

The Department of Natural Resources (DNR) is seeking public input on the SFY 2019 Draft Intended Use Plan (IUP) for the Clean Water Fund Program (CWFP).

**A. Why Are We Making This Change?**

The DNR is required to submit a CWFP IUP each state fiscal year along with our Capitalization Grant application.

**B. Background.** The purpose of the IUP, as its name implies, is to specify how we intend to use the CWFP during the upcoming state fiscal year.

**C. IUP Highlights:**

Much of what the IUP contains is standard language relating to our laws and codes for CWFP program implementation. The following are modifications to CWFP policies that are further described in the SFY 2019 CWFP IUP:

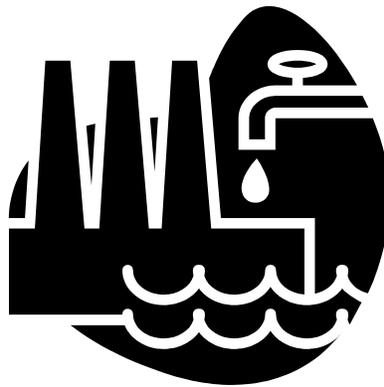
- Confirms there are sufficient funds for all SFY 2019 projects anticipated to be submitted for funding;
- Specifies that SFY 2020 applications must be submitted on-line and complete with all attachments (grace period for incomplete applications is eliminated);
- Requires reimbursement resolution at time of application submittal;
- Eliminates the multiple “Regular” principal forgiveness (PF) caps and changes to one PF cap of \$750,000;
- Maintains the PF eligibility percentages from previous SFY IUP;
- Establishes new “Priority” PF for the following categories:
  - Regionalization;
  - Compliance with most restrictive Phosphorus limits; and
  - Matching funds for Focus on Energy grants.
- Allows for 30-year term loans for sewer pipe projects;
- Modifies calculation for Median Household Income and Composite Interest Rate;
- Makes a correction to the costs eligible for PF;
- Eliminates Fiscal Sustainability Plan PF;
- Includes new category for anticipated policy changes for SFY 2020:
  - Potential policies include additional PF incentives for water quality priorities:
    - Septage receiving stations;
    - Connecting unsewered areas to WWTPs; and
    - WWTP optimization.

**D. Remaining Steps.** Once the 21-day comment period is complete, all comments will be considered, revisions will be made to this draft IUP as warranted, a *Response Summary* will be prepared, then both the *Response Summary* and *Final Guidance* will be made available using the existing DNR Program Guidance web page (<https://dnr.wi.gov/news/input/guidance.html> ) and will be posted on the Environmental Loans web page.

Please forward your comments about this proposed policy no later than June 19, 2018, to:	<b>Name:</b> Becky Scott	608-267-7584
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**STATE OF WISCONSIN  
CLEAN WATER FUND PROGRAM  
STATE REVOLVING FUND**

**INTENDED USE PLAN**  
for  
**EPA FFY 2018 CAPITALIZATION GRANT**  
for funding during  
**STATE FISCAL YEAR 2019**



***draft* May 2018**

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

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**WISCONSIN DEPARTMENT OF NATURAL RESOURCES CLEAN WATER FUND PROGRAM INTENDED USE PLAN  
Covering Funding During State Fiscal Year 2019  
For Receipt of the EPA Federal Fiscal Year 2018 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 EPA.

This document and attachments, which comprise Wisconsin's state fiscal year (SFY) 2019 Clean Water Fund Program (CWFP) IUP, indicate the intended use of the federal fiscal year (FFY) 2018 Clean Water State Revolving Fund (CW SRF) 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 2018 and covers anticipated activity during SFY 2019.

**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).

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 2018 capitalization grant, the state match will come from the revenue bonds issued under the leveraged structure.

No new loans are anticipated to be issued from the State Accounts in the immediate future, though some projects may receive funding from both the Federal and the State Accounts.

**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 2018 capitalization grant in the amount of \$43,392,000. A 20% state match in the amount of \$8,678,400 is authorized under state law and will be generated from revenue bonds issued under the leveraged structure. All state matching funds for the FFY 2018 capitalization grant will be disbursed to loan recipients before the state makes the first draw of federal funds from the grant. Thereafter, all draws against the FFY 2018 grant will be made at a cash draw ratio of 100% federal funds.

A minimum of \$4,339,200 of the FFY 2018 capitalization grant must be used for projects or portions of projects qualifying under the green project reserve (GPR). A total of \$17,356,800 will be available from the capitalization grant as principal

forgiveness funds and \$2,345,158 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 from bonds issued from the leveraged portfolio.

Wisconsin currently has approximately \$110 million in CFWP principal and interest repayments and interest earnings invested in several accounts. These monies, along with \$31 million of revenue bonds proceeds and \$194 million of projected repayments, will be used to fund approximately \$80 million in undisbursed loans as well as approximately \$117 million in applications that have not yet closed on loans. Additional funds for new applications, beyond what is described above, will come from issuing more revenue bonds under the leveraged portfolio.

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 \$623.3 million in revenue for the CWSRF thru May 1, 2033. The investments that were purchased included all of the loans that originated from the State Accounts of the CFWP. These purchased loans mimic the loans that have originated within the CWSRF over time. For the year ending June 30, 2019, the State expects these investments to generate \$68.5 million in revenue that will be used for new loans within the CWSRF and to pay debt service on EIF Revenue Bonds. The annual revenues projected to be received each year decreases as more loans mature each year.

#### **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, 2017 financial statements for the EIF, the total net position of the CFWP's federal portfolio is \$1,471,932,971, yielding allowable administrative funds of \$2,943,865. This amount is significantly higher than 4% of the capitalization grant which comes to \$1,735,680.

The DNR does not plan to utilize the full amount that can be requested but instead is requesting \$2,345,158 for administration.

#### **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 CFWP to the Safe Drinking Water Loan Program (SDWLP) prior to FFY 2002. No additional transfers are being considered at this time, however, should there be a shortage in SDWLP loan funds in the upcoming year, a transfer may be considered as an option for meeting Wisconsin's water infrastructure funding needs.

## VI. POLICY CHANGES FOR SFY 2019

### A. Online Application Submittal & Elimination of Grace Period

Starting with SFY 2019 applications, all CWFPP applications are required to be submitted through the new online application system. Information on accessing and using the online application system is available on the [program website](#).

In addition, since the online application system includes prompts whenever attachments are required, and prevents application submittals if there is missing information, there will no longer be a grace period provided 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.** For principal forgiveness (PF) applications, any application that is incomplete as of the application deadline will not be eligible to receive regular PF.

### B. Reimbursement Resolution Required

Reimbursement resolutions will now be required to be submitted with the application. There will be no grace period for submittal of the reimbursement resolution. Incomplete applications will not be placed on the funding list and are ineligible for PF. This change should not impose undue hardship on applicants as the Reimbursement Resolution can be passed at the same time as the Authorized Representative Resolution, which is also required to be submitted by the application deadline.

### C. Change in Principal Forgiveness (PF) Caps

The DNR is eliminating multiple PF caps and is instead implementing one PF cap of \$750,000 for all eligible municipalities. This change reflects the higher level of PF availability and the unreliability of county unemployment data as an indicator of a municipality's financial need. This will be the cap applicable to any municipality that is awarded regular PF, regardless of the unemployment rate of the county the municipality is located in. County unemployment rates, as required by the federal government, will still be used in the PF methodology for determining eligibility and the applicable PF percentage.

### D. Correction in Costs Eligible for PF

In an attempt to align CWFPP policies with legislative intent, the DNR is correcting the way PF is calculated. Previously, all eligible project costs were eligible to be included in the PF calculation unless those costs were covered by other grant funds. The CWFPP statute and administrative code specify costs that can only be funded at the market interest rate and are thus ineligible for subsidy (see ss. 281.58(8)(b), (c), (f), (h), and (k), Wis. Stats., and s. NR 162.04(b), Wis. Adm. Code). Starting with SFY 2019 projects, the DNR will only calculate PF on costs that are eligible for subsidy. Market rate costs will be removed from the PF calculation and are not eligible for principal forgiveness.

### E. Elimination of Fiscal Sustainability Plan PF

To transition into the new federal Fiscal Sustainability Plan (FSP) requirement for all applications submitted after October 1, 2014, the DNR provided three years of additional PF to municipalities that qualified under the PF methodology to help pay for the costs of FSP development. These supplemental PF funds will not be provided for SFY 2019 projects since the FSP requirement is no longer a new requirement and the FSP PF is being directed to other priorities.

### F. Addition of Priority PF Programs

Three new Priority PF incentive programs will be initiated for eligible municipalities for SFY 2019 projects. These Priority PF programs will be for the following project types:

- 1) Regionalization;
- 2) Phosphorus Reduction; and

### 3) Energy Efficiency.

More information on these new Priority PF incentive programs can be found in Sections XI. D-F below. Availability of PF may vary from year to year. Please note that it should never be assumed that PF that is available one year will necessarily be available in future years as the availability of PF is determined by the annual federal appropriation.

#### **G. Change in Calculation of Median Household Income (MHI) Cutoff**

The paper version of the SDWLP Priority Evaluation and Ranking Form (PERF) for many years stated that the percentage determined when dividing the MHI of the municipality by the State of Wisconsin's MHI would be rounded to the nearest whole number for purposes of eligibility for Financial Need points in the project priority score. Any percentage less than 80.5% provided points in this section. To be consistent with the SDWLP PERF, this policy was extended to any use of MHI data in both of the SRF programs, including PF eligibility and subsidy amount determinations. With the streamlining efforts in the programs, especially with moving to online PERFs, ITAs, and applications, the policy will be changed to have 80.0% be the actual cutoff for eligibility, interest rate, and point determinations. The electronic systems will not round down on percentages; all MHI calculations will be truncated. This policy is truer to language in sections of the CWFP and SDWLP statutes that read XX% or less. **This change will be effective for calculations pertaining to SFY 2020 projects** (starting with PERFs submitted in October 2018) in order to maintain consistency between calculations that are performed at different times in the application cycle.

#### **H. 30-year Loans Available for Pipe Projects**

The CWFP statutes were revised in the 2019 – 2021 biennial budget to allow extended term loans of up to thirty years or the design life of the project, whichever is less. After consultation with DOA and engineers in the Water program, a decision was made to allow thirty-year loans for sewer pipe projects as these projects typically have a design life of at least thirty years. As with twenty-year loans, DOA will determine the applicable market interest rate for the quarter in which the project will close, based on market conditions at that time. The interest rate charged for these thirty-year loans may be slightly higher than what is charged for loans with a twenty-year amortization.

#### **I. Change in Calculation of Composite Interest Rate**

In the past, municipalities that were awarded PF for a project that included costs with components eligible for differing levels of subsidy had their composite interest rate calculated in a manner where the PF was applied to the costs that receive the least amount of subsidy (in most cases these have been costs assigned to the market interest rate), effectively reducing the composite interest rate that the project would have received if PF had not been available. We are changing this policy to one where the calculation of the composite interest rate is done prior to deducting the PF. This change will better align CWFP policies with the legislative intent at the time the CWFP was established and provide a more accurate representation of the various levels of subsidy included in the loan agreement.

### **VII. POTENTIAL POLICY CHANGES FOR SFY 2020**

In order for municipalities to better anticipate future policies, we are including this section in the IUP that identifies potential policy changes for SFY 2020.

#### **A. Change in Calculation of Median Household Income (MHI) Cutoff**

This change will take effect for SFY 2020 projects. See section VI. G. above for details.

#### **B. Incentives Related to DNR Priorities**

Additional incentives may be available in SFY 2020 related to the following DNR priorities:

- Septage Receiving;
- Connecting Unsewered Areas to WWTPs;
- WWTP Optimization.

These incentives may potentially be in the form of PF points, PF dollars, PF percentages, or funded as stand-alone PF-Only agreements. More information will be included in the SFY 2020 IUP.

## VIII. CLASSIFICATION OF PROJECT TYPES & LOAN TERMS UNDER THE CWFP

Wisconsin's CWFP is an environmentally prioritized loan financing program for municipal water pollution control projects. The CWFP contains seven categories under which projects are classified. Projects receiving Federal 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 the DNR.
- 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 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 if 2/3 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 as part of the CWFP Pilot Project program may be eligible for loans with an interest rate as low as 0%.

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 April 1 through June 30, 2018 is 3.40%. This rate is subject to change on a quarterly basis. 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 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.

The 2017-2019 Biennial Budget increased the amount of subsidy being provided by the state. These changes provide for three 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%.
- Septage receiving facilities are still eligible to receive 0% interest loans, pilot projects are still eligible to receive

loans between 0% and the normal subsidized rate, and the market rate is still used in the circumstances listed above.

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. Starting in SFY 2019, the CWFP will allow loans of up to thirty years for pipe projects – those projects occurring outside of the WWTP fence – as long as the design life of the project is at least thirty years. See section VI. H. above for more information.

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>. Currently, no fees are assessed under the CWFP for any of the project types listed above.

## **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 assistance in the form of principal forgiveness to municipalities that qualify under the affordability criteria in order to help offset the costs of regionalization and the cost of compliance with more protective phosphorus limits;
- 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 that incorporate water or energy efficiency, 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; and
- 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 adaptive management and water quality trading.

### **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 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; and
- Implement policy changes to encourage sustainability.

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

### **A. Consolidated Appropriations Act of 2018**

The FFY 2018 Consolidated Appropriations Act (P.L. 115-141) again contained additional requirements beyond what is included in the federal regulations governing the CWSRF. The requirements for FFY 2018 include: the provision that not less than 10% of the amount of the FFY 2018 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**

Section 603(d)(1)(E) of the FWPCA, as amended by the Water Resources Reform and Development Act (WRRDA), imposed a requirement for the development of Fiscal Sustainability Plans (FSPs). This requirement applies to all financial assistance applications submitted starting October 1, 2014. The recipient of a loan for projects involving the repair, replacement, or expansion of a publicly owned treatment works is required to develop and implement an FSP or certify that such a plan has already been developed and implemented.

Recipients who have already developed an FSP are required to certify that the plan meets the minimum requirements prior to receiving their financial assistance agreements. Recipients who do not yet have a plan meeting the requirements are required as a condition of receiving financial assistance to develop the plan and certify as to its content and completion prior to the final loan disbursement and project closeout.

Following are the minimum required contents of an FSP:

- an inventory of critical assets that are part of the treatment works;
- an evaluation of the condition and performance of the inventoried assets or asset groupings;
- a certification that the assistance recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan; and
- a plan for maintaining, repairing, and, as necessary, replacing the treatment works and a plan for funding such activities.

More information on Fiscal Sustainability Plan requirements is available on our [program website](#).

### **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 for 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 whose project plans and specifications were approved on or after June 10, 2014.

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 municipalities with projects subject to the Use of American Iron and Steel provisions are required to certify that they will meet the requirements before closing their loans. 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 [program 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 related act requirements apply. Required contract language is also [posted on the website](#). All projects receiving funding are required to certify their weekly payrolls on their disbursement request forms. 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 has been developed and 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 and the certification form 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 intend to require recipients to use this process for awarding A/E contracts. The State plans to disburse state funds to cover any noncompliant A/E costs in projects designated as federal equivalency.

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

The FFY 2018 Consolidated Appropriations Act (P.L. 115-141) 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 (\$4,339,200) 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 biogas production, blower and pump upgrades, improvements to aeration systems, and infiltration and inflow reduction.

In addition, the EIF is partnering 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 has been expanded this year 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 2019 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. The current Fair Share goals for minority- and women-owned businesses are 8% for each.

## **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 2018. Information will be entered into the Clean Water Benefits Reporting (CBR) database no less often than quarterly and will include the use of funds for the GPR and additional subsidization as well as project benefits.

The State has been using CBR for reporting project benefits of all SRF loans issued by the CWFP starting with activity in calendar year 2005.

## **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 2018 national appropriation was \$1,693,887,000, which yields a maximum of 30% for additional subsidy under WRRDA. Thirty percent of Wisconsin's grant of \$43,392,000 comes to \$13,017,600 that can be provided as additional subsidy in the form of grants, principal forgiveness, or negative interest rates. In addition, the FFY 2018 appropriation requires states to allocate 10% of their capitalization grants as additional subsidy (\$4,339,200). EPA has interpreted these two provisions to be additive, allowing states to allocate up to 40% of their FFY 2018 capitalization grants as additional subsidy (\$17,356,800). Wisconsin's CWFP will continue to distribute the additional subsidy as principal forgiveness (PF).

The CWFP will be providing a total of \$33,631,950 as PF in SFY 2019 -- \$17,356,800 from the FFY 2018 allocation plus an

additional \$16,275,150 in PF left over from SFYs 2017 and 2018. Of this amount, \$14,131,950 will be for regular PF and \$19,500,000 in PF will be available for the Priority PF programs described in Sections XI. D-F below.

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

The CWFP operates on a continuous funding cycle. Applicants who met the October 31, 2017 Intent to Apply deadline may submit an application at any time during the state fiscal year. A funding list is necessary in order to allocate regular PF funds of which a total of \$14,131,950 is available. Applications submitted by September 30, 2018 will be ranked in priority score order for the purposes of allocating regular PF. Applications received after this date will not be eligible for PF other than the Energy Efficiency PF (described below).

#### **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.

Applications submitted by September 30, 2018 will be ranked in priority score order and then the following PF methodology will apply:

- Population points ranging from 0 to 50 are awarded under Table 1 with the highest points going to the smallest populations. (See next page for tables.)
- MHI points ranging from 0 to 100 are awarded under Table 2 based on the municipality's MHI's percentage of the state's MHI with the highest points going to the lowest MHI percentages.
- Additional points for population trends and unemployment are awarded under Table 3. Unemployment data will be the average unemployment percentage from the most recent 12 months of data available at the time of the application deadline.
- Scores from Tables 1 through 3 are added together and then used to determine the eligible PF percentage in table 4.
- 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.

See next page for tables.

#### **C. Allocation of Regular PF**

- The Regular PF cap will be \$750,000 per municipality.
- A single 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.
- Regular PF will be allocated in priority score order to applications received by the September 30, 2018 Principal Forgiveness application deadline. Applicants must qualify under the affordability criteria (30 PF points or more) in order to be allocated Regular PF.

Table 1	
Points	Population
0	15,000+
2	10,000–14,999
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	141%+
2	126-140%
5	116-125%
10	106-115%
15	101-105%
20	96-100%
25	91-95%
30	86-90%
40	81-85%
50	76-80%
60	71-75%
70	66-70%
85	61-65%
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 WWTP discharge is being eliminated and the flow is being redirected to a WWTP in a neighboring municipality. In addition, at least one of the municipalities involved and incurring capital improvement costs must meet the affordability criteria and be eligible for principal forgiveness. Regionalization PF will be awarded in the amount of \$2,000,000 for the first WWTP discharge eliminated, with an additional \$1,000,000 awarded for each additional WWTP discharge eliminated. This amount is in addition to any regular 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. A total of \$7,000,000 in PF will be available for this purpose in SFY 2019. If more eligible applications are received than there is Regionalization PF to cover, the Regionalization PF will be allocated in priority score order.

#### E. Phosphorus Reduction PF

Phosphorus Reduction PF totaling \$12,000,000 will be available to applicants meeting the following criteria:

- Discharge less than 150 pounds of phosphorus per month or have an alternate phosphorus limit (pursuant to s. NR 217.04(2), Wis. Adm. Code);
- 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);
- Discharge to surface waters;
- These criteria are subject to change in the future, as determined by the DNR.

This 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 removal-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 removal-related project costs, as determined by the DNR, up to a cap of \$500,000.

This PF incentive is in addition to any regular PF or other Priority PF that the project is allocated but 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 PF to cover, the Phosphorus PF will be allocated in priority score order.

## F. Energy Efficiency PF

Matching funds in the form of PF will be provided for projects or project components that are receiving an incentive through Focus on Energy. 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 \$500,000 will be available in SFY 2019 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 award from Focus on Energy will be required in order for these funds to be allocated. 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. Applications that are 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 (PF)

- **Disbursement of Regular PF** – Regular 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. The percentage used is the percentage of PF that the municipality is eligible for, up to the cap, if applicable. The proportional disbursement of PF is a fair and equitable way to distribute these funds and results in an accurate payment of PF to each municipality.
- **Disbursement of Priority PF** – Priority PF will be able to be disbursed as costs associated with those activities are incurred.
- **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 Regular PF.
- **No PF on market rate costs** – PF will not be calculated on eligible project costs that are not eligible for subsidy. Market rate costs will be subtracted from the project total before calculating the PF award for a project.
- **No PF roll-down** – Regular PF allocations may shift within the fundable range on the final funding list. If any Regular PF remains after all projects in the PF fundable range have closed on loans, this PF will be moved forward to the next year's funding list. No PF will roll down past the last project identified in the fundable range for PF on the Final SFY 2019 PF Funding List.
- **No PF-only awards** - In previous years, the CWFP has allowed applicants to be awarded only the PF portion of their financial assistance without taking the remaining costs as a loan. Starting with SFY 2017, this is no longer allowed. In order to be awarded PF, all applicants are also required to accept a loan from the CWFP for additional project costs.
- **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 a bound, executed construction contract) is required to be submitted to the assigned project manager **no later than June 30, 2019** – the end of the state fiscal year. If all the required bid documentation is not received by this date, the PF will be released and rolled forward to the SFY 2020 funding list.
- **No PF on costs covered by other grant funding** – When calculating project costs eligible for PF, other grant funds (CDBG, USDA RD, Focus on Energy, etc.) are deducted from total eligible project costs before applying the eligible PF

percentage determined in Table 4 above. Loan funds received from other sources and a municipality's internal funds contributed to the project are not deducted before calculating the eligible PF amount.

- **PF restrictions on refinancing** - Due to restrictions contained in the FFY 2018 appropriations act (P.L. 115-141), PF cannot be used to refinance costs paid by interim financing that was incurred prior to March 23, 2018, the date the appropriations act was enacted. This restriction only applies to PF funds taken from the 10% (\$4,339,200) available under the FFY 2018 appropriations act.

## H. Principal Forgiveness from Previous Years

All PF from the FFY 2010 through 2015 capitalization grants has been awarded. PF in the amount of \$1,937,950 from the FFY 2016 grant and \$14,337,200 from the FFY 2017 grant is being rolled forward to SFY 2019. It is anticipated that all PF from the FFY 2016 and 2017 grants will be awarded by the end of SFY 2019.

## XII. PROJECT PRIORITY SCORING

Chapter NR 162, Wis. Adm. Code, was 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 Wisconsin Pollutant Discharge Elimination System (WPDES) permit limits for the facility. Please see the following section for more information.

## XIII. WATER QUALITY & OTHER SCORING CRITERIA FOR SFY 2020

For wastewater treatment systems, one of the scoring criteria in Chapter 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, section 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.”

The applicable water quality parameters will be scored 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. Chlorine 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;
- 50 points to the receiving municipality if an upgrade is needed to accommodate the increased flow;
- 100 points each to two or more municipalities that are constructing a joint regional WWTP.

#### **XIV. SFY 2019 PROJECT PRIORITY LIST and PF FUNDING LIST**

The CWFP received 305 regular Intent to Apply (ITA) submittals totaling \$1,094,690,136 in anticipated project costs and five ITA submittals for pilot projects totaling \$22,450,494 in project costs by the October 31, 2017 deadline. These projects were scored and ranked on the project priority list that was [published on the EIF website](#) on January 30, 2018. Projects on this list are eligible to apply for funding during SFY 2019. In addition, one ITA was submitted for a project 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, 2018. 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 may receive loan funds for their projects. We anticipate that the funding list will be posted on the program website by early November. All projects that receive funding during SFY 2019 will be detailed in the SFY 2019 Annual Report to EPA.

#### **XV. ASSURANCES**

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

#### **XVI. PUBLIC REVIEW AND COMMENT**

This draft IUP is being posted for public comment on the DNR’s Program Guidance webpage on May 29, 2018. Keyword: Program Guidance. An email notification was sent to a distribution list of approximately 2,000 recipients. Written comments on the draft IUP will be taken through Tuesday, June 19, 2018. Please send comments to Becky Scott at [rebecca.scott@wisconsin.gov](mailto:rebecca.scott@wisconsin.gov). The final IUP will be published both on the DNR’s Program Guidance webpage and on the Environmental Loans webpage.