

## Office of State Lands and Investments

*Funding Wyoming Public Education*

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Matthew H. Mead  
Governor

Ryan M. Lance  
Director

TO: The Honorable Matthew H. Mead, Governor  
The Honorable Max Maxfield, Secretary of State  
The Honorable Gregory A. Phillips, Attorney General  
Legislative Services Office

FROM: Ryan M. Lance, Director   
(The agency contact person is Lorraine Fresquez, whose telephone number is 777-6629 and email address is [lfresq@wyo.gov](mailto:lfresq@wyo.gov))

SUBJECT: Final Adoption Rules for the State Loan and Investment Board,

- Chapter 11: Clean Water State Revolving Fund Loans
- Chapter 14: Fees for Administrative Services and Interest Rates
- Chapter 16: State Drinking Water Revolving Account

DATE: August 11, 2011

Enclosed are the above-reference proposed rules (1 clean copy; 1 strike and underscored), Certification Page for Final Adoption, Statement of Principal Reasons and Summary of Comments. We have submitted an electronic copy to the Secretary of State's Office.

The public comment period on the proposed rules began May 9, 2011 and went through to June 23, 2011. No public hearings were required.

Should you or your staff have any questions regarding this information, please do not hesitate to contact this office.

Enclosures

/lsf

pc: OSLI files



## Certification Page Regular and Emergency Rules

### 1. General Information

|  |  |                             |                          |
|--|--|-----------------------------|--------------------------|
| a. Agency/Board Name <i>See attached list for references</i> |  |                             |                          |
| b. Agency/Board Address                                      |  | c. Agency/Board City        | d. Agency/Board Zip Code |
| e. Name of Contact Person                                    |  | f. Contact Telephone Number |                          |
| g. Contact Email Address                                     |  |                             | h. Adoption Date:        |
| i. Program(s) <i>See attached list for references</i>        |  |                             |                          |

### 2. Rule Type and Information

a. These rules are:       **Emergency Rules** *(After completing all of Section 2, proceed to Section 5 below)*       **Regular Rules**

b. Choose all that apply:       **New Rules\***       **Amended Rules**       **Repealed Rules**  
*\* "New" rules means the first set of regular rules to be promulgated by the Agency after the Legislature adopted a new statutory provision or significantly amended an existing statute.*

If "New," provide the Enrolled Act number and year enacted:

|  |              |
|--|--------------|
| c. Provide the Chapter Number, and Short Title of Each Chapter being Created/Amended/Repealed <i>(if more than 5 chapters are being created/amended/repealed, please use the Additional Rule Information form and attach it to this certification)</i> |              |
| Chapter Number:  | Short Title: |
| Chapter Number:  | Short Title: |
| Chapter Number:  | Short Title: |
| Chapter Number:  | Short Title: |
| Chapter Number:  | Short Title: |

d.  The Statement of Reasons is attached to this certification.

e. If applicable, describe the emergency which requires promulgation of these rules without providing notice or an opportunity for a public hearing:

### 3. State Government Notice of Intended Rulemaking

a. Date on which the Notice of Intent containing all of the information required by W.S. 16-3-103(a) was filed with the **Secretary of State**:

b. Date on which the Notice of Intent and proposed rules in strike and underscore format were provided to the **Legislative Service Office**:

c. Date on which the Notice of Intent and proposed rules in strike and underscore format were provided to the **Attorney General**:

**4. Public Notice of Intended Rulemaking**

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice.  Yes  No  N/A

b. A public hearing was held on the proposed rules.  Yes  No

|           |       |       |       |           |
|-----------|-------|-------|-------|-----------|
| If "Yes:" | Date: | Time: | City: | Location: |
|-----------|-------|-------|-------|-----------|

**5. Final Filing of Rules**

a. Date on which the Certification Page with original signatures and final rules were sent to the **Attorney General's Office for the Governor's signature:**

b. Date on which final rules were sent to the **Legislative Service Office:**

c. Date on which a PDF of the final rules was electronically sent to the **Secretary of State:**

**6. Agency/Board Certification**

The undersigned certifies that the foregoing information is correct.

|   |  |
|---|--|
| <i>Signature of Authorized Individual</i> |  |
| <i>Printed Name of Signatory</i>          |  |
| <i>Signatory Title</i>                    |  |
| <i>Date of Signature</i>                  |  |

**7. Governor's Certification**

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

|                             |  |
|-----------------------------|--|
| <i>Governor's Signature</i> |  |
| <i>Date of Signature</i>    |  |

**Distribution List:**

**Attorney General**

1. Statement of Reasons;
2. Original Certification Page;
3. Summary of Comments (regular rules);
4. Hard copy of rules: clean and strike/underscore; and
5. Memo to Governor documenting emergency (emergency rules).

**LSO**

1. Statement of Reasons;
2. Copy of Certification Page;
3. Summary of Comments (regular rules);
4. Hard copy of rules: clean and strike/underscore;
5. Electronic copy of rules: clean and strike/underscore; and
6. Memo to Governor documenting emergency (emergency rules).

**SOS**

1. PDF of clean copy of rules; and
2. Hard copy of Certification Page as delivered by the AG.

## STATEMENT OF PRINCIPAL REASONS FOR ADOPTION OF RULES

Changes to Chapter 11 Regular Rules are necessary to address Federal Fiscal Year (FFY) 2010 changes in federal funding incentives and requirements for the Clean Water State Revolving Fund (CWSRF) Loan Program. These changes include the authority to forgive principal for CWSRF loans. Historically, the State Loan and Investment Board (hereinafter “Board”) has not had the authority to forgive principal tied to CWSRF loans with the exception of program changes allowing principal forgiveness through the American Recovery and Reinvestment Act (“ARRA”) of 2009. The ARRA Rules were crafted specifically for congressional legislation in 2009. This rules rewrite is for the CWSRF core program and broader in scope than the ARRA Rules promulgated in 2009. This rules rewrite seeks to provide the Board more flexibility in addressing year to year federal and state legislative changes tied to program incentives and requirements.

This rules rewrite also seeks to address more comprehensively program changes since 2002 when the current set of Chapter 11 Regular Rules were promulgated. Key rewrite provisions include the following:

- Incorporating ARRA rules provisions (i.e. Chapter 30) consistent with FFY 2010 federally mandated guidelines.
- An expanded list of definitions including, broadly defining “Special Program Incentives” and “Special Program Requirements” to permit the Board greater flexibility in program administration in light of federal and/or state legislation changes.
- Insertion of a “Notice” requirement related to special program incentives and special program requirements.
- Establishing the level of eligibility for special program incentives for local government entities based on their annual median household income (AMHI) tied to the latest American Community Survey of the U.S. Census Bureau.
- To the extent possible, tying ineligible project costs to the Board’s historical application of ineligible project costs as set forth in the Board’s Chapter 3 Rules and Regulations (i.e. Federal Mineral Royalty Grants).
- Establishing a pared down “preliminary loan application” process for special program incentives and/or requirements only. The intent of this provision is to streamline the upfront application requirements upon local government entities and staff when popular special program incentives are available.
- Establishing a public meeting requirement in advance of local government entities submitting a loan application for Board consideration. The intent of this provision is to ensure that local government entities have publicly vetted their proposed projects as to financing and sustainability.
- Establishing an added incentive for those projects that are the subject of required funding reserves through either federal or state legislation. That incentive is the potential for zero percent (0%) interest loans as set forth in draft changes to the Board’s Chapter 14 Rules and Regulations.
- Clarifying the audit and inspection requirements.

**RULES AND REGULATIONS  
STATE LOAN AND INVESTMENT BOARD**

**Chapter 11**

**Clean Water State Revolving Fund Loans**

Section 1. Authority.

This Chapter is adopted pursuant to W.S. 16-1-203(a).

Section 2. Definitions.

As used in this Chapter:

- (a) “Account” means the State Water Pollution Control Revolving Loan Account created by W.S. 16-1-202.
- (b) “Board” means the State Loan and Investment Board.
- (c) “County” means a political subdivision of the State of Wyoming pursuant to W.S. 18-1-101(a)-(y).
- (d) “DEQ” means the Wyoming Department of Environmental Quality.
- (e) “Director” means the Director of the Office of State Lands and Investments.
- (f) “Initiating Operations” means the earliest point in time when a capital infrastructure project is ready for use even if only for system testing purposes.
- (g) “Intended Use Plan (IUP)” means the annual plan that priority ranks eligible Wyoming projects for funding consideration by the Board that meet 1987 Clean Water Act amendments and the requirements of W.S. 16-1-203(c)(i).
- (h) “Joint Powers Board(s)” means legally organized Wyoming entities authorized to engage in joint or cooperative action by the Wyoming Joint Powers Act pursuant to W.S. 16-1-101 et.seq.
- (i) “Municipalities” means incorporated towns and cities in Wyoming.
- (j) “Nonpoint Source” means any source of pollution other than a point source as defined by W.S. 35-11-103(a)(x) and includes leaking underground and aboveground storage tanks.
- (k) “OSLI” means the Office of State Lands and Investments which provides administrative and operational management of the State Loan and Investment Board’s programs.

(l) “Special District” means any legally formed special district in Wyoming that is eligible for program funding.

(m) “Special Program Incentives” include, but are not limited to, grants, principal forgiveness and negative interest rates authorized by state or federal legislation and as adopted by the Board.

(n) “Special Program Requirements” include, but are not limited to, restrictions on the types of project materials that may be used, required funding reserves and minimum wage requirements as set forth in state or federal legislation and as adopted by the Board.

(o) “State Environmental Review Process (SERP)” means the review conducted by DEQ, pursuant to W.S. 16-1-204(a), of potential environmental impacts of projects receiving assistance from the Account.

(p) “Substantial Completion” means that stage in a project when the capital infrastructure constructed is capable of initiating operations or can be used for its intended purpose.

(q) “Title VI” means Title VI of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1381 to 1387 (Cum Supp. 1989).

(r) “USEPA” means the United States Environmental Protection Agency.

### Section 3. General Policy.

(a) The Board shall approve loans and special program incentives under the provisions of this Chapter in such a manner and to such applicants as shall, in the judgment of the Board, inure to the greatest benefit of the citizens of the State of Wyoming and represent a prudent use of loan funds.

### Section 4. Special Program Incentives and Special Program Requirements.

(a) Notice. OSLI and DEQ will assess, at least annually, the impacts of state and federal legislation on the Clean Water State Revolving Fund loan program administered under this Chapter. OSLI will provide timely notice to eligible applicants of changes in special program incentives and special program requirements. Said notice will be not less than thirty (30) calendar days prior to any application deadline. Methods of notice include, but are not limited to, electronic, telephonic, written, website postings, video conferences or combinations of the same.

### Section 5. Loan and Special Program Incentives Eligibility.

(a) Applicants. Municipalities, counties, state agencies, special districts, and joint powers boards in Wyoming shall be eligible applicants for loans under this Chapter. This includes eligibility for special program incentives when available.

(i) Applicants whose annual median household income (AMHI) is less than seventy percent (70%) of Wyoming's AMHI are eligible for special program incentives of up to seventy-five percent (75%) of their loan amount.

(ii) Applicants whose AMHI is seventy percent (70%) or greater, but less than ninety percent (90%) of Wyoming's AMHI, are eligible for special program incentives of up to fifty percent (50%) of their loan amount.

(iii) Applicants whose AMHI is over ninety percent (90%) of Wyoming's AMHI are eligible for special program incentives of up to twenty-five percent (25%) of their loan amount.

(b) Annual median household income data is based on information obtained from the most recent American Community Survey of the U.S. Census Bureau. Median household income data for special districts must be established by an income survey at district expense or other financial data acceptable to OSLI and the Board. If the applicant is a special district or a joint powers board, it must be legally formed and approved prior to submitting its loan application. Applicants must be in compliance with all applicable reporting requirements of both the Wyoming Department of Revenue and the Wyoming Department of Audit prior to its application being considered by the Board.

(c) Purposes. Loans and special program incentives may be awarded by the Board pursuant to W.S. 16-1-205(a) for either construction of wastewater treatment works as allowed by Title VI or to implement nonpoint source pollution control management programs as allowed by Title VI. The Board may also award loans and special program incentives consistent with changes in state or federal law.

(d) Project Eligibility. Only projects on the current Clean Water State Revolving Fund Intended Use Plan are eligible for loans and special program incentives under this Chapter. Eligible applicants are responsible for ensuring that their project(s) are listed on the current Clean Water State Revolving Fund Intended Use Plan.

(e) Ineligible Project Costs. The following project costs shall be ineligible for reimbursement:

(i) Costs for any asset that is owned by a private property owner;

(ii) Costs for tap fees, sewer and water fees, and plant investment fees;

(iii) Engineering fees, including design, inspection and contract administration costs, over twenty percent (20%) of Board approved project costs;

(iv) All non-cash costs except land which is integral to the treatment process and if allowable under federal law but not costs for land in excess of current fair market value and/or costs for an amount of land in excess of that needed for project purposes;

(v) Costs for preparation or presentation of grant or loan applications for any source of funding;

(vi) Costs for transportation, meals and lodging incurred anywhere away from the site of the project;

(vii) Costs of tools, supplies and furnishings for capital projects not included in DEQ approved construction contract documents, including but not limited to, capital equipment, hammers, tanks, tools, furniture, drapes, blinds, file cabinets, file folders, and survey stakes;

(viii) Legal fees, except as pre-approved by DEQ and OSLI;

(xiv) Costs related to the issuance of bonds;

(x) Costs of elections;

(xi) Costs to establish and form special districts or joint powers boards;

(xii) Costs incurred prior to loan award, except costs incurred for architectural and engineering design, surveying, state environmental review process (SERP) requirements or in emergency circumstances.

(xiii) Costs for change orders not approved by DEQ and OSLI;

(xiv) Lump sum contracts unless approved by DEQ and OSLI;

(xv) Costs for meals and incidental expenses in excess of federal per diem rates;

(xvi) Costs in excess of \$50.00, unless approved by DEQ and OSLI, based on an invoice(s) or additional documentation submitted by applicant.

## Section 6. Application Procedure.

(a) Applications. There are two (2) types of applications under this Chapter, preliminary and completed.

(b) Preliminary loan applications are a pared down version of a completed loan application and these applications are the initial application for a Clean Water State Revolving Fund Loan involving special program incentives and/or requirements only. Separate preliminary loan applications shall be prepared for each eligible project involving special program incentives and/or requirements. Applicants shall submit a preliminary loan application on a form provided by the Director. Preliminary loan applications must be timely submitted by applicants in advance of regular or special meetings of the Board. A preliminary loan application must be received by OSLI by close of business on the day of an application deadline to be considered timely submitted. Preliminary loan applicants who are conditionally approved for project funding by the



Board must complete remaining portions of their application within forty-five (45) days of the Board's conditional approval. If applicants fail to timely complete their applications, the Board will be informed by the Director at the Board's next available regular or special meeting. The Board reserves the right to revoke any conditional approval for lack of post award due diligence to timely completing an application

(c) Completed Loan Applications. The second type of application for a Clean Water State Revolving Fund loan is a completed loan application for a core program loan. Separate completed loan applications shall be prepared for each eligible project. Applicants shall submit a completed loan application on a form provided by the Director. Applicants must timely submit completed loan applications on or before the established deadline in advance of regular or special meetings of the Board. An application must be received by OSFI by close of business on the day of an application deadline to be considered timely submitted.

(d) Public Meeting Requirement. All eligible applicants must hold a minimum of one public meeting in advance of submitting a preliminary or completed loan application for Board consideration. Notice of the public meeting is to be published in a local or regional newspaper fifteen (15) days prior to the same. The public meeting must provide the public an overview of the proposed project, financing and sustainability. The overview aspect of the public meeting must, at a minimum, address project scope, milestones and costs. The financing aspect of the public meeting must, at a minimum, address the financial impact of project costs upon the public. The sustainability aspect of the public meeting must, at a minimum, address the revenue streams, adjustments of water and sewer rates or other sources required to sustain the proposed project. Eligible applicants must verify compliance with the public meeting requirement through documentation submitted with their preliminary or completed loan applications.

(e) Timing of Board Consideration. Preliminary or completed loan applications must be received by the Director at least forty-five (45) days prior to any regular or special meeting of the Board. Applicants must cure any defects in their applications no later than twenty (20) calendar days before any regular or special meeting of the Board. The Board may consider preliminary or completed loan applications for loans under this Chapter at any regular or special meeting.

(f) Incomplete Loan Applications. Incomplete loan applications will not be presented to the Board for consideration.

#### Section 7. Evaluation.

(a) Criteria. The Board shall evaluate applications utilizing the following criteria:

(i) Whether the applicant is current on all its repayment obligations to the Board;

(ii) Whether the applicant's dedicated source of revenue will be sufficient to repay its requested loan;

(iii) Whether the applicant is ready to proceed with construction or implementation of the project;

(iv) Whether the applicant has established an adequate operations and maintenance costs fund for the project for which applicant seeks funding;

(v) Whether the applicant has made a significant commitment of funding resources for the project for which it seeks funding;

(vi) The percentage of the applicant's population directly served by the project;

(vii) The project's priority rank on the current intended use plan (IUP); and

(viii) Whether the project is appropriately sized for the population to be served by the project.

(b) Interagency Consultation. The OSLI shall facilitate interagency consultation with DEQ through the review of applications for loans and special program incentives and the opportunity to provide comments to the Director for Board consideration. The Board shall request the DEQ to provide the services required under W. S. 16-1-201 through W. S. 16-1-207.

#### Section 8. Board Consideration.

(a) The Board shall consider each application, and allow for comments from the applicant and from the Director. The Board shall also establish loan amounts and terms. Loan terms shall not exceed twenty (20) years.

#### Section 9. Interest Rates.

(a) The interest rate to the DEQ for corrective actions at leaking underground and aboveground storage tank sites shall be established by the Board pursuant to Chapter 14 of these rules.

(b) The interest rate for eligible applicants that qualify for the funding reserves special program requirement, when available, shall be established by the Board pursuant to Chapter 14 of these rules.

(c) The interest rate for all other Clean Water State Revolving Fund loans shall be pursuant to Chapter 14 of these rules.

#### Section 10. Repayment.

(a) Annual payments for all loans shall begin one year after substantial completion of the project as indicated in the final project contract.

#### Section 11. Disbursement of Loan Proceeds.

(a) Loan proceeds shall be disbursed in minimum draws of \$1,300 in accordance with a schedule that has been agreed upon and stipulated in the loan agreement. Requests for disbursements shall be submitted on a form provided by the Director and include supporting invoices establishing the eligibility of costs submitted for disbursements. Loan proceeds will only be disbursed for eligible project costs as set forth in this Chapter and within federal guidelines following review by the OS LI and DEQ.

#### Section 12. Audits and Inspections.

(a) The Board shall ensure compliance with the provisions of the Federal Single Audit Act, 1966 Amendments and Office of Management and Budget (OMB) Circular A-133. On an annual basis records of loan recipients shall be, at a minimum, compiled by an independent accounting firm. Notification of compliance shall be made to the Board in the form of a Compilation, Review, or Audited Financial Statement prepared by an independent accounting firm. On an annual basis, recipients receiving five hundred thousand dollars (\$500,000) or more in federal funds in any fiscal year shall have their records audited by an independent accounting firm. Notification of compliance shall be made to the Board in the form of an Audited Financial Statement. The Board may, at its expense, conduct an independent audit of the loan recipient's records and inspect the construction and operation of the project. Loan recipients shall maintain project accounts in accordance with Generally Accepted Government Accounting Standards (GAAP).

#### Section 13. Reports.

(a) The Director, or the Director's designee, shall review all reports prepared by the OS LI and DEQ for submission to the USEPA.

#### Section 14. Funds Reserved.

(a) Four percent (4%) of the federal capitalization grants shall be reserved to pay administrative costs of this program incurred by the OS LI and DEQ.

#### Section 15. Program Compliance.

(a) The Board shall administer the water pollution control revolving loan account program in accordance with all applicable federal laws and regulations. The Board shall enter into, and periodically update, a Memorandum of Understanding with the OS LI and DEQ to implement the program and facilitate program compliance.

**RULES AND REGULATIONS  
STATE LOAN AND INVESTMENT BOARD**

**Chapter 11**

**Clean Water State Revolving Fund Loans**

Section 1. Authority.

This Chapter is adopted pursuant to W.S. 16-1-203(a).

Section 2. Definitions.

As used in this Chapter:

(a) “Account” means the ~~loan account~~ State Water Pollution Control Revolving Loan Account created by W.S. 16-1-202.

(b) “Board” means the State Loan and Investment Board.

~~©)(c)~~ “DEQ” means the ~~Wyoming Department of Environmental Quality~~ “County” means a political subdivision of the State of Wyoming pursuant to W.S. 18-1-101(a)-(y).

(d) ~~“Director” means the Director of the Office of State Lands and Investments.~~ “DEQ” means the Wyoming Department of Environmental Quality.

(e) ~~Office means the Office of State Lands and Investments~~ “Director” means the Director of the Office of State Lands and Investments.

(f) ~~“Handbook of Procedures” means the State Water Pollution Control Revolving Loan Account Handbook, Section 212.~~ “Initiating Operations” means the earliest point in time when a capital infrastructure project is ready for use even if only for system testing purposes.

(g) “Intended Use Plan (IUP)” means the annual plan that priority ranks eligible Wyoming projects for funding consideration by the Board that meet 1987 Clean Water Act amendments and the requirements of W.S. 16-1-203(c)(i).

(h) “Joint Powers Board(s)” means legally organized Wyoming entities authorized to engage in joint or cooperative action by the Wyoming Joint Powers Act pursuant to W.S. 16-1-101 et.seq.

(i) “Municipalities” means incorporated towns and cities in Wyoming.

(j) “Nonpoint Source” means any source of pollution other than a point source as defined by W.S. 35-11-103(a)(x) and includes leaking underground and aboveground storage

tanks.

(k) “OSLI” means the Office of State Lands and Investments which provides administrative and operational management of the State Loan and Investment Board’s programs.

(l) “Special District” means any legally formed special district in Wyoming that is eligible for program funding.

(m) “Special Program Incentives” include, but are not limited to, grants, principal forgiveness and negative interest rates authorized by state or federal legislation and as adopted by the Board.

(n) “Special Program Requirements” include, but are not limited to, restrictions on the types of project materials that may be used, required funding reserves and minimum wage requirements as set forth in state or federal legislation and as adopted by the Board.

(o) “State Environmental Review Process (SERP)” means the review conducted by DEQ, pursuant to W.S. 16-1-204(a), of potential environmental impacts of projects receiving assistance from the Account.

(p) “Substantial Completion” means that stage in a project when the capital infrastructure constructed is capable of initiating operations or can be used for its intended purpose.

(q) “Title VI” means Title VI of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1381 to 1387 (Cum Supp. 1989).

(r) “USEPA” means the United States Environmental Protection Agency.

### Section 3. General Policy.

(a) The Board shall ~~extend~~ approve loans and special program incentives under the provisions of this ~~e~~Chapter in such a manner and to such applicants as shall, in the judgment of the Board, inure to the greatest benefit of the citizens of the ~~s~~State of Wyoming and represent a prudent use of loan funds.

### Section 4. ~~Loan Eligibility~~ Special Program Incentives and Special Program Requirements.

(a) ~~Applicants. Municipalities, counties, state agencies, and joint powers boards shall be eligible for loans under this chapter. If the applicant is a joint powers board, it must be legally formed and approved prior to loan application. Applicants must be in compliance with all applicable reporting requirements with the Wyoming Department of Audit prior to its application being considered by the Board.~~ Notice. OSLI and DEQ will assess, at least annually, the impacts of state and federal legislation on the Clean Water State Revolving Fund loan program administered under this Chapter. OSLI will provide timely notice to eligible

applicants of changes in special program incentives and special program requirements. Said notice will be not less than thirty (30) calendar days prior to any application deadline. Methods of notice include, but are not limited to, electronic, telephonic, written, website postings, video conferences or combinations of the same.

~~(b) Purposes. Loans may be extended only for water pollution control purposes specified under W. S. 16-1-205 (a).~~

~~(c) Project Eligibility. Only projects on the current DEQ construction grants/state revolving fund program priority list that are incorporated into the DEQ Intended Use Plan are eligible for loans under this chapter~~

#### Section 5. Application Procedure Loan and Special Program Incentives Eligibility.

~~(a) Applications. Separate applications shall be prepared for each project or program. Applicants shall submit a completed application on a form provided by the Director as outlined in the Handbook of Procedures—Applicants. Municipalities, counties, state agencies, special districts, and joint powers boards in Wyoming shall be eligible applicants for loans under this Chapter. This includes eligibility for special program incentives when available.~~

(i) Applicants whose annual median household income (AMHI) is less than seventy percent (70%) of Wyoming’s AMHI are eligible for special program incentives of up to seventy-five percent (75%) of their loan amount.

(ii) Applicants whose AMHI is seventy percent (70%) or greater, but less than ninety percent (90%) of Wyoming’s AMHI, are eligible for special program incentives of up to fifty percent (50%) of their loan amount.

(iii) Applicants whose AMHI is over ninety percent (90%) of Wyoming’s AMHI are eligible for special program incentives of up to twenty-five percent (25%) of their loan amount.

~~(b) Timing of Board Consideration. The Board shall consider applications for loans under this Chapter at any official meeting of the Board. Annual median household income data is based on information obtained from the most recent American Community Survey of the U.S. Census Bureau. Median household income data for special districts must be established by an income survey at district expense or other financial data acceptable to OSLI and the Board. If the applicant is a special district or a joint powers board, it must be legally formed and approved prior to submitting its loan application. Applicants must be in compliance with all applicable reporting requirements of both the Wyoming Department of Revenue and the Wyoming Department of Audit prior to its application being considered by the Board.~~

~~(c) Preliminary Review. Within 45 days of receipt of any application, the Director shall notify the applicant, in writing, if the application lacks any of the information required. Purposes. Loans and special program incentives may be awarded by the Board pursuant to W.S. 16-1-205(a) for either construction of wastewater treatment works as allowed by Title VI or to~~

implement nonpoint source pollution control management programs as allowed by Title VI. The Board may also award loans and special program incentives consistent with changes in state or federal law.

~~(d) Incomplete Applications. Incomplete applications shall not be presented to the Board for consideration.~~ Project Eligibility. Only projects on the current Clean Water State Revolving Fund Intended Use Plan are eligible for loans and special program incentives under this Chapter. Eligible applicants are responsible for ensuring that their project(s) are listed on the current Clean Water State Revolving Fund Intended Use Plan.

(e) Ineligible Project Costs. The following project costs shall be ineligible for reimbursement:

- (i) Costs for any asset that is owned by a private property owner;
- (ii) Costs for tap fees, sewer and water fees, and plant investment fees;
- (iii) Engineering fees, including design, inspection and contract administration costs, over twenty percent (20%) of Board approved project costs;
- (iv) All non-cash costs except land which is integral to the treatment process and if allowable under federal law but not costs for land in excess of current fair market value and/or costs for an amount of land in excess of that needed for project purposes;
- (v) Costs for preparation or presentation of grant or loan applications for any source of funding;
- (vi) Costs for transportation, meals and lodging incurred anywhere away from the site of the project;
- (vii) Costs of tools, supplies and furnishings for capital projects not included in DEQ approved construction contract documents, including but not limited to, capital equipment, hammers, tanks, tools, furniture, drapes, blinds, file cabinets, file folders, and survey stakes;
- (viii) Legal fees, except as pre-approved by DEQ and OSLI;
- (iv) Costs related to the issuance of bonds;
- (x) Costs of elections;
- (xi) Costs to establish and form special districts or joint powers boards;
- (xii) Costs incurred prior to loan award, except costs incurred for

architectural and engineering design, surveying, state environmental review process (SERP) requirements or in emergency circumstances.

(xiii) Costs for change orders not approved by DEQ and OSLI;

(xiv) Lump sum contracts unless approved by DEQ and OSLI;

(xv) Costs for meals and incidental expenses in excess of federal per diem rates;

(xvi) Costs in excess of \$50.00, unless approved by DEQ and OSLI, based on an invoice(s) or additional documentation submitted by applicant.

#### Section 6. ~~Evaluation.~~Application Procedure.

~~(a) Criteria. The Board shall evaluate applications utilizing the following criteria:~~  
Applications. There are two (2) types of applications under this Chapter, preliminary and completed.

~~(i) Whether the applicant is current on all its repayment obligations to the Board;~~

~~(ii) Whether the applicant's dedicated source of revenue will be sufficient to repay the loan;~~

~~(iii) Whether the applicant is ready to proceed with construction or implementation of the project;~~

~~(b) Interagency Consultation. The Board shall request that pertinent state agencies review the applications and provide comments to the Director for Board consideration. The Board shall request the DEQ to provide the services required under W. S. 16-1-201 through W. S. 16-1-207.~~  
Preliminary loan applications are a pared down version of a completed loan application and these applications are the initial application for a Clean Water State Revolving Fund Loan involving special program incentives and/or requirements only. Separate preliminary loan applications shall be prepared for each eligible project involving special program incentives and/or requirements. Applicants shall submit a preliminary loan application on a form provided by the Director. Preliminary loan applications must be timely submitted by applicants in advance of regular or special meetings of the Board. A preliminary loan application must be received by OSLI by close of business on the day of an application deadline to be considered timely submitted. Preliminary loan applicants who are conditionally approved for project funding by the Board must complete remaining portions of their application within forty-five (45) days of the Board's conditional approval. If applicants fail to timely complete their applications, the Board will be informed by the Director at the Board's next available regular or special meeting. The Board reserves the right to revoke any conditional approval for lack of post award due diligence to timely completing an application

~~(c) Completed Loan Applications. The second type of application for a Clean Water State Revolving Fund loan is a completed loan application for a core program loan. Separate~~



completed loan applications shall be prepared for each eligible project. Applicants shall submit a completed loan application on a form provided by the Director. Applicants must timely submit completed loan applications on or before the established deadline in advance of regular or special meetings of the Board. An application must be received by OSLI by close of business on the day of an application deadline to be considered timely submitted.

(d) Public Meeting Requirement. All eligible applicants must hold a minimum of one public meeting in advance of submitting a preliminary or completed loan application for Board consideration. Notice of the public meeting is to be published in a local or regional newspaper fifteen (15) days prior to the same. The public meeting must provide the public an overview of the proposed project, financing and sustainability. The overview aspect of the public meeting must, at a minimum, address project scope, milestones and costs. The financing aspect of the public meeting must, at a minimum, address the financial impact of project costs upon the public. The sustainability aspect of the public meeting must, at a minimum, address the revenue streams, adjustments of water and sewer rates or other sources required to sustain the proposed project. Eligible applicants must verify compliance with the public meeting requirement through documentation submitted with their preliminary or completed loan applications.

(e) Timing of Board Consideration. Preliminary or completed loan applications must be received by the Director at least forty-five (45) days prior to any regular or special meeting of the Board. Applicants must cure any defects in their applications no later than twenty (20) calendar days before any regular or special meeting of the Board. The Board may consider preliminary or completed loan applications for loans under this Chapter at any regular or special meeting.

(f) Incomplete Loan Applications. Incomplete loan applications will not be presented to the Board for consideration.

#### Section 7. ~~Board Consideration~~ Evaluation.

(a) ~~The Board shall consider each application, allow for comments from the applicant and from the Director and establish the amount of the loan and the term of the loan. The term shall not exceed 20 years.~~ Criteria. The Board shall evaluate applications utilizing the following criteria:

(i) Whether the applicant is current on all its repayment obligations to the Board;

(ii) Whether the applicant's dedicated source of revenue will be sufficient to repay its requested loan;

(iii) Whether the applicant is ready to proceed with construction or implementation of the project;

(iv) Whether the applicant has established an adequate operations and maintenance costs fund for the project for which applicant seeks funding;

(v) Whether the applicant has made a significant commitment of funding resources for the project for which it seeks funding;

(vi) The percentage of the applicant's population directly served by the project;

(vii) The project's priority rank on the current intended use plan (IUP); and

(viii) Whether the project is appropriately sized for the population to be served by the project.

(b) Interagency Consultation. The OS LI shall facilitate interagency consultation with DEQ through the review of applications for loans and special program incentives and the opportunity to provide comments to the Director for Board consideration. The Board shall request the DEQ to provide the services required under W. S. 16-1-201 through W. S. 16-1-207.

#### Section 8. ~~Interest Rates~~ Board Consideration.

(a) Loans to the DEQ for corrective actions at leaking underground storage tank sites shall be pursuant to Chapter 14 of the rules as established by the Board. The Board shall consider each application and allow for comments from the applicant and from the Director. The Board shall also establish loan amounts and terms. Loan terms shall not exceed twenty (20) years.

(b) The interest rate for loans to all other applicants shall be pursuant to Chapter 14 of the rules as established by the Board.

#### Section 9. ~~Repayment~~ Interest Rates.

(a) Annual payments for all loans shall begin one year after completion of the project as indicated in the final project contract. The interest rate to the DEQ for corrective actions at leaking underground and aboveground storage tank sites shall be established by the Board pursuant to Chapter 14 of these rules.

(b) The interest rate for eligible applicants that qualify for the funding reserves special program requirement, when available, shall be established by the Board pursuant to Chapter 14 of these rules.

(c) The interest rate for all other Clean Water State Revolving Fund loans shall be pursuant to Chapter 14 of these rules.

#### Section 10. ~~Disbursement of Loan Proceeds~~ Repayment.

(a) The loan proceeds shall be disbursed in minimum draws of \$1,000 in accordance with a schedule that has been agreed upon and stipulated in the loan agreement. Requests for disbursements shall be submitted on a form provided by the Director. Requests for disbursements

~~shall only be for project costs which have been incurred and shall be subject to review by the DEQ. Annual payments for all loans shall begin one year after substantial completion of the project as indicated in the final project contract.~~

#### Section 11. ~~Audits and Inspections~~ Disbursement of Loan Proceeds.

(a) ~~The Board may, at its expense, conduct an audit of the records of the applicant and inspect the construction and operation of the project. Borrowers shall maintain project accounts in accordance with generally accepted government accounting standards. Loan proceeds shall be disbursed in minimum draws of \$1,300 in accordance with a schedule that has been agreed upon and stipulated in the loan agreement. Requests for disbursements shall be submitted on a form provided by the Director and include supporting invoices establishing the eligibility of costs submitted for disbursements. Loan proceeds will only be disbursed for eligible project costs as set forth in this Chapter and within federal guidelines following review by the OSLI and DEQ.~~

#### Section 12. ~~Reports~~ Audits and Inspections.

(a) ~~The Director shall review all reports prepared by DEQ for submission to the U. S. Environmental Protection Agency. The Board shall ensure compliance with the provisions of the Federal Single Audit Act, 1966 Amendments and Office of Management and Budget (OMB) Circular A-133. On an annual basis records of loan recipients shall be, at a minimum, compiled by an independent accounting firm. Notification of compliance shall be made to the Board in the form of a Compilation, Review, or Audited Financial Statement prepared by an independent accounting firm. On an annual basis, recipients receiving five hundred thousand dollars (\$500,000) or more in federal funds in any fiscal year shall have their records audited by an independent accounting firm. Notification of compliance shall be made to the Board in the form of an Audited Financial Statement. The Board may, at its expense, conduct an independent audit of the loan recipient's records and inspect the construction and operation of the project. Loan recipients shall maintain project accounts in accordance with Generally Accepted Government Accounting Standards (GAAP).~~

#### Section 13. ~~Funds Reserved~~ Reports.

(a) ~~Four percent (4%) of the federal capitalization grants shall be reserved to pay administrative costs of this program incurred by the Office and DEQ. The Director, or the Director's designee, shall review all reports prepared by the OSLI and DEQ for submission to the USEPA.~~

#### Section 14. ~~Program Compliance~~ Funds Reserved.

(a) ~~The Board shall administer the water pollution control revolving loan account program in accordance with all applicable federal laws and regulations. The Board shall enter into a Memorandum of Understanding with the DEQ to implement the program and facilitate program compliance. Four percent (4%) of the federal capitalization grants shall be reserved to pay administrative costs of this program incurred by the OSLI and DEQ.~~

Section 15. Program Compliance.

(a) The Board shall administer the water pollution control revolving loan account program in accordance with all applicable federal laws and regulations. The Board shall enter into, and periodically update, a Memorandum of Understanding with the OSLI and DEQ to implement the program and facilitate program compliance.

## **STATEMENT OF PRINCIPAL REASONS FOR ADOPTION OF RULES**

Changes to Chapter 14 Regular Rules are necessary to address Federal Fiscal Year (FFY) 2010 changes in federal funding incentives and requirements for the Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) Loan Programs. These changes include broadening the authority of the State Loan and Investment Board (hereinafter “Board”) to approve funding for zero percent (0%) interest loans. Historically, the Board has only had the authority to do zero percent (0%) interest CWSRF and DWSRF loans as follows: 1) For CWSRF loans only, to the Wyoming Department of Environmental Quality (WDEQ) for corrective actions at leaking underground and aboveground storage tank sites pursuant to W.S. §16-1-206(b); and 2) through the American Recovery and Reinvestment Act (“ARRA”) of 2009 for both State Revolving Fund programs. The ARRA Rules were crafted specifically for 2009 congressional legislation. This rules rewrite for Chapter 14 would broaden the Board’s historical core program authority to do zero percent (0%) interest CWSRF and DWSRF loans for projects that fall within required funding reserves through either state or federal legislation.

**RULES AND REGULATIONS  
STATE LOAN AND INVESTMENT BOARD**

**Chapter 14**

**Fees For Administrative Services and Interest Rates**

Section 1. Authority.

(a) This Chapter is promulgated under the authority of W.S. 11-34-103(a).

Section 2. Definitions.

As used in this chapter:

(a) "Board" means the State Loan and Investment Board.

(b) "Director" means the Director of the Office of State Lands and Investments.

(c) "Office" means the Office of State Lands and Investments.

Section 3. Fees.

(a) The Board will collect fees for administrative services occurring from activities associated with its programs conducted in accordance with the following Board rules:

(i) Farm Loans:

(A) Application Fee - \$100.00

(B) A fee of 1% of the amount of the loan shall be paid by the borrower at closing.

(ii) Small Water Development Project Loans:

(A) Application Fee - \$100.00

(B) A fee of 1% of the amount of the loan shall be paid by the borrower at closing.

(iii) Beginning Agricultural Producer Loans

(A) Application Fee - \$100.00

(B) A fee of 1% of the amount of the loan shall be paid by the borrower at closing.

(iv) Loans for the purpose of restoring or enhancing livestock numbers in the state

(A) Application Fee - \$100.00

(B) A fee of 1% of the amount of the loan shall be paid by the borrower at closing.

(b) The fee for reamortization of any loan will be 1% of the reamortized amount.

#### Section 4. Interest Rates.

(a) The Board will charge interest rates on all loans and amortized sales contracts associated with its programs conducted in accordance with the following Board rules:

(i) Chapter 2 - Joint Powers Act Loans:

An interest rate not less than the average rate of return realized on all Permanent Mineral Trust Fund investments as determined by the State Treasurer for the five (5) calendar years immediately preceding the year in which the loan is made; no equity requirement.

(ii) Chapter 5 - Small Water Development Project Loans:

(A) 6% per annum.

(B) Sales Contracts - Sale of lands acquired through small water development project loan foreclosure:

(I) 8% per annum for contracts up to 50% of sale price;

(II) 9% per annum for contracts up to 60% of sale price;

(III) 10% per annum for contracts up to 70% of sale price.

(iii) Chapter 7 - Farm Loans:

(A) 8% per annum for loans up to 50% of appraised value;

(B) 9% per annum for loans up to 60% of appraised value.

(C) For "Beginning Agricultural Producer" loans, as defined in Chapter 7, Section 2(c), for the first ten (10) years of the loan the rate shall be the lower of 8% or the average yield on a ten (10) year U.S. Treasury Bond for the previous year, rounded to two (2) decimals, as of the date of loan closing. At the end of ten (10) years the interest rate shall be 8%. Loans to beginning agricultural producers shall not exceed 70% of value.

(D) For loans for the purpose of enhancing or restoring livestock numbers in the state pursuant to W. S. 11 – 34 – 113(j), the interest rate shall be equal to seventy-five percent (75%) of the lowest current rate set by the Board for farm loans.

- (E) Sales Contracts - Sale of lands acquired through farm loan foreclosure:
  - (I) 8% per annum for contracts up to 50% of sale price;
  - (II) 9% per annum for contracts up to 60% of sale price;
  - (III) 10% per annum for contracts up to 70% of sale price.

(iv) Chapter 11 - Clean Water State Revolving Fund Loans:

(A) 0% per annum on Department of Environmental Quality Loans for corrective actions at leaking underground and aboveground storage tank sites, pursuant to W.S. 16-1-106(b); no equity requirement;

(B) 0% per annum for all eligible applicants that qualify in the funding reserves special program requirement as defined by Chapter 11 Rules and Regulations; no equity requirement;

(C) 2.5% per annum on all other loans; no equity requirement.

(v) Chapter 16 - State Drinking Water Revolving Account:

(A) 0% per annum for all eligible applicants that qualify in the funding reserves special program requirement as defined by Chapter 16 Rules and Regulations; no equity requirement;

(B) 2.5% per annum on all other loans; no equity requirement.



**DRAFT RULES AND REGULATIONS  
STATE LOAN AND INVESTMENT BOARD**

**Chapter 14**

**Fees For Administrative Services and Interest Rates**

Section 1. Authority.

(a) This Chapter is promulgated under the authority of W.S. 11-34-103(a).

Section 2. Definitions.

As used in this chapter:

- (a) "Board" means the State Loan and Investment Board.
- (b) "Director" means the Director of the Office of State Lands and Investments.
- (c) "Office" means the Office of State Lands and Investments.

Section 3. Fees.

(a) The Board will collect fees for administrative services occurring from activities associated with its programs conducted in accordance with the following Board rules:

(i) Farm Loans:

- (A) Application Fee - \$100.00
- (B) A fee of 1% of the amount of the loan shall be paid by the borrower at closing.

(ii) Small Water Development Project Loans:

- (A) Application Fee - \$100.00
- (B) A fee of 1% of the amount of the loan shall be paid by the borrower at closing.

(iii) Beginning Agricultural Producer Loans

- (A) Application Fee - \$100.00

(B) A fee of 1% of the amount of the loan shall be paid by the borrower at closing.

(iv) Loans for the purpose of restoring or enhancing livestock numbers in the state

(A) Application Fee - \$100.00

(B) A fee of 1% of the amount of the loan shall be paid by the borrower at closing.

(b) The fee for reamortization of any loan will be 1% of the reamortized amount.

#### Section 4. Interest Rates.

(a) The Board will charge interest rates on all loans and amortized sales contracts associated with its programs conducted in accordance with the following Board rules:

(i) Chapter 2 - Joint Powers Act Loans:

An interest rate not less than the average rate of return realized on all Permanent Mineral Trust Fund investments as determined by the State Treasurer for the five (5) calendar years immediately preceding the year in which the loan is made; no equity requirement.

(ii) Chapter 5 - Small Water Development Project Loans:

(A) 6% per annum.

(B) Sales Contracts - Sale of lands acquired through small water development project loan foreclosure:

(I) 8% per annum for contracts up to 50% of sale price;

(II) 9% per annum for contracts up to 60% of sale price;

(III) 10% per annum for contracts up to 70% of sale price.

(iii) Chapter 7 - Farm Loans:

(A) 8% per annum for loans up to 50% of appraised value;

(B) 9% per annum for loans up to 60% of appraised value.

(C) For "Beginning Agricultural Producer" loans, as

defined in Chapter 7, Section 2(c), for the first ten (10) years of the loan the rate shall be the lower of 8% or the average yield on a ten (10) year U.S. Treasury Bond for the previous year, rounded to two (2) decimals, as of the date of loan closing. At the end of ten (10) years the interest rate shall be 8%. Loans to beginning agricultural producers shall not exceed 70% of value.

(D) For loans for the purpose of enhancing or restoring livestock numbers in the state pursuant to W. S. 11 – 34 – 113(j), the interest rate shall be equal to seventy-five percent (75%) of the lowest current rate set by the Board for farm loans.

(E) Sales Contracts - Sale of lands acquired through farm loan foreclosure:

- (I) 8% per annum for contracts up to 50% of sale price;
- (II) 9% per annum for contracts up to 60% of sale price;
- (III) 10% per annum for contracts up to 70% of sale price.

(iv) Chapter 11 - Clean Water State Revolving Fund Loans:

(A) 0% per annum on Department of Environmental Quality Loans for corrective actions at leaking underground and aboveground storage tank sites, pursuant to W.S. 16-21-106(b);<sub>i</sub> no equity requirement;

(B) 0% per annum for all eligible applicants that qualify in the funding reserves special program requirement as defined by Chapter 11 Rules and Regulations; no equity requirement;

(C) 2.5% per annum on all other loans;<sub>i</sub> no equity requirement.

(v) Chapter 16 - State Drinking Water Revolving Account:

(A) 0% per annum for all eligible applicants that qualify in the funding reserves special program requirement as defined by Chapter 16 Rules and Regulations; no equity requirement;

(B) 2.5% per annum on all other loans;<sub>i</sub> no equity requirement.

## STATEMENT OF PRINCIPAL REASONS FOR ADOPTION OF RULES

Changes to Chapter 16 Regular Rules are necessary to address Federal Fiscal Year (FFY) 2010 changes in federal funding incentives and requirements for the Drinking Water State Revolving Fund (DWSRF) Loan Program. These changes include the authority to forgive principal for DWSRF loans. Historically, the State Loan and Investment Board (hereinafter “Board”) has not had the authority to forgive principal tied to DWSRF loans with the exception of program changes allowing principal forgiveness through the American Recovery and Reinvestment Act (“ARRA”) of 2009. The ARRA Rules were crafted specifically for congressional legislation in 2009. This rules rewrite is for the DWSRF core program and broader in scope than the ARRA Rules promulgated in 2009. This rules rewrite seeks to provide the Board more flexibility in addressing year to year federal and state legislative changes tied to program incentives and requirements.

This rules rewrite also seeks to address more comprehensively program changes since 2002 when the current set of Chapter 16 Regular Rules were promulgated. Key rewrite provisions include the following:

- Incorporating ARRA rules provisions (i.e. Chapter 31) consistent with FFY 2010 federally mandated guidelines.
- An expanded list of definitions including, broadly defining “Special Program Incentives” and “Special Program Requirements” to permit the Board greater flexibility in program administration in light of federal and/or state legislation changes.
- Insertion of a “Notice” requirement related to special program incentives and special program requirements.
- Establishing the level of eligibility for special program incentives for local government entities based on their annual median household income (AMHI) tied to the latest American Community Survey of the U.S. Census Bureau.
- To the extent possible, tying ineligible project costs to the Board’s historical application of ineligible project costs as set forth in the Board’s Chapter 3 Rules and Regulations (i.e. Federal Mineral Royalty Grants).
- Establishing a pared down “preliminary loan application” process for special program incentives and/or requirements only. The intent of this provision is to streamline the upfront application requirements upon local government entities and staff when popular special program incentives are available.
- Establishing a public meeting requirement in advance of local government entities submitting a loan application for Board consideration. The intent of this provision is to ensure that local government entities have publicly vetted their proposed projects as to financing and sustainability.
- Establishing an added incentive for those projects that are the subject of required funding reserves through either federal or state legislation. That incentive is the potential for zero percent (0%) interest loans as set forth in draft changes to the Board’s Chapter 14 Rules and Regulations.
- Clarifying the audit and inspection requirements.

**RULES AND REGULATIONS  
STATE LOAN AND INVESTMENT BOARD**

**Chapter 16**

**Drinking Water State Revolving Fund Loans**

Section 1. Authority.

This Chapter is adopted pursuant to W.S. 16-1-303(b).

Section 2. Definitions.

As used in this Chapter:

(a) “Account” means the State Drinking Water Revolving Loan Account created by W.S. 16-1-302.

(b) “Board” means the State Loan and Investment Board.

(c) “Capacity Development” means that a community water system or nontransient noncommunity water system can adequately demonstrate that it has technical, managerial and financial capabilities to ensure current and future operations of the water system in accordance with all drinking water regulations in effect.

(d) “Community Water System” means a public water supply which has at least fifteen (15) service connections used year-round by residents, or that regularly provides water to at least twenty-five (25) residents year-round, including but not limited to, municipalities and water districts.

(e) “County” means a political subdivision of the State of Wyoming pursuant to W.S. 18-1-101(a)-(y).

(f) “DEQ” means the Wyoming Department of Environmental Quality.

(g) “Director” means the Director of the Office of State Lands and Investments.

(h) “Emergency” means a direct threat to the continued operation of a public community water system.

(i) “Initiating Operations” means the earliest point in time when a capital infrastructure project is ready for use even if only for system testing purposes.

(j) “Intended Use Plan (IUP)” means the annual plan adopted by the State Loan and Investment Board and submitted to the United States Environmental Protection Agency (USEPA) that describes how the state intends to use the money in the Drinking Water Revolving

Loan Account.

(k) “Joint Powers Board(s)” means legally organized Wyoming entities authorized to engage in joint or cooperative action by the Wyoming Joint Powers Act pursuant to W.S. 16-1-101 et. seq.

(l) “Municipalities” means incorporated towns and cities in Wyoming.

(m) “Noncommunity Water System” means a public water supply which is not a community water system, including but not limited to, public schools, state park recreational areas and state highway public rest areas.

(n) “Operator” means the person who is directly responsible for and in charge of the operation of a water treatment plant or water distribution system.

(o) “OSLI” means the Office of State Lands and Investments which provides administrative and operational management of the State Loan and Investment Board’s programs.

(p) “Priority List” means the list of projects expected to receive financial assistance under the Program, ranked in accordance with a priority system developed under Section 1452(b)(2)(A) of the Safe Drinking Water Act.

(q) “Program” means the drinking water state revolving fund program pursuant to Section 1452 of the Safe Drinking Water Act (42 U.S.C. § 300j-12).

(r) “Publicly Owned Water System” means a water system which is owned, operated, managed and maintained by an entity of the state, county, city, township, town, school district, water district, improvement district, joint powers board or any other entity constituting a political subdivision under the laws of this state which provides water for use and consumption of the general public through pipes and other constructed conveyances, and which is not owned, operated, managed or maintained by a private individual, association or corporation.

(s) “Safe Drinking Water Act (SDWA)” means the federal Safe Drinking Water Act including the 1996 amendments (Public Law 104-182, 42 U.S.C. § 300f et seq.).

(t) “Select Water Committee” means a state legislative committee comprised of six (6) members from the Wyoming State Senate and six (6) members from the Wyoming House of Representatives (W.S. 21-11-101).

(u) “Special District” means any legally formed special district in Wyoming that is eligible for program funding.

(v) “Special Program Incentives” include, but are not limited to, grants, principal forgiveness and negative interest rates authorized by state or federal legislation and as adopted by the Board.

(w) “Special Program Requirements” include, but are not limited to, restrictions on the types of project materials that may be used, required funding reserves and minimum wage requirements as set forth in state or federal legislation and as adopted by the Board.

(x) “State Environmental Review Process (SERP)” means the review conducted by DEQ, pursuant to W.S. 16-1-304(a), of potential environmental impacts of projects receiving assistance from the Account.

(y) “Substantial Completion” means that stage in a project when the capital infrastructure constructed is capable of initiating operations or can be used for its intended purpose.

(z) “Water Supply System” means a system from the water source to the consumer premises consisting of pipes, structures and facilities through which water is obtained, treated, stored, distributed or otherwise offered to the public for household use or use by humans and which is part of a community water system or a noncommunity water system.

(aa) “WWDO” means the Wyoming Water Development Office which provides administrative and operational management of the programs administered by the Wyoming Water Development Commission.

(bb) “USEPA” means the United States Environmental Protection Agency.

### Section 3. General Policy.

(a) The Board shall approve loans and special program incentives under the provisions of this Chapter, subject to the Select Water Committee’s review and recommendation of projects, in such a manner and to such applicants as shall, in the judgment of the Board, inure to the greatest benefit of the citizens of the State of Wyoming and represent a prudent use of loan funds.

### Section 4. Special Program Incentives and Special Program Requirements.

(a) OSLI, DEQ and WWDO will assess, at least annually, the impacts of state and federal legislation on the Drinking Water State Revolving Fund loan program administered under this Chapter. OSLI will provide timely notice to eligible applicants of changes in special program incentives and special program requirements. Said notice will be not less than thirty (30) calendar days prior to any application deadline. Methods of notice include, but are not limited to, electronic, telephonic, written, website postings, video conferences or combinations of the same.

### Section 5. Loan and Special Program Incentives Eligibility.

(a) Applicants. Publicly Owned Water Systems in Wyoming shall be eligible for loans under this Chapter. This includes eligibility for special program incentives when available.

(i) Applicants whose annual median household income (AMHI) is less than seventy percent (70%) of Wyoming's AMHI are eligible for special program incentives of up to seventy-five percent (75%) of their loan amount.

(ii) Applicants whose AMHI is seventy percent (70%) or greater, but less than ninety percent (90%) of Wyoming's AMHI, are eligible for special program incentives of up to fifty percent (50%) of their loan amount.

(iii) Applicants whose AMHI is over ninety percent (90%) of Wyoming's AMHI are eligible for special program incentives of up to twenty-five percent (25%) of their loan amount.

(b) Annual median household income data is based on information obtained from the most recent American Community Survey of the U.S. Census Bureau. Median household income data for special districts must be established by an income survey at district expense or other financial data acceptable to OSLI and the Board. If the applicant is a special district or joint powers board, it must be legally formed and approved prior to submitting its loan application. Applicants must be in compliance with all applicable reporting requirements of both the Wyoming Department of Revenue and the Wyoming Department of Audit prior to its application being considered by the Board.

(c) Purposes. Loans and special program incentives may be ~~extended~~ awarded by the Board to eligible Publicly Owned Water Systems as authorized in W.S. 16-1-305. Eligible projects may be comprised of improvements to all components of a Water Supply System as appropriate and permitted by the Safe Drinking Water Act. The Board may also award loans and special program incentives consistent with changes in state or federal law.

(d) Project Eligibility. Only projects on the current Drinking Water State Revolving Fund Intended Use Plan are eligible for loans and special program incentives under this Chapter. Eligible applicants are responsible for ensuring that their project(s) are listed on the current Drinking Water State Revolving Fund Intended Use Plan.

(e) Ineligible Project Costs. The following project costs shall be ineligible for reimbursement:

(i) Costs for any asset that is owned by a private property owner;

(ii) Costs for tap fees, sewer and water fees, and plant investment fees;

(iii) Engineering fees, including design, inspection and contract administration costs, over twenty percent (20%) of Board approved project costs;

(iv) All non-cash costs except land which is integral to the treatment process and if allowable under federal law but not costs for land in excess of current fair market value and/or costs for an amount of land in excess of that needed for project purposes;



- (v) Costs for preparation or presentation of grant or loan applications for any source of funding;
- (vi) Costs for transportation, meals and lodging incurred anywhere away from the site of the project;
- (vii) Costs of tools, supplies and furnishings for capital projects not included in DEQ approved construction contract documents, including but not limited to, capital equipment, hammers, tanks, tools, furniture, drapes, blinds, file cabinets, file folders and survey stakes;
- (viii) Legal fees, except as pre-approved by DEQ, OSLI and WWDO;
- (ix) Costs related to the issuance of bonds;
- (x) Costs of elections;
- (xi) Costs to establish and form special districts or joint powers boards;
- (xii) Costs incurred prior to loan award, except costs incurred for architectural and engineering design, surveying, state environmental review process (SERP) requirements or in emergency circumstances;
- (xiii) Costs for change orders not approved by DEQ, OSLI and WWDO;
- (xiv) Lump sum contracts unless approved by DEQ, OSLI and WWDO;
- (xv) Costs for meals and incidental expenses in excess of federal per diem rates;
- (xvi) Costs in excess of \$50.00, unless approved by DEQ, OSLI and WWDO based on an invoice(s) or additional documentation submitted by applicant.

#### Section 6. Application Procedure.

(a) Applications. There are two (2) types of applications under this Chapter, preliminary and completed.

(b) Preliminary loan applications are a pared down version of a completed loan application and these applications are the initial application for a Drinking Water State Revolving Fund Loan involving special program incentives and/or requirements only. Separate preliminary loan applications shall be prepared for each eligible project involving special program incentives and/or requirements. Applicants shall submit a preliminary loan application on a form provided by the Director. Preliminary loan applications must be timely submitted by applicants in advance of regular or special meetings of the Board. A preliminary loan application must be received by OSLI by close of business on the day of an application deadline to be considered timely submitted. Preliminary loan applicants who are conditionally approved

for project funding by the Board must complete remaining portions of their application within forty-five (45) days of the Board's conditional approval. If applicants fail to timely complete their applications the Board will be informed by the Director at the Board's next available regular or special meeting. The Board reserves the right to revoke any conditional approval for lack of post award due diligence to timely completing an application.

(c) Completed Loan Applications. The second type of application for a Drinking Water State Revolving Fund loan is a completed loan application for a core program loan. Separate completed loan applications shall be prepared for each eligible project. Applicants shall submit completed loan applications on a form provided by the Director. Completed loan applications must be timely submitted by applicants by deadlines in advance of regular or special meetings of the Board. An application must be received by OSLI by close of business on the day of an application deadline to be considered timely submitted.

(d) Public Meeting Requirement. All eligible applicants must hold a minimum of one public meeting in advance of submitting a preliminary or completed loan application for Board consideration. Notice of the public meeting is to be published in a local or regional newspaper fifteen (15) days prior to the same. The public meeting must provide the public an overview of the proposed project, financing and sustainability. The overview aspect of the public meeting must, at a minimum, address project scope, milestones and costs. The financing aspect of the public meeting must, at a minimum, address the financial impact of project costs upon the public. The sustainability aspect of the public meeting must, at a minimum, address revenue streams, adjustments of water and sewer rates or other sources required to sustain the proposed project. Eligible applicants must verify compliance with the public meeting requirement through documentation submitted with their preliminary or completed loan applications.

(e) Timing of Board Consideration. Preliminary or completed loan applications must be received by the Director at least forty-five (45) days prior to any regular or special meeting of the Board. Applicants must cure any defects in their applications no later than twenty (20) calendar days before any regular or special meeting of the Board. The Board may consider preliminary or completed loan applications for loans under this Chapter at any regular or special meeting.

(f) Incomplete Loan Applications. Incomplete loan applications will not be presented to the Board for consideration.

#### Section 7. Evaluation.

(a) Criteria. The Board shall evaluate applications utilizing the following criteria:

(i) Whether the applicant has an appropriate project Priority List ranking as required in Section 1452(b)(3) of the Safe Drinking Water Act and is listed on the fundable portion of the Intended Use Plan;

(ii) Whether the applicant can demonstrate Capacity Development capabilities in compliance with Section 1420 of the Safe Drinking Water Act and the applicable requirements

of DEQ;

(iii) Whether the applicant can obtain or ensure the certification of the Operators of the Publicly Owned Water System in accordance with DEQ rules and regulations prior to obtaining financial assistance approval;

(iv) Whether the applicant is current on all its repayment obligations to the Board;

(v) Whether the applicant's dedicated source of revenue will be sufficient to provide security to repay its requested loan;

(vi) Whether the applicant is ready to proceed with construction or implementation of the project;

(vii) Whether the applicant has established an adequate operations and maintenance costs fund for the project for which applicant seeks funding.

(viii) Whether the applicant has made a significant commitment of funding resources for the project for which it seeks funding;

(ix) The percentage of the applicant's population directly served by the project;

(x) The project's priority rank on the current intended use plan (IUP); and

(xi) Whether the project is appropriately sized for the population to be served by the project.

(b) Interagency Consultation. The OS LI shall facilitate interagency consultation with DEQ and WWDO through the review of applications for loans and special program incentives and ~~with~~ the opportunity to provide comments to the Director for Board consideration. The Board shall request the DEQ and the WWDO to provide the services required under W.S. 16-1-301 through W.S. 16-1-308.

#### Section 8. Board Consideration.

(a) The Board shall consider each complete application, and allow for comments from the applicant, the Director, DEQ and WWDO. The Board shall also establish loan amounts and terms. Loan terms shall not exceed twenty (20) years.

#### Section 9. Interest Rates.

(a) The interest rate for eligible applicants that qualify for the funding reserves special program requirement, when available, shall be pursuant to Chapter 14 of these rules.

(b) The interest rate for all other Drinking Water State Revolving Fund loans shall be pursuant to Chapter 14 of these rules.

#### Section 10. Repayment.

(a) Annual payments for all loans shall begin one (1) year after substantial completion of the project as indicated in the final project contract.

#### Section 11. Disbursement of Loan Proceeds.

(a) Loan proceeds shall be disbursed in minimum draws of \$1,300. Requests for disbursements shall be submitted on a form provided by the Director and include supporting invoices establishing the eligibility of costs submitted for disbursement. Loan proceeds will only be disbursed for eligible project costs as set forth in this Chapter and within federal guidelines following review by the OS LI, DEQ and WWDO.

#### Section 12. Audits and Inspections.

(a) The Board shall ensure compliance with the provisions of the Federal Single Audit Act, 1966 Amendments and Office of Management and Budget (OMB) Circular A-133. On an annual basis records of loan recipients shall be, at a minimum, compiled by an independent accounting firm. Notification of compliance shall be made to the Board in the form of a Compilation, Review, or Audited Financial Statement prepared by an independent accounting firm. On an annual basis, recipients receiving five hundred thousand dollars (\$500,000) or more in federal funds in any fiscal year shall have their records audited by an independent accounting firm. Notification of compliance shall be made to the Board in the form of an Audited Financial Statement. The Board may, at its expense, conduct an independent audit of the loan recipient's records and inspect the construction and operation of the project. Loan recipients shall maintain project accounts in accordance with Generally Accepted Government Accounting Standards (GAAP).

#### Section 13. Reports.

(a) The Director, or the Director's designee, shall review all reports prepared by the OS LI, DEQ and WWDO for submission to the USEPA.

#### Section 14. Funds Reserved.

(a) Four percent (4%) of the federal capitalization grants shall be reserved to pay administrative costs of this program incurred by the OS LI, DEQ and WWDO.

#### Section 15. Program Compliance.

(a) The Board shall administer the state drinking water revolving loan account program in accordance with all applicable federal laws and regulations. The Board shall enter into, and periodically update, Memorandums of Understanding with DEQ and WWDO to

implement the program and facilitate program compliance.

Section 16. Fees

(a) A loan origination fee of one-half of one percent (0.5%) of the amount of the loan will be collected at loan closing. The fees will be deposited to the Administrative Account as authorized by W. S. 16-1-303(d).

**RULES AND REGULATIONS  
STATE LOAN AND INVESTMENT BOARD**

**Chapter 16**

**State Drinking Water State Revolving Account Fund Loans**

Section 1. Authority.

This Chapter is adopted pursuant to W.S. 16-1-303(b).

Section 2. Definitions.

As used in this Chapter:

(a) “Account” means the State Drinking Water Revolving Loan Account created by W.S. 16-1-302.

(b) ~~“Administrative Account” means the account which may receive up to four percent (4%) of the federal capitalization fund, loan administration and loan application fees which are used to reimburse costs incurred by state agencies in the administration of the program, including but not limited to costs of servicing loans and issuing debt, program start-up costs, financial, management, and legal consulting fees, and costs for support services by state agencies.~~ “Board” means the State Loan and Investment Board.

(c) ~~“Board” means the State Loan and Investment Board to include the Office of State Lands and Investments.~~ “Capacity Development” means that a community water system or nontransient noncommunity water system can adequately demonstrate that it has technical, managerial and financial capabilities to ensure current and future operations of the water system in accordance with all drinking water regulations in effect.

(d) ~~“Capacity Development” means that a community water system or nontransient noncommunity water system can adequately demonstrate that it has technical, managerial and financial capabilities to ensure current and future operations of the water system in accordance with all drinking water regulations in effect.~~ “Community Water System” means a public water supply which has at least fifteen (15) service connections used year-round by residents, or that regularly provides water to at least twenty-five (25) residents year-round, including but not limited to, municipalities and water districts.

(e) ~~“Community Water System” means a public water supply which has at least fifteen (15) service connections used year-round by residents, or that regularly provides water to at least twenty-five (25) residents year-round, including, but not limited to, municipalities and water districts.~~ “County” means a political subdivision of the State of Wyoming pursuant to W.S. 18-1-101(a)-(y).

(f) “DEQ” means the Wyoming Department of Environmental Quality.

- (g) “Director” means the Director of the Office of State Lands and Investments.
- (h) “Emergency” means a direct threat to the continued operation of a public community water system.
- (i) ~~“Handbook of Procedures” means the State Drinking Water Revolving Loan Account Handbook of Procedures.~~ “Initiating Operations” means the earliest point in time when a capital infrastructure project is ready for use even if only for system testing purposes.
- (j) “Intended Use Plan (IUP)” means the annual plan adopted by the State Loan and Investment Board and submitted to the United States Environmental Protection Agency (USEPA) that describes how the state intends to use the money in the Drinking Water Revolving Loan Account.
- (k) ~~“Noncommunity Water System” means a public water supply which is not a Community Water System, including but not limited to, public schools, state park recreational areas and state highway public rest areas.~~ “Joint Powers Board(s)” means legally organized Wyoming entities authorized to engage in joint or cooperative action by the Wyoming Joint Powers Act pursuant to W.S. 16-1-101 et. seq.
- (l) ~~“Office (OSLI)” means the Office of State Lands & Investments which provides administrative and operational management of programs of the State Loan and Investment Board~~ “Municipalities” means incorporated towns and cities in Wyoming.
- (m) ~~“Operator” means the person who is directly responsible and in charge of the operation of a water treatment plant or water distribution system~~ “Noncommunity Water System” means a public water supply which is not a community water system, including but not limited to, public schools, state park recreational areas and state highway public rest areas.
- (n) ~~“Priority List” means the list of projects expected to receive financial assistance under the Program, ranked in accordance with a priority system developed under Section 1452(b)(2)(A) of the Safe Drinking Water Act~~ “Operator” means the person who is directly responsible for and in charge of the operation of a water treatment plant or water distribution system.
- (o) ~~“Program” means the drinking water state revolving fund program pursuant to Section 1452 of the Safe Drinking Water Act (42 U.S.C. ' 300j-12).~~ “OSLI” means the Office of State Lands and Investments which provides administrative and operational management of the State Loan and Investment Board’s programs.
- (p) ~~“Publicly Owned Water System” means a water system which is owned, operated, managed and maintained by an entity of the state, county, city, township, town, school district, water district, improvement district, joint powers board or any other entity constituting a political subdivision under the laws of this state which provides water for use and consumption of the general public through pipes and other constructed conveyances, and which is not owned,~~

operated, managed or maintained by a private individual, association or corporation “Priority List” means the list of projects expected to receive financial assistance under the Program, ranked in accordance with a priority system developed under Section 1452(b)(2)(A) of the Safe Drinking Water Act.

(q) “Safe Drinking Water Act (SDWA)” means the federal Safe Drinking Water Act including the 1996 amendments (Public Law 104-182, 42 U.S.C. ' 300f et seq.) “Program” means the drinking water state revolving fund program pursuant to Section 1452 of the Safe Drinking Water Act (42 U.S.C. § 300j-12).

(r) “Select Water Committee” means a state legislative committee comprised of five (5) members from the Wyoming State Senate and five (5) members from the Wyoming House of Representatives (W.S. 21-11-101). “Publicly Owned Water System” means a water system which is owned, operated, managed and maintained by an entity of the state, county, city, township, town, school district, water district, improvement district, joint powers board or any other entity constituting a political subdivision under the laws of this state which provides water for use and consumption of the general public through pipes and other constructed conveyances, and which is not owned, operated, managed or maintained by a private individual, association or corporation.

(s) “Water Supply System” means a system from the water source to the consumer premises consisting of pipes, structures and facilities through which water is obtained, treated, stored, distributed or otherwise offered to the public for household use or use by humans and which is part of a community water system or a noncommunity water system “Safe Drinking Water Act (SDWA)” means the federal Safe Drinking Water Act including the 1996 amendments (Public Law 104-182, 42 U.S.C. § 300f et seq.).

(t) “Wyoming Water Development Office (WWDO)” means the office which provides administrative and operational management of the programs administered by the Wyoming Water Development Commission “Select Water Committee” means a state legislative committee comprised of six (6) members from the Wyoming State Senate and six (6) members from the Wyoming House of Representatives (W.S. 21-11-101).

(u) “Special District” means any legally formed special district in Wyoming that is eligible for program funding.

(v) “Special Program Incentives” include, but are not limited to, grants, principal forgiveness and negative interest rates authorized by state or federal legislation and as adopted by the Board.

(w) “Special Program Requirements” include, but are not limited to, restrictions on the types of project materials that may be used, required funding reserves and minimum wage requirements as set forth in state or federal legislation and as adopted by the Board.

(x) “State Environmental Review Process (SERP)” means the review conducted by DEQ, pursuant to W.S. 16-1-304(a), of potential environmental impacts of projects receiving



assistance from the Account.

(y) “Substantial Completion” means that stage in a project when the capital infrastructure constructed is capable of initiating operations or can be used for its intended purpose.

(z) “Water Supply System” means a system from the water source to the consumer premises consisting of pipes, structures and facilities through which water is obtained, treated, stored, distributed or otherwise offered to the public for household use or use by humans and which is part of a community water system or a noncommunity water system.

(aa) WWDO means the Wyoming Water Development Office which provides administrative and operational management of the programs administered by the Wyoming Water Development Commission.

(bb) “USEPA” means the United States Environmental Protection Agency.

### Section 3. General Policy.

(a) The Board shall extend approve loans and special program incentives under the provisions of this Chapter, subject to the Select Water Committee’s review and recommendation of projects, in such a manner and to such applicants as shall, in the judgment of the Board, inure to the greatest benefit of the citizens of the sState of Wyoming and represent a prudent use of loan funds.

### Section 4. ~~Loan Eligibility~~ Special Program Incentives and Special Program Requirements.

(a) Applicants. Publicly Owned Water Systems of municipalities, counties, joint powers boards, state agencies, and other entities constituting political subdivisions under the laws of the state shall be eligible for loans under this Chapter. If the applicant is a joint powers board, it must be legally formed and approved prior to loan application. Applicants must be in compliance with all applicable reporting requirements with the Wyoming Department of Audit prior to its application being considered by the Board. Notice. OSLI, DEQ and WWDO will assess, at least annually, the impacts of state and federal legislation on the Drinking Water State Revolving Fund loan program administered under this Chapter. OSLI will provide timely notice to eligible applicants of changes in special program incentives and special program requirements. Said notice will be not less than thirty (30) calendar days prior to any application deadline. Methods of notice include, but are not limited to, electronic, telephonic, written, website postings, video conferences or combinations of the same.

(b) — Purposes. Loans may be extended to eligible Publicly Owned Water Systems as authorized in W. S. 16-1-305. Eligible projects may be comprised of improvements to all components of a Water Supply System as appropriate and permitted by the Safe Drinking Water Act. The Board may authorize loans or other forms of financial assistance including refinancing of existing debt, purchasing loan insurance and guaranteeing debt obligations from the Account

~~for purposes authorized by these rules, without review and recommendations from the Select Water Committee, if the Board determines that an emergency exists and if there is not sufficient time to obtain review and recommendations from the Select Water Committee to effectively address the emergency situation.~~

~~(c) Project Eligibility. Only projects on the Priority List that are incorporated into the Intended Use Plan are eligible for loans under this Chapter.~~

#### Section 5. ~~Application Procedure~~ Loan and Special Program Incentives Eligibility.

~~(a) Applications. Applicants shall submit separate applications for each project. Applicants shall submit a completed application on a form provided by the Office or as outlined in the Handbook of Procedures, application section Applicants. Publicly Owned Water Systems in Wyoming shall be eligible for loans under this Chapter. This includes eligibility for special program incentives when available.~~

~~(i) Applicants whose annual median household income (AMHI) is less than seventy percent (70%) of Wyoming's AMHI are eligible for special program incentives of up to seventy-five percent (75%) of their loan amount.~~

~~(ii) Applicants whose AMHI is seventy percent (70%) or greater, but less than ninety percent (90%) of Wyoming's AMHI, are eligible for special program incentives of up to fifty percent (50%) of their loan amount.~~

~~(iii) Applicants whose AMHI is over ninety percent (90%) of Wyoming's AMHI are eligible for special program incentives of up to twenty-five percent (25%) of their loan amount.~~

~~(b) Timing of Board Consideration. The Board may consider applications for loans under this Chapter at any official meeting of the Board. Annual median household income data is based on information obtained from the most recent American Community Survey of the U.S. Census Bureau. Median household income data for special districts must be established by an income survey at district expense or other financial data acceptable to OSLI and the Board. If the applicant is a special district or joint powers board, it must be legally formed and approved prior to submitting its loan application. Applicants must be in compliance with all applicable reporting requirements of both the Wyoming Department of Revenue and the Wyoming Department of Audit prior to its application being considered by the Board.~~

~~(c) Preliminary Review. Within forty five (45) days of receipt of any application, the Director shall notify the applicant, in writing, if the application lacks any of the information required. Purposes. Loans and special program incentives may be awarded by the Board to eligible Publicly Owned Water Systems as authorized in W.S. 16-1-305. Eligible projects may be comprised of improvements to all components of a Water Supply System as appropriate and permitted by the Safe Drinking Water Act. The Board may also award loans and special program incentives consistent with changes in state or federal law.~~

(d) ~~Incomplete Applications. Incomplete applications shall not be presented to the Board for consideration.~~ Project Eligibility. Only projects on the current Drinking Water State Revolving Fund Intended Use Plan are eligible for loans and special program incentives under this Chapter. Eligible applicants are responsible for ensuring that their project(s) are listed on the current Drinking Water State Revolving Fund Intended Use Plan.

(e) Ineligible Project Costs. The following project costs shall be ineligible for reimbursement:

- (i) Costs for any asset that is owned by a private property owner;
- (ii) Costs for tap fees, sewer and water fees, and plant investment fees;
- (iii) Engineering fees, including design, inspection and contract administration costs, over twenty percent (20%) of Board approved project costs;
- (ii) All non-cash costs except land which is integral to the treatment process and if allowable under federal law but not costs for land in excess of current fair market value and/or costs for an amount of land in excess of that needed for project purposes;
- (iii) Costs for preparation or presentation of grant or loan applications for any source of funding;
- (iv) Costs for transportation, meals and lodging incurred anywhere away from the site of the project;
- (v) Costs of tools, supplies and furnishings for capital projects not included in DEQ approved construction contract documents, including but not limited to, capital equipment, hammers, tanks, tools, furniture, drapes, blinds, file cabinets, file folders and survey stakes;
- (vi) Legal fees, except as pre-approved by DEQ, OSLI and WWDO;
- (vii) Costs related to the issuance of bonds;
- (viii) Costs of elections;
- (ix) Costs to establish and form special districts or joint powers boards;
- (x) Costs incurred prior to loan award, except costs incurred for architectural and engineering design, surveying, state environmental review process (SERP) requirements or in emergency circumstances;
- (xi) Costs for change orders not approved by DEQ, OSLI and WWDO;
- (xii) Lump sum contracts unless approved by DEQ, OSLI and WWDO;

(xiii) Costs for meals and incidental expenses in excess of federal per diem rates;

(xiv) Costs in excess of \$50.00, unless approved by DEQ, OSLI and WWDO based on an invoice(s) or additional documentation submitted by applicant.

#### Section 6. ~~Evaluation~~ Application Procedure.

(a) ~~Criteria. The Board shall evaluate applications utilizing the following criteria:~~ Applications. There are two (2) types of applications under this Chapter, preliminary and completed.

~~(i) Whether the applicant has an appropriate project Priority List ranking as required in Section 1452(b)(3) of the Safe Drinking Water Act and is listed on the fundable portion of the Intended Use Plan;~~

~~(ii) Whether the applicant can demonstrate Capacity Development capabilities in compliance with Section 1420(b)(3) of the Safe Drinking Water Act and the applicable requirements of DEQ;~~

~~(iii) Whether the applicant can obtain or ensure the certification of the Operators of the Publicly Owned Water System in accordance with DEQ rules and regulations prior to obtaining financial assistance approval;~~

~~(iv) Whether the applicant is current on all its repayment obligations to the Board;~~

~~(v) Whether the applicant's dedicated source of revenue will be sufficient to provide security to repay the loan; and~~

~~(vi) Whether the applicant is ready to proceed with construction or implementation of the project.~~

(b) ~~Interagency Consultation. DEQ and WWDO will review all applications for loans and will provide comments to the Director for Board consideration. DEQ and WWDO will also provide the services required under W. S. 16-1-301 through W. S. 16-1-308~~ Preliminary loan applications are a pared down version of a completed loan application and these applications are the initial application for a Drinking Water State Revolving Fund Loan involving special program incentives and/or requirements only. Separate preliminary loan applications shall be prepared for each eligible project involving special program incentives and/or requirements. Applicants shall submit a preliminary loan application on a form provided by the Director. Preliminary loan applications must be timely submitted by applicants in advance of regular or special meetings of the Board. A preliminary loan application must be received by OSLI by close of business on the day of an application deadline to be considered timely submitted. Preliminary loan applicants who are conditionally approved for project funding by the Board must complete remaining portions of their application within forty-five (45) days of the Board's

conditional approval. If applicants fail to timely complete their applications the Board will be informed by the Director at the Board's next available regular or special meeting. The Board reserves the right to revoke any conditional approval for lack of post award due diligence to timely completing an application.

(c) Completed Loan Applications. The second type of application for a Drinking Water State Revolving Fund loan is a completed loan application for a core program loan. Separate completed loan applications shall be prepared for each eligible project. Applicants shall submit completed loan applications on a form provided by the Director. Completed loan applications must be timely submitted by applicants by deadlines in advance of regular or special meetings of the Board. An application must be received by OSFI by close of business on the day of an application deadline to be considered timely submitted.

(d) Public Meeting Requirement. All eligible applicants must hold a minimum of one public meeting in advance of submitting a preliminary or completed loan application for Board consideration. Notice of the public meeting is to be published in a local or regional newspaper fifteen (15) days prior to the same. The public meeting must provide the public an overview of the proposed project, financing and sustainability. The overview aspect of the public meeting must, at a minimum, address project scope, milestones and costs. The financing aspect of the public meeting must, at a minimum, address the financial impact of project costs upon the public. The sustainability aspect of the public meeting must, at a minimum, address revenue streams, adjustments of water and sewer rates or other sources required to sustain the proposed project. Eligible applicants must verify compliance with the public meeting requirement through documentation submitted with their preliminary or completed loan applications.

(e) Timing of Board Consideration. Preliminary or completed loan applications must be received by the Director at least forty-five (45) days prior to any regular or special meeting of the Board. Applicants must cure any defects in their applications no later than twenty (20) calendar days before any regular or special meeting of the Board. The Board may consider preliminary or completed loan applications for loans under this Chapter at any regular or special meeting.

(f) Incomplete Loan Applications. Incomplete loan applications will not be presented to the Board for consideration.

#### Section 7. ~~Board Consideration~~ Evaluation.

~~(a) The Board shall consider each complete application, allow for comments from the applicant, the Director, DEQ and WWDO and approve or disapprove applications. On all approved loans, the Board shall establish the amount of the loan and the term of the loan. The term shall not exceed twenty (20) years or the design life of the project, whichever is shorter Criteria. The Board shall evaluate applications utilizing the following criteria:~~

(i) Whether the applicant has an appropriate project Priority List ranking as required in Section 1452(b)(3) of the Safe Drinking Water Act and is listed on the fundable portion of the Intended Use Plan;

(ii) Whether the applicant can demonstrate Capacity Development capabilities in compliance with Section 1420 of the Safe Drinking Water Act and the applicable requirements of DEQ;

(iii) Whether the applicant can obtain or ensure the certification of the Operators of the Publicly Owned Water System in accordance with DEQ rules and regulations prior to obtaining financial assistance approval;

(iv) Whether the applicant is current on all its repayment obligations to the Board;

(v) Whether the applicant's dedicated source of revenue will be sufficient to provide security to repay its requested loan;

(vi) Whether the applicant is ready to proceed with construction or implementation of the project;

(vii) Whether the applicant has established an adequate operations and maintenance costs fund for the project for which applicant seeks funding.

(viii) Whether the applicant has made a significant commitment of funding resources for the project for which it seeks funding;

(ix) The percentage of the applicant's population directly served by the project;

(x) The project's priority rank on the current intended use plan (IUP); and

(xi) Whether the project is appropriately sized for the population to be served by the project.

(b) Interagency Consultation. The OS LI shall facilitate interagency consultation with DEQ and WWDO through the review of applications for loans and special program incentives and the opportunity to provide comments to the Director for Board consideration. The Board shall request the DEQ and the WWDO to provide the services required under W.S. 16-1-301 through W.S. 16-1-308.

#### Section 8. ~~Interest Rates~~ Board Consideration.

(a) ~~The interest rate for all loans shall be pursuant to Chapter 14 of the rules as established by the Board. The Board shall review interest rates at least annually~~ The Board shall consider each complete application and allow for comments from the applicant, the Director, DEQ and WWDO. The Board shall also establish loan amounts and terms. Loan terms shall not exceed twenty (20) years.

## Section 9. ~~Repayment~~ Interest Rates.

(a) ~~Annual repayments of principal and interest, as outlined in the loan promissory note and amortization schedule, provided by the Board for all loans shall begin not later than one (1) year after substantial project completion as determined by representatives of OSLLI, DEQ or WWDO or for projects already completed at time of loan closing, i.e. refinancing of existing debt for completed projects, purchasing loan insurance & guaranteeing debt repayment, annual repayment shall begin not later than one (1) year after loan approval. The interest rate for eligible applicants that qualify for the funding reserves special program requirement, when available, shall be pursuant to Chapter 14 of these rules.~~

(b) The interest rate for all other Drinking Water State Revolving Fund loans shall be pursuant to Chapter 14 of these rules.

## Section 10. ~~Disbursement of Loan Proceeds~~ Repayment.

(a) ~~The loan proceeds shall be disbursed in accordance with a schedule that has been agreed upon and stipulated in the loan agreement. Requests for disbursements shall be submitted on a form provided by the Director. Requests for disbursements shall only be for eligible project costs which have been incurred and shall be subject to review by the DEQ and WWDO. Annual payments for all loans shall begin one (1) year after substantial completion of the project as indicated in the final project contract.~~

## Section 11. ~~Audits and Inspections~~ Disbursement of Loan Proceeds.

(a) ~~The Board shall require records of loan recipients be audited annually by an independent accountant which may be part of the annual financial audit. The Board shall ensure compliance with the provisions of the federal Single Audit Act, 1996 Amendments and Office of Management and Budget (OMB) Circular A-133. The Board or its designee shall be allowed access by loan recipient to inspect the construction and operation of the project. Loan recipients shall maintain project accounts in accordance with generally accepted government accounting standards. Loan proceeds shall be disbursed in minimum draws of \$1,300. Requests for disbursements shall be submitted on a form provided by the Director. Loan proceeds will only be disbursed for eligible project costs as set forth in this Chapter and within federal guidelines following review by the OSLLI, DEQ and WWDO.~~

## Section 12. Fees Audits and Inspections.

(a) ~~A loan origination fee of one half of one percent (0.5%) of the amount of the loan will be collected at loan closing. The fees will be deposited to the Administrative Account as authorized by W. S. 16-1-303(d). The Board shall ensure compliance with the provisions of the Federal Single Audit Act, 1966 Amendments and Office of Management and Budget (OMB) Circular A-133. On an annual basis records of loan recipients shall be, at a minimum, compiled by an independent accounting firm. Notification of compliance shall be made to the Board in the form of a Compilation, Review, or Audited Financial Statement prepared by an independent accounting firm. On an annual basis, recipients receiving five hundred thousand dollars~~

(\$500,000) or more in federal funds in any fiscal year shall have their records audited by an independent accounting firm. Notification of compliance shall be made to the Board in the form of an Audited Financial Statement. The Board may, at its expense, conduct an independent audit of the loan recipient's records and inspect the construction and operation of the project. Loan recipients shall maintain project accounts in accordance with Generally Accepted Government Accounting Standards (GAAP).

Section 13. Reports.

(a) The Director, or the Director's designee, shall review all reports prepared by the OSLI, DEQ and WWDO for submission to the USEPA.

Section 14. Funds Reserved.

(a) Four percent (4%) of the federal capitalization grants shall be reserved to pay administrative costs of this program incurred by the OSLI, DEQ and WWDO.

Section 15. Program Compliance.

(a) The Board shall administer the state drinking water revolving loan account program in accordance with all applicable federal laws and regulations. The Board shall enter into, and periodically update, Memorandums of Understanding with DEQ and WWDO to implement the program and facilitate program compliance.

Section 16. Fees

(a) A loan origination fee of one-half of one percent (0.5%) of the amount of the loan will be collected at loan closing. The fees will be deposited to the Administrative Account as authorized by W. S. 16-1-303(d).



## **SUMMARY OF COMMENTS**

No comments were received.



Debra Dickson <[debra.dickson@wyo.gov](mailto:debra.dickson@wyo.gov)>

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## (no subject)

1 message

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Kelly Hoffman <[khoffman@allwest.net](mailto:khoffman@allwest.net)>

Mon, Jul 18, 2011 at 10:43 AM

To: [debra.dickson@wyo.gov](mailto:debra.dickson@wyo.gov)

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Debra,

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My name is Mr. Kelly Hoffman from Cokeville. I serve on the town council. Our clerk forwarded this message to me and I looked at the chart referenced below on median income. I see ours is actually quite high compared to the state average, which surprises me a bit. I know this is academic at this point, but household income has very little to do with the Town's ability to fund water or sewer projects. We are a town of just over 500 people and we have very little ability within the framework of Wyoming law to produce taxes beyond levied property taxes and our share of state set funding in mineral taxes, none of which we as a town have any say in setting. We get our proportion of sales and use tax as a percentage of population, either county or state. I don't see how counting our median income is a fair representation of our qualifications for grants and loans, or saying we have a greater ability to pay more on a loan because our citizens have a higher income than state averages.

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I have served on the council twice, once for ten years ending in 2005 and now for 1 1/2 years since 2010. The town received a loan – grant for a sewer plant project when I was not serving on council. This plant was needed because the town could no longer meet the strict requirements of discharge set by DEQ and EPA. Our town of 500 now has a 30 year loan with a payment of \$88,000 just for this plant. Our revenues last year were about \$750,000 but we had expenses of \$812,000. So we have had to use some of our small reserve to balance our budget. Those revenues, as you know, are basically set by the state. Property taxes were a total of \$14,739 for the year. The other taxes are percentages of what is collected in either the state or the county, as you know. So my question again is, how does median income affect our ability to pay a loan or receive a grant? It seems this part of the equation does not fairly address this question, so that is the part I don't understand.

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Thank you for your time, and if you can enlighten me more on this matter I would appreciate it.

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Kelly Hoffman

Town of Cokeville

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**From:** Debra Dickson [mailto:[debra.dickson@wyo.gov](mailto:debra.dickson@wyo.gov)]

**Sent:** Friday, July 15, 2011 4:39 PM

**To:** Brian Mark; Wade Verplancke; Kevin Frank; Cristine Gillett; Jeanne Norman; Amanda Sewell; Mike Hackett; Val Lewkowski; Rebecca Webb

**Subject:** Wyoming Median Household Income chart on Website

The current Wyoming Annual Median Household Income (AMHI) chart is now available on our website:

This chart will be used in conjunction with the rules to determine possible principal forgiveness on future Clean Water State Revolving Fund and Drinking Water State Revolving Fund applications to meet Federal requirements.

Draft Rule Link: <http://slf-web.state.wy.us/osli/BoardMatters/2011/0411/SLIB/C-3.pdf>

Clean Water State Revolving Funds (sewer, green, etc) Chapter 11 starts on pg 4

Drinking Water State Revolving Funds (sater, green, etc) Chapter 16 starts on pg 6

AMHI Chart: <http://lands.state.wy.us/>

Click on "GRANTS & LOANS" in the top menu bar

Click on "Wyoming Annual Median Household Income Charts" under GRANTS AND LOANS  
QUALIFICATIONS

If you have questions, please contact myself or a one of the staff listed below:

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Thank you,  
Debby Dickson

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