



# Federal FY 2022 CWSRF Emerging Contaminants Grant Intended Use Plan For State FY 2023 FINAL July 21, 2023

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# I. Introduction

In 1987, Congress amended the federal Clean Water Act (CWA) authorizing the Clean Water State Revolving Fund (CWSRF), a low interest loan program, to assist public entities with the financing of publicly owned treatment facilities (Section 212) and non-point source management activities (Section 319). The 1987 CWA Amendments authorized the US Environmental Protection Agency (EPA) to award capitalization grants to states to provide seed money for the low interest loan program. While the 1987 Amendments only authorized funding for the first several years of the loan program, Congress continues to provide funding as part of its annual appropriations.

The Infrastructure Investment and Jobs Act of 2021 (also referred to as the Bipartisan Infrastructure Law or BIL) includes two new appropriations for the CWSRF, one of which is the Emerging Contaminants appropriations. The CWSRF Emerging Contaminants appropriations are authorized for five years starting with Federal Fiscal Year (FFY) 2022.

For a project or activity to be eligible for funding under the CWSRF Emerging Contaminants grant, it must be otherwise CWSRF eligible and the primary purpose must be to address emerging contaminants. The main categories of emerging contaminants include but are not limited to: Perfluoroalkyl and polyfluoroalkyl substances (PFAS) and other persistent organic pollutants (POPs), Biological contaminants and microorganisms, Some compounds of pharmaceuticals and personal care products (PPCPs), Nanomaterials, and Microplastics/Nanoplastics. For more information, see EPA memo: "[Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law, March 8, 2022.](#)"

This Intended Use Plan (IUP), required under the CWA, describes how South Carolina proposes to use available CWSRF funds for State Fiscal Year (SFY) 2023 (July 1, 2022 through June 30, 2023) provided by federal funds allocated to South Carolina through the CWSRF Emerging Contaminants appropriations for FFY 2022. South Carolina's allotment from the Emerging Contaminants appropriations for FFY 2022 is \$958,000. Eligibility for CWSRF loans and CWSRF program requirements, including any requirements of the applicable appropriations legislation, are also included in the IUP.

The South Carolina Department of Health and Environmental Control (DHEC) is the designated state agency to apply for and administer the capitalization grant for the CWSRF. The South Carolina Water Quality Revolving Fund Authority (Authority) is responsible for the financial functions of the CWSRF, including its financial policies, and executes loan agreements with project sponsors. The South Carolina Rural Infrastructure Authority's Office of Local Government (RIA) conducts the staff functions of the Authority.

Once prepared, an IUP must be noticed for a period of at least 30 days to accept comments from the public. Comments on all facets of the DRAFT IUP are accepted. After considering comments received, the IUP is finalized and posted on DHEC's website at [www.scdhec.gov/srfforms](http://www.scdhec.gov/srfforms).

## II. Goals

South Carolina has identified several short- and long-term goals, designed to promote sustainable improvements to the state's clean water infrastructure and help ensure maximum public health and environmental benefits.

### A. Short Term Goals

1. Assist local communities as they respond to emerging contaminants.

### B. Long Term Goals

1. Assist local communities as they strive to address emerging contaminants.
2. Maintain a working relationship with other infrastructure funding authorities within the state to coordinate water quality funding.

## III. Transfer of Funds From/To the Clean Water State Revolving Fund

The SC SRF program reserves the ability to transfer funds between the CWSRF and Drinking Water SRF (DWSRF) as provided for by federal law. Fund transfers from the CWSRF to the DWSRF or from the DWSRF to the CWSRF will be done to assist in meeting the funding demands in the CWSRF and DWSRF. The law allows the SRFs to transfer an amount equal to 33% of each annual Drinking Water capitalization grant. The EPA will receive written notification prior to any transfers occurring.

For SFY 2023, the SC SRF will transfer \$958,000 from the CWSRF Emerging Contaminants grant to the DWSRF Emerging Contaminants grant.

## IV. Provisional Projects List

A Clean Water Provisional Project List (PPL) is required to identify projects that are considered eligible and ready to proceed in SFY 2023. No eligible projects were identified for SFY 2023 therefore a CWSRF Emerging Contaminants PPL was not developed.

## V. Method for Selecting Projects and Distribution of Funds

### A. Priority Ranking System

DHEC has a Priority Ranking System for projects seeking funding from the CWSRF. A copy of the ranking system used to score and rank projects can be found on the SRF Documents and Forms webpage at [www.scdhec.gov/srfforms](http://www.scdhec.gov/srfforms). In addition, projects must meet the requirements for the CWSRF Emerging Contaminants grant as described in the EPA's "[Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law, March 8, 2022](#)" memo.

## **B. Comprehensive Priority List of CWSRF Projects**

For a project to be considered for funding from the CWSRF, it must appear on the Comprehensive Priority List of CWSRF Projects. To be included in this list, an eligible project sponsor must complete a Project Questionnaire (PQ), DHEC 3561 or a similar funding request application approved by DHEC. The DHEC 3561 form can be found on the SRF Documents and Forms webpage, [www.scdhec.gov/srfforms](http://www.scdhec.gov/srfforms). A project sponsor may submit a completed PQ to the Division of State Revolving Fund in DHEC's Bureau of Water at any time. Once the PQ is received, DHEC staff evaluate the project based on the requirements for the CWSRF Emerging Contaminants grant, CWSRF Priority Ranking System, and the project's numeric score. The project is then added to the Comprehensive Priority List of CWSRF Projects in rank order. Any projects with the same numerical score are ordered based on how the project addresses water quality priority issues in the following order: 1) first – score for "implement an approved TMDL" and 2) second – score for "impairment(s) addressed on current 303d list" and then by date the project questionnaire was received. DHEC maintains an updated Comprehensive Priority List on the SRF Documents and Forms webpage, [www.scdhec.gov/srfforms](http://www.scdhec.gov/srfforms).

If a project remains on the Comprehensive Priority List for two years and does not proceed, the project will be removed from the list unless the sponsor provides an updated PQ.

## **C. Selection of Projects and SRF Funding**

No projects were selected for SFY 2023.

## **D. Bypass Procedure**

When selecting projects for funding, DHEC may bypass projects on the Comprehensive Priority List as follows:

1. To address an imminent hazard to public health as determined by DHEC; and,
2. To fund projects for eligible sponsors that have not previously received CWSRF funding.

## **E. Expedious Use of Funds**

To promote timely commitment and use of SRF funds, DHEC will determine milestones for each project related to the completion of the PER and submission of plans and specifications to obtain a construction permit or letter of approval to construct. For the projects listed on the PPL, the project sponsor should meet these milestones to ensure funds will not be committed to other projects. DHEC will take into account the complexity of the project and work with project sponsors in setting, and revising if appropriate, project milestones. It is the goal of the program to have projects on the PPL that have a signed loan assistance agreement within 18 months of the date EPA awards the grant. With current resource shortages for materials and qualified engineers and contractors, DHEC realizes that it may be challenging for sponsors to meet this goal.

Currently, project design and construction costs are increasing, often at a rapid pace. Therefore, sponsors with projects on the PPL will be encouraged to bid project alternatives, if feasible. Some projects on the PPL may still exceed the SRF project budget shown on the PPL. To address this possibility, projects on the PPL may receive additional funding if justified and approved by DHEC.

## **F. Sustainability Requirement**

The CWSRF will not provide any type of assistance to a project sponsor that lacks the technical, managerial or financial capability to operate sustainably, unless the sponsor agrees to undertake feasible and appropriate changes in operation or if the use of the financial assistance from the CWSRF will promote sustainability and compliance over the long-term.

Sponsor sustainability is evaluated using DHEC's Utility Sustainability Assessment (UtSA) (DHEC 0574). The UtSA is a written system assessment completed by the Sponsor and reviewed and scored by DHEC that includes operational issues, managerial issues and limited financial information. Unless an acceptable score was received on a UtSA within the previous three years, a UtSA is requested of sponsors with projects on the Provisional Projects List. Additional financial assessment is performed by RIA as part of the preliminary financial review and loan application process.

## **G. Interest Rates and Funding Terms for Eligible Projects**

The CWSRF Emerging Contaminants grant requires that the funds be used for 100% PF loans. Therefore, interest rates are not applicable to the projects funded by this grant.

## **H. Loan Application**

Loan applications are not applicable to this grant.

# **VI. Eligibilities**

## **A. Eligible Sponsors**

Municipalities, counties, special purpose districts, and other public entities are eligible CWSRF project sponsors.

## **B. Water Quality Management (WQM) Plans**

Pursuant to Section 208 of the Clean Water Act, Section 212 CWSRF projects must not conflict with the applicable Water Quality Management (WQM) plan. The sponsor of a CWSRF project must be a designated management agency, which is any municipality, county or special purpose district that accepts the responsibilities associated with implementing an applicable WQM plan. The management agency designation process may be pursued concurrently with the CWSRF project if necessary. More information about management agency responsibilities and the designation process can be found in the 208 Water Quality Management Plan for the Non-designated Area of South Carolina, <https://www.scdhec.gov/sites/default/files/Library/CR-010129.pdf>.

## **C. Land**

Land needed in support of construction and for collection, transport, treatment and stormwater projects, is eligible for CWSRF loan participation. The purchase price of all land, rights-of-ways, and easements, not to exceed the appraised value, may be included in the loan when: 1) the land is obtained less than one year prior to the date of a complete loan application, and 2) an appraisal, prepared by a qualified appraiser, is submitted on each parcel, right-of-way and easement with the loan application. For land with structures or other improvements, only the appraised value of the land is CWSRF loan eligible, not the appraised value of the land with the structures or improvements. In the CWSRF program, land may be acquired under proper eminent domain procedures when necessary.

## **D. Planning and Design Costs**

A CWSRF loan assistance agreement may include the costs of project planning and services incurred prior to construction (e.g., costs associated with preparing the PER, plans and specifications, advertising, pre-bid conference, bidding procedures, pre-construction conference, loan application, or administration). Only those costs for which there is clear documentation of expenses incurred solely for the proposed project and are dated no earlier than 36 months prior to the date of a complete loan application to RIA are eligible for funding.

## **E. Legal and Appraisal Fees**

In general, legal and appraisal costs associated with obtaining land (rights-of-way and easements) and attorney fees associated with the SRF loan application and loan closing process are eligible. Legal and appraisal costs associated with obtaining land are not eligible for funding under the CWSRF program if incurred earlier than one year prior to the date of a complete loan application to RIA.

## **F. Construction Costs**

Construction costs include the costs associated with the construction of the project by a contractor. The CWSRF may provide assistance for the costs associated with engineering services during construction, such as inspections, change orders, overview of contractors, shop drawings, record drawings, concrete or soil testing, Davis-Bacon, American Iron and Steel, and Build America, Buy America administration (as needed), and draw requests.

Equipment that is directly purchased by the sponsor for the project, such as pumps, generators, etc., is eligible.

Materials such as pipe, valves, brick, mortar, etc., that are directly purchased by the sponsor are eligible. The materials may be installed either by a contractor or by the sponsor using its own employees and equipment. Eligibility is limited to the costs of materials. The costs of supplies such as fuel, oil and tools used by the sponsor to install the materials are not eligible for funding under the CWSRF program. Additionally, force account labor is not eligible.



Service connections are eligible for funding from the SRF but only that portion of a service connection that will be owned and maintained by the project sponsor and installed as part of an SRF-funded sewer line project.

### **G. Contingency**

- The SRF program allows a contingency on eligible construction cost for projects as follows: ten percent (10%) of the construction line item for the first \$10 million dollars of construction cost and five percent (5%) for the construction amount that exceeds \$10 million.
- The SRF program allows a contingency of two and a half percent (2.5%) for materials that are directly purchased by the sponsor.
- There is no contingency allowed on equipment.

### **H. Phasing of a Clean Water Project**

To make construction and/or funding more manageable, a project may be divided into separately funded phases or segments at the option of the sponsor. However, to be CWSRF-eligible, any such phase or segment must be of reasonable scope and, when constructed, must have the capability of being placed into immediate full operation, without its full operation being dependent on a subsequent project phase or segment or another outside operation yet to be completed. After a given project phase is funded, subsequent phases must stand separately in competing with other projects for priority list ranking in later fiscal years.

### **I. Projects and Activities Not Eligible for Funding**

The CWSRF will not provide funding assistance for the following projects and activities:

1. Project components/activities that do not have a primary purpose to address emerging contaminants.
2. Projects for systems that lack adequate technical, managerial and financial capability (i.e., non-viable systems), unless the project is needed to address a high-priority environmental or human health concern or will promote sustainability and compliance over the long-term;
3. Projects exclusively correcting operation and maintenance deficiencies;
4. Projects for systems when consolidation or regionalization is the most feasible alternative for a system to maintain sustainability, unless the project addresses or supports consolidation or regionalization.

## **VII. Funds Available**

### **A. Amount of Capitalization Grant**

South Carolina's allotment for CWSRF Emerging Contaminants from the FFY 2022 federal appropriation is \$958,000.



## B. State Match Requirement and Anticipated Cash Draw Ratio

The state match requirement has been waived for the CWSRF Emerging Contaminants capitalization grant.

## C. Set-Aside for Administration of the CWSRF Program

The CWA allows states to use four percent (4%) of each capitalization grant to fund the administration of the State's CWSRF program and other non-project activities. For SFY 2023, the State does not plan to take the set-aside for administration of the CWSRF program from the FFY 2022 CWSRF Emerging Contaminants capitalization grant.

## D. Set-Aside for Technical Assistance

The CWA allows states to set aside up to two percent (2%) of each capitalization grant to fund technical assistance (TA) services to rural, small, and tribal publicly owned treatment works for addressing emerging contaminants. For SFY 2023, the State does not plan to take this set-aside from the FFY 2022 CWSRF Emerging Contaminants capitalization grant.

## E. Estimated Funds Available - State Fiscal Year (SFY) 2023

FFY 2022 CWSRF Emerging Contaminants federal capitalization grant	\$958,000
State match for FFY 2022 capitalization grant	\$0
Estimated amount of funds to be transferred to the DWSRF	\$958,000
Value of set-asides from FFY 2022 CWSRF capitalization grant	\$0
<b>Estimated Total Funds Available for SFY 2023 Projects</b>	<b>\$0</b>

## F. Equivalency to Account for Federal Funds

Not applicable since no projects were selected.

## G. Fee Income

Not applicable to PF projects.

# VIII. Assurances and Specific Proposals

DHEC has provided assurances and specific proposals as part of the Operating Agreement between South Carolina and EPA. The Operating Agreement provides a framework of procedures for operation and administration of the CWSRF including:

1. Environmental Reviews: The State will conduct environmental reviews according to the procedures identified in its Operating Agreement.
2. Binding Commitments: The State will enter into binding commitments for 100% of the amount of each quarterly payment under the capitalization grant within one year of each such payment.
3. Expeditious and Timely Expenditures: The State will expend all funds in the CWSRF in an expeditious and timely manner as previously discussed.

## IX. Additional Information / Requirements

### A. Federal Requirements

Sponsors will be notified of all applicable federal requirements once their project is identified as a candidate for funding. Several federal requirements are required of all SRF loan assistance recipients as follows:

- Environmental review of the project
- Compliance with Civil Rights Laws
- Davis-Bacon prevailing wage rates
- Build America, Buy America provisions
- American Iron and Steel
- Disadvantaged Business Enterprise compliance (DBE)
- Equal Employment Opportunity
- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards: Title 2 CFR, Parts 200 and 1500 (“Uniform Guidance” – governs single audit requirements)
- BIL Signage (for construction projects)

### B. Additional Subsidies

Not applicable since no projects were selected.

### C. Environmental Outcomes and Measures

DHEC will update EPA’s SRF Data System at least quarterly to report financial information about the program and projects, loan information, and project activities and benefits.

### D. Public Participation

Notice of the draft IUP is e-mailed to each project sponsor on the Comprehensive Priority List of CWSRF Projects and other interested parties.

During the public notice period (30-day minimum), the Draft IUP notice and DRAFT FFY 2022 CWSRF Emerging Contaminants IUP are posted on the DHEC Website, [www.scdhec.gov/srfforms](http://www.scdhec.gov/srfforms). Revised IUPs with significant changes must also have a public notice period (14 day minimum). Interested parties are invited to review the documents and submit written comments by the deadline established in the Draft IUP notice.

The draft FFY 2022 CW Emerging Contaminants Grant IUP was posted to the DHEC website on June 15, 2023. Notice of the draft IUP was emailed to SRF contacts, Rural Infrastructure Authority contacts, DHEC watershed stakeholders, and included communications to members of the SC Rural Water Association, the South Carolina Association of Counties, and the Municipal Association of South Carolina. Comments were accepted until 5:00 PM on July 15, 2023. No comments were received.