

The Vermont Clean Water
State Revolving Fund

Intended Use Plan

for Federal Fiscal Year 2020

and State Fiscal Year 2021 Priority List

July 16, 2020

Prepared by The Water Investment Division
Department of Environmental Conservation



 **VERMONT**
AGENCY OF NATURAL RESOURCES
Department of Environmental Conservation

Executive Summary

Vermont sends to the U.S. Environmental Protection Agency (EPA), as part of its annual application for a Clean Water Capitalization Grant under Title VI of the Water Quality Act of 1987 (the Act), a Clean Water Intended Use Plan (CWIUP) to meet the requirements of Section 606(c) of the Act and the Clean Water Capitalization Grant Agreement. The CWIUP serves as the planning document to explain how each fiscal year's appropriation for the Vermont – EPA Clean Water State Revolving Fund (CWSRF) will be used.

Project priority points awarded in accordance with the Department's Municipal Pollution Control Priority System are listed on the SFY 2021 Pollution Control Project Priority List. Whether all construction projects ready to proceed in a particular year will be awarded grant and/or loan funds depends on the amount of funds allocated to the program by the Vermont legislature and through the federal capitalization grant for the Clean Water State/EPA Revolving Loan Fund (CWSRF). Planning projects are not funded in order of their priority, but rather at a rate necessary to bring sufficient projects to the implementation phase to use all of the anticipated grant and loan funds each year.

Appearance of projects on the Project Priority List indicates eligibility for funding assuming all other requirements are met. The dollar amounts may change from those listed as project cost changes affect the pro-rating of available grant and loan amounts.

Contents

Executive Summary	2
CWSRF Program Goals	4
State Pollution Control Grant Eligibility	5
CWSRF Administration	5
Reallocated Funds between CWSRF and DWSRF	5
CWSRF Capitalization Grants FFY 2019 and FFY2020	6
Criteria and Method for Distribution of Funds	7
Project Funding	9
Non-Point Source Funding	10
Annual Report	14
Environmental Benefits Reporting & Other Federal Databases	15
Program Changes	15
Green Project Reserve	16
Additional Subsidy	16
Affordability Criteria	16
Responsiveness Summary	21
Public Participation	2.1
Attachment 1: SFY 2021 Project Priority List	

CWSRF Program Goals

Short Term Goals

- (1) To provide local government with low cost financial assistance.
- (2) To coordinate National Pollutant Discharge Elimination System (NPDES) permit schedules with anticipated award of CWSRF loans such that projects are brought into preliminary engineering and final design planning in a timely manner to assure their readiness to proceed to construction when capitalization grant funds become available.
- (3) To provide funding assistance to municipalities and eligible private entities seeking to comply with stormwater or wastewater Total Maximum Daily Load (TMDL) permit requirements.
- (4) To develop any rules, guidance or procedures necessary to implement the Vermont - EPA pollution control revolving fund, specifically State-issued guidance for the implementation of Water Resources Reform & Development Act (WRRDA) requirements.
- (5) To coordinate state funded pollution control grant activities for clean water projects with activities of the CWSRF.
- (6) To provide effective program management to ensure fiscal integrity of the CWSRF.
- (7) To incentivize preliminary engineering and final design activities to develop a queue of high priority, ready-to-proceed projects.
- (8) To expedite project development, funding and cash draws.
- (9) To address issues raised by US EPA Region 1 concerning the administration of the CWSRF.

Long Term Goals

- (1) To ensure the fund operates in perpetuity and provides continuing financial assistance to Vermont municipalities and eligible private entities for clean water project needs.
- (2) Promote sustainable infrastructure by encouraging the development and implementation of asset management programs.

- (3) Utilization of the additional subsidy provisions to support Vermont's clean water goals by incentivizing high priority projects.
- (4) Fully utilize the available balance over the next five years to make effective use of the funds to meet the state's water quality goals.
- (5) Effectively align the CWSRF program with other State and Federal funding sources to support non-point source clean water projects.

State Pollution Control Grant Eligibility

State Pollution Control (PC) grants may be available for certain projects in addition to CWSRF loans. PC Grants amounts are established through a set of public health, environmental, and affordability-based criteria that are used to determine state grant funding up to a maximum of 35% of eligible cost.

These grants are appropriated at the discretion of the legislature and cannot be guaranteed by the program. If sufficient state capital funds cannot be secured to meet full grant eligibility, other funds may be provided to offset the shortfall in grant dollars, such as a CWSRF loan.

The Engineering Planning Advance Program will reserve up to 10% of the Pollution Control Grant allocation for use in allowing planning for Vermont's unsewered villages for the first 6-months of the fiscal year.

CWSRF Administration

Municipal CWSRF construction loans are currently issued at a 0% interest rate with an administrative fee of 2%. Private entity CWSRF construction loans are currently issued at 2% interest rate with an administrative fee of 2%, except when specific initiatives have an alternative rate as outlined in this IUP. Additionally, Brownfield Economic Revitalization Alliance (BERA) construction projects will be issued at a 1% interest rate with an administrative fee of 2%. The program has proposed adjustments to these rates as a result of changing market rates. These proposed changes are under consideration and subject to the Treasurer's acceptance.

Fee proceeds are deposited into a dedicated account separate from the CWSRF account, referred to as the administrative account. Administrative fee income for State FY2021 was projected to be approximately \$2.1 million, but may be as low as \$0, due to the suspension of loan repayments due to the COVID-19 pandemic response. Historically, the program has described the fees as program income, but has tracked this fee income as either program or non-program income. The SRF program has detailed funds separately, to allow non-program income to be used for a broader array of CWA eligible activities than is allowed with program income. All fee income is accounted for in a separate fund outside the SRF fund.

These funds are primarily used for administrative support of the CWSRF program including staff salaries for financial, project development and engineering staff. Additionally, they have been used to fund costs associated with underwriting of loans and software support. The

\$3.3M



**Anticipated
amount to be
appropriated
for pollution
control grants
in SFY21**



program reserves the right to use these funds for any eligible use of the fees as fund needs develop over the year.

Reallocated Funds between CWSRF and DWSRF

The Safe Drinking Water Act Amendments of 1996 (Section 302) allow a state to transfer up to 33% of the Drinking Water State Revolving Fund (DWSRF) capitalization grant from the DWSRF to the CWSRF or an equivalent amount from the CWSRF to the DWSRF for each open grant. This transfer is at the Governor's discretion. The program reserves the right to reserve this amount for future need.

In the event funds are reallocated from the DWSRF to the CWSRF, or vice versa, or additional federal funds are made available beyond the anticipated amount, Vermont will advance these funds to the appropriate projects in accordance with this Intended Use Plan, and the Municipal Pollution Control Priority System.

Additionally, the Water Infrastructure Funding Transfer Act (WIFTA) of 2019 allows transfers from CWSRF to the Drinking Water State Revolving Fund (DWSRF) during a one-year period ending on October 4, 2020, in an amount up to 5% of the state's cumulative CWSRF federal grant dollars. Funds transferred are to be used by the State to provide 100% additional subsidy to eligible recipients for lead abatement projects. Vermont is taking advantage of this new provision under this IUP.

Since the inception of the fund, Vermont has received \$223,498,706 in federal grant dollars. Five percent of these grant dollars total \$11,174,935. Due to the high balance within the CWSRF and public drinking water systems identified with significant needs related to lead abatement, the state considers this an appropriate public health investment. \$11,000,000 is proposed for transfer from CWSRF to DWSRF for this purpose. This IUP and associated priority list identifies the Town of Bennington's lead service line replacement project of \$11 million as the only project to be funded under this transfer. This loan will be executed no more than three years after the transfer and the project funds must be fully drawn within five years from the transfer date.

The CWSRF and DWSRF programs have evaluated the financial impact of this transfer on the CWSRF, including short and long term impacts on the fund's ability to fund high priority projects. Additionally, given the large balance in the CWSRF, this action will not adversely impact the long or short term sustainability of the CWSRF.

CWSRF Capitalization Grants FFY 2019 & 2020

The Federal Fiscal year 2020 capitalization grant allotment available to Vermont is \$7,780,000 after allocating \$100,000 for the federal 604b program.

The required match for the FFY20 grant is \$1,556,000. This full amount and an additional \$48,583 to complete the FFY19 grant match will be available beginning July 2020. These funds have been appropriated by the Vermont Legislature.

The Sources and Uses table below assumes the total needed match will be available. Sources of funds and uses are listed below.

Sources	
CWSRF Capitalization Grant (after 604b)	7,780,000
State Match Needed FFY20 Grant	1,556,000
State Match Needed FFY19 Grant	48,583
Repayments	0
Carry-Forward	80,951,819
<i>TOTAL</i>	<i>90,336,402</i>

Uses	
Anticipated Commitments	\$89,856,402
Administrative	<u>480,000</u>
<i>TOTAL</i>	<i>\$90,336,402</i>

The State matching funds will be deposited into the CWSRF prior to the quarter when federal funds are requested. The schedule for entering into binding commitments and timing of cash draws is contained in the grant application submitted to EPA. The CWSRF program will continue to comply with the Operating Agreement for Implementing and Managing the State Revolving Fund Program between the State of Vermont and U.S. Environmental Protection Agency, Region I.

Criteria and Method for Distribution of Funds

The Vermont General Assembly enacted Act 75 creating 24 V.S.A. Chapter 120 in the 1987 legislative session, which established Vermont's CWSRF and set out certain priority criteria for the purpose of ranking prospective projects. The Municipal Pollution Control Priority System rule incorporates those criteria in addition to criteria required in federal construction grant regulations 40 CFR Section 35.915.

The Vermont CWSRF initiated operations in fiscal year 1989 and all initial financial assistance activities of the CWSRF have been in the form of loans. Loans will continue to be made in accordance with a project's priority list ranking as noted on the Priority List that is established annually through the Municipal Pollution Control Priority System.

The Pollution Control Project Planning List is intended to show anticipated construction and planning projects for the immediate five-year period, inclusive of state fiscal year 2021. Although we anticipate a large volume of projects and requests for funds in state fiscal years

2021 to 2025, the fund will likely support the need, thus, a per project cap on the CWSRF loan funds will not be needed, as has been applied in past years.

Although the CWSRF may be used for the refinancing of local debt obligations incurred after March 7, 1985, Vermont has not used the fund in this way, and may provide such funding if the balance remains underutilized and there is compelling justification of a public benefit to be secured.

COVID-19 Response to Previous FFY19 and current FFY20 IUP

During the process of developing this current IUP, the public health crisis of COVID-19 began to heavily impact the State of Vermont. Typically, previous year IUP projects must submit a funding application prior to the end of a state fiscal year in order to remain eligible for CWSRF funding. The abrupt disruption of municipal operations has led to unanticipated barriers to completion of anticipated funding for the SFY20, ending June 30, 2020. Many borrowers with projects in the FFY 2019 IUP may not be able to virtually hold select board or council meetings or have other priorities during this emergency situation. As such, this IUP will honor all projects that 1) met all readiness to proceed guidelines, including passage of a successful bond vote and 2) have failed to either re-apply under the current FFY20 IUP or would receive more loan forgiveness under the previous FFY19 IUP compared to the current. These projects have until December 1, 2020 to submit a funding application. These funds have already been contemplated in the “carry forward” amount, therefore the project costs do not need to be deducted from the FFY20 IUP available funds.

Additionally, CWSRF recognizes that current borrowers may have significant economic challenges in the upcoming year as communities begin to reopen. Lost revenue for taxes, fees, and user rates directly affected municipalities’ ability to afford debt service. In response, the CWSRF has suspended repayments for all loan for 12 months and will re-amortize the payments accordingly over the remaining life of the loan. No administrative fee will accrue during this time period.

Under this emergency situation, CWSRF reserves the right to work directly with borrowers to modify existing debt service to ensure affordability. On a case-by-case or across-the-board basis, CWSRF may reduce or eliminate the administrative fee, depress repayments, or provide unutilized additional subsidy to forgive loans. CWSRF will work with the Vermont Bond Bank and Vermont Economic Development Authority to determine needed loan modifications.

Project Funding

Projects Anticipated to Receive FFY 2020 CWSRF available Funds
(Award of FFY 2020 Funds are anticipated to be made during SFY 2021)

Project /Activity	Total Project Cost	SRF State Match	Federal Share FFY 2019 Funds
See 2021 Priority List Attached	\$8,855,981	\$1,475,981	\$7,380,000
Vermont Administrative Expense	\$480,019	\$80,019	\$400,000
Total	\$9,336,000	\$1,556,000	7,780,000

Detailed project information is included in the attached Municipal Pollution Control Projects Priority List for state fiscal year 2021. The state anticipates disbursement of its state match prior to federal disbursements. For this reason, the Vermont CWSRF will not be required to disburse with a cash draw ratio.

Vermont CWSRF Payment Schedule FFY 2020EPA Capitalization Grant

Payment No.	Quarter	Date	Amount
1	2021-1	10/1/2020-12/31/2020	2,000,000
2	2021-2	1/1/2021-3/31/2021	2,000,000
3	2021-3	4/1/2021-6/30/2021	2,000,000
4	2021-4	7/1/2021-9/30/2021	1,609,000
5	2022-4	7/1/2022-9/30/2022	171,000

Non-Point Source Funding

Vermont's CWSRF has an increasing focus on non-point source funding. The two evolving mechanisms to increase this type of utilization of the fund are through the Water Infrastructure Sponsorship Program (WISPr) and the Interim Financing for Natural Resources Projects Program.

Natural Resources Categorical Eligibility

Eligible CWSRF natural resources projects are defined as a project to protect, conserve, or restore natural resources, including the acquisition of easements and land for the purposes of providing water quality benefits (24 VSA Chapter 120 §4752). The following project types are categorically considered eligible for CWSRF funding:

- Wetland restoration projects
- Floodplain/stream restoration
- River corridor easements
- Woody buffer plantings
- Dam Removal, where there's a water quality benefit
- Lake shoreland retrofit using LakeWise principles
- Water Resource Protection through land acquisition or easements for the purposes of providing water quality benefits
- Gully Stabilization where there is a downstream water quality benefit
- Forestland Conservation

DEC's Watershed Planners will confirm that proposed natural resources projects are eligible and provide a demonstrated water quality benefit. As projects are proposed to be funded through CWSRF, the Watershed Planners will coordinate within DEC's applicable natural resources programs to ensure the projects not only meet these definitions but do not present an unintended environmental impact. Once the Planners have completed their eligibility determination, they will work with SRF Project Developers to assist with the funding process.

Section 603(c) of the Clean Water Act (CWA) states that the CWSRF can provide assistance to these project types under the Habitat Protection and Restoration and Surface Water Protection and Restoration eligibility as described in the [EPA's 2016 Overview of CWSRF Eligibilities document](#). As it pertains to sponsorship (described below), this is further described in [EPA's Sponsorship Lending and the CWSRF](#). Similarly, the states of [Ohio](#) and [Iowa](#), and several other states have awarded CWSRF funding for these project types for many years. These projects are not considered treatment works projects and, therefore, are not required to comply with NEPA. However, these projects may undergo environmental review as part of the permitting review process, as applicable, by other funding sources.

Vermont CWSRF reserves the right to require additional review on a case by case basis. Additional review determinations will be made by the Watershed Planners.

Many other federal crosscutters are not required for these projects including American Iron and Steel (AIS), Davis Bacon, and Fiscal Sustainability Plans (FSP) as they are not treatment works projects. Additionally, the program intends to use repayment funds (Tier II) to fund all natural resources projects. Due to the use of repayment funds, Qualifications Based Selection (QBS), Signage, and Single Audit Act do not apply. Other traditional CWSRF programmatic requirements such as standard contract documents and CWSRF construction oversight do not apply to these projects and will not be overseen by CWSRF construction engineers. The relevant DEC regulatory or natural resource program section (dam safety, rivers, wetlands, stormwater, etc.) will oversee these projects and will develop deliverable requirements. Grant conditions required by the capitalization grant will be incorporated into the loan agreement language.

Water Infrastructure Sponsorship Program (WISPr)

WISPr was established in 2018 after the passage of Act 185 which established a mechanism for a municipality to “sponsor” a natural resources project, the cost of which is then forgiven.

WISPr is currently operating on a limited basis. Program staff will evaluate WISPr requests on a case by case basis. However, due to staffing limitations, there will be limited proactive outreach from DEC staff.

WISPr has undergone a re-evaluation in the past year to determine how to make the program more accessible for municipalities and to better explain the benefits of natural infrastructure projects. The results of this evaluation are reflected in the revised [WISPr policy](#). The major changes include:

- Expansion of the definition of WISPr eligible project types
- Project development process change to include funneling of all projects through WID’s Tactical Basin Planners for eligibility determination and assistance to coordinate with external partner agencies.
- An overall emphasis to identify projects with a direct benefit to the sponsoring municipality, though this is not a requirement.
- No WISPr funding will be made available until there is a signed agreement to sponsor letter from the relevant municipality and a bond vote, if applicable, has been passed for the sponsoring project.

In keeping with past practice of WISPr:

- To ease accessing WISPr funds, the program will use Tier 2, or repayment funds, to support WISPr projects. These projects will not be reported in FFATA for equivalency purposes. As such, QBS procurement process will not be required.

How to Qualify for WISPr Funding

In order to receive WISPr funding, the following must be completed:

- A signed letter of commitment and resolution by the governing body
- Passed bond vote for the sponsoring project, if applicable
- Submitted [WISPr Funding Application](#).

Interim Financing for Natural Resources Projects

Upon the passage of Act 185 in 2018, Vermont's CWSRF program can fund all federally eligible clean water projects and lend to all federally eligible entities, as outlined in EPA's [Overview of Clean Water State Revolving Fund Eligibilities](#) paper. The CWSRF continues to utilize this expanded eligibility to promote investment in natural resource projects.

To aid in this investment, this IUP is proposing the continuation of an interim financing program. The interim financing would be shown on the priority list as a "put aside" to ensure funds are available as needed, though any private entity project that applies to this program would only be funded after all municipal projects are funded. To ensure funding is flexible and available for the interim financing projects, the put aside would not require discrete projects be ranked on the priority list, but rather categorically ranked within this put aside. The following is proposed:

- \$10M "put aside" on the priority list for interim financing of all eligible natural resource restoration, agricultural water quality, and forestry conservation project. This financing would be at 0% for municipal applicants or 0.6% for all other applicants, for a term not to exceed 5 years.
- In accordance with the SRF Repayment Start Date policy, the initial loan repayment would begin one year after execution of the loan agreement.
- The repayment schedule would be depressed for a lower principal and interest payment for the first four years, with a larger and final balloon payment in the fifth year.
- These loans would be subject to other statutory restrictions for private entity borrowing, including the restriction of utilization of no more than 20% of the available funds unless there isn't sufficient municipal need and the requirement to offer funding to all eligible municipal projects prior to making this funding available.
- This funding is available on a first-come, first-served basis.
- To secure this funding, applicants must be able to pass underwriting criteria of either VEDA or VBB.

Farmland Futures Fund

This IUP proposes utilization of the interim financing put-aside to provide assistance to Vermont Land Trust (VLT) for the Farmland Futures Fund (FFF). The FFF will function as a low-cost revolving fund “pass through” of \$3M, to be used over the next ten years. The goals of the FFF include:

- Facilitate 200 farm transfers between 2020 and 2030
- Purchase farm properties to facilitate transfers to help strengthen and diversify Vermont’s agricultural economy, support the generational transfer of land, and ensure continued farmer ownership and agricultural use of conserved farms.
- Implement water quality improvements and ecological restoration on the farm properties purchased by VLT and ensure appropriate easement protections.
- Support rural communities that rely on agriculture as part of their economic and cultural landscape.

VLT proposes to deploy several strategies to improve water quality by reducing phosphorous, nutrient, or sediment loss on agricultural land. This approach will involve protecting whole properties with conservation easements, including special water quality restrictions as applicable; updating existing conservation easements with similar special water quality restrictions; and facilitating land management and restoration activities that complement and enhance these legal protections.

Over the past ten years, VLT farmland access projects have protected 65 miles of streams and rivers and two miles of pond and lake frontage, including 20 miles with special easement protections. Those projects have also protected 475 acres of wetlands, 105 acres of which have special easement protection. The FFF anticipates doubling these outcomes over the next ten years.

This put-aside will follow the same underwriting requirements as Interim Financing. This IUP will reserve up to \$3M to be used in the initial IUP year and at the end of each IUP year, the amount used in that year will be closed out into one loan and repayment will begin for that first year. In following IUP years, this put aside will offer the net remaining from the initial \$3M and the amount spent in that year will be closed out and made a separate loan. For example, if in the initial year, only \$1M is used by the end of the IUP year, CWSRF will close out a loan for \$1M and make an additional continuing amount available for the next year. This allows FFF ultimate flexibility to purchase properties in a timely manner. Further funds may be made available in subsequent IUPs.

These funds will be made available at a rate of 0.6% and payment will begin one year after execution of the loan.

Stormwater Financing Linked Deposit

Due to the future demand for funding related to stormwater General Permit 3-9050, otherwise known as the 3 Acre Stormwater Permit, this IUP proposes the creation of a linked deposit mechanism to fund these project types. The bulk of the need to comply with this permit requirement will be with for- and non-profit business entities and residential associations in the Lake Champlain and Lake Memphremagog Basins. This funding mechanism is still in development stages and it is not likely that projects will be funded for construction during this IUP year. However, this IUP should reserve the use of up to \$1M to seed this funding mechanism. Once the linked deposit mechanism is created, no federal requirements will apply to these projects, assuming they are not treatment works projects. The program has developed a [Stormwater Treatment Works Policy](#) that distinguishes between treatment works and non-treatment works stormwater projects.

Annual Report

In accordance with the requirements of Section 606(d) of the Act, Vermont will provide EPA with an Annual Report within 90 days of the end of the state fiscal year. The Annual Report contains information on how the state has met the goals and objectives of the previous fiscal year, as stated in the IUP and grant agreement. The Annual Report also reviews how well the existing SRF financial operating policies, alone or in combination with other state financial assistance programs, provides for the long-term fiscal health of the fund, assists communities to increase local responsibility for compliance, and carries out other provisions specified in the State Clean Water Strategy. The Annual Report also provides information on loan recipients, loan awards/disbursements, and environmental assessment determinations.

The Annual Report will show that the State has completed or striving to achieve the following:

- (1) Reviewed all CWSRF funded section 212 projects in accordance with the approved environmental review procedures (section 602(a));
- (2) Deposited its match on or before the date which each quarterly grant payment was made (section 602(b)(2));
- (3) Made binding commitments to provide assistance equal to 120% of the amount of each grant payment within one year after receiving the grant payment (section 602(b)(3)); and
- (4) Expended all funds in an expeditious and timely manner (section 206(b)(4)).

Environmental Benefits Reporting & Other Federal Databases

Environmental benefits will be reported using the Clean Water Benefits Reporting (CBR) federal on-line reporting system each time a loan is transacted during the fiscal year. This information is now being automatically reported via a data push from an internal database to the CBR website. Reporting to FFATA and NIMS will also be completed.

Program Changes

All projects receiving federal funds will be required to comply with the requirements of the federal Single Audit Act. All treatment works projects must comply with a NEPA like review, DBE reporting, Davis-Bacon, American Iron and Steel, and other federal crosscutters required by WRRDA, as applicable. Projects will be reported in FFATA until an amount equivalent to the federal grant has been met. However, the program does not use equivalency to apply federal crosscutters and they are applied to all projects, except as noted above for certain projects that are not treatment works, regardless of funding source.

Vermont's CWSRF continues to maintain its [Affordability Criteria](#), [Repayment Start Date](#), [Emergency Bypass Policy](#), and [Green SW Definition Policy](#).

Priority List Bypass Procedure

The revision of the Chapter 2 Project Priority System Rule in December 2017 allowed for the implementation of a bypass procedure. In order to further prioritize the management of the priority list, the program proposes a [DRAFT revised procedure & guidance doc](#) that requires submission of an administratively complete preliminary engineering report (PER) in order to be ranked for construction loan and PC grant funding. The final date for PER submission was February 24, 2020. Projects that are in the planning stages may submit priority list applications but will be shown as future projects for planning purposes. Additionally, projects must meet these readiness-to-proceed deadlines:

- November 1, 2020: Project must have submitted an Environmental Informational Document; and
- April 30, 2021: Any project on the list must have an authorized bond vote by April 30, 2021 and have reached 60% final design (60% meeting held or determined unnecessary by program engineer); and
- June 30, 2021: Project must submit an administratively complete funding application.

For projects that qualify under the Village Wastewater Initiative, completion of a feasibility study together with issuance of a DEC preliminary approval from the Indirect Discharge Program constitutes administratively complete PER for purposes of inclusion in the project priority list.

Projects not meeting this and other readiness to proceed dates will be bypassed in favor of lower ranking projects. For purposes of bypass, a project will be defined by a single priority list application. If there are multiple subprojects or sub-components within a priority list application, a PER submittal will be required for all subprojects and all subprojects must meet readiness to proceed guidelines or the entire project will be subject to bypass.

Green Project Reserve

The Vermont requirement for Green Project Reserve (GPR) for FFY 2020 is 10% of the federal grant, or \$778,000. This year, nine projects indicated likely green project elements aggregate at an estimated amount of \$1,275,768. These projects are identified on the attached priority list. Many of these projects are early in the development phase and engineering and project development staff will work directly with municipalities and their consultants to incorporate green project elements into the project design.

In addition, the revisions to the Chapter 2 Priority Ranking criteria provide a framework for how projects should be prioritized for funding. This framework provides flexibility for the prioritization of federally mandated project types, including GPR projects.

While the goal for GPR is 10% of the federal grant, it is the position of the program to solicit and prioritize more than the minimum goal. This will ensure that if certain project elements have changed during the development and construction of a project that may reduce or eliminate GPR elements, there are sufficient GPR projects to meet or exceed this goal.

Additional Subsidy

Pursuant to the applicable 2020 federal appropriations act provisions, an amount equal to 10% of the grant must be provided as subsidy, or at least \$778,000. An additional amount equal to 30% of the grant, or \$2,334,000, may also be provided in the form of subsidy in accordance with the 2014 federal WRRDA provisions. In total, the fund may use up to 40% of the federal grant, or \$3,112,000 for additional subsidization. The program intends to utilize up to the maximum allowed additional subsidy in this current IUP. Only municipal applications are eligible for additional subsidy.

In an effort to incentivize project construction, the program has completed an analysis of previous federal grant years' non-utilized additional subsidy. The table below shows available and non-committed additional subsidy:

Federal Grant Year	Additional Subsidy Maximum	Committed	Uncommitted Additional Capacity	Subsidy
2014	559,386	372,970		186,416
2015	2,045,100	743,919		1,301,181
2016	2,610,000	1,596,473		1,013,527
2017	2,589,600	2,589,600		n/a
2018	3,143,600	1,258,332		1,885,268
2019	3,111,600	1,148,437		1,963,163
2020	3,112,000	-		3,112,000
Total				\$9,461,555

*indicates estimated additional subsidy capacity remaining for capitalization grant

This IUP proposes to amend the 2014, 2015, 2016, 2018, and 2019 to allocate uncommitted additional subsidy toward the total amount available in the FFY20 IUP, up to the maximum \$9,475,356.

This IUP proposes to use loan forgiveness for the following initiatives:

1. Principal loan forgiveness for planning costs up to \$1 million.
2. Principal loan forgiveness for Designated Lakes in Crisis up to \$450,000.
3. Principal loan forgiveness to support the Village Wastewater Initiative up to \$1.75M
4. Principal loan forgiveness for construction activities up to \$6.26M for small systems meeting the CWSRF Affordability Criteria.

Additional Subsidy for Planning

This avenue to receive principal loan forgiveness for planning includes feasibility studies, asset management planning, preliminary engineering reports, and final design projects. This IUP proposes to reserve up to \$1million for these activities. Vermont CWSRF has determined this application of additional subsidy is eligible under the Federal Water Pollution Control Act (FWPCA), section 603(i) which states: *In any case in which a State provides assistance to a municipality or intermunicipal, interstate, or State agency under subsection (d), the State may provide additional subsidization, including forgiveness of principal and negative interest loans— (B) to implement a process, material, technique, or technology— (iv) to encourage sustainable project planning, design, and construction.*

Eligible projects may receive forgiveness for 50% of planning costs, up to \$100,000 per project, with a limit of no more than \$250,000 for each borrower. A single borrower is limited to receiving additional subsidy for planning of \$250,000, which may consist of multiple projects for preliminary engineering or final design. Additionally, all municipalities seeking

funding for the following planning type activities will receive 100% forgiveness on their loans, up to \$100,000 per borrower:

- CSO Long-Term Control Plans (LTCPs)
- Hydrologic & Hydraulic (H&H) Modeling necessary for LTCPs as defined in the CSO Rule (Chapter 34 of the EPRs) or for projects to reduce wet weather SSOs.
- Rain gauges for CSO communities that need to comply with the CSO Rule
- Flow metering of CSO discharges for volumetric monitoring and telemetric reporting
- Other means of CSO Rule Monitoring and Compliance as determined by the Secretary.

The forgiveness for the above CSO planning activities would not count toward the proposed \$250,000 subsidy cap. A project may only receive planning forgiveness under one category. The CWSRF program will determine which path for loan forgiveness is most financially advantageous.

Additional Subsidy to Support the Village Wastewater Initiative

This avenue to receive principal loan forgiveness includes the following activities: environmental information documents and appurtenant documents and studies; and final design for pursuing community wastewater solutions in one or more of Vermont's 200 unsewered villages. This IUP proposes to reserve up to \$500,000 for these activities. Eligible projects may receive forgiveness for 100% of eligible costs, up to \$125,000 per project.

Additionally, this IUP proposes to reserve up to \$1,250,000 of additional subsidy for construction of community wastewater solutions serving residential and mixed uses populations in unsewered villages in towns with a town population under 2,500. Eligible projects may receive subsidy of up to 50% of eligible costs, with a cap of \$1,250,000 and must serve a designated center as defined by ACCD.

Vermont CWSRF has determined this application of additional subsidy is eligible under the FWPCA, section 603(i) which states: In any case in which a State provides assistance to a municipality or intermunicipal, interstate, or State agency under subsection (d), the State may provide additional subsidization, including forgiveness of principal and negative interest loans— (B) to implement a process, material, technique, or technology— (iv) to encourage sustainable project planning, design, and construction. This initiative will provide assistance to communities for the planning and construction of sustainable wastewater solutions.

Lakes in Crisis

Vermont law establishes a category of lakes called Lakes in Crisis, for which additional State resources may be brought to bear to address compelling pollution reduction projects. This category of additional subsidy proposes up \$450,000 in loan forgiveness to an eligible municipal borrower to implement CWSRF/Section 319 eligible nonpoint source pollution

reduction projects in the watershed of a Lake in Crisis. In this category of subsidy, the following activities are eligible only for projects which have been identified in the Crisis Response Plan for the Lake in Crisis, or other specific projects identified in the Tactical Basin Plan and related Watershed Projects Database that reduce water pollution to the Lake in Crisis:

- Project feasibility
- Project engineering design
- Project construction

Vermont CWSRF has determined this application of additional subsidy is eligible under the FWPCA, section 603(i) which states: *In any case in which a State provides assistance to a municipality or intermunicipal, interstate, or State agency under subsection (d), the State may provide additional subsidization, including forgiveness of principal and negative interest loans— (B) to implement a process, material, technique, or technology— (iv) to encourage sustainable project planning, design, and construction.* Vermont CWSRF has increasingly sought to fund non-point source activities as a more affordable and sustainable investment in water quality problems across the states.

Additional Subsidy for Construction in Small Communities

The total amount available for this additional subsidy provision is up to \$6.26M. These funds will be reserved for communities that are less than 10,000 in population and that meet the criteria of our Affordability Criteria. These municipalities are eligible for up to 40% additional subsidy in the form of principal forgiveness with a maximum forgiveness amount of \$2M per borrower. This provision is not additive with other construction loan forgiveness avenues outlined in this IUP with the exception of the Lake Champlain Basin Affordability Program. For example, if an entity also qualifies for the Village Wastewater initiative, the CWSRF program will evaluate remaining loan forgiveness and work with the applicant to determine which avenue is the most financially advantageous. This loan forgiveness can include eligible planning or final design costs incurred in this IUP year.

Vermont CWSRF has determined this application of additional subsidy is eligible under the FWPCA, section 603(i) which states: *In any case in which a State provides assistance to a municipality or intermunicipal, interstate, or State agency under subsection (d), the State may provide additional subsidization, including forgiveness of principal and negative interest loans— (A) to benefit a municipality that— (i) meets the affordability criteria of the State established under paragraph (2).*

What Constitutes Planning Versus Construction Activities?

Activities that are regarded as construction are subject to additional construction procurement provisions that do not apply to planning activities.

Planning activities are those activities that take place during the feasibility, preliminary engineering, and design phases of a project and where there is no significant alteration of existing ambient conditions. In general, if an activity involves excavation or moving soil or rock, it is not a planning activity. If a final design approval letter is issued for a project, the planning activities associated with the project must take place prior to issuance of the letter.

Examples of planning activities:

- Feasibility studies;
- Preliminary engineering reports and engineering studies;
- Development of compliance assistance tools
- Installation of equipment including sensors, meters, gauges, hardware and software used to store and interpret data;
- Sampling, lab work, and data analysis;
- Flow and Level monitoring of CSO discharges including the capability to transfer data electronically in real time for the equipment being installed.

This is not an exhaustive list and other activities will be reviewed by WID on a case by case basis.

Requirements to Secure Additional Subsidy

To secure additional subsidy, the following applies: All additional subsidy is awarded on a first come, first serve basis.

- Only municipal applicants are eligible for additional subsidy
- Applicants may qualify for multiple types of additional subsidy under this plan, subject to the limitations noted above.
- Additional subsidy is considered reserved for a project upon receipt of the following:
 - Complete funding application
 - Qualifications Based Selection certification, if applicable
 - Draft Engineering Services Agreement
 - Relevant readiness to proceed criteria prior to securing additional subsidy for a final design loan and bond documentation and final design approval prior to securing additional subsidy for construction.
- Additional subsidy is not guaranteed until it is obligated by the program following loan approval by the Department and issuance of an Authorized Letter of Finance Letter from the program.

Lake Champlain TMDL Affordability Program

Based on public comment regarding affordability of projects that are required to meet multiple effluent limits under the Lake Champlain TMDL, this IUP has created this affordability program. In order to be eligible for the terms outlined in this section, a project must:

- Be a municipal facility with an implementation schedule to meet multiple effluent limits set forth in their first NPDES permit under the 2016 Lake Champlain TMDL.
- Result in post-project user rates exceeding 2% of median household income for wastewater services.
- Apply for construction funding by June 30, 2021. This forgiveness is eligible for all eligible planning costs.

Systems that fit this description will be eligible for:

- Additional subsidy of 100% forgiveness, up to \$500,000 per year in future IUP years. This project will be treated as a continuing project to ensure access to available additional subsidy.
- Loans can be amended until project completion, up to four sequential years, with a maximum loan forgiveness of \$2,000,000.
- This additional subsidy can be additive to other additional subsidy opportunities.
- If any combination of loan forgiveness and pollution control grant result in post-project user rates of less than 2%, this affordability eligibility will be ceased.
- The administrative fee rate will be 0% for projects meeting this definition.

Public Participation

Vermont follows public participation procedures in the development of the annual Project Priority List (PPL), the CWIUP and in the environmental review process. The CWIUP is typically developed and adopted annually along with the PPL using the same public participation procedure employed for adoption of the PPL. That procedure is outlined in the Municipal Pollution Control Priority System rule. Vermont implements public participation for specific projects through the environmental review for CWSRF funded projects in accordance with the department's Environmental Review Procedures for projects funded through the Vermont/EPA Revolving Loan Program. This procedure was approved by the EPA Regional Administrator in accordance with the August 2, 1989 CWSRF Operating Agreement between the State of Vermont and the U.S. Environmental Protection Agency, Region I. A summary of the public comments that were received for this IUP are included in the following Section.

On December 19, 2020, the Department notified municipalities and other interested parties to apply to be included on the Municipal Pollution Control Projects Priority List for State Fiscal

Year 2021 with a due date of February 24, 2020 for inclusion in the draft Pollution Priority List.

Due to the COVID-19 pandemic, the Department delayed the release of the draft IUP until May 1, 2020. Due to Governor Scott's Stay Home, Stay Safe order, this year's public meeting will be conducted online. A public hearing invitation to participate via Microsoft Teams was sent via email to all entities in the contact list and directions to participate were posted on the CWSRF website. The virtual public hearing was held on June 18, 2020 at 10:00 a.m. The final IUP includes a public responsiveness summary to detail comments made throughout this process.

Responsiveness Summary

The following responsiveness summary is a list of questions and comments received at the June 18, 2020 public hearing through the public comment period ending July 2, 2020. Some comments have been edited for brevity and clarity:

This final IUP has changed the readiness to proceed criteria outlined on page 15 from facility plan approval by December 31, 2020, to submission of an Environmental Information Document by November 30, 2020.

(Q) The Town of Westford supports the additional subsidy opportunity for community wastewater solutions in unsewered systems. This will help the Town significantly develop funding for this initiative. However, we are concerned that the language in the draft IUP that states *"this IUP proposes to reserve up to \$1,250,000 of additional subsidy for construction of community wastewater solutions serving residential populations in unsewered villages in towns with a town population under 2,500."* This language could be read to suggest that the subsidy is only available for existing residential users. This is concerning for several reasons. It presents a barrier to communities that are pursuing wastewater solutions to address limitations at existing public and civic buildings and to diversify their grand lists by creating capacity for expansion and retention of small businesses. These are often among the primary and most compelling objectives for pursuing community wastewater solutions in rural villages. Restricting the additional subsidy for wastewater systems to residential uses would be at cross purposes with other State incentives for Village Centers, as the Village Center and Downtown tax credit programs are designed to encourage mixed use and commercial redevelopment. We strongly suggest that the clause related to residential populations be removed. The revised language would thus read, *"... construction of community wastewater solutions serving ~~residential populations~~ in unsewered villages in towns with a town population under 2,500."* We also strongly urge you not to include artificial parameters or ratios for residential vs. non-residential development inasmuch as vibrant Village Centers require the flexibility to adapt as community needs change over time."

(A) The subsidy is awarded in part due to affordability reasons. Affordability is related to the ability of residential users to pay. Projects that are only benefiting for example, Municipal Buildings, or do not have any residential connections, would not sufficiently demonstrate the affordability offset to residential rate payers. For clarity the language has been changed to “residential and mixed uses.”

(C) The Hinesburg WWTF should be added to this priority list for funding. It has submitted a 90% PER.

(A) In general, the CWSRF program has stated that projects must have a submitted PER prior to the 2/24/2020 priority list submittal date. This allows the program sufficient time to rank the projects and for all projects on the list to have a reasonable opportunity to comment on a draft list. However, as there is sufficient remaining funds available and this consideration would not displace funding for another project, this final priority list ranks and identifies this project.

(C) The Town of Montgomery’s priority list application should have been awarded points for public health under the following questions: the project eliminates, reduces, or controls public health hazards in a source of potable water supply and the project addresses one or more failed systems.

(A) The CWSRF program has reviewed this comment and awarded points to this project. The final priority list reflects these additional points.

(C) The Town of Proctor’s Willow Street project should be added to the priority list.

(A) This application was received prior to the deadline and the final priority list ranks and identifies this project.

(C) The Town of Woodstock’s project should be added to the priority list as its PER is at 90% as of the public comment period.

(A) In general, the CWSRF program has stated that projects must have a submitted PER prior to the 2/24/2020 priority list submittal date. This allows the program sufficient time to rank the projects and for all projects on the list to have a reasonable opportunity to comment on a draft list. However, as there are sufficient remaining funds available and this consideration would not displace funding for another project, this final priority list ranks and identifies this project.

(C) On page 17 of the draft IUP in the “Additional Subsidy for Planning” section, rain gauges and flow metering are specifically referenced. This wording may need to be a little more general as other types of devices are being used for the CSO monitoring purposes. For example, in Newport City and Enosburg Falls, level monitoring devices are being used.

(A) This language was added here for clarification: *Other means of CSO Rule Monitoring and Compliance as determined by the Secretary.*

(C) On page 19 of the draft IUP, in the “Additional Subsidy for Construction in Small Communities”, under examples of planning activities, flow monitoring of CSO discharges is referenced, but there are other types of monitoring be performed, so maybe this should read “Flow and level monitoring”.

(A) The language was changed to “*Flow and level monitoring*”.

(C) The Town of Hinesburg’s WWTF upgrade will result in post-project user rates of greater than 6% of the MHI. In order to make this project more affordable for the users, could there be more loan forgiveness applied to these types of projects by one of the following methods: more subsidy for engineering, could the 40% subsidy be applied to each contract so the \$2M is exceeded, or are there any other opportunities to improve their funding package?

(A) DEC recognizes the challenges with these projects that are legally required to meet permit requirements and will result in high user rates. To improve the funding package for projects in similar circumstances, this final IUP has created a category described as “Lake Champlain TMDL Affordability Program”. This program is outlined on page 20 of the IUP with additional provisions to make projects meeting this criteria affordable for users.

(Q) When does this IUP go into effect?

(A) Upon adoption of the final IUP, on July 16, 2020.

(Q) Will the agency provide a list of IUP applicants that meet the CWSRF Affordability Criteria?

(A) While certain pieces of data are publicly available, certain affordability requirements such as user rates as a percent of MHI and unemployment rates, are decided at the funding application time. To determine whether your project is likely to meet the CWSRF Affordability Criteria, it is advised to contact the program directly for project-specific determinations.

(Q) If a federal stimulus becomes available, will the program include those additional funds in this IUP?

(A) To be clear, there is no current confirmation that there will be a federal stimulus. However, in the event of this confirmation, the program will amend this IUP and request project priority list applications, consistent with whatever federal requirements are attached to these funds.

(C) It is understood that WISPr is on hold until further notice. We support reinstatement of this program. Can an applicant apply for this funding and be put on a waiting list until the program is ready to be restarted? The Town of Woodstock is interested is sponsoring a project related to its WWTF upgrade.

(A) The primary challenge of WISPr is the demand on staff time for project coordination and “matching” of schedules and amounts. However, as a result of feedback during the IUP cycle, the wording for availability of WISPr has been changed to say the program can evaluate on a case by case basis. There will be limited availability for proactive outreach, but the program

may be able to respond to “ready-made” matches. This IUP does not put a cap on a dollar amount or number of projects. The Town of Woodstock may reach out to the relevant DEC Watershed Planner for more information about WISPr.

(Q) The IUP, top of page 17 includes Additional Subsidy for Planning. Eligible projects may receive forgiveness for 50% of planning costs, up to \$100,000 per project, with a limit of no more than \$250,000 for each borrower. A single borrower is limited to receiving additional subsidy for planning of \$250,000, which may consist of multiple projects for preliminary engineering or final design. The IUP, middle of page 17 includes Additional Subsidy to Support the Village Wastewater Initiative. This avenue to receive principal loan forgiveness includes the following activities: environmental information documents and appurtenant documents and studies; and final design for pursuing community wastewater solutions in one or more of Vermont’s 200 unsewered villages. This IUP proposes to reserve up to \$500,000 for these activities. Eligible projects may receive forgiveness for 100% of eligible costs, up to \$125,000 per project. Can an applicant receive \$100,000 Additional Subsidy for Planning and \$125,000 Additional Subsidy to Support the Village Wastewater Initiative for a total of \$225,000? Can an application receive up to \$125,000 each year to continue advancing a project?

(A) A project may only receive planning loan forgiveness through one category of additional subsidy. We are trying to provide incentives to multiple project types based on feedback and state water quality priorities. In order to “spread around” these opportunities, we have clarified the language that a project may either get funding from the “regular” planning loan forgiveness category or the Village Wastewater Initiative category. Please note that this is a per project limit, and not per borrower. A borrower may take advantage of different categories for different projects.

Regarding the ability to receive loan forgiveness in future years, this IUP only covers the period ending June 30, 2021. Any projects funded after that date would be subject to provisions of future IUPs.

(Q) If a project uses the Engineering Planning Assistance Loan and then advances to construction, and is PC Grant eligible, will the EPA Planning Assistance Loan amount be converted to a PC grant when the project advances to construction?

(A) It is unclear if this question is related to Engineering Planning Advances or a CWSRF planning loan that covers engineering costs. Either way, these costs would be added into the total project cost summary for the construction project and the grant would be taken off as a percentage of those eligible project costs. For example, if project costs are \$100,000, with a \$10,000 planning advance or loan, for a total cost of \$110,000, and the PC grant eligibility is 15%, then the eligible grant amount is \$16,500, resulting in a final debt service of \$93,500.

(Q) What is the threshold of eligibility for PC grant conversion?

(A) It is unclear what is intended by “conversion”, however the minimum eligible amount for PC grants is 10%, with a maximum of 35%. These percentages aren’t truly “converted” but rather deducted as a percent of eligible total project costs.

(Q) What changes were made to the Affordability Criteria from last year to this year that would potentially result in a project being eligible for less loan forgiveness?

(A) There were no proposed changes to the CWSRF Affordability Criteria in this IUP.

(Q) If projects in the fundable range don’t hit the 60% design submittal requirement, will projects on the forecasted list automatically be eligible for funding?

(A) In order to be eligible for funding, a project needs to be ranked on the priority list. If a project didn’t meet the requirements for ranking, they were put on the forecasted list. The forecasted list is for planning purposes only and not sufficient for ranking, funding or obtainment of additional subsidy. This IUP has available funds for construction projects, so if your project becomes ready to proceed, please reach out to the CWSRF program to request amendment to add projects to this IUP.

(Q) What is the purpose of the forecast list? There are definitely projects on the fundable list that aren’t going to move forward with construction, so why have two lists?

(A) The forecast list is for planning purposes and identifies potential needs for future funding. These projects have been identified as necessary but hadn’t met readiness to proceed deadlines as of the 2/24/20 deadline. As noted above, if the program receives indication from these projects that they are advancing to construction within this IUP year (June 30, 2021), then this list can be amended to rank and add projects to the fundable list.