

or, in the case of larger projects, loan guarantees. The proposed infrastructure bank also would have the ability to purchase or guarantee bonds used to finance state revolving fund programs. Proposed legislation creating a federal infrastructure bank to provide for water, transportation and electric transmission projects has recently gained some support. In addition, President Obama proposed that the fiscal year 2010 budget include funds for a national infrastructure bank.

Private Activity Bonds

Private Activity Bonds (PABs) are debt issued for the benefit of, or due to the substantial participation of, a non-governmental entity. Certain types of PABs qualify for

tax-exemption, including those being issued to fund certain water and sewer facilities. The issuance of PABs is restricted by a federally-mandated volume cap. In an effort to release much needed capital for infrastructure projects, there have been legislative discussions regarding the revision of the volume cap to exclude water and sewer projects. A recent AWWA report indicates that the removal of water and sewer projects from the established volume cap would be expected to increase the amount of capital available for infrastructure projects structured as public private partnerships (P3). Additionally, the ARRA provided for the temporary modifications to current tax laws which would allow PABs to share the same tax advantages as government issued tax-exempt bonds. ❖

Bottled Water Regulations Amended to Protect Against Fecal Contamination

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The Food and Drug Administration (FDA) is amending the bottled water regulations to ensure that the minimum quality of bottled water, as affected by fecal contamination, is no less protective of public health than those set by the United States Environmental Protection Agency (EPA) for public drinking water.

The FDA issued the rule in response to the EPA's issuance of a new National Primary Drinking Water Regulation (NPDWR), the Ground Water Rule (GWR). The Federal Food, Drug and Cosmetic Act requires the FDA to promulgate a standard of quality regulation for the new NPDWR contaminant, fecal microbial pathogens, otherwise the GWR will be applied to bottled water.

The FDA agrees with EPA's conclusions that groundwater sources may be vulnerable to fecal contamination. Since the International Bottled Water Association estimates that groundwater is the source water for approximately 75 percent of U.S. bottled water products, this amendment is necessary to further protect bottled water from fecal contamination.

The proposed rule was published in the Federal Register on September 17, 2008. The FDA received 19 responses which generally supported the proposed rule. The agency's response to the comments, and the amended final rule, was published in the Federal Register on May 29, 2009. The final rule, effective December 1, 2009, amends 21 CFR

Parts 129 and 165 to provide the following additional requirements for bottled water manufacturers:

- Test source water and finished bottled water at least weekly for total coliform, and if positive, conduct follow-up testing to determine whether *E. coli* is present. Source water testing applies to both groundwater and surface water sources, excluding source water from already treated public water systems.
- Source water containing *E. coli* will be prohibited from use in the production of bottled water. Bottled water containing *E. coli* will be deemed adulterated and cannot be used.
- Previously *E. coli*-contaminated sources will be considered negative for *E. coli* after both corrective measures have been taken to rectify or eliminate the contamination to prevent reoccurrence and five samples have been collected over a 24-hour period, from the same sampling site originally testing positive, are tested and found to be *E. coli* negative. Records of corrective measures must be maintained.

The amended rule applies to both domestic and foreign bottled water establishments that produce and export their bottled water products for consumption in the United States. ❖



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