

**INSTRUCTIONS REGARDING ZERO PERCENT RATE OF INTEREST
LOANS FOR WASTEWATER NUTRIENT MANAGEMENT PROJECTS
FINANCED THROUGH THE CLEAN WATER STATE REVOLVING FUND**

Introduction

In order to appropriately implement the Clean Water State Revolving Fund program, MassDEP seeks to finance projects that mitigate documented impacts to public health or the environment, and for which proponents have completed comprehensive planning and alternatives analysis. The Massachusetts Legislature has further directed MassDEP, pursuant to M.G.L. c. 29C, § 6, to provide zero-percent interest (0%) rate loan financing to wastewater nutrient removal projects that meet the following criteria:

- (1) the project is primarily intended to remediate or prevent nutrient enrichment of a surface water body or a source of water supply;
- (2) the applicant is not currently subject, due to a violation of a nutrient-related total maximum daily load standard or other nutrient based standard, to a MassDEP enforcement order, administrative consent order or unilateral administrative order, enforcement action by the United States Environmental Protection Agency, or subject to a state or federal court order relative to the proposed project;
- (3) the applicant has a Comprehensive Wastewater Management Plan (CWMP) approved pursuant to regulations adopted by MassDEP;
- (4) the project has been deemed consistent with the regional water resources management plan if one exists;
- (5) the applicant has adopted land use controls, subject to the review and approval of MassDEP in consultation with the Department of Housing Community Development and, where applicable, any regional land use regulatory entity, intended to limit wastewater flows to the amount authorized under the land use controls that were in effect on the date the Secretary of the Executive Office of Energy and Environmental Affairs issued a certificate for the CWMP pursuant to the Massachusetts Environmental Policy Act, M.G.L. c. 30, §§ 61-62H, and the MEPA regulations at 301 CMR 11.00.

MassDEP expects that the thresholds established by the Legislature will limit the number of projects that qualify for the zero-interest loans.

Instructions

Local government units seeking zero rate of interest (0%) SRF financing for water pollution abatement nutrient removal projects must establish eligibility by completing an SRF Application using an addendum form provided by MassDEP for such purposes. The Addendum must include the following:

- (1) A narrative explanation establishing that the project is primarily intended to remediate or prevent nutrient enrichment of surface waters or water supply sources in order to meet a NPDES permit or an EPA-approved TMDL or to otherwise implement a nutrient management plan approved by MassDEP, including (a) specific reference to the applicant's CWMP or nutrient management plan approved by MassDEP, (b) a copy of any such plan, and (c) a detailed estimate of the project

- flows and costs primarily intended to remediate or prevent nutrient enrichment and the project flows and costs not associated with remediating or preventing nutrient enrichment;
- (2) Certification that the applicant is not currently subject to a MassDEP enforcement order, administrative consent order or unilateral administrative order or enforcement action by the United States Environmental Protection Agency due a violation of a nutrient-related total maximum daily load standard or other nutrient based standard, or otherwise subject to a state or federal court order relative to the proposed project.
 - (3) For Comprehensive Wastewater Management Plans (CSMP), the applicant shall submit a copy of the MassDEP regional office approval letter and/or a copy of the certificate for the CWMP issued by the Secretary of the Executive Office of Energy and Environmental Affairs;
 - (4) If the applicant is subject to a regional water resources management plan, then the applicant must submit a copy of such plan and a narrative explanation establishing that the applicant's project is consistent with such plan. The applicant shall submit a letter, certificate or other written determination from the regional planning agency deeming the project consistent with the regional water resources management plan if such a plan exists. If the applicant is not subject to a regional water resources management plan, then the applicant must certify as much; and
 - (5) A narrative explanation demonstrating that the applicant has established flow neutral land use controls as provided in 314 CMR 44.04(3), including reference to the specific land use controls (LUCs) adopted to ensure such flow neutrality, and authenticated copies of such land use controls or sewer use regulation and all pertinent maps and overlays; this requirement may apply to all adjacent communities providing flow to the WWTF;
 1. Such land use controls include lawfully adopted bylaws, ordinances, and regulations.
 2. In the case of a zoning or general bylaw, the submitted bylaw shall have been reviewed and approved by the Massachusetts Attorney General as required by M.G.L. c. 40, § 32, or pursuant to Chapter 831 of the Act of 1977, as amended. In the case of any other land use controls, the city or town clerk must authenticate such copies.

MassDEP Division of Municipal Services will work with applicants and the Department of Housing and Community Development (DHCD) to establish the LUCs.

Prior to initiating the application process for this type of SRF loan, applicants should contact DMS for assistance in providing the required submittal information. Applicants shall email a PDF file of the completed Addendum to Maria Pinaud, Division Director at Maria.Pinaud@mass.gov

Deadlines: Applicants must demonstrate that the zero percent interest rate loan program thresholds have been met before SRF loans are permanently financed, or the loan will be executed at the standard interest rate.

Agency review: Within 60 days of receipt of a complete SRF Application Addendum, MassDEP will consult with DHCD to determine whether the applicant has adopted flow-neutral land use controls in

accordance with this Guidance. MassDEP will send a letter to the applicant within 14 days stating whether or not the Addendum establishes the applicant's eligibility for such financing and, if not, setting forth the basis for the determination. MassDEP's final eligibility determination is not subject to further administrative review. It is, therefore, essential that applicants make diligent efforts to fully complete their SRF Application Addendum and adequately document the basis for eligibility.

Capacity Limitation: The legislation limits the cost of loans available at 0% to thirty-five percent of the CWSRF IUP capacity in any given year. For example, a \$300M CWSRF IUP could finance up to \$105M at 0% interest. If eligible projects in excess of \$105M were to be proposed, MassDEP will afford the zero percent interest rate to projects in rank order as listed on the IUP. In that instance, highly-ranked projects that are eligible would be financed at zero percent, while some lower ranked eligible project, might not. The low-ranked projects would receive the standard 2% interest rate.

Clean Water State Revolving Fund Loan Application Addendum

Zero percent Interest Rate Loan Financing for Wastewater Nutrient Management Projects

Applicant: _____

Project Number: _____

Project name: _____

Certification: To the best of my knowledge and belief the information provided on this form and the accompanying forms and attachments is true, correct and complete; and I am authorized to file this form on behalf of the applicant:

Authorized Borrower Representative (ABR): _____

ABR Signature: signature: signature: _____

ABR telephone: _____

ABR email address: _____

Supporting Document checklist:

Project Purpose: Provide a narrative explanation outlining the proposed construction project, and the work associated with nutrient removal. intended to remediate or prevent nutrient enrichment of surface waters or water supply sources, including:

- Specific reference to the applicant's CWMP, including page references; or,
- Specific reference to the applicant's nutrient management plan along with a copy of any such plan, and page references.
- A detailed estimate of the project flows and costs primarily intended to remediate or prevent nutrient enrichment and the project flows, in comparison to the project costs not associated with remediating or preventing nutrient enrichment.
- Note: if an SRF loan has already been approved then allocate costs for the two items above based upon the loan amounts. Allocate supporting costs, e.g. engineering and contingency proportionately to the two items above.

Enforcement

- Provide Borrower's statement that the applicant is not currently subject to a MassDEP enforcement order, administrative consent order or unilateral administrative order or enforcement action by the United States Environmental Protection Agency due a violation of a nutrient-related total maximum daily load standard or other nutrient based standard or otherwise subject to a state or federal court order relative to the proposed project.

Regional Water Resources Management Plan

If the applicant is subject to a regional water resources management plan, then the applicant must submit:

- A copy of such plan and a narrative explanation establishing that the applicant's project is consistent with such plan; and,
- A letter, certificate or other written determination from the regional planning agency deeming the project consistent with the regional water resources management plan; or,
- Borrower certification that it is not subject to a regional water resources management plan.

Comprehensive Wastewater Management Plan – Copy of Certification letter from the Secretary of the Executive Office of Energy and Environmental Affairs (EEA): Include copy of MassDEP approval letter;

Smart Growth Controls: Provide a narrative explanation demonstrating that the applicant has established flow neutral land use controls¹ as provided in 314 CMR 44.04(3), including reference to the specific land use controls adopted to ensure such flow neutrality, and include:

- Authenticated copies of such land use controls (bylaws or ordinances): and/or sewer use regulation.

Identify neighboring communities or users whom provide sewer flow to the existing wastewater collection system. Provide copies of existing or draft Inter Municipal Agreements (IMAs).

- All pertinent maps and overlays;

Please note: Any applicant unable to address each of the highlighted elements within this addendum is, per statute, ineligible to receive zero percent interest rate loan financing. Although ineligible for the zero percent interest, those projects will maintain eligibility for the standard CWSRF rate of 2%.

¹ Such land use controls include lawfully adopted bylaws, ordinances, and regulations.

² In the case of a zoning or general bylaw, the submitted bylaw shall have been reviewed and approved by the Massachusetts Attorney General as required by M.G.L. c. 40, § 32, or pursuant to Chapter 831 of the Act of 1977, as amended. In the case of any other land use controls, the city or town clerk must authenticate such copies.