

water resource challenges, including the need to address: (1) Water quality concerns in areas of regional, national, or international significance; (2) water quantity concerns related to groundwater, surface water, or other water sources; (3) significant flood risk; (4) water resource challenges identified in existing regional, state, or multistate agreements; or (5) water resources with exceptional recreational value or ecological importance. 33 U.S.C. 3907(b)(2)(H); 40 CFR 35.10055(a)(7).

(v) *10 points*: The extent to which the project addresses identified municipal, state, or regional priorities. 33 U.S.C. 3907(b)(2)(I); 40 CFR 35.10055(a)(8).

(vi) *25 points*: The extent to which the project addresses needs for repair, rehabilitation or replacement of a treatment works, community water system, or aging water distribution or wastewater collection system. 40 CFR 35.10055(a)(12).

(vii) *10 points*: The extent to which the project serves economically stressed communities, or pockets of economically stressed rate payers within otherwise non-economically stressed communities. 40 CFR 35.10055(a)(13).

(viii) *20 points*: The extent to which the project reduces exposure to lead in the nation's drinking water systems or addresses emergent contaminants. 40 CFR 35.10055(b).

#### Project Readiness

(i) *50 points*: The readiness of the project to proceed toward development, including a demonstration by the obligor that there is a reasonable expectation that the contracting process for construction of the project can commence by not later than 90 days after the date on which a federal credit instrument is obligated for the project under [WIFIA]. 33 U.S.C. 3907(b)(2)(J); 40 CFR 35.10055(a)(9).

(ii) *30 points*: Preliminary engineering feasibility analysis score. 33 U.S.C. 3907(a)(2); 33 U.S.C. 3907(a)(6); 40 CFR 35.10015(c); 40 CFR 35.10045(a).

(iii) *20 points*: The extent to which the project uses new or innovative approaches. 33 U.S.C. 3907(b)(2)(D); 40 CFR 35.10055(a)(3).

#### Borrower Creditworthiness

(i) *10 points*: The likelihood that assistance under [WIFIA] would enable the project to proceed at an earlier date than the project would otherwise be able to proceed. 33 U.S.C. 3907(b)(2)(C); 40 CFR 35.10055(a)(2).

(ii) *10 points*: The extent to which the project financing plan includes public or private financing in addition to

assistance under [WIFIA]. 33 U.S.C. 3907(b)(2)(B); 40 CFR 35.10055(a)(10).

(iii) *10 points*: The extent to which assistance under [WIFIA] reduces the contribution of Federal assistance to the project. 33 U.S.C. 3907(b)(2)(K); 40 CFR 35.10055(a)(11).

(iv) *10 points*: The amount of budget authority required to fund the Federal credit instrument made available under [WIFIA]. 33 U.S.C. 3907(b)(2)(E).

(v) *60 points*: Preliminary creditworthiness assessment score. 33 U.S.C. 3907(a)(1); 40 CFR 35.10015(c); 40 CFR 35.10045(a)(1); 40 CFR 35.10045(a)(4); 40 CFR 35.10045(b).

In addition to the selection criteria score, EPA is required by 33 U.S.C. 3902(a) to "ensure a diversity of project types and geographical locations."

Following analysis by the WIFIA program staff, a final score is calculated for each project. Projects will be selected in order of score, subject to the requirement to ensure a diversity of project types and geographical locations. To ensure diversity, EPA will establish a ceiling for each project type and geographical location. EPA will select projects in rank order up until the point that the ceiling is reached. Thereafter, the next highest project that adds diversity will be selected.

The scoring scales and guidance used to evaluate each project against the selection criteria are available in the WIFIA program handbook. Prospective borrowers considering WIFIA should review the WIFIA program handbook and discuss how the project addresses each of the selection criteria in the LOI submission.

**Authority:** 33 U.S.C. 3901–3914; 40 CFR part 35.

**Andrew Wheeler,**  
*Administrator.*

[FR Doc. 2020–15470 Filed 7–16–20; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 10012–15–OW]

### 40 CFR Part 35

#### Notice of Funding Availability for Applications for Credit Assistance Under the State Infrastructure Finance Authority Water Infrastructure Finance and Innovation Act (SWIFIA) Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of funding availability.

**SUMMARY:** In the Further Consolidated Appropriations Act, 2020, signed by the

President on December 20, 2019, Congress provided \$5 million in budget authority solely for the cost of direct loans or guaranteed loans to State infrastructure financing authority borrowers for projects described in section 5026(9) of the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA). The State infrastructure financing authority WIFIA (SWIFIA) program will use this amount to cover the subsidy required to provide a much larger amount of credit assistance. Environmental Protection Agency (EPA or the Agency) estimates that this budget authority may provide approximately \$1 billion in credit assistance and may finance approximately \$2 billion in water infrastructure investment. The purpose of this notice of funding availability (NOFA) is to solicit letters of interest (LOIs) from prospective State Infrastructure Financing Authority borrowers seeking credit assistance from EPA under the SWIFIA program.

EPA will evaluate and select proposed projects described in the LOIs using the selection criteria established in the statute, and further described in this NOFA as well as the WIFIA program handbook. This NOFA introduces new budgetary scoring factors to determine budgetary scoring compliance and outlines the process that prospective borrowers should follow to be considered for SWIFIA credit assistance.

In addition, EPA reserves the right to make additional awards under this announcement, consistent with Agency policy and guidance, if additional funding is available after the original selections are made.

**DATES:** The LOI submittal period will begin on July 17, 2020 and end at 11:59 p.m. EDT on September 15, 2020.

**ADDRESSES:** Prospective borrowers should submit all LOIs electronically via email at: [wifia@epa.gov](mailto:wifia@epa.gov) or via EPA's SharePoint site. To be granted access to the SharePoint site, prospective borrowers should contact [wifia@epa.gov](mailto:wifia@epa.gov) and request a link to the SharePoint site, where they can securely upload their LOIs. Requests to upload documents should be made no later than 5:00 p.m. EDT on September 11, 2020.

EPA will notify prospective borrowers that their LOI has been received via a confirmation email.

Prospective borrowers can access additional information, including the WIFIA program handbook and application materials, on the WIFIA website: <https://www.epa.gov/wifia/>.

#### SUPPLEMENTARY INFORMATION:

For a project to be considered during a selection round, EPA must receive a

LOI, via email or SharePoint, before the corresponding deadline listed above. EPA is only able to accept emails of 25 MB or smaller with unzipped attachments (EPA cannot accept zipped files). If necessary due to size restrictions, prospective borrowers may submit attachments separately, as long as they are received by the deadline.

When writing a LOI, prospective borrowers are encouraged to fill out the SWIFIA LOI form and follow the guidelines contained on the WIFIA program website: <https://www.epa.gov/wifia/wifia-application-materials>. Prospective borrowers should provide the LOI and any attachments as Microsoft Word documents or searchable PDF files, whenever possible, to facilitate EPA's review. Section VI of this NOFA provides additional details on the LOI's content.

EPA will invite each prospective borrower whose project proposal is selected for continuation in the process to submit a final application. Final applications should be received by EPA within 365 days of the invitation to apply.

EPA will host a webinar to provide State infrastructure finance authority prospective borrowers further information about the SWIFIA loans and how to submit a LOI. The webinar date and registration directions can be found on the WIFIA program website: <https://www.epa.gov/wifia/wifia-webinars>.

Prospective borrowers with questions about the program or interest in meeting with the WIFIA program staff may send a request to [wifia@epa.gov](mailto:wifia@epa.gov). EPA will meet with all prospective borrowers interested in discussing the program prior to submission of a LOI.

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## I. Background

Congress enacted WIFIA as part of the Water Resources Reform and Development Act of 2014 (WRRDA). Codified at 33 U.S.C. 3901–3914, WIFIA authorizes a federal credit program for water infrastructure projects to be administered by EPA. WIFIA authorizes EPA to provide federal credit assistance in the form of secured (direct) loans or loan guarantees for eligible water infrastructure projects.

Congress amended WIFIA in America's Water Infrastructure Act of 2018 (AWIA) to authorize federal credit assistance exclusively for State infrastructure financing authority borrowers.

The WIFIA program's mission is to accelerate investment in our nation's water and wastewater infrastructure by providing long-term, low-cost, supplemental credit assistance under customized terms to creditworthy drinking water and wastewater infrastructure projects of national and regional significance.

## II. Program Funding

Congress appropriated \$5 million in funding to cover the subsidy cost of providing SWIFIA credit assistance. The subsidy cost covers the Federal government's risk that the loan may not be paid back. EPA anticipates that the average subsidy cost for SWIFIA-funded projects will be relatively low; therefore, this funding can be leveraged into a much larger amount of credit assistance. EPA estimates that this appropriation will allow the Agency to provide approximately \$1 billion<sup>1</sup> in long-term, low-cost financing to water and wastewater infrastructure projects and accelerate approximately \$2 billion in infrastructure investment around the country.

## III. Eligibility Requirements

The WIFIA statute and implementing rules set forth eligibility requirements for prospective borrowers, projects, and project costs. The requirements outlined below are described in greater detail in the WIFIA program handbook.

### A. Eligible Applicants

Prospective borrowers must be a State infrastructure financing authority to be eligible for SWIFIA credit assistance. EPA defines State infrastructure financing authority as the State entity established or designated by the Governor of a State to receive a capitalization grant provided by, or otherwise carry out the requirements of, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 *et seq.*) or section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12).

### B. Eligible Projects

To be eligible for SWIFIA credit assistance, the SWIFIA project must be

<sup>1</sup> This estimated loan volume is provided for reference only. Consistent with the Federal Credit Reform Act of 1990 and the requirements of the Office of Management and Budget, the actual subsidy cost of providing credit assistance is based on individual project characteristics and calculated on a project-by-project basis. Thus, actual lending capacity may vary.

a combination of projects, each of which is eligible for assistance under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)) or section 1452(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(2)), for which a State infrastructure financing authority submits to the Administrator a single application.

### C. Eligible Costs

As defined under 33 U.S.C. 3906 and described in the WIFIA program handbook, eligible project costs are costs associated with the following activities:

(i) Development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(ii) Construction, reconstruction, rehabilitation, and replacement activities;

(iii) The acquisition of real property or an interest in real property (including water rights, land relating to the project, and improvements to land), environmental mitigation (including acquisitions pursuant to 33 U.S.C. 3905(8)), construction contingencies, and acquisition of equipment; and

(iv) Capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction. Capitalized interest on WIFIA credit assistance may not be included as an eligible project cost.

### D. Threshold Requirements

For a project to be considered for SWIFIA credit assistance, a SWIFIA project or a group of projects consolidated by the State Infrastructure Financing Authority must meet the following four criteria:

(i) The project and obligor shall be creditworthy;

(ii) A project shall have eligible project costs that are reasonably anticipated to equal or exceed \$20 million;

(iii) Project financing shall be repayable, in whole or in part, from state or local taxes, user fees, or other dedicated revenue sources that also secure the senior project obligations of the project; shall include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and may have a lien on revenues subject to any lien securing project obligations;

(iv) The project shall have an operations and maintenance plan that identifies adequate revenues to operate, maintain, and repair the project during its useful life.

#### E. Federal Requirements

All projects receiving SWIFIA assistance must comply, if applicable, with federal requirements and regulations, including (but not limited to):

- (i) American Iron and Steel Requirement, 33 U.S.C. 3914, <https://www.epa.gov/cwsrf/state-revolving-fund-american-iron-and-steel-ais-requirement>;
- (ii) Labor Standards, 33 U.S.C. 1372, <https://www.dol.gov/whd/govcontracts/dbra.htm>;
- (iii) National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, <https://www.epa.gov/nepa>;
- (iv) Floodplain Management, Executive Order 11988, 42 FR 26951, May 24, 1977, <https://www.archives.gov/federal-register/codification/executive-order/11988.html>;
- (v) Archeological and Historic Preservation Act, 16 U.S.C. 469–469c, <https://www.nps.gov/archeology/tools/laws/ahpa.htm>;
- (vi) Clean Air Act, 42 U.S.C. 7401 *et seq.*, <https://www.epa.gov/clean-air-act-overview>;
- (vii) Clean Water Act, 33 U.S.C. 1251 *et seq.*, <https://www.epa.gov/aboutepa/about-office-water>;
- (viii) Coastal Barrier Resources Act, 16 U.S.C. 3501 *et seq.*, <https://www.fws.gov/ecological-services/habitat-conservation/cbra/Act/index.html>;
- (ix) Coastal Zone Management Act, 16 U.S.C. 1451 *et seq.*, <https://coast.noaa.gov/czm/about/>;
- (x) Endangered Species Act, 16 U.S.C. 1531 *et seq.*, <https://www.fws.gov/endangered/>;
- (xi) Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Executive Order 12898, 59 FR 7629, February 16, 1994, <https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf>;
- (xii) Protection of Wetlands, Executive Order 11990, 42 FR 26961, May 25, 1977, as amended by Executive Order 12608, 52 FR 34617, September 14, 1987, <https://www.epa.gov/cwa-404>;
- (xiii) Farmland Protection Policy Act, 7 U.S.C. 4201 *et seq.*, [https://www.nrcs.usda.gov/wps/portal/nrcs/detail/?cid=nrcs143\\_008275](https://www.nrcs.usda.gov/wps/portal/nrcs/detail/?cid=nrcs143_008275);
- (xiv) Fish and Wildlife Coordination Act, 16 U.S.C. 661–666c, as amended, <https://www.fws.gov/>;

(xv) Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*, <https://www.fisheries.noaa.gov/resource/document/magnuson-stevens-fishery-conservation-and-management-act>;

(xvi) National Historic Preservation Act, 16 U.S.C. 470 *et seq.*, <https://www.nps.gov/archeology/tools/laws/NHPA.htm>;

(xvii) Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*, <https://www.epa.gov/ground-water-and-drinking-water>;

(xviii) Wild and Scenic Rivers Act, 16 U.S.C. 1271 *et seq.*, <https://rivers.gov/>;

(xix) Debarment and Suspension, Executive Order 12549, 51 FR 6370, February 18, 1986, <https://www.archives.gov/federal-register/codification/executive-order/12549.html>;

(xx) Demonstration Cities and Metropolitan Development Act, 42 U.S.C. 3301 *et seq.*, as amended, and Executive Order 12372, 47 FR 30959, July 14, 1982, [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning);

(xxii) New Restrictions on Lobbying, 31 U.S.C. 1352, <https://www.epa.gov/grants/lobbying-and-litigation-information-federal-grants-cooperative-agreements-contracts-and-loans>;

(xxiii) Prohibitions relating to violations of the Clean Water Act or Clean Air Act with respect to Federal contracts, grants, or loans under 42 U.S.C. 7606 and 33 U.S.C. 1368, and Executive Order 11738, 38 FR 25161, September 12, 1973, <https://www.archives.gov/federal-register/codification/executive-order/11738.html>;

(xxiv) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 *et seq.*, <https://www.gpo.gov/fdsys/pkg/FR-2005-01-04/pdf/05-6.pdf>;

(xxv) Age Discrimination Act, 42 U.S.C. 6101 *et seq.*, <https://www.eeoc.gov/laws/statutes/adea.cfm>;

(xxvi) Equal Employment Opportunity, Executive Order 11246, 30 FR 12319, September 28, 1965, [https://www.dol.gov/ofccp/regs/compliance/ca\\_11246.htm](https://www.dol.gov/ofccp/regs/compliance/ca_11246.htm);

(xxvii) Section 13 of the Clean Water Act, Public Law 92–500, codified in 42 U.S.C. 1251, <https://www.epa.gov/ocr/external-civil-rights-compliance-office-title-vi>;

(xxviii) Section 504 of the Rehabilitation Act, 29 U.S.C. 794, supplemented by Executive Orders 11914, 41 FR 17871, April 29, 1976 and 11250, 30 FR 13003, October 13, 1965,

<https://www.epa.gov/ocr/external-civil-rights-compliance-office-title-vi>;

(xxix) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*, <https://www.epa.gov/environmentaljustice/title-vi-and-environmental-justice>; and

(xxx) Participation by Disadvantaged Business Enterprises in Procurement under the Environmental Protection Agency Financial Assistance Agreements, 73 FR 15904, March 26, 2008, <https://www.epa.gov/resources-small-businesses>.

Detailed information about some of these requirements is outlined in the WIFIA program handbook. Further information can be found at the links above.

#### IV. Fiscal Year 2020 Office of Management and Budget Budgetary Scoring Determination

In order to comply with Public Law 116–94, a project selected for WIFIA financing using funding appropriated in FY 2020 will be assessed using two initial screening questions and sixteen scoring factors. These questions will help the Office of Management and Budget (OMB) determine compliance with budgetary scoring rules, a process that will be conducted in parallel to EPA's LOI evaluation process outlined in this NOFA. The questions may be found in **Federal Register** publication: Water Infrastructure Finance and Innovation Act Program (WIFIA) Criteria Pursuant to Public Law 116–94 [85 FR 39189, June 30, 2020]. These questions are also published in the WIFIA program handbook and further information about the scoring process may be referenced therein. EPA encourages project applicants to review the scoring criteria and provide sufficient information in the LOI or as an attachment to the LOI to facilitate EPA and OMB review of the prospective project in light of the scoring criteria. EPA may contact prospective borrowers after the LOI is submitted if clarification is needed to answer the budgetary scoring determination questions.

#### V. Types of Credit Assistance

Under SWIFIA, EPA is offering senior, parity loans. The maximum amount of SWIFIA credit assistance to a State infrastructure financing authority is 49 percent of estimated eligible total costs of the SRF loans that are included in the SWIFIA project. Prospective SWIFIA borrowers may request one the following loan structures:

- (i) EPA accepts the State infrastructure financing authority's existing indenture; or
- (ii) The State infrastructure financing authority accepts EPA's standard terms.

More information on EPA's standard terms is available at [www.epa.gov/wifia](http://www.epa.gov/wifia).

SWIFIA credit assistance is available for SRF projects which are ready to proceed. EPA considers an SRF project ready to proceed if its construction will commence no later than 18 months after the LOI deadline.

## VI. Letters of Interest and Applications

Each prospective borrower will be required to submit a LOI and, if invited, an application to EPA in order to be considered for approval. This section describes the LOI submission and application submission.

### A. Letter of Interest (LOI)

Prospective borrowers seeking a SWIFIA loan must submit a LOI describing the project fundamentals and addressing the SWIFIA selection criteria.

The primary purpose of the LOI is to provide adequate information to EPA to validate the eligibility and creditworthiness of the prospective borrower and the prospective project and determine the extent to which the SWIFIA project meets the statutory selection criteria. Based on its review of the information provided in the LOI, EPA will invite prospective borrowers to submit applications for their projects.

Prospective borrowers are encouraged to utilize the LOI form on the WIFIA website and ensure that sufficient detail about the project is provided for EPA's review. EPA will notify a prospective borrower if its project is deemed ineligible as described in Section III of this NOFA.

Below is guidance on what EPA recommends be included in the LOI.

**A. Loan Information:** The prospective borrower provides information about its legal name, business address, program website, employer/taxpayer identification number, Dun and Bradstreet Data Universal Number System number, requested SWIFIA loan amount and SWIFIA project amount, type of SRF loans (clean water, drinking water, or both), and requested loan structure.

**B. Supporting Documents:** The prospective borrower provides the most recent version of the following documents: Intended Use Plan (IUP), SRF Operating Agreements with EPA Regional Office, documentation of the priority setting system, and bond indenture (if applicable).

**C. Contact Information:** The prospective borrower identifies the points of contact with whom the WIFIA program should communicate regarding the LOI. To complete EPA's evaluation, the WIFIA program staff may contact a

prospective borrower regarding specific information in the LOI.

**D. Certifications.** The prospective borrower certifies that it will abide by all applicable laws and regulations, if selected to receive funding.

### B. Application

After EPA concludes its evaluation of the LOIs, a selection committee will invite prospective borrowers to apply. EPA expects that all eligible State infrastructure financing authority prospective borrowers will be invited to apply for a SWIFIA loan. If the amount requested by prospective borrowers exceeds the amount available from EPA, each eligible State infrastructure financing authority prospective borrowers will be invited for a pro rata share, based on the financing request outlined in their LOIs. If a prospective borrower declines EPA's invitation, EPA would re-allocate to other eligible prospective borrowers to the extent practicable or carry the funding forward to a future round.

An invitation to apply for WIFIA credit assistance does not guarantee EPA's approval, which remains subject to a project's continued eligibility, including creditworthiness, the successful negotiation of terms acceptable to the Agency, and the availability of funds at the time at which all necessary recommendations and evaluations have been completed. However, the purpose of EPA's LOI review is to pre-screen prospective borrowers to the extent practicable. It is expected that EPA will only invite prospective borrowers to apply if it anticipates that those prospective borrowers are able to obtain WIFIA credit assistance. Detailed information needs for the application are listed in the application form and described in the WIFIA program handbook.

## VII. Fees

There is no fee to submit a LOI. The final fee rule, Fees for Water Infrastructure Project Applications under WIFIA, 40 CFR 35.10080, was signed by EPA on June 19, 2017, and establishes the fees related to the provision of federal credit assistance under WIFIA. Each invited applicant must submit, concurrent with its application, a non-refundable Application Fee of \$100,000. Applications will not be evaluated until the Application Fee is paid. For successful applicants, this fee will be credited toward final payment of a Credit Processing Fee, assessed following financial close, to reimburse EPA for actual engineering, financial, and legal costs. In the event a final

credit agreement is not executed, the borrower is still required to reimburse EPA for the costs incurred. Borrowers may finance these fees with WIFIA credit assistance.

## VIII. Selection Criteria

This section specifies the criteria and process that EPA will use to evaluate LOIs and award applications for SWIFIA assistance.

The selection criteria described are the statutory selection criteria for State infrastructure finance authority borrowers. EPA has also identified readiness to proceed as a priority for this LOI submittal period. In order to ensure the efficient use of limited federal resources for infrastructure finance, the readiness of the SRF loans included in the SWIFIA project to proceed toward development, including loan closing and the commencement of construction, is an Agency priority.

Following its eligibility determination, EPA will determine the extent to which the SWIFIA project meets the statutory selection criteria. They are as follows:

(i) The extent to which the project financing plan includes public or private financing in addition to assistance under [WIFIA]. 33 U.S.C. 3907(b)(2)(B); 40 CFR 35.10055(a)(10).

(ii) The likelihood that assistance under [WIFIA] would enable the project to proceed at an earlier date than the project would otherwise be able to proceed. 33 U.S.C. 3907(b)(2)(C); 40 CFR 35.10055(a)(2).

(iii) The extent to which the project uses new or innovative approaches. 33 U.S.C. 3907(b)(2)(D); 40 CFR 35.10055(a)(3).

(iv) The amount of budget authority required to fund the Federal credit instrument made available under [WIFIA]. 33 U.S.C. 3907(b)(2)(E).

(v) The extent to which the project (1) protects against extreme weather events, such as floods or hurricanes; or (2) helps maintain or protect the environment. 33 U.S.C. 3907(b)(2)(F); 40 CFR 35.10055(a)(4); 40 CFR 35.10055(a)(5).

(vi) The extent to which the project serves regions with significant energy exploration, development, or production areas. 33 U.S.C. 3907(b)(2)(G); 40 CFR 35.10055(a)(6).

(vii) The extent to which a project serves regions with significant water resource challenges, including the need to address: (1) Water quality concerns in areas of regional, national, or international significance; (2) water quantity concerns related to groundwater, surface water, or other water sources; (3) significant flood risk; (4) water resource challenges identified

in existing regional, state, or multistate agreements; or (5) water resources with exceptional recreational value or ecological importance. 33 U.S.C. 3907(b)(2)(H); 40 CFR 35.10055(a)(7).

(viii) The extent to which the project addresses identified municipal, state, or regional priorities. 33 U.S.C. 3907(b)(2)(I); 40 CFR 35.10055(a)(8).

(ix) The readiness of the project to proceed toward development, including a demonstration by the obligor that there is a reasonable expectation that the contracting process for construction of the project can commence by not later than 90 days after the date on which a federal credit instrument is obligated for the project under [WIFIA]. 33 U.S.C. 3907(b)(2)(J); 40 CFR 35.10055(a)(9).

(x) The extent to which assistance under [WIFIA] reduces the contribution of Federal assistance to the project. 33 U.S.C. 3907(b)(2)(K); 40 CFR 35.10055(a)(11).

**Authority:** 33 U.S.C. 3901–3914; 40 CFR part 35.

**Andrew Wheeler,**  
Administrator.

[FR Doc. 2020–15469 Filed 7–16–20; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R04–OAR–2019–0638; FRL–10011–31–Region 4]

### Air Plan Approval; North Carolina; Miscellaneous Permit Provisions Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of North Carolina, through the North Carolina Department of Environmental Quality, Division of Air Quality (DAQ), with letters dated September 18, 2009, September 16, 2016, and July 10, 2019. These SIP revisions amend several of North Carolina's rules regarding construction and operating permits. This action is being finalized pursuant to the Clean Air Act (CAA or Act).

**DATES:** This rule is effective August 17, 2020.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2019–0638. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov)

website. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Evan Adams, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9009. Mr. Adams can also be reached via electronic mail at [adams.evan@epa.gov](mailto:adams.evan@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

EPA is approving SIP revisions submitted by DAQ, through letters dated September 18, 2009, September 16, 2016, and July 10, 2019. North Carolina's September 18, 2009,<sup>1</sup> 2 submittal revises rule 15A North Carolina Administrative Code (NCAC) 02Q .0304, *Applications*, to make clarifying and ministerial edits. The September 16, 2016,<sup>3</sup> 4 submittal revises 15A NCAC 02D .0101, *Definitions*, and 15A NCAC 02Q .0101, *Required Air Quality Permits*; .0103, *Definitions*; and .0104, *Where to Obtain and File Permit Applications*, to make clarifying and administrative updates. Finally, the July 10, 2019, submittal readopts, and makes clarifying and ministerial edits to the

<sup>1</sup> EPA received the submittal on September 22, 2009.

<sup>2</sup> EPA received a supplemental submittal of corrected redline/strikeout changes for 02Q Section .0304 on June 7, 2019. See the docket for this action.

<sup>3</sup> EPA received the submittal on October 4, 2016.

<sup>4</sup> EPA notes that Section 02Q .0203, *Permit and Application Fees* was submitted as well. However, this Section is not approved into the SIP, and is not appropriate for the SIP. EPA will therefore not take action on this Section.

following: 15A NCAC 02Q .0101, *Required Air Quality Permits*; .0103, *Definitions*; .0104, *Where to Obtain and File Permit Applications*; .0105, *Copies of Referenced Documents*; .0106, *Incorporation by Reference*; .0107, *Confidential Information*; .0108, *Delegation of Authority*; .0109, *Compliance Schedule for Previously Exempted Activities*; .0110, *Retention of Permit at Permitted Facility*; and .0111, *Applicability Determinations*.<sup>5</sup>

EPA published a notice of proposed rulemaking (NPRM) proposing approval of the aforementioned North Carolina SIP revisions on April 27, 2020. See 85 FR 23272. The details of North Carolina's submissions and the rationale for EPA's actions are explained in the April 27, 2020, NPRM. Comments were due on May 27, 2020.

##### II. Response to Comments

EPA received two comments on the April 27, 2020, NPRM. One comment was in support of EPA's proposed action, and the other comment was adverse. A summary of the adverse comment and EPA's response is provided below.

**Comment:** The Commenter asks why EPA needs to approve this SIP revision and suggests that states should “take primacy over their SIPs” once EPA has initially approved them. The Commenter also states that EPA should not approve this SIP revision and should allow states to take control over their programs.

**Response:** As explained herein and in the April 27, 2020, NPRM, DAQ requested this SIP revision, which amends several SIP-approved rules pertaining to construction and operating permits. Pursuant to CAA section 110(k)(3), 42 U.S.C. 7410(k)(3), “EPA shall approve” a SIP revision “if it meets all of the applicable requirements” of the Act. Thus, as a matter of law, EPA is required to approve a SIP revision if it meets the Act's requirements, as these North Carolina SIP revisions do. To the extent the Commenter is suggesting that EPA take action beyond this particular SIP revision, such a comment is outside the scope of this rulemaking.

##### III. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation

<sup>5</sup> On July 10, 2019, EPA received several SIP revisions. EPA is only acting on the changes to North Carolina's SIP as described in this notice. EPA will act on the other SIP revisions in separate rulemakings.