

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-5711-8]

### Guidelines for Implementing the Hardship Grants Program for Rural Communities

**ACTION:** Notice of Availability of the Hardship Grants Program for Rural Communities.

**SUMMARY:** The Environmental Protection Agency is publishing the final Guidelines for Implementing the Hardship Grants Program for Rural Communities, including the funding allotment. (Catalogue of Domestic Federal Assistance #66.470)

**ADDRESSES:** Write to Stephanie vonFeck (4204), Environmental Protection Agency, 401 M Street SW, Washington, DC 20460, or via Internet at [vonfeck.stephanie@epamail.epa.gov](mailto:vonfeck.stephanie@epamail.epa.gov) for copies of the final Guidelines.

**FOR FURTHER INFORMATION CONTACT:** Stephanie vonFeck (4204), Environmental Protection Agency, 401 M Street SW, Washington, DC 20460, (202)260-2268.

**SUPPLEMENTARY INFORMATION:** These Guidelines implement a \$50 million grant program contained in the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub.L. 104-134). The Agency will make grants to States, which in turn can provide assistance to improve wastewater treatment services in poor, rural communities with populations of 3,000 or fewer where such services are currently inadequate. The Hardship Grants Program for Rural Communities will be coordinated with the Clean Water State Revolving Fund (SRF) program and in accordance with the SRF program regulations at 40 CFR part 35, subpart K and existing Agency grant regulations and procedures, including 40 CFR part 31.

The Hardship Grants Program for Rural Communities may be subject to your State's intergovernmental review process under Executive Order 12372, and/or the consultation requirements of Section 204, Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. 3334 (the Act). Applicants must contact their State's Single Point of Contact (SPOC) for intergovernmental review as early as possible to find out whether Hardship grant applications (CFDA #66.470) are subject to the State's Executive Order 12372 review process and, if so, what material must be submitted to the SPOC for review. If the application is for a community within a "metropolitan area" as that term is

defined at 42 U.S.C. 3338(4), then the requirements of the Act are applicable. You must notify area-wide metropolitan or regional planning agencies and or general government units authorized to govern planning for the locale of your project of your intended application. SPOCs and other reviewers should send their comments concerning Hardship Grant applications to the appropriate Regional State Revolving Fund Coordinator no later than 60 days after receipt of an application and other required material for review. In accordance with 40 C.F.R. 29.8(c) a 60 day review is mandatory for projects subject to the Act.

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this document in today's Federal Register. This document is not a "major rule" as defined by 5 U.S.C. 804(2).

Dated: March 17, 1997.

Dana Minerva,  
*Acting Assistant Administrator.*

### Appendix—Hardship Grants Program for Rural Communities Background

On May 16, 1995, the House passed the Clean Water Amendments of 1995 (H.R. 961), a bill to reauthorize the Clean Water Act. Section 102(d) of this bill authorizes \$50 million for each of Fiscal Years 1996 through 2000 for grants to States, which the States in turn can use to provide assistance for the wastewater needs of poor, rural communities. Although no further action was taken on H.R. 961, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134), which the President signed into law on April 26, 1996, provided \$50 million for these grants in FY 1996, stating that they are to be used in accordance with section 102(d) of H.R. 961. This sum is to be taken from the \$1.3485 billion reserved for capitalization grants to State Revolving Funds (SRF) under title VI of the Clean Water Act.

Section 102(d) of the House Clean Water Act reauthorization bill (H.R. 961) reads, in pertinent part:

(T)he Administrator may make grants to States to provide assistance for planning, design, and construction of publicly owned treatment works and alternative wastewater treatment systems to provide wastewater services to rural communities of 3,000 or less

that are not currently served by any sewage collection or wastewater treatment system and are severely economically disadvantaged, as determined by the Administrator.

The relevant clause in the "State and Tribal Assistance Grants" language of the Omnibus Appropriations Act reads:

Provided Further, That of the funds made available under this heading for capitalization grants for State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended, \$50,000,000 shall be for wastewater treatment in impoverished communities pursuant to section 102(d) of H.R. 961 as approved by the United States House of Representatives on May 16, 1995 . . .

Although the legislative history to H.R. 961 does offer some instruction on how to define a "severely economically disadvantaged" community, additional documented direction from Congress about this new program is scant (Attachment A contains excerpts from both the legislative history to section 102 and the Omnibus Appropriations Act provision). In the absence of detailed guidance from Congress, the Agency plans to administer this program in concert with existing programs and procedures to the maximum extent possible.

### Basic Principles for Administering Rural Community Hardship Grants

EPA Regions will be responsible for awarding grants to the States, pursuant to a delegation of authority signed by the Administrator (Attachment B). States will make grant awards to individual communities or projects or will provide technical assistance to qualifying communities. The award of grants or the provision of technical assistance by a State to benefit qualifying communities will be referred to in these guidelines as hardship assistance. The definition of technical assistance is provided under the heading "Eligible Projects".

Except as described in the following section, the Agency will administer the rural community hardship grants in conjunction with the Clean Water State Revolving Fund program (CW SRF), because the CW SRF capitalization grant appropriation is the source for these funds and because the program provides an established funding mechanism in each State. By combining CW SRF loans and grants, more qualifying communities will benefit from the limited funding that is available. The communities would also continue to have a stake in their projects, and thereby an incentive to keep project costs low.

In addition to the CW SRF capitalization grant, States will be awarded a separate grant consisting of funds which can be awarded as hardship assistance to qualifying communities. These funds are in addition to the CW SRF capitalization grant awarded to the State. Communities that apply for CW SRF loans and that qualify according to the criteria established in these guidelines and any additional State guidelines would then be able to receive hardship assistance in an amount that would make that CW SRF loan affordable.

The loan amount must account for at least 15 percent of the CW SRF-eligible cost of the project before the Agency will consider it an SRF project. Otherwise, the project will be governed by the guidelines described under the following heading below: "Projects receiving less than 15 percent in SRF funding or hardship assistance only". All communities seeking hardship assistance must apply for an SRF loan. The State will then determine the appropriate mix of hardship grant and SRF loan funds.

Administering this program in conjunction with the CW SRF program has a number of other advantages. The approach will encourage communities to move forward with needed project construction, rather than wait to receive grant funding for the entire cost of those projects. Projects in communities that receive hardship assistance will receive public review and approval because they will be listed on the State's CW SRF Intended Use Plan (IUP). These projects will also undergo an environmental review, under State Environmental Review Procedures (SERP) established for the CW SRF program, and will comply with other SRF requirements which are more streamlined than the requirements that apply to projects funded with direct Federal grants. For example, compliance with cross-cutting Federal environmental authorities can be accomplished in conjunction with the SERP. A listing of cross-cutting Federal authorities currently applicable in the CW SRF program is attached (Attachment C).

EPA's general grant regulations at 40 CFR part 31 and other Agency regulations that apply to grant recipients (e.g., 40 CFR part 32, debarment, suspension, and drug-free workplace requirements), will apply to the State as the grant recipient, in the same manner as they apply to the State as the recipient of CW SRF capitalization grants. Because projects receiving hardship assistance will be projects listed on the State's CW SRF IUP and

will also be receiving SRF loans, the States must follow the Agency's SRF regulations at 40 CFR part 35, subpart K, with respect to the recipients of that assistance. The CW SRF regulations prescribe rules for drawing cash and for the specific types of assistance CW SRF can provide. The rules for drawing cash for hardship assistance are described under the heading "Allocation of grant funds" below.

In addition to hardship assistance for rural communities described in these guidelines, there are a number of other Federal programs that provide loan and grant assistance for the wastewater needs of rural communities. The water and wastewater loan and grant program administered by USDA's Rural Utility Service and the Department of Housing and Urban Development's Community Development Block Grants are just two examples. Often, these other Federal programs can provide assistance for costs that would be ineligible under the statutory provisions being implemented in these guidelines (e.g., indoor plumbing may be funded by CDBG funds in limited circumstances). The Agency expects that State officials will take these other programs' benefits into account in devising the most effective assistance package for a rural community.

#### Projects Receiving Less Than 15 Percent in SRF Funding or Hardship Assistance Only

If a qualifying community cannot afford a loan for at least 15 percent of a project's CW SRF-eligible cost, the State may elect to provide less than a 15 percent CW SRF loan or hardship assistance alone. In these cases, provisions in the general grant regulations at 40 CFR part 31 and other rules that apply to subrecipients of grants, but not to SRF loan recipients (e.g., 40 CFR part 32; debarment, suspension, and drug-free workplace requirements), will apply to the recipient of the hardship assistance. In addition to the general grant regulations, which prescribe rules on financial management, procurement and record keeping practices of subgrantees, projects receiving hardship assistance alone or less than 15 percent SRF funding must comply with Federal cross-cutting authorities and with Agency regulations implementing the National Environmental Policy Act at 40 CFR part 6. The State will be responsible for ensuring that communities receiving hardship assistance alone or less than 15 percent SRF funding are aware of requirements imposed upon them by Federal statute and regulation. As part of the Hardship

Grant agreement, the State and EPA will negotiate their respective roles for ensuring that these projects comply with 40 CFR part 31 and Federal cross-cutting authorities.

#### Grants to States

The Agency will make hardship rural community program grants to the States separately from CW SRF capitalization grants. Before receiving a grant and no later than one year from the date of publication of funding allotment in the Federal Register, the Governor of the State must submit a Notice of Intent to use the grant for the purposes of the program. If the Governor elects not to submit a Notice, grant funds available to that State will then be allocated among those States that have furnished a Notice. Grant funds will be available for obligation to the State for two years from the date of publication of funding allotment in the Federal Register. Funds not obligated during that period will be reallocated and awarded to States that have received an obligation of all such funds during that period. All reallocated funds will be available for obligation within two years of the date of reallocation.

The State must specify which department of government will receive and administer the grant funds. The department or agency that receives the hardship assistance grant does not need to be the same department that administers the State Revolving Fund. However, close coordination between these programs is necessary to meet the requirements of these guidelines. If an agency other than that which administers the State Revolving Fund will administer the Hardship Grant program, a memorandum of understanding (MOU) or similar agreements between the agencies will be required in the Hardship Grant application to EPA. MOUs should clearly delineate the division of management responsibilities among agencies.

The Hardship Grants Program for Rural Communities may be subject to your State's intergovernmental review process under Executive Order 12372, and/or the consultation requirements of Section 204, Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. 3334 (the Act). Applicants must contact their State's Single Point of Contact (SPOC) for intergovernmental review as early as possible to find out whether Hardship grant applications (CFDA #66.470) are subject to the State's Executive Order 12372 review process and, if so, what material must be submitted to the SPOC for review. If the application is for a community within a

"metropolitan area" as that term is defined at 42 U.S.C. 3338(4), then the requirements of the Act are applicable. You must notify area-wide metropolitan or regional planning agencies and/or general government units authorized to govern planning for the locale of your project of your intended application. SPOCs and other reviewers should send their comments concerning Hardship Grant applications to the appropriate Regional State Revolving Fund Coordinator no later than 60 days after receipt of an application and other required material for review. In accordance with 40 CFR 29.8(c) a 60 day review is mandatory for projects subject to the Act.

The costs of administering the program shall not be deducted from the hardship assistance grant. Administration funds must not be from any fees or other charges imposed on the communities likely to be served by the grant. Administering the program does not include the costs of providing technical assistance to benefit qualifying communities.

#### Allocation of Grant Funds

The \$50 million dollars appropriated by the Consolidated Omnibus Appropriations and Rescissions Act of Fiscal Year 1996 (P.L. 104-134) for hardship grants are allotted among the 50 States, Puerto Rico, and the territories as of the date of this Federal Register notice. Attachment D provides the funding allotment. The District of Columbia and the former trust territory of Palau will not receive hardship grant funds. The District of Columbia has no qualifying communities. Palau no longer receives new Federal assistance for infrastructure needs (Pub. L. 99-239; Compact of Free Association Act).

Comments from both Congress and States indicate that the CW SRF formula would not sufficiently target the hardship funds to areas of the country with the most potential need. Two program requirements are included in the formula for allocation. Lack of access to centralized wastewater collection and treatment systems and per capita income are the indicators of hardship need that will help target the funds to areas of the country with the greatest need. The first of these factors is weighted 75 percent and the second 25 percent. More weight is given to households without access to wastewater treatment systems because it represents a stronger indicator of environmental problems.

National data regarding these indicators was obtained from the 1990 Census of Housing and the 1990 Census of Population published by the U.S.

Bureau of the Census. The 1990 Census provides the most up-to-date data for rural areas nationwide. The Bureau of the Census provides a data threshold for rural populations of 2,500 or fewer. This population threshold is the closest available from the Bureau of the Census to the 3,000 person population limit of the hardship grants program. Because communities must be rural, both indicators of need used in the allotment formula are narrowed to rural populations within States. For instance, data for households without access to centralized wastewater treatment in each State relates only to households in rural areas of 2,500 or fewer people that do not have access to centralized treatment. Per capita income data in each State is related to rural areas of 2,500 or fewer people where the per capita income is not greater than 80% of national per capita income. Due to lack of consistent household and income data for the Territories, the Territories are allotted funds based on their CW SRF allotment formula. More details on the allotment methodology are available in Attachment E.

The Territory of Guam, Territory of American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands do not operate CW SRF programs and instead receive their SRF allotments for use as construction grants under title II of the Clean Water Act (Pub. L. 101-144, as amended by Pub. L. 101-302). These jurisdictions may receive hardship assistance for the entire cost of a project benefiting a qualifying community or to supplement a construction grant that is made for a project benefiting a qualifying community.

Indian Tribes are not treated as States under the hardship grant program. Instead, Tribes receive one-half of one percent of the CW SRF appropriation for use as construction grants (Clean Water Act section 518(c), 33 U.S.C. 1377(c)). Nonetheless, data for Indian Tribe communities that qualify under the criteria described in these guidelines are included in the Census data used to develop the State allocation formula. Indian Tribes may receive hardship assistance from the State, either for the entire cost of a project, to supplement a construction grant, or to supplement a CW SRF loan. States are encouraged to provide due consideration to all qualified applicants, including Indian Tribes, when developing their IUPs and apportioning hardship assistance among qualifying communities.

When the grant is awarded to the State, the Agency will make funds available for cash draws through the Automated Clearinghouse (ACH)

process established in each State for EPA grants. The State may then draw cash through the ACH for the expenses involved in providing technical assistance and to reimburse communities as construction proceeds.

Within one year of the end of the period of availability, the State must enter into commitments to provide hardship assistance to benefit qualifying communities in an amount equaling 105 percent of the amount of the grant.

#### State Match

In order to increase the amount of funds available for the purpose of this program, each State will provide a 5 percent match for the grant. The source of the match must be identified on or before the date the Federal award of the grant is made, with actual cash being required at the time of cash draw from the ACH. Matching funds must not be from any fees or other charges imposed on the communities likely to be served by the grant. The State cannot use SRF assets to acquire the match.

Funding from other Federal assistance programs may be used for matching funds if specifically allowed by the laws and procedures of those programs. Funding from the Environmental Protection Agency may not be used as match for this program.

#### Obligations of the States as a Grantee

The State must comply with the Agency's general grant regulations at 40 CFR part 31 to the extent that they involve matters that are not addressed by these guidelines for administering the particular requirements of section 102(d) of H.R. 961 and the Omnibus Appropriations Act. The part 31 regulations contain requirements on applying for the grants, maintaining finances in accordance with State rules, and auditing the grants.

Other matters related to the State's operation of the program should be negotiated between the State and the Regional office, and should be specified in the State's CW SRF Operating Agreement (OA) or in the hardship grant agreement itself. The State must also furnish a statement signed by the State's Attorney General certifying that the State has the legal authority to receive and administer the grant in accordance with these guidelines and that the State can legally bind itself to the terms of the grant agreement. This Attorney General's certification can be done in conjunction with the Attorney General's certification required for CW SRF capitalization grants under 40 CFR 35.3110(d)(2).

All projects that the State intends to provide hardship assistance must

appear in the CW SRF IUP, including individual projects and the provision of technical assistance. The State agency that is receiving the grant should consult State community development or rural assistance departments for assistance in identifying qualifying communities. Progress on hardship assistance projects must be described in the State's CW SRF Annual Report. A database being developed for the hardship grants program in conjunction with the SRF Information Management System States are required to provide data to EPA Regional offices for inclusion in the information system.

#### Qualifying Communities

In consultation with the Regional office, the State may provide hardship assistance, including technical assistance, to benefit any community of more than a single household but no more than 3,000 inhabitants that is identified by the State as a rural community, is not a remote area within the corporate boundaries of a larger city, and satisfies the criteria described below. In cases where the entire State is divided into incorporated areas, the State should propose, as part of its application for Regional approval, a method for delineating rural communities.

In the legislative history to the Clean Water Amendments of 1995, national per capita income and unemployment rates are the criteria recommended by the sponsors of section 102(d) for determining whether a community is "severely economically disadvantaged" (House debate, remarks of Mr. Shuster, Cong. Rec. H5008, May 16, 1995). Consequently, a community may qualify for hardship assistance if, on the date the community applies for assistance:

- The community lacks centralized wastewater treatment or collection systems or needs improvements to onsite wastewater treatment systems and the State determines that assistance will improve public health or reduce an environmental risk; and
- Per capita annual income of residents served by the project does not exceed 80 percent of national, per capita income, based on data available as indicated in the following paragraphs; and
- On the date the community applies for assistance, the local unemployment rate exceeds by one percentage point or more the most recently reported, average yearly national unemployment rate.

Due to the shortage of up-to-date income and unemployment information for hardship communities, States will have the flexibility to determine the

source of the data and the methodology used to compare communities to these standards. This information should be included in the State's hardship grant application and is subject to Regional approval.

#### Per Capita Income Data

There are two sources of national per capita income data—the Bureau of the Census and the Bureau of Economic Analysis (BEA). The most recent, comprehensive nationwide survey of per capita income was provided by the Bureau of the Census in 1990. This income data is periodically updated. The Bureau of the Census measures per capita income by cash equivalents. In 1994, the updated national per capita income reported by the Bureau of the Census was \$16,555, 80 percent of which is \$13,244.

The Bureau of Economic Analysis also measures per capita income. However, their measure includes cash income as well as other income, such as benefits, food stamps, etc. BEA's 1994 national per capita income was \$21,696, 80 percent of which is \$17,357.

Local level data is also available to varying degrees from the Bureau of the Census and the Bureau of Economic Analysis. The 1990 Census has the most recent comprehensive local level data available. In 1994 the Bureau of the Census updated per capita income data for the nation, States, and metropolitan statistical areas. BEA updates their per capita income yearly to the county level. The latest county level BEA data is for 1994. States and communities may also choose to generate local level data by performing a survey of the community. Income survey tools are used for the U.S. Department of Housing and Urban Development's Community Development Block Grant program that can be modified for use in this program.

Options for comparing local data to national data include, but are not limited to:

- Comparing a community's 1990 Census data to national data from the 1990 Census;
- Adjusting 1990 Census data for a community to a more recent year, using State multipliers, so that it is comparable to the latest national Census data;
- Surveying a community to gather up-to-date local data for comparison to either Census or BEA data as appropriate; or
- Using county BEA data to qualify the county as a whole for the income requirement. Small communities within that county that meet the other criteria of size, rural, lack of access to

wastewater systems, and unemployment would then qualify for funding.

#### Unemployment Data

Unemployment data is available from the Bureau of Labor Statistics (BLS). The unemployment rates are updated monthly for the national, State, and county level. Average yearly unemployment is computed by adding the last 12 monthly unemployment rates and dividing by 12 for both the national and county level. States are free to use county BLS data to qualify the county as a whole for the unemployment requirement. Small communities within that county that meet the other criteria of size, rural, lack of access to wastewater systems, and per capita income would then qualify for funding. States and communities may also choose to generate community level unemployment data by performing a survey of the community.

#### Eligible Projects

A State can provide assistance from the grant for the planning, design and construction of publicly owned treatment works and alternative wastewater systems. Publicly owned treatment works and alternative treatment systems include those defined in section 212 of the Clean Water Act which are commonly funded under the CW SRF program and with construction grants under Title II of the Act. States should consider how projects receiving hardship assistance will best meet the objectives of their watershed plans or the Intended Use Plan, where watershed plans are not available, when selecting projects for funding. Recipients of hardship assistance should consider the cost-effectiveness of alternative means for addressing its wastewater treatment needs.

The sponsors of H.R. 961 viewed the assistance options under section 102(d) broadly, stating in the Committee Report that they include "training, technical assistance and educational programs relating to the operation and maintenance of such sanitation services." (H. Rept. 104-112, p. 101). The decision on the level of funding to provide for planning, design and construction versus training, technical assistance and education programs is at the State's discretion. However, onsite technical assistance may only be provided to qualified communities and the primary purpose of technical seminars and other training must be to train qualified communities.

### Obtaining Hardship Rural Community Assistance

Before the State may offer hardship assistance, it must ensure that projects in qualifying communities appear in the CW SRF Intended Use Plan (IUP). The State should explain in its IUP the level of SRF loan and hardship grant assistance that may be available for these communities. Hardship grants should be available only to the extent that an SRF loan is not affordable. In the State's CW SRF Annual Report (section 606(d) of the Clean Water Act), which contains information relating to the goals, objectives, and accomplishments set out in its IUP, the State must also report on the progress of its hardship grant assistance efforts.

Qualifying communities should apply for hardship assistance when applying for CW SRF loans under procedures established for the State's CW SRF program. The State and the community can then decide on the appropriate mix of SRF loan funds and hardship assistance. If a community cannot afford a 15% SRF loan, it may receive more than an 85% grant or hardship assistance only and proceed under the general grant regulations at 40 CFR part 31, as described previously.

### Attachment A—Hardship Grants for Rural Communities

From the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134):

#### State and Tribal Assistance Grants

For environmental programs and infrastructure assistance . . . Provided Further, that of the funds made available under this heading for capitalization grants to State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended, \$50,000,000 shall be for wastewater treatment in impoverished communities pursuant to section 102(d) of H.R. 961 as approved by the United States House of Representatives on May 16, 1995 . . .

From H. Rept. 104-384 (Conference Report to accompany H.R. 3019, which would be enacted as the Omnibus Consolidated Rescissions and Appropriations Act of 1996):

From within the amount appropriated for wastewater capitalization grants, \$50,000,000 is to be made available for wastewater grants to impoverished communities pursuant to section 102(d) of H.R. 961 as approved by the House of Representatives on May 16, 1995. The Conferees expect the Agency to closely monitor state compliance with this provision to assure that funds are obligated appropriately and in a timely manner. Unused funds allocated for this purpose are to be made available for other wastewater capitalization grants.

From section 102(d) of H.R. 961, the Clean Water Amendments of 1995, adding subsection (5) to section 104(q) of the Federal Water Pollution Control Act:

#### (5) Small Impoverished Communities—

(A) Grants.—The Administrator may make grants to States to provide assistance for planning, design, and construction of publicly owned treatment works and alternative wastewater treatment systems to provide wastewater services to rural communities of 3,000 or less that are not currently served by any sewage collection or wastewater treatment system and are severely economically disadvantaged, as determined by the Administrator.

(B) Authorization.—There is authorized to be appropriated to carry out this paragraph \$50,000,000 per fiscal year for fiscal years 1996 through 2000.

From H. Rept. 104-112, to accompany H.R. 961, the Clean Water Amendments of 1995:

Wastewater Treatment in Impoverished Communities. Section 102(d) authorizes \$50 million per year for fiscal years 1996 through 2000 for EPA to award grants to States for funding the planning, design and construction of POTWs in small, impoverished communities of 3,000 people or less that lack sewage treatment systems and are severely economically disadvantaged.

In communities with these circumstances, the committee believes the award of federal grant monies is justified for the protection of human health and the environment, and as further insurance for the government's investment, grant monies may be used for training, technical assistance and education programs relating to the operations and maintenance of such sanitation services.

Despite enactment of the Federal Water Pollution Control Act of 1972 and the expenditure of billions in federal funds for the construction of POTWs (sic), thousands of small communities still are not served by central wastewater treatment facilities today. Many small impoverished communities lack the resources even to repay low or zero-interest loans under the current SRF structure. Without financial assistance, untreated human sewage will continue to flow from pipes and seep from poorly functioning septic systems and privies, posing human health and environmental risks.

The Committee anticipates working closely with the Administrator to develop appropriate criteria regarding "severely economically disadvantaged."

From House debate on H.R. 961 (Congr. Rec. H5008, 104th Congress, 1st session); Remarks of Mr. Shuster, Chairman, Transportation and Infrastructure Committee:

Administration of the funding provisions need additional clarification. Section 102(d) of H. R. 961 authorizes the Administrator of EPA to make grants to the States for planning, design, and construction of publicly owned treatment works in rural

communities of 3,000 people or less which are severely economically disadvantaged. The committee report states the committee's intention to work closely with the Administrator to develop appropriate criteria regarding severely economically disadvantaged. I wish to clarify that the committee considers eligible communities as those having a per capita income of no more than 80 percent of the national average and an unemployment rate of 1 percent or more above the national average.

### Attachment B—Memorandum

SUBJECT: Proposed Delegation of Authority to Approve Grants and Cooperative Agreements for Water Infrastructure Projects for Fiscal Year 1996 and Subsequent Years to the State and Tribal Assistance Grants Account and any Successor Accounts—DECISION MEMORANDUM

#### FROM:

Robert Thorlakson, Director /s/  
Office of Water/Office of Research and Development Human Resources Staff

David R. Alexander, Director /s/  
Organization and Management Consulting Services

TO: The Administrator

THRU: AX

Issue: The Office of Water (OW) proposes delegating to Regional Administrators (RAs) the authority to approve grants and cooperative agreements for water infrastructure projects and grants to States for providing assistance to "severely economically disadvantaged rural communities" from funds appropriated in Fiscal Year 1996 and subsequent years to the State and Tribal Assistance Grants Account and any successor accounts.

#### Background

The Fiscal Year 1995 Appropriations Act for VA, HUD, and Independent Agencies (P.L. 103-327) authorized the award of grants for 50 water infrastructure projects identified in the Conference Report (H.R. Report No. 715, 103d Congress, 2d Sess. at 39-43 (1994)). The authority to award these grants was delegated to Regional Administrators by Delegation No. 1-92, 1200 TN 373, dated 10/31/94. All funds available for the 50 projects under this appropriation have been awarded.

The EPA section of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (P.L. 104-134) authorizes \$306.5 million in grant funding for 22 water infrastructure projects including some for which funds have been provided by P.L. 103-327 and for which additional grants have been awarded from funds provided by

Continuing Resolutions (CRs) enacted prior to the enactment of P.L. 103-134. Close coordination with State and local agencies requires award and administration of these grants and cooperative agreements at the regional level.

#### Analysis and Review

A new delegation is needed to allow Regional Administrators to award the remaining funds authorized by P.L. 104-134 for Congressionally-designated water infrastructure projects and grants to States for providing assistance to "severely economically disadvantaged rural communities" because these grants will be subject to different terms and conditions—for example those concerning local cost-share arrangements—than those awarded with funds provided by P.L. 103-327 and the FY 1996 CRs. Further, the FY 1996 Appropriations Act (P.L. 104-134) is the only statutory authority to award grants to many of the projects, so delegations already issued for other statutes (such as the Clean Water Act) are insufficient to allow Regional Administrators to award the grants. The new delegation of authority has been written so it will cover grants for similar water infrastructure projects authorized by future appropriations to the State and Tribal Assistance Grants Account or successor accounts.

The delegation proposal was distributed under the Directives Clearance Record review process to 15 offices. Three offices and three regions submitted comments. The Office of Grants and Debarment (OGD) and Region 8 submitted comments relating to the appropriate level for redelegation authority. The OGD also proposed adding an additional reference and deleting another reference. The Office of General Counsel had editorial comments and reviewed language changes proposed by other reviewers. Region 2 comments suggested that this delegation provide authority to award grants to States for providing assistance to "severely economically disadvantaged rural communities." No issue resolution was requested by any office or regions and editorial comments submitted were incorporated into the final delegation.

#### Recommendation

This delegation is needed immediately to respond to the numerous requests from grantee agencies who have already developed applications. We recommend that you approve the proposed delegation by signing below.

Approved: Carol M. Browner.

Dated: June 21, 1996.

#### Attachment

Delegation of Authority—Grants and Cooperative Agreements for Water Infrastructure Projects from Funds Appropriated for FY 1996 and Subsequent Years to the State and Tribal Assistance Grants Account and Any Successor Accounts.

#### Delegations Manual

[1200 TN 425]

June 21, 1996.

#### General, Administrative, and Miscellaneous

1-102. Grants and cooperative agreements for water infrastructure projects from funds appropriated for fiscal year 1996\* and subsequent years to the State and Tribal Assistance Grants Account and any successor accounts.

1. *Authority:* To approve grants and cooperative agreements for water infrastructure projects and grants to States for providing assistance to "severely economically disadvantaged rural communities" from funds appropriated for Fiscal Year 1996\* and subsequent years to the State and Tribal Assistance Grants Account and any successor accounts and to perform other activities necessary for the effective administration of those grants and cooperative agreements.

2. *To Whom Delegated:* Regional Administrators.

3. *Redelegation Authority:* This authority may be redelegated to the Division Director or equivalent level and may not be redelegated further.

4. *Limitations:* a. This delegation applies only to those grants and cooperative agreements for which there is no authority other than the statute making appropriations to the State and Tribal Assistance Grants Account and any successor accounts in Fiscal Year 1996\* and subsequent years.

b. Awards are subject to guidance issued by Office of Wastewater Management and Office of Comptroller.

5. *Additional References:* a. Authority to execute (sign) these financial assistance agreements is delegated to the Regional Administrators under Delegation 1-14, "Assistance Agreements";

- b. 40 CFR Part 31,
- c. 40 CFR Part 40 for Demonstration grants,
- d. 40 CFR Part 35, Subpart K, and
- e. EPA Assistance Administration Manual.

\* The Omnibus Consolidated Rescissions and Appropriations Act of 1996 (P.L. 104-134).

#### Attachment C—Cross-Cutting Federal Authorities Applicable as of June 1996

(Note: This list is subject to change. For further information about the applicability of specific requirements, please contact the appropriate Regional Office of EPA.)

#### Environmental

Archeological and Historic Preservation Act of 1974, PL 93-291  
Clean Air Act, 42 USC 7506(c)  
Coastal Barrier Resources Act, 16 USC 3501, et seq.  
Coastal Zone Management Act of 1972, PL 92-583, as amended  
Endangered Species Act, 16 USC 1531, et seq.  
Executive Order 11593, Protection and Enhancement of the Cultural Environment  
Executive Order 11988, Floodplain Management  
Executive Order 11990, Protection of Wetlands  
Farmland Protection Policy Act, 7 USC 4201, et seq.  
Fish and Wildlife Coordination Act, PL 85-624, as amended  
National Historic Preservation Act of 1966, PL 89-665, as amended  
Safe Drinking Water Act, section 1424(e), PL 92-523, as amended  
Wild and Scenic Rivers Act, PL 90-542, as amended

#### Economic

Demonstration Cities and Metropolitan Development Act of 1966, PL 89-754, as amended  
Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including  
Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans

#### Social

Age Discrimination Act, PL 94-135  
Civil Rights Act of 1964, PL 88-352  
Section 13 of PL 92-500; Prohibition against sex discrimination under the Federal Water Pollution Control Act  
Executive Order 11246, Equal Employment Opportunity  
Executive Orders 11625 and 12138, Women's and Minority Business Enterprise  
Rehabilitation Act of 1973, PL 93-112 (including Executive Orders 11914 and 11250)

#### Miscellaneous

Uniform Relocation and Real Property Acquisition Policies Act of 1970, PL 91-646  
Executive Order 12549, Debarment and Suspension

Attachment D—Fiscal Year 1996  
Allotment of Hardship Grant  
Assistance

| State                   | Households w/<br>o access allo-<br>cation<br>@\$37.5M<br>(75% of \$50<br>M) | Income based<br>allocation<br>@\$12.5M<br>(25% of \$50<br>M) | State alloca-<br>tion @\$50M |
|-------------------------|---|--|------------------------------|
| ALABAMA .....           | \$1,107,300   | \$348,500  | \$1,455,800                  |
| ALASKA .....            | 132,500   | 61,600   | 194,100                      |
| ARIZONA .....           | 316,200   | 128,300  | 444,500                      |
| ARKANSAS .....          | 670,300   | 362,000  | 1,032,300                    |
| CALIFORNIA .....        | 1,232,500   | 194,700  | 1,427,200                    |
| COLORADO .....          | 310,000   | 168,400  | 478,400                      |
| CONNECTICUT .....       | 448,400   | 4,200  | 452,600                      |
| DELAWARE .....          | 133,200   | 22,700   | 155,900                      |
| DIST. OF COLUMBIA ..... | 0   | 0  | 0                            |
| FLORIDA .....           | 1,303,300   | 207,400  | 1,510,700                    |
| GEORGIA .....           | 1,514,800   | 378,300  | 1,893,100                    |
| HAWAII .....            | 57,400  | 52,000   | 109,400                      |
| IDAHO .....             | 230,600   | 138,100  | 368,700                      |
| ILLINOIS .....          | 784,300   | 532,900  | 1,317,200                    |
| INDIANA .....           | 1,052,400   | 345,700  | 1,398,100                    |
| IOWA .....              | 325,600   | 511,500  | 837,100                      |
| KANSAS .....            | 266,000   | 385,400  | 651,400                      |
| KENTUCKY .....          | 1,051,300   | 313,100  | 1,364,400                    |
| LOUISIANA .....         | 770,900   | 296,900  | 1,067,800                    |
| MAINE .....             | 569,800   | 74,000   | 643,800                      |
| MARYLAND .....          | 513,100   | 44,900   | 558,000                      |
| MASSACHUSETTS .....     | 651,600   | 10,600   | 662,200                      |
| MICHIGAN .....          | 1,879,100   | 401,600  | 2,280,700                    |
| MINNESOTA .....         | 746,200   | 504,900  | 1,251,100                    |
| MISSISSIPPI .....       | 758,500   | 286,500  | 1,045,000                    |
| MISSOURI .....          | 914,400   | 547,500  | 1,461,900                    |
| MONTANA .....           | 214,000   | 127,200  | 341,200                      |
| NEBRASKA .....          | 156,200   | 316,200  | 472,400                      |
| NEVADA .....            | 67,600  | 27,100   | 94,700                       |
| NEW HAMPSHIRE .....     | 425,500   | 22,800   | 448,300                      |
| NEW JERSEY .....        | 396,700   | 19,200   | 415,900                      |
| NEW MEXICO .....        | 258,600   | 131,100  | 389,700                      |
| NEW YORK .....          | 1,894,800   | 257,200  | 2,152,000                    |
| NORTH CAROLINA .....    | 2,326,300   | 365,800  | 2,692,100                    |
| NORTH DAKOTA .....      | 101,800   | 182,800  | 284,600                      |
| OHIO .....              | 1,462,500   | 522,900  | 1,985,400                    |
| OKLAHOMA .....          | 568,100   | 421,500  | 989,600                      |
| OREGON .....            | 506,800   | 174,500  | 681,300                      |
| PENNSYLVANIA .....      | 2,166,900   | 610,900  | 2,777,800                    |
| RHODE ISLAND .....      | 104,200   | 0  | 104,200                      |
| SOUTH CAROLINA .....    | 954,000   | 210,900  | 1,164,900                    |
| SOUTH DAKOTA .....      | 111,500   | 210,800  | 322,300                      |
| TENNESSEE .....         | 1,246,600   | 309,400  | 1,556,000                    |
| TEXAS .....             | 2,050,500   | 892,100  | 2,942,600                    |
| UTAH .....              | 104,200   | 186,500  | 290,700                      |
| VERMONT .....           | 290,500   | 42,500   | 333,000                      |
| VIRGINIA .....          | 1,220,700   | 155,600  | 1,376,300                    |
| WASHINGTON .....        | 774,700   | 161,800  | 936,500                      |
| WEST VIRGINIA .....     | 657,400   | 260,200  | 917,600                      |
| WISCONSIN .....         | 1,034,500   | 321,300  | 1,355,800                    |
| WYOMING .....           | 85,400  | 54,600   | 140,000                      |
| AMERICA SAMOA .....     | 33,600  | 11,200   | 44,800                       |
| GUAM .....              | 24,300  | 8,100  | 32,400                       |
| N. MARIANAS .....       | 15,600  | 5,200  | 20,800                       |
| PUERTO RICO .....       | 487,300   | 162,400  | 649,700                      |
| TT OF PALAU .....       | 0   | 0  | 0                            |
| VIRGIN ISLANDS .....    | 19,500  | 6,500  | 26,000                       |
| TOTAL .....             | 37,500,000  | 12,500,000   | 50,000,000                   |

**Attachment E—Allotment Methodology for the Hardship Grants Program**

The 1990 Census of Housing provides information on the structural characteristics of homes, including the type of sewage disposal. Specifically, Table 13 of the Census of Housing provides the number of housing units in rural areas that are served by public sewers, septic tanks and cesspools, and other means. The State allotment for the households portion of the funding is computed by taking the total number of rural households served by septic tanks and cesspools and other means (excluding sewerage households and farms) within each State divided by the national number of rural households served by septic tanks and cesspools and other means. This percentage is

multiplied by \$37,500,000, which is 75 percent of \$50,000,000 appropriated for the program, to provide the dollar amount for the households without access portion of the allotment for each State. Some administrative adjustments were then made to the final States' allocation to accommodate the use of CW SRF allotment percentages for the Territories.

The 1990 Census of Population provides per capita income (PCI) data. A computer file was generated by the Bureau of the Census to provide the number of communities in each State that have rural populations of 2,500 or less and had a per capita income less than 80 percent of the National per capita income. The per capita allotment percentage was computed by dividing the number of people in each State in

communities less than 2,500 that meet the 80 percent PCI criteria by the national population in communities of less than 2,500 that meet the 80 percent PCI criteria. This percentage is multiplied by \$12,500,000, which is 25 percent of \$50,000,000, to provide the dollar amount for the income portion of the allotment for each State. As with the household formula, CW SRF percentages were used for the Territories and administrative adjustments were made to the final States' allocation.

The funding level from both parts of the formula are added together to provide the total funding allotment for each State.

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