

The National Regulatory Research Institute

THE DRINKING WATER STATE REVOLVING LOAN FUND: A GUIDE FOR REGULATORY COMMISSIONS

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EXECUTIVE SUMMARY

The Safe Drinking Water Act Amendments of 1996 made fundamental changes in the federal drinking water program. While the changes in the water quality standards and methods of establishing those standards have received much attention, the state revolving loan fund provision is significant, particularly to the state regulatory commissions. This report describes the revolving loan funds.

The capitalization of the state operated loan funds is expected to exceed \$9 billion. The funds will be loaned again as the original loans are repaid, and states may leverage their funds with additional bond issues to augment the funds. As a result, considerably more than the original capitalization grant amounts will ultimately be available.

This report suggests that the loan funds provide the opportunity and impetus for state commissions to emphasize or launch major drinking water improvement plans for jurisdictional customers. Early state commission involvement in the process of development of the loan program in each state is required to assure that jurisdictional companies are fairly considered for the loans.

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FOREWORD

The Safe Drinking Water Act Amendments of 1996 frame a new era for the regulation of water utilities. A key feature of the Amendments is the creation of Drinking Water State Revolving Funds. This report addresses the role of state regulatory commissions in those loan programs and the opportunities they provide.

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Introduction

State commissions have long been aware that the central problem with the small water utilities under their jurisdiction is that many lack the technical, managerial and financial resources to effectively meet the needs of their customers. The problem becomes more difficult as the facilities age and maintenance costs increase. There is little capital for improvements and replacements, and service quality deteriorates.

The passage of the Safe Drinking Water Act Amendments of 1996 provides an opportunity for greater success in the future. For the first time there is a clearly enunciated, rational national priority to address the problems of small water companies. Fortunately, there are also resources made available to support the initiatives. Now is the time for state commissions to visit or revisit their small water company regulatory programs.

The SDWA has the objective of safe drinking water for all Americans. The state commissions can identify the role that their jurisdictional companies should play in achieving the objective. Current water suppliers should be evaluated. Determinations should be made as to their capability to provide the technical, managerial, and financial resources necessary for safe water supply. Further evaluation of those companies that fall short should be conducted, resulting in an overall assessment of the needs of the jurisdictional industry within the state. With such an inventory, the state commission can initiate activities designed to assist those companies which can be brought up to an adequate standard of continuing service. Those companies that face circumstances requiring more intrusive correction, such as acquisition by other utilities, can be identified and programs launched to address their customers needs.

The SDWA Amendments provide for improved technical capability for small utilities through operator training programs and operator certification processes. Management improvements are not directly supported, although management competence is encouraged as a requirement to qualify for other benefits of the

programs. Financial needs are addressed through the creation of a state revolving loan fund that, for the first time, will be available for private, for-profit utilities.

A means of providing financial assistance to troubled utilities is a major change. Commissions can exploit this new capability to improve the quality of service provided to customers.

It may be best that the state commissions take the initiative. The jurisdictional utilities will be competing with all other drinking water suppliers for a limited pool of funds. The structure of individual state revolving funds will typically follow that of previously established revolving loan funds that were available to public owned waste water utilities. There may be some resistance to incorporating the needs of customers of privately owned utilities into the programs. The smaller utilities are ill prepared to initiate provisions in the state loan programs that would assure them appropriate consideration. Commissions may need to take the initiative and participate with their sister state agencies in developing the provisions of the loan programs.

Background

The Safe Drinking Water Act (SDWA) Amendments of 1996 authorize the states to establish a Drinking Water State Revolving Fund (DWSRF) program to financially assist all nonfederal water systems with the costs of complying with the SDWA requirements and to protect public health. States are currently involved in the development and implementation phases of their own DWSRF programs. Each state completing this process will be eligible to receive a capitalization grant from the federal government. Prior to receiving this grant, states are required to complete an application process that includes an Intended Use Plan (IUP), which outlines how DWSRF funds will be used in the state. The application process must incorporate public review and comment. State commissions have an opportunity to be involved in the application process and development of the IUP.

It is anticipated that over the life of the capitalization grant program \$9.6 billion will be authorized for the program. Since this is a revolving loan program, some multiple of the initial capitalization will actually be available for loans. In addition many states will leverage their funds, using bond issuance authorization at the state level to supplement the capitalization grants. Table 1 shows the expected allocation of fiscal year 1997 funds to the individual state revolving loan programs. These allocations are based on an allocation formula that already existed. Future allocations will be based on a new needs assessment, however, it is not expected that the portion of the total available to each state will vary dramatically from the '97 allocation percentage.

Approximately eight times the original capitalization will be provided over the coming years. Even with the limitations on the amount of funds that can be used for privately held utilities, the funding source is quite substantial. The duration of the commitment to the program is compatible with a commission program addressing the long-term objectives.

Among the possible uses of the loan funds is small community water system development. Services to small communities are frequently subject to commission jurisdiction. They may be an important part of the commission's long-range plan for its water sector. It is important to realize that the SDWA provides for the set-aside of funds specifically for the small communities, but the set-aside must be part of the state's IUP. Set-aside funds can be converted for general use, should the state not ultimately find a need for them, but funds cannot be set aside after the IUP is finalized. This is one reason for prompt action. Set-asides needs must be identified immediately.

Funds for private water utilities must also be identified in the IUP. Again, unused set-asides for private utilities can be returned for general fund purposes, but the set-aside needs to be established as a part of the initial IUP.

Table 1
Drinking Water State Revolving Funds
Estimated Allocations of \$1.275 Billion, FY 1997

State	Allocation	State	Allocation	State	Allocation
AK	\$27,039,000.00	LA	\$20,420,300.00	OK	\$17,561,900.00
AL	\$12,558,800.00	MA	\$14,344,600.00	OR	\$18,920,500.00
AR	\$12,558,800.00	MD	\$17,640,900.00	PA	\$53,270,700.00
AZ	\$16,938,300.00	ME	\$12,653,200.00	PR	\$12,558,800.00
CA	\$75,682,600.00	MI	\$69,681,100.00	RI	\$12,558,800.00
CO	\$16,784,100.00	MN	\$42,086,000.00	SC	\$14,821,600.00
CT	\$21,408,200.00	MO	\$21,857,600.00	SD	\$12,558,800.00
DC	\$12,558,800.00	MS	\$16,474,200.00	TN	\$12,776,200.00
DE	\$12,558,800.00	MT	\$14,826,200.00	TX	\$70,153,800.00
FL	\$45,132,600.00	NC	\$46,114,100.00	UT	\$12,558,800.00
GA	\$25,775,000.00	ND	\$12,558,800.00	VA	\$29,442,400.00
HI	\$12,558,800.00	NE	\$12,824,000.00	VT	\$12,558,800.00
IA	\$16,857,300.00	NH	\$13,754,800.00	WA	\$31,145,900.00
ID	\$14,157,800.00	NJ	\$27,947,300.00	WI	\$41,546,400.00
IL	\$38,502,400.00	NM	\$12,759,800.00	WV	\$12,558,800.00
IN	\$25,712,100.00	NV	\$12,558,800.00	WY	\$12,558,800.00
KS	\$14,095,000.00	NY	\$59,167,700.00		
KY	\$12,558,800.00	OH	\$43,073,000.00		

Source: Adapted from McDonald, Joe; Opflow, November, 1996, pg. 3; AWWA, Denver CO.

The following sections describe the DWSRF. A condensed version of the "Interim Guidance: Drinking Water State Revolving Loan Fund" which was prepared by the U. S. Environmental Protection Agency is provided. Those materials that are most relevant to the state commissions were included. Most materials not included deal with the public health aspects and the administrative activities of the EPA. The Condensed Interim Guidance is in the left column. The right column annotates the Guidance, emphasizing the opportunities for commission involvement in the revolving loan process. This should be helpful to commissions in developing their plans for involvement in the revolving loan process as well as integrating the loans into their water utility regulation programs.

Perhaps the most important observations arising from the analysis are:

- If state commissions want a voice in how funds are spent, then they need to be involved in the drafting of their state grant applications.
- Institutional barriers may exist that commissions need to address in order for investor-owned water utilities to receive DWSRF loan funds.
- Commissions have unique financial and accounting capabilities that state primacy agencies may wish to use in implementing the DWSRF loan program. Administrative costs are a recoverable cost under SDWA.

Interim Guidance: Drinking Water State Revolving Fund¹

Guidance (Condensed)	Annotations (NRRI)
<p>INTRODUCTION</p> <p>The Safe Drinking Water Act (SDWA) Amendments of 1996 (Pub. L. 104-182) authorize a Drinking Water State Revolving Fund (DWSRF) program to assist public water systems to finance the costs of infrastructure needed to achieve or maintain compliance with SDWA requirements and to protect public health. Section 1452 authorizes the Administrator of the U.S. Environmental Protection Agency (EPA) to award capitalization grants to States, which in turn can provide low cost loans and other types of assistance to eligible systems.</p> <p>¹ Interim Guidance--Drinking Water State Revolving Fund, USEPA, October 4, 1996, www.epa.gov/OW/regs/tocwater.html.</p>	<p>A state-administered loan fund to assist water systems finance infrastructure was authorized by the Safe Drinking Water Act. The loan program is called the DWSRF, the Drinking Water State Revolving Fund.</p> <p>USEPA makes capitalization grants to the states for the program.</p>

Guidance (Condensed)

The SDWA Amendments also establish a strong new emphasis on preventing contamination problems through source water protection and enhanced water systems management. That emphasis transforms the previous law from a largely after-the-fact regulatory oriented program into a statute that can provide for the sustainable use of water. Central to this emphasis is the development of State prevention programs, including source water protection, capacity development and operator certification. States have the option to use a portion of their capitalization grant to fund these eligible activities as allowed in the statute. The success of these activities will act to safeguard the DWSRF funds that are loaned for improving system compliance and public health protection, and help determine whether the new law 's potential as a preventive environmental statute is realized.

Annotations (NRRI)

The SDWA Amendments change the focus of federal regulation from enforcement to sustainable use of water resources.

Activities that may be funded include:

Source water protection,

Capacity development,

and, Operator certification.

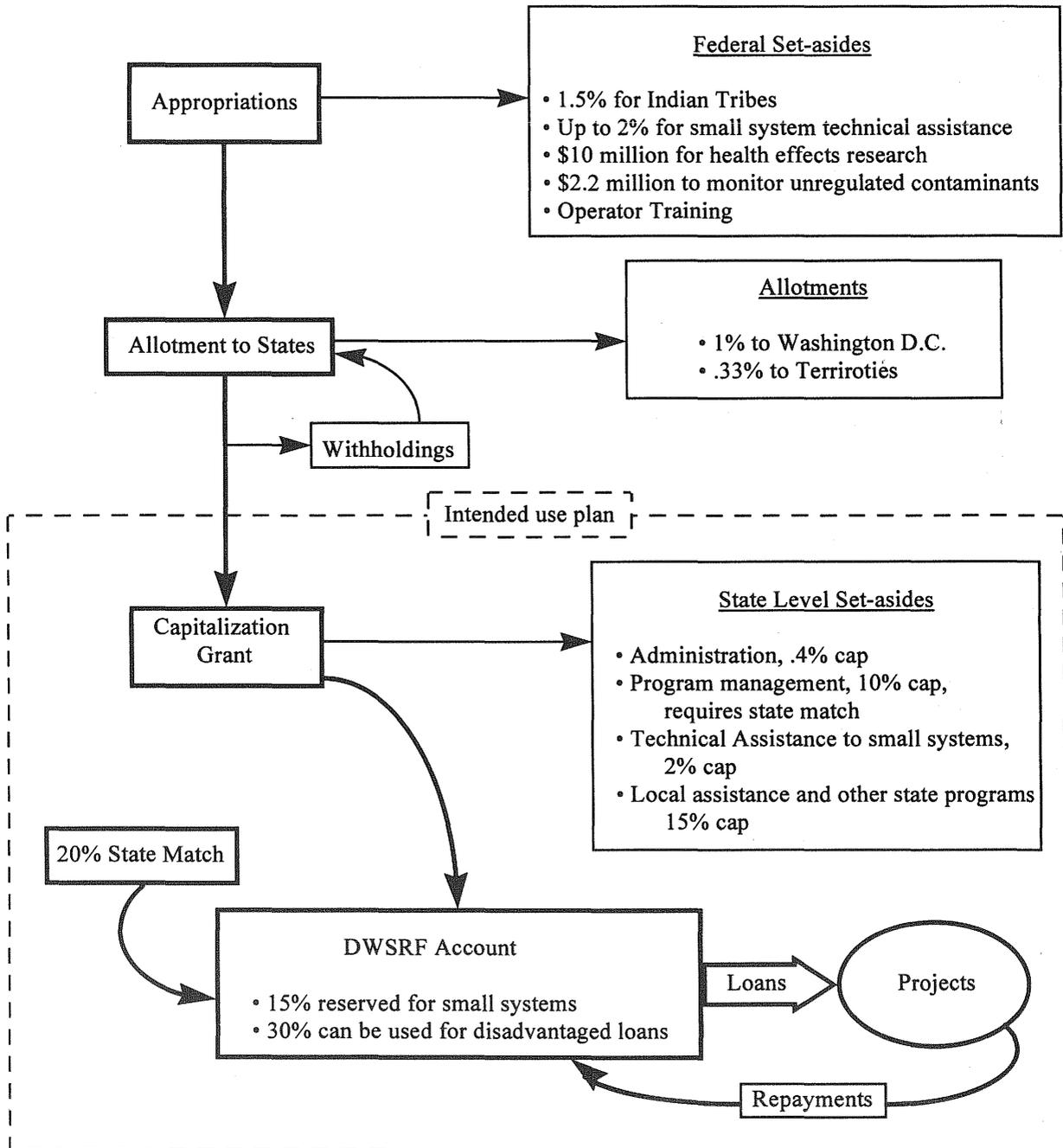
Commissions may be able to coordinate the use of loan funds to address problems of jurisdictional utilities.

Guidance (Condensed)	Annotations (NRRI)
<p>The DWSRF program will help ensure that the nation’s drinking water supplies remain safe and affordable, that drinking water systems that receive funding will be properly operated and maintained, and that permanent institutions will exist in each State to provide financial support for drinking water needs for many years to come. Congress has placed particular emphasis on assisting smaller drinking water systems, and those serving less affluent populations, by providing greater funding flexibility for these systems under the DWSRF to ensure that systems have adequate technical, managerial, and financial resources to maintain compliance and provide safe water.</p>	<p>Affordability and sustainable proper operations are key objectives of the program. The DWSRF is a long-term state program to provide financial support for drinking water needs.</p> <p>Small systems receive particular emphasis. Technical, managerial and financial resources of these systems are to be considered.</p> <p><i>Commissions are uniquely qualified to address the affordability issues for customers. Their experience in management analysis and financial evaluation can strengthen the state’s loan and grant programs.</i></p>

Guidance (Condensed)	Annotations (NRRI)
<p>Under the SDWA, a State may administer its DWSRF in combination with other State loan funds, including the wastewater SRF, hereafter known as the Clean Water State Revolving Fund (CWSRF). Beginning one year after a DWSRF program receives its first capitalization grant, a State may also transfer up to a third of the amount of its DWSRF capitalization grant to its CWSRF or an equivalent amount from its CWSRF capitalization grant to its DWSRF.</p>	<p>Other programs administered by the state are to be coordinated with the DWSRF.</p>
<p>These two provisions linking the DWSRF and the CWSRF signal Congressional intent to implement and manage the two programs in a similar manner. EPA also intends to administer the two programs in a consistent manner, and to apply the principles developed for the existing CWSRF to the DWSRF program to the fullest extent possible. Like the CWSRF, the DWSRF is fundamentally a State program. Each State will have considerable flexibility to determine the design of its program and to direct funding toward its most pressing compliance and public health protection needs. Only minimal Federal requirements will be imposed.</p>	<p>The USEPA promises minimal Federal requirements and maximum state autonomy in these programs.</p> <p>Existing programs, particularly the Clean Water State loan programs may serve as models for the new programs.</p> <p><i>Commissions may need to emphasize the differences between the programs to be sure that utilities that were not eligible or targeted in the existing programs are not disadvantaged in the new programs.</i></p>

Guidance (Condensed)	Annotations (NRRI)
<p>This document provides a comprehensive description of the guidelines that will apply in the operation of the DWSRF program. In basic terms, the guidelines explain:</p> <ul style="list-style-type: none"> • what States must do to receive a DWSRF capitalization grant; • what States may do with federal capitalization grant funds; • what States may do with funds the law intends for activities other than project construction (non-project funds); and • the role of both the States and EPA in managing and administering the program. 	<p>The balance of the Guidelines will describe in detail the processes that the state must follow to participate in the DWSRF program.</p> <p><i>Commissions familiar with the USEPA processes will be able to participate with other state agencies in the development of the program and assure that customers of jurisdictional utilities receive the program benefits intended by Congress.</i></p> <p>Table 2 depicts the flow a appropriated funds to project loans and other eligible uses.</p>

TABLE 2
Drinking Water State Revolving Fund



Development of a Capitalization Grant Application

Guidance (Condensed)	Annotations (NRRI)
<p>I. DEVELOPMENT OF A CAPITALIZATION GRANT APPLICATION / AGREEMENT</p> <p>The capitalization grant agreement process begins when the State is ready to receive a capitalization grant. A capitalization grant cannot be awarded until after federal funds have been appropriated for the DWSRF under section 1452 and then allocated to the States. A State submits an application to the Regional Administrator (RA) requesting a capitalization grant. With its application, the State must also submit an Intended Use Plan (IUP), documentation on the institutional framework of its DWSRF program, and a proposed schedule for capitalization grant payments by the EPA.</p>	<p>In order to receive funds for the DWSRF each state must make an application to the USEPA's Regional Administrator.</p> <p><i>Commissions wishing to assure participation in the ultimate program by jurisdictional utilities should identify the state agencies involved in preparing the grant applications, determine the schedule for the application and the opportunities available for commission participation. Without commission involvement in preparing the IUP, investor-owned utilities might not receive loans.</i></p>

Guidance (Condensed)

The Act allows States the option to use part of the capitalization grant for uses other than project construction to encourage the development of source water protection and State prevention programs and to enhance water systems management. All DWSRF funds, including those that States will direct toward set-asides, will be awarded through the capitalization grant process. Before applying for a capitalization grant, States must prepare an IUP that identifies how it intends to distribute the grant among the set-asides and the DWSRF fund, and includes the list of projects that will be funded.

Annotations (NRRI)

A key element of the application is the Intended Use Plan (IUP).

The IUP specifies how the funds will be used.

The die is cast by the IUP.

Commissions may need to participate in the development of the state IUP to avoid having uses important to them overlooked. It may be difficult to correct deficiencies after the IUP is finished.

Guidance (Condensed)	Annotations (NRRI)
<p>The State must seek public review and comment on these funding decisions. A State may, however, prepare this IUP in two parts. The first part would present the overall framework of how the State intends to allocate the grant among the set-asides and the DWSRF Fund, but would not include the project priority list. The second part would be the IUP for the project fund only. States would still be required to provide public review and comment on both parts. The two part process has the advantage of allowing States to proceed with a partial capitalization grant application (e.g., a set-aside) before it completes all of the activities required to obtain a full capitalization grant.</p>	<p>Public review and comment on the state's IUP is required.</p> <p><i>Some commissions may choose the review and comment process for their participation. Others may work directly with the lead state agency in preparing the application and IUP.</i></p> <p>The IUP may proceed in two steps, the first for an overall framework and the second for project priorities. Public comment would be required in each part.</p> <p><i>The first step may include decisions critical to a commission's intentions. Timely involvement is important.</i></p>

Guidance (Condensed)

In addition to identifying the distribution of funds, the IUP outlines the State's planned DWSRF activities, provides assurances and specific proposals for meeting requirements of the SDWA and Federal general grant regulations, and serves as the basis for negotiations between the RA and the State on the proposed payment schedule. The IUP and the payment schedule are then incorporated into the capitalization grant agreement, which also defines the State program and operating methods and the Regional oversight role. Material in these documents that does not change from year-to-year may be incorporated by reference in subsequent grant agreements or in an operating agreement, which remains in effect unless the Regional Administrator and the State agree to amend it. An operating agreement contains those portions of the capitalization grant agreement which do not change annually.

Annotations (NRRI)

There are specific requirements for the IUP. Generally it describes the contractual arrangement between the state and the USEPA Regional Administrator.

Portions of the IUP may survive year to year in subsequent grant applications.

Guidance (Condensed)	Annotations (NRRI)
<p>For DWSRF grant applications, States must submit EPA's standard application for non-construction grant assistance (EPA Form SF-424). States should submit grant applications no later than ninety days prior to the end of the period of funds availability. By so doing, EPA has adequate time to properly review the application and, as necessary, request additional information from the State. States that submit applications after this date run the risk of losing funds due to the provisions governing reallocation.</p>	<p>Standard USEPA applications and practices will be followed in grant applications.</p>
<p>Headquarters will concur on one State capitalization grant application in each region.</p>	<p>Only one grant will be authorized in each state.</p>

Guidance (Condensed)

Annotations (NRRI)

A. Items Necessary to Establish a Loan Fund that Complies with Federal Requirements

The State must provide assurances in the capitalization grant agreement on how it will comply with the fourteen specifications discussed below for all DWSRF funding. In some cases, the State must simply agree or certify in the grant application that it will comply with the specifications. In other cases, documentation on the procedures by which the State plans to ensure compliance with the specifications must be furnished. The State should include this documentation with its capitalization grant application.

There are fourteen specific requirements for funding. The state must show in its application how it will comply with each one.

Guidance (Condensed)	Annotations (NRRI)
<p>A1. Assurance that the State has the authority to establish a Fund and to operate the DWSRF program in accordance with the SDWA</p>	<p>The state must have the authority to establish and operate the fund.</p> <p><i>The authority issue may be important in some states because the SDWA Amendments make funds available for purposes not included in past loan fund programs. Specifically, funds are to be available for private companies. Commissions may need to participate in the authority aspect of the application to assure that customers of privately owned utilities are not excluded from participation.</i></p>
<p>A2. Assurance that the State will comply with State statutes and regulations</p>	<p>The state must act lawfully.</p>
<p>A3. Assurance that the State has the technical capability to operate the program</p>	<p>The state must be technically capable to operate the program.</p> <p><i>Commissions may be included in the evidence of competence particularly in regard to the issues of determining affordability, managerial competence within utilities and financial viability or need of specific utilities.</i></p>

Guidance (Condensed)	Annotations (NRRI)
A4. Assurance that the State will accept capitalization grant funds in accordance with a payment schedule	The state must agree to accept the grant funds.
A5. Assurance that the State will deposit all capitalization grant funds in the DWSRF	The funds must go to a drinking water loan fund.
A6. Assurance that the State will deposit an amount at least equal to 20 percent of the capitalization grant (State match) in the Fund and deposit any required match for 1452(g)(2) activities in a non-project account	The state must provide required matching funds.
A7. Assurance that the State will deposit all proceeds into the Fund	All proceeds must be deposited in the fund.
A8. Assurance that the State will use generally accepted accounting principles	Accounting must be appropriate.
A9. Assurance that State will have DWSRF funds audited annually in accordance with Generally Accepted Government Auditing Standards.	Audits must be preformed.

Guidance (Condensed)	Annotations (NRRI)
<p>A10. Assurance that the State will adopt policies and procedures to assure that borrowers have a dedicated source of repayment of the unsubsidized portion of loans.</p>	<p>Loans are to be repaid and guaranteed from a dedicated revenue source.</p> <p><i>Commissions should be alert for appropriate interpretation of this provision. The meaning of a “dedicated revenue source” should include appropriate assurances that can be made by utilities subject to commission jurisdiction and not be limited by a requirement of tax revenue guarantees, for example.</i></p>
<p>A11. Assurance that the State will disburse loans as efficiently as possible, and in an expeditious and timely manner</p>	<p>Administrative efficiency is required.</p>
<p>A12. Assurance that funds will be used in accordance with the Intended Use Plan</p>	<p>Funds are to used as agreed.</p>
<p>A13. Assurance that the State will provide EPA with a biennial report and annual audit</p>	<p>Reports to USEPA are required.</p>
<p>A14. Assurance that the State will comply with all Federal cross-cutting authorities</p>	<p>Cooperation with federal cross-cutting authorities is required.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>B. Intended Use Plan</p> <p>The central component of the capitalization grant application is an Intended Use Plan (IUP) (section 1452(b)), which describes how the State intends to use available DWSRF funds for the year to meet the objectives of the SDWA and further the goal of protecting public health.</p>	<p>The Intended Use Plan is the central component of the grant application.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>The State must prepare the IUP, after providing for public review and comment, and submit it to the Regional Administrator as part of its capitalization grant application. In the IUP, the State must include specific details on how it will use all funds available to the capitalization grant, including funds that will be allocated to the set-asides. States may, as an alternative, develop the IUP in a two part process, one part that identifies the distribution and uses of the funds among the various set-asides and the DWSRF Fund and the other part dealing only with project funding in the DWSRF Fund. The two part process would allow States to submit a capitalization grant application for a portion of the funds before it completed all of its specific funding decisions. In this situation, a State would have to conduct two rounds of public review and comment--one for the overall distribution of funds and the other for the project priority list(s).</p>	<p>Public review and comment is required in preparation of the IUP.</p> <p>The plan must include specific details of how the state will use all funds in the grant. The funds may be used for set-asides and for project financing.</p> <p>A two part approach to IUP preparation and submission. One part may address the allotment of funds to the various set-asides and a second part may contain details of project financing.</p> <p><i>Commission programs may include both set-aside needs and project funding. Full participation in all phases may be necessary to achieve commission objectives.</i></p>

Guidance (Condensed)

For example, assume that a State has decided to allocate 75% of its funds to the DWSRF Fund, 10% of its funds to the source water delineation set-aside, 4% for DWSRF administration, and 10% for the PWSS program set-aside, but the State has not yet developed its project priority list(s). This State could seek public review and comment on the allocation of funds and submit a capitalization grant application for the 24% of funds that will be used for set-aside purposes. As with all grant applications, the State would have to include a detailed description of what the set-aside funds would be used for. The State would then, at a later date, develop the DWSRF Fund component, including the project priority list, seek public review and comment on this list and then submit an amendment to the capitalization grant application for the additional funds.

Annotations (NRRI)

Guidance (Condensed)	Annotations (NRRI)
<p>To the maximum extent possible, the part of the IUP for the DWSRF Fund must give priority for the use of funds to: (1) projects that address the most serious risk to human health; (2) projects that are necessary to ensure compliance with the Safe Drinking Water Act; and (3) systems most in need, on a per household basis, according to State affordability criteria (section 1542(b)(3)).</p>	<p>Funding priorities are established and specified to be followed to the maximum extent possible. The priorities are:</p> <ol style="list-style-type: none"> 1) Serious health risks 2) Necessary for SDWA compliance 3) Per household affordability <p><i>Commissions have a special interest and expertise in the establishment of affordability criteria.</i></p>
<p>Because the Fund account can only provide those types of assistance described in section 1452(f), funds that the State will use for non-project activities must be placed in an account that is separate (outside) from the Fund account.</p>	<p>Non-project activities by the state must be separate from the Fund account.</p>
<p>The IUP must describe how all funds, including capitalization grants, State match, loan repayments, interest earnings, bond proceeds, and other moneys deposited into the Fund account are intended to be expended. The State must prepare an IUP as long as the DWSRF Fund account remains in operation, not just in those years in which the State submits an application for a Federal capitalization grant.</p>	<p>The IUP must include a use of monies plan that includes all funds from all sources in the DWSRF.</p>

Guidance (Condensed)	Annotations (NRRI)
States must provide IUP information in a format and a manner that is consistent with the needs of the Regional Administrator.	Administrative requirements must be met.
The IUP must contain:	The IUP must include:
A list of projects, including description and size of community	<p>The list of projects to be funded.</p> <p><i>A commission will need to identify specific projects that would benefit customers of jurisdictional utilities and want them included in the project list.</i></p>
Description of criteria and method used for distribution of funds	<p>The project selection criteria.</p> <p><i>Commissions may need to assure that the criteria are not specified in a way that makes it difficult or impossible for jurisdictional utilities to participate.</i></p>
Description of the financial status of the DWSRF	The financial status of the Fund.
Description of the short and long-term goals of the DWSRF	<p>Goal specification.</p> <p><i>Goal specification may be important to the commission to assure compatibility with its program goals.</i></p>
Description of amounts transferred between the DWSRF and the CWSRF	Reallocations among loan funds.

Guidance (Condensed)	Annotations (NRRI)
<p>Description of the non-DWSRF project activities, and percentage of funds, that will be funded from the DWSRF capitalization grant, including DWSRF administrative expenses allowance, PWSS program support, technical assistance, etc.</p>	<p>Non-project uses of funds.</p> <p><i>If a commission intends to provide technical assistance or other qualifying programs, it may be able to receive funding.</i></p>
<p>Description of how a State will define a disadvantaged system and the amount of DWSRF funds that will be used for this type of loan assistance</p>	<p>Definition of disadvantaged systems.</p> <p><i>Commissions may wish to have the small system problems specifically emphasized by the loan program. These systems may be disadvantaged.</i></p>

Guidance (Condensed)

Annotations (NRRI)

C. Capitalization Grant Agreement

The Capitalization Grant Agreement (CGA) is the principal instrument by which the State commits to manage its revolving fund program, and to ensure that it conforms with the requirements of the SDWA Amendments of 1996. The CGA contains, or incorporates by reference, the following parts of the agreement: the application; the IUP, set-asides funding, the agreed upon payment schedule; certifications or other agreement requirements discussed in the first section, and the operating agreement, if used, and other documentation required by the Regional Administrator. In addition to these requirements, the CGA should also define the types of oversight responsibilities that will be required to determine compliance with section 1452. Agreement also is needed on the contents of the biennial report, annual audit, and the EPA review.

There will be a Capitalization Grant Agreement which includes all of the elements of the grant application.

Guidance (Condensed)

Annotations (NRRI)

D. Operating Agreement

The framework and procedures of the DWSRF program that are not expected to change annually may be described in an Operating Agreement (OA) that can be included as part of the Capitalization Grant Agreement. The grant application and subsequent grant agreement may incorporate by reference relevant portions of the previous year's application. If there are proposed changes to the OA, the State should outline them in the capitalization grant application.

There will be an operating agreement to cover those elements of the Capitalization Grant Agreement that do not change annually.

Allotment and Use of Funds

Guidance (Condensed)	Annotations (NRRI)
<p>II. ALLOTMENT/USE OF FUNDS</p> <p>Section 1452(m) authorizes a total of \$9.6 billion for the DWSRF from FY1994 through FY 2003. This section describes how these funds will be allotted and reallocated, national and State set-asides, and types of financial assistance available from the capitalization grant.</p>	<p>Nationally \$9.6 billion has been authorized for DWSRF through 2003. It will be allotted among the states and among set-asides and the project funds.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>A. Allotment/Reallotment/Withholding of Funds</p> <p>1. Allotment formula</p> <p>Funds available to States from FY 1997 appropriations will be allotted according to the formula used for distributing Public Water System Supervision (PWSS) grants under section 1443 in FY 1995. Funds available to States from FY 1998 appropriations and beyond will be allotted according to a formula that reflects the proportional share of each states needs identified in the most recent Needs Survey conducted pursuant to section 1452(h). In each case, the minimum proportionate share established in the formula will be one percent of the funds available for allotment to the States. Wyoming and the District of Columbia will also receive a one percent share of available funds. The Virgin Islands and the Pacific Island territories will together receive an allotment of 0.33 percent (Section 1452(a)(1)(D)).</p>	<p>Each state's allotment will be not less than 1% of the total state allotment and will be determined on the basis of need as identified in the then current Needs Survey.</p>

Guidance (Condensed)

Annotations (NRRI)

2. Period of availability and reallocation

Funds are available for the Agency to obligate to the States during the fiscal year in which they are authorized and during the following fiscal year (section 1452(a)(1)(C)). The amount of any allotment not obligated to the State at the end of this period of availability will be reallocated among other States according to the original formula used to allot these funds (FY 1997 funds: PWSS formula; FY 1998 funds and beyond: Needs Survey). Any state that does not obligate all of the funds allotted to it in the period of availability shall not be eligible to participate in the reallocation of funds for that particular fiscal year. The Administrator may reserve up to 10 percent of the funds available for reallocation to provide additional assistance to Indian tribes (section 1452(a)(1)(E)).

Funds allotted to a state but not obligated by the state will be reallocated to the remaining states.

3. Withholding of Funds

a. The Administrator will withhold funds under the following provisions:

USEPA will withhold funds from states under certain circumstances:

Guidance (Condensed)	Annotations (NRRI)
<p>1. Capacity Development Authority -The Administrator will withhold 20% of a States allotment unless the State has obtained the legal authority or other means to ensure that all new community water systems and new non-transient, non-community water systems commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each drinking water regulation in effect. This withholding provision becomes effective with FY 2000 funds and will cease when the State obtains the required statutory authority.</p>	<p>1. If a state does not have a means of prohibiting the formation of new water systems that cannot demonstrate financial, managerial and technical viability, 20% of its funds will be withheld. This provision is for systems commencing operations after October 1, 1999.</p> <p><i>Commission authority to deny certificates of necessity may be important for the state to meet this requirement. Commissions may wish to strengthen their review processes and insure coordination with other agencies. Commission expertise in the review of the three criteria for new systems may be used in some states to review all proposed new systems.</i></p>

Guidance (Condensed)	Annotations (NRR1)
<p>2. Capacity Development Strategy -- The Administrator will withhold funds from any States that are not developing and implementing a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity. The amount of a States allotment that will be withheld is 10 percent of FY 2001 funds, 15 percent of FY 2002 funds, and 20 percent of each subsequent year funds. Funds will cease to be withheld once a State develops and implements its capacity development strategy. EPA plans to issue separate guidance for States to use in developing these strategies.</p>	<p>2. If a state does not have a program to assist existing water systems in achieving financial, managerial and technical viability, funds will be withheld. Withholding begins in 2001 at 10%. 15% will be withheld in 2002 and 20% in subsequent years.</p> <p><i>Commissions can contribute their expertise to their state's program of viability for existing water systems.</i></p>
<p>The total amount that will be withheld if a state fails to meet the requirements of both of these provisions is 20 percent of the capitalization grant (section 1452(a)(1)(G)(I)).</p>	<p>There is a 20% cap on the withholding for these two viability provisions.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>3. Operator Certification Program -- The Administrator will withhold 20% of a States funds unless the State has adopted and is implementing a program for certifying operators of community and non-transient, non-community public water systems. This withholding provision will begin two years after the Administrator publishes guidelines for certification of operators. The Administrator is required to publish guidelines no later than February 6, 1999. Funds will cease to be withheld once a State complies with the requirement (section 1452(a)(1)(G)(ii)).</p>	<p>3. States must have an Operator Certification program or they will lose 20% of their funding. This requirement is effective February 6, 1999.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>4. Loss of Primacy -- A state may not receive capitalization grant funds if the State had primacy on the date of enactment of the Safe Drinking Water Amendments of 1996 (August 6, 1996) and subsequently lost primary enforcement responsibility for the drinking water program pursuant to section 1443 (section 1452(a)(1)(F)). Wyoming and the District of Columbia did not have primacy prior to August 6, 1996, and consequently, they are eligible to receive DWSRF funds. The Administrator may reserve funds from the allotment of a State that loses full primacy, for use by EPA to administer primary enforcement responsibilities in that State. The balance of the funds not used by EPA to administer primacy will be reallocated to other States pursuant to section 1452(a)(1)(E).</p>	<p>4. Each state must maintain its primacy or it will lose its capitalization grant funds.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>b. Reallotment of Withheld Funds</p> <p>All funds withheld from a State because the State does not have the capacity development authority, does not develop and implement a capacity development strategy, and/or does not develop and implement an operator certification program, will be reallotted, after the period of availability, using the same formula that was originally used to allot those funds. A State that has funds withheld for any one of these three activities is not eligible to receive reallotted funds for that activity. Thus, if a State does not develop an operator certification program but does have a capacity development strategy, the State would be eligible to receive a reallotment from withheld funds from States without capacity development programs but would not be eligible for reallotted funds under the operator certification provision. A State would also have to be eligible to receive reallotted funds in accordance with the reallotment provisions in section 1452(a)(1)(E) prior to being eligible to receive reallotted funds under the specified withholding provisions. This section limits reallotment to those States that have obligated all of their allotment during the period of availability.</p>	<p>Funds that are withheld will be reallotted among the remaining states.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>B. Set-asides from the national appropriation and ceilings on state allotments.</p> <p>Section 1452 authorizes numerous national set-sides from the appropriation for that section and allows States to use certain percentages of their allotment for various purposes other than project construction. Table 1 presents a flow chart for calculating these set-asides. (See Appendix A) EPA strongly encourages States to carefully evaluate and balance the needs related to the set-asides with the need to maintain an adequate level of funding for infrastructure projects in the DWSRF fund.</p>	<p>Set-asides are funds taken from project finance funds. The allowed set-asides are specific and are limited.</p>
<p>1. National Set-asides</p> <p>The National set-asides are reserved from the funds appropriated by Congress to carry out section 1452. These set-asides are:</p>	<p>Some set-asides were mandated by Congress and will reduce the funding allocated to the individual states:</p>

Guidance (Condensed)	Annotations (NRRI)
<p>a. Indian Tribes/Alaska Native Villages</p> <p>The Administrator may reserve (the Administrator will provide these funds) up to 1.5% from annually appropriated funds for grants to Indian Tribes and Alaska Native Villages (section 1452(I). EPA will provide separate guidance regarding the selection of projects, project management, and program oversight.</p>	<p>a. 1.5% for Indian Tribes and Alaskan Native Villages.</p>
<p>b. Health Effects Studies</p> <p>The Administrator will reserve \$10 million from annually appropriated funds to conduct health effects studies on drinking water contaminants (section 1452(n)).</p>	<p>b. \$10 million per year for health effect studies.</p>
<p>c. Unregulated Contaminant Monitoring</p> <p>The Administrator will reserve \$2 million from annually appropriated funds, starting in FY 1998, to pay for the costs of monitoring unregulated contaminants under section 1445(a)(2)(C)(section 1452(o)).</p>	<p>c. \$2 million per year for monitoring unregulated contaminants.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>d. Small System Technical Assistance</p> <p>The Administrator may reserve up to 2% of the funds annually appropriated in FY's 1997-2003 to carry out the technical assistance provisions of section 1442(e) to the extent that the total amount of funding appropriated under section 1442 is not sufficient. The set-aside from section 1452(q) plus the appropriation in 1440(e) cannot exceed \$15 million per year (section 1452 (q)).</p>	<p>d. Up to 2% per year with a \$15 million cap for technical assistance to water systems.</p>
<p>e. Operator Training Reimbursement</p> <p>The Administrator shall provide reimbursement to States for training and certification costs for some operating systems serving 3,300 persons or fewer (section 1419(d)). The Congress has authorized to be appropriated \$30 million annually from FY1997 through FY2003. If the appropriation is not sufficient to meet these requirements, the Administrator, prior to allocating funds to the States, shall reserve such sums from 1452(m) as are necessary to provide grants to State for reimbursement of training and certification costs mandated by the SDWA.</p>	<p>e. \$30 million per year to reimburse states for operator training and certification costs.</p> <p><i>Commissions may be able to design, implement or monitor training programs, particularly in financial management and customer service.</i></p>

Guidance (Condensed)	Annotations (NRRI)
<p>2. Set-asides Based on State Allotment</p> <p>DC and Other Jurisdictions</p> <p>The Administrator will reserve up to 0.33% of the total funds allotted to the States for grants to the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and Guam. The funds will be allotted according to the formula for allotting PWSS grants under section 1443(a)(4), and may be used to fund projects eligible for assistance under section 1452(a)(2). The District of Columbia will receive one percent of funds allotted to the States. EPA will provide separate guidance regarding the management of this set-aside.</p>	<p>Up to .33% for territories and 1% for the District of Columbia will be set aside.</p>

Guidance (Condensed)

Annotations (NRRI)

3. Ceilings on State Non-project activities

Section 1452 authorizes States to provide funding for certain non-project activities, described below, provided that the amount of that funding does not exceed certain ceilings. A State must describe in the IUP the amount of funds that it will use for these activities. A separate account must be set up to accept these funds. If a State does not expend all of its non-project funds, a State may transfer the moneys to the DWSRF account, or it may redirect the funds to another non-project activity as long as the maximum allowed for that activity has not been reached for the Fiscal Year from which the funds were derived.

Set-asides within the state programs are authorized. The allowed set-asides are specific, limited and must be included in the state's IUP.

a. DWSRF administrative expenses

A State may use up to four percent of the funds allotted to it for the reasonable costs of administering the programs under section 1452 (section 1452(g)(2)). These costs include such activities as loan portfolio management; debt issuance; DWSRF program start-up costs; financial, management and legal consulting fees; and support services from other State agencies.

a. Up to 4% for program administration.

Commissions with a continuing administrative role in the state's DWSRF program may qualify for administrative cost reimbursement.

Guidance (Condensed)	Annotations (NRRI)
<p>Expenses incurred issuing bonds guaranteed by the DWSRF may be absorbed by the proceeds of the bonds rather than charged against the four percent administrative costs allowance. The net proceeds of those issues must be deposited in the Fund.</p>	<p>Bond issuance expense can be absorbed in the proceeds of the bonds and not included in administrative expense.</p>
<p>The State may charge an application fee to process, manage or review an application for DWSRF Fund assistance. Such fees may be collected in a fund outside the DWSRF Fund account and used to supplement administrative expenses. Moneys in this non-project fee account must be dedicated to the administrative purposes associated with the DWSRF program. If fees are collected and deposited into the DWSRF Fund account, they are subject to the stipulated uses of the DWSRF Fund, which does not include the use of funds for administrative purposes.</p>	<p>Administrative expenses may be partially off-set by the states through imposition of an application fee on those seeking project funding.</p> <p><i>Commissions may need to guard against fees charged to applicants effectively foreclosing small system access to funding. Even relatively modest application fees may inhibit small system participation.</i></p>

Guidance (Condensed)	Annotations (NRRI)
<p>States may recover reasonable costs associated with the development of the DWSRF program, if the costs were incurred between August 6, 1996, the date of enactment of the SDWA Amendments of 1996, and the date on which the first capitalization grant for a State is awarded. Documented reimbursement costs will be counted as part of the 4% in FY1997, not in addition to it.</p>	<p>Administrative costs incurred in setting up the state program may be included in the 1997 administrative costs.</p> <p><i>Some state commissions may be able to receive funds for their participation in the establishment of the DWSRF program.</i></p>
<p>Funds that a State chooses to use for administrative purposes cannot be deposited into the DWSRF Fund. Instead, these funds must be deposited into a separate account, or with other non-project funds.</p>	<p>Administrative costs must be accounted for separately from project funds.</p>
<p>If the state does not use the entire four percent for administrative costs in one year, it can bank the excess balance and use it for administrative costs in later years.</p>	<p>Carry over of unused administrative funds is permitted.</p>
<p>b. State Program Management A State may use up to a total of 10 percent of its allotment to:</p>	<p>b. Up to 10% of a states funds may be used for the following purposes:</p>
<p>- administer the State PWSS program;</p>	<p>- administering its PWSS program.</p>
<p>- administer or provide technical assistance through source water protection programs, which includes the Class V portion of the Underground Injection Control Program;</p>	<p>- technical assistance and administration of source water protection programs.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>- develop and implement a capacity development strategy; and</p>	<p>- development of a capacity development strategy.</p>
<p>- develop and implement an operator certification program.(section 1452(g)(2)).</p>	<p>- development of an operator certification program.</p>
<p>The State must provide a dollar for dollar match for capitalization grant funds used for these purposes. At least one half of the State match funds provided by the State must be in addition to the amount the State expended for the PWSS program in FY1993. Federal grant regulations preclude a State from using the same State funds to meet match requirements for two different programs. Thus, the same State dollar cannot be used to match this provision and the match provision in Section 1443 of the SDWA (PWSS program grants).</p>	<p>State matching funding is required for the preceding four uses of SDWA funds.</p>
<p>If the state does not use the entire 10 percent for these activities in any one year, it can bank the excess balance and use it for the same activities in later years.</p>	<p>Banking of unused funds is permitted.</p>

Guidance (Condensed)**Annotations (NRRI)**

To calculate the required match, a State must determine the level of State funds it spent for its PWSS program in FY1993. The State can use the amount spent to satisfy up to half of the required match. The State would then have to come up with the remaining balance from new moneys. State funds counted toward the PWSS match are not eligible to be counted.

c. Small Systems Technical Assistance

A State may use up to two percent of its allotment to provide technical assistance to public water systems serving 10,000 people or fewer (section 1452(g)(2)). If the state does not use the entire 2 percent for these activities in one year, it can bank the excess balance and use it for the same activities in later years.

c. Up to 2% of the state's allotment may be used to provide technical assistance to small systems.

Commissions may wish to assure that small jurisdictional systems receive needed technical assistance under this provision.

Guidance (Condensed)	Annotations (NRRI)
<p>d. Local Assistance and Other State Programs</p> <p>A State may fund several other categories of activities to assist development and/or implementation of local drinking water protection initiatives (section 1452). A State may use up to 15% of the capitalization grant amount for any of the specified uses below, with the stipulation that not more than 10% of the capitalization grant amount can be used for any one activity. A State is not allowed to bank any of these funds for use in future years.</p>	<p>d. Up to 15% of the state's funds may be used for the following purposes but no more than 10% can be used for any one of them. Banking of unused funds for these is not permitted.</p>
<p>- Assistance to a public water system to acquire land or a conservation easement for source water protection purposes:</p>	<p>- Land acquisition for source protection.</p>
<p>A State may provide assistance, only in the form of a loan, to a public water system to acquire land or a conservation easement from a willing party for the purpose of protecting the systems source water(s) and ensuring compliance with national drinking water regulations. To be eligible for this loan assistance, the land must be an identified need that is included in an approved source water protection program under section 1453.</p>	<p>Land may only be acquired for source water protection from a willing seller.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>If a State elects to use this set-aside, the State must develop a list of systems that will receive loans, giving priority to projects that promote compliance and public health protection, and then seek public review and comment on this list.</p>	<p>Land acquisition priorities must be subject to public comment.</p>
<p>- Assistance to a community water system to implement voluntary, incentive-based source water quality protection measures:</p>	<p>- Assistance for implementation of a voluntary, incentive based source water protection program by a water system.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>A State may make a loan to assist a community water system implement voluntary, incentive-based source water protection measures in areas delineated under a source water assessment program described in section 1453 and for source water petitions. Only community (as opposed to non-community) water systems are eligible for this assistance. A State may establish a source water petition program and receive petitions from owners/operators or local governments requesting State assistance in the development of a voluntary, incentive-based partnership among systems, local governments, and others likely to be affected by the management measures. Only pathogenic organisms, chemicals in source water at levels above a drinking water standard, or chemicals that are not reliably and consistently below the drinking water standard can be identified as contaminants in a petition.</p>	<p>Incentive-based source water protection programs may include a petitioning mechanism.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>If a State elects to use this set-aside, the State must develop a list of systems that will receive loans, giving priority to projects that promote compliance and public health protection, and then seek public review and comment on this list.</p>	<p>Public review and comment is required for incentive-based source water protection set-asides.</p>
<p><i>Note: Funds loaned out for land acquisition and source water protection activities under (1) and (2) must be repaid within 20 years. The funds must be repaid, either to the DWSRF account or if the State so chooses, to a sub-account within the DWSRF account. This option would allow a State to continue funding eligible land acquisition and source water activities, which are not eligible for funding in the main DWSRF account.</i></p>	<p>Land acquisition loans must be repaid within 20 years. States may establish a land acquisition and source water protection sub-account to perpetuate funding.</p>
<ul style="list-style-type: none"> - Provide funding to delineate and assess source water protection areas: 	<ul style="list-style-type: none"> - Assessment of source water protection needs.

Guidance (Condensed)	Annotations (NRRI)
<p>A State may use up to 10% of its FY 1996 and FY1997 capitalization grant to delineate and/or assess source water protection areas for public water systems in accordance with section 1453. Assessments include the identification of potential sources of contamination within the delineated areas. Funds set-aside for this purpose must be expended within four fiscal years after the State receives its grant.</p>	<p>Assessment of needs limited to 10 % of capitalization grant.</p>
<p><i>Funds are available from the capitalization grant only for fiscal years 1996 and 1997 to delineate and assess source water protection areas in accordance with section 1453. Since there are no FY1996 funds available for the DWSRF, FY 1997 is the only year when funds will be available for this important activity. <u>EPA encourages States to determine how much it would cost to delineate and assess their source water protection areas, and then take the necessary amount, up to the full 10% allowed, from the FY 1997 funds.</u> EPA will review the States determination as part of the capitalization grant application review. Source water assessments are required of primacy States.</i></p>	<p>Assessment of needs can only be funded in FY 1997.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>- To support the establishment and implementation of wellhead protection program:</p>	<p>- Implementation of a wellhead protection program.</p>
<p>The State may make expenditures from the DWSRF Fund to establish and implement wellhead protection programs under section 1428. Only a State with an EPA-approved State wellhead protection program may participate in this funding. To establish a WHP program, a State must submit a program to the EPA Region for approval and spend all the funds it receives for that purpose in accordance with its intended use plan.</p>	<p>Wellhead protection expenditures must be approved by USEPA.</p>
<p>- To provide funding to a Community Water System to implement a project under the capacity development strategy:</p>	<p>- Assistance to a community water system to implement a capacity development project.</p>
<p>A State may provide assistance to a public water system as part of a capacity development strategy under section 1420(c).</p>	

Guidance (Condensed)	Annotations (NRRI)
<p>e. Transfer of funds</p> <p>Section 302 of the SDWA Amendments of 1996 allows a State to transfer up to 33% of the capitalization grant funds allotted to a State under section 1452(m) to the CWSRF or a equivalent amount from the CWSRF to the DWSRF. This transfer is at the Governor's discretion and cannot occur until at least a year after the State has received its first DWSRF capitalization grant. EPA plans to issue guidance at a later date concerning this transfer.</p>	<p>e. The state may propose in its IUP to transfer funds between its Clean Water Fund and its DWSRF.</p> <p><i>Commissions should note that clean water funds are not available to investor-owned utilities.</i></p>
<p>C. Types of Financial Assistance that the DWSRF Fund may provide</p> <p>A DWSRF Fund may make direct loans for project construction, purchase or refinance local debt obligations, guarantee or purchase insurance for local debt issues, provide revenue for or secure state bonds if the proceeds of the bonds are deposited in the Fund, and earn interest on Fund accounts (section 1452(f)).</p>	<p>The principle use of the DWSRF funds is provision of financing for infrastructure improvements to improve drinking water. These are loans for project financing. Other uses are supportive of the overall purpose.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>1. Loans</p> <p>A DWSRF Fund may make loans with interest rates that are less than or equal to the market interest rate, including zero percent loans. The State is responsible for identifying the economic method it will use to determine the prevailing market interest rate at the time a particular loan is executed with an assistance recipient. As part of its capitalization grant application, the State should outline its policy with respect to interest rate terms for various potential categories of assistance recipients.</p>	<p>1. The loans are to be made at or below prevailing interest rates.</p> <p><i>Commission expertise in financial analysis may indicate a strong role in the management of the DWSRF.</i></p>
<p>A state may issue separate loans for planning, design, and construction costs. If the State had made prior loans to a recipient, the Fund may roll over the separate loans into a subsequent loan for construction. A State may also provide "incremental" assistance to finance a multi-year construction activity (e.g., for particularly large, expensive projects).</p>	<p>Loans may finance planning and design as well as project construction.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>a. Repayment of Loan</p> <p>Assistance recipients (borrowers) must begin repayment of principal and payment of interest as provided in the loan agreement, but which cannot be later than one year after completion of the project. A project is considered complete when the operations are initiated or are capable of being initiated. Recipients must complete loan repayment not later than 20 years after the completion of the project. However, States which establish a disadvantaged community loan program pursuant to section 1452(d) may provide loans to qualified recipients for up to 30 years, as long as the period of the loan does not exceed the expected design life of the project.</p>	<p>a. Loans are to be repaid. Generally repayment begins within a year of project completion and lasts twenty years. Disadvantaged communities may receive thirty year repayment schedules.</p> <p><i>Commissions should participate in defining disadvantaged communities and tailoring the programs to their need.</i></p>

Guidance (Condensed)	Annotations (NRRI)
<p>b. Dedicated repayment source</p> <p>Each loan recipient must establish a dedicated source of revenue for repayment of the loan. In most cases, this will be a pledge of revenues from user charges, tap fees, development charges, among others, and for privately owned systems, they could include the pledge of accounts receivable and proceeds therefrom.</p>	<p>b. Recipients of loans must establish a dedicated source of revenues to repay the loans. A commitment of revenues is a dedicated source.</p> <p><i>Commissions should be sure that the requirements of dedicated revenues as defined in their state's program are achievable by the jurisdictional utilities.</i></p>
<p>c. Financial security of privately-owned systems</p> <p>Eligible water systems that are privately owned must demonstrate, in addition to establishing a dedicated source of revenue for repayment, that there is adequate security to assure repayment of the loan. In some cases a State may determine that it is appropriate to require such systems to provide credit enhancements, to pledge a variety of collateral, and/or to provide other types of security, such as corporate or personal guarantees.</p>	<p>c. Privately owned water systems must also demonstrate adequate security to assure loan repayment.</p> <p><i>There may be considerable variation in the ability of jurisdictional utilities to provide loan repayment security. Commissions may need to examine the situations of individual utilities to ascertain the appropriate security requirements to support in the state's program.</i></p>

Guidance (Condensed)	Annotations (NRRI)
<p>d. Financial, technical, and managerial capability analysis</p> <p>The State shall review the financial capability of the recipient to repay the loan as well as technical and managerial capability of the assistance recipient to maintain compliance with the SDWA (section 1452(a)(3)(A)(I)). Findings of the financial capability analysis may be used to determine the terms of assistance for applicants.</p>	<p>d. In addition to financial viability, the technical and managerial competence of the utility is to be considered in granting loan applications.</p> <p><i>Commissions have a role to play in the state's evaluation of viability.</i></p>

Guidance (Condensed)

Annotations (NRRI)

2. Disadvantaged communities

A DWSRF Fund may provide additional subsidies (e.g., principal forgiveness, negative interest rate loans) to communities meeting the definition of disadvantaged or which the State expects to become disadvantaged as a result of the project. A disadvantaged community is one in which the service area of a public water system meets affordability criteria established after public review and comment by the State in which the public water system is located (section 1452(d)). The Administrator shall publish information, within 18 months after enactment, to assist States in developing affordability criteria. EPA will undertake this effort in consultation with States and the Rural Utilities Service.

2. Disadvantaged communities may receive additional subsidies through the DWSRF. A disadvantaged community meets a state definition based upon affordability criteria.

The guidance in the Guidelines and the Act leave the issue of affordability to be determined through administrative processes. Commissions have expertise in specifying criteria for utility customers to participate in assistance programs which can be valuable in the coming affordability initiatives.

The State should take its affordability criteria into account when deciding the level of subsidy a disadvantaged community will receive, in order to make the loan affordable. Where capacity of the system is an issue, the loan subsidy should, along with other actions, ensure that the system has adequate financial, technical and managerial capacity to maintain compliance.

Utilities receiving special affordability consideration must still be viable.

Commissions must develop meaningful measures of overall viability.

Guidance (Condensed)	Annotations (NRRI)
<p>The total value of disadvantaged community subsidies a DWSRF Fund may provide in any year cannot exceed 30 percent of the capitalization grant for that year. The State cannot bank the excess balance and use it for this purpose in later years.</p>	<p>There is a limit of 30% of the state capitalization grant on the subsidies that may be afforded disadvantaged communities. Banking of unused amounts is not permitted.</p>
<p>3. Buy or refinance existing debt obligations A DWSRF may buy or refinance debt obligations of municipal, intermunicipal or interstate agencies at or below market rates, where the initial debt was incurred after July 1, 1993 (section 1452(f)(2)). Refinancing may entail purchasing existing municipal debt such that the proceeds of the transaction may be used to call the bonds. This provision is intended to encourage projects to proceed using their own means of financing in advance of the availability of DWSRF assistance, by offering the prospect of project refinancing at better financial terms at a later date.</p>	<p>3. DWSRF funds may be used to refinance existing debt incurred after July 1, 1993.</p>

Guidance (Condensed)

Annotations (NRRI)

Projects incurring debt and initiating construction between July 1, 1993 and the effective date of a State capitalization grant must meet the eligibility requirements of section 1452 to be eligible for refinancing. Where the original debt for a project was in the form of a multipurpose bond incurred for purposes in addition to eligible purposes under section 1452, a DWSRF may provide refinancing only for eligible purposes, not for the entire debt.

If a State has credited repayments of loans made under a pre-existing State loan program as part of its State match (see section V.A.), the State cannot also refinance the projects under the DWSRF. If the State has already counted certain projects toward its State match which it now wants to refinance, the State must provide replacement funds for the amounts previously credited as match.

The State should seek the advice of bond counsel or tax attorneys to ensure that these refinances do not conflict with Federal law.

Guidance (Condensed)	Annotations (NRRI)
<p>4. Guarantee or purchase insurance for local debt obligations</p> <p>A DWSRF Fund may provide assistance to improve the marketability of local debt obligations or to reduce interest rates to attract potential buyers of the bonds and loans (section 1452(f)(3)) . These credit enhancements may take the form of guarantees or purchases of insurance, which is available from a number of insurance companies. Assistance of this type is limited to local debt obligations that are undertaken to finance projects eligible for assistance under section 1452.</p>	<p>4. DWSRF funds may be used to increase the marketability of local debt obligations incurred directly by water systems. Guarantees and insurance are vehicles for enhancing marketability.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>5. Leverage - A source of revenue or security for payment of DWSRF debt obligations</p> <p>The State may use assets deposited in the DWSRF Fund to "leverage" (i.e., increase) the total amount of funds available within the DWSRF (section 1452(f)(4)) . Leveraging is accomplished by using DWSRF assets as a source of revenue or security for the payment of the principal and interest on revenue or general obligation bonds issued by the State. The net proceeds of the sale of the bonds secured by the DWSRF must be deposited into the DWSRF.</p>	<p>5. Leveraging is a permitted use of DWSRF funds. This is done by using the DWSRF assets as a committed source of revenue to repay other state debt obligations.</p> <p><i>Commissions may wish to encourage leveraging to increase the loan funds.</i></p>

Guidance (Condensed)	Annotations (NRRI)
<p>The security may be provided by any of the assets of the DWSRF, including an existing DWSRF balance and future revenues from loan repayments. The State may also choose to borrow against the repayment stream from outstanding loans made from an initial set of capitalization grants (or part of the capitalization grant or State match), thus increasing the financial resources of the DWSRF much sooner than would otherwise be possible. Bonds may be issued by an instrumentality of the State, including the State agency responsible for administering the DWSRF.</p>	<p>Any of DWSRF assets may be used for leveraging.</p>
<p>Note that the use of a capitalization grant to leverage does not, in and of itself, satisfy any requirements on the use of DWSRF funds. The proceeds of the bond issue must ultimately be used for providing loans and other assistance to satisfy the requirements of section 1452.</p>	<p>Ultimately all the funds, including the leveraged funds, must be used for the purposes of the DWSRF.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>For the purposes of this section, "net proceeds" is defined as the funds raised from the sale of the bonds minus issuance costs (e.g., the underwriting discount, underwriter's legal counsel fees, bond counsel fees, financial advisor fees, rating agency fees, printing of disclosure documents/bond certificates, trustee banks' fees).</p>	
<p>The State may use funds in the DWSRF as security for the issuance of State bonds used to provide the State match, provided that the net proceeds of the bond issue were deposited into the DWSRF and the amount of security subject to being paid out is limited to an amount equal to the interest earning of the Fund.</p>	<p>Leveraging may be used to raise the required state match.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>6. Earn interest on Fund accounts</p> <p>Sections 1452(c) and 1452(f)(5) authorize the State to earn interest on Fund accounts prior to disbursement of assistance (e.g., on reserve accounts used as security or guarantees). Funds should not remain in the DWSRF primarily to earn interest. States and municipalities should obtain the legal opinion of a bond counsel or tax attorney with respect to using the DWSRF to earn interest on the proceeds of a tax-exempt issue.</p>	<p>6. Undistributed DWSRF fund balances may be used to earn interest by the state, however, earning interest cannot be a primary fund purpose.</p>

Guidance (Condensed)

Annotations (NRRRI)

There are limits to the type of investments that a State can make with Fund accounts. Section 1452[c] requires that funds not required for current obligation or expenditure should be invested in interest bearing obligations. The authority to earn interest does not include investment methods that earn dividends or yields other than interest. Most States have State laws that restrict the eligible investments of these fund accounts. Furthermore, if a State engages in a leveraged program, there may be restrictions on eligible investments in the trust indenture securing the bonds. In certain cases, the Federal tax code may limit the investments a leveraged program can make with fund accounts.

Other legal restraints may limit the leveraging options of the state.

Eligible Systems and Projects

Guidance (Condensed)	Annotations (NRRI)
<p>III. ELIGIBLE SYSTEMS AND PROJECTS</p> <p>A. Eligible Systems</p> <p>Drinking water systems that are eligible for DWSRF Fund assistance are community water systems, both privately and publicly owned, and nonprofit non-community water systems. Federally owned systems are not eligible to receive DWSRF Fund assistance (section 1452(a)(2)).</p>	<p>The SDWA Amendment Act established the state revolving loan fund program to make funds available for drinking water systems. Most systems are eligible under the act including privately owned systems.</p>
<p>The DWSRF should seek tax advice if it plans to issue bonds, to ensure that the requirements of the Private Activity Use Rule are met, particularly with regard to funding eligible private systems.</p>	<p>There may be impediments to the use of funds to assist privately owned systems.</p> <p><i>Commissions may need to educate other state agencies about regulatory safeguards and assess the legal considerations in funding projects for investor-owned utilities.</i></p>

Guidance (Condensed)	Annotations (NRRI)
<p>Drinking water systems that have components of their system in more than one State are eligible to receive funding from a DWSRF. However, the system can only apply to a State DWSRF to receive loan or other assistance for the portion of the facility that provides service in that particular State.</p>	
<p>B. Eligible Projects</p> <p>1. Compliance and Public Health</p> <p>A DWSRF Fund may provide assistance for expenditures (not including monitoring, operation, and maintenance expenditures) of a type or category which the Administrator has determined, through guidance, will facilitate compliance with national primary drinking water regulations applicable to the system under section 1412 or otherwise significantly further the health protection objectives of this title. (section 1452(a)(2)).</p>	<p>1. Projects that facilitate compliance with national primary drinking water standards can be funded.</p>
<p>Capital investments to upgrade or replace infrastructure in order to continue providing the public with safe drinking water are eligible for assistance.</p>	<p>Infrastructure projects to up grade systems for safe drinking water are eligible.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>Projects to address exceedances of SDWA health standards or prevent future violations of the rules are eligible for funding. These include projects to maintain compliance with existing regulations for contaminants with acute health effects (i.e., the Surface Water Treatment Rule, the Total Coliform Rule, and nitrate standard) and regulations for contaminants with chronic health effects (i.e., Lead and Copper Rule, Phases I, II, and V rules, and safety standards for total trihalomethanes, arsenic, barium, cadmium, chromium, fluoride, mercury, selenium, combined radium-226, -228, and gross alpha particle activity). In addition, projects to comply with the recently promulgated Information Collection Rule are eligible.</p>	<p>Projects to provide for future compliance are eligible.</p>
<p>Projects to replace aging infrastructure are also eligible. Examples of these include projects to:</p>	<p>If existing infrastructure are in need of improvement or upgrade, funding can be provided for:</p>
<ul style="list-style-type: none"> - rehabilitate or develop sources to replace contaminated sources; 	<ul style="list-style-type: none"> - Source improvement projects.
<ul style="list-style-type: none"> - install or upgrade treatment facilities if, in the State’s opinion, the project would improve the quality of drinking water to comply with primary or secondary standards; 	<ul style="list-style-type: none"> - Treatment facilities.

Guidance (Condensed)	Annotations (NRRI)
<p>- install or upgrade storage facilities, including finished water reservoirs, to prevent microbiological contaminants from entering the water system; and</p>	<p>- Storage facilities.</p>
<p>- install or replace transmission and distribution pipes to prevent contamination caused by leaks or breaks in the pipe.</p>	<p>- Transmission and distribution.</p>
<p>Projects to consolidate water supplies--for example, when individual homes or other public water supplies have an inadequate quantity of water, the water supply is contaminated, or the system is unable to maintain compliance for financial or managerial reasons--are eligible for DWSRF Fund assistance.</p>	<p>- Consolidation projects.</p> <p><i>Commissions may be able to use the availability of funding to encourage the regionalization of water supply, addressing problems associated with small systems.</i></p>
<p>The purchase of a portion of another system's capacity is eligible for a loan, if the purchased system is a small system which is part of a consolidation plan to bring the system into compliance., and it is the most cost-effective solution for that small system, when considering the buy-in fee and user fees.</p>	<p>- Small system purchase</p> <p><i>A consolidation plan may be required to fully implement acquisition programs. Commissions may be able to facilitate the creation of appropriate plans.</i></p>

Guidance (Condensed)	Annotations (NRRI)
<p>2. Loan assistance to systems that meet the definition in section 1401(4)(B)</p> <p>This section refers to entities that receive water through constructed conveyances, other than piped water systems, and which are not currently considered a public water supply. The SDWA Amendments would classify such systems as public water systems unless they comply with provisions of 1401(4)(B). Such systems are eligible for funding for the purposes specified in 1401(4)(B)(I)(III).</p>	<p>2. Projects for water systems that have not been considered public water supply systems previously may now receive funding.</p>
<p>3. Land acquisition</p> <p>Land is eligible only if it is integral to a project. In this instance, integral is defined to include only the land needed to locate an eligible project. In addition, the acquisition has to be from a willing seller who receives fair market value for the land. Land that is necessary for source water protection may be eligible to receive a loan under section 1452(k).</p>	<p>3. Funding is available to acquire land only as an integral part of an otherwise qualifying project.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>The cost of complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the Uniform Act) is an eligible cost to be included in a DWSRF loan. (See Section on Cross-cutters for a more detailed discussion of the Uniform Act.)</p>	
<p>4. Planning and design of a drinking water project</p>	
<p>A DWSRF Fund may provide assistance for the costs of project planning, design and other related costs. The provision of assistance for design and planning costs does not guarantee a system that the DWSRF will provide funding for the construction of the project. The State may choose to combine the loan for planning and design with a construction loan.</p>	<p>4. Project design and planning costs can be funded.</p>
<p>Costs to municipalities of preparing environmental assessment reports may be included as part of the costs of planning a project. Costs incurred by the State in reviewing the environmental assessments are considered DWSRF administrative costs.</p>	<p>The costs of preparing and reviewing environmental assessments are includable as administrative costs.</p>

Guidance (Condensed)	Annotations (NRRI)
<p>5. Restructuring of systems that are in noncompliance or that lack the technical, managerial and financial capability to maintain the system</p> <p>A DWSRF may provide assistance to an eligible public water system to consolidate with other public water system(s) only if the assistance will ensure that the system returns to and maintains compliance with SDWA requirements (section 1452(a)(3)(B)).</p>	<p>5. Funding for consolidation is only available if the project assures compliance with SDWA requirements.</p>
<p>If the system does not have the technical, managerial, and/or financial capability to ensure compliance, or is in significant noncompliance, the system may receive assistance only if (1) the assistance will ensure compliance, or (2) the owner or operator of the system agrees to undertake appropriate changes in operations. These changes include consolidation or management changes that will ensure that the system has the technical, managerial, and financial capability to ensure and maintain compliance with SDWA requirements.</p>	<p>Evaluation of the system's ability to comply with the SDWA after its project is funded relies on the financial, technical, managerial assessment standards.</p> <p><i>Commissions may be required to assist in the assessment of the ability of jurisdictional companies to meet the viability standards as a prerequisite to receiving funding for their projects.</i></p>

Guidance (Condensed)	Annotations (NRRI)
<p>A State should establish criteria or guidelines to help assess what types of operational or management changes may be appropriate for a water system. Further, a State should define when a system would be a good candidate for physical consolidation to solve a compliance or long-term financial issue, or when a system could consolidate by other means, such as through management consolidation.</p>	<p>States should establish criteria for funding projects that address viability considerations.</p> <p><i>Commissions may participate in the development of the state's viability assessment program and help develop strategies that address structural changes in the industry.</i></p>
<p>C. Projects not eligible for funding</p> <p>The following projects and activities are <i>not</i> eligible for funding:</p>	<p>Some projects and activities are <u>not</u> eligible for funding.</p>
<ul style="list-style-type: none"> - Laboratory fees for monitoring. 	<ul style="list-style-type: none"> - Lab fees.
<ul style="list-style-type: none"> - Operation and maintenance expenses. 	<ul style="list-style-type: none"> - O&M expenses.
<ul style="list-style-type: none"> - Projects needed mainly for fire protection. 	<ul style="list-style-type: none"> - Fire protection.
<ul style="list-style-type: none"> - Systems that lack technical, managerial and financial capability, unless assistance will ensure compliance. 	<ul style="list-style-type: none"> - Nonviable systems.
<ul style="list-style-type: none"> - Systems in significant noncompliance, unless funding will ensure compliance. 	<ul style="list-style-type: none"> - Noncomplying systems.
<ul style="list-style-type: none"> - Projects primarily intended to serve future growth. 	<ul style="list-style-type: none"> - Growth.
<ul style="list-style-type: none"> - Construction of dams or reservoirs, except for finished water reservoirs. 	<ul style="list-style-type: none"> - Reservoirs.

Guidance (Condensed)	Annotations (NRR1)
<p>- Land necessary for the construction or storage of water related to reservoirs or dams, except for finished water reservoirs.</p>	<p>- Land for storage reservoirs.</p>
<p>1. Lack of technical, managerial and financial capability</p> <p>A DWSRF Fund may not provide assistance to a system that lacks the technical, managerial or financial capability to maintain SDWA compliance, unless the State determines that the financial assistance from the DWSRF will allow the system to maintain long-term capability to stay in compliance (section 1452(a)(3)(B)(I)).</p>	<p>1. Water systems that lack the ability to provide safe drinking water because of inadequate financial resources, managerial deficiencies or technical limitations cannot receive funds.</p>
<p>2. Significant noncompliance</p> <p>A DWSRF Fund may not provide assistance to any system that is in significant noncompliance with any national drinking water regulation or variance unless the State conducts a review and determines that the project will enable the system to return to compliance and the system will maintain an adequate level of technical, managerial and financial capability to maintain compliance (section 1452(a)(3)(B)(ii)).</p>	<p>2. Funds cannot be provided to systems that are in substantial non-compliance with drinking water regulations unless the project will assure future compliance.</p>

Guidance (Condensed)**Annotations (NRRI)****3. Growth**

A DWSRF Fund cannot provide assistance to finance the expansion of any drinking water system in anticipation of future population growth (section 1452(g)(3)(C)). Eligible projects, however, can be designed and funded at a level which will serve the population that a system expects to serve over the useful life of the facility. In determining whether or not a project is eligible for assistance, the State must determine the primary purpose of the project. If the primary purpose is to supply or attract growth, the project is not eligible to receive SRF funds. If the primary purpose is to solve a compliance or public health problem the entire project, including the portion necessary to accommodate a reasonable amount of growth over its useful life, is eligible. In reviewing the proposed project, the State should review the basis of, and the reasonableness of the population projections.

3. If the purpose of a project is to attract population to the area served, then the project is not eligible for funding. Only reasonable increases in the population served and the requirements to meet safe drinking water requirements for that population can be funded.

Guidance (Condensed)

A State must also consider the extent of current risk to public health in establishing funding priorities. Consequently, if a project includes substantial growth, it would presumably be placed at the lower end of the priority list. It would be contrary to the intent of Congress, as reflected in the anticipation of growth provision, to fund a project with a substantial amount of growth ahead of a project where a significant portion is attributable to rectifying a current health threat.

Annotations (NRRI)

Threats to current health should receive priority over perceived risks to future increases in population.

Conclusions

The general structure of the state revolving loan program is compatible with and complementary to state regulatory commission programs addressing the needs of jurisdictional water company customers. Both seek to identify needs of the systems, allocate resources in ways that will provide for long-term safe water supplies and husband the available resources so that they will not be wasted in situations which are not amenable to solution.

The EPA guidance assures opportunities for input in to the decision making process by the public and their representatives. It is important that the state regulatory commissions fully evaluate the revolving loan programs to assure that their jurisdictional utilities have the opportunity to participate. The new direction of the SDWA Amendments is a signal for commission initiatives to assure quality drinking water supplied by jurisdictional companies.

Glossary of Terms

Administrative Expenses - Costs incurred in managing and operating the SRF program. A State may use up to 4% of its allotment for program administration expenses.

Biennial Report - The State's SRF Report to EPA which contains information on how the State has met the goals and objectives of the previous two fiscal years as stated in the Intended Use Plan and grant agreement.

Annual Review - EPA's assessment of the success of a State DWSRF program.

Appropriations - Statutory authority that allows Federal agencies to obligate funds and make payments from the Treasury for specified purposes.

Assurances - Certifications or pledges by the State that it will meet the requirements of the SDWA and other requirements of the program.

Automated Clearing House - A federal payment mechanism that transfers cash to States and other recipients of Federal assistance using electronic transfers from the Treasury through the Federal Reserve System.

Bank/Banking - Crediting amounts (contributed by the State to SRF eligible projects or activities) to the SRF in excess of amounts required towards meeting certain requirements of future capitalization grants.

Binding Commitment - A legal obligation by the State to a local recipient that defines the terms and the timing for assistance under the SRF.

Capitalization Grant - The assistance agreement by which EPA obligates and awards funds allotted to a State for purposes of capitalizing that State's revolving fund and funds for other purposes authorized in section 1452.

Capitalization Grant Application - An application for Federal assistance submitted by a State, which in addition to the application form includes an Intended Use Plan, proposed payment schedule, and operating agreement or other documents describing how the State intends to operate its SRF.

Certification/Certify - Documentation signed by the responsible party that specific requirements or standards have been or will be met.

Community Water System - A public water system that: (a) serves at least 15 service connections used by year-round residents of the area served by the system; or (b) regularly serves at least 25 year-round residents.

Cross-cutting Authorities - Federal laws and authorities that apply by their own terms to projects or activities receiving federal assistance.

Default - Failure to meet a financial obligation such as a loan payment.

Debt Obligation - A legal obligation or liability to pay something to someone else.

Disadvantaged Community - The service area of a public water system that meets affordability criteria established after public review and comment by the state in which the public water system is located.

Disbursement - The transfer of cash from the SRF to the assistance recipient.

Disbursement Schedule - A quarterly schedule of estimated disbursements from the SRF.

Eligible System - Community water systems, both privately or publicly owned, and nonprofit noncommunity water systems.

Environmental Review - An environmental review process conducted by States that complies with 40 CFR Part 6, Subpart E or an alternative "NEPA-like" state environmental review.

Equivalency Projects - Projects that must total the amount equal to the federal capitalization grants and must comply with environmental review requirements and federal cross-cutting authorities.

Financial Health/Integrity - The ability of the DWSRF to address SDWA needs and to be continually available to meet future needs.

Guarantee - A promise to provide municipal bondholders with full and timely payment of principal and interest on the municipal debt obligation to the limit of the guarantee, in the event of default by the municipality.

Intended Use Plan - A document prepared each year by the State, which identifies the intended uses of the funds in the SRF and describes how those uses support the goals of the SRF.

Leveraging - The use of the capitalization grant as the security for the sale of State bonds. Leveraging does not include State financing arrangements in which repayment streams, rather than capitalization grant or ACH are used as the primary security for the bond issue.

Loan - An agreement between the DWSRF and the local recipient through which the SRF provides funds for eligible assistance and the recipient promises to repay the principle sum back to the SRF over a period not to exceed 20 years, except for disadvantaged communities that may receive a loan for up to 30 years (that does not exceed the life of the project), at an interest rate established at or below market interest rates (may be interest free).

Noncompliance - Failure to satisfy the terms of the capitalization grant agreement, including unmet assurances, invalid certifications, or failure to manage the DWSRF in a financially sound manner.

Noncommunity Water System - A public water system that is not a community system.

Nonprimacy States - States that do not exercise primary enforcement responsibility for public water systems.

Operating Agreement - An optional document in which the State may establish the basic framework and procedures of the DWSRF that are not expected to change annually.

Payment/Payment Schedule - A payment is an action by EPA to increase the amount of funds available for cash draw in the Automated Clearing House. A payment is not a transfer of cash to the State, but only an authorization making funds available for transfer to the State when a cash draw request is submitted. A payment schedule, indicating the timing and size of the payments to be made, will be agreed upon by EPA and the State based on the State's projection of binding commitments.

Refinancing - Purchase of a previously executed debt obligation where initial debt was incurred and construction initiated after July 1, 1996.

Set-Aside - Non-project use of allotted State funds for a range of specific SDWA related activities identified in Section 1452, to encourage source water protection and other State drinking water program activities..

State Match - Funds equaling at least 20% of the amount of the capitalization grants which the State must deposit into the DWSRF Fund. The State must also provide a 10% match if the State uses the 1452(g)(2) set-aside.