

**COMMONWEALTH OF PENNSYLVANIA  
PA INFRASTRUCTURE INVESTMENT AUTHORITY  
and  
PA DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**CLEAN WATER STATE REVOLVING FUND**

**INTENDED USE PLAN**

**FY 2008**

**July 2008**



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**Attachment:**

IUP Sources and Uses  
Wastewater Project Ranking Criteria

**Clean Water State Revolving Fund  
Intended Use Plan  
FY 2008**

**I. Introduction**

Pennsylvania herewith submits its Intended Use Plan (IUP) for use of all CWSRF funds awarded or available through September 30, 2008 under Title VI of the Water Quality Act of 1987 (Act). This consists of all awarded grant funds through the FFY appropriation, appropriate state match funds, and principal/interest/investment income.

The State has developed a comprehensive Cash Flow Projection Model to determine the optimal annual project approval funding. This Model incorporates both state and federal loan funding, as well as state grant availability.

Act 68 of 1999, commonly known as Growing Greener Grants, has provided additional grant funding to water, sewer and storm water projects in Pennsylvania. These grants are being used to help communities improve infrastructure throughout the Commonwealth. Funding is also being made available to watershed groups and others to protect and restore watersheds, reclaim abandoned mines and plug abandoned oil and gas wells.

The CWSRF program is an essential component of the Commonwealth's efforts to protect and improve the quality of life of the citizens of Pennsylvania by helping to protect the water environment, promoting community revitalization and supporting economic development. To this end, the Pennsylvania Infrastructure Investment Authority (PIIA) and the Department of Environmental Protection (DEP) work closely together and with other state and federal agencies to identify opportunities for funding specific projects and to coordinate funding efforts. These efforts are instrumental in achieving the requirements of the federal Clean Water Act.

**II. List of Projects**

Under this FY 2008 IUP, Pennsylvania intends to fund five wastewater projects with a total dollar value of approximately \$32.3 million and Admin costs of \$1.3 million as shown in Chart 1. Please refer to the Sources and Uses Chart for use by project. Approximately \$40 million has been reserved for allocation to Brownfield Projects throughout the fiscal year, as shown in the section of the Sources and Uses Chart at the bottom.

Priority Projects

To determine which wastewater treatment facility projects should be funded by the CWSRF, the Fiscal Year 2009/2010 Project Priority List (PPL) was reviewed, and the projects expected to need CWSRF funds within the next twelve to eighteen months were identified. Projects included on the IUP project list were selected from the PPL using the approved Chapter 103 project ratings, the criteria identified in Section 10(b) of Act 16 of 1988 and in Title 25,

Section 963.8 of the PIIA regulations. Attached is a new ranking framework for the selection of wastewater projects that was approved by EPA on June 26, 2008. Over the next year, PIIA and DEP intend to work together to revise these regulations so that this same framework can be used for the development of the PPL, thus eliminating the need to rank potential projects twice.

The projects designated for funding in FY 2008 fall under the eligible need Categories. Projects on Chart 1 (See Attachment) satisfy all the enforceable requirements of Water Quality Act projects.

In the event that projects identified for funding in the IUP are unable to proceed, these delayed projects will be bypassed and other projects from the PPL will be funded based on Chapter 103 priority ratings, the criteria identified in Section 10(b) of Act 16 and Section 963.8 of the PIIA regulations.

A project may also be bypassed if the PIIA determines that provision of funds from the CWSRF will be used to replace or supplant other funds reasonably available for the project. Further, the PIIA reserves the right to provide funding for only a portion of the total costs of a project or only a portion of the amount requested where the municipality can, based on its ability to pay, obtain other affordable financing for the remainder of the project.

A project may be bypassed if Pennsylvania determines that a different project should be funded due to an emergency condition that can only be addressed in an immediate time frame.

The final IUP and PPL lists will reflect the changes caused by the emergency situation.

Bypassed projects that retain their priority rating will be subject to the same eligibility and funding considerations from future allotments as other fundable projects.

### **III. Alternative Uses of the CWSRF**

The 1994 CWSRF Grant Application included funding for the Pennsylvania On-Lot Program to fund repair and replacement of individual on-lot systems. As of December 2005, a total of \$5,215,000 had been set aside for the on-lot loan program and an additional \$4,529,202 has been approved for loans as of June 30, 2008, in cooperation with Pennsylvania Housing Finance Agency.

In July 2004 Region III, EPA approved the PENNVEST Brownfield Guidelines. Included in this IUP is a Set-Aside of \$40 million of recycled funds.

In this application Pennsylvania proposes to use a portion of the CWSRF capitalization grant to fund its Statewide Programs to Address Specific Non-point Source (NPS) Categories, as described in the Commonwealth's approved Non-point Source Management Program. As stated in the NPS Program 1999 Update, which was approved by EPA Region III on October 14, 1999, the NPS Categories address several potential sources of NPS pollution. Under these categories, the cleanup of acid mine drainage, agricultural runoff, urban runoff, silviculture runoff, hydrologic modification, Pennsylvania's many on-lot sewage disposal

systems and hazardous waste sites, which can cause significant degradation of both surface and ground water, are Pennsylvania's highest priorities.

As stated in Pennsylvania's Non-point Source Management Program, past practices of resource extraction and exploration are the major source of non-point source pollution to surface water and groundwater in the Commonwealth. Past coal mining causes water quality problems in 45 of Pennsylvania's 67 counties. Programs to reclaim waters polluted from resource extraction have been implemented in Pennsylvania since 1992. Many organizations and agencies are working to correct Pennsylvania's abandoned mine problems. DEP's Bureau of Abandoned Mine Reclamation, Bureau of Mining and Reclamation, and the Bureau of Watershed Management; federal agencies such as the Natural Resources Conservation Service (NRCS), the U.S. Army Corps of Engineers, the U.S. Geological Survey (USGS), the U.S. Environmental Protection Agency (EPA); the U.S. Department of Energy, the Office of Surface Mining (OSM); county conservation districts, citizen coalitions, and watershed associations are sponsoring abandoned mine reclamation projects. Invariably, the most successful projects result from a partnership of federal, state and local interests. Therefore, through this IUP Pennsylvania intends to use a portion of its annual SRF allotment to assist these agencies and organizations, where possible, with construction of facilities and best management practices aimed at correcting specific water quality problems stemming from acid mine drainage.

Agriculture is Pennsylvania's number one industry. There are approximately 51,000 farms in Pennsylvania. The non-point source impacts of agriculture on the environment are a significant concern to Pennsylvania. Recent studies have shown that 39 percent of all non-point source pollution in Pennsylvania comes from agricultural lands. Incentive programs such as the Chesapeake Bay Program, the Environmental Quality Incentives Program (EQIP), the Conservation Reserve Enhancement Program (CREP) and the federal Clean Water Act's Section 319 implementation program, work very well to address non-point source problems; however, even with these initiatives there is still a need for additional financial assistance in some situations. Best Management Practice (BMP) implementation plays a large part in incentive programs. Incentive based programs are the desired method to address agricultural non-point source issues. The potential exists for using CWSRF funding in the future.

In 1992, the PIIA began to utilize state funds to provide low interest loans to construct, improve or rehabilitate public storm water facilities to address urban runoff. Facilities eligible for this funding are: (1) new or updated storm sewer systems to reduce storm water flooding or to separate storm water from sanitary sewers, (2) detention basins to control storm water runoff, and (3) storm water facilities to implement best management practices that reduce non-point source pollution. CWSRF funds may be used to support this aspect of the PIIA's program. Projects to date have been aimed at (1) and (2) above; however, the potential exists for using CWSRF funding in the future.

Another major non-point source of surface water pollution in Pennsylvania is silviculture activities, which can cause soil erosion and sediment loading to surface water from timber harvesting and forest road construction. Best management practices (BMPs) have been used to reduce the effects of such problems. CWSRF Funds from the FY08 allotment may be used in

certain cases to assist with implementing BMPs to correct water quality problems arising from silvicultural activities.

Indirect changes in hydrology that result in non-point source pollution include: changing land uses, increasing impervious surface areas, lack of storm water management, lack of floodplain management, unlimited livestock access to streams and removal of riparian vegetation. Hydrologic modification such as channelization, dredging, dam construction, bridge construction and any encroachment into a body of water or watercourse can also produce the undesired effect of non-point source pollution. Therefore, Pennsylvania may use a portion of the CWSRF funds under the FY08 allotment to assist with projects designed to prevent stream flooding, establish new riparian forest buffers and conserve existing buffers, assist permit applicants in meeting the wetland replacement requirements, breaching of unwanted dams, restoring stream hydrology, migratory fish restoration and creating and restoring wetlands.

Under this IUP, Pennsylvania will continue to implement its On-Lot Sewage Disposal System Loan Program through the 1994 CWSRF funds reserved for this plan. The loans are used to repair or replace malfunctioning on-lot sewage disposal systems, eliminating related groundwater and stream contamination problems. This program is a cooperative effort among the PIIA, the Pennsylvania Housing Finance Agency (PHFA), the DEP, and local financial institutions to provide funding to address the public health and environmental needs which result from malfunctioning on-lot systems in areas where public collection and treatment facilities are not practical in the immediate future. Eligible costs include all testing, design, permits, and construction costs associated with the repair, rehabilitation, improvement, expansion or replacement of an existing individual on-lot sewage disposal system. This program will complement other state sourced efforts to aid in non-point source pollution reduction.

Pennsylvania also plans to use a portion of the CWSRF funds for 2008 to assist with groundwater cleanup and site remediation efforts under the Commonwealth's Land Recycling Program, commonly referred to as the "brownfields" program. The DEP Bureau of Land Recycling and Waste Management oversees the implementation of the Land Recycling Program. The Bureau currently maintains an inventory of more than 1,000 sites in the Commonwealth, which serves as the basis for prioritizing and scheduling site assessments and cleanups.

Through the Commonwealth's Growing Greener initiative, Pennsylvania embarked upon the most aggressive environmental funding programs in its history. These grant funds will continue to be used to support traditional water, sewer and storm water infrastructure projects as well as providing a substantial infusion of grant funds into non-point source and watershed restoration and protection projects.

Finally, PIIA and DEP have coordinated and will continue to organize the state funding that is available to maximize the opportunities to blend with CWSRF loan funding, if and when it is appropriate.

#### **IV. Strategic Plan Program Activity Measures (PAMS)**

##### **A. Reportable Outputs/Outcomes (PAMs) for CWSRF:**

###### **1. Commitments**

WQ-17: The grantee committed to achieving a 98.7 percent fund utilization rate [cumulative loan agreement dollars to the cumulative funds available for projects] for FY 2008.

2. PENNVEST has shortened the time from approval to settlement from approximately 12 months to 9 months on average, with the Brownfield projects taking longer due to the complexity of the type of funding.

#### **V. Outputs and Outcomes**

##### **A. Environmental Reporting**

1. The state will complete the environmental benefit worksheets and enter the information into the national database for each section 212 project – “CBR” report.
2. Section 319 projects
  - a. Failing Septic Systems – fund approximately 9 for \$200,000 to decrease contamination of surrounding groundwater sources from failing on-site systems.
  - b. Brownfields – fund approximately 4 projects for \$40 million to contribute to the redevelopment of Brownfields and increased reuse of the sites and reduced polluted runoff from the sites.

##### **B. Annual Reporting**

1. The state agrees to include reporting on the PAMs, Outputs, and Outcomes in the Annual Report.

#### **VI. Long-Term and Short-Term Goal Statements**

##### **A. Long-Term Goals**

1. Provide funding that will enable publicly owned sewerage systems to achieve and/or maintain compliance with State and Federal water quality standards.



2. Protect the quality of life for Pennsylvania residents by providing financing for facilities and other improvements that provide for a clean, safe and healthful environment, support economic development and community revitalization.
3. Utilize the CWSRF to provide funding opportunities for addressing water quality problems identified through the watershed assessment and TMDL process, as well as problems identified through the watershed assessment and TMDL process, as well as problems identified through updates to Pennsylvania's Non-point Source Management Plan to the extent practicable.
4. Administer the CWSRF to issue loans, loan guarantees, or insurance, at fees commensurate with risk, to applicants, such that the revolving nature of the CWSRF is assured in perpetuity.
5. Coordinate the CWSRF with other state and federal funding sources to maximize the impact on the water quality needs of the Commonwealth.
6. Assist communities in meeting required water quality standards at affordable user rates.
7. Ensure technical integrity of the funded system operation with adequate and effective program management and project planning, design and construction management.
8. Maintain an adequate data management system to track and monitor CWSRF related information.
9. Ensure proper accounting, audit and fiscal procedures conforming to generally accepted governmental accounting standards.
10. Investigate expanded use of activities coordination with other state and federal agencies, and the development of a methodology to review water quality needs in a comprehensive manner.
11. Support and implement infrastructure sustainability initiatives to protect public health and the environment to insure long-term continued economic growth and development; including, but not limited to; the Operator Certification Program, the EPA Special Appropriations Program and the state Growing Greener Programs.

B. Short-Term Goals

1. Reduce the volume of paper based application, review, settlement and disbursement materials used to implement the CWSRF program.

2. Increase the availability and quality and reliability of information available to stakeholder parties via web based and other electronic means.
3. Assure that approved projects make timely progress to construction completion, initiation of operations, and repayment.
4. Continue to improve coordination of CWSRF financial assistance, planning, permitting and enforcement as well as non-point source management activities.
5. Follow-up on recommendations found in the EPA Program Evaluation Reports and address any audit findings in an expeditious manner.
6. Develop markets, and coordinate technical/funding efforts for the on-lot program, brown fields, acid mine drainage, grey fields and other non point source related activities.
7. Review and revise the ranking criteria for wastewater projects based on state funding priorities in conjunction with EPA approval.
8. Support the Governor's Sustainable Infrastructure Initiative by providing data, information and staff support to the Water Sustainable Infrastructure Task Force being formed by Executive Order to complete an analysis of financing needs.
9. Complete the Pennsylvania Gap Study to identify the gap between available funding resources and financial infrastructure need and merge the results of this study with the 2008 Clean Watersheds Needs Survey to further enhance the estimation of total infrastructure financing need in the Commonwealth.
10. Develop and deliver a combination of classroom and web-based training courses to promote Asset Management. Create an Asset Management Specialty Team as part of DEP's Outreach Assistance Provider Program to assist system personnel with the implementation of an asset management framework.

## **VII. Information on the CWSRF Activities to be Supported**

### **A. Allocation of Funds**

Allocation of funds from the new eligible traditional and NPS projects was based on a three-step process:

1. The type and amount of financial assistance needed for each community was determined;
2. The sources and spending limits for all Fiscal Year 2008 CWSRF funds were identified; and

3. The CWSRF funds were allocated among the projects, consistent with the amount available and the financial assistance needed.

Information pertinent to each CWSRF project is contained in the Attachment, Chart 1, pursuant to Section 606(c)(3) of the Act.

B. Small Community Focus for Repayment of Funds

Pennsylvania intends to utilize money from the State Program and the CWSRF repayment funds to focus on providing relief to as many federal requirements as possible, i.e. Minority/Women's Business Enterprise and Single Audit while still meeting the cumulative Equivalency requirement. By focusing the repayment funds to these communities, we expect that we may be able to help those communities better meet their funding needs and contribute to a better overall financial package that will lower soft costs and reduce the impact on the residential user rate of having to finance these project costs. Pennsylvania's tracking system will adequately document the flow of funds to eligible communities.

C. CWSRF Policies

Market Loan Rate

Based on Pennsylvania's financial assistance policy as noted in V.A. above and an analysis of communities' ability to repay loans, the PIIA will charge interest on all CWSRF loans in accordance with the following:

1. The minimum interest rate allowable for any loan is 1%. Maximum interest rates are determined by comparing the unemployment rate of the county in which the project is located to the statewide average unemployment rate. The figures used for unemployment rate comparison are the rates from the previous calendar year as reported by the Pennsylvania Department of Labor and Industry. For projects that serve multiple counties, the highest unemployment rate of the counties involved shall be used. For projects located within municipalities for which unemployment rates exist which would qualify the project for lower interest rates than if the relevant county unemployment rate were used, the unemployment rate of that municipality may be used in determining the interest rate of the loan. If the county unemployment rate exceeds the statewide average unemployment rate by 40% or more, the maximum interest rate allowable for projects in that county is 1% for the first five years of the term, and 25% of the interest rate the Commonwealth must pay for the bonds it has issued to finance the program for the remainder of the term.
2. For projects in counties where the unemployment rate exceeds the statewide average rate, but by less than 40%, the maximum interest rate is 30% of the state bond issue rate for the first five years of the term, and 60% of the state bond issue rate for the remainder of the term. Projects in counties whose

unemployment rate is equal to or below the statewide average rate receive maximum interest rates of 60% of the bond issue rate and 75% of the bond issue rate for the first five years and the remainder of the term, respectively.

3. Interest rates may be set lower than the maximum if the PIIA Board determines that the community is so financially distressed that repayment of the loan is unlikely if the project were financed at the interest rate caps. If the Board determines that the community may not be able to repay the loan even if it were offered at 1%, the Board may offer the community a supplemental grant from a totally state funded account managed by the Board.
4. These reduced interest rates will allow many communities to undertake badly needed sewerage improvement projects that may not be financially feasible otherwise. These projects will ultimately benefit the health and safety of the residents while allowing for continued economic growth in the community.

The Brownfield funded projects interest rates will be at County Cap rates, with a maximum 20 year term.

D. CWSRF Administrative Costs

As identified in the various capitalization grant applications, the PIIA intends to use up to 4% of the capitalization grant funds for administrative support.

**VIII. Assurances and Specific Proposals**

The PIIA will provide the necessary assurances and certifications as part of the Operating Agreement (OA) between the Commonwealth of Pennsylvania and the U.S. EPA. The OA was amended and submitted with the FY 1997 Drinking Water State Revolving Fund capitalization grant application. The OA includes, as it relates to this capitalization grant application, the requirements of the following sections of the law:

A. 602(a) - Environmental Reviews

DEP will conduct environmental reviews as specified in Attachment 7 (Project Review Procedures) of the OA and Appendix D (Criteria for Structuring a State Environmental Review Process) in EPA's SRF Initial Guidance. A new template has been designed to facilitate these reviews per EPA's FY2007 Program Evaluation.

B. 602(b)(3) - Binding Commitments

The PIIA will enter into binding commitments for 120% of each quarterly payment within 1 year of receipt of that payment.

C. 602(b)(4) - Expeditious and Timely Expenditures

The PIIA will expend all funds in the CWSRF in a timely and expeditious manner, as outlined in the CWSRF financial plan.

## **IX. Criteria and Method for Distribution of Funds**

The following approach was used to develop Pennsylvania's proposed distribution of its funding:

- Analysis of the type of communities served and financial assistance needed;
- Identification of the sources and spending limits of Fiscal Year 2008 funds;
- Allocation of funds among projects;
- Development of a payment schedule which will provide for making timely binding commitments to the projects selected for CWSRF assistance; and
- Development of a disbursement schedule to pay the project costs as incurred.

### **A. Type of Communities Served and Financial Assistance Needed**

In Pennsylvania, the decision on whether to provide low interest loans or to insure or guarantee municipal bonds is being based on a municipality's ability to pay.

All of the projects are new; therefore, we do not anticipate using refinancing provisions under the CWSRF this year.

### **B. Sources and Spending Limits of Federal Fiscal Year 2008 Funds**

Total Sources and Uses identify Pennsylvania's total funding sources through July 14, 2008. The Act, in setting project requirements, established that certain amounts of CWSRF funds must be used to meet particular requirements. These source/requirement limits were calculated before any allocations to projects were made.

## **X. Transfer Amounts**

On June 17, 2008, EPA approved the transfer of \$20,000,000 from the DWSRF to the CWSRF in accordance with EPA guidance and regulations and Pennsylvania's Operating Agreement. Pennsylvania continues to reserve the authority to transfer additional funds as appropriate at some time in the future, up to the maximum of 33% of the 2008 capitalization grants, respectively, between the DWSRF and the CWSRF. This transfer, in addition to the transfer of the maximum amount between the CWSRF and the DWSRF for all prior grants and any future transfers between funds, will assist in meeting the demand for CW and DWSRF funding. The effect of these transfers on the fund will be minimal. No additional transfers are anticipated at this time.

## **XI. Description of How Pennsylvania Will Define a Disadvantaged System**

PIIA utilizes a financial capability analysis that compares various community specific demographic data to similarly situated communities across the Commonwealth to determine a percent of the community's adjusted Median Household Income (MHI) that should be available to pay for water service. The amount that should be available to pay for water service by residential customers will range from one to two percent of the community's adjusted MHI dependent upon the specific socio-economic factors that are provided by the Pennsylvania Department of Community and Economic Development. This process aids in an equitable distribution of residential user rates.

Should the estimated resulting residential user rates be higher than similar systems, even after PIIA has provided the most favorable funding package available based upon criteria set forth in the PIIA act and regulations and further described in this document under Section III. C., "Priority and Allocation of Assistance", these systems would be considered "disadvantaged" for the purpose of term extension from the normal 20 years to a term of up to, but not to exceed, 30 years repayment of principal and interest. Systems qualifying for term extensions must exceed the user rate(s) found in similar systems according to the PIIA financial capability model. The terms will be extended to a point that will allow the residential user rate to fall to a level equal to similar system's cost of water service, as determined by the demographic analysis and financial capability analysis.

## **XII. Public Review and Comment**

On July 5, 2008, a notice was published in the Pennsylvania Bulletin regarding a public meeting scheduled for July 14, 2008 in Harrisburg, PA on the FY 2008 CW and DWSRF IUPs. The IUP list of projects is attached.

The PIIA Board schedules four project review and approval meetings each state fiscal year. The Board meets in January, April, July, and October to review and approve funding for projects. These projects are subject to the provisions included in the public comment periods for the IUP and PPL. Copies of the IUP and the PPL are available upon request from the DEP, Division of Technical and Financial Assistance or through the DEP website, at the following link:

<http://www.depweb.state.pa.us/watersupply/cwp/view.asp?a=1263&Q=449900&watersupplyNav=|30198>

A public meeting will be held on July 14, 2008. Written comments will also be accepted until close of business on July 14, 2008.

A summary of the public participation activities for the FY 2008 IUP and capitalization grant application is attached along with the summary of comments solicited from the county planning agencies in accordance with Executive Order 12372.