



## Safe Drinking Water State Revolving Fund

### FINAL Intended Use Plan

## 2009 American Recovery and Reinvestment Act Funding

June 2009

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Note – the State reserves the right to amend the Intended Use Plan and related appendices at any time without notice or opportunity to review if the amendment is necessary to assure ARRA funding is available to the California Safe Drinking Water State Revolving Fund program. Any necessary amendments will be reflected and explained in the Annual Report.

Note. -- As used in this Intended Use Plan as well as all appendices, the terms “loan principal forgiveness” or “forgiveness of principal” refer to a “grant” as that term is used in California SDWSRF law and regulations, and are intended to be distinguishable from additional loan subsidization offered in the form of a negative rate of interest applied over a loan repayment term.

## I. INTRODUCTION

### A. Background

In California, the responsibility for regulating public water systems and overseeing the safety of drinking water rests with the Department of Public Health (CDPH). CDPH has been designated as the “primacy agency” by the United States Environmental Protection Agency (USEPA) for purposes of implementing and enforcing the federal Safe Drinking Water Act (SDWA). CDPH regulates some 7,800 public water systems located throughout the State. To assist in this effort, CDPH delegates to 35 of the 58 counties in the State responsibility for enforcement of the State drinking water requirements for public water systems serving less than 200 service connections.

The 1996 amendments to the federal SDWA responded to that national need by establishing the Drinking Water State Revolving Fund program (DWSRF). The DWSRF provides financial assistance in the form of Capitalization Grants to states to provide low interest loans and other assistance to public water systems.

To receive funding approval from the USEPA, the State submits a Capitalization Grant application and an Intended Use Plan (IUP) which describes the State plan for utilization of the program funding. Federal guidelines, and related state statute, require that the IUP include a description of how the program is structured, the planned use of the funds, the criteria, and methods to be used for distribution of the funds, the goals for the program, and a specific project priority list. The California IUP presented herein is prepared and submitted in compliance with those requirements. This IUP specifically describes how the CDPH plans to use funds made available by the 2009 American Recovery and Reinvestment Act (ARRA) for the DWSRF. This IUP is an integral part of CDPH's grant application for the 2009 ARRA DWSRF funds.

### B. Statutory Authority

California's statutory basis for the SDWSRF program was established by SB 1307 (Chapter 734, statutes of 1997). The specific provisions of SB 1307 are set forth in Sections 116760.20 through 116762.60 of the California Health and Safety Code. With only minor differences, the State statute parallels the federal law and requirements. Therefore, the federal law and the DWSRF program guidelines and regulations of USEPA generally govern the conduct of the California program.

In February 2009, the U.S. Congress passed the 2009 American Recovery and Reinvestment Act, and it was signed in to law on February 17, 2009 by President Obama. This legislation provides ~\$2 billion nationwide for utilization through the states Drinking Water State Revolving Funds for needed and expeditious drinking water infrastructure projects. In March 2009, the California Legislature enacted SB X3 27 (Chapter 25, Statutes of 2009) [Appendix G], which was signed in to law by Governor Schwarzenegger on March 27, 2009. This legislation provides necessary authority to CDPH to adopt various criteria needed for timely utilization of ARRA funding in accordance with the federal statutes, regulations, and guidance.

The CDPH SDWSRF program also operates pursuant to state regulations which are set forth in Sections 63000 through 63058 of the California Code of Regulations, Title 22 (CCR) [Appendix H]. To the extent that implementation of the ARRA grant is not addressed in CDPH's project ranking and readiness to proceed criteria, applicable provisions of the CCR will control.

### C. Program Structure

The California SDWSRF program is administered and directed by CDPH. CDPH staff conduct most of the activities associated with implementation of the SDWSRF program. Through an interagency agreement (contract), the California Department of Water Resources (DWR) provides assistance in administering the local financial assistance portion of the SDWSRF program.

The SDWSRF program is managed by the chief of the Drinking Water Infrastructure Financing and Small Water System Section with support from the Drinking Water Funding Section within the CDPH Division of Drinking Water and Environmental Management. The Drinking Water Infrastructure Financing section chief, as the program manager, is responsible for assuring statewide consistency in the implementation of the program. The ranking and management of individual projects (technical review of applications, approval of plans and specifications, construction inspections, etc.) is the responsibility of the CDPH drinking water field operations district offices.

## II. DRINKING WATER STATE REVOLVING FUND PROGRAM GOALS

The SDWSRF program goals set forth below reflect both federal and state legislative intent to provide funding to correct public water system deficiencies based upon a prioritized funding system. The California SDWSRF funding system utilizes a comprehensive multi-year Project Priority List (See Section VI, Project Priority List), whereby (1) public water system projects addressing public health risk problems, (2) public water system projects needed to comply with the SDWA, (3) projects assisting public water systems most in need on a per household affordability basis, and, (4) projects meeting 2009 American Recovery and Reinvestment Act readiness to proceed criteria. Preference will be given to projects that are ready to proceed with construction within 120 days of the ARRA enactment. The additional priority for ARRA funding is that projects be funded which will create jobs and promote economic recovery, with an emphasis of projects that can start construction within 120 days of ARRA enactment.

In general, the SDWSRF provides the 7,800 public water systems in California the opportunity to utilize subsidized funding to correct infrastructure problems, to assess and protect source water, and to improve technical, managerial, and financial capability (TMF). The SDWSRF additionally benefits almost 7,400 small water systems (water systems serving a population of fewer than 10,000) by providing technical assistance in most aspects of public water system operations and management.

### A. CDPH SDWSRF Long Term Goals

#### 1. Maintain a Project Priority List and an Intended Use Plan (IUP)

CDPH notifies every eligible public water system in the state of the annual opportunity to submit a preapplication for incorporation into the SDWSRF project priority list. The staff in the CDPH district offices evaluates each project and places it in the appropriate health risk category. Bonus points are assigned based on the criteria developed by CDPH (Regional Engineers and other departmental staff review the Project Priority List before its publication to ensure that the ranking of the projects is consistent). The ranked pre-applications are integrated into the compiled priority list. Approximately 400 new or revised SDWSRF preapplications are received during the annual preapplication period. CDPH holds a public hearing each year to receive comments on the draft IUP, draft Updated SDWSRF Project Priority List, and the draft fundable list prior to finalization for use in inviting projects to apply for funding.

## **2. Maintain the fiscal integrity of SDWSRF fund to assure continuous funding availability for future drinking water infrastructure needs**

CDPH ensures that all fund accountability and audit requirements (both federal and state) are met. In order to ensure that the SDWSRF Program fairly presents the results of its yearly financial and programmatic operations, an annual comprehensive audit is conducted in accordance with the requirements of the Single Audit Act, which is promulgated by the Federal Office of Management and Budget (OMB) Circular A-133. OMB Circular A-133 requires that the auditors issue an opinion on the financial statements along with the changes in financial position and cash flows in conformity with accounting principles generally accepted in the United States of America. It also requires a report to be issued on compliance and internal control over financial reporting in accordance with Governmental auditing Standards.

The goal of the program is to continue to meet and maintain high standards in order to run an efficient, effective program, in the most economical manner, and demonstrate sound business practices. Additionally, the SDWSRF program must meet audit requirements related to sources of State matching funds sources, Prop 13 and Prop 50 bonds. CDPH utilizes the California State Controller's Office, Office of State Audits, and Evaluations (OSAE) to conduct the annual independent audit of the program.

## **3. Reduce Cost of Drinking Water**

SDWSRF funding helps water systems minimize cost increases in the cost of supplying drinking water by providing affordable financing for the construction of drinking water infrastructure projects, including water efficiency and energy efficiency water system infrastructure.

SDWSRF encourages the consolidation or regionalization of small public water systems that lack the capability or potential to be operated and maintained in a cost effective manner by prioritizing consolidation projects and assisting the applicant systems through the funding process.

## **4. Manage SDWSRF resources in accordance with the needs of California's residents served by public water systems to ensure that public water systems are able to provide an adequate, reliable supply of safe clean drinking water in conformance with federal and state standards.**

The SDWSRF loan fund provides a cost effective funding mechanism to assist public water systems in achieving and maintaining compliance with the SDWA. CDPH monitors the fund to ensure that it remains financially viable over the long term as an ongoing source of water system funding. As repayments or de-obligated funds become available, they allow the issuance of new loans even in the event that further federal Capitalization Grants cease. Repayments to the SDWSRF from American Recovery and Reinvestment Act funds projects will enhance the long term viability of the SDWSRF loan fund.

The SDWSRF loan program advances this basic goal of CDPH by providing an ongoing source of funds for future infrastructure improvements. The project ranking process ensures that program resources and funds are applied to the most significant public health and compliance problems.

[Appendix A]

## B. CDPH SDWSRF ARRA Goals

- Enter into loan contracts in an amount equal to at least 50% of the ARRA funds for projects which will proceed to construction or award construction contracts within 120 days from enactment of the ARRA
- Enter into loan contracts for projects which will proceed to construction or award construction contracts by February 17, 2010;
- Target funds to maximize job creation and economic benefits;
- Provide at least 20% of the ARRA assistance to projects to be used for water efficiency, energy efficiency, or similar green designated project elements ;
- Record all required information on projects funded by ARRA monies into the DWSRF project tracking system and fulfill related ARRA reporting requirements (weekly, monthly, etc) to USEPA, and other federal and state oversight agencies on an on-going basis..
- Make drinking water infrastructure loans more accessible and affordable to California public water systems
- Utilize at least 50% of the ARRA funds as additional subsidization of eligible project costs in the form of forgiveness of loan principal or application of negative interest rates over a loan repayment term.

By making in ARRA funding available for low interest loans, and providing additional subsidization in the form of loan principal forgiveness and negative interest rates, utilization of the ARRA grant award will help reduce increases in the cost of drinking water to the smallest, most disadvantaged communities by maximizing the amount of subsidized funding provided to such systems which have ready to go projects.

CDPH will utilize the Loan and Grant Tracking System (LGTS) for tracking ARRA funds projects. Continue transition strategy from previous information management applications. This data management tool will help CDPH track and fulfill program fund utilization goals and federal reporting requirements of ARRA.

CDPH utilizes resources from the SDWSRF to facilitate access to and efficiently deliver financial and technical assistance to public water systems, particularly smaller and disadvantaged communities. ARRA funds will be used to provide technical assistance to water systems and improve water system capacity needed to meet eligibility requirements for ARRA and SDWSRF funding, including assistance in the application process.

## C. California Correlation to USEPA National Strategic Plan Goals

California SDWSRF program supports the National Strategic Plan Goal 2, Objective 1, Sub-objective 1 listed below. Specifically, California has established and is manages the SDWSRF to make low cost loans and other types of assistance to water systems by financing the cost of infrastructure projects to achieve or maintain compliance with SDWA requirements.

*USEPA Strategic Plan Goal No. 2: Clean & Safe Water; USEPA Strategic Plan Objective No 2.1: Protect Human Health: "Protect human health by reducing exposure to contaminants in drinking water (including protecting source waters) in fish and shellfish, and in recreational waters."; USEPA Strategic Plan Sub-objective No 2.1.1 Water Safe to Drink: "By 2009, 95% of the population served by community water systems will receive drinking water that meets all applicable health based drinking water standards through effective treatment and source water protection."*

The California SDWSRF program is operated in support of this USEPA Goal by using ARRA funding for projects which are most ready to proceed, and which assist public water systems in meeting the federal and state drinking water compliance requirements, including technical, managerial, and financial requirements, water and energy efficiency, and green infrastructure.

### III. INTENDED USE OF SDWSRF FINANCIAL ASSISTANCE FUNDS

#### A. State Matching Funds

No state matching funds are required for the ARRA grant.

#### B. Proposed Uses

The federal allocation of the 2009 ARRA funds to the State of California is \$159,008,000. CDPH plans to set-aside 3.8% for Administration and 2% for Small Water Systems Technical Assistance. This will result in addition to the SDWSRF revolving fund of \$149,811,000 (~94% of the award) to be used for local project funding. CDPH has set a goal to obligate at least 50 percent of the SDWSRF project funding to projects within 120 days of receipt of the federal grant award resulting from this IUP. The remaining 50 percent will be obligated by September 30, 2009.

2009 American Recovery and Reinvestment Act Funds		
Federal Capitalization Grant		\$159,008,000
Set aside programs		
Administration (3.8 %)		(\$6,017,000)
Small Water Systems Technical Assistance (2 %)		(\$3,180,000)
State Program Management (0%)		0
Capacity Development (0 %)		0
Balance of Federal grant funds to SDWSRF Local Assistance (Grant and Loan) Funding		\$ 149,811,000
State Match (not required for ARRA)		0



## 1. Administration

CDPH plans to set aside 3.78% (\$6,017, 000) from the ARRA grant award for the administration costs. Specific activities supported by the Administration set aside are described in the Administration workplan and in Section IV, Set-Aside Activities. Portions of these activities are implemented through Interagency Agreements with DWR, other state agencies, and contracted assistance providers.

## 2. Small Water Systems Technical Assistance

CDPH intends to utilize 2% (\$3,180,000) for technical assistance to small water systems (those with populations of less than 10,000). The process developed by CDPH to provide technical assistance to California's small water systems is outlined in the Technical Assistance workplan and in Section IV, Set-Aside Activities.

## C. Eligibility for SDWSRF Funding

### 1. Eligible Systems

Community water systems, both privately and publicly owned, and non-profit noncommunity water systems are eligible for SDWSRF financial assistance. Systems providing water for human consumption through constructed conveyances that have become subject to the SDWA due to the change in the federal definition of a public water system in the 1996 SDWA are also eligible for SDWSRF funding. Federally owned water systems are not eligible for SDWSRF financial assistance from the State of California. A public water systems located on Indian reservations over which CDPH has jurisdiction may be eligible for SDWSRF financial assistance from the State of California, however, generally Native American tribes are eligible pursuant to SDWA Section 1452(i) for grant funding from the USEPA for public water system improvement projects.

### 2. Eligible Projects

All eligible projects must facilitate compliance with national or State primary drinking water regulations or further the health protection objectives of the SDWA. The projects eligible for 2009 American Recovery and Reinvestment Act by the SDWSRF loan program are listed below:

- a. *Compliance with primary drinking water standards and related public health objectives*
- b. *Projects to Replace Aging Infrastructure to enhance long term reliability of drinking water infrastructure*
- c. *Projects to Provide Treatment to meet drinking water standards and optimize water quality*
- d. *Consolidation of water systems: improve the safety of public water supplies by enabling non-compliant systems which lack necessary technical, financial and managerial capacity to maintain compliance with the SDWA to consolidate with another water system that is in compliance with the SDWA.*
- e. *Water Conservation and Security: SDWSRF can fund components to enhance the benefit of the needed project by including meters to encourage water conservation, energy conservation and reliability (e.g. auxiliary power and green power), and security (e.g. SCADA).*

- f. *Consistent with the above, projects ready for construction to fulfill the goals of the American Recovery and Reinvestment Act including economic stimulus, creation of jobs, and infrastructure development.*
- g. *Green project reserve: no less than 20 percent of the ARRA grant received by CDPH will be used to fund green projects or project components. Please refer to Appendix E for a description of CDPH green reserve criteria. In addition to the projects identified in Appendix E, CDPH will evaluate Business Case documentation provided by an applicant on the green benefit of a project or project element.*
- h. *Consistent with the above, projects ready for construction to fulfill the goals of the American Recovery and Reinvestment Act including economic stimulus, creation of jobs, infrastructure. Preference will be given to projects that are ready to proceed with construction within 120 days of the ARRA enactment. Preference will then be given to projects that are ready to proceed with construction or have signed contracts for construction before February 17, 2010.*

#### **D. Types of Financial Assistance Available**

In accordance with federal statutes and USEPA guidance, 2009 American Recovery and Reinvestment Act funding is to be used for "shovel ready" projects so that the funds can be expended within a five year period. Source water protection, planning, and refinance projects will not be funded under this grant award. A separate preapplication, priority list, and invitation / application protocol will be used to meet the federal funds utilization requirements in regards to source water protection projects.

##### **1. Normal Construction Loans**

Normal construction loans comprise the majority of the project financing made available, and cover planning, design, acquisition, and construction costs. All of the federal cross cutting requirements, rules and criteria of the 2009 ARRA apply to projects funded from this grant award. Non-disadvantaged communities over 10,000 population will be offered project funding as 50% subsidized (forgiveness of principal or negative rate of interest) and 50% non-subsidized loan. The maximum repayment terms of the loan is 20 years or the useful life of the project, unless otherwise allowed or restricted. The applicable non-subsidized interest rate is 50% of the average interest rate paid by the State on general obligation bonds issued in the prior calendar year unless otherwise allowed or restricted. The maximum amount of loan financing to be awarded to a single project during from the 2009 American Recovery and Reinvestment Act funding is \$20,000,000 per project and \$30,000,000 per entity unless otherwise allowed or restricted by federal or state statute.

##### **2. Additional subsidization**

All ARRA funded projects will be offered additional loan subsidization either in principal forgiveness, grants, or negative interest rate over the period of repayment.

##### **3. Disadvantaged Communities**

Disadvantaged communities and small water systems and projects will be offered grant funding to the form of loan principal forgiveness or application of a negative rate of interest over the loan

repayment term. receive greater subsidization consideration than communities not meeting such criteria. A limit of \$10 million in additional subsidization is allowable per project; and additional funding criteria will be applied to further limits that amount depending on the project and project proponent. In the case of a disadvantaged community a. Any loan principal in addition to the subsidized amount will be payable at zero percent interest rate; non-subsidized loans to non-disadvantaged communities will be subject to the standard SRF interest rate as described in the proceeding paragraph 1 .

#### **E. Application of Federal Cross-Cutters**

All American Recovery and Reinvestment Act funds are federal funds, and so all funded projects are subject to applicable federal cross-cutting requirements, including any established in federal 2009 American Recovery and Reinvestment Act legislation, and implementation guidance from USEPA.

### **IV. SET-ASIDE ACTIVITIES**

The federal SDWA provides for a variety of activities to be funded from the SDWSRF using "set-aside" funds to be deposited into separate accounts. CDPH plans to utilize 5.78% for set-aside programs not directly funding water system projects. Funds from the ARRA grant award will be used for SDWSRF administration costs (3.78%) and small water system technical assistance program (2%) Following is a brief description of each of the proposed set-aside program elements.

#### **A. Program Administration Element (\$6,017,000)**

The full cost of administering the Fund, including the development of the priority list, the review and processing of applications from local agencies, management and oversight of individual projects, management of contracts with cooperating agencies, all accounting and legal costs are funded by this set-aside.

CDPH will use 3.78% allowed for the administration set-aside funding to pay salaries and associated expenses of program personnel devoting time to the administration of the ARRA program as well as the necessary ancillary services performed by other agencies. These funds will also be used to procure equipment and training necessary for the adequate performance of staff within CDPH and to cover the costs of the interagency agreements with DWR and other entities as described in the Administration workplan. A portion of the Administration set aside is used to fund positions of the SDWSRF Fiscal Support Team in the Accounting Section of CDPH.

USEPA has established the Drinking Water National Information Management System (DWNIMS) database for maintaining information on SDWSRF funding and assistance. Pursuant to USEPA's Final Guidelines for the SDWSRF Program, CDPH provides information to the DWNIMS on an annual basis. CDPH will meet all reporting requirements of the USEPA and other federal reporting requirements for related to ARRA funding utilization. CDPH will also provide necessary information to other state Agencies providing oversight of ARRA funding utilization.

## **B. Small Water System Technical Assistance Program Element \$(3,180,000)**

California has nearly 7,400 small public water systems (systems serving a population of less than 10,000). Many of these small systems struggle to comply with regulations and meet operational requirements because the staffs lack the technical capability to be able to comply with the complex requirements of the SDWA. The Department, with assistance of local primacy agencies (LPAs), relies on small water system set aside funding to support water program specialists and engineers to aide these small systems. CDPH will allocate the maximum allowable amount of 2% of the FFY ARRA 2009 federal allocation for this purpose. CDPH uses these funds to provide additional in-house technical staff and to contract with outside contractors to provide a variety of technical services to small systems.

The primary goals of the small system technical assistance program are: (1) reducing the instances of noncompliance with drinking water standards and requirements; (2) establishing and assuring safe and dependable water supplies; (3) improving the operational capability of the systems; and (4) establishing or improving the financial, technical, and managerial capability of the systems. This program is directed at those systems serving a population of less than 10,000, with much of the emphasis given to the 1,000 community water systems serving less than 200 service connections.

For purposes of the ARRA technical assistance set aside, the areas of priority is to assist small systems in the preparation of applications for SDWSRF funding. Preparing these applications, particularly the development of environmental documentation and preliminary engineering, is beyond the technical and financial capability of many systems. The SDWSRF maintains an "Assistance Referral List." Systems are placed on this list by the CDPH Drinking Water Program field staff and LPA staff. Systems are then provided specific assistance by SDWSRF small water system specialists or via SDWSRF sponsored technical assistance.

## **V. DISADVANTAGED COMMUNITIES**

SDWSRF provides financial assistance to "disadvantaged communities" if such communities cannot afford to repay the full amount of the loan needed to fund the proposed project. Disadvantaged communities are defined as those communities whose median household income (mhi) is below 80% of the statewide mhi.

For purposes of the ARRA, public water systems owned by a public or nonprofit entity and serving small and/or disadvantaged communities will be provided needed funding through 100% principal forgiveness (grant) up to a maximum of \$10 million per project. All other (i.e. those operated for profit) public water systems serving disadvantaged communities will be offered loans with negative interest rate applied over the repayment term resulting in loan principal reduction of 75%, such reduction in principal not to exceed \$10 million per project.. Additional needed funds would be provided at a zero % interest up to a maximum per project funding of \$20 million. Both public and privately (nonprofit and for-profit) owned community water systems are eligible for SDWSRF loan subsidization funding or partial grant/loan funding under the ARRA.

## **VI. PROJECT PRIORITY LIST**

In accordance with federal requirements, all potential recipients for ARRA SDWSRF funding must have had their projects included on a statewide Project Priority List. CDPH provided an open ARRA preapplication

period during February 2009 to allow water systems to submit preapplications for needed funding utilizing an online preapplication process. CDPH developed separate project priority list for the ARRA to obtain the best “ready to proceed” projects most in need of funding. [See Appendix A and B for ranking and readiness criteria] CDPH has evaluated the project preapplications and established an ARRA FINAL Project Priority list. [See appendix C] CDPH identified those most ready to proceed. These have been placed on the FINAL Fundable List [See appendix D].

The ARRA Project Priority List and Fundable List was finalized on June 3, 2009, based on information available on such a date. Should projects in the fundable list be deemed not ready to proceed within the ARRA timeframe, CDPH will go to the next project ready to proceed without further public review. Only projects in the ARRA project priority list (Appendix C) can be funded. Per Federal and State requirements, CDPH needs to re-announce and seek public review of the Project Priority List and the Fundable List only when new projects are added to the Project Priority List. See Appendix B for more details on CDPH’s procedures for managing the fundable list.

CDPH reserves the right to submit additional projects to EPA for the fundable list. If eligible for re-allotted funds, CDPH will provide certification through an amendment to this IUP that all funds received for additional projects will be under contract for construction within 120 days of reallocation.

Placement of a project on the priority list does not guarantee that a project will be funded. However, only those projects that are included on the priority list will be considered for possible funding. Pursuant to state statutory authority, CDPH may revise the ranking of a project on an existing priority list at any time if information affecting the ranking of that project becomes available that was not available at the time the list was adopted.

## A. SDWSRF American Recovery and Reinvestment Act Eligibility and Ranking Criteria

### 1. Health Risk and Safe Drinking Water Act Compliance Categories

As required by federal and state law, water system projects are offered SDWSRF funding based on a Project Priority List developed by the Department. In establishing the priority list, CDPH ranks projects in order of the degree of health risk associated with the problem that the proposed project is intended to **solve**. In general, CDPH considers priority categories A through G to be high priority, categories H through K to be medium priority and categories L through O to be low priority. [Refer to Appendix A for Ranking Criteria.]

### 2. Bonus Ranking Points

Bonus points are used in ranking projects within a category. To the extent feasible, when a group of systems is invited to complete the application process for SDWSRF funding, all the systems within that category seeking funding that year are invited.

#### a. Affordability

CDPH factors in affordability by comparing the MHI of the community served by the proposed project to the statewide MHI level. Communities that are below the statewide average MHI level receive additional ranking consideration. Affordability ranking points are as follows:

<b>MHI of Service Area</b>	<b>Ranking Points</b>
Greater than statewide MHI	0
90%-100% of statewide MHI	5
80%-89% of statewide MHI	10
70%-79% of statewide MHI	15
60%-69% of statewide MHI	20
Less than 60% of statewide MHI	25

b. Consolidation

For purposes of ranking projects within a category, any project that includes consolidation of separate existing water systems will receive additional ranking points as follows:

<b>Consolidation type</b>	<b>Consolidation ranking points</b>
Managerial consolidation of 2 or more systems	10
Physical consolidation of 2 or more systems	20

3. Type of System

Because there is a relatively higher health risk associated with persons who drink the same water each day over a period of time (accumulated exposure), community and non-transient non-community water systems are ranked above transient noncommunity systems within a category.

4. Population

Projects within a category that have the same number of ranking points are ranked in ascending order based on the population served by the water system with smaller populations ranked above higher populations.

**B. Readiness to Proceed Criteria for the SDWSRF ARRA Project Priority List**

Please refer to Appendix B for the readiness to proceed, fundable list, and bypass criteria developed by CDPH for the ARRA implementation.

**C.. Adoption and Use of the 2009 American Recovery and Reinvestment Act Project Priority List**

Beginning with the 2009 preapplication cycle, an online Universal Preapplication available for all CDPH funding programs is being utilized. Preapplications are evaluated and added to each program priority list with which the proposed project is aligned.

In addition to individual water system notification, and posting on the Internet for public availability, a public hearing was held in Sacramento. A 20 day period was provided for public comments on the draft ARRA SDWSRF Project Priority List. The Final ARRA Project Priority List is included as Appendix C.

Appendix D is the ARRA Fundable Projects list which identifies 73 projects to be invited for ARRA funding and an additional 8 projects (#s 74 thru 81) that will be invited only if invited projects are bypassed. This list represents CDPH's best assessment of which projects are ready to proceed and meet the ARRA timeframes. With minor adjustments to reflect comments and new information received during the IUP and Priority List public review process, the ARRA Project Priority List (Appendix C) and the ARRA Fundable List (Appendix D) were finalized on June 3, 2009. As projects in the ARRA Fundable List are deemed not ready to proceed, CDPH will identify projects in the ARRA Project Priority List that are ready to proceed within the ARRA timeframe. If additional funds become available through the reallocation process in March 2010, CDPH will select additional projects already on these lists.

#### **D. American Recovery and Reinvestment Act funds Project By-pass Procedures**

Please refer to Appendix B for the bypass criteria developed by CDPH for the ARRA implementation. As indicated, it may be necessary to by-pass a project on the American Recovery and Reinvestment Act fundable list in order to make timely use of the funding in accordance with federal requirements. This is essential to meet the funding obligation deadlines and avoid loss of funds. Projects may be by-passed under one or more of the following conditions:

1. Upon receiving an invitation from CDPH to submit a full application, the applicant indicates it does not intend to apply for American Recovery and Reinvestment Act funds at this time or that they cannot meet the deadlines for this funding.
2. The applicant fails to submit a complete application by the deadline established by CDPH.
3. The applicant fails to complete the environmental review process by the deadline established by CDPH at the time of invitation to apply.
4. A full application is rejected by CDPH due to inability to provide adequate financial or technical information on the project within the required time frame.
5. CDPH determines that the applicant does not meet the minimum necessary TMF capacity requirements to proceed to funding agreement within the required time frame.
6. If CDPH has not met the ARRA 20% Green Project Reserve requirement, and needs to go further into the ARRA Priority List in order to fund additional green projects to meet the ARRA green project requirement.
7. The applicant does not provide final plans and spec and environmental clearance documentation in the time allotted after receipt of an invitation to submit a full application.
8. CDPH, upon review of final plans and specs and environmental clearance documentation, determines that the project is not ready to proceed.

Applicants whose projects are by-passed for American Recovery and Reinvestment Act funds will be notified, and may be redirected to conventional SDWSRF funding process.

Projects/Preapplications which are not invited / do not apply for American Recovery and Reinvestment Act funds will be redirected to conventional SDWSRF project priority list for 2010.

**SDWSRF American Recovery and Reinvestment Act & Reinvestment  
Preapplication / Application / Funding Process  
--Estimated Timeline**

Activity	Entity	Latest Date	Comment
ARRA Public Hearing	CDPH	5/26/09	
Review of Public Comments	CDPH	6/3/09	
Finalize Fundable List	CDPH	6/3/09	
Mail Out Invitation to Applicants	CDPH	6/4/09	
Applicant Receives Invitation	Applicant	6/5/09	
Applicant Submits Plans & Specs/Env. Docs	Applicant	6/12/09	
CDPH Review of Initial Documents	CDPH	6/24/09	
Applicant Submits Full Application	Applicant	8/4/09	Applicant allowed 60 days for application submittal; projects ready to proceed expected to submit much sooner
CDPH Review of Full Application	CDPH	9/2/09	
CDPH Sends By-pass Letters	CDPH	9/3/09	
CDPH Clearance for Funding Agreement	CDPH	9/4/09	
Finalize Funding Agreement	CDPH	9/8/09	
Issuance of Funding Agreement	CDPH	9/15/09	
Applicant Signs and returns Funding Agreement	Applicant	9/22/09	
Funding Agreement Execution	CDPH	9/29/09	CDPH goal for all funding agreements to be executed by this date.



## VII. PUBLIC REVIEW AND COMMENT

CDPH convenes the internal Funding Programs policy committee monthly to discuss program progress and potential modifications of the SDWSRF and other funding programs. In addition, CDPH holds a meeting with external stakeholders, including water system representatives and other interested parties, each year. In December 2008, CDPH met and discussed the implementation strategy for the ARRA funding with the external stakeholders group.

Announcement of the draft version of the draft IUP and the Project Priority List and fundable list were posted to the CDPH internet web site for a 20 day period required by law, and a public hearing was held May 26, 2009. Copies of the draft documents were available for download and review by all interested parties on the CDPH SDWSRF program website. Comments were accepted by the SDWSRF in writing (by mail or fax), via email to a SDWSRF program email site, or in person at the public hearing conducted for this purpose.

In addition to the committees and public meetings described above, the SDWSRF staff continues to provide updates on the program to various meetings and conferences. This outreach helps to ensure that the interested public has ongoing opportunities to influence the SDWSRF program to better meet the intended goals.

## Appendix A

### SDWSRF Ranking Criteria

Safe Drinking Water State Revolving Fund  
Project Ranking Criteria (Brief)

**CATEGORY A**

Definition:

Water systems with deficiencies that have resulted in documented waterborne disease outbreak illnesses that are attributable to the water systems, or water systems under a court order to correct SDWA violations and/or water outage problems.

**CATEGORY B**

Definition:

Water systems that have repeatedly violated the total coliform MCL (TCR) due to active sources contaminated with coliform bacteria (fecal, *E. coli*, or total coliform)

**CATEGORY C**

Definition:

Water systems which have (1) a surface water supply, or a groundwater under the direct influence of surface water (GWUDI) source, that is not filtered, or untreated; or (2) non-GWUDI well sources that are contaminated with fecal coliform or *E. coli*.

**CATEGORY D**

Definition:

Water systems that have (1) surface water sources or GWUDI sources with filtration treatment deficiencies that violate federal or state regulations concerning surface water treatment requirements; or (2) non-GWUDI wells that are contaminated with fecal coliform or *E. coli* and are inadequately treated.

**CATEGORY E**

Definition:

Water systems with water outages or significant water quantity problems caused by source water capacity or water delivery capability that is insufficient to supply current demand.

**CATEGORY F**

Definition:

Water systems that (1) distribute water containing nitrates/nitrites in excess of the MCL; or (2) distribute water containing perchlorate in excess of the MCL; or (3) water systems that are in violation of the Total Coliform Rule for reasons other than source contamination.

**CATEGORY G**

Definition:

Water systems that distribute water containing chemical or radiological contamination exceeding a State or Federal primary drinking water standard.

**CATEGORY H**

Definition:

Water systems with reservoirs with floating covers that are in active use; or water systems which do not provide meters for the water delivered to customers.

**CATEGORY I**

Definition:

Water systems which comply with surface water treatment requirements, but are not in conformance with the California Cryptosporidium Action Plan.

**CATEGORY J**

Definition:

Water systems that are in violation of those portions of the Water Works Standards that could result in the entry of wastewater into the water supply or distribution system.

**CATEGORY K**

Definition:

Water systems that operate disinfection facilities that lack needed reliability features, chlorine residual analyzers and alarms or have other disinfection deficiencies that violate the Water Works Standards.

**CATEGORY L**

Definition:

Water systems that: (1) distribute water in excess of the iron or manganese secondary standard and for which a compliance order has been issued; (2) distribute water in excess of a Department published chemical Notification Level; (3) distribute water which has exceeded a primary drinking water standard in one or more samples, but has not violated the standard (for a running average standard); or (4) need treatment for a standby groundwater source that is contaminated in excess of a primary MCL.

**CATEGORY M**

Definition:

Water systems that do not meet the Water Works Standards (other than those components already covered by the above listed categories) and water systems that do not meet the TMF (technical, managerial, and financial) criteria but do not have a project in any of the above categories.

**CATEGORY N**

Definition:

Water systems that distribute water that exceeds secondary standards.

**CATEGORY O**

Definition:

All water system deficiencies that are eligible and are not covered in any of the above categories.

## Appendix B

### California Safe Drinking Water State Revolving Fund ARRA Readiness to Proceed, and Fundable List, and Bypass Criteria

American Recovery and Reinvestment Act  
 CDPH Criteria  
 Safe Drinking Water State Revolving Fund Projects

**Funding Limitations**

Maximum ARRA funding per project	Existing SDWSRF limit of \$20 million (California Code of Regulations 63012)
Maximum ARRA funding per applicant	Existing SDWSRF limit of \$30 million (California Code of Regulations 63012)
If on or after November 1, 2009, CDPH determines that it has insufficient projects ready to proceed, it may waive these funding limitations in order meet ARRA requirements.	

**Additional Subsidization**

(Loan principal forgiveness and negative interest rate loans)

Maximum amount of loan principal forgiven per project	\$10 million
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**Publicly owned and nonprofit Water Systems**

Small Water Systems (water systems serving 3,300 service connections or less or providing service to a population of 10,000 or less)	100% of loan principal forgiven (not to exceed \$10 million)
Disadvantaged Communities (community median household income less than 80% of statewide MHI)	100% of loan principal forgiven (not to exceed \$10 million)
Small projects (less than \$500,000 total cost) <i>(large water systems may only receive one "small project" grant)</i>	100% of loan principal forgiven
All other systems	50% of loan principal forgiven (not to exceed \$10 million)

**Investor-owned utilities, private for-profit systems**

***(systems will not be able to earn a profit on facilities constructed with grants)***

Small Water Systems (water systems serving 3,300 service connections or less or providing service to a population of 10,000 or less)	Negative interest rate during the repayment term equivalent to approximately 75% loan principal forgiveness (not to exceed \$10 million)
Disadvantaged Communities (community median household income less than 80% of statewide MHI)	Negative interest rate during the repayment term equivalent to approximately 75% loan principal forgiveness (not to exceed \$10 million)
Small projects (less than \$500,000 total cost) <i>(large water systems may only receive one "small project" grant)</i>	Negative interest rate during the repayment term equivalent to approximately 75% loan principal forgiveness
All other systems	Negative interest rate during the repayment term equivalent to approximately 50% loan principal forgiveness (not to exceed \$10 million)

**Loan Funding**

(All projects must demonstrate a fully funded project)

Disadvantaged communities	ARRA loans available at 0% interest rate
All other systems	ARRA loans available at existing SDWSRF interest rate (pursuant to Health and Safety Code Section 116761.65), currently ~2.5%

**Payment Restrictions, Eligible Project Costs**

Date of eligible project costs	Otherwise eligible project costs, incurred prior to October 1, 2008, are ineligible for reimbursement from ARRA funds
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Payment disbursements (all payments are reimbursements)	Loan forgiveness of principal subsidization will be applied to each disbursement of ARRA funds for a project. Negative interest rate loan subsidization for a project will commence with the first principal and interest payment due on the loan after completion of the project. Interest during project construction will be calculated at the interest rate set forth in the funding agreement and shall be due and payable from the date of disbursement.(See Loan Funding above)
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**Eligible Projects**

Once invited, a project must meet the following eligibility criteria in order for CDPH to issue a funding agreement not later than December 2009

<ul style="list-style-type: none"> <li>• Must be eligible for SDWSRF funding</li> <li>• Must meet “readiness to proceed” criteria</li> <li>• Must meet NEPA requirements and other federal cross cutters</li> <li>• Must meet TMF (Technical, Managerial, and Financial) requirements</li> <li>• Must meet ARRA Buy American and Davis Bacon requirements</li> <li>• Only costs (including preliminary costs) incurred on or after October 1, 2008 are eligible for ARRA funding</li> <li>• All other SDWSRF and ARRA funding requirements apply</li> </ul>
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**Funding Priority**

Fundable projects will be determined based on project priority list ranking, readiness to proceed, and “Green” project/components

ARRA pre-applications will be ranked based on current SDWSRF procedures	<ul style="list-style-type: none"> <li>• Projects are ranked on the ARRA Project Priority List (PPL) attached hereto and incorporated herein.</li> <li>• Projects are further ranked within a category by median household income, system type, population</li> </ul>
Criteria for “readiness to proceed”	<ul style="list-style-type: none"> <li>• In order of Project Priority List ranking, CDPH will invite full applications for those projects deemed most ready to proceed based on the date identified in the project’s pre-application for completed project plans and specifications and environmental review. In order to allow sufficient time for technical review and approval of a project, only those projects with project plans and specifications and environmental review identified as complete not later than one calendar month following close of the preapplication period (2/27/09), will be invited to submit full applications. Construction start date by 8/31/09</li> </ul>
“Green” projects/components	<ul style="list-style-type: none"> <li>• CDPH must meet 20% allocation of ARRA funds pursuant to federal guidelines for projects or components considered “Green”</li> </ul>

CDPH has made an initial determination of potentially fundable projects, and the draft fundable projects list is attached hereto and incorporated herein. <ul style="list-style-type: none"> <li>• CDPH will invite full applications totaling at least \$150 million and will issue funding agreements to projects in order of receipt of complete applications up to the full extent of funding availability (reserving funds as necessary to meet the 20% Green project reserve requirement).</li> <li>• If necessary, CDPH will invite additional projects in priority order to meet the 20% Green project reserve requirement.</li> <li>• ARRA funds will be used in accordance with the Intended Use Plan (IUP) attached hereto and incorporated herein.</li> </ul>
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**Application Invitation and Submittal**

<p>CDPH will invite projects from the fundable projects list to submit a full application.</p>	<ul style="list-style-type: none"> <li>• Applicants must submit completed plans and specifications within 7 calendar days of receipt of funding invitation from CDPH</li> <li>• Applicant must submit completed environmental documentation within 7 calendar days of receipt of funding invitation from CDPH</li> <li>• Applicants must submit complete application within 60 calendar days of receipt of funding invitation from CDPH</li> <li>• Project must start construction within 60 days of executed funding agreement</li> <li>• All projects must start construction* by 2/1/10          *Construction means the applicant must have actually commenced construction or have fully executed construction contracts for all components of the project. For a phased or segmented project, this requirement applies to all phases and segments.</li> </ul>
<p>Incomplete documents</p>	<p>If any application component is determined to be incomplete (except plans and specifications or environmental documentation), applicant will have 5 working days from notification by CDPH to submit complete documents</p>
<p>Project bypass</p>	<p>If applicant fails to meet any deadline specified by CDPH, project will be bypassed and CDPH will invite the next project on the fundable list</p>

Note – except as provided above, the California Safe Drinking Water State Revolving Fund Act of 1997 (Health & Safety Code, Division 104, Part 12, Chapter 4.5, also known as California’s SDWSRF) and implementing regulations (California Code of Regulations, Title 22, Chapter 12) apply to all ARRA funding and ARRA funded projects.

Note – as used in these criteria the term “loan principal forgiveness” means a “grant” as that term is used in California’s SDWSRF law and regulations.

Note – the State reserves the right to amend these criteria at any time without notice or opportunity to review if the amendment is necessary to assure ARRA funding is available to the California Safe Drinking Water State Revolving Fund program.



Appendix C  
ARRA Project Priority List  
Final

Appendix D  
ARRA Fundable List  
Final

## Appendix E

### California Department of Public Health Green Project Reserve (GPR) Identification of Projects and Components

California Department of Public Health  
Safe Drinking Water State Revolving Fund  
American Recovery and Reinvestment Act Funding  
GUIDELINES FOR GREEN INFRASTRUCTURE COMPONENTS  
March 2009

The American Recovery and Reinvestment Act (ARRA) contains specific provisions concerning the funding of green infrastructure. Collectively, green infrastructure includes energy efficiency, water efficiency, green design, and environmentally innovative projects. Using guidance from the U.S. Environmental Protection Agency (USEPA), the following information is provided to aid water systems in identifying the project components that may be classified as green infrastructure for the purpose of the ARRA funding. All SDWSRF applications for ARRA funding must provide descriptions, costs, and benefits for green infrastructure components in Section D of the ARRA Applicant Engineering Report.

**Energy Efficiency:**

- I. Definition: Energy efficiency includes components that reduce the energy consumption of eligible drinking water infrastructure projects. Information on energy efficiency can be found at the following websites.
  1. EPA's Better Management-Energy website: [http://www.epa.gov/waterinfrastructure/bettermanagement\\_energy.html](http://www.epa.gov/waterinfrastructure/bettermanagement_energy.html)
  2. EPA's clean energy website: <http://www.epa.gov/cleanenergy/>
  3. CA Energy Commission's energy efficiency programs website: <http://www.energy.ca.gov/efficiency/>
  
- II. Examples of energy efficiency components include, but are not limited to:
  1. Energy efficient retrofits and upgrades to pumps and treatment processes;
  2. Producing clean power for treatment systems on site (wind, solar, hydroelectric, geothermal, biogas powered combined heat and power);
  3. Replacement or rehabilitation of distribution lines if the component is part of a project that is in a fundable category.

**Water Efficiency:**

- I. Definition: Water efficiency is the use of improved technology and practices to deliver equal or better services with less water. Information on water efficiency can be found at the following websites:
  1. EPA's WaterSense program website: <http://www.epa.gov/watersense/tips/util.htm>
  2. CA Department of Water Resources' water efficiency website: <http://www.owue.water.ca.gov/>
  
- II. Examples of water efficiency components include, but are not limited to:
  1. Installation of water meters or automated meter reading systems;
  2. Replacement or rehabilitation of distribution lines;
  3. Purchase of water efficient fixtures, fittings, equipment, or appliances only if they are components of a larger capital improvement project in a fundable category.

Green Design:

- I. Definition: Green design includes a wide array of passive practices that manage wet weather to maintain and restore natural hydrology by infiltrating, evapotranspiring and capturing and using stormwater. Within the context of the ARRA funding process, green infrastructure consists of site-specific practices, such as green roofs and porous pavement at drinking water utility facilities. In addition to managing rainfall, these green design components can simultaneously provide other benefits such as reducing energy demands.
- II. Examples of projects include, but are not limited to:
  1. Implementation of wet weather management systems for utility buildings which include: the incremental cost of porous pavement, bioretention, trees, green roofs, and other practices that mimic natural hydrology and reduce effective imperviousness.

Environmentally Innovative Projects:

- I. Definition: Within the context of the ARRA funding process, “environmentally innovative projects” would include those that are: (1) consistent with the underlying project eligibilities of the DWSRF program; and (2) consistent with the timelines and objectives of the ARRA; and (3) that demonstrate new and/or innovative approaches to delivering service and/or managing water resources in a more sustainable way, including projects that achieve public health protection and environmental protection objectives at the least life-cycle costs,
- II. Examples of environmentally innovative components include, but are not limited to:
  1. Components that enable the utility to adapt to the impacts of global climate change;
  2. Components that are consistent with a “Total Water Management” planning framework; or other planning framework within which project life cycle costs (including infrastructure, energy consumption and other operational costs) are minimized.

**GREEN PROJECTS ON ARRA FUNDABLE LIST**

Priority	System Number	System Name	Project Title	ARRA Project Cost	Project Description
60	1010025	Parlier, City Of	Parlier Water Meter Project	\$2,232,750	Install 1950 meters; upgrade to meters at 450 additional existing locations; 2400 meter boxes with lids and fittings installed.
61			bypassed	0	
62	1810002	Westwood C.S.D.	Install Water Meters Westwood CSD	\$448,000	Installation of remote reading water meters, including meter boxes, meter setters with shut-off valves, styrofoam insulation blocks, and connection to the existing service line.
63	1510021	Wasco, City Of	Expedite Installation of Residential Water Meters in Non-metered Service Connections	\$2,988,592	Install approximately 3,800 new water meters and service connections.
64	5110002	City of Yuba City	Water Metering Project	\$3,500,000	Install an estimated 3,500 water meters to convert all of the City's current flat rate customers to metered service.
65	3400101	Hood Water Maintenance Dist	Meter Retrofit for the Town of Hood	\$110,000	install a total of 76 water meters for the Town of Hood water system
66	3400106	MSA: East Walnut Grove Pws	Meter Retrofit for E. Walnut Grove Water System	\$260,000	install a total of 158 water meters for the E. Walnut Grove water system
67	910002	South Tahoe PUD - Main	Water Conservation/Metering Installation	\$4,387,500	Construction/implementation of 1,500 water meters as Phase 1 and performing water audits to identify water leakages as Phase 2
68			bypassed	0	
69	3410015	Golden State Water Co. - Cordova	Cordova Water Meter Retrofit	\$9,000,000	installation of 9,000 water meters.
70	3410020	City of Sacramento	Water Meter Retrofit Program	\$20,000,000	Retrofit residential water services with water meters
71	3400156	Southwest Tract W M D	Meter Retrofit for the South West Tract Water System	\$38,815	install: 16 water meters on residential service connections; and 17 water meters on commercial service connections.
72			bypassed	0	
73	5710006	City Of Woodland	Water Meter Project 2	\$14,000,000	installing meters and transmitters on existing 10,000 houses.
				\$56,965,657	

## Appendix F

### Reserved for Model Certification of Conforming Utilization of Federal Funds (Section 1511)

Certification of conforming utilization of federal funds – American Recovery and Reinvestment Act (Section 1511) — is being developed.

The State will certify that utilization of federal funds from the 2009 American Recovery and Reinvestment Act for the **specific** Safe Drinking Water State Revolving Fund infrastructure project has received the full review and vetting required by law and accept responsibility that the infrastructure investment is an appropriate use of taxpayer dollars.



Appendix G

SB X3 27

(Chapter 25, Statutes of 2009)

**Senate Bill No. 27**

CHAPTER 25

An act to add Section 116760.45 to the Health and Safety Code, and to amend Sections 10631.5, 13476, and 13480 of the Water Code, relating to drinking water, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 27, 2009. Filed with Secretary of State March 27, 2009.]

Legislative Counsel's Digest

SB 27, Negrete McLeod. Drinking water: federal stimulus funding.

Existing law establishes the Safe Drinking Water State Revolving Fund in the State Treasury to be administered by the State Department of Public Health. Under existing law, the fund is continuously appropriated for the purpose of providing grants or revolving fund loans for the design and construction of projects for public water systems that will enable suppliers to meet safe drinking water standards.

This bill would allow the department to expend federal moneys in the fund that are received from the American Recovery and Reinvestment Act of 2009 in accordance with the guidelines of that act. The bill would provide that the maximum amount of a grant is \$10,000,000 per project.

Because this bill would provide for the expenditure of moneys from a continuously appropriated fund it would constitute an appropriation.

Existing law requires every urban water supplier to prepare and adopt an urban water management plan, in accordance with specified requirements, for submission to the Department of Water Resources and other entities.

Existing law creates a grant and loan program for urban water suppliers, to fund programs or projects for surface water and groundwater storage, recycling, desalination, water conservation, water supply reliability, and water supply augmentation, subject to specified conditions.

This bill would exempt projects funded by the American Recovery and Reinvestment Act of 2009 from those conditions.

Existing law establishes the continuously appropriated State Water Pollution Control Revolving Fund, administered by the State Water Resources Control Board, to provide financial assistance, as defined, for various purposes allowed by the federal Clean Water Act.

This bill would include specified grants for projects funded by the federal American Recovery and Reinvestment Act of 2009 in the definition of financial assistance and would allow the funds in the fund to be used for those grants. The bill would also allow for loan forgiveness to the extent authorized by that act.

Because the bill would expand the purposes for which continuously appropriated funds may be used, the bill would constitute an appropriation.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

Safe Drinking Water State Revolving Fund -American Recovery and Reinvestment Act  
Intended Use Plan  
June 2009

*The people of the State of California do enact as follows:*

SECTION 1. Section 116760.45 is added to the Health and Safety Code, to read:

116760.45. (a) For purposes of this section “act” means the American Recovery and Reinvestment Act of 2009.

(b) Notwithstanding any other provision of this chapter or any regulations adopted pursuant to this chapter, the department may expend moneys in the fund, received from the federal government pursuant to the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), in accordance with the provisions of the act and federal guidelines implementing the act. To the extent that any law or regulation of the state is in conflict with the provisions and requirements of the act, to the extent that the conflict impairs the expenditure of federal moneys received, the provisions and requirements of the act shall prevail.

(c) The department may develop criteria necessary to implement the act. These criteria shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The department shall publish the criteria on its Internet Web site and shall provide opportunity for public review and comment, to include at least one public hearing conducted upon not less than 20 days’ notice.

(d) For the implementation of the act, the maximum amount of a grant to an applicant under this chapter is ten million dollars (\$10,000,000) per project.

SEC. 2. Section 10631.5 of the Water Code is amended to read:

10631.5. (a) (1) Beginning January 1, 2009, the terms of, and eligibility for, a water management grant or loan made to an urban water supplier and awarded or administered by the department, state board, or California Bay-Delta Authority or its successor agency shall be conditioned on the implementation of the water demand management measures described in Section 10631, as determined by the department pursuant to subdivision (b).

(2) For the purposes of this section, water management grants and loans include funding for programs and projects for surface water or groundwater storage, recycling, desalination, water conservation, water supply reliability, and water supply augmentation. This section does not apply to water management projects funded by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

(3) Notwithstanding paragraph (1), the department shall determine that an urban water supplier is eligible for a water management grant or loan even though the supplier is not implementing all of the water demand management measures described in Section 10631, if the urban water supplier has submitted to the department for approval a schedule, financing plan, and budget, to be included in the grant or loan agreement, for implementation of the water demand management measures. The supplier may request grant or loan funds to implement the water demand management measures to the extent the request is consistent with the eligibility requirements applicable to the water management funds.

(4) (A) Notwithstanding paragraph (1), the department shall determine that an urban water supplier is eligible for a water management grant or loan even though the supplier is not implementing all of the water demand management measures described in Section 10631, if an urban water supplier submits to the department for approval documentation demonstrating that a water demand management measure is not locally cost effective. If the department determines that the documentation submitted by the urban water supplier fails to demonstrate that a water demand management measure is not locally cost effective, the department shall notify the urban water supplier and the agency administering the grant or loan program within 120 days that the documentation does not satisfy the requirements for an exemption, and include in that notification a detailed statement to support the determination.

(B) For purposes of this paragraph, “not locally cost effective” means that the present value of the local benefits of implementing a water demand management measure is less than the present value of the local costs of implementing that measure.

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(b) (1) The department, in consultation with the state board and the California Bay-Delta Authority or its successor agency, and after soliciting public comment regarding eligibility requirements, shall develop eligibility requirements to implement the requirement of paragraph (1) of subdivision (a). In establishing these eligibility requirements, the department shall do both of the following:

(A) Consider the conservation measures described in the Memorandum of Understanding Regarding Urban Water Conservation in California, and alternative conservation approaches that provide equal or greater water savings.

(B) Recognize the different legal, technical, fiscal, and practical roles and responsibilities of wholesale water suppliers and retail water suppliers.

(2) (A) For the purposes of this section, the department shall determine whether an urban water supplier is implementing all of the water demand

management measures described in Section 10631 based on either, or a combination, of the following:

(i) Compliance on an individual basis.

(ii) Compliance on a regional basis. Regional compliance shall require participation in a regional conservation program consisting of two or more urban water suppliers that achieves the level of conservation or water efficiency savings equivalent to the amount of conservation or savings achieved if each of the participating urban water suppliers implemented the water demand management measures. The urban water supplier administering the regional program shall provide participating urban water suppliers and the department with data to demonstrate that the regional program is consistent with this clause. The department shall review the data to determine whether the urban water suppliers in the regional program are meeting the eligibility requirements.

(B) The department may require additional information for any determination pursuant to this section.

(3) The department shall not deny eligibility to an urban water supplier in compliance with the requirements of this section that is participating in a multiagency water project, or an integrated regional water management plan, developed pursuant to Section 75026 of the Public Resources Code, solely on the basis that one or more of the agencies participating in the project or plan is not implementing all of the water demand management measures described in Section 10631.

(c) In establishing guidelines pursuant to the specific funding authorization for any water management grant or loan program subject to this section, the agency administering the grant or loan program shall include in the guidelines the eligibility requirements developed by the department pursuant to subdivision (b).

(d) Upon receipt of a water management grant or loan application by an agency administering a grant and loan program subject to this section, the agency shall request an eligibility determination from the department with respect to the requirements of this section. The department shall respond to the request within 60 days of the request.

(e) The urban water supplier may submit to the department copies of its annual reports and other relevant documents to assist the department in determining whether the urban water supplier is implementing or scheduling the implementation of water demand management activities. In addition, for urban water suppliers that are signatories to the Memorandum of Understanding Regarding Urban Water Conservation in California and submit biennial reports to the California Urban Water Conservation Council in accordance with the memorandum, the department may use these reports to assist in tracking the implementation of water demand management measures.

SEC. 3. Section 13476 of the Water Code is amended to read: 13476. Unless the context otherwise requires, the following definitions govern the construction of this chapter:

(a) "Administration fund" means the State Water Pollution Control Revolving Fund Administration Fund.

(b) "Board" means the State Water Resources Control Board.

(c) "Federal Clean Water Act" or "federal act" means the Clean Water Act (33 U.S.C. Sec. 1251 et seq.) and acts amendatory thereof or supplemental thereto.

(d) "Financial assistance" means assistance authorized under Section 13480. Financial assistance includes loans, refinancing, installment sales agreements, purchase of debt, and loan guarantees for municipal revolving funds, but excludes grants. Financial assistance may include grants for projects

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authorized pursuant to Section 13480 to the extent that grants for those projects are funded by the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

(e) "Fund" means the State Water Pollution Control Revolving Fund.

(f) "Grant fund" means the State Water Pollution Control Revolving Fund Small Community Grant Fund.

(g) "Matching funds" means money that equals that percentage of federal contributions required by the federal act to be matched with state funds.

(h) "Municipality" has the same meaning and construction as in the federal act and also includes all state, interstate, and intermunicipal agencies.

(i) "Publicly owned" means owned by a municipality. SEC. 4. Section 13480 of the Water Code is amended to read: 13480. (a) Moneys in the fund shall be used only for the permissible purposes allowed by the federal act, including providing financial assistance for the following purposes:

(1) The construction of publicly owned treatment works, as defined by Section 212 of the federal act (33 U.S.C. Sec. 1292), by any municipality.

(2) Implementation of a management program pursuant to Section 319 of the federal act (33 U.S.C. Sec. 1329).

(3) Development and implementation of a conservation and management plan under Section 320 of the federal act (33 U.S.C. Sec. 1330).

(4) Financial assistance, other than a loan, toward the nonfederal share of costs of any grant-funded treatment works project, but only if that assistance is necessary to permit the project to proceed.

(5) Financial assistance provided under the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5) for projects authorized pursuant to this subdivision.

(b) Consistent with expenditure for authorized purposes, moneys in the fund may be used for the following purposes:

(1) Loans that meet all of the following requirements:

(A) Are made at or below market interest rates.

(B) Require annual payments of principal and any interest, with repayment commencing not later than one year after completion of the project for which the loan is made and full amortization not later than 20 years after project completion unless otherwise authorized under the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5) for projects authorized pursuant to subdivision (a) and to the extent funded by

that act. Loan forgiveness is permissible to the extent permitted by the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5) for projects authorized pursuant to subdivision (a) and to the extent funded by that act.

(C) Require the loan recipient to establish an acceptable dedicated source of revenue for repayment of a loan.

(D) (i) Contain other terms and conditions required by the board or the federal act or applicable rules, regulations, guidelines, and policies. To the extent permitted by federal law, the combined interest and loan service rate shall be set at a rate that does not exceed 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds and the combined interest and loan service rate shall be computed according to the true interest cost method. If the combined interest and loan service rate so determined is not a multiple of one-tenth of 1 percent, the combined interest and loan service rate shall be set at the multiple of one-tenth of 1 percent next above the combined interest and loan service rate so determined. A loan from the fund used to finance costs of facilities planning, or the preparation of plans, specifications, or estimates for construction of publicly owned treatment works shall comply with Section 603(e) of the federal act (33 U.S.C. Sec. 1383(e)).

(ii) Notwithstanding clause (i), if the loan applicant is a municipality, an applicant for a loan for the implementation of a management program pursuant to Section 319 of the federal Clean Water Act (33 U.S.C. Sec. 1329), or an applicant for a loan for nonpoint source or estuary enhancement pursuant to Section 320 of the federal Clean Water Act (33 U.S.C. Sec. 1330), and the applicant provides matching funds, the combined interest and loan service rate on the loan shall be 0 percent. A loan recipient that returns to the fund an amount of money equal to 20 percent of the remaining unpaid

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federal balance of an existing loan shall have the remaining unpaid loan balance refinanced at a combined interest and loan service rate of 0 percent over the time remaining in the original loan contract.

(2) To buy or refinance the debt obligations of municipalities within the state at or below market rates if those debt obligations were incurred after March 7, 1985.

(3) To guarantee, or purchase insurance for, local obligations where that action would improve credit market access or reduce interest rates.

(4) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state, if the proceeds of the sale of those bonds will be deposited in the fund.

(5) To establish loan guarantees for similar revolving funds established by municipalities.

(6) To earn interest.

(7) For payment of the reasonable costs of administering the fund and conducting activities under Title VI (commencing with Section 601) of the federal act (33 U.S.C. Sec. 1381 et seq.). Those costs shall not exceed 4 percent of all federal contributions to the fund, except that if permitted by federal and state law, interest repayments into the fund and other moneys

in the fund may be used to defray additional administrative and activity costs to the extent permitted by the federal government and approved by the Legislature in the Budget Act.

(8) For financial assistance toward the nonfederal share of the costs of grant-funded treatment works projects to the extent permitted by the federal act.

(9) Grants and any other type of, or variation on the above types of, assistance authorized by the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5) for projects authorized pursuant to subdivision (a) and to the extent funded by that act.

SEC. 5. This act addresses the fiscal emergency declared by the Governor by proclamation on December 19, 2008, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to properly implement the federal stimulus program, it is necessary that this act go into immediate effect.

## Appendix H

### SDWSRF Regulations California Code of Regulations As Amended March 2009

## Chapter 12. Safe Drinking Water Project Funding

### Article 1. Definitions

#### Section 63000.10. Applicant.

"Applicant" means a public water system that is applying for funding from the State Revolving Fund.

#### Section 63000.13. CEQA.

"CEQA" means the California Environmental Quality Act and the regulations and guidelines adopted by the California Resources Agency to implement that Act.

#### Section 63000.16. Completion of Project.

"Completion of Project" means, in the case of a construction project, that the Department has conducted a final inspection of the project and has notified the water system that project construction has been completed in conformance with the plans and specifications identified in the funding agreement for compliance with Health and Safety Code Part 12, Chapter 4, Section 116270 et seq, and related regulations. In the case of a planning project, completion of project means that the Department has received and approved the planning report.

#### Section 63000.17. Consolidation Project.

"Consolidation project" means a project that involves the restructuring of two or more water systems into a single public water system through physical consolidation of the water systems.

#### Section 63000.19. Construction Funding.

"Construction Funding" means a loan and/or grant to cover the cost of planning, preliminary engineering, design, acquisition of water systems, purchase of land or equipment, and construction or consolidation of a water system project.

#### Section 63000.25. Disadvantaged Community.

"Disadvantaged Community" means a community whose median household income is less than 80 percent of the statewide median household income.

#### Section 63000.28. Drinking Water Standards.

"Drinking Water Standards" means all drinking water requirements set forth in the California Safe Drinking Water Act (section 116275 et. seq. Health and Safety Code) and the regulations adopted by the Department pursuant thereto.

#### Section 63000.31. Eligible Project Cost.

"Eligible Project Cost" means those costs of a proposed project that are deemed by the Department to comply with the eligibility criteria set forth in section 63010.



**Section 63000.34. Federal Cross-Cutters.**

"Federal Cross-cutters" means those federal laws, regulations, policies and executive orders listed in Appendix VII of the USEPA program guidelines.

**Section 63000.35. Federal Funding Allocation.**

"Federal Funding Allocation" means the capitalization grant awarded by the USEPA to the Department from a specific federal fiscal year allocation.

**Section 63000.40. Funding Application.**

"Funding Application" means the appropriate application form to be submitted by an applicant for State Revolving Fund funding. The application forms are: Application Cover Sheet [DHS 8595 (5/99)], Application for Construction Funds [DHS 8585 (4/01)]; Application for Short Term Planning Loans [DHS 8586 (1/99)]; Application for Source Water Protection Funds [DHS 8588 (2/00)]; and Application for Refinancing [DHS 8587 (1/99)], which are all incorporated by reference.

**Section 63000.43. Funding Agreement.**

"Funding Agreement" means the document that is signed by the funding recipient and the Department that consummates the loan and/or grant.

**Section 63000.46. Funding Agreement Execution.**

"Funding Agreement Execution" means that the funding agreement has been signed by both the funding recipient and the Department.

**Section 63000.47. Funding Recipient.**

"Funding recipient" means the public water system that enters into a funding agreement with the State and receives funding from the Safe Drinking Water State Revolving Fund.

**Section 63000.48. Intended Use Plan.**

"Intended Use Plan" means the document prepared by the Department, which identifies the management and utilization of the State Revolving Fund and describes how those uses support the goals of the program.

**Section 63000.49. Local Match Project.**

"Local Match Project" means a project whereby the local public agency provides 20 percent of the total eligible cost of the project to the Department to cover the State's matching share of the federal dollars.

**Section 63000.62. Median Household Income.**

"Median Household Income" means the household income that represents the median value for the service area of a public water system.

**Section 63000.65. NEPA.**

"NEPA" means the National Environmental Policy Act (42 U.S.C. 4331 et seq.) or a NEPA equivalent or NEPA-Like process approved by the USEPA for the drinking water revolving fund loan program.

**Section 63000.66. Non-profit or Not-for-profit.**

"Non-profit" or "not-for-profit" means an entity that is exempt from taxes under United States Internal Revenue Code Section 501(c), 26 U.S.C. 501(c).

**Section 63000.67. Notice of Acceptance of Application.**

"Notice of Acceptance of Application" means a notice sent to the applicant that (1) identifies the portions and costs of the project that have been determined to be eligible for State Revolving Fund funding; (2) explains the terms and conditions that will govern the loan or grant for the project; and (3) sets forth the conditions and schedules that must be met before a funding agreement will be executed.

**Section 63000.68. Planning Funding.**

"Planning Funding" means a loan and/or grant to cover the cost of studies, planning, and preliminary engineering for a project.

**Section 63000.70. Possible contaminating activity (PCA).**

"Possible contaminating activity (PCA)" means a human activity that is an actual or potential origin of contamination for a drinking water source and includes sources of both microbiological and chemical contaminants that could have adverse effects upon human health.

**Section 63000.71. Project.**

"Project" means all planning, engineering, construction, and construction related activities undertaken to solve the specific water system problem for which the project was ranked on the project priority list.

**Section 63000.74 Project Priority List.**

"Project Priority List" means the list of projects for which public water systems have requested funding and that have been ranked in priority order in accordance with section 116760.70 of the Health and Safety Code.

**Section 63000.77. Project Primarily to Serve Future Growth.**

"Project Primarily to Serve Future Growth" means a project, or project component, that has a design capacity that is more than two times the design capacity needed to serve the existing water demand at maximum day demand, as defined in Section 64551.30, of Chapter 16 of this Title, plus the design capacity needed to meet fire flow requirements of the local fire authority.

**Section 63000.80. Refinancing Loan.**

"Refinancing Loan" means a loan to refinance the remaining balance of an existing indebtedness incurred for construction of an otherwise eligible project where the construction of such project commenced after July 1, 1993.

**Section 63000.81. Restructured Water System.**

"Restructured water system" means the single public water system that results from the consolidation of two or more water systems.

**Section 63000.83. Service Area.**

"Service Area" means all of the geographical area that is currently served drinking water by a public water system.

**Section 63000.84. Source Water Assessment.**

"Source water assessment" means an evaluation of a drinking water source that includes delineation of the boundaries of the source area, identification of PCAs within the delineated area, a determination of the PCAs to which the source is most vulnerable, and a summary of the vulnerability of the source to contamination.

**Section 63000.85. Source Water Protection (SWP).**

"Source water protection (SWP)" means the process of managing the activities within a delineated source area to prevent drinking water source contamination.

**Section 63000.86. Source Water Protection Program.**

"Source water protection program", also known as a wellhead protection program or a watershed management program, means a comprehensive program developed to protect a water source used as a drinking water supply and includes activities such as organizing a community taskforce to develop and carry out the protection program, educating the community on source protection, conducting a source water assessment to determine the PCAs to which the source is most vulnerable, identifying management measures for the PCAs posing the highest risk, developing a strategy for implementing those measures, considering protection principles when siting any new sources, and identifying alternative sources of supply for emergencies.

**Section 63000.87. Source Water Protection (SWP) Loan.**

"Source Water Protection (SWP) loan" means a loan to cover the cost of a Source Water Protection Project.

**Section 63000.88. SWP loan applicant.**

"SWP loan applicant" means a public water system that is applying for a SWP loan from the State Revolving Fund.

**Section 63000.89. State Revolving Fund.**

"State Revolving Fund" means the Safe Drinking Water State Revolving Fund created pursuant to section 116760.30 of the Health and Safety Code.

**Section 63000.90. Target Consumer Rate.**

"Target Consumer Rate" means an amount equal to 1½ percent of the median household income for water systems where the median household income is equal to or less than the statewide median household income or 2 percent of the median household income for water systems where the median household income is greater than the statewide median household income.

**Section 63000.92. USEPA.**

"USEPA" means the United States Environmental Protection Agency.

**Section 63000.95. USEPA Program Guidelines.**

"USEPA Program Guidelines" means the Drinking Water State Revolving Fund Program Guidelines (EPA 816-R-97-005, February 28, 1997) adopted by the USEPA.

**Article 2. Financing Criteria**

**Section 63010. Project Eligibility.**

(a) In order to be eligible for funding, an applicant shall have the authority to enter into a funding agreement with the State.

(b) In order to be eligible for funding that is not a SWP loan, an applicant shall be either a community water system or a non-profit non-community water system.

(1) Only those project costs that are directly associated with the planning, design, and construction of a project shall be eligible for funding.

(2) The following project costs, that would otherwise be eligible pursuant to paragraph (1), shall be ineligible for funding:

(A) Land acquisition except for land or land access that is integral to the construction of source, treatment or distribution facilities.

(B) Ongoing operation and maintenance costs.

(C) Any project facilities that are primarily to serve future growth.

(D) Dams or rehabilitation of dams and any raw water storage facilities.

(E) Water rights except water rights acquired through consolidation with another water system.

(F) Laboratories, except those necessary for operation of a treatment facility.

(c) In order to be eligible for a SWP loan, an applicant shall be a community water system except that both a community and non-profit non-community water system shall be eligible for a SWP loan for land or easement acquisition.

(1) SWP project costs that shall be eligible for a SWP loan include only those associated with source water protection measures such as destruction of abandoned wells, hazardous waste collection programs, upgrade or abatement of septic systems, public education, water quality monitoring at critical points in protection areas, fencing out cattle and other animals from intakes, tributaries or reservoir boundaries, restricting public access to critical areas in protection areas, evaluations of agricultural

practices and education on best management practices, installation of signs at boundaries of zones or protection areas, and structures to divert contaminated runoff from the source.

(2) SWP project costs shall be ineligible for SWP funding if the project is eligible for funding through the following:

- (A) The federal Comprehensive Environmental Response Compensation and Liability Act of 1980 (Superfund) as amended by the Superfund Amendments and Reauthorization Act of 1986; or
- (B) Programs established under the Hazardous Substance Account Act (Health and Safety Code, Chapter 6.8, Section 25300 et seq); or
- (C) The Underground Storage Tank Cleanup Fund created pursuant to Health and Safety Code section 25299.50.

(d) Costs arising from construction change orders that occur after funding agreement execution shall be ineligible for funding except for the following:

- (1) A change in the executed funding agreement amount based on the final accepted construction bid as provided in section 63052(b).
- (2) Change orders that are a result of changes in drinking water standards.
- (3) Change orders requested by the Department.

#### **Section 63011. Planning Funding.**

(a) Planning funding shall be used only to finance planning, studies, and preliminary engineering costs for an eligible project. Planning funds shall not be used for detailed design, equipment purchase, or construction.

(b) Planning funding shall be limited to a maximum amount of \$500,000 per project, as loan, grant, or combined loan and grant.

(c) Projects funded by planning funding shall be completed and a planning report submitted to the Department within 18 months from funding agreement execution.

#### **Section 63012. Construction Funding.**

(a) Construction funding shall be limited to a maximum amount of \$20,000,000 per project.

(b) A public water system shall not be awarded more than an aggregate amount of \$30,000,000 in construction funding and refinancing loans from a federal funding allocation.

(c) The funding limitations established by this section shall not apply during the month preceding the federal deadline for obligation of funds to applicants from a federal funding allocation.

#### **Section 63013. Refinancing Loans.**

(a) Refinancing loan funds shall be used only to refinance the remaining balance of an existing indebtedness incurred by the construction of an eligible project ranked in a category A through G on the Project Priority List.

(b) An applicant for a refinancing loan shall be a public agency.

(c) Refinancing loans shall be limited to a maximum amount of \$20,000,000 per project and an aggregate total of \$30,000,000 per water system from a federal funding allocation.

(d) Refinancing loans shall only be made when all eligible projects ranked in a category A through G on the Project Priority List have been funded or by-passed.

### Section 63014. Local Match Projects.

- (a) Local match projects shall be considered to be the same as construction projects and shall be subject to the same conditions and limitations.
- (b) An applicant for a local match project shall be a community water system owned by a public agency.
- (c) Only projects that exceed \$5,000,000 in eligible project costs shall be eligible for local matching.

### Section 63015. SWP Loans.

- (a) SWP loan funds shall be used only for planning, preliminary engineering, detailed design, construction, education, land acquisition, conservation easements, equipment purchase, and implementing the elements of a source water protection program.
- (b) SWP loans shall be limited to a maximum amount of \$2,000,000 per project per year.
- (c) A SWP loan applicant shall not be awarded more than an aggregate amount of \$3,000,000 in SWP loans in any fiscal year.
- (d) A planning project funded by a SWP loan shall be completed and a planning report submitted to the Department within 18 months from funding agreement execution.

## Article 3. Disadvantaged Communities

### Section 63020. Grant Eligibility.

- (a) An applicant, determined eligible for funding under this chapter, may be eligible for grant funding only if:
  - (1) It is a public water system owned by a public agency or a not-for-profit water company, and
  - (2) Its service area is a disadvantaged community.
- (b) In the case of a consolidation project, the grant eligibility requirement of subsection (a)(2) shall be based on evaluation of the service area "median household income" of each participating applicant.

### Section 63021. Grant Limitations.

- (a) The maximum amount of grant funding to be awarded to a project shall be limited to the following percentages according to the classification of the project using the most recent Project Priority List adopted pursuant to Health and Safety Code Section 116760.70:
  - (1) 80% of the eligible project cost if the project is in Project Priority List categories A through G;
  - (2) 65% of the eligible project cost if the project is in Project Priority List categories H through L; or
  - (3) 50% of the eligible project cost if the project is in Project Priority List categories M through O.
- (b) The maximum amount of grant funding that one water system may receive for a project shall not exceed the limitation set forth in Health and Safety Code 116761.23(a).
- (c) The total amount of grant funding awarded to a disadvantaged community for a project shall be limited to the amount of funding needed so that the projected average residential water rate, which would result from a loan from the State Revolving Fund, will not exceed the target consumer rate. This subsection (c) does not establish a limitation on the total amount of loan funding that can be awarded to a disadvantaged community.
- (d) For consolidation projects, the limitations set forth in this section shall be applied to each participating applicant's eligible share of the total project cost of the consolidation project, and the total grant amount awarded for the entire consolidation project shall be limited to the total grant eligibilities of the individual participating applicants.

## Article 4. Application Process

### Section 63025. Funding Application.

- (a) All funding applications shall be submitted by public water systems only after a water system has received a written invitation from the Department to do so.
- (b) Upon receipt of a written invitation from the Department to submit a funding application, an applicant shall indicate their intention to submit the application within the deadline set forth in the letter by signing a statement of intent. The statement of intent shall be received by the Department prior to close of business on the day indicated in the invitation.
- (c) In order to be assured of receiving funding consideration from a specific federal funding allocation, a completed funding application shall be submitted to the Department by close of business on the date set forth in the letter of invitation.
- (d) A funding application shall not be accepted for processing unless the funding application form is completed and the additional information specified below is submitted:
  - (1) For SWP loan applications, the information in Sections 63026(d), 63026(e), 63027, and 63028(a).
  - (2) For all other funding applications, the information in Sections 63026, 63027, and 63028.

### Section 63026. Technical Information.

- (a) Each funding application for construction funding or a refinancing loan shall contain the following information:
  - (1) A map showing the current service area of the water system.
  - (2) A map or drawing showing the location of all existing water sources, pumping facilities, treatment facilities, storage tanks or reservoirs, water transmission mains, and water main pressure zones.
  - (3) A schedule for full compliance with CEQA and NEPA.
- (b) Each applicant for construction funding shall prepare and submit with the funding application, an engineering report addressing all of the following elements:
  - (1) An identification and evaluation of alternative solutions to the problem. The evaluation shall compare estimated project costs, relative effectiveness in solving the problem, and environmental impacts of each alternative.
  - (2) An evaluation, including costs and feasibility, of possible physical consolidation with other water systems.
  - (3) A description of the selected or proposed alternative.
  - (4) A conceptual or preliminary engineering design, including the design capacity of project components, and a schematic layout of the proposed project. All assumptions, criteria, and calculations used for the preliminary design shall be shown.
  - (5) An analysis and estimation of the anticipated useful life of components of the proposed project.
  - (6) A preliminary analysis of projected growth anticipated to occur within the service area within the next ten years, the resultant projected water demand, and the amount of growth or water demand to be included in the project.
  - (7) A proposed design and construction schedule.
  - (8) A cost estimate breakdown of the proposed project.
  - (9) In the case of a consolidation project, each funding application also shall include identification of the single public water system that would result from completion of the consolidation project.

- (c) Each funding application for a refinancing loan shall include all of the following:

- (1) A description and estimated costs of all alternative solutions to the problem that were considered prior to construction of the selected project.
  - (2) A layout or schematic drawing showing the location and relationship of all project facilities including the newly constructed portions.
  - (3) A description of the facilities that were constructed and for which refinancing is being requested including an estimate of their useful life.
  - (4) The design capacities of project components and the design parameters and engineering calculations used in the sizing and design of the project components.
  - (5) An analysis and estimation of the water demand within the service area at the time of start of construction of the project and a projection of anticipated growth and water demand for a ten-year period commencing from the time of start of construction.
  - (6) A cost breakdown of the constructed project.
  - (7) As-built plans for all of the construction facilities that are to be covered by the refinancing loan.
  - (8) The final plans and specifications used to solicit and select the construction bid.
  - (9) Information that demonstrates that the applicant has complied with all applicable federal cross-cutters.
- (d) Each SWP loan applicant shall submit the following:
- (1) A completed source water assessment for each drinking water source addressed by the proposed project.
  - (2) A list of the types of contaminants that the proposed project is intended to address and the associated PCAs.
  - (3) A description of the dimensions and location of the area or zone in which the associated PCAs are located.
  - (4) A map showing water system facilities, intake or well location, and source protection areas and/or zones.
  - (5) A description of the local community taskforce addressing source water protection (if one exists). The description shall include a list of the participants and their affiliations, and the methods used to establish the membership in the taskforce.
  - (6) A schedule for full compliance with CEQA and NEPA.
- (e) Each SWP loan applicant shall prepare and submit an engineering report with the loan application that addresses all of the following:
- (1) Descriptions and estimated costs of all alternative solutions to the problem that were considered prior to selection of the proposed project.
  - (2) A description of the proposed project.
  - (3) A conceptual or preliminary engineering design and schematic layout of the proposed project, if applicable. All assumptions, criteria, and calculations used shall be shown.
  - (4) An analysis and estimation of the anticipated useful life of the components of the proposed project, if applicable.
  - (5) A proposed schedule for carrying out the project.
  - (6) A cost estimate breakdown of the proposed project.

### **Section 63027. Managerial Information.**

Each funding application shall contain the following:

- (a) Copies of any leases, easements, or other documentation for land, water sources, treatment, pumping, storage, or distribution facilities used in the operation of the water system that are not owned by the water system.
- (b) A written statement certifying that the applicant, or in the case of a consolidation project, the restructured water system, is a legal entity and that it has the authority to enter into a long-term indebtedness with the State of California.
- (c) A description of the water rights held by the water system and any available documentation to substantiate those rights.



**Section 63028. Financial Information.**

- (a) Each funding application shall contain the following:
- (1) A projected revenue/expenditure analysis that compares all anticipated water system revenues and planned expenditures for the next five years.
  - (2) An analysis and calculation of the average current water rate charged to residential users and the projected average water rate that will be charged to residential users following completion of the eligible project. This analysis is not required for non-community water systems.
  - (3) Financial statements (balance and income) of the water system covering the past three years.
  - (4) A description of the accounting and budget control procedures used and any proposed changes to the procedures.
- (b) In addition to the requirements of subsection (a), applicants for a refinancing loan shall also include a certification that proceeds of the previous debt were used to pay for eligible project costs. If ineligible items were funded, a list of those items and their costs shall be included.
- (c) In addition to the requirements of subsection (a), applicants that propose to use local matching funds pursuant to section 63014 shall include a resolution adopted by the governing body. The resolution shall identify the source of the local matching funds and pledge those funds for deposit into the State Revolving Fund.

**Section 63029. Notice of Acceptance of Application.**

- (a) Within 60 days of receipt of a Notice of Acceptance of Application from the Department, the applicant shall indicate its acceptance of the terms and conditions of the Notice of Application Acceptance by signing and returning it to the Department.
- (b) If the proposed project is a consolidation project for which the restructured water system is not one of the applicants, within 60 days of receipt of a Notice of Acceptance of Application from the Department, the applicant(s) and the restructured water system shall indicate their acceptance of the terms and conditions of the Notice of Application Acceptance by signing and returning it to the Department.

**Section 63030. Project By-Passing.**

- (a) A project on the Project Priority List shall be by-passed for funding consideration for the current fiscal year if any of the following apply:
- (1) The water system indicated that it did not desire to receive funding for a particular project in the current fiscal year.
  - (2) A water system fails to sign a statement of intent to submit an application and return it to the Department by the date identified in the letter as specified in Section 63025(b).
  - (3) A water system, receiving an invitation from the Department to submit a funding application, informs the Department that it does not wish to submit an application at this time.
  - (4) A funding application is rejected by the Department for failure on the part of the applicant to comply with the requirements of this chapter.
  - (5) An applicant fails to sign and return the Notice of Acceptance of Application within 60 days of receipt of the Notice of Acceptance of Application.
  - (6) The Department withdraws a previously issued Notice of Acceptance of Application for failure on the part of the applicant to comply with the terms and conditions as stated in the Notice of Acceptance of Application.
  - (7) A water system received an invitation (statement of intent) from the Department pursuant to Section 63025, and for two consecutive years failed to return the statement of intent by the deadline.

(8) The applicant has reached the \$3,000,000 loan maximum set forth in subsection 63015(c) for a SWP loan, or the \$30,000,000 funding maximum set forth in subsection 63012(b) for a construction funding or refinancing loan.

(b) Any project that is by-passed for any reason shall remain on the Project Priority List and be eligible for future funding consideration.

#### **Article 5. Information to be Submitted Prior to Execution of the Funding Agreement**

##### **Section 63040. Technical and Financial Information.**

(a) All applicants for construction funding, SWP loans, or refinancing loans shall comply with all applicable environmental review and procedural requirements of CEQA and NEPA prior to execution of the funding agreement.

(b) Prior to execution of a funding agreement that includes a loan, each funding recipient shall submit the following:

- (1) A resolution or ordinance adopted by the governing body dedicating the source of repayment of the loan.
- (2) A completed fiscal services agreement for loan repayment funds.

#### **Article 6. Design and Construction**

##### **Section 63050. Plans and Specifications.**

Applicants for construction funding or SWP loans involving construction shall submit final design plans and project specifications to the Department in accordance with the schedule set forth in the Notice of Acceptance of Application.

##### **Section 63051. Federal Cross-Cutting Requirements.**

(a) The criteria for projects subject to federal cross-cutting authorities shall be those established in the most recent Intended Use Plan adopted prior to the date the water system is invited to submit an application for funding the project.

(b) Each SWP project shall comply with federal cross-cutting authorities.

##### **Section 63052. Construction.**

(a) Construction contracts awarded by the applicant for any project involving the use of grant funds from the State Revolving Fund shall be based on competitive construction bids.

(b) An applicant's request for a change in the amount of funding specified in the funding agreement shall be limited to one occasion and shall be based solely on the final accepted construction bid(s).

#### **Article 7. Claims and Loan Repayments.**

##### **Section 63055. Submission of Claims for Reimbursement.**

(a) No claims for reimbursement shall be submitted prior to execution of the funding agreement. Claims shall be submitted only for reimbursement of costs already incurred.

- (b) Claims shall be submitted no more frequently than monthly.
- (c) No claims shall be submitted for construction costs incurred after completion of the project as defined in Section 63000.16.
- (d) No claims for local match projects shall be reimbursed until the applicant's local share has been received and deposited into the State Revolving Fund account.

**Section 63056. Loan Repayments**

- (a) Loan repayments shall be made in accordance with the schedule set forth in the funding agreement.
- (b) A penalty of one-tenth of one percent per day (not compounded) on the payment amount due shall be assessed for late payments.

**Section 63057. Records.**

- (a) All applicant records and documents relating to funding received from the State Revolving Fund shall be maintained until such time that any State Revolving Fund loan has been fully repaid.
- (b) All applicant records and documents pertaining to the funding agreement shall be available for inspection and audit by the Department or the USEPA during normal business hours.
- (c) In the case of a consolidation project, the requirements of this section shall also be met by the restructured water system.

**Article 8. Consolidation Projects**

**Section 63058. Limitations on Water Systems Involved in Consolidation Projects.**

Upon completion of a consolidation project, all water systems involved in the consolidation, other than the restructured system, shall cease to operate as public water systems.

Appendix I

Reserved for Public Comments  
and  
CDPH Response