



Regionalization:

RCAP's Recommendations for Water and Wastewater Policy

A Rural Community Assistance Partnership (RCAP)
RESEARCH REPORT

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List of Acronyms

Acronym	Definition
AWIA	America's Water Infrastructure Act of 2018
CDBG	Community Development Block Grants
CWA	Clean Water Act
CWSRF	Clean Water State Revolving Fund
DEP	Department of Environmental Protection
DWSRF	Drinking Water State Revolving Fund
EPA	Environmental Protection Agency
CWS	community water system
FEMA	Federal Emergency Management Agency
FRWA	Florida Rural Water Association
HUD	US Department of Housing and Urban Development
JPA	joint powers agency/authority
NPDES	National Pollutant Discharge Elimination System
PER	Preliminary Engineering Report
PPE	personal protective equipment
PUC	Public Utility/Utilities Commission
PWS	public water system
RCAP	Rural Community Assistance Partnership
RD	Rural Development
RUS	Rural Utility Service
SDWA	Safe Drinking Water Act
SEARCH	Special Evaluation Assistance for Rural Communities and Households

SRF	State Revolving Loan Fund
SWIFT	State Water Implementation Fund for Texas
TAP	technical assistance provider
USDA	US Department of Agriculture
WARN	Water and Wastewater Agency Response Network
WATER	Water Assistance Tracking and Emergency Response
WEP	Water and Environment Programs
WIFIA	Water Infrastructure Finance and Innovation Act
WIIN	Water Infrastructure Improvements for the Nation
WSRR	Water System Restructuring Rule

Preface

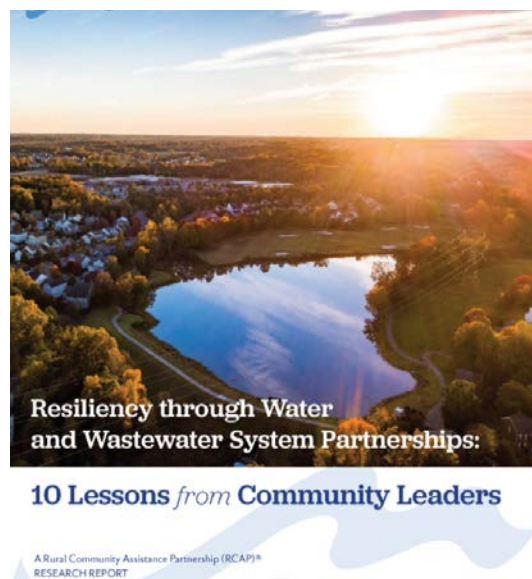
Small, rural, and tribal communities have a lot to gain from potential partnerships with one another in the form of regional collaboration between water and/or wastewater systems - what RCAP calls “regionalization.”

Although the potential gains are significant and can offer benefits to communities such as improved access to services while creating economies of scale, they can go unacknowledged or be misunderstood. Collaboration can also be unattainable due to cost, a lack of understanding or will to pursue a regional solution, or due to policies at the local, state, and/or federal level. However, regionalization has the potential to put small, rural, and tribal communities on the path to resilience, improve public health, and many more important outcomes, which is why RCAP is committed to helping both communities and policy-makers understand it.

This second report in our series about regionalization aims to understand what types of policies at all levels of government have helped or hindered regional solutions for water and wastewater collaboration in small, rural, and tribal communities across the United States. It makes recommendations for new policies to be implemented, existing policies to be expanded to other states, or existing policies to be improved at various levels of government.

The first report, [*Resiliency through Water and Wastewater System Partnerships: 10 Lessons from Community Leaders*](#), defined regionalization, provided a primer on the drivers, benefits, and challenges of regionalization, and described 10 lessons learned from conversations with community leaders throughout the

country who have worked on regionalization for their communities’ drinking water and/or wastewater systems – all with a focus on small, rural, and tribal communities.



Key Takeaways:

Our research clearly indicates that there are two basic needs to encourage and incentivize successful regionalization by water and wastewater systems, and particularly those in small, rural, and tribal communities:

- 1) The need for flexibility. Policy at the federal, state, and local levels should allow for as many ways of implementing, encouraging, and incentivizing regionalization as possible. This should be paired with capacity building opportunities for communities to access those options so that each community can find the right solution for its unique needs.
- 2) The need for more funding for regionalization efforts across the spectrum of informal-formal regionalization that is supported by all levels of government.

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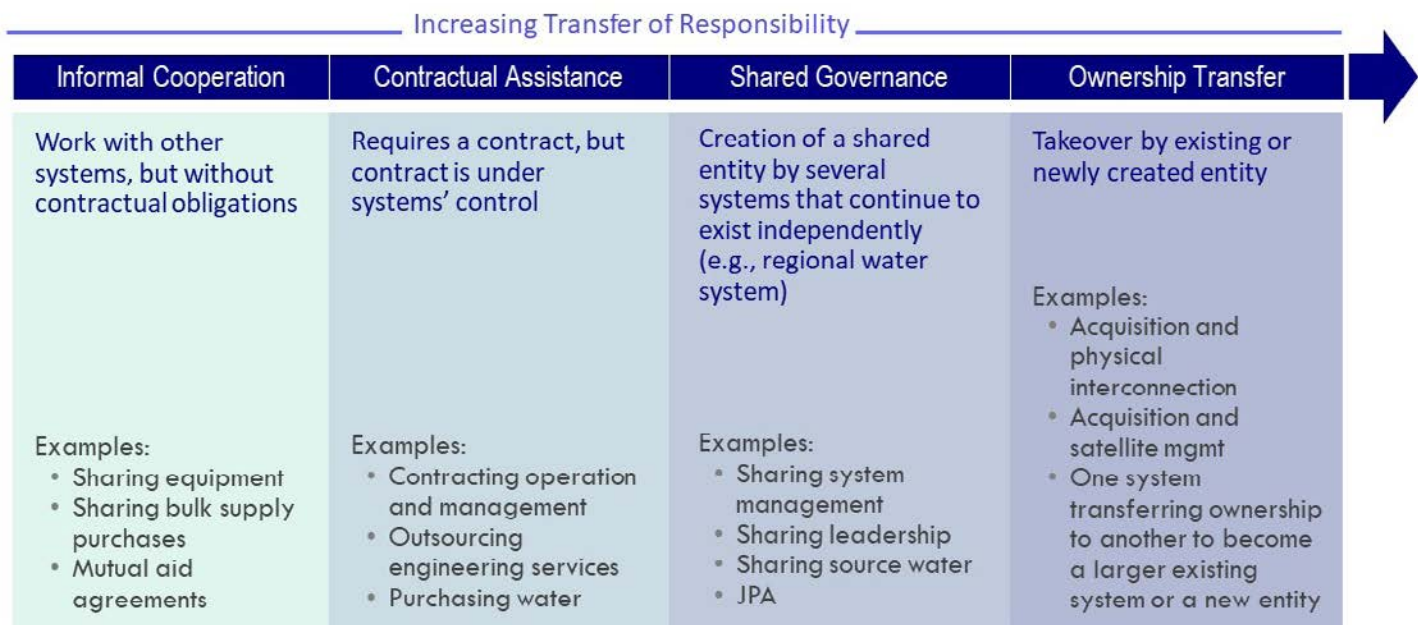
CONCLUSION

RCAP defines regionalization as:

a spectrum of collaborative activities, ranging from the most informal to the most formal of partnerships between communities in the same geographic area. Many terms are used for regionalization, including regional collaboration and partnerships. It is one tool in the toolbox for helping small rural communities overcome the challenges they face to maintain and sustain a drinking water and/or wastewater system. Some systems are using regionalization as a solution to build capacity and become more resilient, enabling them to sustain their systems successfully, not only financially, but technically and managerially, for years to come. Others are using it to build economies of scale, to bundle financial opportunities, or to maintain compliance with federal and state regulations.

Figure 1 shows the spectrum of regionalization.¹ Note that many policies related to regionalization, and many discussions of regionalization, use the word “consolidation.” We consider consolidation to be an option under the larger regionalization umbrella, but not the only type or the end goal for all regionalization efforts.

Figure 1: Types of regional collaboration



Graphic adapted by RCAP and RCAC from U.S. Environmental Protection Agency resources

INFORMAL COLLABORATION

Effective partnerships can consist of simple, informal collaboration. Sometimes a water or wastewater system will work with its neighbor(s) to share the cost of heavy machinery or other equipment if they don't each need their own all the time or to purchase disinfectants or other chemicals in bulk. These are great ways to exercise economies of scale that would otherwise be unattainable.

Other types of informal cooperation may include mutual aid agreements, in which systems formally agree to assist one another in an emergency.

CONTRACTUAL ASSISTANCE

A system starting to formalize collaboration may set up a contract with either another system or a service provider who also serves other systems. This method can alleviate strain on a system's employees and build capacity by creating a more efficient workflow, or simply provide an option for when the skill sets needed are not readily available or affordable. Sometimes neighboring systems will share staff, like an engineer, back office operations like billing staff, or a system operator. Sometimes they will create a contract to purchase water together or from one another.

There are many contractual options that eliminate redundancies, build efficiencies, streamline operations, make staff lives easier, and provide the security and peace of mind of a contractual agreement, but still allow individual systems to maintain their independence.

SHARED GOVERNANCE (E.G., JPA)

Two or more systems form a shared governance model, such as a joint powers agency (JPA, also sometimes called a joint powers authority or agreement), establishing a completely new legal entity. While a JPA may perform many different functions, it is often set up with a particular role in mind. Under a JPA or other shared governance model, systems maintain autonomy, but also work together to set up and manage the new entity, which can perform various functions. This arrangement may provide shared system operators, run a treatment facility, or enable access to source water that would have been impossible for one system to tap into on its own. This new entity also may be able to apply for and access funding more easily. A shared governance model such as a JPA may own, build, manage and operate utilities under an agreement made by the communities that formed it. It has the power to pledge revenue and incur debt, in addition to applying for and receiving funds.

Other types of shared governance models may include other regional entities like a regional water/wastewater authority or a special utility district. These are just a few examples of how systems can form a new entity to help them all experience better, more reliable and affordable water or wastewater services.

OWNERSHIP TRANSFER

Systems often equate regionalization with consolidation or ownership transfer, though this is only one of many partnership options and is often reached after other, less formal cooperation occurs. Consolidation has been known to create concern for communities. While it is not always the right fit, it is one tool in the regionalization toolbox that can sometimes solve a system's problems. It can entail a takeover of a system either by an existing entity or the formation of a new entity. Ownership transfer usually takes place through a merger process where either an existing system assumes the assets and liabilities of the merging entities or a new structure is organized for regional partners to merge into. Ownership transfer often (but not always) includes a physical interconnection; managerial consolidations are also common.

RESOURCE: Additional information on types of partnerships and an interactive map with case studies for each type are available at: <https://www.epa.gov/dwcapacity/water-system-partnerships>.

Regionalization is a key strategy for water and wastewater systems across the United States, particularly in rural areas, to achieve sustainability. With the goal for a water or wastewater system to protect public and environmental health in a sustainable way, regionalization is a crucial tool for many communities to consider.

RCAP and many others, including government agencies at the federal, state, and local level, understand the benefits of regionalization. Some of the most commonly identified benefits of regionalization as found in RCAP's first research report² include:

- cost savings and improved operations;
- additional capacity at the local level;
- improved ability to work with regulators or meet regulatory requirements; and
- advances in economic prosperity.


Policies at every level of government can make regionalization more or less difficult. Local, state, and federal policies can also pave the way for or incentivize regional collaboration. For example, policies can offer:

- additional principal forgiveness or extra scoring points on regional infrastructure funding applications;
- refinancing and debt consolidation options; and
- the state-level existence of flexible regional entity types such as special districts, inter-local agreements or joint powers agencies/authorities (JPAs).

Policies at all levels can conversely act as a barrier to regional solutions. For example:

- when safe harbor is not offered to an entity that is itself compliant with state and/or federal regulations but absorbs a non-compliant entity; or
- if entities are not required to fully explore and assess feasibility for a regional physical and/or managerial interconnection before being issued new public water system (PWS) or National Pollutant Discharge Elimination System (NPDES) permits.

A potential regional project can be delayed or thwarted by the absence of a clear and practical legal pathway. In some instances, multiple utilities will come together, build trust and want a more formal and mutually beneficial solution only to run into this challenge.



Regionalizing and partnering with everyone to pull water from the river is obviously the best long-term solution, but how can I justify it in the short-term to my residents?

It is expensive – far more expensive than continuing to operate on our own. There is nothing out there to incentivize all of us to partner and pull off this huge project (a cost of \$50 million) – we have only found hurdles to overcome.

It seems like all these government agencies would rather we stay separated, though it will be better for us to work together.

-- A reflection from a town mayor RCAP has been working with on a large regionalization effort to develop a new water source and treatment plant from which multiple communities will be able to purchase water.

Based on our research, it is clear more must be done to make regionalization a viable option for communities, especially those that are small, rural, and/or tribal.

Photo Credit: Narat



Photo Credit: Matthew Feeney

RCAP's Perspective on Regionalization

RCAP believes in the agency and autonomy of individual communities. We help small, rural, and tribal communities and drinking water/wastewater systems build capacity while addressing technical, managerial, and financial challenges. RCAP believes all decisions should be based on the unique needs of each community and works directly with communities so they understand all their options without being forced into a pre-determined outcome. RCAP supports the use of the various regionalization options based on the distinct needs of the communities involved.

Water and wastewater systems across the United States are focused on protecting public and environmental health in an affordable and sustainable way. Regionalization can be a crucial tool to achieve sustainability for these systems, particularly in rural areas. Any type of partnership, from the most informal, such as the sharing of heavy equipment, to the most formal like physical and/or managerial consolidation, can provide benefit to communities and is worth considering.

This report provides policy research results and RCAP's recommendations based on both the research conducted and our extensive experience in the field working with communities on regionalization.

In researching this report, RCAP built from the US Environmental Protection Agency's (EPA's) "Water System Partnerships: State Programs and Policies Supporting Cooperative Approaches for Drinking Water Systems," report published in 2017.³ The report was specific to drinking water only and many state policies have changed since it was published. In addition to using this resource, RCAP gathered additional information on current state policies that encourage regionalization for both drinking water and wastewater systems. The information RCAP collected on both drinking water and wastewater policies at the state level encouraging regionalization is available as an appendix to this report (Appendix A) as a spreadsheet. Our research revealed that policies encouraging regionalization appear to be much more common for drinking water regionalization than for wastewater regionalization.

RCAP also compiled a dataset of regionalization projects worked on by regional RCAP technical assistance providers (TAPs) in the past seven years including information on outcomes, incentives, and funding sources. Projects were reviewed for whether the communities successfully formed partnerships. States with high rates of success or high numbers of projects were called out for specific analysis. Those states were: Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Maryland, Mississippi, Montana, New Mexico, Ohio, Oklahoma, Oregon, Pennsylvania, Texas, and Washington (this is a subjective measure based on RCAP's experience in these states).⁴ In RCAP's work, drinking water regionalization projects were much more common than wastewater regionalization projects. Because policies are also more common for drinking water, this report's comparison between actual RCAP technical assistance projects and common policies by state is focused on drinking water projects and policies.

Some of the information collected on incentives and funding sources pointed towards potential recommendations for local policies. RCAP also formulated recommendations for federal policies based on that same information on incentives and funding sources, our knowledge of federal and state policies and legislation that have been attempted or advocated for in the past, and anecdotal knowledge gathered through our vast network of TAPs around the country who have worked closely with federal policies. Many TAPs have also worked with state and local policies, providing helpful insights on recommendations for all levels of government.

RCAP drafted its initial findings and presented them to RCAP's Regionalization Working Group, a group of RCAP National staff and regional TAPs who are all experienced with regionalization. RCAP then hosted an external focus group with industry non-profit leaders, regionalization experts, and representatives from federal agencies who work with regionalization, and who have a deep understanding of current and potential policies and programs. These efforts allowed us to ground-truth the draft findings and recommendations and gather additional information.

Table 1: Drinking water regionalization policies in selected states

State	Consolidating Systems prioritized for DWSRF funding ^a	Partnering systems (more generally) prioritized for DWSRF funding ^a	Consolidating Systems prioritized for DWSRF principal forgiveness ^a	Partnering systems (more generally) prioritized for DWSRF principal forgiveness ^a	State loan funds or incentive programs exist for consolidating systems ^a	State loan funds or incentive programs exist for partnering (generally) systems ^a
Arkansas	Yes	No	Yes	No	No	No
California	Yes	No	Yes	No	Yes	No
Colorado	Yes	No	No	No	Yes	Yes
Florida	Yes	Yes	No	No	Not found	No
Georgia	No	No	No	No	Yes	No
Illinois	Yes	Not found	Not found	No	No	No
Indiana	Yes	Yes	No	No	No	No
Iowa	Not clear	No	Not found	Not found	No	No
Kansas	Yes	No	Yes	No	Yes	Maybe
Maryland	Not found	Not found	No	No	Yes	No
Mississippi	Yes	No	No	No	No	No
Montana	Yes	No	No	No	Not found	Not found
New Mexico	Yes	Yes	No	No	No	No
Ohio	Yes	Yes	Yes	No	Not found	Not found
Oklahoma	Yes	Yes	Yes	Yes	Not found	Not found
Oregon	Yes	No	Yes	Yes	Not found	Not found
Pennsylvania	Yes	No	No	No	Yes	Unclear
Texas	Yes	Yes	No	No	Yes	Yes
Washington	Yes	Yes (projects that provide regional benefits)	Yes	No	Not found	Not found

Glossary to Table 1:

a) We differentiate between “consolidating” and “partnering (more generally)” because many policies use the term “consolidation” but do not make allowances for other types of regionalization. Consolidation, which generally includes a transfer of ownership, is a valuable tool but is not the only type of regionalization which can benefit communities.

b) Receiver: A receiver is an entity which is made responsible for the property of another entity. For example, in some states, when a utility is not meeting legal requirements, the state may have the option of placing the system into receivership. This is a legal situation in which the receiver is a custodian of the system and its assets and responsibilities.

Capacity development program identifies and facilitates partnerships	State allows contract operator/ operator sharing	Regional planning incorporates water supply planning	State can appoint a receiver ^b	State requires new systems to consider inter-connection to existing systems	Water and Wastewater Emergency Mutual Aid agreement exists
Yes	No	Yes	Yes	Yes	Yes
Yes, at least facilitates	Yes	Yes	Yes	Yes	Yes
Yes	Yes	Yes	No	No	Yes
No	Yes	Yes	No	Yes	Yes
Yes	No	Yes	No	Yes	Yes
No	Yes	No	No	No	Yes
No	No	No	Yes	Yes	Yes
Yes	Maybe	Yes	No	No	Yes
Yes	Yes	Yes	No	No	Yes
Yes, at least appears to facilitate	No	No	No	No	Yes
No	No	No	Yes	No	Yes
No	Yes	Yes	No	Not found	Yes
Yes	Yes	Yes	No	Yes	Yes
Not found	Yes	No	No	Yes	Yes
Yes	No	Yes	Not found	Not found	Yes
Not found	Yes	No	Not found	Not found	Yes
Yes (at least to facilitate)	Yes	Yes	Yes	No	Yes
Yes	Not found	Yes	Yes	Yes	Yes
Yes (at least to facilitate)	Yes	Yes	Yes	No	Yes

22 Policy Recommendations from RCAP for Water and Wastewater Regionalization



*Note that some recommendations have been shortened for conciseness

Apply to all levels of government

1

Coordinate with other governmental entities to understand what gaps and opportunities exist.

2

Incentivize regionalization efforts through intentional, targeted, and more favorable funding terms.

3

Fund systems which most need assistance and encourage regionalization studies; fund TA to rural and tribal communities and colonias.

4

Beyond encouraging feasibility studies, support capacity-building trainings and TA, and set requirements for transparency.

5

Recognize the importance of and provide for planning and capacity building as well as actual project construction.

6

Specifically fund areas of greatest need to work towards regionalization.

State Governments

7

Use the state WARN to its full potential.

8

Provide funding for technical assistance to help small systems sign up for the WARN before a disaster hits.

9

Extend funding prioritization in SRFs beyond consolidation to all types of partnerships.

10

Use DWSRF set-asides to place more emphasis on regionalization.

11

State laws should incentivize but most importantly should not prohibit regionalization.



State Governments

12

Emphasize technical assistance and feasibility studies for regionalization under CDBG colonias set-asides.

13

Allow and encourage CDBG to be used for water and wastewater needs and consider emphasizing regionalization projects under CDBG.

Federal Government

14

USDA should allocate funds to help small systems achieve regionalization; annual appropriations by Congress should prioritize regionalization projects and technical assistance for regionalization efforts.

15

USDA should prioritize regionalization projects within scoring criteria.

16

USDA should consider regionalization activities as progress towards financial sustainability.

17

USDA should consider changing its policies and regulations to allow refinancing of debt and provide debt forgiveness and principal forgiveness in select circumstances for regionalization projects.

18

USDA should create stronger requirements around the quality, breadth, and depth of the required analysis of regional alternatives within a PER.

19

EPA should require states to condition SRF funding on an analysis of regional alternatives.

20

Federal laws should encourage regionalization to the greatest extent possible without requiring or mandating regionalization.

21

Strengthen safe harbor provisions for compliant systems involved in managerial consolidation/ownership transfer.

22

Create a program to fund technical assistance for small, distressed communities to help them access federal resources during a national emergency.

An overarching theme in our recommendations is the need for more funding specifically for regionalization efforts – particularly grant funding available to communities.

Much of the water infrastructure across the United States is reaching the end of its useful life. At the same time, contaminants continue to spread and pollute water sources, climate change impacts the availability of water and frequency and severity of natural disasters, and regulations continue to evolve, bringing additional constraints to systems that might already be struggling with affordability issues, especially those that serve vulnerable populations. RCAP strongly believes that more resources must be made available to drinking water and wastewater systems to help them become more resilient and to help them keep or make their services affordable while also providing the public with safe, high quality water and wastewater services. One approach to becoming more resilient is through regional collaboration. While many funding resources allow for regional projects, there is a serious need for more emphasis to be placed on incentivizing regionalization within existing funding programs and for additional funding to be made available with

the specific focus of implementing regional projects (including not just the consolidation of infrastructure, but also governance arrangements and shared services).

Grants or principal forgiveness programs are both good options and effective in incentivizing regionalization, as well as making regionalization projects possible for communities that lack robust financial resources. This may be accomplished in the way projects are prioritized for access to funding resources (such as through a points system) or by allocating specific sets of funds for regionalization projects. It may take the form of actual dollars provided, or lower interest rates. There are fewer grant dollars available for drinking water and wastewater projects than previous years⁵ and project costs and the need for investment are escalating⁶. By incentivizing regionalization projects through the limited grant dollars available, systems will be encouraged to think regionally to ensure sustainability.

However, it is not enough to simply make additional funding available. **Another overarching theme in our recommendations is the need for flexibility.** When funding is provided to communities as a grant, it provides them the flexibility to pursue innovative solutions or study all their options, such as regionalization, which they may not have had the capacity or opportunity to do so before. Priority for these funds needs to be focused on the smallest, most vulnerable systems. To make the process work better for those systems and their communities, governments need to simplify application processes. The research also clearly demonstrated the need for outreach to a variety of communities through TAPs whom communities already trust. Additional grant funding for technical assistance for rural communities all over the country, not just direct funds for infrastructure projects, is crucial. These programs help communities realize the potential

benefits of regionalization and provide support to directly access infrastructure funding programs.

When funding is provided to TAPs, it allows more communities to learn about the potential benefits they can gain from working with their neighbors, whether informally or formally, and allows TAPs to facilitate conversations and process as a neutral third-party, guiding communities through what can often be a very complex process. As was clear from RCAP's previous research,⁷ it is often impossible for communities to find common ground without the help of an experienced and knowledgeable neutral third-party facilitator. All levels of government should consider making additional resources available for regionalization projects, including technical assistance funding. The federal government should be responsible for the greatest investment in our nation's water and wastewater systems and in promoting regionalization because it

has the greatest ability to distribute resources to the communities that need them the most.

Specific recommendations developed through this research are presented below. Recommendations that apply to all levels of government are presented

first, followed by those that apply to state governments, and finally recommendations that apply to the federal government.



Photo Credit: Brydon McCluskey

Recommendations that apply to Federal, State and Local governments

1

Coordinate and communicate with other governmental entities (at the same level and at different levels) to understand what gaps and opportunities exist.



An analysis of successful RCAP regionalization projects shows that many depended on multiple state and federal funding sources including:

- DWSRFs (Drinking Water State Revolving Funds) and CWSRFs (Clean Water State Revolving Funds);
- CDBG (Community Development Block Grants) from the US Department of Housing and Urban Development (HUD);
- USDA (US Department of Agriculture) RD (Rural Development) Water and Environmental Programs (WEP) including the loan and grant programs, and specifically SEARCH (Special Evaluation Assistance for Rural Communities and Households) grants; and
- Other state-specific loans and grants.

This analysis highlighted the importance for communities in accessing funding from multiple places (either simultaneously, or over the course of the project). Programs like the SRFs and CDBG, where states and the federal government work together, are critical to distributing funds to communities that need them most. Many projects also relied on local sources of funding, such as a public utility commission (PUC), match provided by the county commissioners, and grants from a county government or a school district. Leaving funding to the state or local level, rather than federal, can solve some regionalization needs, but it leaves a gap in places where funding is less readily available because of geographically disproportionate distribution of funds. For example, the government of a low-income county or town will be less likely to be able to help fund a large infrastructure investment to improve drinking water or wastewater quality/access. Over time this can cause inequities for the communities that need the assistance the most because of deteriorating infrastructure and/or disinvestment.

Recommendation 1: Continued

Perspective from the field: RCAP assisted with the formation of a regional sewer district for rural residents in Indiana with failing septic tanks that were causing dangerous pollution to nearby water sources. While RCAP assisted with the initial formation of the district, an income survey, a rate study, project design, and applications for federal funding sources, the county commissioners were able to provide matching funds to meet the requirements of federal grant dollars to pay for engineering design and construction costs for the new wastewater system. Without cooperation between RCAP, the involved communities, the county government, and the federal government, this project would not have been possible.

Grants that make technical assistance possible come from different places as well, such as various federal and state agencies. These tend to focus on different needs and can be used to target specific gaps as seen by those agencies.

2

Incentivize regionalization efforts through intentional, targeted, and more favorable funding terms. This could include increasing grant funding, increasing grant/loan ratios, reducing match requirements, capping interest rates, and/or increasing the availability of principal forgiveness.

It is important to remember that the smallest, most rural communities, including tribal communities, often struggle with a ratepayer base that cannot support increased rates that result from debt service payments by the utility. Grant funds are essential to communities with the greatest need for infrastructure improvements and basic access to services. With a little help, those communities could get on the path to success. SRFs should place more emphasis on principal forgiveness for projects that include regionalization, since that will be easier than developing new grant opportunities but have much the same effect.

The federal government's spending on water infrastructure has decreased from 63% of total capital expenditures in 1977 to just 9% in 2014.⁸ State and local governments' share of spending on water and wastewater utilities has been increasing steadily over time and as of 2014 accounted for 96% of all public spending on those services. Federal funding has stagnated over time.⁹ This provides a stark comparison to transportation projects, which are generally eligible for a federal funding share of at least 80%.¹⁰

A recent Brookings report¹¹ found that of federal spending on rural development (not specific to water/wastewater, but all types), the ratio of loan authority to grant spending was 15:1.

The federal government especially should consider this history and increase both the total amount spent on water and wastewater infrastructure each year and the proportion of that which is grant funding.



Photo Credit: Coye Gerald

3

The federal government should work with state and local governments to administer funds to those communities and systems which most need the assistance and encourage (or require) regionalization studies in those communities. It should also provide funding specifically for technical assistance to rural and tribal communities and colonias to help them through the regionalization process.

The federal government should prioritize funding for water and wastewater infrastructure, especially in rural and low-income communities, which lack a rate-payer base capable of taking on the costs to update and maintain the infrastructure necessary to meet these most basic needs. Within that, it is critical to provide ample resources for regionalization activities.

Requiring a feasibility study for regionalization is not the same as requiring regionalization. We believe communities should have all possible information available to them to make the best, most informed decision for themselves.

Feasibility studies should also incorporate more than technical capacity. Studies should look at managerial and financial capacity as well. One thing to consider is including a requirement for a business plan along with the regionalization study. The smallest water and wastewater systems often lack administrative and management capacity. A business plan can illustrate how this infrastructure can be developed, funded, and managed over time. For some communities, the implementation of purely technical and physical regionalization solutions has led to managerial and financial challenges later on, highlighting the importance of a holistic view of technical, managerial, and financial capacity.

Perspective from the field: The Oregon primacy agency in charge of overseeing drinking water systems referred a rural community to RCAP for help in order to return to compliance. The TAP working with the community quickly realized there was potential as well as desire for regional collaboration in the form of an interconnection between the referred community and its neighbor, which had excess capacity. A regionalization feasibility study was necessary to move the project forward. The local economic development agency provided a grant to perform the feasibility study and the state DWSRF subsequently provided a loan with 65% principal forgiveness. Without the close collaboration between primacy, the local economic development agency, the involved communities, and RCAP, which was funded by the federal government to provide technical assistance, this mutually beneficial partnership would likely never have come to fruition.



4

Anyone encouraging feasibility studies (such as by providing grants to perform them) should also consider supporting capacity-building training (such as board trainings), third-party facilitators, and technical assistance, as well as setting requirements for transparency.

Lesson # 3 in the first RCAP Regionalization report was to “commit to transparency from the start.” Transparency between multiple communities and their decision-makers, but also transparency from community leaders to community members, is crucial. Feasibility studies should include cost estimates for all the possible solutions and options.

Communities cannot make the best decision for themselves (which may or may not involve regionalization) without all of the relevant information.

Local policies are important. RCAP believes it is important to foster a local culture of open-mindedness and collaboration and build local policies that emphasize good management of water and wastewater systems (for example, the proposed “Regional Water Utility Authority Act” in New Mexico – see the “Perspective from the field” in Recommendation 11). This includes accountability/transparency in system governance, openness to learning about various types of solutions when needed, an awareness of the resources needed to properly operate and maintain the system (board trainings), and providing an emphasis on doing what it takes to protect public and environmental health.

Perspective from the field: Without assistance from a neutral third-party facilitator to explain the different possibilities involved in regionalization and to help communities communicate with one another, many communities have avoided regionalization because they are afraid of losing local control and their unique identity. They do not fully understand the broad spectrum of regionalization options available to them and the reality that working together is not the same as relinquishing control. In RCAP’s experience, small, rural, and tribal communities often need technical assistance (and a comprehensive feasibility/regionalization study) to really understand their options, the benefits and costs of regionalization, and the potential costs of deciding not to collaborate.



Photo Credit: Samuel Schroth

5

Recognize the importance of and provide for planning and capacity-building as well as actual project construction.

Before any large infrastructure effort can begin, significant planning must take place. Capacity (technical, managerial, and financial) must be in place or be built to allow for infrastructure updates, expansion, etc. to be successful and effective.

This is especially important in working with small systems since in many cases, these communities do not employ engineers. When engineering services are secured, a community may have no way of knowing whether the proposed plans meet the needs of the system or if all feasible possibilities were thoroughly explored. This can lead to overbuilt or underperforming systems that end up costing the community significantly and threaten sustainability in the long-run.

An example to look to for inspiration is the Pennsylvania Department of Environmental Protection (DEP)'s Professional Engineering Services Program. The DEP offers free professional engineering services to water systems serving 10,000 or fewer people. Services are available to support capital improvement projects or consolidation, and include feasibility studies, assistance with funding applications, design work, and more.¹²

Perspective from the field: The Illinois Environmental Protection Agency has two grant opportunities available for unsewered communities: the Unsewered Communities Planning Grant Program (funded through a portion of loan repayments to the state's CWSRF) and the Unsewered Communities Construction Grant Program (funded through state bond funds). Illinois EPA recognized a gap in affordability to even access SRF funds for unsewered communities, as many communities cannot pay engineers and consultants to do the necessary system design to become eligible for an SRF loan. RCAP TAPs in Illinois have assisted communities with applications for these grants with the goal of creating regional solutions to wastewater challenges.

6

All levels of government, but especially states, should make specific funds available for areas of greatest need to work towards regionalization. These may include colonias, tribal communities, communities of color, low-income communities, and/or communities that have had a history of non-compliance, have trouble accessing sufficient quality or quantity of source water, experience source water contamination from failing septic systems, or have experienced a history of inadequate service.

The Water Infrastructure Improvements for the Nation (WIIN) Act (P.L. 114-322) established the Assistance for Small and Disadvantaged Communities Drinking Water Grant program, an effort to get funds to underserved small communities. Funds go to states and territories, which provide the required matching funds, rather than the communities having to do so themselves. Notably, the U.S. Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands are not required to provide matching funds. The goal of the program is to benefit communities that have

Regionalization can help make utilities more sustainable and resilient, especially in a crisis such as a pandemic or natural disaster.

inadequate water systems for obtaining drinking water (including the lack of household drinking water or service by a system that violates national regulations) and which are not able to finance projects to address drinking water regulation violations. Consolidation and regionalization are eligible activities under the grant program, as they can address those goals, but it would be helpful to further prioritize regionalization projects. States are required to work with EPA to maintain a list of eligible projects and activities and prioritize them – they should work together to implement further prioritization of regionalization projects and activities that will help communities comply with drinking water regulations.¹³

Perspective from the field: When applying for WIIN Grants, some states have worked with TAPs to determine where the greatest need lies so that this limited funding support can be prioritized. RCAP TAPs in New Mexico worked with the state on its WIIN application, a large part of which is focused on regionalization efforts, because there is such a great need for developing partnerships in the state. Technical assistance is also an eligible activity but must be written into the workplan and may also be used to provide some of the match required for the application, which many states have shared has been a challenge for them. TAPs are a great resource for policy makers to understand the need that exists in small, rural, and tribal communities.

See [Closing the Water Access Gap in the United States](#) for an in-depth exploration and analysis of water inequality in the U.S.¹⁴

Photo Credit: Norali Nayla



Recommendations for State Governments

7

Use the state Water and Wastewater Agency Response Network (WARN) to its full potential.

Both overall (in all 50 states, see Appendix A) and within the 19 states we analyzed specifically (highlighted in Table 1), the most common policy to encourage drinking water regionalization was the existence of Water and Wastewater Emergency Mutual Aid agreements, in most cases facilitated through the WARNs.

WARNs may be low-hanging fruit for any state that doesn't have one. States can learn from those who have already set up successful WARNs. For those that have one but do not keep it active or encourage systems to sign up and actively make use of it, intentionally focus on re-engaging the WARN.

RCAP recommends water and wastewater systems consider mutual aid agreements as part of their toolbox; however, states can make this easier by maintaining an active and well-organized WARN. WARNs could be organized at levels other than the state as well, for example, for tribal utilities in the same region.

Many WARNs may be in danger of losing effectiveness as their champions, the people who made it their mission to keep the network running and active, retire. States need to make sure there is interest and ability to keep these networks running for the long term.



Photo Credit: RCAP Solutions

Perspective from the field: RCAP TAPs have many great things to say about state WARNs. In Florida, for example, RCAP TAPs helped and encouraged rural systems to sign up and ask for help through FlaWARN during hurricanes. Systems saw benefits from this such as receiving help with securing supplies and operators during natural disasters. The Florida Department of Environmental Protection (DEP) funded the development of the Water Assistance Tracking and Emergency Response (WATER) website, which combines elements of the previous FlaWARN event tracker and the DEP's WaterTracker website. The site provides several services. For example, it tracks what events (including natural disasters such as hurricanes or crises such as the COVID-19 pandemic) are currently active in which counties and shows the latest relevant news. It contains information on what systems or organizations have resources available and the details of those resources and the current status of different facilities. Additionally, members of the site such as RCAP's TAPs can see which systems have mutual aid agreements in place. This website helps systems help each other, and it also helps TAPs to assist them more effectively. Note that Florida plans to make the WATERTracker system available to other state WARNs, please contact the Florida DEP for more information.

WARNs have shown during the recent pandemic that they can be useful in such an unanticipated national emergency. For example, many communities have received personal protective equipment (PPE) or information about where to find it (gloves, masks, information about what stores have hand sanitizer in stock, etc.) through their state WARN during the pandemic.

8

Provide funding for technical assistance to help small systems sign up for the WARN (including educating them on the benefits), preferably before a disaster hits.

In RCAP's experience in Texas with Hurricane Harvey, the WARN came through for small-medium sized systems (systems serving around 3,300 people or more), whereas very small, rural communities often got lost in the shuffle. The smallest of the small, both public and private systems, should not be left out of cooperative activities and assistance within the WARN. They should be targeted specifically for inclusion because they have the least capacity to solve problems without assistance in an emergency.



Gator Guard, Nome, Texas

Perspective from the field: During Hurricane Michael in Florida, small private systems did not have access to the same funding sources as publicly owned systems. TAPs from the Florida RCAP team (part of SERCAP, the Southeastern RCAP) and the Florida Rural Water Association (FRWA) assisted these systems without support from the Army Corps of Engineers, Federal Emergency Management Agency (FEMA), or EPA. It was assumed that private systems have adequate financial resources, but that is not necessarily the case, especially when they are very small.

Also, the smallest systems in Florida were less likely to join the WARN unless they thought they were going to be impacted directly by Hurricane Michael or they had already been impacted. TAPs had to find their way through the destruction to these utilities and help them sign up for the WARN after the fact. They even had to use satellite phones to send in pictures of the signatures before other systems would come to their aid.

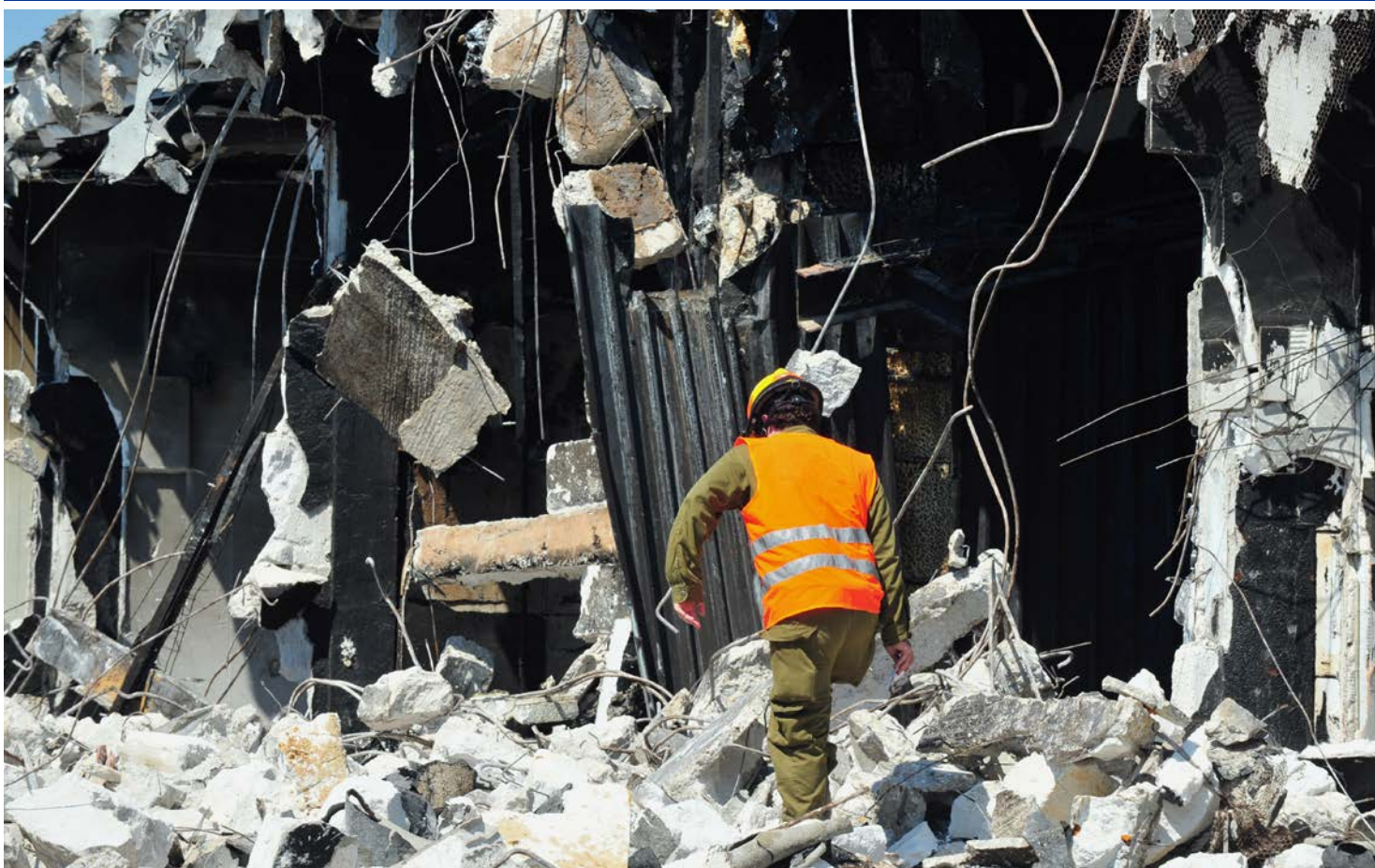


Photo Credit: Rafael Ben-Ari

9

Extend funding prioritization in SRFs beyond consolidation to all types of partnerships.

Several SRFs already provide prioritization for consolidation projects but consolidation is not the only type of regionalization that requires infrastructure funding. For example, an agreement between communities to provide emergency water services requires an interconnection, even though the utilities are not being managerially combined in any way. A JPA formed, for example, to build and operate a new water treatment plant, or to develop a new source of water, requires a large financial investment though the communities are not consolidating their distribution systems, individual system management, finances, etc. While consolidation is the most formal type of regionalization, other types of partnerships and collaboration can achieve major economies of scale and provide other benefits.

Prioritizing systems for SRF funding (both drinking water and wastewater programs) was one of the most common policies both overall (in all 50 states, see Appendix X) and within the 19 states we analyzed specifically based on RCAP project experience (highlighted in Table 1). Additionally, two other relatively common policies were:

- Prioritizing regionalization projects for principal forgiveness for SRF loans; and
- State loan funds or incentive programs (besides SRF) for consolidating systems.

Recommendation 9: Continued

RCAP was careful to differentiate between policies that focus on consolidation and policies that take into consideration a broader spectrum of regionalization. These policies focus on funds (loans/grants, principal forgiveness, or SRF/other state resources) being made available specially to consolidating systems (such as through awarding priority points to an application). Some states extend that same preference to other types of regionalization (partnerships with other systems, but less formal than full consolidation) but most currently do not. RCAP sees this as another low-hanging fruit – states can adjust policies/intended use plans (IUPs) to include language more inclusive of the broad spectrum of regionalization. When prioritizing projects for funding (loans or grants, or principal forgiveness eligibility), all types of regionalization, whether formal or informal, should be taken into consideration. Any state that currently prioritizes neither consolidation nor other types of regionalization projects should consider implementing a prioritization scheme for all types of regionalization. It is also helpful to be transparent about opportunities for principal forgiveness. In some cases, it is impossible to know what the terms will be before the application is finished and the commitment made by the state and the systems to undertake the project. This may make it difficult for communities to work together and commit to one another to take on a project because they won't know whether they can afford to.

Access to funds, especially grants or principal forgiveness, can provide that final push that communities need to get a project underway and set them up for success in the future. Overall, 12 states, including 7 of the 19 states that we focused on, already provide one or both of these options (grants or principal forgiveness, for which regionalization projects are prioritized in some places), showing a great opportunity for other states to follow suit.



Photo Credit: Josh Appel

Perspective from the field: A small community in Texas experienced several years without being able to drink their tap water due to radionuclides contamination. A nearby community was willing to build an interconnection and provide water to them, but in order to make that feasible, meters had to be installed on each home within the community and some problems had to be fixed within the existing distribution system. The cost of these upgrades was beyond their reach, so RCAP helped them to apply for funding. The state DWSRF program both assigns priority points for regionalization projects and allows for 100% principal forgiveness for very small systems. Access to this kind of resource, combined with other state funding sources, made it possible for this community to eventually receive safe water services from their neighbor and be able to trust their tap water again.

Having state loan funds or incentive programs (besides SRF) that prioritize types of regionalization besides consolidation is actually tied for the second-least common state policy that exists – we found this in only five states overall, and three of the 19 states that we focused on.

An example of this is the State Water Implementation Fund for Texas (SWIFT). The program was created by the state legislature and subsequently approved by voters through a state constitutional amendment to provide ongoing financial support for projects in the state water plan. The Texas Administrative Code (31 TAC §363.1304) specifies priority points for choosing projects for this program that include regionalization. The project can receive up to 30 points (which is the greatest amount of points any category can earn) if it includes regionalization. Five points are awarded for each entity other than the applicant that the project serves, up to 30 points. However, this program tends to mostly benefit larger systems. Programs like this should be available to small systems and they should be set up to ensure that small system applications are competitive.



EPA already recognizes the importance of non-infrastructure investment in providing quality water services, which is why states may set aside up to 31% of their annual capitalization grant in the DWSRF¹⁵ for non-infrastructure efforts towards capacity development, operator certification, source water protection, and technical assistance and training.¹⁶ Each state makes independent decisions about how much of its capitalization grant to invest in these efforts, and what to focus on and RCAP does not presume to know what is best for each state or prescribe one strategy for all. However, we believe that the set-asides are a valuable tool and all states should consider taking advantage of them. As of a 2017 EPA report, only 20 states out of 50 use set-asides for “partnership” activities.¹⁷ RCAP also believes more emphasis should be placed on regionalization within these set-asides, whether through direct funding to systems or technical assistance programs focused on regional collaboration, because regionalization can be a great boon for system capacity and resilience.



Photo Credit: Matthew Osborne



Photo Credit: Matthew Osborne



Photo Credit: Communities Unlimited

State laws should incentivize but most importantly should not prohibit regionalization – they should expressly allow regional authorities to operate water/wastewater services.

RCAP TAPs have seen groups of communities put a lot of effort into exploring and discussing regionalization only to give up on the idea after experiencing legal barriers such as the ability to form the specific type of regional authority they wanted to and the difficulties of certain activities such as combining their financial assets.

Perspective from the field: In New Mexico, RCAP TAPs support proposed state legislation (known as the “Regional Water Utility Authority Act”) which would provide the ability for regional authorities to operate water/wastewater systems.

RCAP has championed many impactful regionalization projects in New Mexico, despite the existing limited legal framework which makes it extremely difficult to establish a regional authority. Parties wishing to work together to establish a regional authority must first convince the state legislature to pass a law allowing them to do so. The proposed blanket legislation would change the situation to allow any group of utilities interested and willing to put in the work to form a regional authority and would not require the one-off passage of special legislation in each instance. It would also set regional water/wastewater authorities up for success by establishing the basic practices they should institute and providing them with powers such as the ability to issue bonds or enter into legal agreements with other government entities.

This is extremely important because:

- The groups that have already established regional authorities that have these powers have seen great improvements to their service including water quality, quantity, and affordability.
- RCAP has heard of communities who started on the path towards regionalization, but when they tried to figure out the legal framework for doing so, gave up because it was too difficult.

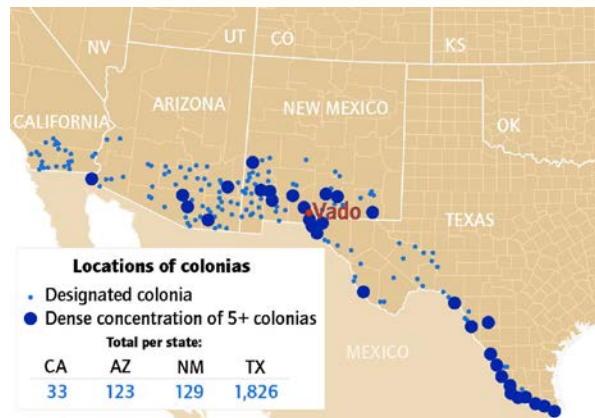
The biggest concern is that communities might give up altogether on trying to figure out how to solve their water problems or may forever abandon a regional solution.

RCAP does not have a recommendation on states adopting laws which allow them to require consolidation. California has taken laws about regionalization further than most governments in the U.S. The state may require consolidation in extreme cases. This power is only used when public and environmental health impacts are severe. California has seen some success thus far in addressing health concerns, and RCAP understands that sometimes there may be no better option. RCAP does not recommend forced consolidation but having the option to do so as a tool can sometimes provide an incentive for communities to begin the process on their own, and we recognize states’ rights to construct their own processes and laws. We also stress that forced regionalization (whether consolidation or other forms) is different than required consideration or studies of regionalization options, such as an Analysis of Regional Alternatives.

12

Southern border states should consider emphasizing technical assistance and feasibility studies for regionalization under CDBG colonias set-asides.

HUD provides CDBG funding to states in another example of federal-state collaboration to administer funds where they are most needed. The National Affordable Housing Act of 1990 (as amended), Section 916 says that New Mexico, California, Arizona, and Texas must set aside up to 10% of CDBG funds for colonias. It does not explicitly include regionalization for water and wastewater systems as a use for those funds, but it does not preclude them. In RCAP's experience, CDBG funds are often the only funding option for low-income communities that is 100% grant based. New Mexico has taken the initiative to set up a state infrastructure fund specifically for colonias which explicitly prioritizes regionalization projects (the Colonias Infrastructure Project Fund).



Source: U.S. Dept. of Agriculture and U.S. Dept. of Housing and Urban Development, Robert Peterson, 2010

13

All states should allow and encourage CDBG to be used for water and wastewater needs and should consider emphasizing regionalization projects under CDBG in ways that some states prioritize regionalization under SRFs.

In RCAP's regionalization work in recent years, projects in Ohio have most commonly used CDBG as one of their funding sources. Ohio's CDBG program does include the Residential Public Infrastructure Program, which provides grants specifically for water and wastewater service provision. Not all states designate a specific program within CDBG for water/wastewater projects in this way. It is possible that doing so encourages more water projects to get done under CDBG because otherwise communities may be wary of applying for CDBG funds for water and wastewater needs because they need them for other services, such as a fire department, medical clinic, or community center.

As CDBG funds are designed for county and municipal governments, the most rural places often have trouble accessing them. States should help rural and unincorporated areas access the funds as needed, prioritizing smaller communities which often are left out of many federal funding opportunities, especially much needed grant funds.



Photo Credit: Michele Henderson



Recommendations for Federal Government

To help address Recommendations 14-16, funds need to be allocated and policy changes MAY need to be implemented through appropriations and/or the farm bill.

14

USDA should allocate funds intentionally focused on helping small water and wastewater systems achieve regionalization and annual appropriations by Congress should prioritize regionalization projects and technical assistance for regionalization efforts.

USDA's Rural Utility Service (RUS) Water and Environment Programs (WEP) website notes that it "provides funding for the construction of water and waste facilities in rural communities and is proud to be the only Federal program exclusively focused on rural water and waste infrastructure needs of rural communities with populations of 10,000 or less."

The programs included are:

- Water & Waste Disposal Technical Assistance & Training Grants
- Circuit Rider Program
- Emergency Community Water Assistance Grants
- Grants for Rural and Native Alaskan Villages
- Rural Decentralized Water Systems Grant Program
- Individual Water & Wastewater Grants
- Revolving Funds for Financing Water and Wastewater Projects (Revolving Fund Program)
- SEARCH - Special Evaluation Assistance for Rural Communities and Households
- Solid Waste Management Grants
- Water & Waste Disposal Grants to Alleviate Health Risks on Tribal Lands and Colonias
- Water & Waste Disposal Loans & Grants
- Water & Waste Disposal Loan Guarantees
- Water & Waste Disposal Predevelopment Planning Grants

Regionalization-related activities are permissible under some of these programs and grants, but none are intended specifically for regionalization and none of them necessarily incentivize it.

Note also that size requirements for USDA RD RUS assistance can sometimes preclude a regional project from receiving assistance. There should be allowances for small communities coming together to be eligible – the requirements should not be black and white; they should allow for consideration of the size of individual communities within a project.

15

USDA should prioritize regionalization projects within scoring criteria. USDA should also allow for a higher grant to loan ratio for regionalization projects based on said scoring criteria.

Within existing programs (listed under Recommendation 14) that use a scoring mechanism to determine funding levels and prioritization of projects, the addition of priority points for regionalization projects or points per utility or community involved in the project would encourage more regionalization solutions and make it easier for existing regionalization efforts to access funds.

USDA can look to DWSRF programs in 17 states (see Appendix A) for examples of how prioritization points are awarded to projects that involve broad types of regionalization, and 43 states for examples of priority points awarded to projects that involve consolidation.

For example, Oklahoma DEQ's Intended Use Plan for the DWSRF for fiscal year 2020 states:

“Projects which result in the consolidation, interconnection, or improvement of services for two or more water systems shall add twenty (20) for consolidation, ten (10) for interconnection, and ten (10) for improvement of services such as back-up or emergency supply. Projects may meet more than one of these conditions. The points awarded for this category are documented in the engineering report.”¹⁸

These conditions clearly lay out what types of activities can be awarded points and how many. It is also beneficial that projects may receive points for meeting more than one of the conditions laid out. Finally, best practices are promoted by ensuring that regionalization activities are documented in the engineering report.

16

USDA should consider regionalization activities as progress towards financial sustainability.

USDA programs require projects to be financially sustainable. Regionalization is a time-tested path towards utility resilience and sustainability and allows for economies of scale. See RCAP's research report *Resiliency through Water and Wastewater System Partnerships: 10 Lessons from Community Leaders*¹⁹ for an overview of the benefits and drivers of regionalization for small systems, which include cost savings from removal of redundancies, broader customer bases, access to lower-cost capital, and of course, economies of scale.



Photo Credit: Andy He

17

USDA should consider changing its policies and regulations to allow refinancing of debt, as well as to provide debt forgiveness and principal forgiveness in select circumstances to make these flexibilities available when appropriate. If this is infeasible, legislative action should be taken to ensure statutory clarity and make it allowable for projects that involve system regionalization.

RCAP has seen the major need for flexibility in funding opportunities to manage existing debt when a financially stable or successful utility in one community agrees to regionalize with a utility that is not in compliance or is financially stressed. A change without legislation is theoretically possible. United States Code (7 USC 1981 (b)) lays out the Secretary of Agriculture's broad authority to service loans. This recommendation may be possible without doing so, but it may become necessary to turn it into a legislative effort.

Perspective from the field: Debt forgiveness and principal forgiveness have a similar impact as grant dollars in opening options for making major improvements or undertaking regional infrastructure-based solutions to communities which normally could not afford to undertake large operational or infrastructure projects. Small communities with limited financial resources depend on grants, principal forgiveness, and debt forgiveness to even the playing field. Without a large rate-payer base to guarantee debt reserves and ultimately the ability to satisfy the loan, small communities are at a serious disadvantage. They can be trapped in a cycle of disenfranchisement, since businesses and people will not want to stay in or relocate to a place without safe and affordable water and wastewater services. This cycle can be exacerbated because basic maintenance and improvement projects are often deferred until the system reaches a state of emergency, ultimately costing more to repair. RCAP has seen time and time again the importance of water and wastewater infrastructure for economic development and rural prosperity.



Photo Credit: Masarath Alkhaili

18

USDA should create stronger requirements around the quality, breadth, and depth of the required analysis of regional alternatives within a Preliminary Engineering Report (PER). It would be beneficial for USDA to enforce this so that analyses are comprehensive and unbiased and so communities have all the information at hand to make the decision that is in their best interest.

USDA requires an analysis of regional alternatives as part of a PER, which is required for all water and wastewater infrastructure projects funded by USDA, but it is not always a comprehensive process. It also focuses mostly on the technical project aspects and does not consider all possible managerial and financial aspects and arrangements. RCAP recommends USDA seek input from experienced TAPs in future updates to RUS Bulletin 1780-2, which outlines the requirements for PERs.

There may be a disincentive for an engineer proposing a project, when applying for USDA funding, to do a thorough and unbiased analysis of regional alternatives, especially if the engineer has an investment in a specific outcome. These analyses should be performed by a neutral third party or by qualified USDA staff themselves.

19

EPA should require states to condition SRF funding on an analysis of regional alternatives.

While EPA programs, including state-administered SRFs, often recognize the value of regionalization, there is still room for stronger emphasis and incentivization.

RCAP supports the first recommendation made by the Environmental Finance Advisory Board to EPA in its April 25, 2019 letter “Funding Strategies to Promote System Regionalization”:²⁰

“Promote and incentivize consideration of regionalization and consolidation alternatives through the Safe Drinking Water Act (SDWA) and Clean Water Act (CWA) permitting processes, and through EPA-controlled funding programs including the state revolving funds (SRF), Water Infrastructure Finance and Innovation Act (WIFIA) and other grant programs. Facilitate funding for projects that address new or expanded drinking water and wastewater management needs through regionalization or consolidation alternatives.”

Similar to Recommendation 18 regarding USDA funding, EPA should consider whether there is a conflict of interest significant enough to warrant that analyses of regional alternatives for SRF funding applications be performed by a neutral third party or by qualified EPA or state primacy agency staff.

The US Water Alliance’s recent “Recovering Stronger: A Federal Policy Blueprint” lays out keys to recovering stronger from the COVID-19 pandemic, including “make water more stable.” Within that, a key policy proposal is to “incentivize regional partnerships between utilities.” It discusses the proven track record of consolidation projects in addressing infrastructure and affordability concerns.²¹

Two pieces of federal legislation (one of which became law) are good examples of this. The first example is a bill initially introduced to the 116th Congress as the “Voluntary Water Partnership for Distressed Communities Act of 2019.” The proposed legislation would:

- require EPA to establish incentives to help distressed community water systems who are seeking to partner, including providing technical assistance funding to help facilitate a partnership;
- allow community water systems (CWSs) to work towards a partnership without fear of enforcement actions on non-health based violations or fines being levied on the entity that is taking over for 180 days, with exceptions, with the understanding that collaboration with another community or utility can help solve the problems that cause SDWA violations. Fear of being charged with another system’s violation can impede regionalization efforts between communities; and
- allows for capacity building and technical assistance to help with a partnership.



Photo Credit: Maarten van den Heuvel

The second example passed Congress and was signed into law in 2018. America’s Water Infrastructure Act of 2018 (AWIA) sections 2009 “Contractual Agreements” and 2010 “Additional Considerations for Compliance” mandate that EPA develop and implement the Water System Restructuring Rule (WSRR). The WSRR will permit an owner or operator of a PWS to enter a contractual agreement with other entities for significant management or administrative functions of its PWS to correct its identified violations. The contract is intended to be part of a larger plan that is subject to approval by the primacy agency. An approved plan would provide two years for the PWS to achieve compliance with its identified violations under SDWA. It also permits the primacy agency to require the owner or operator of PWSs to assess their various options for consolidation, transfer of ownership, or other activities to help that system achieve compliance if:

- the PWS in question has repeatedly, even despite efforts to correct it, violated one or more SDWA requirements and this lack of compliance is likely to adversely affect human health; or
- consolidation or transfer of the PWS is feasible, including feasibility based upon geographic considerations, technical concerns, access to capital, and chances for long-term success; or
- consolidation, transfer of ownership, or other actions could result in greater compliance with national primary drinking water regulations. For certain actions undertaken pursuant to this section, liability protection is provided for outside entities that aid the utility in getting back into compliance with state and federal laws.

RCAP understands that these assessments shall include a comprehensive look at technical, managerial and financial feasibility and enforcement of the WSRR will be targeted toward systems serving fewer than 10,000 people with repeated health-based violations.

Recommendation 20: Continued

Both of these efforts, along with the proposed “Regional Water Utility Authority Act” in New Mexico, discussed in Recommendation 11, share a common characteristic:

None of them force communities to regionalize if they do not want to nor to give up any power or local control of their assets. They simply require systems to explore opportunities and they provide flexibility and an easier path to implementation.

Requiring a feasibility assessment of regional solutions is not the same as requiring a system or community to pursue regional solutions. An assessment just allows a community to have all the information at hand to make an informed decision. If communities are pursuing less formal types of regionalization and decide they want to take that next step into formalizing and forming a regional authority, they should be able to do so with support from the government at all levels and without legal barriers put in place by the government. The “Voluntary Water Partnership for Distressed Communities Act of 2019” would encourage and make possible regionalization options for many communities for whom it currently seems impossible. It would not mandate any partnerships or consolidations – the word “voluntary” is even in the name.

21

Strengthen safe harbor provisions for compliant systems involved in managerial consolidation/ownership transfer.

An important piece of encouraging regionalization is allowing for temporary “safe harbor” provisions when ownership transfer of a noncompliant system takes place. Safe harbor provisions are designed to shield the compliant system from monitoring and rule violations of noncompliant systems undergoing regionalization. Noncompliant systems would still be held legally liable for any public health violations occurring before the transfer of ownership.

RCAP supports Recommendation #2 made by the Environmental Finance Advisory Board to EPA in its April 25, 2019 letter “Funding Strategies to Promote System Regionalization”:²²

“Promote the use of “Safe Harbor” provisions to protect systems that absorb troubled systems from regulatory penalties for a reasonable period of time, consistent with existing statutes and regulations.”

The US Water Alliance’s “Recovering Stronger: A Federal Policy Blueprint” states that an atmosphere that encourages regional collaboration, rather than holds a “good neighbor” utility liable for the regulatory violations it is attempting to help its nearby utility to resolve, is more likely to result in safe and reliable water service for more people.²³

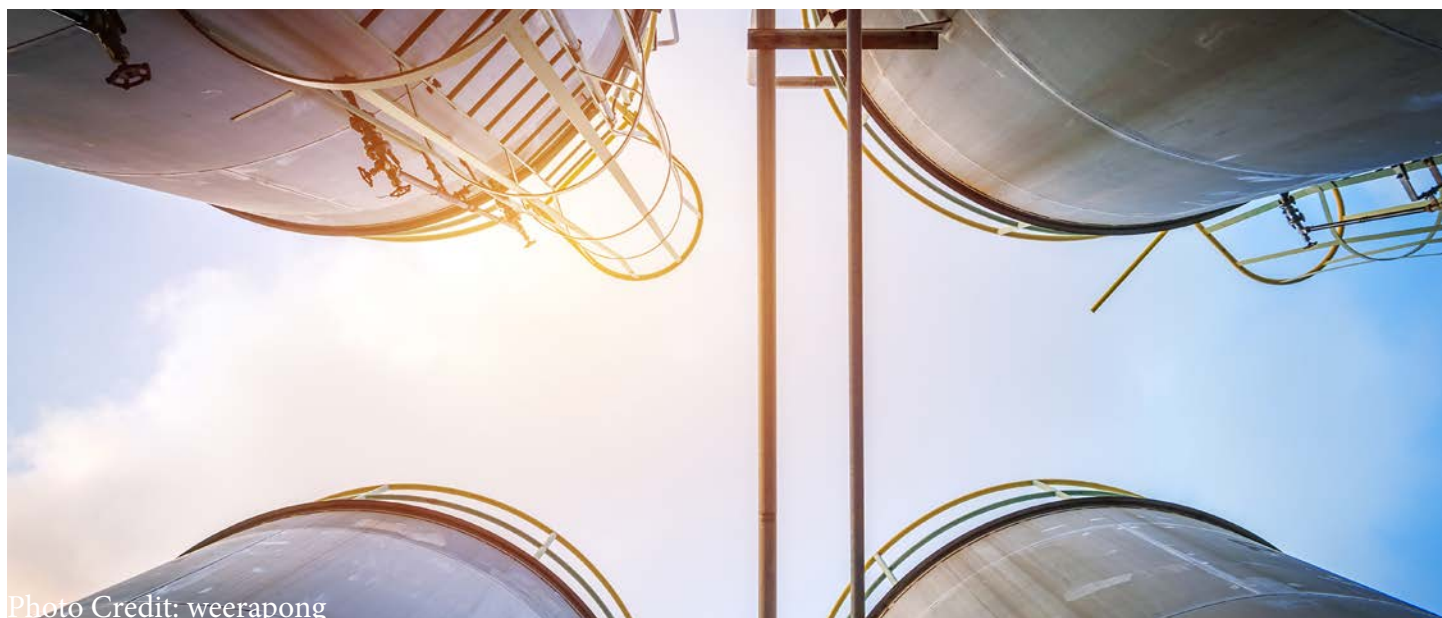


Photo Credit: weerapong

The federal government should create a program to fund technical assistance for small, distressed communities to help them access federal resources, including technical assistance to work towards regionalization during a nationally declared emergency.

The recent COVID-19 pandemic has showcased the challenges rural places can face in accessing supplies and needed assistance in emergencies. Though at first, the pandemic did not seem to be affecting rural areas as much as urban ones, rural areas gradually overtook urban areas in cases and deaths per capita. Rural areas are more likely to lack access to healthcare, and rural utilities have smaller rate-payer bases to rely on to keep up their infrastructure and pay for operations and supplies. Tribal communities and other communities of color have been especially impacted by the pandemic due to systemic inequalities.²⁴

Disaster relief funding programs already exist; however, these are more focused on fixing infrastructure that is broken rather than building or improving capacity for resiliency. Current relief programs are also very difficult for small, rural, and tribal systems to access, as the agencies and application systems are not designed to reach small, low-capacity communities. Applications and other processes to access this funding are often very complex. After Hurricane Maria, it took many of the communities in Puerto Rico being assisted by RCAP two

whole years to receive the disaster relief funds they were entitled to because of the difficulty of the application process and because the review process of finished applications was very long. Regionalization is an important way to build and improve resiliency and capacity for future emergencies of any type, whether natural disasters, pandemics economic crises, etc.

Perspective from the field: During the COVID-19 pandemic, water and wastewater system staff were front-line essential workers, but many were working in dangerous conditions without access to PPE. RCAP and Xylem Watermark/120 Water became aware that small, rural and tribal communities were being excluded from some relief efforts and teamed up to provide 105,000 N95 masks to staff in those communities who were struggling to access the necessary tools to do their jobs safely. This should be something the government provides and supports when a situation like that occurs, but without a TAP's support, many small, rural, and tribal areas are often excluded from these programs. While FEMA did provide access to cloth masks, often system personnel would have been required to travel to big cities or larger utilities to pick them up, often great distances, or in some cases, to travel to areas with higher COVID rates, to access them.

RCAP's May 2020 COVID-19 survey of rural water and wastewater utilities found that 13 percent of respondents were already practicing collaboration to help each other through the pandemic and the associated financial difficulties, as well as accessing PPE, supplies, etc.

Resources such as disaster relief funding or supplies do not just appear in a community when the government makes them available. There are often complicated application processes to go through. TAPs can make sure that the communities that most need help do not slip through the cracks when it comes to accessing federal resources.



Photo Credit: RCAP Solutions



Photo Credit: RCAP Solutions

Conclusion

Rural communities are crucial to the United States. Sustainable water and wastewater systems are crucial to rural communities, and these systems require tools and financial resources to be sustainable. Regionalization is one such tool that holds great potential in terms of improving the quality of life in rural America.

RCAP recommends that all levels of government:

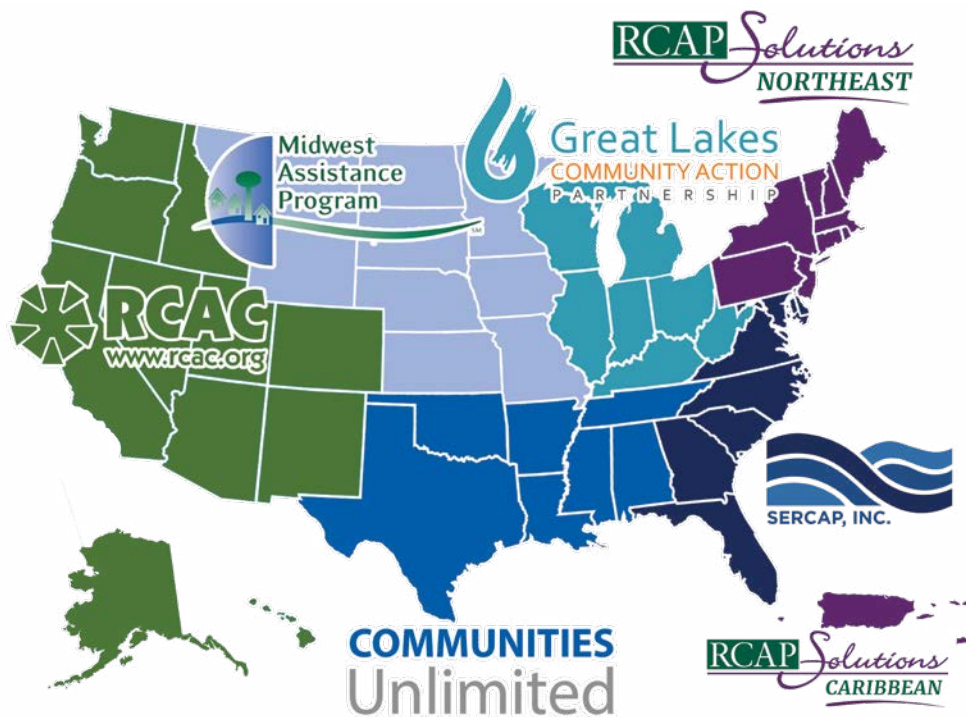
- ensure that regionalization options are always fully explored and understood;
- create stronger and more flexible financing terms to encourage regionalization projects, as well as additional, specific funding for communities and TAPs to plan and implement regional collaboration;
- focus more on the broad spectrum of regionalization efforts (and not just consolidation) when prioritizing funding; and
- make it easy for communities to collaborate such as through a WARN and through other existing legal frameworks.

Incentives for regionalization and legal frameworks that make it possible are essential in cases where communities, especially small, rural, and tribal communities, need to use it as a tool to achieve affordable access to safe, high quality drinking water and/or wastewater services. Access to these services is critical to improving public and environmental health, allowing for economic growth, and creating equitable opportunities for small communities to thrive.

Policy makers need to find ways to promote collaboration over competition. Policies and investment by every level of government can contribute to the creation of accessible solutions to chronic challenges for small, rural, and tribal water and wastewater systems.

Rural Community Assistance Partnership

A national network for nonprofit partners reaching small, rural and tribal communities in all 50 states and the U.S. territories to improve quality of life by starting at the [tap](#).



Western RCAP

Rural Community Assistance Corporation (RCAC)
3120 Freeboard Drive, Suite 201
West Sacramento, CA 95691
(916) 447-2854
www.rcac.org

Midwest RCAP

Midwest Assistance Program (MAP)
303 N. Market St., Suite 2
Maryville, MO 64468
(660) 562-2575
www.map-inc.org

Southern RCAP

Communities Unlimited (CU)
3 East Colt Square Drive
Fayetteville, AR 72703
(479) 443-2700
www.communitiesu.org

Northeast & Caribbean RCAP

RCAP Solutions (RSOL)
191 May St.
Worcester, MA 01602
(800) 488-1969
www.rcapsolutions.org

Great Lakes RCAP

Great Lakes Community Action Partnership (GLCAP)
P.O. Box 590 | 127 S. Front St., 2nd Floor
Fremont, OH 43420
(800) 775-9767
www.glcap.org

Southeast RCAP

Southeast Rural Community Assistance Project (SERCAP)
347 Campbell Ave. SW
Roanoke, VA 24016
(866) 928-3731
www.sercap.org

RCAP National Office

1725 I Street NW, Suite 225 | Washington, DC 20006 | (202) 408-1273
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Endnotes

- **Appendix A is a separate Excel spreadsheet that can be accessed here: <https://www.rcap.org/resource/appendix-a-state-regionalization-policies-dw-and-ww/>.
- 1 See RCAP's first regionalization research report (Resiliency through Water and Wastewater System Partnerships: 10 Lessons from Community Leaders at <https://www.rcap.org/blog/regionalizationresearch/>) for further discussion of the spectrum of regionalization and examples.
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 - 4 This is a subjective measure based on RCAP's experience in these states.
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 - 12 Pennsylvania DEP. n.d. Professional Engineering Services Program. Available online at: <https://www.dep.pa.gov/Business/Water/BureauSafeDrinkingWater/Pages/Professional-Engineering-Services-Program.aspx>.
 - 13 More information on WIIN Grants available at <https://www.epa.gov/dwcapacity/wiin-grant-assistance-small-and-disadvantaged-communities-drinking-water-grant>.
 - 14 DigDeep and US Water Alliance. 2019. Closing the Water Access Gap in the United States: A National Action Plan. Available online at: http://uswateralliance.org/sites/uswateralliance.org/files/publications/Closing%20the%20Water%20Access%20Gap%20in%20the%20United%20States_DIGITAL.pdf.
 - 15 CWSRF, unlike DWSRF, is not limited to infrastructure projects, so it does not include the same type of set-asides for non-infrastructure purposes.
 - 16 EPA. 2017. Analysis of the Use of Drinking Water State Revolving Fund Set-Asides: Building the Capacity of Drinking Water Systems. Available online at: https://www.epa.gov/sites/production/files/2017-10/documents/final_dwsrf_2017_report_508compliant.pdf.
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