

**APPENDIX I: Emerging Contaminants Supplemental Intended Use Plan
DWSRF**

**APPENDIX J: Emerging Contaminants Supplemental Intended Use Plan
CWSRF**

California
State Water Resources Control Board
Division of Financial Assistance

Drinking Water State Revolving Fund (DWSRF)
& Clean Water State Revolving Fund (CWSRF)

Bipartisan Infrastructure Law – Emerging Contaminants
Funding

**SUPPLEMENTAL
INTENDED USE PLAN**

STATE FISCAL YEAR 2022-23

and

California Budget Act of 2021 and Budget Act of 2022,
General Fund PFAS Appropriations

I. BACKGROUND AND PURPOSE

President Biden signed the Bipartisan Infrastructure Law (BIL), also known as the Infrastructure Investment and Jobs Act (IIJA) of 2021, (P.L. 117-58) on November 15, 2021. IIJA includes \$50 billion to the U.S. Environmental Protection Agency (EPA) to strengthen the nation's drinking water and wastewater systems – the single largest investment in clean water and safe drinking water that the federal government has ever made.

The BIL provides \$5 billion through the Clean Water and Drinking Water State Revolving Funds (SRFs) to reduce people's exposure to perfluoroalkyl and polyfluoroalkyl substances (PFAS) and other emerging contaminants (EC) through their drinking water and to help address discharges through wastewater and, potentially, nonpoint sources. This is a unique opportunity to prioritize investment to local communities that are on the frontlines of PFAS contamination and that have few options to finance solutions through traditional programs. The BIL provides EC funding through the SRFs that must be distributed to communities entirely as forgivable loans and grants.

PFAS are not the only EC that threaten our water supplies and environment. Water projects that address other EC will also be eligible for funding under this program.

The State Water Resources Control Board (State Water Board) intends to apply for the full FFY 2022 DWSRF EC Capitalization Grant of \$66,649,000 that is allotted to the California DWSRF, and the full FFY 2022 CWSRF EC Capitalization Grant of \$6,687,000 allotted to the California CWSRF. This Supplemental Intended Use Plan describes the State Water Board's plan for administering the funds in accordance with the BIL-specific requirements noted in U.S. EPA's March 8, 2022, memorandum "[Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law](#)."

II. TRANSFER OF CLEAN WATER STATE REVOLVING FUND

The State Water Board will transfer California's entire \$6,687,000 CWSRF EC allocation from the CWSRF program to the DWSRF program. The DWSRF statutes and regulations allow for the transfer of an amount that is up to thirty-three percent (33%) of the amount of the DWSRF capitalization grant from the CWSRF to the DWSRF or vice versa. Therefore, the resulting total amount of available EC supplemental funds for the DWSRF program in SFY 2022-23 will be \$73,336,000. The State Water Board will work with stakeholders to assess funding needs for eligible activities and project types under

CWSRF EC for future allocations. The decision whether to transfer CWSRF EC funds in future years will be determined in the applicable future IUP.

III. COMPLEMENTARY FUNDING

The Budget Act of 2021 included \$30 million in General Fund local assistance for technical and financial assistance to drinking water systems to address PFAS. The Budget Act of 2022 appropriated an additional \$50 million for technical and financial assistance to drinking water systems. The 2022 Budget Act designated \$15 million of the \$50 million appropriated for grants, contracts, and direct expenditures to: (1) test community water systems serving disadvantaged and severely disadvantaged communities; (2) develop standard operating procedures and validate a broad spectrum PFAS test; and (3) develop treatment-based PFAS regulations. Budget language makes \$100-120 million for SFY 2023-24 available upon appropriation by the Legislature. If the funds are appropriated, they will be included in a future year IUP.

Use of these state budget act PFAS funds for small DACs may be implemented and funded consistent with the process outlined in the Safe and Affordable Drinking Water (SADW) Fund Expenditure Plan (FEP) dependent on authority provided therein, as well as through this supplemental IUP. The Deputy Director of DFA may authorize technical assistance grants to support community water systems with testing, even over and above the \$15 million allocation mentioned above, to the extent authorized, as needed to meet statewide needs. When funding technical assistance, the Deputy Director has the authority to apply relevant programmatic requirements from the SADW FEP as appropriate, such as those regarding eligibility of indirect costs. Eligible PFAS drinking water implementation projects for water systems that are serving expanded small, medium, or large DACs or non-DACs, as well as for small DACs that are not funded through the FEP, will be implemented and funded per this Supplemental IUP.

Some applicants may have jurisdiction over multiple public water systems and wish to implement a program that will address multiple public water systems within their jurisdiction. Multiple projects proposed by an applicant may be funded, provided that the projects would have otherwise been recommended for funding had they been submitted individually. The State Water Board may enter into a single agreement with an applicant for multiple projects, if it is administratively expedient to do so, or may have separate funding agreements for individual projects (e.g., if the projects have significantly different timelines for completion; or legal issues may hold up one project, but not another). When funding such a program, the maximum grant limit will be applied on a per public water system basis. To the extent permitted by statute, the Deputy Director of the Division of Financial Assistance (DFA) has the authority to streamline application requirements and structure agreements as appropriate for the purposes of funding programmatic applications.

The USEPA has also recently announced the availability of the [EC in Small or Disadvantaged Communities Grant](#). A total of \$5 billion is anticipated to be available nationally over the next 5 years. DFA intends to submit a Letter of Interest by August 15, 2022, after which USEPA is expected to notify states of their award amounts for fiscal year 2022. States are then to prepare a workplan outlining how their allocation will be utilized to provide grants to public water systems in small (population less than 10,000) or disadvantaged communities, with no match required. These funds would complement the federal EC allocation and the state PFAS funding.

IV. PROGRAM GOALS

The BIL EC funds will “address emerging contaminants in drinking water with a focus on perfluoroalkyl and polyfluoroalkyl substances through capitalization grants under section 1452(t) of the Safe Drinking Water Act for the purposes described in section 1452(a)(2)(G) of such Act.”

The EC program goals are in concert with the long-term and short-term goals listed in section VII of the SFY 2022-2023 DWSRF IUP (Outcomes, Goals, Actives, and Measure), including public health benefits and expeditious use of funds.

For projects that address PFAS specifically, state funding appropriated in the Budget Acts of 2021 and 2022¹ for General Fund local assistance grants for technical and financial assistance to drinking water systems to address PFAS may be utilized before DWSRF EC funds, except for any portion that will be used for the needs of small DACs per the SADW FEP.

V. PROGRAM REQUIREMENTS

Under the BIL and SDWA, one hundred percent (100%) of the EC capitalization grant, net of set-asides taken, must be provided as forgivable loans or grants.² Not less than twenty-five percent (25%) of the DWSRF EC funds must be provided to disadvantaged communities or public water systems serving fewer than 25,000 people.

All existing requirements for implementation of the DWSRF program and execution of a DWSRF funding agreement apply to projects receiving DWSRF EC Funding and remain in effect as required by the BIL, unless inconsistent with the BIL or this supplemental EC IUP. Applicants’ EC projects that are funded by DWSRF EC funds must meet the

¹ \$30 million for FY 2021-22, \$50 million for FY 2022-23. There is an additional \$100-120 million anticipated for FY 2023-24, for a total of up to \$200 million.

² The State Water Board directs that 100% of DWSRF EC project funding be provided as forgivable loans.

requirements of the DWSRF program, including all federal cross-cutting requirements,³ and be otherwise eligible DWSRF projects. In addition, projects receiving DWSRF EC funds must meet the specific requirements noted in U.S. EPA's March 8, 2022, memorandum "[Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law.](#)"

To the extent that funding appropriations allow, on a case-by-case basis, eligible costs may be reimbursed back to September 23, 2021 (appropriation date of the first \$30 million, from the 2021 Budget). If a project will receive PFAS General Fund grant funding only, some federal requirements will not apply (see Table 8 in the DWSRF IUP). Such projects do not have to be on the EC Fundable List. Where feasible, applicants are encouraged to comply with all DWSRF requirements, to remain eligible for DWSRF funding. Requirements in the Base Program DWSRF IUP that apply to projects that receive State Grant Funds generally apply to projects that receive PFAS General Fund grant funding, unless inconsistent with this supplemental IUP.

VI. ELIGIBLE PROJECTS AND ACTIVITIES

Below is a non-exhaustive list of DWSRF-eligible projects and activities under the DWSRF EC Capitalization Grant. For a project or activity to be eligible for funding under from the DWSRF EC Capitalization Grant, it must be otherwise DWSRF eligible, and the primary purpose must be to address EC in drinking water. Although funding for projects with a focus on PFAS will be prioritized, projects that address any contaminants listed on any of EPA's [Contaminant Candidate Lists](#) are potentially eligible for DWSRF EC funding (i.e., CCL1 – draft CCL5).⁴ Eligible DWSRF EC/state PFAS grant projects that protect a greater number of households per dollar should also be prioritized, if funding is limited.

Eligible DWSRF EC/state PFAS grant projects are not subject to DWSRF priority categories A-F, or the criteria outlined in Appendices D and E of the IUP, but guidelines from the DWSRF Policy and IUP regarding eligible costs do apply. Examples of eligible projects include, but are not limited to:

³ All projects funded by DWSRF EC funding are equivalency projects, and thus all federal requirements apply. Tier II environmental review and Appendix F of the IUP do not apply to such projects.

⁴ In accordance with U.S. EPA guidance, if U.S. EPA has promulgated a National Primary Drinking Water Regulation (NPDWR) for a contaminant, then a project whose primary purpose is to address that contaminant is not eligible for DWSRF Emerging Contaminants funding, unless the contaminant is PFAS, which is eligible regardless of whether NPDWR has been promulgated. Projects addressing contaminants for which a NPDWR has been promulgated may be eligible for other DWSRF funding.

- Construction of a new treatment facility or upgrade to an existing treatment facility that addresses EC/PFAS.
- Development of a new source (i.e., new/replacement well or intake for a public water system) that addresses an EC/PFAS issue [Note: for DWSRF EC funding, water rights purchases must still meet the criteria in the [Class Deviation for Water Rights](#)].
- Consolidation with another water system that does not have EC/PFAS present or has removal capability.
- Infrastructure related to pilot testing for treatment alternatives.
- Creation of a new community water system to address unsafe drinking water provided by individual (i.e., privately-owned) wells or surface water sources.

Eligible construction projects may include costs for planning and design.

VII. PROGRAM SCHEDULE AND FUNDING APPROACH

The schedule for public comment, application to the U.S. EPA, State Water Board adoption of this EC Supplemental IUP, and award of the EC funds is the same as the schedule for the SFY 2022-2023 DWSRF IUP as presented in Section VIII of the SFY 2022-2023 DWSRF IUP.

Applications for EC/PFAS funding will be accepted on a continuous basis. Applicants shall follow the existing DWSRF application process for EC/PFAS applications.

Applicants can refer to the State Water Board's website https://www.waterboards.ca.gov/drinking_water/services/funding/SRF.html and the FAAST portal <https://faast.waterboards.ca.gov/> where details of the application and supporting documentation are described in order to complete the DWSRF application. The EC Fundable List in Section XII was developed to determine how best to allocate the EC funds.

Federal rules also require that at least 15 percent (15%) of available DWSRF funding be provided to PWSs that serve less than 10,000 people to the extent that projects for these PWSs are eligible and ready to proceed to a funding agreement (Small Water System Reserve). Based on the amount of DWSRF EC available as of PF of \$55,739,780, the minimum available for small water systems that serve less than 10,000 people is \$8,360,967.

The Deputy Director of DFA is authorized to bypass any project with a complete application if the applicant is non-responsive to DFA's request for information or consultation after notifying the applicant and giving the applicant a reasonable

opportunity to respond, and instead to fund any other EC/PFAS eligible project that is ready to proceed to an agreement.

VIII. FUNDING AVAILABILITY AND TERMS

The State Water Board will provide one hundred percent (100%) of the available EC Funding as principal forgiveness (PF) to eligible PWS in accordance with the limits shown in the table below, to the extent allowed by state law. After reserving \$17,596,220 for set-aside activities, there will be \$55,739,780 available as PF. BIL requires that "not less" than twenty-five percent (25%) of the EC funds go to DACs or systems with populations <25,000.

Both the state budget act PFAS grant funds and the DWSRF EC funds will be subject to the limits in Table 1.

Table 1: Maximum Emerging Contaminants PF or Grant per Water System

| Type of Community ¹ | Percentage of Total Eligible Project Cost | Maximum Amount of EC PF/PFAS grant |
|--|---|------------------------------------|
| DAC Systems or Systems That Serve a Population Under 25,000 | up to 100% | \$5,000,000 ² |
| Non-DAC Systems That Serve a Population of 25,000 or greater | up to 50% | \$5,000,000 ³ |

Notes:

1. PF may be provided to projects serving DACs in accordance with the requirements of Health and Safety Code, section 116761.20(b)(1). The extent of PF eligibility will depend on whether there are limitations in the state DWSRF law. With regard to grants provided by state General Fund appropriations, both DAC and non-DAC community water systems or schools may be eligible to the extent authorized by the applicable appropriations act, but may be subject to additional limitations as specified therein.
2. If an EC eligible project would be eligible for a higher PF/grant amount based on the criteria in Appendix E of the DWSRF IUP, then the EC PF/PFAS grant limit can be increased to match the amount specified in Appendix E, and potentially paired with other funds as appropriate to meet other needs as part of the same project. The Deputy Director of DFA may further increase the maximum EC PF/PFAS grant for water systems serving small DACs on a case-by-case basis for good cause.
3. The Deputy Director of DFA may increase the maximum EC PF/PFAS grant amount to \$10 million if sufficient additional applications for eligible projects are not received by December 31, 2022.

DFA may offer DWSRF Base Program funding in addition to EC/PFAS Funding to fund EC/PFAS projects or projects that have both EC/PFAS components as well as

components that are eligible for Base Program funding. To be eligible for DWSRF Base Program funding, projects must also be placed on the Base Program Fundable List in accordance with the provisions of the DWSRF IUP.

To prioritize projects addressing PFAS contamination for DWSRF EC funding, DFA will process complete PFAS applications ahead of those addressing other EC. DFA will also establish a goal of using at least fifty percent (50%) of the EC Capitalization Grant to fund PFAS projects, with highest priority going to projects addressing PFAS concentrations that exceed a Division of Drinking Water (DDW) Response Level (consistent with DDW's criteria for evaluating exceedances).

Section XII provides a summary table of the EC Fundable List. Currently, the list includes projects from eleven (11) entities for total requested project costs of \$410,070,762. Based on the Deputy Director's discretion to increase the funding limits as stated in Table 1, and the current EC Fundable List, DFA will be able to commit one hundred percent (100%) of the EC funds available, after set-asides, to eligible projects. However, DFA anticipates an increase in demand once prospective applicants become aware of the funding terms. If that is the case then the Deputy Director of DFA may add to the EC Fundable List any additional eligible projects that request DWSRF EC Funding. DFA will periodically post an updated Emerging Contaminants Fundable Project List on the DWSRF website that identifies all projects for which complete applications are received by DFA after the development of this Supplemental IUP.

IX. ADMINISTRATION AND SET-ASIDE FUNDS

The BIL allows each state to set aside up to thirty-one percent (31%) of its DWSRF EC capitalization grant to support various DWSRF and Division of Drinking Water (DDW) program activities, including (1) the administration of the DWSRF, (2) small water system (SWS) technical assistance, (3) public water system (PWS) supervision by DDW and (4) other technical assistance to PWSs in support of technical, managerial, and financial capacity development. The Set-Asides are especially beneficial to SWSs serving SDACs and DACs.

The BIL allows each state to set aside up to four percent (4%) of its CWSRF EC capitalization grant to support administration of the CWSRF up to four percent (4%),

For SFY 2022-23, the State Water Board will set-aside twenty-six percent (26%) of the 2022 DWSRF EC Capitalization Grant and four percent (4%) of the 2022 CWSRF EC Capitalization Grant for set-aside activities as further described below.

Table 2: SFY 2022-23 DWSRF EC and CWSRF EC Set-Aside Budget

| Set-Aside Category | Max Allowed | Budgeted from FFY 2022 Grant | Estimate |
|---------------------------|-------------|------------------------------|---------------------|
| DWSRF EC | | | |
| Administration | 4% | 4% | \$2,665,960 |
| SWS Technical Assistance | 2% | 2% | \$1,332,980 |
| PWS Supervision | 10% | 10% | \$6,664,900 |
| Other Local Assistance | 15% | 10% | \$6,664,900 |
| DWSRF EC Subtotal | | 26% | \$17,328,740 |
| CWSRF EC | | | |
| Administration | 4% | 4% | \$267,480 |
| CWSRF EC Subtotal | | 4% | \$267,480 |
| Total EC Set-Aside | | | \$17,596,220 |

The DWSRF EC Set-Aside Work Plan for SFY 2022-23 will contain information about the specific tasks and full-time equivalent personnel that will be supported in DFA and DDW by the DWSRF EC Set-Aside budget. The Deputy Director of DFA is authorized to enter into contracts to accomplish work covered by the set-aside budget.

A. Administration Set-Aside

The Administration Set-Aside will fund administration of the DWSRF EC program in SFY 2022-23. This will include the review and processing of drinking water funding applications, project management and general oversight of DWSRF construction and planning projects. The DWSRF Administration Set-Aside will also cover the costs for accounting, legal, budgetary, and general management and oversight of the DWSRF

EC funds.

B. Small Water System Technical Assistance Set-Aside

The SWSTA Set-Aside will fund DFA technical assistance to small PWS applicants with 10,000 or fewer persons to help establish eligibility for DWSRF EC funds or state PFAS funding and provide other technical assistance necessary for project development.

C. State Program Management Set-Aside

The State Program Management Set-Aside will be used to partially fund DDW's administration of the State Water Board's PWSS program as it relates to ECs. The Set-Aside will provide funds for DDW's inspection, compliance, and monitoring activities related to ECs in accordance with the SDWA and PWSS responsibilities delegated by U.S. EPA.

D. Local Assistance Set-Aside

The Local Assistance Set-Aside will be used in SFY 2022-23 for the personnel costs of the Office of Sustainable Water Solutions within DFA and DDW working with PWSs addressing ECs. These staff costs are associated with State Water Board's implementation of its Capacity Development Strategy and providing direct technical assistance to PWSs in support of this strategy.

X. EC CAPITALIZATION GRANT PAYMENTS AND DRAWS

1. Federal EC Capitalization Payments

Based upon the State Water Board's cash flow for SFY 2022-23, the State Water Board has requested the following federal payment schedule from U.S. EPA for the 2022 EC Capitalization Grant, as detailed in Table 3.

Table 3: 2022 EC Capitalization Grant Payment Schedule

| FFY | Payment Date | Percentage of Cap Grant | Estimated Amount | Description | Site Code* |
|------|--------------|-------------------------|------------------|---|------------|
| 2022 | Award Date | 4% | \$2,933,440 | DWSRF & CWSRF Administration Set-Aside | DD |
| 2022 | Award Date | 2% | \$1,332,980 | SWS Technical Assistance Set-Aside | DE |
| 2022 | Award Date | 10% | \$6,664,900 | State Program Management Set-Aside | DF |
| 2022 | Award Date | 10% | \$6,664,900 | Local Assistance & Other Programs Set-Aside | DG |
| 2022 | Award Date | 74% | \$55,739,780 | PF Fund | DA |

*Site Codes reference the federal accounts in which the various loan and set-aside funds of a capitalization grant are deposited and made available for liquidation by the State Water Board.

2. EC Federal Draw Schedule and Estimated EC Project Disbursements

Section XIII represents the State Water Board's anticipated federal draw schedule for SFY 2022-23 as well as the anticipated liquidation of the 2022 EC Capitalization Grant in SFY 2022-23.

Current cash flow projections suggest that the 2022 EC Capitalization Grant may not be liquidated until late calendar year 2023, due to the expenditure rate of the set-asides.

XI. REPORTING

The State Water Board's DFA will report on EC projects to the Drinking Water Project and Benefits Reporting System (PBR) and the Federal Funding Accountability and Transparency Act of 2010 (FFATA) Subaward Reporting System. EC project characteristics and milestone information will be reported to PBR, and the public water system receiving federal dollars will be reported in the FFATA Subaward Reporting System.

XII. EMERGING CONTAMINANTS FUNDABLE LIST

(Sort Order: PFAS Projects, Applicant)

| Project Number | District Number | Applicant | Project Title / Description | PFAS Project | Population | Degree of Disadvantaged | Requested Funding | Estimated Maximum PF/Grant Amount ⁵ |
|-------------------------------|-----------------|-----------------------------------|--|--------------|------------|-------------------------|-----------------------|--|
| 3010001-003C | 08 | Anaheim, City of | Groundwater Treatment Plants (PFAS) | Y | 358,000 | Not Disadvantaged | \$ 85,000,000 | \$5,000,000 |
| 0110008-001C | 04 | Pleasanton, City of | Per- and Polyfluoroalkyl (PFAS) Treatment and Wells Rehabilitation Project | Y | 83,000 | Not Disadvantaged | \$ 31,400,000 | \$5,000,000 |
| 1910017-002C | 22 | Santa Clarita Valley Water Agency | Santa Clarita Valley Water Agency Groundwater Contamination Treatment | Y | 111,000 | Not Disadvantaged | \$ 24,000,000 | \$5,000,000 |
| 4410010-003C | 05 | Santa Cruz, City of | Graham Hill Water Treatment Plant Facility Improvements Project | Y | 96,168 | Not Disadvantaged | \$ 177,600,000 | \$5,000,000 |
| 0110010-003C | 04 | Zone 7 Water Agency | Chain of Lakes PFAS Treatment Facility | Y | 195,000 | Not Disadvantaged | \$ 25,000,000 | \$5,000,000 |
| 1510001-005C | 12 | Arvin Community Services District | 123 TCP Treatment for Well No.8 and Well No. 13 | N | 11,847 | Severely Disadvantaged | \$ 3,115,350 | \$3,115,350 |
| 1000004-001C | 23 | Belmont Water Corporation | Belmont Water Corporation 1,2,3-TCP Mitigation - Construction | N | 264 | Not Disadvantaged | \$ 1,442,700 | \$1,442,700 |
| 5010009-005C | 10 | Keyes Community Services District | Construction of TCP Treatment Improvements at Well #7, #8, #9, and #10 | N | 4,575 | Severely Disadvantaged | \$ 10,410,000 | \$10,410,000 |
| 2410004-004C | 11 | Livingston, City of | Livingston 1,2,3-TCP Removal Treatment System Project | N | 14,228 | Disadvantaged | \$ 12,000,000 | \$12,000,000 |
| 1010025-001C | 23 | Parlier, City of | 1,2,3-TCP Removal Treatment Systems | N | 15,312 | Severely Disadvantaged | \$ 14,233,850 | \$14,233,850 |
| 1510021-004C | 12 | Wasco, City of | Water System Improvement & Treatment Project | N | 19,448 | Severely Disadvantaged | \$ 25,868,862 | \$25,868,862 |
| Total EC Fundable List | | | | | | Projects = 11 | \$ 410,070,762 | \$92,070,762 |

⁵ See Table 1, fn. 1.

The Deputy Director of DFA may increase the maximum EC PF/PFAS grant amount to \$10 million if sufficient additional applications for eligible projects are not received by December 31, 2022.

XIII. FFY 2022 ESTIMATED EC CAPITALIZATION GRANT CASH DRAW SCHEDULE⁶

| FFY 2022 DWSRF and CWSRF EC Capitalization Grant/Accounts | Total Amount (Date of Award) | SFY 2022-23 Federal Draws | | | | SFY 2023-24 Federal Draws | | | |
|---|------------------------------|---------------------------|----|----|----|---------------------------|----|----|----|
| | | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 |
| Project Loan Fund | | | | | | | | | |
| 2022 Loan Funds | \$55,739,780 | | | | | | | | |
| Set-Aside Accounts | | | | | | | | | |
| 2022 DWSRF and CWSRF Administration | \$2,933,440 | | | | | | | | |
| 2022 SWS Administration | \$1,332,980 | | | | | | | | |
| 2022 PWSS | \$6,664,900 | | | | | | | | |
| 2022 Local Assistance | \$6,664,900 | | | | | | | | |

⁶ EC Set-Aside and Loan Fund draws will be determined following final determination of planned use.