

DRINKING WATER TREATMENT AND WATER POLLUTION CONTROL REVOLVING LOAN FUNDS

DRINKING WATER TREATMENT REVOLVING LOAN FUND

The drinking water treatment revolving loan fund is established pursuant to North Dakota Century Code (NDCC) Section 61-28.1-11 and Section 1452(a) of the Federal Safe Drinking Water Act, which is attached as an appendix. The program provides funding **for public drinking water systems to install, upgrade, or replace infrastructure** and emphasizes providing funds to small and disadvantaged communities and to programs that encourage pollution prevention as a tool for ensuring safe drinking water.

Federal grants from the United States Environmental Protection Agency or other federal government agencies allotted to the state for the capitalization of the drinking water treatment revolving loan fund and required state matching funds must be deposited in the drinking water treatment revolving loan fund in compliance with the terms of the grants. The principal of the grants must be available in perpetuity for providing financial assistance as allowed under the Safe Drinking Water Act. To the extent amounts in the revolving loan fund are not required for current obligations or expenditures, these amounts must be invested in interest-bearing obligations.

WATER POLLUTION CONTROL REVOLVING LOAN FUND

The water pollution control revolving loan fund is established pursuant to NDCC Section 61-28.2-01 to provide funds to political subdivisions **for the planning, design, construction, and rehabilitation of wastewater treatment facilities, public water supply systems, and other lawful activities** connected with this program. Grants from the federal government or its agencies allotted to the state for the capitalization of the revolving loan fund, and state matching funds, when required, must be deposited directly in the revolving loan fund in compliance with the terms of the federal grant. The State Department of Health may enter into contracts and other agreements in connection with the operation of the revolving loan fund to the extent necessary for the implementation of the revolving loan program. Money in the revolving loan fund may be used for:

- Offering loan guarantees;

- Providing payments to reduce interest on loans and loan guarantees;
- Making bond interest subsidies;
- Providing bond guarantees on behalf of municipalities or other local political subdivisions;
- Providing assistance to a municipality or other local political subdivision with respect to the nonfederal share of the costs of a project;
- Financing the cost of a facility planning and the preparation of plans, specifications, and estimates for construction of publicly owned treatment works or public water supply systems;
- Providing financial assistance for the construction and rehabilitation of a project on the state priority list;
- Securing principal and interest on bonds issued by a public trust having the state of North Dakota as its beneficiary, or the North Dakota Municipal Bond Bank if the proceeds of such bonds are deposited in the revolving loan fund and to the extent provided in the terms of the federal grant;
- Providing for loan guarantees for similar revolving funds established by municipalities or other local political subdivisions;
- Purchasing debt incurred by municipalities or other local political subdivisions for wastewater treatment projects or public water supply systems;
- Improving credit market access by guaranteeing or purchasing insurance or other credit enhancement devices for local obligations or obligations of a public trust having the state of North Dakota as its beneficiary or the North Dakota Municipal Bond Bank;
- Funding other programs which the federal government authorizes by the terms of its grants;
- Funding administrative expenses of the State Department of Health associated with the revolving loan fund; and
- Providing for any other expenditure consistent with the federal grant program and state law.

ATTACH:1

STATE REVOLVING LOAN FUNDS

SEC. 1452.

(a) GENERAL AUTHORITY-

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

(A) IN GENERAL- The Administrator shall offer to enter into agreements with eligible States to make capitalization grants, including letters of credit, to the States under

this subsection to further the health protection objectives of this title, promote the efficient use of fund resources, and for other purposes as are specified in this title.

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

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

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

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

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

(E) REALLOTMENT- The grants not obligated by the last day of the period for which the grants are available shall be reallocated according to the appropriate criteria set forth in subparagraph (D), except that the Administrator may reserve and allocate 10 percent of the remaining amount for financial assistance to Indian Tribes in addition to the amount allotted under subsection (i)

and none of the funds reallocated by the Administrator shall be reallocated to any State that has not obligated all sums allotted to the State pursuant to this section during the period in which the sums were available for obligation.

(F) NONPRIMACY STATES- The State allotment for a State not exercising primary enforcement responsibility for public water systems shall not be deposited in any such fund but shall be allotted by the Administrator under this subparagraph. Pursuant to section 1443(a)(9)(A) such sums allotted under this subparagraph shall be reserved as needed by the Administrator to exercise primary enforcement responsibility under this title in such State and the remainder shall be reallocated to States exercising primary enforcement responsibility for public water systems for deposit in such funds. Whenever the Administrator makes a final determination pursuant to section 1413(b) that the requirements of section 1413(a) are no longer being met by a State, additional grants for such State under this title shall be immediately terminated by the Administrator. This subparagraph shall not apply to any State not exercising primary enforcement responsibility for public water systems as of the date of enactment of the Safe Drinking Water Act Amendments of 1996.

(G) OTHER PROGRAMS-

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

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

(2) USE OF FUNDS- Except as otherwise authorized by this title, amounts deposited in a State loan fund, including loan repayments and interest earned on such amounts, shall be used only for providing loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in a State loan fund established under paragraph (1), or other financial assistance authorized under this section to community water systems and nonprofit noncommunity water systems, other than systems owned by Federal agencies. Financial

assistance under this section may be used by a public water system only for expenditures (not including monitoring, operation, and maintenance expenditures) of a type or category which the Administrator has determined, through guidance, will facilitate compliance with national primary drinking water regulations applicable to the system under section 1412 or otherwise significantly further the health protection objectives of this title. The funds may also be used to provide loans to a system referred to in section 1401(4)(B) for the purpose of providing the treatment described in section 1401(4)(B)(i)(III). The funds shall not be used for the acquisition of real property or interests therein, unless the acquisition is integral to a project authorized by this paragraph and the purchase is from a willing seller. Of the amount credited to any State loan fund established under this section in any fiscal year, 15 percent shall be available solely for providing loan assistance to public water systems which regularly serve fewer than 10,000 persons to the extent such funds can be obligated for eligible projects of public water systems.

(3) LIMITATION-

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

(i) does not have the technical, managerial, and financial capability to ensure compliance with the requirements of this title; or

(ii) is in significant noncompliance with any requirement of a national primary drinking water regulation or variance.

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

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

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

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