

State Water Infrastructure Authority
Meeting Date: April 16 – 17, 2025
Agenda Item N – Intended Use Plan Updates
Informational Item

Division of Water Infrastructure Staff Report

Background

The Division develops Intended Use Plans (IUPs) for the Drinking Water State Revolving Fund (DWSRF) and Clean Water State Revolving Fund (CWSRF) programs to describe how the program funds will be administered. The IUPs are required as part of the Division’s application to the U.S. Environmental Protection Agency (USEPA) for the State Revolving Fund (SRF) capitalization grants. The IUPs are incorporated into the capitalization grant agreements and become the grant work plan. Combined, the operating agreement, grant agreement, IUP, Safe Drinking Water Act, Clean Water Act, and state statutes set the program requirements for the SRF programs. The IUPs identify anticipated projects scheduled for funding commitments from the DWSRF and CWSRF funds. They also explain how the DWSRF and CWSRF will utilize Priority Rating Systems (PRSs) to identify those projects that will address the greatest need and/or provide the greatest positive public health and environmental impact on the water resources in North Carolina.

The Division has developed draft IUPs for the SRF programs in order to apply for the FY 2025 capitalization grants from multiple SRF programs as well as the FY 2024 DWSRF Lead Service Line Replacement capitalization grant.

In addition to updating the proposed PRS, the Project Priority List, and other required components of the IUPs from last year’s IUPs, the Division suggested the following changes in the draft IUPs:

- Inclusion of Emergency Relief Loan provisions: DWSRF and CWSRF funds may be prioritized and awarded to eligible recipients as emergency loans for disaster recovery and resiliency infrastructure projects after the President issues an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act) authorizing Public Assistance for drinking water and wastewater facilities. This would enable the rapid award of SRF loans for disaster relief outside of the current application timeline and Priority Rating Systems, if needed. Emergency Relief Loans would require Authority approval.
- Disadvantaged areas: In considering additional factors that may qualify a project area as a “disadvantaged area”, such as but not limited to demographic, historical, cultural, linguistic, socio-economic stressors, cost-of-living stressors, or existing contamination factors, a statement was added that the additional factors cannot be considered if they contradict federal or state requirements for federal funding.
- Projects funded with 100 percent principal forgiveness (PF): Applicants receiving 100 percent PF loans must submit their audited financial statement of the latest fiscal year

to the Local Government Commission by July 1 of the following calendar year prior to receiving disbursements from the SRF PF loan.

- Available funding: The CWSRF IUP increased total available funding for the Decentralized Wastewater Treatment System Pilot Program from \$1,000,000 to \$1,500,000.

Public Comments and Staff Response

The draft IUPs were presented to the public for a public comment period between February 28, 2025, and March 31, 2025. The following summarizes the comments received and provides the Division’s response to each comment. Other comments, related to the PRS, are included separately in Agenda Item L’s staff report. The Division appreciates the comments and recommendations provided.

Comment: We appreciate the Division’s approach in section 5.3.2.2.3, which attempts to provide funding benefits to disadvantaged areas that are within a jurisdiction that itself might not be disadvantaged broadly. We also appreciate the flexibility provided by allowing the consideration of “additional factors” such as “demographic, historical, cultural, linguistic, socio-economic stressors, cost-of-living stressors, or existing contamination factors.” The Division proposes adding the language, “[a]dditional factors cannot be considered if they contradict federal or state requirements for federal funding.” We understand that the agency must ensure funding decisions comply with applicable law and do not object to the proposed language. However, we think it would be helpful for the Division to clarify whether they believe any of the stated additional factors are currently contradictory to any federal or state requirements. This would provide more guidance to applicants who are considering using the disadvantaged area criteria to increase prioritization for their project.

Response: The stated additional factors, which are listed as examples, are general categories that may encompass many more specific metrics that an applicant might choose to use. While we believe the general categories may not necessarily be contradictory to federal and state requirements, some of the specific factors and metrics used by the applicants may. The Division will only be able to assess based on the application’s information. During application training, the Division will answer questions to help advise applicants before they submit applications. As more specific, applicable information is made available to the Division, we will update the application Guidance or application training materials to advise potential applicants. **No change proposed to the IUP.**

Comment: The FY 2025 IUPs exclude using the Climate and Economic Justice Screening Tool as one of the tools used by applicants to identify a disadvantaged area in their application. This tool was included in the FY 2024 IUPs and should likewise be included in the FY 2025 IUPs. While this tool is no longer supported by the Council for Environmental Quality, archived versions of the tool are still available, and can be alternative useful indicators of “disadvantaged areas.”

Response: The Division received specific instruction from USEPA to remove the tools that are no longer supported from the IUPs. **No change to the IUP.**

Comment: Disadvantaged area is defined in Section 5.3.2.2.3 as subsections or pockets of a local government unit area and not the entire local government unit area, with specific mention of the number of service connections being less than half of the total service connections. Recommend that these exclusions do not apply to defining a project that is eligible for principal forgiveness for the Decentralized Wastewater Treatment System Pilot Program in Section 5.3.4.5. Multiple potential pilot program applicants that are counties could meet criteria as “disadvantaged” for their entire [county] area and thus shouldn’t be excluded for the purposes of their pilot program applications.

Response: The Decentralized Wastewater Treatment System Pilot Program has unique criteria by which applicants can qualify for PF. Given that the pilot program criteria do not include an option for an applicant to qualify based on the entire local government unit’s (LGU’s) indicators (unlike for other types of applications), and that potential LGU applicants will likely apply their awarded funds to homes across the entire LGU, the Division concurs with the recommendation to remove the size specification for the pilot program. **The bullet point in Section 5.3.4.5 of the IUP (for the Decentralized Wastewater Treatment System Pilot Program only) will change to the following:** “Up to 50% of the full amount, limited to \$500,000, for applicants that will pass through at least 50% of the total funds to recipients in disadvantaged areas as defined in Section 5.3.2.2.3 **excluding the size specification noted in that section.**”

Comment: The FY 2024 IUPs allowed use of Census Tracts (in addition to Census Block Groups) in determining eligibility for disadvantaged areas. References to Census Tracts are included in the FY 2024 IUP and should likewise continue to be in the FY 2025 IUP.

Response: **Section 5.3.2.2.3 will be updated to include Census Tracts using the same language provided in the FY 2024 IUPs. The language will include the same recommendation made in the FY 2024 IUPs to use Census Block Groups.**

Comment: We were encouraged to see the first award from [the CWSRF Decentralized Wastewater Treatment System Pilot Program] recently announced and are pleased to see an increase in the available funding. We hope that the Division will continue to advertise the program to local governments across the state that might be interested in pursuing CWSRF funds to assist their constituents with septic system repair and replacement. Additionally, we are hopeful that the new principal forgiveness provisions in the program will incentivize local governments to apply for funding that will reach disadvantaged citizens within its jurisdiction. Finally, we are encouraged by the Division’s engagement with stakeholders on potential new funding models for septic system repair and replacement and look forward to continuing that work.

Response: Thank you for the comment. The Division appreciates the support from many partners and organizations in sharing information about the pilot program and will continue to

advertise the program and meet with interested potential applicants. **No change proposed to the IUP.**

Comment: We much appreciate modifications made to the 2024 CWSRF IUP and recognize substantial modifications were incorporated into the final IUP, in part in response to our comments made on that draft. We also are thrilled that the first [Decentralized Wastewater Treatment System] Pilot Program award was made by the State Water Infrastructure Authority. We remain hopeful that the remaining Pilot Program funds will be awarded to worthy applicants. As you know, we've been striving to assist perspective applicants to participate. We are certainly supportive of the proposed funding increase [from \$1,000,000 to \$1,500,000 to the decentralized wastewater treatment system pilot program] and remain hopeful that this program will be a springboard for future efforts to help finance the repair/replacement of malfunctioning decentralized wastewater systems in North Carolina.

Response: Thank you for comments and input, and thank you for your efforts in supporting potential applicants in the state. **No change proposed to the IUP.**