NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part**: Procedures for Issuing Loans From the Water Pollution Control Loan Program

2) **Code Citation**: 35 Ill. Adm. Code 365

3) **Section Number**: 365.250
   **Adopted Action**: Amendment

4) **Statutory Authority**: Implementing and authorized by Section 19.1 through 19.9 of the Environmental Protection Act, 415 ILCS 5/19.1 through 19.9.

5) **Effective Date of Rule**: July 20, 2018

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted rule is on file in the Illinois Environmental Protection Agency's principal office located at 1021 North Grand Avenue East, P.O. Box 19276, Springfield IL, 62794-9276, and is available for public inspection.

9) **Notice of Proposal published in the Illinois Register**: 42 Ill. Reg. 7272; April 20, 2018

10) **Has JCAR issued a Statement of Objection to this rulemaking?** No

11) **Differences between Proposal and Final Version**: None

12) **Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR?** No changes were requested.

13) **Will this rulemaking replace any emergency rule currently in effect?** No

14) **Are there any rulemakings pending on this Part?** No

15) **Summary and Purpose of Rulemaking**: The Agency amends the additional subsidization requirements for the water pollution control loan program to match recent amendments to the Clean Water Act. Pub.Law 114-322. This amendment expands the types of subsidies and types of eligible recipients. The amendments also broaden the affordability criteria.
by removing the requirement that the public loan applicant have a median household income less than the state average.

16) Information and questions regarding this adopted rule shall be directed to:

Joanne Olson  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276  
217/782-5544

The full text of the Adopted Amendment begins on the next page:
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 365
PROCEDURES FOR ISSUING LOANS FROM THE WATER POLLUTION CONTROL LOAN PROGRAM

SUBPART A: INTRODUCTION

Section
365.105 Purpose
365.110 Definitions
365.120 Administration
365.130 Projects and Activities Available for Assistance
365.140 Types of Assistance
365.150 Other Federal Requirements
365.160 Application Process
365.170 Waiver of Procedures

SUBPART B: FINANCING TERMS

Section
365.210 Fixed Loan Rate
365.220 Loan Repayment Period
365.240 Restructuring
365.250 Additional Subsidization
365.260 Limitations on Loan Assistance

SUBPART C: LOAN APPLICATION PROCESS

Section
365.310 Funding Nomination Form
365.320 Project Plan
365.330 State Environmental Review
365.340 Project Priority List
365.350 Securing the Loan Agreement

SUBPART D: LOAN ISSUANCE, AUDITING, AND RECORDKEEPING
ILLINOIS REGISTER

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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Section
365.410 Loan Issuance
365.420 Post-Loan Issuance Construction Contract Requirements
365.430 Loan Eligible Costs
365.440 Disbursement of Loan Funds
365.450 Initiation of Loan Repayment
365.460 Loan Closing and Issuance of Final Loan Amendment
365.470 Ongoing Auditing and Monitoring of Financial Capability

SUBPART E: DELINQUENT LOAN REPAYMENTS AND NONCOMPLIANCE

Section
365.510 Delinquent Loan Repayments
365.520 Noncompliance with Loan Procedures
365.530 Stop-Work Order
365.540 Termination

SUBPART F: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS

Section
365.610 Requirements for Subagreements
365.620 Construction Contracts
365.630 Contracts for Personal and Professional Services
365.640 Compliance with Procurement Requirements for Construction Contracts
365.650 Disputes
365.660 Indemnity
365.670 Covenant Against Contingent Fees

AUTHORITY: Implementing and authorized by Sections 19.1 through 19.9 of the Environmental Protection Act [415 ILCS 5/19.1 through 19.9].

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENT


SUBPART B: FINANCING TERMS

Section 365.250 Additional SubsidizationPrincipal-Forgiveness

a) The Agency may provide additional subsidization as provided in section 603(i) of the CWA or as otherwise prescribed by USEPA in the annual capitalization grant agreement. When the Agency provides assistance to a public loan recipient, the Agency shall, until the available principal forgiveness funding established in the Capitalization Grant is exhausted, provide additional subsidization in the form of principal forgiveness to a public loan recipient to finance a project or activity eligible for assistance under 33 USC 1383(c)(1) that meets the affordability criteria of subsection (b).

b) Pursuant to section 603(i)(2) of the CWA, the Agency adopts the following affordability criteria:

A affordbility Criteria:

1) To be eligible for additional subsidization under section 603(i)(1)(A)(i) of the CWA, a public loan recipient must:

A) have a service population of 30,000 or less, unless the loan applicant's median household income (MHI) is 70% or less of the statewide average; and

B) The MHI of the public loan applicant's service population is less than or equal to the statewide MHI; and

BC) score at least 21 points based on the following criteria:

i) Median Household Income

<table>
<thead>
<tr>
<th>Points</th>
<th>MHI as % of Statewide MHI</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>Above 100%</td>
</tr>
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</table>
NOTICE OF ADOPTED AMENDMENT

<table>
<thead>
<tr>
<th>Points</th>
<th>Service Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>Above 30,000</td>
</tr>
<tr>
<td>5</td>
<td>20,000-30,000</td>
</tr>
<tr>
<td>10</td>
<td>15,000-19,999</td>
</tr>
<tr>
<td>15</td>
<td>10,000-14,999</td>
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<tr>
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<td>2,000-4,999</td>
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<tr>
<td>30</td>
<td>1,000-1,999</td>
</tr>
<tr>
<td>35</td>
<td>0-999</td>
</tr>
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</table>

ii) Population

<table>
<thead>
<tr>
<th>Points</th>
<th>Additional Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Unemployment rate is greater than the statewide average</td>
</tr>
</tbody>
</table>
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENT

<table>
<thead>
<tr>
<th>Points</th>
<th>Percent</th>
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<tbody>
<tr>
<td>0-20</td>
<td>0%</td>
</tr>
<tr>
<td>21-40</td>
<td>up to 15%</td>
</tr>
<tr>
<td>41-60</td>
<td>up to 30%</td>
</tr>
<tr>
<td>61-80</td>
<td>up to 45%</td>
</tr>
<tr>
<td>81-100</td>
<td>up to 60%</td>
</tr>
</tbody>
</table>

2) The amount of additional subsidization provided principal forgiveness under section 603(i)(1)(A)(i) of the CWA subsection (a) will be capped for qualifying public loan recipients and applied only to eligible projects costs as follows:

   4) The amount of additional subsidization provided principal forgiveness by one percentage point or more
   6) Decrease in service population greater than 5.0% in the last 5 years from the date of the loan application

   The amount of additional subsidization provided principal forgiveness under section 603(i)(1)(A)(i) of the CWA subsection (a) will be capped for qualifying public loan recipients and applied only to eligible projects costs as follows:

<table>
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<td>up to 45%</td>
</tr>
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<td>81-100</td>
<td>up to 60%</td>
</tr>
</tbody>
</table>

   c) Notwithstanding the additional subsidization principal forgiveness caps in subsection (b)(2), the Agency may establish a base cap applicable to each public loan recipient within its Intended Use Plan each year. The base cap shall be the same amount for each public loan recipient receiving additional subsidization principal forgiveness. In determining the base cap, the Agency must consider the following factors:

   1) the amount of federal appropriation allocated to the Agency for additional subsidization principal forgiveness;
   2) the number of qualifying public loan recipients;
   3) the availability of equity in the State Water Revolving Fund while ensuring the fund operates in perpetuity; and
   4) requirements established by USEPA.

   d) The Agency shall prioritize public loan applicants who score at least 21 points under the affordability criteria in subsection (b), and shall award additional
NOTICE OF ADOPTED AMENDMENT

subsidization principal forgiveness to loan applicants in the order that loan applicants have been issued a loan by the Agency pursuant to Section 365.410.

(Source: Amended at 42 Ill. Reg. 14442, effective July 20, 2018)