

Report on

New York State's 2010 SRF Sustainability Pilot Project



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I. Laying the Groundwork

The Federal Context

On June 16, 2009, the U.S. Environmental Protection Agency (EPA) joined the Partnership for Sustainable Communities with the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Transportation (DOT) to help improve access to affordable housing, provide more transportation options, and lower transportation costs while protecting the environment in communities nationwide. The Partnership coordinates actions, policies, and investments across the three agencies to achieve these goals.

Ensuring that communities make wise clean water infrastructure investments is an important part of the Partnership's work. Decisions about where to provide public wastewater infrastructure affect development patterns and influence where and how a community will grow. Regions are shaped by such decisions that ultimately affect the cost of all public infrastructure, including roads; utilities; schools; and police, fire, and ambulance service. By aligning public investments across sectors to support local goals, communities can focus resources in locations that best leverage past public investments.

In 2010, EPA released procedures for the Clean Water and Drinking Water SRF Programs to set forth administration priorities and address requirements included in 2010 appropriations law.¹ This document increased EPA's emphasis on the importance of directing SRF assistance to projects that support sustainable systems and that help build or maintain the technical, financial, and managerial capacity of the recipient. In 2011 EPA released a Clean Water and Drinking Water Infrastructure Sustainability Policy that helps ensure that federal investments, policies, and actions support water infrastructure in efficient and sustainable locations to support existing communities, enhance economic competitiveness, and promote affordable neighborhoods.² To help water and wastewater utilities manage their operations and infrastructure and support the sustainability of the communities they serve, EPA issued a handbook in 2012 that describes steps utilities can undertake to enhance their planning processes to ensure that water utilities are managed to optimize economic, environmental, and social sustainability. Finally, in 2012 EPA also issued a document that showcases best practices among state Clean Water SRF (CWSRF) programs to promote community and water infrastructure sustainability.

Beginning in 2010, EPA's Office of Water and Office of Sustainable Communities jointly sponsored a pilot technical assistance program with three state CWSRF programs to explore potential modifications that could encourage these types of investments and to provide models for other states. EPA selected Maryland, New York, and California for this assistance. New York State's program will be the focus of this report.

The result of each pilot program is a set of options for the state to consider when evaluating CWSRF program policies and documents. The ideas developed as part of this pilot program may serve as a useful exercise and potential model for other SRF programs. The ultimate goal is to gather lessons learned and best practices in these pilot states and other states undertaking similar initiatives so that all SRF programs can benefit from this

¹ EPA. "Procedures for Implementing Certain Provisions of EPA's Fiscal Year 2010 Appropriation Affecting the Clean Water and Drinking Water State Revolving Fund Programs" (2010)

² EPA. "EPA's Clean Water and Drinking Water Infrastructure Sustainability Policy" (2011)
<http://water.epa.gov/infrastructure/sustain/upload/Sustainability-Policy.pdf>.

information and thereby facilitate more widespread adoption of practices that encourage states to focus resources in existing communities and infrastructure systems to leverage past investments.

As part of this pilot program, EPA funded the Environmental Finance Center at Syracuse University (EFC-SU) through an existing cooperative agreement to provide technical assistance to the New York State Environmental Facilities Corporation (NYS EFC), the state authority responsible for managing the CWSRF program. This technical assistance included coordinating workshops and feedback sessions, soliciting additional stakeholder input, and assisting NYS EFC with collecting and compiling recommendations on how the New York CWSRF could support more sustainable projects through a focus on energy efficiency, asset management, and smart growth principles. The results of this work are in Section II below.

The State of the Infrastructure

In early 2008, New York State Department of Environmental Conservation (DEC) established the NYS Clean and Safe Water Infrastructure Funding Initiative to focus attention on the need to direct resources to New York's water and wastewater infrastructure. DEC produced a report, *Wastewater Infrastructure Needs of New York State*, that found "the conservative cost estimate of repairing, replacing and updating New York's wastewater infrastructure is \$36.2 billion over the next 20 years."^{3,4}

The Clean Water Collaborative

In response to the DEC report, Governor Paterson formed the Clean Water Collaborative (CWC) in August 2008. This public-private partnership was tasked with raising awareness concerning the state of New York's wastewater infrastructure and to further identify and work on funding for water infrastructure.⁵ Based in part on the CWC's efforts New York State received \$432 million in American Recovery and Reinvestment Act (ARRA) funding to invest in wastewater infrastructure.

The CWC was a diverse group of organizations representing the environmental sector, business, labor and state and local governments and was co-chaired by Robert F. Kennedy, Jr.—known for his work on environmental issues, particularly those concerning clean water—and Ross Pepe, the executive director of the Construction Industry Council and Building Contractors Association. The Collaborative focused on funding solutions for the state's mounting wastewater and drinking water infrastructure needs. The mission of the CWC was two-fold: first, to support efforts to address immediate water and wastewater needs in New York State through ARRA funding and, second, to support and encourage long-term federal funding for state revolving loan programs.

Based on the Collaborative's success in bringing much needed SRF funding to New York, DEC Commissioner Grannis asked the CWC to explore potential improvements

³ New York State Department of Environmental Conservation (DEC). 2008. *Wastewater Infrastructure Needs of New York State*, Albany, NY: DEC. Also available at http://www.dec.ny.gov/docs/water_pdf/infrastructureerpt.pdf.

⁴ New York State Department of Health (DOH) also completed a needs study that found that New York's Drinking Water Infrastructure will need \$38 billion over the next 20 years. See DOH, *Drinking Water Infrastructure Needs of New York State*. Drinking Water Infrastructure Needs of New York State; November 2008. http://www.nyhealth.gov/environmental/water/drinking/infrastructure_needs.htm.

⁵ New York State Environmental Facilities Corporation (EFC), Clean Water Collaborative, EFC, <http://www.nysefc.org/DocumentCentral.aspx#dltop>, (accessed January 2013).

to the SRF program that could focus its resources on projects that support smart growth, improve energy efficiency and encourage asset management planning.

Then, in January 2010, NYS EFC President & CEO Matthew Driscoll established the SRF Sustainability Initiative to develop recommendations to improve the CWSRF in these areas. Recommendations for SRF program changes were developed by an Advisory Group of the Clean Water Collaborative with input from various stakeholders. Members of this Advisory Group included:

- Adrienne Esposito, Executive Director of Citizens Campaign For The Environment
- Patricia Cerro-Reehil, Executive Director of the New York Water Environment Association, Inc.
- Erica Heintz, Executive Director of the Legislative Commission on Rural Resources
- Kathryn Garcia, Assistant Commissioner of the New York City Department of Environmental Protection
- Dereth Gance, Executive Program Director for Citizens Campaign for The Environment
- Alison Jenkins, Financial Policy Program Director for Environmental Advocates of New York
- Robert Kukenberger, Vice President of CDM
- Richard Lyons, Executive Director of the Albany County Sewer District
- Sean Mahar, Director of Government Relations and Communication for Audubon
- John Mancini, Counsel for the New York State Conference of Mayors
- Deborah Peck Kelleher, Director of Environmental Policy for Senator Marcellino, New York State Senate
- Carter Strickland, Jr., Deputy Commissioner of Sustainability, New York City Department of Environmental Protection
- Tim Sweeney, Principal Analyst for the Legislative Commission on Rural Resources

Staff from NYS EFC, DEC, New York State Energy Research Development Authority, New York State Department of Health and the New York State Department of State (DOS) were encouraged by the Advisory Group to contribute input into developing the recommendations. State Agency input occurred by way of forum attendance, individual meetings or comments to the Advisory Council.

Role of EFC-SU

The EFC-SU facilitated dialogues between the Advisory Group, NYS EFC, other state agencies and additional public and private stakeholders throughout the state. These stakeholders were a diverse group including wastewater system operators, mayors, town supervisors, trade associations, academics, county and regional planning staff, environmental and labor group representatives and the business and non-profit sector.

The stakeholder engagement team included Sandi Allen and Kathy Macri from NYS EFC and Sara Pesek and Evan Newell from EFC-SU, with other colleagues assisting at different points during the process. In parallel to the meetings of the Advisory Group, a series of forums were held to gather feedback for the SRF Sustainability Initiative. Forums were held with the New York Water Environment Association (NYWEA), the NYS Association of Towns, and the NYS Conference of Mayors (NYCOM), among others.

Several of the formal forums are described in greater detail below. The format for each forum included presenting the impetus for the Sustainability Initiative and what it included (smart growth, asset management and energy efficiency), and then inviting discussion on perspectives and questions on the overall concept and specific focus areas. Then discussion would be focused on individual areas of interest—smart growth, asset management, energy efficiency, and green infrastructure. Some sessions proceeded with a linear subject-by-subject discussion whereas others flowed more organically, including all focus areas but being largely directed by participant-driven dialogue. These sessions were held throughout the state. Many common themes emerged throughout the forums and the overview below highlights key ideas from individual forums.

In addition to coordinating the forums, EFC-SU staff members worked with NYWEA and the NYS Association of Towns conference coordinators to incorporate sessions into conference programs on asset management and green infrastructure. While the SRF Sustainability Initiative was not the focus of the program, any comments regarding it were captured and incorporated into the final recommendations report along with comments received via the NYS EFC website. These comments, along with comments from workshops, were compiled, categorized and appear in the full recommendations report, which can be accessed here:

<http://www.nysefc.org/AboutUs/SRFSustainabilityInitiative.aspx>⁶

Two Reports (Fall 2010 and Summer 2011) detailing progress on the recommendations can be found here: <http://www.efc.ny.gov/AboutUs/SRFSustainabilityInitiative.aspx>⁷

II. Information We Received

This section includes Advisory Group perspective on the key recommendations below. Comments received by the stakeholder engagement team indicated that many expect changes to how wastewater infrastructure is thought of, designed, regulated and financed in the near future. This expectation tended to be based on dwindling grant and loan availability, increased regulation and local concern and anecdotal discussion with regional, state and federal personnel. Despite evidence showing that significant changes are indeed imminent, commenters stressed the importance of making iterative changes to New York's SRF program through ongoing assessment and modification. Some commenters stressed the importance of keeping local leaders, operators and other stakeholders actively engaged in the process of making changes, in order to update those who need to know most, but to also receive 'real-time' feedback on the effect of program modifications.

Based on stakeholder feedback, the Advisory Group felt that, particularly in light of the present difficult economic climate in New York State for municipalities, initial steps should focus on providing incentives for more sustainable projects, including technical

⁶ <http://www.nysefc.org/Portals/0/Advisory%20Group%20Recommendations.pdf>. New York Clean Water State Revolving Fund Sustainability Initiative Advisory Group Recommendations. Publish date: June 15, 2010. Access date: June 17, 2013.

⁷ In heading "SRF Sustainability Initiative," under "Important links," click "New York State Clean Water State Revolving Fund Sustainability Initiative Report Fall 2010" or "New York State Clean Water State Revolving Fund Sustainability Initiative Report Summer 2011." Publish date: Fall 2010 or Summer 2011. Access date: June 17, 2013.

assistance, training, and pre-planning grants, rather than creating additional mandatory project requirements. Early adopters of proactive management practices should be encouraged by reward. These steps could support and inform more specific requirements in the future. The Advisory Group also recognized the benefits of leveraging and building upon existing state and federal programs where possible. For instance, the NYS Department of State's Local Government Efficiency program (LGE) has funding available for investigating the feasibility of shared services at the local level (i.e. plant operators, engineers, facility staff). Also, NYSERDA programs can provide funding to include energy efficiency into any wastewater project funded through the SRF.

The recommendations listed later in this document were the result of stakeholder engagement through forums such as the ones listed below, individual comments submitted via the NYS EFC's website, the comments of the CWC and input from various state agencies. The recommendations listed below were provided to serve as a roadmap for modification of New York's State Revolving Fund (SRF) in order to promote smart growth, increase energy efficiency, and support asset management while still maintaining the program's focus on water quality. The Advisory Group believed these program improvements were important incremental steps toward environmental and fiscal sustainability.

Forum Results

New York Water Environment Association's 82nd Annual Meeting, February 1, 2010, New York, NY

The first of the series of forums occurred at the annual meeting of the New York Water Environment Association. It was attended by approximately 60 people including water and wastewater operators, local elected officials and public and private sector engineers. This session was facilitated by Sandi Allen with Sara Pesek assisting as support staff and record keeper. Key comments include:

- It is better to incentivize rather than require projects to meet sustainability criteria.
- Decentralized wastewater treatment can be an important tool for promoting smart growth, although ensuring efficacy of the systems is important.
- Systems that already have good asset management practices should not be penalized by rewarding only those systems that newly develop it.
- Whatever additional requirements and/or incentives are placed on SRF funding, water quality and compliance should always remain the primary goal and shouldn't get lost among other program goals.

NYS Association of Towns Annual conference, February 16, 2010, New York, NY

A forum at the NYS Association of Towns Annual Conference was attended by local elected officials, principally Town Supervisors, clerks and engineers, among others. It started off a little differently than other forums with the Town Supervisor from Fishkill, NY sharing her story of managing and funding repairs to their wastewater treatment plant. This anecdotal account set the stage for discussions about the challenges and opportunities in incorporating sustainability measures into the SRF. A few key messages from this session are:

- Providing additional points for projects in areas that fail to meet clean water standards penalizes well-run systems that are struggling to do the right thing.
- The project priority system does not sufficiently value and reward innovative system designs, such as wetland filtration, that don't meet the typical SRF design parameters.
- Sustainability could/should be defined on a project or site-specific basis. Treating all systems as equal will be hard, and may not even be appropriate, in a single priority-rating system. Should there be classes or phases of sustainability?

Environmental Finance Center, March 5, 2010, Syracuse, NY

At a forum held at the Environmental Finance Center, there were 36 attendees including NYS EFC and EFC-SU staff. Participants represented local governments, environmental groups, state and federal agencies, colleges and universities and both public and private water operators and engineers. This forum was a higher-level discussion about sustainability and the existing and potential incentives to promote sustainability in public infrastructure investment. Key discussion points were:

- The state would benefit if the NYS EFC developed its SRF scoring system in conjunction with other state agencies to stress areas of importance across public projects and build upon synergies.
- The current scoring favors systems in terrible disrepair, communicating to local leadership that you will be rewarded if you let your system degrade rather than manage it well.
- None of the sustainability measures should be implemented in a way that detracts from the water quality purpose of the SRF.
- The SRF program should consider requiring communities who request funding to project population growth so as to “right-size” the system they are requesting support for.

Citizens Campaign for the Environment (CCE) Meeting, April 28, 2010, Farmingdale, NY

This Long Island forum was hosted by CCE and attended by Long Island advocacy groups, local government, community and economic development representatives as well as NYS EFC and EFC-SU personnel. Attendees focused their comments on smart growth and development concerns facing Long Island communities. Key comments include:

- State median household income (SMHI) is not a useful or appropriate comparison with Long Island communities as it precludes these communities from competing for funding with Upstate communities. In other words, SMHI should not be such a heavily weighted factor in determining community need.
- SRF funding should support reinvestment in building density in the community core rather than dispersed, low-density development in surrounding areas.
- Areas that don't have sewers are inappropriate for denser development.

In addition, comments were solicited via SRFSustainability@nysefc.org. Comments and feedback received via the NYS EFC website were combined with the feedback received, both in-person and written, and shared with the Advisory Group, who then formulated the recommendations below based on all feedback received.

Comments, discussion and feedback gathered through the forum series, conference engagement, individual comments and discussions held by the Advisory Group, served as the foundation of recommendations published in the [New York Clean Water State Revolving Fund Sustainability Initiative Advisory Group Recommendations June 15, 2010](#)⁸. Two Reports (Fall 2010 and Summer 2011) detailing progress on the recommendations can be found here: <http://www.efc.ny.gov/AboutUs/SRFSustainabilityInitiative.aspx>⁹

EFC-SU Supporting Effort of Smart Growth Recommendations

Only those topic areas with EFC-SU involvement have detail below. Full recommendations are found in this report: [New York Clean Water State Revolving Fund Sustainability Initiative Advisory Group Recommendations, June 15, 2010](#)¹⁰. Two Reports (Fall 2010 and Summer 2011) detailing progress on the recommendations can be found here: <http://www.efc.ny.gov/AboutUs/SRFSustainabilityInitiative.aspx>¹¹

1. Improve Outreach and Technical Assistance

The EFC-SU works to identify informational and technical assistance gaps and locate and disseminate relevant information. Together with the NYS EFC, the EFC-SU also provides more user-friendly guidance and information about how to determine the true initial and long-term costs and obligations of infrastructure and how to review alternative types of infrastructure and management approaches. Through its training programs, EFC-SU provides user-friendly information to municipalities about the links between community development, land use patterns, and water quality protection, including examples of planning approaches that encourage growth patterns that protect water quality. And, the EFC-SU provides information, outreach and technical assistance regarding green infrastructure and decentralized systems.

2. Regionalization without Sprawl

There are local government efficiency efforts that can provide fiscal and operational benefits. In some areas providing regionalized wastewater collection services can be beneficial, especially when an adjacent facility has excess capacity. Yet, care needs to be taken to assure that such actions do not encourage sprawl. Alternative models where

⁸ Available at: <http://www.nysefc.org/Portals/0/Advisory%20Group%20Recommendations.pdf>. New York Clean Water State Revolving Fund Sustainability Initiative Advisory Group Recommendations. Publish date: June 15, 2010. Access date: June 17, 2013.

⁹ In heading “SRF Sustainability Initiative,” under “Important links,” click “New York State Clean Water State Revolving Fund Sustainability Initiative Report Fall 2010” or “New York State Clean Water State Revolving Fund Sustainability Initiative Report Summer 2011.” Publish date: Fall 2010 or Summer 2011. Access date: June 17, 2013.

¹⁰ Available at: <http://www.nysefc.org/Portals/0/Advisory%20Group%20Recommendations.pdf>. New York Clean Water State Revolving Fund Sustainability Initiative Advisory Group Recommendations. Publish date: June 15, 2010. Access date: June 17, 2013.

¹¹ In heading “SRF Sustainability Initiative,” under “Important links,” click “New York State Clean Water State Revolving Fund Sustainability Initiative Report Fall 2010” or “New York State Clean Water State Revolving Fund Sustainability Initiative Report Summer 2011.” Publish date: Fall 2010 or Summer 2011. Access date: June 17, 2013.

services are shared by local governments rather than actual sewers may be beneficial, especially to smaller communities.

In response to this, EFC-SU locates and disseminates related information, provides technical assistance for local government efficiencies and cooperation among municipalities, and the use of innovative methods, including green infrastructure and decentralized systems.

3. Fairness

Municipalities that could, but failed to, properly maintain their wastewater facilities then have compliance problems may, in turn, create a disproportionate burden on available wastewater infrastructure funding. In addition, the current project prioritization system has the potential to reward poorly maintained facilities over support for municipalities that have taken a more responsible, proactive approach to maintenance, repair and replacement. This could ultimately become a negative incentive to proper care. Notwithstanding this concern, the Advisory Group did believe that a project's water quality benefit remained the most important priority for funding and projects that cause significant water quality threats due to lack of maintenance should not be penalized. The Advisory Group also noted that consent orders are sometimes used to implement new more strict requirements on a facility, the mere existence of an order does not necessarily mean that a municipality was not being proactive. Further investigation revealed that some municipalities have orders to transition them to new, more stringent requirements but most recent orders are to address permit violations.¹² In sum, the challenge in SRF implementation is to balance water quality goals with good long-term asset management.

EFC-SU disseminates related information and locates and/or develops technical assistance materials and provides continued training and outreach. The EFC-SU supports asset management planning through education and distribution of model plans, workshops and asset management software training sessions. The EFC-SU also provides technical and financial assistance through its mini-grant program to disadvantaged communities to develop and use asset management plans.

III. Smart Growth Public Infrastructure Policy Act

New York State enacted the Smart Growth Public Infrastructure Policy Act in August 2010. It was intended to augment the state's environmental policy by maximizing the social, economic and environmental benefits of public infrastructure development while minimizing unnecessary environmental degradation, disinvestment in urban and suburban communities and the loss of open space resulting from sprawl development. The Act requires NYS EFC to determine that a project meets relevant smart growth criteria, to the extent practicable, in order to provide CWSRF financial assistance. The implementation of this Act recognizes the importance of many of the recommendations

¹² Most recent municipal consent orders are issued for the purpose of addressing violations. Since 2007, at least 41 out of the 68 consent orders issued resulted from violations of effluent standards. However, at least 8 consent orders issued for the purpose of meeting new nitrogen requirements. E-mail message from Koon Tang, DEC Division of Water to Sandra Allen, EFC Policy and Planning, April 5, 2010.

gathered through this process and, as such, is a singular vehicle through which many of the recommendations are being addressed or achieved.

NYS EFC has developed [Smart Growth Guidance](#)¹³ for the NYS Clean Water State Revolving Fund Program. This Guidance is used by CWSRF applicants when completing Project Listing Forms and the Smart Growth Assessment.

CWSRF applicants are required to submit a [Smart Growth Assessment](#)¹⁴ that must be completed by the applicant's project engineer or other design professional. The Smart Growth Assessment affords the applicant the opportunity to demonstrate to NYS EFC that the project complies with the Act.

IV. Action Item Update

After the Advisory Group developed a report of recommendations, DEC and EFC issued a "Sustainability Initiative Report"¹⁵ that identified the actions planned to adopt these recommendations. Highlights of actions taken by the NYS EFC that follow from the sustainability initiatives included in this report, and others mentioned, include:

- The NYS EFC completed SRF guidance for smart growth review. As of 2011 applicants are required to prepare an assessment of how their project complies with the relevant criteria of the State Smart Growth Public Infrastructure Policy Act. A Smart Growth Committee assigned by the President and CEO of NYC EFC conducts a smart growth review for adherence to these criteria of every project considered for financing and makes recommendations regarding approval of the project financing.
- NYS EFC supported the adoption of the 2011 revision of the New England Interstate Water Pollution Control Commission's regional (includes New York State) wastewater treatment plant design manual that contains, for the first time ever, standards for energy efficiency. This manual is highly regarded by operators and design professionals through New England and New York.
- NYS EFC created the Green Innovation Grant Program (GIGP) in 2010 to spur innovation in green infrastructure using funds provided by the American Recovery and Reinvestment Act (ARRA). Rounds 3 and 4 of GIGP offered in 2011-12 focus on green infrastructure stormwater management. In addition, applications for GIGP are now part of the New York State Consolidated Funding Application process overseen by the Regional Economic Councils.
- Since 2009, NYS EFC, the DEC, and EFC-SU have partnered to promote green infrastructure by providing dozens of training and education workshops illustrating how green infrastructure works and highlighting projects funded throughout New York State.
- The Wastewater Efficiency Program, an award-winning and on-going partnership with NYSERDA, is a model program that began in 2009 to improve the energy efficiency of wastewater systems by providing energy usage evaluations. Every

¹³ Smart Growth Guidance New York State Clean Water State Revolving Fund. Publish date: January 28, 2013. Access date: June 17, 2013.

¹⁴ Smart Growth Assessment New York State Clean Water State Revolving Fund. Publish date: January 28, 2013. Access date: June 17, 2013.

¹⁵ Available at: <http://www.nysefc.org/DocumentCentral.aspx#dltop>. Navigate to SRF Sustainability folder and find the report there.

dollar spent on energy evaluations leveraged an anticipated \$3.60 of annual energy savings for customers when compared to the energy use of the Baseline Standard Practice for relevant treatment processes. More than 16,100 MWh/year and nearly 53,000 MMBtu/year in savings have been identified (when compared to the baseline standard practices that could have been used to achieve treatment objectives).