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33 U.S. Code SUBCHAPTER VI— STATE WATER POLLUTION CONTROL REVOLVING FUNDS

33 U.S. Code § 1381. Grants to States for establishment of revolving funds

(a) General authority

Subject to the provisions of this subchapter, the Administrator shall make capitalization grants to each [State](#) for the purpose of establishing a water [pollution](#) control revolving fund to accomplish the objectives, goals, and policies of this chapter by providing assistance for projects and activities identified in [section 1383\(c\) of this title](#).

(b) Schedule of grant paymentsThe Administrator and each [State](#) shall jointly establish a schedule of payments under which the Administrator will pay to the [State](#) the amount of each grant to be made to the [State](#) under this subchapter. Such schedule shall be based on the [State](#)'s intended use plan under [section 1386\(c\) of this title](#), except that—

(1)

such payments shall be made in quarterly installments, and

(2) such payments shall be made as expeditiously as possible, but in no event later than the earlier of—

(A)

8 quarters after the date such funds were obligated by the [State](#), or

(B)

12 quarters after the date such funds were allotted to the [State](#).

(June 30, 1948, ch. 758, title VI, § 601, as added [Pub. L. 100–4, title II, § 212\(a\)](#), Feb. 4, 1987, [101 Stat. 22](#); amended [Pub. L. 113–121, title V, § 5001](#), June 10, 2014, [128 Stat. 1322](#).)

33 U.S. Code § 1382. Capitalization grant agreements

(a) General rule

To receive a capitalization grant with funds made available under this subchapter and [section 1285\(m\) of this title](#), a [State](#) shall enter into an agreement with the Administrator which shall include but not be limited to the specifications set forth in subsection (b) of this section.

(b) Specific requirementsThe Administrator shall enter into an agreement under this section with a [State](#) only after the [State](#) has established to the satisfaction of the Administrator that—

(1)

the [State](#) will accept grant payments with funds to be made available under this subchapter and [section 1285\(m\) of this title](#) in accordance with a payment schedule established jointly by the Administrator under [section 1381\(b\) of this title](#) and will deposit all such payments in the water [pollution](#) control revolving fund established by the [State](#) in accordance with this subchapter;

(2)

the [State](#) will deposit in the fund from [State](#) moneys an amount equal to at least 20 percent of the total amount of all capitalization grants which will be made to the [State](#) with funds to be made available under this subchapter and [section 1285\(m\) of this title](#) on or before the date on which each quarterly grant payment will be made to the [State](#) under this subchapter;

(3)

the [State](#) will enter into binding commitments to provide assistance in accordance with the requirements of this subchapter in an amount equal to 120 percent of the amount of each such grant payment within 1 year after the receipt of such grant payment;

(4)

all funds in the fund will be expended in an expeditious and timely manner;

(5)

all funds in the fund as a result of capitalization grants under this subchapter and [section 1285\(m\) of this title](#) will first be used to assure maintenance of progress, as determined by the Governor of the [State](#), toward compliance with enforceable deadlines, goals, and requirements of this chapter, including the municipal compliance deadline;

(6)

[treatment works](#) eligible under this chapter which will be constructed in whole or in part with assistance made available by a [State](#) water [pollution](#) control revolving fund authorized under this subchapter, or [section 1285\(m\) of this title](#), or both, will meet the requirements of, or otherwise be treated (as

determined by the Governor of the [State](#)) under sections 1371(c)(1) and 1372 of this title in the same manner as [treatment works](#) constructed with assistance under subchapter II of this chapter;

(7)

in addition to complying with the requirements of this subchapter, the [State](#) will commit or expend each quarterly grant payment which it will receive under this subchapter in accordance with laws and procedures applicable to the commitment or expenditure of revenues of the [State](#);

(8)

in carrying out the requirements of [section 1386 of this title](#), the [State](#) will use accounting, audit, and fiscal procedures conforming to generally accepted government accounting standards;

(9)

the [State](#) will require as a condition of making a loan or providing other assistance, as described in [section 1383\(d\) of this title](#), from the fund that the recipient of such assistance will maintain project accounts in accordance with generally accepted government accounting standards, including standards relating to the reporting of infrastructure assets;

(10)

the [State](#) will make annual reports to the Administrator on the actual use of funds in accordance with [section 1386\(d\) of this title](#);

(11)

the [State](#) will establish, maintain, invest, and credit the fund with repayments, such that the fund balance will be available in perpetuity for activities under this chapter;

(12)

any fees charged by the [State](#) to recipients of assistance that are considered program income will be used for the purpose of financing the cost of administering the fund or financing projects or activities eligible for assistance from the fund;

(13) beginning in fiscal year 2016, the [State](#) will require as a condition of providing assistance to a [municipality](#) or intermunicipal, interstate, or [State](#) agency that the recipient of such assistance certify, in a manner determined by the Governor of the [State](#), that the recipient—

(A)

has studied and evaluated the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the proposed project or activity for which assistance is sought under this subchapter; and

(B) has selected, to the maximum extent practicable, a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, taking into account—

(i)

the cost of constructing the project or activity;

(ii)

the cost of operating and maintaining the project or activity over the life of the project or activity; and

(iii)

the cost of replacing the project or activity; and

(14)

a contract to be carried out using funds directly made available by a capitalization grant under this subchapter for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services shall be negotiated in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40 or an equivalent [State](#) qualifications-based requirement (as determined by the Governor of the [State](#)).

(June 30, 1948, ch. 758, title VI, § 602, as added [Pub. L. 100-4, title II, § 212\(a\)](#), Feb. 4, 1987, [101 Stat. 22](#); amended [Pub. L. 113-121, title V, § 5002](#), June 10, 2014, [128 Stat. 1322](#).)

33 U.S. Code § 1383. Water pollution control revolving loan funds

(a) Requirements for obligation of grant funds

Before a [State](#) may receive a capitalization grant with funds made available under this subchapter and [section 1285\(m\) of this title](#), the [State](#) shall first establish a water [pollution](#) control revolving fund which complies with the requirements of this section.

(b) Administration

Each [State](#) water [pollution](#) control revolving fund shall be administered by an instrumentality of the [State](#) with such powers and limitations as may be required to operate such fund in accordance with the requirements and objectives of this chapter.

(c) Projects and activities eligible for assistanceThe amounts of funds available to each [State](#) water [pollution](#) control revolving fund shall be used only for providing financial assistance—

(1)

to any [municipality](#) or intermunicipal, interstate, or [State](#) agency for construction of publicly owned [treatment works](#) (as defined in [section 1292 of this title](#));

(2)

for the implementation of a management program established under [section 1329 of this title](#);

(3)

for development and implementation of a conservation and management plan under [section 1330 of this title](#);

(4)

for the construction, repair, or replacement of decentralized wastewater treatment systems that treat municipal wastewater or domestic sewage;

(5)

for measures to manage, reduce, treat, or recapture stormwater or subsurface drainage water;

(6)

to any [municipality](#) or intermunicipal, interstate, or [State](#) agency for measures to reduce the demand for publicly owned [treatment works](#) capacity through water conservation, efficiency, or reuse;

(7)

for the development and implementation of watershed projects meeting the criteria set forth in [section 1274 of this title](#);

(8)

to any [municipality](#) or intermunicipal, interstate, or [State](#) agency for measures to reduce the energy consumption needs for publicly owned [treatment works](#);

(9)

for reusing or recycling wastewater, stormwater, or subsurface drainage water;

(10)

for measures to increase the security of publicly owned [treatment works](#);

(11) to any qualified nonprofit entity, as determined by the Administrator, to provide assistance to owners and operators of small and medium publicly owned [treatment works](#)—

(A)

to plan, develop, and obtain financing for eligible projects under this subsection, including planning, design, and associated preconstruction activities; and

(B)

to assist such [treatment works](#) in achieving compliance with this chapter; and

(12) to any qualified nonprofit entity, as determined by the Administrator, to provide assistance to an [eligible individual](#) (as defined in subsection (j))—

(A)

for the repair or replacement of existing individual household decentralized wastewater treatment systems; or

(B)

in a case in which an [eligible individual](#) resides in a household that could be cost-effectively connected to an available publicly owned [treatment works](#), for the connection of the applicable household to such [treatment works](#).

(d) Types of assistance Except as otherwise limited by [State](#) law, a water [pollution](#) control revolving fund of a [State](#) under this section may be used only—

(1) to make loans, on the condition that—

(A)

such loans are made at or below market interest rates, including interest free loans, at terms not to exceed the lesser of 30 years and the projected useful life (as determined by the [State](#)) of the project to be financed with the proceeds of the loan;

(B)

annual principal and interest payments will commence not later than 1 year after completion of any project and all loans will be fully amortized upon the expiration of the term of the loan;

(C)

the recipient of a loan will establish a dedicated source of revenue for repayment of loans;

(D)

the fund will be credited with all payments of principal and interest on all loans; and

(E) for a [treatment works](#) proposed for repair, replacement, or expansion, and eligible for assistance under subsection (c)(1), the recipient of a loan shall—

(i) develop and implement a fiscal sustainability plan that includes—

(I)

an inventory of critical assets that are a part of the [treatment works](#);

(II)

an evaluation of the condition and performance of inventoried assets or asset groupings;

(III)

a certification that the recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan; and

(IV)

a plan for maintaining, repairing, and, as necessary, replacing the [treatment works](#) and a plan for funding such activities; or

(ii)

certify that the recipient has developed and implemented a plan that meets the requirements under clause (i);

(2)

to buy or refinance the debt obligation of municipalities and intermunicipal and interstate agencies within the [State](#) at or below market rates, where such debt obligations were incurred after March 7, 1985;

(3)

to guarantee, or purchase insurance for, local obligations where such action would improve credit market access or reduce interest rates;

(4)

as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the [State](#) if the proceeds of the sale of such bonds will be deposited in the fund;

(5)

to provide loan guarantees for similar revolving funds established by municipalities or intermunicipal agencies;

(6)

to earn interest on fund accounts; and

(7)

for the reasonable costs of administering the fund and conducting activities under this subchapter, except that such amounts shall not exceed 4 percent of all grant awards to such fund under this subchapter, \$400,000 per year, or $\frac{1}{2}$ percent per year of the current valuation of the fund, whichever amount is greatest, plus the amount of any fees collected by the [State](#) for such purpose regardless of the source.

(e) Limitation to prevent double benefits

If a [State](#) makes, from its water [pollution](#) revolving fund, a loan which will finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of publicly owned [treatment works](#), the [State](#) shall ensure that if the recipient of such loan receives a grant under [section 1281\(g\) of this title](#) for construction of such [treatment works](#) and an allowance under section 1281(l)(1) of this title for non-Federal funds expended for such planning and preparation, such recipient will promptly repay such loan to the extent of such allowance.

(f) Consistency with planning requirements

A [State](#) may provide financial assistance from its water [pollution](#) control revolving fund only with respect to a project which is consistent with plans, if any, developed under sections [1285\(j\)](#), [1288](#), [1313\(e\)](#), [1329](#), and [1330](#) of this title.

(g) Priority list requirement

The [State](#) may provide financial assistance from its water [pollution](#) control revolving fund only with respect to a project for construction of a [treatment works](#) described in subsection (c)(1) if such project is on the [State's](#) priority list under [section 1296 of this title](#). Such assistance may be provided regardless of the rank of such project on such list.

(h) Eligibility of non-Federal share of construction grant projects

A [State](#) water [pollution](#) control revolving fund may provide assistance (other than under subsection (d)(1) of this section) to a [municipality](#) or intermunicipal or [interstate agency](#) with respect to the non-Federal share of the costs of a [treatment works](#) project for which such [municipality](#) or agency is receiving assistance from the Administrator under any other authority only if such assistance is necessary to allow such project to proceed.

(i) Additional subsidization

(1) In general In any case in which a [State](#) provides assistance to an eligible recipient under subsection (d), the [State](#) may provide additional subsidization, including forgiveness of principal and negative interest loans—

(A) in assistance to a [municipality](#) or intermunicipal, interstate, or [State](#) agency to benefit a [municipality](#) that—

(i)

meets the affordability criteria of the [State](#) established under paragraph (2); or

(ii) does not meet the affordability criteria of the [State](#) if the recipient—

(I)

seeks additional subsidization to benefit individual ratepayers in the residential user rate class;

(II)

demonstrates to the [State](#) that such ratepayers will experience a significant hardship from the increase in rates necessary to finance the project or activity for which assistance is sought; and

(III)

ensures, as part of an assistance agreement between the [State](#) and the recipient, that the additional subsidization provided under this paragraph is directed through a user charge rate system (or other appropriate method) to such ratepayers; or

(B) to implement a process, material, technique, or technology—

(i)

to address water-efficiency goals;

(ii)

to address energy-efficiency goals;

(iii)

to mitigate stormwater runoff; or

(iv)

to encourage sustainable project planning, design, and construction.

(2) Affordability criteria

(A) Establishment

(i) In general

Not later than September 30, 2015, and after providing notice and an opportunity for public comment, a [State](#) shall establish affordability criteria to assist in identifying municipalities that would experience a significant hardship raising the revenue necessary to finance a project or activity eligible for assistance under subsection (c)(1) if additional subsidization is not provided.

(ii) Contents

The criteria under clause (i) shall be based on income and unemployment data, population trends, and other data determined relevant by the [State](#), including whether the project or activity is to be carried out in an economically distressed area, as described in [section 3161 of title 42](#).

(B) Existing criteria If a [State](#) has previously established, after providing notice and an opportunity for public comment, affordability criteria that meet the requirements of subparagraph (A)—

(i)

the [State](#) may use the criteria for the purposes of this subsection; and

(ii)

those criteria shall be treated as affordability criteria established under this paragraph.

(C) Information to assist States

The Administrator may publish information to assist [States](#) in establishing affordability criteria under subparagraph (A).

(3) Limitations

(A) In general

A [State](#) may provide additional subsidization in a fiscal year under this subsection only if the total amount appropriated for making capitalization grants to all [States](#) under this subchapter for the fiscal year exceeds \$1,000,000,000.

(B) Additional limitation

(i) General rule

Subject to clause (ii), a [State](#) may use not more than 30 percent of the total amount received by the [State](#) in capitalization grants under this subchapter for a fiscal year for providing additional subsidization under this subsection.

(ii) Exception

If, in a fiscal year, the amount appropriated for making capitalization grants to all [States](#) under this subchapter exceeds \$1,000,000,000 by a percentage that is less than 30 percent, clause (i) shall be applied by substituting that percentage for 30 percent.

(C) Applicability

The authority of a [State](#) to provide additional subsidization under this subsection shall apply to amounts received by the [State](#) in capitalization grants under this subchapter for fiscal years beginning after September 30, 2014.

(D) Consideration

If the [State](#) provides additional subsidization to a [municipality](#) or intermunicipal, interstate, or [State](#) agency under this subsection that meets the criteria under paragraph (1)(A), the [State](#) shall take the criteria set forth in [section 1382\(b\)\(5\) of this title](#) into consideration.

(j) Definition of eligible individual

In subsection (c)(12), the term “[eligible individual](#)” means a member of a household, the members of which have a combined income (for the most recent 12-month period for which information is available) equal to not more than 50 percent of the median nonmetropolitan household income for the [State](#) in which the household is located, according to the most recent decennial census.

(June 30, 1948, ch. 758, title VI, § 603, as added [Pub. L. 100–4, title II, § 212\(a\)](#), Feb. 4, 1987, [101 Stat. 23](#); amended [Pub. L. 113–121, title V, § 5003](#), June 10, 2014, [128 Stat. 1323](#); [Pub. L. 114–322, title IV, § 5012](#), Dec. 16, 2016, [130 Stat. 1902](#); [Pub. L. 115–270, title IV, § 4107\(a\)](#), Oct. 23, 2018, [132 Stat. 3876](#).)

33 U.S. Code § 1384. Allotment of funds

(a) Formula

Sums authorized to be appropriated to carry out this section for each of fiscal years 1989 and 1990 shall be allotted by the Administrator in accordance with [section 1285\(c\) of this title](#).

(b) Reservation of funds for planning

Each [State](#) shall reserve each fiscal year 1 percent of the sums allotted to such [State](#) under this section for such fiscal year, or \$100,000, whichever amount is greater, to carry out planning under sections [1285\(j\)](#) and [1313\(e\)](#) of this title.

(c) Allotment period

(1) Period of availability for grant award

Sums allotted to a [State](#) under this section for a fiscal year shall be available for obligation by the [State](#) during the fiscal year for which sums are authorized and during the following fiscal year.

(2) Reallotment of unobligated funds

The amount of any allotment not obligated by the [State](#) by the last day of the 2-year period of availability established by paragraph (1) shall be immediately reallotted by the Administrator on the basis of the same ratio as is applicable to sums allotted under subchapter II of this chapter for the second fiscal year of such 2-year period. None of the funds reallotted by the Administrator shall be reallotted to any [State](#) which has not obligated all sums allotted to such [State](#) in the first fiscal year of such 2-year period.

(June 30, 1948, ch. 758, title VI, § 604, as added [Pub. L. 100-4, title II, § 212\(a\)](#), Feb. 4, 1987, [101 Stat. 25.](#))

33 U.S. Code § 1385. Corrective action

(a) Notification of noncompliance

If the Administrator determines that a [State](#) has not complied with its agreement with the Administrator under [section 1382 of this title](#) or any other requirement of this subchapter, the Administrator shall notify the [State](#) of such noncompliance and the necessary corrective action.

(b) Withholding of payments

If a [State](#) does not take corrective action within 60 days after the date a [State](#) receives notification of such action under subsection (a), the Administrator shall withhold additional payments to the [State](#) until the Administrator is satisfied that the [State](#) has taken the necessary corrective action.

(c) Reallotment of withheld payments

If the Administrator is not satisfied that adequate corrective actions have been taken by the [State](#) within 12 months after the [State](#) is notified of such actions under subsection (a), the payments withheld from the [State](#) by the Administrator under subsection (b) shall be made available for reallotment in accordance with the most recent formula for allotment of funds under this subchapter.

(June 30, 1948, ch. 758, title VI, § 605, as added [Pub. L. 100-4, title II, § 212\(a\)](#), Feb. 4, 1987, [101 Stat. 25](#).)

33 U.S. Code § 1386. Audits, reports, and fiscal controls; intended use plan

(a) Fiscal control and auditing proceduresEach [State](#) electing to establish a water [pollution](#) control revolving fund under this subchapter shall establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods for—

(1)

payments received by the fund;

(2)

disbursements made by the fund; and

(3)

fund balances at the beginning and end of the accounting period.

(b) Annual Federal audits

The Administrator shall, at least on an annual basis, conduct or require each [State](#) to have independently conducted reviews and audits as may be deemed necessary or appropriate by the Administrator to carry out the objectives of this section. Audits of the use of funds deposited in the water [pollution](#) revolving fund established by such [State](#) shall be conducted in accordance with the auditing procedures of the Government Accountability Office, including chapter 75 of title 31.

(c) Intended use planAfter providing for public comment and review, each [State](#) shall annually prepare a plan identifying the intended uses of the amounts available to its water [pollution](#) control revolving fund. Such intended use plan shall include, but not be limited to—

(1)

a list of those projects for construction of publicly owned [treatment works](#) on the [State's](#) priority list developed pursuant to [section 1296 of this title](#) and a list of activities eligible for assistance under sections 1329 and 1330 of this title;

(2)

a description of the short- and long-term goals and objectives of its water [pollution](#) control revolving fund;

(3)

information on the activities to be supported, including a description of project categories, [discharge](#) requirements under subchapters III and IV of this chapter, terms of financial assistance, and communities served;

(4)

assurances and specific proposals for meeting the requirements of paragraphs (3), (4), (5), and (6) of [section 1382\(b\) of this title](#); and

(5)

the criteria and method established for the distribution of funds.

(d) Annual report

Beginning the first fiscal year after the receipt of payments under this subchapter, the [State](#) shall provide an annual report to the Administrator describing how the [State](#) has met the goals and objectives for the previous fiscal year as identified in the plan prepared for the previous fiscal year pursuant to subsection (c), including identification of loan recipients, loan amounts, and loan terms and similar details on other forms of financial assistance provided from the water [pollution](#) control revolving fund.

(e) Annual Federal oversight review

The Administrator shall conduct an annual oversight review of each [State](#) plan prepared under subsection (c), each [State](#) report prepared under subsection (d), and other such materials as are considered necessary and appropriate in carrying out the purposes of this subchapter. After reasonable notice by the Administrator to the [State](#) or the recipient of a loan from a water [pollution](#) control revolving fund, the [State](#) or loan recipient shall make available to the Administrator such records as the Administrator reasonably requires to review and determine compliance with this subchapter.

(f) Applicability of subchapter II provisions

Except to the extent provided in this subchapter, the provisions of subchapter II shall not apply to grants under this subchapter.

(June 30, 1948, ch. 758, title VI, § 606, as added [Pub. L. 100–4, title II, § 212\(a\)](#), Feb. 4, 1987, [101 Stat. 25](#); amended [Pub. L. 108–271, § 8\(b\)](#), July 7, 2004, [118 Stat. 814](#).)

33 U.S. Code § 1387. Authorization of appropriations

There is authorized to be appropriated to carry out the purposes of this subchapter the following sums:

(1)

\$1,200,000,000 per fiscal year for each of fiscal years 1989 and 1990;

(2)

\$2,400,000,000 for fiscal year 1991;

(3)

\$1,800,000,000 for fiscal year 1992;

(4)

\$1,200,000,000 for fiscal year 1993; and

(5)

\$600,000,000 for fiscal year 1994.

(June 30, 1948, ch. 758, title VI, § 607, as added [Pub. L. 100–4, title II, § 212\(a\)](#), Feb. 4, 1987, [101 Stat. 26](#).)

33 U.S. Code § 1388. Requirements

(a) In general

Funds made available from a [State](#) water [pollution](#) control revolving fund established under this subchapter may not be used for a project for the construction, alteration, maintenance, or repair of [treatment works](#) unless all of the [iron and steel products](#) used in the project are produced in the United [States](#).

(b) Definition of iron and steel products

In this section, the term “[iron and steel products](#)” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, construction materials.

(c) Application Subsection (a) shall not apply in any case or category of cases in which the Administrator finds that—

(1)

applying subsection (a) would be inconsistent with the public interest;

(2)

[iron and steel products](#) are not produced in the United [States](#) in sufficient and reasonably available quantities and of a satisfactory quality; or

(3)

inclusion of [iron and steel products](#) produced in the United [States](#) will increase the cost of the overall project by more than 25 percent.

(d) Waiver

If the Administrator receives a request for a waiver under this section, the Administrator shall make available to the public, on an informal basis, a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet site of the Environmental Protection Agency.

(e) International agreements

This section shall be applied in a manner consistent with United [States](#) obligations under international agreements.

(f) Management and oversight

The Administrator may retain up to 0.25 percent of the funds appropriated for this subchapter for management and oversight of the requirements of this section.

(g) Effective date

This section does not apply with respect to a project if a [State](#) agency approves the engineering plans and specifications for the project, in that agency's capacity to approve such plans and specifications prior to a project requesting bids, prior to June 10, 2014.

(June 30, 1948, ch. 758, title VI, § 608, as added [Pub. L. 113–121, title V, § 5004](#), June 10, 2014, [128 Stat. 1326](#).)

