

WASHINGTON STATE DEPARTMENT OF HEALTH

**Small Business
Economic
Impact
Statement**

Chapter 246-296 WAC
a Rule Concerning Drinking
Water State Revolving Fund
Loan Program

July 2024



To request this document in another format, call 1-800-525-0127. Deaf or hard of hearing customers, please call 711 (Washington Relay) or email doh.information@doh.wa.gov.

For more information or additional copies of this report:

Washington State Department of Health

Division/Office: Environmental Public Health – Office of the Assistant Secretary

Contact Name: Kseniya Efremova

PO Box 47824, Olympia WA 98504-7824

Tumwater, WA 98602

360.236.3449

kseniya.efremova@doh.wa.gov

SECTION 1

A brief description of the adopted rule including the current situation/rule, followed by the history of the issue and why the adopted rule is needed. A description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the adopted rule.

The Department of Health (department) is adopting numerous amendments to chapter 246-296 WAC to allow more projects to qualify for disadvantaged community benefits in conformance with the U.S. Environmental Protection Agency's (EPA) direction to states to implement Bipartisan Infrastructure Law (BIL) - Public Law 117-58 – Bipartisan Infrastructure Investment and Jobs Act requirements.

BIL was passed November 15, 2021, which includes new criteria for public water systems to obtain additional funds for a Drinking Water State Revolving Fund (DWSRF) loan. BIL provides funding to the EPA under section 1452 of the Safe Drinking Water Act in the form of capitalization grants to states for the DWSRF loan program.

Specifically, EPA recommended that each state evaluate and revise their definition of a disadvantaged community and furthermore, revise the state revolving fund priority point system for project rating and ranking proportionate with need.

Under WAC 246-296-020, the department currently defines a disadvantaged community to mean a community that has a proposed project within a public water system where the project will result in water rates that are more than one and one-half percent of the median household income of the service area or a disadvantaged community can be one or more public water systems that are forced to restructure due to financial difficulties. The department is adopting amendments to the definition of disadvantaged community to remove strict qualifying calculation criteria and include a variety of indicators including but not limited to population served, social vulnerability, environmental health disparities, or economic hardships. Additionally, public water systems that are owned and operated by a federally recognized tribe are automatically considered a disadvantaged community.

Under WAC 246-296-050, the 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 for an applicant that does not qualify as a disadvantaged community. The adopted amendments will allow the department to forgive a portion or all of the loan amount to both disadvantaged and non-disadvantaged communities.

Under WAC 246-296-100, the department is removing the requirement for a water system to include an updated water system plan or small water system management program when applying for a loan that identify lead service lines (LSL) or LSL replacement.

Under WAC 246-296-130, the department is updating or removing obsolete requirements for the priority rating and ranking of new DWSRF loan applications.

This rulemaking does not impose any additional compliance requirements on a large or small water system therefore there should be no additional professional services that a small business is likely to need to comply with the adopted rule changes.

SECTION 2

Identification and summary of which businesses are required to comply with the adopted rule using the North American Industry Classification System (NAICS).

SBEIS Table 1. Summary of Businesses Required to comply to the Adopted Rule

NAICS Code (4, 5 or 6 digit)	NAICS Business Description	Number of businesses in Washington State	Minor Cost Threshold
221310	Water Supply and Irrigation Systems	149	\$3282.48

SECTION 3

Analysis of probable costs of businesses in the industry to comply to the adopted rule and includes the cost of equipment, supplies, labor, professional services, and administrative costs. The analysis considers if compliance with the adopted rule will cause businesses in the industry to lose sales or revenue.

Portions of the proposal are exempt from requirements of the Regulatory Fairness Act. The following table identifies rule sections or portions of rule sections that have been determined exempt based on the exemptions provided in RCW 34.05.314

WAC Section and Title	Description of Adopted Changes	Rationale for Exemption Determination
WAC 246-296-020	<p>The definition of “Disadvantaged Community” has been amended to ensure funding is available to communities that historically struggle to provide safe and reliable drinking water as guided by EPA.</p> <p>The adopted rule also eliminates terms no longer used in the chapter.</p>	<p>Terms defined in this section are intended to provide clarification on the meaning of the term used throughout the chapter without changing the effects of the rule. The adopted changes are considered exempt under RCW 34.05.328(4)(d).</p>
WAC 246-296-050(1)(b) and (2)(b) DWSRF loan terms	Editorial changes only.	<p>The adopted changes are editorial only and are intended to provide clarification without changing the effects of the rule. The adopted changes are considered exempt under RCW 34.05.328(4)(d).</p>
WAC 246-296-130(1)(d) and (2) Project priority rating and ranking criteria	Updated obsolete and outdated priority rating and ranking criteria.	<p>The department exercised their discretion per RCW 70A.125.160 to update the points rating system used for internal operations. The adopted changes are considered exempt under RCW 34.05.328(4)(b).</p>

WAC 246-296-050 (1)(a) and (2)(a) DWSRF loan terms.

Description:

The adopted rule allows the department to consider loans for up to full principal loan forgiveness for water systems that serve both disadvantaged and non-disadvantaged communities per BIL specifications. To access certain additional funding made available through BIL, the department has to offer up to full principal loan forgiveness to not only

water systems that serve disadvantaged communities, but non-disadvantaged communities as well.

Cost(s):

There are no costs associated with action.

WAC 246-296-100(2) Loan eligibility and application requirements.

Description:

The adopted rule excludes the requirement for a water system plan (WSP) or a small water systems management program (SWSMP) when a water system applies for an LSL identification or an LSL replacement loan. A WSP or SWSMP is only required for a loan on a project that is for capital improvements on water system owned equipment. Since the LSL identification and LSL replacement requires the identification and replacement of not only water company owned infrastructure like service mains and fittings but also customer owned service lines that run from the meter or connection to a customer’s building then LSL loans would not be considered a capital improvement and should not require a WSP or SWSMP.

Cost(s):

There are no costs associated with this action.

Summary of all Cost(s)

SBEIS Table 2. Summary of Section 3 probable cost(s)

WAC Section and Title	Probable Cost(s)
WAC 246-296-050 (1)(a) and (2)(a) DWSRF loan terms.	None
WAC 246-296-100(2) Loan eligibility and application requirements	None

SECTION 4

Analysis on if the adopted rule may impose more than minor costs for businesses in the industry. Includes a summary of how the costs were calculated.

No, the costs of the adopted rule (no probable costs) are less than the minor cost threshold of \$3,282.48.

Summary of how the costs were calculated

The adopted changes to the rule are to conform with the stipulation of BIL and will add additional funding sources to the DWSRF loan program for water systems to apply for. The DWSRF loan program is a voluntary program for water systems to apply for needed water system loans at low or no principal interest with the possibility of partial or full loan forgiveness. The adopted changes to the rule only allow for more loan possibilities for water systems and does not impose a regulation that would require a water system to incur a cost.

SECTION 5

(ONLY ANSWER IF SECTION 4 IS YES. IF SECTION 4 IS NO, THE SBEIS IS CONSIDERED COMPLETE)

Determination on if the adopted rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the adopted rule.

[SELECTION OF ONE OF THE STATEMENTS BELOW]

Yes, we believe the adopted rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the adopted rule.

[OR]

No, we believe the adopted rule does not have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the adopted rule.

Explanation of the determination

SECTION 6

(ONLY ANSWER IF SECTION 5 IS YES. IF SECTION 5 IS NO, THE SBEIS IS CONSIDERED COMPLETE)

If the adopted rule has a disproportionate impact on small businesses, the following steps have been identified and taken to reduce the costs of the rule on small businesses.

- 1. Reducing, modifying, or eliminating substantive regulatory requirements;**
- 2. Simplifying, reducing, or eliminating recordkeeping and reporting requirements;**
- 3. Reducing the frequency of inspections;**
- 4. Delaying compliance timetables;**
- 5. Reducing or modifying fine schedules for noncompliance; or**
- 6. Any other mitigation techniques including those suggested by small businesses or small business advocates.**

If costs cannot be reduced an explanation has been provided below about why the costs cannot be reduced.

SECTION 7

(ONLY ANSWER IF SECTION 5 IS YES. IF SECTION 5 IS NO, THE SBEIS IS CONSIDERED COMPLETE)

Description of how small businesses were involved in the development of the adopted rule.

SECTION 8

(ONLY ANSWER IF SECTION 5 IS YES. IF SECTION 5 IS NO, THE SBEIS IS CONSIDERED COMPLETE)

The estimated number of jobs that will be created or lost in result of the compliance with the adopted rule.

