

WI DNR Response to Comments: SFY 2019 Safe Drinking Water Loan Program Intended Use Plan

IUP Section	Comment	Submitted by	DNR Response
Overall	WRWA generally supports the proposed State Fiscal Year 2019 Safe Drinking Water Loan Program (SDWLP) Intended Use Plan (IUP).	Chris Groh, Executive Director, WI Rural Water Association	Thank you for your comment.
Section II: Description of the Safe Drinking Water Loan Program (SDWLP)	WRWA is concerned with the requirement to not allow SDWLP funds to be used for watermain replacements that do not result in complete removal of all lead components of water service lines from the watermain to the residence. We understand this policy was enacted in last year’s SDWLP IUP and is in line with EPA and DNR recommendations to prevent elevated lead levels at the tap. We remain concerned that it may not be possible for private side replacement to occur within the recommended 45 days or required 180 days due to construction project timing, limited funding, and the fact that municipalities do not own those portions of service lines. The recent Leading on Lead Act (2017 Wisconsin Act 137), allows for water utilities to provide financial assistance to replace water laterals on private property containing lead. Water utilities are still in the early stages of establishing the financial assistance programs allowed under Act 137. Until these programs can be approved and fully operational, the restrictions on SDWLP funds and the time frames for private side replacement under the proposed SDWLP IUP are not realistic.	Chris Groh, Executive Director, WI Rural Water Association	<p>The WDNR appreciates your comment and agrees that the logistics for coordinating the public and private lead service line can be a challenge. However, in light of overwhelming recent evidence that the risk to human health is greatest if these lines are not replaced at the same time (or at least within a short time of each other), we believe it is in the best interest of the public to maintain as tight a timeline as possible.</p> <p>To help implementation issues, we recommend that municipalities time the public replacements with when private site replacements are able to be installed. The Drinking and Groundwater Section of the DNR can help answer any technical questions and questions regarding the importance of replacing these pipes in a coordinated manner.</p> <p>Municipalities will need to certify to us that the replacements occurred within 180 days and that filters were provided during the time between the full line replacement. That certification would be submitted at the time of 90% completion and confirmed at project closeout. In addition, this requirement will be part of the loan terms and conditions.</p>

WI DNR Response to Comments: SFY 2019 Safe Drinking Water Loan Program Intended Use Plan

<p>Section VI. G. relating to Priority Evaluation and Ranking Formula Scoring</p>	<p>The scoring of projects and placing them in priority score order on the project priority list is important for municipalities to see the relative priority listing of their project relative to other potential projects seeking funding.</p>	<p>MSA Consultants (Dan Greve, Teresa Anderson, Mary Wagner); League of Wi Municipalities (Curt Witynski).</p>	<p>The Department will continue to place projects in priority score order as they are submitted to the Department as part of the Intent to Apply (ITA) process. The Project Priority List (PPL) is a federal requirement to ensure that states award funds in priority score order. While some states only score applications as they are received, in WI, we have included the Priority Evaluation and Ranking Form (PERF) as part of our ITA process so that municipalities can see the range of priority projects that are eligible to submit applications in the next state fiscal year. We continue to emphasize to consultants and municipalities that <i>the PPL cannot be used as a reliable indicator of funding</i> for any particular project for two main reasons: we do not know the funding levels available for the program at the time the PPL is generated; we don't know which applications will be submitted for funding. Since only approximately 10% of projects on the PPL actually submit applications for funding, a municipality on the lower end of the PPL may actually be towards the top of the funding list because other higher scoring projects did not submit applications. Each year, we receive more than 300 ITA/PERFs yet only approximately 30 - 35 applications are submitted annually. Therefore, the use of the PPL to estimate the availability of funding is not recommended by the Department. However, we recognize that some consultants and municipalities do use the PPL this way and thus we will continue to publish the list of projects for which PERF scores have been submitted. In addition, estimating any awards of Principal Forgiveness (PF) based on the PPL is discouraged because PF is not a permanent part of the program nor is the availability or quantity of PF known until many months after the PERF submittal deadline. If a municipality is looking for certainty relating to the availability of funds, they might want to consider that in the past 8 years, all projects seeking funding have received funding through the SDWLP.</p>
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WI DNR Response to Comments: SFY 2019 Safe Drinking Water Loan Program Intended Use Plan

<p>Section VI. G. relating to Priority Evaluation and Ranking Formula Scoring</p>	<p>Reviewing PERF scores at time of application rather than at time of ITA/PERF submittal will cause a negative impact on municipalities.</p>	<p>MSA Consultants (Mary Wagner, Teresa Anderson), League of WI Municipalities, Adam Sontag, City of Hillsboro Administrator</p>	<p>The Department would like to clarify that we are not making any changes to the award of points per ch. NR 166.23, Wis. Admin. Code. The points assigned per code are awarded based on information submitted by the municipality, with supporting documentation. The Department, in the past, has reviewed the hundreds of PERFs when they were submitted, and has confirmed scores or modified scores based on a thorough review of the documentation. The scoring is now automated through an on-line system and significant "help" assistance is available on our website. In addition, DNR staff from the Drinking and Groundwater program will continue to be available prior to the PERF submittal deadline to answer any questions or provide any additional guidance prior to submittal. Lastly, the Department will provide additional scoring assistance through our electronic newsletter and our website prior to the deadline for anyone who wishes to ensure their submitted scores are most accurate.</p>
<p>Section VI. G. relating to Priority Evaluation and Ranking Formula Scoring</p>	<p>Please consider keeping the reviews of the PERF scores but making them good for 2 - 3 years to ease DNR workload.</p>	<p>MSA Consultants (Mary Wagner); League of WI Municipalities;</p>	<p>This request would require revisions to our administrative code. Instead, to help reduce duplication of effort, we can investigate programming enhancements that would allow a customer to upload at least part of the information from the previous years' submittal so they would not need to re-enter data. The municipality would need to update information should there be any project scope changes that would affect the score in any given year.</p>

WI DNR Response to Comments: SFY 2019 Safe Drinking Water Loan Program Intended Use Plan

<p>Section VI. H. relating to PERF score objections</p>	<p>By not confirming scores at the PERF submittal stage, the department is eliminating the PERF score objections and a complete re-evaluation would be needed at the time of application, not contributing to a better understanding of the project need or system status.</p>	<p>MSA Consultants (Mary Wagner)</p>	<p>The commenter is correct that the only objection that could be raised was to the score that was submitted by the municipality and/or their consultant themselves. We note that at the time of application submittal, a new PERF re-score can be requested if there is new information or to confirm a previously submitted PERF score. As noted above, we encourage questions to be raised directly to DG review staff prior to the PERF submittal deadline, so that the most accurate score can be submitted by the municipality. This will result in a more expedited process and more certainty with the initial PERF submittal.</p>
<p>VI. A. On-line Application/Complete application</p>	<p>There should continue to be a "grace period" for submitting incomplete applications, even with an on-line application system that does not allow applications to be submitted unless they are complete with attachments, as needed.</p>	<p>MSA Consultants (Dan Greve, Mary Wagner)</p>	<p>During the first year of the on-line application submittal, the department will use discretion should there be extenuating circumstances in which the substantive requirements of application submittal were met but a minor error occurred (i.e. an older version of a document was mistakenly uploaded); in that circumstance, the application would be considered complete (assuming the correct version of the document was available at the time of application deadline. Failure to upload a document that wasn't available by the application deadline would not result in a grace period.</p>
<p>VI. I. Modification to PF Percentages/ Elimination of 15% Tier and Expansion of 30% Tier</p>	<p>The change in scoring for PF eligibility % should be postponed for a year. Applicants should have the opportunity to develop the best application possible, and this opportunity isn't available if the program policies are changed via the IUP immediately prior to (or after!) the application is due.</p>	<p>MSA Consultants (Dan Greve)</p>	<p>Because PF funding is so limited, it's important to focus on the municipalities with the greatest financial need. Our analyses show that if this change had been implemented in the last 3 years, there would have been 6 municipalities that would have received less PF and 6 that would have received more PF. The 6 that would have received less PF had average populations of 5,603, 10,511 and 17,563 with corresponding MHIs of \$52,819, \$47,087 and \$46,001. The municipalities that would have benefited from this policy change had populations of 170, 2,512 and 3,094, with corresponding MHIs of \$97,565, \$36,815 and \$39,721. The policy would have benefited smaller, more economically challenged municipalities based on these 3 years' worth of data.</p>

WI DNR Response to Comments: SFY 2019 Safe Drinking Water Loan Program Intended Use Plan

	<p>This change will negatively affect the communities that would otherwise have received the 15% PF, and the loss of those funds would be significant. The margin of error relating to the MHI is significant for smaller communities and thus is less reliable for assessing actual income of a small municipality.</p>	<p>MSA Consultants (Mary Wagner); Adam Sonntag, City of Hillsboro</p>	<p>The MHI is applied equally to all projects so there will always be municipalities that are positively and some that are negatively impacted by the margin of error with this data set. In addition, the MHI is based on a 5-year average as developed by the U.S. Census Bureau and each year the MHI is revised, more accurate information is available.</p>
<p>VI. C. Elimination of non-core costs</p>	<p>Including non-core project costs along with funding core project costs has been useful for those who chose to use it because it allows an affordable means for communities to pay for items that are needed but would not necessarily be a stand-alone project. It also helps with project costs that could be a stand-alone project but are too small to warrant the additional expense of an application and closing on that project alone. A community eligible for a loan interest rate of 1.122% under the SDWLP would have to pay significantly more for a project (or need) of \$50,000-\$100,000 through other sources, which affects the overall 'health' of the utility.</p>	<p>MSA Consultants (Mary Wagner); Adam Sonntag, City of Hillsboro Administrator</p>	<p>With the limited amount of funding that is available, it is not feasible to allocate funds to activities that are not core to the project being funded. Also, on-line applications will make it easier to apply for funding for smaller scope projects. If funding for the smaller scope project is available, that funding can be combined with the core project and funded as one loan agreement.</p>
<p>VI. D. Change in calculation of Median Household Income cut-off</p>	<p>Concern that NR 166.13(1)(b) identifies "80% or less" as the determinant for interest rates (and other impacts in other portions of the code) and an interpretation correction limiting the percentage to 80%. Commenter notes that it only affects a few communities every year, but impacts their interest rate and PF points. For those communities, it is the very significant difference between: a. An interest rate equal to 55% of market rate or 33% of market rate (currently 0.748% which equates to an interest penalty of over \$85,800 on a million dollars over the life of the loan). b. It affects PF scoring/eligibility by 10 points. c. It also makes</p>	<p>MSA Consultants (Mary Wagner); Adam Sonntag, City of Hillsboro Administrator</p>	<p>The department is applying consistent interpretation to the code when it specifies that 80% or less is not the same as 80.xx) and in fact is greater than 80%. Accurately and consistently interpreting intent of the code is important to ensure program fairness and equity.</p>

WI DNR Response to Comments: SFY 2019 Safe Drinking Water Loan Program Intended Use Plan

	<p>the difference on the PERF scoring equal to all of the points assigned for population (up to 30) plus the 5 for being just within the 80% MHI level. i.e. instead of getting possibly 35 points as part of the PERF score, that section would be zeroed. See also the concern in section 4 above regarding the continuing fluctuations related to the ACS MHI.</p>		
<p>VI.A. Online Application Submittal and Elimination of Grace Period for application submittals</p>	<p>We try to be sure that every application is complete and do not 'expect' a grace period after the application deadline, it is possible for minor errors to be made (uploading an incorrect version of a document, etc.), a natural disaster or serious compromise to an official or key person submitting the application could occur. Commenter hopes that this policy would be implemented understanding that despite checks and re-checks an error might be made that shouldn't cost a community their application status. Commenter also notes that if you hit submit before you meant to, you are not locked out from continuing with the application submittal process (i.e. should allow for edits up to June 30th at midnight deadline). If there is concern as to security of an application submittal, perhaps edits after submittal and before the June 30th deadline should require an additional security key that is automatically assigned upon application submittal or WAMS authorization for the application. Commenter asks: who has access to the application via WAMS?</p>	<p>MSA Consultants (Mary Wagner, Dan Greve)</p>	<p>Thank you for your comment/concern. Section 166.10(2) states that an applicant shall submit a complete application in accordance with s. 281.61(5), Stats. and further defines what constitutes a complete application in s. NR 166.10(2), Wis. Admin. Code. Complete applications are required to be submitted by June 30th for the next state fiscal year's funding. Prior to the SFY 2019 application deadline, applications were typically mailed to the Department, often on June 30th. The department had provided a brief grace period for missing attachments because there were no automated mechanisms for letting the submitter know information was missing. The new on-line system will not let the applicant submit the application if there is incomplete information or documentation. Therefore, the need for the grace period is no longer valid. The Department continues to encourage applications to be submitted prior to the last date so that if there are any questions or issues, there is time to make those corrections prior to the statutory deadline. The Environmental Loans Section will continue to do outreach on all aspects of application requirements, and will continue to include a robust help component to the on-line application. It is the responsibility of the submitter to ensure all application materials are submitted along with the application, in order for it to be considered complete. As noted above, the department will use its discretion when extraordinary situations warrant, including natural disasters and/or when minor document errors occur (such as uploading the wrong version of a document) so long as the correct version was</p>

WI DNR Response to Comments: SFY 2019 Safe Drinking Water Loan Program Intended Use Plan

			available by the statutory deadline. Note: Those authorized by the municipality have access to the application via WAMS.
VI. F. Potential extra points for Lead ALEs	<p>Supports concept, but has 2 questions:</p> <ol style="list-style-type: none"> 1. Will the proofs for this be detailed in further guidance or code; 2. Will this possibly result in funds to apply to the private portion of the service as well? 	MSA Consultants (Mary Wagner)	<ol style="list-style-type: none"> 1. If a community has an ALE (action level exceedance), that is a result of lead and copper (Pb/Cu) compliance monitoring reflecting a 90th percentile exceeding 15 ug/L for lead or 1300 ug/L for copper. All of this information is detailed in ch. NR 811, Wis. Adm. Code. The 90th percentile information resulting from all compliance sampling is available on the Drinking Water and Groundwater (DG) website for each public water system at https://prodoasext.dnr.wi.gov/inter1/pws2\$.startup. If the community has had an ALE, they will also have received notification from DG, immediately following their compliance monitoring period in which the ALE occurred. 2. Water utility funds can already be applied to the private portion of the service, as a result of 2017 WI Act 137, effective February 2018. Up to 50% of the private service replacement can be funded by the utility and incorporated into the water user rates (and replacement work funded through the SDWLP). However, a construction authorization must be issued by PSC prior to inclusion of this work in water user rates.
VII.A. Proposed Changes to SFY 2020 IUP	The IUP states that 50% of the City Council, Village Board or Sanitary District members will be required to complete online training in Utility Management and Financial Management. Will this training be required before or after the application is due? Before or after the loan is closed? What will be the “penalty” for failure to meet this criterion?	MSA Consultants (Dan Greve)	This requirement is proposed to start in 2020 and the first training is required prior to execution of the loan; the second class is required to be taken the following year. Failure to take these classes would result in the municipality violating the terms and condition of the FAA. We are communicating with PSC to make this a general requirement for all projects under their purview.