WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF AN EMERGENCY RULE

AGENCY: Environmental Protection Secretarys Office

TITLE-SERIES: 60-12

RULE TYPE: Legislative

Amendment to Existing Rule: No

RULE NAME: ADMINISTRATION OF DRINKING WATER TREATMENT REVOLVING FUND AND SAFE DRINKING WATER SET-ASIDES

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

W. Va. Code 22-36-,. et seq.

IF THE EMERGENCY RULE WAS PROMULGATED TO COMPLY WITH A TIME LIMIT ESTABLISHED BY CODE OR FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME LIMIT ESTABLISHED THEREIN:

Not Applicable

PRIMARY CONTACT:

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THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY THE SECRETARY OF STATE OR THE 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST. THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

During the 2023 Legislative Session, the West Virginia Legislature passed Senate Bill 561, which transferred administration of the Safe Drinking Water Treatment Fund from the WVDHHR's BPH to the WVDEP. As part of the bill, language in proposed 22-36-7 was struck because it involved a fund related to the Safe Drinking Water Treatment Fund that no longer exists. Language that continued the existing DHHR BPH version of this rule - 64CSR49 - was inadvertently stricken from the bill.

Due to the operation of law, 64CSR49 will expire on July 1, 2023 with no rule to take its place. The rule, and the program it governs, is responsible for reviewing, approving, funding, and closing on clean water projects for West Virginia communities. If the emergency rule is not approved, those projects will be stopped and the halted until the legislature reviews and approves the WVDEP version of this rule, filed yesterday as 60CSR12. Disapproval of this emergency rule will have an enormously deleterious effect on those communities and the ability of the State to continue this vital program.

DOES THIS EMERGENCY RULE REPEAL A CURRENT RULE? No

HAS THE SAME OR SIMILAR EMERGENCY RULE PREVIOUSLY BEEN FILED AND OR EXPIRED? No

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

If this rule is approved, the State will be able to continue to administer the Safe Drinking Water Treatment Revolving Fund and fund clean water projects in the State.

B. ECONOMIC INPACT ON SPECIAL REVENUE ACCOUNTS:

There is no anticipated impact of the rule on special revenue accounts. These are federal loans and grants administered by the State.

C. ECONOMIC IMPACT ON THE STATE OR ITS RESIDENTS:

Approving the emergency version of this rule will maintain the status quo for West Virginia residents. A disapproval, however, will halt most clean drinking water projects in the State and none will be restarted until after approval and passage of the accompanying legislative rule.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2023 Increase/Decrease (use "-")	2024 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	-	-	-
Personal Services	-	-	-
Current Expenses	-	-	-
Repairs and Alterations	-	-	-
Assets	-	-	-
Other	-	-	-
2. Estimated Total Revenues	-	-	-

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

The proposed emergency rule will continue expenditures as scheduled.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jason E Wandling--By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 60
EMERGENCY RULE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER AND WASTE MANAGEMENT

SERIES 12
ADMINISTRATION OF DRINKING WATER TREATMENT REVOLVING FUND AND SAFE DRINKING WATER SET-ASIDES

§60-12-1. General.

1.1. Scope. -- The 1996 Safe Drinking Water Act Amendments authorized a Drinking Water Treatment Revolving Fund program. The federal government provided most of the initial funding to start the West Virginia Drinking Water Treatment Revolving Fund program. This program allows the State to provide financial assistance to public water systems to finance the cost of infrastructure improvements needed to comply with the requirements of the federal Safe Drinking Water Act. The fund has been and will continue to be administered by the Water Development Authority along with the West Virginia Department of Environmental Protection. This rule establishes State-level procedures, standards for project eligibility, and gives direction to the Water Development Authority. The Drinking Water Treatment Revolving Fund was originally created under West Virginia Code § 16-13C-3, is continued under West Virginia Code § 22-36-3, and all monies and assets of the Fund continue to be held by the Fund which is permanent and perpetual.

1.2. Authority. -- W. Va. Code § 22-36-1 *et seq.*

1.3. Filing Date. --

1.4. Effective Date. --

[illegible] and funds for other purposes authorized in Section 1452 of the Safe Drinking Wa

ter Act.

least fifteen (15) service

25) year-round residents.

2.3. "Community Water System" means a public water system which serves at connections used by year-round residents or regularly serves at least twenty-five (

regulations applicable to

2.4. "Compliance" means conformity with State and federal laws, rules, and public water systems.

nds, property, rights and

2.5. "Cost" means the cost of all labor, materials, machinery, equipment, la

occupants of nearby or affected property, and posting of notice on and off site in the area where the action is to be located.

§60-12-12. Records.

The Instrumentality shall maintain files for each DWTRF project in perpetuity.