Environmental Protection Agency

§35.3110 Fund establishment.

(a) Generally. Before the Regional Administrator (RA) may award a capitalization grant, the State must establish an SRF that complies with section 603 of the Act and this rule.

(b) SRF accounts. The SRF can be established within a multiple-purpose State financing program. However, the SRF must be a separate account or series of accounts that is dedicated solely to providing loans and other forms of financial assistance, but not grants.

(c) SRF administration. The SRF must be administered by an instrumentality of the State that is empowered to manage the Fund in accordance with the requirements of the Act. Where more than one agency of the State is involved in administering the activities of the State’s program, the functions and the relationships of those agencies must be established to the satisfaction of the RA.

(d) Documentation of the establishment of an SRF program. (1) As part of its initial application for the capitalization grant, the State must furnish the RA with documentation of the establishment of an SRF and designation of the State instrumentality that will administer the SRF in accordance with the Act.

(2) With each capitalization grant application, the State’s Attorney General (AG), or someone designated by the AG, must sign or concur in a certification that the State legislation establishing the SRF and the powers it confers are consistent with State law, and that the State may legally bind itself to the terms of the capitalization grant agreement.

(3) Where waiting for the AG’s signature or concurrence would by itself significantly delay awarding the first grant (i.e., there are no other issues holding up the award), the head or chief legal officer of the State agency which has direct responsibility for administering the SRF program may sign the certification at the time of the capitalization grant award, provided the capitalization grant agreement contains a special condition requiring the State to submit the AG/designee’s concurrence to EPA within a reasonable time, not to exceed 120 days, after the grant is awarded.

(e) Allotment. (1) Appropriations for fiscal years 1987 through 1990 under both title II and title VI programs will be allotted in accordance with the formula contained in section 205(c)(3) of the Act.

(2) Title VI funds are available for the Agency to obligate to the State during the fiscal year in which they are allotted and during the following fiscal year. The amount of any title VI allotment not obligated to the State at the end of this period of availability will be reallocated for title VI purposes in accordance with 40 CFR 35.2010.

(3) A State that does not receive grants that obligate all the funds allotted to it under title VI in the first year of its availability will not receive reallocated funds from that appropriation.

(4) Notwithstanding 40 CFR 35.910 and 40 CFR 35.2010(a), deobligations and reallocations of title II funds may be transferred to a title VI capitalization grant regardless of either the year in which the title II funds were originally allotted or the year in which they are deobligated or reallocated.
§ 35.3115  Eligible activities of the SRF.

Funds in the SRF shall not be used to provide grants. SRF balances must be available in perpetuity and must be used solely to provide loans and other authorized forms of financial assistance:

(a) To municipalities, inter-municipal, interstate, or State agencies for the construction of publicly owned wastewater treatment works as these are defined in section 212 of the Act and that appear on the State’s priority list developed pursuant to section 216 of the Act; and

(b) For implementation of a nonpoint source pollution control management program under section 319 of the Act; and

(c) For development and implementation of an estuary conservation and management plan under section 320 of the Act.

§ 35.3120  Authorized types of assistance.

The SRF may provide seven general types of financial assistance.

(a) Loans. The SRF may award loans at or below market interest rates, or for zero interest.

(1) Loans may be awarded only if:

(i) All principal and interest payments on loans are credited directly to the SRF;

(ii) The annual repayment of principal and payment of interest begins not later than one year after project completion;

(iii) The loan is fully amortized not later than twenty years after project completion; and

(iv) Each loan recipient establishes one or more dedicated sources of revenue for repayment of the loan.

(2) Where construction of a treatment works has been phased or segmented, loan repayment requirements