



## COLORADO

### Water Quality Control Commission

Department of Public Health & Environment

## NOTICE OF PUBLIC RULEMAKING HEARING AND ADMINISTRATIVE ACTION HEARING BEFORE THE COLORADO WATER QUALITY CONTROL COMMISSION

### SUBJECT:

For consideration of revisions to the Water Pollution Control Revolving Fund Rules, Regulation #51 (5 CCR 1002-51) and the Drinking Water Revolving Fund Rules, Regulation #52 (5 CCR 1002-52), and revisions to the corresponding FY 2015 Intended Use Plans.

The revisions to Regulation #51 proposed by the Water Quality Control Division (division) as staff to the commission, along with a proposed Statement of Basis, Specific Statutory Authority and Purpose, are attached to this notice as Exhibit 1. The revisions to Regulation #52 proposed by the division as staff to the commission, along with a proposed Statement of Basis, Specific Statutory Authority and Purpose, are attached to this notice as Exhibit 2. The revisions to the FY 2015 Water Pollution Control Revolving Fund and State Domestic Wastewater Treatment Grant Intended Use Plan are attached to this notice as Exhibit 3. The revisions to the FY 2015 Drinking Water Revolving Fund and State Drinking Water Grant Fund Intended Use Plan are attached to this notice as Exhibit 4. Any alternative proposals related to the revisions proposed in Exhibits 1 through 4, and developed in response to those proposed revisions, will also be considered.

### HEARING SCHEDULE:

DATE: Monday, August 10, 2015  
TIME: 10:00 a.m.  
PLACE: Florence Sabin Conference Room  
Department of Public Health and Environment  
4300 Cherry Creek Drive South  
Denver, CO 80246

### PUBLIC PARTICIPATION ENCOURAGED:

The commission encourages all interested persons to provide their opinions or recommendations regarding the matters to be addressed in this rulemaking and administrative action hearing, either orally at the hearing or in writing prior to or at the hearing. Although oral testimony from those with party status (see below) and other interested persons will be received at the hearing, the time available for such oral testimony may be limited. The commission requests that all interested persons submit to the commission any available information that may be relevant in considering the noticed proposals.

Written submissions prior to the hearing by interested members of the public that do not have party status are encouraged. In order to be distributed to the commission for review prior to the hearing, such submissions need to be received in the commission office or the Colorado Department of Public Health and Environment's (Department's) mail room by July 31, 2015. Written submissions received after this date will be distributed to commissioners at the hearing. However, for logistical reasons, the commission office cannot guarantee that electronic submissions received after 1:00 p.m. Friday, August 7, 2015 will be provided to commissioners. Interested persons wishing to submit comments or

other documents after that date and time should bring paper copies to the hearing and provide PDF versions to the commission office as soon as possible after the hearing.

Oral testimony at the hearing should primarily summarize written material previously submitted. The hearing will emphasize commission questioning of parties and other interested persons about their written prehearing submittals. Introduction of written material at the hearing by those with party status generally will not be permitted.

PARTY STATUS:

Participation as a "party" to this hearing will require compliance with section 21.3(D) of the Procedural Rules, Regulation #21 (5 CCR 1002-21). It is not necessary to acquire party status in order to testify or comment. **For each request for party status, please provide the organization's name, a contact person, mailing address, phone number, and email address.** Written party status requests are due in the commission office on or before:

DATE: Tuesday, July 7, 2015  
TIME: 5:00 p.m.

A single copy of the party status request may be transmitted as an email attachment to [cdphe.wgcc@state.co.us](mailto:cdphe.wgcc@state.co.us), submitted by fax to 303-691-7702, mailed or otherwise conveyed so as to be received in the mail room of the Colorado Department of Public Health and Environment (department) no later than this deadline.

WRITTEN COMMENTS:

In view of the expedited nature of this rulemaking, no prehearing statements will be required. Those requesting party status and others interested in this proceeding are encouraged to provide written comments. Any such comments will be accepted at the hearing, although interested persons are encouraged to email or otherwise deliver a copy of their written comments to be received in the commission office by July 31, 2015 if feasible, so that they may be circulated to commission members for review prior to the hearing.

PREHEARING CONFERENCE:

No prehearing conference will be held for this rulemaking.

SPECIFIC STATUTORY AUTHORITY:

The provisions of sections 25-8-202(1)(e), (g) and (o) and sections 37-95-107.6(4) and .8(4), C.R.S. provide the specific statutory authority for consideration of the regulatory amendments proposed by this notice. Should the commission adopt the regulatory language as proposed in this notice or alternative amendments, it will also adopt, in compliance with section 24-4-103(4) C.R.S., an appropriate Statement of Basis, Specific Statutory Authority, and Purpose.

NOTIFICATION OF POTENTIAL MATERIAL INJURY TO WATER RIGHTS:

In accordance with section 25-8-104(2)(d), C.R.S., any person who believes that the actions proposed in this notice have the potential to cause material injury to his or her water rights is requested to so indicate in the party status request submitted. In order for this potential to be considered fully by the commission and the other agencies listed in the statute, persons must fully explain the basis for their claim in their prehearing statement which is due in the commission office on the date specified above. This explanation should identify and describe the water right(s), and explain how and to what degree the material injury will be incurred.

Dated this 8<sup>th</sup> day of June, 2015 at Denver, Colorado.

WATER QUALITY CONTROL COMMISSION

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Trisha Oeth, Administrator

**EXHIBIT 1**

**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

**WATER QUALITY CONTROL COMMISSION**

**REGULATION NO. 51**

**WATER POLLUTION CONTROL REVOLVING FUND RULES**

**5 CCR 1002-51**

	AMENDED:	March 8, 1999
	EFFECTIVE:	April 30, 1999
	AMENDED:	May 8, 2000
	EFFECTIVE:	June 30, 2000
	AMENDED:	May 10, 2004
	EFFECTIVE:	June 30, 2004
	AMENDED:	October 11, 2005
	EFFECTIVE:	November 30, 2005
	AMENDED:	August 11, 2008
	EFFECTIVE:	January 1, 2009
EMERGENCY	AMENDED:	March 9, 2009
	EFFECTIVE:	March 9, 2009
	AMENDED:	March 9, 2009
	EFFECTIVE:	April 30, 2009
	AMENDED:	May 14, 2012
	EFFECTIVE:	June 30, 2012
	<u>AMENDED:</u>	<u>August 10, 2015</u>
	<u>EFFECTIVE:</u>	<u>September 30, 2015</u>

**DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

**Water Quality Control Commission**

**5 CCR 1002-51**

**REGULATION NO. 51**

**WATER POLLUTION CONTROL REVOLVING FUND RULES**

**51.1 AUTHORITY AND PURPOSE OF THE WATER POLLUTION CONTROL REVOLVING FUND**

The Water Pollution Control Revolving Fund (“WPCRF”) was authorized by Congress in Title II and Title VI of the 1987 Amendments to the Clean Water Act (“Federal Act”). Additional provisions are provided in the Water Resources Reform and Development Act of 2014 (“WRRDA”) and are amendments to Titles I, II, V, and VI of the Federal Act.

Senate Bill 50 (1988) authorized the State to participate in the WPCRF by amending the Colorado Water Resources and Power Development Authority Act, Title 37 of Article 95, C.R.S. (“Authority Act”); this allows the Colorado Water Resources and Power Development Authority (“Authority”) to provide funds for the State’s twenty percent match required by the Federal Act. §§ 37-95-103 and 37-95-107.6, C.R.S.

Sections 25-8-202 (1)(e) and (g), C.R.S., of the Colorado Water Quality Control Act (“State Act”) also provide the Water Quality Control Commission (“Commission”) and the Water Quality Control Division (“Division”) with the authority to promulgate, implement, and administer this regulation.

The purpose of the WPCRF is to provide financial assistance to governmental agencies for the construction of any project as defined herein that appears on the Project Eligibility List included in the annual Intended Use Plan.

**51.2 DEFINITIONS**

See the State Act, the Authority Act, and the Federal Act for additional definitions.

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- (19) “Section 212” - The section of the Federal Act that provides the statutory authority for programs funded by the WPCRF for the construction of publicly owned treatment works (“POTWs”). Projects eligible for funding under Section 212 may include, but are not limited to, the capital costs for wastewater collection and treatment, municipal stormwater projects, combined sewer overflow, sanitary sewer overflow, pipes, storage and treatment systems, green infrastructure, municipal landfill projects, water conservation and reclaimed water, energy conservation and efficiency, security, and decentralized wastewater treatment systems.

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**51.6 PROCEDURES FOR ESTABLISHING THE PROJECTED LOAN LIST AND DISTRIBUTING FUNDS**

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- (5) In accordance with federal statutes, states are authorized to provide loans at or below market interest rates, including interest free loans, at terms not to exceed the lesser of 30 years and the projected useful life (as determined by the State) of the project to be financed with proceeds of the loan.

**51.7 DISADVANTAGED COMMUNITIES**

~~Under the Federal Act, states are authorized to provide “loans at or below market interest rates, including interest free loans, at terms not to exceed 20 years.”~~

(1) The WPCRF may provide additional loan subsidies for governmental agencies that are determined to be “disadvantaged.” The definition/criteria of a disadvantaged community and the nature of the loan subsidies to be made available thereto shall be recommended for inclusion in the IUP by the Division and the Authority in consultation with the DLG.

(2) While compiling projects on the Projected Loan List (utilizing the procedures listed in section 51.6 above), the Division will identify the community projects that qualify for assistance under the Disadvantaged Communities Program in accordance with the program definition and criteria.

**51.8 PLANNING GRANTS AND DESIGN AND DESIGN / ENGINEERING GRANTS**

The Division may provide ~~planning grants and design and design / engineering~~ grant assistance if funding is approved in the IUP according to section 51.3.

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## **PROPOSED**

### **51.38 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY, AND PURPOSE (AUGUST 10, 2015 RULEMAKING, EFFECTIVE SEPTEMBER 30, 2015)**

Sections 25-8-202(1)(e) and (g); and section 37-95-107.6, C.R.S. provide the specific statutory authority for adoption of the attached regulatory amendments. The Commission also adopted, in compliance with section 24-4-103(4), C.R.S., the following statement of basis and purpose.

#### **BASIS AND PURPOSE**

The Commission took action to modify Regulation #51 by: aligning the loan terms with the federal Water Resources Reform and Development Act (WRRDA); and revising the planning and design grant nomenclature to planning, design and engineering grants to align with the program grant terminology. The Commission adopted these revisions for three principal reasons:

1. To align the Colorado Water Pollution Control Revolving Fund eligible project types with WRRDA; and
2. To align the Colorado Water Pollution Control Revolving Fund loan terms with WRRDA; and
3. To clarify the grant terminology under the Colorado Water Pollution Control Revolving Fund (WPCRF) loan process.

Specific modifications to Regulation #51 on a section-by-section basis are described below.

Section 51.2 - Definitions – The Commission revised section 51.2(19) to add security and decentralized wastewater treatment systems as eligible project types.

Section 51.6 - Procedures – The Commission added section 51.6(5) to provide for financing terms the lesser of 30 years, or projected life of the financed project.

Section 51.7 - Disadvantaged Communities – The Commission revised section 51.7 to delete the loan duration terms which are addressed in Sections 51.3(2)(c), 51.6(5), and the IUP.

Section 51.8 – The Commission renamed and reworded the section to reflect the two grant programs being (1) Planning Grants and (2) Design and Engineering Grants.

**EXHIBIT 2**

**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT  
WATER QUALITY CONTROL COMMISSION  
DRINKING WATER REVOLVING FUND RULES  
REGULATION NO. 52  
5 CCR 1002-52**

**BOARD OF HEALTH**

ADOPTED: October 18, 1995  
EFFECTIVE: December 30, 1995  
AMENDED: October 15, 1997  
EFFECTIVE: November 30, 1997  
AMENDED: April 15, 1998  
EFFECTIVE: May 30, 1998  
AMENDED: September 2004  
EFFECTIVE: November 30, 2004

**WATER QUALITY CONTROL COMMISSION**

AMENDED: August 11, 2008  
EFFECTIVE: January 1, 2009  
EMERGENCY AMENDED: March 9, 2009  
EFFECTIVE: March 9, 2009  
AMENDED: March 9, 2009  
EFFECTIVE: April 30, 2009  
AMENDED: April 14, 2014  
EFFECTIVE: May 30, 2014  
AMENDED: August 10, 2015  
EFFECTIVE: September 30, 2015

# DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

## WATER QUALITY CONTROL COMMISSION

### 5 CCR 1002-52

#### REGULATION NO. 52

#### DRINKING WATER REVOLVING FUND RULES

##### 52.1 AUTHORITY

In Senate Bill 95-083, the Colorado General Assembly created the Drinking Water Revolving Fund to provide financial assistance to certain drinking water projects in the State of Colorado. The fund is held and administered by the Colorado Water Resources and Power Development Authority (Authority), which is authorized to issue bonds to finance the program. Moneys in the fund may be used to provide financial assistance to projects included on a Project Eligibility List, which is part of the annual Intended Use Plan (IUP). Codified at sections 37-95-103 and 37-95-107.8, C.R.S., the statutes direct the Water Quality Control Commission (Commission) to submit additions and modifications to the Project Eligibility List annually for adoption by the General Assembly by Joint Resolution signed by the Governor. This regulation complies with 40 CFR part 35, subpart I, and provides for the Commission's approval of the Intended Use Plan including additions and modifications to the Project Eligibility List and the Projected Loan List.

The 1996 amendments to the federal Safe Drinking Water Act (SDWA) include authorization of a state revolving fund program similar to that included in the Clean Water Act for wastewater projects. The Drinking Water Revolving Fund established by Senate Bill 95-083 meets the requirements of the SDWA concerning revolving fund financing programs and allows for federal funding of Colorado's revolving fund financing program.

Section 25 1.5-203, C.R.S., also provides authority for this regulation.

##### 52.2 DEFINITIONS

Section 11.3 of the Colorado Primary Drinking Water Regulations 5 CCR 1002-11, contains additional definitions that apply to this rule.

- (1) "Beneficial Use" - The use of water treatment plant residuals to act as a soil conditioner or low grade fertilizer for the promotion of vegetative growth on land or to be used in commercial construction or industrial applications, and that meet the requirements of the state Biosolids Regulations.
- (2) "Consolidation and Regionalization Project" - A proposed new construction or expansion of a drinking water supply system that will eliminate one or more existing water supply or treatment works. A letter of intent or a resolution adopted by the project participants must be provided to the Water Quality Control Division (Division) to guarantee the facilities will consolidate.
- (3) "Governmental Agencies" - Departments, divisions, or other units of state government, special districts, water conservation districts, metropolitan water districts, conservancy districts, irrigation districts, municipal corporations, counties, cities and other political subdivisions, the United States or any agency thereof, and any agency, commission, or authority established pursuant to an interstate compact or agreement.

- (4) "Health Hazard" - A situation where the Division has identified a waterborne disease outbreak primary maximum contaminant level (MCL) violation, violation of the Surface Water Treatment Rule (SWTR), a treatment technique violation, or significant deficiencies from an approved sanitary survey as defined in the Colorado Primary Drinking Water Regulations. Funding for projects that address an existing or potential health hazard must result in compliance with existing standards and regulations.
- (5) "Pollution" - The man made, man induced, or natural alteration of the physical, chemical, biological, and radiological integrity of water.
- (6) "Private Nonprofit Entity" – A private nonprofit corporation with perpetual duration and in good standing, which is formed and operated in Colorado pursuant to the requirements of the Colorado Revised Nonprofit Corporation Act, and which files federal and state tax returns as a nonprofit corporation.
- (~~67~~) "Project Eligibility List" - The list of projects eligible for financial assistance from the Authority through the Drinking Water Revolving Fund (DWRf), as adopted and ~~from time to time~~ modified in accordance with Section 37 95 107.8(4), C.R.S.
- (~~78~~) "Projected Loan List" – The list of projects that has been partially scored in accordance with the criteria described in the Intended Use Plan. This list represents those projects that are reasonably anticipated to receive a binding commitment for a loan in the DWRf program. Projects may be moved from the Project Eligibility List to the Projected Loan List at any time during the year.
- (~~89~~) "Public Water System" (PWS) - A system for the provision to the public of piped water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals daily at least 60 days per year. Such term includes:
- (a) Any collection, treatment, storage, and distribution facilities under control of the supplier of such system and used primarily in connection with such system; and
  - (b) Any collection or pretreatment storage facilities not under such control, which are used primarily in connection with such system.
- (~~910~~) "Source Water Protection" - Structural or nonstructural source water protection activities done in addition to area delineation and contaminant assessment.
- (~~1011~~) "Sustainability Projects" - Projects and/or planning methodologies that promote sustainable drinking water systems through effective utility management and capacity development to improve the technical, financial, and managerial capacities of public water systems, as well as those that promote the conservation of natural resources, alternative approaches such as natural or "green" systems, innovative approaches and technologies, and the full life-cycle costs on infrastructure investments.
- (~~112~~) "Treatment Facilities" - Any devices or systems used in the collection, storage, treatment, transmission, diversion, or distribution of water intended for drinking water purposes.
- (~~1213~~) "Water Conservation" - Any structural or nonstructural water conservation measure that achieves a reduction in water consumption for a PWS or a publicly owned treatment works. Structural measures shall include installation of interior low-flow plumbing fixtures that are distributed and/or installed by a governmental agency or private nonprofit entity or that are funded in whole or in part by the governmental agency or private nonprofit entity and water meters that are funded and owned by the governmental agency or private nonprofit entity. Nonstructural measures shall

include but are not necessarily limited to: incentives for previously installed low-flow fixtures, leak detection or infiltration/inflow programs, public awareness, public education, and incentive water service charges.

- (~~13~~14) "Water Treatment Plant Residuals" - The accumulated solids, sludge, backwash water, and brine resulting from treatment of water for domestic use.
- (~~14~~15) "Waterborne Disease Outbreak" - The significant occurrence of acute infectious illness, epidemiologically associated with the ingestion of water from a public water system which is deficient in treatment, as determined by the appropriate local or State agency.

### **52.3 PURPOSE AND GENERAL POLICIES**

- (1) The purpose of the DWRF is to provide financial assistance to governmental agencies or private nonprofit entities for the construction of water projects for health and compliance purposes as defined above.
- (2) An annual Intended Use Plan (IUP) is required by the SDWA to provide information about how the state will assist communities with their drinking water needs. Included in the IUP is the Project Eligibility List, which is a comprehensive list identifying governmental agencies and private nonprofit entities with drinking water project needs, and the Projected Loan List, identifying prioritized PWS projects that are eligible for financial assistance from the DWRF. The project priority system is intended to establish priorities for the DWRF to protect and improve the health, safety, quality and reliability of drinking water supplies in Colorado. It is the policy of the Commission to maintain and improve the existing high quality standards for drinking water in the State by providing accessibility to the DWRF.
- (3) It is also the policy of the Commission to encourage consolidation and regionalization of drinking water systems and to promote source water protection and water conservation where practicable.
- (4) It is the policy of the Commission to promote beneficial use of water treatment plant residuals created by treatment processes of a PWS.
- (5) Any applicant for financial assistance from the DWRF must comply with policies and procedures and other requirements of the Authority.
- (6) Each year, after a public notice and comment period, the Commission will schedule a public hearing for approval of the IUP. After considering all pertinent comments, the Commission shall approve the IUP and adopt additions and modifications to the Project Eligibility List no later than December 31st of each year. The Division will establish a date each year for finalizing its proposal to the Commission for the IUP and Projected Loan List. After that date, any requests for changes must be transmitted directly to the Commission.
- (7) The Commission may amend the Project Eligibility List at any time throughout the year to include projects that it determines and declares to be emergency projects needed to prevent or address threats to public health or environment. In cases where the Commission determines the amendments will result in substantial changes to the Project Eligibility List, public notice and opportunity for comment on the proposed inclusion shall be provided.
- (8) All loan project proponents shall submit applications by deadlines established in the annual IUP. If it is determined that the DWRF lacks sufficient funds to cover loans for all eligible projects that are ready to proceed within the funding year, projects will be funded per section 52.6.

### **52.4 INTENDED USE PLAN**

The Division, in cooperation with the Division of Local Government (DLG) and the Authority, shall develop an annual IUP. ~~The Division shall recommend the IUP to the Commission each year for final agency action at a public hearing, and shall also provide for public notice and an opportunity to comment to comply with the SDWA.~~

The IUP shall include:

- (1) The Project Eligibility List and Projected Loan List of projects.
- (2) Descriptions of:
  - (a) Criteria and method used for distribution of funds
  - (b) Financial status of the DWRF program
  - (c) Short and long term goals of the DWRF program
  - (d) Amounts transferred between the DWRF and the Water Pollution Control Revolving Fund
  - (e) Set-aside activities and the percentage of the capitalization grant to be used
  - (f) How a state disadvantaged community program will be defined and utilized, if applicable; and
- (3) Any other material that may be required by the SDWA.

**52.5 PROCEDURES FOR IDENTIFYING PROJECTS AND ESTABLISHING THE PROJECT ELIGIBILITY LIST**

- (1) The Project Eligibility List is the comprehensive list of projects showing current and future needs of PWS improvements. Each year the Division shall, after consultation with interested persons and entities, including the DLG and Authority, review, update, and compile additions and modifications to the Project Eligibility List.

This Project Eligibility List shall be included in the IUP as an Appendix and, after a public notice and comment period, shall be presented to the Commission for final agency action at a public hearing.

- (2) Eligible Project Criteria

The Project Eligibility List shall be comprised of four project types, which were developed to emphasize public health, drinking water quality, and compliance for Colorado PWSs. Projects on the Project Eligibility List will be classified by type A, B, C, or D below. No consideration will be given to governmental agencies or private nonprofit entities that have violations caused by poor operation and maintenance procedures or are under an administrative order for violating reporting requirements. All loan projects shall submit applications by deadlines established in the annual IUP.

- (a) Type A includes the correction of a documented public health hazard as defined in the DWRF Rules.
- (b) Type B includes those projects where the system is beyond the useful/design life and is in need of equipment replacement, rehabilitation or repair, in order to maintain compliance or further the public health protection goals of the SDWA.

- (c) Type C includes those projects that will prevent or correct inadequate supply, storage and distribution issues. This also includes systems whose existing demand has exceeded current treatment plant design capacity.
- (d) Type D includes those projects that implement source water protection activities or water conservation and efficiency infrastructure applications.

Note: The Project Types are determined based on the annual eligibility survey process to identify and quantify drinking water infrastructure needs across the state. This information is in no way related to project prioritization.

**52.6 PROCEDURES FOR ESTABLISHING THE PROJECTED LOAN LIST AND DISTRIBUTING FUNDS**

- (1) The Projected Loan List shall be included in the IUP and, after a public notice and comment period, shall be presented to the Commission for final agency action at a public hearing. At minimum, the Projected Loan List shall identify:
  - (a) Name of the public water system
  - (b) Priority points and rank to the assigned project
  - (c) Project title and description
  - (d) Population of the PWS service area
  - (e) Amount of financial assistance requested
  - (f) Subsidy rate index
  - (g) Whether the project is within the fundable range
- (2) The Division shall rank each project on the Projected Loan List based on the priority score of each project, and projects shall be funded in priority order. Detailed scoring mechanisms shall be established in the IUP based on the following parameters:
  - (a) Drinking water quality and public health
  - (b) Affordability
  - (c) Compliance with the Colorado Primary Drinking Water Regulations
  - (d) Source water protection and conservation
  - (e) Sustainability
  - (f) Readiness to proceed
- (3) Projects on the Projected Loan List will be financed in priority order; however, exceptions for funding out of priority order shall be allowed for one or more of the following reasons:
  - (a) Certain governmental agencies or private nonprofit entities are not ready to proceed with the project;

- (b) Certain governmental agencies or private nonprofit entities do not wish to participate in the DWRF, or they have received funding from other sources;
  - (c) Certain governmental agencies or private nonprofit entities had an emergency situation occur during the funding year; or
  - (d) Certain governmental agencies or private nonprofit entities are not approved for funding because of technical, financial, or managerial deficiencies. (The Division will attempt to work with the governmental entity or private nonprofit entity to resolve the issue through the capacity development program.)
- (4) The Division shall identify the subsidy rate (if applicable) for each project on the Projected Loan List as identified in the Intended Use Plan.

**52.7 DISADVANTAGED COMMUNITIES PROCEDURES**

- (1) Under the SDWA, states are authorized to provide loans at or below market interest rates, including interest free loans, at terms not to exceed 30 years.
- (2) The DWRF may provide additional loan subsidies for governmental entities or private nonprofit entities that are determined to be “disadvantaged.” The definition/criteria of a disadvantaged community and the nature of the loan subsidies to be made available thereto shall be recommended for inclusion in the IUP by the Division and the Authority in consultation with the DLG.
- (3) While compiling projects on the Projected Loan List (utilizing the procedures listed in Section 52.6 above), the Division will identify the community projects that qualify for assistance under the Disadvantaged Communities Program in accordance with program definition/criteria.

**52.8 PLANNING GRANTS AND DESIGN AND DESIGN / ENGINEERING GRANTS**

The Division may provide planning grants and design and design / engineering assistance as outlined and approved in the IUP, which shall be developed according to Section 52.4.

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## **PROPOSED**

### **52.15 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE (AUGUST 10, 2015 RULEMAKING; EFFECTIVE DATE SEPTEMBER 30, 2015)**

Sections 25-8-202(1)(g) and (o); and Section 37-95-107.8(4), C.R.S. provide the specific statutory authority for adoption of the attached regulatory amendments. The Commission also adopted, in compliance with section 24-4-103(4) C.R.S. the following statement of basis and purpose.

#### **BASIS AND PURPOSE**

The Commission took action to modify Regulation #52 by: inserting private nonprofit entities where applicable throughout the document per Senate Bill 15-121; and revising the planning and design grant nomenclature to planning, design and engineering grants to align with the program grant terminology. The Commission adopted these revisions for two principal reasons:

1. To provide access to grant and loan funding for private nonprofit entities that is consistent with Senate Bill 15-121; and
2. To clarify the grant terminology under the Colorado Drinking Water Revolving Fund (DWRf) loan process.

Specific modifications to Regulation #52 on a section-by-section basis are described below.

Section 52.2 – Definitions – The Commission added definition (6) Private Nonprofit, and re-numbered definitions accordingly.

Section 52.2(7) – Definitions – Project Eligibility List - The Commission deleted “from time to time” to reflect a revision approved at its April 2014 hearing, which was inadvertently not reflected in the published regulation.

Sections 52.2(13); 52.3(1); 52.5(2); 52.6(3)(a),(b),(c), and (d); and 52.7 – Added the phrase “ or private nonprofit entity(ies)” following “governmental agency(ies)”.

Sections 52.3(2) – Added the phrase “ and private nonprofit entities” following “governmental agencies”.

Section 52.4 – Intended Use Plan – Deleted sentence “The Division shall recommend the IUP to the Commission each year for final agency action at a public hearing, and shall also provide for public notice and an opportunity to comment to comply with the SDWA.” This duplicates the information in 52.3 and is not necessary.

Section 52.7 – Disadvantaged Communities Procedures – “Procedures” was deleted from the heading to reflect a revision approved at the Commission’s April 2014 hearing, which was inadvertently not reflected in the published regulation.

Section 52.8 – The Commission renamed and reworded the section to reflect the two grant programs being (1) Planning Grants and (2) Design / Engineering Grants.

# Colorado Water Pollution Control Revolving Fund

## Intended Use Plan



**COLORADO**  
Department of Public  
Health & Environment



**COLORADO**  
Department of Local Affairs

# 2015



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# Introduction to the Colorado WPCRF

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The Water Pollution Control Revolving Fund (WPCRF) program provides financial assistance to governmental agencies for the construction of water projects that improve public and environmental health.

## State Revolving Fund (SRF) Partnership

The SRF program is administered by three partnering agencies. Colorado **statuestatute** directs the Colorado Department of Public Health and Environment, Water Quality Control Division (division), the Colorado Water Resources and Power Development Authority (authority), and the Colorado Department of Local Affairs, Division of Local Government (DLG), to jointly operate the SRF. The SRF agencies administer the programs in alignment with the same common goals approved and supported by the Water Quality Control Commission (WQCC) and the authority board of directors (authority board).

### SRF Agencies Responsibilities

Division	Authority	DLG
<ul style="list-style-type: none"><li>• Primacy agency.</li><li>• Program administration.</li><li>• Technical review and advisory.</li><li>• Federal reporting.</li></ul>	<ul style="list-style-type: none"><li>• Financial structure.</li><li>• Manages budgets and investments.</li><li>• Disburses funds</li><li>• Federal reporting.</li><li>• Provides state match.</li></ul>	<ul style="list-style-type: none"><li>• Financial and managerial assistance to systems.</li><li>• Coordinates funding collaboration via Funding Coordination Committee.</li><li>• SRF outreach.</li><li>• Conducts financial capacity assessments.</li></ul>

### Program Mission

- Dedicated to providing affordable financing to systems by capitalizing on all available funds to address the state's priority water related public health and water quality issues.
- Actively target and allocate affordable resources to projects and initiatives that result in significant public health and environmental benefits, while maintaining perpetual, self-sustaining revolving loan fund programs.
- Manage the funds in a manner to provide benefits for current and future generations.

The SRF agencies also partner with the state Funding Coordination Committee (committee) which includes staff from the division, authority, DLG, Colorado Water Conservation Board, USDA Rural Development, Colorado Rural Water Association and Rural Community Assistance Corporation. The committee facilitates the use of collaborative capital financing when appropriate.

## Intended Use Plans

The Intended Use Plan (IUP) is a federal Environmental Protection Agency (EPA) Capitalization Grant application requirement. The WPCRF IUP describes the SRF agencies plan to utilize funds to finance water quality infrastructure and support related program activities during calendar year 2015.



## Long Term Goals

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Colorado's long term goals aim to improve, maintain and/or restore water quality for priority water bodies. These goals include:

- Award SRF resources in accordance with the needs of Colorado citizens.
- Continue to implement and report the Clean Water State Revolving Fund Measurable Results Study to measure water quality improvements in receiving streams funded by the WPCRF.
- Support regional water quality management planning activities by development of water quality management plan strategies within the Statewide Water Quality Management Plan (SWQMP). Regional water quality management planning activities for point and nonpoint source management to protect and restore water is an important component of the effort to target WPCRF resources to the highest priority projects.
- Leverage funds in the WPCRF to maximize the amount of available funding for projected loans identified in the annual IUP's while continuing to reduce un-liquidated obligations.
- Maintain compliance with state and federal laws.
- Support nonpoint source site characterization and clean up through agreements between the division and the Department of Natural Resources, Division of Reclamation Mine and Safety.
- Provide nonpoint source control maintenance funding to protect the financial and environmental improvements made to date by the 319 Nonpoint Source Grant Program.
- Determine funding targets by obtaining surface water data sampling, analysis, and data assessment to identify watershed needs. Data goals include:
  - Conduct trend analyses on point and nonpoint sources of pollution to assess the need for reduction of those sources; and
  - Generate baseline water quality data for areas that have seen an increase in potential water quality impact (e.g., areas of population growth, areas where development may impact adjacent water quality through point sources or nonpoint sources).
- The State Funding Coordination Committee will strengthen its ability to identify and influence funding decisions to maximize use of all available State and Federal funds for the highest priority water related public health and environmental projects.
- Evaluate the current disadvantage community program to determine its alignment with the future LEAN state and whether or not the current definition meets the needs of Colorado communities.



## Short Term Goals

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Colorado's short-term goals align with the Water Pollution Control Program FY2013-2014 work plan:

- Complete the pre-qualification, engineering needs assessment, plans and specification self-certification criteria, and Handbook of Procedures (HOP) revisions for LEAN implementation.
- Attend conferences to provide program information to potential borrowers such as Colorado Rural Water Association, Colorado Municipal League, Special District Association's and the Colorado Water Congress's annual conferences.
- Maximize use of all WPCRF Capitalization Grant funds as directed by the federal Environmental Protection Agency (EPA).
- Identify, select, and implement an online integrated system that supports eligibility survey, application processes, and project management for Drinking Water Revolving Fund (DWRF) and

WPCRF that provides better program coordination and transparency between staff and stakeholders.

- Encourage borrowers to address discharges of pollutants to segments designated as impaired for such pollutants.
- The division will continue to document environmental benefits in EPA annual report.
- After receipt of the EPA allotment formula and guidance, the authority, in conjunction with the division, will submit an application for the annual capitalization grant funds in a manner that maximizes effective and timely use of funds while reducing un-liquidated obligations.

## Water Pollution Control Revolving Fund Project List

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**Appendix A: The WPCRF Project Eligibility List** is an inventory of projects that completed an eligibility survey in 2014. The eligibility survey is released annually to potential borrowers to capture 20 year capital improvement needs. Appendix A includes the name of the public entity, a description of the project, population, the estimated cost of the project, potential green infrastructure type and cost. Borrowers can add projects to Appendix A by completing an eligibility survey in June of each year. The list shows the 20 year construction needs for all identified eligible water quality projects including point source, non-point source (NPS), stormwater and source water assessment projects (SWAP).

**Appendix B: The Project Priority / Fundable List** is an inventory of projects that are eligible to receive or have recently received a loan from the WPCRF. This list includes anticipated loan terms, interest rate and type of loan, project description and green infrastructure categories. Projects in Appendix B have a projected construction start of no more than 18 months at the time of eligibility survey submission in June. Projects listed in Appendix B have been assigned a preliminary ranking score; however, this score is subject to change based on additional information from potential applicants and further prioritization. An active copy of Appendix B is maintained on the division's website.

## Criteria, Methods and Evaluation for WPCRF Distribution

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This section describes the application process including the prioritization criteria and authority board approval action, how policies apply to the allocation of loan proceeds, and the proposed Federal Fiscal Year (FFY) 2015 federal bill requirements, such as Green Project Reserve; principal forgiveness; Davis-Bacon Act; and American Iron and Steel; Architectural and Engineering procurement requirements; Generally Accepted Accounting Principles (GAAP); and project cost and effectiveness evaluation.

Loan applications are accepted seven times a year and are scored based on the ranking system found in Attachment I: Colorado WPCRF Priority Scoring Model.

### Application, Prioritization and Approval

Applicants should coordinate with their assigned division project manager to determine the appropriate application submittal schedule to ensure board action and loan execution in a timely manner. The table below lists loan application deadlines, the type of loan, and the authority board meeting where the application is presented for approval.



Application Deadlines	Loan Type	Authority Board Meetings
January 15, 2015	Direct loan Leveraged loan (bond issue spring)	March
February 15, 2014/2015	Direct loan	April
April 15, 2015	Direct loan	June
June 15, 2015	Direct loan Leveraged loan (bond issue fall)	August
August 15, 2015	Direct loan	October
October 15, 2015	Direct loan	December
November 15, 2015	Direct loan	January

*All loans are subject to available funds and prioritization if needed*

The prioritization of applications will only occur if funding requests exceed available funds.

**Attachment I: Colorado WPCRF Priority Scoring Model** will be used for the prioritization of applications. Loan applicants that do not prioritize may be considered at the next applicable loan application date at the applicant's request.

The SRF agencies may determine when applications be presented for approval at later authority board meetings depending on the volume of applications submitted at any one application deadline. Delays will not impact the applicant's prioritization ranking, but rather are meant to assist the SRF program workload balance. The determination will be based on the number of applications received, the applicant's timeframe for procuring funding and applicant's construction timeline.

All loan approvals are valid for 18 months. Prioritized and approved leveraged loans that do not execute their loan within 18 months will be reprioritized upon the next application deadline if necessary.

### Allocation of Loan Proceeds

The SRF program follows policies set by the WQCC, authority board and SRF committee that dictate use of loan proceeds. Proceeds from loans and administration fees will be used to benefit communities through Planning and Design Grants and Disadvantaged Community Loans.

### Capitalization Grant

For FFY15, and consistent with the 2014 appropriations language, the following requirements may apply to each state receiving WPCRF capitalization grants:

#### Green Project Reserve (GPR)

Historically, the capitalization grant agreement has required all SRF programs to direct a portion of their capitalization grant toward projects that address green infrastructure, water efficiency, energy efficiency, or other environmentally innovative activities. If the 2015 appropriation grant/guidance requires a GPR set-aside, the incentive below will be offered.

Projects that implement eligible green components equal to, or greater than, 20 percent of the total project cost will receive a reduced loan interest rate of 0 percent for up to a maximum of \$2.5 million. Leveraged loan projects over \$2.5 million will only be eligible for the reduced interest rate on the first \$2.5 million. This incentive will only be offered until Colorado's GPR requirement has been met. These terms are subject to final action by the authority board and are not guaranteed terms until such time.

In the event that the 2015 appropriation guidance does not require additional GPR set-asides, the incentive will only be available for any remaining unobligated GPR funds.

The division has identified and included potential green projects in **Appendix A: Project Eligibility List** and **Appendix B: Project Priority / Fundable List**. These projects have been identified by *green type* and the estimated dollar amount. The division will utilize the definition for *categorical* and business case as provided by the EPA in the appropriation guidance. The division will review all business cases to determine GPR eligibility and post them on the division's website.

### Principal Forgiveness Loans

In 2014, the WPCRF capitalization grant appropriation required that not less than 20 percent, but no more than 30 percent of funds shall be used by the state to provide additional subsidy to eligible recipients in the form of principal forgiveness, negative interest loans, grants, or a combination of these. However, this requirement only applied to the portion that exceeded \$1 billion nationally, which represented approximately 8 percent (\$915,523) of Colorado's 2014 capitalization grant.

The SRF programs are in the process of implementing the LEAN future state of the programs. Part of that process recommends use of the additional subsidy to be issued for the planning and engineering phase for SRF borrowers. This will provide the opportunity to assist with more planning and engineering monies to those who otherwise could not afford the project. Further, it will position projects to more quickly move into construction prior to appropriating additional SRF funding. Utilization of additional subsidies for planning and engineering purposes, the related criteria and terms will be set solely by the authority board. In the event this recommendation is not approved, the following will be applied for any available additional subsidy in 2015:

The state intends to distribute the additional subsidy in the form of principal forgiveness per **Attachment II: Application of Additional Subsidization**. In 2015, principal forgiveness for the WPCRF

will be distributed one time at the October 15, 2015 application deadline. The balance of the funds remaining beyond the required additional subsidy will be made available through loans without principal forgiveness.

#### Davis-Bacon and Related Acts

The requirements of Section 1450(e) of the federal SDWA (42 U.S.C. 300j-9(e)) regarding prevailing wage rates shall apply to the construction of treatment works carried out in whole or in part with assistance made available by a state revolving loan fund as authorized by section 1452 of the federal act (42 U.S.C. 300j (12)).

#### American Iron and Steel (AIS)

On January 17, 2014 Congress passed the American Iron and Steel (AIS) requirement as part of the EPA Consolidated Appropriations Act for iron and steel products used in SRF projects for construction, alteration, maintenance or repair. Projects with loan execution and/or plans and specification approval on or after January 17, 2014 and prior to October 1, 2014, are subject to AIS.

The statute permits EPA to issue waivers for a case or category of cases where EPA finds (1) that applying these requirements would be inconsistent with the public interest, (2) iron and steel products are not produced in the US in sufficient and reasonably available quantities and of a satisfactory quality, or (3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent. States are allowed, on behalf of the borrower, to apply for waivers of the AIS requirement directly to EPA Headquarters. The WPCRF program will refer to compliance guidance issued by the EPA which can be found at the following website.

#### Debarment, Suspension, and Other Responsibility Matters

Recipients of EPA financial assistance agreements must provide certification that they are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency. The borrower must also ensure that any consultants, prime contractors, subcontractors, vendors, suppliers and manufacturers meet the requirements and are not excluded from covered transactions by any Federal department or agency.

#### Prohibition Against Participation of Listed Violating Facilities

Recipients of EPA financial assistance agreements and prime contractor must ensure that no portion of the work required by the prime contract will be performed in a facility listed on the Environmental Protection Agency list of violating facilities on the date when the contract is awarded. The work must comply with the Clean Air Act and Clean Water Act, and comply with clean air and clean water standards at the facilities in which the contract is being performed.

#### Disadvantaged Business Enterprise

Recipients of EPA financial assistance agreements are required to seek, and encouraged to utilize small, minority, and women-owned businesses for the procurement needs on projects designated for equivalency. The goal of the Disadvantaged Business Enterprise (DBE) program is to ensure nondiscrimination in the award of contracts.

#### Williams-Steiger Occupational Safety and Health Act

Recipients of EPA financial assistance agreements are required to ensure that all contractors working on the construction of projects are subject to the provisions of the Williams-Steiger Occupational Safety and Health Act of 1970.

#### Archeological Discoveries

Recipients of EPA financial assistance agreements are required to ensure that archeological discoveries are protected through the appropriate procedures.

#### Environmental Assessment - Compliance with the National Environmental Policy Act

All proposed actions funded by the State Revolving Fund program must undergo an environmental review process to assess compliance with the intent of the National Environmental Policy Act (NEPA) and State Review Process (SERP). The State, borrower, engineer, contractor and subcontractors have a duty to cooperate fully with federal and local governments and all other concerned public and private organizations, to use all practical means and measures including financial and technical assistance, and to create and maintain conditions under which man and nature can exist in productive harmony and promote the general welfare of the public.

#### Architectural and Engineering Services Procurement

Recipients of EPA financial assistance agreements are required to utilize qualification based selection methods for architectural and engineering (A/E) services on projects designated for equivalency. It is recommended that all projects pursuing State Revolving Fund loan funds to utilize a procurement methodology that meets or exceeds the A/E procurement requirements of 40 U.S.C. 1101 et seq.

#### Generally Accepted Accounting Principles

Recipients of EPA financial assistance agreements are required to maintain project accounts according to Generally Accepted Accounting Principles (GAAP). This provision requires borrowers to use standards relating to the reporting of infrastructure assets.

#### Fiscal Sustainability Criteria

Recipients of EPA financial assistance agreements are required to develop and implement a fiscal sustainability plan (FSP), or certify that it has developed and implemented such a plan by the conclusion of the project. The FSP must address an inventory of critical assets; an evaluation of the condition and performance of inventoried assets; a certification that the recipient has evaluated and will be implementing water and energy conservation efforts; and a plan for maintaining, repairing, and as necessary, replacing the treatment works, and a plan for funding such activities.

#### Cost and Effectiveness Evaluation

Beginning October 1, 2015, recipients of EPA financial assistance agreements are required to study and evaluate the cost and effectiveness of the processes, materials, techniques, and technologies to carry out the proposed project.

The above requirements are subject to further interpretation by the EPA and will be implemented consistently with any formal guidance issued by the agency.

#### Miscellaneous

EPA Capitalization Grants may be allocated to any or all projects based on the amount of available grant and re-loan funds and at the direction of EPA.

The proposed payment schedule using FFY15 Water Pollution Control funds will be included in the application for the capitalization grant. The payment schedule identifies the anticipated amount of EPA Automated Clearinghouse (ACH) draws from the capitalization grant and state dollars to be deposited into the WPCRF.

The State will provide the necessary assurance and certifications as part of the Capitalization Grant Agreement and Operating Agreement between the state and EPA.

In accordance with federal statutes, states are authorized to provide loans at or below market interest rates, including interest free loans, at terms not to exceed the lesser of 30 years and the projected useful life (as determined by the State) of the project to be financed with proceeds of the loan.

### Capitalization Grants and Re-loan Funds

The federal capitalization grant will primarily be used to fund all loan applicants first, subject to program constraints, to assist with reducing any unliquidated obligations. Re-loan funds will generally be allocated after federal monies have been issued.

### Disadvantaged Communities (DAC) Loans

A DAC is defined as a governmental agency that has having a population of 5,00010,000 or less with a median household income (MHI) that is 80.0% or less than the state MHI; a 24-month average county unemployment rate of more than 2 percent; and an annual average county population change over the previous ten year period less than 5%, and must be a governmental agency. In accordance with federal statutes, states are authorized to provide loans at or below market interest rates, including interest free loans, and terms up to 20 years.

- EPA capitalization grant funds or re-loans will be the source of capital used to fund DAC loans. To the maximum extent practical and based on available data, projects eligible to receive the reduced interest rate will be identified on the **Appendix B: Project Priority / Fundable List**.
- MHI as a percentage of the statewide MHI will be used to distribute funding to governmental agencies that are disadvantaged in accordance with two categorical affordability tiers.

DAC	MHI	Loan Amount	Loan Terms
Category 1	MHI between 61.0% - 80.0%	up to \$2.5 million per project	Loan terms up to <u>2030</u> years * Interest rate is established at 50% of the direct loan rate**
Category 2	MHI less than 61.0%	up to \$2.5 million per project	Loan terms up to <u>2030</u> years * Interest rate is established at 0% **

\*Not to exceed the project's design life.

\*\* The authority board determines all interest rates on or before December 31<sup>st</sup> each year for the following calendar year.

- DAC status will be determined based on:
  - The most current American Community Survey (ACS) data at the time the pre-qualification is submitted.
  - The most recent complete year release of 24-month average county unemployment data from the Bureau of Labor Statistics (BLS) (2014 data valid until March 2015).
  - The most recent intercensal population trend estimate from the State Demography Office, Department of Local Affairs (2013 data valid until fall 2015).
  - The DAC status determination will be valid for a period of 18 months. If the applicant does not execute the loan with DAC terms during the 18 months, the most current ACS data will be referredutilized to determine DAC status.

Note: All loan requests exceeding the direct loan limit of \$2.5 million will not be eligible for a DAC loan. If the authority board decides to utilize additional subsidy for capital construction, **Attachment II: Application of Additional Subsidization** will be used.

### Planning and Design Grants

The intent of the planning and design grants is to assist WPCRF applicants with costs associated with complying with program requirements such as: engineering reports, environmental assessments, engineering design documents, energy audits and legal fees associated with the formation of a legal entity capable of receiving WPCRF assistance.

As mentioned in the principal forgiveness loan section previously, the authority board is considering a shift in the use of additional subsidy for FFY15 to fund planning activities on an individual project basis. In the event additional subsidy is authorized for this purpose, the amount and criteria for planning and design grants will be set per the authority board. If the authority board determines to utilize the same planning and design grant criteria as identified in the 2014 IUP, the following criteria will be used:

- Project is on the current year WPCRF **Appendix A: Project Eligibility List** or will be added to the subsequent year's project eligibility list,
- Population is 5,000 or less, and
- MHI is 80.0 percent or less than the statewide MHI. Colorado's MHI is \$58,244 amounting to 80 percent MHI at \$46,595 according to the American Community Survey 2008-2012.
- A local match of 20 percent is required for all planning and design grants. Planning and design grant invoices will be paid at no more than an 80:20 ratio.

The ranking system is located in **Attachment III: Colorado WPCRF Planning & Design Grant Prioritization**. Governmental agencies must meet the following Planning and Design Grant criteria.

One grant in the amount of up to \$10,000 will be awarded per community, per project. An applicant may not receive more than one planning and design grant for the same project. Additional funds may be allocated for planning and design grants at the discretion of the authority board.

Grant applications will be accepted between January 1 and January 31 of each year. Starting February 1, all applications will be prioritized according to the criteria set forth in **Attachment III: Colorado WPCRF Planning & Design Grant Prioritization** and awards will be made in rank order until all grants have been expended. If there are more grant funds than applications, funds will be disbursed on a first come first serve basis. If the entity does not seek funding through the WPCRF, they may be requested to repay the grant or seek a waiver of the repayment requirement from the authority board.

These planning and design grant funds are provided from the administrative fee account from income received from WPCRF loans.

### Special Projects

Colorado Governor John Hickenlooper implemented a state agency initiative to apply customer-focused process improvements to state services (commonly known as LEAN) with the purpose of increasing efficiency and effectiveness while measuring such improvements. The SRF agencies are utilizing the LEAN concept to improve SRF program processes and the borrower's experience. LEAN is defined as a

systematic approach of continuous improvement, based on what the customer needs are through an effective and efficient business process. The WPCRF program is anticipating implementing a portion of the future state by January 1, 2015 and full LEAN implementation is anticipated by the end of the 2015 calendar year.

The division and authority will work together to support a regional study of the pending revisions to the ammonia criteria. New EPA ammonia criteria, based on predominantly eastern and Midwestern species' sensitivity, will result in very stringent permit effluent limits. Neighboring states including Utah and Montana are interested in a cooperative effort to collect water quality and aquatic life data that is more representative of conditions in the arid west.

The division and authority will work together to evaluate the impacts of implementing current temperature standards into discharge permits. Temperature standards were adopted by the commission in 2007. As they have been implemented throughout Colorado, treatment technologies related to sewage heat recovery need to be evaluated so that guidance can be developed to assist with compliance schedule development and discharger specific variance efforts where necessary.

The division and authority will work together to develop and implement nutrient nonpoint source management outreach activities. Nutrient nonpoint source management will rely on a strong public outreach message with the backing of local partners. A statewide public outreach program utilizing all 76 conservation districts to inform local landowners is envisioned. Priority geographic areas for agricultural nutrient management will be targeted for additional educational programs and on-farm demonstration and measurement of best management practices.

The division will request funds from the authority for continued support of nonpoint source maintenance so that previous 319 nonpoint source grant investments made for clean up and reclamation are protected.

### Emergency Procedures

The WQCC may amend **Appendix A: Project Eligibility List** and **Appendix B: Project Priority / Fundable List** at any time throughout the year to include projects that it determines and declares to be emergency projects needed to prevent or address threats to public health. In cases where the WQCC determines the amendments will result in substantial changes to **Appendix A: Project Eligibility List** or **Appendix B: Project Priority / Fundable List**, public notice and opportunity for comment on the proposed inclusions shall be provided.

## Financial Status of the WPCRF

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As of June 30, 2014, 81 WPCRF direct loans totaling \$76,104,066, 99 WPCRF leveraged loans totaling \$844,218,530, and 44 disadvantaged community loans totaling \$30,839,818, were administered or are currently being administered by the state. In addition, as of December 31, 2011, 12 American Recovery and Reinvestment Act loans including principal forgiveness totaling \$30,093,792 were administered by the state. The total loan amount for the 236 loans is \$981,256,206.

The FFY14 capitalization grant was awarded on April 21, 2014. The EPA allotment was \$11,216,000 and the state match was \$2,243,200 for a total of \$13,459,000. The state is unable to anticipate the

amount and funding levels for the FFY15 capitalization grant. For appendices and table purposes the FFY14 amounts were assumed for FFY15 and may or may not be accurate.

The total amount of federal capitalization grant awards through FFY14 available for loans and program administration is \$315,826,923. Of this amount, \$306,219,931 has been obligated through June 30, 2014, for loans, seen in Appendix C and Appendix D, and \$11,278,100 has been allocated for program administration. The amount of unobligated grant funds as of June 30, 2014 is \$9,606,992.

**Attachment IV: Cash Draw Proportionality Percentages**, lists the open projects funded through June 30, 2014 with capitalization grant funds and the ratio of federal funds that are drawn.

Re-loan funds of approximately \$98,211,710 are expected to be available for the remainder of the 2014 calendar year and during the 2015 calendar year. Approximately \$113,702,676 of grant and re-loan funds will be available for loans for the remainder of 2014 and in the year 2015. Because Colorado leverages the fund, the 2015 loan capacity of the WPCRF should be approximately \$121,730,108, as seen in **Attachment V: WPCRF Calculation of Loan Capacity**. To leverage the available grant and re-loan funds for 2015, the authority would anticipate issuing \$20 to \$50 million in Clean Water Revenue Bonds for a term of twenty years plus the construction period at estimated interest rates of 2 to 4 percent to provide loan rates (currently 70 percent of market) as set by the authority board on or before the December 2014 board meeting.

The WPCRF currently charges up to a 0.8 percent administrative fee on all loans based on the original principal amount of the loan. On direct loans, more of the fee is front loaded because there are not enough interest charges on the backend to charge a full 0.8 percent on the original principal. It is estimated that \$5,382,998 will be generated in loan fees in 2014 and \$5,248,774 in 2015. Up to \$1 million of WPCRF administrative fees collected from loans may be transferred to the DWRF to pay for administrative costs of the DWRF.

**Appendix E: Funds Available to the WPCRF Loan Program** identifies the revenues and expenses from the administrative fee account that are outside of the revolving loan fund. The values in this table may not reconcile differences between cash and accrual accounting methods. In consultation with the WQCC and the authority board, the division intends to pursue the option of using funds generated from the loan fee to fund eligible water quality activities as provided for in EPA's CWSRF 06-01 Policy Memo regarding Guidance on Fees Charged by States to Recipients of Clean Water State Revolving Program Assistance. These activities may include, but are not limited to, water quality monitoring, developing total maximum daily loads, water quality restoration plans, and management of other state financial assistance programs for water quality related purposes. Additionally, administrative fee income will be used to fund planning and design grants.

The proposed payment schedule using FFY15 WPCRF funds will be included in the application for the capitalization grant. The payment schedule identifies the anticipated amount of EPA ACH draws from the capitalization grant and state dollars to be deposited into the WPCRF.

### **Transfer Activities**

As authorized by Congress, Section 302 of the SDWA Amendments authorizes a state to transfer up to 33 percent of the amount of a fiscal year's DWRF program capitalization grant to the Clean Water State

Revolving Fund program or an equivalent amount from the Clean Water State Revolving Fund program to the DWRF program. In turn, 33 percent cumulative DWRF capitalization grants for FFY97 through FFY14 (total DWRF grants at \$290,414,600) may be reserved from the DWRF and transferred to the WPCRF and this same amount may be transferred from the WPCRF to the DWRF. **Attachment VI: Net Funds Available for Transfer** itemizes the amount of net SRF funds available for transfer between the two programs.

If a transfer is pursued, a stakeholders group will be notified of the state's intent to transfer funds. Based on the WQCC and the Governor's approvals, a transfer of no more than \$10 million will be made in 2015. The exact amount of the transfer will be determined after the January 15 or June 15 application deadlines and the WPCRF and DWRF loan demands are determined. None of the transferred funds will be used for administrative purposes.

It is estimated that a transfer of \$5 - \$10 million from either the WPCRF to the DWRF will reduce the revolving level of that program by \$1 - \$2.5 million/year over the next 20 years. The DWRF set-asides would not be affected and the remainder of the allocation would be deposited into the revolving fund.

Any transfer would be deposited in the appropriate program and only available for loans. With the statutory language approved by the Colorado State General Assembly in 2002, any transfers can be made from one account to the other with all of the appropriate approvals.

### Cross-Collateralization Activities

Beginning in the calendar year commencing on January 1, 1999, the WPCRF, along with the DWRF, cross-collateralized or pledged moneys on deposits in one fund to act as additional security for bonds secured by moneys on deposits in the other fund. This mechanism was utilized for both programs in 1999 and, as a result, the bond ratings for both programs were upgraded to AAA by all three bond rating agencies. This upgrade translates to lower interest rates and thereby more savings to the borrowers of both programs.

## Public Review and Comment

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On September 8, 2014, the WQCC published this information and held an administrative action hearing on October 14, 2014, at which time the state's 2015 IUP, including the 2015 WPCRF project eligibility list and project priority / fundable list, was approved. Each year, the IUP will be amended to include additional WPCRF projects and other appropriate changes. The division will continually seek public review and comment for the proposed list of eligible projects and IUP brought before the WQCC for annual approval. During the annual project eligibility list survey process the division contacted governmental agencies to identify potential projects for the ~~2016~~2015 WPCRF IUP.

## Attachment I: Colorado WPCRF Priority Scoring Model

Water Quality Improvement Criteria	Points
Project addresses a water quality impairment identified in the 303(d) list or a groundwater standard that has been exceeded	40
Project will implement an approved TMDL (total maximum daily load) <ul style="list-style-type: none"> <li>• 1 TMDL</li> <li>• 2 TMDLs</li> <li>• 3 or more TMDLs</li> </ul>	50 75 80
Project applies BMPs to mitigate against erosion, sedimentation, pollution runoff, including: <ul style="list-style-type: none"> <li>• Creation of riparian buffers, floodplains, vegetated buffers, slope stabilization and additional stream restoration methods</li> <li>• Supports wetland protection, restoration or creation by means of constructed wetlands</li> </ul>	10 10
Project corrects Individual Sewage Disposal Systems or exfiltration for sewers shown to be polluting either surface or groundwater and mitigates a public health emergency and/or a confirmed repeated contamination of a supply source by E. coli, fecal coliform or nitrate above established standards	50
Financial / Affordability Criteria	Points
Median Household Income (MHI) of service area* <ul style="list-style-type: none"> <li>• &lt; 40.0% of State MHI</li> <li>• MHI ≥40.0% to &lt; 60.0% of State MHI</li> <li>• MHI ≥60.0% to &lt; 80.0% of State MHI</li> </ul>	25 15 5
*percent of MHI will be calculated using the same method in Section E (5i).	
User Fees: Proposed Fees per single family equivalent (SFE) as a percent (%) of median household income <ul style="list-style-type: none"> <li>• Rates are more than 1.5% of service area's MHI</li> <li>• Rates are between 1% and 1.5% of service area.</li> <li>• Rates are less than 1% of service area's MHI</li> </ul>	25 15 5
Indebtedness* = $\frac{\text{existing debt} + \text{proposed debt}}{\text{SFE}^{**}}$ <p style="text-align: center;">MHI</p> <ul style="list-style-type: none"> <li>• &gt; 5% of area MHI</li> <li>• Between 2% and 5% of area MHI</li> <li>• Below 2%</li> </ul>	25 15 5
*Indebtedness is based on the amount of sewer debt only	
$**SFE = \frac{\text{Total Wastewater Flow from Service Area (average gal /day)}}{\text{Average Wastewater Load from one SFE (average gal/ day)}}$	
Average occupancy= 2.55/SFE; Average daily wastewater flow - 75 gallons/person/day	
Population: <ul style="list-style-type: none"> <li>• Less than 1,000 population</li> <li>• 1,000 to 4,999 population</li> </ul>	25 15

<ul style="list-style-type: none"> <li>• 5,000 to 10,000 population</li> </ul>	5
<b>Permit Compliance</b>	<b>Points</b>
Project is designed to maintain permit compliance or meet new permit effluent limits	40
Project addresses a facility's voluntary efforts to resolve a possible violation and will mitigate the issuance of a consent order or other enforcement action	25
Project addresses an enforcement action by a regulatory agency and the facility is currently in significant non-compliance	15
<b>Sustainability / Green Project Reserve (GPR)</b>	<b>Points</b>
<p>Project incorporates one or several of the following planning methodologies:</p> <ul style="list-style-type: none"> <li>• Regionalization and consolidation</li> <li>• Promoting sustainable utilities and/or communities through <ul style="list-style-type: none"> <li>○ Fix it first</li> <li>○ Asset management planning</li> <li>○ Full cost pricing</li> <li>○ Life cycle cost analysis</li> <li>○ Evaluation of innovative alternatives to traditional solutions</li> </ul> </li> <li>• Conservation easements and/or land use restrictions</li> </ul>	5 (for one or more)
<p>Project incorporates Green Project Reserve Components at minimum of 20% of total project costs:</p> <ul style="list-style-type: none"> <li>• Green infrastructure</li> <li>• Water efficiency</li> <li>• Environmentally innovative</li> <li>• Energy efficiency</li> <li>• Project is categorically eligible for the GPR and does NOT require a business case (bonus points)</li> </ul>	10 10 5 5 5
<b>Readiness to Proceed</b>	<b>Points</b>
<p>Project has secured one or more of the following:</p> <ul style="list-style-type: none"> <li>• Request for PELs submitted</li> <li>• Site application submitted and approved</li> <li>• Plans and specification submitted</li> <li>• Plans and specification approved</li> </ul>	5 (for one or more)
<p>Project implements one or more of the following planning instruments:</p> <ul style="list-style-type: none"> <li>• Watershed management plan</li> <li>• Source water protection plan</li> <li>• Nonpoint source management plan</li> <li>• Approved 305(b) Report Category 4b designation</li> <li>• Nutrient management plan</li> <li>• Comprehensive land use planning</li> </ul>	5 (for one or more)
Project has funding secured by multiple financial assistance provider(s)	10

## Attachment II: Application of Additional Subsidization

Additional Subsidization	
Additional Subsidy Points (Affordability Score + Water Quality Improvement Score)	Percent of Project Costs as Principal Forgiveness*
≥ 130 points	80% principal forgiveness
100 - 129 points	60% principal forgiveness
<99 points	40% principal forgiveness

\*No one project can receive more than 50 percent of total amount of funds that have been set aside for additional subsidization for that fiscal year. For example, if Colorado has set aside \$2 million for FY2014 to be provided as additional subsidization, no project can receive more than \$1 million in principal forgiveness.

## Attachment III: Colorado WPCRF Planning and Design Grant Prioritization

Financial/Affordability	Points
Median Household Income (MHI) of service area	
• < 40.0% of state MHI	30
• MHI ≥40.0% but <60.0% of state MHI	20
• MHI ≥60.0% but <80.0% of state MHI	10
Population:	
• Less than 500	30
• 500 to 1,000 population	20
	10

• 1,001 to 5,000 population	
Water Quality Improvement	Points
Project will correct an identified water quality impairment of a water body that is included on the 303(d) list.	25
Project applies BMPs to mitigate against erosion, sedimentation and pollution runoff.	5
Project corrects Individual Sewage Disposal systems shown to be polluting either surface or groundwater.	15
Permit Compliance	Points
Project is designed to maintain permit compliance or meet new permit effluent limits.	15
Project addresses a facility's voluntary efforts to resolve a possible violation and will mitigate the issuance of a consent order or other enforcement action.	10
Project addresses an enforcement action by a regulatory agency and the facility is currently in significant non-compliance.	5
Sustainability	Points
Project implements sustainable measures, such as fix it first methodology, development of an asset management plan, or regionalization and consolidation.	5
Project will generate and/or utilize reclaimed water for direct re-use, or correct a water loss issue	10

In the event that two or more projects are tied, the highest financial/affordability score will be used to break the tie. Should a tie between projects remain after sorting by the affordability, the water quality improvement section will be used and the tied projects will be ranked from highest to lowest for each respective category in that section. If the tie cannot be broken through the above process, permit compliance will be used with the final tie breaker being the highest percentage of match to the total planning and/or design cost.

## Attachment IV: Cash Draw Proportionality Percentages- WPCRF Grant Funded Loans as of June 30, 2014

LL-Leverage Loan / DL-Direct Loan

Project	Loan Execution Date	Total Loan	Federal Share	Actual State Match Ratio *	Adjusted State Match Ratio**	State Share	Additional Subsidization
Glenwood Springs, City of (LL)	05/13/10	\$ 31,460,100.00	\$ 8,200,500.00	20.00%	20.00%	\$ 1,640,100.00	
Cheraw, Town of (DL)	10/21/10	\$ 405,000.00	\$ 389,778.00	3.91%	20.00%	\$ 15,222.00	\$ 405,000.00
Mountain View Villages W&SD (DL)	10/21/10	\$ 288,601.00	\$ 281,092.00	2.67%	20.00%	\$ 7,509.00	\$ 288,601.00
Empire, Town of (DL)	12/20/10	\$ 499,995.00	\$ 466,337.00	7.22%	20.00%	\$ 33,658.00	\$ 499,995.00
Olathe, Town of (DL)	4/8/2011	\$ 500,000.00	\$ 434,453.05	15.09%	20.00%	\$ 65,546.95	\$ 500,000.00
Fountain SD (LL)	11/3/2011	\$ 6,860,302.80	\$ 5,001,514.00	20.00%	20.00%	\$ 1,000,302.80	
Windsor, Town of (LL)	11/3/2011	\$ 3,110,543.20	\$ 2,477,716.00	20.00%	20.00%	\$ 495,543.20	
Naturita, Town of (DL)	6/4/2012	\$ 700,000.00	\$ 668,878.60	4.65%	20.00%	\$ 31,121.40	\$ 500,000.00
Rocky Ford, City of (DL)	11/20/2012	\$ 1,750,000.00	\$ 1,477,861.60	18.41%	20.00%	\$ 272,138.40	\$ 192,436.00
Huerfano County Gardner W&S PID (DL)	12/5/2012	\$ 250,000.00	\$ 223,772.07	11.72%	20.00%	\$ 26,227.93	\$ 250,000.00
Olney Springs, Town of (DL)	1/31/2013	\$ 573,000.00	\$ 503,404.72	13.82%	20.00%	\$ 69,595.28	\$ 250,000.00
Cokedale, Town of (DL)	5/1/2013	\$ 250,000.00	\$ 212,384.98	17.71%	20.00%	\$ 37,615.02	\$ 250,000.00
Hillcrest W&SD (DL)	5/2/2013	\$ 639,000.00	\$ 538,034.55	18.93%	20.00%	\$ 101,865.45	

Pueblo, City of (LL)	5/15/2013	\$ 1,563,694.00	\$ 1,308,489.50	19.50%	20.00%	\$ 255,204.50	
Project	Loan Execution Date	Total Loan	Federal Share	Actual State Match Ratio *	Adjusted State Match Ratio**	State Share	Additional Subsidization
South Adams County W&SD (LL)	5/24/2013	\$ 591,500.00	\$ 499,557.04	18.40%	20.00%	\$ 91,942.96	
Fairways MD (DL)	6/17/2013	\$ 1,227,736.00	\$ 1,029,666.14	19.24%	20.00%	\$ 198,069.86	
Mansfield Heights W&SD (DL)	6/28/2013	\$ 1,916,075.00	\$ 1,602,601.61	19.56%	20.00%	\$ 313,473.39	
Larimer County LID 2012-1 (RGE) (DL)	5/6/2014	\$ 4,179,047.20	\$ 2,336,706.00	20.00%	20.00%	\$ 467,341.20	
South Sheridan WSS&SDD (DL)	5/6/2014	\$ 22,191,850.40	\$ 12,076,542.00	20.00%	20.00%	\$ 2,415,308.40	
Fowler, Town of (DL)	6/30/2014	\$ 1,400,000.00	\$ 1,166,620.00	20.00%	20.00%	\$ 233,380.00	
Larimer County LID 2013-1 (BE)	6/30/2014	\$ 970,341.00	\$ 808,585.16	20.00%	20.00%	\$ 161,755.84	
Cokedale, Town of (DL#2)	6/30/2014	\$ 160,000.00	\$ 133,328.00	20.00%	20.00%	\$ 26,672.00	
Total		\$ 81,486,785.60	\$ 41,837,822.02			\$ 7,959,593.58	\$ 3,136,032.00

\*Actual state match drawn ratio prior to implementation of correct proportionality (for loans executed prior to January 1, 2014 -- loans executed after January 1, 2014, were allocated and draw the correct ratio).

\*\*Beginning January 1, 2014 and going forward, state match ratio drawn on all loan project requisitions. In January, 2014, the Authority implemented new procedures to meet the EPA proportionality requirement for project/loan grant draws.

The remaining undrawn loan amounts of all loans funded with 100% grant funds prior to January 1, 2014 were adjusted to meet the proportionality requirement beginning in January 1, 2014 and will draw at the correct federal/state match ratio until complete.

**Attachment V: WPCRF**  
**Calculation of loan capacity for 2015**  
**As of June 30, 2014**

Capitalization grants for loans through 2014	\$315,826,923
Obligated for loans through 6/30/14	\$306,219,931
Remainder	\$9,606,992
Estimated 2015 Capitalization Grant	\$11,216,000
Less 4 percent administrative fee	\$448,640
<b>Total 2015 Grant</b>	<b>\$10,767,360</b>
Less 2014 grant fund used remainder 2014 (for Direct Loans)	\$3,052,340
Less grant funds for expected 2014 additional subsidy	\$915,522
Less grant funds for expected 2014 additional subsidy	\$915,522
Plus transfer from DWRF in 2014	\$0
<b>Total grant funds available</b>	<b>\$15,490,966</b>
Re-loan funds as of 06/30/14	\$56,444,931
plus: De-allocation on 9/1/14	\$21,529,555
plus: De-allocation on 9/1/15	\$20,237,224
less: Re-loan funds used for direct loans remainder of 2014	\$0
<b>Total re-loan funds available</b>	<b>\$98,211,710</b>
<b>Loan Capacity for 2015 (includes 9/1/15 de-allocation)</b>	
Additional subsidy	\$1,831,046
Leveraged loans from grant funds X 1.40	\$21,687,352
<b>2015 WPCRF Loan Capacity</b>	<b>\$121,730,108</b>

## Attachment VI: Net Funds Available for Transfer

*All dollar figures are in millions.*

Year	Transaction	Banked Transfer Ceiling	Transferred from WPCRF -DWRF	Transferred from DWRF- WPCRF	WPCRF Funds Available for Transfer	DWRF Funds Available for Transfer
1997	CG Award	\$5.6	-----	-----	\$5.6*	\$5.6*
1998	CG Award	8.8	-----	-----	8.8	8.8
1999	CG Award	12.1	-----	-----	12.1	12.1
1999	Transfer	12.1	\$6.7**	-----	5.4	18.8
2000	CG Award	15.6	-----	-----	8.9	22.3
2001	CG Award	19.1	-----	-----	12.4	25.8
2002	CG Award	23.6	-----	-----	16.9	30.3
2003	CG Award	28.0	-----	-----	21.3	34.7
2003	Transfer	28.0	-----	\$6.7**	28.0	28.0
2004	CG Award	32.2	-----	-----	32.2	32.2
2005	CG Award	36.7	-----	-----	36.7	36.7
2006	CG Award	41.5	-----	-----	41.5	41.5
2007	CG Award	46.3	-----	-----	46.3	46.3
2008	CG Award	51.0	-----	-----	51.0	51.0
2009	CG Award	55.7	-----	-----	55.7	55.7
2010	CG Award	75.1	-----	-----	75.1	75.1
2011	CG Award	80.5	-----	-----	80.5	80.5
2012	CG Award	85.8	-----	-----	85.8	85.8
2013	CG Award	90.8	-----	-----	90.8	90.8
2014	CG Award	95.8	-----	-----	95.8	95.8

\*Transfers could not occur until one year after the DWRF had been established.

\*\*\$6.7 million capitalization grant funds and \$1.3 million state match funds.

# Colorado Drinking Water Revolving Fund Intended Use Plan



**COLORADO**  
Department of Public  
Health & Environment



**COLORADO**  
Department of Local Affairs

2015



Photo by Kavram

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### Attachments

- Attachment I: Colorado DWRP Priority Scoring Model
- Attachment II: Application of Additional Subsidization
- Attachment III: Colorado DWRP Planning & Design Grant Prioritization
- Attachment IV: Calculation of DWRP Loan Capacity for 2015
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### Appendices

- Appendix A: 2015 DWRP Project Eligibility List
- Appendix B: Project Priority / Fundable List
- Appendix C: Loan Summary Report
- Appendix D: DWRP Set-Aside Activity
- Appendix E: Funds Available to the DWRP Loan Program
- Appendix F: DWRP Administrative Fee Account
- Appendix G: Private, Not For Profit Project Eligibility List

# Introduction to the Colorado DWRF

The Drinking Water Revolving Fund (DWRF) program provides financial assistance to governmental agencies **or private nonprofit entities<sup>(1)</sup>** for the construction of water projects intended to improve public and environmental health, help communities adhere with the federal Safe Drinking Water Act (SDWA), and invest in Colorado's water infrastructure.

State legislation (SB 95-083) established the DWRF as an enduring and viable fund. The DWRF shall be maintained and be available in perpetuity to provide financial assistance as authorized and limited by the SDWA.

## State Revolving Fund (SRF) Partnership

The SRF program is administered by three partnering agencies. Colorado **statue statute** directs the Colorado Department of Public Health and Environment, Water Quality Control Division (division); the Colorado Water Resources and Power Development Authority (authority); and the Colorado Department of Local Affairs, Division of Local Government (DLG), to jointly operate the SRF. The SRF Agencies administer the programs in alignment with the same common goals approved and supported by the Water Quality Control Commission (WQCC) and the authority board of directors (authority board).

SRF Agencies Responsibilities		
Division	Authority	DLG
<ul style="list-style-type: none"> <li>Primacy agency.</li> <li>Program administration.</li> <li>Technical review and advisory role.</li> <li>Manages DWRF set asides.</li> <li>Federal reporting.</li> </ul>	<ul style="list-style-type: none"> <li>Financial structure.</li> <li>Manages budgets and investments.</li> <li>Disburses funds.</li> <li>Federal reporting.</li> <li>Provides state match.</li> </ul>	<ul style="list-style-type: none"> <li>Financial and managerial assistance to systems.</li> <li>Coordinates funding collaboration via Funding Coordination Committee.</li> <li>SRF outreach.</li> <li>Conducts financial capacity assessments.</li> </ul>
<b>Program Mission</b>		
<ul style="list-style-type: none"> <li>➤ Dedicated to providing affordable financing to systems by capitalizing on all available funds to address the state's priority water related public health and water quality issues.</li> <li>➤ Actively target and allocate affordable resources to projects and initiatives that result in significant public health and environmental benefits, while maintaining perpetual, self-sustaining revolving loan fund programs.</li> <li>➤ Manage the funds in a manner to provide benefits for current and future generations.</li> </ul>		

The SRF agencies also partner with the state Funding Coordination Committee (committee) which includes staff from the division, authority, DLG, Colorado Water Conservation Board, USDA Rural Development, Colorado Rural Water Association and Rural Community Assistance Corporation. The committee facilitates the use of collaborative capital financing when appropriate.

## Intended Use Plans (IUP)

The IUP is a federal Environmental Protection Agency (EPA) Capitalization Grant agreement requirement. The DWRF IUP describes the agencies' plan to utilize funds to finance drinking water infrastructure and support related program activities during the calendar year 2015.

(1) Colorado SB15-121 provides the ability for private nonprofit entities to access the DWRF; however, programs and procedures have not yet been developed for private nonprofit entities. It is anticipated that private nonprofit programs, funding, and Disadvantaged Community eligibility, will be defined in the 2016 Colorado DWRF IUP. Planning and design documents will be accepted in the interim. Grant funding for private nonprofit entities is not available in 2015.



## Long Term Goals

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Colorado's long-term goals were established to protect public health, ensure the integrity and sustainability of the DWRF, and provide support for the division strategic plan goals (2011-2015).

Additional long term goals include:

- Effectively and efficiently deliver financial and technical assistance to public water systems.
- Award SRF resources in accordance with the needs of Colorado citizens.
- Maintain the fiscal integrity of SRF funds and assure continued program enhancements.
- Leverage funds in the DWRF and Water Pollution Control Revolving Fund (WPCRF) to maximize the amount of available funding for projected loans identified in the annual IUPs while continuing to reduce un-liquidated obligations.
- Maintain compliance with state and federal laws.
- Continue to implement process improvement activities through LEAN practices.
- Work to implement a statewide needs assessment of early implementation of future rules.
- Identify and assist projects/studies that look at water quality issues on a regional level impacting public water systems (e.g., high nitrates on the eastern plains).
- The committee will strengthen its ability to identify and influence funding decisions to maximize use of all available state and federal funds for the highest priority water related public health and environmental projects.
- Evaluate the current disadvantaged community program to determine its alignment with the future LEAN state and whether or not the current definition meets the needs of Colorado communities.



## Short Term Goals

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Short-term goals of the DWRF for 2015 include:

- Complete the pre-qualification, engineering needs assessment, plans and specification self-certification criteria and HOP revisions for LEAN implementation.
- Attend conferences to provide program information to potential borrowers such as Colorado Rural Water Association, Colorado Municipal League and Special District Association and the Colorado Water Congress conferences.
- Maximize use of all DWRF Capitalization Grant funds as directed by EPA.
- Maximize utilization of the four percent administrative set-aside funds, to support eligible activities including technical support to public water systems.
- Identify, select and implement an online integrated system that supports eligibility survey, application processes, and project management for the DWRF and WPCRF that provides better program coordination and transparency between staff and stakeholders.
- Target funding to address uranium, radium and other radionuclides.
- After receipt of the EPA allotment formula and appropriation guidance, the authority, in conjunction with the division, will submit an application for the annual capitalization grant funds in a manner that maximizes effective and timely use of funds while reducing un-liquidated obligations.
- The division, in conjunction with the authority and DLG, will identify and develop criteria to provide loan incentives for drinking water projects that participate in the Drinking Water Excellence Program.

## Drinking Water Revolving Fund Projects

Colorado SRF priority projects address risks to public health, disadvantage communities and SDWA compliance.

Examples of eligible and ineligible projects are listed below.\*

### Eligible Project Examples

- Addresses present and future SDWA requirements.
- Replaces aging infrastructure.
- Restructure and consolidate water supplies to rectify contamination issues or to assist systems unable to maintain and ensure SDWA compliance for financial or managerial reasons.
- Purchase a portion of another system's capacity to cost-effectively rectify a SDWA compliance issue.
- Planning including required environmental assessment reports, design and construction costs associated with eligible projects.
- Land acquisition\*\*
  - Land must be integral to the project.
  - Acquisition must be from a willing seller.



### Ineligible Project Examples

- Dams or rehabilitation of dams.
- Water rights, except water rights owned by a system purchased to consolidate for capacity development.
- Reservoirs, except finished water reservoirs that are used for treatment processes which are located on the same property as treatment facility.
- Drinking water monitoring costs.
- Operation and maintenance costs.
- Projects primarily for fire protection.
- Projects for systems that lack adequate technical, managerial and financial capability, unless assistance will ensure compliance.
- Projects for systems in significant noncompliance under the SDWA; unless funding will ensure compliance.
- Projects primarily intended to serve future growth.



\*Governmental agencies or private nonprofit entities<sup>(1)</sup> distributing or supplying 2,000 acre feet, or more, of water per year must have an approved (by the Colorado Water Conservation Board) and updated water conservation plan as defined by Section 37-60-126, CRS.

\*\*The cost of complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the Uniform Act) is an eligible cost.

(1) Colorado SB15-121 provides the ability for private nonprofit entities to access the DWRF; however, programs and procedures have not yet been developed for private nonprofit entities. It is anticipated that private nonprofit programs, funding, and Disadvantaged Community eligibility, will be defined in the 2016 Colorado DWRF IUP. Planning and design documents will be accepted in the interim. Grant funding for private nonprofit entities is not available in 2015.

## Drinking Water Revolving Fund Project Lists

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**Appendix A: DWRP Project Eligibility List** is an inventory of projects that completed an eligibility survey in 2014. The eligibility survey is released annually to potential borrowers to capture 20 year capital improvement needs. Appendix A includes the name of the public water system, a description of the project, population, the estimated cost of the project, potential green infrastructure type and cost and the type of project as described in the DWRP Rules. Borrowers can add projects to Appendix A by completing an eligibility survey in June of each year.

**Appendix B: Project Priority / Fundable List** is an inventory of projects that are eligible to receive or have recently received a loan from the DWRP. This list includes anticipated loan terms, interest rate and type of loan, project description and green infrastructure categories if applicable. Projects listed in Appendix B have a projected construction start date within 12-18 months at the time of eligibility survey submission in June. Project listed in Appendix B have been assigned a preliminary ranking score; however, this score is subject to refinement based on additional information from potential applicants and further prioritization. An active copy of Appendix B is maintained on the division's website.

## Criteria, Methods and Evaluation for DWRP Distribution

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This section describes the application process, including the prioritization criteria and authority board action, how policies apply to the allocation of loan proceeds, and the proposed Federal Fiscal Year (FFY) 2015 federal bill requirements, such as Green Project Reserve, principal forgiveness, Davis-Bacon Act, and American Iron and Steel.

Loan applications are accepted seven times a year and are scored based on the ranking system found in **Attachment I: Colorado DWRP Priority Scoring Model**.

### Application, Prioritization and Approval

Applicants should coordinate with their assigned division project manager to determine the appropriate application schedule to ensure authority board action and loan execution in a manner. The table below lists loan application deadlines, types of loans and the board meeting where the application is presented for approval.



timely  
authority

Application Deadlines	Loan Type	Authority Board Meetings
January 15, 2015	Direct loan Leverage loan (bond issue spring)	March
February 15, 2015	Direct loan	April
April 15, 2015	Direct loan	June
June 15, 2015	Direct loan Leveraged loan (bond issue fall)	August
August 15, 2015	Direct loan	October
October 15, 2015	Direct loan	December
November 15, 2015	Direct loan	January
<i>All loans are subject to available funds and prioritization if needed</i>		

The prioritization of applications will only occur if funding requests exceed available funds. **Attachment I: Colorado DWRP Priority Scoring Model** will be used for the prioritization of applications. Loan applicants that do not prioritize may be considered at the next applicable loan application date at the applicant's request.

The SRF agencies may determine applications be presented for approval at later authority board meetings depending on the volume of applications submitted at any one application deadline. Delays will not impact the applicant's prioritization ranking, but rather are meant to assist the SRF program workload balance. The determination will be based on the number of applications received, the applicant's timeframe for procuring funding and applicant's construction timeline.

All loan approvals are valid for 18 months. Prioritized and approved leveraged loans that do not execute their loan within 18 months will be reprioritized upon the next application deadline, if necessary.

### Allocation of Loan Proceeds

The SRF programs have policies set by the WQCC, authority board, and SRF committee that dictate use of loan proceeds. Proceeds from loans and administration fees will be used to benefit communities through **Planning and Design Grants, Planning Grants and Design/Engineering Grants** and Disadvantaged Community Loans.

### Capitalization Grant

For FFY15 and consistent with the 2014 appropriations language, the following requirements may apply to each state receiving DWRP capitalization grants:

### Green Project Reserve (GPR)

Historically, the capitalization grant agreement has required all SRF programs to direct a portion of their capitalization grant toward projects that address green infrastructure, water efficiency, energy efficiency, or other environmentally innovative activities. This changed in FFY12 when EPA made the GPR requirement optional for states under the DWRP program; however, if the 2015 appropriation grant/guidance requires a GPR set-aside, the incentive below will be offered.

Projects that implement eligible green components equal to, or greater than, 20 percent of the total project cost will receive a reduced loan interest rate of 0 percent, for up to a maximum of \$2.5 million. Leveraged loan projects over \$2.5 million total cost will only be eligible for the reduced interest rate on the first \$2.5 million. This incentive will only be offered until Colorado's GPR requirement has been met. These terms are subject to final action by the authority board and are not guaranteed terms until such time. In the event that the 2015 appropriation guidance does not require additional GPR set asides, the incentive will only be available for any remaining unobligated GPR funds.

The division has identified and included potential green projects in **Appendix A: DWRP Project Eligibility List** and **Appendix B: Project Priority / Fundable List**. These projects have been identified by *green type* and the estimated dollar amount. The division will utilize the definition for *categorical* and business case as provided by the EPA in the appropriation guidance. The division will review all business cases to determine GPR eligibility and post them on the division's website.

#### Principal Forgiveness Loans

In 2014, the DWRP capitalization grant appropriation required that not less than 20 percent, but no more than 30 percent, of funds shall be used by the state to provide additional subsidy to eligible recipients in the form of principal forgiveness, negative interest loans, grants, or a combination of these.

The SRF programs are in the process of implementing the LEAN future state of the programs. Part of that process recommends use of the additional subsidy to be issued for the planning and engineering phase for SRF borrowers. This will provide the opportunity to assist with more planning and engineering monies to those who otherwise could not afford the project. Further, it will position projects to quickly move into construction prior to appropriating additional SRF funding. Utilization of additional subsidy for planning and engineering purposes and the related criteria and terms will be set solely by the authority board. In the event this recommendation is not approved, the following will be applied for any available additional subsidy in 2015.

The state intends to distribute the additional subsidy in the form of principal forgiveness per **Attachment II: Application of Additional Subsidization**. In 2015, principal forgiveness for the DWRP will be distributed one time at the June 15, 2015 application deadline. The balance of the funds remaining beyond the required additional subsidy will be made available through loans without principal forgiveness.

#### Davis-Bacon Act

The requirements of Section 1450(e) of the SDWA (42 U.S.C. 300j-9(e)) regarding prevailing wage rates shall apply to the construction of treatment works carried out in whole or in part with assistance made available by a state revolving loan fund as authorized by section 1452 of the SDWA (42 U.S.C. 300j (12)).

#### American Iron and Steel (AIS)

On January 17, 2014 Congress passed the AIS requirement as part of the EPA Consolidated Appropriations Act for iron and steel products used in SRF projects for construction, alteration, maintenance or repair. Projects with loan execution and/or plans and specification approval on or after Januray January 17, 2014 and prior to October 1, 2014 are subject to AIS.

The statute permits EPA to issue waivers for a case or category of cases where EPA finds (1) that applying these requirements would be inconsistent with the public interest; (2) iron and steel products are not produced in the US in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron and steel products produced in the US will increase the cost of the overall project by more than 25 percent. States are allowed, on behalf of the borrower, to apply for waivers of the AIS requirement directly to EPA headquarters.

The DWRP program will refer to compliance guidance issued by the EPA which can be found at the following website: <https://docs.google.com/file/d/0B0tmPQ67k3NVYkN2NWdGN2JGNjA/edit>.

The above requirements are subject to further interpretation by the EPA and will be implemented consistently with any formal guidance issued by the agency.

### Miscellaneous

EPA Capitalization Grants may be allocated to any or all projects based on the amount of available grant and re-loan funds and at the direction of EPA.

The proposed payment schedule using FFY15 drinking water funds will be included in the application for the capitalization grant. The payment schedule identifies the anticipated amount of EPA Automated Clearinghouse (ACH) draws from the capitalization grant and state dollars to be deposited into the DWRP.

The state will provide the necessary assurance and certifications as part of the Capitalization Grant Agreement and Operating Agreement between the state and EPA.

### Capitalization Grants and Re-loan Funds

- Federal capitalization grant will primarily be used to fund all loan applicants first, subject to program constraints, to assist with reducing any un-liquidated obligations. Re-loan funds will generally be allocated after federal monies have been issued.
- Disadvantaged Communities Loans.

### Disadvantaged Communities (DAC) Loans

In accordance with federal statutes, states are authorized to provide loans at or below market interest rates, including interest free loans with terms up to 30 years. A DAC is defined as a governmental agency that has having a population of ~~5,000~~10,000 or less with a median household income (MHI) that is 80.0% or less than the state MHI; a 24-month average county unemployment rate of more than 2 percent; and an annual average county population change over the previous ten year period less than 5%, and must be a governmental agency<sup>(2)</sup>.

- EPA capitalization grant funds or re-loan are the source of capital used to fund DAC loans. To the maximum extent practical and based on available data, projects eligible to receive the reduced interest rate will be identified on the **Appendix B: Project Priority / Fundable List**.
- MHI, as a percentage of the statewide MHI, will be used to distribute funding to governmental agencies that are disadvantaged in accordance with two affordability tiers.

DAC	MHI	Loan Amount	Loan Terms
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Category 1	MHI from 61.0% - 80.0%	up to \$2.5 million per project	Loan terms up to 30 years * Interest rate is established at 50% of direct loan rate **
Category 2	MHI less than 61.0%	up to \$2.5 million per project	Loan terms up to 30 years * Interest rate is established at 0% **

\*Not to exceed the project's design life.

\*\* The authority board determines all interest rates on or before December 31<sup>st</sup> each year for the following calendar year.

- DAC status will be determined based on:
  - The most current American Community Survey (ACS) data at the time the pre-qualification is submitted.
  - The most recent complete year release of 24-month average county unemployment data from the Bureau of Labor Statistics (BLS) (2014 data valid until March 2015).
  - The most recent intercensal population trend estimate from the State Demography Office, Department of Local Affairs (2013 data valid until fall 2015).
  - The DAC status determination will be valid for a period of eighteen months. If the applicant does not execute the loan with DAC terms during the 18 months, the most current data will be referredutilized to determine DAC status.

Note: All loan requests exceeding the direct loan limit of \$2.5 million will not be eligible for a DAC loan. If the authority board decides to utilize additional subsidy for capital construction, **Attachment II: Application of Additional Subsidization** will be used.

(2) Colorado SB15-121 provides the ability for private nonprofit entities to access the DWRP; however, programs and procedures have not yet been developed for private nonprofit entities. It is anticipated that private nonprofit programs, funding, and Disadvantaged Community eligibility, will be defined in the 2016 Colorado DWRP IUP. Planning and design documents will be accepted in the interim. Grant funding for private nonprofit entities is not available in 2015.

### Planning and Design Grants

The intent of the planning and design grants is to assist DWRP applicants with costs associated with complying with program requirements such as: engineering reports, technical, managerial and financial reviews, environmental assessments, engineering design documents, energy audits, and the legal and accounting fees that may be associated with the formation of a legal entity capable of receiving DWRP assistance.

As mentioned in the Principal Forgiveness Loan section above, the authority board is considering a shift in the use of additional subsidy for FFY15 to subsidize planning activities on an individual project basis. In the event additional subsidy is authorized for this purpose, the amount and criteria for planning and design grants will be set per the authority board. If the authority board determines to utilize the same planning and design grant criteria as identified in the 2014 IUP, the following criteria will be used:

- Project is on the current year DWRP Appendix A or will be added to the subsequent year's project eligibility list,
- Population is 5,000 or less, and
- MHI is 80.0 percent or less than the statewide MHI.
- A local match of 20 percent is required for all planning and design grants. Planning and design grant invoices will be paid at no more than an 80:20 ratio.

The ranking system is located in **Attachment III: Colorado DWRF Planning & Design Grant Prioritization**. Governmental agencies must meet the following planning and design grant criteria:

One grant in the amount of up to \$10,000 will be awarded per community, per project. An applicant may not receive more than one planning and design grant for the same project. Additional funds may be allocated for planning and design grants at the discretion of the authority board.

Grant applications will be accepted between January 1 and January 31 of each year. Starting February 1, all applications will be prioritized according to the criteria set in **Attachment III: Colorado DWRF Planning & Design Grant Prioritization** and awards will be made in rank order until all grants have been committed. If there are more grant funds than applications, funds will be disbursed on a first come first serve basis. If the entity does not seek funding through the DWRF, they may be requested to repay the grant or seek a waiver of the repayment requirement from the authority.

These planning and design grant funds are provided from the administrative fee account from income received from DWRF loans.

### Special Projects

Colorado Governor John Hickenlooper implemented a state agency initiative to apply customer-focused process improvements to state services (commonly known as LEAN) with the purpose of increasing efficiency and effectiveness while measuring such improvements. The SRF agencies are utilizing the LEAN concept to improve SRF program processes and the borrower's experience. LEAN is defined as a systematic approach of continuous improvement, based on what the customer needs are through an effective and efficient business process. The DWRF program is anticipating implementing a portion of the future state by January 1, 2015, and full LEAN implementation is anticipated by the end of the 2015 calendar year.

### Emergency Procedures

The WQCC may amend **Appendix A: DWRF Project Eligibility List** and **Appendix B: Project Priority / Fundable List** at any time throughout the year to include projects that it determines and declares to be emergency projects needed to prevent or address threats to public health. In cases where the WQCC determines the amendments will result in substantial changes to **Appendix A: DWRF Project Eligibility List** or **Appendix B: Project Priority / Fundable List**, public notice and opportunity for comment on the proposed inclusions shall be provided.

### Small Systems Funding Goal

To the extent that there are a sufficient number of eligible projects, the state shall use at least 15 percent of all funds credited to the DWRF account on an annual basis to provide loan assistance to systems serving 10,000 persons or fewer. It is anticipated that up to 45 small systems, with populations less than 10,000, will be funded from October 1, 2014 through December 31, 2015, for a total of up to \$100+ million in DWRF loans. To further the small system-funding goal in 2015, planning and design grants will be made available to assist small systems.

## Financial Status of the DWRF

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A federally capitalized DWRF was authorized by the 1996 Amendments to SDWA and was established in Colorado with the receipt of the first capitalization grant in September, 1997. The DWRF requires the state to

match the total amount of the federal grant with a 20 percent contribution of state funds. On May 27, 2014, \$3,078,800 was transferred and is available for state match. The DWRF provides both direct loans and leveraged loans to finance projects.

Direct loans are designed for smaller projects at or under \$2.5 million. The program provides low interest direct loans to small public water systems that allow savings on cost of issuance. The direct loan sources are capitalization grant funds and re-loan funds.

Leveraged loans are designed primarily for investment grade borrowers with projects over \$2.5 million. This type of loan is used as the source of security for bonds that are sold to increase the DWRF loan capacity. The loan source comes from the capitalization grant funds, state match funds and bond proceeds. In 2014, the program issued leveraged loans using a cash flow fund concept, to further enhance the leveraging capabilities and liquidity of the DWRF program. The leveraged loan structure may use the cash flow or reserve fund model in the future based on the authority board and current economic conditions. In 2014, the leveraged loan interest rate was 70 percent of the market rate including the administrative fee of up to 1.25 percent. The market rate on bonds is determined on the day of sale as the *all-in bond yield* or all costs considered of the AAA rated drinking water revenue bonds sold by the authority.

The authority board determines the interest rate for both direct and leveraged loans by the end of the calendar year for the following year.

The administrative fee income is deposited into an account separate from the DWRF and is used for SRF Agencies staffing and operations expenses. Administrative fee income will continue to be used to fund in part the planning and/or design grant program in 2015. Administrative fee income, as available, will be used beginning with the FFY08 DWRF capitalization grant to reimburse the authority for state match funds deposited to the DWRF. The program reserves the right to charge up to 1.25 percent administrative fee on all DWRF loans if it is determined that additional funds are needed to fund administrative costs and/or repay the state match provided by the Authority. Up to \$1.0 million of WPCRF administrative fees collected from loans may be transferred to the DWRF to pay for administrative costs of the DWRF.

Administrative fees received from DWRF loans for 2015 are estimated to be \$3,640,000. These funds will be used for direct program costs including legal and accounting fees, trustee fees and other consultant fees, in addition to labor and overhead allocations of the authority, division and DLG. Total costs for administration of the DWRF are estimated to be \$2,815,000 and exclude any state match repayment. A portion of the state match may be paid from DWRF set aside grant monies. **Appendix F: DWRF Administrative Fee Account** is a table showing the administrative fee account activity since inception.

Each year the DWRF eligibility list needs (currently over \$4.0 billion) are compared against the loan capacity of the DWRF. Continued leveraging will assist more communities on **Appendix A: DWRF Project Eligibility List** to achieve SDWA compliance. To date, the leveraged loan rates have been in the range of 1.86 percent to 4.60 percent. Although no interest income on the grant funds and state match funds accrue to the DWRF from the leveraged loans, the long-term or perpetual nature of the DWRF remains in place. Please see **Attachment IV: Calculation of DWRF Loan Capacity for 2015**.

Through June 30, 2014, the state has received a total of \$290,414,600 in federal capitalization grants (includes the \$6,666,667 transfer back to the WPCRF in 2003). Of this amount, \$69,288,835 has been set aside for non-loan activities. The state expects to receive, but is unable to anticipate, the amount and funding levels of the

FFY15 capitalization grant. For appendices and table purposes, the FFY14 amounts were assumed for FFY15 and may or may not be accurate. **Attachment V: Cash Draw Proportionality Percentages**, lists the open projects funded with capitalization grant funds and the ratio of federal funds that are drawn.

The 2015 **Appendix B: Project Priority / Fundable List** documents 50 additional projects that have had a preliminary eligibility assessments completed through August 2014. The 50 projects added identified eligible project costs of \$290,033,391.

Projects receiving an eligibility assessment during the calendar year will be added to the Appendix B throughout the year.

### Transfer Activities

As authorized by Congress, Section 302 of the SDWA Amendments authorizes a state to transfer up to 33 percent of the amount of a fiscal year's DWSRF program capitalization grant to the Clean Water State Revolving Fund (CWSRF) program or an equivalent amount from the CWSRF program to the Drinking Water State Revolving Fund (DWSRF) program. In turn, 33 percent of the cumulative DWRF capitalization grants for FFY97 through FFY14 (total DWRF grants at \$290,414,600) may be reserved from the DWRF and transferred to the WPCRF, and this same amount may be reserved from the WPCRF and transferred to the DWRF. See the table in **Attachment VI: Net Funds Available for Transfer**, which itemizes the amount of net SRF funds available for transfer between the two programs.

Based on the WQCC and governor's approvals, a transfer of no more than \$10 million may be transferred to or from the DWRF into or out of the WPCRF in 2015. The exact amount of the transfer, if any, will be determined after the January 15 or June 15 application deadlines, and the WPCRF and DWRF loan demands are determined. If a transfer is pursued, a stakeholders group will be notified of the state's intent to transfer capitalization funds from the DWRF to the WPCRF or from the WPCRF to the DWRF. None of the transferred funds will be used for administrative purposes.

It is estimated that a transfer of \$5 - \$10 million from either the DWRF to the WPCRF will reduce the revolving level of that program by \$1 - \$2.5 million per year over the next 20 years. The DWRF set-asides would not be affected and the remainder of the allocation would be deposited into the revolving fund. Given the low level of remaining grant funds in the DWRF, a transfer of grant funds out of the DWRF is unlikely in FY 2015.

This transfer of capitalization grant funds will be deposited in the appropriate program and will be available for loans. With the statutory language approved by the Colorado State General Assembly in 2002, any transfers can be made from one account to the other with all of the appropriate approvals.

### Cross-Collateralization Activities

Beginning in the calendar year commencing on January 1, 1999, the WPCRF, along with the DWRF, cross-collateralized or pledged monies on deposits in one fund to act as additional security for bonds secured by monies on deposits in the other fund. This mechanism was utilized for both programs in 1999 and, as a result, the bond ratings for both programs were upgraded to AAA by all three bond-rating agencies. This upgrade translates to lower interest rates and thereby more savings to the borrowers of both programs.

### Operator Certification

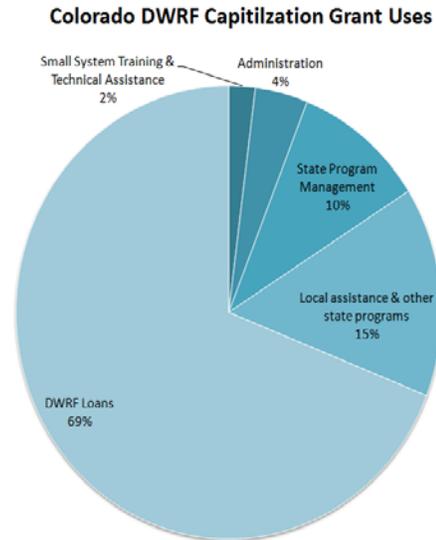
The 1996 Amendments to the Federal Safe Drinking Water Act required that states develop certification programs for operators of water treatment plants and distribution systems. House Bill 00-1431 adopted by the

Colorado General Assembly revised the existing Colorado operators certification program, in part to meet the new federal requirements. In accordance with revised state statute, the division and the Water and Wastewater Facility Operators Certification Board have developed a program to implement the federal requirements. The EPA has approved the program.

## DWRF Set Aside Activities

Colorado may set aside 31 percent of the capitalization grant for non-project or set-aside activities to fund activities necessary to accomplish the requirements of the SDWA. Work plans are developed and submitted to EPA describing the activities to be accomplished with the fund. The authority provides the 20 percent state match to receive the federal capitalization grant. Since FFY02 grant, the 20 percent match for the set-aside portion came from the loan administrative fee account.

The FFY14 capitalization grant amount was \$15,394,000. A description of each set-aside and the funding earmarked from the FFY14 capitalization grant for each activity are described below. It is the responsibility of the division to determine the amount of funds necessary under each set-aside and to meet the obligations of the SDWA. The financial status of the set-asides is summarized in **Appendix D: DWRF Set-aside Activity**. The administration of the 2015 set-aside funds are listed below and is based on actual 2014 set-aside amounts, even though it is anticipated that the FFY15 capitalization grant will be lower than the FFY14.



FFY 15 Colorado Set Aside Request Summary		
Administration and Technical Assistance	4%	\$615,760.00
Small System Training and Technical Assistance (SSTTA)	2%	\$307,880.00
State Program Management	10%	\$1,539,400.00
Local Assistance and Other State Programs	15%	\$2,309,100.00
<i>*Capacity Development</i>	10%	\$1,539,400.00
<i>*Wellhead Protection</i>	5%	\$769,700.00
<b>Total</b>		<b>\$4,772,140.00</b>

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\*included in Local Assistance and Other State Program percentage

**Administration and Technical Assistance Set-Aside (4%),  
FFY15 Requested Estimated Amount \$615,760**

Provides on-going administration for the DWRF and provides technical assistance to public water systems established by the EPA approved technical assistance work plan. Colorado intends to take the full set-aside.

*Use of funds and expected accomplishments*

To cover administrative and technical assistance expenses related to projects and activities authorized under the SDWA, including the provision of technical assistance to public water systems as identified in the EPA approved work plan.

**Small System Training and Technical Assistance (SSTTA) (2%),  
FFY15 Requested Estimated Amount \$307,880**

Provides on-going training and technical assistance to small systems established in the tri-annual EPA approved work plan focusing on the capacity development strategy. Colorado intends to take the full set-aside.

*Use of Funds and Expected Accomplishments*

Provide technical assistance and training programs for not-for-profit systems. A portion of the technical assistance provided will be concurrent with sanitary surveys conducted at small water systems.

**State Program Management (10%),  
FFY15 Requested Estimated Amount \$1,539,400**

Administers the State Public Water System Supervision (PWSS) Program established in the EPA approved state program management work plan for state fiscal years 2014-2016.

The act requires this set-aside be matched one-for-one with available state expenditures. The dollar-for-dollar federal match requirement will be met by utilizing drinking water program general funds, drinking water operator certification fees, drinking water related expenditures from the state laboratory, and 1993 Drinking Water Grant matching funds from the division. The laboratory contribution includes analyses of drinking water samples. According to SDWA, state program match funds that were expended in 1993 can be used to provide up to 50 percent of the set-aside match. Current year state funds in excess of the minimum required for the PWSS Program grant included in the department's performance partnership grant may also be used.

Colorado's match allows the division to take the full set aside and the division intends to take the full amount.

*Use of funds and expected accomplishments*

A portion of this set-aside will be used to fund staff to accomplish SDWA program requirements including:

- Data management system upgrades and maintenance;
- Improved system communication resulting in compliance progress and attainment;
- Effective program oversight, compliance assurance, enforcement, rule adoption, regulatory development, public water system assistance and capacity development;
- Staffing for engineering, compliance assurance, compliance assistance, rule management, data management, enforcement, administration, sampling, SWAP support, sanitary surveys, program management, contract oversight, early rule implementation, training and technical assistance and for implementing a capacity development strategy; and
- Computer acquisition and employee expenses including furniture, vehicles, operational costs and indirect costs.

**Local Assistance and Other State Programs (15%),  
FFY15 Requested Estimated Amount \$2,309,100**

Provides assistance to five activities: capacity development programs, Wellhead Protection Program (WHP), source water protection activities (SWAP), SWAP land acquisition, and SWAP implementation. Colorado intends to take the full set-aside or 15% from the capitalization grant; however, no more than 10% may be allocated for a single activity. See the requested estimated amounts and targets below.

**Capacity Development (10%),  
FFY14 Requested Estimated Amount \$1,539,400**

Assists new and existing systems to achieve and maintain technical, managerial and financial capacity as well as support SWAP activities.

***Use of funds and expected accomplishments***

- In support of the capacity development strategic goal to implement the Safe Drinking Water Program's 2015 Public Water System Training Strategy, the Safe Drinking Water Program has retained a contractor to assist in developing the administrative framework for the 2015 strategy. The framework will define the processes, guidelines and expected outcomes for training activities supported by the Safe Drinking Water Program. The framework is intended to assist in the decision making process regarding the allocation of funds and resources for public water system training services in the future. Additionally, the framework for the 2015 training strategy will likely generate additional contractor-provided training services to support strategy implementation. These activities will be captured under this framework;
- Maintain advanced operator training through the Colorado Drinking Water Excellence program for surface water systems of Colorado to ensure plants are operating at peak capabilities to ensure continuously safe drinking water;
- Continued improvements to the CDPHE drinking water website, to include access to new information and operator training;
- The use of cross-program compliance teams to identify and provide technical assistance to selected water systems that are in violation of regulations, including those with or soon to have an enforcement targeting tool (ETT) score greater than 11 and/or those with other compliance issues. This effort will utilize division staff and contractors with the goal of both resolving the violation and ensuring the water system has technical, managerial, and financial capacity (TMF);
- Development and delivery of training to address root causes of public water system failures;
- Improved sanitary surveys and oversight for non-community groundwater systems;
- Continued implementation of a coaching program to bring one-on-one training and technical assistance to small water systems with high priority deficiencies;

- Implementation of the source water assessment phase and protection planning assistance for surface water systems; and
- Staffing related to the above activities, including grant and contract management when activities are performed by a third-party.
- Source water delineates and assesses source water areas for surface and ground water systems. SWAP assessment reports were completed in December 2004.

**Wellhead Protection Program (5%),  
FFY14 Requested Estimated Amount \$769,700**

This is to delineate and assess source water areas for ground water systems, produce new WHP/SWAP assessment reports as necessary, and support development and implementation of local ground water protection plans.

*Use of funds and expected accomplishments*

- Completion of new and/or revised ground water source water delineations;
- Enhanced ground water susceptibility assessments to improve compliance;
- Improved ground water protection plans to minimize source contamination;
- Enhanced WHP/SWAP data management;
- Enhanced community information and education;
- Improved data compilation and reporting;
- Financial and technical assistance to facilitate groundwater protection plans;
- Coordinate and perform community and non-community groundwater sanitary surveys;
- Compilation and reporting of the national source water protection measures to EPA.

## PUBLIC REVIEW AND COMMENT

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On September 8, 2014, the WQCC published this information and held an Administrative Action Hearing on October 14, 2014, at which time the state's 2015 IUP, including the 2015 DWRP project eligibility list and project priority / fundable list, was approved. Each year, the IUP will be amended to include additional DWRP projects and other appropriate changes. The division will continually seek public review and comment for the proposed list of eligible projects and IUP brought before the WQCC for annual approval. During the annual project eligibility list survey process, the division contacted governmental agencies and private nonprofit entities to identify potential projects for the ~~2016~~2015 DWRP IUP.

## Attachment I: Colorado DWRP Priority Scoring Model

Drinking Water Quality & Public Health		Points
Project addresses a documented waterborne disease outbreak associated with the system within the last 24 months		35
Project corrects or prevent violations of MCLs (primary standards) <sup>i</sup>		
<ul style="list-style-type: none"> <li>Nitrate, nitrite, TCR</li> </ul>		30
<ul style="list-style-type: none"> <li>Total trihalomethanes, total haloacetic acids</li> </ul>		25
<ul style="list-style-type: none"> <li>Arsenic, selenium</li> </ul>		20
<ul style="list-style-type: none"> <li>Other regulated contaminants</li> </ul>		15
Project corrects or prevents exceedances of MCLs for radionuclides		35
Project corrects inadequate treatment techniques that are unable to satisfy the requirements for		
<ul style="list-style-type: none"> <li>Surface water</li> </ul>		
<ul style="list-style-type: none"> <li>GWUDI</li> </ul>		20
<ul style="list-style-type: none"> <li>Groundwater</li> </ul>		
Project corrects exceedances of secondary drinking water standards		10
System has inadequate supply* to meet all current domestic water supply demands.		25
*System must provide records of water usage to substantiate supply is inadequate		
Project will correct or prevent:		
<ul style="list-style-type: none"> <li>Inadequate distribution due to system deterioration (e.g., experiencing multiple line breakages)</li> </ul>		20
<ul style="list-style-type: none"> <li>Inadequate distribution due to chronic low pressure</li> </ul>		15
<ul style="list-style-type: none"> <li>Inadequate storage</li> </ul>		10
<ul style="list-style-type: none"> <li>Demand exceeding design capacity</li> </ul>		5
Project incorporates Fluoridation		10
Affordability		Points
Median Household Income (MHI) of service area <sup>ii</sup>		
<ul style="list-style-type: none"> <li>&lt;50% of State MHI</li> </ul>		45
<ul style="list-style-type: none"> <li>Between 51% and 60% of State MHI</li> </ul>		35
<ul style="list-style-type: none"> <li>Between 61% and 80% of State MHI</li> </ul>		25
<ul style="list-style-type: none"> <li>Between 81% and 100% of State MHI</li> </ul>		15
<ul style="list-style-type: none"> <li>&gt;100% of State MHI</li> </ul>		0



**Affordability (continued)**

**Points**

User Fees (proposed annual average residential fees/area MHI):

- Rates are >2.0% of service area’s MHI 45
- Rates are between 1.5% and 2% of the service area’s MHI 35
- Rates are between 1% and 1.49% of the service area’s MHI 25
- Rates are between 0.5% and 0.99% of the service area’s MHI 15
- Rates are <0.5% of the service area’s MHI 0

Indebtedness\* =  $\frac{\text{existing debt} + \text{proposed debt}}{\text{Total ERT}^{**}}$

MHI

- >5% of area MHI 45
- Between 2% and 5% of area MHI 25
- <2 %of area MHI 15

\*Indebtedness is based on the amount of water debt only

\*\*Total Equivalent Residential Taps (ERT)= Commercial ERT + Residential ERT

Population served criteria:

- <1,000 40
- Between 1,000 and 4,999 30
- Between 5,000 and 10,000 20
- >10,000 10

**CPDWR Compliance**

**Points**

Project addresses an enforcement action by a regulatory agency and the facility is currently in violation of CPDWRs.

30

Project addresses a facility’s voluntary efforts to resolve a possible violation and will mitigate the issuance of a consent order, notice of violation or other enforcement action.

20

Project is designed to maintain CPDWR compliance or to meet new requirements

15

System is currently meeting all CPDWRs

10

**Source Protection and Conservation**

**Points**

Project addresses vulnerability to potential pollution by conditions identified in an approved source water protection area assessment:

- Point source discharge within a delineated area
  - Area impacted by agricultural chemical use or run-off
  - Area subject to oil/gas/mineral operations
  - Unprotected watershed area
- 15 (for one or more)

Project establishes a protective zone to address potential pollution as a result of wildfires in burn scar areas

10

**Source Protection and Conservation (continued)**

**Points**

Utility rate structure currently in place:

15



## Attachment II: Application of Additional Subsidization

Additional Subsidization	
Water Quality & Public Health + Affordability Score = Additional subsidization points	Percent of Project Costs as Principal Forgiveness*
>175 points	80% principal forgiveness
125-175 points	60% principal forgiveness
100-124 points	40% principal forgiveness
<100 points	25% principal forgiveness

\*No one project may receive more than 50 percent of the total amount of funds that have been set aside for additional subsidization for each fiscal year. For example, if Colorado has set aside \$2 million for FY14 to be provided as additional subsidization, no project may receive more than \$1 million in principal forgiveness.

## Attachment III: Colorado DWRP Planning & Design Grant Model

Affordability	Points
Median Household Income (MHI) of service area	
<ul style="list-style-type: none"> <li>• &lt;40% of State MHI</li> <li>• Between 40% and 59% of State MHI</li> <li>• Between 60% and 80% of State MHI</li> </ul>	20 15 10
Population served criteria:	
<ul style="list-style-type: none"> <li>• &lt;500 population</li> <li>• 500 to 1,000 population</li> <li>• 1,001 to 5,000 population</li> </ul>	20 15 10
User fees (proposed annual residential fees/area MHI):	
<ul style="list-style-type: none"> <li>• Rates are &gt; 1.5% of the service area's MHI</li> <li>• Rates are between 1% and 1.5% of the service area's MHI</li> <li>• Rates are between 0.5% and 0.99% of the service area's MHI</li> </ul>	20 15 10
Drinking Water Quality & Public Health	Points
Project will correct or prevent MCL violations (primary standards)	25
Project corrects inadequate treatment techniques that are unable to satisfy the requirements for	
<ul style="list-style-type: none"> <li>• Surface water</li> <li>• GWUDI</li> <li>• Groundwater</li> </ul>	20 (for one or more)
Project will correct or prevent:	
<ul style="list-style-type: none"> <li>• Inadequate distribution due to system deterioration (e.g., experiencing multiple line breakages)</li> <li>• Inadequate distribution due to chronic low pressure</li> <li>• Inadequate storage</li> <li>• Demand exceeding design capacity</li> </ul>	15 (for one or more)

In the event that two or more projects are tied, the highest affordability score will be used to break the tie. Should a tie between projects remain after sorting by the affordability, the drinking water quality and public health section will be used and the tied projects will be ranked from highest to lowest for each respective category in

that section. If the tie cannot be broken through the above process, the final tie breaker will be the highest percentage of match to the total planning and/or design cost.

## Attachment IV: Calculation of DWRF Loan Capacity for 2015 as of June 30, 2014

Capitalization grants for loans through 2014	\$	221,125,765
Obligated for loans through 6/30/14	\$	215,903,960
Remainder	\$	5,221,805
Estimated 2015 Capitalization Grant	\$	15,394,000
less: set asides	\$	4,772,140
<b>Total 2015 Grant</b>	<b>\$</b>	<b>10,621,860</b>
less: 2014 Grant fund used remainder 2014 (for direct loans)	\$	2,186,855
less: Grant funds for expected 2014 additional subsidy	\$	4,618,200
less: Grant funds for expected 2015 additional subsidy	\$	4,618,200
plus: Transfer from WPCRF in 2014		-
<b>Total grant funds available</b>	<b>\$</b>	<b>4,420,410</b>
Re-loan funds as of 06/30/14	\$	6,529,435
plus: De-allocation on 9/1/14	\$	11,002,960
plus: De-allocation on 9/1/15	\$	12,683,673
less: Re-loan funds used for direct loans remainder of 2014	\$	1,584,467
<b>Total re-loan funds available</b>	<b>\$</b>	<b>28,631,601</b>
<b>Loan capacity for 2015 (includes 9/1/15 de-allocation)</b>		
Additional subsidy	\$	9,236,400
Leveraged loans from grant funds X 1.40	\$	6,188,574
<b>Total</b>	<b>\$</b>	<b>44,056,575</b>

## Attachment V: Cash Draw Proportionality Percentages

LL-Leverage Loan / DL-Direct Loan

Project	Loan Execution Date	Total Loan	Federal Share	Actual State Match Ratio *	Adjusted State Match Ratio**	State Share	Additional Subsidization
Colorado Springs, City of (DL)	04/29/10	\$ 8,600,000	\$ 7,316,229	17.55%	30.86%	\$ 1,283,771	\$ -
Hotchkiss, Town of (DL)	07/30/10	775,000	702,551	10.31%	30.86%	72,449	775,000
Rico, Town of	08/10/11	1,600,000	1,554,198	2.95%	30.86%	45,802	1,600,000
Swink, Town of (DL)	11/10/10	633,000	535,435	18.22%	30.86%	97,565	287,303
Rocky Ford, City of (DL)	12/13/10	2,000,000	1,998,893	0.06%	30.86%	1,107	2,000,000
Sterling, City of (DL)	03/30/11	29,000,000	15,881,203	23.70%	23.70%	3,763,845	-
Nunn, Town of (DL)	12/09/11	2,424,000	2,253,690	7.56%	30.86%	170,310	2,000,000
Rifle, City of (LL)	08/14/12	21,858,367	16,406,610	23.70%	23.70%	3,888,367	-
Louviers W&SD (DL)	10/19/12	1,139,650	973,689	17.04%	30.86%	165,961	1,139,650
Elbert W&SD (DL)	11/21/12	497,000	408,188	21.76%	30.86%	88,812	497,000
Huerfano County Gardner W&SD PID (DL)	12/05/12	593,000	469,079	26.42%	30.86%	123,921	593,000
Vilas, Town of (DL)	01/31/13	655,000	514,290	27.36%	30.86%	140,710	655,000
Vona, Town of (DL)	01/31/13	182,000	152,779	19.13%	30.86%	29,221	182,000
South Sheridan WSS&SDD (DL)	06/28/13	1,985,245	1,525,651	30.12%	30.86%	459,594	1,985,245
Evans, City of (DL)	08/12/13	1,500,000	1,146,300	30.86%	30.86%	353,700	-
Rangely, Town of (DL)	10/20/13	1,500,000	913,431	64.22%	30.86%	586,569	-
Larkspur, Town of (DL)	01/17/14	2,847,920	2,176,380	30.86%	30.86%	671,540	847,920
Kim, Town of (DL)	05/16/14	241,500	184,554	30.86%	30.86%	56,946	241,500
Clifton WD (LL)	05/29/14	14,000,000	8,432,204	27.47%	27.47%	2,316,303	-
Paonia, Town of (LL)	05/29/14	3,000,000	1,727,072	27.47%	27.47%	474,422	-
Paonia, Town of (DL)	05/29/14	847,920	665,193	27.47%	27.47%	182,727	847,920
Granby, Town of	06/11/14	741,524	581,726	27.47%	27.47%	159,798	741,524
Empire, Town of	06/13/14	847,920	665,193	27.47%	27.47%	182,727	847,920
Florissant W&SD (DL)	06/24/14	847,920	665,193	27.47%	27.47%	182,727	847,920
Larimer County LID 2013-3 (Fish Creek) (DL)	06/30/14	314,505	246,729	27.47%	27.47%	67,776	-
<b>Total</b>		<b>\$ 98,631,471</b>	<b>\$ 68,096,461</b>			<b>\$ 15,566,669</b>	<b>\$ 16,088,902</b>

\* Actual state match drawn ratio prior to implementation of correct proportionality (for loans executed prior to January 1, 2014 -- loans executed after January 1, 2014, were allocated and draw the correct ratio).

\*\* Beginning March 4, 2014 and going forward, state match ratio drawn on all loan project requisitions.

In the DWRP, the 20% state match required for set-aside grant draws is incorporated and obligated in the loan program. Loans are funded with and all draws are paid at a proportionality rate which includes the set-aside state match requirement. The program uses a "rolling" proportionality rate which is recalculated each time there is a change in available grant funds (awards, reductions, set-asides conversions to the loan program, etc.). Loans executed after the new calculation use the new proportionality. All loans use the proportionality rate they were funded at execution through the term of the loan.

In January, 2014, the Authority implemented new procedures to meet the EPA proportionality requirement for project/loan grant draws.

The remaining undrawn loan amounts of all loans funded with 100% grant funds prior to January 1, 2014 were adjusted to meet the proportionality requirement beginning in March, 2014 and will draw at the correct federal/state match ratio until complete.

For all grant funded loans executed January 1 through May 20, 2014 (before the 2014 federal capitalized grant award), the proportionality for each draw is 76.41% grant and 23.58% state match.

For all grant funded loans executed after May 20, 2014, the proportionality for each draw is 78.45% grant and 21.55% state match. This ratio will be used for new loans going forward until there is a change in grant funds availability, such as a new grant award. At that point, the proportionality rate will be recalculated and new grant funded loans executed after that time will use the new proportionality rate.

## Attachment VI: Net Funds Available for Transfer

All dollar figures are in millions.

Year	Transaction	Banked Transfer Ceiling	Transferred from WPCRF - DWRF	Transferred from DWRF- WPCRF	WPCRF Funds Available for Transfer	DWRF Funds Available for Transfer
1997	CG Award	\$5.6	-----	-----	\$5.6*	\$5.6*
1998	CG Award	8.8	-----	-----	8.8	8.8
1999	CG Award	12.1	-----	-----	12.1	12.1
1999	Transfer	12.1	\$6.7**	-----	5.4	18.8
2000	CG Award	15.6	-----	-----	8.9	22.3
2001	CG Award	19.1	-----	-----	12.4	25.8
2002	CG Award	23.6	-----	-----	16.9	30.3
2003	CG Award	28.0	-----	-----	21.3	34.7
2003	Transfer	28.0	-----	\$6.7**	28	28
2004	CG Award	32.2	-----	-----	32.2	32.2
2005	CG Award	36.7	-----	-----	36.7	36.7
2006	CG Award	41.5	-----	-----	41.5	41.5
2007	CG Award	46.3	-----	-----	46.3	46.3
2008	CG Award	51.0	-----	-----	51.0	51.0
2009	CG Award	55.7	-----	-----	55.7	55.7
2010	CG Award	75.1	-----	-----	75.1	75.1
2011	CG Award	80.5	-----	-----	80.5	80.5
2012	CG Award	85.8	-----	-----	85.8	85.8
2013	CG Award	90.8	-----	-----	90.8	90.8

\* Transfers could not occur until one year after the DWRF had been established.

\*\* \$6.7 million capitalization grant funds.

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<sup>i</sup> This accommodates repeat violations and provides indicators for both chronic and acute health hazards.

<sup>ii</sup> Current MHI for Colorado is \$57,685 pursuant to 2011 Census Data. Percent of MHI will be calculated using the most current MHI data that is available. For special districts, census block MHI data will be used if available; otherwise county MHI data will be used.

<sup>iii</sup> The Hazardous Materials and Waste Management Division is the agency responsible for implementing the *Regulations Pertaining to the Beneficial Use of Water Treatment Sludge and Fees Applicable to the Beneficial Use of Sludges* pursuant to 5 CCR 1003-7.