

# Framework for Delaware's Clean Water Trust FY22 Draft Strategic Plan



January 2022

## Framework for Delaware's Clean Water Trust FY22 Draft Strategic Plan

### Introduction

Delaware's General Assembly determines that it is in the public interest to designate a Delaware Clean Water Trust account to be funded from the following sources:

- 1) Appropriations, including supplemental funds in the bond bill, intended to satisfy all of the following purposes:
  - § 7903(14) of this title related to the Delaware Safe Drinking Water Revolving Fund.
  - § 8003(12) of this title related to the Delaware Water Pollution Control Revolving Fund.
  - § 3923 of Title 7 related to Resource, Conservation and Development (RC&D) projects undertaken by the County Conservation Districts in Kent, New Castle and Sussex Counties.
- 2) Moneys received as repayments of principal and interest on loans, interest received on invested funds, and other funding made available.

To ensure coordination of the management of resources available for Clean Water Trust projects and other programs that impact the quality of the State's water resources, the Clean Water Trust Oversight Committee ("Committee") is established and shall serve in an advisory capacity to the Governor and the General Assembly.

### Vision and Mission

**Vision:** Many of the State's waters do not meet water quality standards to support their designated uses, such as for drinking, swimming, or supporting aquatic life. The Clean Water Trust establishes a framework for assessing needs along with the planning and implementation of projects that support Delaware's efforts to improve the quality of the State's water supply and waterways. The Clean Water Trust Committee will draw upon recommendations from experts and stakeholders with the goal of assisting municipal and county governments and others in implementing affordable water quality projects.

#### **Mission:**

- Leverage Clean Water Trust funds with existing state and federal funds to implement clean water projects to protect Delaware waterways and rebuild Delaware's drinking water infrastructure with a focus on low-income and historically underserved communities.
- Prioritize funding that utilizes green infrastructure and the enhancement of natural systems to provide ecological benefits that improve water quality, demonstrate a high ratio of nutrient or pollution reduction to the amount of funding, and improve of community resilience to extreme weather, sea level rise, and other climate impacts.

- In concert with recent federal funding, prioritize funding that reduces known contaminants in drinking water such as PFOS, PFAS and lead.
- Establish programs to assist Delawareans to reduce the burden of water and sewer bills.
- Provide technical assistance to assist small communities to have the technical, managerial, and financial capacity to undertake clean water projects.

### **Goals of the Committee**

To encourage local governments, private entities, and farmers to undertake clean water projects that effectively and efficiently reduce pollution in the waters of the State by establishing mechanisms to facilitate planning and financing of such projects at the lowest reasonable costs.

To ensure the greatest environmental return on investment through the management and coordination of financial resources available to the State for drinking water, wastewater, drainage, and other eligible clean water projects which impact the quality of the State’s water resources.

### **Responsibilities of the Trust**

The Committee shall be responsible for oversight of the Clean Water Trust account and shall produce and publish an Annual Report and Strategic Plan for Clean Water.

The strategic plan shall include all of the following:

#### **a. Multi-year water quality goals and progress toward meeting those goals.**

Section 305(b) of the Federal Clean Water Act requires that states and other entities prepare and submit a Watershed Assessment Report to EPA on April 1 of every even numbered year. EPA is required to summarize these reports and prepare a report of their own to Congress. The 305(b) reports and monitoring data are used to compile a list of impaired waters, commonly referred to as the 303(d) list.

[2020 DRAFT State of Delaware Integrated 305\(b\)-303\(d\) Report](#)

#### **b. Challenges facing the achievement of such water quality goals.**

Lack of matching funds for watershed projects.

[Surface-Water-Needs-Assessment-Final-Report-APR-2020](#)

#### **c. A prioritized list of proposed projects to attain such goals.**

- FY 2021 Revised CWSRF Project Priority List (PPL)  
[FY 2021 Revised CWSRF Project Priority List](#)
- FY 2021 Revised CWSRF Intended Use Plan (IUP)  
[FY 2021 Revised CWSRF Intended Use Plan](#)
- FY 2021 DWSRF Project Priority List  
[FY 2021 DWSRF Project Priority List](#)
- FY 2021 DWSRF Intended Use Plan

[FY 2021 DWSRF Intended Use Plan](#)

- [FY 2022 RC&D Prioritized Active Projects](#)
- [Clean Water Initiative for Underserved Communities](#)

**d. Drinking water testing priorities of the State.**

The State's approach when establishing priorities for testing drinking water may be guided by the following:

The Safe Drinking Water Act (SDWA), as amended in 1996, Section 1412(b)(1)(B)(i) requires the EPA to publish the Contaminant Candidate List (CCL) every five years after public notice and an opportunity to comment. The CCL is a list of contaminants which are not subject to any proposed or promulgated National Primary Drinking Water Regulations (NPDWRs) but are known or anticipated to occur in public water systems (PWSs) and may require regulation under the SDWA. SDWA section 1412(b)(1)(B)(ii) directs the EPA to determine, after public notice and an opportunity to comment, whether to regulate at least five contaminants from the CCL every five years. Under Section 1412(b)(1)(A) of SDWA, the EPA makes a determination to regulate a contaminant in drinking water if the Administrator determines that:

- (a) the contaminant may have an adverse effect on the health of persons;
- (b) the contaminant is known to occur or there is substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern; and
- (c) in the sole judgment of the Administrator, regulation of such contaminant presents a meaningful opportunity for health risk reduction for persons served by public water systems.

**e. Recommendations on minimum funding levels for wastewater and drinking water projects benefitting low-income and traditionally underserved communities through low interest loans and affordability grants.**

Bond Bill appropriations for the Clean Water Initiative state:

Section 88. Clean Water Initiative. Section 1 Addendum of this Act makes an appropriation to Clean Water State Revolving Fund. At least \$1,600,000 of these funds shall be used for the development, administration, and implementation of a clean water financing program to benefit low-income and traditionally underserved communities through lower interest rates and affordability grants.

**f. Recommendations on strategies that support low-income consumer affordability.**

There is a federal program being managed by DHSS for the Low-Income Household Water Assistance Program (LIHWAP) that provides funds to assist low-income households with water and wastewater bills. <https://www.dhss.delaware.gov/dhss/dph/hsp/lihwap.html>

This program could be supplemented by Clean Water Trust funds to expand the capabilities of the program.

**g. An annual work plan report on the implementation of the Strategic Plan for the previous fiscal year addressing success indicators, deliverables, and milestones**

The annual report, titled “The Mulrooney Report”, accounts for the sources, benefits, and uses of the Clean Water Trust account and other water quality programs funded with State or federal resources including wastewater, stormwater and drinking water infrastructure and programs for drainage, beach preservation, waterway management, cover crop, the conservation reserve enhancement program, tax ditches and conservation cost-sharing that shall include a list of all funded projects.

The initial annual report should a compendium of current reports:

Delaware CWSRF 2021 Annual Report

Delaware DWSRF 2021 Annual Report

DNREC 2021 Resource, Conservation, and Development Annual Report

DNREC and DHSS 2021 Bond Bill expenditures

**Public Participation**

Prior to the publication of the initial Annual Report and Strategic Plan, the Committee shall hold at least 3 publicly noticed meetings to seek input and allow public comment. Thereafter, the Committee shall hold at least 1 publicly noticed meeting prior to publication of the Annual Report and annually updated Strategic Plan. All meetings under this subsection shall comply with § 10004 of this title.

**Technical Assistance**

The Water Infrastructure Advisory Council (WIAC) and the Conservation Districts shall provide outside, technical assistance and advice to the Committee. DNREC and DHSS staff provide administrative, technical, and financial support to the WIAC.