

NEBRASKA ADMINISTRATIVE CODE

TITLE 131 – NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 3 - INTENDED USE PLANS

001 Intended Use Plans (IUPs) will be prepared each year by the Department for the implementation and administration of the CWSRF and the DWSRF for the following fiscal year's program. The Department will provide the public with adequate opportunity to comment on how the State plans to use capitalization grant funds by presenting these plans in a public hearing before the Council for their approval and to receive public review and comment. Public notice shall occur at least 30 days prior to the date of the hearing. The draft IUPs will be available from the Department by written request 30 days prior to the hearing. The IUPs will clearly differentiate the implementation of the CWSRF from the DWSRF. The IUP for the DWSRF will be proposed in consultation with the Director of ~~DHHSR&LDHHS~~ and will include the separate priority ranking systems for the Drinking Water Fund and the Land Acquisition and Source Water Loan Fund and separate priority lists prepared by ~~DHHSR&LDHHS~~. The following are common elements of the CWSRF and the DWSRF and will be included in the IUPs:

001.01 Long term and short term goal statements as deemed necessary by the Council.

001.02 Priority systems depicting the methods and the criteria for distributing funds.

001.03 Priority lists which are developed in accordance with the priority systems.

001.04 Funding list projects will be assured of funding until the bypass date specified in the IUPs. After the bypass date projects on the planning list may be funded. Funding order after the bypass date will be by the highest priority project ready to proceed. An emergency assistance project, as defined in 0045 or 0056 of this chapter, may be funded at any time notwithstanding the adopted funding list.

001.05 ~~Interest rates and administrative fees. The method and criteria used to establish interest rates and administrative fees to be charged on loans will be described in the IUPs. An interest rate system describing the method and criteria used to establish interest rates to be charged on loans.~~ Each loan will bear interest at the rate set by the Department under procedures prescribed in the IUPs.

In ~~setting market rates and~~ developing an interest rate ~~and administrative fee system,~~ the Department shall take the following items into consideration:

001.05A ~~Market rates. Separate market interest rates may be set for loans with payback periods of 20 years; for disadvantaged community extended term loans with payback period of 30 years; and for loans to privately owned or operated Public Water Supply Systems, using the cost of borrowing money for the CWSRF.~~

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~~and DWSRF, recent local tax exempt municipal issues, and costs for private borrowers as guidance.~~ Loan interest and the administrative fees under Chapter 8, 004.04 may be jointly considered when setting the market rates establishing the interest rate and administrative fee. The ~~market~~ interest rates may be reviewed and adjusted by the Department at the end of each quarter, but should not be increased by more than 0.5 percent per quarter.

001.05B Alternate interest rate. The Department may adjust the interest rate when a loan applicant demonstrates a serious financial hardship or qualifies as an disadvantaged community, for the purposes of the DWSRF. However, the rate will in no case be set below two percent per annum. ~~The Department will consider income level of residents, amount of debt and debt service requirements, and the level of user fees in both absolute terms and relative to income of residents in determining the interest rate.~~ The rate shall will be set by the Department according to the interest rate ~~system~~ procedures approved by the Council in the IUPs.

001.05C Accelerated payback. Notwithstanding 001.05A and 001.05B ~~above of this chapter~~, reduced interest rates may be provided for loans with payback periods of less than 20 years and for loans of less than 30 years for disadvantaged communities.

001.06 Other information as required by the Clean Water Act, Safe Drinking Water Act, and the U.S. Environmental Protection Agency guidance and regulations such as program administration costs, market loan rates, and public participation.

001.07 Loan limit. The Council may set a limit for any one loan or combination of loans for any single loan recipient. The IUPs will contain loan limit determination information when applicable.

002 The following elements apply only to the CWSRF:

002.01 Refinancing and buying debt obligation. The IUP will include a section on the refinancing system describing the method, criteria, and limits as determined by the Department, used to establish eligibility for buying or refinancing the debt obligation of municipalities for wastewater treatment works.

002.02 Linked Deposit Program. The IUP will include a section which provides a summary of the Linked Deposit Program.

003 The following elements apply only to the DWSRF:

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003.01 The IUP will include a section which addresses the allocation of set-asides for the DWSRF.

003.02 Disadvantaged Community. The IUP will contain criteria for determining disadvantaged communities for the DWSRF utilizing affordability criteria developed by ~~DHHSR&LDHHS~~.

003.03 Loan Forgiveness. The IUP may include criteria for offering loan forgiveness to Disadvantaged Communities that are loan recipients of the DWSRF.

004 The Department and ~~DHHSR&LDHHS~~ will accept loan applications from loan applicants through December 31 of each calendar year or a later date as deemed appropriate by the Department to provide sufficient time for consideration in development of the following fiscal year's IUPs. In addition, the Department and ~~DHHSR&LDHHS~~ may propose candidates for loan assistance from needs identified in applicable agency programs.

005 Emergency Loan Assistance. A loan applicant may apply for emergency assistance under the CWSRF and the DWSRF. The CWSRF may provide emergency assistance in the case of catastrophic failures of existing facilities causing an environmental or public health threat. The DWSRF may provide emergency assistance to eligible ~~Public Water Supply System~~Public Water Systems in the case of catastrophic failures of the ~~Public Water Supply System~~Public Water Systems or unforeseen threats of contamination to the source water supply.

005.01 For emergency loan assistance under the CWSRF, an eligible Wastewater Treatment Works shall notify the Department of the need for emergency assistance because of a catastrophic failure of existing facilities causing an environmental or public health threat. The notification shall include the nature of the threat or failure, and a complete description of the proposed remedial action. Upon review of the notification and accompanying information and following a determination that the project conforms to eligibility requirements of the Clean Water Act and the CWSRF Act, the Department may approve the emergency project, subject to availability of funds. Approval will be based on the determination that the submitted information demonstrates the need for emergency funding, and that the proposed remediation will provide an acceptable and safe solution to the problems presented.

005.02 For emergency loan assistance under the DWSRF, an eligible ~~Public Water Supply System~~Public Water System shall notify ~~DHHSR&LDHHS~~ and the Department of the need for emergency remediation of threats of contamination of source water or of imminent or catastrophic failure of the drinking water supply. The notification shall include the nature of the threat or failure, and a complete description of the proposed remedial action. Upon review of the notification and accompanying information and

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following a determination that the project conforms to eligibility requirements of the Safe Drinking Water Act and the DWSRF Act, ~~DHHSR&LDHHS~~ and the Department may approve the emergency project, subject to availability of funds. Approval will be based on the determination that the submitted information demonstrates the need for emergency funding, and that the proposed remediation will provide an acceptable and safe solution to the problems presented.

006 Emergency Grant Assistance. Under the CWSRF Act, a municipality may apply for an emergency grant to repair or replace Wastewater Treatment Works which have been damaged or destroyed by natural disaster or other unanticipated actions or circumstances. Such grant shall not be used for routine maintenance of facilities. The ~~intended use plan~~UP may include criteria and the amount of funds available for providing emergency grants.

Enabling Legislation: Neb. Rev. Stat. §81-15,152; §81-15,153; §71-5321; §71-5322

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