

CALIFORNIA WATER AND WASTEWATER ARREARAGE PAYMENT PROGRAM GUIDELINES

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CALIFORNIA
Water Boards
STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS

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INTRODUCTION

The purpose of this document is to establish the process and criteria for the allocation and administration of the funds appropriated to the State Water Resources Control Board (State Water Board) in the Fiscal Year 2021-22 Budget for the California Water and Wastewater Arrearage Payment Program (Program). The criteria include requirements associated with establishing payment plans for customers, and prohibitions on discontinuation of service for water systems participating in the Program. The funding source for the Program is the American Rescue Plan Act (ARPA) of 2021. Any federal requirements associated with the funding source may be requirements of the Program. The State Water Board will notify water systems administrative contacts via email if any requirements change during Program implementation and correspondingly post changes to its website.

The Deputy Director of the Division of Financial Assistance (DFA) and the Deputy Director of the Division of Drinking Water (DDW) may make clarifying, non-substantive amendments to these Guidelines. Future changes to these Guidelines may be necessary due to changes in law or in State Water Board policy. If substantive changes are necessary, amendments to the Guidelines will be considered by the State Water Board.

DEFINITIONS

Arrearage – amount of money owed to a water system from nonpayment of residential and commercial accounts that accrued from completed billing periods during the COVID-19 pandemic bill relief period. Arrearage does not include late fees and interest on outstanding balances, or customer debts that have been forgiven by the community water system, or credits applied to customer accounts from other assistance programs.

Community water system – a system described and regulated under the Safe Drinking Water Act (commencing with section 116270 of the Health and Safety Code): a public water system that serves at least 15 service connections used by permanent residents or regularly serves at least 25 permanent residents of the area served by the system (Health & Saf. Code, § 116275, subd. (i).)

Commercial customer – a water system customer or connection that serves a commercial/institutional customers e.g., hotels, motels, restaurants, office buildings, government and military facilities, gas stations, hospitals, educational institutions, retail establishments, dormitories, nursing homes, churches, jails, prisons, mental health facilities, addiction recovery centers, farmworker housing, and campgrounds. Commercial customer does not include industrial (manufacturing, chemical, refineries, cooling towers, animal & food processing, etc.); agriculture irrigation (crops, aquaculture, etc.); or landscape irrigation (parks, golf courses, etc.).

COVID-19 pandemic bill relief period – the period from March 4, 2020, to June 15, 2021, inclusive, and includes any customer billing period that includes these dates.

Customer notification – a written notification to residential and commercial water system customers or connections of the amount of debt/arrearage forgiveness provided by the Program. Notification must acknowledge the source of funds from the State. Notification language will be provided at a later date.

Default – either of the following:

- A customer's failure to comply with an amortization agreement, an alternative payment schedule, or a deferral or reduction in payment plan for delinquent charges for 60 days or more;
- A customer's failure to pay current residential service charges for 60 days or more from its due date, regardless of whether the customer is subject to an amortization agreement, an alternative payment schedule, or a deferral or reduction in payment plan for delinquent charges.

Disadvantaged Community (DAC) – a community with an annual median household income that is less than 80 percent of the statewide annual median household income ([Wat. Code, § 79505.5.](#))

Large community water system – a community water system that serves more than 3,300 connections or a yearlong population of more than 10,000 persons.

Past-due bills – customer water bills that are 60 days or more past due and includes both active and inactive accounts and accounts that have payment plans or payment arrangements.

Payment plan – a plan for deferred or reduced payment including, but not limited to minimum payments, alternate payment schedules, or amortization of unpaid balances. The payment plan must allow 12 or more months for repayment of outstanding balances.

Residential customer – water service customers residing in single-family residences, multifamily residences, mobile homes, including, but not limited to, mobile homes in mobile home parks, or farmworker housing that receive a bill for water service.

Small community water system – a community water system as defined above that serves no more than 3,300 service connections or a yearlong population of no more than 10,000 persons (Health and Saf. Code, § 116275, subd. (z)).

State – the State of California.

Wastewater treatment provider – city, county, special district, or joint powers authority that provides wastewater collection, treatment or disposal services through a publicly owned treatment works (Health & Saf. Code, § 116773.2 subd. (g)).

Water enterprise revenue shortfall – water service revenue decrease accrued as a difference between a water system’s 2019 fiscal or calendar year and its 2020 fiscal or calendar year as a result of the COVID-19 pandemic.

Water shutoff – discontinuation of water service for nonpayment.

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SECTION A: ELIGIBILITY

Community water systems that accrued residential and commercial customer arrearages during the COVID-19 pandemic bill relief period are eligible for the Program. This includes community water systems that transferred arrearage debt to a third-party such as a county under a Teeter Plan or a debt collection entity.

SECTION B: PROGRAM REQUIREMENTS

Water systems that participate in the program must:

- Waive customer late fees for any arrearages accrued during the COVID-19 pandemic bill relief period in their entirety even if funding is only available to cover a portion of the customer's arrearage;
- Allocate payments as bill credits to customer accounts within 60 days of receiving payment;
- Notify customers of the amount credited;
- Auto-enroll customers with remaining debt into a payment plan with a minimum repayment period of 12-months;
- Allow customers 30 days to opt-out of a payment plan; and
- Not discontinue water service until the customer defaults on the payment plan or opts out of the payment plan; and
- Report on expenditures and customer credits.

More detail on Program requirements is provided below.

Participating water systems that do not comply with Program requirements may be subject to enforcement actions by the Division of Drinking Water and may be required to return moneys to the State Water Board.

B.1 REQUIREMENT FOR ALL COMMUNITY WATER SYSTEMS – REGARDLESS OF PARTICIPATION IN THE PROGRAM

All community water systems, regardless of size or participation in the Program, must offer payment plans to customers with arrearages, pursuant to AB 148. The payment plans and their associated rules must be consistent with the Water Shutoff Protection Act established under Health and Safety Code section 116900 et seq. (Health and Safety Code, § 116773.4, subd. (e).) Associated rules include, but are not limited to, rules and practices relating to the timing and manner of notice and discontinuation of service for payment plan defaults. Community water systems that violate provisions of the Water Shutoff Protection Act may be subject to enforcement action by DDW or the Attorney General.

SECTION C: PROPORTIONAL ALLOCATION OF FUNDS TO COMMUNITY WATER SYSTEMS

C.1 PURPOSE AND OVERVIEW

Section C of the Guidelines describes the process the State Water Board will use to establish the total statewide need and the proportional allocation methodology. One-time payments will be made to water systems based on the allocation methodology established in this section. Community water systems receiving payments will credit customer bills in accordance with the methodology established in Section E after receiving payment from the State Water Board.

C.2 TOTAL STATEWIDE WATER NEED

The State Water Board used its electronic annual report (EAR) platform to survey all community water systems in August/September 2021 to determine, using available data, the following amounts that accrued during the COVID-19 pandemic bill relief period (March 4, 2020 through June 15, 2021):

- Estimate of total residential customer debt;
- Estimate of water enterprise revenue shortfall for water systems that could not report residential customer debt; and
- Estimate of total commercial customer debt.

Most water systems were able to provide data on residential arrearages, commercial arrearages, and water enterprise revenue shortfalls. For systems that were not able to disaggregate the different debt amounts and report them, State Water Board staff used data from systems that reported all debt information to estimate the other categories for those systems.

For water systems that did not respond to the survey, the State Water Board staff estimated the debt based on the average for systems of similar size. These estimates were added to the total statewide need numbers.

Table 1 shows the data and calculations used to establish the total statewide need.

TABLE 1 placeholder

C.3 METHODOLOGY TO ESTABLISH PROPORTIONAL ALLOCATION

The Deputy Director of DDW will calculate the proportional allocation using the methodology in this Section. If the funding amount is sufficient to cover the full statewide need plus requested administrative costs, the State Water Board will provide water systems with 100 percent of their requested amounts (arrearages plus administrative costs). If there are insufficient funds from the appropriation to reimburse the statewide total need identified in accordance with section A.2, the State Water Board will establish

a proportional allocation. Staff will calculate the proportional allocation based on the percentage of the total statewide need calculated in A.2 that could be reimbursed with the available funds. Each eligible community water system will be offered the proportional allocation based on their reported or estimated need. Administrative costs will be reimbursed from the water system's allocation for those systems seeking reimbursement for administrative costs.

SECTION D: APPLICATION REQUIREMENTS

State Water Board staff sent multiple emails to water systems requesting initial documents (i.e., Payee Data Record (STD. 204)) that systems are required to provide in order to process applications and receive state funds. Technical assistance was provided to water systems that requested help in completing the documents. Systems that have not completed the initial documents **MUST** submit them as part of their application.

State Water Board staff will provide an application package to all eligible community water systems and begin accepting complete applications within 14 days of State Water Board adoption of these Guidelines. The applications will be accepted through the EAR or another online portal. Technical assistance will be available through the Division of Drinking Water staff, and outside providers to assist community water systems that need help completing the application.

The application will consist of the following forms:

- Application/disbursement form - identifying the maximum amount of funding the water system may apply for. The application form must be signed by the community water system's authorized representative or designee.
- Conditions of payment form – details the program requirements with which the authorized representative, on behalf of the system, agrees to comply.

There will be an initial 60-day application period. State Water Board staff will attempt to contact any community water system that does not apply during the initial application period and provide technical assistance with the application. State Water Board staff will also contact community water systems with incomplete application to assist them.

D.1 SMALL COMMUNITY WATER SYSTEMS

The State Water Board will provide small community water systems with an application that identifies the amount of funding the system is eligible to receive based on the total or proportional allocation calculated according to the methodology in section C.3. Small community water systems must upload the application, signed by the authorized representative or designee for the system, to the application portal or mail the forms to the State Water Board prior to December 6, 2021. The authorized representative, or its designee, must attest that the application is true and accurate based on the community water systems' documentation or the methodology used by the State Water Board if the

community water systems lacks documentation on customer arrearages or revenue shortfalls.

D.2 LARGE COMMUNITY WATER SYSTEMS

D.2.1 Application Process

State Water Board staff will notify large community water systems of the amount of funding the system is eligible to receive based on their reported arrearages, and the total or proportional allocation. Large water systems must provide documentation from accounting or billing systems verifying the reported arrearages as part of the application. Applications must be submitted no later than December 6, 2021. The authorized representative, or its designee, must attest to the accuracy of the application material and the reported arrearages.

D.2.2 Application Review Process

State Water Board staff will verify that the reported arrearages are supported by the community water systems' documentation. Staff may request additional information if the arrearages submitted with the application differ from those reported in the survey, or documentation is inadequate to support the amount. Technical assistance may be available for systems serving disadvantaged communities that lack supporting documentation of arrearages.

D.3 COMMUNITY WATER SYSTEMS WITH COMBINED BILLING SYSTEMS

For systems that combine water with other utilities including but not limited to wastewater, stormwater, refuse, and/or energy, only the water-related portion of the arrearage is eligible for total or partial reimbursement. Community water systems with combined billing may not shut off water due to non-payment of the portion of the bill for other services that accrued during the COVID-19 pandemic relief bill period. This prohibition does not apply to debt accrued before or after the COVID-19 pandemic relief bill period.

For systems that cannot determine the proportion of the arrearage related to drinking water service for each customer account, the water system will use an average customer approach to estimate the proportion of a systems' arrearage that is attributable to the water portion of the bill for its residential and commercial customer classes. For each customer class, the water system will first calculate the average annual bill. Next the water system will calculate the average annual drinking water portion of the average annual customer bill. Then the average annual water portion will be determined using the following formula:

Average Annual Percentage of Drinking Water Charge =

(Average Annual Drinking Water Charges / Total Average Annual Bill) x 100

The average annual percentage of drinking water charge will be the percentage that is applied to the water systems' customer arrearages.

The Deputy Director of DDW is authorized to resolve any disputes regarding the estimation methodology.

D.4 LATE APPLICATIONS

The State Water Board will hold a portion of the funds allocated to water systems that do not complete the application by December 6, 2021 until January 15, 2022. The State Water Board will contact water systems that are late with applications to assist the systems in applying. Third-party technical assistance providers will also be utilized to assist systems. State Water Board staff will post lists of systems that have not applied during the initial 60-day application period on the Program website. Community water systems that submit late applications are not guaranteed funding.

SECTION E: DISBURSEMENT PROCESS AND PRIORITY

State Water Board staff will process disbursements as soon as complete applications are received and reviewed. Staff will prioritize disbursements to small community water systems. State Water Board staff may also prioritize community water systems serving disadvantaged communities. Staff will begin disbursing funds by November 1, 2021. Staff will contact systems with incomplete or missing applications to assist systems and expedite payments.

SECTION F: WATER SYSTEM ALLOCATION TO CUSTOMERS

F.1 ALLOCATION METHODOLOGY

Community water systems may expend up to three percent (3%), or up to \$1 million, whichever is less, for costs the system incurs in applying for assistance or complying with Program requirements. If there are sufficient funds to cover the statewide arrearage total plus the administrative costs, system may request enough funds to cover both. If there are insufficient funds to cover the total statewide arrearages and administrative costs, water systems that choose to be reimbursed for administrative costs may deduct those costs from their allocation before crediting customer accounts. Remaining funds must be allocated as bill credits to customers within 60 days of receiving funds. System costs to apply for funds and comply with Program requirements must be documented and reported to the State Water Board.

F.1.1 Customer Bill Credits

If the funding amount is inadequate to eliminate the full arrearage amounts for all customers, community water systems should establish a tiered system of reimbursement that prioritizes residential customers and customers with the highest arrearages. Tiers should be established as follows. Community water systems will

determine the arrearage ranges for each tier, and the allocation percentage based on their data and their allocation. The following tiers are recommended if sufficient funds are available:

- Tier 1 - Residential customers with highest arrearages and, where information is available, low-income customers
- Tier 2 - Residential customers with moderate arrearages
- Tier 3 - Remaining residential customers
- Tier 4 - Commercial customers

Community water systems who establish a tiered system of reimbursement must strive to provide one hundred percent (100%) of debt relief for each tier before providing debt relief to the next tier. Where there is not enough funding for a tier to provide 100% debt relief, the water system shall provide an equal percent to each customer in the tier. Technical assistance will be available to assist community water systems to analyze customer arrearage data to establish tiers and credit amounts.

Community water systems that do not implement a tiered debt forgiveness system must credit arrearages proportionally to the amount of assistance the system receives.

F1.2 Debt Transferred to Third Parties

Community water systems that have transferred their arrearages that qualify for the Program to a third-party are eligible and may still apply to receive funding. Community water systems that no longer hold the arrearage debt must credit qualifying active customer accounts, creating a positive balance for those customers to apply toward future water bills. Community water systems must notify their customers of this credit and must indicate that the relief afforded by this credit should be used to pay down the debt that was transferred to the third party.

F.1.3 Late Fees

Water systems must waive late fees for customers with arrearages. Late fees cannot be included in the calculation of the system's total arrearages, or in the determination of the proportional amount to credit to customers' bills.

F.2 CUSTOMER CREDIT AND NOTIFICATION

F.2.1 Notification of Customer Bill Credits

Water systems must allocate the funds as bill credits to customers within 60 days of receiving funds. Water systems must notify customers in writing of the amount credited. The acknowledgement must state that the credited amount is being provided through the California Water and Wastewater Arrearage Payment Program through funding from the State Water Resources Control Board using federal ARPA funds.

F.2.2 Payment Plans

If funds are inadequate to eliminate all residential and commercial arrearages, the water system must enroll any residential and commercial customers with remaining balances after the credits have been applied in a payment plan. The notice offering the payment plan must provide the customer with 30 days to opt out of the plan from the date of the notice. All other provisions of Health and Safety Code section 116900 related to payment plans apply to any plans established under this Program, regardless of the size of the community water system.

- Policies and related notices must be in English and any other language spoken by 10% or more of the community water system's customers
- A formal mechanism for a customer to contest or appeal a bill must exist and must be shared with customers.
- The community water system must provide a telephone number to allow a customer to contact a system representative to discuss options for averting water shutoff for nonpayment.

Water systems must also refer eligible customers with remaining balances after the Program funds are credited to accounts to the Low Income Household Water Assistance Program administered by the Department of Community Services and Development for potential enrollment in other low-income assistance programs. Large water systems must either:

- identify low-income customers by obtaining CARES data or other data related to a low-income rate assistance program, or
- ask customers to self-identify low income status.

F.2.3 Shut Off Prohibition

A community water system receiving funds from this Program due to non-payment of bills may not discontinue water service before the later of the following dates: (1) the date identified in Health and Safety Codes section 116773.4 (i.e. September 30, 2021); or (2) for a customer that has been offered a payment plan, the date the customer misses the enrollment deadline for, or defaults on, the payment plan. A community water system may not discontinue water service to a customer that remains current on a payment plan. Community water systems, regardless of size, must comply with Health and Safety Code section 116908 *et seq.* regarding discontinuation of service.

F.2.4 Consumer Debt Reporting and Third-Party Collection

The community water system must agree to not furnish information regarding arrearages for which credits have been provided to customers under this Program [to any consumer reporting agency, as that term is defined at 15 U.S.C. section 1681a, subd. \(f\).](#) The system must also agree not to assign to a third party any arrearage for

which a credit has been provided to a customer under this Program for purposes of collection.

If a water system has furnished information regarding arrearages for which credits have been provided to customers under this Program to a consumer reporting agency, as that term is defined at 15 U.S.C. section 1681a, subd. (f), the water system agrees to, within thirty days of receiving payment:

Instruct each such consumer reporting agency to delete all information regarding the arrearages for which credits have been provided to customers under this Program; and

Cease further furnishing of information regarding the arrearages for which credits have been provided to customers under this Program to any consumer reporting agency.

If a water system has assigned arrearages for which credits have been provided to customers under this Program for purposes of collection to a third party that is not a tax agency, the water system agrees to recall the debt. If the third party at any time furnished information regarding the debt to one or more consumer reporting agencies, as that term is defined at 15 U.S.C. section 1681a, subd. (f), the water system agrees to, within thirty days of receiving payment, require the third party to:

Instruct each such consumer reporting agency to delete all information regarding the debt; and

Cease further furnishing of information regarding the debt to any consumer reporting agency.

F.2.5 Tax Information

Water systems should consult with tax professionals regarding potential tax liability and reporting requirements. The State Water Board is not authorized to provide federal or state tax advice to water systems.

The State Water Board has been directed to issue a 1099-G to each community water system that receives funding. A water system's tax liability will depend on various factors, which may include the water system's entity status, if the water system has an offsetting loss, any other relevant factors specific to each water system, and current federal and state tax laws. Water systems should consult their own tax professional for questions about potential tax liability.

Some water systems may be subject to tax reporting requirements, including the issuance of a 1099-C or other tax form to customers who receive debt relief. Water systems should consult their own tax professional for questions about tax reporting requirements.

F.3 RETURN OF FUNDS NOT CREDITED TO CUSTOMERS

Water systems must remit any funds not credited to customers, or used by the water system to apply for funds and comply with program requirements, back to the State Water Board within six months of receiving payment.

SECTION G: REPORTING REQUIREMENTS

All community water systems that receive funds must provide certification to the State Water Board that, except for authorized administrative costs, Program funds were applied as credits to customer bills to offset COVID-19 arrearages. Systems must report the total amount credited, the number of accounts credited, the number of customers enrolled in a payment plan and the number of customers that opt out of a payment plan based on the tiers established above. Systems must also report the amount used for administration of the Program. The State Water Board will provide a template or online portal for reporting. The State Water Board may request the supporting documentation to validate the reported amounts. Water systems accepting funds may be audited and must retain documentation supporting the reported amounts for seven years following final reporting.

SECTION H: WASTEWATER ARREARAGE PROGRAM

If the appropriated amount exceeds the Statewide Need for water system arrearages or the total amount requested by water systems, the State Water Board will amend these Guidelines, or adopt new ones, to establish a program for funding wastewater treatment provider arrearages and revenue shortfalls. The State Water Board will establish the Program no later than February 1, 2022.

SECTION I: STATE CROSS-CUTTING REQUIREMENTS

State Cross-Cutters: Miscellaneous state laws apply to funding provided by state agencies. The recipient must comply with, or not be prohibited from receiving funding under, the following laws:

STATE CROSS-CUTTERS

- a. Water Conservation requirements, including regulations in Division 3 of Title 23 of the California Code of Regulations.
- b. Monthly Water Diversion Reporting requirements, including requirements set forth in Water Code section 5103.
- c. Public Works Contractor Registration with Department of Industrial Relations requirements, including requirements set forth in Sections 1725.5 and 1771.1 of the Labor Code.

- d. Volumetric Pricing & Water Meters requirements, including the requirements of Water Code sections 526 and 527.
- e. Urban Water Management Plan requirements, including the Urban Water Management Planning Act (Wat. Code, § 10610 et seq.).
- f. Urban Water Demand Management requirements, including the requirements of Section 10608.56 of the Water Code.
- g. Delta Plan Consistency Findings requirements, including the requirements of Water Code section 85225 and California Code of Regulations, title 23, section 5002.
- h. Agricultural Water Management Plan Consistency requirements, including the requirements of Water Code section 10852.
- i. Charter City Project Labor Requirements, including the requirements of Labor Code section 1782 and Public Contract Code section 2503.

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