Appendix A
SDWSRF Regulations

California Code of Regulations
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.