



## Notice of Intent to Adopt Rules

A copy of the proposed rules may be obtained at <https://rules.wyo.gov>

Revised June 2020

<b><u>1. General Information</u></b>			
a. Agency/Board Name*			
b. Agency/Board Address		c. City	d. Zip Code
e. Name of Agency Liaison		f. Agency Liaison Telephone Number	
g. Agency Liaison Email Address			
h. Date of Public Notice		i. Comment Period End Date	
j. Public Comment URL or Email Address:			
k. Program			
Amended Program Name (if applicable):			
* <input type="checkbox"/> By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.			
<b><u>2. Legislative Enactment</u></b> For purposes of this Section 2, "new" only applies to regular non-emergency rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.			
a. Are these non-emergency regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?			
<input type="checkbox"/> No. <input type="checkbox"/> Yes. If the rules are new, please provide the Legislative Chapter Numbers and Years Enacted (e.g. 2015 Session Laws Chapter 154):			
<b><u>3. Rule Type and Information</u></b> For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.			
a. Provide the Chapter Number, Title and Proposed Action for Each Chapter. Please use the "Additional Rule Information" form to identify additional rule chapters.			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			

**4. Public Comments and Hearing Information**

a. A public hearing on the proposed rules has been scheduled.  No.  Yes. Please complete the boxes below.

Date:	Time:	City:	Location:
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b. What is the manner in which interested persons may present their views on the rulemaking action?

By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: \_\_\_\_\_

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: \_\_\_\_\_

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Agency Liaison listed in Section 1 above.

**5. Federal Law Requirements**

a. These rules are created/amended/repealed to comply with federal law or regulatory requirements.  No.  Yes. Please complete the boxes below.

Applicable Federal Law or Regulation Citation:
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Indicate one (1):

The proposed rules meet, but do not exceed, minimum federal requirements.

The proposed rules exceed minimum federal requirements.

Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: \_\_\_\_\_

**6. State Statutory Requirements**

a. Indicate one (1):

The proposed rule change *MEETS* minimum substantive statutory requirements.

The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b.  The Agency has completed a takings assessment as required by W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:

By contacting the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: \_\_\_\_\_

**7. Additional APA Provisions**

a. Complete all that apply in regards to uniform rules:

These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

\_\_\_\_\_ (Provide chapter numbers)

These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

\_\_\_\_\_ (Provide chapter numbers)

b. Checklist

The Statement of Principal Reasons is attached to this Notice and, in compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

If applicable: In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

**8. Authorization**

a. I certify that the foregoing information is correct.

<i>Printed Name of Authorized Individual</i>	
<i>Title of Authorized Individual</i>	
<i>Date of Authorization</i>	

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

The State Loan and Investment Board (Board) intends to amend Chapters 11 (Clean Water State Revolving Fund Loans) and 16 (Drinking Water State Revolving Fund Loans) of its rules by adopting emergency and regular rules.

The changes to Chapters 11 and 16 establish the necessary structure for OSLI to administer the new Investment in Infrastructure and Jobs Act (IIJA) funding through the Clean Water State Revolving Fund Loans (CWSRF) and Drinking Water State Revolving Fund Loans (DWSRF) programs. These amendments establish the process for receiving grant applications, awarding loans and grants, and disbursing funds for new project types created by the IIJA (emerging contaminants and lead service line). The rules reflect the federal requirements and guidance from the EPA for each new project type.

Additional changes to these Chapters include:

- Updating and amending definitions;
- Adding policies and administrative procedures for the IIJA funding;
- Changing the scoring model for additional subsidies;
- Incorporating language on the timing of the Board's consideration of grant applications;
- Adding administrative procedures for awarding planning and assessment grants; and
- Formatting and streamlining changes through the Chapters.

## Chapter 11

### Clean Water State Revolving Fund Loans

#### **Section 1. Authority.**

This Chapter is adopted pursuant to Wyoming Statute 16-1-203(a).

**Section 2. Definitions.** In addition to the definitions in Chapter 1, as used in this Chapter:

(a) “Additional Subsidies” means principal forgiveness, grants, and Green Project Reserves loans as authorized by state or federal legislation and as adopted by the Board.

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

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

(d) “Emerging Contaminants” refer to substances and microorganisms, including manufactured or naturally occurring physical, chemical, biological, radiological, or nuclear materials, which are known or anticipated in the environment, that may pose newly identified or re-emerging risks to human health, aquatic life, or the environment. These substances, microorganisms, or materials can include many different types of natural or manufactured chemicals and substances – such as those in some compounds of personal care products, pharmaceuticals, industrial chemicals, pesticides, and micro plastics.

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

(f) “Green Project Reserve” means funds loaned out to implement a process, material, technique, or technology that addresses water or energy efficiency goals, mitigates stormwater runoff, or encourages sustainable project planning, design, and construction.

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

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

(i) “Investment in Infrastructure and Jobs Act of 2021” (IIJA) means U.S. Public Law 117-58, signed November 15, 2021; providing supplemental funding for eligible projects and funding to address Emerging Contaminants.

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

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

(l) “Principal Forgiveness” means a portion of the loan’s principal is forgiven and need not be repaid.

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

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

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

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

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

### **Section 3. General Policy.**

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

(b) Supplemental and Emergency Contaminant funding for loans and additional subsidies under this Chapter is subject to a supplemental congressional appropriation in the Investment in Infrastructure and Jobs act of 2021 (IIJA). To facilitate key provision of this Act, the Board will consider funding applications for:

- (i) Projects addressing Emerging Contaminants; and,
- (ii) Conventional clean water projects.

### **Section 4. Additional Subsidies and Special Program Requirements.**

(a) Notice. OSLI and DEQ will assess, at least annually, the impacts of state and federal legislation on the Clean Water State Revolving Fund loan program administered under

this Chapter. OSLI will provide timely notice to eligible applicants of changes in Additional Subsidies and Special Program requirements. Said notice will be not less than thirty (30) calendar days prior to any application deadline. Methods of notice include, but are not limited to, electronic, telephonic, written, website postings, video conferences or combinations of the same.

**Section 5. Base and Supplemental Loan and Additional Subsidies Eligibility**

(a) Applicants. Municipalities, counties, state agencies, special districts, and joint powers boards in Wyoming shall be eligible applicants for loans and Additional Subsidies under this Chapter.

(b) Additional Subsidies. Additional Subsidies shall be awarded in the form of Principal Forgiveness and Green Project Reserve loans. The Additional Subsidies will be awarded in accordance with all federal regulations. OSLI will award points based on population trend, income data, unemployment data, enterprise system rate management, and the prior year's propriety tax and four percent (4%) sales tax collections to determine the amount of principal forgiveness an applicant is eligible to receive. Applicants whose total points are nine (9) or greater are eligible for principal forgiveness of up to seventy-five percent (75%) of their loan amount. Applicants whose total points are equal to or greater than six (6) but less than nine (9) are eligible for principal forgiveness of up to fifty percent (50%) of their loan amount. Applicants whose total points are equal to or greater than three (3) but less than six (6) are eligible for principal forgiveness of up to twenty-five percent (25%) of their loan amount. Applicants whose total points are less than three (3) are not eligible for principal forgiveness.

(i) Population trend points are awarded based on the category that the applicant was in as of the last decennial census (or other available population data acceptable to OSLI if decennial census data is not available). If an applicant can show population trend data demonstrating that it has likely dropped to a smaller category since the last decennial census, its points will be adjusted up accordingly.

(A) Applicants whose population is five hundred (500) or less will receive three (3) points.

(B) Applicants whose population is between five hundred one (501) and three thousand, three hundred (3,300) will receive two (2) points.

(C) Applicants whose population is between three thousand, three hundred one (3,301) and ten thousand (10,000) will receive one (1) point.

(D) Applicants whose population is ten thousand, one (10,001) or greater will receive zero (0) points.

(ii) Income data points are awarded based on ratio of the local annual median household income (AMHI) to the State AMHI, using data from the most recently released American Community Survey 5-year estimates. If no data directly corresponding to the applicant is available, the AMHI of the nearest municipality will be used as the default. The applicant may provide alternate data acceptable to OSLI, such as an income survey, at the applicant's expense

and in lieu of American Community Survey 5-year estimates.

(A) Applicants whose AMHI is less than sixty percent (60%) will receive three (3) points.

(B) Applicants whose AMHI is sixty percent (60%) or greater, but less than seventy percent (70%) will receive two and one half (2.5) points.

(C) Applicants whose AMHI is seventy percent (70%) or greater, but less than eighty percent (80%) will receive two (2) points.

(D) Applicants whose AMHI is eighty percent (80%) or greater, but less than ninety percent (90%) will receive one and one half (1.5) points.

(E) Applicants whose AMHI is ninety percent (90%) or greater, but less than one hundred ten percent (110%) will receive one (1) point.

(F) Applicants whose AMHI is one hundred ten percent (110%) or greater will receive zero (0) points.

(iii) Unemployment data points are awarded based on relationship of the local unemployment rate to the State unemployment rate. Local and State unemployment rates for the most recent quarter by county as published by the Wyoming Department of Workforce Services will be used.

(A) Applicants whose unemployment rate is equal to or greater than the State rate will receive one (1) point.

(B) Applicants whose unemployment rate is less than the State rate will receive zero (0) points

(iv) Enterprise system rate management points are awarded based on the relationship of the entity's average annual water rate as a percentage of their AMHI.

(A) Applicants whose average annual water rate is two percent (2%) or greater of the AMHI will receive (1) point.

(B) Applicants whose average annual water rate is less than two percent (2%) of the AMHI will receive zero (0) points.

(v) Prior year's property tax and four percent (4%) sales tax collection points will be awarded based the amount of taxes collected by an entity, rounded to the nearest dollar, as reported in the Wyoming Department of Revenue's Annual Report.

(A) Applicants whose total collections are is less than two hundred fifty thousand dollars (\$250,000.00) will receive five (5) points.



(B) Applicants whose total collections are between two hundred fifty thousand one-dollar (\$250,001.00) and five hundred thousand dollars (\$500,000.00) will receive four (4) points.

(C) Applicants whose total collections are between five hundred thousand one-dollar (\$500,001.00) and one million dollars (\$1,000,000.00) will receive three (3) points.

(D) Applicants whose total collections are between one million one dollars (\$1,000,001.00) and two million five hundred thousand dollars (\$2,500,000.00) will receive two (2) points.

(E) Applicants whose total collections are between two million five hundred thousand one dollars (\$2,500,001.00) and five million dollars (\$5,000,000.00) will receive one (1) point.

(F) Applicants whose total collections are greater than five million dollars (\$5,000,000.00) will receive zero (0) points.

(c) Principal Forgiveness Contingency. Receipt of Principal Forgiveness is contingent on the applicant completing a first loan draw within eighteen (18) months of the effective date of the loan agreement and continuing to make loan draws at least quarterly until the project is complete. Failure of the applicant to comply with these terms shall result in the awarded Principal Forgiveness being forfeited. A request for an extension may be submitted to OSLI if additional time is necessary

(d) The amount of Green Project Reserve funding will be determined by DEQ based on the project information provided and the requirements of the state and federal regulations.

(e) AMHI data is based on information obtained from the most recent American Community Survey of the U.S. Census Bureau. Median household income data for special districts will be based on the closest municipality unless income information via an income survey at district expense or other financial data acceptable to OSLI and the Board. If the applicant is a special district or a joint powers board, it must be legally formed and approved prior to submitting its loan application. Applicants must be in compliance with all applicable reporting requirements of both the Wyoming Department of Revenue and the Wyoming Department of Audit prior to its application being considered by the Board. For consideration at the October Board meeting, applicants must file their current financial reports by September 10th with the Department of Audit and notify the OSLI in writing that the filing was done.

(f) Purposes. Loans and Additional Subsidies may be awarded by the Board pursuant to W.S. 16-1-205(a). The Board may authorize loans to refinance existing debt incurred completing an eligible project. The Board may also award loans and Additional Subsidies

consistent with changes in state or federal law. Refinancing existing debt obligations for which debt was incurred and building began after March 7, 1985.

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

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

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

- (xiv) Lump sum contracts unless approved by DEQ and OSLI;
- (xv) Costs in excess of \$50.00, unless approved by DEQ and OSLI, based on an invoice(s) or additional documentation submitted by applicant;
- (xvi) Costs associated with the applicant's own employees and equipment, unless pre-approved by DEQ;
- (xvii) Markups by engineers/architects of sub-consultant and other outside charges;
- (xviii) Projects undertaken using alternate design and construction delivery methods under W.S. 16-6-701, unless pre-approved by DEQ.

### **Section 6. Application Procedure.**

- (a) Applications. Separate applications shall be prepared for each project. Applicants shall submit a complete application on a form provided by OSLI.
- (b) Public Meeting Requirement. All eligible applicants must hold a minimum of one public meeting in advance of submitting an application for Board consideration. Notice of the public meeting is to be published in a local or regional newspaper fifteen (15) days prior to the same. The public meeting must provide the public an overview of the proposed project, financing and sustainability. The overview aspect of the public meeting must, at a minimum, address project scope, milestones and costs. The financing aspect of the public meeting must, at a minimum, address the financial impact of project costs upon the public. The sustainability aspect of the public meeting must, at a minimum, address the revenue streams, adjustments of water and sewer rates or other sources required to sustain the proposed project. Eligible applicants must verify compliance with the public meeting requirement through documentation submitted with their loan applications.
- (c) Timing of Board Consideration. Applications must be received by the Director at least one hundred twenty (120) calendar days prior to any scheduled meeting of the Board. Applicants must cure any defects in their applications no later than forty-five (45) calendar days before any scheduled meeting of the Board. The Board may consider applications for loans under this Chapter at any scheduled meeting.
- (d) Incomplete Applications. Incomplete applications, those missing one or more of the information items requested and/or failing to meet established deadlines, shall not be presented to the Board for consideration.

### **Section 7. Evaluation.**

- (a) Criteria. The Board shall evaluate applications utilizing the following criteria:
  - (i) Whether the applicant is current on all its repayment obligations to the

Board;

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

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

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

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

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

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

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

(b) If assessments are included as part of the dedicated source of repayment, applicant shall establish an annual assessment equal to, or greater than, the amount of the annual debt service payment on the loan. This assessment schedule will be filed with the County Assessor's Office on or before February 15th of each year for the full term of the loan, a copy of which will be sent to the OSLI annually.

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

#### **Section 8. Board Consideration.**

(a) The Board shall consider each complete application, and allow for comments from the applicant, the Director and DEQ. The Board shall also establish loan amounts and terms. Loan terms shall not exceed thirty (30) years, or the useful life of the project, whichever is less.

#### **Section 9. Interest Rates.**

(a) The interest rate for all loans made under this Chapter shall be established by the Board pursuant to Chapter 14 of these rules.

#### **Section 10. Repayment.**

(a) Annual payments for all loans shall begin one year after substantial completion of the project as indicated in the final project contract. Annual payments for loans used to refinance existing debt shall begin no later than one (1) year after loan approval.

**Section 11. Disbursement of Loan Proceeds.**

(a) Requests for disbursements shall be submitted on a form provided by the Director and include supporting invoices establishing the eligibility of costs submitted for disbursements. Proceeds will only be disbursed for eligible project costs as set forth in this Chapter and within federal guidelines following review by the OSLI and DEQ.

(b) Any loan for a project that spans more than one construction season shall submit an updated timeline to OSLI and DEQ for the project not less than annually.

**Section 12. Audits and Inspections.**

(a) The Board shall ensure compliance with the provisions of the Single Audit Act and Subpart F of Title 2 U.S. Code of Federal Regulations (CFR) Part 200. *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. On an annual basis records of loan recipients shall be, at a minimum, compiled by an independent accounting firm. Notification of compliance shall be made to the Board in the form of a Compilation, Review, or Audited Financial Statement prepared by an independent accounting firm. The Board may, at its expense, conduct an independent audit of the loan recipient's records and inspect the construction and operation of the project. Loan recipients shall maintain project accounts in accordance with Generally Accepted Government Accounting Standards (GAGAS).

(b) The Board may, at its expense, conduct an independent audit of the loan recipient's records and inspect the construction and operation of the project. Loan recipients shall maintain project accounts in accordance with Generally Accepted Government Accounting Standards (GAGAS). Loan recipients shall assist and provide any information required by the auditors.

**Section 13. Reports.**

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

**Section 14. Program Compliance.**

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

**Section 15. Fees.**

(a) A loan origination fee of one-half of one percent (0.5%) of the amount of the loan will be collected at loan closing. The fees will be deposited to the Administrative Account as authorized by W.S. 16-1-205(d).

**Section 16. IJA Emerging Contaminants Funding.** The Board may award funding from IJA funds under this Section for projects that address Emerging Contaminants. For awards under this Section, the provisions of this Section shall supersede any inconsistent provisions in any other section of this Chapter.

(a) Loan and Additional Subsidies Eligibility.

(i) Applicants. Publicly Owned Water Systems in Wyoming listed on the Project Priority List specifically related to Emerging Contaminants shall be eligible to apply for loans and Additional Subsidies under the Section.

(ii) Additional Subsidies. Additional Subsidies may be awarded in the form of Principal Forgiveness, to the extent available, and in accordance with all federal regulations. All loans awarded under this section qualify for one hundred percent (100%) Principal Forgiveness, contingent on compliance with federal requirements.

(b) Eligible Projects. Projects shall be eligible under this Section if they:

(i) Meet all DWSRF eligibility criteria;

(ii) Are primarily intended to address Emerging Contaminants in drinking water; and

(iii) Meet all other federal program requirements.

(c) Eligible Costs. The following project costs shall be eligible for reimbursement under this Section, subject to federal program requirements:

(i) Emerging contaminants costs associated with the construction of a new treatment facility or upgrade to an existing treatment facility that addresses Emerging Contaminants.

(ii) Development of a new source that addresses an emerging contaminant issue. Water rights purchases must meet all criteria in the Class Deviation for Water Rights in order to be eligible for funding under this section.

(iii) Consolidation with another water system that does not have Emerging Contaminants present or has removal capability.

(iv) Costs for planning and design and associated pre-project costs.

(v) Infrastructure related to pilot testing for treatment alternatives.

(vi) Creation of a new community water system to address unsafe drinking water provided by privately-owned wells or surface water sources.

**Section 17. Planning and Assessment Grants.** The Board may use a portion of the additional subsidies from the capitalization grants to fund qualifying Planning and Assessment activities.

(a) The amount available for grants under this subsection shall be defined in the annual IUP.

(b) The following activities may qualify for grants under this subsection:

(i) Asset management, fiscal sustainability, cost and effectiveness analyses;

(ii) Capital improvement plans;

(iii) Integrated planning;

(iv) Long-term control plans;

(v) Water or energy audits;

(vi) Conservation plans facility plans;

(vii) Treatment works security and safety plans;

(viii) Risk or vulnerability assessments;

(ix) Emergency preparedness response and recovery plans;

(x) Drought management plans;

(xi) Climate adaptation plans;

(xii) Environmental management systems;

(xiii) Watershed management plans; and

(xiv) Total maximum daily load implementation plans.

(c) Applicants for grants under this Section shall submit an application on a form provided by OSLI and governed by the provisions of Section 7 of this Chapter.

(d) The Board shall award grants under this Section to such applicants and in such amounts as shall, in the judgment of the Board, inure to the greatest benefit of the citizens of the State of Wyoming and represent a prudent use of funds.



## Chapter 16

### Drinking Water State Revolving Fund Loans

**Section 1. Authority.** This Chapter is adopted pursuant to Wyoming Statute (W.S.) 16-1-303(b).

**Section 2. Definitions.** In addition to the definitions in Chapter 1, as used in this Chapter:

(a) “Additional Subsidies” means principal forgiveness, grants, and Green Project Reserve loans as authorized by state or federal legislation and as adopted by the Board.

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

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

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

(e) “Emerging Contaminants” refer to substances and microorganisms, including manufactured or naturally occurring physical, chemical, biological, radiological, or nuclear materials, which are known or anticipated in the environment, that may pose newly identified or re-emerging risks to human health, aquatic life, or the environment. These substances, microorganisms, or materials can include many different types of natural or manufactured chemicals and substances – such as those in some compounds of personal care products, pharmaceuticals, industrial chemicals, pesticides, and microplastics.

(f) “Green Project Reserve” means funds loaned out to implement a process, material, technique, or technology that addresses water or energy efficiency goals, mitigates stormwater runoff, or encourages sustainable project planning, design, and construction.

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

(h) “Intended Use Plan (IUP)” means the annual plan adopted by the State Loan and Investment Board and submitted to the United States Environmental Protection Agency (USEPA) that describes how the state intends to use the money in the Drinking Water Revolving Loan Account, including the IJA Emerging Contaminants and Lead Service Line funding.

(i) “Investment in Infrastructure and Jobs Act of 2021” (IIJA) means U.S. Public Law 117-58, signed November 15, 2021. The IIJA established supplemental funding for eligible DWSRF projects, Emerging Contaminants and Lead Service Line funding.

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

(k) “Lead service lines” (LSL) means a service line made of lead, which connects the water main to the building inlet. A lead service line may be owned by the water system, owned by the property owner, or both. For the purposes of this Chapter, a galvanized service line is considered a lead service line if it ever was or is currently downstream of any lead service line or service line of unknown material. If the only lead piping serving the home or building is a lead gooseneck, pigtail, or connector, and it is not a galvanized service line that is considered an LSL then the service line is not a lead service line. The lead gooseneck, pigtail, and connector are considered an eligible expense for replacement.

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

(m) “Principal Forgiveness” means a portion of the loan’s principal is forgiven and need not be repaid.

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

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

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

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

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

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

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

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

### **Section 3. General Policy.**

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

(b) Funding for loans and additional subsidies under this Chapter is subject to a supplemental congressional appropriation in the Investment in Infrastructure and Jobs act of 2021. To facilitate key provision of this Act, the Board will consider funding applications for:

- (i) Projects addressing Emerging Contaminants;
- (ii) Projects addressing lead service lines; and,
- (iii) Conventional safe drinking water projects.

### **Section 4. Base and Supplemental Funding Disadvantaged Community Eligibility.**

(a) OS LI shall determine if an applicant is disadvantaged by awarding points based on population trend, income data, unemployment data, enterprise system rate management, and the prior year's property tax and four percent (4%) sales tax collections. Applicants whose total points are nine (9) or greater are eligible for Additional Subsidies of up to seventy-five percent (75%) of their loan amount. Applicants whose total points are equal to or greater than six (6) but less than nine (9) are eligible for Additional Subsidies of up to fifty percent (50%) of their loan amount. Applicants whose total points are equal to or greater than three (3) but less than six (6) are eligible for Additional Subsidies of up to twenty-five percent (25%) of their loan amount. Applicants whose total points are less than three (3) are not considered disadvantaged and are not eligible for Additional Subsidies.

(i) Population trend points are awarded based on the category that the applicant was in as of the last decennial census (or other available population data acceptable to OS LI if decennial census data is not available). If an applicant can show population trend data demonstrating that it has likely dropped to a smaller category since the last decennial census, its points may be adjusted up accordingly.

(A) Applicants whose population is five hundred (500) or less will receive three (3) points.

(B) Applicants whose population is between five hundred one (501) and three thousand, three hundred (3,300) will receive two (2) points.

(C) Applicants whose population is between three thousand, three

hundred one (3,301) and ten thousand (10,000) will receive one (1) point.

(D) Applicants whose population is ten thousand, one (10,001) or greater will receive zero (0) points.

(ii) Income data points are awarded based on ratio of the local annual median household income (AMHI) to the State AMHI, using data from the most recently released American Community Survey 5-year estimates. If no data directly corresponding to the applicant is available, the AMHI for the nearest municipality will be used as the default. The applicant may provide alternate data acceptable to OSLI, such as an income survey, at the applicant's expense and in lieu of American Community Survey 5-year estimates.

(A) Applicants whose AMHI is less than sixty percent (60%) will receive three (3) points.

(B) Applicants whose AMHI is sixty percent (60%) or greater, but less than seventy percent (70%) will receive two and one half (2.5) points.

(C) Applicants whose AMHI is seventy percent (70%) or greater, but less than eighty percent (80%) will receive two (2) points.

(D) Applicants whose AMHI is eighty percent (80%) or greater, but less than ninety percent (90%) will receive one and one half (1.5) points.

(E) Applicants whose AMHI is ninety percent (90%) or greater, but less than one hundred ten percent (110%) will receive one (1) point.

(F) Applicants whose AMHI is one hundred ten percent (110%) or greater will receive zero (0) points.

(iii) Unemployment data points are awarded based on the relationship of the local unemployment rate to the state unemployment rate. Local and state unemployment rates shall be determined using the most recent quarter by county as published by the Wyoming Department of Workforce Services.

(A) Applicants whose unemployment rate is equal to or greater than the state rate will receive one (1) point.

(B) Applicants whose unemployment rate is less than the state rate will receive zero (0) points.

(iv) Enterprise system rate management points are awarded based on the relationship of the entity's average annual water rate as a percentage of their AMHI.

(A) Applicants whose average annual water rate is two percent (2%) or greater of the AMHI will receive one (1) point.

(B) Applicants whose average annual water rate is less than two percent (2%) of the AMHI will receive zero (0) points.

(v) Prior year's property tax and four percent (4%) sales tax collection points will be awarded based the amount of taxes collected by an entity, rounded to the nearest dollar, as reported in the Wyoming Department of Revenue's Annual Report.

(A) Applicants whose total collections are less than two hundred fifty thousand dollars (\$250,000.00) will receive five (5) points.

(B) Applicants whose total collections are between two hundred fifty thousand one-dollars (\$250,001.00) and five hundred thousand dollars (\$500,000.00) will receive four (4) points.

(C) Applicants whose total collections are between five hundred thousand one-dollars (\$500,001.00) and one million dollars (\$1,000,000.00) will receive three (3) points.

(D) Applicants whose total collections are between one million one dollars (\$1,000,001.00) and two million five hundred thousand dollars (\$2,500,000.00) will receive two (2) points.

(E) Applicants whose total collections are between two million five hundred thousand one dollars (\$2,500,001.00) and five million dollars (\$5,000,000.00) will receive one (1) point.

(F) Applicants whose total collections are greater than five million dollars (\$5,000,000.00) will receive zero (0) points.

#### **Section 5. Additional Subsidies and Special Program Requirements.**

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

#### **Section 6. Base and Supplemental Loan and Additional Subsidies Eligibility.**

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

(b) Additional Subsidies. Additional Subsidies shall be awarded in the form of Principal Forgiveness and Green Project Reserve loans. The Additional Subsidies will be awarded in accordance with all federal regulations. OSLI will award points based on population trend, income data, unemployment data, enterprise system rate management, and the prior year's property tax and four percent (4%) sales tax collections. Applicants whose total points are nine (9) or greater are eligible for Additional Subsidies of up to seventy-five percent (75%) of their loan amount. Applicants whose total points are equal to or greater than six (6) but less than nine (9) are eligible for Additional Subsidies of up to fifty percent (50%) of their loan amount. Applicants whose total points are equal to or greater than three (3) but less than six (6) are eligible for Additional Subsidies of up to twenty-five percent (25%) of their loan amount. Applicants whose total points are less than three (3) are not eligible for principal forgiveness.

(i) Population trend points shall be awarded based on the applicant's population according to the last decennial census (or other available population data acceptable to OSLI if decennial census data is not available). If an applicant demonstrates its population has decreased to a different category since the last decennial census, its points shall be adjusted accordingly.

(A) Applicants whose population is five hundred (500) or less will receive three (3) points.

(B) Applicants whose population is between five hundred one (501) and three thousand, three hundred (3,300) will receive two (2) points.

(C) Applicants whose population is between three thousand, three hundred one (3,301) and ten thousand (10,000) will receive one (1) point.

(D) Applicants whose population is ten thousand, one (10,001) or greater will receive zero (0) points.

(ii) Income data points shall be awarded based on ratio of the local annual median household income (AMHI) to the State AMHI, using data from the most recently released American Community Survey 5-year estimates. If no data directly corresponding to the applicant is available, the AMHI for the nearest municipality will be used as the default. The applicant may provide alternate data acceptable to OSLI, such as an income survey, at the applicant's expense and in lieu of American Community Survey 5-year estimates.

(A) Applicants whose AMHI is less than sixty percent (60%) will receive three (3) points.

(B) Applicants whose AMHI is sixty percent (60%) or greater, but less than seventy percent (70%) will receive two and one half (2.5) points.

(C) Applicants whose AMHI is seventy percent (70%) or greater, but less than eighty percent (80%) will receive two (2) points.

(D) Applicants whose AMHI is eighty percent (80%) or greater, but

less than ninety percent (90%) will receive one and one half (1.5) points.

(E) Applicants whose AMHI is ninety percent (90%) or greater, but less than one hundred ten percent (110%) will receive one (1) point.

(F) Applicants whose AMHI is one hundred ten percent (110%) or greater will receive zero (0) points.

(iii) Unemployment data points shall be awarded based on the relationship between the local unemployment rate to the State unemployment rate. Local and State unemployment rates for the most recent quarter by county shall be based on data published by the Wyoming Department of Workforce Services.

(A) Applicants whose unemployment rate is equal to or greater than the State rate will receive one (1) point.

(B) Applicants whose unemployment rate is less than the State rate will receive zero (0) points

(iv) Enterprise system rate management points are awarded based on the relationship of the entity's average annual water rate as a percentage of the their AMHI.

(A) Applicants whose average annual water rate is two percent (2%) or greater of the AMHI will receive (1) point.

(B) Applicants whose average annual water rate is less than two percent (2%) of the AMHI will receive zero (0) points.

(v) Prior year's property tax and four percent (4%) sales tax collection points will be awarded based the amount of taxes collected by an entity, rounded to the nearest dollar, as reported in the Wyoming Department of Revenue's Annual Report.

(A) Applicants whose total collections are less than two hundred fifty thousand dollars (\$250,000.00) will receive five (5) points.

(B) Applicants whose total collections are between two hundred fifty thousand one-dollars (\$250,001.00) and five hundred thousand dollars (\$500,000.00) will receive four (4) points.

(C) Applicants whose total collections are between five hundred thousand one-dollars (\$500,001.00) and one million dollars (\$1,000,000.00) will receive three (3) points.

(D) Applicants whose total collections are between one million one dollars (\$1,000,001.00) and two million five hundred thousand dollars (\$2,500,000.00) will receive two (2) points.

(E) Applicants whose total collections are between two million five hundred thousand one dollars (\$2,500,001.00) and five million dollars (\$5,000,000.00) will receive one (1) point.

(F) Applicants whose total collections are greater than five million dollars (\$5,000,000.00) will receive zero (0) points.

(c) Principal Forgiveness Contingency. Receipt of Principal Forgiveness is contingent on the applicant completing a first loan draw within eighteen (18) months of the effective date of the loan agreement and continuing to make loan draws at least quarterly until the project is complete. Failure of the applicant to comply with these terms shall result in the awarded Principal Forgiveness being forfeited. A request for an extension may be submitted to OSLI if additional time is necessary.

(d) The amount of Green Project Reserve funding will be determined by DEQ based on the project information provided and the requirements of the state and federal regulations.

(e) AMHI data is based on information obtained from the most recent American Community Survey of the U.S. Census Bureau. Median household income data for special districts will be based on the closest municipality unless income information via an income survey at district expense or other financial data acceptable to OSLI and the Board. If the applicant is a special district or joint powers board, it must be legally formed and approved prior to submitting its loan application. Applicants must be in compliance with all applicable reporting requirements of both the Wyoming Department of Revenue and the Wyoming Department of Audit prior to its application being considered by the Board. For consideration at the October Board meeting, applicants must file their current financial reports by September 10th with the Department of Audit and notify the OSLI in writing that the filing was done.

(f) Purposes. Loans and Additional Subsidies may be awarded by the Board to eligible Publicly Owned Water Systems as authorized in W.S. 16-1-305. Eligible projects may consist of improvements to any components of a Water Supply System as appropriate and permitted by the Safe Drinking Water Act. The Board may authorize loans to refinance existing debt incurred completing an eligible project. The Board may also award loans and Additional Subsidies consistent with changes in state or federal law.

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

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

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



- (ii) Costs for tap fees, sewer and water fees, and plant investment fees;
- (iii) Engineering fees, including design, inspection and contract administration costs, over twenty percent (20%) of Board approved project costs;
- (iv) All non-cash costs except land which is integral to the treatment process and if allowed under federal law. Costs for land in excess of current fair market value and/or costs for an amount of land in excess of that needed for project purposes are ineligible;
- (v) Costs for preparation or presentation of grant or loan applications for any source of funding;
- (vi) Costs for transportation, meals, lodging and incidentals incurred anywhere away from the site of the project or that exceed the current federal per diem reimbursement rate;
- (vii) Costs of tools, supplies and furnishings for capital projects not included in DEQ approved construction contract documents, including but not limited to, capital equipment, hammers, tools, furniture, drapes, blinds, file cabinets, file folders and survey stakes;
- (viii) Legal fees, except as pre-approved by DEQ or WWDO, and OS LI;
- (ix) Costs related to the issuance of bonds;
- (x) Costs of elections;
- (xi) Costs to establish and form special districts or joint powers boards;
- (xii) Costs incurred prior to loan award, except costs incurred for architectural and engineering design, surveying, state environmental review process (SERP) requirements, refinancing existing debt or in emergency circumstances;
- (xiii) Costs for change orders not approved by DEQ or WWDO, and OS LI;
- (xiv) Lump sum contracts unless approved by DEQ or WWDO, and OS LI ;
- (xv) Costs in excess of \$50.00, unless approved by DEQ or WWDO, and OS LI based on an invoice(s) or additional documentation submitted by applicant;
- (xvi) Costs associated with the applicant's own employees and equipment, unless pre-approved by DEQ or WWDO, and OS LI;
- (xvii) Markups by engineers/architects of sub-consultant and other outside charges;
- (xviii) Projects undertaken using alternate design and construction delivery methods under W.S. 16-6-701, unless pre-approved by DEQ or WWDO.

## **Section 7. Application Procedure.**

(a) Applications. Separate applications shall be prepared for each project. Applicants shall submit a complete application on a form provided by OSLI.

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

(c) Timing of Board Consideration. Applications must be received by the Director at least one hundred twenty (120) days prior to any scheduled meeting of the Board. Applicants must cure any defects in their applications no later than forty-five (45) calendar days before any scheduled meeting of the Board. The Board may consider applications for loans under this Chapter at any scheduled meeting.

(d) Incomplete Applications. Incomplete applications, those missing one or more of the information items requested, and/or failing to meet established deadlines, shall not be presented to the Board for consideration.

## **Section 8. Evaluation.**

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

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

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

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

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

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

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

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

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

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

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

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

(b) If assessments are included as part of the dedicated source of repayment, applicant shall establish an annual assessment equal to, or greater than, the amount of the annual debt service payment on the loan. This assessment schedule will be filed with the County Assessor's Office on or before February 15th of each year for the full term of the loan, a copy of which will be sent to the OSLI annually.

(c) Interagency Consultation. The OSLI shall facilitate interagency consultation with DEQ and WWDO through the review of applications for loans and Additional Subsidies and provide comments to the Director for Board consideration. The Board shall request the DEQ and the WWDO to provide the services required under W.S. 16-1-301 through W.S. 16-1-308.

#### **Section 9. Board Consideration.**

(a) The Board shall consider each complete application and allow for comments from the applicant, the Director, DEQ and WWDO. The Board shall also establish loan amounts and terms. Loan terms for applicants that are not considered disadvantaged shall not exceed what is allowable by the federal and state regulations, or the useful life of the project, whichever is less. For applicants that are considered disadvantaged, loan terms shall not exceed thirty (30) years, or the useful life of the project, whichever is less.

**Section 10. Interest Rates.** The interest rate for all loans made under this Chapter shall be pursuant to Chapter 14 of these rules.

#### **Section 11. Repayment.**

(a) Annual payments for all loans shall begin one (1) year after substantial completion of the project as indicated in the final project contract. Annual payments for loans used to refinance existing debt shall begin no later than one (1) year after loan approval.

#### **Section 12. Disbursement of Loan Proceeds.**

(a) Requests for disbursements shall be submitted on a form provided by the Director and include supporting invoices establishing the eligibility of costs submitted for disbursement. Proceeds will only be disbursed for eligible project costs as set forth in this Chapter and within federal guidelines following review by the OSLI and WWDO.

(b) Owners of any project that spans more than one (1) construction season shall submit an updated timeline to OSLI and WWDO for the project not less than annually.

#### **Section 13. Audits and Inspections.**

(a) The Board shall ensure compliance with the provisions of the Single Audit Act and Subpart F of Title 2 U.S. Code of Federal Regulations (CFR) Part 200. *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. On an annual basis records of loan recipients shall be, at a minimum, compiled by an independent accounting firm. Notification of compliance shall be made to the Board in the form of a Compilation, Review, or Audited Financial Statement prepared by an independent accounting firm.

(b) The Board may, at its expense, conduct an independent audit of the loan recipient's records and inspect the construction and operation of the project. Loan recipients shall maintain project accounts in accordance with Generally Accepted Government Accounting Standards (GAGAS). Loan recipients shall assist and provide any information required by the auditors.

#### **Section 14. Reports.**

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

#### **Section 15. Program Compliance.**

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

#### **Section 16. Fees**

(a) A loan origination fee of one-half of one percent (0.5%) of the amount of the loan will be collected at loan closing. The fees will be deposited to the Administrative Account as

authorized by W.S. 16-1-303(d).

**Section 17. IIJA Emerging Contaminants Funding.** The Board may award funding from IIJA funds under this Section for projects that address Emerging Contaminants. For awards under this Section, the provisions of this Section shall supersede any inconsistent provisions in any other section of this Chapter.

(a) Loan and Additional Subsidies Eligibility.

(i) Applicants. Publicly Owned Water Systems in Wyoming listed on the Project Priority List specifically related to Emerging Contaminants shall be eligible to apply for loans and Additional Subsidies under this Section.

(ii) Additional Subsidies. Additional Subsidies may be awarded in the form of Principal Forgiveness, to the extent available, and in accordance with all federal regulations. All loans awarded under this section are eligible for one hundred percent (100%) Principal Forgiveness, contingent on compliance with federal requirements.

(b) Eligible Projects. Projects shall be eligible under this Section if they:

- (i) Meet all DWSRF eligibility criteria;
- (ii) Are primarily intended to address Emerging Contaminants in drinking water; and
- (iii) Meet all other federal program requirements.

(c) Eligible Costs. The following project costs shall be eligible for reimbursement under this Section, subject to federal program requirements:

(i) Costs associated with the construction of a new treatment facility or upgrade to an existing treatment facility that addresses Emerging Contaminants.

(ii) Development of a new source that addresses an Emerging Contaminant issue. Water rights purchases must meet all criteria in the Class Deviation for Water Rights in order to be eligible for funding under this section.

(iii) Consolidation with another water system that does not have Emerging Contaminants present or has removal capability.

(iv) Costs for planning and design and associated pre-project costs.

(v) Infrastructure related to pilot testing for treatment alternatives.

(vi) Creation of a new community water system to address unsafe drinking water provided by privately-owned wells or surface water sources.

**Section 18. IJJA Lead Service Line Replacement Funding.** The Board may award funding from IJJA funds under this Section for projects that replace LSL. For awards under this section, the provisions of this section shall supersede any inconsistent provisions in any other section of this Chapter.

(a) Loan and Additional Subsidies Eligibility.

(i) Applicants. Publicly Owned Water Systems in Wyoming listed on the Project Priority List specifically related to LSL replacement funding shall be eligible to apply for loans and Additional Subsidies under the section.

(ii) Additional Subsidies. Additional Subsidies may be awarded in the form of Principal Forgiveness, to the extent available, and in accordance with all federal regulations. All loans awarded under this section are eligible for Principal Forgiveness, contingent on compliance with federal requirements. OSLI shall award points based on population trend, income data, and unemployment data, enterprise system rate management, and the prior year's property tax and four percent (4%) sales tax collections, as set forth in Section 6 of this Chapter. Applicants whose total points are nine (9) or greater are eligible for Additional Subsidies of up to one hundred percent (100%) of their loan amount. Applicants whose total points are equal to or greater than six (6) but less than nine (9) are eligible for Additional Subsidies of up to seventy five percent (75%) of their loan amount. Applicants whose total points are equal to or greater than three (3) but less than six (6) are eligible for Additional Subsidies of up to fifty percent (50%) of their loan amount. Applicants whose total points are less than three (3) are eligible for Additional Subsidies of up to twenty-five percent (25%) of their loan amount.

(iii) Disadvantaged Community Eligibility. All entities with identified areas meeting the LSL definition in Section 2(k) are considered disadvantaged under this section and qualify for Principal Forgiveness. OSLI shall determine if an applicant is disadvantaged by awarding points based on population trend, income data, and unemployment data, enterprise system rate management, and the prior year's property tax and four percent (4%) sales tax collections, as set forth in Section 4 of this Chapter. Applicants whose total points are nine (9) or greater are eligible for Additional Subsidies of up to seventy-five percent (75%) of their loan amount. Applicants whose total points are equal to or greater than six (6) but less than nine (9) are eligible for Additional Subsidies of up to fifty percent (50%) of their loan amount. Applicants whose total points are equal to or greater than three (3) but less than six (6) are eligible for Additional Subsidies of up to twenty-five percent (25%) of their loan amount. Applicants whose total points are less than three (3) are not considered disadvantaged and are not eligible for Additional Subsidies.

(b) Eligible Project Costs. The following project costs shall be eligible for reimbursement under this Section, subject to federal project requirements:

(i) Complete removal of LSL, including all public and privately owned portions, or service lines made of galvanized iron or galvanized steel that are currently or have

previously been downstream of lead components and replacement with a pipe that meets the federal program requirements and that complies with state and local plumbing codes and or building codes.

(ii) Removal of lead or galvanized goosenecks, pigtails, and connectors, and replacement with an acceptable material that meets the federal program requirements and that complies with state and local plumbing codes and or building codes.

(iii) Replacement of curb stops, curb stop boxes, and other service line appurtenances that are removed as part of full LSL replacement.

(iv) Site restoration, including landscaping, sidewalks, driveways, if the removal was necessary to replace the LSL.

(v) Permit fees, if the fees are normal, required, and specific to the LSL replacement.

(vi) Temporary pitcher filters or point-of-use devices certified by an American National Standards Institute accredited certifier to reduce lead during or for a short time period after LSL projects.

(vii) Development or updating of lead service line inventories, including locating and mapping lead service lines. Methods of investigation to develop inventories could include visual observation, water quality sampling for non-compliance, excavation, vacuum or hydro-excavation, statistical analysis, or other emerging technologies

(viii) Planning and design for infrastructure projects listed above.

(ix) Non-routine lead sampling, if not for compliance purposes, as part of a LSL replacement project.

**Section 19. Planning and Assessment Grants.** The Board may use a portion of the additional subsidies from the capitalization grants to fund qualifying Planning and Assessment activities.

(a) The amount available for grants under this subsection shall be defined in the annual IUP.

(b) The following activities may qualify for grants under this subsection:

(i) Asset management, fiscal sustainability, cost and effectiveness analyses;

(ii) Capital improvement plans;

- (iii) Integrated planning;
- (iv) Long-term control plans;
- (v) Water or energy audits;
- (vi) Conservation plans facility plans;
- (vii) Treatment works security and safety plans;
- (viii) Risk or vulnerability assessments;
- (ix) Emergency preparedness response and recovery plans;
- (x) Drought management plans;
- (xi) Climate adaptation plans;
- (xii) Environmental management systems;
- (xiii) Watershed management plans; and
- (xiv) Total maximum daily load implementation plans.

(c) Applicants for grants under this Section shall submit an application on a form provided by OSLI and governed by the provisions of Section 7 of this Chapter.

(d) The Board shall award grants under this Section to such applicants and in such amounts as shall, in the judgment of the Board, inure to the greatest benefit of the citizens of the State of Wyoming and represent a prudent use of funds.



## Chapter 11

### Clean Water State Revolving Fund Loans

#### Section 1. Authority.

This Chapter is adopted pursuant to Wyoming Statute 16-1-203(a).

**Section 2. Definitions.** In addition to the definitions in Chapter 1, as used in this Chapter:

(a) “Additional Subsidies” means principal forgiveness, grants, and Green Project Reserves loans as authorized by state or federal legislation and as adopted by the Board.

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

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

(d) “Emerging Contaminants” refer to substances and microorganisms, including manufactured or naturally occurring physical, chemical, biological, radiological, or nuclear materials, which are known or anticipated in the environment, that may pose newly identified or re-emerging risks to human health, aquatic life, or the environment. These substances, microorganisms, or materials can include many different types of natural or manufactured chemicals and substances – such as those in some compounds of personal care products, pharmaceuticals, industrial chemicals, pesticides, and micro plastics.

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

(~~f~~) “Green Project Reserve” means funds loaned out to implement a process, material, technique, or technology that addresses water or energy efficiency goals, mitigates stormwater runoff, or encourages sustainable project planning, design, and construction.

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

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

(i) “Investment in Infrastructure and Jobs Act of 2021” (IJA) means U.S. Public Law 117-58, signed November 15, 2021; providing supplemental funding for eligible projects and funding to address Emerging Contaminants.

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

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

(i) “Principal Forgiveness” means a portion of the loan’s principal is forgiven and need not be repaid.

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

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

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

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

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

### **Section 3. General Policy.**

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

(b) Supplemental and Emergency Contaminant funding for loans and additional subsidies under this Chapter is subject to a supplemental congressional appropriation in the Investment in Infrastructure and Jobs act of 2021 (IIJA). To facilitate key provision of this Act, the Board will consider funding applications for:

(i) Projects addressing Emerging Contaminants; and,

(ii) Conventional clean water projects.

### **Section 4. Additional Subsidies and Special Program Requirements.**

(a) Notice. OSLI and DEQ will assess, at least annually, the impacts of state and federal legislation on the Clean Water State Revolving Fund loan program administered under

this Chapter. OSLI will provide timely notice to eligible applicants of changes in Additional Subsidies and Special Program requirements. Said notice will be not less than thirty (30) calendar days prior to any application deadline. Methods of notice include, but are not limited to, electronic, telephonic, written, website postings, video conferences or combinations of the same.

**Section 5. Base and Supplemental Loan and Additional Subsidies Eligibility**

(a) Applicants. Municipalities, counties, state agencies, special districts, and joint powers boards in Wyoming shall be eligible applicants for loans and Additional Subsidies under this Chapter.

(b) Additional Subsidies. Additional Subsidies shall be awarded in the form of Principal Forgiveness and Green Project Reserve loans. The Additional Subsidies will be awarded in accordance with all federal regulations. OSLI will award points based on population trend, income data, ~~and~~ unemployment data, enterprise system rate management, and the prior year's propriety tax and four percent (4%) sales tax collections to determine the amount of principal forgiveness an applicant is eligible to receive. Applicants whose total points are ~~six (6)~~ nine (9) or greater are eligible for principal forgiveness of up to seventy-five percent (75%) of their loan amount. Applicants whose total points are ~~between four (4) and five (5)~~ equal to or greater than six (6) but less than nine (9) are eligible for principal forgiveness of up to fifty percent (50%) of their loan amount. Applicants whose total points are ~~between two (2) and equal to or greater than three (3)~~ but less than six (6) are eligible for principal forgiveness of up to twenty-five percent (25%) of their loan amount. Applicants whose total points are less than ~~two (2)~~ three (3) are not eligible for principal forgiveness.

(i) Population trend points are awarded based on the category that the applicant was in as of the last decennial census (or other available population data acceptable to OSLI if decennial census data is not available). If an applicant can show population trend data demonstrating that it has likely dropped to a smaller category since the last decennial census, its points will be adjusted up accordingly.

(A) Applicants whose population is five hundred (500) or less will receive three (3) points.

(B) Applicants whose population is between five hundred one (501) and three thousand, three hundred (3,300) will receive two (2) points.

(C) Applicants whose population is between three thousand, three hundred one (3,301) and ten thousand (10,000) will receive one (1) point.

(D) Applicants whose population is ten thousand, one (10,001) or greater will receive zero (0) points.

(ii) Income data points are awarded based on ratio of the local annual median household income (AMHI) to the State AMHI, using data from the most recently released

American Community Survey 5-year estimates. If no data directly corresponding to the applicant is available, the ~~county~~ AMHI of the nearest municipality will be used as the default. The applicant may provide alternate data acceptable to OSLI, such as an income survey, at the applicant's expense and in lieu of American Community Survey 5-year estimates.

(A) Applicants whose AMHI is less than sixty percent (60%) will receive ~~five (5)~~ three (3) points.

(B) Applicants whose AMHI is sixty percent (60%) or greater, but less than seventy percent (70%) will receive ~~four (4)~~ two and one half (2.5) points.

(C) Applicants whose AMHI is seventy percent (70%) or greater, but less than eighty percent (80%) will receive ~~three (3)~~ two (2) points.

(D) Applicants whose AMHI is eighty percent (80%) or greater, but less than ninety percent (90%) will receive ~~two (2)~~ one and one half (1.5) points.

(E) Applicants whose AMHI is ninety percent (90%) or greater, but less than one hundred ten percent (110%) will receive one (1) point.

(F) Applicants whose AMHI is one hundred ten percent (110%) or greater will receive zero (0) points.

(iii) Unemployment data points are awarded based on relationship of the local unemployment rate to the State unemployment rate. Local and State unemployment rates for the most recent quarter by county as published by the Wyoming Department of Workforce Services will be used.

(A) Applicants whose unemployment rate is equal to or greater than the State rate will receive one (1) point.

(B) Applicants whose unemployment rate is less than the State rate will receive zero (0) points

(iv) ~~Principal Forgiveness Contingency. Receipt of Principal Forgiveness is contingent on the applicant completing a first loan draw within eighteen (18) months of the effective date of the loan agreement and continuing to make loan draws at least quarterly until the project is complete. Failure of the applicant to comply with these terms shall result in the awarded Principal Forgiveness being forfeited. A request for an extension may be submitted to OSLI if additional time is necessary.~~ Enterprise system rate management points are awarded based on the relationship of the entity's average annual water rate as a percentage of the their AMHI.

(A) Applicants whose average annual water rate is two percent (2%) or greater of the AMHI will receive (1) point.

(B) Applicants whose average annual water rate is less than two percent (2%) of the AMHI will receive zero (0) points.

(v) The amount of Green Project Reserve funding will be determined by DEQ based on the project information provided and the requirements of the state and federal regulations. Prior year's property tax and four percent (4%) sales tax collection points will be awarded based the amount of taxes collected by an entity, rounded to the nearest dollar, as reported in the Wyoming Department of Revenue's Annual Report.

(A) Applicants whose total collections are is less than two hundred fifty thousand dollars (\$250,000.00) will receive five (5) points.

(B) Applicants whose total collections are between two hundred fifty thousand one-dollar (\$250,001.00) and five hundred thousand dollars (\$500,000.00) will receive four (4) points.

(C) Applicants whose total collections are between five hundred thousand one-dollar (\$500,001.00) and one million dollars (\$1,000,000.00) will receive three (3) points.

(D) Applicants whose total collections are between one million one dollars (\$1,000,001.00) and two million five hundred thousand dollars (\$2,500,000.00) will receive two (2) points.

(E) Applicants whose total collections are between two million five hundred thousand one dollars (\$2,500,001.00) and five million dollars (\$5,000,000.00) will receive one (1) point.

(F) Applicants whose total collections are greater than five million dollars (\$5,000,000.00) will receive zero (0) points.

(c) Principal Forgiveness Contingency. Receipt of Principal Forgiveness is contingent on the applicant completing a first loan draw within eighteen (18) months of the effective date of the loan agreement and continuing to make loan draws at least quarterly until the project is complete. Failure of the applicant to comply with these terms shall result in the awarded Principal Forgiveness being forfeited. A request for an extension may be submitted to OSFI if additional time is necessary

(d) The amount of Green Project Reserve funding will be determined by DEQ based on the project information provided and the requirements of the state and federal regulations.

(e) AMHI data is based on information obtained from the most recent American Community Survey of the U.S. Census Bureau. Median household income data for special districts ~~must be established by~~ will be based on the closest municipality unless income

information via an income survey at district expense or other financial data acceptable to OS LI and the Board. If the applicant is a special district or a joint powers board, it must be legally formed and approved prior to submitting its loan application. Applicants must be in compliance with all applicable reporting requirements of both the Wyoming Department of Revenue and the Wyoming Department of Audit prior to its application being considered by the Board. For consideration at the October Board meeting, applicants must file their current financial reports by September 10th with the Department of Audit and notify the OS LI in writing that the filing was done.

(df) Purposes. Loans and Additional Subsidies may be awarded by the Board pursuant to W.S. 16-1-205(a). The Board may authorize loans to refinance existing debt incurred completing an eligible project. The Board may also award loans and Additional Subsidies consistent with changes in state or federal law. Refinancing existing debt obligations for which debt was incurred and building began after March 7, 1985.

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

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

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

- (ix) Costs related to the issuance of bonds;
- (x) Costs of elections;
- (xi) Costs to establish and form special districts or joint powers boards;
- (xii) Costs incurred prior to loan award, except costs incurred for architectural and engineering design, surveying, state environmental review process (SERP) requirements or in emergency circumstances;
- (xiii) Costs for change orders not approved by DEQ and OSLI;
- (xiv) Lump sum contracts unless approved by DEQ and OSLI;
- (xv) Costs in excess of \$50.00, unless approved by DEQ and OSLI, based on an invoice(s) or additional documentation submitted by applicant;
- (xvi) Costs associated with the applicant's own employees and equipment, unless pre-approved by DEQ;
- (xvii) Markups by engineers/architects of sub-consultant and other outside charges;
- (xviii) Projects undertaken using alternate design and construction delivery methods under W.S. 16-6-701, unless pre-approved by DEQ.

## **Section 6. Application Procedure.**

- (a) Applications. Separate applications shall be prepared for each project. Applicants shall submit a complete application on a form provided by OSLI.
- (b) Public Meeting Requirement. All eligible applicants must hold a minimum of one public meeting in advance of submitting an ~~loan~~ application for Board consideration. Notice of the public meeting is to be published in a local or regional newspaper fifteen (15) days prior to the same. The public meeting must provide the public an overview of the proposed project, financing and sustainability. The overview aspect of the public meeting must, at a minimum, address project scope, milestones and costs. The financing aspect of the public meeting must, at a minimum, address the financial impact of project costs upon the public. The sustainability aspect of the public meeting must, at a minimum, address the revenue streams, adjustments of water and sewer rates or other sources required to sustain the proposed project. Eligible applicants must verify compliance with the public meeting requirement through documentation submitted with their loan applications.
- (c) Timing of Board Consideration. ~~Loan~~ Applications must be received by the Director at least one hundred twenty (120) calendar days prior to any scheduled meeting of the Board. Applicants must cure any defects in their applications no later than forty-five (45)

calendar days before any scheduled meeting of the Board. The Board may consider ~~loan~~ applications for loans under this Chapter at any scheduled meeting.

(d) ~~Loan Applications.~~ Incomplete ~~loan~~ applications, those missing one or more of the information items requested and/or failing to meet established deadlines, shall not be presented to the Board for consideration.

### **Section 7. Evaluation.**

- (a) Criteria. The Board shall evaluate applications utilizing the following criteria:
- (i) Whether the applicant is current on all its repayment obligations to the Board;
  - (ii) Whether the applicant's dedicated source of revenue is acceptable to the Board and will be sufficient to repay its requested loan;
  - (iii) Whether the applicant is ready to proceed with construction or implementation of the project;
  - (iv) Whether the applicant has established an adequate operations and maintenance costs fund for the project for which applicant seeks funding;
  - (v) Whether the applicant has made a significant commitment of funding resources for the project for which it seeks funding;
  - (vi) The percentage of the applicant's population directly served by the project;
  - (vii) The project's priority rank on the current intended use plan (IUP); and
  - (viii) Whether the project is appropriately sized for the population to be served by the project.
- (b) ~~(ix)~~ If assessments are included as part of the dedicated source of repayment, applicant shall establish an annual assessment equal to, or greater than, the amount of the annual debt service payment on the loan. This assessment schedule will be filed with the County Assessor's Office on or before February 15th of each year for the full term of the loan, a copy of which will be sent to the OS LI annually.

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

### **Section 8. Board Consideration.**



(a) The Board shall consider each complete application, and allow for comments from the applicant, ~~and from the Director and DEQ~~. The Board shall also establish loan amounts and terms. Loan terms shall not exceed thirty (30) years, or the useful life of the project, whichever is less.

### **Section 9. Interest Rates.**

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

~~(b) The interest rate for eligible applicants that qualify for Additional Subsidies, when available, shall be established by the Board pursuant to Chapter 14 of these rules.~~

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

~~(d) The interest rate for emergency projects shall be set by the Board pursuant to Chapter 14 of these rules.~~

### **Section 10. Repayment.**

(a) Annual payments for all loans shall begin one year after substantial completion of the project as indicated in the final project contract. Annual payments for loans used to refinance existing debt shall begin no later than one (1) year after loan approval.

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

(a) Requests for disbursements shall be submitted on a form provided by the Director and include supporting invoices establishing the eligibility of costs submitted for disbursements. ~~Loan p~~Proceeds will only be disbursed for eligible project costs as set forth in this Chapter and within federal guidelines following review by the OSLI and DEQ.

(b) Any loan for a project that spans more than one construction season shall submit an updated timeline to OSLI and DEQ for the project not less than annually.

### **Section 12. Audits and Inspections.**

(a) The Board shall ensure compliance with the provisions of the Single Audit Act and Subpart F of Title 2 U.S. Code of Federal Regulations (CFR) Part 200. *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. On an annual basis records of loan recipients shall be, at a minimum, compiled by an independent accounting firm. Notification of compliance shall be made to the Board in the form of a Compilation, Review, or Audited Financial Statement prepared by an independent accounting firm. The Board may, at its expense, conduct an independent audit of the loan recipient's records and inspect the construction and operation of the project. Loan recipients shall maintain

project accounts in accordance with Generally Accepted Government Accounting Standards (GAGAS).

(b) The Board may, at its expense, conduct an independent audit of the loan recipient's records and inspect the construction and operation of the project. Loan recipients shall maintain project accounts in accordance with Generally Accepted Government Accounting Standards (GAGAS). Loan recipients shall assist and provide any information required by the auditors.

### **Section 13. Reports.**

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

### **Section 14. Program Compliance.**

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

### **Section 15. Fees.**

(a) A loan origination fee of one-half of one percent (0.5%) of the amount of the loan will be collected at loan closing. The fees will be deposited to the Administrative Account as authorized by W.S. 16-1-205(d).

**Section 16. IIJA Emerging Contaminants Funding.** The Board may award funding from IIJA funds under this Section for projects that address Emerging Contaminants. For awards under this Section, the provisions of this Section shall supersede any inconsistent provisions in any other section of this Chapter.

(a) Loan and Additional Subsidies Eligibility.

(i) Applicants. Publicly Owned Water Systems in Wyoming listed on the Project Priority List specifically related to Emerging Contaminants shall be eligible to apply for loans and Additional Subsidies under the Section.

(ii) Additional Subsidies. Additional Subsidies may be awarded in the form of Principal Forgiveness, to the extent available, and in accordance with all federal regulations. All loans awarded under this section qualify for one hundred percent (100%) Principal Forgiveness, contingent on compliance with federal requirements.

(b) Eligible Projects. Projects shall be eligible under this Section if they:

(i) Meet all DWSRF eligibility criteria;

(ii) Are primarily intended to address Emerging Contaminants in drinking water; and

(iii) Meet all other federal program requirements.

(c) Eligible Costs. The following project costs shall be eligible for reimbursement under this Section, subject to federal program requirements:

(i) Emerging contaminants costs associated with the construction of a new treatment facility or upgrade to an existing treatment facility that addresses Emerging Contaminants.

(ii) Development of a new source that addresses an emerging contaminant issue. Water rights purchases must meet all criteria in the Class Deviation for Water Rights in order to be eligible for funding under this section.

(iii) Consolidation with another water system that does not have Emerging Contaminants present or has removal capability.

(iv) Costs for planning and design and associated pre-project costs.

(v) Infrastructure related to pilot testing for treatment alternatives.

(vi) Creation of a new community water system to address unsafe drinking water provided by privately-owned wells or surface water sources.

**Section 17. Planning and Assessment Grants.** The Board may use a portion of the additional subsidies from the capitalization grants to fund qualifying Planning and Assessment activities.

(a) The amount available for grants under this subsection shall be defined in the annual IUP.

(b) The following activities may qualify for grants under this subsection:

(i) Asset management, fiscal sustainability, cost and effectiveness analyses;

(ii) Capital improvement plans;

(iii) Integrated planning;

(iv) Long-term control plans;

(v) Water or energy audits;

- (vi) Conservation plans facility plans;
- (vii) Treatment works security and safety plans;
- (viii) Risk or vulnerability assessments;
- (ix) Emergency preparedness response and recovery plans;
- (x) Drought management plans;
- (xi) Climate adaptation plans;
- (xii) Environmental management systems;
- (xiii) Watershed management plans; and
- (xiv) Total maximum daily load implementation plans.

(c) Applicants for grants under this Section shall submit an application on a form provided by OSLI and governed by the provisions of Section 7 of this Chapter.

(d) The Board shall award grants under this Section to such applicants and in such amounts as shall, in the judgment of the Board, inure to the greatest benefit of the citizens of the State of Wyoming and represent a prudent use of funds.

## Chapter 16

### Drinking Water State Revolving Fund Loans

#### Section 1. Authority.

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

**Section 2. Definitions.** In addition to the definitions in Chapter 1, as used in this Chapter:

(a) “Additional Subsidies” means principal forgiveness, grants, and Green Project Reserve loans as authorized by state or federal legislation and as adopted by the Board.

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

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

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

(e) “Emerging Contaminants” refer to substances and microorganisms, including manufactured or naturally occurring physical, chemical, biological, radiological, or nuclear materials, which are known or anticipated in the environment, that may pose newly identified or re-emerging risks to human health, aquatic life, or the environment. These substances, microorganisms, or materials can include many different types of natural or manufactured chemicals and substances – such as those in some compounds of personal care products, pharmaceuticals, industrial chemicals, pesticides, and microplastics.

(~~e~~f) “Green Project Reserve” means funds loaned out to implement a process, material, technique, or technology that addresses water or energy efficiency goals, mitigates stormwater runoff, or encourages sustainable project planning, design, and construction.

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

(~~g~~h) “Intended Use Plan (IUP)” means the annual plan adopted by the State Loan and Investment Board and submitted to the United States Environmental Protection Agency (USEPA) that describes how the state intends to use the money in the Drinking Water Revolving Loan Account, including the IJA Emerging Contaminants and Lead Service Line funding.

(i) “Investment in Infrastructure and Jobs Act of 2021” (IIJA) means U.S. Public Law 117-58, signed November 15, 2021. The IIJA established supplemental funding for eligible

DWSRF projects, Emerging Contaminants and Lead Service Line funding.

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

(k) “Lead service lines” (LSL) means a service line made of lead, which connects the water main to the building inlet. A lead service line may be owned by the water system, owned by the property owner, or both. For the purposes of this Chapter, a galvanized service line is considered a lead service line if it ever was or is currently downstream of any lead service line or service line of unknown material. If the only lead piping serving the home or building is a lead gooseneck, pigtail, or connector, and it is not a galvanized service line that is considered an LSL then the service line is not a lead service line. The lead gooseneck, pigtail, and connector are considered an eligible expense for replacement.

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

(~~j~~m) “Principal Forgiveness” means a portion of the loan’s principal is forgiven and need not be repaid.

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

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

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

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

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

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

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

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

### **Section 3. General Policy.**

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

(b) Funding for loans and additional subsidies under this Chapter is subject to a supplemental congressional appropriation in the Investment in Infrastructure and Jobs act of 2021. To facilitate key provision of this Act, the Board will consider funding applications for:

- (i) Projects addressing Emerging Contaminants;
- (ii) Projects addressing lead service lines; and,
- (iii) Conventional safe drinking water projects.

### **Section 4. Base and Supplemental Funding Disadvantaged Community Eligibility.**

(a) OSLI shall determine if an applicant is disadvantaged by awarding points based on population trend, income data, ~~and~~ unemployment data, enterprise system rate management, and the prior year’s property tax and four percent (4%) sales tax collections. Applicants whose total points are ~~six (6)~~ nine (9) or greater are eligible for Additional Subsidies of up to seventy-five percent (75%) of their loan amount. Applicants whose total points are ~~between four (4) and five (5) equal to or greater than six (6) but less than nine (9)~~ are eligible for Additional Subsidies of up to fifty percent (50%) of their loan amount. Applicants whose total points are ~~between two (2) and equal to or greater than three (3) but less than six (6)~~ are eligible for Additional Subsidies of up to twenty-five percent (25%) of their loan amount. Applicants whose total points are less than ~~two (2)~~ three (3) are not considered disadvantaged and are not eligible for Additional Subsidies.

(i) Population trend points are awarded based on the category that the applicant was in as of the last decennial census (or other available population data acceptable to OSLI if decennial census data is not available). If an applicant can show population trend data demonstrating that it has likely dropped to a smaller category since the last decennial census, its points may be adjusted up accordingly.

(A) Applicants whose population is five hundred (500) or less will receive three (3) points.

(B) Applicants whose population is between five hundred one (501)

and three thousand, three hundred (3,300) will receive two (2) points.

(C) Applicants whose population is between three thousand, three hundred one (3,301) and ten thousand (10,000) will receive one (1) point.

(D) Applicants whose population is ten thousand, one (10,001) or greater will receive zero (0) points.

(ii) Income data points are awarded based on ratio of the local annual median household income (AMHI) to the State AMHI, using data from the most recently released American Community Survey 5-year estimates. If no data directly corresponding to the applicant is available, the ~~county~~ AMHI for the nearest municipality will be used as the default. The applicant may provide alternate data acceptable to OSLI, such as an income survey, at the applicant's expense and in lieu of American Community Survey 5-year estimates.

(A) Applicants whose AMHI is less than sixty percent (60%) will receive ~~five (5)~~ three (3) points.

(B) Applicants whose AMHI is sixty percent (60%) or greater, but less than seventy percent (70%) will receive ~~four (4)~~ two and one half (2.5) points.

(C) Applicants whose AMHI is seventy percent (70%) or greater, but less than eighty percent (80%) will receive ~~three (3)~~ two (2) points.

(D) Applicants whose AMHI is eighty percent (80%) or greater, but less than ninety percent (90%) will receive ~~two (2)~~ one and one half (1.5) points.

(E) Applicants whose AMHI is ninety percent (90%) or greater, but less than one hundred ten percent (110%) will receive one (1) point.

(F) Applicants whose AMHI is one hundred ten percent (110%) or greater will receive zero (0) points.

(iii) Unemployment data points are awarded based on the relationship of the local unemployment rate to the state unemployment rate. Local and state unemployment rates shall be determined using the most recent quarter by county as published by the Wyoming Department of Workforce Services.

(A) Applicants whose unemployment rate is equal to or greater than the state rate will receive one (1) point.

(B) Applicants whose unemployment rate is less than the state rate will receive zero (0) points.



(iv) Enterprise system rate management points are awarded based on the relationship of the entity's average annual water rate as a percentage of the their AMHI.

(A) Applicants whose average annual water rate is two percent (2%) or greater of the AMHI will receive one (1) point.

(B) Applicants whose average annual water rate is less than two percent (2%) of the AMHI will receive zero (0) points.

(v) Prior year's property tax and four percent (4%) sales tax collection points will be awarded based the amount of taxes collected by an entity, rounded to the nearest dollar, as reported in the Wyoming Department of Revenue's Annual Report.

(A) Applicants whose total collections are less than two hundred fifty thousand dollars (\$250,000.00) will receive five (5) points.

(B) Applicants whose total collections are between two hundred fifty thousand one-dollars (\$250,001.00) and five hundred thousand dollars (\$500,000.00) will receive four (4) points.

(C) Applicants whose total collections are between five hundred thousand one-dollars (\$500,001.00) and one million dollars (\$1,000,000.00) will receive three (3) points.

(D) Applicants whose total collections are between one million one dollars (\$1,000,001.00) and two million five hundred thousand dollars (\$2,500,000.00) will receive two (2) points.

(E) Applicants whose total collections are between two million five hundred thousand one dollars (\$2,500,001.00) and five million dollars (\$5,000,000.00) will receive one (1) point.

(F) Applicants whose total collections are greater than five million dollars (\$5,000,000.00) will receive zero (0) points.

## **Section 5. Additional Subsidies and Special Program Requirements.**

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

## **Section 6. Base and Supplemental Loan and Additional Subsidies Eligibility.**

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

(b) Additional Subsidies. Additional Subsidies shall be awarded in the form of Principal Forgiveness and Green Project Reserve loans. The Additional Subsidies will be awarded in accordance with all federal regulations. OSLI will award points based on population trend, income data, ~~and~~ unemployment data, enterprise system rate management, and the prior year's property tax and four percent (4%) sales tax collections. Applicants whose total points are ~~six (6)~~ nine (9) or greater are eligible for Additional Subsidies of up to seventy-five percent (75%) of their loan amount. Applicants whose total points are ~~between four (4) and five (5)~~ equal to or greater than six (6) but less than nine (9) are eligible for Additional Subsidies of up to fifty percent (50%) of their loan amount. Applicants whose total points are ~~between two (2)~~ and equal to or greater than three (3) but less than six (6) are eligible for Additional Subsidies of up to twenty-five percent (25%) of their loan amount. Applicants whose total points are less than ~~two (2)~~ three (3) are not eligible for principal forgiveness.

(i) Population trend points shall be awarded based on the applicant's population according to the last decennial census (or other available population data acceptable to OSLI if decennial census data is not available). If an applicant demonstrates its population has decreased to a different category since the last decennial census, its points shall be adjusted accordingly.

(A) Applicants whose population is five hundred (500) or less will receive three (3) points.

(B) Applicants whose population is between five hundred one (501) and three thousand, three hundred (3,300) will receive two (2) points.

(C) Applicants whose population is between three thousand, three hundred one (3,301) and ten thousand (10,000) will receive one (1) point.

(D) Applicants whose population is ten thousand, one (10,001) or greater will receive zero (0) points.

(ii) Income data points shall be awarded based on ratio of the local annual median household income (AMHI) to the State AMHI, using data from the most recently released American Community Survey 5-year estimates. If no data directly corresponding to the applicant is available, the ~~county~~ AMHI for the nearest municipality will be used as the default. The applicant may provide alternate data acceptable to OSLI, such as an income survey, at the applicant's expense and in lieu of American Community Survey 5-year estimates.

(A) Applicants whose AMHI is less than sixty percent (60%) will receive ~~five (5)~~ three (3) points.

(B) Applicants whose AMHI is sixty percent (60%) or greater, but less than seventy percent (70%) will receive ~~four (4)~~ two and one half (2.5) points.

(C) Applicants whose AMHI is seventy percent (70%) or greater, but less than eighty percent (80%) will receive ~~three (3)~~ two (2) points.

(D) Applicants whose AMHI is eighty percent (80%) or greater, but less than ninety percent (90%) will receive ~~two (2)~~ one and one half (1.5) points.

(E) Applicants whose AMHI is ninety percent (90%) or greater, but less than one hundred ten percent (110%) will receive one (1) point.

(F) Applicants whose AMHI is one hundred ten percent (110%) or greater will receive zero (0) points.

(iii) Unemployment data points shall be awarded based on the relationship between the local unemployment rate to the State unemployment rate. Local and State unemployment rates for the most recent quarter by county shall be based on data published by the Wyoming Department of Workforce Services.

(A) Applicants whose unemployment rate is equal to or greater than the State rate will receive one (1) point.

(B) Applicants whose unemployment rate is less than the State rate will receive zero (0) points

(iv) Enterprise system rate management points are awarded based on the relationship of the entity's average annual water rate as a percentage of the their AMHI.

(A) Applicants whose average annual water rate is two percent (2%) or greater of the AMHI will receive (1) point.

(B) Applicants whose average annual water rate is less than two percent (2%) of the AMHI will receive zero (0) points.

(v) Prior year's property tax and four percent (4%) sales tax collection points will be awarded based the amount of taxes collected by an entity, rounded to the nearest dollar, as reported in the Wyoming Department of Revenue's Annual Report.

(A) Applicants whose total collections are less than two hundred fifty thousand dollars (\$250,000.00) will receive five (5) points.

(B) Applicants whose total collections are between two hundred fifty thousand one-dollars (\$250,001.00) and five hundred thousand dollars (\$500,000.00) will receive four (4) points.

(C) Applicants whose total collections are between five hundred thousand one-dollars (\$500,001.00) and one million dollars (\$1,000,000.00) will receive three (3) points.

(D) Applicants whose total collections are between one million one dollars (\$1,000,001.00) and two million five hundred thousand dollars (\$2,500,000.00) will receive two (2) points.

(E) Applicants whose total collections are between two million five hundred thousand one dollars (\$2,500,001.00) and five million dollars (\$5,000,000.00) will receive one (1) point.

(F) Applicants whose total collections are greater than five million dollars (\$5,000,000.00) will receive zero (0) points.

~~(ivc)~~ Principal Forgiveness Contingency. Receipt of Principal Forgiveness is contingent on the applicant completing a first loan draw within eighteen (18) months of the effective date of the loan agreement and continuing to make loan draws at least quarterly until the project is complete. Failure of the applicant to comply with these terms shall result in the awarded Principal Forgiveness being forfeited. A request for an extension may be submitted to OSLI if additional time is necessary.

~~(vd)~~ The amount of Green Project Reserve funding will be determined by DEQ based on the project information provided and the requirements of the state and federal regulations.

~~(ee)~~ AMHI data is based on information obtained from the most recent American Community Survey of the U.S. Census Bureau. Median household income data for special districts ~~must be established by~~ will be based on the closest municipality unless income information via an income survey at district expense or other financial data acceptable to OSLI and the Board. If the applicant is a special district or joint powers board, it must be legally formed and approved prior to submitting its loan application. Applicants must be in compliance with all applicable reporting requirements of both the Wyoming Department of Revenue and the Wyoming Department of Audit prior to its application being considered by the Board. For consideration at the October Board meeting, applicants must file their current financial reports by September 10th with the Department of Audit and notify the OSLI in writing that the filing was done.

~~(df)~~ Purposes. Loans and Additional Subsidies may be awarded by the Board to eligible Publicly Owned Water Systems as authorized in W.S. 16-1-305. Eligible projects may ~~be comprised~~ consist of improvements to ~~all any~~ components of a Water Supply System as appropriate and permitted by the Safe Drinking Water Act. The Board may authorize loans to refinance existing debt incurred completing an eligible project. The Board may also award loans and Additional Subsidies consistent with changes in state or federal law.

~~(eg)~~ Project Eligibility. Only projects on the current Drinking Water State Revolving Fund Intended Use Plan are eligible for loans and Additional Subsidies under this Chapter.

Eligible applicants are responsible for ensuring that their project(s) are listed on the current Drinking Water State Revolving Fund Intended Use Plan.

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

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

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

(xvi) Costs associated with the applicant's own employees and equipment, unless pre-approved by DEQ and or WWDO, and OSLI;

(xvii) Markups by engineers/architects of sub-consultant and other outside charges;

(xviii) Projects undertaken using alternate design and construction delivery methods under W.S. 16-6-701, unless pre-approved by DEQ and or WWDO.

### **Section 7. Application Procedure.**

(a) Applications. Separate applications shall be prepared for each project. Applicants shall submit a complete application on a form provided by OSLI.

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

(c) Timing of Board Consideration. ~~Special Program or Core loan a~~Applications must be received by the Director at least one hundred twenty (120) days prior to any scheduled meeting of the Board. Applicants must cure any defects in their applications no later than forty-five (45) calendar days before any scheduled meeting of the Board. The Board may consider loan applications for loans under this Chapter at any scheduled meeting.

(d) Incomplete Loan-Applications. Incomplete loan applications, those missing one or more of the information items requested, and/or failing to meet established deadlines, shall not be presented to the Board for consideration.

### **Section 8. Evaluation.**

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

(i) Whether the applicant has an appropriate project Priority List ranking as

required in Section 1452(b)(3) of the Safe Drinking Water Act and is listed on the fundable portion of the Intended Use Plan;

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

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

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

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

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

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

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

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

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

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

(b) ~~(xi)~~ If assessments are included as part of the dedicated source of repayment, applicant shall establish an annual assessment equal to, or greater than, the amount of the annual debt service payment on the loan. This assessment schedule will be filed with the County Assessor's Office on or before February 15th of each year for the full term of the loan, a copy of which will be sent to the OS LI annually.

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

## **Section 9. Board Consideration.**

(a) The Board shall consider each complete application and allow for comments from the applicant, the Director, DEQ and WWDO. The Board shall also establish loan amounts and terms. Loan terms for applicants that are not considered disadvantaged shall not exceed what is allowable by the federal and state regulations, or the useful life of the project, whichever is less. For applicants that are considered disadvantaged, loan terms shall not exceed thirty (30) years, or the useful life of the project, whichever is less.

## **Section 10. Interest Rates.**

~~(a) The interest rate for all loans made under this Chapter eligible applicants that qualify for Additional Subsidies, when available, shall be pursuant to Chapter 14 of these rules.~~

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

~~(c) The interest rate for emergency projects shall be set by the Board pursuant to Chapter 14 of these rules.~~

## **Section 11. Repayment.**

(a) Annual payments for all loans shall begin one (1) year after substantial completion of the project as indicated in the final project contract. Annual payments for loans used to refinance existing debt shall begin no later than one (1) year after loan approval.

## **Section 12. Disbursement of Loan Proceeds.**

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

(b) Owners of any project that spans more than one (1) construction season shall submit an updated timeline to OSLI and WWDO for the project not less than annually.

## **Section 13. Audits and Inspections.**

(a) The Board shall ensure compliance with the provisions of the Single Audit Act and Subpart F of Title 2 U.S. Code of Federal Regulations (CFR) Part 200. *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. On an annual basis records of loan recipients shall be, at a minimum, compiled by an independent accounting firm. Notification of compliance shall be made to the Board in the form of a Compilation, Review, or Audited Financial Statement prepared by an independent accounting firm.



(b) The Board may, at its expense, conduct an independent audit of the loan recipient's records and inspect the construction and operation of the project. Loan recipients shall maintain project accounts in accordance with Generally Accepted Government Accounting Standards (GAGAS). Loan recipients shall assist and provide any information required by the auditors.

#### **Section 14. Reports.**

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

#### **Section 15. Program Compliance.**

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

#### **Section 16. Fees**

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

**Section 17. IIJA Emerging Contaminants Funding.** The Board may award funding from IIJA funds under this Section for projects that address Emerging Contaminants. For awards under this Section, the provisions of this Section shall supersede any inconsistent provisions in any other section of this Chapter.

(a) Loan and Additional Subsidies Eligibility.

(i) Applicants. Publicly Owned Water Systems in Wyoming listed on the Project Priority List specifically related to Emerging Contaminants shall be eligible to apply for loans and Additional Subsidies under this Section.

(ii) Additional Subsidies. Additional Subsidies may be awarded in the form of Principal Forgiveness, to the extent available, and in accordance with all federal regulations. All loans awarded under this section are eligible for one hundred percent (100%) Principal Forgiveness, contingent on compliance with federal requirements.

(b) Eligible Projects. Projects shall be eligible under this Section if they:

(i) Meet all DWSRF eligibility criteria;

(ii) Are primarily intended to address Emerging Contaminants in drinking water; and

(iii) Meet all other federal program requirements.

(c) Eligible Costs. The following project costs shall be eligible for reimbursement under this Section, subject to federal program requirements:

(i) Costs associated with the construction of a new treatment facility or upgrade to an existing treatment facility that addresses Emerging Contaminants.

(ii) Development of a new source that addresses an Emerging Contaminant issue. Water rights purchases must meet all criteria in the Class Deviation for Water Rights in order to be eligible for funding under this section.

(iii) Consolidation with another water system that does not have Emerging Contaminants present or has removal capability.

(iv) Costs for planning and design and associated pre-project costs.

(v) Infrastructure related to pilot testing for treatment alternatives.

(vi) Creation of a new community water system to address unsafe drinking water provided by privately-owned wells or surface water sources.

**Section 18. IJA Lead Service Line Replacement Funding.** The Board may award funding from IJA funds under this Section for projects that replace LSL. For awards under this section, the provisions of this section shall supersede any inconsistent provisions in any other section of this Chapter.

(a) Loan and Additional Subsidies Eligibility.

(i) Applicants. Publicly Owned Water Systems in Wyoming listed on the Project Priority List specifically related to LSL replacement funding shall be eligible to apply for loans and Additional Subsidies under the section.

(ii) Additional Subsidies. Additional Subsidies may be awarded in the form of Principal Forgiveness, to the extent available, and in accordance with all federal regulations. All loans awarded under this section are eligible for Principal Forgiveness, contingent on compliance with federal requirements. OSLI shall award points based on population trend, income data, and unemployment data, enterprise system rate management, and the prior year's propriety tax and four percent (4%) sales tax collections, as set forth in Section 6 of this Chapter. Applicants whose total points are nine (9) or greater are eligible for Additional Subsidies of up to one hundred percent (100%) of their loan amount. Applicants whose total points are equal to or greater than six (6) but less than nine (9) are eligible for Additional Subsidies of up to seventy five percent (75%) of their loan amount. Applicants whose total points are equal to or greater than three (3) but less than six (6) are eligible for Additional Subsidies of up to fifty percent (50%) of their loan amount. Applicants whose total points are less than three (3) are eligible for Additional Subsidies of up to twenty-five percent (25%) of their loan amount.

(iii) Disadvantaged Community Eligibility. All entities with identified areas meeting the LSL definition in Section 2(k) are considered disadvantaged under this section and qualify for Principal Forgiveness. OSLI shall determine if an applicant is disadvantaged by awarding points based on population trend, income data, and unemployment data, enterprise system rate management, and the prior year's property tax and four percent (4%) sales tax collections, as set forth in Section 4 of this Chapter. Applicants whose total points are nine (9) or greater are eligible for Additional Subsidies of up to seventy-five percent (75%) of their loan amount. Applicants whose total points are equal to or greater than six (6) but less than nine (9) are eligible for Additional Subsidies of up to fifty percent (50%) of their loan amount. Applicants whose total points are equal to or greater than three (3) but less than six (6) are eligible for Additional Subsidies of up to twenty-five percent (25%) of their loan amount. Applicants whose total points are less than three (3) are not considered disadvantaged and are not eligible for Additional Subsidies.

(b) Eligible Project Costs. The following project costs shall be eligible for reimbursement under this Section, subject to federal project requirements:

(i) Complete removal of LSL, including all public and privately owned portions, or service lines made of galvanized iron or galvanized steel that are currently or have previously been downstream of lead components and replacement with a pipe that meets the federal program requirements and that complies with state and local plumbing codes and or building codes.

(ii) Removal of lead or galvanized goosenecks, pigtails, and connectors, and replacement with an acceptable material that meets the federal program requirements and that complies with state and local plumbing codes and or building codes.

(iii) Replacement of curb stops, curb stop boxes, and other service line appurtenances that are removed as part of full LSL replacement.

(iv) Site restoration, including landscaping, sidewalks, driveways, if the removal was necessary to replace the LSL.

(v) Permit fees, if the fees are normal, required, and specific to the LSL replacement.

(vi) Temporary pitcher filters or point-of-use devices certified by an American National Standards Institute accredited certifier to reduce lead during or for a short time period after LSL projects.

(vii) Development or updating of lead service line inventories, including locating and mapping lead service lines. Methods of investigation to develop inventories could include visual observation, water quality sampling for non-compliance, excavation, vacuum or hydro-excavation, statistical analysis, or other emerging technologies

(viii) Planning and design for infrastructure projects listed above.

(ix) Non-routine lead sampling, if not for compliance purposes, as part of a LSL replacement project.

**Section 19. Planning and Assessment Grants.** The Board may use a portion of the additional subsidies from the capitalization grants to fund qualifying Planning and Assessment activities.

(a) The amount available for grants under this subsection shall be defined in the annual IUP.

(b) The following activities may qualify for grants under this subsection:

(i) Asset management, fiscal sustainability, cost and effectiveness analyses;

(ii) Capital improvement plans;

(iii) Integrated planning;

(iv) Long-term control plans;

(v) Water or energy audits;

(vi) Conservation plans facility plans;

(vii) Treatment works security and safety plans;

(viii) Risk or vulnerability assessments;

(ix) Emergency preparedness response and recovery plans;

(x) Drought management plans;

(xi) Climate adaptation plans;

(xii) Environmental management systems;

(xiii) Watershed management plans; and

(xiv) Total maximum daily load implementation plans.

(c) Applicants for grants under this Section shall submit an application on a form provided by OSLI and governed by the provisions of Section 7 of this Chapter.

(d) The Board shall award grants under this Section to such applicants and in such amounts as shall, in the judgment of the Board, inure to the greatest benefit of the citizens of the State of Wyoming and represent a prudent use of funds.