

# E-Bulletin Newsletter



To provide affordable financial assistance to communities within Wisconsin for water infrastructure projects that protect and improve public health and water quality for current and future generations.



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## Final Rules Effective Nov. 1, 2023

New versions of ch. NR 162, Wis. Adm. Code, relating to the Clean Water Fund Program (CWFP), and ch. NR 166, Wis. Adm. Code, relating to the Safe Drinking Water Loan Program (SDWLP), were published in the [Wisconsin Administrative Register October 2023 No. 814B](#). Both rules became effective on **November 1, 2023**.

## Projects affected by new rules

The revised rules apply only to projects where municipalities submit complete applications **after** the effective date of Nov. 1, 2023.

- State Fiscal Year (SFY) 2024 applications for projects seeking loan money only (no principal forgiveness) that are submitted after the effective date of the new rules, will need to follow the new codes.
- SFY 2025 projects must follow the new codes. It does not matter that the notices of Intent to Apply were submitted before the effective date because the applications will be submitted after it.

View the newly published rules on the Administrative Code website:

- [Chapter NR 162 \(CWFP\) revised 2023](#)
- [Chapter NR 166 \(SDWLP\) revised 2023](#)

## Projects not affected

For any other project, as long as the municipality submitted a complete application **before** the effective date of the new rules (prior to Nov. 1, 2023), the old rules apply to all elements of that project.

- All projects submitted prior to the effective date and included on the corresponding program's SFY 2024 Funding List will be processed under the 2015 version of the rules.

View PDFs of the previous codes on DNR's website:

- [Chapter NR 162 \(CWFP\) revised 2015](#)
- [Chapter NR 166 \(SDWLP\) revised 2015](#)

## Revision highlights

Revisions to chs. NR 162 and 166, Wis. Adm. Code, bring the codes in line with statutory changes that occurred after the most recent versions became effective in 2015, clarify eligibility criteria, streamline processes, modify the

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[dnr.wi.gov/aid/eif.html](http://dnr.wi.gov/aid/eif.html) | CWFP phone: 608-358-3330 | SDWLP phone: 608-720-0802 | [staff directory webpage](#)



Program implementation details are outlined in chs. [NR 162](#) and [NR 166](#), Wis. Adm. Code. [Legal notice](#): This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in federal regulations or state statutes or administrative rules are referenced. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing federal regulations and state statutes and administrative rules to the relevant facts. The Wisconsin Department of Natural Resources provides equal opportunity in its employment, programs, services, and functions under an Affirmative Action Plan. If you have any questions, please write to Equal Opportunity Office, Department of Interior, Washington, D.C. 20240. This publication is available in alternative format upon request, call 608-267-9481 for more information.

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scoring system, and update implementation issues since the rules were last revised. No significant changes to the programs will result from the rule revisions. The main topics for revision include:

**Definitions** – adds, modifies, and removes various definitions to add clarity to several sections of the code.

**Types of financial assistance** – adds language to assert that the statutes allow funds from the federal capitalization grant to be used as allowed under federal law, including providing principal forgiveness (PF).

**Eligible projects/activities** – updates language to incorporate current practices.

**Legal opinion on land ownership and easements** – adds a requirement for submittal of a certification regarding land ownership and easements; codifies new policies the DNR developed regarding when a legal opinion on land ownership and easement rights is needed in addition to or in lieu of a certification, and what needs to be addressed in the legal opinion concerning who owns the land on which a project is being constructed.

**Procurement and disbursement processes** – adds language to clarify what documentation is expected and when from municipalities for these processes.

**Amendments** – revises the financial assistance agreement amendment process, as it was previously based on availability of present value subsidy, which was removed from the statutes, and clarifies the type of financial assistance that may be provided in an amendment.

**Dates for ITA/PERF submittals** – revises language to be flexible for implementing potential changes to the application process, including the notice of Intent to Apply (ITA) requirement and submittal deadline.

The DNR released a [policy paper](#) for public comment on Jan. 10, 2022, stating that the ITA is not being eliminated immediately, but that the department will be looking at potential improvements. The DNR may look at whether information requested from applicants in the intent to apply should become part of the financial assistance application and whether the ITA should be eliminated, modified, or requested less frequently.

Eliminating the ITA requirement and deadline from the statutes was needed to be able to examine the entire application process from beginning to end. This will help to determine what streamlining should be done to better align the process with customer needs, administrative

responsibilities, Wisconsin's construction season, and multiple other factors that impact water and wastewater infrastructure project timelines. The department intends to engage program customers and stakeholders to seek input regarding these future efforts before making any substantive policy adjustments.

**Application process** – requires applicants to use the online application systems, revises language to be flexible for implementing potential changes to the application process, and modifies requirements for application submittals. This includes removing submittals no longer needed, adding clarity for certain submittals, revising requirements for intermunicipal agreements, and adding a design life calculation worksheet requirement for municipalities requesting loan terms longer than 20 years, since language was added to the statutes allowing terms of up to 30 years.

The DNR intends to begin another administrative rule revision after doing some strategic planning to determine the best timeline for the loan program, and to look in detail at current submittal requirements and document reviews to gain efficiencies.

**Deadline for signing a financial assistance agreement (FAA)** – modifies the language regarding the timeframe within which a municipality must sign a FAA to provide flexibility for potential modifications to the loan process timeline.

## **SDWLP - NR 166 revision highlights**

In addition to the highlights described above, topics for revision of Chapter NR 166, regarding SDWLP, include:

**Loan interest rates** – revises language related to procedures for obtaining median household income (MHI) data for any applicant that is not a city, town, or village.

**Priority scoring system** – adds language to provide points for watermain replacement projects that include replacement of lead service lines, removes the financial need section to allow the MHI points to be directly tied to the principal forgiveness points identified in the annual intended use plan, assigns negative points to projects of municipalities that are lacking required capacity items (such as a written emergency action plan or a private well abandonment ordinance), and removes procedures for scoring notifications and reevaluations to allow flexibility in researching what kind of process will work best for program customers and staff as the current process is inadequate.

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## CWFP - NR 162 revision highlights

Additional topics for revision of Chapter NR 162, relating to the CWFP, include:

**Funding list** – adds language to state that a funding list will be created annually for projects of municipalities competing for principal forgiveness.

**Loan interest rates** – revises the statutory references and some language to bring the code in line with the statutes which were changed the same day the last revision to Chapter NR 162 took effect in 2015.

**Hardship financial assistance** – removes all language regarding hardship financial assistance since the statutes terminated the program after the SFY 2018 funding cycle. The elimination of this program was concurrent with increased interest rate subsidy to help financially disadvantaged municipalities.

**Storm water projects** – removes storm water language from subchapter II and creates a new subchapter III for storm water projects to clarify procedures for urban runoff projects.

**Interest rate subsidy projects** – adds language to clarify using this type of assistance for storm water projects; revises the explanation of the interest rate subsidy calculation to clarify the steps taken to determine the amount of interest rate subsidy provided for a project.

**Priority scoring system** – revises system to incorporate language currently included in the CWFP's intended use plan, adds clarifying language for projects in which regionalization of wastewater treatment is taking place, provides additional explanation of the reevaluation request process, and shifts the priority when two projects on the priority list have the same score from higher population municipalities to lower population municipalities.

In the upcoming months, we anticipate publishing a compendium of changes and updated publications and web pages. More details about the rule revisions will be forthcoming in future E-Bulletins.

## Contact information

Direct questions or concerns about the revisions to Chapters NR 162 (CWFP) and NR 166 (SDWLP) to Jeanne Cargill at [Jeanne.Cargill@Wisconsin.gov](mailto:Jeanne.Cargill@Wisconsin.gov).

## New DOA Capital Finance Officer

We would like to introduce the Department of Administration's newest Capital Finance Officer, **Amy Johnson**. She started her position on Sept. 11, 2023. She shares with us, "Hello! My name is Amy Johnson. I am a wife and mother to two daughters, ages ten and six. I enjoy camping, gardening, baking, and spending time with my family. My background is in accounting, and I previously worked as a financial examiner for the Department of Financial Institutions." Contact her at 608-267-0739 and [AmyC.Johnson@wisconsin.gov](mailto:AmyC.Johnson@wisconsin.gov).



On April 24, 2023, **Rachel Liegel** began her position as a Capital Finance Officer. To help you get to know her better, Rachel shares, "Hi everyone! I am very happy to have joined the Capital Finance Office! Prior to this, I attended UW-Milwaukee for my undergraduate and graduate degree while also being on the track and field team. My events for track and field were shot put, weight throw, hammer throw, and discus. Prior to being a Capital Finance Officer, I worked for almost 4 years as a grain auditor with the Wisconsin De-



partment of Agriculture, Trade, and Consumer Protection. In my free time I enjoy working in my garden and flower beds, hiking, watching Wisconsin sports, taking line dancing classes with my mom, and going on UTV rides with my boyfriend and neighbors through the beautiful backroads of Sauk County and at my parents' farm. I look forward to expanding my knowledge of public finance and the Clean Water Fund and Safe Drinking Water Loan Programs while also working with municipalities to finance projects to improve their utility systems. I am excited to work with you all!" Contact Rachel at 608-267-7399 and [Rachel.Liegel1@wisconsin.gov](mailto:Rachel.Liegel1@wisconsin.gov).

**Andrea Ceron** may not be a new face or name to some. She started her position as a Capital Finance Officer on Sept. 26, 2022. Andrea came to DOA from outside of state service; she previously worked at UW Credit Union as a Financial Specialist. Andrea works on both sides of the Capital Finance Office—the Environmental Improvement Fund and Bond Administration. Contact her at 608-267-0374 and [Andrea.Ceron@wisconsin.gov](mailto:Andrea.Ceron@wisconsin.gov).

## SFY 2024 Applications and Funding Lists

The DNR typically receives around 50-60 applications per funding cycle, per program for both the Clean Water Fund Program (CWFP) and the Safe Drinking Water Loan Program (SDWLP). The Online System allows applicants to submit multiple projects under a single application given that the projects are for the same municipality and are within the same funding program (SDWLP vs CWFP).

The number of applications submitted for the State Fiscal Year (SFY) 2024 funding cycle has greatly increased because of the additional, significant funding from the [Bipartisan Infrastructure Law \(BIL\)](#).

### For the SFY 2024 funding cycle, the DNR received:

- 93 CWFP Applications from 84 municipalities for 109 projects by the Sept. 30, 2023 Principal Forgiveness (PF) deadline requesting \$415 million in funding; and
- 137 SDWLP Applications from 109 municipalities for 171 projects by the June 30, 2023 deadline requesting \$419 million in funding.

Notes: SFY 2024 SDWLP and CWFP Applications may be submitted anytime during the state fiscal year (until June 30, 2024) for projects requesting loan money only (no PF). Municipalities that submit a CWFP Application after the PF deadline can receive a subsidized loan and be considered for [Energy Efficiency Priority PF](#) if funds are still available.

### Funding Lists in November

The CWFP applications are currently being reviewed for completeness. Municipalities had until Nov. 1, 2023, to submit a CWFP priority score reevaluation request. We intend to publish the SFY 2024 CWFP Funding List in November 2023.

On Oct. 23, 2023, the SFY 2024 SDWLP *Draft* Funding List was published. A 30-day Priority Evaluation and Ranking Formula (PERF) score objection period opened when DNR emailed the applicant informing them of their PERF score. This typically happens on the day, or within a day, of the Draft Funding List being posted.

We will post the SFY 2024 SDWLP *Final* Funding List once this period has passed and the DNR Bureau of Drinking Water & Groundwater has had a chance to review and make determinations on all submitted PERF score objections. The project priority ranking on the Draft Funding List is subject to change based on any successful PERF score objections that are received.

The projects will be identified in priority score order on the corresponding program's annual funding list. The

funding list shows the allocation of loan money and PF, and total requested costs for each project.

### • View Funding Lists at

[dnr.wi.gov/aid/projectListsIUPs.html](https://dnr.wi.gov/aid/projectListsIUPs.html)

### PF allocation methodology

[Principal Forgiveness \(PF\)](#) is allocated based on the priority score ordering. The PF allocation methodology aims to allocate PF funds to the highest priority projects in municipalities with the greatest financial need. This methodology is explained in the corresponding program's annual Intended Use Plan (IUP), which are posted to [dnr.wi.gov/aid/projectListsIUPs.html](https://dnr.wi.gov/aid/projectListsIUPs.html).

### Loan closing

The assigned DNR loan project manager (*see Funding List*) will work with the municipality and their consulting engineer on [closing the loan](#). The DNR project manager will activate the Online System for each application. Once the application has been activated, the applicant will be able to upload documents needed for the closing.

- For CWFP projects, the loan must close within eight (8) months following the date of the application acceptance notification.
  - All SFY 2024 CWFP PF Applications will be accepted by June 30, 2024 (end of state fiscal year).
  - SFY 2024 CWFP Non-PF Applications will be accepted by Dec. 31, 2024.
- For SFY 2024 SDWLP projects, the loan must close by Sept. 25, 2024.
  - Applications submitted on or after Jan. 1, 2024, will have the same loan closing deadline as SFY 2025 SDWLP projects.

