

Hammond, Abigail M

From: Bromby, Craig A
Sent: Thursday, March 10, 2016 1:17 PM
To: Hammond, Abigail M
Cc: Everett, Jennifer; Tomaino, Vincent
Subject: 15A NCAC 01N

Ms. Hammond,

The rules governing the Drinking Water State Revolving Fund (DWSRF) have been determined by DEQ staff to be unnecessary, notwithstanding that they were denoted as conforming to or implementing federal law. EPA provides funds for drinking water infrastructure investments. These funds are provided requiring a match by the state at 20-25%. EPA adopted rules setting broad guidelines for eligibility and award of grants or loans. The state enters in an operating agreement with EPA involving the administration of the program. As part of that agreement, the state annually submits an Intended Use Plan (IUP) setting forth eligibility criteria and priorities for awarding the funds through grants or loans. To the degree that the establishment of criteria and priorities pursuant to the IUP and operating agreement are formulated for the purpose of receiving and distributing federal funds pursuant to the federal program, the 01N rules implement federal rules (*i.e.*, fulfill requirements under the program to allow the state to award and distribute the federal funds and state match).

The agency under which the rules were established was a predecessor board to the Commission for Public Health (CPH). However, the General Assembly in 2013 created the State Water Infrastructure Authority in which it vested the responsibility and authority to perform those functions with regard to the federal funding program.

The rules promulgated by the CPH are outdated and have not been consistent with practice and federal guidelines for several years. Because CPH no longer has any authority with respect to the DWSRF program, the rules are artifacts of a prior system that is no longer functional, and wholly unnecessary to retain in the Administrative Code.

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