
From: Shekter Smith, Liane (DEQ)
Sent: Monday, October 19, 2015 1:37 PM
To: Pallone, Maggie (DEQ)
Cc: Sygo, Jim (DEQ); Shaler, Karen (DEQ); Devereaux, Tracy Jo (DEQ)
Subject: FW: Statutory changes to Part 54

Maggie -

Based on our conversation on Friday, I think with the small changes provided by Sonya below we should be all set. Please let me know if you need anything else.

Liane

From: Butler, Sonya (DEQ)
Sent: Monday, October 19, 2015 8:26 AM
To: Shekter Smith, Liane (DEQ)
Cc: Pallone, Maggie (DEQ)
Subject: RE: Statutory changes to Part 54

My suggested revisions are noted below. Let me know if there are any questions.

From: Pallone, Maggie (DEQ)
Sent: Thursday, October 08, 2015 3:02 PM
To: Butler, Sonya (DEQ); Shekter Smith, Liane (DEQ)
Subject: RE: Statutory changes to Part 54

What language would you recommend instead?

Obviously EPA allows the money to be spent on private lead service line replacement, and I can't imagine that they would require the city to operate and maintain the lines (no city would take on that liability). Is there someone at EPA can help us expedite a review so I can get final language over to the legislature tomorrow?

In addition, do we need to clarify that the loans can receive principal forgiveness or in that just internal?

Thanks,
Maggie

From: Butler, Sonya (DEQ)
Sent: Thursday, October 8, 2015 2:56 PM
To: Pallone, Maggie (DEQ) <PalioneM@michigan.gov>; Shekter Smith, Liane (DEQ) <SHEKTERL@michigan.gov>
Subject: RE: Statutory changes to Part 54

I'm still waiting for replies from other states. So far I've heard from:

- MN which does not fund any private service line work as there are questions concerning the ability of a city to issue general obligation bonds for work on private property.
- Ohio will fund lead service lines but has no guidance. They rely on the federal eligibility guidance.

The definition below needs to acknowledge lead residential service lines. I think Treasury needs to be consulted about the ownership of the service line (public vs. private) and how that will affect the financing of the loan to a community to replace the lead service lines. Otherwise, we could end up with a statute change that does not resolve the issue. Similar to the issue we have in SWQIF for replacing failing septic systems.

The additional sentence in 5409(1)(d) will not work. You are using federal dollars to fund a 'public' project. A requirement of using public funds is that the asset will be properly operated & maintained. There is no distinction between the public or private ownership of the asset if the project is funded with public money. In order to show due diligence on behalf of the city, there needs to be an assurance that the asset being publicly funded will be operated & maintained appropriately. Moving forward with this language would put the entire DWRF program in jeopardy with EPA.

From: Pallone, Maggie (DEQ)
Sent: Thursday, October 08, 2015 2:00 PM
To: Shekter Smith, Liane (DEQ); Butler, Sonya (DEQ)
Subject: RE: Statutory changes to Part 54

I made the two changes that we discussed yesterday evening- changing the definition to privately owned and wordsmithing the second change in 5409.

Thanks for your help with this.

Maggie

324.5403 Definitions; P to W.

Sec. 5403.

As used in this part:

(a) "Priority list" means the annual ranked listing of projects developed by the department in section 5406.

(b) "Project" means a project related to the planning, design, and construction or alteration of a waterworks system.

(c) "Project refinancing assistance" means buying or refinancing the debt obligations of water suppliers if construction activities commenced, and the debt obligation was incurred, after the effective date of this part.

(d) "Public water supply" means a waterworks system that provides water for drinking or household purposes to persons other than the supplier of the water, except for those waterworks systems that supply water to only 1 house, apartment, or other domicile occupied or intended to be occupied on a day-to-day basis by an individual, family group, or equivalent.

(e) "State drinking water standards" means rules promulgated under Act 399 that establish water quality standards necessary to protect public health or that establish treatment techniques to meet these water quality standards.

(f) “Water supplier” or “supplier” means a municipality or its designated representative accepted by the director, a legal business entity, or any other person who owns a public water supply. However, water supplier does not include a water hauler.

(g) “Waterworks system” or “system” means a system of pipes and structures through which water is obtained or distributed and includes any of the following that are actually used or intended to be used for the purpose of furnishing water for drinking or household purposes:

(i) Wells and well structures.

(ii) Intakes and cribs.

(iii) Pumping stations.

(iv) Treatment plants.

(v) Storage tanks.

(vi) Pipelines and appurtenances.

(vii) ~~Privately owned~~ residential lead service lines.

~~(vii)~~ (viii) A combination of any of the items specified in this subdivision.

324.5409 Application for fund assistance; contents; availability of revenue sources; acceptance of applications by department; liability for incurred costs.

Sec. 5409.

(1) A water supplier whose project plan is approved or under review by the department under section 5407 may apply for assistance from the fund by submitting an application to the department. A complete application shall include all of the following, if applicable, as determined by the department:

(a) If assistance is in the form of a loan, financial documentation that a dedicated source of revenue is established, consistent with obligations of debt instruments existing at the time assistance is requested, and pledged to both of the following purposes:

(i) The timely repayment of principal and interest.

(ii) Adequate revenues to fund the operation and maintenance of the project.

(b) Evidence of an approved project plan.

(c) A certified resolution from a water supplier that is a municipality, or a letter of appointment from a water supplier that is not a municipality, designating an authorized representative for the project.

(d) A certification by an authorized representative of the water supplier affirming that the supplier has the legal, institutional, technical, financial, and managerial capability to build, operate, and maintain the

project. The water supply does not need to certify it will operate and maintain any portion of the project funded for the replacement ~~privately owned~~ of residential ~~private~~ lead service lines.

From: Shekter Smith, Liane (DEQ)
Sent: Thursday, October 8, 2015 12:53 PM
To: Butler, Sonya (DEQ) <BUTLERS2@michigan.gov>; Pallone, Maggie (DEQ) <PalloneM@michigan.gov>
Subject: RE: Statutory changes to Part 54

Maggie – could you send a revised draft based on our discussion late yesterday? Thanks.

From: Butler, Sonya (DEQ)
Sent: Thursday, October 08, 2015 11:08 AM
To: Pallone, Maggie (DEQ); Shekter Smith, Liane (DEQ)
Subject: RE: Statutory changes to Part 54

I'm checking with what other states are doing in the Region. I think a modification to the draft below is necessary but I want to confirm how it should be revised.

From: Pallone, Maggie (DEQ)
Sent: Wednesday, October 07, 2015 4:33 PM
To: Shekter Smith, Liane (DEQ); Butler, Sonya (DEQ)
Subject: Statutory changes to Part 54
Importance: High

If we are going to clarify that Part 54 can cover replacement of private service lines, is this the best way to do? I made changes to the definition of waterworks systems to include private service lines, and changes the requirement the water supplier had to maintain and operate the private service lines.

Please let me know ASAP what you think.

Thanks,
Maggie

324.5403 Definitions; P to W.

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- (a) "Priority list" means the annual ranked listing of projects developed by the department in section 5406.
- (b) "Project" means a project related to the planning, design, and construction or alteration of a waterworks system.

(c) "Project refinancing assistance" means buying or refinancing the debt obligations of water suppliers if construction activities commenced, and the debt obligation was incurred, after the effective date of this part.

(d) "Public water supply" means a waterworks system that provides water for drinking or household purposes to persons other than the supplier of the water, except for those waterworks systems that supply water to only 1 house, apartment, or other domicile occupied or intended to be occupied on a day-to-day basis by an individual, family group, or equivalent.

(e) "State drinking water standards" means rules promulgated under Act 399 that establish water quality standards necessary to protect public health or that establish treatment techniques to meet these water quality standards.

(f) "Water supplier" or "supplier" means a municipality or its designated representative accepted by the director, a legal business entity, or any other person who owns a public water supply. However, water supplier does not include a water hauler.

(g) "Waterworks system" or "system" means a system of pipes and structures through which water is obtained or distributed and includes any of the following that are actually used or intended to be used for the purpose of furnishing water for drinking or household purposes:

(i) Wells and well structures.

(ii) Intakes and cribs.

(iii) Pumping stations.

(iv) Treatment plants.

(v) Storage tanks.

(vi) Pipelines and appurtenances.

(vii) Private residential service lines.

~~(vii)~~ (viii) A combination of any of the items specified in this subdivision.

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(i) The timely repayment of principal and interest.

(ii) Adequate revenues to fund the operation and maintenance of the project.

(b) Evidence of an approved project plan.

(c) A certified resolution from a water supplier that is a municipality, or a letter of appointment from a water supplier that is not a municipality, designating an authorized representative for the project.

(d) A certification by an authorized representative of the water supplier affirming that the supplier has the legal, institutional, technical, financial, and managerial capability to build, operate, and maintain the project. The water supply does not need certify it will operate and maintain any portion of the project that funds the replacement residential private service lines.

Maggie Pallone

Deputy Director

Policy and Legislative Affairs

Department of Environmental Quality

PPI (cell)

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