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16-1-301. Definitions.

(a) As used in this article:

(i) "Account" means the state drinking revolving loan account created by W.S. 16-1-302;

(ii) "Administrative account" means the account which may receive up to four percent (4%) of the federal capitalization funds, loan administration and loan application fees which are used to reimburse costs incurred by state agencies in the administration of the program, including but not limited to costs of servicing loans and issuing debt, program start-up costs, financial, management, and legal consulting fees, and costs for support services by state agencies;

(iii) "Board" means the state loan and investment board to include the office of state lands and investments;

(iv) "Capitalization grant" means the federal grant made to Wyoming by the federal environmental protection agency for the purpose of establishing and funding a state drinking water revolving loan account;

(v) "Capacity development" means that a community water system or nontransient noncommunity water system can adequately demonstrate that it has technical, managerial and financial capabilities to ensure current and future operations of the water system in accordance with all drinking water regulations in effect;

(vi) "Commission" means the Wyoming water development commission and includes the water development office;

(vii) "Community water system" means a public water supply which has at least fifteen (15) service connections used year-round by residents, or that regularly provides water to at least twenty-five (25) residents year-round, including, but not limited to, municipalities and water districts;

(viii) "Department" means the department of environmental quality;

(ix) "Noncommunity water system" means a public water supply which is not a community water system, including, but not limited to, public schools, state park recreational areas and state highway public rest areas;

(x) "Nontransient noncommunity water system" means a public water supply which is not a community system and which regularly provides service to at least twenty-five (25) of the same

persons for more than six (6) months of the year who are not full-time residents, including, but not limited to, factories, industrial facilities and office buildings;

(xi) "Office of state lands and investments (OSLI)" means the office which provides administrative and operational management of programs of the state loan and investment board;

(xii) "Operator" means the person who is directly responsible and in charge of the operation of a water treatment plant or water distribution system;

(xiii) "Private" means that pertaining to an individual, corporation, partnership, or other legal entity which is not a political subdivision of the state, county or local government;

(xiv) "Program" means the drinking water state revolving fund program pursuant to section 1452 of the Safe Drinking Water Act (42 U.S.C. § 300j-12);

(xv) "Publicly owned water system" means a water system which is owned, operated, managed and maintained by an entity of the state, county, city, township, town, school district, water district, improvement district, joint powers board or any other entity constituting a political subdivision under the laws of this state which provides water for use and consumption of the general public through pipes and other constructed conveyances, and which is not owned, operated, managed or maintained by a private individual, association or corporation;

(xvi) "Safe Drinking Water Act (SDWA)" means the federal Safe Drinking Water Act including the 1996 amendments (Public Law 104-182, 42 U.S.C. § 300f et seq.);

(xvii) "Source water assessment" means the delineation of the boundaries of an area from which one (1) or more public water supplies receive drinking water, identifying the existence of actual and potential contaminants which may present a threat to public health within the delineated area to determine the susceptibility of the public water supply in the delineated area to such contaminants;

(xviii) "Water supply system" means a system from the water source to the consumer premises consisting of pipes, structures and facilities through which water is obtained, treated, stored, distributed or otherwise offered to the public for household use or use by humans and which is part of a community water system or a noncommunity water system;

(xix) "Wyoming water development office (WWDO)" means the office which provides administrative and operational management of the programs administered by the Wyoming water development commission.

16-1-302. Account established; state match.

(a) There is established the state drinking water revolving loan account. All monies received from the federal capitalization grants, exclusive of the four percent (4%) administration set-aside as authorized under section 1452(a) of the Safe Drinking Water Act (42 U.S.C. § 300j-12), and

all state matching funds shall be deposited in the account and shall only be used to provide financial assistance as authorized by this article.

(b) The twenty percent (20%) state matching funds for each federal capitalization grant payment to the account shall be paid fifty percent (50%) out of water development accounts I or II created by W.S. 41-2-124(a) and fifty percent (50%) from the federal mineral royalty capital construction account created by W.S. 9-4-604.

(c) Any unexpended balance in the account shall be invested by the state treasurer and the investment proceeds, including the interest earned, shall be credited to the account.

(d) A separate administrative account shall be established outside of the account for the purpose of paying administrative expenses associated with the program as authorized under the Safe Drinking Water Act. Revenue to this account shall be limited to four percent (4%) of the federal capitalization grant through federal fiscal year 2003 and five hundred thousand dollars (\$500,000.00) per biennium thereafter.

16-1-303. Account administration; board powers and duties; department powers and duties; water development office powers and duties; fiscal procedures.

(a) The board, the department and commission are designated as the implementing and administrative agencies for the drinking water state revolving account and shall jointly develop a memorandum of understanding describing the duties and responsibilities of each agency.

(b) The board, subject to select water committee review and recommendation of projects, shall administer the account including issuing loans and other forms of financial assistance for purposes authorized in this article on the basis of a priority listing of eligible projects. The board shall adopt reasonable rules and regulations necessary to administer the account within the requirements of this article, the Safe Drinking Water Act and other federal and state laws, including the content of applications, priority listing for use of funds in accordance with requirements established in section 1452(b)(3) of the Safe Drinking Water Act (42 U.S.C. § 300j-12(b)), criteria for awarding, security, and terms and conditions for making loans and providing financial assistance.

(c) The office of state lands and investments shall:

(i) Enter into an agreement with the federal environmental protection agency regional administrator to receive capitalization grants for the account;

(ii) Receive, review and make recommendations to the board and the select water committee for approval of applications for financial assistance from the account in accordance with requirements established by the board for publicly owned water systems of municipalities, counties, joint powers boards, state agencies, and other entities constituting a political subdivision under the laws of the state on forms supplied by the office of state lands and investments;

(iii) Administer the account and administrative account including processing and receiving capitalization grants, the state match, financial assistance agreements, repayments on all financial assistance and all other account revenues;

(iv) Conduct and allow the federal environmental protection agency to conduct an annual audit;

(v) Ensure that all publicly owned water systems which are recipients of financial assistance from the account demonstrate capacity development capabilities in compliance with section 1420 of the Safe Drinking Water Act (42 U.S.C. § 300g-9). The department and the water development office shall assist the office of state lands and investments by reviewing and making determinations on the adequacy of water system capacity development capabilities; and

(vi) Following public input and recommendations from the water development office and department and upon review and recommendation of the intended use plan and the project priority list by the select water committee, the state loan and investment board shall give final authorization and adoption of the annual intended use plans and the final priority listing of eligible projects.

(d) The board, as a condition to making a loan or other financial assistance, may impose a reasonable administrative fee or application fee that may be paid from the proceeds of the loan or financial assistance or other available funds of the applicant. These fees may be deposited into the administrative account for purposes of payment of administrative costs of the program.

(e) The department shall:

(i) Assist the office of state lands and investment and the commission annually with the preparation and submission to the federal environmental protection agency an intended use plan and the priority listing of projects eligible to receive assistance from the account which have been subject to public comment and which identifies the intended uses of monies available to the account;

(ii) Assist in the preparation and submission of a biennial report required by the Safe Drinking Water Act;

(iii) Assist with the preparation and submission of capitalization grant applications;

(iv) Provide input and assistance in the evaluations on capacity development for water systems in accordance with procedures adopted pursuant to this article;

(v) Provide operator certification and technical competency for water systems in accordance with W.S. 35-11-302(a)(iv) to include all applicants for financial assistance from the program; and

(vi) Ensure that all new or modified community water systems and new or modified nontransient noncommunity water systems commencing operation after October 1, 1999, demonstrate capacity development capabilities and by October 1, 2001, develop a strategy to assist all community and noncommunity water systems in acquiring and maintaining capacity

development by adopting procedures governing capacity development in compliance with section 1420 of the Safe Drinking Water Act (42 U.S.C. § 300g-9). The department shall adopt procedures to accomplish this task and shall have the authority to require new systems in noncompliance of capacity development capabilities to take steps to correct inadequacies or cease water system operations. The water development office shall assist the department in the review and adequacy determinations of water system capacity development capabilities.

(f) The commission shall:

(i) Evaluate engineering designs and studies and provide the technical and administrative management of contracts for all projects in accordance with requirements of this article, state program, and the Safe Drinking Water Act;

(ii) Assist the office of state lands and investments and the department annually with the preparation and submission to the federal environmental protection agency an intended use plan and the priority listing of projects eligible to receive assistance from the account which have been subject to public comment and which identifies the intended uses of monies available to the account;

(iii) Provide input and assistance in the evaluations of capacity development for water systems in accordance with procedures developed as authorized by this article; and

(iv) Include in the commission's annual report to the legislature, a report on the status of the drinking water state revolving loan fund.

(g) The office of state lands and investments and all recipients of financial assistance from the account shall establish fiscal controls and accounting procedures in compliance with the Safe Drinking Water Act.

(h) The office of state lands and investments shall require as part of the application and approval process, that all financial assistance applicants obtain or ensure the certification of the operators of the publicly owned water systems in accordance with department rules and regulations prior to obtaining financial assistance approval.

(j) The select water committee shall review and recommend for approval project applications submitted to the committee pursuant to subsection (c)(ii) of this section.

16-1-304. Environmental review process.

(a) The department shall conduct and make available to the office of state lands and investments a review of potential environmental impacts of projects receiving assistance from the account. The environmental review process shall:

(i) Contain mechanisms requiring implementation of mitigation measures to ensure the project is environmentally sound;

- (ii) Allow the public an opportunity to challenge environmental review determinations and enforcement actions;
- (iii) Employ an interdisciplinary approach to identify and mitigate adverse environmental effects including all pertinent state and federal authorities;
- (iv) Include documentation of information, processes and premises that influence decisions;
- (v) Require public notice and participation;
- (vi) Include evaluation criteria and a process allowing consideration of alternative decisions; and
- (vii) Comply with the requirements of the Safe Drinking Water Act.

16-1-305. Authorized projects; authorized financial assistance.

(a) Subject to select water committee review and recommendation of projects, the account may be used for financial assistance for the planning, design and construction of projects on eligible publicly owned water systems which may be either community or noncommunity water systems. Eligible projects may be comprised of improvements to all components of a water supply system as appropriate and permitted by the Safe Drinking Water Act.

(b) Financial assistance for the projects authorized in subsection (a) of this section may be in the forms authorized by the Safe Drinking Water Act including:

(i) Loans at or below market interest rates. Loans may be awarded only if:

(A) All principal and interest payments on loans are credited directly to the account;

(B) The annual repayment of principal and payment of interest begins not later than one (1) year after project completion;

(C) The loan is fully amortized not later than twenty (20) years after project completion or not later than thirty (30) years for disadvantaged communities providing the period of the loan does not exceed the design life of the project; and

(D) Each loan recipient establishes a dedicated source of revenue for repayment of the loan.

(ii) Refinancing existing debt obligation of publicly owned water systems for planning, design and construction of water systems for which the initial debt was incurred and construction started after July 1, 1993;

(iii) Purchasing insurance for or guaranteeing local debt obligations to improve credit market access or reduce interest rates.

(c) An amount up to four percent (4%) of the capitalization grant may be used for costs of administering the account and shall be deposited into the administrative account.

(d) Repealed By Laws 2010, Ch. 69, § 204.

(e) The board may consider the use of an amount of the allowable percentage of the capitalization grant for all of the established set-asides provided for by the Safe Drinking Water Act.

16-1-306. Inventory of publicly owned water systems; sanitary surveys.

(a) The department and water development office shall maintain an inventory of publicly owned water systems within the state, which inventory may consist of such information as the department and water development office deem necessary to include information as provided by the environmental protection agency.

(b) The department and water development office shall conduct sanitary surveys of community and nontransient noncommunity water systems within the state. The sanitary surveys shall be conducted no less than every five (5) years and information contained in the surveys shall be used in establishing the priority ranking list for eligible projects as part of this program.

(c) The costs incurred by the department and water development office to maintain the inventory of publicly owned water systems and to conduct sanitary surveys may be reimbursed to the agencies from the administrative account.

16-1-307. Transfer of funds.

The governor may transfer capitalization grant funds from the water pollution control revolving loan account established by W.S. 16-1-202 to the drinking water state revolving fund account created by W.S. 16-1-302 and from the drinking water state revolving fund account to the water pollution control revolving loan account, as authorized by the Safe Drinking Water Act.

16-1-308. Emergency financial assistance.

(a) Notwithstanding any provision of W.S. 16-1-303(b) or (j) or 16-1-305(a), the board may, without further select water committee review and recommendation, authorize loans or other forms of financial assistance from the account for purposes authorized in this article, if the board determines:

(i) An emergency exists which significantly threatens the continued operation of a public water system; and

(ii) There is insufficient time to obtain select water committee review and recommendation of the project in order to effectively address the emergency situation.