Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 4—Grants and Loans

10 CSR 20-4.010 Construction Grant and Loan Priority System

PURPOSE: This rule sets forth the system used by the commission to prioritize projects for the Environmental Protection Agency wastewater treatment construction grants program, the state matching grant program and the state construction grants program. This rule sets forth state eligibility limitations for grants under the Environmental Protection Agency wastewater treatment construction grants program and the state matching grant program. This rule also sets forth the methods used by the commission to develop and modify lists of grant projects eligible for funding under the Environmental Protection Agency wastewater treatment construction grants program and the state matching grant program.

(1) Priority Point System. The commission will prioritize potential grant and loan projects by assigning priority points under subsection (1)(A) of this section. In certain unique situations, the commission may award special priority under subsection (1)(B) of this section.

(A) Priority Points. The commission will award priority points to each potential grant or loan project, based on the total points awarded for the following six (6) sections. Factors D, E, and F apply only to proposed nonpoint source projects. Proposed nonpoint source projects must be consistent with the current Missouri Nonpoint Source Management Plan.

1. Factor A—watershed. Factor A points are awarded if the proposed project will maintain, improve, protect, or enhance the overall water quality within the watershed. Points will be assigned for each of the areas identified in subparagraphs 1.A. through 1.E. of this paragraph. For the purpose of assigning points under factors A-1 and A-2 below, the receiving water is considered to be the immediate water course into which the discharge flows; however, in those cases where the immediate receiving water is not classified in Water Quality Standards, 10 CSR 20-7.031, a downstream classified water body will be considered to be the receiving water if the publicly-owned treatment works (POTW) discharge or Nonpoint Source (NPS) area is within two (2) miles of the classified water.

A. Factor A-1 expresses the beneficial uses of the water body receiving discharge from existing POTWs or NPS areas to be improved or eliminated by the proposed grant or loan project. The values for Factor A-1 are calculated by adding the total values calculated under part (1)(A)1.A.(I) through part (1)(A)1.A.(III) of this subparagraph.

(I) Fifteen (15) points are awarded for each of the following beneficial uses identified in rule 10 CSR 20-7.031: whole body contact recreation and drinking water supply.

(II) Ten (10) points are awarded for each of the following beneficial uses identified in rule 10 CSR 20-7.031: cool water fisheries, cold water fisheries, protection of warm water aquatic life/human health (fish consumption) or secondary contact recreation.

(III) Five (5) points are awarded for each of the following beneficial uses identified in rule 10 CSR 20-7.031 and not contained in part (1)(A)1.A.(I) through part (1)(A)1.A.(II).

B. Factor A-2 awards points for proposed *[grant]* projects which will improve or eliminate existing POTWs or NPS areas which directly discharge to certain sensitive waters. The value for Factor A-2 is calculated by awarding fifteen (15) points for each of the following: losing stream as designated by the Division of Geology and Land Survey; Outstanding National Resource Waters; and Outstanding State Resource Waters. Ten (10) points are awarded for lakes or metropolitan no-discharge streams as identified in rule 10 CSR 20-7.031.

C. Factor A-3 awards points for targeted water bodies. A targeted water body is one in which a Total Maximum Daily Load (TMDL) has been promulgated or is listed on the most recent 303(d) list. Fifteen points (15) will be awarded where a TMDL has been promulgated for the receiving water body and the proposed project addresses an identified problem. Ten (10) points will be awarded if the receiving water body is listed on the most recent 303(d) list and the proposed project addresses an identified problem. No more than fifteen (15) points shall be awarded for Factor A-3.

D. Factor A-4 awards points for **identified** watershed *[planning]* **issues**. *[Five (5)]* **Fifteen (15)** points will be awarded if the proposed project [is part of a comprehensive watershed plan] **addresses an identified priority as the result of a department initiated watershed review**.

E. Factor A-5 awards points for regionalization or consolidation. Fifteen (15) points shall be awarded if the proposed project serves more than one (1) community or the proposed project will eliminate multiple wastewater treatment facilities. **An additional 25 points may be awarded if the entity owning the facility being eliminated receives a high burden affordability determination and/or is in habitual noncompliance.**

2. Factor B—POTW. Factor B points will be awarded if the proposed project will address a potential or existing water pollution problem. Points will be assigned for each of the areas identified in subparagraphs 2.A. through 2.D. of this paragraph.

A. Factor B-1 equals fifteen (15) points if the proposed project will eliminate or adequately treat combined or sanitary sewer overflows.

B. Factor B-2 equals fifteen (15) points if the proposed project is for the construction of a new wastewater treatment facility, an increase in capacity or an increase in the level of treatment at an existing wastewater treatment facility. Factor B-2 equals ten (10) points if the project is for the rehabilitation or process improvement of an existing wastewater treatment facility.

C. Factor B-3 equals ten (10) points if the proposed project is primarily to address a documented water quality or public health problem attributable to failing or failed on-site wastewater disposal systems. If incidental, factor B-3 equals five (5) points. Documentation to be provided by any local, county, or state health or environmental professional.

D. Factor B-4 equals fifteen (15) points if the proposed project is for collection system rehabilitation to reduce or eliminate inflow or infiltration. Factor B-4 equals ten (10) points for a new collection system, the expansion of or an upgrade to an existing collection system.

3. Factor C—sustainability and readiness to proceed. Points will be assigned for each of the areas identified in subparagraphs 3.A. through 3.F. of this paragraph.

A. Factor C-1 equals fifteen (15) points if the applicant has maintained adequate user charge rates for the existing systems operation and maintenance for the past five (5) years.

B. Factor C-2 equals ten (10) points if the applicant has maintained an inflow/infiltration reduction program for the past five (5) years.

C. Factor C-3 equals *[five (5)]* **fifteen (15)** points if the *[applicant has a water and/or energy conservation plan]* **applicants proposed project will address the findings of an energy assessment and/or audit of the wastewater utility. These points may also be awarded if the proposed project will address water efficiency and reuse efforts to not only conserve raw water but also reduce the flow (excluding I/I) of wastewater to treatment plants.**.

D. Factor C-4 equals *[five (5)]* **ten (10)** points if the median household income of the applicant is less than seventy-five percent (75%) of the state median household income as reported in the most recent decennial census.

E. Factor C-5 equals twenty-five (25) points if the applicant has *[submitted, as part of their application,]* a complete engineering report/facility plan and has an acceptable debt instrument including any necessary funding commitments from other state and/or federal agencies.

F. Factor C-6 equals five (5) points if the applicant's project is specifically identified in a master wastewater or capital improvement plan.

G. Factor C-7 equals ten (10) points if the applicant's governing board has received training related to the management and operation of wastewater infrastructure.

4. Factor D—untreated/uncontrolled runoff. Stormwater runoff from agricultural, suburban, and urban areas such as farms, homes, buildings, roads or parking lots resulting in flooding of local streams, erosion of stream banks, or increased pollutant transport. Points will be assigned for each of the areas identified in subparagraphs 4.A. through 4.C. of this paragraph.

A. Factor D-1 equals ten (10) points if the proposed project is for a structural device designed to receive stormwater runoff, and detain it for a period of time in order to reduce pollutant transport and stream erosion.

B. Factor D-2 equals five (5) points if the proposed project entails conservation measures that protect water quality and make land areas more productive.

C. Factor D-3 equals ten (10) points if the proposed project is to address water quality issues at a landfill. A landfill is any site where the disposal of non-hazardous wastes and/or sludge occurs or has occurred by placing them in or on the land, compacting, and covering with a layer of soil. Proper elements such as a capping system, leachate collection system, side slope seepage prevention and control system, monitoring wells are needed to prevent water quality degradation.

5. Factor E—groundwater pollution. Points will be assigned for each of the areas identified in subparagraphs 5.A. through 5.E. of this paragraph.

A. Factor E-1 expresses the beneficial uses of the groundwater area being impacted by nonpoint source pollution. The value for factor E-1 is calculated by adding the total values expressed under part (1)(A)5.A.(I) and part (1)(A)5.A.(II) of this subparagraph. Factor E-1 equals zero (0) for all proposed projects that will not improve or eliminate nonpoint source pollution from groundwater.

(I) Fifteen (15) points are awarded if the groundwater is a drinking water supply source; and

(II) Five (5) points are awarded if the groundwater is used for industrial purposes, irrigation, and/or livestock/wildlife watering.

B. Factor E-2 equals ten (10) points if the proposed project primarily addresses a documented water quality or public health problem attributable to failing or failed on-site wastewater disposal systems. If incidental, factor B-3 equals five (5) points. Documentation to be provided by any local, county, or state health or environmental professional.

C. Factor E-3 equals five (5) points if the proposed project addresses water quality problems caused by petroleum storage tanks.

D. Factor E-4 equals ten (10) points if the proposed project addresses water quality problems caused by a hazardous waste site that is participating in the department's Voluntary Cleanup Program.

E. Factor E-5 equals ten (10) points if the proposed project addresses water quality problems caused by inadequate landfill leachate collection and treatment.

6. Factor F—aquatic/riparian habitat. Aquatic/riparian habitat is a vegetated or potentially vegetated ecosystem along a water body through which energy, materials, and water pass thereby providing nutrient recycling and biological diversity. Factor F equals ten (10) points if the proposed project is to restore aquatic/riparian habitat and/or to prevent aquatic/riparian habitat degradation.

(B) Special Priority. The commission may assign special priority and override the priority points assigned to a project under subsection (1)(A) of this rule and place that project on the planning, fundable or contingency priority lists in a position decided by the commission. In order to award special priority, the commission must determine that unique or unusual needs exist which do not logically fit into the rating system described in subsection (1)(A) of this

rule. In addition, the commission may award special priority for projects impacting enterprise zones as authorized under state law.

(C) Phased/Segmented Projects. Projects that are phased or segmented due to limited program funding or project complexity may receive an additional fifty (50) points. Additional priority points shall not be assigned until the first phase or segment of the proposed project has been funded.

(D) Debt Refinancing/Refunding. For projects that have initiated construction activities or have completed construction and are applying for financial assistance to refinance or refund the debt, five (5) priority points will be assigned. Projects primarily related to refinancing or refunding will not receive any other priority points.

(E) For the purposes of assigning priority points, the following definitions shall apply.

1. Increase capacity. Increasing the treatment capacity for existing treatment plants, biosolids handling facilities, decentralized treatments systems, and NPS Best Management Practices (BMPs) with respect to flow or tonnage.

2. Increase level of treatment. Improving the degree of treatment. This refers to any improvement in unit processes or BMPs that improves the effluent quality or decreases the concentration of most water quality variables from runoff or other nonpoint sources. The addition of nutrient removal is considered to be an improvement in effluent quality.

3. Rehabilitation. Restoring or repairing parts of existing treatment plants, combined or separate sewer systems, biosolids handling facilities, individual on-site systems, and NPS BMPs with no increase in capacity or level of treatment.

4. Replacement. An existing facility is considered to be obsolete and is demolished, and a new facility is constructed on the same site.

5. Process improvement. Any improvement to a facility that does not increase the capacity, increase the level of treatment, expand the service area, or make a similar change to existing treatment plants, biosolids handling facilities, decentralized treatment systems, and NPS BMPs.

(F) Priority Point Tiebreaker. In the event two (2) or more proposed projects have the same priority point total, the project with the greater service area population shall be given funding priority.

(2) Priority Lists. Each year, following a public hearing, the commission shall establish priority lists for using future anticipated *[federal grant]* **state and federal funding** allocations. These lists shall contain **at a minimum** several parts, as described in subsections (2)(A) through (2)(D) of this rule. These lists shall become effective annually with the adoption of an Intended Use Plan. **Additional funding lists may be developed by the commission, as necessary, to facilitate the distribution of available funds throughout the state.** However, the commission may bypass projects on these lists for failure to proceed to grant award or loan closing in an expeditious manner.

(A) Fundable List. The fundable priority list identifies those projects which the commission intends to fund during a given *[state]* fiscal year. The commission will not consider placing a proposed project on the fundable list unless**:**

1. *[a]***A** complete engineering report/facility plan *[is]* **has been** submitted**;**

2. *[and information]* **Information** indicating that the public entity has an appropriate debt instrument in place **has been submitted**. A debt instrument includes, but is not limited to, general obligation bonds, revenue bonds, and/or an annually appropriated debt structure approved by the Environmental Improvement and Energy Resources Authority*[.]***, and;**

3. The recipient has retained the services of a registered financial advisor.

(B) Fundable Contingency Priority List. The fundable contingency priority list identifies those projects meeting all programmatic criteria to receive funds. This list is created due to insufficient available funds. Projects will be listed in priority point order regardless of the date which all programmatic criteria are met.

(C) Contingency Priority List. The contingency priority list identifies those projects which may be considered for funding during a given fiscal year if unanticipated or uncommitted funds become available. Projects will not be considered for the contingency priority list unless a complete engineering report/facility plan has been submitted for review.

(D) Planning List. The planning list identifies all potential grant or loan projects not contained on a fundable priority list. Planning list projects may advance to the contingency or fundable lists, with commission approval, upon submission of an acceptable debt instrument and/or a complete engineering report/facility plan.

(3) Fund Reserves. The commission may establish special fund reserves as may be necessary. Fund reserves may be established in order to comply with state or federal funding requirements, as may be requested by commission staff in order to distribute available funds statewide, and as may be requested by the department.

(*[3]***4**) Modifications. After the commission adopts the Intended Use Plan, it may modify the priority lists or redistribute the available funds in accordance with subsections (*[3]***4**)(A) through (*[3]***4**)(D) of this rule. The commission may only take this action after providing notice to those projects directly affected.

(A) Inadequate Allocations. If the actual funding is less than the allocations anticipated by the commission in the development of the Intended Use Plan, or if previous allocations are reduced, the commission may find it necessary to reduce their commitments to projects on the fundable lists. The commission may take formal action to reduce the number of commitments in accordance with paragraphs (*[3]***4**)(A)1. through (*[3]***4**)(C)3. of this rule.

1. The commission may reduce the amount of funds allocated to each purpose as shown in the Intended Use Plan.

2. The commission may remove the lowest priority projects from the fundable priority lists, placing these projects on the appropriate contingency priority list in a position dictated by their priority relative to others on that contingency priority list.

3. The commission may bypass projects on the fundable priority lists in accordance with subsection (*[3]***4**)(C) of this rule.

(B) Unanticipated and Uncommitted Funds. If unanticipated or uncommitted funds become available, the commission may take formal action to distribute them in accordance with paragraphs (*[3]***4**)(B)1. through (*[3]***4**)(B)3. of this rule.

1. The commission may use the unanticipated or uncommitted funds to move the highest priority project(s) from contingency priority list to the proper fundable priority list.

2. The commission may use the unanticipated or uncommitted funds to increase the amount of funds allocated to the various purposes as shown in the Intended Use Plan.

3. The commission may use the unanticipated or uncommitted funds to increase the amount of funds allocated to projects on the fundable priority list or to provide increased assistance to projects which have already received assistance.

(C) Project Bypass. The commission may bypass any project on the fundable priority list which is not, in the commission's opinion, making satisfactory progress in satisfying requirements for assistance. Bypassed projects will be removed from the fundable priority list and placed on the proper contingency priority or planning list in a position dictated by the commission. In determining whether a project is making satisfactory progress in satisfying the requirements for assistance, the commission shall use the criteria contained in paragraphs (*[3]***4**)(C)1. through (*[3]***4**)(C)2. of this rule. The commission may reinstate any bypassed projects on the fundable priority lists after first giving notice to applicants for those projects on the contingency lists of the commission's intent to reinstate bypassed projects. Funds released through project bypass will be considered uncommitted and available for distribution in accordance with subsection (*[3]***4**)(B) of this rule.

1. All projects originally on the fundable lists, when adopted, may be bypassed if the applicant fails to submit all documents required for assistance at least sixty (60) days prior to the quarter for which assistance is anticipated.

2. The commission may use individual project schedules developed by the department to determine whether a project on the current fundable list is making satisfactory progress at those times during the fiscal year.

3. Carryover projects *[may]* **shall** be automatically bypassed if they do not have all documents required for assistance submitted and approved on or before *[February]***May** 1. This is the deadline for projects wishing to receive a grant or loan prior to the end of the *[state]*fiscal year within the two (2)-year application cycle.

(D) Project Removal. The department will remove projects from the contingency, fundable, or planning lists if they meet any one (1) of the criteria stated in paragraphs (*[3]***4**)(D)1. through (*[3]***4**)(D)5. of this rule.

1. The department will remove a project if it *[is]* **has received a funding commitment or has been** funded by other funding sources.

2. The department will remove a project if it is determined to be ineligible for funding.

3. The department will remove projects from these lists if directed by commission action under subsections (*[3]***4**)(A) or (C) of this rule.

4. The department will remove projects from these lists if directed to do so by the Environmental Protection Agency (EPA) in accordance with federal law.

5. The department will consider removing projects from these lists at the request of the applicant.

AUTHORITY: section 644.026, RSMo 2000. Original rule filed Dec. 4, 1975, effective Dec. 14, 1975. Rescinded: Filed Oct. 12, 1979, effective July 11, 1980. Readopted: Filed March 11, 1983, effective Oct. 1, 1983. Amended: Filed March 9, 1984, effective Oct. 1, 1984. Amended: Filed March 8, 1985, effective Oct. 1, 1985. Amended: Filed March 10, 1986, effective Oct. 1, 1986. Amended: Filed March 10, 1987, effective Oct. 1, 1987. Amended: Filed March 11, 1988, effective Oct. 1, 1988. Amended: Filed Nov. 14, 2007, effective Aug. 30, 2008.*

**Original authority: 644.026, RSMo 1972, amended 1973, 1987, 1993, 1995, 2000.*

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