

Alerts & Publications

Stimulus Bill Provides Boost to Environmental Programs

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On February 17th, President Obama signed the American Reinvestment and Recovery Act (“ARRA”), the highly anticipated, \$787 billion economic stimulus package. In addition to providing nearly \$70 billion in funding and tax benefits for energy-related investments (see [2/16/09](#) and [3/27/09](#) OMM Energy and Natural Resources Client Alerts), the bill provides over \$7 billion in additional funding for existing environmental cleanup and pollution reduction programs, such as the Hazardous Substance Superfund, the Clean Water and Drinking Water State Revolving Funds (“SRFs”), and the Brownfields program. The major environmental funding breaks down as follows:

- \$4 billion to further capitalize the Clean Water SRFs
- \$2 billion to capitalize Drinking Water SRFs
- \$1.38 billion in loans and grants for rural water and wastewater through the US Department of Agriculture’s Rural Water and Wastewater Provisions
- \$600 million to the Hazardous Substance Superfund
- \$300 million for the Diesel Emission Reduction Act
- \$200 million to the Leaking Underground Storage Tank Program
- \$100 million for Brownfields projects

In the seven weeks since the ARRA was signed into law, the EPA has made significant strides in distributing these funds. Several of these programs are discussed in greater detail below.

Clean Water SRFs

Since the 51 state-run Clean Water SRFs began funding projects in 1988, they have provided \$65 billion in assistance for water quality projects, with \$5.8 billion in assistance provided in 2008. Approximately 96% of these funds have gone to wastewater treatment projects, with the remainder going to non-point source and other projects. Although the \$4 billion in stimulus funding will help to increase project activity, the American Society of Civil Engineers estimates that \$390 billion will be needed over the next 20 years to update or replace existing wastewater treatment systems and build new ones to meet increasing demand. In addition, EPA has estimated that over the next 20 years, over \$335 billion must be invested to keep drinking water systems from falling further into disrepair.

Hazardous Substance Superfund

Annual Superfund appropriations have been on the order of \$1.2 billion, so assuming that this year’s appropriation remains at that level, the additional \$600 million provided by the stimulus package represents a 50% boost in funding for 2009. Annual appropriations have comprised the bulk of Superfund funding since the Superfund taxing authority expired in 1995, bringing the

Superfund Trust Fund down from \$4.7 billion in 1997 to \$173 million in 2007. EPA is in the process of prioritizing sites eligible for stimulus funding. Preference will be given to “quick start” activities, with a goal of using at least 50% of the funds for activities that can be initiated within 120 days of enactment of the legislation. Criteria for ranking sites include human health exposures and groundwater migration, job leveraging, and geographic diversity.

Diesel Emissions Reduction Act

The \$300 million provided for funding of the Diesel Emissions Reduction Act (“DERA”) represents a six-fold increase in funding of that program, and as a result will have a pronounced impact. On March 19, 2009, the EPA announced the availability of \$206 million of this amount through three separate competitive grant programs.

First, \$156 million is available for grants for diesel emissions reduction activities. DERA funding can be awarded for up to 100% of the cost of any of the following EPA verified “solutions” for reducing diesel emissions: vehicle retrofits (i.e., exhaust controls, engine upgrades); idle reduction technologies; aerodynamic improvements; and low rolling resistance tires. Funding also is available for up to 75% of the cost of certified engine repowers, and up to 50% of the cost of certified vehicle and equipment replacements. These solutions can be applied to both on-road and off-road diesel vehicles and equipment. Applications for this funding opportunity are due April 28, 2009.

An additional \$30 million is available to fund “innovative” financial programs to support the implementation of EPA verified diesel emissions reduction technology. Examples include loan guarantees, bonds, equity investments, revolving loans or leases that support the purchase of lease of vehicles retrofitted with emission reduction technologies or the emission reduction equipment itself.

Finally, \$20 million of the DERA competitive funding is available for the development of emerging diesel emissions reduction technology. The closing date for applications is May 5, 2009. The EPA anticipates awarding between 10-20 grants ranging in size from \$500,000 to \$3 million.

Entities eligible to receive the funds any of the above DERA programs include any regional state, local or tribal agency or port authority with jurisdiction over transportation or air quality and any nonprofit organization that provides pollution reduction services to diesel fleet owners or operators or has as its principal purpose the promotion of transportation or air quality. Unlike the traditional DERA program, there is no cost sharing requirement to access the ARRA DERA funds.

Brownfields Training Grants

The federal Brownfields program provides grants to state, local, and tribal governments for assessment and cleanup of eligible sites, as well as for job training and for development of state and tribal cleanup programs. The program has received annual appropriations of approximately \$165 million, so the additional \$100 million stimulus funding should provide a significant boost to this year’s program.

On March 19, 2009, the EPA began the initial distribution of these additional funds by announcing the eligibility of \$5 million in grants for brownfield worker training activities. Consistent with the job-focused goals of the ARRA, the EPA is requiring that these funds be used for training activities that target unemployed and underemployed individuals residing in brownfields-impacted communities.