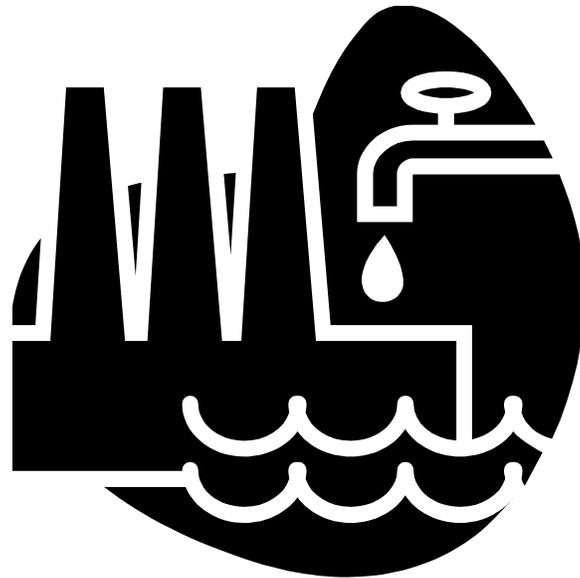


**STATE OF WISCONSIN
CLEAN WATER FUND PROGRAM
INTENDED USE PLAN**

**FOR FFY 2022 CAPITALIZATION GRANTS
FOR THE SFY 2023 FUNDING CYCLE**



September 2022

**ADMINISTERED BY
THE DEPARTMENT OF NATURAL RESOURCES
AND
THE DEPARTMENT OF ADMINISTRATION**

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	DESCRIPTION OF THE CLEAN WATER FUND PROGRAM AND FEDERAL SRF	1
III.	GOALS OF THE FEDERAL PROGRAM.....	1
A.	Short-Term Goals:	2
B.	Long-Term Goals:.....	2
IV.	SOURCES AND USES OF FUNDS	3
V.	TRANSFER OF FUNDS BETWEEN THE CW SRF AND DW SRF	6
VI.	CLASSIFICATION OF PROJECT TYPES.....	6
VII.	LOAN TERMS	7
A.	Interest Rates.....	7
B.	Loan Amortization	8
C.	Application Acceptance Deadlines.....	8
VIII.	POLICY CHANGES IMPLEMENTED DURING SFY 2019.....	9
A.	Online Application Submittal and Elimination of Grace Period	9
B.	Median Household Income (MHI) Cutoff Clarification	9
IX.	COMPLIANCE WITH FEDERAL REQUIREMENTS	9
A.	Consolidated Appropriations Act of 2022.....	9
B.	Fiscal Sustainability Plans - NO LONGER REQUIRED	9
C.	American Iron and Steel	10
D.	Davis-Bacon Act	10
E.	Cost and Effectiveness Certification	10
F.	Bipartisan Infrastructure Law	10
G.	Federal Equivalency	12
H.	Qualifications-Based Procurement of A/E Services	12
I.	Green Project Reserve	13
J.	Data Reporting.....	14
X.	AFFORDABILITY CRITERIA AND PRINCIPAL FORGIVENESS	14

A.	Deadline for Applying for Principal Forgiveness Funds	14
B.	Affordability Criteria and Principal Forgiveness Eligibility	14
C.	Allocation of General PF	17
D.	Regionalization PF.....	17
E.	Phosphorus Reduction PF	18
F.	Energy Efficiency PF.....	19
G.	Other Policies Regarding Principal Forgiveness.....	19
H.	Principal Forgiveness from Previous Years	20
XI.	PILOT PROJECTS PROGRAM	20
XII.	SEWER OVERFLOW AND STORMWATER REUSE MUNICIPAL GRANTS PROGRAM	21
XIV.	WATER QUALITY AND OTHER SCORING CRITERIA FOR SFY 2024	22
XV.	SFY 2023 PROJECT PRIORITY LIST AND FUNDING LIST	24
XVI.	ASSURANCES.....	25
XVII.	PUBLIC REVIEW AND COMMENT	25

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES
CLEAN WATER FUND PROGRAM INTENDED USE PLAN
Covering Funding During State Fiscal Year 2023
For Receipt of the EPA Federal Fiscal Year 2022 Capitalization Grant**

I. INTRODUCTION

Section 606(c) of the Federal Water Pollution Control Act (FWPCA), as amended, requires that the State develop an annual Intended Use Plan (IUP) identifying the uses of funds available for its Clean Water state revolving loan program after providing for public comment and review. Assurances and specific proposals for meeting federal requirements identified under Section 606(c)(4) are provided in Attachment 2 (environmental review procedures) and Attachment 8 of the Operating Agreement between the State and the U.S. Environmental Protection Agency (EPA).

This document and attachments, which comprise Wisconsin's state fiscal year (SFY) 2023 Clean Water Fund Program (CWFP) IUP, indicate the intended use of the federal fiscal year (FFY) 2022 Clean Water State Revolving Fund (CWSRF) Base and Supplemental Capitalization Grants and required state matching funds, and other monies available in the revolving loan fund. The IUP is a part of Wisconsin's Base, Supplemental, and Emerging Contaminants Capitalization Grant agreement package for FFY 2022 and covers anticipated activity during SFY 2023.

II. DESCRIPTION OF THE CLEAN WATER FUND PROGRAM AND FEDERAL SRF

The State of Wisconsin Clean Water Fund Program operates a financial assistance program consisting of Federal and State Accounts. The Department of Natural Resources (DNR) and the Department of Administration (DOA) jointly administer the program under the Environmental Improvement Fund (EIF). Financial Assistance is provided by purchasing the general obligation or revenue bonds of municipal governments to finance eligible projects; these transactions are referred to as loans throughout this document and in program informational materials.

The Federal Account constitutes the State Revolving Fund (SRF). It had been structured as a direct loan program since its inception, and modifications were made during SFY 2016 to change over to a cash flow leveraging structure. This structure enhances the fund's self-sufficiency and provides additional flexibility for project financial assistance.

For the FFY 2022 capitalization grants, the state match will come from revenue bonds issued under the leveraged structure.

No new loans are anticipated to be issued from the State Accounts. All revenue bonds issued under the State Accounts have been defeased.

III. GOALS OF THE FEDERAL PROGRAM

The Federal government started providing capitalization grants to states beginning in FFY 1989, as provided in Title VI of the FWPCA, as amended. These grants, along with the required state match, have been used to fund the Federal Account of the CWFP, which is designed to operate in perpetuity to provide low-interest loans for water pollution control projects.

Certain goals for the SRF have been established by the State. These goals are listed below.

A. Short-Term Goals:

- Provide additional economic assistance in the form of principal forgiveness with the highest amounts allocated to those applicants with the greatest financial need.
- Provide additional assistance, including principal forgiveness to municipalities that qualify under the affordability criteria in order to help offset the cost of compliance with more protective phosphorus limits.
- Provide additional assistance in the form of principal forgiveness in order to help offset the costs of WWTP regionalization projects.
- Provide matching funds in the form of principal forgiveness to municipalities that are working with *Focus on Energy* to upgrade the energy efficiency of their WWTPs.
- Allocate a minimum of 10% of capitalization grant funds to projects or portions of projects that incorporate water or energy efficiency, are considered green infrastructure, or are environmentally innovative.
- Work with internal and external parties to identify options for funding innovative projects that enhance water quality, including nonpoint-source pilot projects for meeting phosphorus requirements through water quality trading.
- Examine program policies through an equity and environmental justice lens and make improvements where possible.
- Research methods to provide additional assistance to water systems with programs that assist low-income rate payers.
- Explore avenues to support pre-apprenticeship, registered apprenticeship, and youth training programs that open pathways to employment.
- Conduct public outreach and education regarding program policies, procedures, and participation.
- Evaluate the feasibility, benefit, and public opinion of incentivizing projects that target unsewered areas serving existing homes in SFY 2024.

B. Long-Term Goals:

- Develop strategies and mechanisms to promote regionalization as a viable alternative for small, economically challenged communities with declining populations and aging WWTPs.
- Protect the public health and environmental quality of the state of Wisconsin.
- Manage the revolving loan fund in such a way as to protect its long-term integrity and enable it to revolve in perpetuity.
- Provide economic assistance to municipalities, including those that may not have substantial credit histories, for the purposes of constructing and maintaining water quality related infrastructure.
- Identify and implement innovative programs necessary to fill funding gaps in the state for meeting water quality standards and objectives.
- Implement policy changes that encourage municipalities to make their wastewater treatment systems and stormwater systems more resilient, sustainable, and adaptive to climate change impacts.
- Continue to refine strategies, programs, and mechanisms to ensure that municipalities are able to address the highest priority water quality problems.

IV. SOURCES AND USES OF FUNDS

Since the beginning of the CWFP, no application has been denied due to a lack of loan funds and that is expected to continue for the current funding cycle. The table below summarizes the capitalization grant amounts, their respective required state match, and the amount of principal forgiveness that is made available from each grant.

FFY 2022 CW Capitalization Grant	Total Grant	State Match	Principal Forgiveness	Technical Assistance	Administration
<i>Base</i>	\$31,281,000	\$6,256,200	\$12,512,400	\$592,421	\$3,160,943
<i>Supplemental</i>	\$48,116,000	\$4,811,600	\$23,576,840	\$518,908	\$0
<i>Emerging Contaminants</i>	\$2,527,000	\$0	\$0	\$0	\$0
Totals	\$81,924,000	\$11,067,800	\$36,089,240	\$1,111,329	\$3,160,943

State Match

The required 20% state match for the Base Capitalization Grant and 10% for the Supplemental Capitalization Grant is authorized under state law and will be generated from revenue bonds. All state matching funds will be disbursed to loan recipients before the state makes the first draw of federal funds from the capitalization grant. Thereafter, all draws against the grant will be made at a cash draw ratio of 100% federal funds.

Principal Forgiveness

The FFY 2022 Consolidated Appropriations Act, Public Law (P.L.) 117-103, requires states to award 10% of the Base Capitalization Grant as additional subsidy. Based on a capitalization grant amount of \$31,281,000, P.L. 117-103 requires that \$3,128,100 be provided as additional subsidy. In addition, the Bipartisan Infrastructure Law (BIL) amended the Clean Water Act to require that the CWSRF provide between 10% and up to 30% of the Base Capitalization Grant (\$3,128,100–\$9,384,300) as additional subsidy to municipalities that meet the Affordability Criteria as described in Section X.B. Additional subsidy may be provided through loan principal forgiveness, grants, or negative interest loans whenever the national appropriation exceeds \$1,000,000,000. All additional subsidy will be provided in the form of principal forgiveness (PF), which has shown to be the most efficient method of providing additional subsidy and does not involve imposing additional federal grant requirements on recipients. Under the Base Capitalization Grant, Wisconsin will make \$12,512,400 in new PF available for SFY 2023.

The BIL mandates that 49% of funds provided through the CWSRF Supplemental Capitalization Grant be provided as additional subsidy. Based on a grant amount of \$48,116,000, Wisconsin will make \$23,576,840 in new PF available under the Supplemental Capitalization Grant.

No Principal Forgiveness is made available under the Emerging Contaminants Capitalization Grant because the full grant will be transferred to the Safe Drinking Water Loan Program (SDWLP). See Section V for more details.

Technical Assistance

The CWFP may use up to an amount equal to 2% of their annual CWSRF capitalization grants for the purpose of hiring staff, nonprofit organizations, or other entities to assist rural, small, and tribal publicly owned treatment works. The form of that assistance is flexible and could include, but is not limited to, community outreach, technical evaluation of wastewater

solutions, preparation of applications, preliminary engineering reports, and financial documents necessary for receiving SRF assistance.

The maximum amount of CWSRF money that may be used to provide technical assistance consistent with section 603(k) of the CWA is an amount equal to 2% of all grant awards received by a state CWSRF after November 15, 2021. If the CWFP does not utilize the full amount of the technical assistance funds allowed under a capitalization grant, we reserve the right to utilize the unused portion at a later date.

DNR is requesting a total of \$1,111,329 of technical assistance funds for 8 full-time and 2 limited-term positions. The position activities are detailed below:

Wastewater Outreach Specialist (1 full-time position)

- Coordinate with Wastewater Program staff to identify facilities in need.
- Conduct outreach. Prepare materials, answer questions from facilities, set up meetings and give presentations to help distribute funding.
- Assist facilities with funding applications. Coordinate with Environmental Loans staff.

Wastewater Plan Review Engineer (2 full-time positions)

- Provide technical assistance to small and disadvantaged communities identified by the Wastewater Outreach Specialist, working with consultants to provide input on preliminary facilities plans.
- Review facilities plans and plans and specifications to ensure compliance with applicable design administrative codes for sewers, wastewater treatment plants, biosolids processing facilities, and storage structures.

Healthy Waters/High Quality Water Technical Expert (1 full-time position)

- Provide technical assistance to rural, small, and tribal POTWs identified by the Wastewater Outreach Specialist and work with consultants to provide input regarding high quality water protection focused on preliminary facilities plans.
- Facilitate development of POTW plans to augment protection of high-quality waters.
- Review facilities plans and plans and specifications to ensure compliance with applicable design administrative codes for sewers, wastewater treatment plants, biosolids processing facilities, and storage structures.
- Promote and report successful restoration and protection efforts associated with rural, small, and tribal publicly owned treatment works.

Non-Point Source Planning and Outreach Specialist (1 full-time position)

- Provide assistance to municipal wastewater treatment facilities that are participating, or that might participate, in the Pilot Projects Program for water quality trading.
- Lead outreach efforts to increase awareness among local governments with a focus on small, rural communities, internal and external partners, and other stakeholders about potential uses of the CWFP.
- Assist municipalities in leveraging CWFP funds for other agricultural-based wastewater compliance options, such as adaptive management or the state's multi-discharger variance for phosphorus.
- Integrating CWFP funding into the long-term financial planning process for low-income communities unable to afford wastewater facility upgrades mandated by the 2010 phosphorus rule.

Climate Resiliency Specialist (1 full-time position)

- Assist local governments in identifying projects that reduce flows and capacity burden on downstream infrastructure and integrate effects of climate change into risk assessments for facility planning and sanitary sewer service area

amendments.

- Lead outreach efforts to increase awareness among local governments, regional planning agencies, internal and external partners, and other stakeholders about potential uses of the CWFP under the current program for infrastructure projects that apply the best available technology, standards, and climate information and projections.
- Coordinate internal policy development for using CWFP funds on integrated climate resiliency planning, with a focus on small, rural and/or tribal community municipal treatment plant operations, and storage and conveyance projects.

Water Resources Engineer (1 full-time position)

- Support the increased demand for storm water program services generated by the increased frequency and scope of projects funded by BIL. As projects increase in frequency and scope, demand is anticipated to increase significantly for services provided by this position including proactive technical assistance during project development, project permitting support, and project compliance oversight. The position will also provide outreach, compliance and technical assistance, and regulatory oversight.
- Provide support to municipalities and local units of government, engineering review of the technical and design aspects of permit applications, as well as oversight of project compliance and implementation effectiveness. This position will also provide outreach to communities interested in implementing pollution reduction strategies, such as Green Infrastructure projects and other best practices.

Wastewater Specialist (1 full-time position)

- Advise permittees on best practices, approaches, and strategies, for stormwater management and control techniques and systems. Answer permittee and stakeholder questions related to stormwater program development and implementation. Assess and evaluate compliance with permit requirements and provide compliance assistance.

Wastewater Regulator and Zoning Engineer/Specialist (2 limited-term positions)

- Review plans for municipal wastewater treatment and conveyance infrastructure.
- Conduct outreach to small and disadvantaged communities and assist potential small and disadvantaged CWFP applicants.

Program Administration

The Water Resources Reform and Development Act of 2014, which amended the FWPCA, changed the way the allowable amount of administrative funds is determined. The FWPCA now states that "...such amounts shall not exceed 4 percent of all grant awards to such fund under this title, \$400,000 per year, or 1/5 percent per year of the current valuation of the fund, whichever amount is greatest..." The 1/5 percent calculation is based on "Total Net Position" from audited CWSRF financial statements.

Based on Wisconsin's June 30, 2021 financial statements for the EIF, the total net position of the CWFP's federal portfolio is \$1,622,131,865, yielding allowable administrative funds of \$3,244,263. DNR plans to utilize the \$3,160,943 for CWFP-related work in the DNR Bureaus of Community Financial Assistance, and Water Quality.

Financial Planning and Loan Capacity

Pursuant to a contract with PFM as a municipal advisor and assumptions from and discussions with DOA, a model is maintained that demonstrates perpetuity of the CWFP. Changing market conditions, funding commitments from EPA, and other factors have continuous impacts on this model. In addition, DOA maintains its own model as a check and balance. Both models provide guidance for the long-term financial health of the CWFP.

The amount of loans and principal forgiveness the CWFP expects to award in SFY 2023 will exceed the amount of the total FFY 2022 federal grants received by the CWFP. The CWFP is part of the State's Environmental Improvement Fund, which provides leveraged financing for the CWFP. As a result, Wisconsin issues loans in total that exceed the annual federal capitalization grant. Based on recent modeling, Wisconsin currently has the capacity and capability to fund all the projects expected to apply in SFY 2023. A dollar amount is not identified because it is directly related to the actual needs of customers, which vary from year to year. While the above is true for this year, continued growth in demand for the CWFP may require funding limitations in future years.

In addition to the capitalization grants and state match funds, projects are funded from principal and interest repayments, interest and investment earnings, and revenue bond proceeds.

On June 6, 2017, the State used \$523.7 million of funds within the CWSRF (\$358.2 million of equity funds and \$165.5 million of revenue bond proceeds) to purchase investments that will provide a total of approximately \$623.3 million in revenue for the CWSRF through May 1, 2033. The investments that were purchased included all of the loans that originated from the State Accounts of the CWFP. These purchased loans mimic the loans that have originated within the CWSRF over time. For the year ending June 30, 2023, the State expects these investments to generate \$59.0 million in revenue that will be used for new loans within the CWSRF and to pay debt service on EIF Revenue Bonds. The annual revenue projected to be received each year decreases as more loans mature.

V. TRANSFER OF FUNDS BETWEEN THE CW SRF AND DW SRF

Federal regulations allow a transfer between the State Revolving Funds of up to 33% of the amount of the Drinking Water Capitalization Grants. The State transferred a total of \$23,596,056 in funds from the CWFP to the SDWLP prior to FFY 2002. DNR is not currently considering transferring Base or Supplemental Capitalization Grant funds.

Due risks to human health presented by perfluoroalkyl substances in drinking water, DNR plans on transferring all the FFY 2022 Clean Water Emerging Contaminants Capitalization Grant to the SDWLP. DNR will publish a draft amendment to the SDWLP IUP which will include details regarding the transfer.

In addition to the transfers described above, the Water Infrastructure Financing Transfer Act (WIFTA), which was passed in October 2019, allowed a one-time transfer of funds from the CWFP to the SDWLP for the purpose of addressing a threat to public health as a result of heightened exposure to lead in drinking water. WIFTA allowed an amount equal to no more than 5% of the cumulative clean water revolving fund capitalization grants made to the state to be transferred for this purpose. Wisconsin transferred the maximum amount allowed under WIFTA (\$63,809,549) on October 1, 2020 in order to implement a new private lead service line replacement program. More information on this transfer and the WIFTA-funded lead service line replacement program can be found in the [SDWLP Intended Use Plan for SFY 2022](#) that was published on September 30, 2021 and [amended](#) on November 8, 2021.

VI. CLASSIFICATION OF PROJECT TYPES

Wisconsin's CWFP is an environmentally prioritized loan financing program for municipal water pollution control projects. The CWFP contains various categories under which projects are classified. Projects receiving SRF funding will be classified as one or more of the following:

- Compliance Maintenance and New/Changed Limits Projects: These projects are necessary to maintain compliance with permit requirements or implement new or changed limits required by law.
- Septage Receiving Facilities: 2005 Wisconsin Act 347 was enacted in April 2006. This Act pertained to septage receiving facilities and provides a 0% interest rate on projects or portions of projects funded by the CWFP that are for the receiving, treatment, and/or disposition of septage.
- Urban Stormwater and Urban Nonpoint Source Projects: These projects must be primarily water quality related. Portions of a project solely for flood control or future growth are funded at market rate.
- Unsewered Projects: These projects are only eligible for market rate financing unless 2/3 or more of the initial wastewater flow will come from homes that were in existence for at least 20 years prior to the date of the application.
- Violator Projects and those Portions of Projects that Provide Industrial and Reserve Capacity: Eligible projects or portions of projects in these categories receive market rate funds.
- Pilot Projects: Non-traditional CWFP projects (such as water quality trading) as part of the CWFP Pilot Project program are eligible for loans with an interest rate as low as 0%.

VII. LOAN TERMS

A. Interest Rates

Wisconsin statutes set the interest rate at a percentage of the market rate, other than for septage receiving facilities that receive 0% interest rate loans or pilot projects that may receive loans between 0% and the normal subsidized rate, or for projects or portions of projects that are ineligible for interest rate subsidy and thus receive market rate funding. At the time of writing, the market rate in effect for loans amortized over twenty years is 3.90% and 4.10% for loans with a term greater than 20 years. These rates are subject to change on a quarterly basis, but emergency changes may be made outside of this schedule. The market rate is defined as the State's estimated cost of borrowing, determined by DOA, based upon market comparables and market indices. The current 20-year market rate is based off the 20-year AAA rate from the Municipal Market Advisors (MMA) Municipal High Grade G.O. Index along with a spread based on current market conditions.

A service fee of 0.25% of the outstanding loan balance is currently charged on new loans. This service fee is a component of the interest rate and does not result in an interest rate that is higher than what is described below (the service fee is waived on loans issued at 0%). Interest payments are required semi-annually on May 1st and November 1st while principal payments are required annually on May 1st.

The 2017-2019 Biennial Budget increased the amount of interest rate subsidy provided by the state. The interest rates a municipality may qualify for are described in the list below.

- Eligible projects in municipalities with a population less than 10,000 and a median household income (MHI) of 80% or less of the MHI of the state, qualify for an interest rate that is 33% of market rate.
- Eligible projects in municipalities with a population less than 1,000 and an MHI of 65% or less of the MHI of the State, qualify for a 0% interest rate.
- Septage receiving facilities and some pilot projects qualify for a 0% interest rate.

- Projects that are eligible for interest rate subsidy according to Section VI and do not meet one of the three options above, qualify for 55% of the market rate.
- Projects that are ineligible for the interest rate subsidy according to Section VI will receive the market rate.

To be clear, the criteria described above only determine the interest rate a municipality qualifies for and is not connected to any additional subsidy a municipality may be eligible for. A separate set of criteria are used to determine Principal Forgiveness eligibility. See Section X.B for more details.

B. Loan Amortization

Loans will mature not later than 30 years after the original date of the Financial Assistance Agreement, or the project's design life, whichever is less. Projects with requested loan terms exceeding 20 years and not exceeding 30 years will be reviewed on a case-by case basis by DOA and engineers in the DNR's Wastewater program.

Loan terms greater than 20 years need to be supported by an asset cost-weighted analysis to demonstrate that the mean anticipated design life of work funded under the loan equals or exceeds the loan duration. Projects consisting solely of pipeline construction do not require such documentation and are eligible for a 30-year loan. Information on the required Design Life Calculation worksheet can be found [here](#).

When a loan term greater than 20 years is desired, DNR encourages municipalities to submit the design life calculation worksheet along with project plans and specifications and requires that the spreadsheet be submitted no later than 9 weeks prior to the anticipated loan closing date. Please note that under the state constitution, loans secured by a general obligation pledge cannot exceed 20 years.

C. Application Acceptance Deadlines

As stated in s. NR 162.06(7), Wis. Adm. Code, acceptance of a CFWP application triggers an 8-month deadline for closing on the loan in addition to being the point in time when funding is officially allocated to the project. In accordance with the policy that projects receiving PF should be ready to proceed, all applications for projects that are allocated PF will be accepted by no later than June 30, 2023. If an application has not met the conditions for application acceptance by this date, the PF for the project will be released and rolled forward to the SFY 2024 funding list. The municipality may then choose to close an SFY 2023 loan without PF when ready, or reapply for financial assistance for the project in a future fiscal year to compete again for PF.

For projects that were not allocated PF, the application acceptance deadline is the December 31 following the end of the SFY in which the application was submitted (for SFY 2023 this date would be December 31, 2023).

Requirements that must be met in order for an application to be accepted and funding allocated, are detailed in s. 281.58(9m), Wis. Stats.

In the event of a disaster, as declared by the state or federal government, project priorities may be adjusted to ensure protection of public health and the environment.

VIII. POLICY CHANGES IMPLEMENTED DURING SFY 2019

A number of policy changes were implemented starting in SFY 2019. These changes are still in effect for SFY 2023. Changes that are not addressed elsewhere in this IUP are briefly described below.

A. Online Application Submittal and Elimination of Grace Period

All CWFP applications, other than those for the Pilot Projects Program, are required to be submitted through the new online application system. Information on accessing and using the online application system is [available on the DNR website](#).

Since the system includes prompts whenever attachments are required, there is no longer a grace period for missing items. **All required information must be included with the application, by the application deadline, in order for the project to be included on the funding list.** Any application that is incomplete as of the application deadline will be added to the list as a supplemental application once the missing information is received and will not be eligible to receive principal forgiveness.

B. Median Household Income (MHI) Cutoff Clarification

The MHI cutoff for eligibility, interest rate, and point determinations is 80.0%. All MHI calculations will be rounded to the third place after the decimal. This policy is truer to language in sections of the CWFP and SDWLP statutes that read XX% or less. For example, 80.0001 would be equal to 80.000%; 80.0005 would be equal to 80.001% and considered greater than 80.000%.

IX. COMPLIANCE WITH FEDERAL REQUIREMENTS

A. Consolidated Appropriations Act of 2022

The FFY 2022 Consolidated Appropriations Act (P.L. 117-103) again contained additional requirements beyond what is included in the federal regulations governing the CWSRF. The requirements for FFY 2022 include: a provision that not less than 10% of the amount of the FFY 2022 CWSRF Base Capitalization Grant be used to provide additional subsidization in the form of grants, principal forgiveness, or negative interest rate loans; and a requirement that not less than 10% of the capitalization grants be used for projects or portions of projects that address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities. These requirements, as well as additional federal requirements, are discussed below.

B. Fiscal Sustainability Plans - NO LONGER REQUIRED

Section 603(d)(1)(E) of the FWPCA, as amended by the Water Resources Reform and Development Act (WRRDA), requires any recipient of a loan, for which the application was submitted on or after October 1, 2014, that involves the repair, replacement, or expansion of a publicly owned treatment works, to develop and implement a Fiscal Sustainability Plan (FSP). FSP development and implementation was required by the CWFP from SFY 2016 through SFY 2021.

As mentioned in Section II, the CWFP does not technically issue loans, but rather purchases the general obligation or revenue bonds of municipal governments. In an effort to reduce the burden of obtaining CWFP funding, developing and implementing an FSP is no longer required. Development of FSPs or asset management plans is still encouraged and will be considered an eligible project cost.

C. American Iron and Steel

WRRDA made permanent the use of American Iron and Steel requirement that was first imposed by the FFY 2014 Appropriations Act. This required SRF assistance recipients to use iron and steel products that are produced in the United States in projects for the construction, alteration, maintenance, or repair of a public water system or treatment works if the project was funded through an assistance agreement executed beginning January 17, 2014, and the project's plans and specifications were approved after that date. Certain exceptions to this requirement applied and two national waivers were issued. When WRRDA was passed, it effectively reset the plans and specifications approval date that triggered compliance to June 10, 2014 for projects funded by the CWSRF. The use of American Iron and Steel requirements apply to all funding recipients.

Information on this requirement has been detailed in the program newsletter and on the program website. Language is included in the Financial Assistance Agreements and all applicants are required to certify that they will meet the requirements before closing their loans. Construction Management Engineers review product-specific certifications from manufacturers prior to signing off on a final inspection of a project that included iron and/or steel products, and an additional certification that the requirements were met is required as part of the loan closeout process. For more information on the requirement and the certification form, see [this website](#).

D. Davis-Bacon Act

Section 602(b)(6) of the FWPCA, as amended by WRRDA, made permanent the requirement for compliance with the prevailing wage rate requirements of section 513 of the FWPCA. Information has been posted on the program website stating that Davis-Bacon and Related Acts requirements apply to all treatment works projects. Required contract language is also [posted on the website](#). All treatment works projects receiving funding are required to certify their weekly payrolls on their disbursement request forms as well as completing an additional certification at project closeout. Compliance is further verified during field inspections of projects.

E. Cost and Effectiveness Certification

For financial assistance applications submitted starting October 1, 2015, section 602(b)(13) of the FWPCA, as amended by WRRDA, requires assistance recipients to certify that they: a) have studied and evaluated the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the proposed project, and b) have selected, to the maximum extent practicable, a project that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, taking into account the cost of constructing, operating and maintaining, and replacing the project. The Cost and Effectiveness Certification [Form 8700-375](#) is available on the DNR website. This form must be signed by the project's design engineer and the municipality's authorized representative and must be submitted along with the Financial Assistance Application. Information on the requirement can be found on DNR's [website](#).

F. Bipartisan Infrastructure Law

President Biden signed the Bipartisan Infrastructure Law (BIL) also known as the "Infrastructure Investment and Jobs Act of 2021", on November 15, 2021 (P.L. 117-58). It included \$50 billion for the EPA to strengthen the nation's drinking water and wastewater systems—the single largest investment in clean water that the federal government has ever made.

The BIL provides two appropriations for the CWSRF for each federal fiscal year 2022 through 2026 (see the table below). The Base Capitalization Grant amount is set through the annual congressional appropriations process and is therefore not

included in the table.

Clean Water Capitalization Grant	Annual Estimated Funding
Supplemental	\$48.1–\$65.8 million
Emerging Contaminants	\$2.5–\$5.6 million

- **SRF Supplemental** – All CWSRF-eligible projects may be funded from this appropriation. Forty-nine percent of the appropriation is required to be provided as additional subsidy to municipalities that meet the Affordability Criteria in Section X.B. CWSRF Supplemental programmatic requirements mirror the Base CWSRF program.
- **Emerging Contaminants** – The BIL provides a separate appropriation in the amount of \$2,527,000 for CWSRF-eligible projects to address emerging contaminants with a focus on perfluoroalkyl and polyfluoroalkyl substances. There is no state match requirement, and all funding is required to be awarded as additional subsidy (principal forgiveness). Currently, DNR plans to apply for FFY 2022 Emerging Contaminants Capitalization Grant by September 2022, during the first year of availability. As mentioned in Section V, DNR plans on transferring all the FFY 2022 Clean Water Emerging Contaminants Capitalization Grant to the SDWLP.
- **Base Capitalization Grant Additional Subsidy Amendment** – The BIL amended the CWA to require states to use at least 10%, but no more than 30%, of the Base Capitalization Grant for additional subsidy to municipalities that meet the Affordability Criteria as described in Section X.B.
- **Build America, Buy America** – The BIL established the Build America, Buy America (BABA) Act which introduces new domestic sourcing requirements for SRF programs. Pursuant to Section 70914(c) of the BABA Act, EPA may waive the Buy America preference in cases where EPA finds that applying the domestic content procurement preference would be inconsistent with the public interest.

The BABA act requires that infrastructure projects that receive federal funding be built with iron, steel, construction materials and manufactured products that are produced in America, which is defined as:

- **Iron and Steel:** all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- **Construction Materials:** all manufacturing processes for the construction material occurred in the United States.
- **Manufactured Products:** the manufactured product is manufactured in the United States and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product.

On September 2, 2022, EPA released their final BABA [Adjustment Period Waiver for State Revolving Funds](#). It covers SRF projects that have initiated design planning prior to May 14, 2022, the statutory effective date of the BABA requirements. “Initiated project design planning” is defined in the waiver. There is no expiration date for the waiver and it does not apply to BABA requirements iron and steel. In addition, BABA is considered a federal cross-cutting requirement that only applies to federal equivalency projects.

G. Federal Equivalency

The EPA requires States to designate projects in an amount equal to each year's capitalization grants to meet some additional federal requirements. These projects are referred to as Federal Equivalency projects.

As of SFY 2023, CWFP projects in municipalities with a population of 20,000 or greater, other than Pilot Projects, are designated as federal equivalency. To confirm whether your project has been designated as federal equivalency, refer to the CWFP [Project Priority List](#) (PPL).

Federal equivalency projects are required to meet several additional requirements, as applicable. These requirements include:

- Enhancing public awareness of state revolving fund assistance agreements – also referred to as a Signage requirement. This requirement can be met through the following methods:
 - Standard signage;
 - Posters or wall signage in a public building or location;
 - Newspaper or periodical advertisement for project construction, groundbreaking ceremony or operation of the new or improved facility;
 - Online signage placed on community website or social media outlet; or
 - Press release.
- Compliance with Federal Single Audit Act, 2 CFR 200 Subpart F.
- Compliance with the Build America, Buy America Act, P.L. 117-58, §§ 70901-52.
- Compliance with Prohibition on certain telecommunication and video surveillance services or equipment, Section 889 of P.L. 115-232.
- Compliance with Equal Employment Opportunity, Executive Order 11246.
- Promoting the Use of Small, Minority, and Women-owned Businesses, Executive Orders 11625, 12138, and 12432.
- Compliance with Debarment and Suspension, Executive Order 12549.
- Compliance with Demonstration Cities and Metropolitan Development Act, P.L. 89-754, as amended.
- Compliance with Uniform Relocation Assistance and Real Property Acquisition Policies Act, P.L. 91-646, as amended.
- Completion and submittal of [DNR Form 8700-201](#), Federal Equivalency Projects Assurances and Certification.
- Compliance with Climate-Related Financial Risk, Executive Order 14030, which reinstates Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input, Executive Order 13690.
- Compliance with all Architectural and Engineering (A/E) Procurement requirements (see Section IX.H).

H. Qualifications-Based Procurement of A/E Services

Section 602(b)(14) of the FWPCA, as amended by WRRDA, states that for projects designated as federal equivalency, all architectural and engineering (A/E) contracts must comply with the qualifications-based procurement processes for A/E services as identified in 40 U.S.C. 1101 *et seq.*, or an equivalent state requirement.

This applies to projects designated as federal equivalency beginning with SFY 2023. DNR recognizes that some SFY 2023 CWFP projects designated as equivalency may be unable to meet this requirement as A/E contracts have already been established. In these instances, applicants should contact DNR to explore alternative options that may be available depending on the circumstances.

The requirements of 40 U.S.C. 1101 et seq. are:

- Public announcement of the solicitation (e.g., a Request for Qualifications).
- Evaluation and ranking of the submitted qualifications statements based on established, publicly available criteria (e.g., identified in the solicitation).
- Evaluation criteria should be based on demonstrated competence and qualification for the type of professional services required (e.g., past performance, specialized experience, and technical competence in the type of work required).
- Discussion with at least three firms to consider anticipated concepts and compare alternative methods for furnishing services.
- Selection of at least three firms considered to be the most highly qualified to provide the services required.
- Contract negotiation with the most highly qualified firm to determine compensation that is fair and reasonable based on a clear understanding of the project scope, complexity, professional nature, and the estimated value of the services to be rendered.
- In the event that a contract cannot be negotiated with the most highly qualified firm, negotiation continues in order of qualification.

I. Green Project Reserve

The FFY 2022 Consolidated Appropriations Act (P.L. 117-103) continued the Green Project Reserve (GPR) requirements from recent years that the CWFP, to the extent there are sufficient eligible project applications, must award not less than 10% of the capitalization grants to fund projects or portions of projects meeting GPR requirements.

Clean Water Capitalization Grant	Minimum GPR Requirements
Base	\$3,128,100
Supplemental	\$4,811,600
Emerging Contaminants	\$252,700

The CWFP Project Priority List includes numerous projects with components that meet GPR requirements, most of them related to energy efficiency such as blower and pump upgrades, improvements to aeration systems, and infiltration and inflow reduction.

In addition, the EIF partnered with *Focus on Energy* in order to facilitate the funding of energy efficient processes and upgrades at Wisconsin’s WWTPs and municipal drinking water systems. Section 196.374, Wis. Stats., requires energy utilities to collectively establish and fund statewide energy efficiency and renewable resource programs. Using funds collected for this purpose, *Focus on Energy* provides grants of up to \$200,000 per project and \$400,000 per municipality per calendar year under the Business Incentives Program, the Large Energy Users Program, and the Agriculture, Schools and Government Facilities Program to fund energy efficiency projects. The EIF started working with *Focus on Energy* during SFY 2013 to implement a process for facilitating the incorporation of energy efficiency into projects that are being funded through the CWFP and SDWLP. That effort was expanded to incorporate a Priority PF program that matches funds received as a *Focus on Energy* incentive for projects receiving CWFP loans. See Section X.F below for more information on this energy efficiency incentive program. Though portions of projects that are funded by *Focus on Energy* grants cannot be counted towards Wisconsin’s GPR requirements, this is still expected to help increase GPR funding by the CWFP.

All projects or portions of projects that meet GPR requirements will be identified in the SFY 2023 Annual Report submitted to EPA.

J. Data Reporting

All projects funded by the CWFP will be reported in the Office of Water State Revolving Fund (OWSRF) database on an ongoing basis, as required by U.S. EPA. In addition, Wisconsin will meet the reporting requirements set forth by the Federal Funding Accountability and Transparency Act (FFATA) and will report annually into the National Information Management System (NIMS) database, which is included in the OWSRF database.

X. AFFORDABILITY CRITERIA AND PRINCIPAL FORGIVENESS

The CWFP plans to make available a total of \$51,797,010 of PF available in SFY 2023: \$36,089,240 from the FFY 2022 Base and Supplemental Capitalization Grants plus an additional \$15,707,770 in PF rolled forward from SFY 2022. Of this amount, \$41,547,010 will be for General PF and Regionalization Priority PF (described in Section X.D below), and \$10,250,000 will be reserved for the Phosphorus Reduction and Energy Efficiency Priority PF programs described in Sections X.E-F below. It is possible for a project to be allocated PF from more than one of the Priority PF programs.

As mentioned in the Short-Term Goals, DNR will evaluate the feasibility, benefit, and public opinion of incentivizing projects that target unsewered areas serving existing homes in SFY 2024. This incentivization may take the form of priority PF.

A. Deadline for Applying for Principal Forgiveness Funds

The CWFP operates on a continuous funding cycle. Applicants who met the October 31, 2021 Intent to Apply deadline may submit an application at any time during SFY 2023. A funding list is necessary in order to allocate PF funds. Applications submitted by September 30, 2022 will be ranked in priority score order for the purpose of allocating PF. Applications received after this date will not be eligible for PF other than the Energy Efficiency PF (described below).

B. Affordability Criteria and Principal Forgiveness Eligibility

EPA's BIL Implementation memorandum dated March 8, 2022, describes a key priority of BIL as "[ensuring] that disadvantaged communities benefit equitably from the historic investment in water infrastructure." Additionally, EPA expects states to, "Evaluate and revise, as needed, the CWSRF affordability criteria." To meet this expectation, Wisconsin reviewed numerous potential criteria and other policy changes. As a result of this work, a revised Affordability Criteria is detailed below.

In summary, the revised Affordability Criteria adds two new metrics to gauge the financial need of a municipalities' residents. Those criteria are detailed in Table 3 and Table 6. In addition, the criteria of county unemployment rate and population trend now have more tiers as detailed in Table 4 and Table 5. Furthermore, more tiers are proposed in Table 7 than were used in the previous SFY. For consistency, the PF scoring methodology is now the same for both the CWFP and SDWLP programs.

The PF allocation methodology is structured to allocate PF funds to the highest priority projects in municipalities with the greatest financial need. **To qualify for General PF or Phosphorus Reduction Priority PF, an applicant must meet the Affordability Criteria described below by receiving a total of at least 60 points in Tables 1–6 with one exception.** For projects funded by the CWFP, the budget and planning process may take a year or longer. In recognition of the potential burdens placed on municipalities that would suddenly no longer be eligible for PF in SFY 2023, any applicant that meets the

Affordability Criteria described in the SFY 2022 Final CWFIP IUP but does not meet the Affordability Criteria described in the SFY 2023 CWFIP IUP, will be eligible for 10% PF in SFY 2023. This grandfathering will only apply to SFY 2023 projects and will not carry forward to SFY 2024. To determine whether an applicant would have qualified under the Affordability Criteria in the SFY 2022 Final CWFIP IUP, DNR will use the same data that will be used for SFY 2023 applicants. Recipients of Regionalization and Energy Efficiency Priority PF are not required to meet the affordability criteria as federal regulations allow additional subsidy to be used for construction of projects promoting sustainability or addressing energy efficiency goals.

See the tables and further description below.

Table 1	
Points	Population
0	≥10,000
10	8,500–9,999
20	5,000–8,499
30	3,000–4,999
40	2,000–2,999
50	1,500–1,999
60	1,000–1,499
70	500–999
80	250–499
100	0-249

Table 2	
Points	MHI Percent
0	126%+
5	116% to <126%
10	106% to <116%
15	101% to <106%
20	96% to <101%
25	91% to <96%
30	86% to <91%
40	81% to <86%
50	76% to <81%
60	71% to <76%
70	66% to <71%
85	61% to <66%
100	<61%

Table 3	
Points	Family Poverty Percentage
0	<8%
5	8% to <12%
10	12% to <16%
20	16% to <20%
30	20% to <24%
40	24% to <28%
50	28% to <32%
65	32% to <36%
80	36% to <40%
100	40%+

Table 4	
Points	Population Trend
5	Projected to lose 5% to less than 10% of population over 20 years
10	Projected to lose 10% to less than 15% of population over 20 years
15	Projected to lose 15% or greater of population over 20 years

Table 5	
Points	County Unemployment Rate
10	County unemployment rate is greater than the state's rate by less than one percentage point
20	County unemployment rate is greater than the state's rate by one to less than two percentage points
25	County unemployment rate is greater than the state's rate by two percentage points or greater

Table 6	
Points	Lowest Quintile Household Income Upper Limit (LQI)
10	Municipal LQI 70% to less than 80% of Wisconsin LQI
15	Municipal LQI 60% to less than 70% of Wisconsin LQI
20	Municipal LQI less than 60% of Wisconsin LQI

Table 7	
Points Received in Tables 1-6	Qualified PF Percentage
0-59	No PF
60-69	10%
70-79	15%
80-94	20%
95-109	25%
110-124	30%
125-139	35%
140-154	40%
155-169	45%
170-184	50%
185-199	55%
200-249	60%
250-360	65%

- **Table 1** – Population points are awarded under Table 1 with the highest points assigned to the smallest populations. The points in this table are doubled from their previous values in order to maintain this criterion’s significance after adding additional economic need criteria, namely through Table 3 and Table 6. Data for this criterion comes from the DOA’s Demographic Service Center.
- **Table 2** – Median Household Income (MHI) points are awarded based on the municipality’s MHI as a percent of the state mean MHI with the highest points assigned to the lowest MHI percentages. This criterion uses 5-year estimates from the American Community Survey, table ID B19013 from data.census.gov. More details regarding this criterion can be found [here](#).
- **Table 3** – Family poverty percentage points are awarded based on the percentage of families in a municipality with incomes below 200% of the federal poverty level. This criterion uses 5-year estimates from the American Community Survey, table ID S1702 from data.census.gov.
- **Table 4** – Population trend points are awarded to municipalities that are projected to lose 5% or greater of their population over 20 years. Data for this criterion comes from the DOA’s Demographic Service Center. Currently, DOA’s Demographic Service Center only has municipal population projections available as far as 2040; therefore, population trend is calculated using 2020 population estimates in comparison to 2040 projections.
- **Table 5** – Unemployment points are awarded based on county unemployment rates in relation to the average state unemployment rate. Data for this criterion comes from the [Wisconsin Department of Workforce Development](#). County unemployment rates are calculated by averaging not seasonally adjusted, final unemployment rates from the most recent 12 months of data available around the start of the SFY.
- **Table 6** – Lowest quintile household income upper limits (LQI) points are awarded based on the municipality’s LQI as a percent of the state LQI with the highest points assigned to the lowest LQI percentages. This criterion uses 5-year estimates from the American Community Survey, table ID B19080 from data.census.gov.

To calculate the LQI in B19080, the ACS groups all household incomes for a given place into five equal parts. The first quintile (or lowest quintile) is the value that defines the upper limit of the lowest one-fifth of the cases. For

example, if there are a total of 10 households sampled in a community, the lowest two household incomes are the lowest quintile. Of those two households, if one has an income of \$10,000 and the other has an income of \$14,000, then upper limit of the lowest quintile would be \$14,000.

- **Table 7** – To calculate a value in Table 7, a municipality's scores from Tables 1 through 6 are summed. The summed value determines the percentage of PF the municipality qualifies for in Table 7. Municipalities that qualify for PF meet the state's Affordability Criteria. Table 7 now includes additional tiers to more accurately reflect a municipality's score and to smooth the transition between the tiers.
- **Green Tier** – Projects in municipalities that are [Green Tier Legacy Communities](#) are eligible for an additional 10% PF on top of the percentage determined by Table 7, with the caveat that no municipality can receive PF for more than 70% of total project costs. The municipality must have signed the Green Tier Charter prior to the application deadline date. A minimum score of 60 points is required in order to qualify for the additional 10% PF.
- **Data Sources** – In SFY 2023, data for Tables 1 and 2 has already been gathered and published. Table 1 uses final population estimates with a reference date of January 1, 2021. Table 2 uses American Community Survey 5-year estimates from 2015-2019. Tables 3-6 will use the most recent data available around the start of the SFY, July 1. Starting in SFY 2024, data for all tables will use the most recent data available around the start of the SFY.

C. Allocation of General PF

The following criteria apply to General PF:

- The General PF cap is \$2,000,000 per municipality, per SFY.
- A single scored project cannot receive more than one full PF allocation (based on the eligible PF percentage and/or the cap) even if that project is funded from two or more SFYs. Section NR 162.003(80), Wis. Adm. Code defines a scored project as: a project for which the DNR reviewed the scope provided by the applicant and assigned a priority score based on the scope determined by the DNR to be eligible for financial assistance under a single CWFP project number.
- General PF will be allocated in priority score order to applications received by the September 30, 2022, Principal Forgiveness application deadline. Applicants must meet the Affordability Criteria by receiving a total of at least 60 points in Tables 1–6 to qualify for General PF.
- General PF funds may be reallocated within the fundable range for General PF on the final funding list. If any General PF remains after all projects in the General PF fundable range have closed on loans, this PF will be moved forward to the next year's funding list. No General PF will roll down past the last project identified in the fundable range for General PF on the Final CWFP SFY 2023 PF Funding List. This restriction does not apply to the three types of Priority PF discussed below (Regionalization PF, Phosphorus Reduction PF, and Energy Efficiency PF).

D. Regionalization PF

Regionalization PF will be available for projects where at least one wastewater treatment plant's (WWTP's) discharges are being eliminated and the sewage is being redirected to a WWTP in a neighboring municipality. **Applicants for Regionalization projects are not required to meet the affordability criteria** as federal regulations allow the use of additional subsidy under WRRDA for projects that promote sustainability. Applicants wishing to apply for Regionalization PF must submit their application by the September 30th deadline for applying for PF.

Regionalization PF will be fully allocated to qualifying applicants before allocating General PF or other Priority PF on the Funding List. Some additional PF will be reserved for potential budget increases on regionalization projects.

Regionalization PF will be allocated at 70% of project costs, up to a cap of \$3,000,000 for elimination of the first WWTP's discharges, with an additional \$1,500,000 cap for each additional WWTP that is eliminating their discharges. This amount is in addition to any General PF or other Priority PF that the project is allocated but is subject to the caveat that no municipality can receive PF for more than 70% of total project costs. Regionalization PF will be allocated proportionally to the municipalities involved based on the costs of the regionalization project attributed to each municipality.

E. Phosphorus Reduction PF

Phosphorus Reduction PF totaling \$10,000,000 will be available in SFY 2023 to applicants meeting all the following criteria:

- Receive at least 60 points in Table 7 of Section X.B.
- Discharge less than 150 pounds of phosphorus per month (based on average loads from the past five years) or have an alternate phosphorus limit (pursuant to s. NR 217.04(2), Wis. Adm. Code), or serve a population of less than 10,000.
 - For applicants with an alternative phosphorus limit per s. NR 217.04(2), Wis. Adm. Code, the phosphorus-related project must increase wastewater user charges to greater than 2% of the applicant's MHI in order to qualify.
- Have a final water quality-based effluent limit for phosphorus less than or equal to 0.3 mg/L as a monthly average limit (or 0.1 mg/L as a 6-month average limit), involve a new installation of filtration or a similar phosphorus removal process which is necessitated by a stringent phosphorus limitation, or be located in an implemented TMDL area for phosphorus.
- Must involve phosphorus reduction-related upgrades to the WWTP. The Phosphorus Reduction PF is only calculated on the phosphorus reduction-related WWTP upgrade costs.
- Must involve upgrades to the WWTP that are necessary because of the final or interim phosphorus limitation. This includes upgrades that will allow treatment to lower levels of phosphorus in a surface water discharge or construction of groundwater discharge facilities to eliminate or reduce discharge of phosphorus to a surface water.

The above criteria are subject to change in the future, as determined by the DNR.

The phosphorus reduction incentive will be available at two levels:

- For applicants where the project covered by the application is necessary in order to meet the final water quality-based effluent limit for phosphorus, the PF incentive will be equal to 50% of the phosphorus reduction-related project costs, as determined by the DNR, up to a cap of \$1,000,000.
- For applicants where the project covered by the application is necessary in order to meet an interim limit for phosphorus that is less stringent than the final limit, the PF incentive will be equal to 25% of the phosphorus reduction-related project costs, as determined by the DNR, up to a cap of \$500,000.
- There is a lifetime cap of \$1,000,000 in Phosphorus Reduction PF for any one municipality, regardless of how many phosphorus reduction-related projects are needed to meet final limits.
- The Phosphorus Reduction PF is only calculated on the phosphorus reduction-related WWTP upgrade costs. The overall phosphorus-related capital costs will be calculated by totaling the difference in capital costs of the cost-effective alternative with new phosphorus limits vs. capital costs of the cost-effective alternative without new

phosphorus limits.

This PF incentive is in addition to any other Priority PF that the project is allocated. Priority PF amounts are calculated and deducted before any General PF is allocated. All PF is subject to the caveat that no project can receive PF for more than 70% of total project costs. If more eligible applications are received than there is Phosphorus Reduction PF to cover, the Phosphorus Reduction PF will be allocated in priority score order.

F. Energy Efficiency PF

Matching funds in the form of PF will be allocated for projects or project components that are receiving an incentive through *Focus on Energy*. This applies to both custom and prescriptive incentives. **Applicants are no longer required to qualify under the affordability criteria in order to be eligible.** This will be a one-to-one match of the *Focus on Energy* funds up to a cap of \$50,000 per scored project, as defined in Section X.C above. A total of \$250,000 will be available in SFY 2023 for this Energy Efficiency matching funds PF incentive. These matching funds will be available on a first-come, first-served basis. Documentation of the incentive agreement from *Focus on Energy* will be required in order for these funds to be awarded. Pre-approval of projects in order to obtain the necessary documentation can be requested from *Focus on Energy*. This documentation is not required at the time of application submittal; therefore, the allocation of these funds may not yet be determined at the time the PF Funding List is published. An application that is submitted after the September 30th deadline for PF applications can still be considered for the Energy Efficiency matching funds if funds are still available.

G. Other Policies Regarding Principal Forgiveness

- **Disbursement of PF** – PF funds are disbursed as a percentage of each disbursement request, after the minimum loan proceeds disbursement of 5% or \$50,000 that is required by IRS regulations. In general, the percentage used is the percentage of PF for which the municipality is eligible, increased for the inclusion of any priority PF, up to the cap, if applicable. Adjustments will also be made if market rate costs are included in the loan. When Energy Efficiency PF is the only type of PF included in an award, that PF will be disbursed in full after the minimum loan disbursement at loan closing of 5% or \$50,000 is met. Please note that, although DNR and DOA will attempt to calculate the proper PF disbursement percentage to account for all variables, if a municipality does not request all budgeted loan costs, this may impact whether the municipality receives all the PF allocated to the project.
- **Calculation order for more than one type of PF** – When calculating PF amounts for a project that will be allocated more than one type of PF, Priority PF is calculated first, then General PF.
- **PF cannot exceed 70% of project costs** – Due to statutory restrictions (s. 281.58(8)(g), Wis. Stats.), no project can receive PF that results in the municipality paying less than 30% of the cost of the project. This includes Priority PF as well as General PF.
- **No PF on market rate costs** – PF will not be calculated on project costs that are eligible only for market rate financing. Market rate costs will be subtracted from the project total before calculating the PF award for a project.
- **No PF on costs that are not included in the total CWFP award amount** – When calculating project costs that are eligible for PF, only amounts that are financed through the CWFP will be included in the PF calculation (as mentioned above, market rate costs are deducted before calculating General PF amounts even if they are included in the award). Internal funds, as well as other sources of funding such as loan or grant, will be deducted before the CWFP calculates PF.
- **Jointly-funded Financial Hardship Scenarios** – If a municipality is in dire financial hardship and cannot fund a project while complying with the policies above, the CWFP will collaborate with other long-term, affordable funding sources on a

case-by-case basis to consider available options to meet the financial needs of the municipality's project.

- **Readiness-to-proceed deadline** – In an effort to award PF to projects that are ready to proceed to construction, the CWFP has imposed a readiness-to-proceed deadline for projects that are allocated PF on the Funding List. All required bid documentation (including an executed construction contract) is required to be uploaded to the online system or submitted electronically to the assigned project manager **no later than June 30, 2023**, the end of the state fiscal year. If the required bid documentation is not received by this date, the PF for the project will be released and rolled forward to the SFY 2024 funding list. The municipality may then choose to close an SFY 2023 loan without PF when ready or reapply for financial assistance for the project in a future fiscal year to compete again for PF. Limited exceptions may be made to this policy, based on extenuating circumstances, on a case-by-case basis. In addition, as stated in Section VII. C, applications for projects that have been allocated PF on the funding list must be accepted by the DNR no later than June 30, 2023. Loans must be closed within 8 months of application acceptance.
- **PF restrictions on refinancing** – Due to restrictions contained in the FFY 2022 Consolidated Appropriations Act, PF authorized by the Appropriations Act is not allowed to be used to refinance costs paid by debt incurred prior to March 15, 2022, the date the Appropriations Act was enacted. This restriction only applies to the PF required by the Appropriations Act (10% of the Base Capitalization Grant), not to any additional PF that is provided under other authorities.
- **PF allocations on two Funding Lists not allowed** – If a project has been allocated PF on a Funding List and the loan for that project has not yet closed by the PF application deadline for the following SFY, the previous application must be withdrawn in order for PF to be allocated to the second application. Application withdrawal may occur after submittal of the second application but **must occur before publication of the Funding List**. Affected applicants should contact the CWFP Coordinator to discuss.

H. Principal Forgiveness from Previous Years

All PF from the FFY 2010 through 20120 capitalization grants has been awarded. PF in the amount of \$15,707,770 from the FFY 2021 grant is being rolled forward to SFY 2023.

XI. PILOT PROJECTS PROGRAM

The CWFP resumed work on the Pilot Projects Program over the past two years in order to explore ways to fund non-traditional projects. The initial focus of the program has been on funding water quality trading (WQT) projects for phosphorus reduction. Other DNR-approved approaches to meeting WPDES (Wisconsin Pollution Discharge Elimination System) permit requirements, as well as other non-traditional projects or funding mechanisms, are being considered on a case-by-case basis.

Pilot projects will be funded at an interest rate as low as 0% and are not eligible for principal forgiveness. Loan terms may vary up to thirty years. The loan term will be evaluated on an individual project basis depending on the useful life of the project, the length of the agreement with any involved landowners, and/or the permit term.

In order to be eligible, pilot projects must include construction or a capital cost (“hard practices”). Projects that consist solely of cropping practices (“soft practices”) are ineligible. The purchase of land is considered a capital cost. Purchasing pollution trading credits and projects that are considered maintenance are not eligible.

Pilot projects must meet the state statutory requirement that the CWFP may only fund a project that has been determined to be the most cost-effective alternative [s. 281.58(8)(e), Wis. Stats.] as well as the federal requirement regarding studying the

cost and effectiveness of the project and selecting the alternative that, to the maximum extent practicable, maximizes the potential for efficient water use, reuse, recapture and conservation, and energy conservation [FWPCA s. 602(b)(13)] . A certification form to capture both the state and federal requirements has been developed and is available on our [website](#).

Pilot projects are subject to different requirements than typical CWFP projects. These differences include:

- Depending on the specific project being funded, many pilot projects will not require an environmental review.
- For agricultural runoff projects, submittal of plans and specifications shall be in accordance with the requirements of the WQT program. DNR review and approval of the WQT plan and agreement shall constitute approval of the plans and specifications. (For agricultural runoff projects, many Best Management Practices (BMPs) will be designed and constructed according to Natural Resources Conservation Service (NRCS) technical standards.)
- If a pilot project includes an urban storm water practice, submittal of plans and specifications may be required. This submittal would be done in the same manner as for a regular CWFP storm water project.
- The applicability of Disadvantaged Business Enterprise (DBE) solicitation requirements depends on who the contracting parties are. If a municipality contracts directly for construction work, the requirements for DBE solicitation apply, but if a landowner is doing the contracting, DBE solicitation does not apply.
- The use of American Iron and Steel requirement does not apply.
- Under most circumstances, Davis-Bacon wage rate requirements do not apply.
- Pilot projects are not currently being scored. There is the potential that this could change in the future.
- Borrowers will secure pilot project loans by issuing taxable bonds to the CWFP. Exemptions to this will be dealt with on a case-by-case basis.

The Pilot Projects [application form](#) is available on our website. This application will not be submitted through the online application system but rather should be completed, printed and signed, then scanned and submitted by email to DNRCFELPilot@wisconsin.gov. The Pilot Projects Program may evolve rapidly as we gain experience working on projects. Note that under s. 281.58(2), Wis. Stats., the EIF is not required to promulgate rules for the Pilot Projects Program.

XII. SEWER OVERFLOW AND STORMWATER REUSE MUNICIPAL GRANTS PROGRAM

The America's Water Infrastructure Act of 2018 amended section 221 of the FWPCA to reauthorize the Sewer Overflow and Stormwater Reuse Municipal Grants Program (OSG). The OSG program is intended to address local governments' infrastructure needs for combined sewer overflows (CSO), sanitary sewer overflows (SSO), water reuse, and stormwater management. The BIL further amended section 221 of the FWPCA. DNR is requesting a total award for FFYs 2020 and 2021 of \$1,229,000 in a separate grant application to EPA.

Project eligibilities for OSG funding fall under three general categories: 1) combined sewer overflow correction, 2) sanitary sewer overflow correction, and 3) stormwater and subsurface drainage water. Under FWPCA section 221(a)(1), assistance may be provided to municipalities for planning, design, and construction of treatment works to intercept, transport, control, treat, or reuse municipal combined sewer overflows, municipal sanitary sewer overflows, or stormwater, and for any other measures to manage, reduce, treat, or recapture stormwater or subsurface drainage water eligible for assistance under FWPCA section 603(c).

EPA's [OSG Implementation Document](#), requires a non-federal 20% cost share. DNR plans to meet the cost-share

requirement by selecting projects also funded by the [Urban Nonpoint Source and Storm Water Management \(UNPS & SW\) Construction Grant Program](#). The UNPS & SW Construction Grant Program is a cost-share reimbursement grant program and offers competitive grants to local governments for the control of pollution from diffuse urban sources that is carried by storm water runoff. The total cost share expected from the UNPS & SW Program during SFY 2023 is \$357,645.

The draft OSG project list includes OSG-eligible projects from the 2023 UNPS & SW Construction Grant Program application list. UNPS & SW applications were prioritized using Affordability Criteria scores from Table 7 of Section X.B, and final project selection was guided by OSG minimum allocation requirements for green infrastructure, rural communities, and financially distressed communities.

The OSG program is still under development, including the SFY 2024 application process and program administration. Project consideration in future years may be extended to eligible projects on the CWFPS Project Priority List. Kevin Olson (kevin.olson@wisconsin.gov or 608-234-2238) is the primary contact for this program.

XIII. PROJECT PRIORITY SCORING

Chapter NR 162, Wis. Adm. Code, was last revised during SFY 2015. The revised code went into effect on July 1, 2015, and this change affected priority scores starting with SFY 2017 funding. Projects are scored under one of three categories: sewage collection systems, wastewater treatment plants, or storm water projects. Scoring criteria for pilot projects has not been established.

Collection system projects are scored on three factors:

- project type,
- human health, and
- regionalization.

Wastewater treatment plant projects are scored on four factors:

- project type,
- human health,
- regionalization, and
- water quality criteria.

Storm water projects are scored on three factors:

- project type,
- human health, and
- water quality criteria.

XIV. WATER QUALITY AND OTHER SCORING CRITERIA FOR SFY 2024

For wastewater treatment systems, one of the scoring criteria in ch. NR 162, Wis. Adm. Code, is based on water quality parameters, and scores will be assigned based on WPDES permit limits. Because this portion of the criteria is more fluid (new parameters, etc.), the values for scoring may be subject to more frequent change than the rule revision process allows. Therefore, the rule states that this portion of the scoring system will be published annually in the IUP.

Specifically, s. NR 162.50(2)(c)1, Wis. Adm. Code, states that: “The department shall establish criteria and associated points for various water quality parameters in the CWFIP intended use plan.” Section NR 162.50(2)(c)2, Wis. Adm. Code, states that: “The department shall use the current facility permit limit for calculating the points assigned to the water quality criteria category.” If a new permit is issued between submittal of the ITA/PERF and the application, a re-evaluation can be requested. In addition, if a project is being constructed for the purpose of meeting new limits contained in a compliance schedule, a re-evaluation can be requested at the time of application submittal in order to incorporate the points applicable to those new limits.

The point values below for water quality parameters will be used in scoring projects as follows:

- BOD limit (mg/l) - monthly limits or most stringent if seasonal
 - >29.99 = 2
 - 20-29.99 = 5
 - 15-19.99 = 8
 - 10-14.99 = 12
 - <10 = 16
- CBOD limit (mg/l) - monthly limits or most stringent if seasonal
 - > 24.99 = 2
 - 20-24.99 = 5
 - 15-19.99 = 8
 - 10-14.99 = 12
 - < 10 = 16
- If a permit has both a BOD and CBOD limit, then only the highest scoring criteria will be added to the total PERF score.
- TSS limit (mg/l) - monthly limits or most stringent if seasonal
 - > 29.99 = 2
 - 20-29.99 = 5
 - 15-19.99 = 8
 - 10-14.99 = 12
 - < 10 = 16
- DO limit (mg/l)
 - 4-6.99 = 1
 - > 6.99 = 3
- Ammonia limit (mg/l) - monthly limits or most stringent if seasonal – choose the higher of chronic or acute
 - Acute = 5
 - Chronic:
 - > 14.99 = 2
 - 10-14.99 = 6
 - 5-9.99 = 10
 - < 5 = 15

- Phosphorus limit (mg/l) - the most restrictive limit associated with the end of the WPDES permit term
 - > 2.49 = 1
 - 0.9-2.49 = 2
 - 0.6-0.89 = 5
 - 0.4-0.59 = 10
 - 0.2-0.39 = 15
 - < 0.2 = 20
- Chloride limit = 1
- Copper limit = 1
- Nickel limit = 1
- Zinc limit = 1
- Mercury limit = 1
- Cadmium limit = 1
- Arsenic limit = 1

Section NR 162.50(5), Wis. Adm. Code, also states that “The department may add additional or modify existing scoring criteria in the annual intended use plan.”

Additional points for regionalization will be provided as follows:

- 100 points to the subscribing municipality;
- An additional 10 points to the subscribing municipality if the project results in an increase of flow or loadings to the receiving municipal wastewater treatment plant by more than 10% such that an increase in capacity at that plant is needed and the treatment plant project is being submitted for CWFP funding to account for that increase;
- 50 points to the receiving municipality if an upgrade is needed to accommodate the increased flow or increased loadings (greater than 10%) from one or more new subscribing municipalities;
- 100 points each to two or more municipalities that are constructing a joint regional WWTP.

For SFY 2023, DNR will not add the population score to the funding list as described in s. NR 162.50(4) Wis. Adm. Code. Instead, DNR will add two percent of a municipality’s score in Table 7 of Section X.B to the PERF score for each of the municipality’s projects. For example, if a municipality scores 125 points in Table 7, 2.5 points will be added to the PERF score for each of the municipality’s projects. By making this scoring change, DNR anticipates that projects from communities meeting the affordability criteria will be prioritized. In the event of a tie on the funding list, the municipality with the smaller population will be ranked above the municipality with the larger population. If a tie still remains, the municipality with the smaller MHI figure will be ranked above the municipality with the larger MHI figure.

XV. SFY 2023 PROJECT PRIORITY LIST AND FUNDING LIST

The CWFP received 533 regular Intent to Apply (ITA) submittals totaling \$2,092,203,170 in anticipated project costs and 23 ITA submittals for pilot projects totaling \$27,432,583 in project costs by the October 31, 2021 deadline. These projects were scored and ranked on the [project priority list](#) that was published on the EIF website. Municipalities are eligible to submit SFY 2023 financial assistance applications for projects included on this list. In addition, 14 ITAs were submitted for projects for

which there was not enough information to determine eligibility.

Applicants wishing to apply for PF funds must submit a complete application by September 30, 2022. Any applications received by this date will be ranked on the funding list in priority score order for the purpose of allocating PF. Applications received after this date will not be considered for PF, other than for Energy Efficiency incentive matching funds, but the CWFP may provide loan funds for those projects. We anticipate that the funding list will be posted on the program website in November. All projects that receive funding during SFY 2023 will be detailed in the SFY 2023 Annual Report to EPA.

XVI. ASSURANCES

State assurances concerning the requirements of Sec. 602(b) of the FWPCA are contained in the Operating Agreement.

XVII. PUBLIC REVIEW AND COMMENT

The draft IUP was posted for a 30-day public comment period on July 29, 2022. DNR hosted a webinar on August 9, 2022, discuss changes in the IUP and respond to questions from attendees. Further information about the webinar is available at the [program website](#).

DNR received 12 sets of unique comments. Given the large public participation, a full response to all the comments is not expected to be posted to the [program website](#) until the end of November 2022. The final IUP and the response to comments will be published on the Environmental Loans [Project Lists and IUPs webpage](#).