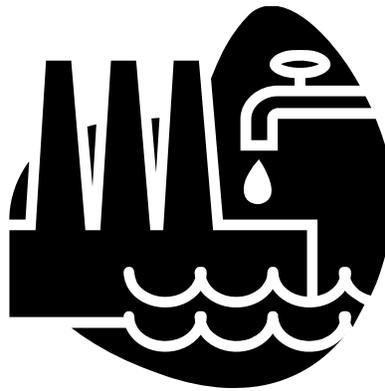


**STATE OF WISCONSIN  
CLEAN WATER FUND PROGRAM  
STATE REVOLVING FUND**

**INTENDED USE PLAN**  
for  
**EPA FFY 2021 CAPITALIZATION GRANT**  
for funding during  
**STATE FISCAL YEAR 2022**



**September 2021**

**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.	SOURCES AND USES OF FUNDS.....	1
IV.	PROGRAM ADMINISTRATION COSTS .....	2
V.	TRANSFER OF FUNDS BETWEEN THE CW SRF AND DW SRF .....	2
VI.	CLASSIFICATION OF PROJECT TYPES .....	3
VII.	LOAN TERMS.....	3
	A. Interest Rates & Subsidy .....	3
	B. Loan Amortization.....	4
	C. Application Acceptance Deadlines .....	4
VIII.	POLICY CHANGES IMPLEMENTED DURING SFY 2019 .....	4
	A. Online Application Submittal & Elimination of Grace Period.....	5
	B. Median Household Income (MHI) Cutoff Clarification.....	5
IX.	GOALS OF THE FEDERAL PROGRAM .....	5
	A. Short-term Goals .....	5
	B. Long-term Goals.....	5
X.	COMPLIANCE WITH FEDERAL REQUIREMENTS.....	6
	A. Consolidated Appropriations Act of 2021 .....	6
	B. Fiscal Sustainability Plans – NO LONGER REQUIRED.....	6
	C. Use of American Iron and Steel .....	6
	D. Davis-Bacon Act.....	7
	E. Cost and Effectiveness Certification.....	7
	F. Qualifications-Based Procurement of A/E Services .....	7
	G. Green Project Reserve.....	7
	H. Disadvantaged Business Enterprise (DBE) Compliance.....	8

I.	Federal Reporting .....	8
XI.	ADDITIONAL SUBSIDY (PRINCIPAL FORGIVENESS) & AFFORDABILITY CRITERIA .....	8
	A. Deadline for Applying for Principal Forgiveness Funds .....	8
	B. Affordability Criteria and Methodology for Qualifying to Receive Principal Forgiveness.....	9
	C. Allocation of General PF .....	9
	D. Regionalization PF .....	10
	E. Phosphorus Reduction PF .....	10
	F. Energy Efficiency PF .....	11
	G. Other Policies Regarding Principal Forgiveness .....	12
	H. Principal Forgiveness from Previous Years.....	13
XII.	PILOT PROJECTS PROGRAM.....	13
XIII.	PROJECT PRIORITY SCORING.....	14
XIV.	WATER QUALITY & OTHER SCORING CRITERIA FOR SFY 2023.....	14
XV.	SFY 2022 PROJECT PRIORITY LIST and PF FUNDING LIST .....	16
XVI.	ASSURANCES .....	16
XVII.	PUBLIC REVIEW AND COMMENT .....	16

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES CLEAN WATER FUND PROGRAM INTENDED USE PLAN**  
**Covering Funding During State Fiscal Year 2022**  
**For Receipt of the EPA Federal Fiscal Year 2021 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) 2022 Clean Water Fund Program (CWFP) IUP, indicate the intended use of the federal fiscal year (FFY) 2021 Clean Water State Revolving Fund (CWSRF) capitalization grant and required state matching funds, and other monies available in the revolving loan fund. The IUP is a part of Wisconsin's capitalization grant agreement package for FFY 2021 and covers anticipated activity during SFY 2022.

**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 SRF. It had been structured as a direct loan program since its inception, but modifications were made during SFY 2016 to change over to a cash flow leveraging structure. This new structure is enhancing the fund's self-sufficiency and providing additional flexibility for project financial assistance.

For the FFY 2021 capitalization grant, 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, though some projects may receive funding from both the Federal and the State Accounts. All revenue bonds issued under the State Accounts have been defeased.

**III. 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. In addition to the capitalization grant, state match, loan repayments, and interest and investment earnings, the CWFP leveraged portfolio allows the state to issue additional revenue bonds on an as-needed basis to fund new loans during the current SFY.

The State of Wisconsin is applying for the FFY 2021 capitalization grant in the amount of \$42,955,000. A 20% state match in the amount of \$8,591,000 is authorized under state law and will be generated from revenue bonds. All state matching funds for the FFY 2021 capitalization grant 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 FFY 2021 grant will be made at a cash draw ratio of 100% federal funds.

A minimum of \$4,295,500 of the FFY 2021 capitalization grant must be used for projects or portions of projects qualifying under the Green Project Reserve (GPR). A total of \$17,182,000 will be available from the capitalization grant as principal

forgiveness funds and \$2,614,756 is being used for program administration. Further discussion of these uses can be found below.

In addition to the capitalization grant and state match funds, projects are funded from:

- principal and interest repayments;
- interest and investment earnings; and
- revenue bond proceeds.

The CWFP has an annual sustainable capacity of approximately \$360,000,000 in subsidized loans from the capitalization grant and state match, 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, 2022, 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.

#### **IV. PROGRAM ADMINISTRATION COSTS**

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, 2020 financial statements for the EIF, the total net position of the CWFP's federal portfolio is \$1,638,093,628, yielding allowable administrative funds of \$3,276,187. This amount is significantly higher than 4% of the capitalization grant which comes to \$1,718,200.

The DNR does not plan to utilize the full amount that can be requested but instead is requesting \$2,614,756 for administration. Administrative funds cover CWFP-related work in the DNR Bureaus of Community Financial Assistance and Water Quality.

#### **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 Safe Drinking Water Loan Program (SDWLP) prior to FFY 2002. No additional transfers under this authority are being considered at this time.

In addition to the transfer authority 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.

DOA's financial advisor performed a capacity analysis to determine the impact to the CWFP if the full amount allowed under WIFTA were to be transferred. This analysis demonstrated that annual capacity would drop by approximately \$13 million per year (from \$373 million to \$360 million). Annual funding needs are generally lower than the annual capacity so it was

determined that the impact on capacity would not be detrimental to the fund if the full amount was transferred. 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 new program can be found in the SDWLP Intended Use Plan that was published on May 27, 2021.

## VI. CLASSIFICATION OF PROJECT TYPES

Wisconsin's CFWP is an environmentally prioritized loan financing program for municipal water pollution control projects. The CFWP 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 CFWP 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 CFWP projects (such as water quality trading) as part of the CFWP Pilot Project program are eligible for loans with an interest rate as low as 0%.

## VII. LOAN TERMS

### A. Interest Rates and Subsidy

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 subsidy and thus receive market rate funding. The market rate in effect, for loans amortized over twenty years, for October 1 through December 31, 2021 is 2.70%. The market rate for loans with a term greater than 20 years is 2.90%. 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 1<sup>st</sup> and November 1<sup>st</sup> while principal payments are required annually on May 1<sup>st</sup>.

The *2017-2019 Biennial Budget* increased the amount of subsidy being provided by the state. These changes provide for interest rate tiers as described below:

- The subsidy amount was increased for most project types, reducing the interest rate from 70% of market rate down to 55% of market rate.

- For municipalities with a population less than 10,000 and a median household income (MHI) of 80% or less of the MHI of the state, the amount of subsidy is increased further, reducing the interest rate to 33% of market rate.
- For municipalities with a population less than 1,000 and an MHI of 65% or less of the MHI of the State, there is an even further increase in the amount of subsidy, reducing the interest rate to 0%.
- In addition to the above three tiers, septage receiving facilities and pilot projects are eligible to receive 0% interest loans, and the market rate is used in the circumstances listed in Section VI. above.

## **B. Loan Amortization**

Since the beginning of the CWFP, loans have been required to mature no more than 20 years from the date of the first loan disbursement to the municipality. With recent changes at the federal level, loans of up to thirty years are now permissible, depending on the design life of the project. Based on changes in the *2017-2019 Biennial Budget*, the CWFP now allows loans of up to thirty years as long as the final loan principal payment precedes the end of the project's design life. The award of loans with terms exceeding twenty years and not exceeding thirty years is based on a case-by case review by DOA and engineers in the DNR's Wastewater program. Loans must be fully amortized not later than 30 years after the original date of the Financial Assistance Agreement or the end of the design life of the project, whichever is less.

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 but is establishing an absolute requirement 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 CWFP 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 principal forgiveness (PF) should be ready to proceed, all applications for projects that were allocated PF will be accepted by no later than June 30, 2022. 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 2023 funding list. The municipality may then choose to close an SFY 2022 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 2022 this date would be December 31, 2022).

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.

## **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 2022. 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 our 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. (e.g., 80.0001 would be equal to 80.000%; 80.0005 would be equal to 80.001% and considered greater than 80.000%.)

## IX. 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:

- Continue to provide public outreach and education regarding program policies, procedures, and participation.
- Provide additional assistance in the form of 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.
- Continue to refine strategies, programs, and mechanisms to ensure that municipalities are able to address the highest priority water quality problems.
- 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.
- Provide additional economic assistance in the form of principal forgiveness with the highest amounts allocated to those applicants with the greatest financial need.
- 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 changes where possible to mitigate unintended consequences in these areas.

### 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.

- Maintain effective partnerships with other State and Federal financing sources to coordinate funding and promote efficiency for both the agencies and the applicants.
- 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.

## **X. COMPLIANCE WITH FEDERAL REQUIREMENTS**

### **A. Consolidated Appropriations Act of 2021**

The FFY 2021 Consolidated Appropriations Act (P.L. 116-260) again contained additional requirements beyond what is included in the federal regulations governing the CWSRF. The requirements for FFY 2021 include: the provision that not less than 10% of the amount of the FFY 2021 CWSRF 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 grant 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 has been required by the CWFP since SFY 2016.

As mentioned in Section II. above, the CWFP does not technically issue “loans” but rather purchases the general obligation or revenue bonds of municipal governments. In an effort to minimize some of the burden of obtaining CWFP funding, a decision has been made to remove the FSP requirement from the program. Development of FSPs or asset management plans is still encouraged and will be considered an eligible project cost, but will no longer be required in order to receive funding.

### **C. Use of 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 now apply to all funding recipients.

Information on this requirement has been detailed in the program newsletter and on the program website. Language has been added to 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. More information on the requirement and the certification form are available on our [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.

A Cost and Effectiveness Certification ([form 8700-375](#)) is available on the program 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 our [program website](#).

#### **F. 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 new solicitations, significant contractual amendments, and contract renewals initiated on or after October 1, 2014.

At this time, the CWFP does not require recipients to use this process for awarding A/E contracts. The State will disburse state funds to cover any non-compliant A/E costs in projects designated as federal equivalency.

#### **G. Green Project Reserve**

The FFY 2021 Consolidated Appropriations Act (P.L. 116-260) continued the Green Project Reserve (GPR) requirements from recent years that states that, to the extent there are sufficient eligible project applications, not less than 10% of the capitalization grant (\$4,295,500) is to be used to fund projects or portions of projects meeting GPR requirements.

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 XI. 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 2022 Annual Report submitted to EPA.

## H. Disadvantaged Business Enterprise (DBE) Compliance

All CWFP loan recipients and the contractors hired by the loan recipients to perform work on their projects are required to make a *Good Faith Effort* to solicit minority- and women-owned businesses.

## I. Federal Reporting

The State agrees to comply with the reporting requirements contained in the *Procedures for Implementing Certain Provisions of EPA's Fiscal Year 2012 Appropriations Affecting the Clean Water and Drinking Water State Revolving Fund Programs* or any modified version of this guidance issued for FFY 2021. Information will be entered into the new federal reporting database and will include the use of funds for the GPR and additional subsidization as well as project benefits.

## XI. ADDITIONAL SUBSIDY (PRINCIPAL FORGIVENESS) & AFFORDABILITY CRITERIA

WRRDA required states to develop affordability criteria for use in allocating additional subsidy in the CWSRFs. The affordability criteria were required to include income, unemployment data, and population trends. The previous methodology, which was used from SFY 2013 through SFY 2015 to allocate PF, took income and population into account but did not include unemployment or population trends. Those criteria were added to the methodology starting with SFY 2016.

WRRDA also changed the way the available amount of additional subsidy is determined. Additional subsidy under the FWPCA is optional and only available in years when the national appropriation for CW SRFs exceeds \$1 billion. The amount of additional subsidy that is available is calculated using the percentage by which the national appropriation exceeds \$1 billion, up to a maximum of 30%. The FFY 2021 national appropriation was \$1,638,826,000, which yields a maximum of 30% for additional subsidy under WRRDA. Thirty percent of Wisconsin's grant of \$42,955,000 comes to \$12,886,500 that can be provided as additional subsidy in the form of grants, principal forgiveness, or negative interest rates. In addition, the FFY 2021 appropriation requires states to allocate 10% of their capitalization grants as additional subsidy (\$4,295,500). EPA has interpreted these two provisions to be additive, allowing states to allocate up to 40% of their FFY 2021 capitalization grants as additional subsidy (\$12,886,500 + \$4,295,500 = \$17,182,000). Wisconsin's CWFP will continue to distribute the additional subsidy as principal forgiveness (PF).

The CWFP will be providing a total of \$32,878,903 as PF in SFY 2022 -- \$17,182,000 from the FFY 2021 capitalization grant plus an additional \$15,696,903 in PF rolled forward from SFY 2021 or released through project closeouts. Of this amount, \$14,628,903 will be for General PF and \$18,250,000 in PF will be available for the Priority PF programs described in Sections XI. D-F below. Note that it is possible for a project to be allocated PF from more than one of the Priority PF programs.

### A. Deadline for Applying for Principal Forgiveness Funds

The CWFP operates on a continuous funding cycle. Applicants who met the October 31, 2020 Intent to Apply deadline may submit an application at any time during SFY 2022. A funding list is necessary in order to allocate PF funds. Applications submitted by September 30, 2021 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).

**Please note that in order to qualify for General PF or Phosphorus Priority PF, an applicant must receive at least 30 points under the Affordability Criteria described below.** 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.

## **B. Affordability Criteria and Methodology for Qualifying to Receive Principal Forgiveness**

The PF allocation methodology is structured to allocate PF funds to the highest priority projects in municipalities with the greatest financial need, as determined by median household income (MHI), population, population projections over 20 years, and county unemployment rate. This methodology was published for public comment on April 10, 2015.

- Population points ranging from 0 to 50 are awarded under Table 1 with the highest points going to the smallest populations. Population is determined based on final DOA population estimates available at the time of the ITA deadline. (See tables on next page.)
- MHI points ranging from 0 to 100 are awarded under Table 2 based on the municipality's MHI as a percentage of the state's MHI with the highest points going to the lowest MHI percentages. MHI is determined based on American Community Survey data available at the time of the ITA deadline.
- Additional points for population trends and unemployment are awarded under Table 3. Unemployment data will be the average unemployment rates from the most recent 12 months of data available at the time of the application deadline. Population projections used will be the most recent projections available as of the application deadline date.
- Scores from Tables 1 through 3 are added together and then used to determine the eligible PF percentage in Table 4. (See tables on next page.)
- Projects in municipalities that are Green Tier Legacy Communities are eligible for an additional 10% PF on top of the percentage determined by Table 4, 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 30 points is required in order to qualify for the additional 10% PF.

## **C. Allocation of General PF**

The following criteria apply to General PF:

- The General PF cap is \$750,000 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 department reviewed the scope provided by the applicant and assigned a priority score based on the scope determined by the department 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, 2021 Principal Forgiveness application deadline. Applicants must qualify under the affordability criteria (30 PF points or more) in order to be allocated 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 2022 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).

Table 1	
Points	Population
0	10,000+
5	8,500–9,999
10	5,000–8,499
15	3,000–4,999
20	2,000–2,999
25	1,500–1,999
30	1,000–1,499
35	500–999
40	250–499
50	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	Additional Criteria
5	Projected to lose 10% or more of population over 20 years
5	County unemployment rate is > state's unemployment rate by less than one percentage point
10	County unemployment rate is > state's unemployment rate by one percentage point or more

Table 4	
Total Score	PF Percent
0-29	No PF
30-54	15%
55-79	30%
80-99	45%
100-165	60%

#### 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, but disadvantaged applicants will be given priority. Applicants wishing to apply for Regionalization PF must submit their application by the September 30<sup>th</sup> deadline for applying for PF. A total of \$8,000,000 in PF will be available for this purpose in SFY 2022. If more eligible applications are received than there is Regionalization PF to cover, the Regionalization PF will first be allocated to applicants meeting the disadvantaged criteria, in priority score order. If any Regionalization PF remains after allocating funds to all disadvantaged applicants, the remaining funds will be allocated to non-disadvantaged applicants, in priority score order. If any allocated Regionalization PF is released as loans are closing, that PF can be reallocated to qualified applicants even if those applicants were outside the initial fundable range for PF.

Regionalization PF will be allocated at 70% of project costs, up to a cap of \$2,000,000 for the first WWTP discharge eliminated, with an additional \$1,000,000 cap for each additional WWTP discharge eliminated. 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 2022 to applicants meeting all the following criteria:

- Must meet the affordability criteria (minimum score of 30 points in Table 4 above).
- 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. The Phosphorus Reduction PF will be available for a minimum of two additional funding years beyond SFY 2022, though this is always contingent on sufficient federal funding levels and authorization to provide additional subsidy.

## 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 project. A total of \$250,000 will be available in SFY 2022 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 30<sup>th</sup> 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 disbursements are paid 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, adjusted 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 all project costs included in a loan budget are not requested, this may impact whether a municipality receives all the PF the project qualifies for.
- **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-only awards** - In order to be awarded PF, every applicant is required to also accept a loan from the CWFP for some of their project costs. **A minimum of 30% of the costs used to calculate the PF amount must be taken as a loan in order to qualify for 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, 2022** – 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 2023 funding list. The municipality may then choose to close an SFY 2022 loan without PF when ready, or reapply for financial assistance for the project in a future fiscal year to compete again for PF. In addition, as stated in Section VIII. C. above, applications for projects that have been allocated PF on the funding list must be accepted by the DNR no later than June 30, 2022. Loans must be closed within 8 months of application acceptance.
- **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. **Note that this is a change from previous policy in that internal funds as well as other sources of funding (loan or grant) will now be deducted before the CWFP calculates PF.**
- **PF restrictions on refinancing** - Due to restrictions contained in the FFY 2021 appropriations act (P.L. 116-260), PF cannot be used to refinance costs paid by interim financing debt that was incurred prior to December 27, 2020, the date the appropriations act was enacted. This restriction only applies to PF funds taken from the 10% (\$4,295,500) available under the FFY 2021 appropriations act.
- **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 2019 capitalization grants has been awarded. PF in the amount of \$14,677,177 from the FFY 2020 grant is being rolled forward to SFY 2022 along with \$1,084,726 in previously awarded PF that has been released through project closeouts. It is anticipated that all PF remaining from the FFY 2020 grant and a portion of the PF from the 2021 grant will be awarded by the end of SFY 2022.

## XII. 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 focus of the program, at first, will be 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 will be considered on a case-by-case basis.

Pilot projects will be funded at an interest rate of 0% and are not eligible for principal forgiveness. Loan terms may vary up to twenty 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 [Federal Water Pollution Control Act 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, most 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](mailto: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.

### **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 now scored under one of three categories: sewage collection systems, wastewater treatment plants, or storm water projects. Scoring criteria for pilot projects has not yet 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.

Under all project types, population is used as a tie-breaker with the higher population receiving the higher score. For wastewater treatment plant projects, the water quality criteria and associated points are established in the IUP and are based on the current WPDES permit limits for the facility. Please see the following section for more information.

### **XIV. WATER QUALITY & OTHER SCORING CRITERIA FOR SFY 2023**

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 CWFP 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:

- 6.a. 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
- 6.b. 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
- 7. 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
- 8. DO limit (mg/l)
  - 4-6.99 = 1
  - > 6.99 = 3
- 9. 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
- 10. Phosphorus limit (mg/l) - this is 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
- 11. Chloride limit = 1
- 12. Copper limit = 1
- 13. Nickel limit = 1
- 14. Zinc limit = 1
- 15. Mercury limit = 1
- 16. Cadmium limit = 1
- 17. 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.

## **XV. SFY 2022 PROJECT PRIORITY LIST and PF FUNDING LIST**

The CWFP received 521 regular Intent to Apply (ITA) submittals totaling \$1,865,823,053 in anticipated project costs and 24 ITA submittals for pilot projects totaling \$30,140,336 in project costs by the October 31, 2020 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 2022 financial assistance applications for projects included on this list. In addition, nine ITAs were submitted for projects for which there was not enough information to determine eligibility and three ITAs were submitted for projects that were determined to be ineligible.

Applicants wishing to apply for PF funds must submit a complete application by September 30, 2021. 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 by early November. All projects that receive funding during SFY 2022 will be detailed in the SFY 2022 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 version of this IUP was posted on July 21, 2021 for a 21-day public comment period. An e-mail notification was sent to a distribution list of approximately 2,400 recipients. Four sets of comments were received, two of which resulted in small changes to policies, one regarding water quality scoring in section XIV. and one regarding eligibility for phosphorus PF in section XI.E. of the IUP.