

**Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments**

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)					
	On or after	Before		$i_1$	$i_2$	$i_3$	$n_1$	$n_2$	
88	2-1-01	3-1-01	4.75	4.00	4.00	4.00	7	8	

3. In appendix C to part 4022, Rate Set 88, as set forth below, is added to the table. (The introductory text of the table is omitted.)

**Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments**

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)					
	On or after	Before		$i_1$	$i_2$	$i_3$	$n_1$	$n_2$	
88	2-1-01	3-1-01	4.75	4.00	4.00	4.00	7	8	

**PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS**

4. The authority citation for part 4044 continues to read as follows:

**Authority:** 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

5. In appendix B to part 4044, a new entry, as set forth below, is added to the table. (The introductory text of the table is omitted.)

**Appendix B to Part 4044—Interest Rates Used to Value Benefits**

For valuation dates occurring in the month—	The values of $i_t$ are:					
	$i_t$	for t =	$i_t$	for t =	$i_t$	for t =
February 2001	.0650	1-20	.0625	>20	N/A	N/A

Issued in Washington, DC, on this 5th day of January 2001.

**David M. Strauss,**  
*Executive Director, Pension Benefit Guaranty Corporation.*  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 35**

[FRL-6931-8]

RIN 2040-AD20

**Drinking Water State Revolving Funds Rule**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Adoption of interim final rule as final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) promulgated an interim

final rule on August 7, 2000 (65 FR 48286) which codified and implemented requirements for the Drinking Water State Revolving Fund (DWSRF) program. The interim final rule was effective on the date of publication in the **Federal Register**, but included a 60-day comment period to give interested parties an opportunity to comment. EPA indicated that comments would be considered and, if necessary, the Agency would issue a revised final rule changing the interim final rule to respond to comments. After careful consideration of the comments received on the interim final rule, EPA has determined that it will not make changes to the interim final rule.

**DATES:** The interim final rule became effective on August 7, 2000.

**ADDRESSES:** Public comments and the comment response document on the interim final rule have been established under Docket W-00-11, which includes supporting documentation, and is available for review at the Water Docket,

U.S. Environmental Protection Agency, 401 M Street, SW, East Tower Basement, Room EB57, Washington, DC 20460. For access to the Docket materials, please call (202) 260-3027 between 9 a.m. and 3:30 p.m. (Eastern Time), Monday through Friday, for an appointment and reference Docket W-00-11.

**FOR FURTHER INFORMATION CONTACT:** For technical inquiries, contact Kimberley Roy, Drinking Water Protection Division, Office of Ground Water and Drinking Water (MC-4606), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. The telephone number is (202) 260-2794 and the e-mail address is roy.kimberley@epa.gov. For general information, contact the Safe Drinking Water Hotline, toll free at (800) 426-4791. The Safe Drinking Water Hotline is open Monday through Friday, excluding Federal holidays, from 9:00 a.m. to 5:30 p.m. (Eastern Time). DWSRF program information, including

a copy of the interim final rule, are available on EPA's Office of Ground Water and Drinking Water website at <http://www.epa.gov/safewater/dwsrf.html>.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 1452 of the Safe Drinking Water Act (SDWA), 42 U.S.C. 300j-12, establishes a national DWSRF program to assist public water systems in financing the cost of drinking water infrastructure projects needed to achieve or maintain compliance with SDWA requirements and to further the public health objectives of the Act. Section 1452(g)(3) of the SDWA states that "the Administrator shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this section."

On August 7, 2000, the EPA promulgated an interim final rule (65 FR 48286) which codified the DWSRF Program Final Guidelines (EPA-816-R-97-005) published on February 28, 1997. The interim final rule establishes: what States must do to receive a capitalization grant; what States may do with capitalization grant funds intended for infrastructure projects; what States may do with funds intended for set-aside activities; and the roles of both the States and EPA in managing and administering the program. Both the DWSRF Program Final Guidelines and the interim final rule were the result of a thorough stakeholder consultation process.

The interim final rule was effective on the date of publication in the **Federal Register**, but included a 60-day comment period to give interested parties an opportunity to comment. EPA indicated that comments would be considered and, if necessary, the Agency would issue a revised final rule changing the interim final rule to respond to comments. EPA received comments from 15 parties by the close of the comment period on October 6, 2000. After careful consideration of the comments received on the interim final rule, EPA has determined that it will not make changes to the interim final rule. Accordingly, the interim final rule is adopted as a final rule without change.

##### II. Comments on Interim Final Rule

EPA received comments on the interim final rule from 15 parties representing a variety of interests. The majority of commentors represented State government and finance agencies that administer State DWSRF programs (10 commentors). Other commentors included trade associations (2

commentors); environmental/citizen groups (2 commentors); and a State association (one commentor). Commentors raised several key issues which are discussed below. The complete response to comments document has been established under Docket W-00-11 and is available for review.

Many of the comments that EPA received addressed issues that go beyond the scope of the interim final rule because they would involve changes to requirements found in the SDWA. Several commentors stated that the requirement that four percent of the allotment can be set aside for administration of the DWSRF program is insufficient for program administration oversight by States. This restriction on the amount of allotment that can be set aside for administration of the program is a requirement in section 1452(g)(2) of the SDWA. Several commentors stated that EPA should support extending the deadline for appropriations for the DWSRF program beyond fiscal year 2003 because of the success of the program. The preamble to the interim final rule reflects the language in section 1452(m) of the SDWA whereby Congress authorized appropriations for the DWSRF program through fiscal year 2003. One commentor stated that refinancing should be allowed for privately-owned systems and that the deadline for transfer of funds between the DWSRF and Clean Water SRF programs should be removed. The interim final rule reflects the provision in section 1452(f)(2) the SDWA which allows refinancing only for publicly-owned systems and the provision in section 302 of the SDWA that funds may not be transferred between the two SRF programs after September 30, 2001.

Several of the comments that EPA received asked for modifications to provisions that were discussed during development of the DWSRF Program Final Guidelines and which EPA indicated would not change as part of the rule development process. Specifically, five commentors disagreed with EPA's decision to include the requirement in the interim final rule that certain types of infrastructure projects are ineligible for assistance from the DWSRF program. One commentor agreed with EPA's decision. EPA maintains the position established during the development of the DWSRF Program Final Guidelines and reflected in the interim final rule that certain types of projects are ineligible for DWSRF program assistance because they do not further the objectives Congress set out in the SDWA to the

same extent as other projects that are eligible.

EPA received mixed comments on the level of public involvement that the interim final rule should require for States to have in their DWSRF programs. Several commentors stated that the rule should have more stringent requirements for public review and comment on State DWSRF programs. For instance, one commentor indicated that the rule should require a State to do more proactive outreach and education to small and disadvantaged communities and that the rule should require a State to use a percentage of its State program management set-aside for public outreach during the development of its Intended Use Plan (IUP). Other commentors indicated that the rule requires too much public review and comment as part of the IUP process. For instance, one commentor indicated that the rule should not require State decisions on the use of the set-aside funds to go through public comment as part of the IUP process because public input is already received as part of the State budget process. EPA believes that the public involvement requirements in the interim final rule allow for a balance between the need for the public to have sufficient opportunities to provide input on State DWSRF programs and the need for States to implement their programs in an efficient manner.

Several of the comments EPA received reflected a misunderstanding of the provisions in the interim final rule. One commentor stated that the rule should not require a State to include in its Biennial Report a demonstration of how it is complying with operator certification and capacity development provisions to avoid withholding of funds. In actuality, the rule does not require a State to demonstrate in its Biennial Report how it is complying with the withholding requirements. The rule only requires a State to agree as part of its capitalization grant agreement that it will provide the annual program submittals that are required in the capacity development and operator certification programs. Several commentors stated that the provision to allow set-aside funds to be used for planning and design costs associated with infrastructure projects for small systems is too narrow and that it precludes a State from funding the development of comprehensive water system plans for systems of all sizes. In actuality, the language in the rule does not preclude a State from providing funds for the development of comprehensive water system plans as part of capacity development assistance since these would not be considered

planning and design costs. Thus, a State could use the State program management set-aside to fund water system plans for systems of all sizes, not just small systems.

EPA received mixed comments on the level of stakeholder involvement provided for during the rule development process. Several commentors commended EPA for the level of stakeholder input on many policy matters in the rule and for the Agency's responsiveness to comments received on the rule. Other commentors stated that stakeholder involvement in the rule should have been broader and more inclusive. EPA believes that the interim final rule gives States a high degree of flexibility to operate their programs and is the result of a thorough stakeholder consultation process that went beyond what is required under the Administrative Procedures Act. The rule is primarily a codification of the DWSRF Program Final Guidelines which went through an extensive public comment and review process. Any additions or modifications to the Final Guidelines that are reflected in the rule went through rounds of public comment and revisions in memoranda, guidance documents, or were published in the **Federal Register** for comment. Stakeholders were also given multiple opportunities to provide comments during the rule development process and all comments received were carefully considered.

### III. Administrative Requirements

#### *Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3).

#### **List of Subjects in 40 CFR Part 35**

Drinking water, Environmental protection, Grant programs—environmental protection, Public health, Safe drinking water act, State revolving funds, Water supply.

Dated: December 27, 2000.

**J. Charles Fox,**

*Assistant Administrator, Office of Water.*

Accordingly, the interim final rule is adopted as a final rule without change. [FR Doc. 01-693 Filed 1-11-01; 8:45 am]

**BILLING CODE 6560-50-P**

## **FEDERAL EMERGENCY MANAGEMENT AGENCY**

### **44 CFR Part 64**

[Docket No. FEMA-7753]

#### **Suspension of Community Eligibility**

**AGENCY:** Federal Emergency Management Agency, FEMA.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

**DATES:** The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

**ADDRESSES:** If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

**FOR FURTHER INFORMATION CONTACT:** Donna M. Dannels, Branch Chief, Policy, Assessment and Outreach Division, Mitigation Directorate, 500 C Street, SW., Room 411, Washington, DC 20472, (202) 646-3098.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be

available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

*National Environmental Policy Act.* This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

*Regulatory Flexibility Act.* The Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts