



**RULE-MAKING ORDER
EMERGENCY RULE ONLY**

**CR-103E (December 2017)
(Implements RCW 34.05.350
and 34.05.360)**

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 13, 2023

TIME: 12:30 PM

WSR 23-05-069

Agency: Department of Health

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: Drinking Water State Revolving Fund loan terms. Under WAC 246-296-050 (DWSRF loan terms) the Department of Health (department) may approve a qualifying disadvantaged community for a DWSRF loan for principal forgiveness up to fifty percent of the loan amount, or in a case of an emergency for up to seventy-five percent of the loan amount. The current rule does not allow for any principal forgiveness to an applicant that does not qualify as a disadvantaged community. The amended rule allows the department to forgive a portion or all of the loan amount to both disadvantaged and non-disadvantaged communities in conformance with the federal Bipartisan Infrastructure Law (BIL) to meet the federal deadline for awarding loans within this current loan cycle.

Citation of rules affected by this order:

- New: None
- Repealed: None
- Amended: WAC 246-296-050
- Suspended: None

Statutory authority for adoption: RCW 70A.125.160

Other authority: Federal Safe Drinking Water Act 40 C.F.R. Part 35 Subpart L and BIL Public Law 117-58

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: The rule amendment is necessary for the preservation of the public health, safety, and general welfare of state citizens so that applicants can immediately receive a loan during the current cycle from November 30, 2022 to May 1, 2023, which allows for up to full principal forgiveness to communities that qualify as disadvantaged and non-disadvantaged in conformance with the requirements under BIL. This rule amendment increases public health protection by broadening the types of qualifying infrastructure improvements as outlined in BIL, in addition to traditional funding uses such as replacing aging infrastructure, installing treatment to remove regulated contaminants, restructuring failing water systems, and responding to public health emergency events.

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	<u>0</u>	Amended	<u>1</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

The number of sections adopted at the request of a nongovernmental entity:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted on the agency's own initiative:

New	<u>0</u>	Amended	<u>1</u>	Repealed	<u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>0</u>	Amended	<u>1</u>	Repealed	<u>0</u>

Date Adopted: February 13, 2023

Name: Kristin Peterson, JD for Umair A. Shah, MD, MPH

Title: Chief of Policy for Secretary of Health

Signature:



WAC 246-296-050 DWSRF loan terms. (1) The department may approve a DWSRF loan for a project that will not serve a disadvantaged community:

(a) That partially or fully forgives the principal amount of the loan; or

(b) At an interest rate at or below market interest rates for a maximum of ((twenty)) 20 years from project completion.

(2) The department may approve a DWSRF loan for a project((s)) that will serve a disadvantaged ((communities)) community:

(a) That partially or fully forgives the principal amount of the loan; or

(b) At an interest rate set at or below market interest rates for up to ((thirty)) 30 years, as long as the DWSRF loan does not exceed the useful life of the project((;

~~(b) That qualifies for principal forgiveness for up to fifty percent of the principal DWSRF loan amount; or~~

~~(c) That qualifies for principal forgiveness for up to seventy-five percent of the principal DWSRF loan amount for an emergency loan).~~

(3) A project is considered complete when the department approves the construction completion report.

(4) The borrower shall begin repaying the principal and interest no later than one year after the project is complete.

(5) The department shall:

(a) Set terms that secure repayment of the debt and maintain a financially sound DWSRF program in perpetuity; and

(b) Publish specific rates and contract terms in the annual application package.