



Supplemental CWSRF Intended Use Plan

For Funds Appropriated by the
ADDITIONAL SUPPLEMENTAL APPROPRIATIONS
FOR DISASTER RELIEF ACT, 2019

FINAL

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Appendix A

Attachment 1

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 capitalization grant funding as part of its annual appropriations.

On June 6, 2019, the President signed P.L. 116-20, the Additional Supplemental Appropriations for Disaster Relief Act, 2019 (ASADRA) into law. This legislation appropriates capitalization grant funding “provided to States or Territories in EPA Regions 4, 9, and 10 in amounts determined by the Administrator for wastewater treatment works and drinking water facilities impacted by Hurricanes Florence and Michael, Typhoon Yutu, and calendar year 2018 wildfires and earthquakes”; and further states, “That the funds appropriated herein shall be used for eligible projects whose purpose is to reduce flood or fire damage risk and vulnerability or to enhance resiliency to rapid hydrologic change or natural disaster at treatment works as defined by section 212 of the Federal Water Pollution Control Act [aka Clean Water Act] or any eligible facilities under section 1452 of the Safe Drinking Water Act, and for other eligible tasks at such treatment works or facilities necessary to further such purposes.” This Supplemental Intended Use Plan (IUP), required under the CWA, describes how South Carolina intends to use federal funds allocated to South Carolina from ASADRA, and includes eligibility requirements and CWSRF/ASADRA program requirements. South Carolina’s allotment from ASADRA for the CWSRF is \$12,673,000.

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 Rural Infrastructure Authority (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 <http://www.scdhec.gov/srf>.

II. Goals

South Carolina CWSRF is designed to promote sustainable improvements to the state’s infrastructure and help ensure maximum environmental and public health benefits. The specific goals for the ASADRA CWSRF funds are as follows:

A. Short-Term Goals

1. Use funds provided through the ASADRA to promote sustainable, resilient CWSRF projects to reduce negative on impacts the environment and public health caused by natural disasters in counties of the state with a FEMA Hurricane Florence disaster declaration for public utilities.
2. Provide ASADRA funds in the amount of the state's ASADRA capitalization grant to as many eligible utilities and local governments as possible with a preference for systems that currently do not have a project funded by the CWSRF.

B. Long-Term Goals

1. Promote sustainable system capacity through consolidation of systems thereby taking advantage of the economies of scale to address technical, managerial and financial capacity problems.
2. Assist local communities as they strive to achieve and maintain compliance with federal and state water quality standards by funding projects that improve or protect water quality by reducing pollutant loading in order to attain water quality standards.
3. Maintain a working relationship with other infrastructure funding authorities within the state to coordinate water quality funding.
4. Work collaboratively to direct CWSRF funds to areas where additional DHEC and EPA resources are already invested (i.e., Priority Watersheds and 319 grants).
5. Support the use of green practices and investment in green infrastructure, water and energy efficient improvements and environmentally innovative projects.
6. Maintain the fiscal integrity of the CWSRF to ensure the perpetuity of the fund.

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

Funds received through the ASADRA are available for transfer between the CWSRF and the Drinking Water (DW) SRF subject to the limits set forth in applicable legislation. Any transferred funds will be subject to ASADRA requirements as outlined in the October 23, 2019 EPA Memorandum: Award of State Revolving Funds Appropriated by the "Additional Supplemental Appropriations for Disaster Relief Act, 2019".

The South Carolina SRF has no plans to transfer any ASADRA capitalization grant funds but reserves the authority to transfer ASADRA funds as appropriate, at some time in the future, between the CWSRF and DWSRF program. A transfer of up to 33 percent of the ASADRA DWSRF capitalization grant is possible. The ability to transfer ASADRA funds from one program to another can assist in meeting the demands for ASADRA funding if warranted.

IV. Provisional Projects List

The Clean Water Provisional Projects List (PPL) (Appendix A) identifies projects that are considered to be eligible to receive ASADRA assistance.

Final funding decisions for all projects are contingent on a satisfactory review of the project sponsor's technical and managerial capacity, a completed environmental review of the proposed project, issuance of a DHEC SRF construction permit (or construction approval letter), and a successful final credit review by the RIA for the Authority. The availability of a loan from the Authority will be based on the project sponsor's financial capacity and its ability to afford repayment on the requested amount of debt.

The Provisional Project List includes projects that have been identified to receive principal forgiveness funds. These funds are only available if the ASADRA Capitalization Grant is awarded by EPA and accepted by DHEC. Project listing is not a commitment of funding.

V. Method for Selecting Projects and Distribution of Funds

A. Priority Ranking System

DHEC SRF uses an integrated priority system for ranking section 212 treatment work projects as well as eligible nonpoint source projects. A copy of the ranking system used to score and rank projects can be found on the SRF Documents and Forms webpage at <http://www.scdhec.gov/srfforms>.

B. Comprehensive Priority List of CWSRF Projects

For a project to be considered for funding from the CWSRF, it must appear on the State's Comprehensive Priority List of CWSRF Projects. To be included in this list, an eligible project sponsor (municipalities, counties or special purpose districts) must complete a project questionnaire (PQ), DHEC-3561. The DHEC-3561 form can be found on the SRF Documents and Forms webpage, <http://www.scdhec.gov/srfforms>. A project sponsor may submit a completed PQ to the SRF section of DHEC's Bureau of Water at any time. Once the PQ is received, DHEC staff will evaluate the project based on the CWSRF Priority Ranking System and assign the project a 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, <http://www.scdhec.gov/srfforms>.

If a project remains on the Comprehensive Priority List for three years and does not proceed, DHEC staff will contact the sponsor and request that a revised PQ be

submitted within 30 days that updates the cost estimate along with any changes to the project description. A revised PQ is scored to determine priority rank and remains on the Comprehensive Priority List. If DHEC does not receive a revised PQ, the project is removed from the Comprehensive Priority List.

Project Questionnaires for projects seeking assistance from ASADRA funds were scored using the CWSRF Priority Ranking System and incorporated by rank order into the existing Comprehensive Priority List. Projects not selected to receive ASADRA assistance will remain on the Comprehensive Priority List and will be eligible for loan assistance offered through the traditional SRF program.

C. Selection of Projects and SRF Funding

The selection of projects for the ASADRA CWSRF Provisional Project List (Appendix A) is based on eligibility of the sponsor and project type (as set forth in Section VI.A.), project ranking score and the procedures and preferences explained in Section V.D. Bypass Procedure.

D. Bypass Procedure

When selecting projects for ASADRA funding, DHEC will bypass non-ASADRA eligible projects on the Comprehensive Priority List. Other bypass procedures used for ASADRA funds are as follows:

1. To fund only one project per eligible sponsor unless the funding requests received are insufficient to meet the amount and funding requirements of the ASADRA capitalization grant.
2. To fund projects in counties with FEMA disaster designations for Hurricane Florence for both Private Assistance and Public Assistance Grants in Category F: Utilities (see Section VI.A).
3. To fund eligible sponsors requesting principle forgiveness funds that currently do not have a project being funded by the CWSRF.

E. Expeditious Use of Funds

To promote timely commitment and use of SRF funds, DHEC will set 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 in Appendix A, the project sponsor must 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 project milestones.

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 form 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 the RIA as part of the preliminary financial review and loan application process.

G. Interest Rates and Funding Terms for Eligible Projects

The interest rate for ASADRA loans will be one percent (1%) for a term of 20 years. Note: with the exception of interest rate and term, all remaining policies contained in the annual SCSRF Clean Water Major Financial Policies apply to ASADRA loans.

H. Loan Application

Sponsors of ASADRA Provisional Projects who successfully complete RIA's preliminary financial review may apply to the Authority through RIA for SRF loan financing by submitting a loan application approximately 30 days prior to submitting plans and specifications as required for a DHEC/SRF construction permit or letter of approval. Authorization to construct the project, either through an SRF-issued Permit to Construct or Letter of Approval, both of which require a completed environmental review, is required before an SRF loan application is considered complete.

ASADRA funds are available first-come-first-served. ASADRA funds will be assigned to projects in the order in which they have a complete SRF application regardless of the rank order of the project on the Provisional Project List in Appendix A. Funds needed in excess of the funds available for ASADRA loans will come from the "base" SRF program.

VI. Eligibilities

A. ASADRA Eligible Sponsors

P.L. 116-20 states "ASADRA funding may go to an otherwise SRF-eligible sponsor (e.g. municipality, county, special purpose district or other public entity) within an eligible state whose wastewater or stormwater infrastructure was damaged, demonstrates impact, or had a loss or disruption of a mission-essential function, including loss of function where there was potential impact to public health, caused by the listed natural disasters (Hurricane Florence for SC)." Because Hurricane Florence did not impact the entire state of South Carolina equally, the SC SRF program used the FEMA disaster declaration, "South Carolina Hurricane Florence (DR- 4394)" to identify the counties wherein sponsors are eligible for ASADRA SRF loan assistance. FEMA designated fourteen counties, listed below, as eligible for Public Assistance Grants for Category F: Utilities - Repair of water treatment and delivery systems; power generation facilities and distribution lines; and sewage collection and treatment facilities. SRF-eligible utilities and local governments with ASADRA-eligible projects in these fourteen counties are eligible to apply for ASADRA SRF funds. As discussed in Section V.B. Bypass

Procedures, additional *preference* is given to eligible sponsors and projects in the eight counties designated by FEMA for Individual Assistance and Public Assistance Grants for Category F: Utilities. (See Attachment1, FEMA-4394-DR, South Carolina Disaster Declaration.)

In addition to meeting sponsor eligibility, projects must be of a type considered eligible under ASADRA. See Section VI.B for more on project eligibility.

Counties designated for Public Assistance Grants for Category F: Utilities (FEMA-4394-DR)

Berkeley, Calhoun, Chesterfield*, Clarendon, Colleton, Darlington*, Dillon*, Florence*, Georgetown*, Horry*, Lancaster, Marion*, Marlboro*, and Williamsburg

* County designated for Individual Assistance by FEMA

B. ASADRA Eligible Activities

For an activity to be eligible under the ASADRA, it must be otherwise SRF eligible and serve one or more of the following purposes:

- Facilitates preparation for, adaptation to, or recovery from rapid hydrologic change or any other type of natural disaster for a wastewater treatment work or drinking water system or related facility
- Reduces the likelihood of physical damage to a treatment works or drinking water systems
- Reduces a treatment works' or water system's susceptibility to physical damage or ancillary impacts caused by floods, earthquakes, and fires
- Facilitates preparation for, adaptation to, or recovery from a sudden, unplanned change in the amount of and movement of water in proximity to a treatment works or water system

Taken from EPA Memorandum, dated October 29, 2019, Subject: "Award of State Revolving Funds Appropriated by the "Additional Supplemental Appropriations for Disaster Relief Act, 2019".

C. 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>.

D. 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 submission 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.

E. Planning and Design Costs

A CWSRF loan 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, administration, or creating a watershed-based plan). 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 the RIA are eligible for funding under the CWSRF program.

F. 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 submission of a complete loan application to the RIA.

G. 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 and American Iron and Steel administration, 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 Clean Water SRF 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.

H. Contingency

- The SRF program allows a contingency on eligible construction costs 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.

I. Phasing of a CWSRF 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. If a project funded under ASADRA is a phased project, future phases would be considered under the regular SRF program.

J. Projects Not Eligible for Funding

Any project not meeting the definitions of ASADRA eligibility as put forth by the SC SRF program (for sponsor and project-type (see Sections VI.A. and VI.B.) will not be eligible for ASADRA funding. In addition, the SC CWSRF will not provide funding assistance for the following projects and activities:

1. 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;
2. Projects exclusively correcting operation and maintenance deficiencies;
3. Projects for systems in NPDES noncompliance, unless funding will help a system achieve compliance.

VII. Funds Available

A. Amount of Capitalization Grant

South Carolina's allotment from the ASADRA federal appropriation is \$12,673,000.

B. State Match Requirement

One condition of receiving the ASADRA capitalization grant allotment is the State must deposit into the CWSRF an amount equal to at least 20 percent of the total amount of the expected capitalization grant. The RIA will deposit to the CWSRF fund the required amount of \$2,534,600 to comply with the state match requirement.

C. Administration of the CWSRF Program

The ASADRA allows each state to use an amount equal to four percent (4%) of a capitalization grant to fund the administration of the CWSRF program. At this time, DHEC does not plan to use any of the ASADRA capitalization grant for administration.

D. SC CWSRF ASADRA Funds Available

ASADRA federal capitalization grant	\$12,673,000
State match for FFY 2019 capitalization grant	\$2,534,600
Total Funds Available for ASADRA Loans	\$15,207,600

It should be noted that the total of CWSRF loan funds identified for potential ASADRA projects shown in Appendix A is greater than the estimated funds available for ASADRA loans shown in the table above. Funds needed in excess of the funds available for ASADRA CW loans will come from the "base" CWSRF program.

E. Anticipated Cash Draw Ratio

For ASADRA funds, SCSRF will be using a cash draw ratio of 83.3 percent federal funds and 16.7 percent state match funds. State matching funds will be deposited to the CWSRF before or at the same time as capitalization grant funds.

F. Fee Income

A loan closing fee of 0.35 percent of the loan amount is required of ASADRA loan recipients to support RIA's operating costs. This fee is not eligible for inclusion in the loan.

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 120% of the amount of each payment received under the capitalization grant within one year of receipt of payment.
3. Expeditious and Timely Expenditures: The State will expend all funds in the CWSRF in an expeditious and timely manner.

IX. Additional Information / Requirements

A. Federal Requirements

Due to the nature of the ASADRA funds, all applicable federal requirements for SRF apply to candidate ASADRA projects and borrowers. These federal requirements include, but are not limited to:

- Environmental review of the project
- Compliance with Civil Rights Laws
- Davis-Bacon prevailing wage rates
- American Iron and Steel
- Fiscal sustainability plans for project components
- Cost and effectiveness analysis of the project
- 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)
- Architectural and Engineering Procurement
- Signage

B. Additional Subsidies

The ASADRA requires that at least 20% of the capitalization grant shall be used to provide additional subsidy to CWSRF projects that qualify under ASADRA. Section 603(i) of the CWA, states the conditions under which additional subsidy may be offered to a project.

EPA expects the SRF program to ensure that systems and project sponsors who receive additional subsidy have the technical, managerial and financial capacity to maintain compliance with federal and state regulations. The Utility Sustainability Assessment mentioned in Section V.F above is one tool used by the SRF to evaluate the technical, managerial and financial capacity of a potential SRF additional subsidy recipient. Systems that do not have adequate technical, managerial and financial capacity may receive additional subsidy funds if the system/sponsor agrees to undertake needed changes in operation that will promote sustainability. The sponsor may not be eligible for additional subsidies on future projects until the agreed upon operational changes have been fully implemented. Also, systems who ask to be considered for principal forgiveness funds should not be delinquent on submission of annual financial audits to the State Treasurer's Office as required by SC state law.

The SRF program plans to utilize ASADRA additional subsidy funds, provided as principal forgiveness (PF), for ready-to-proceed construction projects, to encourage sustainability and resiliency through project planning, design and construction. ASADRA eligible sponsors with ASADRA eligible projects that may receive PF assistance are as follows:

- Small systems (population less than 10,000) that can't afford a CWSRF loan, or;
- A sustainable system owner that is willing to assume ownership of an unsustainable or abandoned system.

To make maximum benefit of PF funds provided by the ASADRA, no one sponsor may receive more than \$1,000,000 of this subsidy unless PF funds remain unassigned or are not committed to an identified project as expected.

Appendix A indicates the amount of PF that has been assigned to ASADRA projects. The SRF Program reserves the right to adjust PF amounts. **However, please be aware that the ASADRA funds identified by the South Carolina SRF program for PF assistance have been fully assigned to projects. Consequently, no additional ASADRA funds will be available for projects costs that exceed the PF amount requested by the system on the Project Questionnaire and shown on the Provisional Project List in Appendix A.** PF funds are only available if EPA awards the ASADRA CWSRF Capitalization Grant and it is accepted by DHEC. A Loan Assistance Agreement awarding PF funds will be prepared upon completion of the technical requirements for permitting and successful bidding of the project. Project listing is not a commitment of PF funding.

C. Environmental Outcomes and Measures

DHEC will update EPA's Clean Water Benefits Reporting (CBR) database and enter data into the CWSRF National Information Management System (NIMS). CBR collects project level information and anticipated environmental benefits associated with CWSRF projects, while NIMS produces annual reports that provide a record of progress and accountability for the program. EPA uses the information provided to oversee the CWSRF State programs and develop reports to the US Congress concerning activities funded by the CWSRF program. For more information, go to EPA's Clean Water SRF Performance webpage, http://water.epa.gov/grants_funding/cwsrf/cwnims_index.cfm.

D. Public Participation

Notice of this draft ASADRA 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 the DRAFT Supplemental CWSRF IUP for ASADRA are posted on the DHEC website, <http://www.scdhec.gov/srf>. Interested parties are invited to review the documents and submit written comments by the deadline established in the Draft IUP notice.

The Draft Supplemental (ASADRA) CWIUP was posted to the DHEC website on May 18, 2020. Notice of the Draft IUP was emailed to SRF contacts, Rural Infrastructure Authority contacts, DHEC watershed stakeholders and included in communications to members of SC Rural Water Association and the Municipal Association of South Carolina. Comments were accepted until 5:00 PM on June 17, 2020. No comments were received.