

Sec.	
3905.	Projects eligible for assistance.
3906.	Activities eligible for assistance.
3907.	Determination of eligibility and project selection.
3908.	Secured loans.
3909.	Program administration.
3910.	State, tribal, and local permits.
3911.	Regulations.
3912.	Funding.
3913.	Reports on program implementation.
3914.	Requirements.

### § 3901. Definitions

In this chapter:

#### (1) Administrator

The term “Administrator” means the Administrator of the Environmental Protection Agency.

#### (2) Community water system

The term “community water system” has the meaning given the term in section 300f of title 42.

#### (3) Federal credit instrument

The term “Federal credit instrument” means a secured loan or loan guarantee authorized to be made available under this chapter with respect to a project.

#### (4) Investment-grade rating

The term “investment-grade rating” means a rating of BBB minus, Baa3, bbb minus, BBB (low), or higher assigned by a rating agency to project obligations.

#### (5) Lender

##### (A) In general

The term “lender” means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or a successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)).

##### (B) Inclusions

The term “lender” includes—

- (i) a qualified retirement plan (as defined in section 4974(c) of title 26) that is a qualified institutional buyer; and
- (ii) a governmental plan (as defined in section 414(d) of title 26) that is a qualified institutional buyer.

#### (6) Loan guarantee

The term “loan guarantee” means any guarantee or other pledge by the Secretary or the Administrator to pay all or part of the principal of, and interest on, a loan or other debt obligation issued by an obligor and funded by a lender.

#### (7) Obligor

The term “obligor” means an eligible entity that is primarily liable for payment of the principal of, or interest on, a Federal credit instrument.

#### (8) Project obligation

##### (A) In general

The term “project obligation” means any note, bond, debenture, or other debt obliga-

tion issued by an obligor in connection with the financing of a project.

#### (B) Exclusion

The term “project obligation” does not include a Federal credit instrument.

#### (9) Rating agency

The term “rating agency” means a credit rating agency registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization (as defined in section 78c(a) of title 15).

#### (10) Secured loan

The term “secured loan” means a direct loan or other debt obligation issued by an obligor and funded by the Secretary or Administrator, as applicable, in connection with the financing of a project under section 3908 of this title.

#### (11) State

The term “State” means—

- (A) a State;
- (B) the District of Columbia;
- (C) the Commonwealth of Puerto Rico; and
- (D) any other territory or possession of the United States.

#### (12) State infrastructure financing authority

The term “State infrastructure financing authority” means the State entity established or designated by the Governor of a State to receive a capitalization grant provided by, or otherwise carry out the requirements of, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et. seq.) or section 300j-12 of title 42.

#### (13) Subsidy amount

The term “subsidy amount” means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument, as calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

#### (14) Substantial completion

The term “substantial completion”, with respect to a project, means the earliest date on which a project is considered to perform the functions for which the project is designed.

#### (15) Treatment works

The term “treatment works” has the meaning given the term in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292).

(Pub. L. 113-121, title V, § 5022, June 10, 2014, 128 Stat. 1332.)

### Editorial Notes

#### REFERENCES IN TEXT

The Securities Act of 1933, referred to in par. (5)(A), is title I of act May 27, 1933, ch. 38, 48 Stat. 74, which is classified generally to subchapter I (§77a et seq.) of

<sup>1</sup> So in original. The period probably should not appear.

chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Federal Water Pollution Control Act, referred to in par. (12), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of this title. Title VI of the Act is classified generally to subchapter VI (§1381 et seq.) of chapter 26 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of this title and Tables.

The Federal Credit Reform Act of 1990, referred to in par. (13), is title V of Pub. L. 93-344, as added by Pub. L. 101-508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388-609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

#### Statutory Notes and Related Subsidiaries

##### SHORT TITLE

Pub. L. 113-121, title V, §5021, June 10, 2014, 128 Stat. 1332, provided that: "This subtitle [subtitle C (§§5021-5035) of title V of Pub. L. 113-121, enacting this chapter] may be cited as the 'Water Infrastructure Finance and Innovation Act of 2014.'"

##### "SECRETARY" DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113-121, set out as a note under section 2201 of this title.

#### § 3902. Authority to provide assistance

##### (a) In general

The Secretary and the Administrator may provide financial assistance under this chapter to carry out projects, which shall be selected to ensure a diversity of project types and geographical locations.

##### (b) Responsibility

###### (1) Secretary

The Secretary shall provide financial assistance to carry out all projects under this chapter that are eligible projects under section 3905(1) of this title.

###### (2) Administrator

The Administrator shall provide financial assistance to carry out all projects under this chapter that are eligible projects under paragraphs (2), (3), (4), (5), (6), (7), and (9) of section 3905 of this title.

###### (3) Other projects

The Secretary or the Administrator, as applicable, may carry out eligible projects under paragraph (8) or (10) of section 3905 of this title.

(Pub. L. 113-121, title V, §5023, June 10, 2014, 128 Stat. 1333; Pub. L. 114-322, title IV, §5008(a), (b)(2)(A), Dec. 16, 2016, 130 Stat. 1896, 1897; Pub. L. 115-270, title IV, §4201(a)(1), Oct. 23, 2018, 132 Stat. 3877.)

#### Editorial Notes

##### AMENDMENTS

2018—Subsec. (a). Pub. L. 115-270, §4201(a)(1)(A), struck out "pilot" before "projects".

Subsec. (b)(1). Pub. L. 115-270, §4201(a)(1), substituted "provide financial assistance to carry out all projects" for "carry out all pilot projects".

Subsec. (b)(2). Pub. L. 115-270, §4201(a)(1)(A), struck out "pilot" after "all".

2016—Subsec. (b)(2). Pub. L. 114-322, §5008(b)(2)(A)(i), substituted "(7), and (9)" for "and (8)".

Pub. L. 114-322, §5008(a), substituted "provide financial assistance to carry out" for "carry out".

Subsec. (b)(3). Pub. L. 114-322, §5008(b)(2)(A)(ii), substituted "paragraph (8) or (10)" for "paragraph (7) or (9)".

#### Statutory Notes and Related Subsidiaries

##### "SECRETARY" DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113-121, set out as a note under section 2201 of this title.

#### § 3903. Applications

##### (a) In general

To receive assistance under this chapter, an eligible entity shall submit to the Secretary or the Administrator, as applicable, an application at such time, in such manner, and containing such information as the Secretary or the Administrator may require.

##### (b) Combined projects

In the case of an eligible project described in paragraph (9) or (10) of section 3905 of this title, the Secretary or the Administrator, as applicable, shall require the eligible entity to submit a single application for the combined group of projects.

(Pub. L. 113-121, title V, §5024, June 10, 2014, 128 Stat. 1333; Pub. L. 114-322, title IV, §5008(b)(2)(B), Dec. 16, 2016, 130 Stat. 1897.)

#### Editorial Notes

##### AMENDMENTS

2016—Subsec. (b). Pub. L. 114-322 substituted "paragraph (9) or (10)" for "paragraph (8) or (9)".

#### Statutory Notes and Related Subsidiaries

##### "SECRETARY" DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113-121, set out as a note under section 2201 of this title.

#### § 3904. Eligible entities

The following entities are eligible to receive assistance under this chapter:

- (1) A corporation.
- (2) A partnership.
- (3) A joint venture.
- (4) A trust.
- (5) A Federal, State, or local governmental entity, agency, or instrumentality.
- (6) A tribal government or consortium of tribal governments.
- (7) A State infrastructure financing authority.

(Pub. L. 113-121, title V, §5025, June 10, 2014, 128 Stat. 1334.)

#### § 3905. Projects eligible for assistance

The following projects may be carried out with amounts made available under this chapter:

- (1) Any project for flood damage reduction, hurricane and storm damage reduction, envi-