



Drinking Water State Revolving Funds Interim Final Rule

The U.S. Environmental Protection Agency (EPA) is releasing an interim final rule for the Drinking Water State Revolving Fund (DWSRF) program. This rule applies to States that implement DWSRF programs through the receipt of Federal capitalization grants. This interim final rule is effective on the date of publication in the *Federal Register*. EPA will seek comment on the rule for a 60 day public comment period. If EPA makes a determination that changes are needed based on the comments received, the Agency will revise the rule and publish it as final at a later date.

WHAT IS THE DWSRF PROGRAM?

The DWSRF program was established under the Safe Drinking Water Act (SDWA) Amendments of 1996 which authorizes the Agency to award capitalization grants to States, which in turn are authorized to provide low-cost loans and other types of assistance to public water systems to finance the costs of infrastructure projects needed to achieve or maintain compliance with SDWA requirements. States are also authorized to use a portion of their capitalization grants to fund a range of set-aside activities including source water protection, capacity development, and operator certification. The DWSRF program helps to ensure that the nation's drinking water supplies remain safe and affordable and that public water systems that receive funding are properly operated and maintained.

After extensive input from stakeholders, including solicitation of comments on Interim Guidelines published in the *Federal Register*, EPA released the DWSRF Final Guidelines (EPA 816-R-97-005) in February 1997 to allow States to move forward in implementing their programs. The first capitalization grants were awarded to States in March 1997. More than \$2.5 billion of the \$3.6 billion that has been appropriated for the program has been awarded to States. States have provided more than \$1.9 billion for loans to public water systems using Federal funds as well as State funds from a required 20% match. Several States have also increased the amount of funds available for providing assistance by issuing bonds secured by capitalization grant funds.

WHAT IS THE PURPOSE OF THIS RULE?

This rule primarily codifies the DWSRF program Final Guidelines and explains:

- L what States must do to receive a DWSRF program capitalization grant;
- L what States may do with capitalization grant funds intended for infrastructure projects;
- L what States may do with funds intended for set-aside activities; and
- L the roles of both the States and EPA in managing and administering the program.



This rule also includes several modifications and additions to the Final Guidelines based on policies that have evolved as the DWSRF program has been implemented. These additions and modifications went through rounds of comment in memoranda or guidance documents, or were published in the *Federal Register* for public comment.

This rule will be codified in the Code of Federal Regulations (40 CFR Part 35 Subpart L) and supplements requirements regarding Grants and Cooperative Agreements to State and Local Governments contained in 40 CFR Part 31.

HOW WILL THIS RULE AFFECT STATE PROGRAMS?

The DWSRF program is a continuing program that has been awarding capitalization grants to States under the Final Guidelines for more than three years. This rule will not result in any significant changes in program operations or award criteria.

This rule gives each State considerable flexibility to determine the design of its DWSRF program and to direct funding toward its most pressing compliance and public health protection needs. States can fund the operational costs of DWSRF programs from capitalization grant funds, provided that the amount does not exceed four percent of the allotment.

HOW WAS THIS RULE DEVELOPED?

As a rule implementing a grant program, this rule is exempt from notice and comment rulemaking requirements under the Administrative Procedures Act. However, due to the nature of the program, EPA believed it was important to consider the comments of affected parties when developing this rule.

A work group of State and EPA staff members working in state revolving fund (SRF) programs were given the opportunity to comment on an outline and first draft of the rule that was based on the Final Guidelines. State staff were encouraged to share the rule with other

State colleagues. A second draft of the rule was posted on the Internet on April 12, 1999, for a 45 day public comment period to give all interested parties an opportunity to comment.

National stakeholder organizations, members of the State/EPA SRF Work Group, and State DWSRF managers were notified by EPA when the rule was posted. Comments that were received were considered in developing this rule.

HOW CAN I COMMENT ON THIS RULE?

EPA is soliciting public comment on this interim final rule. A copy of the *Federal Register* notice for this rule is available on EPA's website at www.epa.gov/safewater/dwsrf.html. It can also be obtained by contacting the Safe Drinking Water Hotline at (800) 426-4791.

EPA must receive comments, in writing, by 60 days after the publication of this rule in the *Federal Register*. For specific instructions, see the *Federal Register* notice's "Addresses" section.

HOW CAN I OBTAIN ADDITIONAL INFORMATION?

For general information about the DWSRF program, contact the Safe Drinking Water Hotline at (800) 426-4791, or visit EPA's website at www.epa.gov/safewater/dwsrf.html. The Safe Drinking Water Hotline is open Monday through Friday, excluding Federal holidays, from 9:00 a.m. to 5:30 p.m. Eastern Time.

For technical inquiries regarding the DWSRF rule, contact Kimberley Roy, U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water (MC 4606), 1200 Pennsylvania Avenue NW, Washington, DC 20460. The telephone number is (202) 260-2794 and the e-mail address is roy.kimberley@epa.gov.