

**WSR 23-10-072**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF HEALTH**  
[Filed May 2, 2023, 12:50 p.m.]

Subject of Possible Rule Making: The department of health (department) is considering amendments to chapter 246-296 WAC, Drinking water state revolving fund (DWSRF) loan program, to implement the requirements of the federal Bipartisan Infrastructure Law (BIL). The department has adopted two emergency rules, WSR 23-05-069, February 13, 2023, and WSR 23-06-064, February 28, 2023, to implement requirements under BIL for the current loan cycle. The department is considering permanent rule amendments to conform to BIL requirements by: Revising the definition of disadvantaged community; amending loan terms to allow for partial or full loan forgiveness; removing the requirement for a current water system plan or small water system management program for lead service line identification and replacement, and for remediating emerging contaminants; and making amendments to the project priority rating and ranking criteria.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70A.125.160; Federal Safe Drinking Water Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The rule making may be necessary to allow additional disadvantaged and nondisadvantaged communities to qualify for up to full principal forgiveness of a DWSRF loan in conformance with the requirements under BIL. The intent of the rule making is to protect public health by broadening the types of infrastructure improvements that would qualify for DWSRF loans, in addition to traditional funding uses such as replacing aging infrastructure, installing treatment to remove regulated contaminants, restructuring failing water systems, and responding to public health emergency events.

The department will take into consideration other federal regulations such as 40 C.F.R. Part 35 Subpart L, and BIL P.L. 117-58 - Bipartisan Infrastructure Investment and Jobs Act.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The federal Safe Drinking Water Act authorizes the United States Environmental Protection Agency to award capitalization grants to states, which in turn can provide low-cost loans and assistance to eligible public water systems.

Process for Developing New Rule: Collaborative.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Nina Helpling, P.O. Box 47820, Olympia, WA 98504-7820, phone 360-236-3065, TTY 360-833-6388 or 711, email [drinkingwaterrule@doh.wa.gov](mailto:drinkingwaterrule@doh.wa.gov) or [nina.helpling@doh.wa.gov](mailto:nina.helpling@doh.wa.gov), website [www.doh.wa.gov](http://www.doh.wa.gov); or Mike Means, P.O. Box 47820, Olympia, WA 98504-7820, phone 360-236-3178, TTY 360-833-6388 or 711, email [mike.means@doh.wa.gov](mailto:mike.means@doh.wa.gov), website [www.doh.wa.gov](http://www.doh.wa.gov).

Additional comments: The department will notify stakeholders and interested parties via email notices, website postings, and other forms of communication typically used within the industry of stakeholder meetings, proposed changes, the public hearing and open public comments periods. To be added to the interested parties list go to <https://public.govdelivery.com/accounts/WADOH/subscriber/topics> and click on "drinking water rules."

May 2, 2023

Kristin Peterson, JD  
Chief of Policy  
for Umair A. Shah, MD, MPH  
Secretary