

107TH CONGRESS  
1ST SESSION

# S. 503

To amend the Safe Drinking Water Act to provide grants to small public drinking water systems.

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## IN THE SENATE OF THE UNITED STATES

MARCH 9, 2001

Mr. REID (for himself and Mr. ENSIGN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Safe Drinking Water Act to provide grants to small public drinking water systems.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Small Community  
5       Drinking Water Funding Act”.

6       **SEC. 2. FINDINGS AND PURPOSE.**

7       (a) FINDINGS.—Congress finds that—

8               (1) in some cases, drinking water standards in  
9       effect and proposed as of the date of enactment of  
10      this Act can place large financial burdens on public

1 water systems, especially systems that serve fewer  
2 than a few thousand people;

3 (2) some small public water systems have expe-  
4 rienced water contamination problems that may pose  
5 a significant risk to the health of water consumers;

6 (3) small communities are concerned about im-  
7 proving drinking water quality;

8 (4) the limited scientific, technical, and profes-  
9 sional resources of many small communities make  
10 understanding and implementing regulatory require-  
11 ments very difficult;

12 (5) small communities often struggle to meet  
13 water quality standards because of difficulty in se-  
14 curing funding;

15 (6) small communities often lack a tax base or  
16 opportunities to benefit from economies of scale and  
17 therefore face very high per capita costs in improv-  
18 ing drinking water quality;

19 (7) the smallest public water systems, which  
20 serve fewer than 3,300 people, represent 85 percent  
21 of all public water systems;

22 (8) small public water systems serving fewer  
23 than 10,000 people represent 94 percent of all public  
24 water systems;

1           (9) small communities would benefit from a  
2       grant program designed to provide funding for water  
3       quality projects without a substantial matching re-  
4       quirement; and

5           (10) Federal programs in effect as of the date  
6       of enactment of this Act do not adequately meet the  
7       needs of small communities with respect to public  
8       water systems.

9       (b) PURPOSE.—The purpose of this Act is to estab-  
10     lish a program to provide grants to small public water sys-  
11     tems to—

12           (1) meet applicable national primary drinking  
13       water regulations under the Safe Drinking Water  
14       Act (42 U.S.C. 300f et seq.);

15           (2) maintain water costs at a reasonable level  
16       for the communities served by small public water  
17       systems; and

18           (3) obtain technical assistance to develop the  
19       capacity to sustain operations over the long term.

20     **SEC. 3. SMALL PUBLIC WATER SYSTEM ASSISTANCE PRO-**  
21           **GRAM.**

22       (a) DEFINITION OF INDIAN TRIBE.—Section  
23     1401(14) of the Safe Drinking Water Act (42 U.S.C.  
24     300f(14)) is amended in the second sentence by striking  
25     “1452,” and inserting “1452 and part G,”.

1 (b) ESTABLISHMENT OF PROGRAM.—The Safe  
 2 Drinking Water Act (42 U.S.C. 300f et seq.) is amended  
 3 by adding at the end the following:

4 **“PART G—SMALL PUBLIC WATER SYSTEM**  
 5 **ASSISTANCE**

6 **“SEC. 1471. DEFINITIONS.**

7 “In this part:

8 “(1) ELIGIBLE ACTIVITY.—

9 “(A) IN GENERAL.—The term ‘eligible ac-  
 10 tivity’ means an activity concerning a small  
 11 public water system (including obtaining tech-  
 12 nical assistance) that is carried out by an eligi-  
 13 ble entity for a purpose consistent with section  
 14 1473(c)(1) or 1474(c)(1), as appropriate.

15 “(B) EXCLUSION.—The term ‘eligible ac-  
 16 tivity’ does not include any activity to increase  
 17 the population served by a small public water  
 18 system, except to the extent that the State  
 19 under section 1473(b)(1) or the Administrator  
 20 under section 1474(b)(1) determines an activity  
 21 to be necessary to—

22 “(i) achieve compliance with a na-  
 23 tional primary drinking water regulation;  
 24 and

1 “(ii) provide a water supply to a pop-  
 2 ulation that, as of the date of enactment of  
 3 this part, is not served by a safe public  
 4 water system.

5 “(2) ELIGIBLE ENTITY.—The term ‘eligible en-  
 6 tity’ means a small public water system that—

7 “(A) is located in a State or an area gov-  
 8 erned by an Indian Tribe; and

9 “(B)(i) if located in a State, serves a com-  
 10 munity that, under affordability criteria estab-  
 11 lished by the State under section 1452(d)(3), is  
 12 determined by the State to be—

13 “(I) a disadvantaged community; or

14 “(II) a community the State expects  
 15 to become a disadvantaged community as a  
 16 result of carrying out an eligible activity;  
 17 or

18 “(ii) if located in an area governed by an  
 19 Indian Tribe, serves a community that is deter-  
 20 mined by the Administrator, under criteria pub-  
 21 lished by the Administrator under section  
 22 1452(d)(3) and in consultation with the Sec-  
 23 retary, to be—

24 “(I) a disadvantaged community; or

1 “(II) a community the Administrator  
 2 expects to become a disadvantaged commu-  
 3 nity as a result of carrying out an eligible  
 4 activity.

5 “(3) ELIGIBLE STATE.—The term ‘eligible  
 6 State’ means a State that has—

7 “(A) adopted, and is implementing, an ap-  
 8 proved operator certification program under  
 9 section 1419; and

10 “(B) established affordability criteria  
 11 under section 1452(d)(3) for use in identifying  
 12 disadvantaged communities.

13 “(4) PROGRAM.—The term ‘Program’ means  
 14 the Small Public Water System Assistance Program  
 15 established under section 1472(a).

16 “(5) SECRETARY.—The term ‘Secretary’ means  
 17 the Secretary of Health and Human Services, acting  
 18 through the Director of the Indian Health Service.

19 “(6) SMALL PUBLIC WATER SYSTEM.—The  
 20 term ‘small public water system’ means a public  
 21 water system (including a community water system  
 22 and a noncommunity water system) that serves a  
 23 population of 10,000 or fewer.

1 **“SEC. 1472. SMALL PUBLIC WATER SYSTEM ASSISTANCE**  
 2 **PROGRAM.**

3 “(a) ESTABLISHMENT.—Not later than July 1, 2002,  
 4 the Administrator shall establish within the Environ-  
 5 mental Protection Agency a Small Public Water System  
 6 Assistance Program.

7 “(b) DUTIES.—The head of the Program shall—

8 “(1) in accordance with section 1474, establish  
 9 and administer a small public water system assist-  
 10 ance program for, and provide grants to, eligible en-  
 11 tities located in areas governed by Indian Tribes, for  
 12 use in carrying out eligible activities;

13 “(2) identify, and prepare annual prioritized  
 14 lists of, activities for eligible entities located in areas  
 15 governed by Indian Tribes that are eligible for  
 16 grants under section 1474;

17 “(3) provide funds to States for use in estab-  
 18 lishing small public water system assistance pro-  
 19 grams under section 1473 that award grants to eli-  
 20 gible entities to carry out eligible activities; and

21 “(4) prepare, and submit to the Administrator,  
 22 the reports required under subsection (d).

23 “(c) ALLOCATION OF FUNDS.—

24 “(1) STATES.—

25 “(A) IN GENERAL.—Subject to subpara-  
 26 graphs (B) through (D) and paragraph (2)(A),

1 for each fiscal year, the Administrator, through  
2 the head of the Program, using the most recent  
3 available needs survey conducted by the Admin-  
4 istrator under section 1452(h), shall allocate  
5 the funds made available to carry out the Pro-  
6 gram for the fiscal year among eligible States  
7 based on the ratio that—

8 “(i) the financial need associated with  
9 treatment projects for small public water  
10 systems in the State; bears to

11 “(ii) the total financial need associ-  
12 ated with treatment projects for all small  
13 public water systems in all States.

14 “(B) ADDITIONAL REQUIREMENTS.—Any  
15 additional financial needs of small public water  
16 systems associated with the cost of treatment  
17 projects needed to comply with a national pri-  
18 mary drinking water regulation (including a  
19 regulation concerning arsenic) that is promul-  
20 gated after the most recent needs survey con-  
21 ducted under section 1452(h) shall be factored  
22 into the determination of financial need under  
23 clauses (i) and (ii) of subparagraph (A) for  
24 each fiscal year.



“(C) MINIMUM ALLOCATION.—An allocation of funds to a State for a fiscal year under subparagraph (A), taking into consideration any additional financial needs described in subparagraph (B), shall be in an amount that is at least 1 percent of the amount of funds available for that fiscal year.

“(D) REDISTRIBUTION IF NONUSE.—If a State does not qualify for, or fails to request, funds allocated to the State under subparagraph (A) in any fiscal year, the Administrator shall redistribute the funds among the States that—

“(i) request funds for that fiscal year;

and

“(ii) are eligible to receive the funds under subparagraph (A) for that fiscal year.

“(2) INDIAN TRIBES.—

“(A) IN GENERAL.—For each fiscal year, in accordance with subparagraph (B), 3 percent of the total amount of funds made available to carry out the Program for the fiscal year shall be allocated by the Administrator to provide grants to eligible entities that are located in

1 areas governed by Indian Tribes through the  
 2 program established under section 1474(a).

3 “(B) USE OF FUNDS.—

4 “(i) IN GENERAL.—For each fiscal  
 5 year, the Administrator shall award not  
 6 less than 1.5 percent of the funds allocated  
 7 under subparagraph (A) to nonprofit tech-  
 8 nical assistance organizations, to be used  
 9 for the purposes of—

10 “(I) assisting the Administrator  
 11 in preparing the list required under  
 12 section 1474(b) (including assisting  
 13 the Administrator in identifying the  
 14 highest priority eligible activities for  
 15 eligible entities located in areas gov-  
 16 erned by Indian Tribes for which a  
 17 grant under section 1474 may be  
 18 used);

19 “(II) assisting eligible entities lo-  
 20 cated in areas governed by Indian  
 21 Tribes in—

22 “(aa) assessing needs relat-  
 23 ing to eligible activities; and

24 “(bb) identifying available  
 25 sources of funding to meet the

1 cost-sharing requirement of sec-  
2 tion 1474(f)(1); and

3 “(III) assisting eligible entities  
4 located in areas governed by Indian  
5 Tribes that receive funding under sec-  
6 tion 1474 in—

7 “(aa) planning, imple-  
8 menting, and maintaining eligible  
9 activities that are funded under  
10 that section; and

11 “(bb) preparing reports re-  
12 quired under section 1474(h).

13 “(ii) CONSULTATION.—Each nonprofit  
14 technical assistance organization that re-  
15 ceives funds under clause (i) shall consult  
16 with the Administrator, through the head  
17 of the program, before carrying out any  
18 activity for the purposes described in sub-  
19 clauses (II)(aa) and (III)(aa) of that  
20 clause.

21 “(iii) NO FUNDS FOR LOBBYING EX-  
22 PENSES.—None of the funds made avail-  
23 able to a nonprofit technical assistance or-  
24 ganization under clause (i) shall be used to  
25 pay lobbying expenses.

1           “(3) PROGRAM.—For each fiscal year, the Ad-  
2           ministrator may use not more than 0.1 percent of  
3           the funds made available to carry out the Program  
4           to pay reasonable costs incurred in the administra-  
5           tion of the Program.

6           “(d) REPORTS.—Not later than January 1, 2003,  
7           and annually thereafter through January 1, 2007, the Ad-  
8           ministrator shall—

9           “(1) submit, to the Committee on Energy and  
10          Commerce of the House of Representatives and the  
11          Committee on Environment and Public Works of the  
12          Senate, a report that, for the preceding fiscal year—

13               “(A) lists the eligible activities for eligible  
14               entities, as prepared under sections 1473(b)(1)  
15               and 1474(b)(1), located in areas governed by  
16               Indian Tribes and in each State receiving funds  
17               under this part;

18               “(B) identifies the number of grants  
19               awarded by each State, and by the Adminis-  
20               trator to eligible entities located in areas gov-  
21               erned by Indian Tribes, under this part;

22               “(C) identifies each eligible entity that re-  
23               ceived a grant to carry out an eligible activity;

1           “(D) identifies the amount of each grant  
2           provided to an eligible entity to carry out an eli-  
3           gible activity; and

4           “(E) describes each eligible activity funded  
5           by such a grant (including the status of the eli-  
6           gible activity); and

7           “(2) make the report under paragraph (1)  
8           available to the public.

9   **“SEC. 1473. STATE SMALL PUBLIC WATER SYSTEM ASSIST-**  
10           **ANCE PROGRAMS.**

11       “(a) IN GENERAL.—To be eligible to receive funding  
12   under this part, a State shall—

13           “(1) be an eligible State;

14           “(2) not later than July 1, 2002 (if funding is  
15   sought for fiscal year 2002) or not later than Sep-  
16   tember 30 of any of fiscal years 2002 through 2005  
17   (if funding is sought for the following fiscal year),  
18   establish a small public water system assistance  
19   program—

20           “(A) under which the requirements of sub-  
21   section (b), oversight, and related activities  
22   (other than financial administration) with re-  
23   spect to the program are administered—

24           “(i) in the case of a State that is ex-  
25   ercising primary enforcement responsibility

1 for public water systems, by the State  
2 agency having primary responsibility for  
3 administration of the State program under  
4 section 1413; and

5 “(ii) in the case of a State that is not  
6 exercising primary enforcement authority  
7 for public water systems, by a State agen-  
8 cy selected by the Governor of the State;  
9 and

10 “(B) that meets the requirements of this  
11 section; and

12 “(3) for each fiscal year for which funding is  
13 sought under this section—

14 “(A) in preparing an intended use plan  
15 under section 1452(b), after providing for pub-  
16 lic review and comment, prepare an annual list  
17 of eligible activities for eligible entities in the  
18 State in accordance with subsection (b); and

19 “(B) prepare and submit to the Adminis-  
20 trator a request for the funding, by such date  
21 and in such form as the Administrator shall  
22 prescribe.

23 “(b) PROGRAM PRIORITY REQUIREMENT.—

24 “(1) LIST OF ELIGIBLE ACTIVITIES.—A small  
25 public water system assistance program established

1 under subsection (a) shall, for each fiscal year for  
 2 which funding is sought, identify, and, using the pri-  
 3 ority criteria described in paragraph (2) and consid-  
 4 ering the additional criteria described in paragraph  
 5 (3), list in descending order of priority, eligible ac-  
 6 tivities for eligible entities in the State for which  
 7 funds provided from a grant under this part may be  
 8 used.

9 “(2) PRIORITY CRITERIA.—In preparing the list  
 10 under paragraph (1), a small public water system  
 11 assistance program shall give priority for the use of  
 12 grants to eligible activities that—

13 “(A) address the most serious risk to  
 14 human health;

15 “(B) are necessary to ensure compliance  
 16 with national primary water regulations appli-  
 17 cable to eligible entities under section 1412;  
 18 and

19 “(C) assist systems most in need, as cal-  
 20 culated on the basis of median household in-  
 21 come, under affordability criteria established by  
 22 the State under section 1452(d)(3).

23 “(3) ADDITIONAL CRITERIA.—In addition to  
 24 the priority criteria described in paragraph (2), a  
 25 small public water system assistance program shall,

1 in preparing a list under paragraph (1), consider  
 2 giving additional priority to any listed eligible activi-  
 3 ties that are to be carried out by communities that  
 4 form management cooperatives (including manage-  
 5 ment cooperatives between systems that do not have  
 6 connections).

7 “(c) USE OF FUNDS.—Using any funds received by  
 8 a State under this section for a fiscal year, in accordance  
 9 with the list prepared under subsection (b), a small public  
 10 water system assistance program established by the State  
 11 under subsection (a)—

12 “(1) shall provide to an eligible entity, on a  
 13 cost-shared basis, a grant to be used for an eligible  
 14 activity (including source water protection) the pur-  
 15 pose of which is compliance with national primary  
 16 drinking water regulations applicable to the eligible  
 17 entity under section 1412;

18 “(2) shall—

19 “(A) award not less than 1.5 percent of  
 20 the funds to nonprofit technical assistance orga-  
 21 nizations to be used for the purposes of—

22 “(i) assisting the State in preparing  
 23 the list required under subsection (b) (in-  
 24 cluding assisting the State in identifying  
 25 the highest priority eligible activities for el-



1 eligible entities located in the State for  
2 which a grant under this section may be  
3 used); and

4 “(ii) assisting eligible entities in—

5 “(I) assessing needs relating to  
6 eligible activities;

7 “(II) identifying available sources  
8 of funding to meet the cost-sharing  
9 requirement of subsection (f); and

10 “(III) planning, implementing,  
11 and maintaining any eligible activities  
12 of the eligible entities that receive  
13 funding under this section;

14 “(B) require each nonprofit technical as-  
15 sistance organization that receives funds under  
16 subparagraph (A) to consult with the State,  
17 through the head of the small public water as-  
18 sistance program, before carrying out any activ-  
19 ity for the purposes described in subclauses (I)  
20 and (III) of subparagraph (A)(ii); and

21 “(C) require that none of the funds made  
22 available to a nonprofit technical assistance or-  
23 ganization under subparagraph (A) be used to  
24 pay lobbying expenses; and

1           “(3) may use not to exceed 1 percent of the  
 2           funds allocated to the State to pay reasonable costs  
 3           incurred in the administration of the small public  
 4           water system assistance program.

5           “(d) LIMITATION ON USE OF FUNDS.—For each fis-  
 6           cal year, not more than 5 percent of the funds received  
 7           by an eligible entity under this section may be used to  
 8           obtain technical assistance in planning, implementing, and  
 9           maintaining eligible activities that are funded under this  
 10          section.

11          “(e) LIMITATION ON RECEIPT OF FUNDS.—

12           “(1) IN GENERAL.—Except as provided in para-  
 13           graph (2), a grant under this section shall not be  
 14           provided to an eligible entity that, as determined by  
 15           the State—

16           “(A) does not have the technical, manage-  
 17           rial, and financial capability to ensure compli-  
 18           ance with national primary drinking water reg-  
 19           ulations applicable to the eligible entity under  
 20           section 1412; or

21           “(B) is in significant noncompliance with  
 22           any applicable national primary drinking water  
 23           regulation.

1           “(2) EXCEPTION FOR RECEIPT OF GRANT.—An  
2     eligible entity described in paragraph (1) may re-  
3     ceive a grant under this section only—

4           “(A) if the State determines that use of  
5     the grant will ensure compliance with national  
6     primary drinking water regulations applicable  
7     to the eligible entity under section 1412;

8           “(B)(i) to restructure or consolidate the  
9     facility to achieve compliance with applicable  
10    national primary drinking water regulations; or

11          “(ii) in a case in which restructuring or  
12    consolidation of the facility is not practicable, if  
13    the State determines that—

14          “(I) the eligible entity has made a  
15    good faith effort to achieve compliance  
16    with applicable national primary drinking  
17    water regulations; and

18          “(II) the eligible entity is adhering to  
19    an enforceable schedule for achieving those  
20    regulations; and

21          “(C) in a case in which paragraph (1)(A)  
22    applies to an eligible entity, and the eligible en-  
23    tity agrees to undertake feasible and appro-  
24    priate changes in operations (including changes  
25    in ownership, management, accounting, rates,

1 maintenance, consolidation, provision of an al-  
2 ternative water supply, or other procedures), if  
3 the State determines that the measures are nec-  
4 essary to ensure that the eligible entity has the  
5 technical, managerial, and financial capability  
6 to comply with applicable national primary  
7 drinking water regulations over the long term.

8 “(3) REVIEW.—Before providing assistance  
9 under this section to an eligible entity that is in sig-  
10 nificant noncompliance with any national primary  
11 drinking water regulation applicable to the eligible  
12 entity under section 1412, the State shall conduct a  
13 review to determine whether paragraph (1)(A) ap-  
14 plies to the entity.

15 “(f) COST SHARING.—

16 “(1) IN GENERAL.—

17 “(A) LIMIT.—Except as provided in para-  
18 graph (2), the share of the total cost of an eligi-  
19 ble activity funded by a grant under this section  
20 shall not exceed 80 percent.

21 “(B) USE OF OTHER FEDERAL FUNDS.—

22 To pay the portion of an eligible activity that  
23 may not be funded by a grant under this sec-  
24 tion, an eligible entity may use Federal finan-

1           cial assistance other than assistance received  
2           under this section.

3           “(2) WAIVER OF COST-SHARING REQUIRE-  
4           MENT.—

5                   “(A) IN GENERAL.—Subject to subpara-  
6           graph (B), a State may waive the requirement  
7           of an eligible entity to pay all or a portion of  
8           the share of an eligible activity that may not be  
9           funded by a grant under this section, based on  
10          a determination by the State that the eligible  
11          entity is unable to pay any or all of the share.

12                   “(B) LIMITATION.—For each fiscal year in  
13          which a State receives funding under this sec-  
14          tion, the total amount of cost-share waivers  
15          provided by the State under subparagraph (A)  
16          shall not exceed 30 percent of the amount of  
17          funding received by the State for the fiscal year  
18          under section 1472(c)(1).

19                   “(g) UNOBLIGATED FUNDS.—Any funds not obli-  
20          gated by the State for a purpose consistent with sub-  
21          section (c) within 1 year after the date of the allocation  
22          of the funds by the Administrator under section 1472(c)  
23          shall be returned to the Administrator for reallocation  
24          under that section.

1       “(h) REPORTS.—Not later than November 1 fol-  
 2       lowing each fiscal year in which a State receives funding  
 3       under this section, the State shall—

4               “(1) submit to the Administrator a report that,  
 5       for the preceding fiscal year—

6                       “(A) lists the eligible activities for eligible  
 7       entities, as prepared under subsection (b);

8                       “(B) identifies the number of grants  
 9       awarded by the State small public water system  
 10      assistance program to eligible entities;

11                      “(C) identifies each eligible entity that re-  
 12      ceived a grant to carry out an eligible activity;

13                      “(D) identifies the amount of each grant  
 14      provided to an eligible entity to carry out an eli-  
 15      gible activity; and

16                      “(E) describes each eligible activity funded  
 17      by such grants (including the status of the eli-  
 18      gible activity); and

19               “(2) make the report under paragraph (1)  
 20      available to the public.

21   **“SEC. 1474. SMALL PUBLIC WATER SYSTEM ASSISTANCE**  
 22       **PROGRAM FOR INDIAN TRIBES.**

23       “(a) ESTABLISHMENT.—Not later than July 1, 2002,  
 24      the Administrator shall establish a small public water sys-  
 25      tem assistance program for Indian Tribes, through which

1 eligible entities located in areas governed by the Indian  
 2 Tribe may receive grants for eligible activities under this  
 3 part.

4 “(b) PROGRAM PRIORITY REQUIREMENT.—

5 “(1) LIST OF ELIGIBLE ACTIVITIES.—

6 “(A) IN GENERAL.—The Administrator,  
 7 acting through the head of the small public  
 8 water system assistance program for Indian  
 9 Tribes, in consultation with the Secretary, shall,  
 10 for each fiscal year, identify, and, using the pri-  
 11 ority criteria described in paragraph (2) and  
 12 considering the additional criteria described in  
 13 paragraph (3), list in descending order of pri-  
 14 ority, eligible activities for eligible entities lo-  
 15 cated in areas governed by Indian Tribes for  
 16 which funds provided from a grant under this  
 17 part may be used.

18 “(B) COORDINATION.—

19 “(i) IN GENERAL.—To the maximum  
 20 extent practicable, the Administrator shall  
 21 ensure that the list under subparagraph  
 22 (A) is coordinated with any needs assess-  
 23 ment conducted under section 1452(i)(4).

24 “(ii) ADDITIONAL CONSIDERATION.—

25 Any additional financial needs of small

1 public water systems located in areas gov-  
2 erned by Indian Tribes that are associated  
3 with the cost of complying with a national  
4 primary drinking water regulation (includ-  
5 ing a regulation concerning arsenic) that is  
6 promulgated after the most recent needs  
7 survey conducted under section 1452(i)(4)  
8 shall be factored into the determination of  
9 financial need for, and prioritization of, eli-  
10 gible activities under this section.

11 “(2) PRIORITY CRITERIA.—In preparing the list  
12 under paragraph (1), the Administrator shall give  
13 priority for the use of grants to eligible activities  
14 that—

15 “(A) address the most serious risk to  
16 human health;

17 “(B) are necessary to ensure compliance  
18 with national primary water regulations appli-  
19 cable to eligible entities under section 1412;  
20 and

21 “(C) assist systems most in need, as cal-  
22 culated on the basis of median household in-  
23 come, under affordability criteria published by  
24 the Administrator under section 1452(d)(3).



1           “(3) ADDITIONAL CRITERIA.—In addition to  
2           the priority criteria described in paragraph (2), the  
3           Administrator shall, in preparing a list under para-  
4           graph (1), consider giving additional priority to any  
5           listed eligible activities that are to be carried out by  
6           communities that form management cooperatives  
7           (including management cooperatives between sys-  
8           tems that do not have connections).

9           “(c) USE OF FUNDS.—

10           “(1) IN GENERAL.—Using funds allocated  
11           under section 1472(c)(2)(A), the small public water  
12           system assistance program established under sub-  
13           section (a) shall provide to an eligible entity located  
14           in an area governed by an Indian Tribe, on a cost-  
15           shared basis, a grant to be used for an eligible activ-  
16           ity (including source water protection) the purpose  
17           of which is compliance with national primary drink-  
18           ing water regulations applicable to the eligible entity  
19           under section 1412.

20           “(2) ALLOCATION OF GRANT FUNDING.—For  
21           each fiscal year, taking into consideration the fund-  
22           ing allocation under section 1472(c)(2)(A) for the  
23           fiscal year, the head of the small public water assist-  
24           ance program established under subsection (a), in  
25           consultation with the Secretary, shall provide grants

1 under paragraph (1) for the maximum number of el-  
 2 igible activities for which the funding allocation  
 3 makes assistance available, based on the priority as-  
 4 signed by the Administrator to eligible activities  
 5 under subsection (b).

6 “(d) LIMITATION ON USE OF FUNDS.—For each fis-  
 7 cal year, not more than 5 percent of the funds received  
 8 by an eligible entity under this section may be used to  
 9 obtain technical assistance in planning, implementing, and  
 10 maintaining eligible activities that are funded under this  
 11 section.

12 “(e) LIMITATION ON RECEIPT OF FUNDS.—

13 “(1) IN GENERAL.—Except as provided in para-  
 14 graph (2), a grant under this section shall not be  
 15 provided to an eligible entity that, as determined by  
 16 the Administrator—

17 “(A) does not have the technical, manage-  
 18 rial, and financial capability to ensure compli-  
 19 ance with national primary drinking water reg-  
 20 ulations applicable to the eligible entity under  
 21 section 1412; or

22 “(B) is in significant noncompliance with  
 23 any applicable national primary drinking water  
 24 regulation.

1           “(2) EXCEPTION FOR RECEIPT OF GRANT.—An  
2     eligible entity described in paragraph (1) may re-  
3     ceive a grant under this section only—

4           “(A) if the Administrator determines that  
5     use of the grant will ensure compliance with na-  
6     tional primary drinking water regulations appli-  
7     cable to the eligible entity under section 1412;

8           “(B)(i) to restructure or consolidate the  
9     facility to achieve compliance with applicable  
10    national primary drinking water regulations; or

11          “(ii) in a case in which restructuring or  
12    consolidation of the facility is not practicable, if  
13    the Administrator determines that—

14          “(I) the eligible entity has made a  
15    good faith effort to achieve compliance  
16    with applicable national primary drinking  
17    water regulations; and

18          “(II) the eligible entity is adhering to  
19    an enforceable schedule for achieving those  
20    regulations; and

21          “(C) in a case in which paragraph (1)(A)  
22    applies to an eligible entity, and the eligible en-  
23    tity agrees to undertake feasible and appro-  
24    priate changes in operations (including changes  
25    in ownership, management, accounting, rates,

1 maintenance, consolidation, provision of an al-  
 2 ternative water supply, or other procedures), if  
 3 the Administrator determines that the measures  
 4 are necessary to ensure that the eligible entity  
 5 has the technical, managerial, and financial ca-  
 6 pability to comply with applicable national pri-  
 7 mary drinking water regulations over the long  
 8 term.

9 “(3) REVIEW.—Before providing assistance  
 10 under this section to an eligible entity that is in sig-  
 11 nificant noncompliance with any national primary  
 12 drinking water regulation applicable to the eligible  
 13 entity under section 1412, the Administrator shall  
 14 conduct a review to determine whether paragraph  
 15 (1)(A) applies to the entity.

16 “(f) COST SHARING.—

17 “(1) IN GENERAL.—

18 “(A) LIMIT.—Except as provided in para-  
 19 graph (2), the share of the total cost of an eligi-  
 20 ble activity funded by a grant under this section  
 21 shall not exceed 80 percent.

22 “(B) USE OF OTHER FEDERAL FUNDS.—

23 To pay the portion of an eligible activity that  
 24 may not be funded by a grant under this sec-  
 25 tion, an eligible entity may use Federal finan-

1           cial assistance other than assistance received  
2           under this section.

3           “(2) WAIVER OF COST-SHARING REQUIRE-  
4           MENT.—

5                   “(A) IN GENERAL.—The Administrator  
6           may waive the requirement of an eligible entity  
7           to pay all or a portion of the share of eligible  
8           activity that may not be funded by a grant  
9           under this section based on a determination by  
10          the Administrator that the eligible entity is un-  
11          able to pay any or all of the share.

12                   “(B) LIMITATION.—For each fiscal year,  
13          the total amount of cost-share waivers provided  
14          by the Administrator under subparagraph (A)  
15          shall not exceed 30 percent of the amount of  
16          funding allocated to eligible entities located in  
17          areas governed by Indian Tribes for the fiscal  
18          year under section 1472(c)(2)(A).

19                   “(g) UNOBLIGATED FUNDS.—Any funds not obli-  
20          gated by the small public water system assistance program  
21          established under subsection (a) for a purpose consistent  
22          with section 1472(c)(2)(B) and subsection (c) within 1  
23          year after the date of allocation of the funds by the Ad-  
24          ministrator under section 1472(c)(2)(A) shall be returned  
25          to the Administrator for reallocation under that section.

1       “(h) REPORTS.—Not later than November 1 fol-  
 2       lowing each fiscal year in which an Indian Tribe receives  
 3       funding under this section, the Indian Tribe shall submit  
 4       to the Administrator a report that, for the preceding fiscal  
 5       year—

6               “(1) identifies the number of grants awarded to  
 7       eligible entities located in areas governed by the In-  
 8       dian Tribe;

9               “(2) identifies each such eligible entity that re-  
 10      ceived a grant to carry out an eligible activity;

11              “(3) identifies the amount of each grant pro-  
 12      vided to such an eligible entity to carry out an eligi-  
 13      ble activity; and

14              “(4) describes each eligible activity funded by  
 15      such grants (including the status of the eligible ac-  
 16      tivity).

17   **“SEC. 1475. AUTHORIZATION OF APPROPRIATIONS.**

18       “‘There is authorized to be appropriated to carry out  
 19      this part \$750,000,000 for each of fiscal years 2002  
 20      through 2006.’”.

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