

ATTACHMENT 1: LDEQ Clean Water State Revolving Fund Priority System

Clean Water State Revolving Fund Priority System

§2123. Introduction to the Clean Water State Revolving Fund Priority System

A. Introduction

1. On October 18, 1972, the Federal Water Pollution Control Act Amendments became Public Law 92-500. PL 92-500 was amended by PL 95-217, the Clean Water Act of 1977, PL 97-117, the Municipal Wastewater Treatment Construction Grant amendments of 1981, and most recently by PL 100-4, the Water Quality Act of 1987.

2. The primary aim of the Federal Act is to “restore and maintain the chemical, physical, and biological integrity of the nation's water.” The Federal Act emphasizes the national goal that, wherever possible, water quality is to be suitable for recreational contact and for protection and propagation of fish and wildlife. In addition, the Federal Act emphasized the special need for controlling or eliminating discharges of toxic pollutants, and that the goals of the Federal Act be met through the control of both point and nonpoint sources of pollution. A permit program has been established and geared to restricting pollutant discharges from point sources – that is, from factories, municipalities, and large agricultural operations where pollutants enter the nation's water through an outfall pipe, sewer, or other conduit. The permit program has been expanded to include pollutants entering the nation's water through nonpoint sources – that is, stormwater runoff from municipalities, factories, agricultural operations, and other sources that do not require NPDES permits.

3. The Water Quality Act of 1987 added Title VI to the Clean Water Act, which provides for a program of low interest loans. Section 603(c) of the Federal Act states that “The amounts of funds available to each State water pollution control revolving fund shall be used only for providing financial assistance (1) to any municipality, inter-municipal, interstate, or state agency for construction of publicly owned treatment works (as defined in Section 212 of this Act), (2) for the implementation of a management program established under section 319 of this Act, and (3) for development and implementation of a conservation and management plan under Section 320 of this Act.”

4. Section 603(g) of the Federal Act states that: “The State may provide financial assistance from its water pollution control revolving fund only with respect to a project for construction of a treatment works described in Subsection (c)(1) if such project is on the State's priority list under Section 216 of this Federal Act. Such assistance may be provided regardless of the rank of such project on such list.” Section 603(g) of the Federal Act does not require that projects for the implementation of a management program established under Section 319 of the Federal Act, and for development and implementation of a conservation and management plan under section 320 of the Federal Act must be on the State's priority list to receive financial assistance, however, such projects will be included on the priority list and assigned priority ratings in accordance with LAC 33:IX.2123.C.7.

5. Section 603(c) of the Federal Act states that: “After providing for public comment and review, each State shall annually prepare a plan identifying the intended uses of the amounts available to its water pollution control revolving fund.”

6. In implementing the requirements of the Federal Act, the department has derived the State of Louisiana CWSRF Priority System.

7. This system provides an orderly approach to preparing a priority list of publicly owned treatment works projects that meet the definition of section 212 of the Federal Act and provides for the selection of these and other eligible projects to be included on the Intended Use Plan (IUP) for each year.

B. List of Stream Subsegments and Subsegment Priority Numbers

1. The most effective use of water quality management assets in achieving state and national goals requires that management emphasis be directed at the most important problem areas first. The priority of management effort is intended to give more consideration to those areas where the most significant problems occur.

2. The state of Louisiana is divided into 12 water quality management basins which exhibit distinct hydrologic characteristics. Each designated basin is divided into stream segments and subsegments which exhibit common reactions to stresses, i.e., pollutants. The stream segmentation for Louisiana is contained in the state's areawide water quality management plans submitted under Section 208 of the Federal Act.

3. In order to provide the basis for directing the management effort for water quality, each stream subsegment is ranked according to its designated uses and the degree to which those designated uses are supported. The values from each of the category classifications, from Table B-1, are multiplied together to produce the stream subsegment priority number.

4. Information on designated uses and degree of support is taken from the latest approved Louisiana Water Quality Inventory: Integrated Report, which may be found on the department's website.

5. The stream priority list is used as the base for the later determination of the project priority ratings.

TABLE B-1

SUBSEGMENT PRIORITY RANKING MULTIPLIERS

Designated Uses	Multiplier
Shellfish Propagation	20
Sole Source Drinking Water Supply	15
Outstanding Natural Resource	10
Primary Contact Recreation	5
Secondary Contact Recreation	5

Fish and Wildlife Propagation	5
Agriculture	5
Degree of Support	Multiplier
Not Supported	5
Partially Supported	4
Fully Supported but Threatened	3
Fully Supported	2

Formula:

$$\text{Designated Uses} \times \text{Degree of Support} = \text{Stream Subsegment Priority Number}$$

C. List by Priority Rank

1. In conjunction with the priority of the stream subsegments of the state of Louisiana, each municipality that has requested consideration for funding is rated as to its ability to comply with the Federal Act. This rating of municipalities forms an important water quality management tool.

2. The priority rating for each municipality considered is composed of two factors, the stream subsegment priority rating and the municipality factor. These two numbers are added together to form the basic project priority rating.

3. The municipality factor is the summation of two factors: the category factor and the pollution reduction factor. The category factor depends on the age of a particular treatment system within a project area. Depending on the type of the system whether it is a treatment or collection, the factor can be obtained from Tables C-1 or C-2.

Table C-1

Age of treatment plant	0 to 5 years	6 to 10 years	11 to 15 years	16 to 20 years	Over 20 years
Type of treatment plant					
Mechanical plant	2	4	6	8	10
Aerated lagoon	1	2	4	5	7
Stabilization pond	0	1	2	3	4
Other	0	0	1	1	2

Those projects with an existing collection system in need of rehabilitation or I/I correction will be awarded points from the Table C-2 based on the age of the collection system.

Table C-2

Age of collection system	Points
0 - 10 years	2
11 - 20 years	4
21 - 30 years	6
31 - 40 years	8
Over 40 years	10

The Category Factor is the higher of the two values from Tables C-1 and C-2 and will be used calculating the municipality factor. The Pollution Reduction Factor is an indication of the ability to reduce the pollution discharged into the receiving waters, and it obtained from Table C-3.

Table C-3

FUTURE LEVEL OF TREATMENT	SECONDARY	ADVANCED (BOD<20)	ADVANCED (20>BOD<10)	ADVANCED (BOD<10)
PRESENT TREATMENT LEVEL				
Raw (from existing outfall)	80	90	90	100
Less than Secondary	60	70	80	90
Secondary	20*	60	70	80
Advanced (BOD<20)	NA	20*	60	70
Advanced (20>BOD<10)	NA	NA	20*	60
Advanced (BOD<10)	NA	NA	NA	20*
Unsewered (no outfall)	30	40	50	60
N/A - Rehabilitation and/or I/I correction only				40
N/A- No reduction in pollution discharge anticipated				20

* If no change to treatment but increase capacity, change 20 to 40

Formula:

$$\text{Category Factor} + \text{Pollution Reduction Factor} = \text{Municipality Factor}$$

4. A separate municipality factor shall be determined for each treatment facility and the collection system within its service area. When two or more treatment facilities will be included in a single project, regardless of whether they are in the same or different municipalities, the municipality factor for the project will be the weighted average, weighted on population served, of the municipality factors for all treatment facilities included in the project. For wastewater projects: Basic Project Priority Rating = Stream Subsegment Priority Rating + Municipality Factor.

5. The priority rating for a municipality may be re-evaluated and adjusted whenever new information is made available. Such information may result from facilities planning, water quality analysis, etc.

6. Any municipality may request a reevaluation of its priority rating. Any such requests should include the reasons that the municipality believes the priority rating to be in error.

7. Projects for the implementation of a management program established under Section 319 of the Federal Act, and for development and implementation of a conservation and management plan under Section 320 of the Federal Act will be assigned a Stream Subsegment Priority Number based on the stream subsegment that will be most impacted by the project. These projects will also be assigned an additional factor based on the ability of the project to reduce pollution in receiving waters. Since such projects may take numerous forms, this factor will be assigned by the department based on evaluation of individual project applications and will not exceed 100 points. The Basic Priority Rating for projects under sections 319 and 320 of the Federal Act are as follows:

$$\text{Basic Project Priority Rating} = \text{Stream Subsegment Priority Rating} + \text{Additional Assigned Factor}.$$

D. CWSRF Priority List

1. Upon receipt of a request by the authorized representative of a municipality or an applicant, the basic priority rating will be determined and the proposed project will be placed on the CWSRF Priority List.

2. Request for inclusion on the CWSRF Priority List must include the following:

- a. for public entities, a resolution from the governing authority designating a project representative and authorizing him/her to submit pre-application materials;
- b. a completed Form RF-100; and
- c. a map of the proposed planning area.

3. It is the responsibility of each authorized project representative to maintain current and accurate information for his/her project, and to submit any revised or updated project information to the department each year which will be used to prepare the CWSRF Priority List.

4. The loan amount shown on the list will be the estimated amount of those items that are eligible for loan assistance. Eligibility of specific items will be based on the latest federal requirements in effect at the time the list is prepared. Should these requirements be changed subsequent to preparation of the list, all projects on the list will be adjusted accordingly. The monetary amount of each item will be based on the latest information supplied by the authorized project representative in accordance with Paragraph 2 of this Section.

5. Projects normally proceed in three steps: Facility Planning, Design, and Construction.

It is intended that projects that have completed Facility Planning and Design and are ready to begin construction will be considered for funding before projects that are not ready to begin construction. Projects will be awarded points in addition to the basic priority rating based on the readiness to proceed to construction in accordance with the following milestone:

Milestone	Points
Project has completed Facility Planning and planning documents have been approved	1000
Project has completed design and plans and specifications have been approved	2000

6. Large projects may be offered assistance in several phases based on a request by the authorized project representative, on a comparison of project cost and funds available, or on other factors that may require delayed funding for portions of a project. Each phase of a project will be listed separately on the CWSRF Priority List. All phases will have the same basic priority rating but each phase will have its own points awarded based on readiness to proceed.

7. The CWSRF Priority List will include all projects that have requested funding assistance, ranked in priority order, regardless of the amount of funds available. The priority list will be used for the later preparation of the CWSRF IUP.

8. The CWSRF Priority List will be made available for review each year, not less than 30 days prior to submission to the EPA. Each municipality that has submitted pre-application materials will be notified by letter of the availability of the CWSRF Priority List. It is the responsibility of each potential borrower to examine all the information listed for his/her project for accuracy. Any errors or omissions should be reported to the department prior to the deadline for comments.

9. Any project or project phase will be removed from the CWSRF Priority List once funding for the project or project phase has been provided through the CWSRF; or when the project or project phase has been constructed using another source of funds.

10. Any project that has had no written communication with the department for a period of five years and has presented no other evidence of progress toward completion of items that are prerequisites to funding during the five year period shall be deemed to be an inactive project and may be removed from the CWSRF Priority List. Prior to removal of an inactive project from the CWSRF Priority List the department will contact the project representative in writing to inform them of the impending removal of the project.

E. Intended Use Plan

1. An IUP is prepared for each state fiscal year and details the intended uses of amounts expected to be available to the CWSRF during the year. These intended uses will include loans for projects as well as other allowable uses of the Fund, including but not limited to repayment of bonds issued by the Fund, loan guarantees or insurance for local obligations, and payment of allowable costs of administering the Fund.

2. On July 1 of each year, the Administrative Authority or his designated representative will determine the amount expected to be available for loans for projects for the current state fiscal year.

3. Of the amount expected to be available in accordance with Paragraph 2 of this Section, certain amounts will be reserved in accordance with Section F.

4. Projects must be included on the current CWSRF Priority List that has met public participation requirements and has been submitted to the EPA in order to be selected for the IUP. Projects on the proposed CWSRF Priority List may be selected for the proposed IUP provided that both the proposed Priority List and IUP meet public participation requirements and are accepted by the EPA.

5. Projects on the CWSRF Priority List will be selected to receive funds from the amount expected to be available in accordance with Paragraph 2 of this Section, less any reserves established in accordance with Section F, by considering projects in several categories for funding. All projects in a high priority category will be funded before any projects in a lower priority category are funded. Within each category projects will be considered for funding in order of the priority ranking of the individual project. The several categories that are considered are as follows:

- a. Projects that meet specific requirements of federal law. Where federal law requires that a percentage of capitalization grant funds must be used to fund certain categories of projects, projects meeting those requirements will be funded ahead of other projects until the required percentage of funds has been satisfied.
- b. Projects which are required for completion of an ongoing project for which at least one phase has already received funding through the CWSRF program, and that will not result in an operable treatment system without the additional funds. To qualify as an ongoing project, the work for which additional funds are required must be specifically identified within the scope of work for the project for which a Facilities Plan has been approved by the department.

- c. All other projects that do not meet either of the above conditions.

6. Notwithstanding the provisions of paragraph 5 above, no project on the CWSRF Priority List will be placed on the IUP unless the municipality has submitted a Letter of Intent to the department stating the Municipality's intention to proceed with the project, and a project schedule that indicates that the Municipality will have completed all prerequisite program requirements and will be able to receive a loan during the fiscal year.

7. The CWSRF IUP is divided into two portions: a. the fundable portion and b. the planning portion. The fundable portion includes those projects expected to be awarded assistance during the fiscal year for which the list was prepared. The planning portion includes those project steps expected to receive funding during the next four fiscal years after the fiscal year of the list, based on the best available information on funds expected to be available.

8. The CWSRF IUP will be made available for inspection at the same time as the CWSRF Priority List each year, but not less than 30 days prior to submission to the EPA. Each municipality or applicant that has submitted pre-application materials will be notified by letter of the availability of the IUP. It is the responsibility of each potential borrower to examine all the information listed for his/her project for accuracy. Any errors or omissions should be reported to the department prior to the deadline for comments. Applications for assistance which deviate substantially from the proposed project amount contained in the IUP might not be processed.

9. A project may be moved from the fundable portion of the list to the planning portion (bypassed) if it is determined that the project will not be ready to proceed during the funding year. Department staff will contact the project representative in writing to advise them of the impending bypass of the project and afford them an opportunity to present updated information that might avoid a bypass.

10. If cash flow of the program permits, either through project bypasses or the availability of additional federal capitalization funds, or if for any other reason it is determined by the department that additional funds are available for projects, projects from the planning portion of the list which are ready for funding and which have completed the priority list public participation requirements will be advanced to the fundable portion of the list. Individual projects will be advanced, in accordance with provisions of Paragraph 5 of this Section, until the available federal funding is consumed.

11. If insufficient projects meeting the criteria of Paragraph 6 of Section D for advancement from the planning to the fundable portion of the list are available to consume the additional funds, the department may prepare a revised list containing projects which have not met public hearing requirements; however, such projects will not be funded until public hearing requirements have been met.

12. If the actual amount available during the year is less than the projected amount expected to be available in accordance with Paragraph 2 above, and it is not possible to fund all projects on the fundable portion of the IUP, then, of the projects not yet funded, those projects selected last for inclusion on the IUP will be moved from the fundable portion to the planning portion until the remaining projects can be funded with the available funds.

13. If any project requests more funds than the amount listed on the IUP for that project, and granting the additional funds would result in insufficient funds for the remaining projects on the fundable portion, the additional funds will not be granted; but the project may request the additional funds be added to the fundable portion for the next fiscal year.

14. The CWSRF IUP will be submitted to the EPA for their review and acceptance as soon as possible after the public comment period has expired.

F. Reserves Related to the IUP

1. Reserves for State Management Assistance

- a. The state may set aside a portion of the total funds available during the IUP year for use by the department in fulfilling its obligations to manage the CWSRF Program.
- b. This reserve will be limited to the amount authorized by federal law as a percentage of each federal capitalization grant.

2. Reserve for loans for Facilities Planning and Design

- a. The state may set aside a portion of the total funds available during the IUP year for loans to municipalities for Facilities Planning and Design.
- b. This reserve is limited to municipalities that meet all of the following conditions:
 - i. The construction portion of the project must appear within the five year planning portion of the IUP.
 - ii. The loan is to perform facility planning or design work that has not been previously funded.
 - iii. The applicant does not have the financial capability to complete facility planning and design work without financial assistance.

c. This reserve will be implemented only to the extent that the state deems necessary to provide assistance to municipalities that would be unable to complete Facilities Planning and Design work without assistance and that are expected to receive assistance for construction when Facility Planning and Design work are completed. This reserve may not exceed ten percent of the funds available in accordance with Paragraph 2 of Section E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 17:342 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005), LR 33:2164 (October 2007).