

**State Water Infrastructure Authority**  
**September 14, 2022 Meeting**  
**Agenda Item G – 2022 Update on and Designation of Systems as Distressed**

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**Division of Water Infrastructure Staff Report**

**Background**

Session Law 2020-79, entitled in part “An Act to Improve the Viability of the Water and Wastewater Systems of Certain Units of Local Government...”, authorizes the State Water Infrastructure Authority (Authority) and Local Government Commission (LGC) to develop criteria to assess and review local government units (LGUs) managing water and wastewater systems, and to utilize the assessment and review process to identify distressed units.

In the Fall of 2020, the Authority and Commission developed the Identification Criteria and Assessment Criteria to evaluate local government units and identify distressed units. The Authority adopted the Assessment Criteria and the Identification Criteria at its meeting on November 18, 2020.

**Identification Criteria**

The Authority and Commission adopted the following Identification Criteria to be used to identify distressed units:

1. An LGU whose fiscal affairs are under the control of the LGC pursuant to its authority granted by G.S. 159-181 (“under LGC fiscal control”), or
2. An LGU that has not submitted its annual audits for the last two (2) fiscal years to the LGC as required by G.S. 159-34, or
3. An LGU with a total Assessment Criteria score that:
  - a) Equals or exceeds 9 for LGUs providing both drinking water and wastewater services, or
  - b) Equals or exceeds 8 for LGUs providing only one service, either drinking water or wastewater, or
4. An LGU for which other information is available to or known by the Authority or Commission that reflects and is consistent with, but does not expressly appear in, the Assessment Criteria to account for situations in which the Assessment Criteria score does not wholly or accurately reflect a system’s level of risk due to the limitations of available data.

**Initial Assessment and Distressed Designations**

In late 2020 and early 2021, Division and Commission staff compiled LGU data in accordance with the approved criteria to identify distressed LGUs. Initially, 119 LGUs were identified as

potentially distressed based on the approved criteria. Based on additional review and information received from LGUs, some of the 119 were determined to not be distressed or to no longer have active systems, 18 LGUs had their potential designations as distressed put on hold for further review, and the remainder were officially designated as distressed by the Authority and Commission.

Based on this initial assessment, 93 LGUs with active water and/or wastewater systems were designated as distressed, excluding three LGUs that were previously designated and no longer had active water or sewer utilities. Once designated, LGUs must meet the requirements of the Viable Utility program before the designation is removed, even if future assessment scores drop below the threshold for designation.

Following the first (2022) reassessment of LGUs, the Authority and Commission approved the designation of 33 additional units as distressed. These include:

- 11 LGUs that had not submitted their annual audits for the past two fiscal years (LGC approval only; SWIA approval is automatic)
- 9 LGUs that exceeded the designation scoring threshold for the second consecutive year
- 11 LGUs requesting via resolution designation based on exceeding the designation scoring threshold for the first year
- 2 LGUs designated upon request under Identification Criterion 4

Accordingly, there are currently 126 LGUs designated as distressed.

#### **Additional Requests for Designation by “First-Year” LGUs**

LGUs exceeding the designation threshold for the first year have the option of requesting designation by the Authority and Commission instead of waiting for a second year of assessment. Division staff sent notification letters to 32 LGUs that scored above the designation threshold for the first time during the 2022 reassessmen, and requested notification of the unit’s interest in becoming designated before September 1, 2022, with a resolution in support of designation submitted prior to the September Authority meeting.

The following five (5) additional “first-year” LGUs have requested designation: City of Albemarle, Town of Beulaville, Town of Farmville, Town of Lansing, and Perquimans County. If approved for distressed designation, the total number of first-year distressed LGUs increases to 16, with the total number of distressed units increasing to 131.

### **Requests for D4 Designation by LGUs (Information Item only)**

Division staff continue to receive queries from LGUs interested in being designated distressed and continue to work with such units to inform them of the process and review information received in support of designation. Although the Division does not recommend designating any units under D4 at this time, staff continue to work with the Town of Shallotte on their request (which was initially presented to the Authority during their July meeting). The Division is also providing review comments to the Town of Southport, which has requested D4 designation, and has provided information on the D4 review process to the Town of Nags Head, and the Town of Waynesville.

### **Staff Recommendation**

Staff recommend that the Authority approve the distressed designation for the following five LGUs which have formally requested designation after having exceeded the scoring threshold for the first time during reassessment in the Spring of 2022:

- City of Albemarle
- Town of Beulaville
- Town of Farmville
- Town of Lansing
- Perquimans County