

Recent Federal Legislation Affecting Drinking Water Utilities Provisions of Major Interest to Economic Regulators

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SDWA Amendments of 1990 (Pub. L. 104-182)

- ◆ New Responsibilities for DEP
 - Screening new systems for financial and technical capability
 - Providing financial and technical assistance to existing systems
 - Developing affordability criteria
- ◆ New Criteria for Pennvest
 - Affordability
 - Small system compliance

Small Water Systems

- ◆ Required program by 10/1/99 to ensure that all new water systems “demonstrate technical, managerial, and financial capacity” to comply with NPDWR’s §1420(a)
- ◆ Required program by 10/1/00 to develop and implement “a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity.” §1420(c)(1)
- ◆ Capacity review required as part of SRF funding decision §1452(a)(3)

Capacity Development

- ◆ Identify barriers
- ◆ Encourage partnerships
- ◆ Train operators
- ◆ Measure progress
- ◆ Identify interested persons, including State and local government agencies

§1420(c)(2)

Affordability

- ◆ EPA to publish information to assist States in developing affordability criteria by 2/98 – §1415(e)(7)(B)
- ◆ States to develop and review criteria every 5 years – *Id.*
- ◆ Criteria are needed to:
 - Grant variances §1415(e)(3)(A)
 - Grant exemptions §1416(a)(1)
 - Award SRF funds
§1452(b)(3)(A)(iii); §1452(d)

Measuring Affordability

- ◆ On a per household basis
§1452(b)(3)(A)(iii) (SRF funds are to give priority to projects that “assist systems most in need on a per household basis according to State affordability criteria”)
- ◆ On a community-wide basis
§1452(d)(3) (disadvantaged community “means the service area of a public water system that meets affordability criteria ...”)

Loans and Grants

- ◆ Small system capacity development
- ◆ Affordability
- ◆ Set aside of 15% of funds for systems with <10,000 people
- ◆ See *Interim Guidance – Drinking Water State Revolving Fund* (US EPA 10/4/96)
 - Notice of availability and request for comments published 61 *Fed. Reg.* 55,635 (10/28/96)

Variations & Exemptions

- ◆ Optional (State not required to grant either)
- ◆ Available only to small systems
- ◆ Affordability criteria apply
- ◆ Not available if restructuring could achieve compliance
- ◆ Restructuring includes changes in “ownership, management, accounting, rates, maintenance, consolidation, alternative water supply” §1452(a)(3)(B)

Repeal of Tax on CIAC

- ◆ Section 1613 of the Small Business Job Protection Act of 1996 (Pub. L. 104-188)
- ◆ Eliminates tax on Contributions in Aid of Construction for all “property placed in service after June 12, 1996”
- ◆ Exception made for “property placed in service pursuant to a binding contract in effect before June 10, 1996.”

CIAC Repeal Issues

- ◆ Transition
 - Cancellation of contracts
 - Partial completion of construction
 - Refunds
- ◆ Main Extension Provisions
 - Tariff revisions
 - Contract revisions

More Acquisitions?

- ◆ Capacity development initiatives
- ◆ Funding tied to system capabilities
- ◆ Funding available for restructuring
- ◆ CIAC repeal