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Dated: July 12, 2000.

Peter W. Preuss,

*Director, National Center for Environmental
Research.*

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6838-9]

Proposed Additions to the Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems; Proposed Allocation Methodology for Funding to States for the Operator Certification Expense Reimbursement Grants Program

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice; solicitation of
comments.

SUMMARY: In this Notice, the
Environmental Protection Agency (EPA)
is seeking comment on proposed
additions to the Final Guidelines for the
Certification and Recertification of the
Operators of Community and
Nontransient Noncommunity Public
Water Systems, which were published
in the **Federal Register** on February 5,
1999 (64 FR 5916). Specifically, EPA is
seeking comment on the approach and
schedule for review of State operator
certification programs for the purpose of
making Drinking Water State Revolving
Fund (DWSRF) withholding
determinations, and the intent of the
term "validated exam". EPA is also
seeking comment on the proposed
allocation methodology and program for
funding that will be used to award
grants to States for the Operator
Certification Expense Reimbursement
Grants Program.

DATES: Submit written comments on or
before September 5, 2000.

ADDRESSES: Send written comments on
this **Federal Register** notice to the
Operator Certification Comment Clerk,
Water Docket MC-4101 (Docket #W-98-
07), United States Environmental
Protection Agency, 1200 Pennsylvania
Avenue NW, Washington, DC, 20460.
Please submit an original and three
copies of your comments and enclosures
(including references). Those who
comment and want EPA to acknowledge
receipt of their comments must enclose
a self-addressed, stamped envelope. No

facsimiles (faxes) will be accepted.
Comments may be hand-delivered to
EPA's Water Docket, Room EB57, 401 M
Street SW, Washington, DC 20460.
Comments may also be submitted
electronically to ow-docket@epa.gov.
Electronic comments must be submitted
as an ASCII file avoiding the use of
special characters and forms of
encryption. Electronic comments must
be identified by Docket #W-98-07.
Comments and data will also be
accepted on disks as a WordPerfect 8
file. Electronic comments on this notice
may be filed online at many Federal
Depository Libraries.

The record for these proposals has
been established under Docket #W-98-
07, and includes supporting
documentation as well as printed paper
versions of electronic comments. The
record is available for review at EPA's
Water Docket, Room EB57, 401 M Street
SW, Washington DC 20460. For access
to the Docket materials, call (202) 260-
3027 between 9:00 a.m. and 3:30 p.m.
Eastern Time for an appointment and
reference Docket #W-98-07.

FOR FURTHER INFORMATION CONTACT: For
technical inquiries, contact Jenny
Jacobs, Office of Ground Water and
Drinking Water (4606), U.S. EPA, 1200
Pennsylvania Avenue NW, Washington,
DC, 20460. The telephone number is
(202) 260-2939 and the e-mail address
is jacobs.jenny@epa.gov. For copies of
this document, contact the Safe
Drinking Water Hotline, toll free at (800)
426-4791. Copies can also be obtained
from EPA's website at [http://
www.epa.gov/ogwdw/opcert/opcert.htm](http://www.epa.gov/ogwdw/opcert/opcert.htm).
Copies of EPA's Final Guidelines for the
Certification and Recertification of the
Operators of Community and
Nontransient Noncommunity Public
Water Systems may be obtained by
contacting the Safe Drinking Water
Hotline or EPA's website at [http://
www.epa.gov/ogwdw/opcert/
opguide.html](http://www.epa.gov/ogwdw/opcert/opguide.html).

SUPPLEMENTARY INFORMATION:

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 - E. Validated Exam Issue
- II. Proposed Allocation Methodology for the
Operator Certification Expense

- Reimbursement Grants Program
 - A. Background
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 - C. Program Funding
 - D. Allocation Methodology

I. Proposed Additions to the Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems

A. Background

The operator certification guidelines
were developed to meet the
requirements of section 1419(a) of the
Safe Drinking Water Act (SDWA), as
amended in 1996. Section 1419(a)
directs the United States Environmental
Protection Agency (EPA) to develop
guidelines specifying minimum
standards for certification and
recertification of operators of
community and nontransient
noncommunity public water systems
and to publish final guidelines by
February 6, 1999. The final guidelines
were published in the **Federal Register**
on February 5, 1999 (64 FR 5916)—see
Docket #W-98-07, Operator Cert., II-
A.1. Pursuant to section 1419(b) of the
SDWA, beginning two years after the
date on which EPA publishes guidelines
for the certification (and recertification)
of operators of community and
nontransient noncommunity public
water systems (or February 5, 2001),
EPA shall withhold 20 percent of the
funds a State is otherwise entitled to
receive under SDWA section 1452
unless a State has adopted and is
implementing a program that meets the
requirements of EPA's operator
certification guidelines. Section 1452
establishes a Drinking Water State
Revolving Fund (DWSRF) program to
assist public water systems to finance
the costs of infrastructure needed to
achieve or maintain compliance with
SDWA requirements and to further the
public health objectives of the Act.
Section 1452 authorizes EPA to award
capitalization grants to States, which in
turn provide low cost loans to eligible
systems and other types of assistance.
Under section 1452, States can also set
aside a portion of their capitalization
grant to use for State program
management purposes relating to
implementation of the public water
system supervision, source water
protection, operator certification and
capacity development programs. States
must meet the requirements contained
in EPA's operator certification
guidelines to avoid DWSRF
capitalization grant withholding. There
are no other sanctions for States with
operator certification programs that do
not meet the requirements of the

guidelines. All funds withheld by EPA shall be reallocated based on the formula originally used to allot those funds. These withheld funds will be reallocated to States who are implementing a program that meets EPA's guidelines. A State that has not met the requirements of the guidelines is not eligible to receive reallocation of withheld funds.

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), EPA must obtain approval from the Office of Management and Budget (OMB) to collect information from the States required under the Operator Certification Guidelines as well as the Operator Certification Expense Reimbursement Grants Program. EPA is expecting to obtain approval of an Information Collection Request (ICR) for this information later this year. Advance notice of the ICR will be published in the **Federal Register** for public comment before it is submitted to OMB. EPA may not conduct, or sponsor, and a person is not required to submit to a collection of information unless the Agency has OMB approval for collection of the information.

B. General Review and Withholding Process Information

This proposal covers the deadlines for States to submit their operator certification programs to EPA, time frames for EPA to review States programs, time frames for States to address any identified deficiencies, and time frames for EPA to make withholding decisions. DWSRF withholding decisions will be made on an annual basis once a State has received EPA approval that its program meets EPA's guidelines. Annual decisions will be based upon a State's ongoing implementation of its operator certification program.

In developing an approach for reviewing State operator certification programs and making withholding decisions, EPA sought to: (a) Establish a consistent date for all States to meet the requirements of the guidelines; (b) provide States with sufficient time to make changes in their programs in response to EPA review before EPA permanently withholds funds; and (c) allow future operator certification program decisions to be made at the beginning of the fiscal year so that States can plan for their use of DWSRF program funds.

States have two options for submitting their programs to EPA for review. Section 1419(c) recognizes that some States may have existing operator certification programs that meet the public health objectives of the guidelines and allows those States to submit their existing programs as "substantially equivalent" to the guidelines instead of requiring those States to make revisions to their programs. Alternatively, States that must make changes to their existing programs may submit revised programs to meet the requirements of EPA's guidelines.

Section C explains EPA's proposed schedule for States that intend to submit their existing operator certification programs as "substantially equivalent" programs. Section D explains EPA's proposed schedule for States planning to revise their operator certification programs.

EPA is specifically seeking comment on the process for reviewing and making withholding determinations for operator certification program submittals. The two approaches will be finalized and published in the **Federal Register** after receiving public comment. These approaches will then be included as part of the final operator certification guidelines in section III (Program Submittal Process), subsection A (Submittal Schedule and Withholding Process), which is currently reserved.

C. Review Process and DWSRF Withholding Determinations for Substantially Equivalent State Operator Certification Programs

As required by section 1419(c) of the SDWA, any State which submits its existing program to EPA as "substantially equivalent" to the EPA guidelines must do so by August 5, 2000. If EPA does not act on a program submitted as "substantially equivalent" within nine months of submittal, the program is deemed to meet the requirements of the guidelines. However, EPA will strive to complete its reviews of State programs within six months. States are encouraged to submit their final operator certification programs to EPA for review before the August 5, 2000 deadline (Diagram 1 at the end of this section has been included as a visual aid for understanding the following schedule).

The proposed approach for review of a State's initial operator certification program is:

- A State must submit its program to EPA for review by August 5, 2000. Any State program that is submitted after August 5, 2000 will be considered a revised program and will follow the schedule in section D.
- Within six months of a State submittal, and no later than February 5, 2001, EPA will complete its review of a State program. At that time, EPA will either make a determination that the program is substantially equivalent or will issue a Notice of Disapproval and will provide a list of deficiencies to the State.
- A State has six months after receipt of a Notice of Disapproval to correct deficiencies and submit the changes to EPA. EPA will approve or disapprove the State's program by September 30, 2001.

The proposed approach for withholding decisions based on a State's initial operator certification program submittal is:

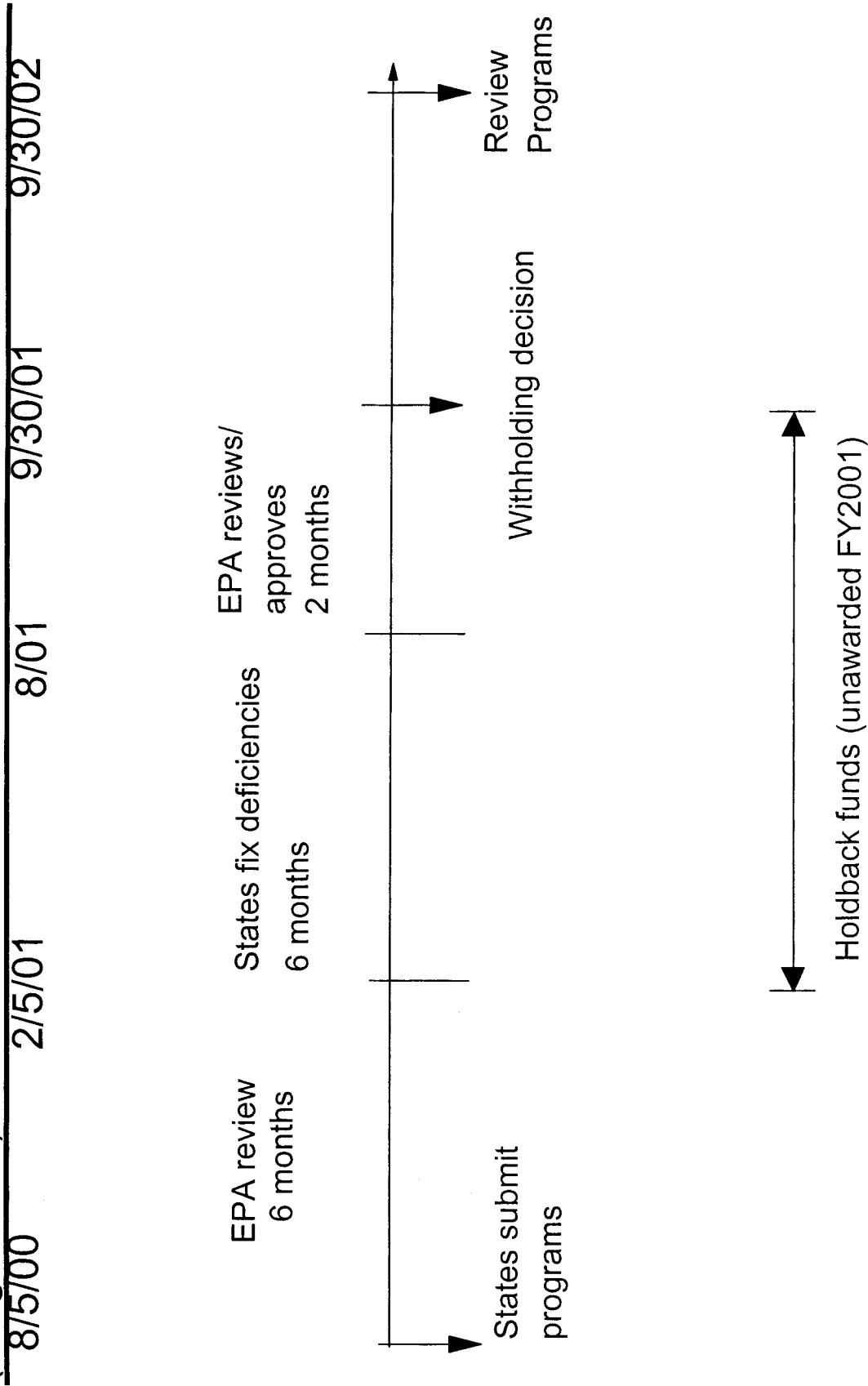
- If a State program is submitted but EPA has not yet determined that it meets the guidelines on February 5, 2001, 20% of unawarded FY 2001 funds will be held back (but not permanently withheld).
- If a State program is approved by September 30, 2001, held back FY 2001 funds will be released to the State.
- On October 1, 2001, a State with a disapproved program will permanently lose any held back funds from FY 2001, plus 20% of FY 2002 funds.

The proposed approach for withholding decisions based on a State's annual operator certification program submittal is:

- Any State whose program is approved on or before September 30, 2000 is required to undergo its first annual review of its operator certification program on or before September 30, 2001.
- If EPA finds that the State's annual submittal does not meet the guidelines, the State will permanently lose 20% of FY 2002 funds on October 1, 2001.
- On or before September 30, 2002, and annually thereafter, EPA will review a State's operator certification program and make any necessary determinations to withhold funds from the upcoming fiscal year's allotment.

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Proposed Submittal Schedule for "Substantially Equivalent" Programs
(Diagram #1)



*D. Review Process and DWSRF
Withholding Determinations for Revised
State Operator Certification Programs*

If a State makes revisions to its existing program in order to meet the requirements of the guidelines, the State will submit its program as a revised program. States are required to submit their revised programs by February 5, 2001, however all States are encouraged to submit their operator certification programs to EPA for review before this deadline (Diagram 2 at the end of this section has been included as a visual aid for understanding the following schedule).

The proposed approach for review of a State's initial operator certification program and for making withholding decisions is:

- A State must submit its initial operator certification program to EPA for review by February 5, 2001. If a State does not submit its program to EPA by February 5, 2001, the State will immediately lose 20% of unawarded FY 2001 funds. The guidelines require States to submit an Attorney General's certification, a full description and explanation of how the State's operator certification program complies with the requirements of the guidelines and a copy of the State's operator certification regulations. There may be situations where a State's legislative schedule would not allow a State to have final regulations certified by the Attorney General by February 5, 2001. In these

situations, States must submit regulations that have been adopted by the implementing agency or agencies but are awaiting legislative approval, a schedule for final adoption by the State legislature and a full description of how the State's program complies with the requirements of the guidelines. The State must submit its Attorney General's certification immediately once its regulations have been approved by the legislature, but no later than September 30, 2002.

- Between February 5, 2001, and September 30, 2002, EPA will hold back 20% of unawarded FY 2001 and FY 2002 funds from any State that submits its program to EPA by the February 5, 2001 deadline but that has not yet received EPA approval of its program.

- Within six months of a State's submittal date, EPA will complete its review of State programs that were submitted by the February 5, 2001 deadline. At that time, EPA will determine that either the State's program meets EPA's guidelines or will provide a list of deficiencies to the State.

- States have until September 30, 2002 to correct deficiencies and to receive EPA approval of its operator certification program in order to receive any FY 2001 and FY 2002 funds that were held back from the State.

- On September 30, 2002 a State that does not have an EPA approved program will lose any held back FY 2001 and FY 2002 funds.

- On October 1, 2002, a State that does not have an EPA approved program will lose 20% of its FY 2003 funds.

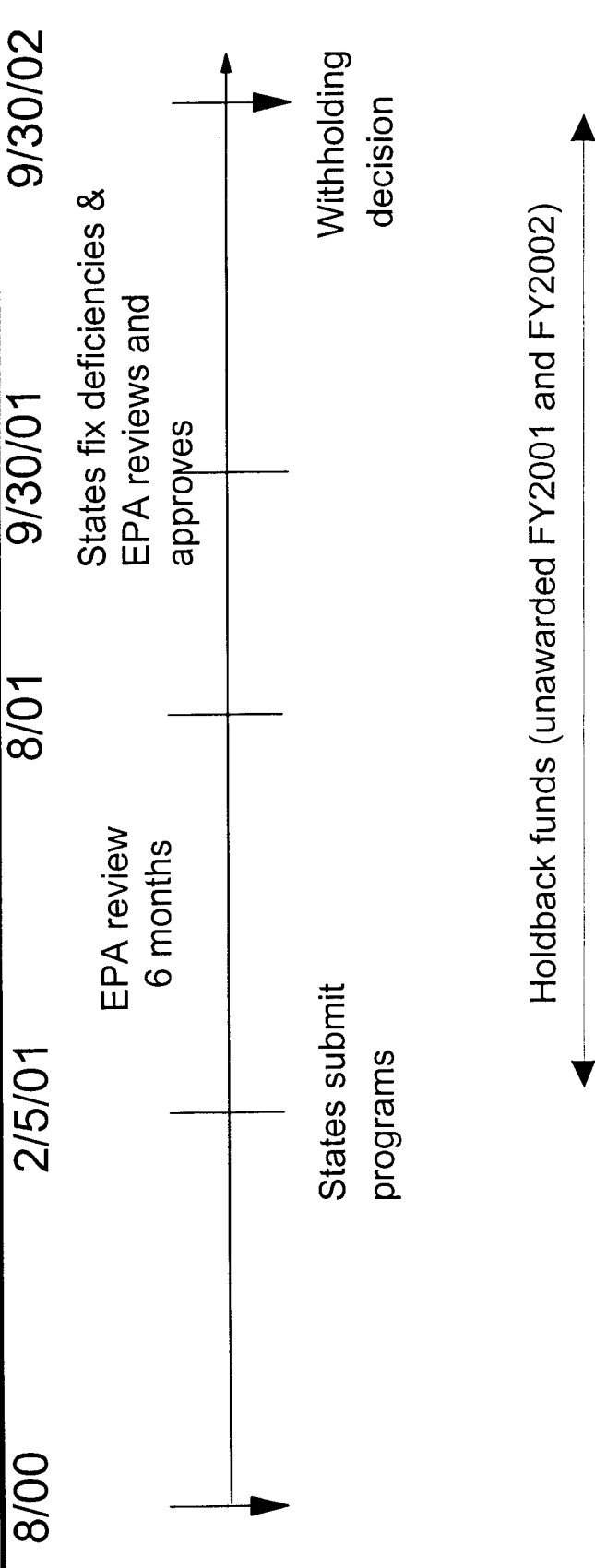
The proposed approach for withholding decisions based on a State's annual operator certification program submittal is:

- Any State that has received EPA approval of its initial operator certification program before September 30, 2000 is required to undergo its first annual review of its operator certification program on or before September 30, 2001. If EPA finds that the State's annual submittal does not meet the guidelines, the State will permanently lose 20% of its FY 2002 funds on October 1, 2001.

- Any State that receives EPA approval of its initial operator certification program between October 1, 2000 and September 30, 2001 is required to undergo its first annual review of its operator certification program between October 1, 2001 and September 30, 2002. If EPA finds that the State's annual submittal does not meet the guidelines, the State will permanently lose 20% of its FY 2003 funds on October 1, 2002.

- On or before September 30, 2003, and annually thereafter, EPA will review a State's operator certification program and make any necessary determinations to withhold funds from the upcoming fiscal year's allotment.

Proposed Submittal Schedule for "Revised" Programs
(Diagram #2)



EPA permanently withholds 20% of FY 2001 DWSRF funds if a State fails to submit its program for review by Feb 5, 2001

E. Validated Exam Issue

The Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems contains nine baseline standards that States are required to adopt and implement in their operator certification programs. States are required to classify all of their community and nontransient noncommunity water systems (including all treatment facilities and/or distribution systems). States are also required to develop specific operator certification and renewal requirements for each level of classification. The baseline standard for Operator Qualifications specifies that State programs must require that for an operator to become certified, the operator must "take and pass an exam that demonstrates that the operator has the necessary skills, knowledge, ability and judgement as appropriate for the classification". Furthermore, this baseline standard specifies that "all exam questions must be validated". At the end of the guidelines, EPA includes a definition of "validated exam". EPA defines a validated exam to be "an exam that is independently reviewed by subject matter experts to ensure that the exam is based on a job analysis and related to the classification of the system or facility". EPA is requiring States to validate exams for operators because it will ensure that exams cover the fundamental skills, knowledge, ability and judgement required to safely operate water systems as well as determine the competency of operators.

The requirement that "all exam questions must be validated" is not entirely consistent with the reference to "validated exam". EPA believes that an exam that is made up of validated questions may not include the full spectrum of information that an operator needs to know in order to properly operate a water system. EPA is therefore requesting comment on an amendment to the guidelines that would clarify EPA's intent that all exams, not just exam questions, be validated.

II. Proposed Allocation Methodology for the Operator Certification Expense Reimbursement Grants Program

A. Background

Section 1419(d) of the SDWA requires EPA to reimburse the costs of training, including an appropriate per diem for unsalaried operators, and certification for persons operating community and nontransient noncommunity public water systems serving 3,300 persons or fewer that are required to undergo

training pursuant to EPA's operator certification guidelines. The reimbursement is to be provided through grants to States. Each State is to receive an amount sufficient to cover the reasonable costs for training all such operators in the State. The amount each State will receive to cover the reasonable costs for training will be determined by the Administrator of EPA. Section 1419(d) also authorizes an appropriation of \$30 million in funding for this reimbursement each year from FY 1997 through FY 2003 and stipulates that, if this appropriation is not sufficient, EPA shall reserve these funds from the national DWSRF program appropriation. It is EPA's intention to set aside funds for expense reimbursement from the national DWSRF program appropriation.

The grants are first to be used to provide reimbursement for training and certification costs of persons operating community and nontransient noncommunity water systems serving 3,300 persons or fewer. If a State has reimbursed all such costs, the State may, after notice to the Administrator, use any remaining funds from the grant for any of the other purposes authorized for capitalization grants under section 1452 of the SDWA.

B. Administration of the Grants Program

States may apply for and receive the expense reimbursement grant funds in accordance with the requirements of 40 CFR part 31 (Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments) once their operator certification program has received approval by EPA. A State has two years from the date of initial program approval to apply for and receive its expense reimbursement grant. Funds not obligated within this two year period will be reallocated to States for use in the DWSRF program based on the formula used to allot the DWSRF funds. If sufficient funds are not available to fully fund the expense reimbursement grant, the two year period shall begin on the date the funds become available. EPA will notify States of the availability of funds.

In order to receive funding, a State must submit an application for an expense reimbursement grant. EPA will require States to submit a work plan and annual progress report on how these funds are to be used in meeting the requirements of section 1419(d). After a State has reimbursed all such costs pursuant to section 1419(d)(1), the State may, after notice to the Administrator of EPA, use any remaining funds from the grant for any of the other purposes

authorized for capitalization grants under section 1452 of the SDWA. The notification for using the remaining expense reimbursement grant funds for any of the other purposes authorized for capitalization grants under section 1452 must include supporting documentation that the State has met the requirement for training and certifying its operators. The State will also be required to explain in a work plan how the remaining funds will be used. States will be given broad discretion on how to implement the expense reimbursement grants program to best meet the needs of the systems in the State and to minimize the administrative expenses in carrying out this program.

EPA's intention to set aside funds for the expense reimbursement grants program from the national DWSRF program appropriation has triggered questions concerning whether EPA should require a 20% State match pursuant to section 1452(e). Even though the funds have been appropriated under section 1452, EPA believes that since the expense reimbursement grants program is authorized under section 1419(d), there should be no 20% match requirement for this grant because there are no match requirements for funds awarded pursuant to that section. EPA, however, believes that any remaining funds from this grant program that States may use for any of the other purposes authorized for capitalization grants under section 1452 should require a 20% match, and is specifically seeking comment on this issue.

C. Program Funding

EPA estimates that between \$97 million to \$131 million will be needed for the expense reimbursement grants program between FY 1999, when the final operator certification guidelines were published, and FY 2003, the last year for which these grants are authorized. This estimate represents the range of the total amount of funding that EPA believes is necessary to initially train and certify operators of community and nontransient noncommunity water systems serving 3,300 persons or fewer to meet the requirements of the guidelines. EPA has developed this estimate based on the assumptions listed below:

Funding Assumptions

1. Total number of community and nontransient noncommunity water systems serving 3,300 or fewer persons = 65,255 (from Safe Drinking Water Information System (SDWIS) database).

2. Number of operators per system (see options listed below).

3. $\frac{1}{2}$ of the operators would be unsalaried and therefore would be eligible for per diem.

4. Per diem = \$100/day (Per diem is a daily allowance that would cover the costs of lodging and meals; for unsalaried operators only).

5. Four days of per diem assumed for class attendance (two days per training class).

6. The cost of all training classes estimated at \$300/class.

7. Two training classes per operator for initial certification or certification renewal.

8. \$75 fee for initial certification/certification renewal.

9. For mileage purposes, assume two round trips (one round trip for each training class).

10. Number of miles per round trip = 200.

11. Mileage reimbursement estimated at \$.31/mile (for all operators).

The range of the total amount of funding necessary for reimbursement is primarily driven by the number of operators per system who would require reimbursement. EPA is proposing three options for this assumption:

- 2 operators per system
- 1.5 operators per system
- 2 operators per community water system (CWS) and 1 operator per nontransient noncommunity water system (NTNCWS)

EPA will determine the allotment for each State by substituting the number of community and nontransient noncommunity water systems serving 3,300 persons or fewer for a particular State under Assumption #1.

For example, if a State has 1,000 eligible water systems, the allocation would be calculated as follows using the option of 2 operators per system:

Funding Assumptions

1. Total number of community and nontransient noncommunity water systems serving 3,300 or fewer persons = 1,000.

2. Number of operators per system = $2 \times 1,000 = 2,000$.

3. $\frac{1}{2}$ of the operators would be unsalaried and therefore would be eligible for per diem = $2,000 \times \frac{1}{2} = 1,000$.

4. Per diem = \$100/day (Per diem is a daily allowance that would cover the costs of lodging and meals; for unsalaried operators only) = $1,000 \times \$100 = \$100,000$.

5. Four days of per diem assumed for class attendance (two days per training class) = $4 \times \$100,000 = \$400,000$.

6. The cost of all training classes estimated at \$300/class.

7. Two training classes per operator for initial certification or certification renewal = $2 \times \$300 \times 2,000 = \$1,200,000$.

8. \$75 fee for initial certification/certification renewal = $\$75 \times 2,000 = \$150,000$

9. For mileage purposes, assume two round trips (one round trip for each training class).

10. Number of miles per round trip = $200 \times 2 = 400$.

11. Mileage reimbursement estimated at \$.31/mile (for all operators) = $400 \times \$.31 \times 2,000 \text{ operators} = \$248,000$.

By adding the dollar amounts listed under assumptions 5, 7, 8 and 11, the proposed amount of money for the grant would be \$1,998,000.

EPA is seeking comment on the method for estimating costs, and specifically, on the following issues:

1. Which one of the three options for the number of operators per system is the most reasonable for purposes of calculating the total amount of funding?

2. Are the additional assumptions (1, 3–11) proposed for calculating the total amount of funding reasonable assumptions?

3. Are there other assumptions that should be used?

D. Allocation Methodology

EPA evaluated several options for allocating the funds among States. Four options that were evaluated for allocating the funds to States were: (1) An allocation methodology based on the 1999 Drinking Water Infrastructure Needs Survey; (2) an allocation methodology based on the Public Water System Supervision grants formula; (3) an allocation methodology based on the number of community and nontransient noncommunity water systems serving 3,300 or fewer in each State; and (4) an allocation methodology based solely on systems which must have a certified operator for the first time as a result of the newly published guidelines.

EPA recommends allocating the funds based on the number of community and nontransient noncommunity water systems serving 3,300 or fewer in each State (option three). EPA believes that this allocation methodology is the most easily understood and it appears to be the most equitable option of those which were evaluated. The number of systems serving 3,300 persons or fewer is readily available from EPA's national SDWIS database.

EPA's recommended approach of allocating the funds based on the number of community and nontransient noncommunity water systems serving 3,300 or fewer in each State is supported by the National Drinking Water Advisory Council, which is a

group of stakeholders consisting of members of the general public, State and local agencies, water systems and private groups concerned with safe drinking water.

EPA believes that an allocation methodology based on the number of systems which must have a certified operator for the first time would penalize those States which already require small systems to have certified operators or would penalize those States that moved ahead to improve their operator certification programs before the guidelines were published. Currently, EPA cannot accurately predict the number of new operators that must be certified and/or identify systems with operators whose certification must be upgraded to meet the guidelines.

EPA will finalize the allocation methodology and publish it in the **Federal Register** after receiving public comment.

Dated: June 27, 2000.

J. Charles Fox,

Assistant Administrator, Office of Water.

[FR Doc. 00–18434 Filed 7–19–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6734–9]

Notice of Availability of Proposed National Pollutant Discharge Elimination System ("NPDES") General Permit for Offshore Oil and Gas Exploration, Development and Production Operations off Southern California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of proposed NPDES General Permit (Reissuance).

SUMMARY: The Regional Administrator, EPA, Region 9, is proposing to issue an NPDES general permit (permit No. CAG280000) for discharges from oil and gas exploration, development and production operations in Federal waters offshore of the State of California. This document announces the availability of the proposed general permit and fact sheet for public comment. When issued, the proposed permit will establish effluent limitations, prohibitions, and other conditions on discharges from facilities in the general permit area. These conditions are based on the administrative record.

This document also announces the availability of the following documents