



DEPARTMENT OF

ECOLOGY

State of Washington

**2014 Changes to the
Clean Water Act Affecting
the Clean Water State
Revolving Fund**

Water Resources Reform and Development Act of 2014

- Signed on 06/10/14
- Changed the Clean Water Act (CWA)
- Some changes affect the CWSRF
 - Some went into effect 06/10/14
 - Others went into effect 10/01/14
 - Others will go into effect in 2015

Interpretive Guidance

- On 09/18/14 EPA issued its “*Interpretive Guidance*” on implementing the amendments
 - <http://www.ecy.wa.gov/programs/wq/funding/GrantLoanMgmtDocs/InitInterpGuidImpl2014CWAAmend.pdf>
- Additional guidance in the form of Qs/As expected by 12/31/14
- More guidance expected in early 2015

Expanded Eligibilities

- **Effective 10/01/14**
- **Can now pay for decentralized systems and stormwater activity projects without having to link it to our Nonpoint Plan**
- **Can now fund the purchase of land to site a treatment facility**
 - **Would require revision to WAC 173-98-100(19)**

Loan Terms

- **Effective 10/01/14**
- **Can now offer up to 30-year loans**
 - **Would require revising RCW 90.50A.030(1)(a)**
 - **Would require revising WAC 173-98-300(5) and WAC 173-98-400(3)(Figure 6)**
- **Also effective 10/01/14, cannot sign loans with a term that exceeds the asset life**
 - **Developed basic criteria for asset life determinations**
 - <http://www.ecy.wa.gov/programs/wq/funding/GrantLoanMgmtDocs/EcologyAssetCalcVer1p1.xlsx>
 - **Reduces the terms for a SFY15 loan and future loans**

Forgivable Principal

- **Effective with FFY15+ Cap Grants**
- **“Additional subsidization” (forgivable principal) is now incorporated into the CWA**
- **No longer required to offer any**
 - **Maximum allowable depends on the amount of Cap Grants >\$1B awarded nationally**
- **Decision for SFY16:**
 - **Up to \$1.5M**
 - **1st priority: Preconstruction in small, less affluent communities**
 - **2nd priority: Green Project Reserve**
 - **Cover hardship wastewater facility construction with Centennial grants**

Administration Funding

- **Effective with the FFY15+ Cap Grants**
- **Allowed options now include:**
 - **4% of the Cap Grant**
 - If Cap Grant is \$25M = \$1M
 - **\$400,000**
 - **1/5% of Total Net Position (TNP) based on the prior year's audited financial reports**
 - Via the draft 2014 TNP (\$855,886,039) = ~\$1.7 M
- **Can switch from year to year**
- **Administration Charge Account fund can be used to provide administration funding in addition to that made available via the Cap Grant or TNP calculations**

Buy American Iron and Steel (AIS)

- **Effective 06/10/14**
 - **Actually in effect since 01/17/14**
- **Applies to treatment works construction, alteration, maintenance, or repair**
- **Requires specific products with iron and steel be made in the U.S.**
- **03/20/14 memo from EPA provides clear guidance on implementation**
 - **http://water.epa.gov/grants_funding/upload/AIS-final-guidance-3-20-14.pdf**
- **David Dunn is our AIS contact**

Fiscal Sustainability Plan

- **Effective 10/01/14**
- **Applies to loans for treatment works repair, replacement, or expansion with applications submitted after 10/01/14**
- **Requires:**
 - **Inventory of critical assets**
 - **Evaluation of the condition and performance of the assets**
 - **Certification that the recipient evaluated and will implement water and energy conservation efforts as part of the plan**
 - **Plan for maintaining, repairing, and replacing the treatment works and for funding the activities**
- **If recipient already has a plan, can self-certify at loan signing**
- **If recipient does not have a plan, agreement must require one be developed**
 - **Developing the plan is fundable**

Affordability Criteria

- **Effective 09/30/15**
- **States must establish affordability criteria that include at least:**
 - **Income**
 - **Unemployment data**
 - **Population trends**
- **Requires revisions to WAC 173-98-300**
 - **Currently use income and population**
- **EPA10 may allow deferral if revisions are underway by 09/30/15**

Contracting for Architectural and Engineering (A/E) Services

- **Effective 10/01/14**
- **Applies to A/E contracts signed after 10/01/14 via agreements funded by FFY15+ Cap Grants**
- **Applies the federal standards for contracting for A/E services**
 - **State law is not equivalent**
 - **Requires communication with as few as 1 firm, whereas federal law requires communication with at least 3 firms**
 - **Unclear what happens if <3 firms respond**
- **It's an “equivalency” requirement**

“Equivalency” Requirements

- **Apply to funding up to the Cap Grant amount**
- **Applies to:**
 - **Federal Funding Accountability and Transparency Act (FFATA)**
 - **Federal Cross cutters**
 - **Single Audit Act**
 - **Disadvantaged Business Enterprises (DBE)**
 - **And, now, A/E services procurement**
- **Effective with 09/22/14 memo from EPA, we must use the same group of projects to meet the equivalency requirements**
 - **Previously could use different ones for each requirement**
- **Option being considered:**
 - **Apply requirements only to a small subset of projects each year—e.g., only the top 3 projects funded with CWSRF loans**

Cost and Effectiveness Analysis, Including Water/Energy Efficiencies

- **Effective 10/01/15**
 - EPA will provide guidance in early 2015 (draft already out)
- **Applies to projects conducted by any municipality, inter-municipal, interstate, or State agency**
- **Requires:**
 - **Cost and effectiveness analysis**
 - **Already required**
 - **Choosing the alternative that, to the maximum extent practical, maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation**
 - **May be addressed through the IGEA that's already required**



QUESTIONS?