

WSR 23-05-069

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed February 13, 2023, 12:30 p.m., effective February 13, 2023, 12:30 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Drinking water state revolving fund (DWSRF) loan terms. Under WAC 246-296-050 (DWSRF loan terms), the department of health (department) may approve a qualifying disadvantaged community for a DWSRF loan for principal forgiveness up to 50 percent of the loan amount, or in a case of an emergency for up to 75 percent of the loan amount. The current rule does not allow for any principal forgiveness to an applicant that does not qualify as a disadvantaged community. The amended rule allows the department to forgive a portion or all of the loan amount to both disadvantaged and nondisadvantaged communities in conformance with the federal bipartisan infrastructure law (BIL) to meet the federal deadline for awarding loans within this current loan cycle.

Citation of Rules Affected by this Order: Amending WAC 246-296-050.

Statutory Authority for Adoption: RCW 70A.125.160.

Other Authority: Federal Safe Drinking Water Act, 40 C.F.R. Part 35, Subpart L; and BIL P.L. 117-58.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The rule amendment is necessary for the preservation of the public health, safety, and general welfare of state citizens so that applicants can immediately receive a loan during the current cycle from November 30, 2022, to May 1, 2023, which allows for up to full principal forgiveness to communities that qualify as disadvantaged and nondisadvantaged in conformance with the requirements under BIL. This rule amendment increases public health protection by broadening the types of qualifying infrastructure improvements as outlined in BIL, 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.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: February 13, 2023.

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

**OTS-4344.1**

AMENDATORY SECTION (Amending WSR 16-14-086, filed 7/5/16, effective 8/5/16)

**WAC 246-296-050 DWSRF loan terms.** (1) The department may approve a DWSRF loan for a project that will not serve a disadvantaged community:

(a) That partially or fully forgives the principal amount of the loan; or

(b) At an interest rate at or below market interest rates for a maximum of ((twenty)) 20 years from project completion.

(2) The department may approve a DWSRF loan for a project((s)) that will serve a disadvantaged ((communities)) community:

(a) That partially or fully forgives the principal amount of the loan; or

(b) At an interest rate set at or below market interest rates for up to ((thirty)) 30 years, as long as the DWSRF loan does not exceed the useful life of the project((;

~~(b) That qualifies for principal forgiveness for up to fifty percent of the principal DWSRF loan amount; or~~

~~(c) That qualifies for principal forgiveness for up to seventy-five percent of the principal DWSRF loan amount for an emergency loan).~~

(3) A project is considered complete when the department approves the construction completion report.

(4) The borrower shall begin repaying the principal and interest no later than one year after the project is complete.

(5) The department shall:

(a) Set terms that secure repayment of the debt and maintain a financially sound DWSRF program in perpetuity; and

(b) Publish specific rates and contract terms in the annual application package.

[Statutory Authority: RCW 70.119A.170 as amended by 2016 c 111. WSR 16-14-086, § 246-296-050, filed 7/5/16, effective 8/5/16. Statutory Authority: RCW 70.119A.170. WSR 16-06-100, § 246-296-050, filed 3/1/16, effective 4/1/16. Statutory Authority: RCW 70.119A.170 and Federal Safe Drinking Water Act, H.R. 1452. WSR 12-01-077, § 246-296-050, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW 70.119A.170. WSR 01-21-137, § 246-296-050, filed 10/24/01, effective 11/24/01.]