

**STATE
WATER
RESOURCES
CONTROL
BOARD**



**CALIFORNIA
ENVIRONMENTAL
PROTECTION
AGENCY**



**Draft Final Policy for Developing the Fund
Expenditure Plan**

for the

Safe and Affordable Drinking Water Fund

Prepared by:

THE DIVISION OF FINANCIAL ASSISTANCE

STATE WATER RESOURCES CONTROL BOARD

STATE OF CALIFORNIA

April 2020

This page intentionally left blank.

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

Table of Contents

I. INTRODUCTION	3
I.A. Purpose and Objective	4
I.B. Responsibilities of the Division of Drinking Water and the Division of Financial Assistance	5
I.C. Updates to the Policy and Fund Expenditure Plans	6
II. SUPPORTING THE WATER BOARDS' MISSION	6
II.A. Human Right to Water	6
II.B. Climate Change	7
III. TRIBAL CONSIDERATIONS	9
IV. DEFINITIONS	9
V. ENTITIES ELIGIBLE FOR FUNDING	14
VI. PROJECT ELIGIBILITY DETERMINATION	14
VI.A. Water Systems and Domestic Wells	14
VI.B. Communities	14
VII. TYPES OF PROJECTS ELIGIBLE FOR FUNDING	16
VIII. FUNDING STRATEGY	16
VIII.A. Regional Programs and Projects	16
VIII.B. Operation and Maintenance	17
VIII.C. System Sustainability	18
VIII.D. Emergency Projects	19
VIII.E. Community Engagement	20
VIII.F. Community Workforce Development and Training	20
VIII.G. Improving Administrative Efficiency	21
IX. FUNDING TERMS AND CONDITIONS	21
X. APPEALING A FUNDING DETERMINATION	22
XI. STATUTORY REQUIREMENTS FOR THE FUND EXPENDITURE PLAN	22
XI.A. Advisory Group	22

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

XI.B.	Drinking Water Needs Analysis	23
XI.C.	Fund Expenditure Plan Priorities	23
XI.D.	Identification of Water Systems Needing Solutions	24
XI.E.	Evaluation and Prioritization of Solutions for Systems in Violation	24
XI.F.	Evaluation and Prioritization of Solutions for At-Risk Systems	25
XI.G.	The Safe and Affordable Drinking Water Fund Solution List	26
XI.H.	Report of Prior Year Expenditures	27
XI.I.	Metrics	27
XI.J.	Public Hearing	29
XI.K.	Report to the Legislature	29
XII.	OTHER ITEMS	29
XII.A.	Petition Process for Consideration of Consolidation	29
XII.B.	SAFER Program Resources	29
APPENDICES		
A.	Median Household Income Determination Guidelines <i>(Reserved)</i>	
B.	Household Income Survey Guidelines <i>(Reserved)</i>	

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

I. INTRODUCTION

This Policy is adopted by the State Water Resource Control Board (State Water Board) for its development of the Fund Expenditure Plan (Plan) for the Safe and Affordable Drinking Water Fund (Fund), as part of the State Water Board's larger Safe and Affordable Funding for Equity and Resilience (SAFER) Drinking Water Program (Program). The SAFER Program's goals are to provide safe drinking water in every California community, for every Californian.

The Fund was established by Senate Bill (SB) 200 in July 2019 to address funding gaps and provide solutions to water systems, especially those serving disadvantaged communities, to address both their short- and long-term drinking water needs. SB 200 requires the annual transfer of 5 percent of the annual proceeds of the Greenhouse Gas Reduction Fund (GGRF) (up to \$130 million) into the Fund until June 30, 2030. Projects funded by the SAFER Program using GGRF monies will also either facilitate reductions of greenhouse gas emissions or improve climate change adaptation and resiliency of GGRF Disadvantaged Communities (DACs), GGRF Low-Income Households, or GGRF Low-Income Communities. Money transferred into the Fund is continuously appropriated and must be expended consistent with the Plan, which is adopted annually by the State Water Board. The Plan is based on a drinking water needs analysis and will document past and planned expenditures and prioritize projects for funding.

The State Water Board administers the SAFER Program primarily through its Division of Drinking Water (DDW), Division of Financial Assistance (DFA), and Office of Public Participation (OPP). The State Water Board sets drinking water standards and adopts regulations for drinking water systems. DDW issues permits and enforces compliance with the California Safe Drinking Water Act, including ordering consolidations and administrator services. Through DFA, the State Water Board offers many financial assistance programs to assist with the provision of safe drinking water. OPP provides community engagement assistance to support effective public participation in State Water Board decisions and actions.

The Fund complements the State Water Board's existing suite of financial assistance programs, which are generally limited to addressing capital infrastructure. Other funding sources administered by the State Water Board for drinking water projects include: General Fund allocations, Proposition 68 Drinking Water, Proposition 1 and Proposition 68 Groundwater, and the Drinking Water State Revolving Fund (DWSRF), which offers both loans and principal forgiveness. Per Health and Safety Code section 116766, the purpose of the Fund is to help water systems provide an adequate and affordable supply of safe drinking water in both the short and long term and fund the following:

- (1) Operation and maintenance (O&M) costs to help deliver an adequate supply of safe drinking water in both the near and long terms.

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

- (2) Consolidating water systems or extending drinking water services to other public water systems, domestic wells, and state small water systems.
- (3) The provision of replacement water, as needed, to ensure immediate protection of health and safety as a short-term solution.
- (4) The provision of administrator services (under Health and Safety Code section 116686) for purposes of helping the systems become self-sufficient in the long term.
- (5) The development, implementation, and sustainability of long-term drinking water solutions.
- (6) State Water Board costs associated with the implementation and administration of the programs under Health and Safety Code section 116765, et seq.

The statutory basis for the Fund is established in Section 53082.6 of the Government Code; Sections 39719, 100827, 116275, 116385, 116530, 116540, 116686, and Chapter 4.6 (commencing with Section 116765) of the Health and Safety Code; and Chapter 7 (commencing with Section 8390) of the Public Utilities Code.

Notwithstanding any provision of this Policy, the State Water Board will implement the Fund consistent with federal law and policy, and state law and policy.

The provisions of this Policy are effective upon adoption by the State Water Board, unless otherwise required by federal or state statute, guidance, regulation, or agreement.

I.A. Purpose and Objective

The purpose of this Policy is to establish and document the State Water Board's direction on how the Fund Expenditure Plan will be developed and implemented. This Policy discusses how the Program supports the Water Boards' mission; defines key terms; discusses eligible entities and projects; provides an overall funding strategy; includes funding terms, conditions, and how to appeal a funding determination; discusses the required elements of the Fund Expenditure Plan (including how proposed solutions will be identified, evaluated, and prioritized); establishes a petition process for consideration of consolidation orders; and identifies SAFER Program resources.

The primary purpose of the SAFER Program per Health and Safety Code section 116765, subdivision (j) is to bring true environmental justice to California and begin to address the continuing disproportionate environmental burdens in the state by creating a fund to provide safe drinking water in every California community, for every Californian. The Fund will assist water systems in providing a safe, adequate, and affordable supply of drinking water to communities in both the near and long terms by accelerating implementation of short- and long-term solutions, moving water systems to more efficient modes of operation, providing short-term O&M support as a bridge until long-term sustainable solutions are in place, and providing long-term O&M support when necessary. Funded solutions will take a holistic view of existing violations, other system deficiencies and potential risks (e.g., unregulated contaminants of emerging concern) when evaluating alternatives.

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

Short-term goals for the SAFER Program include:

- (1) Provision of safe drinking water to more communities and people, more efficiently, and in less time. This may be via replacement water, appointing administrators to assess the status and needs of failing systems and identifying opportunities to increase efficiency, and accelerating implementation of capital projects.
- (2) Promoting consolidation and extension of service.

Long-term goals for the SAFER Program include support of water system improvements such as system upgrades, and building technical, managerial, and financial (TMF) capacity to make systems safe, efficient, and sustainable.

The purposes of the Fund Expenditure Plan are to:

- (1) Identify public water systems (PWS), community water systems (CWS), state small water systems and regions where domestic wells consistently fail or are at risk of failing to provide adequate safe drinking water, the causes of failure, and appropriate remedies;
- (2) Determine the amounts and sources of funding needed to provide safe drinking water or eliminate the risk of failure to provide safe drinking water; and
- (3) Identify gaps in supplying safe and affordable drinking water and determine the amounts and potential sources of funding to eliminate those gaps.

The State Water Board convened an Advisory Group in December 2019 to provide input into the development of this Policy, the Fund Expenditure Plan, and overall implementation of the Fund. More information on the Advisory Group is presented in Section XI.A.

I.B. Responsibilities of the Division of Drinking Water and the Division of Financial Assistance

The State Water Board administers the Fund through DFA and implements the Safe Drinking Water Act through DDW. The Deputy Director of DFA, or designee, is authorized to execute financial assistance agreements with monies from the Fund in accordance with this Policy and the Fund Expenditure Plans. The Deputy Director of DDW, or designee, issues permits and enforces the State Water Board's remedies against public water systems for non-compliance with the California Safe Drinking Water Act, including the ordering of consolidations and appointing of administrator services. In addition, the State Water Board sets drinking water standards and adopts regulations for drinking water systems.

DFA and DDW will work collaboratively to ensure that systems that are in violation or identified as at-risk are being considered per the Policy and Fund Expenditure Plans for funding of appropriate projects or services that both address water quality issue(s) and take into consideration the most sustainable long-term solution for each particular system. Water Board staff will work to identify and implement solutions for state small

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

systems in DACs and private wells that do not provide safe drinking water. For projects or services that are already being funded, DFA and DDW will continue to work collaboratively with the system and other stakeholders (e.g., local primacy agency, TA provider, consultant), as appropriate, to help reduce or remove roadblocks to ensure that projects are making adequate progress or that services are being provided in a timely manner.

I.C. Updates to the Policy and Fund Expenditure Plans

The initial versions of the Policy and Fund Expenditure Plan will be in place by June and July, 2020, respectively so that implementation of solutions is not delayed. The Policy and Fund Expenditure Plan will be evaluated continuously as the SAFER Program is implemented and continues to develop. The Policy will be revised as needed as the Program evolves. It is anticipated that the Policy will be revised as frequently as every two years initially. The Fund Expenditure Plan will be updated annually as required by statute. Beginning in 2021, Fund Expenditure Plans will include a projected five-year strategy and associated solution list to the extent they can be identified and projected. The Deputy Director of DFA may make clarifying, non-substantive amendments to this Policy.

Development of the Fund Expenditure Plan will be coordinated with and complement the development of other drinking water funding program plans to best leverage other capital funding sources. These programs include the Drinking Water State Revolving Fund Intended Use Plan and bond-funded programs administered by the State Water Board. State Water Board staff will also coordinate with other funding agencies including, but not limited to, USEPA, the Department of Water Resources, and the United States Department of Agriculture (USDA).

II. SUPPORTING THE WATER BOARDS' MISSION

Projects funded by the larger SAFER Program help to further the Water Boards' mission "to preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource allocation and efficient use, for the benefit of present and future generations." Part of this mission includes but is not limited to furthering the human right to water and addressing climate change.

II.A. Human Right to Water

In February 2016, the State Water Board adopted Resolution No. 2016-0010 which identifies the human right to water as a top priority and core value of the Water Boards. Pursuant to Water Code section 106.3, "every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes." This Policy is consistent with Water Code section 106.3, as the core function of the SAFER Program is to ensure that every Californian has access to safe and affordable drinking water. The State Water Board has developed an interactive

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

map showing the compliance status of public water systems that can be found at the State Water Board's Human Right to Water Portal at https://www.waterboards.ca.gov/water_issues/programs/hr2w/.

Additional tools will be developed to track implementation of the SAFER Program and expenditures from the Fund.

The Office of Environmental Health Hazard Assessment (OEHHA) has developed an assessment and data tool to identify indicators for achieving the Human Right to Water using data on water quality, accessibility and affordability. As part of their Drought Contingency Planning Work, the Department of Water Resources (DWR) has developed initial drought impact screening and planning criteria. State Water Board staff will continue to work with OEHHA, DWR, and interested stakeholders in developing metrics to track progress attributable to the SAFER Program and the Fund.

II.A.1. Homelessness Access to Water and Sanitation

In many cases, persons experiencing homelessness do not have access to safe, clean water. The Fund is a potential opportunity for providing safe, clean drinking water to persons experiencing homelessness. Initially, the Board is focusing available funds on the provision of safe and affordable drinking water to water systems in violation of public health standards, water systems that are at-risk, and domestic well users in high risk areas. A large-scale investment in providing drinking water to persons experiencing homelessness using the Board's available funds is not possible given the other significant demands on those funds.

However, limited scope projects or pilot programs that improve access to or provide drinking water access to persons experiencing homelessness may be funded through the SAFER Program in coordination with municipalities, other public agencies, and nongovernmental partners that are directly addressing the variety of challenges associated with homelessness. In addition, by focusing the SAFER Program on supporting drinking water infrastructure improvements and affordability issues in low-income communities, the SAFER Program contributes to helping keep people in more affordable housing and communities.

II.B. Climate Change

The State Water Board seeks to reduce the effects of climate change and to promote sustainable water resources for future generations. In March 2017, the State Water Board adopted Resolution No. 2017-0012 requiring a proactive approach to climate change in all Water Board actions and programs. Applicable to the Fund, Health and Safety Code section 39719, subdivision (b)(3)(B) requires that GGRF monies be used to facilitate reductions of greenhouse gas emissions or to improve climate change adaptation and resiliency of GGRF DACs or GGRF Low-Income Households or GGRF Low-Income Communities. This Policy is designed to support those efforts.

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

II.B.1. California Climate Investments Requirements

Beginning July 1, 2020 up to \$130 million will be transferred from the GGRF to the Fund annually until 2030. In addition to facilitating reduction of greenhouse gas emissions or improving climate change adaptation and resiliency of GGRF DACs, GGRF Low-Income Households or GGRF Low-Income Communities, GGRF expenditures for the SAFER Program must meet the requirements of Health and Safety Code section 39712, subdivisions (b)(1-6), consistent with Health and Safety Code Division 25.5 (commencing with Section 38500). Where applicable and to the extent feasible, The State Water Board will meet these requirements by funding projects that:

- Improve public health by working to assure all public water supplies meet drinking water standards
- Reduce exposure to local environmental contaminants found in the drinking water supply
- Provide job development and training to disadvantaged and low-income communities
- Provide educational and community capacity building opportunities through community engagement and leadership
- Benefit individuals living in disadvantaged and low-income communities

Additionally, per Health and Safety Code section 39719, subdivision (b)(3)(B), the State Water Board will fund projects that:

- Increase resiliency and adaptation to climate change and lessen the impacts of climate change (reduced surface water flows, declining groundwater basins, increasing environmental contamination, drought, wildfires) by enhancing the long-term sustainability of drinking water systems
- Incorporate greenhouse gas emissions reductions in projects through energy efficiency and renewable energy components, where applicable and feasible

The State Water Board satisfied the requirements of Government Code section 16428.9, subdivision (a) and Health and Safety Code section 39719, subdivision (b) before any GGRF funds were spent by describing in an Expenditure Record and Attestation Memorandum how program expenditures will improve climate change adaptation and resiliency of GGRF DACs or GGRF Low-Income Households or GGRF Low-Income Communities. Project application evaluation and prioritization will be further defined in the Fund Expenditure Plan and will consider criteria defined in the Funding Guidelines for Agencies that Administer California Climate Investments (GGRF Funding Guidelines, available at:

<https://ww3.arb.ca.gov/cc/capandtrade/auctionproceeds/2018-funding-guidelines.pdf>), in particular, ensuring that projects benefit GGRF Priority Populations. An interactive GGRF Priority Population mapping tool is available at: <http://www.arb.ca.gov/cci-communityinvestments>. The State Water Board will work with the California Air Resources Board to determine a methodology to track and report improvements from

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

projects funded by the Fund (e.g., greenhouse gas emission reductions, co-benefits, and other climate change related improvements) and develop a reporting template for the SAFER Program.

The Safe and Affordable Drinking Water Fund is part of California Climate Investments, a statewide program that puts billions of Cap-and-Trade dollars to work reducing greenhouse gas emissions, strengthening the economy, and improving public health and the environment – particularly in DACs. The Cap-and-Trade program also creates a financial incentive for industries to invest in clean technologies and develop innovative ways to reduce pollution. California Climate Investments projects include affordable housing, renewable energy, public transportation, zero-emission vehicles, environmental restoration, more sustainable agriculture, recycling, and much more. At least 35 percent of these investments are located within and benefiting residents of DACs, low-income communities, and low-income households across California. For more information, visit the California Climate Investments website at: <http://www.caclimateinvestments.ca.gov>.

III. TRIBAL CONSIDERATIONS

Engagement with California Native American Tribes will be prioritized in outreach, program design and funding elements of the SAFER Program. California Native American Tribes are eligible recipients of monies from the Fund. The water system needs of California Native American Tribes will be evaluated for funding based on the same criteria as other eligible recipients. All State Water Board funding agreements contain compliance obligations, such as monitoring, reporting, inspection, and accounting (see Section IX for more information on funding terms and conditions). These compliance obligations ensure that the State Water Board complies with statutory requirements and responsibly administers state funds. Federally recognized Native American Tribes are also eligible to receive SAFER funding and staff will work with them to try to ensure that they can also benefit from the SAFER Program. In order to fund a project with a federally recognized Native American Tribe, the State Water Board may require a limited waiver of sovereign immunity strictly to ensure compliance with the terms of the financial assistance agreement. In addition, the State Water Board will work cooperatively with California Native American Tribes to access water quality data and water system operational information, if available.

IV. DEFINITIONS

The Policy includes the following defined terms:

“Adequate supply” means sufficient water to meet residents’ health and safety needs at all times. (Health & Saf. Code, § 116681, subd. (a).)

“Administrator” means an individual, corporation, company, association, partnership, limited liability company, municipality, public utility, or other public body or institution whom the State Water Board has determined is competent to perform the

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

administrative, technical, operational, legal, or managerial services required for purposes of Health and Safety Code section 116686, pursuant to the Administrator Policy Handbook adopted by the State Water Board. (Health & Saf. Code, §§ 116275, subd. (g), 116686, subd. (m)(1).)

“California Native American Tribe” means federally recognized California Native American Tribes, and non-federally recognized Native American Tribes on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004. (Health & Saf. Code, § 116766, subd. (c)(1).) Drinking water systems for federally recognized tribes fall under the regulatory jurisdiction of the United States Environmental Protection Agency (USEPA), while non-federally recognized tribes are currently under the jurisdiction of the State Water Board.

“Community water system” or “CWS” means a PWS that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents of the area served by the system. (Health & Saf. Code, § 116275, subd. (i).)

“Consistently fails” means a failure to provide an adequate supply of safe drinking water. (Health & Saf. Code, § 116681, subd. (c).)

“Consolidation” means joining two or more public water systems, state small water systems, or affected residences into a single public water system, either physically or managerially. (Health & Saf. Code, § 116681, subd. (e).)

“Contaminant” means any physical, chemical, biological, or radiological substance or matter in water. (Health & Saf. Code, § 116275, subd. (a).)

“Cost-effective” means achieving a sustainable result at the most reasonable cost.

“Designated water system” means a public water system or state small water system that has been ordered to consolidate pursuant to Health and Safety Code section 116682 or that serves a disadvantaged community, and that the State Water Board finds consistently fails to provide an adequate supply of affordable, safe drinking water. (Health & Saf. Code, § 116686, subd. (m)(2).)

“Disadvantaged community” or “DAC” means the entire service area of a community water system, or a community therein, in which the median household income is less than 80 percent of the statewide annual median household income level. (Health & Saf. Code, § 116275, subd. (aa).) See separate definition of ‘GGRF Disadvantaged Community’.

“Domestic well” means a groundwater well used to supply water for the domestic needs of an individual residence or a water system that is not a public water system and that has no more than four service connections. (Health & Saf. Code, § 116681, subd. (g).)

“Executive Director” means the Executive Director of the State Water Board.

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

“Fund” means the Safe and Affordable Drinking Water Fund established pursuant to Health and Safety Code section 116766.

“Fund Expenditure Plan” means the plan that the State Water Board develops pursuant to Health and Safety Code section 116768 et seq.

“Greenhouse Gas Reduction Fund” has the same meaning as in Health and Safety Code section 39710.

“GGRF Disadvantaged Community” or “GGRF DAC” means a disadvantaged community identified by the California Environmental Protection Agency pursuant to Health and Safety Code section 39711, i.e., communities may include, but are not limited to, either of the following: (1) areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation, or (2) areas with concentrations of people that are of low income, high unemployment, low levels of homeownership, high rent burden, sensitive populations, or low levels of educational attainment.

“GGRF Funding Guidelines” means the August 2018 Funding Guidelines for Agencies that Administer California Climate Investments.

“GGRF Low-Income Communities” means census tracts with median household incomes at or below 80 percent of the statewide median income or with median household incomes at or below the threshold designated as low income by the Department of Housing and Community Development’s list of state income limits adopted pursuant to Section 50093 of the Health and Safety Code. (Health & Saf. Code, § 39713, subd. (d)(2).)

“GGRF Low-Income Households” means households with household incomes at or below 80 percent of the statewide median income or with household incomes at or below the threshold designated as low income by the Department of Housing and Community Development’s list of state income limits adopted pursuant to Section 50093 of the Health and Safety Code. (Health & Saf. Code, § 39713, subd. (d)(1).)

“GGRF Priority Populations” means populations required to be prioritized for GGRF funding, i.e., GGRF DACs, GGRF Low-Income Communities, and GGRF Low-Income Households.

“Human consumption” means the use of water for drinking, bathing or showering, hand washing, oral hygiene, or cooking, including, but not limited to, preparing food and washing dishes. (Health & Saf. Code, § 116275, subd. (e).)

“Loan” means and includes any repayable financing instrument, including a loan, bond, installment sale agreement, note, or other evidence of indebtedness.

“Low-Income Household” means a single household with an income that is less than 200 percent of the federal poverty level, as updated periodically in the Federal Register

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

by the United States Department of Health and Human Services under authority of subsection (2) of Section 9902 of Title 42 of the United States Code. See separate definition of 'GGRF Low-Income Households'.

"Maximum contaminant level" means the maximum permissible level of a contaminant in water. (Health & Saf. Code, § 116275, subd. (f).)

"Median household income" or "MHI" means the household income that represents the median value for the community. The methods for calculating the median household income will be included in this Policy as future Appendix A.

"Non-transient Non-Community Water System" or "NTNC" means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over six months per year.

"Primary drinking water standard" has the same meaning as in subdivision (c) of Health and Safety Code section 116275.

"Public Water System" or "PWS" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. A PWS includes any collection, pretreatment, treatment, storage, and distribution facilities under control of the operator of the system that are used primarily in connection with the system; any collection or pretreatment storage facilities not under the control of the operator that are used primarily in connection with the system; and any water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption. (Health & Saf. Code, § 116275, subd. (h).)

"Replacement water" includes, but is not limited to, bottled water, vended water, point-of-use, or point-of-entry treatment units. (Health & Saf. Code, § 116767, subd. (q).)

"Resident" means a person who physically occupies, whether by ownership, rental, lease, or other means, the same dwelling for at least 60 days of the year. (Health & Saf. Code, § 116275, subd. (t).)

"Safe drinking water" means water that meets all primary and secondary drinking water standards, as defined in Health and Safety Code section 116275.

"Secondary drinking water standards" means standards that specify maximum contaminant levels that, in the judgment of the State Water Board, are necessary to protect the public welfare. Secondary drinking water standards may apply to any contaminant in drinking water that may adversely affect the public welfare. Regulations establishing secondary drinking water standards may vary according to geographic and other circumstances and may apply to any contaminant in drinking water that adversely affects the taste, odor, or appearance of the water when the standards are necessary to

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

ensure a supply of pure, wholesome, and potable water. (Health & Saf. Code, § 116275, subd. (d).)

“Service connection” means the point of connection between the customer’s piping or constructed conveyance, and the water system’s meter, service pipe, or constructed conveyance, with certain exceptions. (See Health & Saf. Code, § 116275, subd. (s).)

“Severely Disadvantaged Community” or “SDAC” means the entire service area of a community water system in which the MHI is less than sixty percent of the statewide median household income.

“Small community water system” or “Small CWS” means a CWS that serves no more than 3,300 service connections or a yearlong population of no more than 10,000 persons. (Health & Saf. Code, § 116275, subd. (z).)

“Solution List” means a list of projects in the Fund Expenditure Plan that are prioritized to receive assistance from the Fund in a particular state fiscal year.

“State small water system” means a system for the provision of piped water to the public for human consumption that serves at least five, but not more than 14, service connections and does not regularly serve drinking water to more than an average of 25 individuals daily for more than 60 days out of the year. (Health & Saf. Code, § 116275, subd. (n).)

“State Water Board” means the State Water Resources Control Board.

“Technical, Managerial and Financial Capacity” or “TMF” means the ability of a water system to plan for, achieve, and maintain long term compliance with drinking water standards, thereby ensuring the quality and adequacy of the water supply.

“Vended water” means any water that is dispensed by a water-vending machine, retail water facility, or water from a private water source, or other water as defined in Section 111170 of the Health and Safety Code that is not placed by a bottler in sealed containers, and that is dispensed by a water-vending machine, retail water facility, water hauler, or any other person or facility for drinking, culinary, or other purposes involving a likelihood of the water being ingested by humans. Vended water does not include water from a public water system that has not undergone additional treatment. Water sold without further treatment is not vended water and shall be labeled in accordance with Health and Safety Code section 111170. (Health & Saf. Code, § 111070, subd. (b).)

“Waterworks Standards” means regulations adopted by the State Water Board entitled “California Waterworks Standards” (Chapter 16 (commencing with Section 64551) of Division 4 of Title 22 of the California Code of Regulations). (Health & Saf. Code, § 116275, subd. (q).)

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

V. ENTITIES ELIGIBLE FOR FUNDING

Eligible recipients include public agencies, nonprofit organizations, public utilities, mutual water companies, California Native American Tribes, administrators, and groundwater sustainability agencies. Funding provided to a public utility that is regulated by the Public Utilities Commission or a mutual water company must have a clear and definite public purpose and benefit the customers of the water systems and not the investors or shareholders.

VI. PROJECT ELIGIBILITY DETERMINATION

VI.A. Water Systems and Domestic Wells

Projects and/or services that are eligible for Safe and Affordable Drinking Water Funds must address: 1) existing or potential water quality compliance issues; 2) Technical, Managerial, or Financial capacity deficiencies that prevent a system from sustainably providing safe and affordable drinking water; and 3) improvements to public water systems, community water systems, state small water systems and domestic wells that are in violation or considered at-risk. Prioritized projects will generally fall into DWSRF Project Categories A, B, and C (see Section XI.D, XI.E, and XI.F regarding project identification and prioritization).

VI.B. Communities

In general, proposed projects and services will be prioritized for funding if they benefit a DAC, SDAC, or GGRF Priority Populations and Low-Income Households. Proposed projects and services may also be funded for non-DACs if the project reduces greenhouse gas emissions.

A disadvantaged community is defined by the median household income (MHI) relative to the statewide MHI. DFA determines MHI for a water system's service area. MHI determination guidelines will be included in this Policy as future Appendix A and posted online at:

https://www.waterboards.ca.gov/water_issues/programs/grants_loans/sustainable_water_solutions/ (expected in July 2020). Household income surveys may be conducted when MHI data from sources such as the American Community Survey (ACS) are unavailable or not representative of the community. Guidelines for conducting household income surveys will be included in this Policy as future Appendix B.

For the DWSRF and bond-funded drinking water programs, the State Water Board determines grant and loan eligibility and amounts allocated annually for DAC and non-DAC projects, depending on the available funding, in the DWSRF Intended Use Plan (IUP). The community or water system size may also be a factor in grant or loan eligibility as larger systems often have better economies of scale to afford water systems improvements and ongoing O&M.

Some special considerations for funding eligibility and prioritization are described below.

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

VI.B.1. Greenhouse Gas Reduction Fund Projects

Projects or services funded with appropriations from the GGRF must be for the purposes of facilitating reductions of greenhouse gas emissions in California or improving climate change resiliency and adaptation for GGRF DACs, GGRF Low-Income Communities, or GGRF Low-Income Households (Health & Safety Code, § 39719, subd. (b)(3)(B)).

VI.B.2. Schools and Non-Transient Non-Community Water Systems

State Water Board staff will evaluate the eligibility for funding an NTNC water system owned by a K-12 public school district based on the source of funds in the SADW Fund: 1) In considering use of GGRF funds, the MHI of the community served by the school district will be considered in evaluating eligibility of projects; 2) In considering use of other funds transferred to the SADW Fund, an NTNC owned by a K-12 public school district is deemed to serve a severely disadvantaged community (SDAC) because the primary users are minor students, who generally have incomes below 60 percent of the statewide annual MHI.

All other eligible NTNCs and the MHI of the small community they serve will be evaluated on a case-by-case basis based upon the intended customer base.

VI.B.3. Communities with a Large Proportion of Secondary Homes

A community that includes secondary homes that are greater than 50 percent of the total number of dwellings will not be considered a DAC for determining funding eligibility. A community with between 25 percent and 50 percent secondary homes will be evaluated on a case-by-case basis to determine eligibility for grant or partial grant. Typically, permanent residents are those residing in the community at least six months out of the year; however, seasonal, migrant laborers can also be counted as permanent residents. A permanent home survey may be required for determining eligibility of projects that benefit a community with a known prominence of secondary homes.

VI.B.4. Ability to Pay

An applicant's or system owner's ability to pay the cost of the capital improvement or repay a loan may be assessed to determine the financial capacity of a system or applicant to contribute to the cost of the project and/or service and may affect the portion of project/service cost available to be funded as a grant. DFA may require applicants to submit audited financial documents or tax returns to assess the applicant's/owner's ability to finance a project.

VI.B.5. Other Considerations

When determining funding eligibility, the State Water Board may also take into consideration other factors, including, but not limited to a community's cost of living, unemployment rate, high water rates, and proportion of households with many people. State Water Board staff, in consultation with the Advisory Group, will develop an affordability threshold to be considered by the State Water Board in future updates of the Policy or Fund Expenditure Plans. The affordability threshold refers to a water

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

system or community level affordability as opposed to an individual household affordability. The affordability threshold will be established by the State Water Board in the Fund Expenditure Plan as part of the requirement to create a list of systems that consistently fail to provide an adequate supply of safe drinking water (Health & Safety Code, § 116769(2)(B)).

VII. TYPES OF PROJECTS ELIGIBLE FOR FUNDING

The Fund may be used on a broad range of projects and/or services of the following types:

- Provision of interim replacement water (e.g., temporary bottled water, point-of-use [POU] or point-of-entry [POE] installation)
- Planning or design (e.g., feasibility study)
- Construction
- Consolidation (physical or managerial)
- Administrator funding
- O&M
- Technical Assistance (e.g., assistance with construction application)

Any eligible project or service may also be funded on an emergency basis. More information on emergency projects is included in Section VIII.D.

Information on identification, evaluation and prioritization of solutions is included in Sections XI.D and XI.E and will be described in more detail in the Fund Expenditure Plan.

VIII. FUNDING STRATEGY

Overall, the funding strategy for the Fund over the next ten years is to get communities access, as quickly as possible, to safe drinking water and move systems towards sustainable and resilient long-term solutions. Projects should address existing and potential water quality, quantity or other TMF and operational issues by promoting consolidation where feasible.

Some special considerations are described below.

VIII.A. Regional Programs and Projects

Whenever appropriate, Water Board staff will seek to work with systems and entities to promote regional-scale solutions as opposed to a series of individual projects or services to increase efficiency and decrease administrative burden. Some examples include but are not limited to: multiple county interim water program handled by one third party; county-wide domestic well testing programs handled by one third party; and region-wide funding for a larger system to undergo consolidation with multiple smaller systems.

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

VIII.B. Operation and Maintenance

A priority use of the Fund is to provide support for failing and at-risk systems that cannot afford to operate and maintain the systems in order to provide safe and affordable drinking water. The Fund may be used to move these systems, as much as possible and feasible, to a level of long-term sustainability. The State Water Board will utilize a number of strategies to provide O&M support for these systems.

VIII.B.1. Consolidation and Extension of Service

A primary mechanism to increase operational efficiency and reduce O&M costs over the long-term is to consolidate small systems into larger ones. State Water Board staff will pursue options to consolidate systems where feasible. Consolidation may be either physical or managerial or include extension of service to households or state small systems. SAFER Funds may be used to:

- (1) Pay for any infrastructure needed for the consolidation
- (2) Offset increased O&M costs for the receiving system during the consolidation (i.e., until the consolidating system's customers begin receiving water service from the receiving system)
- (3) Pay for any additional infrastructure needed by the larger system in order to consolidate the smaller system to ensure existing customers are not impacted by the consolidation
- (4) Provide incentives for voluntary consolidations

Specific consolidation incentives for the larger system will be identified in the Fund Expenditure Plans and DWSRF IUP.

VII.B.2 Infrastructure Improvements to Reduce Long-term O&M Costs

The State Water Board will continue to fund water system infrastructure improvements with a focus on reducing long-term O&M costs. Projects such as installation of water meters, replacement of leaking or aging distribution lines, installation of solar energy systems, and replacement of inefficient pumps can reduce long-term operation costs through the reduction of overall water and energy demand.

VII.B.3 Technical Assistance and Administrators

The State Water Board has historically provided technical assistance to small DACs and will expand those efforts under the SAFER Program. Technical assistance can directly reduce O&M costs when services are provided free of charge for activities that would otherwise require the system to expend funds – e.g., training of water system operators, and development of asset management plans and capital improvement plans.

Technical assistance can also provide indirect reductions in O&M through the performance of TMF assessments and assisting the water system in implementing TMF improvement recommendations.

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

The State Water Board may appoint and fund Administrators to operate and maintain water systems, or to manage the implementation of capital projects in order to accelerate their completion. Through the Administrator, the State Water Board may provide funding for the O&M of the system while the system's Technical, Managerial, and Financial capacity is optimized, or the system is consolidated.

The State Water Board may provide funding for service providers such as construction or planning project managers to accelerate the implementation of solutions for systems struggling to implement solutions. The State Water Board may provide funding for TMF assessments, preliminary planning, and environmental or engineering assistance.

The State Water Board may also provide pooled services to multiple systems within an area to reduce costs.

VII.B.2 Direct Assistance to Offset Operation and Maintenance Costs

The State Water Board may provide direct funding to water systems to ensure operations are adequately funded where rates exceed an affordability threshold established by the State Water Board. This may include satisfying an existing debt obligation if it will help the system achieve long-term sustainability.

State Water Board staff will employ an iterative approach to assisting systems optimize efficiency and lower O&M costs. Direct O&M support may be provided during this interim period to ensure customers receive safe and affordable drinking water while solutions are planned and implemented. The long-term goal is for all systems to become self-sustaining. Any direct assistance will be conditioned on the system working to optimize efficiency, consolidate where feasible, or take other actions as directed by the State Water Board to reduce O&M costs.

The State Water Board may pilot a program to provide direct assistance to offset O&M costs. The pilot program will focus on water systems that are in compliance with drinking water standards but must charge rates that exceed the affordability threshold due to the need treat contaminants to meet primary maximum contaminant limits.

VIII.C. System Sustainability

Funding of all projects for water systems will be contingent on developing or updating an asset management plan, capital improvement plan, and conducting a rate study within the first two years after completion of the project. To promote availability of funding for systems that have a sustainability or resiliency plan in place, any new projects for systems that have already received funding from the State Water Board to address existing and potential water quality, or Technical, Managerial, or Financial capacity issues, may only be considered for funding of the new project if the system has completed these required plans and rate study, and implemented appropriate rate adjustments in the last five years.

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

VIII.D. Emergency Projects

Otherwise eligible projects or services and reimbursable costs can be funded on an emergency basis and include, but are not limited to: well replacement and repair; emergency interties; hauled water; operation and maintenance support, including emergency operators or to address sudden revenue shortfalls caused by a natural disaster.

VIII.D.1. Large-Scale Emergencies

Some emergency projects or services may be necessary to address unforeseen needs caused by natural disasters such as earthquake, flood, drought, fire, or pandemic. For a State or federally declared emergency or natural disaster, the State Water Board will work with the California Office of Emergency Services and other local, State and federal agencies to coordinate a response and identify such needs. Although the Fund can help supplement disaster response (e.g., as match funds or for small scale services or projects) in certain circumstances, the amount of funds available is insufficient to address a large-scale natural disaster. In addition, the funding systems and processes that the State Water Board relies upon do not lend themselves to rapid disbursement of funds. In general, funding recipients must have some cash reserves available to cover costs while awaiting reimbursement.

VIII.D.2. System-Level Emergencies

Other emergency projects or services may be needed as a result of an unexpected water system emergency (e.g., storage tank failure, water system line break). In general, water systems with adequate technical, managerial, and financial capacity will have sufficient reserves to address emergency repairs and will be implementing a capital improvement plan to mitigate or avoid emergencies caused by failing and aging infrastructure.

For any system requesting funding as a result of an emergency specific to that water system, the State Water Board will require submittal of financial records to determine whether the system has adequate emergency reserves. The State Water Board will give priority to requests for emergency funding from systems that serve small DACs where there is the greatest threat to public health and safety. In determining priorities for funding projects, the State Water Board will also consider the applicant's access to or ability to qualify for alternative funding sources. The State Water Board will make every effort to access, and require an eligible recipient to access, other funds available to address emergency needs, including other State, federal, local funds, or commercially available loans or lines of credit.

In such cases, DFA will coordinate with DDW to implement the appropriate regulatory response and funding requirements to ensure the affected water system is addressing their TMF deficiencies. Staff will work with TA providers to assess longer-term TA or planning needs. Emergency funding may be conditioned on the system working to

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

improve asset management and financial planning or taking other actions as directed by the State Water Board to improve the system's TMF capacity.

Emergency funding requests are accepted on a continuous basis to address needs as they arise.

Emergency funding is not to serve as an expedited path to funding for non-emergency projects. Emergency requests submitted in an attempt to circumvent the regular funding process for long-term solutions will not be approved. Projects that have been in the application process, but not making adequate progress, will generally not be considered emergencies. These projects will be re-directed to the appropriate funding source and application process and offered additional TA pending availability.

VIII.E. Community Engagement

State Water Board staff will increase engagement with water systems, community residents, domestic well owners, schools, local community-based organizations, or other funding recipients at all stages of the SAFER Program. State Water Board staff will work to develop clear communication and outreach materials in multiple languages and will provide multiple opportunities for community participation. State Water Board staff will work with the Advisory Group and other stakeholders to solicit input on various issues related to the SAFER Program implementation; feedback will be shared with State Water Board Members during Board workshops and meetings. State Water Board staff will work with the Advisory Group to develop, and periodically update, a community engagement and outreach strategy.

In addition to the Advisory Group, State Water Board staff will host community meetings throughout the state to raise awareness of the SAFER Program and its components; solicit feedback on community drinking water needs; and highlight opportunities for local water-related jobs, capacity building trainings, and leadership positions. Community input will be solicited and incorporated throughout the development of projects from planning through construction, as well as through post construction and/or O&M, or throughout the time frame of the provided service (e.g., interim replacement water, administrator funding, or TA). Increased and early community engagement will help to keep projects on track; proactively identify potential risks, issues, or delays; and ensure that identified long-term solutions have community buy-in and a path towards equitable and resilient water governance.

VIII.F. Community Workforce Development and Training

In compliance with the GGRF Funding Guidelines, the State Water Board will develop and implement a workforce development program leveraging partnerships and funding agreements focusing on training and capacity building to support long-term, stable employment and career development. The workforce development program will focus on small DACs and SDACs and will track the number of people trained, retained, and involved as apprentices as part of the program. The workforce development program may include the following actions:

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

- (1) Continue to fund and, expand where appropriate, operator training programs.
- (2) Provide direct TMF capacity-building assistance to local water systems with TMF deficiencies.
- (3) Promote local workforce development and training, where appropriate, when administrators are appointed.
- (4) Develop and implement a broad-based strategy for promoting community workforce development and training.
- (5) Coordinate with other workforce development initiatives funded through California Climate Investments.

Specific details regarding the workforce development program will be included in the Fund Expenditure Plan.

VIII.G. Improving Administrative Efficiency

To promote increased efficiency in the development, execution, and oversight of funding agreements and projects, State Water Board staff will:

- (1) Evaluate current process steps and requirements and make revisions to improve process times.
- (2) Develop appropriate metrics and goals to allow for identification of potential areas for improvement.
- (3) Identify projects or project types that may be candidates for streamlined review or waiver from certain review steps, as feasible under applicable law and policy.
- (4) Evaluate the potential to identify the funding source early enough to determine whether federal cross-cutting requirements will apply to the construction project.

IX. FUNDING TERMS AND CONDITIONS

General program requirements and conditions that must be met to obtain funding are outlined as General Terms and Conditions, available at:

https://www.waterboards.ca.gov/water_issues/programs/grants_loans/general_terms.html. Additional terms and conditions specific to GGRF expenditures are outlined in the GGRF Funding Guidelines.

The State Water Board will require regular project reporting and may set additional requirements as conditions of funding, including but not limited to: preparation of a project assessment and evaluation plan; system TMF audits; expectations for rate setting, system and operational improvements to reduce costs and increase efficiencies; evaluation of alternative treatment technologies; any reports, data, information, and certifications that may be reasonably required; and a consolidation or extension of service feasibility study. The State Water Board may also fund those solutions that it determines to be the most sustainable, considering a water system's ability to obtain and maintain TMF capacity to operate their system self-sufficiently over the long-term.

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

Applications for funding received by the State Water Board for the SAFER Program will be treated in accordance with Public Records Act requirements, i.e., certain information included in applications, subject to those requirements, may be publicly disclosed.

X. APPEALING A FUNDING DETERMINATION

An applicant may appeal a funding determination related to the SAFER Program within thirty (30) days to the Deputy Director of DFA or designee, for a final Division decision. An applicant may appeal a final Division decision to the State Water Board within thirty (30) days of its issuance. The Office of the Chief Counsel of the State Water Board will prepare a summary of the dispute and make recommendations relative to its final resolution, which will be provided to the State Water Board's Executive Director and each State Water Board Member. Upon the motion of any State Water Board Member, the State Water Board will review and resolve the dispute in the manner determined by the State Water Board. Should the State Water Board determine not to review the final Division decision, this decision will represent a final agency action on the dispute.

Where a financing agreement has been executed, the dispute and remedies provisions of that agreement will control, and the dispute provisions of this section are inapplicable.

XI. STATUTORY REQUIREMENTS FOR THE FUND EXPENDITURE PLAN

The statute governing development of the Fund Expenditure Plan contains several requirements. This section describes how the State Water Board will develop the information to meet the statutory requirements.

XI.A. Advisory Group

The State Water Board will consult with an Advisory Group to assist in developing the Policy, the Fund Expenditure Plan and overall implementation of the SAFER Program. The Advisory Group will be governed by a charter that will specify the duties of the advisors, and the frequency and methods of interaction with the State Water Board and the public. The Advisory Group will meet up to four times per calendar year. These meetings will be in addition to other State Water Board meetings, workshops and other opportunities for public engagement.

Representatives of each of the following are included in the Advisory Group:

- Public water systems
- TA providers
- Local agencies
- Non-governmental organizations
- Residents served by CWS in DACs, state small water systems, and domestic wells
- The public

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

XI.B. Drinking Water Needs Analysis

A drinking water needs analysis (Needs Analysis) was initially funded by Chapter 449 of the Statutes of 2018, which requires that it be completed by June 2021. The Needs Analysis will be updated as information is developed. The Needs Analysis, with Advisory Group and public input, will be the basis for the Fund Expenditure Plan, and will cover, at a minimum, three elements:

- (1) **Element 1:** Identification of PWSs in violation or at risk including:
 - a) PWSs with on-going violations
 - b) PWSs at risk of failure based on factors as developed by the State Water Board

- (2) **Element 2:** Identification of domestic well and state small water systems at-risk. The State Water Board will use the following resources:
 - a) State Water Board, U.S. Geological Survey, County Health, and Department of Water Resources, or other available data regarding estimates of domestic wells impacted by contaminants
 - b) Outreach to obtain inventory, locational, and water quality data on state small water systems

- (3) **Element 3:** Cost analysis for interim and long-term solutions – a methodology will be developed to estimate the most sustainable and cost-effective solutions to drinking water problems identified in Elements 1 and 2.

Data and information available beyond the Needs Analysis, as well as work being done in other programs (both within the Water Boards and by other state agencies) will also be considered (to the extent feasible which still allows for the efficient funding of projects) in identifying systems, state smalls, and domestic wells that are at risk for the purposes of developing the Fund Expenditure Plan.

XI.C. Fund Expenditure Plan Priorities

In addition to building on the Needs Analysis, consistent with Health and Safety Code section 116769, subdivision (b), the Fund Expenditure Plan must prioritize funding for all of the following:

- (1) Assisting DACs served by a public water system, and Low-Income Households served by a state small water system or a domestic well.
- (2) The consolidation or extension of service, when feasible, and administrative and managerial contracts or grants entered into for administrators (pursuant to Health and Safety Code section 116686) where applicable.
- (3) Funding costs other than those related to capital construction costs, except for capital construction costs associated with consolidation and service extension to reduce the ongoing unit cost of service and to increase sustainability of drinking water infrastructure and service delivery.

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

XI.D. Identification of Water Systems Needing Solutions

Water systems needing solutions to provide safe and affordable drinking water will be identified in the Fund Expenditure Plan by utilizing the following:

- (1) Public water systems identified as being currently in violation of one or more federal (e.g., USEPA Region 9 violations) or state primary drinking water standards with an enforcement action taken; or with failures to meet primary or secondary drinking water standards. These systems consistently fail to deliver safe and affordable drinking water.
- (2) Public water systems at risk as determined by risk criteria identified in the Needs Analysis
- (3) Review of a map created by the State Water Board Division of Water Quality of aquifers that are at high risk of containing contaminants that exceed safe drinking water standards that are used or likely to be used as a drinking water source for a state small water system or domestic well
- (4) Review of a map created by the Department of Water Resources of areas at high risk for drought and other resiliency factors
- (5) State Water Board notification of local health officers and county planning agencies regarding high-risk aquifers within their jurisdictions
- (6) Outreach and testing of domestic wells serving low-income households (e.g., through TA providers)
- (7) State small water systems and individual wells as determined through review of data collected from January 1, 2014 to the present and electronic data collected annually thereafter
- (8) Community water systems serving DACs that must charge rates above the affordability threshold established by the State Water Board in order to supply, treat, and distribute potable water that complies with federal and state drinking water standards.

XI.E. Evaluation and Prioritization of Solutions for Systems in Violation

Water systems in violation, as identified above, will be evaluated and categorized by risk level in accordance with the following criteria:

- (1) Immediate health risk
- (2) Untreated or at-risk sources
- (3) Other chronic compliance or water shortage problems

Solutions will be prioritized within each risk category identified above. These correspond to DWSRF Program Project Categories A, B, and C. Overarching considerations include cost effectiveness, feasibility, community input, affordability, readiness of funding recipients to proceed, length of time in violation, and pursuit of long-term, sustainable solutions that promote adaptation and resilience.

Solutions may include, but are not limited to, a mix of the following:

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

- (1) Interim water supplies
- (2) Administrator
- (3) Preliminary work: feasibility studies and planning, including technical assistance
- (4) Regionalization, physical consolidation/extension of service, or managerial consolidation, including both capital infrastructure projects and O&M support
- (5) Repairing, replacing and upgrading failing water system equipment, pipes, or fixtures
- (6) Optimization of systems
- (7) Long-term O&M support upon system optimization
- (8) Removal of financial barriers to provide access to capital (e.g., satisfying outstanding long-term debt obligations of community water systems or state small water systems)

XI.F. Evaluation and Prioritization of Solutions for At-Risk Systems

Initially, water systems will be evaluated and categorized by risk level in accordance with the following criteria:

- (1) Systems with source water contaminants with notification levels and/or response levels, where a new or revised maximum contaminant level (MCL) is being proposed or contains regulated contaminants that are at risk of exceeding established MCLs.
- (2) Inadequate TMF
- (3) A system's or water supply's vulnerability, including risk of disruption or shortages due to drought, falling water tables, or wildfire
- (4) History of past violations
- (5) Secondary risks including waterworks standards and potential for infrastructure failure
- (6) Other identified risk factors

As discussed in Section XI.B, the Needs Analysis is used to develop the Fund Expenditure Plan and will identify public water systems at-risk. The "Other identified risk factors" (criteria 6 above) will be documented in the Needs Analysis. Solutions will be prioritized within each risk category identified above. Overarching considerations include cost effectiveness, feasibility, community input, affordability, and pursuit of long-term, sustainable solutions that promote adaptation and resilience. For projects addressing contaminants that do not have adopted MCLs, the Water Boards will evaluate solutions that provide interim water supplies or that will reduce the likelihood for large capital expenditures to address the contaminants in the future (e.g., consolidation, new sources without those contaminants).

Solutions may include, but are not limited to, a mix of the following:

- (1) Interim water supplies
- (2) Administrator
- (3) Preliminary work: feasibility studies and planning, including technical assistance
- (4) Regionalization, physical consolidation/extension of service, or managerial consolidation, including both capital infrastructure projects and O&M support

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

- (5) Repairing, replacing and upgrading failing water system equipment, pipes, or fixtures
- (6) Optimization of systems
- (7) Long-term O&M support, upon system optimization, for designated water systems (i.e., a public water system or state small water system that has been ordered to consolidate or that serves a DAC, and that the State Water Board finds consistently fails to provide an adequate supply of affordable, safe drinking water)
- (8) Removal of financial barriers to provide access to capital (e.g., satisfying outstanding long-term debt obligations of community water systems or state small water systems)

Based on the Needs Analysis and other available information, DFA will provide grant funding to technical assistance providers and community outreach organizations to assist with evaluating and prioritizing systems and identifying solutions. DFA may consult with individuals with knowledge of a water system's needs, including but not limited to, State Water Board staff, technical assistance providers, Advisory Group members, industry and professional associations, and other professionals, to assist with evaluating the TMF capacity of systems and identifying opportunities for consolidation, capital funding needs, and other efficiencies that may be gained. This group will engage with the community to provide a pathway for input into the assessment and determination of solutions.

XI.G. The Safe and Affordable Drinking Water Fund Solution List

A wide range of projects and activities are eligible for funding through the Fund (see Section VI). The State Water Board intends to maximize use of the Technical, Managerial, Financial assessment process to identify the O&M costs, technical assistance, planning activities or projects needed to reach a long-term solution and sustainable operations and management for systems that require financial assistance. The Fund Expenditure Plan will identify eligible projects, activities and costs as well as ineligible costs.

The Fund Solution List will be developed in connection with the DWSRF Program annual IUP. The Solution List will include systems in violation and at-risk systems, with solutions in prioritized order. Funding will then be assigned to maximize availability. Capital improvement projects will generally be funded through the DWSRF or other State Water Board capital funding sources (e.g., general obligation bonds), except where the project or recipient does not qualify for the funds or there are insufficient capital funds. DACs that can meet DWSRF credit requirements by raising rates will be expected to do so, except where raising rates would exceed the affordability threshold. Consolidation of non-DAC communities which will result in decreases of greenhouse gas emissions may be funded. Funding will be mainly in the form of grants, with some loans potentially available to incentivize consolidations or refinance existing debt at a more favorable rate.

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

The Fund Solution List will also identify systems and projects for which other entities, such as responsible parties or dischargers pursuing alternative compliance pathways, have an obligation to provide funding support (e.g., for 1,2,3-Trichloropropane treatment). The State Water Board will evaluate those systems and projects to determine whether a timely solution will be provided by those entities with a funding obligation; whether the State Water Board should fund the project and seek reimbursement from the entity with the funding obligation; or whether the State Water Board should co-fund the project with the entity with the funding obligation.

Water systems may require multiple capital improvement projects in order to maximize efficiency and become sustainable. State Water Board staff, working with technical assistance providers and the communities, may prioritize and phase projects in order to provide safe drinking water as soon as feasible, depending on funding availability. In order to accelerate provision of long-term solutions, DFA staff may fund multiple project phases for efficiency.

XI.H. Report of Prior Year Expenditures

The Fund Expenditure Plan will include a summary of recipients; the status, type and location of each project funded in the prior year; and the amount and type of funds from each source spent on each project in the prior year. The State Water Board will provide this information to the Department of Finance for inclusion in their annual report required under Section 39720 of the Health and Safety Code.

XI.I. Metrics

This Policy identifies the types of metrics that will be tracked and for which specific numeric goals will be set. The Fund Expenditure Plan will identify the specific numeric goals and include a summary of progress made. The following metrics will be incorporated to track and measure the success of the program, including:

- (1) The number of communities, including state small system and domestic well communities, and schools and associated population provided with interim supplies of safe drinking water, including but not limited to:
 - a) Point-of-use/Point of Entry devices
 - b) Hauled water
 - c) Bottled drinking water
 - d) Vending machines

- (2) The number of communities, including state small system and domestic well communities, and schools and associated population with executed and completed preliminary planning assistance projects, including but not limited to:
 - a) Technical assistance workplans
 - b) Administrator contracts
 - c) Planning agreements
 - d) Planning projects

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

- (3) The number of communities, including state small system and domestic well communities, and schools and associated population with long-term solutions completed, including but not limited to:
 - a) Executed consolidation agreements or orders
 - b) Construction funding agreements executed
 - c) Water systems returned to compliance
 - d) Non-construction funding agreements executed to support alternative solutions, remove financial barriers, and provide long-term O&M

- (4) The number of community water systems and school water systems and associated population that return to compliance and are out of compliance, as well as:
 - a) The time to return to compliance
 - b) The number of systems that are out of compliance due to requirements in place before and after July 2019

- (5) Climate change adaptation related metrics, including:
 - a) Pounds of carbon dioxide saved per project
 - b) Number of communities, including state small system and domestic well communities, and schools and associated population with a long-term solution being implemented (i.e., construction project being funded)

- (6) Cost effectiveness of the Program, including:
 - a) Cost of solution per connection or per person served

- (7) Administrative efficiency of the funding Program, including:
 - a) The time between interim replacement water being requested and provided
 - b) The time between a technical assistance request being made and the start of the technical assistance being provided
 - c) The time for an application to be complete after being started
 - d) The time for a complete application to result in an executed funding agreement
 - e) The time for a complete request for reimbursement to result in receipt of payment

- (8) Community engagement effectiveness of the Program, including:
 - a) Number of Advisory Group meetings
 - b) Number of community meetings
 - c) Estimated number of meeting attendees
 - d) Website and social media analytics
 - e) Diversity of communication strategies, platforms, and materials

State Water Board staff will work with stakeholders, including the Advisory Group, to propose criteria and metrics for evaluating the TMF of water systems and system-wide affordability thresholds. Additional metrics for program implementation will be identified as the program evolves.

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

XI.J. Public Hearing

The State Water Board will hold at least one public hearing before adopting each Fund Expenditure Plan.

XI.K. Report to the Legislature

The State Water Board will provide the first Fund Expenditure Plan to the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house of the Legislature by March 1, 2021 and will similarly provide subsequent annual Fund Expenditure Plans by March 1 of each year. The State Water Board may submit the Fund Expenditure Plans either in the Governor's Budget documents, or as separate reports. The Fund Expenditure Plan will be posted on the State Water Board's website.

XII. OTHER ITEMS

XII.A. Petition Process for Consideration of Consolidation

Members of a disadvantaged community may petition the State Water Board to consider ordering consolidation of the community's water system. Any such petition must include the following information:

- Contact information, including name and address, of the petitioner
- Signatures of community members supporting the consolidation
- Available water system water quality data
- The relative location of the water system to adjacent and/or nearby water systems
- The reason(s) the petitioner seeks consolidation

Petitions which include significant community support and cost-effective projects will have a greater likelihood of being accepted and acted upon by the State Water Board.

Upon receipt of a petition, DDW will confirm receipt of the petition within 30 days, review the petition and make recommendations relative to its final resolution. The State Water Board will notify the petitioner within 90 days of the receipt of the petition if the State Water Board will consider consolidating the water system named in the petition pursuant to Health and Safety Code section 116682. A petition is deemed denied if there is no response from the State Water Board by 90 days from the date the State Water Board received the petition. If the petition is denied, the State Water Board will keep the petition on file in the event future consolidation opportunities arise.

XII.B. SAFER Program Resources

Information regarding the SAFER Program, funding, and the Advisory Group can be found on the State Water Board's website: <https://www.waterboards.ca.gov/safer/>.

The State Water Board, in consultation with the Advisory Group, will continue to develop tools and resources for tracking projects, expenditures, and progress against

Draft Final Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund

established metrics towards bringing safe and affordable drinking water to all Californians.