

United States Environmental Protection Agency's Approval of Extended Term Financing

This appendix includes the following documents:

1. State Water Resources Control Board Resolution No. 2008-0052: Granting Authority to the State Water Resources Control Board's Executive Director to Apply to the United States Environmental Protection Agency (USEPA) to Implement an Extended Term Financing Program as Part of the Clean Water State Revolving Fund (SRF) Program (dated July 15, 2008)
2. USEPA Approval Letter Authorizing Extended Term Financing (ETF) for California's Clean Water State Revolving Fund (CWSRF) Program (dated October 7, 2008).

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2008-0052**

GRANTING AUTHORITY TO THE STATE WATER RESOURCES CONTROL BOARD'S
(STATE WATER BOARD) EXECUTIVE DIRECTOR TO APPLY TO THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (U.S. EPA)
TO IMPLEMENT AN EXTENDED TERM FINANCING PROGRAM AS PART OF THE
CLEAN WATER STATE REVOLVING FUND (SRF) PROGRAM

WHEREAS:

1. The SRF Program, is a joint federal/state funded program, currently providing low-interest financing with terms of up to 20 years for projects intended to improve the quality of the state's waters;
2. The State Water Board adopted the *Policy for Implementing the State Revolving Fund for Construction of Wastewater Treatment Facilities* (Policy) on August 18, 1988, and last amended it on July 17, 2007;
3. Small, disadvantaged communities often have difficulty affording water and wastewater system improvements;
4. The Clean Water Act and the California Water Code allow the SRF Program to offer Extended Term Financing (ETF) if approved by U.S. EPA;
5. The State Water Board recognizes the lack of funding currently available to small, disadvantaged communities for wastewater projects, due to the full commitment of all available Small Community Wastewater Grant Program funds;
6. ETF may increase and accelerate the financing and completion of projects by small, disadvantaged communities by making the projects more affordable; completion of additional projects that otherwise would not be affordable should have a direct benefit to water quality;
7. The eight approval criteria outlined by U.S. EPA for an ETF will be addressed, as outlined in [Attachment A](#) in the application to U.S. EPA; and
8. The State Water Board's staff has determined that approximately 20 percent of the annual funding can be provided through ETF without decreasing the revolving level of the fund by more than 10 percent.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board grants authority to the Executive Director, or designee, to apply to U.S. EPA to implement ETF as part of the SRF Program;

2. The State Water Board approves the amendments to the SRF Policy, identified in [Attachment B](#), contingent upon approval of ETF by U.S. EPA; and
3. Up to an average of 20 percent of the funds available annually may be used for ETF. Division of Financial Assistance staff shall annually evaluate the effect of ETF on the revolving level of the fund in the SRF Annual Report.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Board held on July 15, 2008.

AYE: Chair Tam M. Doduc
 Vice Chair Gary Wolff, P.E., Ph.D
 Arthur G. Baggett, Jr.
 Charles R. Hoppin
 Frances Spivy-Weber

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board

Attachment A

Extended Term Financing Program Approval Criteria

The California State Water Resources Control Board (State Water Board) will submit an Extended Term Financing (ET Financing) application to the United States Environmental Protection Agency (USEPA). If approved, the State Water Board will offer ET Financing to small, disadvantaged communities as part of the Clean Water State Revolving Fund (CWSRF) Program. California's ET Financing Program proposal is structured to address USEPA's eight ET Financing evaluation criteria.

Evaluation Criteria:

1. The State Water Board buys or refinances debt obligations from municipalities at or below market rates.

- The State Water Board may purchase or refinance a municipality's bond or other debt, secured by adequate pledged revenues or other collateral, where the initial debt was incurred after March 7, 1985, and building began after that date. (33 USC § 603(d)(2); 40 CFR § 35.3120(b); Water Code § 13480(b)(2).)

2. ET Financing is available to disadvantaged communities only. The state defines "disadvantaged community."

- The State Water Board seeks to complement the Small Communities Grant Program by offering the ET Financing Program to small, disadvantaged communities. For purposes of the CWSRF ET Financing Program, a "small, disadvantaged community" means a community with a population of 20,000 persons or less and a Median Household Income (MHI) equal to or less than 80 percent of the statewide MHI. Communities with a population of 20,000 persons or less that pay at least 4 percent of their MHI towards wastewater infrastructure may also be considered disadvantaged, but these communities must receive approval for ET Financing on a case-by-case basis from the State Water Board at a board meeting if their MHI is more than 80 percent of the statewide MHI. ET Financing will be available, upon request, to allow eligible recipients to refinance existing SRF agreements and future applicants for SRF financing.

3. ET Financing cannot exceed the least of the following: (1) the life of the underlying asset, (2) 30 years, or (3) the time necessary to overcome the threshold at which the project becomes affordable for the community.

- An applicant will need to determine the useful life of the treatment works or other project for which ET Financing is sought, and provide an assessment of the project's useful life as part of the Project Report. Division of Financial Assistance (DFA) staff will review each project to check that the infrastructure financed has a useful life of at least the term of the financing. DFA staff will also review the applicant's Affordability Analysis to check that the time

necessary to make the project affordable for the community is consistent with the financing period (e.g., 30 years).

4. The State Water Board must require that the community establish a dedicated source of revenue for debt payments (e.g., a general obligation or revenue obligation pledge to guarantee their payments), or provide some form of security which will guarantee debt payment in the event of a default (e.g., property lien, etc.).

- The applicant will be required to provide proof of a dedicated source of revenue consistent with existing practice:

“Revenue will be considered dedicated when the Agency passes an ordinance or resolution committing a source of funds for payments. The Agency must submit a draft ordinance or resolution dedicating a legal and adequate source of revenue for payment of the CWSRF financing agreement before FPA. The ordinance or resolution dedicating a source of revenue for payment of the CWSRF financing agreement must be adopted by the Agency’s governing board before execution of the financing agreement..” (*Policy for Implementing the State Revolving Fund for Construction of Wastewater Treatment Facilities* § IX, E, 2.)

5. All principal and interest received from bond payments must be deposited into the CWSRF.

- All principal and interest payments associated with ET Financing agreements will be returned to the CWSRF Program Fund:

“Any repayment of fund moneys, including interest payments, and all interest earned on, or accruing to, any moneys in the fund, shall be deposited in the fund and shall be available, in perpetuity, for expenditure for the purposes and uses authorized by the federal act.” (Water Code § 13482(b).)

6. Interest rates must be at or below the market rate.

- The State Water Board will set its ET Financing interest rates using the current SRF Program Policy for setting interest rates on twenty year CWSRF loans. The ET Financing interest rate will be half the most recent general obligation bond rate obtained by the State Treasurer’s Office (Water Code §13480 (b) (D) (i)).

7. The long-term revolving nature of the fund is protected in one of two ways: (1) offering ET Financing must not decrease the projected revolving level of the fund by 10 percent or more compared to the revolving level the fund would attain if ET Financing were not offered, using a 60-year project period, or (2) the state must maintain its CWSRF program's historical average annual assistance levels, or baseline.

- California will meet this criterion under Option 1. State Board staff projected the CWSRF's finances over the next 60 years to determine the maximum amount of ET Financing that can be offered and still stay under the 10 percent threshold assuming that use of the local match option is consistent with past use. The analysis found that up to 22.5 percent of CWSRF Program funds can be ET Financing each year without reducing the revolving level by more than 10 percent. According to the calculations on the "ETF 60 Year Projection Sheet," over the next 60 years the CWSRF's revolving ability will decrease by approximately seven percent. The maximum projected effect will occur in 2032 with an 8.89 percent decrease in projected funding for that year. As shown in the attached projection, after Year 2032 the fund begins to return to its baseline/unaffected level. As an added measure of safety, staff recommends that the State Water Board limit the average annual ET Financing to 20 percent of the total yearly funding. The ET Financing allocation will be assessed each year in the CWSRF Annual Report and evaluated in light of other demands on the CWSRF Program (i.e., offering lower interest rates to disadvantaged communities, limiting the local match option, etc.). In a typical year, approximately \$200 to \$300 million in CWSRF funds are obligated to financial assistance. Therefore, approximately \$40 to 60 million should be available each year for ET Financing.

8. If the State Water Board chooses to measure its ET Financing Program's impact using the 60 year projection method, the State Water Board must include a section in its annual report to USEPA that compares projected revolving levels under extended and non-extended financing scenarios with actual results, and describes and explains the reasons for difference between projected and actual results. If, however, the State Water Board chooses to use the baseline method of measurement, it must only include the comparisons between baseline and rolling averages it created under paragraph 7 above. Evidence that the baseline has been met must also be included, along with progress towards meeting the baseline in the two years before a rolling average can be calculated.

- The State Water Board agrees to include a section in its Annual Report to USEPA that compares projected revolving levels under extended and non-extended financing scenarios with actual results, and descriptions and explanations for differences between projected and actual results. The spreadsheets included in this application will be used to illustrate the

differences, and be updated to include actual values as well as the projected values.

The State Water Board believes that extended terms will encourage many more small, disadvantaged applicants to make necessary improvements to their wastewater systems.

If there are any questions regarding this application, please contact Mr. Christopher Stevens at (916) 341-5698 or CStevens@waterboards.ca.gov.

Attachment B

Clean Water State Revolving Fund (CWSRF) Policy Amendments

Attachment B is excluded from Appendix H, as the amendments relating to Extended Term Financing have been incorporated into the preceding CWSRF Policy.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

Ms. Dorothy Rice
Executive Director
California State Water Resources
Control Board
Executive Office
P.O. Box 100
Sacramento, CA 95812-0100

Re: Extended Term Financing (ETF) for California's Clean Water State Revolving
Fund (CWSRF) Program

Dear Ms. Rice:

The United States Environmental Protection Agency (USEPA) Region IX, in accordance with USEPA Headquarters CWSRF Program guidance, is pleased to approve the California CWSRF Program's request to establish a 30-year ETF program for disadvantaged communities.

Region IX finds that the State Water Resources Control Board's (SWRCB) proposal dated August 13, 2008 meets the eight criteria prescribed by Headquarters for approving ETF requests. As part of the evaluation criteria, our review included the SWRCB's analysis of modeled projections of loan assistance disbursements over a 60-year forecast horizon. We agree with your analysis and confirm that the proposed ETF program will not decrease the revolving level of the CWSRF program by more than 10%.

Region IX understands that the SWRCB will establish and operate its ETF program according to the proposal submitted and the following guidelines:

- The SWRCB will limit the availability of ETF agreements to a maximum of 20% of the funds available per year. This percentage and its effects will be reassessed and addressed annually in the CWSRF Annual Report. This percentage may be adjusted by the SWRCB, with EPA's approval, in the future as financial conditions warrant.
- The ETF program will not alter the Operating Agreement (OA) between USEPA and the SWRCB but will require a change in implementation procedures. Therefore, to record and implement this change, a written agreement must be made between the designated parties for the SWRCB and USEPA per Section V.A.b of the OA.
- All ETF agreements will require a dedicated source of revenue for payment of the bond. The California CWSRF may also accept another form of security it deems reasonable and appropriate in order to guarantee payment of a bond in the event a

- disadvantaged community has difficulties repaying.
- The ETF interest rate charged will be half the most recent general obligation bond rate obtained by the State Treasurer's Office.
 - Each year's Intended Use Plan must reference the availability of the new ETF agreements, include a short paragraph regarding the terms and eligibilities for ETF program, and identify which recipients/projects will be receiving extended terms.
 - The 30-year financing program will only provide assistance to small, disadvantaged communities as defined by the State.
 - All financing agreements are subject to USEPA statutory provisions, regulations, and policies.

I commend the SWRCB for its innovative use of the CWSRF program to increase affordability by providing flexible financing options and needed assistance to solve small disadvantaged community wastewater problems.

We look forward to working with you and your staff in implementing this ETF program. If you have questions, please contact me at 415.972.3572 or have your staff contact Juanita Licata at 415.972.3450.

Sincerely,

Alexis Strauss 7 October 2008
Alexis Strauss, Director
Water Division

Cc: Barbara Evoy, DFA
Jerrel Bolds, DAS
Christopher Stevens, DFA
Doug Wilson, DFA