

**North Carolina
Bipartisan Infrastructure Law
Clean Water State Revolving Fund
Emerging Contaminants Funds
(BIL CWSRF-EC)
Intended Use Plan**

Fiscal Year 2024

September 2024

Changes to the draft IUP after the public comment period are identified in red font text.

Division of Water Infrastructure

North Carolina Department of Environmental Quality

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1. Introduction

This Intended Use Plan (IUP) addresses the FY2024 Clean Water State Revolving Fund Emerging Contaminants (CWSRF-EC) funding made available through the Bipartisan Infrastructure Law (BIL).

North Carolina's FY2024 BIL CWSRF-EC capitalization grant allotment is \$3,838,000.

The Division of Water Infrastructure (Division) is part of the North Carolina Department of Environmental Quality (NCDEQ). The Division administers financial assistance programs to assist local government units (LGUs) and non-profit water/wastewater utilities¹ in constructing projects that both benefit water quality and improve the human environment.

In 2013 the North Carolina General Assembly created the State Water Infrastructure Authority (Authority) to determine the eligibility of projects for certain water infrastructure funding programs, including the Clean Water State Revolving Fund (CWSRF), consistent with federal law. The priorities reflected in this document have been approved by the Authority.

Specific to this document, the Division administers the federal-state CWSRF program as established by Title VI of the Federal Water Pollution Control Act (a.k.a. Clean Water Act) as amended in 1987. The CWSRF program offers loans to LGUs at interest rates lower than market rates for clean water infrastructure. As a LGU repays the loan, the monies are again loaned out, hence the revolving nature of the program. All loan repayments must go back into the CWSRF. The CWSRF-EC funds will, however, be offered entirely as principal forgiveness loans, meaning that the eligible recipients of the funds would not need to repay these loans. This Intended Use Plan explains how the FY2024 Bipartisan Infrastructure Law CWSRF Emerging Contaminants capitalization grants will be used and how the CWSRF-EC will operate.

The IUP is incorporated into the capitalization grant agreement and becomes the grant work plan. Combined, the operating agreement, grant agreement, IUP, Clean Water Act, Code of Federal Regulations, and state statutes set the program requirements for the BIL CWSRF-EC funds. The IUP identifies anticipated projects scheduled for funding commitments from the CWSRF-EC. It also explains how the BIL CWSRF-EC funds will utilize a priority rating system to identify those projects that will address the greatest need and/or provide the greatest positive environmental impact on the water resources in North Carolina.

2. Financial History

Congress appropriated funds to the CWSRF in the Infrastructure Investment and Jobs Act of 2021, commonly referred to as the Bipartisan Infrastructure Law (BIL). The BIL appropriated additional funds for five fiscal years (FY2022-FY2026) to address Emerging Contaminants (BIL CWSRF-EC Funds). The BIL also appropriated funds specifically to supplement the CWSRF funds, which is described in a separate IUP. This IUP will discuss the workplan for the BIL CWSRF-EC funds for the Fiscal Year 2024. North Carolina will receive \$3,838,000 from the FY2024 federal capitalization grants for the BIL CWSRF-EC funds. There is no state match required for these funds.

BIL CWSRF-EC funds will not be used to satisfy debt security requirements.

¹ For brevity, "LGUs" in this IUP refers to eligible entities, including local government units and non-profit utilities.

3. Programmatic Goals

Pursuant to the Clean Water Act, the State must identify the goals and objectives of its water pollution control revolving fund (i.e., the CWSRF). North Carolina has set its short- and long-term goals of this IUP to align with EPA's strategic goals and objectives FY2022-2026 EPA Strategic Plan, specifically Goal #5, to Ensure Clean and Safe Water for all communities and Objective 5.2 to Protect and Restore Waterbodies and Watersheds. The Office of Water has identified specific measures that address the strategic goals and objectives outlined by EPA in its strategic plan. A basis for each goal in this program IUP has been identified. These references ensure that all the specific commitments made by the State are properly correlated to the strategic goals and objectives of the Agency. The State has the following goals for its CWSRF program:

3.1. Overall CWSRF Program Goal

Provide funding for clean water infrastructure while advancing the NCDEQ's mission to provide science-based environmental stewardship for the health and prosperity of ALL North Carolinians and to advance the water quality goals of the Clean Water Act while targeting the systems with greatest needs.

3.2. Emerging Contaminants Funding Program Short-Term Goals

Goal #1: Inform local governments and non-profit wastewater utilities of the availability of funds, benefits of the CWSRF-EC program, and funding process.

Goal #2: Work closely with local governments and non-profit wastewater utilities to address contamination of the environment with PFAS (per- and polyfluoroalkyl substances).

3.3. Long -Term Goals

Goal #1: Support North Carolina Department of Environmental Quality's Strategic Goal to strengthen North Carolina's infrastructure through thoughtful, strategic, and equitable investments in communities.

Goal #2: Support North Carolina Department of Environmental Quality's Strategic Goal to protect North Carolinians from exposures to emerging compounds using a transparent and science-based decision-making process, with special emphasis on reducing health risks associated with PFAS.

Goal #3: Support North Carolina Department of Environmental Quality's Strategic Objective to ensure funding processes include equitable access for underserved communities.

Goal #4: Support U.S. Environmental Protection Agency's Strategic Goal 5 of ensuring clean and safe water for all communities.

Goal #5: Integrate the funding process with other CWSRF funding processes and continue to streamline them to ensure the funds are used in an expeditious and timely manner in accordance with §602(b)(4) of the Clean Water Act.

Goal #6: Ensure the technical integrity of CWSRF projects through diligent and effective planning, design, and construction management.

Goal #7: Ensure the Priority Rating System reflects NCDEQ's and the Authority's goals.

Goal #8: Aid compliance with state and federal water quality standards by all funded publicly-owned wastewater treatment works.

4. Information on Activities to be Supported

North Carolina's CWSRF program will continue to be one of low-interest loans, supplemented with principal forgiveness as allowed by §603(i)(3) of the Clean Water Act. The BIL CWSRF-EC funds will be entirely funded as principal forgiveness loans.

The Division does not intend to use any set-asides from the BIL CWSRF-EC funds. All of the capitalization grants will be used to fund projects. Funding for program administration and for technical assistance on emerging contaminants can be covered by set-asides from the base CWSRF and BIL CWSRF General Supplemental capitalization grants, as described in a separate Intended Use Plan. The Division reserves the right to use unused portions of the set asides at a later date.

The Division reserves the authority to transfer BIL Emerging Contaminants funds between the DWSRF-EC and CWSRF-EC from these years' capitalization grants at a later date and apply it to a future year's capitalization grant. Any requests for transfer will be notified in writing to EPA.

The following table provides a summary of the projected funds available as a result of the Federal capitalization grant.

Sources and Uses for the Life of the Program (updated May 2024)

Historic Sources and Uses									
	Revenues					Expenditures		Net	
FY	Federal Cap	State Match	Repayments Principal	Repayments Interest	Interest Earned	Project Disbursements	Set-Asides	Net For FY	Cumulative Net
2022	\$1,688,000	N/A					\$0	\$1,688,000	\$1,688,000
2023	\$3,838,000	N/A					\$0	\$3,838,000	\$5,526,000
Totals	\$5,526,000	\$0					\$0	\$5,526,000	
Projected Sources and Uses for FY 2024 (based on Availability Model)									
	Revenues					Expenditures		Net	
FY	Federal Cap	State Match	Repayments Principal	FY	Federal Cap	Project Disbursements	Set-Asides	Net For FY	Cumulative Net
2024	\$3,838,000	N/A				\$0	\$0	\$3,838,000	\$9,364,000
Projected Uses beyond FY 2024									
Based on FY2022-FY2024 cap grants (projects already awarded)						\$5,804,960	\$0	\$(5,804,960)	\$3,559,040
Based on FY2024 cap grants (projects to be awarded in later funding rounds)						\$3,559,040	\$0	\$(3,559,040)	\$0

Values in BLUE as approximate values.

5. Criteria and Methods for Distributing Funds

5.1. Eligible Projects

For FY2024 CWSRF-EC capitalization grants, eligible projects must address any perfluoroalkyl and polyfluoroalkyl substances (PFAS) contaminants in publicly owned treatment works and/or publicly owned landfills.

Only projects successfully claiming 2.H.3 or 2.H.4 points will be eligible for BIL CWSRF-EC funding. Only the portion of the project costs associated with the project activities that address PFAS will be eligible for BIL CWSRF-EC disbursements.

5.2. Project List and Prioritization

The Intended Use Plan Project Priority List may be supplemented or replaced based on applications received as a part of future funding cycles (see 5.3 below). Applications that are received in one funding cycle and are not selected for funding will be reconsidered in one more cycle (the next one) for funding.

Projects eligible for CWSRF-EC funds will be prioritized using a Priority Rating System consisting of elements of the Priority Rating System that are specific to the CWSRF-EC funding as approved by the State Water Infrastructure Authority (see Appendix C). Applications will be ranked based on the following scores, in the following order: 1) total application score (points) of the Priority Rating System relevant for CWSRF-EC, 2) project purpose points, 3) project benefit points, and 4) affordability points.

The Priority Rating System considers four elements of a project: (1) project purpose, (2) project benefit, (3) system management, and (4) affordability.

For project purpose, CWSRF-EC specific Priority Rating System places higher priority on construction projects over evaluation and assessment projects, and on projects with greater proportions of costs dedicated to addressing PFAS contamination. An application will only receive priority points for one project purpose. To be eligible for CWSRF-EC funds, it is not necessary that the project should successfully claim PFAS-related project purpose points, 1.J.1- 1.J.3. Having no project purpose points will not negatively affect CWSRF-EC funding eligibility or CWSRF-EC principal forgiveness eligibility.

For project benefits, CWSRF-EC specific Priority Rating System places higher priority on projects that address contamination exceeding proposed MCL and Hazard Index for drinking water standards. Additional prioritization is provided to regionalization projects to incentivize regional approaches to addressing PFAS. To be eligible for CWSRF-EC funds the project must successfully claim points under line items 2.H.3 or 2.H.4.

In addition to correcting water quality issues, the Priority Rating System supports those LGU systems that seek to be proactive in their system management, including prioritization points for having implemented asset management plans and appropriate operating ratios.

The Priority Rating System also takes into account the ability of the applicant to afford projects. For example, those applicants who have a high poverty rate, high utility bills, lower population growth, lower median household incomes, and higher unemployment receive higher priority. Projects that primarily benefit subsets of the service population that are in disadvantaged areas also receive additional priority points. Local government units that are under the fiscal control of the Local Government Commission and that have required Emergency Operating Grants to balance their budgets are also prioritized.

The State Water Infrastructure Authority may adjust the rank of any application based on its analysis of a proposed project's value that is consistent with, but not evident in, the Priority Rating System, provided it is consistent with federal law.

5.3. Application and Project Deadlines

The CWSRF program operates on a priority basis and accepts funding applications **at various times of the year based on the type of Emerging Contaminants project**. Projects are allocated funding in priority order (as noted above) until available funds in each funding round are exhausted and within special reserve requirements (e.g. Evaluation/Assessment Project Reserve, etc. as described herein). Funding availability is determined based on the capitalization grants. Results will be posted on the Division's website.

The applications for **construction projects** (i.e., projects that qualify for line items 1.J.1 or 1.J.2 in the Priority Rating System) will be accepted and assessed semi-annually as part of the regular Division application rounds, using the common application form. BIL CWSRF-EC funds for construction projects will be made available for awards in up to two State Water Infrastructure Authority meetings during the year. These will occur at the same time that other construction project applications are awarded funding in the semi-annual process, e.g., from CWSRF funds.

Applications for **evaluation and assessment projects** (i.e., projects that qualify for line item 1.J.3 in the Priority Rating System) will be accepted year-round using a separate application form. BIL CWSRF-EC funds for evaluation and assessment projects will be made available for awards as part of several regular State Water Infrastructure Authority meetings during the year. The Division will establish application due dates for each funding cycle, which will be posted on the Division's website. Applications for evaluation and assessment projects can be submitted at any time. Complete and eligible applications received on or prior to an application due date will be considered for funding at the next scheduled SWIA meeting. Projects not selected for funding will be automatically reconsidered for the next funding cycle. Applications for evaluation and assessment projects will be funded from the reserve established for evaluation and assessment projects as described in Section 5.4.1.5.

Project funding for construction projects is contingent on adherence to the schedule below in accordance with §159G-41 (times listed are measured from Letter of Intent to Fund except as noted otherwise):

- 5.3.1. Funding application and supporting information must be received by the application deadline to be considered for any given funding cycle.

- 5.3.2. After the Authority provides final project rank eligibilities, the CWSRF program will issue Letters of Intent to Fund (LOIF) based on the projects' prioritization and the amount of funds being made available in the cycle.
- 5.3.3. Within four months of the issuance of the LOIF, a complete Engineering Report / Environmental Information Document must be submitted to the CWSRF program.
- 5.3.4. Within nine months, the Engineering Report / Environmental Information Document must be approved.
- 5.3.5. Within 15 months, complete plans and specifications must be submitted with copies of all required permits, encroachments, etc., or evidence that applications for remaining required permits have been submitted to the respective permitting agency. Complete Operations and Maintenance (O&M) Plan must be submitted.
- 5.3.6. Within 19 months, the plans/specifications and all required permits must be approved/issued.
- 5.3.7. Within 23 months, the following events/items must be completed/received:
 - 5.3.7.1. Advertise the project for bids
 - 5.3.7.2. Receive bids
 - 5.3.7.3. Submit bid information to CWSRF staff
 - 5.3.7.4. Obtain the Division's Authority to Award Construction Contracts.
- 5.3.8. Within 24 months, construction contracts must be executed.

The milestones in the timeline above are absolute for all projects in a particular cycle and will not be extended except based upon a demonstrated need for extension by the LGU. Projects may be able to meet these milestones ahead of schedule. However, in the event that any milestone noted above is not met, work by the CWSRF staff may be suspended and all documents returned to the Applicant until the proposed project is resubmitted for consideration during a future cycle.

If an Applicant desires CWSRF funding and the Applicant's project requires an Environmental Impact Statement (EIS), Division staff will manage the environmental review process. However, a funding application for the project will not be accepted in any funding cycle until a draft EIS has been sent to the State Clearinghouse (SCH). In the event that a fundable project is in process and the environmental review completed within the timeline results in the conclusion that an EIS is required, then the milestone deadlines for the project will be suspended until a draft EIS has been sent to the SCH. After the draft EIS is sent to the SCH, the project must adhere to the same time frames specified above.

5.4. Detailed Project Funding Criteria

5.4.1. General

- 5.4.1.1. To be eligible for CWSRF-EC funding, a project must be on the Intended Use Plan Project List and successfully claim points under line items 2.H.3 or 2.H.4.
- 5.4.1.2. Funding can be provided for any eligible projects (that address PFAS) as provided for in the Clean Water Act and NCGS 159G, including wastewater treatment facilities, collection systems, landfill leachate treatment, etc. that improve water quality.
- 5.4.1.3. Funding will be provided in priority order based on project score, Authority determination, and the amount of funds made available. Projects cannot be substantively changed once funding is allocated.
- 5.4.1.4. CWSRF-EC funds will be offered as 100% principal forgiveness.
- 5.4.1.5. Evaluation/Assessment Project Reserve: At least 50% of the CWSRF-EC funds available for projects will be reserved for projects to evaluate alternatives to address PFAS (i.e. pilot scale treatment studies, assessments and evaluations, etc.). If there are not enough eligible applications for evaluation projects to award at least 50% of the project funding, the remainder of this reserve will be made available to other CWSRF-EC eligible projects in priority order. Funding may bypass a higher priority project to satisfy the Evaluation/Assessment Project Reserve. Any such bypassing will be shown in the Intended Use Plan Project Priority List.
- 5.4.1.6. The maximum CWSRF-EC funding amount for evaluation projects will be established at \$500,000 per applicant per year.
- 5.4.1.7. Division reserves the right to borrow from future capitalization grants to meet the demand as and when needed.

5.4.2. Principal Forgiveness

CWSRF-EC funding will be provided with 100% principal forgiveness for the entire FY2024 capitalization grant. Total amounts available for principal forgiveness is \$3,838,000 for the FY2024 capitalization grant.

5.4.3. Miscellaneous Criteria/Provisions:

- 5.4.3.1. Davis-Bacon prevailing wage rates apply to loans as required by funding agreements/conditions.
- 5.4.3.2. American Iron and Steel provisions will apply to loans as required by Federal mandates.
- 5.4.3.3. *As required by Federal mandate, projects must comply with Executive Order 14030, Climate-Related Financial Risk, which reinstates EO 13690, Establishing a Federal Flood Risk Management Standard (FFRMS).*
- 5.4.3.4. Build America, Buy America requirements will apply to loans as required by US EPA and by Federal mandates.
- 5.4.3.5. Brooks Act requirements will be applied to projects in a dollar amount equal to the capitalization grant.
- 5.4.3.6. Funding conditions for projects with capital improvements will include the requirement to develop an Operations and Maintenance (O&M) Plan to plan for adequate long-term operations of the assets, including plans for covering the operating costs and technical capacity of staff to operate and maintain the assets.
- 5.4.3.7. Funding conditions will specify that project costs that are paid by an identified Responsible Party are not eligible for CWSRF-EC funds and will be refunded to the Department.
- 5.4.3.8. Approval of a repayable loan (not principal forgiveness) that may supplement a CWSRF-EC award is contingent on approval by the Local Government Commission (LGC).
- 5.4.3.9. A 2% fee is required. The fee cannot be financed by the CWSRF-EC fund.

6. Programmatic Conditions

6.1. Assurances and Specific Proposals

Pursuant to §606(c)(4) of the Clean Water Act, the State of North Carolina certifies that:

- 6.1.1. The State will enter into binding commitments for 100% of the amount of each payment received under the capitalization grant within one year after receipt of each payment.

- 6.1.2. The State will expend all funds in the CWSRF-EC in an expeditious and timely manner.
- 6.1.3. The State will conduct environmental reviews of treatment works projects according to procedures set forth in its Operating Agreement between the State and US Environmental Protection Agency.

6.2. Federal Requirements

- 6.2.1. The State will ensure that all federal requirements are met as noted in the CWSRF Operating Agreement between the State and US Environmental Protection Agency and the Grant Agreement, including Single Audit, Disadvantaged Business Enterprise compliance, federal environmental crosscutters, and Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.
- 6.2.2. The State will enter all required reporting information at least quarterly into respective federal databases including FFATA and the SRF Data System.
- 6.2.3. The State will ensure that all applicants to the CWSRF program certify that they meet the fiscal sustainability planning requirements. Such certifications will be received by the time of loan offer.

6.3. Transfer between CWSRF-EC and Drinking Water State Revolving Fund-EC

Transfer of funds between the CWSRF-EC and the BIL Drinking Water State Revolving Fund Emerging Contaminants funding are authorized by federal statutes. This IUP does not propose any such transfer of funds. However, the Division reserves the ability to make transfers in managing cash flow. If such transfer takes place, a subsequent transfer will be made by transferring that amount back from the receiving fund to the providing fund (i.e., no permanent transfers) as soon as possible. Any requests for transfer will be notified in writing to EPA.

7. Program Evaluation Report

CWSRF anticipates receiving and responding to the Program Evaluation Report (PER) for FY2024 funding in calendar year 2025, during and following the Annual Review. The Division participated in the EPA FY2023 Annual Review, which was kicked off on February 27-28, 2024. The State didn't have any audit findings during FY2023.

8. Public Review and Comment

The Intended Use Plan is drafted by the Division, including the Priority Rating System and the funding awards as approved by the State Water Infrastructure Authority, and sent to EPA's Regional Office for review. Once the Division receives approval for the draft IUP, it is published for public review and comment. Links for the documents and notification to the public are done through the Department's website and email notifications sent to various listservs. Once the public review is completed, the Division prepares responses to any comments received and any updates

to the IUP, if necessary. If no changes are proposed by the Division, a reason is provided as the response and all of these comments and responses become part of the final IUP.

In February 2024, the State Water Infrastructure Authority reviewed and updated the Priority Rating System (PRS) and approved the draft to be posted for public comments. The Division presented the proposed Priority Rating System in a separate public comment period between March 1 and April 1, 2024. Comments and questions received on the Priority Rating System, and responses, are below. The Division presented the public comments to the State Water Infrastructure Authority in April 2024, which then finalized the Priority Rating System that is being adopted in the FY2024 IUP, in Appendix D.

The Division also conducted a public comment period for the FY2024 base DWSRF and the FY2024 BIL DWSRF General Supplemental Intended Use Plan, to cover the rest of the IUP, between May 31 and July 1, 2024. Comments and responses are below.

Priority Rating System (public comments received between March 1 – April 1, 2024):

Comment: It is difficult to comment on the proposed PRS without associated Intended Use Plans or guidance to understand eligibility and prioritization of how funding is distributed.

Response: We understand the value of posting both the IUP and PRS for public comment at the same time. At this time, the FY2024 allotments for SRF and BIL funds are not available, and therefore the draft IUPs are not ready for public comment. Once the allotments are announced, the draft IUPs will be made available in a separate public comment period.
No action required.

Comment: With the proposed changes in the PRS, applicants will have to make a decision for a single project to apply for a lower project purpose score (1.J.1) to qualify for grant funding as opposed to selecting the higher scoring project purpose (1.C). For example, a single project could qualify for both 1.C and 1.J.1 line items; the same project/applicant could apply twice for the same project and have 2 separate PRS that score differently in order to be able to qualify for the EC PF funds and also be competitive for loan funding. A potential solution would be to have separate funding buckets identified in the Intended Use Plan for specific project types (emerging contaminants bucket and other eligible projects bucket) to reflect the project-type priorities of the Division of Water Infrastructure and the State Water Infrastructure Authority.

Response: The 1.C and 1.J.1 line items score the same at 12 points. These line items often are combined with other line items for additional points, such as the 1.C.1 line item for eight points in addition to Line Item 1.C, and the 2.H.4 line item for five points in addition to Line Item 1.J.1. These line items are added as applicable to the project. There may be some projects that can claim a different combination of points but only one priority purpose (Category 1) line item will be recognized for each priority score. However, it is the intent of the Division to simplify the application process and have all applicants

submit only one application per project and be considered for all applicable funding programs. For a project that qualifies both as an Emerging Contaminants project (with the relevant combination of Line Items 1.J and 2.H) by replacing or rehabilitating infrastructure (with the relevant line item 1.C), the applicant can and should claim all line items in the application (i.e. both 1.C and 1.J, including corresponding narratives describing all requirements and supporting documentation as per the PRS Guidance). The Division will apply the 1.J line item score for prioritization for the Emerging Contaminants funding program, and alternatively apply the 1.C line item score for prioritization for all other funding programs. By doing so, the applicant does not need to choose between the two project purpose line items when applying (they should claim both), provided that the project qualifies and is eligible for both purposes as defined in the Guidance document. Further, the Division may consider separate reserves for different funding needs, which will be addressed in the Intended Use Plan (and its associated public comment period), but this would not affect the Priority Rating System. **No change to the PRS.**

Comment: The proposed changes score critical public health issues less than other general project benefits. For example, Line Item 2.G – Project addresses low pressure receives 10 points which is the same as the new 2.H.1 – Project addresses acute contamination of a water supply source proposed score of 10 points and twice as much as 2.H.4 – Project addresses PFAS exceeding proposed MCL or Hazard Index. It appears, addressing contamination and its direct public health impacts is now a lower priority for the Division of Water Infrastructure based on the proposed priority rating system; and specifically addressing PFAS is a lower priority than other contamination or addressing other “promulgated but not yet effective regulations.”

Response: Addressing public health is embedded throughout the Priority Rating System, not exclusively in the 2.H line item points. Line Item 2.G – Project addresses low pressure – also addresses public health since low pressure could lead to acute contamination of drinking water and boil water advisories. Addressing acute contamination is the higher priority for protecting public health, followed by addressing contamination that is non-acute. To better reflect this, **the Staff recommend restoring Line Item 2.H.1 – Project addresses acute contamination of a water supply source – to 15 points** to raise the project benefit points for related projects. Projects that address contamination that is not acute will score 2 to 5 points in addition to other related project benefits. Projects that directly address PFAS are eligible for Line Items 1.J.1 – 1.J.3 or possibly Line Item 1.C, which, when combined with Line Items 2.H.3 and 2.H.4, provide a high project priority score to address the public health concern. Lastly, in anticipation that proposed Maximum Contaminant Levels (MCL) and/or Hazard Index for PFAS compounds may be promulgated in the coming months, **the Staff recommend including promulgated MCL and Hazard Index to Line Item 2.H.4, i.e. Line Item 2.H.4 is to be labeled “Project addresses PFAS exceeding proposed or promulgated MCL or Hazard Index.”**

Public comments on the Intended Use Plan received between May 31 – July 1, 2024:

Programmatic Requirements

Comment: The Division, through its application processes, has a valuable opportunity to inform environmental justice efforts and ensure the equitable distribution of federal and state funding. We encourage the Division to make a concerted effort to collect data and compile maps on service boundaries and infrastructure asset locations. This data would add a valuable layer to the Environmental Justice Advisory Council to oversee the development of an environmental justice mapping tool.

Encourage the Division to make data collection and comprehensive mapping of service boundaries and infrastructure assets a priority in its guidance and requirements. With any application, the Division should heavily encourage the submission of existing service boundary and asset information, including maps. We stop short of recommending this be a requirement; however, we do recommend that any utility that receives an award from SWIA and the Division be required to submit copies of any relevant service boundary and asset data that arise from the project. These projects are being paid for with public funds and the public deserves to benefit from the associated work.

This information can substantially inform efforts to identify disadvantaged communities that lack adequate water and sewer service and the equitable distribution of federal and state funds. We encourage the Division to take the lead where it is uniquely suited to aid these efforts.

Response: There are existing efforts by which service area boundary maps are already being collected for community water systems. The US Environmental Protection Agency has recently published an interactive “Community Water System Service Area Boundaries” map, attempting to display community water systems’ service area boundaries across the country. The Division of Water Resources’ Local Water Supply Plans include a requirement for community water systems to submit a system map at least every five years. These efforts include more community water systems than those that are funded by the Division of Water Infrastructure. Not all funded projects produce asset location or system map data. The Division’s Asset Inventory and Assessment funding program – which is not part of the State Revolving Funds – usually produces a system map for the purposes of the local government/utility to use in its own infrastructure planning purposes. Further, the Division’s Viable Utilities Program – also not part of the State Revolving Funds – requires that local governments designated as Distressed map their systems as part of their statutory requirements. Compilation of maps on infrastructure asset locations for other purposes will probably require agreements with all relevant parties and will need to be explored further by the Division. **No change to the Intended Use Plan.**

Comment: Recommend the State Water Infrastructure Authority (SWIA) and the Division look to the state's new Uniform Floodplain Management Policy (UFMP) for consistency in terms of resilience. While the policy applies to state-owned or state-leased construction and not all state-funded construction, we believe the policies outlined in the UFMP are sound and worth incorporating where feasible. The UFMP calls for no construction in the 100-year or 500-year floodplain except for certain categorical allowances and the potential for a waiver for individual projects. Recommend SWIA adopt a similar threshold and waiver system for its awarded projects, drawing on the Authority's own statutory authority under NCGS 159-71(1) and (2). Consideration of resilience when awarding projects will decrease the chance that infrastructure is damaged or destroyed before the end of its useful life cycle and ensures the prudent use of public funds.

Response: While the UFMP does not apply to all state-funded projects, protecting infrastructure against floods is prudent. The Priority Rating System provides prioritization for projects that would move infrastructure outside of the floodplains or would fortify infrastructure. Relatedly, and more directly affecting State Revolving Fund projects, on May 20, 2021, President Biden signed Executive Order (EO) 14030, *Climate-Related Financial Risk*, reinstating EO 13690, *Establishing a Federal Flood Risk Management Standard (FFRMS)*. This action reestablished the FFRMS for all federally-funded projects – including the State Revolving Fund projects – since FY 2022. The FFRMS will increase the resilience of infrastructure for flooding events caused by climate disasters. The FFRMS describes three approaches for determining the vertical flood elevation and corresponding horizontal floodplain for federally-funded projects. The FFRMS applies to actions where federal funds are used for new construction, substantial improvement (i.e., projects worth more than 50% of the market value or replacement cost of the facility), or to address substantial damage to structures and facilities. SRF-funded projects must check whether any proposed project activities will occur in or affect a 500-year floodplain and evaluate potential measures to avoid adversely affecting the floodplain. Federal Emergency Management Agency (FEMA) products, such as flood maps and Flood Insurance Studies (FIS) can be used to determine if an action occurs in a floodplain. Compliance with EO 14030 is a requirement of SRF projects. The Division has developed guidance for SRF projects and published it on our website and **will add a statement in the Intended Use Plan acknowledging that SRF-funded projects must comply with EO 14030.**

Evaluation/Assessment Projects

Comment: For evaluation and assessment projects where a funding reserve exists, the Division should offer them according to the year-round scheduling proposal. More frequent funding rounds have proven successful in the DWSRF-LSLR program and will serve to accelerate the necessary planning utilities must do to mitigate emerging contaminant pollution. Further, more frequent funding of evaluation and assessment now could possibly lead to a situation where less of the funding is required to be reserved in the

future, benefiting utilities that need funding for construction projects.

Response: Thank you for your feedback. We have incorporated this recommendation. **The Division has changed its application timing for Evaluation/Assessment projects, as shown in the revised Section 5.3.** Evaluation/Assessment project applications will now be accepted year-round using a separate application form and presented to the State Water Infrastructure Authority for funding awards in multiple meetings per year, rather than accepting applications twice per year in the regular application process. Application forms and materials have been updated on our website reflecting this change.

Comment: The Division plans to have a 50 percent evaluation and assessment project reserve within the CWSRF-EC program. We encourage prioritization for assessments that examine or emphasize the pretreatment authority of wastewater treatment plants. The best way to mitigate emerging contaminants like PFAS is to prevent their discharge into surface waters, the benefits of which are compounded when drinking water utilities have less emerging compound contamination to worry about at their intakes. Incentivizing pretreatment authority will help to keep contamination out of the state's waters and allow for other, more effective uses of funding.

Response: The Division has funded all CWSRF-EC project applications we have received so far, and changing the prioritization would not have affected the funding outcome. The Department supports the idea that contamination should be controlled at the source. We will be evaluating the type of evaluation and assessment project applications and the detailed scope involved in the coming funding cycles to assess the need for limiting or prioritizing the type of CWSRF-EC assessment projects in the future, based on demand. **No change to the Intended Use Plan.**

9. Budget and Project Periods

- 9.1. The budget and project periods being requested for the capitalization grant are shown in Appendix B and on EPA Form SF 424.
- 9.2. Fees (2% of the funding award) on funding from the grant will be deposited into separate account centers. Fees will be used to administer the program. In addition, fees considered non-program income will also be used for other water quality purposes within the Divisions of Water Resources and Water Infrastructure, including funding for positions.
- 9.3. In order to reduce and minimize federal unliquidated obligations and undisbursed non-federal cash balances, the state will draw down on the capitalization grants in the order it was received, fully spending on each year's capitalization grant fund types before drawing down from the next year's capitalization grant.

Appendix A

Intended Use Plan Project Priority List for BIL CWSRF-EC Funds

The Intended Use Plan Project Priority List may be supplemented or replaced based on applications received as a part of future funding cycles. This project priority list itemizing the output/outcomes of the policies and procedures outlined in this Intended Use Plan for the FY2024 funds. Projects selected for FY2022 and FY2023 BIL CWSRF-EC funding have received Letters of Intent to Fund and are awaiting agreement execution.

Fall 2024 Application Round – Future Funding Round

Applications will be accepted in Fall 2024 (through September 30, 2024) for BIL CWSRF-EC funding, and partially funded Fall 2023 applications will be reconsidered at the same time. Applications selected for funding will be added to the Project Priority List in the table below (expected after the State Water Infrastructure Authority meets in February 2025). **The State Water Infrastructure Authority is expected to award at least \$3,559,040 in BIL CWSRF-EC Funding.**

Applicant Name	Project Name	NPDES Permit Number	County	Notes	Total Funding Request	BIL CWSRF-EC Principal Forgiveness Funding	Priority Points	Estimated Binding Commitment
TBD								

Fall 2023 Application Round – Awards Made by the State Water Infrastructure Authority in February 2024

The following applications were reviewed and awarded BIL CWSRF-EC funding initially from the FY2022 and FY2023 BIL CWSRF-EC capitalization grant, **and \$278,960 to be awarded from the FY2024 BIL CWSRF-EC cap grant**, pending receipt of federal funds. Depending on the projects' timelines, BIL CWSRF-EC disbursements to projects may come from the FY2024 capitalization grant and hence are included in the FY2024 capitalization grant Intended Use Plan to cover that possibility.

Applicant Name	Project Name	NPDES Permit Number	County	Notes	Total Funding Request	Notes	BIL CWSRF-EC Principal Forgiveness Funding	Priority Points	Estimated Binding Commitment
Cumberland County	Landfill Leachate Treatment and PFAS Removal	N/A	Cumberland		\$15,303,886	Partially funded; eligible for reconsideration for additional funds	\$5,304,960	52	Jan 2025
Lumberton, City of	PFAS Wastewater Treatment Plant		Robeson		\$500,000	Evaluation/ Assessment Project	\$500,000	24	Jan 2025
Total					\$15,803,886		\$5,804,960		

Total \$5,804,960 awarded includes \$5,526,000 from FY2022 and FY2023 cap grants, **and \$278,960 from the FY2024 cap grant.**

TOTALS

	FY2022 CWSRF-EC	FY2023 CWSRF-EC	FY2024 CWSRF-EC	Total Over Three Cap Grants
Total Awarded	\$1,688,000	\$3,838,000	\$278,960	\$5,804,960
Availability	\$1,688,000	\$3,838,000	\$3,838,000	\$9,364,000

Appendix B

2024 BIL CWSRF-EC Proposed Payment Schedule

(Dependent on timing of state match and award of federal grant)

<u>Payment Quarter</u>	<u>2024 EC Payment Amount</u>
April 1, 2024 – June 30, 2024	
July 1, 2024 - September 30, 2024	
October 1, 2024 - December 31, 2024	\$278,960
January 1, 2025 - March 31, 2025	
April 1, 2025 - June 30, 2025	\$3,559,040
July 1, 2025 - September 30, 2025	
October 1, 2025 - December 31, 2025	
Total	\$3,838,000

Appendix C

PRIORITY RATING SYSTEM for CWSRF-EC Projects

Finalized by the Authority in April 2024 after a public comment period was completed between
March 1 – April 1, 2024.

2024 PRIORITY RATING SYSTEM for CWSRF-EC Projects Only			
<p><u>Instructions:</u> 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 of 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)	Claimed Yes/No	Points
1.A- 1.E	Reserved for other wastewater projects (not to be used for CWSRF-EC funds)		
1.F	Reserved for other programs		
1.G – 1.I	Reserved for other wastewater projects (not to be used for CWSRF-EC funds)		
1.J.1	Sole purpose of the project is to address Emerging Contaminants (construction projects) where 100% of the costs are associated with this purpose OR		12
1.J.2	At least 75% of the project costs are to address Emerging Contaminants (construction projects) OR		5
1.J.3	Sole purpose of the project is to evaluate alternatives to address Emerging Contaminants (may include pilot scale treatment study)		5
Maximum points for Category 1 – Project Purpose			12
Subtotal claimed for Category 1 – Project Purpose			
Line Item #	Category 2 – Project Benefits	Claimed Yes/No	Points
2.A – 2.B	Reserved for other programs		

2024 PRIORITY RATING SYSTEM for CWSRF-EC Projects Only			
2.C – 2.F.1	Reserved for other wastewater projects (not to be used for CWSRF-EC funds)		
2.F.2	Project includes system regionalization and/or system partnerships		5
2.G – 2.H.2	Reserved for other programs		
2.H	Project addresses contamination		
2.H.3	Project addresses any PFAS compounds exceeding 10 ppt or State-established regulatory standards or limits OR		2
2.H.4	Project addresses PFAS exceeding proposed or promulgated MCL or Hazard Index		5
2.I	Reserved for other wastewater projects (not to be used for CWSRF-EC funds)		
2.J – 2.M	Reserved for other programs		
2.N – 2.R	Reserved for other wastewater projects (not to be used for CWSRF-EC funds)		
2.S	Reserved for other programs		
Maximum points for Category 2 – Project Benefits			10
Subtotal claimed for Category 2 – Project Benefits			
Line Item #	Category 3 – System Management	Claimed Yes/No	Points
3.A	Capital Planning Activities		
3.A.1	Applicant has implemented an Asset Management Plan as of the date of application OR		10

2024 PRIORITY RATING SYSTEM for CWSRF-EC Projects Only			
3.A.2	Applicant has a current Capital Improvement Plan (CIP) that spans at least 10 years and proposed project is included in the plan		2
3.B	System Operating Ratio is greater than or equal to 1.00 based on a current audit, or is less than 1.00 and unit cost is greater than 2.5% of MHI		5
3.C – 3.E	Reserved for other programs		
Maximum points for Category 3 – System Management			15
Subtotal claimed for Category 3 – System Management			
Line Item #	Category 4 – Affordability	Claimed Yes/No	Points
4.A	Residential Connections		
4.A.1	Less than 10,000 residential connections OR		2
4.A.2	Less than 5,000 residential connections OR		4
4.A.3	Less than 1,000 residential connections		8
4.B	Current Monthly Combined Utility Rates at 5,000 Usage		
4.B.1	Greater than the 50 th percentile OR		4
4.B.2	Greater than the 70 th percentile OR		6
4.B.3	Greater than the 85 th percentile OR		8
4.B.4	Greater than the 95 th percentile		10
4.C	Local Government Unit (LGU) Indicators		
4.C.1	3 out of 5 LGU indicators worse than state benchmark OR		3

2024 PRIORITY RATING SYSTEM for CWSRF-EC Projects Only			
4.C.2	4 out of 5 LGU indicators worse than state benchmark OR		5
4.C.3	5 out of 5 LGU indicators worse than state benchmark OR		7
4.C.4	Project benefits disadvantaged areas		5
4.D – 4.G	Reserved for other programs		
Maximum points for Category 4 – Affordability			25
Subtotal claimed for Category 4 – Affordability[‡]			
Total of Points for All Categories			

[‡]Local government units under Local Government Commission’s fiscal control that have received an Emergency Operating Grant under NC GS 159G-34.5 in the current or prior fiscal year qualify for the maximum points for Category 4: Affordability.