


MINUTE ORDER NO. 88-19

PAGE 1 OF 2

Pursuant to public notice and comment, the Commission on Pollution Control and Ecology hereby adopts the draft Arkansas Regulation No. 10 establishing the requirements for the Revolving Loan Fund Program provided that:

- I. The following comments from George Horvath, EPA, Region VI are adopted:
 - a. The regulation includes a definition of project completion to read: "the date operations of the treatment works are initiated or are capable of being initiated, whichever is earlier. Where construction of a treatment works has been phased or segmented, the repayment requirement applies to the completion of individual phases or segments."
 - b. The Arkansas RLF Regulations shall apply to all financial assistance request made for funds available pursuant to the Clean Water Act, as amended.
 - c. All loan condition statements begin with "agree to".
 - d. Loans will be made at two interest rates which can range from 4% to a rate of 1% below the market rate at the beginning of each Federal fiscal year. Interest rates shall e determined for each fiscal year in the annual priority system and will be stated in each fiscal year's Intended Use Plan.
 - e. Loans are to be fully amortized no longer than twenty years following project completion.
 - f. The applicant records, books, documents, and other evidence, sufficient to reflect properly all cost, shall be subject to audit by the State, EPA-OIG, and the General Accounting Office during the period of the loan agreement.
 - g. Loan recipients agree to comply with all applicable Federal, state, and local laws and regulations, including but not limited to those for procurement, Minority Business Enterprise/Women's Business Enterprise, wage rates, and environmental protection.

COMMISSIONERS





 CHAIRMAN

SUBMITTED BY: Larry Wilson DATE PASSED: 7-22-88

ARKANSAS DEPARTMENT OF POLLUTION
CONTROL & ECOLOGY

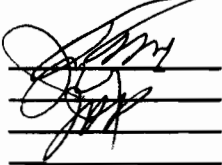
LOCATION - SUBJECT Regulation No. 10

MINUTE ORDER NO. 88-19

PAGE 2 OF 2

II. In reference to the recommendation from Harold Seifert of the Department of Health that the loan condition include a requirement for a mandatory depreciation fund, Regulation No. 10 requires collected revenues from the user charge system must be sufficient to offset the costs of operation, maintenance, and replacement. Replacement in this case is synonymous with depreciation.

COMMISSIONERS



CHAIRMAN

SUBMITTED BY: Larry Wilson DATE PASSED: 7-22-88

RESPONSIVENESS SUMMARY

Public Hearing on proposed FY'89 Construction Grants Priority System and List, FY'88 and FY'89 Arkansas Revolving Loan Fund Priority System and List, and Arkansas Revolving Loan Fund Regulation No. 10.

Public Participation Activity Conducted: Public Hearing, June 28, 1988, Arkansas Game and Fish Commission, 2 National Resource Drive, Little Rock, Arkansas.

Issues Presented for Public Comment: Proposed FY'89 Construction Grants Priority System and List for the distribution of Federal funds to upgrade wastewater treatment facilities in Arkansas; proposed FY'88 and 89 Revolving Loan Priority Systems and List; and Arkansas Revolving Loan Fund Regulation No. 10.

Public Response: There were no comments during the public hearing.

The following comments were received during the comment period:

1. Bennie J. McCoy, President, Crist Engineers, Little Rock, AR. - concerned that the imposed deadline of June 1, 1989 for Step 3 grant application will not give cities enough time for compliance with planning and design or Title II requirements and will therefore compromise sound engineering practices and techniques.
2. Harold R. Seifert, Director, Division of Engineering, Department of Health, Little Rock, AR. - omission of five towns on the contingent RLF Intended Use Plan FY'89 and requirements for a mandatory depreciation fund.
3. George Horvath, Chief, Construction Grants Program Section, Environmental Protection Agency, Region VI, Dallas, Texas - Comments pertaining to RLF Intended Use Plans for FY'88 and FY'89 include:
 - a. Correction of 4th quarter state match to be 20% instead of 5%.
 - b. Correction of minor typographical, mathematical, and grammatical errors.
 - c. Indication of projects which may undergo an Environmental Impact Study.
 - d. Indication of whether or not the State will fund Section 319 or 320 projects.
 - e. Expansion of State's long and short term goals.
 - f. Clarification of administrative expenses charged to 205(g) funds.
 - g. Clarification of Nepa-like Environmental Review determinations adopted by the State.
 - h. Provisions for by-pass, assistance deadlines, default, or delay in construction schedules are addressed only in the RLF FY'88 and FY'89 Priority System and List, and RLF Regulations and Guidelines, not in the loan agreements.

Comments pertaining to RLF Regulation No. 10 consist of:

- a. Define project completion.
- b. Clarification of all forms of financial assistance which are governed by Regulation No. 10.
- c. Suggested all statements pertaining to loan conditions for eligible municipalities begin with "agree to".
- d. Clarification of interest rates and how they are determined for each fiscal year.
- e. Clarification of applicable federal, state, and local laws and regulations, particularly procurement.
- f. Clarification of maximum loan amortization.
- g. Applicant records, books, documents and other evidence, sufficient to reflect properly all costs, shall be subject to audit by not only the State, but also EPA-OIG, and the General Accounting Office during the period of the loan agreement.

Comments concerning the FY'88 and FY'89 RLF Priority Systems and Lists:

- a. Clarification of time limits (forever or the current fiscal year) in which by-pass projects are ineligible due to failure to meet certification deadline.

Recommended Changes from Public Comments:

- a. A correction to the FY'89 RLF Contingency List concerning the addition of Lewisville, Yellville, and Bald Knob.
- b. An extension to August 1, 1989 from June 1, 1989 for certification of Step 3 applications.
- c. Include a definition of project completion.
- d. Correct the RLF Intended Use Plans for FY'88 and FY'89 pertaining to the 4th quarter state match to be 20% instead of 5%.
- e. Correct minor typographical, mathematical, and grammatical errors.
- f. Indicate that no projects will undergo an Environmental Impact Study.
- g. The State will not fund 319 or 320 projects.
- h. An expansion of the State's long and short goals.
- i. 205(g) reserve will be used only to plan, develop, or refine the RLF program.
- j. Provisions for by-pass, assistance deadlines, default, or delay in construction schedules be addressed only in the RLF FY'88 and FY'89 Priority Systems and Lists, and RLF Regulation No. 10.
- k. The Arkansas RLF Regulations shall apply to all financial assistance requests made for funds available pursuant to the Clean Water Act, as amended.
- l. All loan condition statements begin with "agree to".
- m. Loans will be made at two interest rates which can range from 4% to a rate of 1% below the market rate at the beginning of each Federal fiscal year. Interest rates shall be determined for each fiscal year in the annual priority system and will be stated in each fiscal year's Intended Use Plan.

- n. Loans are to be fully amortized no longer than twenty years following project completion.
- o. The applicant records, books, documents, and other evidence, sufficient to reflect properly all cost, shall be subject to audit by the State, EPA-OIG, and the General Accounting Office during the period of the loan agreement.
- p. If an application is not certifiable by the established, the project will be declared permanently ineligible for RLF funding and another project will be selected in accordance with this system.

Comments Rejected: All comments not addressing the aforementioned changes can be considered as being rejected. Individualized responses to all written comments have been prepared and are available upon request.

Evaluation of Public Effectiveness: The public participation must be viewed as having been successful from the perspective of the amount of public participation and the changes in the proposed System and List made on the basis of those comments.

Distribution of Responsiveness Summary: Copies of this Responsiveness Summary have been provided to members of the Arkansas Commission of Pollution Control and Ecology, appropriate representatives of the U. S. Environmental Protection Agency, and Department of Pollution Control and Ecology information depositories located throughout the State (see attachment). Persons who made comments and who request copies of the summary will be provided copies.