



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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ADMINISTRATION/WATER RESOURCES

Corps/Infrastructure

On June 10, the Army Corps of Engineers (Corps) published its proposed rule to establish the Corps Water Infrastructure Financing Program (CWIFP) (87 FR 35473). CWIFP is a long-term, low-cost federal credit program that was authorized by the Water Infrastructure Finance and Innovation Act (WIFIA). CWIFP has received over \$80M in credit subsidy funding to date which will allow the Corps to issue approximately \$7.5B in loans once the program is fully established. While the congressional authority to issue eligible project loans is broader, the initial appropriations were limited in scope to investments in dam safety infrastructure projects for creditworthy non-federal borrowers. The proposed rule is similarly limited in scope, implementing a credit assistance program for safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of State, local government, public utility, or private.

The proposed rule said: "Non-Federal dams account for roughly 87,000 of the 90,580 dams as reported in the National Inventory of Dams. Over 14,000 non-Federal dams are now classified as "high hazard potential," meaning that they would likely result in loss of life if they were to fail." The Association of State Dam Safety Officials (ASDSO) has estimated the cost to rehabilitate all non-federal dams at \$66B, with high hazard potential dams accounting for \$20B of that amount. ASDSO also indicated that about half of the states have created funding programs to assist with dam repairs, but the available state funding varies.

The proposed rule allows for a combination of eligible projects under a single application, secured by a common security pledge. The CWIFP credit assistance would not be applicable to operations and maintenance activities. Recipients would be required to comply with the American Iron and Steel requirements in 33 U.S.C. 3914(a) and the labor standards under the Davis-Bacon Act (33 U.S. C. 9909(h)).

The Corps will coordinate with EPA on overlapping project eligibility, and solicited public comment on how to

assist applicants to utilize the program best suited for their project's scope, purpose, and benefits. The Corps also solicited public comment on its description of application fees, and "whether additional clarification is needed on project cost eligibility, such as whether a list of what costs are expressly ineligible would be helpful or whether that may result in additional confusion as opposed to limiting the list to only include those which are eligible, as proposed."

Priority will be given to projects serving small, rural, tribal, and economically disadvantaged communities, with the goal of enhancing resilience to flooding. "For the purposes of this program, the Corps is proposing to preliminarily define economically disadvantaged communities as those that experience low-income, persistent poverty, or high unemployment. The implementation of this definition may be modified as appropriate in response to updated tools and resources as they become available. The Corps is soliciting comment on whether this is the most appropriate criteria to use to identify economically disadvantaged communities."

The Corps is proposing 12 selection criteria: (1) nationally or regionally significant projects with public benefits such as flood risk reduction, improvement of water quality and quantity, protection of drinking water, support for commerce, and ecosystem restoration; (2) the extent of public or private financing in addition to WIFIA credit assistance; (3) the extent to which WIFIA assistance would expedite the project; (4) any new or innovative approaches for the project; (5) the amount of WIFIA budget authority available for that year; (6) the extent to which the project protects against extreme weather or protects the environment; (7) projects that serve regions with clean energy exploration, development, or production; (8) projects that serve regions with water resource challenges, such as water quality and quantity concerns, flood risks, challenges identified in existing regional, state, or multistate agreements, and exceptional recreational or ecological value; (9) the extent to which the project addresses identified municipal, state, or regional priorities; (10) the shovel-readiness of a project to begin within 90 days of a WIFIA loan; (11) the extent to which WIFIA assistance

reduces overall federal contributions to the project; and (12) the extent to which the project serves economically disadvantaged communities and spurs economic opportunity for, and minimally adversely impacts, disadvantaged communities and their populations.

Comments are due at www.regulations.gov by August 9, docket #COE-2022-0004. Following public review, a final rule is expected to be published as soon as Spring of 2023, allowing for the program to accept loan applications shortly thereafter.

WATER QUALITY/ADMINISTRATION **EPA/WIFIA**

On June 14, EPA published the notice for funding availability for the 2022 round of Water Infrastructure Finance and Innovation Act (WIFIA) loans. Total funding available for the 2022 cycle is \$6.5B, including \$1B for the SWIFIA program available directly to states. EPA has identified four priority funding areas: increasing investment in economically stressed communities; making rapid progress on lead service line replacement; addressing PFAS and emerging contaminants; and supporting One Water innovation and resilience.

EPA is introducing a rolling selection process, enabling letters of interest (LOIs) to be submitted and reviewed year round. The LOIs will be evaluated on a first come, first served basis, encouraging submissions at the beginning of the availability period. The new process enables EPA to provide technical assistance to prospective borrowers in need of feedback to complete their LOI package. The notice of funding availability can be found at: <https://www.epa.gov/wifia/fy-2022-notice-funding-availability>.

MEETINGS

Western States Water Council Workshop Series

The WSWC is hosting a series of workshops over the summer to further explore technical and policy elements of a potential regional approach to defining “waters of the United States” (WOTUS). Two technical workshops (virtual) will take place on June 21, and July 11. A full-day policy-oriented workshop (hybrid) is scheduled for August 2, in conjunction with the WSWC Summer meetings. The output of the workshop series will be a technical white paper outlining various approaches to applying a regional context to WOTUS.

These workshops are intended for WSWC members, state agencies, federal partners, and other interstate organizations with an interest in exploring a new, regional, approach to WOTUS. Pre-registration is required.

For further information, including how to register, see: westernstateswater.org/upcoming-meetings/.

Western States Water Council

The WSWC Summer (199th) Meetings will be held in Polson, Montana on August 2-5, at the KwaTaqNuk Resort-Casino. A group room block is being held. Guest room reservations may be made directly with the hotel by calling (800) 882-6363 and identify yourself as a member of the Western States Water Council group.

Registration is required in advance for all WSWC members and meeting guests, whether attending in person or remotely via Zoom. With the exception of the field trip, there is no registration fee to attend the meetings. For hotel reservations, registration, and further information as it becomes available, please see: <https://westernstateswater.org/events/2022-summer-meetings/>.

Schedule of Meetings

Tuesday, August 2

8:30 am WOTUS Regional Concept Policy Workshop

Wednesday, August 3

8:30 am WestDAAT Workshop

11:00 am Field Trip

Thursday, August 4

8:00 am Host State Presentation

8:45 am Water Resources Committee Meeting

12:00 pm Executive Committee (over lunch)

1:30 pm Water Quality Committee Meeting

3:45 pm Legal Committee Meeting

6:00 pm Social Hour

Friday, August 5

8:00 am Full Council Meeting (199th)

WestFAST

On June 22, WestFAST will host the next webinar in their wildfire series. The topic is on integrating wildfire, smoke exposure, human health, and environmental justice into forest restoration and management. The presenter is Dr. Savannah D'Evelyn, postdoctoral fellow in the Department of Environmental and Occupational Health Sciences, University of Washington. She will discuss the need for transdisciplinary perspectives and an integrated approach to planning and practice. See: <https://westernstateswater.org/events/wildfire-smoke-exposure-human-health-and-environmental-justice-need-to-be-integrated-into-forest-restoration-and-management/>.

The WESTERN STATES WATER COUNCIL is a government entity of representatives appointed by the Governors of Alaska, Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.