(vi) Provided assistance only for eligible set-aside activities under §35.3535 and conducted activities consistent with workplans and other requirements of §35.3535 and §35.3540;

(vii) Provided loan assistance to small systems consistent with the requirements of §35.3525(a)(5) and §35.3555(c)(2)(iv);

(viii) Provided assistance to disadvantaged communities consistent with the requirements of §35.3525(b) and §35.3555(c)(7);

(ix) Used fees for eligible purposes under §35.3530(b)(2) and (b)(3) and assessed fees included as principal in a loan in accordance with the limitations in §35.3530(b)(3)(i) through (b)(3)(ii);

(x) Adopted and implemented procedures consistent with the requirements of §35.3530(c) and §35.3555(c)(8) if funds were transferred between the DWSRF program and CWSRF program;

(xi) Adopted and implemented procedures consistent with the requirements of §35.3530(d) and §35.3555(c)(9) if Fund assets of the DWSRF program and CWSRF program were cross-collateralized;

(xii) Reviewed all DWSRF program funded projects and activities for compliance with Federal cross-cutting authorities that apply to the State as a grant recipient and those which apply to assistance recipients in accordance with §35.3575;

(xiii) Reviewed all DWSRF program funded projects and activities in accordance with approved State environmental review procedures under §35.3580; and

(xiv) Complied with general grant regulations at 40 CFR part 31 and specific conditions of the grant.

(4) Joint report. A State which jointly administers the DWSRF program and the CWSRF program may submit a report that addresses both programs. However, programmatic and financial information for each program must be identified separately.


(2) A State may voluntarily agree to conduct annual independent audits which provide an auditor’s opinion on the DWSRF program financial statements, reports on internal controls, and reports on compliance with section 1452 of the Act, applicable regulations, and general grant requirements. The agreement to conduct voluntary independent audits should be documented in the Operating Agreement or in another part of the capitalization grant agreement.

(3) Those States that do not conduct independent audits will be subject to periodic audits by the EPA Office of Inspector General.

(c) Annual review—(1) Purpose. The purpose of the annual review is to assess the success of the State’s performance of activities identified in the IUP, Biennial Report (in years when it is submitted), and Operating Agreement (if used) and to determine compliance with the capitalization grant agreement, requirements of section 1452 of the Act, and this subpart. The RA will complete the annual review according to the schedule established in the capitalization grant agreement.

(2) Records access. After reasonable notice by the RA, the State or assistance recipient must make available such records as the RA reasonably considers pertinent to review and determine State compliance with the capitalization grant agreement and requirements of section 1452 of the Act and this subpart. The RA may conduct on-site visits as deemed necessary to perform the annual review.

(d) Information management system—(1) Purpose. The purpose of the information management system is to assess the DWSRF programs, to monitor State progress in years in which Biennial Reports are not submitted, and to assist in conducting annual reviews.

(2) Reporting. A State must annually submit information to EPA on the amount of funds available and assistance provided by the DWSRF program.

§ 35.3575 Application of Federal cross-cutting authorities (cross-cutters).

(a) General. A number of Federal laws, executive orders, and government-wide policies apply by their own
§ 35.3580 Environmental review requirements.

(a) General. With the exception of activities identified in paragraph (b) of this section, a State must conduct environmental reviews of the potential environmental impacts of projects and activities receiving assistance.

(b) Activities excluded from environmental reviews. A State must conduct environmental reviews of source water protection activities under §35.3535, unless the activities solely involve administration (e.g., personnel, equipment, travel) or technical assistance. A State is not required to conduct environmental reviews of all the other eligible set-aside activities under §35.3535 because EPA has determined that, due to their nature, they do not individually, cumulatively over time, or in conjunction with other actions have a significant effect on the quality of the human environment. A State does not need to include provisions in its SERP for excluding these activities. Activities excluded from environmental reviews remain subject to other applicable Federal cross-cutting authorities under §35.3575.

(c) Tier I environmental reviews. All projects that are assisted by the State in amounts up to the amount of the capitalization grant deposited into the Fund must be reviewed in accordance with a SERP that is functionally equivalent to the review undertaken by EPA under the National Environmental Policy Act (NEPA). With the exception of activities excluded from environmental reviews in paragraph (b) of this section, activities for which a State provides assistance from capitalization grant funds deposited into set-aside accounts must also be reviewed in accordance with a SERP that is functionally equivalent to the review undertaken by EPA under the NEPA. A