

NC DEQ Division of Water Infrastructure’s Proposed Plan to Administer American Rescue Plan Act’s State Fiscal Recovery Fund Appropriated in the State Budget for Stormwater Projects

Draft ARPA Stormwater Administration Plan for Public Comment

Last updated May 2, 2022.

This document describes the administration plan for administering the appropriated American Rescue Plan Act (ARPA) State Fiscal Recovery Fund as grants for stormwater projects from the newly-created Local Assistance for Stormwater Infrastructure Investments fund. The draft plan, which includes eligibility requirements, Priority Rating Systems to evaluate stormwater grant applications, and grant limits, is in public review until June 3, 2022. Instructions on providing public comments are included at the end of this document.

Summary

The North Carolina General Assembly appropriated \$1.69 billion from the state’s allocation of the American Rescue Plan Act for drinking water, wastewater, and stormwater investments in Sections 12.13 and 12.14 of the Current Operations Appropriations Act of 2021 ([S.L. 2021-180](#)).

The North Carolina Department of Environmental Quality’s (NC DEQ’s) Division of Water Infrastructure (Division) will administer approximately \$100.5 million for stormwater projects in the Local Assistance for Stormwater Infrastructure Investments fund, which excludes three percent of the appropriated amounts that may be used for administrative costs. The fund amounts, following statutory and budgetary requirements, are shown in the table below. In addition, federal requirements for the use of American Rescue Plan Act appropriations will apply. All funds must be expended by December 31, 2026.

NC DEQ Fund	Purpose	Allocated directly for specific local governments (directed projects), approx.	Approximate remaining for grant funding (undirected funds)
Local Assistance for Stormwater Infrastructure Investments Fund (ARPA stormwater grants)	Grants for local governments for projects that will improve or create infrastructure for controlling stormwater quantity and quality	\$18.5 million	\$82.0 million
		Total funds: approx. \$100.5 million	

Administration plan for ARPA grants for directed projects

Approximately \$18,500,000 has been directly allocated by the General Assembly to 11 recipients for stormwater projects in Section 12.14 of the Current Operations Appropriations Act of 2021. The grants are subject to eligibility and federal and statutory requirements and will be processed on a reimbursement basis.

Administration plan for ARPA grants for all other stormwater funding from the Local Assistance for Stormwater Infrastructure Investments Fund

Approximately \$82,000,000 will be available for cities (i.e. municipalities) and counties and their regional councils of government and nonprofit entity partners for projects that will improve or create infrastructure for controlling stormwater quantity and quality. The funds will be awarded through the Division’s competitive funding process. Eligibility requirements, Priority Rating Systems by which applications for funding will be evaluated, and maximum funding amounts are listed below.

A. Entity Eligibility Requirements

As defined in Session Law 2021-180 Section 12.14.(d), an eligible entity for a grant is “a city or county that (i) documents in a form and manner as the Department may specify a stormwater quality or quantity issue and (ii) demonstrates that it would experience a significant hardship raising the revenue necessary to finance stormwater management activities within its jurisdiction based on income and unemployment data, population trends, and any other data determined relevant by the Department. A regional council of government created pursuant to Part 2 of Article 20 of Chapter 160A of the General Statutes or a nonprofit entity is also an eligible entity under this section if the regional council of government or nonprofit entity partners with a city or county.” **These eligibility considerations apply to funding through the Local Assistance for Stormwater Infrastructure Investments fund; they do not apply to Clean Water State Revolving Fund (CWSRF) funding for stormwater projects.**

The State Water Infrastructure Authority (SWIA) and the Division developed proposed eligibility requirements necessary to implement Session Law 2021-180 Section 12.14.(d). Eligibility is determined in two parts. At its meeting on April 14, 2022, SWIA reviewed and approved for public review the following proposed Entity Eligibility Requirements.

Part 1) Documentation of a Stormwater Quality or Quantity Issue – Required by Session Law 2021-180 Section 12.14.(d)(i)

For all stormwater grant applications, applicants will be required to provide:

- A. A narrative that describes the stormwater quality issue and/or stormwater quantity issue (based on historic or projected precipitation) and how the grant will be used to address the issue;
- B. A map and/or a narrative that identifies the location of the stormwater quality and/or stormwater quantity issue. The map and/or narrative must show or describe the watershed above the location, and if possible, identify the acreage, percentage of impervious area and land use cover in the watershed above the location; and
- C. If available, photographs of the stormwater quality and/or stormwater quantity issue and identification of the amount of rainfall that caused the issue, based on the nearest reliable rain gauge, news articles about the issue, or other information that clearly demonstrates the issue.

In addition, applicants must demonstrate that they meet Part 2, described below.

Part 2) Demonstration of “Significant Hardship Raising the Revenue ...” – Required by Session Law 2021-180 Section 12.14.(d)(ii)

The criteria that will be considered when making the determination of significant hardship raising the revenue necessary to finance stormwater management activities will vary by the type of stormwater grant application as follows.

I. For applications for Stormwater Construction Grants and Stormwater Planning Grants (except applications to Develop and Implement a New Stormwater Utility)

An applicant will demonstrate eligibility by meeting any of the three criteria below:

Criterion 1: The City or County has a Stormwater Enterprise Fund, and the operating ratio (total operating revenues divided by total operating expenses) in the most recent audit of this Enterprise Fund is less than 1.00.

OR

Criterion 2: At least two of the five Local Government Unit (LGU) Indicators for the City or County are worse than the state benchmarks shown in the table below.

Local Government Unit Indicator		Spring 2022 State Benchmark (for reference only; benchmarks are updated annually)
Population Change	<=	4.26%
Poverty Rate	>=	14.7%
Median Household Income	<=	\$54,602
Unemployment Rate	>=	3.9%
Per Capita Appraised Value of Property	<=	\$119,594

OR

Criterion 3: The City or County as a whole does not meet Criterion 1 or Criterion 2 but has stormwater projects that serve or benefit disadvantaged areas within the City’s or County’s jurisdiction. To be eligible, 75 percent or more of the project cost must be used to serve or benefit disadvantaged areas. Disadvantaged areas will be based on either:

- NC DEQ’s determination of “Potentially Underserved Block Groups” or Tribal boundaries displayed on the [NC DEQ Community Mapping System](#). Potentially Underserved Block Groups on the map include the following demographics: the share of nonwhites and Hispanic or Latino (of any race) is over fifty percent or at least ten percent higher than the County or State share, and the share of population experiencing poverty is over twenty percent or at least five percent higher than the County or State share. The applicant can use this map to demonstrate that the proposed project serves or benefits areas located within block groups classified on the map as Potentially Underserved Block Groups or within Tribal boundaries; or
- If the proposed project does not fall within a Potentially Underserved Block Group or Tribal boundary layer on the map, the applicant must provide information in the application explaining what factors would qualify the project area as disadvantaged (such as demographic, historical, cultural, linguistic, low-wealth factors, or other considerations deemed relevant).

II. For applications to Develop and Implement a New Stormwater Utility

If the City or County does not have a stormwater utility with a Stormwater Enterprise Fund and the project purpose described in the application is to develop and implement a new Stormwater Utility, the City or County will have met the requirement to demonstrate that there is a significant hardship in raising the revenue necessary to finance stormwater management activities within its jurisdiction. The grant amount for which a City or County will be eligible will be capped at different levels based on the number of LGU Indicators (from Criterion 2) that are worse than the state benchmarks. See Section D for more information.

B. Types of Grants

Session Law 2021-180 Section 12.14.(e) provides for two types of grants from the Local Assistance for Stormwater Infrastructure Investments fund:

(1) Construction grants. – A construction grant is available for the development and implementation of a new stormwater utility or stormwater control measure (SCM), the rehabilitation of existing SCMs, the retrofitting of existing stormwater conveyances to provide SCMs for quantity and quality control purposes, or the installation of innovative technologies or nature-based solutions. The Department shall allow nature-based solutions where feasible and possible.

(2) Planning grants. – A planning grant is available for research or investigative studies, alternatives analyses, the preparation of engineering concept plans or engineering designs, and similar activities intended to help an eligible entity determine the best solutions for the entity's stormwater quality or quantity issue and to engineer and permit the solutions. The Department shall allow nature-based solutions where feasible and possible.”

Session Law 2021-180 Section 12.14.(h) provides the following definition: “For purposes of this section, "nature-based solutions" are sustainable planning, design, environmental management, and engineering practices that weave natural features or processes into the built environment to store, infiltrate, and treat water by enlisting natural features and processes in efforts to promote resilience, reduce flood risks, improve water quality, protect coastal property, restore and protect wetlands, stabilize shorelines, and add recreational space.”

C. Priority Rating Systems to Evaluate Stormwater Grant Applications

Applications for funding for stormwater projects will be evaluated and scored according to Priority Rating Systems established by the State Water Infrastructure Authority to award funds.

At its meeting on April 14, 2022, SWIA reviewed and approved for public review two proposed Priority Rating Systems: the Proposed Stormwater Construction Grant Priority Rating System and the Proposed Stormwater Planning Grant Priority Rating System. The Priority Rating Systems may be changed by SWIA prior to funding rounds.

Although the development and implementation of a new stormwater utility is identified in Section 12.14.(e) as a Construction project, the application for grants and activities related to the development and implementation of a new stormwater utility more closely resembles those of Planning projects. The Division proposes to evaluate applications to develop and implement a new stormwater utility as a Planning grant application, using the Draft Stormwater Planning Grant Priority Rating System, and fund

the awarded projects with Construction grants. Proposed Stormwater Planning Grant Priority Rating System Line Item 2.E includes priority points for this type of project.

- **Proposed Priority Rating System to evaluate applications for Stormwater Construction Grants** (excluding applications to Develop and Implement a New Stormwater Utility):

DRAFT Stormwater Construction Grant Priority Rating System			
<p>Instructions for Applicant: For each line item, mark “X” to claim the points for that line item. Be sure that your narrative includes justification for every line item claimed. At the end of each category, provide the total points claimed for each program in the subtotal row for that category. Then add the subtotals from each category and enter the Total Points for All Categories in the last line. Note that some categories have a maximum allowed points that may be less than the total of individual line items.</p>			
Line Item #	Category 1 – Project Purpose (Points will be awarded for <u>only one</u> Project Purpose: 1.A or 1.B or 1.C)	Claimed Yes/No	Points
1.A	Stormwater Quality – Stormwater Control Measures (SCMs)¹: Create new SCMs or improve, retrofit, repair, rehabilitate or replace existing SCM infrastructure to control stormwater quality		
1.A.1	Proposed SCMs are nature-based solutions, OR		30
1.A.2	Proposed SCMs are not nature-based solutions		25
1.B	Stormwater Quality – Restoration²: Restoration of streams, wetlands, buffers, or estuaries to control stormwater quality		25
1.B.1	Project includes restoration of a first order stream and includes stormwater infiltration SCMs		2 (additional points)
1.B.2	Project includes restoration of permanent riparian buffers to at least 30 feet on both sides of the stream		2 (additional points)
1.C	Stormwater Quantity: Create or improve, retrofit, repair, rehabilitate or replace existing stormwater infrastructure to control stormwater quantity and reduce flooding (This line item is NOT applicable for CWSRF funds)		25
Maximum points for Category 1 – Project Purpose			30

¹ Stormwater quantity control projects are eligible for Line Item 1.A points if more than 50 percent of the construction cost of the project is for the stormwater quality portion of the project.

² Not eligible for funding: activities that satisfy compensatory mitigation requirements under NCGS 143-214.11.

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Subtotal claimed for Category 1 – Project Purpose			
Line Item #	Category 2 – Project Benefits	Claimed Yes/No	Points
2.A	Water Quality Improvement		
2.A.1	<u>Directly benefits</u> subwatersheds that are impaired as noted on the most recent version of the Integrated Report, OR		25
2.A.2	Protection of Sensitive Waters (HQW, ORW, Tr, SA, UWL, PNA, AFNA, SAV, WS I, WS II, WS III, WS IV* and WS V*) (* these Water Supply Watershed classifications must be covered by an approved Source Water Protection Plan to qualify), OR		15
2.A.3	Achieves at least 35% reduction in both Total Nitrogen (TN) and Total Phosphorus (TP)		10
2.B	Flood Reduction ³		
2.B.1	Increases public safety by improving the entity’s ability to access and operate critical infrastructure during flood events such as water and/or wastewater treatment infrastructure, schools, hospitals, and/or emergency response facilities, OR		15
2.B.2	Reduces structural flooding in habitable structures, OR		8
2.B.3	Reduces street flooding		5
2.C	By working together, <u>two or more units of local government</u> improve stormwater quality and/or quantity control (may require an Interlocal Agreement or Resolutions between local government units)		10
2.D	Enables the entity to address impacts to an area that is uniquely vulnerable to future natural events that may be a result of increased precipitation levels and frequency and/or sea level rise ⁴		3

³ Not eligible for funding: removing stream debris other than that which is incidental to the project, repairing or improving transportation infrastructure as the primary project benefit, and constructing or repairing dams, levees or other structures designed to retain waters within a stream channel.

⁴ Inclusion of Line Item 2.D in the final Priority Rating System is contingent on the Division developing a method to assess this benefit in the funding application.

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2.E	Includes an innovative stormwater project as described in the “Innovative Stormwater Program FAQs” section of the current NC Land and Water Fund Innovative Stormwater Program Manual https://nclwf.nc.gov/media/92/open		5
2.F	Improves compliance with the entity’s NPDES Municipal Separate Storm Sewer System (MS4) permit or helps the entity prepare to comply with a future NPDES MS4 permit (This line item is NOT applicable for CWSRF funds)		3
2.G	Includes a public education component such as signage describing the function of the stormwater quality or quantity infrastructure		1
Maximum points for Category 2 – Project Benefits			35
Subtotal claimed for Category 2 – Project Benefits			
Line Item #	Category 3 – System Management	Claimed Yes/No	Points
3.A	Local Planning		
3.A.1	Entity has developed or is developing a local flood resiliency plan, watershed plan, stormwater management plan, stream restoration plan, or estuary restoration plan, and the proposed project is included in the plan, as of the date of application, OR		5
3.A.2	Entity has implemented an Operation and Maintenance Plan for stormwater infrastructure which includes inspections, repairs and maintenance, as of the date of application		3
3.B	Entity has a current Stormwater Capital Improvement Plan (CIP) that spans at least 5 years and proposed project is included in the CIP		2
3.C	Stormwater Utility		
3.C.1	Entity has established or is developing or implementing a Stormwater Utility with a Stormwater Enterprise Fund, OR		5
3.C.2	Entity has established or is developing or implementing a Stormwater Management Program without a Stormwater Enterprise Fund		3
Maximum points for Category 3 – System Management			10

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Subtotal claimed for Category 3 – System Management			
Line Item #	Category 4 – Affordability	Claimed Yes/No	Points
4.A	Population less than 10,000		3
4.B	Local Government Unit (LGU) Indicators ⁵		
4.B.1	3 out of 5 LGU indicators worse than state benchmark, OR		8
4.B.2	4 out of 5 LGU indicators worse than state benchmark, OR		10
4.B.3	5 out of 5 LGU indicators worse than state benchmark		12
4.C	Project benefits disadvantaged areas: 50 percent or more of the total project cost will benefit disadvantaged areas. Disadvantaged areas will be based on either NC DEQ’s determination of “Potentially Underserved Block Groups” or Tribal boundaries displayed on the NC DEQ Community Mapping System , or information as described in the Guidance Document for applicants		10
Maximum points for Category 4 – Affordability			25
Subtotal claimed for Category 4 – Affordability			
Total Points for All Categories for Stormwater Construction Grants			

- **Draft Priority Rating System to evaluate applications for Stormwater Planning Grants** (including applications to Develop and Implement a New Stormwater Utility):

DRAFT Stormwater Planning Grant Priority Rating System		
Line Item #	Category 1 – Project Benefits	Points
1.A	Link between challenges and how the study will help address the challenges	0 – 5
1.B	How the study will be used to develop and prioritize future projects that address the challenges	0 – 3

⁵ Five LGU indicators as shown in a table on page 3: population change, poverty rate, median household income, unemployment rate, and per capita appraised value of property.

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1.C	Study will <u>directly improve</u> compliance with the entity's NPDES Municipal Separate Storm Sewer System (MS4) permit or will help the entity prepare to comply with a future NPDES MS4 permit	3
1.D	Study is a collaborative effort with other local government units	3
1.E	Study area is a subwatershed that is impaired as noted on the most recent version of the Integrated Report, or study will directly support protection of Sensitive Waters (HQW, ORW, Tr, SA, UWL, PNA, AFNA, SAV, WS I, WS II, WS III, WS IV* and WS V*) (* these Water Supply Watershed classifications must be covered by an approved Source Water Protection Plan to qualify)	2
1.F	Study will directly address areas that are uniquely vulnerable to impacts from future natural events that may be a result of increased precipitation levels and frequency and/or sea level rise ⁶	1
Line Item #	Category 2 – System Management	Points
2.A	At least one person working for or with the entity is designated as responsible for stormwater management	0 or 1
2.B	Status of implementing results of previous planning study or studies	0 or 1
2.C	Level of entity's staff involvement in planning project development and implementation	0 or 1
2.D	Entity has, or the study will create or update, a stormwater management plan for the study area	4
2.E	Study will develop and implement a new Stormwater Utility	5
Line Item #	Category 3 – Affordability	Points
3.A	Population less than 10,000	2
3.B	Local Government Unit (LGU) Indicators ⁷	
3.B.1	3 out of 5 LGU indicators are worse than the state benchmark, OR	2

⁶ Inclusion of Line Item 1.F in the final Priority Rating System is contingent on the Division developing a method to assess this benefit in the funding application.

⁷ Five LGU indicators as shown in a table on page 3: population change, poverty rate, median household income, unemployment rate, and per capita appraised value of property.

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3.B.2	4 out of 5 LGU indicators are worse than the state benchmark, OR	4
3.B.3	5 out of 5 LGU indicators are worse than the state benchmark	6
3.C	Project benefits disadvantaged areas: The study area includes disadvantaged areas. Disadvantaged areas will be based on either NC DEQ’s determination of “Potentially Underserved Block Groups” or Tribal boundaries displayed on the NC DEQ Community Mapping System , or information as described in the Guidance Document for applicants	4
Total Points for All Categories for Stormwater Planning Grants		41 Max

D. Grant Limits

Per Section 12.14.(c), of the approximately \$82,000,000 in undirected funds, seventy percent of the funds are allocated for construction grants (a total of approximately \$57.4 million) and thirty percent of the funds are allocated for planning grants (approximately \$24.6 million). There will be no match requirements for grants from the Local Assistance for Stormwater Infrastructure Investments Fund.

Session Law 2021-180 Section 12.14.(f) defines the statutory maximum limits that apply to grants from this Fund as: “(1) Construction grants may not exceed fifteen million dollars (\$15,000,000), and (2) Planning grants may not exceed five hundred thousand dollars (\$500,000)”. To extend access of the limited available stormwater grant funds to more units of local government, the Division will limit stormwater construction grants, stormwater planning grants, and new stormwater utility grants as follows:

1. Stormwater Construction Grants

Stormwater construction grants, except for the development and implementation of a new stormwater utility, will be limited to up to \$5,000,000 per applicant per grant cycle. If two or more units of local government work together to improve stormwater quality and/or quantity control under one project, the total amount of the stormwater construction grant will be limited to up to \$7,500,000 per grant cycle.

2. Stormwater Planning Grants

Stormwater planning grants will be limited to up to \$400,000 per applicant per grant cycle. If the study is a collaborative effort with other local government units, the total amount of the stormwater planning grant will be limited to up to \$500,000 per grant cycle.

3. Development and Implementation of New Stormwater Utility Grants

The grant amount for an eligible entity to develop and implement a new stormwater utility will be limited to different amounts based on the number of Local Government Unit (LGU) Indicators that are worse than the state benchmarks shown in the table below:

Local Government Unit (LGU) Indicator		Spring 2022 State Benchmark (for reference only; benchmarks are updated annually)
Population Change	<=	4.26%
Poverty Rate	>=	14.7
Median Household Income	<=	\$54,602
Unemployment Rate	>=	3.9%
Per Capita Appraised Value of Property	<=	\$119,594

- If an entity demonstrates that 0, 1, or 2 of its five LGU Indicators are worse than the state benchmark, the amount of grant funds that may be awarded for the development and implementation of a new stormwater utility is limited to up to \$400,000.
- If an entity demonstrates that 3, 4 or 5 of its five LGU Indicators are worse than the state benchmark, the amount of grant funds that may be awarded for the development and implementation of a new stormwater utility is limited to up to \$500,000.

Any ARPA funds directly allocated to recipients in the Current Operations Appropriations Act of 2021 for directed projects under Section 12.14.(b) will count towards an entity's initial award and additional incremental awards.

E. Anticipated Application Acceptance Date

The Division anticipates accepting applications for stormwater funding to be awarded from the Local Assistance for Stormwater Infrastructure Investments fund starting with the Fall 2022 funding round, with applications due September 30, 2022 and awards determined as early as February 2023. Future funding rounds will be used to award any remaining ARPA funds.

F. Anticipated Timeline of the Administration Plan for ARPA Grants for Stormwater Projects

1. January-July 2022: the Division and SWIA develop Priority Rating Systems for stormwater infrastructure investments, with public review and stakeholder input.
 - a. May-June 3, 2022: Public review of proposed Administration Plan and Priority Rating Systems
 - b. July 13, 2022: SWIA meeting to review public comments and review and approve final Priority Rating Systems
2. July – August 2022: Division posts Fall 2022 funding application materials, announces administration plan and application process, conducts trainings for funding applications.
3. September 30, 2022: Fall 2022 application deadline for stormwater projects (first round).
4. February 2023 and later: SWIA awards Fall 2022 ARPA stormwater grants.

If ARPA funding remains available for a second round of funding:

5. May 1, 2023: Spring 2023 application deadline for stormwater projects (second round).
6. July 2023: SWIA awards Spring 2023 ARPA stormwater grants if funding is available.

Future application funding rounds will be used to award any remaining funds.

Public comments

Interested parties are invited to provide comments on the proposed plan by **June 3, 2022 at 5:00 p.m.** Comments can be submitted:

- by email to dwi.publiccomments@ncdenr.gov with subject line *Comments on Division of Water Infrastructure Proposed Plan for Stormwater Funding*
- by mail to: Cathy Akroyd, Division of Water Infrastructure, 1633 Mail Service Center, Raleigh, NC 27699-1633

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