

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2007-0044**

ADOPTED AMENDMENT TO THE POLICY FOR IMPLEMENTING THE STATE REVOLVING
FUND (SRF) FOR CONSTRUCTION OF WASTEWATER TREATMENT FACILITIES

WHEREAS:

1. The State Water Resources Control Board (State Water Board) adopted the *Policy for Implementing the State Revolving Fund for Construction of Wastewater Treatment Facilities* (SRF Policy) on August 18, 1988, and last amended it on September 22, 2005;
2. The SRF Loan Program provides low-interest loan funding to finance projects intended to improve the quality of the State's waters;
3. The current SRF Policy assesses a one-tenth (0.1) of one percent penalty on the daily outstanding loan balance for the period of time that either a Project Performance Report and Certification or Corrective Action Report are late;
4. Ten SRF projects assessed this penalty have since met the reporting requirements and have made all loan repayments in a timely manner, with no evidence to suggest that the agencies intended to purposely ignore the SRF Loan Program requirements;
5. At the September 6, 2006, Board Meeting, the State Water Board considered a resolution to waive the penalties for the ten SRF projects. The Board did not waive the penalties, but directed Division staff to re-examine the penalty provision and make further recommendations;
6. Division staff evaluated seven options for revising the penalty provision and proposed changes to the SRF Policy;
7. Interested and affected parties were notified on May 1, 2007 of the proposed Amendments and given 30 days to comment on the proposed changes to the SRF Policy.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the Amendments to the SRF Policy outlined in Exhibit A; and

2. Waives the penalties assessed under the existing SRF Policy on the following ten projects for late submittal of the Project Performance Certification or Corrective Action Plan Reports:

- City of Sacramento, SRF Project No. C-06-4441-120;
- North San Mateo County Sanitation District, SRF Project No. C-06-4801-110;
- Santa Ana Watershed Project Authority, SRF Project Nos. C-06-4452-110, -120, -130, and -140;
- City of Escondido, SRF Project Nos. C-06-4156-110, -310;
- City of Alameda, SRF Project No. C-06-4007-610; and,
- Vallejo Sanitation and Flood Control District, SRF Project No. C-06-4790-110.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on July 17, 2007.

AYE: Tam M. Doduc
 Gary Wolff, P.E., Ph.D.
 Arthur G. Baggett, Jr.
 Charles R. Hoppin
 Frances Spivy-Weber

NO: None
ABSENT: None
ABSTAIN: None



Song Her
Clerk to the Board

EXHIBIT A
PROPOSED AMENDMENTS TO THE SRF POLICY
(STRIKEOUT MEANS DELETE, UNDERLINE IS NEW TEXT)

The following changes will be made to Section I, Introduction:

This is the ~~seventh~~ **eighth** amendment to the SRF Policy originally adopted by the State Water Resources Control Board (SWRCB) on August 18, 1988.

The Following Changes will be made to Section II: Purpose and Objective

The primary purpose of the SRF Loan Program is to implement the Clean Water Act (CWA) and various State laws including the Clean Water Bond Law of 1984, the Safe, Clean, Reliable Water Supply Act (1996 Bond Law), the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act (2000 Bond Law), **Water Quality/Flood/Resource Protection/Park Bonds (Proposition 84)**, and any subsequent bond laws, by assisting in the financing of wastewater treatment facilities necessary to prevent water pollution, recycle water, correct nonpoint source and storm drainage pollution problems, and provide for estuary enhancement, and thereby protect and promote the health, safety, and welfare of the inhabitants of the State.

The following changes are proposed for Section XVIII.B: Project Performance Report and Certification:

B. Project Performance Report and Certification

One year after initiation of operation, the recipient is required to certify that the project meets the project performance standards and must submit a project performance certification report. The project performance certification report should summarize the data collected during the one-year project performance period and discuss the project's current and future ability to meet the project performance standards. The project performance certification report should also address any items noted as deficient in the final project inspection report. The Division will approve the certification of the project, if appropriate, at the end of the one-year certification period. A detailed outline of the Project Performance Report requirements for various types of projects can be obtained from the ~~Operations Unit~~ **Division**.

If the project cannot be affirmatively certified, the recipient must prepare a corrective action report, which analyzes the project's inability to meet the project performance standards. The corrective action report must include an estimate of the nature, scope and cost of the corrective action, and a time schedule for meeting the project performance standards. The time schedule must include an estimated date by which the loan recipient will certify the project and submit a project performance certification report. The Division will conduct follow-up inspections, as necessary, to monitor the recipient's progress towards meeting the project performance standards. The cost of the corrective action is not eligible for loan assistance.

If the recipient does not submit a project performance certification report which includes a signed certificate of performance, or a corrective action plan **report**, within fifteen (15) months of the initiation of operation date, **the Division will stop processing any pending or future applications for new loans or grants and withhold payments on any existing loans and grants that the agency may have with the State Water Board until the project performance certification report, or corrective action report, are submitted** an interest penalty of one-tenth of one (0.1) percent per day, will be assessed on the outstanding loan balance due. ~~The interest penalty will begin on the first day after expiration of the appropriate deadline.~~

At the time of the first billing, the Division shall issue a notification and request for technical report pursuant to Water Code section 13267, and may use any other legal means to obtain the project performance report and certificate or corrective action report from the recipient.

Further information on Project Performance Certification is included in Appendix J.

The following changes are proposed for page 4 of Appendix J: Project Certification:

Project Certification

If the recipient does not submit a Project Performance Certification Report which includes a signed Certificate of Performance, or a Corrective Action Report, within fifteen (15) months of the initiation of operation date, **the Division will stop processing any pending or future applications for new loans or grants and withhold payments on any existing loans and grants that the agency may have with the State Water Board until Certification requirements are met, and may use any legal means to obtain the Project Performance Report and Certificate of Corrective Action Report from the recipient.** ~~an interest penalty of one-tenth of one (0.1) percent per day will be assessed on the outstanding loan balance due. The interest penalty will begin on the first day after expiration of the appropriate deadline.~~

After the Division has reviewed and approved the Project Performance Certification Report, the recipient will be notified that the project is being recommended for close out. If a Corrective Action Plan is submitted, the Division will conduct follow-up inspections as necessary to monitor the applicant's progress towards meeting the Project Performance Standards. When the project can be Certified, the recipient prepares a Project Performance Certification Report for Division approval.

Additional information on Project Performance Certification may be obtained from the Division's ~~Operations Unit~~ by calling (916) 227-4564 **341-5700**.