



## **ENVIRONMENTAL PROTECTION AGENCY**

**[EPA-HQ-OW-2020-0282; FRL-10019-31-OW]**

### **State Formula Allocations for Sewer Overflow and Stormwater Reuse Grants**

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing the allocation formula for the Sewer Overflow and Stormwater Reuse Municipal Grants Program as required by the Clean Water Act (CWA). EPA is required to establish a formula to allocate proportional shares of the amount appropriated to state entities to fund actions that will help manage combined sewer overflows, sanitary sewer overflows, and stormwater. EPA was directed to develop a formula based on the relevant infrastructure needs submitted in the latest Clean Watersheds Needs Survey (CWNS) along with additional information considered appropriate by the EPA Administrator. A summary of the formula is included in this document. This document reflects EPA's consideration of public comments received in response to its August 4, 2020 *Federal Register* publication.

#### **FOR FURTHER INFORMATION CONTACT:**

For additional information, please contact Michael Goralczyk, Office of Water (mail code 4204M), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC, 20460; telephone number: 202-564-7347; or e-mail: [Goralczyk.Michael@epa.gov](mailto:Goralczyk.Michael@epa.gov) (preferred).

#### **SUPPLEMENTARY INFORMATION:**

- I. Background
- II. Statutory Language for the Allocation Formula
- III. Allocation Formula
- IV. Data Sources for the Allocation Formula
- I. Background**

The America's Water Infrastructure Act (AWIA) of 2018 aims to improve water quality, expand infrastructure investments, enhance public health, increase jobs, and bolster the economy.

Section 4106 of the AWIA amended Section 221 of the Clean Water Act (CWA) to reauthorize the Sewer Overflow and Stormwater Reuse Municipal Grants Program. This amended statute directs EPA to award grants to the states, the District of Columbia, and U.S. territories (collectively referred to as “states”) for the purpose of providing grants to a municipality or municipal entity for planning, design, and construction of:

1. Treatment works to intercept, transport, control, treat, or reuse municipal combined sewer overflows (CSOs), sanitary sewer overflows (SSOs), or stormwater; and
2. Any other measures to manage, reduce, treat, or recapture stormwater or subsurface drainage water.

EPA announced a proposed formula and methodology in the *Federal Register* on August 4, 2020 (85 FR 47205), and requested public comment on the methodology of this allotment formula including the factors and data used in determining CSO, SSO, and stormwater infrastructure needs. The final formula announced in this document reflects EPA’s consideration of public comments. EPA’s response to comments is available at <https://www.regulations.gov/>. Docket ID No. EPA-HQ-OW-2020-0282.

## **II. Statutory Language for the Allocation Formula**

According to the CWA, funds appropriated for this program shall be allocated to the states according to their total proportional needs for municipal CSOs, SSOs, and stormwater as identified in the most recent CWNS and any other additional information considered appropriate by the EPA Administrator. This is described in Section 221(g)(2) of the CWA:

*“the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2020 and each fiscal year thereafter for making grants to States under subsection (a)(1) in accordance with a formula to be established by the Administrator, after providing notice and an opportunity for public comment, that allocates to each State a proportional share of such amounts based on the total needs of the State for municipal combined sewer overflow controls, sanitary sewer overflow controls, and stormwater identified in the most*

*recent detailed estimate and comprehensive study submitted pursuant to section 516 of this title and any other information the Administrator considers appropriate.”*

The CWNS includes documented infrastructure needs. However, the most recent CWNS in 2012 did not include complete CSO, SSO, and stormwater infrastructure needs for every state and territory. In order to equitably allocate appropriated funds based on existing infrastructure needs, as directed in the amended Section 221 of the CWA, it is appropriate to include additional factors to fully characterize needs for CSOs, SSOs, and stormwater management. EPA consulted with state representatives and EPA regional coordinators experienced in managing EPA grants at the state level on a series of supplemental factors. With the feedback of these partners, EPA selected three additional factors based on the common availability of data across the states and the ability of these factors to serve as surrogates for CSO, SSO, and stormwater infrastructure needs. The three additional factors are annual average precipitation, total population, and urban population. The rationale for these additional factors includes the following:

- (1) Annual average precipitation is a factor because higher amounts of precipitation lead to greater CSO, SSO, and stormwater infrastructure needs to manage greater flows.
- (2) Total population is a factor because the larger the population of a state, the more infrastructure is generally required to serve them.
- (3) Urban population is a factor because there are relatively higher CSO, SSO, and stormwater infrastructure needs in urban environments from increased impervious surfaces, which generate increased wet weather flows during precipitation events.

When combined with the needs determined in the CWNS, these three factors improve the representation of the CSO, SSO, and stormwater infrastructure needs in each state. This collective approach for assessing CSO, SSO, and stormwater infrastructure needs is the basis for this proposal on how to derive an allocation formula for appropriating funds for this program.

### **III. Allocation Formula**

EPA will use the following methodology to allocate appropriated funds to the states for the Sewer Overflow and Stormwater Reuse Municipal Grant Program.

*Methodology:*

1. Reserve 1% of the federal appropriation for EPA's administrative expenses per Section 221(h) of the CWA.
2. Allocate the remaining amount (federal appropriation minus EPA administrative set-aside) based on several factors to characterize the "need allocation" of each state. In addition to the most recent CWNS, EPA chose additional objective factors to help characterize the infrastructure needs of each state, as permitted by CWA Section 221(g)(2). EPA assigned weights to each of the factors in the allocation formula. The CWNS needs are weighted at 50% and the additional factors were weighted evenly to collectively account for the remaining 50%. The combination of the following factors forms the need allocation for each state.
  - *Clean Watersheds Needs Survey*: This factor is included as the statute directs EPA to use the needs submitted pursuant to CWA Section 516. Each allocation year, EPA will use the latest available CWNS information that provides a comprehensive assessment of CSOs, SSOs, and stormwater infrastructure needs. This factor represents 50% of the need allocation as these needs were directly identified in the survey.
  - *Annual Average Precipitation*: This factor is included to account for the volume of annual precipitation a state receives which suggests the amount of stormwater runoff that needs to be managed. This factor represents 16.67% of the need allocation.

- *Total Population*: This factor is included to represent the proportional need of each state’s population size acknowledging that higher populations generally have greater infrastructure needs. This factor represents 16.67% of the need allocation.
  - *Urban Population*: This factor is included to represent the needs that urban centers have for CSOs, SSOs, and stormwater management due to high concentrations of impervious surfaces. This factor represents 16.67% of the need allocation.
3. Adjust the allocation proportions to ensure that no state receives an allocation below 0.5%. Any adjustments to raise states to this base allocation amount will be taken at a proportional basis from states that were above this base amount. Once adjustments are made to ensure that each state receives at least 0.5% of the remaining amount (federal appropriation minus EPA administrative set-aside), this allocation will be considered the final state allocation for the applicable fiscal year.

In following this methodology, the results for each state’s allocation proportion are shown in Table 1.

**Table 1: State Entity Allocation Table**

<b>State Entity</b>	<b>Allocation Percentage</b>
Alabama	1.0%
Alaska	0.5%
American Samoa	0.5%
Arizona	0.8%
Arkansas	0.7%
California	10.6%
Colorado	1.0%
Connecticut	2.2%

Delaware	0.5%
District of Columbia	1.3%
Florida	2.7%
Georgia	1.5%
Guam	0.9%
Hawaii	0.5%
Idaho	0.5%
Illinois	2.7%
Indiana	3.1%
Iowa	0.8%

Kansas	1.2%
Kentucky	2.1%
Louisiana	1.4%
Maine	0.6%
Maryland	2.7%
Massachusetts	2.6%
Michigan	1.5%
Minnesota	0.7%
Mississippi	0.8%
Missouri	3.9%
Montana	0.5%
Nebraska	1.3%
Nevada	0.7%
New Hampshire	1.0%
New Jersey	5.7%
New Mexico	0.5%
New York	6.4%
North Carolina	1.3%
North Dakota	0.5%
Northern Marianas	0.8%
Ohio	7.0%
Oklahoma	0.8%
Oregon	1.5%
Pennsylvania	3.5%
Puerto Rico	0.9%
Rhode Island	0.9%
South Carolina	0.8%
South Dakota	0.5%

Tennessee	1.5%
Texas	5.5%
Utah	0.5%
Vermont	0.5%
Virgin Islands	0.5%
Virginia	2.1%
Washington	1.8%
West Virginia	1.3%
Wisconsin	1.8%
Wyoming	0.5%

#### IV. Data Sources for the Allocation Formula

- *Clean Watersheds Needs Survey*: The CWNS includes and documents identified capital investment needs for Sanitary Sewer Overflow Correction (Categories I-IV where states have shown a designated SSO need), Combined Sewer Overflow Correction (Category V), and Stormwater Management (Category VI). Information for this factor will be taken from the most recent published CWNS<sup>1</sup> and will be updated accordingly.
- *Annual Average Precipitation*: The precipitation factor for each state is the annual average amount of precipitation collected from the past 10 years of data from the National Oceanographic and Atmospheric Association (NOAA) National Centers for Environmental Information, Climate at a Glance: Statewide Time Series. These data will be updated annually to form a 10-year rolling average.<sup>2</sup> Due to data limitations, alternative data sources are to be used for the following states:
  - *Hawaii*: The past 10 years of data for annual average precipitation will be collected from the Hilo Area, Honolulu Area, Kahului Area, and Lihue Area from the Honolulu Forecast Office of NOAA.<sup>3</sup> These sources constitute the most complete data set in the relevant timeframe and are considered the best available representation for Hawaii.
  - *District of Columbia*: The past 10 years of data for annual average precipitation will be collected from the Washington Area from the Baltimore/Washington Forecast Office of NOAA. This is the most complete data set in the relevant timeframe and is considered the best available representation for the District of Columbia.<sup>4</sup>

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<sup>1</sup> *Clean Watersheds Need Survey 2012 Report to Congress*, January 2016. <https://www.epa.gov/cwns/clean-watersheds-needs-survey-cwns-2012-report-and-data>

<sup>2</sup> NOAA National Centers for Environmental information, Climate at a Glance: Statewide Time Series, accessed April 2020, <https://www.ncdc.noaa.gov/cag/statewide/time-series>

<sup>3</sup> NOAA, Honolulu Forecast Office, Hilo Area, Honolulu Area, Kahului Area, and Lihue Area Data, <https://w2.weather.gov/climate/xmacis.php?wfo=hnl>

<sup>4</sup> NOAA, Baltimore/Washington Forecast Office, Washington Area Data, <https://w2.weather.gov/climate/xmacis.php?wfo=lwx>

- *Puerto Rico*: The past 10 years of data for annual average precipitation will be collected from the San Juan Area and Ensenada and Morovis weather stations from the San Juan Forecast Office of NOAA. These sources constitute the most complete data set in the relevant timeframe and are considered the best available representation for Puerto Rico.<sup>5</sup>
- *American Samoa*: The past 10 years of data for annual average precipitation will be collected from the Pago Pago Area from the Pago Pago Forecast Office of NOAA. This is the most complete data set in the relevant timeframe and is considered the best available representation for American Samoa.<sup>6</sup>
- *Guam*: The past 10 years of data for annual average precipitation will be collected from the Guam Area from the Tivan Forecast Office of NOAA. This is the most complete data set in the relevant timeframe and is considered the best available representation for Guam.<sup>7</sup>
- *Northern Mariana Islands*: The past 10 years of data for the annual average precipitation will be collected from the Guam Area from the Tivan Forecast Office of NOAA. There are no available weather stations in the Northern Mariana Islands. However, the Northern Mariana Islands are covered by the Tivan Forecast Office and Guam is located approximately 130 miles away. It has been determined that data from the Guam Area can be considered an acceptable surrogate for precipitation amounts in the Northern Mariana Islands.<sup>8</sup>
- *U.S. Virgin Islands*: The past 10 years of data for the annual average precipitation will be collected from the Christiansted Airport and St. Thomas weather stations from the San Juan Forecast Office of NOAA. These sources constitute the most

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<sup>5</sup> NOAA, San Juan Forecast Office, San Juan Area and Ensenada, and Morovis Weather Station Data, <https://w2.weather.gov/climate/xmacis.php?wfo=sju>

<sup>6</sup> NOAA, Pago Pago Forecast Office, Pago Pago Area Data, <https://w2.weather.gov/climate/xmacis.php?wfo=samoa>

<sup>7</sup> NOAA, Tivan Forecast Office, Guam Area Data, <https://w2.weather.gov/climate/xmacis.php?wfo=guam>

<sup>8</sup> Ibid.

complete data set in the relevant timeframe and are considered the best available representation for the U.S. Virgin Islands.<sup>9</sup>

- *Total Population*: Data for the total population factor will be from the most recent published U.S. Census Bureau decennial census. The initial allocation will be based on the 2010 U.S. Census and will be updated accordingly.
  - The states, the District of Columbia, and Puerto Rico population data will be taken from the U.S. Census Bureau State Population Totals and Components of Change.<sup>10</sup>
  - American Samoa, Guam, Northern Mariana Islands, and U.S. Virgin Islands population data will be taken from the U.S. Census Bureau Island Area Tables.<sup>11</sup>
- *Urban Population*: The urban population factor for each state will be based on the available data from the most recent U.S. Census Bureau decennial census.<sup>12</sup> The initial formula will be based on the 2010 U.S. Census and data will be updated as future decennial censuses are published. Urban population estimates for American Samoa, Guam, Northern Mariana Islands, and the U.S. Virgin Islands are not available through the Census. The following alternative data sources will be used and updated as needed.
  - *American Samoa*: Data from the Central Intelligence Agency World Factbook will be used. The percentage of the total population considered to be urban (currently 87.2%) will be multiplied by the total population.<sup>13</sup>

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<sup>9</sup> NOAA, San Juan Forecast Office, Christiansted Airport and St. Thomas Weather Station Data, <https://w2.weather.gov/climate/xmacis.php?wfo=sju>

<sup>10</sup> U.S. Census Bureau, State Population Totals and Components of Change 2010-2019, <https://www.census.gov/data/tables/time-series/demo/pepest/2010s-state-total.html>

<sup>11</sup> U.S. Census Bureau, 2010 Island Area Tables, <https://www.census.gov/data/tables/2010/dec/2010-island-areas.html>

<sup>12</sup> U.S. Census Bureau, Census Urban and Rural Classification and Urban Area Criteria, <https://www.census.gov/programs-surveys/geography/guidance/geo-areas/urban-rural/2010-urban-rural.html>

<sup>13</sup> Central Intelligence Agency, World Factbook, American Samoa, <https://www.cia.gov/library/publications/the-world-factbook/geos/aq.html>

- *Guam*: Data from the Central Intelligence Agency World Factbook will be used. The percentage of the total population considered to be urban (currently 94.9%) will be multiplied by the total population.<sup>14</sup>
- *Northern Mariana Islands*: Data from the Central Intelligence Agency World Factbook will be used. The percentage of the total population considered to be urban (currently 91.8%) will be multiplied by the total population.<sup>15</sup>
- *U.S. Virgin Islands*: Data from the Central Intelligence Agency World Factbook will be used. The percentage of the total population considered to be urban (currently 95.9%) will be multiplied by the total population.<sup>16</sup>

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<sup>14</sup> Central Intelligence Agency, World Factbook, Guam, <https://www.cia.gov/library/publications/the-world-factbook/geos/gq.html>

<sup>15</sup> Central Intelligence Agency, World Factbook, Northern Mariana Islands, <https://www.cia.gov/library/publications/the-world-factbook/geos/cq.html>

<sup>16</sup> Central Intelligence Agency, World Factbook, U.S. Virgin Islands, <https://www.cia.gov/library/publications/the-world-factbook/geos/vq.html>