

**STATE ENVIRONMENTAL REVIEW PROCESS  
FOR  
THE SAFE DRINKING WATER STATE REVOLVING FUND PROGRAM  
September 16, 2016**

1) ENVIRONMENTAL REVIEWS

- a) As noted in the Operating Agreement between the State Water Resources Control Board (SWRCB) and EPA, the SWRCB Environmental Review Process incorporates the State Environmental Review Process developed by the SWRCB for the Drinking Water State Revolving Fund Program.
- b) The SWRCB will conduct a review of the potential environmental impacts on all projects receiving Safe Drinking Water State Revolving Fund (SDWSRF) assistance. The SWRCB intends to use the Environmental Review Process, described below, on all SDWSRF equivalency projects.

2) DECISION DOCUMENTATION

- a) The SWRCB or applicant will prepare one of the following Environmental Documents pursuant to the CEQA Guidelines:
  - i) An Environmental Impact Report;
  - ii) A Negative Declaration or Mitigated Negative Declaration, including the Initial Study supporting the findings
  - iii) Notice of Exemption
- b) Documentation will contain an environmental evaluation of alternatives including the “no project” alternative. Pursuant to CEQA Guidelines, this evaluation is required for an EIR but not for a Negative Declaration. When a Negative Declaration is prepared, the evaluation will either be incorporated into an Initial Study or provided as a separate document.

3) PUBLIC NOTICE AND PARTICIPATION

- a) The SWRCB or applicant will distribute environmental documents for agency and public review pursuant to CEQA guidelines.
- b) The SWRCB or applicant will provide the following public notices as required by CEQA Guidelines:
  - i) Notice of Preparation prior to initiating preparation of an EIR

- ii) Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration
  - iii) A Notice of Availability of an EIR
- c) A public hearing or meeting will be held for all projects for which an EIR was prepared.
- d) If the SWRCB plans to accept an environmental document that was completed more than five years before, the SWRCB plans to execute an SDWSRF loan or grant contract for the project described in the environmental document, the SWRCB will re-evaluate the project's environmental document. If the SWRCB intends to use the environmental document for an SDWSRF project, a public notice will be issued explaining the results of the re-evaluation.
- 4) FEDERAL REVIEW
- a) Federal Environmental Statutes and Authorities
- i) The SWRCB will assure the implementation of applicable federal environmental authorities listed in the Appendix A (federal cross-cutters) of the Drinking Water SRF Program Guidelines. <https://www.epa.gov/sites/production/files/2015-08/documents/crosscutterhandbook.pdf>
  - ii) The SWRCB will be the EPA-designated non-federal representative for federal Endangered Species Act (ESA) coordination as provided under 50 CFR 402.08.
    - 1. The Environmental Review Unit (ERU) program staff will review the priority list application in addition to the submitted environmental information to determine if the project meets the requirements of an environmental Categorical Exclusion (CATEX) in accordance with the National Environmental Policy Act (NEPA). If ERU determines that the project qualifies for a CATEX, a Worksheet for NEPA Exclusions will be completed as part of the decision process and placed in the project file.
    - 2. As a non-federal representative, the SWRCB will coordinate and consult informally with the United States Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS) in compliance with Section 7 of the ESA.
    - 3. The SWRCB will evaluate the potential for SDWSRF projects to impact (directly or indirectly) federally listed threatened or endangered species and if the findings are of 'no effect' the project will not be sent to the USFWS and/or NMFS for further evaluation and concurrence.
    - 4. If the potential for a SDWSRF project has the potential to impact (directly or indirectly) a federally listed threatened or endangered species, SWRCB will

submit the findings to the USFWS and/or NMFS for evaluation and request concurrence.

5. When the SWRCB is in consultation with the USFWS and/or NMFS determines that the project may affect federally listed species, it will notify the EPA of the need to request formal consultation with the USFWS and/or NMFS.
  6. The EPA will participate as lead federal agency in the formal consultation process and will ultimately be responsible for compliance with Section 7 of the ESA for all SDWSRF projects.
  7. The SWRCB will monitor or assist in monitoring any mitigation measures proposed to avoid or lessen impacts to federally listed species.
- iii) Pursuant to a programmatic agreement dated March 1990 between EPA, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation officers concerning compliance with Section 106 of the National Historic Preservation Act (NHPA), EPA will delegate its responsibility for carrying out the requirements of Section 106 of the NHPA to the SWRCB.
- (1) The SWRCB's archeologist will be authorized to represent the EPA in correspondence related to Section 106 compliance on SDWSRF projects in California.
  - (2) The SWRCB will notify the EPA if unresolved disputes occur in the SWRCB's routine consultation with the State Historic Preservation Officer (SHPO).

b) Federal Coordination

- i) The SWRCB will send complete copies of environmental documents directly to agencies responsible for implementation of applicable federal statutes and authorities, including each federal Designated Agency (DA) identified on EPA's Environmental Authorities Distribution List.
- ii) The SWRCB will assure that each DA has at least forty-five (45) calendar days for review of EIRs and 30 days for Negative Declarations/Mitigated Negative Declarations.
- iii) The SWRCB will assure that the review period for receipt of its comments is at least fifty-one (51) calendar days from the date the EIR was mailed to the DA and at least thirty-six (36) calendar days from the date the Negative Declaration/Mitigated Negative Declaration was mailed to the DA. These times include three days for transit by mail to the DA, plus three days for transit by mail to the SWRCB.

iv) The SWRCB will routinely approve a request from a DA for 15-day time extensions for the review period, if these requests are received within the 30 or 45-day review period, or during any extension of the review period.

v) The SWRCB will refer the denial of a project to EPA, Region 9 for arbitration.

c) Consultation with Environmental Authorities

i) The SWRCB will consult with each DA to determine the necessary and appropriate steps to be taken, whenever an environmental issue is:

(1) Identified by the State's environmental review for a SDWSRF project;

(2) Described in the comments of a DA; or

(3) Revealed by the project construction process.

ii) Whenever the SWRCB and a DA (other than EPA) cannot quickly and easily resolve an issue:

(1) The SWRCB will request assistance from EPA; and

(2) EPA will assist in resolving the issue, and determine the mitigation measures or other steps that may be necessary or appropriate for the project in question.

5) Mitigation

a) The SWRCB or Applicant will adopt a program for reporting on, or monitoring, the changes that it has either required in the project or made a condition of approval to mitigate or avoid significant environmental effects.

b) The SWRCB will require applicants to implement the mitigation measures or other changes or alterations that have been determined as necessary or appropriate during the environmental review and federal coordination and consultation processes. Requirements will be contained in the loan or grant contract or other SDWSRF assistance agreement provision.

c) The SWRCB will adopt all mitigation measures, as described in the above sections that fall within its responsibility and jurisdiction.