Drinking Water
State Revolving Fund

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Administrative Services Officer 3
Office of Financial Assistance
February 23, 2022

Proposed Regulation Changes

NAC 445A.6751 to NAC 445A.67644

ndep.nv.gov
Public Comment?

Comments can be limited to 3 minutes.
Proposed Changes

A. Defining disadvantaged community
B. Emergency situations for drinking water systems
C. Environmental Review procedure changes
D. Administrative fee for loans.
E. Other federal statutory and regulatory changes
F. Housekeeping
A. Defining disadvantaged community

<table>
<thead>
<tr>
<th>Need for change</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Current approach is not broad enough to cover underserved communities</td>
</tr>
<tr>
<td>• Median Household Income date is not always accurate or available</td>
</tr>
<tr>
<td>• Income surveys are time consuming and may not yield good results</td>
</tr>
<tr>
<td>• Is not adaptable to federal changes or community changes</td>
</tr>
<tr>
<td>• Public engagement as part of a timely development process</td>
</tr>
</tbody>
</table>

Current approach

“Disadvantaged community” defined. (NAC 445A.675245)

Disadvantaged community” means an area served by a public water system in which the median household income is less than 80 percent of the state median household income.

(Added to NAC by Environmental Comm’n by R099-14, eff. 10-24-2014)
## Defining disadvantaged community

### Proposed approach (NAC 445A.67565)

1. NDEP shall develop the definition of disadvantaged community.
2. Prior to finalizing any definition of a disadvantaged community, NDEP must conduct a public workshop and obtain approval from the Board for Financing Water Projects.

3. NDEP must also determine any program to fund projects for a disadvantaged community. The program must be outlined in the Intended Use Plan.
4. Prior to finalizing any program to fund projects for a disadvantaged community, NDEP must conduct a public workshop and obtain approval from the Board for Financing Water Projects.
## Defining disadvantaged community

### Proposed approach

1. The division may consider the following metrics and data:
   - (a) the income data of the project service area,
   - (c) the workforce indicators of the project service area
   - (d) the population served by the water system,
   - (e) the affordability of water rates for users of the system,
   - (f) the percentage of the project service area not proficient in the English language,
   - (g) the percentage of project service area receiving subsidies or financial assistance from governmental entities or political subdivisions of the state.
   - (h) a community experiencing an “emergency situation,” as defined by NAC 445A.67527.
   - (i) disproportionate impacts from climate change to the service area
   - (j) the percentage of the project service area without broadband internet access
   - (k) the percentage of the population in the service area without adequate transportation
Defining disadvantaged community

### The income data of the project service area

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Reference to State Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poverty rates</td>
<td>% of state poverty rate</td>
</tr>
<tr>
<td>Median Household Income</td>
<td>% of state MHI</td>
</tr>
<tr>
<td>Per capita Income</td>
<td>% of state per capita income</td>
</tr>
</tbody>
</table>

### Workforce indicators

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Reference to State Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unemployment Rate</td>
<td>% of state unemployment rate</td>
</tr>
<tr>
<td>Percent not in the workforce</td>
<td>% of state not in the workforce</td>
</tr>
</tbody>
</table>

### Percentage of the project service area receiving subsidies or financial assistance

<table>
<thead>
<tr>
<th>Assistance</th>
<th>Reference to State Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supplemental Nutrition benefits</td>
<td>% of state SNAP recipients</td>
</tr>
<tr>
<td>Welfare benefits</td>
<td>% of state recipients</td>
</tr>
<tr>
<td>Water system rate subsidy</td>
<td>% of the water system</td>
</tr>
</tbody>
</table>
## Defining disadvantaged community

### Population served by the water system
- 5 or 6 population blocks

### Affordability of water rates for users of the system
- Rates must have been reviewed by governing board within 5 years
- Current rates must be sufficient to cover operations, maintenance, debt service and required reserves of the current system.
- Would a new loan for the project raise reasonable rates by more than 10%, 20%, or 30%?
- Has the system voluntarily raised rates in the last 5 years by more than 10%, 20%, or 30%?
Public Comment?

Comments can be limited to 3 minutes.
### B. Emergency situations for drinking water systems

#### Need for change

- Process is too slow to be effective in addressing emergencies
- EPA guidelines have reduced burden for emergencies
- Climate change requires a more proactive approach to addressing emergencies

#### EPA Guidance on the use of DWSRF funds for emergency situations

- Each state may define the conditions that constitute an emergency in its IUP.
- The state must report to the EPA the projects that it funded on an emergency basis in the state’s biennial report and during the EPA’s annual review.
- Projects funded on an emergency basis do not have to be on the state’s Intended Use Plan nor do they require ranking using a state's priority system or have to go through a public review process prior to receiving assistance.
**Emergency situations for drinking water systems**

**Definition**

NAC 445A.67527 “Emergency situation” defined. “Emergency situation” occurs when:

1. Water at a public water system is contaminated or is likely to be contaminated to such an extent that it causes an imminent danger to public health and the contamination could not have been prevented by the operator of the system; or

2. There is a reduction of a source of potable drinking water for an extended period, or

3. An emergency declaration by the governor for an area that may impact the delivery of safe drinking water.

(Added to NAC by Bd. of Health by R067-98, eff. 7-23-98)

**Inclusion in the definition of a disadvantaged system**

- Currently experiencing an emergency situation
# Emergency situations for drinking water systems

## Priority List and public participation

- NDEP receives a pre-application to be added to the priority list for an emergency situation.

- Public notice is provided about the emergency situation and NDEP’s intent to revise the priority list to assist the emergency.

- The Board for Financing Water Projects approves the project to be added to the Priority list without holding a public participation workshop. The resolution would contain the acknowledgement of the emergency situation.

- NDEP may bypass a water project on the priority list for an emergency situation after providing notice to all applicants on the priority list that are being bypassed, but would not be required to wait 30 days before proceeding.
Public Comment?

Comments can be limited to 3 minutes.
C. Environmental Review process changes

<table>
<thead>
<tr>
<th>Need for change</th>
</tr>
</thead>
<tbody>
<tr>
<td>• National Environmental Policy Act was amended September 2020.</td>
</tr>
<tr>
<td>• EPA is requesting Nevada develop a State Environmental Review Process (SERP) to comply with grant requirements.</td>
</tr>
<tr>
<td>• Reduce burden and add flexibility to this process.</td>
</tr>
</tbody>
</table>
## C. Environmental Review process changes

**Overall changes**

- Adding the definition of the SERP
- Requiring EPA to review and approve the SERP
- Timeline for public notices
- The SERP would contain processes and project eligibility for:
  - Categorical Exclusion
  - Finding of no significant impact
  - Environmental Impact Statements
  - Public involvement

**What is not changing**

- The requirement for an Environmental Review and how long its effective
- Public notice process, including comment periods and NDEP required response
Public Comment?

Comments can be limited to 3 minutes.
## D. Administrative fee for loans

### Need for change

- The DWSRF program must be sustained in perpetuity.
- Only current source of funding for administration is federal grants.
- Federal funds are subject to re-allocation by EPA if Nevada cannot demonstrate need.
- Time is needed to build up funds for administration.

### Financial Impact of change to borrowers

- NDEP is proposing changes to the Debt Management Policy that will minimize the financial impact of this change on borrowers.
  - Discount market rate proposed to change from 62.5% to 59%*
  - Change in discount will not harm the DWSRF program
  - Percent was determined to calculate a net neutral true interest cost when the market rate is 2.56%.

*Pending Board of Finance approval
### Administrative fee for loans

<table>
<thead>
<tr>
<th>Proposed service fee (NAC 445A.67624)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Disadvantaged systems</td>
<td>No fees</td>
</tr>
<tr>
<td>Principal Forgiveness or short-term loans</td>
<td>$1,000 loan origination fee</td>
</tr>
<tr>
<td>Long-term loans (borrower issuing a bond)</td>
<td>0.50% loan origination fee</td>
</tr>
<tr>
<td>Long-term loans (borrower not issuing a bond)</td>
<td>0.50% loan origination fee</td>
</tr>
</tbody>
</table>
# Administrative fee for loans

<table>
<thead>
<tr>
<th></th>
<th>Proposed</th>
<th>Current</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base Interest (Market)</td>
<td>2.56%</td>
<td>2.56%</td>
</tr>
<tr>
<td>Market Discount</td>
<td>59.0%*</td>
<td>62.5%</td>
</tr>
<tr>
<td>Loan Interest</td>
<td>1.51%</td>
<td>1.60%</td>
</tr>
<tr>
<td>Loan Amount</td>
<td>$20,000,000</td>
<td>$20,000,000</td>
</tr>
<tr>
<td>Loan Origination Fee</td>
<td>$100,000</td>
<td>$0</td>
</tr>
<tr>
<td>Annual Service Fee</td>
<td>$100,000</td>
<td>$0</td>
</tr>
<tr>
<td>Total Loan Interest</td>
<td>$3,247,512.89</td>
<td>$3,449,594.26</td>
</tr>
<tr>
<td>Total Loan Costs</td>
<td>$3,447,512.89</td>
<td>$3,449,594.26</td>
</tr>
<tr>
<td>True Interest Cost (T.I.C.)</td>
<td>1.565%</td>
<td>1.566%</td>
</tr>
<tr>
<td>Savings / (Cost) to Borrower</td>
<td>0.001%</td>
<td></td>
</tr>
</tbody>
</table>

*Pending Board of Finance approval

Data subject to change with market conditions
## Administrative fee for loans

<table>
<thead>
<tr>
<th></th>
<th>Loans Awarded</th>
<th>Origination Fee (estimate)</th>
<th>Service Fee (estimate)</th>
<th>Administration Expenses</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FY 2017</strong></td>
<td>$37,126,138</td>
<td>$185,630</td>
<td>$9,282</td>
<td>$340,688</td>
</tr>
<tr>
<td><strong>FY 2018</strong></td>
<td>$14,260,000</td>
<td>$71,300</td>
<td>$12,547</td>
<td>$355,237</td>
</tr>
<tr>
<td><strong>FY 2019</strong></td>
<td>$34,336,483</td>
<td>$171,682</td>
<td>$21,131</td>
<td>$355,504</td>
</tr>
<tr>
<td><strong>FY 2020</strong></td>
<td>$2,200,000</td>
<td>$11,000</td>
<td>$21,682</td>
<td>$349,568</td>
</tr>
<tr>
<td><strong>FY 2021</strong></td>
<td>$16,250,000</td>
<td>$81,250</td>
<td>$25,743</td>
<td>$398,302</td>
</tr>
<tr>
<td><strong>FY 2022</strong></td>
<td>$3,378,635</td>
<td>$6,000</td>
<td>$25,743</td>
<td>$440,941</td>
</tr>
<tr>
<td><strong>(estimate)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td></td>
<td>$526,862</td>
<td>$116,128</td>
<td>$2,240,240</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>Average Annual Fees</strong></td>
<td><strong>$107,165</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Average Annual Expenses</td>
<td></td>
<td>$373,374</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Time to cover annual expense</td>
<td></td>
<td>3.5 years</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Public Comment?

Comments can be limited to 3 minutes.
E. Federal statutory and regulatory changes

### Need for change

- Congressional changes to the Safe Drinking Water Act
  - America’s Water Infrastructure Act (AWIA) of 2018.

### Changes

- Allows NDEP to issue long-term loans up to 30 years for project loans.
- Allows NDEP to issue long-term loans up to 40 years for disadvantaged systems.
- Adds flexibility for previously ineligible projects as federal changes occur.
- Changes in points on priority list and reserve fund requirements to encourage asset management plans and reserve accounts for sustainability.
- Other changes incorporated in emergency use of funds and NEPA process.
Public Comment?

Comments can be limited to 3 minutes.
# G. Housekeeping

## Need for change

- Definition changes.
- Remove duplication in language pertaining to the intended use plan and grant application process.
- Public notice process consistent with rest of NDEP.

## Changes

- Updating definitions to be consistent with other sections of NAC.
- Updating public process to conform with other programs of NDEP.
- Removing duplication of language for intended use plan and grant application process.
Public Comment?

Comments can be limited to 3 minutes.
## Timeline for implementation

<table>
<thead>
<tr>
<th>Action</th>
<th>Estimated Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial listening session</td>
<td>February 23, 2022</td>
</tr>
<tr>
<td>Submission to the Legislative Counsel Bureau</td>
<td>April 2022</td>
</tr>
<tr>
<td>Receive record from the Legislative Counsel Bureau</td>
<td>Mid June 2022</td>
</tr>
<tr>
<td>Regulation change public workshop</td>
<td>July 2022</td>
</tr>
<tr>
<td>State Environmental Commission meeting</td>
<td>September 2022</td>
</tr>
<tr>
<td>Legislative Commission</td>
<td>December 2022</td>
</tr>
</tbody>
</table>
Public Comment?

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DWSRF and CWSRF website: https://ndep.nv.gov/water/financing-infrastructure/state-revolving-fund-loans

Join our mailing list: https://ndep.nv.gov/water/financing-infrastructure

Questions: ndep-ofa@ndep.nv.gov