

**DRINKING WATER STATE REVOLVING FUND
EMERGING CONTAMINANT
Intended Use Plan
and Project Priority List**

State Fiscal Year 2023

~~July 1, 2023~~

Amended December 4, 2023

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

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1.0 INTRODUCTION

On November 15, 2021, President Biden signed into law the Bipartisan Infrastructure Law (BIL) also referred to as the Infrastructure Investment and Jobs Act of 2021 (IIJA). The BIL appropriates capitalization grants to be administered by the Drinking Water State Revolving Fund (DWSRF) including the Emerging Contaminant (EC) Capitalization Grant. Per the BIL, this grant will be made available to states to apply for on an annual basis for five years.

The Montana Department of Environmental Quality (DEQ) is submitting this DWSRF EC Intended Use Plan (IUP) as part of the EC grant application. For State Fiscal Year (SFY) 2023, the state of Montana is applying for the total amount allotted under the EC grant for Federal Fiscal Year (FFY) 2022 which is \$7,555,000.

The BIL stipulates that states administer the EC grant funds through the existing State Revolving Fund (SRF) programs. DEQ is responsible for the oversight of the SRF program, and their role consists primarily of providing technical expertise while Department of Natural Resources (DNRC) provides financial administration of project loans. The BIL also stipulates that 100% of the EC grant funds be provided as principal forgiveness or grant. Montana will provide the funds as principal forgiveness. Per the Safe Drinking Water Act (SDWA), states must direct at least 25% of the funds to disadvantaged communities or public water systems serving fewer than 25,000 persons.

The DWSRF program will offer loans that will be 100% forgiven for projects that are DWSRF-eligible with the purpose of addressing emerging contaminants in drinking water. Emerging contaminants are defined as any contaminant in any of EPA's Contaminant Candidate Lists (CCLs) (i.e., CCLs 1-5) with an emphasis on perfluoroalkyl and polyfluoroalkyl substances (referred to as PFAS). **Section 5** provides a discussion of eligible EC projects and activities that can be funded with the EC grant.

Similar to the DWSRF base grant, the EC grant also includes set-aside accounts. Funds from these accounts can be used to administer the EC grant, provide technical assistance to small water systems, source water protection (SWP) activities, and assistance with administration of activities in the Public Water Supply Program (PWSP). Montana does not intend to use the EC grant set-asides this year and will administer the program through the base and supplemental grant administrative set-asides.

This IUP contains the following elements:

- Short and Long-term goals of the program pertaining to ECs.
- EC project priority list, including description and size of community.
- EC eligible systems and activities.
- Description of how the program defines a disadvantaged system for the EC grant.
- Financial status of the EC grant.

For additional information regarding the DWSRF overall programmatic requirements, please refer to the DWSRF IUP dated August 15, 2022, and found on DEQ's website.

As required, DEQ has prepared this IUP and is providing it to the public for review and comment prior to submitting it to EPA as part of its next capitalization grant applications. Additionally, pursuant to state law, after public comment and review, DEQ will submit the IUP and a summary of public comments to

the Advisory Committee for review, comments, and recommendations. The Advisory Committee consists of one state representative, one state senator, one member representing the Montana League of Cities and Towns, one county commissioner representing the Montana Association of Counties, one representative from DNRC, and one representative from DEQ.

2.0 EC LONG-TERM GOALS

1. To provide a convenient source of funding for drinking water projects that address ECs that have or could impact the water quality for communities in Montana.

3.0 EC SHORT-TERM GOALS

1. To fund drinking water infrastructure projects that address any contaminant listed in the EPA's CCLs (i.e., CCLs 1-5). Montana anticipates funding at least 2 projects to address these contaminants.
2. To fund projects that promote regionalization and/or achieve consolidation of two or more existing public water supplies, thereby improving water quality. Montana expects to fund 1 consolidation project.

In SFY 2023 and the first half of SFY 2024, Montana expects to execute 2 new binding commitments, and close 2 loans totaling approximately \$8.4 million in EC-related drinking water infrastructure projects that will serve a total population of approximately 2,333. (Please see Anticipated Funding List, **Section 7.0**).

4.0 PROJECT PRIORITY LIST

To develop the DWSRF EC project list, DEQ sent surveys to all community and not for profit non-community water systems in Montana asking communities to identify projects that would address ECs in their drinking water.

Appendix 2 contains a comprehensive list of public water systems in Montana that have expressed interest in the DWSRF EC funding. It is not anticipated that all the projects in Appendix 2 will use the EC funds. Some systems expect to proceed with their projects in the near future while others may not be ready for the next few years. In addition, cost information is not always available as some systems may not have completed the financing plans for their projects when they are added to the project list. If the need arises, the IUP can be amended throughout the course of the year to include additional projects.

5.0 EC GRANT ELIGIBLE SYSTEMS AND PROJECTS

The SDWA allows DWSRF assistance to publicly- and privately-owned community water systems and not for profit non-community water systems, other than systems owned by federal agencies. The SDWA requires that loan recipients must demonstrate the technical, financial, and managerial capacity (TFM) to comply with the SDWA and not be in significant noncompliance with any requirement of a national primary drinking water standard or variance. The DEQ and DNRC will assess TFM and compliance in accordance with Chapter One of their Handbook of Procedures after loan applications have been received.

Under the EC grant, ECs are defined as any contaminant in any of the EPA's CCLs (i.e., CCLs 1-5) with an

emphasis on PFAS. As provided in BIL, eligible projects and activities include the following (this is not an exhaustive list):

- Costs associated with the construction of a new treatment facility or upgrade to an existing treatment facility that addresses EC(s).
- Development of a new source (i.e., new/replacement well or intake for a public water system) that addresses an EC issue [Note: water rights purchases must still meet the criteria in the Class Deviation for Water Rights].
- Consolidation with another water system that does not have ECs present or has removal capability.
- Costs for planning and design and associated pre-project costs.
- 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.

6.0 DISADVANTAGED COMMUNITIES

A community is considered economically disadvantaged when its combined annual water and wastewater system rates are greater than or equal to 2.3% of the community's Median Household Income (MHI). If the community has only a water system, the percentage is 1.4% of the community's MHI. These percentages are consistent with affordability requirements for other state funding agencies in Montana. The water and sewer rates used for this calculation include existing debt service and required coverage, new and existing operation and maintenance charges, and normal depreciation and replacement expenses.

The BIL stipulates that 100% of the EC grant funds be provided as principal forgiveness. Per the Safe Drinking Water Act (SDWA), states must direct at least 25% of these funds to disadvantaged communities or public water systems serving fewer than 25,000 persons.

7.0 ANTICIPATED FUNDING LIST

Table 1 contains those projects that the DWSRF program anticipates will be funded with the FFY 2022 EC grant for SFY 2023. This list represents those projects most likely to proceed, starting from the highest ranked projects on the comprehensive priority list (see discussion of ranking criteria in **Appendix 1**). Based on the stipulations provided in the BIL, principal forgiveness will be applied to all projects funded by the EC grant.

Table 1. DWSRF Projects Anticipated to Receive FFY 2022 EC Grant Funding for SFY 2023

Priority Rank	Project	Project Information	SRF Cost
1	Roundup	EC addressed: manganese Project: Install a well for the Central Montana Regional Water Authority (CMRWA) Musselshell Judith Rural Water System as part of the terms of connecting to the Regional System and abandoning high manganese sources in the City. Disadvantaged: Yes Population: 1,742	\$3,000,000
3	Circle	EC addressed: sodium and sulfate Project: Improvements to waste stream of treatment process used to remove high sodium and other TDS from the raw water. Disadvantaged: Yes Population: 591	\$5,383,000
	TOTAL		\$8,383,000

8.0 SUMMARY OF RANKING CRITERIA FOR DWSRF EC PRIORITY LIST

When developing Montana’s project priority list ranking criteria for EC grant funds, factors including prioritizing certain ECs, disadvantaged community status, readiness to proceed, and consolidation of two or more systems were considered.

Regarding prioritizing certain ECs, while states have the flexibility to use EC funds for projects that address a contaminant on the CCLs, the BIL makes it clear that the Congressional intent of these funds was to focus on PFAS-related projects. In addition, manganese results from an on-going state-wide sample collection effort of regulated drinking water sources determined that several exceed the EPA’s manganese health advisory (HA) of 0.3 mg/L. As such, more emphasis was placed on projects to address PFAS and manganese above the HA in the ranking process.

Since one of the BILs key priorities is to increase water infrastructure investments in disadvantaged communities, projects for communities that are considered disadvantaged were awarded points to give those communities preference for the EC funds.

Due to the principal forgiveness component and the finite nature of the EC funds (the BIL funds are limited to 5 years or until FFY 2026), a high demand for EC funds is anticipated. Therefore, readiness to proceed was included in the ranking criteria and points were awarded to EC projects that have DEQ-approved plans and specifications or are likely to begin construction within the next 12 months.

Consolidation of systems to address water quality and/or TFM issues has been a long-standing goal of the DWSRF program and, therefore, was considered when ranking EC projects.

A summary of the ranking criteria and scoring is listed below. Details regarding scoring criteria as well as project priority list bypass procedures can be found in **Appendix 1**.

Summary of Ranking Criteria for DWSRF Priority List

1. EC Priority Type
 - a. PFAS - 60 points
 - b. Manganese above HA of 0.3 mg/L - 40 points
2. Disadvantaged Community Status - 60 points
3. Readiness to Proceed – 30 points
4. Construction of a regional public water supply (PWS) that would serve two or more existing PWSs - 20 points

9.0 EC GRANT FINANCIAL STATUS

Unlike the base and supplemental capitalization grants, the BIL waives the requirement in section 1452(e) of the SDWA to provide state match for the EC grant. As such, states are not required to match the federal funds with state funds and the total funds available to Montana for EC projects and associated activities is solely based on the amount of the FFY 2022 EC grant which is \$7,555,000. In addition, the BIL stipulates that 100% of the EC grant funds be provided as principal forgiveness or grants. Montana will provide the funds as principal forgiveness. **Table 2** shows the funding status for the EC grant.

Table 2. DWSRF EC Grant Funding Status

	Projected thru SFY 2022	Projected for SFY 2023	Total
SOURCE OF FUNDS			
Federal Capitalization Grants	\$0	\$7,555,000	
Set-Asides	\$0	(\$0)	
Total to Loan Fund	\$0	\$7,555,000	\$7,555,000
<i>Other Funding Sources</i>			
Transfers from WPCSRF	\$0	\$459,000	\$459,000
Total Source of Funds	\$0	\$8,014,000	\$8,014,000
USE OF FUNDS			
<i>Loans Executed</i>			
Direct Loans	\$0		\$0
Transfer to WPCSRF	\$0	\$0	\$0
Total Uses			\$0
Funds Available for Loan			\$8,014,000
<i>Projected IUP Loans</i>			
Direct Loans (SFY 2023)		\$	\$8,383,000
Projected Balance Remaining			(\$369,000)

10.0 TRANSFER OF FUNDS BETWEEN THE WPCSRF AND THE DWSRF

At the Governor’s discretion, a state may transfer up to 33% of its DWSRF capitalization grant to the Water Pollution Control State Revolving Fund (WPCSRF) or an equal amount from the WPCSRF to the DWSRF. Transfers could not occur until at least 1 year after receipt of the first capitalization grant, which

was June 30, 1999. This transfer authority was effective through FFY 2001. One-year extensions of this transfer authority were granted through Veterans Affairs, Housing and Urban Development, and Independent Agencies Appropriation Bill until the FFY 2006 appropriation bill, when the transfer provision was authorized indefinitely. For the SFY 2023, Montana has elected to transfer all WPCSRF FFY 2022 EC grant funds (\$459,000) to the DWSRF program. **Table 3** summarizes transfers to date, and funds still available for transfer for the EC grant.

Table 3. Amounts Available to Transfer between SRF Programs for the EC Grant

Year	Transaction Description	Banked Transfer Ceiling	Transferred from WPCSRF to DWSRF	Transferred from DWSRF to WPCSRF	DWSRF Funds Available for Transfer	WPCSRF Funds Available for Transfer
2022	DW Grant Award	\$2,493,150	\$459,000	---	\$2,952,150	\$2,034,150
Total			\$459,000	\$0		

11.0 SET-ASIDES

States are given flexibility to set aside specified amounts of the EC grant for specific purposes outlined in the BIL including for administration of the grant. Montana will not be taking set-asides from the EC grant and will instead use administrative set-aside funds from the DWSRF base and supplemental grants for administration of EC projects. However, Montana reserves the authority to utilize all unused set-asides in the future. The specific reserved amounts listed below are all based on the EC FFY 2022 grant of \$7,555,000:

- \$302,200 for the DWSRF program administration set-aside of 4%.
- 755,500 for the state program administration set-aside of up to 10%.
- \$151,100 for the small system technical assistance set-aside of up to 2%.

APPENDIX 1: RANKING CRITERIA FOR DWSRF PRIORITY LIST AND BYPASS PROCEDURES

Ranking Criteria for DWSRF Priority List

1. EC Priority Type

a. PFAS - 60 points

In describing eligible uses of the EC grant funds, the BIL specifically states that the funds shall be used to address ECs with a focus on PFAS. To align with the Congressional intent of these funds, projects that address PFAS will receive 60 points.

b. Manganese above HA of 0.3 mg/L - 40 points

Manganese is a known contaminant in many of Montana's drinking water sources. In 2004, the EPA established a health advisory (HA) limit for manganese of 0.3 mg/L and cited health effects related to the nervous system with specific concerns regarding potential neurological effects. Projects to address drinking water sources that have manganese concentrations above the health advisory of 0.3 mg/L will receive 40 points.

2. Disadvantaged Community Status – 60 points

Maximum points are awarded to a community if the community, or a specific area in the community where work is to be performed, meets the state criteria for being disadvantaged as discussed in Section 6.0.

3. Readiness to Proceed – 30 points

Maximum points are awarded if the project plans and specifications have been approved by DEQ or the project is scheduled to start within the next 12 months.

4. Construction of a regional public water supply that would serve two or more existing public water supplies - 20 points.

Regionalization would increase the technical, managerial and/or financial capacity of the overall system and would result in some improvement to public health when ECs are addressed.

DWSRF Priority List Bypass Procedures

If it is determined by DEQ that a project or projects are not ready to proceed or that the project sponsors have chosen not to use the DWSRF funds, other projects may be funded in an order different from that indicated on the priority list. If DEQ chooses to bypass higher ranked projects, it should follow the bypass procedure.

The bypass procedure is as follows:

1. DEQ shall notify all projects which are ranked higher than the proposed project on the DWSRF priority list unless it is known that a higher project will not be using DWSRF funds.
2. The notified water systems shall have 15 calendar days to respond with any objections they may have to the funding of the lower ranked project.
3. DEQ shall address, within a reasonable time period, any objections received.

Emergency Bypass Procedures

If DEQ determines that immediate attention to an unanticipated failure is required to protect public health, a project may be funded with DWSRF funds whether the project is on the DWSRF priority list. DEQ will not be required to solicit comments from other projects on the priority list regarding emergency funding.

APPENDIX 2: DWSRF EC COMPREHENSIVE PROJECT LIST—SFY 2023

Rank No.	Ranking	System Name	Project Description	Amount	Population
1	145	Roundup, City of	New well and connection to CMRWA system	\$3,000,000	1,742
2	100	Hysham, Town of	Water Treatment Plant Improvements	\$2,171,000	269
3	90	Circle, Town of	Water Treatment Plant Improvements	\$5,383,000	591
4	80	Shawmut – DM Basin	Connection to CMRWA	\$1,906,600	238
5	40	Huntley Water	New wells and transmission main	\$3,493,500	414
6	30	Elder Grove School	Install cisterns to replace wells	\$327,550	600
7	20	Ryegate, Town of	Connect to CMRWA system	\$2,358,000	231
Total				\$18,639,650	

APPENDIX 3: GLOSSARY OF ACRONYMS AND INITIALIZATIONS

Acronym	Definition
BIL	Bipartisan Infrastructure Law
CCLs	Contaminant Candidate Lists
DEQ	Department of Environmental Quality (Montana)
DNRC	Department of Natural Resources and Conservation (Montana)
DW	Drinking Water
DWSRF	Drinking Water State Revolving Fund
EC	Emerging Contaminant
EPA	Environmental Protection Agency (U.S.)
FFY	Federal Fiscal Year (begins October 1 and ends September 30)
IIJA	Infrastructure Investment and Jobs Act of 2021
IUP	Intended Use Plan
HA	Health Advisory
MCA	Montana Code Annotated
MHI	Median Household Income
PWS	Public Water Supply
PWSP	Public Water Supply Program
PWSS	Public Water Supply Supervision
RAN	Revenue Anticipation Note
SCADA	System Control and Data Acquisition
SDWA	Safe Drinking Water Act
SFY	State Fiscal Year (begins July 1 and ends June 30)
SRF	State Revolving Fund
SWP	Source Water Protection
TFM	Technical, Financial, and Managerial Capacity
WPCSRF	Water Pollution Control State Revolving Fund