this subsection in an Alaska Native village, the Administrator is also authorized to make grants to the State of Alaska for the benefit of Native villages. An amount not to exceed 4 percent of the grant amount may be used by the State of Alaska for project management.

(4) NEEDS ASSESSMENT- The Administrator, in consultation with the Director of the Indian Health Service and Indian Tribes, shall, in accordance with a schedule that is consistent with the needs surveys conducted pursuant to subsection (h), prepare surveys and assess the needs of drinking water treatment facilities to serve Indian Tribes, including an evaluation of the public water systems that pose the most significant threats to public health.

(J) OTHER AREAS- Of the funds annually available under this section for grants to States, the Administrator shall make allotments in accordance with section 1443(a)(4) for the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and Guam. The grants allotted as provided in this subsection may be provided by the Administrator to the governments of such areas, to public water systems in such areas, or to both, to be used for the public water system expenditures referred to in subsection (a)(2). The grants, and grants for the District of Columbia, shall not be deposited in State loan funds. The total allotment of grants under this section for all areas described in this subsection in any fiscal year shall not exceed 0.33 percent of the aggregate amount made available to carry out this section in that fiscal year.

(K) OTHER AUTHORIZED ACTIVITIES-

(1) IN GENERAL- Notwithstanding subsection (a)(2), a State may take each of the following actions:

(A) Provide assistance, only in the form of a loan, to one or more of the following: (i) Any public water system described in subsection (a)(2) to acquire land or a conservation easement from a willing seller or grantor, if the purpose of the acquisition is to protect the source water of the system from contamination and to ensure compliance with national primary drinking water regulations.

(ii) Any community water system to implement local, voluntary source water protection measures to protect source water in areas delineated pursuant to section 1453, in order to facilitate compliance with national primary drinking water regulations applicable to the system under section 1412 or otherwise significantly further the health protection objectives of this title. Funds authorized under this clause may be used to fund only voluntary, incentive-based mechanisms.

(iii) Any community water system to provide funding in accordance with section 1454(a)(1)(B)(i).

(B) Provide assistance, including technical and financial assistance, to any public water system as part of a capacity development strategy developed and implemented in accordance with section 1420(c).

(C) Make expenditures from the capitalization grant of the State for fiscal years 1996 and 1997 to delineate and assess source water protection areas in accordance with section 1453, except that funds set aside for such expenditure shall be obligated within 4 fiscal years.

(D) Make expenditures from the fund for the establishment and implementation of wellhead protection programs under section 1428.

(2) LIMITATION- For each fiscal year, the total amount of assistance provided and expenditures made by a State under this subsection may not exceed 15 percent of the amount of the capitalization grant received by the State for that year and may not exceed 10 percent of that amount for any one of the following activities:

- (A) To acquire land or conservation easements pursuant to paragraph (1)(A)(i).
- (B) To provide funding to implement voluntary, incentive-based source water quality protection measures pursuant to clauses (ii) and (iii) of paragraph (1)(A).
- (C) To provide assistance through a capacity development strategy pursuant to paragraph (1)(B).
- (D) To make expenditures to delineate or assess source water protection areas pursuant to paragraph (1)(C).
- (E) To make expenditures to establish and implement wellhead protection programs pursuant to paragraph (1)(D).

(3) STATUTORY CONSTRUCTION- Nothing in this section creates or conveys any new authority to a State, political subdivision of a State, or community water system for any new regulatory measure, or limits any authority of a State, political subdivision of a State or community water system.

(I) SAVINGS- The failure or inability of any public water system to receive funds under this section or any other loan or grant program, or any delay in obtaining the funds, shall not alter the obligation of the system to comply in a timely manner with all applicable drinking water standards and requirements of this title.

(M) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to carry out the purposes of this section \$599,000,000 for the fiscal year 1994 and \$1,000,000,000 for each of the fiscal years 1995 through 2003. To the extent amounts authorized to be appropriated under this subsection in any fiscal year are not appropriated in that fiscal year, such amounts are authorized to be appropriated in a subsequent fiscal year (prior to the fiscal year 2004). Such sums shall remain available until expended.

(N) HEALTH EFFECTS STUDIES- From funds appropriated pursuant to this section for each fiscal year, the Administrator shall reserve \$10,000,000 for health effects studies on ranking water contaminants authorized by the Safe Drinking Water Act Amendments of 1996. In allocating funds made available under this subsection, the Administrator shall give priority to studies concerning the health effects of cryptosporidium (as authorized by section 1458(c)), disinfection byproducts (as authorized by section 1458(c)), and arsenic (as authorized by section 1412(b)(12)(A)), and the implementation of a plan for studies of subpopulations at greater risk of adverse effects (as authorized by section 1458(a)).

(O) MONITORING FOR UNREGULATED CONTAMINANTS- From funds appropriated pursuant to this section for each fiscal year beginning with fiscal year 1998, the Administrator shall reserve \$2,000,000 to pay the costs of monitoring for unregulated contaminants under section 1445(a)(2) (C).

(P) DEMONSTRATION PROJECT FOR STATE OF VIRGINIA- Notwithstanding the other provisions of this section limiting the use of funds deposited in a State loan fund from any State allotment, the State of Virginia may, as a single demonstration and with the approval of the Virginia General Assembly and the Administrator, conduct a program to demonstrate alternative approaches to intergovernmental coordination to assist in the financing of new drinking water facilities in the following rural communities in southwestern Virginia where none exists on the date of enactment of the Safe Drinking Water Act Amendments of 1996 and where such communities are experiencing economic hardship: Lee County, Wise County, Scott County, Dickenson County, Russell County, Buchanan County, Tazewell County, and the city of Norton, Virginia. The funds allotted to that State and deposited in the State loan fund may be loaned to a regional endowment fund for the purpose set forth in this subsection under a plan to be approved by the Administrator. The plan may include an advisory group that includes representatives of such counties.

(Q) SMALL SYSTEM TECHNICAL ASSISTANCE- The Administrator may reserve up to 2



percent of the total funds appropriated pursuant to subsection (m) for each of the fiscal years 1997 through 2003 to carry out the provisions of section 1442(e) (relating to technical assistance for small systems), except that the total amount of funds made available for such purpose in any fiscal year through appropriations (as authorized by section 1442(e)) and reservations made pursuant to this subsection shall not exceed the amount authorized by section 1442(e).

(R) EVALUATION- The Administrator shall conduct an evaluation of the effectiveness of the State loan funds through fiscal year 2001. The evaluation shall be submitted to the Congress at the same time as the President submits to the Congress, pursuant to section 1108 of title 31, United States Code, an appropriations request for fiscal year 2003 relating to the budget of the Environmental Protection Agency.