

Response to Comments - Environmental Loans Policy Paper

Regarding 2021 Wisconsin Act 112: Procedural Changes for CFWP and SDWLP Applications

March 14, 2022

The 21-day public comment period for the Environmental Loans Policy Paper relating to 2021 Wisconsin Act 112 opened on January 10, 2022 and closed on January 31, 2022. During that time, several comments were received. The table below lists the comments specifically related to the Policy Paper and the DNR response. Other comments of a general nature, or relating to topics not addressed within the Policy Paper, are not discussed here but are being taken into consideration as the program continues to develop.

Item	Comment	Submitted By	DNR Response
Item 1	<p>In item one, the DNR and DOA note that the notice of Intent to Apply (ITA) must still be submitted as a municipality would submit their ITA prior to the enactment of Act 112. While the agencies were left with the discretion to determine the best path for using an ITA, as the Senate author of Act 112, I do not believe that the policy to make no changes is in the best interest of the community served by these programs.</p> <p>Prior to the enactment of Act 112, the ITA must have been submitted at least six months prior to applying. The DNR and DOA had elected to extend the ITA out even further to October 31st of the calendar year prior to applying. While the deadline for submitting an ITA prior to what was required under state law does help to avoid the holiday season, the ITA as it exists sets out the beginning of a substantial timeline before a loan is awarded and closed. If an applicant submits an ITA on the deadline, October 31st of the calendar year before applying, they must wait a minimum of eight months before submitting an application, and then may spend up to a year awaiting an application acceptance notification followed by the closing of the loan.</p> <p>This process of a year and a half or longer in the loan application process doesn't account for the project planning prior to the ITA, the Public Service Commission of Wisconsin certificate of authority process when needed, and the completion of the project contracts and construction of the capital project. I believe it would be in the best interest of the community of professionals served by the Environmental Improvement Fund to remove the ITA in the drafting of the next IUP. If the DNR and DOA feel that removing the ITA could impact the ability to appropriately manage the program's funding to direct it towards the most urgent and important needs across the state based on the Priority Evaluation and Ranking Formula, I would instead encourage the DNR and DOA to consider setting the ITA deadline closer to the application submittal deadline, such as three months prior to the start of the next SFY, leaving the ITA deadline at March 31st instead of October 31st.</p>	<p>Senator Robert Cowles, Wisconsin's 2nd Senate District</p>	<p>DNR agrees with your general sentiment that the length of time between Intent to Apply (ITA) submittal and loan closing is longer than necessary. Moving the ITA deadline closer to the application deadline would help reduce the timeframe, however; before making a change to the ITA submittal deadline, DNR wishes to engage our customers and stakeholders in a discussion about overall program timelines (ITA submittal, application submittal and loan closing deadlines for the CFWP and SDWLP) in an effort to create a better structure for the entire process. We are cautious of making numerous incremental changes over an extended period of time and hope to instead make a single change to address ITAs, applications and loan closing at the same time. DNR understands that infrastructure projects and funding decisions take place over a long timeframe. We want to provide sufficient notice of any submittal or deadline changes so that they can be incorporated into a municipality's decision making process.</p>

Item 1	The yearly ITA/PERF process strikes me as an overall “good,” both for DNR, munis and engineers. DNR then has an idea of projects that are being considered. For munis and engineers, being able to gauge where your project is relative to other projects is helpful/comforting. It is not unreasonable to require October 31 PERFs for project applications that will be submitted (say) March 31, June 30, September 30, December 31. The great thing about the PERF is that it made it clear to us how Merrimac could position ourselves for a better probability of PF, with enough time to execute that. (e.g. Board Member training, AMP, WHPP, etc)	Margaret Budde, Village of Merrimac resident and retired PE	While Act 112 did remove the statutory requirement to submit a notice of Intent to Apply (ITA), no changes are being made at this time to the ITA process for the CWFP or SDWLP. DNR will consider changes to the CWFP and SDWLP ITA submittal deadlines in the future. It is unlikely that DNR would entirely eliminate the ITA and/or Priority Evaluation and Ranking Formula (PERF) processes.
Items 2 & 3	In the Policy Paper, the DNR and DOA note changes consistent with the intent of Act 112 are being made to item two, removal of language for both programs that restricted a municipality’s ability to submit more than one application per year for the same project, and item three, correction of a procedural inaccuracy in the timing of engineering report submittals relative to Safe Drinking Water Loan Program (SDWLP) application submittals. These are both positive steps for the DNR and DOA to implement and, particularly for item two, should provide noticeable benefits to municipalities who utilize the Environmental Improvement Fund programs and may need to make revisions to applications or resubmit an application in the subsequent year.	Senator Robert Cowles, Wisconsin's 2nd Senate District	Thank you for your comments and support.
Item 4	I believe the removal of deadline and process constraints from the Wisconsin Administrative Code makes a lot of sense. Plus, I believe this will make a better situation for municipalities and the engineers that serve them. The biggest example is the June 30th deadline for applications with “approvable” Plans & Specs. Because of this deadline (and the uncertainty whether we’d qualify for PF funding in future years), the Village of Merrimac felt we had to make decisions quickly on Well No. 2 nearly a full year in advance, to give our engineer enough time for all the important and complex steps that have to be completed. In the future, when the Environmental Loans Program has a freer hand to set, say, “rolling” deadlines, this will greatly help municipalities and engineers make decisions at their own pace, without fear of missing a once-a-year deadline.	Margaret Budde, Village of Merrimac resident and retired PE	Thank you for your comments. This Policy Paper does not make changes to the existing June 30th deadline for Safe Drinking Water Loan Program (SDWLP) applications, however; Environmental Loans is planning to review the Intent to Apply, loan application, and loan closing deadlines for both the SDWLP and Clean Water Fund Program (CWFP). We will take these comments into consideration during that process.
Item 4	Finally, in item four, the DNR and DOA note that no changes consistent with the intent of Act 112 are intended for the removed statutory deadline to submit applications for the Safe Drinking Water Loan Program.	Senator Robert Cowles, Wisconsin's 2nd Senate District	DNR intends to review the SDWLP application deadline in conjunction with a review of the ITA submittal deadline and loan closing deadline for the SDWLP and CWFP with the intent of establishing a better structure for all processes.

Item 4	While I understand that changing the submission deadline for this upcoming SFY may be impractical given that the submission deadline is only about five months away, I would encourage the agencies to reevaluate the IUP for SFY 2023 and implement a rolling application period for non-principal forgiveness loans.	Senator Robert Cowles, Wisconsin's 2nd Senate District	For non-principal forgiveness SDWLP applications, the DNR will incorporate a rolling application period into the SFY 2023 Intended Use Plan that is modeled off of the continuous funding cycle for non-principal forgiveness CWFPP applications.
Item 4	Additionally, I would encourage the DNR to consider creating a separate application deadline for principal forgiveness loans to remove lead laterals, which is consistent with the DNR's testimony on 2021 Senate Bill 489.	Senator Robert Cowles, Wisconsin's 2nd Senate District	While not addressed in the Policy Paper, DNR did utilize the flexibility provided by Act 112 to set an application deadline for the Private Lead Service Line Replacement Program of January 18, 2022. 75 eligible applications were received, and DNR expects to award all available LSL Replacement funding for work to be completed during calendar year 2022.
Item 5	I am in 100% support of extending the SDWLP Loan Closing Deadline three (3) months to 9/30/2022. This revision to current SDWLP rules will provide more flexibility for communities to determine which financing mechanism that they will use (i.e. Water Rate Conventional Rate Case – PSC; G.O. Bond; TIF Bond, etc.) and will allow for communities to submit the PSC Conventional Rate Case Application later in the process, since the community may not know by 9/15 of the preceding year on whether or not it will need to provide a Rate Case.	Bart Nies, Delta 3	Thank you for your comments and support.
Item 5	...it is good to see the Policy Paper note in item five, removal of the statutory loan closing deadline for the SDWLP, that the DNR and DOA intend on extending the loan closure deadline by three months for State Fiscal Year (SFY) 2022. I would encourage the DNR and DOA to retain this policy in the SFY 2023 Intended Use Plan (IUP) and subsequent plans drafted by the agencies, and I would also encourage the DNR and DOA to consider establishing a policy that allows for an extension beyond the loan closure deadline established in the Policy Paper and IUPs for extraordinary circumstances.	Senator Robert Cowles, Wisconsin's 2nd Senate District	DNR agrees with the benefit of keeping the September 30th loan closing deadline for SFY 2023 projects and will make it official in the SFY 2023 Intended Use Plan (IUP). DNR will also consider incorporating a policy into the IUP for extending the deadline on a case-by-case basis.