

The 30-day public comment period for the SFY 2023 Safe Drinking Water Loan Program (SDWLP) Emerging Contaminants (EC) Intended Use Plan (IUP) opened on November 21, 2022 and closed on December 21, 2022. During that time, two sets of comments were received. The table below lists the comments received and the DNR response, including any changes that were subsequently made in the final version of the IUP.

Comment	Submitted By	Response
I am not in support of the State of Wisconsin has selecting only PFAS in its IUP (Intended Use Program) language as an Emerging Contaminant being supported by the Infrastructure Funding (IUA) for Water Supply projects. Other, larger States, like Ohio, are allowing the Emerging Contaminant (EC/ECs) related IUA funds for use in treating drinking water for other ECs such as harmful algal blooms, manganese, and related USEPA Candidate Contaminants listed on the Candidate Contaminant List 5, included by reference to this email and recently finalized by USEPA on November 14, 2022. I am a little surprised that the State of Wisconsin did not more actively encourage USEPA to include glyphosphate on the CCL5 list, given WDNR's comments/review/concerns mentioned at previous Board meetings. I hope the State of Wisconsin will take this public comment period review and opportunity to help all water consumers in Wisconsin drink cleaner water, beyond just PFAS, using principal forgiveness funds towards a broader range of ECs.	Brian Hackman, Strand Associates	Thank you for your comment. The DNR is committed to ensuring clean and safe drinking water can be provided for the residents of Wisconsin. With the limited amount of funding available and increasingly amount of contamination findings of PFAS in water sources around the state, the DNR will be following the guidance of the EPA BIL Implementation Memorandum (March 2022) by focusing the SDWLP SFY 2023 EC funding solely on addressing PFAS contamination in the state's drinking water.
I. Disadvantaged Communities Should Receive 40 Percent of the Federal Funding Pursuant to the Justice40 Initiative. We commend DNR for giving special consideration to disadvantaged communities in the allocation of principal forgiveness assistance. However, rather than the BIL baseline requirement of allocating 25 percent of the funding to disadvantaged communities serving less than 25,000 people, the IUP should also award an extra 15 percent of the funding to any system that serves disadvantaged communities. This modification would ensure that 40 percent of the funding goes to historically vulnerable communities pursuant to the Justice40 policy of the Federal government. Pursuant to Executive Order 14008, the Federal government established the policy goal that 40 percent of certain Federal funding flow to disadvantaged communities. This policy seeks to secure environmental justice and foster economic opportunity for disadvantaged communities that have been historically marginalized and overburdened by pollution and underinvestment in housing, transportation, and water and wastewater infrastructure. Accordingly, funding stemming from a Justice40 covered program must meet the 40-percent requirement established by the policy. The Drinking Water State Revolving Fund program is covered by Justice40 in the area of critical clean water and waste infrastructure. Financial assistance stemming from the program is considered a "covered investment," and it includes funding particularly directed to PFAS and emerging contaminants. Thus, DNR's IUP for emerging contaminants should adopt the 40-percent requirement in pursuit of environmental justice in conformity with Federal policy. While the BIL imposes a 25 percent requirement, as DNR notes in the IUP, the law simply sets a baseline. Nothing prevents the agency from prioritizing a higher percentage of the funding to historically disadvantaged communities. To the contrary, Federal policy urges agencies to maximize benefits to these communities up to the 40-percent threshold. Disadvantaged communities in Wisconsin should receive 40 percent of the overall benefits of clean drinking water investments to meet the equitable goals of Justice40. This change in the IUP not only meets Federal policy, but also aligns with Governor's Evers policy to account for environmental justice in state environmental decision-making.	Jorge Roman-Romero, Midwest Environmental Advocates	Thank you for your comments. The SDWLP SFY 2023 EC scoring system prioritizes disadvantaged communities, so the limited pool of applicants applying for BIL EC funding for SFY 2023 will be receiving BIL EC funding. The two-pass funding allocation method will ensure all applicants will receive EC funding in SFY 2023, though the disadvantaged communities will receive the majority of EC funding. We will continue to evaluate our processes on an annual basis as more data becomes available.
II. The Methodology to Determine Project Priority Should Include a Concentration Reduction Performance Standard to Maximize Health Risks Benefits DNR plans to use three components to determine the priority of water systems eligible for funding: (1) risk to human health, (2) financial need, and (3) system capacity affected. DNR should add a fourth prong based on concentration reduction performance standards to ensure the methodology considers not only the water system's scope and seriousness of the pollution problem in prong one and three, but also the scope and effectiveness of the solution in the suggested prong fourth. The performance component of the methodology would assess the extent to which water systems would be reducing concentrations of PFAS in their drinking water. This ensures that priority is given to systems that are maximizing health risk benefits with projects expected to produce higher reduction concentration outcomes to the population served. DNR should use the Wisconsin Department of Health Services' (DHS) recommended standards as a guidepost to allocate points on a sliding scale based on the extent to which projects would be maximizing health risk benefits. Overall, the performance prong will make the methodology for prioritization more holistic.	Jorge Roman-Romero, Midwest Environmental Advocates	While adding a performance component to the scoring criteria could be useful, timing would be an issue. Performance would not be known until the project was completed, and oftentimes projects are scored prior to the construction of a project. Utilizing performance estimates could also be problematic.

III. The Health Risk Prong of the Methodology to Determine Project Priority Should Consider the Best Available Science Related to the Toxicity of PFAS to Improve the Assessment of Human Health Risk. DNR plans to use the hazard index and DHS's groundwater recommendations as guidelines to assess human health risk. We urge DNR not to ignore the best available science on the toxicity of certain PFAS and consider the U.S. Environmental Protection Agency's (EPA) health assessments when awarding points based on human health risk. On June 21, 2022, EPA published in the Federal Register health advisories for four PFAS for which the methodology for prioritization will be assessing health risks: PFOS, PFOA, GenX, and PFBS. The health advisories identify the concentration in drinking water at or below which adverse health effects are not anticipated to occur over certain exposure durations. The toxicological and epidemiological studies underlying the health advisories link exposure to these PFAS via drinking water to many adverse health effects, including thyroid effects, low birth weight, high cholesterol, liver and kidney deficiencies, among others. Of special concern, EPA found "there is evidence that PFOA is likely to be carcinogenic to humans" and "suggestive evidence of carcinogenic potential of PFOS in humans." The agency is currently conducting cancer analyses to determine if cancer risk concentrations in water can be derived for these substances. DNR should consider this data when allocating points based on human health risk because the health advisories "reflect EPA's assessment of the best available peer-reviewed science." EPA's health advisory levels are: 0.004 parts per trillion (ppt) for PFOA, 0.02 ppt for PFOS, 10 ppt for GenX, and 2,000 ppt for PFBS. The formula to determine the score based on risk to human health should consider these federal values, which are substantially lower than DHS's recommendations. We urge DNR to adopt a tiered approach to allocate project prioritization points based on health risk.	Jorge Roman-Romero, Midwest Environmental Advocates	Thank you for your comment. In the absence of federal regulatory maximum contaminant limits WI DNR relies on WI Department of Health Services (DHS) health based recommendations for contaminants in drinking water. DHS and DNR are currently reviewing US EPA's health advisories for PFOA, PFOS, PFBS, and Gen-X. If changes are made to the DHS health based recommendations for those PFAS compounds, the hazard index calculation will be modified in kind. DNR updates its Intended Use Plans (IUP) annually and if changes to the hazard index are made those changes will be reflected in the future scoring criteria.
IV. The Financial Need Prong of the Methodology to Determine Project Priority Should Consider Factors Related to Background Pollution. We commend DNR for reviewing and revising the methodology used to allocate points based on financial need to meet the BIL's expectation "that disadvantaged communities benefit equitably from the historic investment in water infrastructure" and in line with the policy of Justice40. The consideration of economic criteria—such as income data, poverty indicators, population trends, and unemployment rates—improves the definition of disadvantaged communities in conformity with federal law and policy. However, DNR should also consider factors related to background pollution in its methodology that informs the definition of disadvantaged communities. As the BIL implementation memorandum highlights, "[d]isadvantaged communities experience, or are at risk of experiencing, disproportionately high exposure to pollution – whether in air, land, or water." While there is a relation between economically vulnerable populations and background pollution, accounting for environmental burdens and risks can improve the assessment of need. Environmental burdens and risks most closely related to the Emerging Contaminant program includes wastewater discharge, proximity to clean-up sites or impaired water bodies, groundwater contamination, lead pipe contamination, PFAS-containing fire-fighting foam discharges, among others. DNR should use the tools available to account for background pollution and risk data and improve the identification of communities in need.	Jorge Roman-Romero, Midwest Environmental Advocates	The team who put together the EC scoring criteria looked into including background pollution as a metric, however, the team determined that Environmental Justice and the definition of disadvantaged community have overlap, but have different focuses. Since the purpose of our program is financing a project and not determining the location of the project, the team felt taking into account economic criteria was a more consistent way to determine a community's disadvantaged status. The team will continue to evaluate our processes on an annual basis as more data becomes available.