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Drinking Water State Revolving Fund (DWSRF): Program Overview and Issues

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Summary

In the Safe Drinking Water Act (SDWA) Amendments of 1996, Congress authorized a drinking water state revolving loan fund (DWSRF) program to help public water systems finance infrastructure projects needed to comply with federal drinking water regulations and to meet the act's health objectives. Under this program, states receive annual capitalization grants to provide financial assistance (primarily subsidized loans) to public water systems for drinking water projects and other specified activities. Through June 2012, Congress had provided $14.7 billion for the DWSRF program, and combined with the 20% state match, bond proceeds, and other funds, the program had generated $23.6 billion in assistance and supported 9,990 projects. To date, Congress has appropriated approximately $18.2 billion for the program.

The latest Environmental Protection Agency (EPA) survey of capital improvement needs for public water systems indicates that these water systems need to invest $384.2 billion on infrastructure improvements over 20 years to ensure the provision of safe tap water. EPA reports that, although all of the identified projects promote the public health objectives of the SDWA, just $42.0 billion (10.9%) of reported needs are attributable to SDWA compliance.

Key program issues include the gap between estimated needs and funding; the growing cost of complying with SDWA standards, particularly for small communities; the ability of small or economically disadvantaged communities to afford DWSRF financing; and the broader need for cities to maintain, upgrade, and expand infrastructure unrelated to SDWA compliance. Several overarching policy questions are under debate, including "What is the appropriate federal role in providing financial assistance for local water infrastructure projects?" and "What other funding mechanisms could supplement or replace a program reliant on annual appropriations?"

Congress has not amended the SDWA provisions, but in appropriations acts, Congress has added new conditions to assistance provided through the DWSRF program. The American Recovery and Reinvestment Act of 2009 (ARRA; P.L. 111-5) provided $2 billion in supplemental funding through the DWSRF program for drinking water infrastructure projects. ARRA applied Davis-Bacon prevailing wage and "Buy American" requirements to projects receiving any ARRA DWSRF funding, and required that 20% of the funds be reserved for "green" projects. For FY2012, Congress provided $917.9 million for the DWSRF program (P.L. 112-74). In the act, Congress made the green infrastructure reserve discretionary, but expanded the application of Davis-Bacon requirements to the DWSRF program to include FY2012 and all future years.

For FY2015, the President requested $757 million for the DWSRF program, while Congress provided $906.9 million in P.L. 113-235. For FY2016, the President has requested $1.186 billion for the program.

Several measures in the 113th Congress proposed alternative approaches for financing water infrastructure. In the Water Resources Development Act of 2014, P.L. 113-121, Congress authorized a five-year pilot loan guarantee program to promote increased development of, and private investment in, water infrastructure projects. The conferees noted that the pilot program is intended to complement, not replace, the drinking water SRF program and the similar Clean Water Act SRF program.

In the 114th Congress, bills have been introduced to authorize more funding for existing programs and to revise the tax code to stimulate private-sector investment in water infrastructure projects.

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Introduction

The quality of water delivered by public water systems has been regulated at the federal level since enactment of the 1974 Safe Drinking Water Act (SDWA). Since then, EPA has issued regulations for more than 90 contaminants, and all states (except Wyoming) have assumed primary responsibility for administering the federal drinking water program and overseeing public water system compliance. Congress last broadly amended the law in 1996 (P.L. 104-182), in response to criticism that the statute had too little flexibility, too many unfunded mandates, and an arduous but unfocused regulatory schedule.

Among the key provisions, the 1996 amendments authorized a drinking water state revolving loan fund (DWSRF) program to help public water systems finance improvements needed to comply with federal drinking water regulations and to address the most serious risks to human health.[1] The law authorizes the Environmental Protection Agency (EPA) to make grants to states each year to capitalize a state revolving loan fund. States must match 20% of their grant and develop intended use plans indicating how the allotted funds will be used each year. States are authorized to use their DWSRF funding to provide financial assistance (primarily subsidized loans) to eligible public water systems for expenditures that EPA has determined will facilitate SDWA compliance or significantly further the act's health protection objectives. The federal grants and state match—combined with funds from loan repayments, leveraged bonds, and other sources—are intended to generate an ongoing source of water infrastructure funding over time. The DWSRF program is patterned after the Clean Water Act SRF (CWSRF) program for financing municipal wastewater treatment projects that Congress authorized in 1987 to phase out and replace a construction grants program.[2]

Projects eligible for DWSRF assistance include installation and replacement of treatment facilities, distribution systems, and certain storage facilities. Projects to replace aging infrastructure are eligible if they are needed to maintain compliance or to further public health protection goals. Projects to consolidate water supplies and to enhance water system security also may be eligible. DWSRF funds may not be used to pay for operation and maintenance activities or for projects needed primarily to accommodate growth.

Public water systems eligible to receive DWSRF assistance include 51,356 community water systems (whether publicly or privately owned) and 18,178 not-for-profit noncommunity water systems.[3] States generally may not provide DWSRF assistance to systems that lack the capacity to ensure compliance with the act or that are in significant noncompliance with SDWA requirements, unless these systems meet certain conditions to return to compliance. Systems owned by federal agencies are not eligible. Although the law authorizes assistance to privately owned community water systems, some states have laws or policies that preclude privately owned utilities from receiving DWSRF assistance.[4]

[1] SDWA §1452; 42 U.S.C. §300j-12.

[2] See CRS Report 96-647, *Water Infrastructure Financing: History of EPA Appropriations*, by Claudia Copeland.

[3] A community water system is one that serves at least 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents. Noncommunity water systems regularly provide water to people, but not year-round (e.g., schools and workplaces with their own wells).

[4] Some states have legislative or regulatory restrictions on providing DWSRF assistance to private systems. According to EPA, some states have made a policy decision to restrict assistance to private systems because of concerns about (continued...)

DWSRF Allotments and Set-Asides

The law directs EPA to allot DWSRF funds among the states based on the results of the most recent quadrennial needs survey (discussed under "Drinking Water Infrastructure Needs"), except that each state and the District of Columbia must receive at least 1% of available funds.[5] The law further directs that not more than 0.33% of the total appropriation must be made available for grants to the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and Guam, although Congress has increased this amount to 1.5% in appropriations acts.[6]

Before distributing funds among the states, EPA reserves 2% of the appropriated amounts for grants to Indian tribes and Alaska Native Villages for water infrastructure projects.[7] For FY2014, EPA set aside $18.14 million for these grants. The SDWA further directs EPA to set aside from the annual DWSRF appropriation $2 million to pay for monitoring of unregulated contaminants in small and medium systems. Additionally, EPA is authorized to reserve annually up to $30 million to reimburse states for operator training and certification costs if separate funding is not provided under Section 1419 of the SDWA; EPA reserved the full amount for several years, but reserved none after FY2003, as state training programs had matured. To provide technical assistance to small systems, EPA may reserve up to 2%, with a $15 million cap; however, Congress has provided funding for this activity under Section 1442(e),[8] and EPA has not set aside DWSRF funds for this purpose. (See discussion under "113th Congress.")

The SDWA also includes several set-asides and directives that apply to the states. These provisions offer states flexibility in tailoring their individual DWSRF programs to address state priorities. They also demonstrate the emphasis that the 1996 amendments placed on enhancing compliance, especially among smaller systems. The act requires states to make available at least 15% of their annual allotment for loan assistance to systems that serve 10,000 or fewer persons, to the extent that the funds can be obligated to eligible projects. The act also allows states to use up to 30% of their DWSRF grant to provide additional assistance, such as forgiveness of loan principal or negative interest rate loans, to help economically disadvantaged communities (as determined by the state).[9]

(...continued)

endangering the tax-exempt status of bonds issued to provide the state match. In 2003, EPA reported that 21 states had provided DWSRF assistance to private systems, 12 states had restricted assistance to private systems, and 17 states did not have restrictions, but had not yet provided assistance to private systems. States restricting assistance to private systems include Alabama, Arkansas, Colorado, Georgia, Kansas, Louisiana, Mississippi, Nebraska, North Carolina, Oklahoma, Tennessee, and Wyoming. Source: U.S. Environmental Protection Agency, *The Drinking Water State Revolving Fund Program: Financing America's Drinking Water from the Source to the Tap, Report to Congress*, EPA-918-R-03-009, May 2003, pp. 36-37, http://www.epa.gov/ogwdw/dwsrf/pdfs/dwsrf_congressreport-main.pdf.

[5] DWSRF state-by-state allotments and set-asides for FY1997 through FY2014 are available at EPA's DWSRF website, http://water.epa.gov/grants_funding/dwsrf/index.cfm, under "Program Data." Congress appropriated the same amount for FY2014 and FY2015; thus, state allotments are expected to be similar for both years.

[6] SDWA Section 1452(j) [42 U.S.C. §300j-12(j)] provides that the total amount of grants under this section shall not exceed 0.33% of the appropriated amount. For FY2010, Congress authorized EPA to reserve up to 1.5% of the appropriated funds for territories (P.L. 111-88); this authority has continued through subsequent resolutions.

[7] Under SDWA Section 1452(i) (42 U.S.C. §300j-12(i)), EPA may use 1.5% of the amounts appropriated annually to make grants to Indian tribes and Alaska Native villages. Since FY2010 (P.L. 111-88), Congress has authorized EPA to reserve up to 2.0% of the appropriated funds for Indian tribes and Alaska Native Villages. This authority was included in P.L. 112-74, and has continued through the terms and conditions of subsequent appropriations.

[8] 42 U.S.C. §300j-1(e).

[9] 42 U.S.C. §300j-12(d). Recent appropriations acts have required states to provide additional subsidization. (See (continued...)

Among other optional set-aside provisions, states may reserve as much as 4% of their DWSRF allotment to cover the costs of administering the DWSRF program and an additional portion to help pay the costs of other SDWA mandates. Specifically, states may set aside as much as 10% for a combination of the following: public water system supervision programs, technical assistance through source water protection programs, state capacity development strategies, and operator certification programs. To use DWSRF funds for these purposes, states must match expenditures with an equal amount of state funds. States may use an additional 2% of funds to provide technical assistance to systems that serve 10,000 or fewer persons. EPA reports that states have spent more than $14 million each year for small system technical assistance since 2006.[10]

States also have the option of using as much as 15% for a combination of the following: loans for the acquisition of land or conservation easements, loans to implement voluntary source water protection measures, technical and financial assistance to systems as part of a capacity development strategy, and development and implementation of ground water protection programs. Expenditures may not exceed 10% for any one of these activities (other SDWA provisions include separate funding authority for several of these activities).

To further promote public water system compliance, the 1996 amendments added capacity development and operator certification requirements. The law required EPA to withhold part of the DWSRF grant from any state that did not meet these mandates. Section 1420 required states to establish capacity development programs that include (1) legal authority or other means to ensure that new systems have the technical, financial, and managerial capacity to meet SDWA requirements and (2) a strategy to assist existing systems that are experiencing difficulties in coming into compliance.[11] States also were required to adopt programs for training and certifying operators of community and non-transient non-community water systems.

Congress designed the DWSRF program to give states implementation flexibility. Additionally, Congress provided states flexibility in setting priorities between the DWSRF and Clean Water Act SRF (CWSRF) programs to accommodate the divergent drinking water and wastewater needs and priorities among the states. Section 302(a) of the 1996 amendments authorized states to transfer as much as 33% of the annual DWSRF allotment to the CWSRF or an equivalent amount from the CWSRF to the DWSRF. The act authorized these transfers through FY2001. In 2000, EPA recommended that Congress continue to authorize transfers between the SRF programs to give states flexibility to address their most pressing water infrastructure needs. Several annual appropriations acts authorized states to continue to transfer as much as 33% of funds between the two programs, and in P.L. 109-54 Congress made this authority permanent.[12]

(...continued)

discussion under "Congressional Actions."

[10] U.S. Environmental Protection Agency, *Drinking Water State Revolving Fund 2009 Annual Report*, p. 19.

[11] SDWA §1420; 42 U.S.C. §300g-9.

[12] The Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006, P.L. 109-54, Title II, August 2, 2005, 119 Stat. 530, provided "That for fiscal year 2006 and thereafter, State authority under section 302(a) of P.L. 104-182 shall remain in effect."

DWSRF Program Appropriations

In establishing the DWSRF program in the 1996 SDWA amendments, Congress authorized appropriations for DWSRF capitalization grants at a level of $599 million for FY1994 and $1 billion annually for each of FY1995 through FY2003, for a total appropriations authority of $9.6 billion. Although the authorization of appropriations expired in 2003, the program authority has no expiration date, and Congress has continued to provide annual appropriations for the program.

For FY2009, Congress provided $829.0 million for the program through regular appropriations for Interior, EPA, and Related Agencies. The American Recovery and Reinvestment Act of 2009 (ARRA; P.L. 111-5) provided another $2 billion for water infrastructure projects, delivered through the DWSRF program, for a total of roughly $2.83 billion in appropriations for this program for FY2009.[13] For FY2010, in P.L. 111-88, Congress approved $1.39 billion for the DWSRF. For FY2011, the President requested $1.29 billion, and under several continuing resolutions, the program was generally funded at FY2010 levels (through March 4, 2011, under P.L. 111-322). The full-year continuing resolution (P.L. 112-10) reduced the level to $965.0 million for FY2011 ($963.1 million after applying an across-the-board rescission of 0.2%).

For FY2012, the President requested $999.0 million, and Congress provided $919.4 million in P.L. 112-74 ($917.9 million after applying an across-the-board rescission of 0.16%). In this act, Congress applied Davis-Bacon prevailing wage requirements to DWSRF program funding for FY2012 and all future years. (See discussion under "112th Congress" below.)

For FY2013, the President requested $850 million for the DWSRF program. In September 2012, Congress approved a six-month continuing resolution (CR), P.L. 112-175, to fund government agencies through March 27, 2013, generally at FY2012 levels with an across-the-board increase of 0.612%. On March 26, 2013, the six-month CR was superseded by the Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6), which provided full-year continuing appropriations for Interior, EPA, and Related Agencies through September 30, 2013. After taking into account sequestration and a 0.2% rescission pursuant to P.L. 113-6, EPA allocated $861.3 million for the program for FY2013.[14] Additional SRF funds were provided for FY2013 in the Disaster Relief Appropriations Act, 2013 (P.L. 113-2), including $95 million ($100 million before sequestration) for the DWSRF program and $475 million ($500 million before sequestration) for the Clean Water SRF program. These funds were targeted for drinking water and wastewater infrastructure projects in areas of New Jersey and New York affected by Hurricane Sandy.

For FY2014, the President requested $817 million and received $906.9 million. The President reduced the request for FY2015 to $757 million, but Congress again provided $906.9 million in P.L. 113-235.[15] For FY2016, the President has requested $1.186 billion for the program.

[13] In ARRA, Congress imposed several new conditions on projects receiving DWSRF assistance, including Davis-Bacon prevailing wage requirements and "Buy American" requirements. The act also required states to use at least 50% of the funds to further subsidize loans (including forgiveness of principal, negative interest loans, and grants), and to reserve at least 20% of the funds for green infrastructure, water efficiency improvements, or other environmentally innovative projects. (See discussion in the "Congressional Actions" section.)

[14] This amount also takes into account P.L. 113-6, Section 1406, which rescinded $10 million from unobligated DWSRF balances. The law also rescinded $10 million from unobligated CWSRF balances.

[15] For more information on EPA appropriations, see CRS Report R43709, *Environmental Protection Agency (EPA): FY2015 Appropriations*, by Robert Esworthy.

Through FY2015, cumulative appropriations for the DWSRF program reached $18.23 billion. Adjusted for set-asides, total contributions to states, territories, and the District of Columbia reached $17.68 billion. **Table 1** presents annual appropriations for the program since it began.

Table 1. Drinking Water State Revolving Fund Program Funding, FY1997-FY2015

(in millions of dollars, nominal dollars not adjusted for inflation)

Fiscal Year	Authorizations	Appropriations
1997	$1,000.0	$1,275.0
1998	$1,000.0	$725.0
1999	$1,000.0	$775.0
2000	$1,000.0	$816.9
2001	$1,000.0	$823.2
2002	$1,000.0	$850.0
2003	$1,000.0	$844.5
2004	—	$845.0
2005	—	$843.2
2006	—	$837.5
2007	—	$837.5
2008	—	$829.0
2009	—	$829.0
2009/ARRA		$2,000.0
2010	—	$1,387.0
2011	—	$963.1
2012	—	$917.9
2013	—	$861.3[a]
2014	—	$906.9
2015		$906.9
Total		**$18,229.9**[b]

Sources: Prepared by CRS using information available from House, Senate, or conference committee reports accompanying the annual appropriations bills that fund EPA and Administration budget documents, including the President's annual budget requests as presented by OMB, and EPA's accompanying annual congressional budget justifications. "ARRA" refers to the American Recovery and Reinvestment Act of 2009 (P.L. 111-5). The FY2015 funding level is derived from the *Congressional Record*, Vol. 160, No. 151, Book II, December, 11, 2014.

a. As presented in EPA's FY2013 Operating Plan, this amount reflects reductions resulting from the sequestration and a 0.2% rescission pursuant to the Consolidated and Further Continuing Appropriations Act, P.L. 113-6. EPA reports the pre-rescission, pre-sequestration funding level to be $908.7 million. The Disaster Relief Appropriations Act, 2013 (P.L. 113-2), enacted in January 2013, included $100 million ($95 million after adjustments) for the DWSRF program for water infrastructure projects in areas in New Jersey and New York that incurred damage from Hurricane Sandy. These disaster funds provided for the two states are not included in the total.

b. Funds available to states are reduced by amounts that EPA sets aside from the annual appropriation. For FY2014, EPA reserved $18.14 million for American Indian and Alaska Native water system grants (SDWA §1452(i)), and $2 million to reimburse small systems for unregulated contaminants (§1452(o)).

In contrast to direct grants for construction projects, which would not create an ongoing funding source, the revolving fund program was designed to provide seed money to states in the form of capitalization grants to help generate a sustainable source of funding in each of the states over time. Through June 2012, Congress had appropriated for the DWSRF program a total of $14.69 billion. Adjusted for set-asides and transfers between the clean water and drinking water SRFs, cumulative net federal contributions totaled $12.83 billion. When combined with the 20% state match ($2.82 billion), bond proceeds, loan principal repayments, and other funds, the total DWSRF investment through June 2012 had reached $23.46 billion, and the program had provided $22.34 billion in assistance and supported 9,990 projects.[16]

Drinking Water Infrastructure Needs

To determine how to allot DWSRF funds among the states, EPA is required to assess the capital improvement needs of eligible public water systems every four years.[17] Concurrently, and in consultation with the Indian Health Service and Indian tribes, EPA must assess needs for drinking water treatment facilities to serve Indian tribes and Alaska Native Villages.[18] EPA is required to distribute the DWSRF funds among the states based on the results of the most recent needs survey.[19] Eligible systems include approximately 52,000 community water systems (publicly or privately owned) and 21,400 not-for-profit nontransient noncommunity water systems.

In 2013, EPA issued the 2011 Drinking Water Needs Survey and Assessment—the most recent and fifth such survey. This needs survey indicates that public water systems need to invest $384.2 billion on infrastructure improvements over 20 years ($19.2 billion annually) to achieve regulatory compliance and ensure the provision of safe tap water.[20] EPA reports that this amount is similar to the 2007 and 2003 needs estimates of $379.7 billion and $375.9 billion, respectively, when adjusted to 2011 dollars. The agency noted that these surveys reflect the use of increasingly consistent methodologies for needs estimation among the states, and improved reporting of needs related to infrastructure rehabilitation and replacement.

Although all the infrastructure projects in the needs assessment would promote the health objectives of the act, just $42.0 billion (10.9%) of the funding needed is attributable to SDWA regulations, while $342.2 billion (89.1%) represents nonregulatory costs.[21] Most nonregulatory funding needs typically involve installing, upgrading, or replacing transmission and distribution infrastructure to allow a system to continue to deliver safe drinking water. Although these system problems often do not cause a violation of a drinking water standard, projects to correct infrastructure problems may be eligible for DWSRF funding if needed to address public health

[16] Detailed national and state program data are available at http://water.epa.gov/grants_funding/dwsrf/index.cfm.

[17] SDWA §1452(h); 42 U.S.C. §300j-12(h). EPA must report each needs assessment to Congress.

[18] SDWA §1452(i); 42 U.S.C. §300j-12(i).

[19] In June 2013, EPA published the allotment percentages that provide the basis for allocating the DWSRF appropriations among the states for FY2014 through FY2017. U.S. Environmental Protection Agency, "State Allotment Percentages for the Drinking Water State Revolving Fund Program," 78 *Federal Register* 36183, June 17, 2013.

[20] U.S. Environmental Protection Agency, *Drinking Water Infrastructure Needs Survey and Assessment: Fifth Report to Congress*, Office of Water, EPA 816-R-13-006, April 2013, http://water.epa.gov/grants_funding/dwsrf/upload/epa816r13006.pdf.

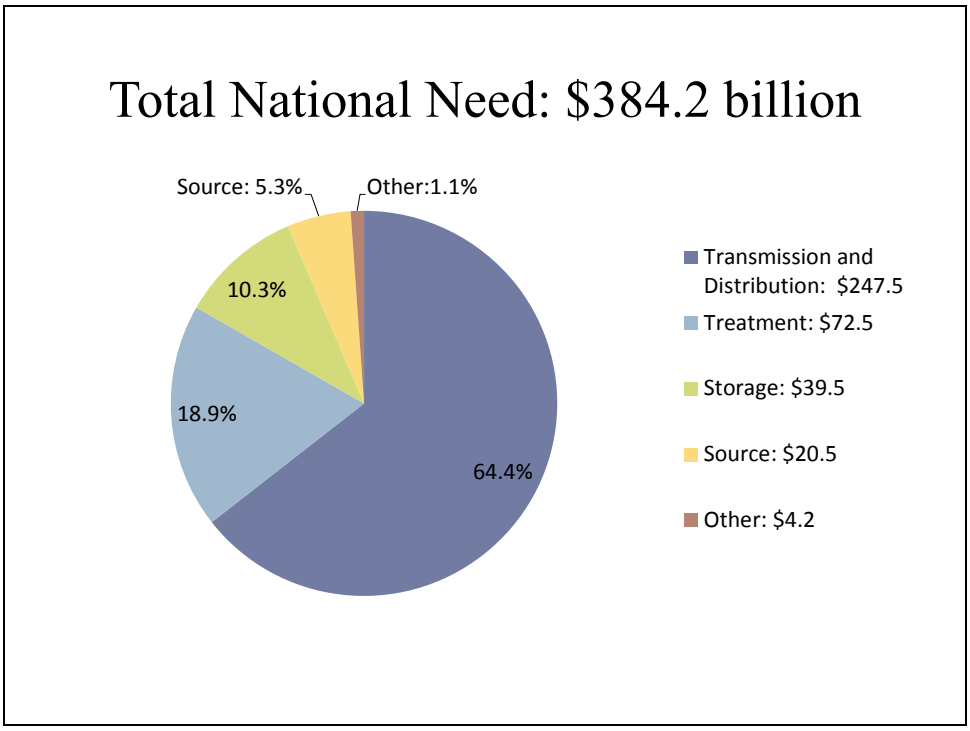
[21] Ibid., p. 10.

risks. Projects attributable to SDWA regulations (including proposed regulations) typically involve the upgrade, replacement, or installation of treatment technologies.

The 2011 Needs Survey presented the 20-year needs estimates by category: transmission and distribution, treatment, source, storage, and other. As seen in **Figure 1**, the largest needs category, installation and rehabilitation of transmission and distribution systems, accounted for $247.5 billion (64.4%) of total 20-year needs. Water treatment needs constituted the next largest category, accounting for $72.5 billion (18.9%) of total needs, while water storage accounts for $39.5 billion (10.3%), and source (projects needed to obtain safe water supplies, including rehabilitation and installation of wells) accounts for $20.5 billion (5.3%) of total 20-year needs. The survey also included $235.9 million for projects to address security needs. However, EPA concluded that security-related needs may be far greater, as many water systems incorporate these costs into the costs of broader construction projects rather than report them separately.

Figure 1. Total 20-Year Need by Project Type

(in billions of 2011 dollars)



Source: Adapted from U.S. Environmental Protection Agency, *Drinking Water Infrastructure Needs Survey and Assessment: Fifth Report to Congress*, Office of Water, EPA 816-R-13-006, April 2013.

Notes: EPA reports that of the total national need of $348.2 billion, $42.0 billion (10.9%) is attributed to costs of SDWA regulations, while $342.2 billion (89.1%) represents nonregulatory costs (e.g., replacing distribution lines). In the 2007 survey, SDWA compliance accounted for 16% and nonregulatory costs accounted for 84% of needs. EPA also noted an increased need for new source water infrastructure as more communities experience drought. "Other" includes security measures, computer systems, and other needs not captured elsewhere.

For further perspective, the needs survey breaks down the 20-year needs estimates according to system size and ownership. Large community water systems (serving more than 100,000 people) accounted for $145.1 billion (36%) of the total 20-year need; Medium systems (serving from 3,301 to 100,000 people) accounted for $161.8 billion (43.6%); and Small systems (serving 3,300 or fewer people) accounted for $64.5 billion (17.4%). Not-for-profit noncommunity water systems have estimated needs of $4.6 billion. The 20-year need for all the states totaled $376.0 billion. The American Indian and Alaska Native Village water system needs totaled $3.3 billion. The 20-year needs reported by American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands totaled $669.7 million. EPA estimated that an additional $4.9 million would be needed for systems to comply with proposed and recently promulgated regulations.

EPA noted that the total needs estimate may be conservative for several reasons: (1) systems are required to meet stringent documentation criteria when identifying needs; (2) many systems did not fully understand their security needs at the time of the assessment; (3) capital improvement plans often cover fewer than 10 years, while the survey tries to capture 20-year estimates; and (4) the survey is limited to eligible needs, thus excluding projects related to dams, raw water reservoirs, fire protection, operation and maintenance, and future growth.

Other needs assessments have also been prepared, including EPA's 2002 Gap Analysis.[22] This study identified potential funding gaps between projected needs and spending from 2000 through 2019. EPA estimated a potential 20-year funding gap for drinking water capital and operations and maintenance ranging from $45 billion to $263 billion, depending on different scenarios.[23]

Water Infrastructure Funding Issues

With the creation of the DWSRF program, Congress acted to help public water systems finance infrastructure projects needed to achieve or maintain compliance with SDWA requirements and, more broadly, to protect public health. While this federal/state program provides an important means for addressing drinking water needs, a substantial gap remains between financing needs and available funds. The 2011 Needs Survey identified a 20-year investment need of $19.21 billion annually,[24] and as infrastructure ages, needs are projected to increase. EPA's Gap Analysis estimated that the national need for pipe replacement alone would reach $12 billion annually in 2040. Since 1997, Congress has appropriated more than $18.2 billion for the DWSRF program. The appropriated amounts, augmented by the state match, leveraging, repayments, and interest earnings, have created significant financing capacity among the state DWSRFs. However, many expect a funding gap to persist, and new SDWA requirements are expected to drive up future estimates of needs.

Other SDWA mandates are eligible for DWSRF funding, thus increasing competition for these resources. The DWSRF program embraces competing objectives, and thus, this competition is

[22] U.S. Environmental Protection Agency, *Clean Water and Drinking Water Infrastructure Gap Analysis Report*, EPA 816-R-02-020, September 2002.

[23] For more information on this study and other needs assessments, see CRS Report RL31116, *Water Infrastructure Needs and Investment: Review and Analysis of Key Issues*, by Claudia Copeland and Mary Tiemann.

[24] U.S. Environmental Protection Agency, *Clean Water and Drinking Water Infrastructure Gap Analysis Report*, EPA 816-R-02-020, September 2002.

perhaps unavoidable. On the one hand, the fundamental purpose of the program is to capitalize revolving funds in the states in order to generate a perpetual source of funding for drinking water projects. On the other hand, Congress authorized multiple set-asides to fund other drinking water program priorities and requirements, such as system compliance capacity assurance, operator certification, and small system technical assistance. Overall, states may use as much as 31% of their grant for the set-asides and another 30% to provide loan subsidies to economically disadvantaged communities. While these options offer states flexibility to tailor their programs to meet individual needs, using funds for these activities could significantly erode the corpus of state funds and slow the rate at which they become capitalized. A concern for states is that, to the degree that Congress relies on the DWSRF to fund other SDWA requirements—rather than providing separate appropriations—the potential of the DWSRF program is diminished. Moreover, in recent appropriations acts, Congress has added several policy directives not present in the SDWA that also may affect the states' ability to grow or maintain their SRFs. These added provisions include loan subsidization requirements, Buy American (iron and steel), and Davis-Bacon prevailing wage requirements, which are discussed below.

A chronic issue concerns the need for communities to address drinking water infrastructure requirements that are outside the scope of the DWSRF program. Communities typically must address several categories of infrastructure requirements unrelated to SDWA compliance, thus, ineligible for DWSRF assistance.[25] These categories include future growth, ongoing rehabilitation, and operation and maintenance of systems. EPA has reported that outdated and deteriorated drinking water infrastructure poses a fundamental long-term threat to drinking water safety, and that in many communities, basic infrastructure costs can far exceed SDWA compliance costs. As reported in EPA's most recent drinking water needs assessment, less than 11% of the 20-year estimated need is directly related to compliance with SDWA regulations.

Although the DWSRF program does not address certain categories of needs and excludes many noncommunity water systems from coverage, with this program Congress added a significant tool to the mix of federal, state, and local initiatives intended to help communities ensure the safety of water supplies. Nonetheless, the question of how to meet water infrastructure needs is a persistent issue that is receiving increased attention as the nation's water infrastructure ages and as budgets at all levels face constraints. In recent years, House and Senate committees have held hearings on the clean water and drinking water SRF programs, infrastructure needs, and funding issues and options. Water infrastructure funding bills have been introduced repeatedly. A fundamental question has concerned the long-term federal role in water infrastructure financing. A subset of questions concerns how the latest recession and deficit reduction efforts might affect the type and level of federal involvement. For example, how might deficit reduction objectives impact recent congressional efforts to develop a small system grant program or sustainable funding source, such as a water infrastructure trust fund? Other persistent water infrastructure issues include the gap between funding and estimated needs; the growing cost of complying with SDWA standards, particularly for small communities; the ability of small or economically disadvantaged communities to afford DWSRF financing; and the broader need for cities to maintain, upgrade, and expand infrastructure unrelated to SDWA compliance.

[25] Projects to replace aging infrastructure are eligible if they are needed to maintain compliance or to further public health protection goals.

Congressional Actions

Despite ongoing legislative interest, budgetary constraints and other concerns have posed challenges to efforts to enact new water infrastructure financing legislation. In the face of large needs, competition for limited federal resources, and debate over the federal role in funding water infrastructure, EPA, states, and utilities have increasingly focused on alternative management and financing strategies to address costs and promote greater financial self-reliance among water systems. Strategies include establishing public-private partnerships, improving asset management, and adopting full-cost pricing for water services. Such approaches are meant to improve the financial and managerial sustainability of water systems; however, they may be limited in their ability to fully meet needs, particularly among poorer communities and small water systems that may lack economies of scale. Consequently, interest in exploring new infrastructure financing options—such as an infrastructure bank—and expanding federal assistance has persisted.

111th Congress

In the 111th Congress, water infrastructure funding issues received attention in the context of the economic stimulus debate that resulted in the enactment of the supplemental appropriations, the American Recovery and Reinvestment Act of 2009 (ARRA; P.L. 111-5). ARRA included $2 billion ($1.98 billion after the across-the-board rescission) for drinking water infrastructure projects to be administered through the DWSRF program, and $4 billion for wastewater infrastructure projects through the Clean Water SRF program.[26] Congress waived the 20% state match requirement for these grants, but attached several new conditions. ARRA required states to use at least 50% of the funds to further subsidize loans (including forgiveness of principal, negative interest loans, and grants) to eligible recipients. States also were required to reserve at least 20% of the funds for green infrastructure, water efficiency improvements, or other environmentally innovative projects. A precedent-setting change was that ARRA applied Davis-Bacon prevailing wage requirements to construction projects that received assistance of any kind from these funds.[27] The act also required American steel, iron, and manufactured goods to be used in construction and repair of water infrastructure projects that received ARRA funding.[28]

[26] For information on DWSRF and CWSRF funding under ARRA, see EPA ARRA website at http://water.epa.gov/grants_funding/eparecovery/.

[27] The Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010 (P.L. 111-88), included $1.387 billion for the DWSRF program and applied Davis-Bacon prevailing wage requirements to these FY2010 funds. Specifically, the act contains the following language in Title 11 under the heading, "Administrative Provisions, Environmental Protection Agency": "For fiscal year 2010 the requirements of section 1450(e) of the Safe Drinking Water Act (42 U.S.C. 300j-9(e)) shall apply to any construction project carried out in whole or in part with assistance made available by a drinking water treatment revolving loan fund as authorized by section 1452 of that Act (42 U.S.C. 300j-12)." (This provision had not been applied previously to the DWSRF program.)

EPA guidance on this Davis-Bacon provision extended coverage to include all assistance agreements concluded during FY2010, regardless of the source of funding. For more information, see CRS Report R41469, *Davis-Bacon Prevailing Wages and State Revolving Loan Programs Under the Clean Water Act and the Safe Drinking Water Act*, by Gerald Mayer and Jon O. Shimabukuro.

[28] Section 1605 of ARRA provided that none of the funds appropriated or otherwise made available by the act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. The requirement could be waived for public interest, non-availability, or unreasonable cost (a 25% differential was used). See CRS Report (continued...)

As presented in **Table 1**, the 111th Congress also provided for FY2009 $829.0 million for the DWSRF program through regular appropriations for Interior, EPA, and Related Agencies, for a total of roughly $2.83 billion in appropriations for this program for FY2009.

Water Infrastructure Funding and Financing Proposals

Beyond regular appropriations and the stimulus debate, water infrastructure issues received attention. In 2009, the Senate Environment and Public Works Committee reported, amended, S. 1005, the Water Infrastructure Financing Act (S.Rept. 111-47). The bill was similar to this committee's measure in the previous Congress, proposing to authorize $20 billion over five years for clean water SRF capitalization grants and $14.7 billion over five years for DWSRF capitalization grants. As discussed, the states use their annual capitalization grants from EPA to "capitalize" the state revolving loan fund to provide an ongoing source of water infrastructure funding for communities generally through repayment of loans to the state. S. 1005 also would have authorized new grant programs for critical water quality and drinking water infrastructure projects. During markup, the committee adopted several amendments, including one to specify that the Davis-Bacon Act prevailing wage requirement would apply to all projects financed in whole or in part through a clean water or drinking water SRF. Davis-Bacon language was not included in the bill as introduced. The full Senate did not take up the reported bill. The Senate committee had reported a water infrastructure financing bill in each of the four preceding Congresses, and the application of Davis-Bacon requirements to the DWSRF program was one of the policy issues that hampered further action on these bills.

A jurisdictional issue also has presented challenges to the passage of water infrastructure legislation. While the Senate Committee on Environment and Public Works has jurisdiction over both the Clean Water Act (CWA) and Safe Drinking Water Act, this jurisdiction is split in the House between the Committee on Energy and Commerce (SDWA) and the Committee on Transportation and Infrastructure (CWA). The House Committee on Transportation and Infrastructure had reported CWSRF legislation several times in recent years, and the House passed H.R. 1262 in the 111th Congress, which, among other things, proposed to make the CWSRF more similar to the DWSRF. The DWSRF is a newer, more flexible program, and in the previous several years no companion reauthorization bill for the DWSRF had been offered in the House, thus leaving a gap between House and Senate water infrastructure bills. In July 2010, the House passed one such bill, the Assistance, Quality, and Affordability Act of 2010 (H.R. 5320, H.Rept. 111-524). As passed, H.R. 5320 would have reauthorized the DWSRF for three years (for a total of $4.8 billion), applied Davis-Bacon prevailing wage provisions to projects financed in any way by a DWSRF, specified certain eligible uses of the fund (such as rehabilitation of aging infrastructure and projects that improve energy or water efficiency), and made other changes to this program and the act more broadly. The bill proposed to expand DWSRF program priorities to include projects designed to improve the economic and environmental sustainability and long-term viability of water systems. H.R. 5320 was referred to the Senate Environment and Public Works Committee, where no further action occurred.

Trust fund legislation also was proposed in the 111th Congress, as policy makers explored alternative and sustainable water infrastructure funding sources that would not be reliant on

(...continued)

R42501, *Domestic Content Legislation: The Buy American Act and Complementary Little Buy American Provisions*, by John R. Luckey. EPA ARRA information is available at http://www.epa.gov/recovery/.

annual appropriations. The Water Protection and Reinvestment Act, H.R. 3202, proposed to establish a dedicated water infrastructure trust fund supported by specified product and corporate taxes, rather than general revenues. The trust fund was to be supported by taxes on a range of products that can affect water quality or water treatment costs, such as pharmaceuticals and personal care products (PPCPs). The bill also would have imposed taxes on water-based beverages and some corporate profits.

Taking a different approach, H.R. 537 and S. 3262, the Sustainable Water Infrastructure Investment Act of 2009, proposed to amend the Internal Revenue Code of 1986 to provide that the volume cap for private activity bonds (PABs) would not apply to bonds for water supply or wastewater facilities. A key purpose of this legislation was to provide alternative financing for water infrastructure investments. The House Ways and Means Committee reported the Small Business and Infrastructure Jobs Tax Act of 2010 (H.R. 4849, H.Rept. 111-447), which incorporated the text of H.R. 537 to lift the state volume cap on tax-exempt PABs for water or wastewater treatment facilities. The House passed the bill, but no further action was taken on this measure.

112th Congress

Congressional attention in the 112th Congress focused largely on appropriations bills. For FY2011, the full-year continuing resolution (P.L. 112-10, Division B, Title VII, §1738) provided $965 million for the DWSRF program ($963.1 million after applying the required across-the-board rescission of 0.2%). For FY2012, the President requested $999.0 million, and, in P.L. 112-74, Congress provided $919.4 million ($917.9 million after applying the 0.16% across-the-board rescission).

Several policy measures that Congress attached to DWSRF funds in ARRA were included in the FY2012 appropriations for this program.

- Congress expanded and made permanent the application of Davis-Bacon prevailing wage requirements as follows:

  > For fiscal year 2012 and each fiscal year thereafter, the requirements of section 1450(e) of the Safe Drinking Water Act (42 U.S.C. 300j-9(e)) shall apply to any construction project carried out in whole or in part with assistance made available by a drinking water treatment revolving loan fund as authorized by section 1452 of that Act (42 U.S.C. 300j-12).[29]

- The green project reserve was reduced from 20% to 10% for the Clean Water SRF and made discretionary for states under the DWSRF. Funds could be used for projects that address water or energy efficiency improvements, green infrastructure, or other environmentally innovative activities.

[29] U.S. Congress, House, Conference Report, *Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2012*, 112th Cong., 1st sess., December 15, 2011, H.Rept. 112-331, p. 236. Although many states have similar requirements, Congress did not include this requirement in the SDWA DWSRF provisions, and it had not been applied historically to the DWSRF program.

- Buy American requirements were attached to projects receiving SRF assistance. (With conditions and limitations, the act required that iron, steel, and "manufactured goods" must be manufactured in the United States.)[30]

While these conditions meet congressional policy objectives, they may have added to concerns that congressional requirements make SRF loan transactions "too long, expensive, and bureaucratic."[31] A further concern was that adding requirements beyond those in the SDWA might reduce the number of projects funded and diminish the growth and sustainability of the SRFs.

For FY2013, the President had requested $850 million for the DWSRF program. In July 2012, the House Committee on Appropriations reported the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2013, H.R. 6091, which recommended an appropriation level of $829 million for DWSRF capitalization grants. In the report accompanying H.R. 6091, the committee noted that funding the Clean Water SRF and DWSRF programs through regular appropriations is unsustainable, and encouraged authorizing committees to examine alternative funding mechanisms for the SRFs:

> The Committee has proposed a $1.4 billion, or 17 percent, reduction in this bill from the fiscal year 2012 enacted level. These cuts restore a needed balance to the EPA's budget, in light of previous increases and the severe fiscal challenges facing our country.
>
> The Committee notes that $866 million of this reduction comes from the Clean Water and Safe Drinking Water State Revolving Funds (SRFs). The recommended funding level for the SRFs in fiscal year 2013 is consistent with the Committee's recommendation in the fiscal year 2012 bill. While the Committee recognizes the importance of the SRFs as a key component of the nation's infrastructure investment, these accounts received $6 billion in the American Recovery and Reinvestment Act (ARRA) of 2009 and a 130 percent increase in funding in fiscal year 2010. This funding served as the equivalent of six years' worth of appropriations in one calendar year.
>
> The EPA and the States should continue to focus on fully allocating and spending previously appropriated funds. In addition, funding these accounts through regular appropriations is simply unsustainable given ever growing needs. The Committee continues to encourage the appropriate authorizing committees to examine alternative funding mechanisms for the SRFs that are sustainable in the long-term.[32]

In September 2012, Congress approved a six-month continuing resolution (P.L. 112-175), which funded government agencies through March 27, 2013, generally at FY2012 levels ($917.9 million for the DWSRF) with an across-the-board increase of 0.612%.

Water Infrastructure Funding and Financing Proposals

A range of water infrastructure funding measures was offered in the 112th Congress. As in the previous Congress, legislation was introduced to remove the volume cap on private activity bonds

[30] 41 U.S.C. §10a-10c. P.L. 112-74, §606 applied Buy American Act requirements to all assistance under this act.

[31] See, for example, Pacific Northwest Section and Intermountain Section, *States' Alternatives to WIFIA*, American Water Works Association, PNWS-AWWA 2013 Spring Trustees Meeting, April 26, 2013, http://www.pnws-awwa.org/uploads/PDFs/Spring%20Trustee%20Meetings/IWUC.pdf.

[32] U.S. Congress, House of Representatives Appropriations, *Department of the Interior, Environment, and Related Agencies Appropriation Bill, 2013*, to accompany H.R. 6091, 112th Cong., 2nd sess., 2012, H.Rept. 112-589, pp. 5-6.

(PABs) for drinking water and wastewater facilities. These tax-exempt bonds provide a financing tool to stimulate private-sector investment in public projects. Federal law imposes state bond caps, limiting the ability of state and local governments to use PABs to finance drinking water and wastewater infrastructure projects.[33] The Sustainable Water Infrastructure Investment Act of 2011 (H.R. 1802 and S. 939) proposed to remove the cap on private activity bonds to

> accelerate and increase overall investment in the Nation's critical water infrastructure; facilitate increased use of innovative infrastructure delivery methods supporting sustainable water systems through public-private partnerships that optimize design, financing, construction, and long-term management, maintenance and viability; and provide for more effective risk management of complex water infrastructure projects by municipal utility and private sector partners.

Supporters, including most segments of the water industry, assert that such bills would expand opportunities for private investment in the water infrastructure market and generate significant private capital at a very low cost to the government.[34] Others have argued generally against subsidies, and note the loss of revenue that would result from such an approach. Congress generally has limited the use of tax-exempt bonds for private activities because of concern about their overuse and related revenue losses. Moreover, Internal Revenue Service data suggest that PAB expansion may have only a small impact on water infrastructure investment.[35]

Other legislation that involved water infrastructure included H.R. 1684, the Keep American Jobs from Going Down the Drain Act. This bill proposed amending the SDWA and the Clean Water Act to largely prohibit the use of SRF funds for water project construction, alteration, maintenance, or repair unless the steel, iron, and manufactured goods used in the project are produced in the United States. The provisions essentially would have codified the Buy American requirements contained in the ARRA supplemental appropriations and subsequent appropriations.

H.R. 395, the Healthy Communities Water Supply Act of 2011, proposed to amend the Clean Water Act to extend the authorization of appropriations for the pilot program for alternative water source projects. This bill also would have required the EPA administrator, when making grants under the program, to consider whether a project is located in an area which is served by a public water system serving 10,000 individuals or fewer.

Similar to bills in several previous Congresses, the Small System Drinking Water Act (S. 999) proposed an alternate approach to address the chronic shortage of drinking water infrastructure funding relative to needs, particularly among small, rural communities. Among other provisions, S. 999 would have amended the SDWA to prevent the enforcement of certain drinking water regulations unless adequate funding was available.

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[33] The federal tax code allows state and local governments to use tax-exempt bonds to finance certain projects that would be considered private activities. Congress uses an annual state volume cap to limit the amount of tax-exempt bond financing and restricts the types of "qualified private activities" that would qualify for tax-exempt financing to types of projects specified in the tax code. For a review of private activity bonds, caps, qualified programs, and congressional action, see CRS Report RL31457, *Private Activity Bonds: An Introduction*, by Steven Maguire.

[34] See, for example, National Utility Contractors Association, *Clean Water Council and Sustainable Water Infrastructure Investment Coalition Talk Strategy*, 2011, http://www.nuca.com/i4a/pages/index.cfm?pageid=2615.

[35] See discussion in CRS Report R42467, *Legislative Options for Financing Water Infrastructure*, by Claudia Copeland, Steven Maguire, and William J. Mallett.

Taking a different funding approach from the SRF programs, H.R. 402 and H.R. 3259/S. 1550 would have created a national infrastructure development bank that would be used to fund water, transportation, and other infrastructure.

113th Congress

In early action, the 113th Congress looked to the SRF programs to provide a mechanism to help address the destruction of public water infrastructure caused by Hurricane Sandy. The Disaster Relief Appropriations Act, 2013 (P.L. 113-2), enacted on January 29, 2013, included $95 million ($100 million before sequestration) for the DWSRF program and $475 million ($500 million before sequestration) for the Clean Water SRF program. These funds were targeted for drinking water and wastewater infrastructure projects in storm-struck areas in New Jersey and New York.

As noted, in September 2012, Congress approved a six-month continuing resolution (P.L. 112-175), which funded government agencies through March 27, 2013, generally at FY2012 levels ($917.9 million for the DWSRF) with an across-the-board increase of 0.612%. On March 26, 2013, the six-month CR was superseded by the Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6, H.R. 933), which provided full-year continuing appropriations for Interior, EPA, and Related Agencies through September 30, 2013. Section 1406 of P.L. 113-6 rescinded $10 million from unobligated DWSRF balances and $10 million from unobligated CWSRF balances. After taking into account sequestration and a 0.2% rescission pursuant to P.L. 113-6, EPA allocated roughly $861.3 million for the program for FY2013.[36] Congress provided $907 million for the DWSRF program for each of FY2014 and FY2015.

Small System Technical Assistance

In addition to funding measures, Congress considered amending SDWA to reauthorize and expand technical assistance to help small public water systems achieve compliance and protect water quality. As noted, EPA may reserve up to 2% of the DWSRF appropriation (with a $15 million cap) to provide technical assistance to small systems. However, Congress separately authorized funding, through FY2003, for such assistance under SDWA Section 1442(e), and has provided funding for this purpose.

S. 864 (S.Rept. 113-142), as reported by the Senate Environment and Public Works Committee, proposed to make several changes to SDWA Section 1442(e).[37] The bill would have authorized the appropriation of $15 million annually for each of FY2015 through FY2019. S. 864, Section 4,

[36] This amount also takes into account the rescission of unobligated DWSRF balances required under P.L. 113-6, Section 1406. For further discussion, see CRS Report R43207, *Environmental Protection Agency (EPA): Appropriations for FY2013 in P.L. 113-6*, by Robert Esworthy and David M. Bearden.

[37] Added in 1996, Section 1442(e) authorized appropriations of $15 million per year for FY1997 through FY2003 for EPA to provide technical assistance to small water systems through nonprofit organizations or other means. The purpose of the technical assistance is to enable small public water systems to achieve and maintain compliance with drinking water regulations. Such assistance may include circuit-rider and multistate regional technical assistance programs, training, and preliminary engineering evaluations. Before FY2011, Congress typically provided funding for various rural water technical assistance activities in EPA's annual appropriations as congressional priorities and specified various grant recipients. For FY2012, Congress provided $14.97 million for small system technical assistance and directed EPA to award the funds competitively. Similarly, Congress directed EPA to award, competitively, $12.7 million for FY2013, and $12.7 million for FY2014. For details, see http://water.epa.gov/grants_funding/sdwa/smallsystemsrfa.cfm.

would have specified several new eligible uses of the funds beyond the current focus of providing technical assistance specifically to help small water systems comply with federal drinking water regulations. S. 864 proposed that funds could be used for drinking water compliance, source water protection, implementing monitoring plans, water security, and other purposes. The bill called for EPA, in awarding grants, to give preference to nonprofit organizations that are the "most qualified and experienced" and that small community water systems find most beneficial.

Water Infrastructure Funding and Financing Proposals

Deficit reduction pressures are not new to DWSRF appropriations considerations, but statutory spending caps in the Budget Control Act of 2011, as amended by the American Taxpayer Relief Act of 2012, place added constraints on appropriators.[38] Building on previous efforts, the 113th Congress considered various alternative financing approaches for water infrastructure.

Enacted in June 2014, the Water Resources Development Act of 2014 (P.L. 113-121, H.R. 3080) includes in Title V, Subtitle C, the Water Infrastructure Finance and Innovation Act of 2013 (WIFIA). In WIFIA, Congress authorized a pilot loan guarantee program to test the ability of innovative financing tools to promote increased development of, and private investment in, water infrastructure projects. The pilot program is intended to complement, and not replace, the SRF programs. Eligible projects include SRF-eligible projects and a wide range of water resource development projects that generally must have costs of at least $20 million. Such large projects face difficulty securing significant funding through the SRF programs. For projects serving areas with a population of 25,000 or fewer individuals, eligible projects must have a total cost of at least $5 million. Projects funded under this program will be subject to Davis-Bacon prevailing wage requirements. Additionally, WIFIA funds may be used only if all the iron and steel used in a project are produced in the United States (unless this requirement would increase project costs by more than 25%). The act authorizes to be appropriated to the Secretary of the Interior and the EPA Administrator $20 million each for FY2015 and $25 million each for FY2016, with amounts increasing annually to $50 million each for FY2019. The Consolidated and Further Continuing Appropriation Act, 2015 (P.L. 113-235), did not appropriate funds for project financing, but did provide EPA with $2.2 million for hiring staff to implement the program.[39]

Other measures were also introduced to create new federal financing options for drinking water and wastewater infrastructure. S. 335, the Water Infrastructure Finance and Innovation Act of 2013, was introduced to establish a financing program at EPA to provide direct loans and loan guarantees for a broad range of water infrastructure and water resource management projects. H.R. 2084 proposed to establish a National Infrastructure Bank to guarantee debt for a wide range of infrastructure projects, while H.R. 535 and H.R. 789 would have expanded on the Build America Bonds initially created under ARRA.[40]

[38] See CRS Report R42949, *The American Taxpayer Relief Act of 2012: Modifications to the Budget Enforcement Procedures in the Budget Control Act*, by Bill Heniff Jr.

[39] For further information, see CRS Report R43315, *Water Infrastructure Financing: The Water Infrastructure Finance and Innovation Act (WIFIA) Program*, by Claudia Copeland.

[40] For a detailed discussion of alternative water infrastructure financing proposals, see CRS Report R42467, *Legislative Options for Financing Water Infrastructure*, by Claudia Copeland, Steven Maguire, and William J. Mallett.

The 114th Congress

The 114th Congress may focus oversight attention on the DWSRF program, as well as EPA's efforts to establish the pilot loan program authorized in the Water Infrastructure Finance and Innovation Act in P.L. 113-121. In the President's FY2016 budget request, EPA notes that it faces a complex task in standing up a new federal loan program.

> The agency is focused on executing a thoughtful and efficient design and plan to implement WIFIA.... The EPA will direct resources as available in FY 2016 to continue the complex work necessary to stand up a new federal loan program. Funding is requested to establish policy goals, program, scope, policies, procedures, evaluation criteria, application processes, internal controls and governance, and other similar efforts necessary to inform credit subsidy models. The agency will work within overall staffing levels to support this program. The EPA may use contract resources for additional specialized financial, legal, and engineering expertise to address potentially very complex issues.[41]

For FY2015, Congress provided EPA with $2.2 million to develop the WIFIA program, but provided no project funds. For the DWSRF program, the President has requested $1.186 billion for FY2016, which is $429 million above the $757 million requested for FY2015, and $279 million above the FY2015 appropriation level of $907 million.

Bills have been introduced in the 114th Congress to authorize funding for existing programs and to stimulate water infrastructure investments. A broad infrastructure bill, the Rebuild America Act of 2015 (S. 268), would authorize appropriations for FY2015 through FY2019 for a range of infrastructure programs. Among other provisions, the bill would authorize the appropriation of $6 billion annually for the DWSRF program and $6 billion annually for the Clean Water SRF program, and another $2 billion annually for EPA to provide loans for large water infrastructure projects under WIFIA. To stimulate private investment in water infrastructure, H.R. 499 would amend the Internal Revenue Code of 1986 to provide that the volume cap for private activity bonds (PABs) does not apply to bonds for water and wastewater infrastructure (see discussion under "Water Infrastructure Funding and Financing Proposals"). As the 114th Congress considers funding for water infrastructure programs and related measures, the debate over debt reduction—and the Budget Control Act, specifically—is likely to be a significant factor influencing the outcome amount of such deliberations.

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[41] U.S. Environmental Protection Agency, *United States Environmental Protection Agency Fiscal Year 2016 Justification of Appropriation Estimates for the Committee on Appropriations*, Office of the Chief Financial Officer, February 2015, p. 552.