# *Rhode Island Department of Health*

## NOTICE OF PUBLIC HEARING

The Interim Director of the Rhode Island Department of Health has under consideration proposed amendments to the *Rules and Regulations Pertaining to the Drinking Water State Revolving Fund* [*R46-12.8-DWSRF*], promulgated pursuant to the authority conferred under Chapters 46-12.8 and 42-35 of the Rhode Island General Laws, as amended. The purpose of the proposed changes is to update requirements for utilizing the perpetual revolving loan fund as a source of low-cost financial assistance to any public water system for eligible infrastructure improvement projects.

Notice is hereby given in accordance with the provisions of Chapter 42-35 of the Rhode Island General Laws, as amended, that the Interim Director will hold a public hearing on the above mentioned matter, in the **AUDITORIUM** of the Rhode Island Department of Health (on the lower level of the Cannon Building), Three Capitol Hill, Providence, Rhode Island on **WEDNESDAY, 11 MAY 2011 at 9:30 a.m.** at which time and place all persons interested therein will be heard. The seating capacity of the room will be enforced and therefore the number of persons participating in the hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

In the development of the rules and regulations, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach, duplication, or overlap was identified based upon available information.

For the sake of accuracy, it is requested that statements to be made relative to any aspect of the regulations, including alternative approaches or overlap, be submitted in writing at the time of the hearing or mailed prior to the hearing date to: Michael Fine, M.D., Interim Director, Rhode Island Department of Health, #401 Cannon Building, 3 Capitol Hill, Providence, Rhode Island 02908-5097.

Copies of the regulations are available for public inspection in the Cannon Building, Room #201, Rhode Island Department of Health, 3 Capitol Hill, Providence, Rhode Island, on the Department's website: www.health.ri.gov/hsr/regulations/index.php or the Secretary of State's website: http://www.sos.ri.gov/rules/, by calling 401-222-7767 or by e-mail to Bill.Dundulis@health.ri.gov

***The Department of Health is accessible to the handicapped. If communication assistance (readers/ interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-222-7767 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.***

Signed this 8th day of April 2011

*Original signed by Michael Fine, MD*

Michael Fine, M.D., Interim Director of Health

# RULES AND REGULATIONS PERTAINING TO THE DRINKING WATER STATE REVOLVING FUND

[R46-12.8-DWSRF]

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

~~*Office of Drinking Water Quality*~~

March 1998

***AS AMENDED*:**

July 2001

January 2002 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General Laws, as amended)

April 2006

January 2007 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General Laws, as amended)

**May 2011 (Proposed)**

**COMPILER'S NOTES:**

**Proposed Additions: Underlined**

**Proposed Deletions: ~~Strikeouts~~**

**General Note: Some subparagraphs have been renumbered with respect to the April 2006 version of these Regulations without indication of changed text. This was solely for consistency with the numbering system used in other regulations issued by the Department. However, all substantive changes are annotated as indicated above.**

## *Introduction*

These amended *Rules and Regulations Pertaining to the Drinking Water State Revolving Fund* [*R46-12.8-DWSRF*] ~~*(DWSRF)* Program~~ are promulgated pursuant to the authority set forth in Chapter 46-12.8 of the General Laws of Rhode Island, as amended, for the purpose of ~~these DWSRF regulations is for~~ creating and implementing a perpetual revolving loan fund as a source of low-cost financial assistance to any ~~governmental unit or privately organized water supplier for the financing of safe drinking water projects~~ public water system for eligible infrastructure improvement projects.

Pursuant to the provisions of ~~section 42-35-3(c)~~ §§42-35-3(a)(3) and (a)(4) of the General Laws of Rhode Island, as amended, the following were given consideration in ~~developing~~ arriving at these amended regulations: (1) alternative approaches to the regulations; ~~and~~ (2) duplication or overlap with other state regulations; and (3) significant economic impact on small business. Based on the available information, no known alternative approach, duplication or overlap was identified ~~based on available information~~. ~~The health, safety and welfare of the citizens of this state overrides any economic impact that may result from these amended regulations. Consequently, these rules are promulgated in the best interest of the health and safety of the public.~~

These amended *Rules and Regulations Pertaining to the Drinking Water State Revolving Fund* will only affect those eligible public water systems seeking assistance from the Drinking Water State Revolving Fund Program. ~~The purpose of the Drinking Water State Revolving Fund Program is to provide financial assistance to eligible public water systems for eligible infrastructure improvement projects.~~ These ~~rules and~~ amended regulations will have no financial impact on any of the state's public water systems or their associated communities.

Upon promulgation of these amendments, these ~~rules and~~ amended regulations shall supersede ~~any other rules and regulations pertaining to the drinking water state revolving fund that were previously~~ all previous *Rules and Regulations Pertaining to the Drinking Water State Revolving Fund* promulgated by the Department of Health and filed with the Secretary of State.

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Section 1.0 ***Definitions***

Wherever used in these rules and regulations, the following terms shall be construed as follows:

1.1 "***Affordable housing plan***" means an affordable housing plan that has been approved by the Rhode Island Director of Administration pursuant to section 45-22.2-9 of the Rhode Island General Laws, as amended, and has met the guidelines for the local comprehensive plan as adopted by the State Planning Council.

1.2 ***"Agency"*** shall mean the Rhode Island Clean Water Finance Agency.

1.3 ***"Approved project"*** shall mean any project or portion thereof of a governmental unit or privately organized water supplier that has been issued a certificate of approval by the Department for assistan***c***e through the Agency.

1.4 ***"Chief Executive Officer"*** means the mayor in any city, the president of the town council in any town, the executive director of any authority or commission, the president of any association, cooperative, corporation or company, or some other officer or body designated to perform the functions of a chief executive officer under the provisions of a local charter or other law.

1.5 ***"Community Comprehensive Plan (CCP)"*** means a plan prepared pursuant to the Rhode Island Comprehensive Planning and Land Use Regulation Act, RIGL Chapter 45-22.2.

1.6 "***Community water system***" means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

1.7 "***Cumulative impact***" means the impact on the environment which results from the incremental impact of project(s) when added to other past, present, and reasonably foreseeable future actions or projects, regardless of which agency or person undertakes such other actions or projects.

1.8 "***Department"*** means the Rhode Island Department of Health.

1.9 ***"Director"*** means the Director of the Department of Health or her/his designee.

1.10 ***"DWSRF"*** means the Drinking Water State Revolving Fund.

1.11 "***Effects"*** and "***impacts***", as used in these Regulations are synonymous. Effects include ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, and health, whether direct, indirect, or cumulative. The distinctions are:

1.11.1 Direct effects are caused by project(s) and occur at the same time and place.

1.11.2 Indirect effects are also caused by project(s) and may be later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air,

water and other natural systems, including ecosystems.

1.11.3 Cumulative effects are caused by both the direct and indirect effects of the project, plus the effects of other projects which are planned in the planning area.

1.12 ***"Environment***" shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment (see the definition of "effects").

1.13 "***Environmental Assessment (EA)"*** means a document that:

1.13.1 serves to:

(a) Briefly provide sufficient evidence and analysis of effects of proposed project(s) as a basis for the Department to determine whether to issue a Finding of No Significant Impact (FONSI) or require an Environmental Impact Statement (EIS) to be prepared.

(b) Document compliance with state and federal environmental review requirements when no EIS is required.

(c) Facilitate preparation of an EIS when one is necessary.

1.13.2 shall include:

(a) Brief discussions of the need for the proposed project(s).

(b) Brief discussions of alternatives to recommended project(s) which involve unresolved conflicts concerning alternative uses of available resources.

(c) Brief discussions of the environmental impacts of the proposed project(s) and alternatives, and outline means to mitigate environmental impacts.

(d) Agencies and persons consulted during the environmental assessment, and responses to substantive comments.

1.14 "***Environmental Impact Statement (EIS)"*** means a detailed written statement that identifies significant impacts associated with the preferred alternative project(s). The EIS will address:

1.14.1 The environmental impact(s) of the proposed project(s).

1.14.2 Any detrimental effects on the environment which cannot be avoided should the proposed project(s) be implemented.

1.14.3 Alternatives to the proposed project(s) and the environmental impacts of those alternatives.

1.14.4 The relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity.

1.14.5 Any irreversible and irretrievable commitments of resources which would be involved in the project(s) if implemented.

1.15 "***Finding of No Significant Impact (FONSI)"*** means a document prepared by the Department briefly presenting the reasons for determining why project(s) will not have a

significant effect on the environment. It shall include the EA and shall note any other environmental documents related to it. The FONSI need not repeat any of the discussion in the EA, but may incorporate it by reference.

1.16 ***"Local governmental unit"*** shall mean any town, city district, commission, agency, authority, board or other political subdivision or instrumentality of the state or of any political subdivision thereof responsible for the ownership or operation of a community water system or a nonprofit noncommunity water system within the state.

1.17 "***Mitigation"*** means:

1.17.1 Avoiding an impact altogether by not implementing a certain project or parts of a project.

1.17.2 Minimizing an impact by limiting the degree or magnitude of a project and its implementation.

1.17.3 Rectifying an impact by repairing, rehabilitating, or restoring the effected environment.

1.17.4 Reducing or eliminating an impact over time by preservation and maintenance operations during the life of the project.

1.17.5 Compensating for an impact by replacing or providing substitute resources or environments.

1.18 "***National Environmental Policy Act (NEPA)"*** means the National Environmental Policy Act of 1969, codified at 42 U.S.C. 4321 *et. seq*., as amended.

1.19 "***Noncommunity water system***" means a public water system that is not a community water system.

1.20 "***Public water system"*** A system for the provisions to the public for piped water for human consumption, provided such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. The term "public water system" shall include all sources, and facilities involved in collecting, treating, storing, and distributing the water.

1.21 ***"Privately organized water supplier***" shall mean any community water system or noncommunity nonprofit water system not owned or operated by a local governmental unit.

1.22 ***"Record of Decision (ROD)"*** means a document prepared by the Department that briefly reviews the significant effects that a project(s) will have on the environment. It shall include the EIS and shall note any other environmental documents related to it. Since the EIS is included, the ROD need not repeat any of the discussion in the EIS, but may incorporate it by reference. The ROD will specify mitigation measures necessary to allow a project to proceed.

1.23 "***SDWA or Safe Drinking Water Act"*** means the federal Safe Drinking Water Act, P.L. 93-523, as amended.

1.24 "***Significantly***", as used in the Department's environmental review process, means considering both the context and intensity of impacts, whether beneficial or detrimental.

1.24.1 Context means that the significance of the impacts of a project must be analyzed in several contexts such as: the community as a whole (social, economic); the effected region; the effected interests; and the locality. Significance varies with the setting of the proposed project(s). In the case of a site-specific action, such as siting of a drinking water treatment facility, significance would usually depend upon the effects in the locale rather than in the whole planning area. Conversely, extending distribution lines to a previously undeveloped portion of the planning area would result in effects on many elements of the environment.

1.24.2 Intensity refers to the severity of the impact. The parties responsible for facility planning must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity.

1.24.3 Impacts may be both beneficial and detrimental. A significant effect may exist even if it is believed on balance that the effect will be beneficial.

1.24.4 The degree to which the proposed project(s) affect public health and safety.

1.24.5 Unique characteristics of the geographic area impacted by the project(s) such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

1.24.6 The degree to which the effects of the proposed project(s) on the quality of the environment are likely to be controversial.

1.24.7 The degree to which the possible effects on the environment are uncertain or involve unique or unknown risks.

1.24.8 The degree to which a project may establish a precedent for future projects with similar effects or represents a decision in principle about future consideration.

1.24.9 Whether the project(s) is related to other projects with individually minor but cumulatively major impacts. Significance exists if it is reasonable to anticipate a cumulative major impact on the environment. Significance cannot be avoided by terming a project temporary or by breaking it down into small component parts.

1.24.10 The degree to which the project may detrimentally affect districts, sites, highways, structures or objects listed in or eligible for listing in the National Register of Historic Places, or may cause loss or destruction of significant scientific, cultural, or historic resources.

1.24.11 The degree to which the project may detrimentally affect an endangered or threatened species or its habitat that has been determined to be critical under the federal Endangered Species Act of 1973.

1.24.12 Whether a project threatens a violation of federal, state or local laws or requirements imposed for the protection of the environment.

1.25 ***"State Guide Plan"*** shall mean goals, policies, or plan elements for the physical, economic,

and social development of the state, adopted by the State Planning Council in accordance with §42-11-10 of the General Laws of Rhode Island, as amended.

1.26 ***"These Regulations***" mean all parts of Rhode Island *Rules and Regulations Pertaining to the Drinking Water State Revolving Fund* [*R46-12.8-DWSRF*].

Section 2.0 ***System Eligibility***

2.1 Community public water systems and nonprofit noncommunity public water systems, both privately organized water suppliers and local governmental units, are eligible to receive assistance from the DWSRF.

2.2 ***Lack of technical, managerial and financial capability***

2.2.1 Public water systems that lack the technical, managerial or financial capability to maintain compliance with the *Rules and Regulations Pertaining to Public Drinking Water* (R46-13-DWQ) are not eligible to receive funding from the DWSRF unless the owner or operator of the system agrees to undertake feasible and appropriate changes in operation or if the use of the financial assistance from the DWSRF will ensure compliance. See ~~Section~~ §8.0 of these Regulations for further discussion on capacity development.

2.3 ***Significant noncompliance***

2.3.1 Public water systems that are in significant noncompliance with the *Rules and Regulations Pertaining to Drinking Water* (R46-13-DWQ), as determined by the Director, are not eligible to receive funding from the DWSRF unless the Director determines that the project will enable the system to return to compliance and the system will maintain an adequate level of technical, managerial and financial capability to maintain compliance.

Section 3.0 ***Project Eligibility***

3.1 ***Compliance with Drinking Water Regulations and Health Standards***

3.1.1 The DWSRF may provide assistance only for expenditures (not including monitoring, operation, and maintenance expenditures) of a type or category which will facilitate compliance with the *Rules and Regulations Pertaining to Public Drinking Water* (R46-13-DWQ).

3.1.2 Projects to address state and/or federal drinking water health standards that have been exceeded or to prevent future violations of these standards are eligible for assistance. This includes projects to extend the water lines of an existing public water system to an area served by contaminated private drinking water wells.

3.1.3 Projects to replace aging infrastructure are also eligible if they are needed to maintain compliance with the *Rules and Regulations Pertaining to Public Drinking Water* (R46-13-DWQ).

3.2 ***Land Acquisition***

3.2.1 Land acquisition is eligible only if it is integral to a project that is needed to meet or maintain compliance with the *Rules and Regulations Pertaining to Public Drinking Water* (R46-13-DWQ). In this instance, land that is integral to a project is only the land needed to locate eligible treatment or distribution projects. In addition, the acquisition has to be from a willing seller. The purchase of land for source water

protection is not eligible.

3.3 ***Restructuring***

3.3.1 Projects to restructure a public water system that is in noncompliance with the *Rules and Regulations Pertaining to Public Drinking Water* (R46-13-DWQ) or a public water system that lacks the technical, managerial or financial capability to maintain compliance with the *Rules and Regulations Pertaining to Public Drinking Water* (R46-13-DWQ) may be eligible for assistance from the DWSRF under the following conditions:

(a) Funding may be provided to assist an eligible public water system to consolidate with other public water systems only if the assistance will ensure that the system returns to and maintains compliance with the *Rules and Regulations Pertaining to Public Drinking Water* (R46-13-DWQ).

(b) If the system does not have the technical, managerial, and/or financial capability to ensure compliance, or is in significant noncompliance, the system may receive assistance only if (1) the assistance will ensure compliance or (2) the owner or operator of the system agrees to undertake appropriate changes in operations to ensure compliance. These changes include consolidation or management changes that will ensure that the system has the technical, managerial, and financial capability to ensure and maintain compliance with the SDWA and the *Rules and Regulations Pertaining to Public Drinking Water* R46-13-DWQ.

3.4 ***Planning and Design***

3.4.1 Planning, design and other related activities for eligible projects, as determined by the Director in accordance with ~~Sections~~ §§3.1, 3.2 and 3.3 of these Regulations, are eligible for funding. Planning, design, and other related activities may be handled as a separate project.

3.5 ***Refinancing of Existing Facilities***

3.5.1 DWSRF funds may buy or refinance debt obligations of municipal, intermunicipal or interstate agencies, for eligible projects where the initial debt was incurred and construction started after July 1, 1993. Projects which are being refinanced must meet all of the requirements of these Regulations, including eligibility criteria, compliance with all applicable state and federal laws and regulations, and environmental reviews.

3.6 ***Guarantee or Purchase Insurance for Local Debt Obligations***

3.6.1 DWSRF funds may be used to guarantee or purchase insurance for local debt obligations undertaken to finance projects eligible for assistance. Projects for which DWSRF funds are being used to guarantee or purchase insurance for local debt obligations must meet all the requirements of these Regulations, including eligibility criteria, compliance with all applicable state and federal laws and regulations, and environmental reviews.

3.7 ***Projects not eligible for funding:***

3.7.1 The DWSRF cannot provide funding assistance for the following projects and activities:

(a) Dams, or rehabilitation of dams;

(b) Water rights, except if the water rights are owned by a system that is being purchased through consolidation as part of a capacity development strategy;

(c) Reservoirs, except for finished water reservoirs and those reservoirs that are part of the treatment process and are located on the property where the treatment facility is located;

(d) Laboratory fees for monitoring;

(e) Operation and maintenance expenses;

(f) Projects needed mainly for fire protection;

(g) Projects for systems that lack adequate technical, managerial and financial capability, as determined by the Director, unless assistance will ensure compliance;

(h) Projects for systems in significant noncompliance, unless funding will enable the system to return to compliance;

(i) Projects primarily intended to serve future growth. However, assistance may be provided to address population growth expected to occur over the useful life of the project to be funded.

Section 4.0 ***Project Priority List***

4.1 A project cannot receive funding from the DWSRF Program unless it is on the approved Project Priority List. The chief executive officer of the eligible public water system must submit to the Department an application requesting that the proposed project be placed on the Project Priority List. The application must include:

4.1.1 A description of the project.

4.1.2 ~~A description of the purpose of~~ The reason for the project. The explanation of the ~~purpose of~~ reason for the project should be of sufficient detail for the Director to determine the project's eligibility under ~~Section~~ §3.0 of these Regulations and to rank the project pursuant to ~~Section~~ §5.0 of these Regulations.

4.1.3 Average annual residential water bill. The average annual residential water bill is to be based on 70,000 gallons of water per year. Supporting documentation must be provided with the application.

4.1.4 The Median Household Income of the community in which the water service area is located. The Median Household Income is to be determined from income data in the most recent United States census. If there is reason to believe that the census data is not an accurate representation of the MHI within the area being served, the reason will be documented and the applicant will furnish additional information regarding

the MHI. Information will consist of reliable data from local, regional, state or from an income survey conducted by a reliable impartial source. Median Household Incomes for service areas which cross municipal boundaries is the weighted average based on the number of service connections in each community. Supporting documentation must be provided with the application.

4.1.5 The total cost of the project.

4.1.6 Anticipated start and finish dates.

4.1.7 Public health benefits of the project. The public benefits of the project shall be of sufficient detail to clearly demonstrate the public health benefit of the project.

4.1.8 System type.

4.1.9 System ownership.

4.1.10 System ownership type.

4.1.11 Age of the system.

4.1.12 Population served (current) by the project. Report the population that the project will serve directly at project completion (not the potential number of people that the project can serve in twenty (20) years).

4.1.13 Population served by the system Report the number of people connected to the water system.

4.1.14 The number of service connections served by the project

4.1.15 The number of service connections served by the system

4.1.16 Project location. Provide the physical location of the primary place of performance of the funded activity. If the project spans a large geographic area such as distribution project, provide a street address that best represents the location of the center of the project.

(a) Address line 1. Provide the primary street address of the project.

(b) Address line 2. Provide any secondary street address information for the primary street address of the project ( e.g. P.O. Box 123, pole #).

(c) Provide the primary city/or other political jurisdiction of the project location.

(d) Provide the primary zip code (zip + 4) of the project (e.g., 12345-6789).

(e) Congressional District. Provide the primary congressional district of the project location.

4.2 The information provided pursuant to ~~Section~~ §4.1 of these Regulations will be reviewed for accuracy and eligibility and then given a priority ranking score based on the ranking system in ~~Section~~ §5.0 of these Regulations. The eligible projects and their respective information will then be listed in order of priority, highest to lowest, in a Project Priority List. The Project List will show the following information: name of system, project description, population served, priority point score, and dollars to be funded. Utilizing the provisions in these Regulations and the amount of available funds, projects that are designated to receive

funding for the designated year will be identified in the Project Priority List. The Project Priority List will then be placed in the Intended Use Plan which will go out for public review and comment.

Section 5.0 ***Project Ranking***

5.1 The Director shall rank each project according to the project ranking criteria in Appendix 2 of these Regulations. The Director shall assign points to each project ranking criterion based upon the most current information available to him/her, including information received prior to and during the public review process. The Director shall annually evaluate the ranking of each project and make changes as deemed necessary.

5.2 ***Tie Breaking Procedure***

5.2.1 When two or more projects score equally under the Project Ranking System, the project with the greatest score in Section A (Health Risk and Compliance) of the priority ranking system will receive the higher ranking. If this still results in a tie score, the system with the higher score in Section B (Economic Factors) will be given a higher ranking.

5.3 ***Non-construction projects***

5.3.1 Projects to refinance existing debt, guarantee or purchase insurance for local debt obligations, or for other non-construction activities such as planning and designing will be ranked in the same manner as construction projects. The ranking will be based on the original purpose of the project for which funding is being requested.

Section 6.0 ***Project Priority List Revisions***

6.1 As necessary, but not less than annually, the Director shall review the Project Priority List for changes in estimated schedules, project costs and/or scope. The Director may propose modifications of the Project Priority List at any time according to these procedures:

6.1.1 ***Addition to the list:*** projects can only be added to the list after the solicitation of public comments.

6.1.2 ***By-pass provisions:*** a project on the Project Priority List may be by-passed, without soliciting public comments, if it is apparent that the project will not be ready to proceed (i.e. system will not be able to sign a loan agreement) by the end of the federal fiscal year in which funding is designated. The highest ranked unfunded project or projects on the priority list which is(are) ready to proceed will be selected for funding utilizing the moneys freed-up by the by-passed project. By-passed projects will not lose their priority ranking and will be eligible for future DWSRF moneys when the water system is ready to proceed with the project.

6.1.3 ***By-pass provisions for small water systems:*** to the extent that projects exist, a minimum of 15% of the moneys available for funding projects each year must go to public water systems that serve a population of less than 10,000 people (small systems). The lowest priority project or projects for water systems that serve 10,000

or more people may be by-passed, without soliciting public comments, in order to achieve this 15% assistance to small systems. As necessary, the highest priority small system projects will be selected to satisfy the minimum 15% level.

6.1.4 ***Emergency projects:*** without soliciting public comments, projects necessary to address an imminent risk to public health, as determined by the Director, will be moved to the top of the priority list, even if the project was not previously on the priority list. A water system would be considered as having an imminent risk if there is either a known waterborne disease outbreak or a threat of disease outbreak by the presence of an acute contaminant in the system; or the total loss of water supply or loss of a major component due to a natural or unforeseen disaster which could not have been prevented by the applicant.

Section 7.0 ***Eligible Costs***

7.1 Eligible costs, as applied to any eligible project, means any or all costs, including, but not limited to, amounts for the following: planning, design, acquisition, construction, improvement and rehabilitation of facilities; demolitions and relocations; labor, materials, machinery and equipment; services of architects, engineers, and environmental and financial experts and other consultants; feasibility studies, plans, specifications, surveys; and environmental reviews; interest prior to and during the carrying out of any project and for a reasonable period thereafter; reserves for debt service or other capital expenses; cost of issuance of local governmental obligations or obligations of privately organized water suppliers issued to finance the obligations including, without limitation, fees, charges, and expenses and costs relating to the loan evidence.

Section 8.0 ***Capacity Development***

8.1 In order to be eligible for financial assistance under the DWSRF Program, eligible public water systems must demonstrate that they have the technical, financial and managerial capability to maintain compliance with the *Rules and Regulations Pertaining to Public Drinking Water* (R46-13-DWQ) unless the owner or operator of the system agrees to undertake feasible and appropriate changes in operation or if the use of the financial assistance from the DWSRF will ensure compliance.

8.2 ***Technical and Managerial Capacity***

8.2.1 The Department's determination of technical and managerial capacity will be based on the water system's ability to maintain substantial compliance with all of the requirements specified in Appendix 3. Assurance of technical and managerial capacity will be based on:

(a) Compliance with the *Rules and Regulations Pertaining to Public Drinking Water* (R46-13-DWQ).

(b) Compliance with the *Rules and Regulations Pertaining to the Certification of Public Drinking Water Supply Treatment and Public Water Supply Transmission and Distribution Operators* (R23-65-DWQ).

(c) Compliance with the *Rules and Regulations Pertaining to Clean Water Infrastructure* (R46-15.6-DWQ).

(d) Compliance with the Public Drinking Water Protection Act (R.I.G.L. 46-15.3, et seq).

(e) Compliance with the Water Supply Management Act (R.I.G.L. 46-15.4).

(f) Correction of all critical deficiencies on the applicant's last sanitary survey.

(g) For water systems serving less than 50 million gallons per year, an analysis of necessary and/or planned operational and capital improvements over the next five (5) years.

8.3 ***Financial Capacity***

8.3.1 In order to be eligible for financial assistance from the DWSRF program, eligible public water systems must demonstrate that they have the financial ability to maintain compliance with the *Rules and Regulations Pertaining to Public Drinking Water* (R46-13-DWQ).

Section 9.0 ***Certificate of Approval***

9.1 A Certificate of Approval for a project shall be issued by the Director to a local governmental unit or privately organized water supplier prior to receiving financial assistance from the Agency. The Certificate of Approval shall specify the project or portion thereof eligible for financial assistance, the cost of the project or portion thereof, and other terms, conditions, and limitations with respect to the construction and operation of the project as the Director shall determine.

9.2 All applications for a Certificate of Approval must be submitted to the Department, Office of Drinking Water Quality. All applications for a Certificate of Approval must include:

9.2.1 A summary sheet listing a breakdown of project costs and portions for which financial assistance is being sought.

(a) Sufficient evidence to show that the water system has the technical and managerial capabilities to maintain compliance with the *Rules and Regulations Pertaining to Public Drinking Water* [R46-13-DWQ] (See Appendix 3).

9.2.2 A Categorical Exclusion (CE), Finding of No Significant Impact (FONSI), or a Record of Decision (ROD) indicating that the project has undergone an environmental review in accordance with ~~Section~~ §10.0 of these Regulations.

9.2.3 Certification that the project is consistent with the State Guide Plan. Projects that qualify for categorical exclusions are exempt.

9.2.4 Certification of intent to comply with all applicable provisions of federal and/or state laws (Appendix 4).

9.3 Applications for a Certificate of Approval for new water sources and/or the construction or alteration of a public drinking water supply facility, including but not limited to, pumping,

treatment, storage and distribution, which have an impact on drinking water quality, as determined by the Director, shall be required to include all applicable Architectural and Engineering reports and plans for review and approval.

9.4 Drinking water projects shall be designed, installed and constructed in accordance with applicable American Water Works Association (AWWA) standards with reference to materials to be used and construction procedures to be followed. In the absence of AWWA standards, Departmental review may be based upon the Recommended Standards for Water Works by Great Lakes Upper Mississippi River Board of State Public Health & Environmental Managers (i.e., the 10 State Standards), National Sanitation Foundation (NSF) Standards 60 and 61, commercial, and other recognized standards utilized by design engineers.

9.5 The issuance of a Certificate of Approval shall not be in lieu of, and every approved project shall remain subject to, each and all environmental, technical and regulatory approval requirements as provided in applicable state and federal laws and regulations, including those requirements which are administered by Department.

## Section 10.0 ***Environmental Review Process***

### 10.1 ***General Process and Background***

10.1.1 This State Environmental Review Process (SERP) addresses compliance with the National Environmental Policy Act (NEPA), a requirement of the Safe Drinking Water Act (SDWA) for all projects funded with the federal portion of the Rhode Island Drinking Water State Revolving Fund (DWSRF) Program. Further, environmental review for natural resources inventories and consistency with the State Guide Plan (SGP) is required for all projects funded by the state portion of the DWSRF Program, except for those that qualify for a categorical exclusion. The Rhode Island Comprehensive Planning and Land Use Regulation Act [RIGL Chapter 45-22.2] requires not only the coordination and consistency between state and local planning programs in the development of the Community Comprehensive Plan (CCP), but also consideration of environmental conditions during planning similar in many respects to NEPA.

### 10.2 ***Public Water System Responsibility***

10.2.1 The public water system shall prepare and submit an environmental review as part of the application for a Certificate of Approval.

10.2.2 Except where exempted in ~~section~~ §10.3 of these Regulations, the public water system shall prepare an Environmental Assessment (EA) for all projects utilizing DWSRF funds. Comments by all agencies with statutory and/or regulatory authority within the planning area (e.g. Statewide Planning, Coastal Resources Management Council, DEM Wetlands, DEM Groundwater, RI Historical Preservation and Heritage Commission, Department of Transportation, U.S. Fish & Wildlife, etc.) shall be requested by the public water system as part of the EA process. If the EA does not identify significant impacts from the proposed project(s), the Department

will issue a Finding of no Significant Impacts (FONSI). If, as a result of the EA, significant impacts are identified, the public water system must prepare an Environmental Impact Statement (EIS).

10.2.3 The public water system must hold at least one (1) public meeting/workshop during the preparation of the EA, preferably once the alternatives have been developed and the environmental impacts analyzed. This meeting will explain the plan of study and solicit public opinions and concerns. If the impacts identified with the preferred alternative in the EA are significant, the public water system must issue a public notice stating that an EIS is being initiated and that a scoping meeting will be held. In addition to the public meeting/workshop, when the preferred alternative is identified, the public water system must hold a public hearing on the draft EA/EIS. The final EA/EIS submitted to the Department for review and approval must include responses to all substantive public comments. Documentation of the meeting/ workshop and public hearing announcements including media announcement public postings etc, attendance sheet, project presentation, public comment and notes of the meeting/workshop shall be included in the Appendix of the EA. Stenographic or a video of the public hearing must also be included in the Appendix of the EA.

10.2.4 The Department will independently review and evaluate the environmental information provided and issue a CE, FONSI or ROD. Mitigation measures and comments by other agencies shall be incorporated in the EA/EIS and will be reflected in any final determination rendered by the Department.

10.3 ***Categorical Exclusion***

10.3.1 Categories of projects which do not individually or cumulatively have significant effects on the quality of the environment may be exempted from the substantive environmental review requirements of this section. Projects that solely involve the acquisition, construction, reconstruction, renovation, or installation of facilities or structures, for replacement or restoration purposes, with minimal change in use, size, capacity, purpose or location from the original facility, may be eligible for a categorical exclusion. Environmental assessments and/or Environmental Impact Statements will not be required for excluded actions. It must be emphasized that even though a project is excluded from further environmental reviews under this section, it is not excluded from other applicable local, state, and federal environmental laws.

10.3.2 ***General Categories Of Actions Eligible For Exclusions.*** Projects consistent with any of the following categories may be eligible for a categorical exclusion:

(a) Repairing or replacing existing water mains.

(b) Replacing an existing water storage tank with a new tank of similar size and stature at the same location.

(c) The installation, replacement or repair of equipment (i.e., treatment, pumps, controls, etc.) within existing buildings.

(d) Minor rehabilitation of existing facilities.

(e) Other projects which, as determined by the Director, do not individually, cumulatively over time, or in conjunction with other state, federal, local, or private actions have a significant effect on the quality of the environment.

10.3.3 ***General Categories of Actions Not Eligible for Exclusions*** The full environmental review procedures of this section shall be followed if the undertaking of a project consistent with allowable categories in ~~section~~ §10.3.2 of these Regulations involves a serious local or environmental issue, or meets any of the following criteria:

(a) The project is known or expected to have a significant effect on the environment, either individually, cumulatively over time, or in conjunction with other state, federal, local or private actions;

(b) The project is known or expected to directly affect:

(1) Cultural resource areas such as archaeological and historic sites;

(2) Endangered or threatened species and their critical habitats;

(3) Environmentally important natural resource areas such as floodplains, wetlands, important farmlands, and aquifer recharge zones;

10.3.4 Public water systems wishing to obtain a categorical exclusion for a project should submit a written request to the Director. The written request should include a brief description of the proposed project and a brief statement of how the project meets the criteria for a categorical exclusion. The Director shall review the request and determine whether to issue or deny a categorical exclusion for the proposed project. The Director shall notify the public water system of the decision to issue or deny a categorical exclusion as soon as practicable.

10.3.5 The Director shall revoke a categorical exclusion and shall require a full environmental review if, subsequent to the granting of an exclusion, the Director determines that the proposed project no longer meets the requirements for a categorical exclusion due to changes in the proposed project or determines from new evidence that serious local or environmental issues exist or that federal, state, or local laws are being or may be violated.

10.4 ***Consistency Requirements***

10.4.1 To ensure compliance with state law, the Department will not issue a Certificate of Approval for a DWSRF project unless it is consistent with the local Community Comprehensive Plan (CCP). Projects that qualify for a categorical exclusion will be exempt from the State Guide Plan consistency requirement. Applications for a Certificate of Approval must contain a certification by the Department of Administration's Division of Planning that the project is consistent with the SGP or excerpts from a CCP approved by the State Planning Council.

10.5 ***Department's Public Review Process***

10.5.1 Following the Department's decision to issue a CE, FONSI, ROD, or reaffirmation of a previous decision, the Department will invite public comments for thirty (30) days by publishing a notice of the determination made in a paper of statewide

circulation and sending notification of such determination to all persons and associations who have advised the Department that they wish to be notified. During the public comment period, any interested party may submit written comments and may request a public hearing. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. Following public notice or public hearing, the final determination will be made by the Director.

Section 11.0 ***Green Project Reserve (GPR)***

11.1 GPR may be used for planning, design and/or building activities. Under the GPR in the DWSRF both entire projects may be considered for inclusion or appropriate identifiable components of larger projects may be considered for inclusion. All projects or project components counted toward the GPR requirement must clearly advance one or more of the objectives articulated in the following four (4) categories of GPR: Green Infrastructure, Water Efficiency, Energy Efficiency and Environmentally Innovative[1].

11.2 ***DWSRF Green Project Reserve Eligibility Principles***

11.2.1 All GPR projects and activities must otherwise be eligible for DWSRF funding. The GPR requirement does not create new funding authority beyond that described in Section 1452 of the Safe Drinking Water Act.

11.2.2 GPR project and activities must meet the definition of one of four GPR categories. The individual GPR categories do not create new eligibility for the DWSRF. The projects that count toward the GPR must otherwise be eligible for DWSRF funding.

11.2.3 GPR projects and activities must further the goals stated in Section 1452 of the Safe Drinking Water Act.

11.3 ***Business Case Requirement***

11.3.1 Projects and activities that fit within the four (4) specific categories as detailed in §§ 11.4.2, 11.5.2, 11.6.2, and 11.7.2 of these Regulations. §§ 11.4.2, 11.5.2, 11.6.2, and 11.7.2 of these Regulations define each category of GPR projects and lists projects that are clearly eligible for GPR, heretofore known as categorically eligible projects.

11.3.2 Projects that do not appear on the list of categorically eligible projects must be evaluated for their eligibility within one of the four (4) targeted types of GPR eligible projects based upon a business case that provided clear documentation.

11.3.3 HEALTH in consultation with the Environmental Protection Agency is responsible for the business case review and will either accept or reject the business case. The Certificate of Approval process will not commence without an approved Business Case. Approved business cases will be posted on the Rhode Island Department of Health website.

11.4 ***Green Infrastructure***

[1] Source water protection projects are not eligible for RI DWSRF funding.

11.4.1 Green storm water infrastructure includes a wide array of practices at multiple scales that manage wet weather and that retains and restores natural hydrology by infiltrating, evapotranspiring and harvesting and using storm water. On a regional scale green infrastructure is the preservation and restoration of natural landscape features, such as forest, floodplains and wetlands coupled with policies such as infill and redevelopment that reduce overall imperviousness in a watershed. On the local scale, green infrastructure consists of site and neighborhood-specific practices, such as bioretention, trees, green roofs, permeable pavements and cisterns.

11.4.2 ***Categorical Projects***

(a) The following types of projects, done at a utility-owned facility or as part of a water infrastructure project, can be counted toward the GPR if they are part of an eligible DWSRF Project:

(1) Pervious or porous pavement;

(2) Biorentention;

(3) Green roofs;

(4) Rainwater harvesting/cisterns;

(5) Grey water use;

(6) Xeriscape;

(7) Landscape conversion programs;

(8) Moisture and rain sensing irrigation equipment.

11.4.3 ***Projects That Do Not Meet the Definition of Green Infrastructure***

(a) Storm water controls that have impervious semi-impervious liners and provide no compensatory evapotranspirative or harvesting function for storm water retention.

(b) Storm water ponds that serve an extended detention function and/or extended filtration. This includes dirt lined detention basins.

(c) In-line or end-of-pipe treatment systems that only filter or detain storm water.

(d) Underground storm water control and treatment devices such as swirl concentrators hydrodynamic separators, baffle systems for grit, trash removal/ floatables oil and grease, inflatable booms and dams for in-line underground storage and diversion of flows.

(e) Storm water conveyance systems that are not soil/vegetation based (swales) such as pipes and concrete channels, Green infrastructure projects that include pipes to collect storm water may be justified as innovative environmental projects pursuant to §11.7 of these Regulations.

11.4.4 ***Decision Criteria for Business Cases***

(a) Green infrastructure projects are designed to mimic the natural hydrologic conditions of the site or watershed.

(b) Projects capture, treat, infiltrate or evapotranspire storm water on the parcels where it falls and does not include inter basin transfers of water.

(c) GPR project is in lieu of or to supplement municipal hard/grey infra-structure.

(d) Projects considering both landscape and site scale will be most successful at protecting water quality.

(e) Design criteria is available at: http://cfpub.epa.gov/npdes/greeninfrastructure/munichandbook.cfm and http://cfpub.epa.gov/npdes/greeninfrastructure/technology.cfm.

11.5 ***Water Efficiency***

11.5.1 EPA's WaterSense program defines water efficiency as the use of improved technologies and practices to deliver equal or better services with less water. Water efficiency encompasses conservation and reuse efforts, as well as water loss reduction and prevention, to protect water resources for the future.

11.5.2 ***Categorical Projects***

(a) Installing or retrofitting water efficient devices such as plumbing fixtures and appliances.

(1) For example showerheads, toilets, urinals, and other plumbing devices.

(2) Implementation of incentive programs to conserve water such as rebates.

(3) WaterSense labeled products (http://www.epa.gov/watersense/indix.html)

(b) Installing any type of water meter in previously unmetered areas

(1) If rate structures are based on metered use,

(2) Can include backflow prevention devices if installed in conjunction with water meter.

(c) Replacing existing broken/malfunctioning water meters with:

(1) Automatic meter reading systems (AMR) for example:

(i) Advanced metering infrastructure (AMI)

(ii) Smart meters.

(2) Meters with built in leak detection.

(3) Can include backflow prevention devices if installed in conjunction with water meter replacement.

(d) Retrofitting/adding AMR capabilities or leak equipment to existing meters (not replacing the meter itself).

(e) Conducting water utility audits, leak detection studies, and water use efficiency baseline studies, which are reasonably expected to result in a capital project or in a reduction of demand to alleviate the need for additional capitol investment.

(1) For standard practices, see AWWA M36 Water Audits and Loss Control

Programs.

(2) Free Water Audit Software, Version 4.1 (2010) http://www.awwa.org/Resources/WaterLossControl cfm?ItemNumber=47846&navItemNumber=48155

(f) Developing conversation plans/programs reasonably expected to result in water conserving capitol project or in a reduction in demand to alleviate the need for additional capitol investment. For standard practices see *AWWA M52 Water Conservation Programs – A Planning Manual.*

(g) Recycling and water reuse projects that replace potable sources with non-potable sources,

(1) Gray water, condensate, and wastewater reuse systems(where local codes allow the practice).

(2) Extra treatment equipment costs and distribution pipes associated with water reuse.

(h) Retrofit or replacement of existing landscape irrigation systems to more efficient landscape irrigation systems, including moisture and rain sensing controllers.

(i) Projects that result from water efficiency related assessments (such as water audits, leak detection studies, conservation plan, etc) as long as the assessments adhered to the standard industry practices referenced above.

(j) Distribution system leak detection equipment, portable or permanent.

(k) Automatic flushing systems (portable or permanent).

(l) Pressure reducing valves (PRVs)

(m) Internal plant water reuse as allowed by *Rules and Regulations Pertaining to Public Drinking Water* [R46-13-DWQ].

11.5.3 ***Projects That Do Not Meet the Definition of Water Efficiency***

(a) Covering open finished water reservoirs – Federally mandated, so not considered "above and beyond."

11.5.4 ***Decision Criteria For Business Cases***

(a) Water efficiency can be accomplished through water saving elements or reducing water consumption. This will reduce the amount of water taken out of rivers, lakes, streams, groundwater or other sources.

(b) Water efficiency projects should deliver equal or better services with less net water use as compared to traditional or standard technologies and practices.

(c) Efficient water use often has the added benefit of reducing the amount of energy required by a drinking water system, since less water would need to be treated and transported; therefore there are energy and financial savings.

(d) Proper water infrastructure management should address where water losses could be occurring in the system and fix or avert them. This could be achieved for

example, by making operational changes or replacing aging infrastructure.

11.5.5 ***Example Projects Requiring a Business Case***

(a) Water meter replacement with traditional water meters (see AWWA M6 *Water Meter –Selection, Installation Testing and Maintenance*).

(b) Distribution pipe replacement or rehabilitation to reduce water loss and prevent water main breaks (see AWWA M28 *Rehabilitation of Water Mains*).

(c) Storage tank replacement/rehabilitation to reduce water loss.

(d) New water efficient landscape irrigation system.

## 11.6 ***Energy Efficiency***

11.6.1 Energy efficiency is the improved technologies and practices to reduce the energy consumption of water projects, use energy in a more efficient way, and/or produce/utilize renewable energy.

11.6.2 ***Categorical Projects***[2]

(a) Renewable energy projects, which are part of a larger public health project, such as wind, solar, geothermal, and micro-hydroelectric that provide power to a utility (http://www.epa.gov/cleanenergy). Micro-hydroelectric projects involve capturing energy from pipe flow.

(1) Utility-owned renewable energy projects can be located on-site or off-site.

(2) Includes a portion of a publically owned renewable energy project that serves the utility energy needs.

(3) Must feed into the grid that the utility draws from and/or there is a direct connection.

(b) Utility energy management planning, including energy assessments, energy audits, optimization studies, and sub-metering of individual processes to determine high energy use areas, which are reasonably expected in energy efficiency capital projects or in a reduction in demand to alleviate the need for additional capitol investment.

(1) For standard energy management practices, see Ensuring Sustainable Future: An Energy Management Guidebook for Wastewater and Water Utilities, located at: http://www.epa.gov/waterinfrastructure/pdfs/guidebook_si_energymanagement.pdf

(2) Energy Efficiency Step-by-Step Guide: http://epa.gov/region09/waterinfrastructure/howto.html

(c) National Electric Manufacturers Association (NEMA) Premium energy

[2] EPA has concluded that existing literature does not support a twenty percent (20%) energy efficiency improvement threshold for drinking water system. Therefore. there is no categorical twenty percent (20%) threshold for pumping/ treatment systems for the DWSRF. A business case is required.

efficiency motors (http://www.nema.org/gov/energy/efficiency/premium/)

11.6.3 ***Projects That Do Not Meet the Definition of Energy Efficiency***

(a) Simply replacing a pump, or other piece of equipment, because it is at the end of its useful service life, with something of average efficiency. (Note: replacing it with a higher efficiency equipment requires a business case)

(b) Hydroelectric facilities, except micro-hydroelectric projects. Micro-hydroelectric projects involve capturing the energy from pipe flow.

11.6.4 ***Decision Criteria for Business Cases***

(a) Projects should include products and practices which will decrease environmental impact, such as reducing greenhouse gas emissions, and provide financial savings.

(b) Projects should include approaches to integrate energy efficient practices into daily management and long term planning. (http://www.epa.gov/waterinfrastructure/bettermanagement_energy.html)

(c) Operator training in conjunction with any energy saving project is strongly encouraged in order to maximize the energy saving potential.

(d) Using existing tools such as Energy Star's Portfolio Manager (http://www.energystar.gov/index.cfm?c=evaluate_performance.bus_portfoliomanager) or Check Up Program for Small Systems (CUPSS) (http://www.epa.gov/cupss/) to document the current energy usage and tract anticipated savings.

11.6.5 ***Example Projects Requiring a Business Case***

(a) Energy efficient retrofits, upgrades, or new pumping systems and treatment processes (includes variable frequency drives (VFDs)).

(b) Pump refurbishment to optimize pump efficiency (such as replacing or trimming impellers if pumps have too much capacity, replacing damaged or worn wearing rings/seals/bearings, etc).

(c) Projects that result from an energy efficiency related assessments (such as energy audits, energy assessment studies, etc), that are not otherwise designated as categorical.

(d) Projects that cost effectively eliminate pumps or pumping stations.

(e) Project that achieve the remaining increments of energy efficiency in a system that is already very efficient.

(f) Upgrade of lighting to energy efficient sources (such as metal halide pulse start technologies, compact fluorescent, light emitting diode, etc).

(g) Automated and remote control systems (SCADA) that achieve substantial energy savings (see AWWA *M2 Instrumentation and Control*).

11.7 ***Environmentally Innovative***

11.7.1 Environmentally innovative projects include those that demonstrate new and/or innovative approaches to delivering services or managing water resources in a more sustainable way.

11.7.2 ***Categorical Projects***

(a) Total/integrated water resources management planning, or other planning framework where project life cycle costs (including infrastructure, energy consumption, and other operational costs) are minimized, which communities to adopt more efficient and cost effective infrastructure solutions.

(1) Plans to improve water quantity and quality associated with water system technical, financial and managerial capacity.

(2) Planning activities by a utility to prepare for adaption to the long-term affects of climate change and/or extreme weather.

(i) Office of Water-Climate Change and Water Website: http://epa.gov/water/climatechange/

(b) Utility Sustainability plan consistent with EPA's SRF Sustainability policy.

(c) Greenhouse gas (GHG) inventory or mitigation plan and submission of a GHG inventory to a registry (such as Climate Leaders or climate Registry), as long as it is being done for a facility which is eligible for DWSRF assistance.

(1) EPA Climate Leaders- http://epa.gov/climateleaders/basic/index.html

(2) Climate Change Registry – http://www.theclimateregistry.org/

(d) Construction of United States Building Council LEED certified buildings, or renovation of an existing building, owned by the utility, which is part of an eligible DWSRF project.

(1) Any level of certification (Platinum, Gold, Silver Certified)

(2) All building costs are eligible, not just storm water, water efficiency and energy efficiency related costs. Costs are not limited to incremental additional costs associated with LEED certified buildings.

(3) http://www.usgbc.org/DisplayPage.aspx?CategoryID=19

11.7.3 ***Projects That Do Not Meet the Definition of Environmentally Innovative***

(a) Higher sea walls to protect water infrastructure facilities from sea level rise.

(b) Reflective roofs at water infrastructure facilities to combat heat island effect.

11.7.4 ***Decision Criteria for Business Cases***

(a) The State program is allowed flexibility in determining what projects qualify as innovative in their state based on unique geographical and climatological conditions.

(1) Technology or approach whose performance is expected to address quality

but the actual performance has not been demonstrated in the state; or

(2) Technology or approach that is not widely used in the state, but does perform as well or better than conventional technology/approaches at lower costs; or

(3) Conventional technology or approaches that are used in a new application in the state.

11.7.5 ***Projects Requiring a Business Case***

(a) Projects or components of projects that result from total/integrated water recourses management planning (including climate change) consistent with the Decision Criteria for environmentally innovative projects and that are DWSRF eligible.

(b) Application of innovative treatment technologies or systems that improve environmental conditions and are constant with the Decision Criteria for environmentally innovative projects.

(1) Projects that significantly reduce or eliminate the use of chemicals in water treatment.

(2) Treatment technologies or approaches that significantly reduce the volume of residuals, minimize the generation of residuals, or lower the amount of chemicals in the residuals (Cornwell, 2009 *Water Treatment Residuals Engineering*; Water Research Foundation).

(3) Trenchless or low impact construction technology

(4) Using recycled materials or reusing materials on site.

(c) Educational activities and demonstration projects for water or energy efficiency (such as rain gardens).

(d) Projects that achieve the goals/objectives of utility asset management plans. http://www.epa.gov/ogwdw/smallsystems/pdfs/guide_smallsystems_assetmanagement_bestpractices.pdf
http://www.epa.gov/owm/assetmanage/index.htm

11.8 ***Business Case Development***

A business case is a due diligence document for those projects or portions of a projects, which are not included in the categorical projects listed in §§11.4.2, 11.5.2, 11.6.2 and 11.7.2 of these Regulations. A business case will be required to demonstrate that an assistance recipient has thoroughly researched anticipated 'green' benefits of a project. Business cases must be approved by the State in conjunction with the EPA prior to receiving a Certificate of Approval for the project or portion of the project which the assistance recipient seeks an additional Green Project Reserve (GPR) financial assistance subsidy[3]. The approved business case must be included in the assistance recipient project files and contain clear documentation that the project achieves identifiable and substantial benefits.

11.8.1 ***Length of a Business Case***

[3] A GPR financial assistance subsidy shall be subject to availability of funds.

(a) Business cases should be adequate but not exhaustive.

(1) There are many formats and approaches. State and EPA does not require any specific one.

(2) Some projects will require detailed analysis and calculations, while others may not require more than one page.

(3) Limit the information contained in the business case to only the pertinent 'green' information needed to justify the project.

(b) A business case can simply summarize results from and then cite, existing documentation – such as engineering reports, water or energy audits, results of water system tests, etc.

11.8.2 ***Content of a Business Case***

(a) Business cases must address the decision criteria for the category project.

(b) Quantifiable water and/or energy savings or water loss reduction for water and energy efficiency projects shall be included.

(c) The costs and financial benefit of the project shall be included, along with the payback time period, where applicable.

11.8.3 ***Items Which Strengthen Business Case, but Are Not Required***

(a) Showing that the project was designed to enable equipment to operate most efficiently.

(b) Demonstrating that equipment will meet or exceed standards set by professional associations.

(c) Including operator training or committing to utilizing existing tools such as Energy Star's Portfolio Manager or CUPSS for energy efficiency projects

(d) Example Business Cases are available at http://www.srfbusinesscases.net/

Compiler's Note: §§11.0 to 14.0 in the April 2006 version of these Regulations have been redesignated as §§12.0 to 15.0 [to accommodate the addition of a new §11.0]. All additional changes are specifically noted.

Section 12.0 ***Loan Program***

12.1 All loan requirements are contained in the Agency's "Loan Policies And Procedures II."

Section 13.0 ***Project Administration and Audit***

13.1 The Department shall have the authority to inspect the construction and operation of approved projects for compliance with these Regulations.

Section 14.0 ***Rules Governing Practices and Procedures***

14.1 All hearings and reviews required under the provisions of Chapters 23-17.6 and 23-4.1 of the

General Laws of Rhode Island, as amended, shall be held in accordance with the provisions of the *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health* (R42-35-PP).

Section 15.0 ***Severability***

15.1 If any provisions of these ~~rules and~~ Regulations or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of these ~~rules and~~ Regulations shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections shall not affect the validity of the remainder of these ~~rules and~~ Regulations.

*DrinkingWater_RelvolvingFund_PublicHearingDraft_7April2011.doc*
*Thursday, 07 April 2011*

*Appendix 1*

**DRINKING WATER STATE REVOLVING FUND (DWSRF) PROGRAM**
Rhode Island Department of Health
Office of Drinking Water Quality

**DWSRF Application for Certificate of Approval**

Water System Name: _____

Contact Person: _____ Telephone: _____

A/E Contact: _____ Telephone: _____

Project Title: _____

**Application Checklist** (To be completed by applicant)

_____ Detailed Project Description

_____ Summary sheet listing a breakdown of project costs and portions for which assistance is being sought.

_____ Capacity Development Worksheet

_____ CE, FONSI, or ROD from the environmental review process.

_____ Certification from the Office of State Planning that the project is consistent with the State Guide Plan. Projects that qualify for categorical exclusions are exempted

_____ Certification of intent to comply with all applicable provisions of federal and/or state laws

_____ Certified copy of the resolution of the governing body of the public water system directing the CEO to submit an application for DWSRF assistance

_____ All applicable Architectural/Engineering reports and plans.

**FOR DOH USE ONLY**

Application Number: _____ Date Received: _____

Engineering Reviewer Initials: _____ Date: _____

Comments: _____

_____

_____

Based on staff review of the contents of the application package for assistance from the DWSRF, it is my opinion that all requirements for issuing a Certificate of Approval have been met.

Signed: _____ Title: _____

Date:

***Appendix 2***

**State Of Rhode Island**
**Drinking Water State Revolving Fund**

**Project Priority Ranking**

**Total Project Priority Ranking Score = A + B + C + D + E + F + G**

| **A. Health Risk and Compliance** (*select no more than one from Section A*) | ***Points*** |
|---|---|
| 1) Project is to address a Treatment Technique Violation or the exceedence of an MCL, SMCL or a Health Advisory during the 18 months preceding the development of the Project Priority List. | |
| a) Microbiological | |
| i. Surface Water Treatment Rule | |
| (a) Filter Performance Criteria (NTU Compliance) | 50 |
| (b) CT Disinfection | 40 |
| ii. Total Coliform Rule | |
| (a) Acute MCL Violation (Fecal/E-coli violation) | 60 |
| (b) Non-Acute MCL Violation (Total Monthly Coliform Violation) | 45 |
| b) Inorganic Chemicals | |
| i. Nitrates | 53 |
| ii. Lead and Copper | 37 |
| iii. Other Primary Standards | 35 |
| c) Organic Chemicals | 35 |
| d) Radiologicals | 33 |
| e) Secondary Standards (Aesthetics) | 4 |
| 2) Projects for compliance with future SDWA regulations: | |
| a) Enhanced Surface Water Treatment | 8 |
| b) Ground Water Disinfection | 7 |
| c) Disinfection By-Products | 6 |
| d) Arsenic | 5 |
| e) Radon | 5 |
| 3) Project is to extend the water lines of an existing system to an area where there is a public health threat due to contaminated private drinking water wells. | 35 |
| 4) Projects to upgrade, replace or repair infrastructure which is at risk of causing contamination due to age or design deficiencies. | |
| a) Source (excluding reservoirs, dams, dam rehabilitation and water rights) | 21 |
| b) Treatment | 19 |
| c) Source-intake structure | 16 |
| d) Pump Station | 14 |

| | |
|---|---|
| e) Storage | 12 |
| f) Transmission/Distribution mains | 10 |
| g) Instrumentation/Controls | 8 |

**B. Economic Factors**

1) * Percentage of average annual residential water bill to median household income.

| | |
|---|---|
| a) Greater than 1.5 % | 13 |
| b) 1.25 % to 1.49 % | 10 |
| c) 1.00 % to 1.24 % | 7 |
| d) 0.75 % to 0.99 % | 4 |
| e) 0.50 % to 0.74 % | 2 |
| f) 0.25 % to 0.49 % | 1 |

**C. Capacity Development**

| | |
|---|---|
| 1) Project involves the consolidation of two public water systems, one of which lacks either the proper technical, managerial, or financial capacity to maintain compliance with the Safe Drinking Water Act. The result of the consolidation must ensure compliance with the SDWA. | 5 |

**D. Special Incentives**

| | |
|---|---|
| 1) No monitoring violations over the last 24 months | 1 |

**E. System Type**

| | |
|---|---|
| 1) Community | 5 |
| 2) Non-transient non-community | 3 |
| 3) Transient non-community | 1 |

**F. Affordable Housing Plan**

| | |
|---|---|
| 1) The community (city or town) where the water system is located has a state-approved "Affordable Housing Plan." | 5 |

***** The average annual residential water bill is to be based on 70,000 gallons of water per year. The MHI of the community in which the water service area is located will be determined from income data in the most recent United States census. If there is reason to believe that the census data is not an accurate representation of the MHI within the area to be served, the reasons will be documented and the applicant will furnish additional information regarding the MHI. Information will consist of reliable data from local, regional, state or from an income survey conducted by a reliable impartial source.

MHIs for service areas which cross municipal boundaries is the weighted average based on the number of services in each community.

**G. Green Project Reserve**

1) **Green Infrastructure Projects**

| | |
|---|---|
| a) Categorical green infrastructure projects as detailed in §11.4.2 of these Regulations. | 5 |
| b) Non-categorical green infrastructure projects (***approved business case required to obtain a COA***) | 5 |
| 2) **Water Efficiency Projects** | |
| a) Categorical water efficiency projects as detailed in §11.5.2 of these Regulations. | 5 |
| b) Non-categorical water efficiency projects (***approved business case required to obtain a COA***) | 5 |
| c) Conducting water utility audits, leak detection studies, and water use efficiency baseline studies, which are reasonably expected to result in a capital project or in a reduction of demand to alleviate the need for additional capitol investment. | 3 |
| d) Developing conversation plans/programs reasonably expected to result in water conserving capitol project or in a reduction in demand to alleviate the need for additional capitol investment. | 3 |
| e) Projects that result from water efficiency related assessments (such as water audits, leak detection studies, conservation plan, etc) as long as the assessments adhered to the standard industry practices referenced in §11.5.2(e) and §11.5.2(f) of these Regulations. | 5 |
| 3) Energy Efficiency Projects | |
| a) Categorical energy efficiency projects as detailed in §11.6.2 of these Regulations. | 5 |
| b) Non-categorical energy efficiency projects (***approved business case required to obtain a COA***) | 5 |
| c) Utility energy management planning, including energy assessments, energy audits, optimization studies, and sub-metering of individual processes to determine high energy use areas, which are reasonably expected in energy efficiency capital projects or in a reduction in demand to alleviate the need for additional capitol investment. | 3 |
| 4) Environmentally Innovative | |
| a) Categorical environmental innovative projects as detailed in §11.7.2 of these Regulations. | 5 |
| b) Non-categorical environmental innovative projects (***approved business case required to obtain a COA***) | 5 |
| c) Categorical environmentally innovated planning framework as detailed in §§11.7.2(a), 11.7.2(a)(2), 11.7.2(a)(3), 11.7.2(b), 11.7.2(c) and 11.7.2(d) of these Regulations. | 3 |

## *Appendix 3* Capacity Development Worksheet

## TECHNICAL AND MANAGERIAL CAPACITY ANALYSIS

### 1. Water Systems Utilizing Greater than 50 Million Gallons per Year.

| | YES | NO |
|---|---|---|
| a) Will have an approved Water Supply Management Plan within a year? *If no, attach a brief explanation.* | | |
| b) Will have an approved Clean Water Infrastructure Plan within a year? If no, attach a brief explanation | | |
| c) Water system is in compliance with all the requirements for operator certification? If no, attach a brief explanation. | | |
| d) All the critical deficiencies identified in your last Sanitary Survey have been corrected? If no, attach a brief explanation. | | |
| e) Water system is in compliance with the *Rules and Regulations Pertaining to Public Drinking Water* R46-13-DWQ? If no, attach a brief explanation | | |

### 2. Water Systems Utilizing Less Than 50 Million Gallons per Year.

| | YES | NO |
|---|---|---|
| a) Supply and storage capacities are sufficient to meet current peak demands? Sufficient documentation must be provided). | | |
| b) Supply and storage capacities will be sufficient to meet your projected 5 year demands? (Sufficient documentation must be provided) | | |
| c) A discussion of all necessary and/or planned operational and capitol improvements over the next five years has been included with this application? If no, attach a brief explanation | | |
| d) Water system has an operation and maintenance plan? If no, attach a brief explanation | | |
| e) Water system is in compliance with all the requirements for operator certification? If no, attach a brief explanation | | |
| f) If 2(e) is not applicable, water system has an employee/volunteer who has sufficient knowledge and experience to operate and maintain this system in compliance with the SDWA? (If yes, please submit a short summary on the background and related experience of this individual) | | |
| g) Water system is in compliance with the *Rules and Regulations Pertaining to Public Drinking Water* R46-13-DWQ? If no, attach a brief explanation | | |

***Appendix 4***

**Drinking Water State Revolving Loan Fund (DWSRF)**

Rhode Island Department of Health

Certificate of Approval Process

**Requirements for Applicants for All DWSRF Loans**

As the Chief Executive Officer of the _____, I hereby certify that this public water system will comply with all applicable statutory and/or regulatory requirements of the Rhode Island General Laws of 1956, as amended, and all applicable federal laws as a condition of the award of a loan from the Rhode Island Drinking Water State Revolving Fund (DWSRF) Program.

This certification is executed on the _____ day of _____, 20____

_____ , CEO, _____ of _____
(Signature)

Signed and sworn to before me on this _____ day of _____, 20____.

_____

Notary Public