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15-22-1101. Definitions.

As used in this subchapter:

- (1) “Administrative account” means the Drinking Water State Administrative Account established by this subchapter within the Safe Drinking Water Fund;
- (2) “Authority” means the Arkansas Development Finance Authority or a successor agency or commission of the state;
- (3) “Commission” means the Arkansas Natural Resources Commission or a successor agency or commission of the state;
- (4) “Department” means the Department of Health or a successor agency of the state;
- (5) “Fund” means the Safe Drinking Water Fund established by this subchapter;
- (6) “Owner” means the owner or prospective owner of a water system, excluding any federal agencies;
- (7) “Revolving loan account” means the Drinking Water State Revolving Loan Fund Account established by this subchapter within the fund;
- (8) “Safe Drinking Water Act” means the Safe Drinking Water Act Amendments of 1996, Pub. L. No. 104-182, and its subsequent amendments or successor provisions;
- (9) “Set aside account” means the Drinking Water State Set Aside Account established by this subchapter within the fund;
- (10) “State” means the State of Arkansas;
- (11) “State grants account” means the Drinking Water State Grants Account established by this subchapter within the fund; and
- (12)
 - (A) “Water system” means a public water system within the meaning of the Safe Drinking Water Act.
 - (B) The water system may be owned publicly or privately and shall include particularly, without limitation:
 - (i) Distribution and transmission lines;
 - (ii) Storage, production, pumping, and treatment facilities;
 - (iii) Impoundments;
 - (iv) Reservoirs;
 - (v) Wells;
 - (vi) Source water protection;
 - (vii) Land;

- (viii) Rights-of-way; and
- (ix) Conservation easements.

15-22-1102. Creation — Terms and conditions for expenditures — Special accounts.

(a)

(1) There is established on the books of the Arkansas Natural Resources Commission a special restricted fund to be known as the “Safe Drinking Water Fund”, which shall be maintained in perpetuity and administered by the commission and the Department of Health under this subchapter for the purposes stated in this subchapter.

(2) The following shall be deposited into the Safe Drinking Water Fund:

(A) Grants from the federal government or its agencies allotted to the state for capitalization of the Safe Drinking Water Fund;

(B) State matching grants when required;

(C) Proceeds of bonds issued by the commission or the Arkansas Development Finance Authority for capitalization of the Safe Drinking Water Fund;

(D) Principal, interest, and premiums on loans provided; and

(E) Bonds, notes, and other evidences of indebtedness purchased with moneys in the Safe Drinking Water Fund.

(3) The commission may deposit loans made to and bonds, notes, and other evidences of indebtedness issued by owners to finance or refinance the planning, design, acquisition, construction, expansion, equipping, rehabilitation, or consolidation of water systems or parts of water systems into the Safe Drinking Water Fund.

(b) Moneys in the Safe Drinking Water Fund shall be expended in a manner consistent with the terms and conditions of applicable federal and state capitalization grants and may be used:

(1) To provide loans for the planning, design, acquisition, construction, expansion, equipping, rehabilitation, consolidation, or refinancing of water systems or parts of water systems;

(2) Subject to subsections (c)-(e) of this section and subject to the approval of the commission, to secure the payment of the principal of and premium, if any, and interest on and to pay costs incurred in connection with bonds issued by the commission or the authority if proceeds of the bonds are deposited into the Drinking Water State Revolving Loan Fund Account;

(3) To pay the principal of and premium, if any, and interest on and to pay costs incurred in connection with bonds issued by the commission or the authority if proceeds of the bonds are deposited into the Drinking Water State Revolving Loan Fund Account;

(4) To purchase bonds, notes, or other evidences of indebtedness issued by owners to finance or refinance the planning, design, acquisition, construction, expansion, equipping, rehabilitation, or consolidation of water systems or parts of water systems;

(5) To fund other water system programs that the federal or state government may allow in the future;

(6) To fund the administrative expenses of the commission relating to the responsibilities and requirements of this subchapter and the Safe Drinking Water Act;

- (7) To fund technical assistance for water systems, assistance to state programs such as the public water system supervisory, source water protection, capacity development, health effects studies, unregulated contaminant monitoring, small system technical assistance, operation and training certification programs, and other purposes permitted by the Safe Drinking Water Act;
- (8) To provide for any other expenditures consistent with applicable federal and state law;
- (9) To make grants or loans to the Construction Assistance Revolving Loan Fund established by § 15-5-901, in amounts approved by the commission, consistent with applicable federal law;
- (10) Subject to subsections (c)-(e) of this section and subject to the approval of the commission, to secure the payment of the principal of and premium, if any, and interest on bonds issued by the commission or the authority if proceeds of the bonds are deposited into the Construction Assistance Revolving Loan Fund established by § 15-5-901, consistent with applicable federal law;
- (11) Subject to subsections (c)-(e) of this section and subject to the approval of the commission, to pay the principal of and premium, if any, and interest on and to pay costs incurred in connection with bonds issued by the commission or the authority if proceeds of the bonds are deposited into the Construction Assistance Revolving Loan Fund established by § 15-5-901, consistent with applicable federal law; or
- (12)
- (A) To make grants for the planning, design, acquisition, construction, expansion, equipping, rehabilitation, consolidation, or refinancing of water systems or parts of water systems.
- (B) However, grants may be made only from moneys in the Safe Drinking Water Fund provided by the federal government under the Safe Drinking Water Act to provide additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans, or grants or any combination of principal, negative interest loans, or grants.
- (c)
- (1) There is established a separate account within the Safe Drinking Water Fund designated the "Drinking Water State Administrative Account", into which moneys provided by the federal government pursuant to the Safe Drinking Water Act for the purpose of administering programs funded by the Safe Drinking Water Act and fees pursuant to §§ 15-22-1106 and 15-22-1107 shall be deposited.
- (2) Moneys in the Drinking Water State Administrative Account may be expended by the commission for administrative costs of programs funded by the Safe Drinking Water Act.
- (3) Moneys in the Drinking Water State Administrative Account shall never be pledged for the payment of or as security for any bonds issued by the authority or the commission.
- (d)
- (1) There is established a separate account within the Safe Drinking Water Fund designated the "Drinking Water State Set Aside Account", into which moneys provided by the federal government pursuant to the Safe Drinking Water Act for the purpose of funding costs of technical assistance to water systems, assistance to state programs such as the public water system supervisory, source water protection, capacity development, health effects studies, unregulated contaminant monitoring, small system technical assistance, and operation and training certification, and other purposes permitted by the Safe Drinking Water Act to be paid from set asides, shall be deposited.
- (2) Moneys in the Drinking Water State Set Aside Account may be expended for the purpose of funding the cost of assistance to water systems, assistance to state programs such as public water system supervisory, source water protection, capacity development, health effects studies,

unregulated contaminant monitoring, small system technical assistance, and operator training and certification programs, and other purposes permitted by the Safe Drinking Water Act to be paid from set asides.

(3) Moneys in the Drinking Water State Set Aside Account shall never be pledged for the payment of or as security for any bonds issued by the authority or the commission.

(e)

(1) There is established a separate account within the Safe Drinking Water Fund designated the "Drinking Water State Grants Account", into which moneys appropriated by the state for deposit into the Safe Drinking Water Fund shall be deposited.

(2)

(A) Moneys in the Drinking Water State Grants Account may be expended for the same purposes as other moneys in the Safe Drinking Water Fund.

(B) However, moneys in the Drinking Water State Grants Account shall never be pledged for the payment of or as security for any bonds issued by the commission or the authority.

(f)

(1) There is established a separate account within the Safe Drinking Water Fund, designated the "Drinking Water State Revolving Loan Fund Account", into which shall be deposited moneys provided by:

(A) The federal government pursuant to the Safe Drinking Water Act;

(B) Proceeds of bonds issued by the commission or the authority; and

(C) Other amounts, excluding state appropriations, received pursuant to § 15-22-1105, for the purpose of providing financial assistance to owners in connection with the planning, design, acquisition, construction, expansion, equipping, or rehabilitation of a water system, or parts of a water system.

(2) Moneys in the Drinking Water State Revolving Loan Fund Account may also be expended for the purposes set forth in subdivisions (b)(1)-(5) and (b)(8)-(12) of this section.

(g) The commission may establish and maintain additional accounts within the Safe Drinking Water Fund or subaccounts within the accounts established by this section.

(h) The commission shall maintain the Safe Drinking Water Fund at the authority or at one (1) or more financial institutions within or without the state.

15-22-1103. Administration of fund generally.

(a)

(1) Except for the Drinking Water State Set Aside Account, the Safe Drinking Water Fund shall be administered by the Arkansas Natural Resources Commission, and the commission may establish procedures and adopt rules as may be required to administer the fund and programs financed in whole or in part with moneys in the fund in accordance with federal or state law providing for water systems, including particularly, without limitation the Safe Drinking Water Act.

(2) The commission is authorized to enter into contracts and other agreements in connection with the operation of the fund, including, but not limited to, contracts and agreements with federal agencies, owners, the Arkansas Development Finance Authority, the Department of Health, and other persons to the extent necessary or convenient for the implementation of the fund and programs financed in whole or in part with moneys in the fund.

(3) The commission shall execute capitalization grant agreements on behalf of the state in order to obtain funds under the Safe Drinking Water Act.

(4)

(A) Notwithstanding subdivisions (a)(1)-(3) of this section, the department shall have the authority to establish a priority list for water systems, the owners of which are eligible to receive financial assistance from moneys in the Drinking Water State Revolving Loan Fund Account.

(B) The department shall also have the authority to carry out oversight and related activities, other than financial administration, with respect to financial assistance.

(C) The department may delegate its authority under this subsection to the commission.

(b) The commission shall maintain full authority for the operation of the fund except the Drinking Water State Set Aside Account in accordance with applicable federal and state law, including withdrawals necessary to achieve the intended purposes of the fund.

(c) To the extent moneys provided by the United States Government under the Safe Drinking Water Act and nonappropriated state matches do not designate the account into which those moneys shall be deposited, the moneys shall be deposited into the accounts within the fund as designated by the commission.

15-22-1104. Administration of set aside account.

(a)

(1) The Drinking Water State Set Aside Account shall be administered by the Department of Health.

(2) The department may establish procedures and adopt rules required to administer the account and programs financed in whole or in part with moneys in the account in accordance with federal or state law providing for water systems, including, without limitation the Safe Drinking Water Act, and to enter into contracts and other agreements in connection with the operation of the account, including without limitation contracts and agreements with federal agencies, the Arkansas Development Finance Authority, the Arkansas Natural Resources Commission, and other parties to the extent necessary or convenient for the implementation of the Safe Drinking Water Fund and programs financed in whole or in part with moneys in the fund.

(b) The department shall maintain full authority for the operation of the account in accordance with applicable federal and state law, including withdrawals necessary to achieve the intended purposes of the account.

15-22-1105. Authority to accept grants — Deposit of funds received.

(a) The Arkansas Natural Resources Commission and the Arkansas Development Finance Authority as agent for the commission may accept grants for the use of the Safe Drinking Water Fund from any state or federal agencies, municipalities, corporations, foundations, individual donors, or authorities,

specifically including without limitation appropriations from the State Treasury as heretofore or hereafter provided.

(b) All moneys received by the commission or the authority under the provisions of this subchapter shall be deposited as and when received into the fund except as otherwise specifically provided by federal or state law.

(c)

(1) Except for moneys hereafter deposited into or paid to the commission or the authority for deposit into the Drinking Water State Grants Account, all moneys now or hereafter received for, deposited into, or paid to the commission or the authority for deposit into the fund are specifically declared to be cash funds restricted in their use and shall not be deposited into the State Treasury or deemed to be a part of the State Treasury for the purposes of Arkansas Constitution, Article 5, § 29; Arkansas Constitution, Article 16, § 12; Arkansas Constitution, Amendment 20; or any other constitutional or statutory provisions but shall be held and applied by the commission or the authority as agent for the commission solely for the uses set forth in this subchapter.

(2) Interest and other moneys received from the investment of moneys, the purchase of bonds, notes, or other evidences of indebtedness issued by owners or the making of loans with moneys in the fund including in each case moneys in the Drinking Water State Grants Account are declared to be cash funds restricted in their use and shall not be deposited into the State Treasury but shall be held and applied by the commission and the authority as agent for the commission solely for the uses set forth in this subchapter.

15-22-1106. Fees for services provided by commission.

(a)

(1) The Arkansas Natural Resources Commission may establish and collect fees for its technical and administrative services in connection with the planning, design, acquisition, construction, expansion, equipping, or rehabilitation of water systems or parts of water systems financed in whole or in part with moneys in the Safe Drinking Water Fund.

(2) The authority granted in this section is supplemental to the authority granted to the commission under other laws to establish fees for its services.

(b) The fees shall be payable in any one (1) or more of the following methods from:

(1) Proceeds of loans, bonds, notes, or other evidences of indebtedness of an owner purchased from moneys in the fund;

(2) Proceeds of bonds issued by the commission or the Arkansas Development Finance Authority in connection with the fund; or

(3) Periodic payments due on the loans, bonds, notes, or other evidences of indebtedness of an owner purchased with moneys in the fund.

15-22-1107. Collection of fees.

If requested by the Arkansas Natural Resources Commission, the Arkansas Development Finance Authority shall collect the fees from the owners receiving financial assistance from the Safe Drinking Water Fund and deposit the fees into the Drinking Water State Administrative Account within five (5) days after each periodic payment is made.

15-22-1108. Federal grants deposited into fund.

(a) Notwithstanding the provisions of §§ 19-6-108 and 19-6-601, grants to the state received by the Treasurer of State from the federal government for deposit into the Safe Drinking Water Fund are declared to be cash funds restricted in their use and dedicated to be used solely as authorized in this subchapter.

(b) The Arkansas Natural Resources Commission and the Arkansas Development Finance Authority may accept moneys for deposit into the fund from allocations from the Treasurer of State as provided in this section.

15-22-1109. Use of Drinking Water State Revolving Loan Fund Account.

(a) The Arkansas Natural Resources Commission and with the approval of the commission the Arkansas Development Finance Authority may use the moneys in the Drinking Water State Revolving Loan Fund Account excluding the Drinking Water State Grants Account and the assets acquired with moneys in the Drinking Water State Revolving Loan Fund Account to secure the payment of the principal of and premium, if any, and interest on bonds issued by the commission or the authority if proceeds of the bonds are deposited into the Drinking Water State Revolving Loan Fund Account and pay the principal of and premium, if any, and interest on and to pay costs incurred in connection with bonds issued by the commission or the authority if proceeds of the bonds are deposited into the Drinking Water State Revolving Loan Fund Account.

(b) Subject to § 15-22-1102(c)-(e), the commission and, with the approval of the commission, the authority may pledge the Drinking Water State Revolving Loan Fund Account excluding the Drinking Water State Grants Account and pledge the assets acquired with moneys in the Drinking Water State Revolving Loan Fund Account to secure the payment of the principal of and premium, if any, and interest on bonds issued by the commission or the authority if proceeds of the bonds are deposited into the Construction Assistance Revolving Loan Fund under § 15-5-901 et seq., consistent with applicable federal law and pay the principal of and premium, if any, and interest on and to pay costs incurred in connection with bonds issued by the commission or the authority if proceeds of the bonds are deposited into the Construction Assistance Revolving Loan Fund under § 15-5-901 et seq., consistent with applicable federal law.

15-22-1110. Withholding general revenue turnback.

(a) Should any city, town, county, or political subdivision receiving general revenue turnback funds as defined in the Revenue Stabilization Law, § 19-5-101 et seq., fail, neglect, or refuse to pay any installment of principal, interest, or financing fee for a period of more than ninety (90) days past the due date in accordance with the written instrument for the repayment of its bonds, notes, or other evidences of indebtedness purchased with moneys in the Drinking Water State Revolving Loan Fund Account, the Arkansas Natural Resources Commission after notification to the city, town, county, or political subdivision may certify to the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State the name of the city, town, county, or political subdivision and the amount of deficiencies ninety (90) days or more past due.

(b) Upon certification, the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State are directed to withhold from the city's, town's, county's, or other political subdivision's share of general revenue turnback as the share is defined in the Revenue Stabilization Law, § 19-5-101 et seq., the amount so certified as due and to transfer the amount to the Drinking Water State Revolving Loan Fund Account and the Drinking Water State Administrative Account as follows:

(1) Amounts withheld as fees shall be transferred to the Drinking Water State Administrative Account; and

(2) Amounts withheld as principal and interest shall be transferred to the Drinking Water State Revolving Loan Fund Account.

15-22-1111. Substitution of loans.

(a) The Arkansas Natural Resources Commission may remove any loan, bond, note, or other evidence of indebtedness purchased with moneys in the Drinking Water State Revolving Loan Fund Account from that account and substitute another loan, bond, note, or other evidence of indebtedness not then in default as to payment of any installment of principal, interest, or financing fee, and having an equal or greater outstanding principal balance, made by the commission for a purpose authorized by this subchapter.

(b)

(1) The commission may forgive principal of loans made and bonds, notes, and other evidences of indebtedness purchased with moneys in the account.

(2) However, principal may be forgiven only for loans made and bonds, notes, and other evidences of indebtedness purchased with moneys in the account provided by the federal government under the Safe Drinking Water Act to provide additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans, or grants or any combination of principal, negative interest loans, or grants.

15-22-1112. Interest rates on loans.

(a) The loans made and bonds, notes, and other evidences of indebtedness purchased with moneys in the Drinking Water State Revolving Loan Fund Account shall bear interest at rates of interest, including without limitation negative rates of interest, established by the Arkansas Natural Resources Commission.

(b) However, the commission may establish negative rates of interest only for loans made and bonds, notes, and other evidences of indebtedness purchased with moneys in the account provided by the federal government under the Safe Drinking Water Act to provide additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans, or grants or any combination of these.

(c) Notwithstanding any other provision of law, loans, bonds, notes, and other evidences of indebtedness issued by owners may bear interest at a negative rate if they are purchased with moneys in the Drinking Water State Revolving Loan Fund Account.