

**COMMONWEALTH OF VIRGINIA
CLEAN WATER REVOLVING FUND CAPITALIZATION GRANT REQUEST**

INTENDED USE PLAN FOR FY 2021

The Virginia Clean Water Revolving Loan Fund (Fund, VCWRLF) was created to provide a long-term, renewing source of financial assistance for water quality improvements. The Fund is separate, permanent, and perpetual, dedicated solely to wastewater and stormwater improvements at publicly-owned facilities and Section 319 (non-point source) activities as authorized by federal and state statutes. Money from the Fund is loaned to eligible recipients at or below current market rates, and principal and interest is paid back into the Fund.

The Water Quality Act of 1987 established and authorized a State Revolving Fund (SRF) on a national level and set forth a funding mechanism to capitalize state programs. The Water Quality Act of 1987 also set forth specific requirements for the administration and management of the states' clean water revolving loan programs.

The 1986 Virginia General Assembly began appropriating general funds for the state match in FY 1987 and continued to satisfy the 20% matching appropriation requirement need through FY 2009. Virginia issued state match bonds to satisfy the match requirements for FY 2010, a portion of FY 2011, FY 2012, and FY 2019, plus all of FY 2014, FY 2016, FY 2018, and FY 2020. The Department of Environmental Quality (DEQ), on behalf of the State Water Control Board (Board), was authorized to accept any federal funds appropriated and made available to the Fund pursuant to the Clean Water Act amendments.

The Clean Water Act appropriation for FY 2021 assistance for Virginia has not been determined to date, but has averaged approximately \$32 million the past two years. This is to be matched by the state with approximately \$6.5 million as a combination of state appropriations and state match bonds.

Virginia plans to utilize its available and anticipated FY 2021 financial resources to finance approximately \$205 million in project loans, **approximately \$32.6 million of which will involve projects qualifying as eligible under the required green project reserve**, as identified in the Project Description column on the FY 2021 Project Priority List. Additionally, the program will fund \$1.1 million in projects participating in the Southwest Virginia Pilot Program.

Virginia's draft FY 2021 Intended Use Plan (IUP) and priority funding list, which targeted 14 projects totaling \$205 million, were submitted to the Director of the Department of Environmental Quality and tentatively approved on September 21, 2020, subject to receipt of public comment. The public comment period for the project list ran from September 30 to October 30, 2020 and a virtual public meeting was held October 30, 2020, no comments were received. The FY 2021 IUP and Project Priority List, consisting of 14 projects totaling

\$205 million, became effective following approval by the State Water Control Board at its meeting on December 9, 2020.

Virginia intends to issue leverage bonds to meet future program demand and is taking a multi-year perspective. Under Virginia's leveraging structure, the Virginia Resources Authority (VRA) will sell bonds to provide the necessary capital to fully fund the requests approved by the Board for clean water loan assistance. The leveraging structure and cash flow analyses will be available prior to any bond issuance.

As permitted by Congress in legislation approved in 1997, Virginia intends to cross-collateralize bonds sold for the Clean Water Revolving Loan Fund and the Drinking Water State Revolving Fund. The purpose is to enhance the security of bonds sold for both programs, thereby improving the credit rating and reducing the cost of funds. This allows both programs to meet program capacity demand and pass on the best possible interest rates to its borrowers. The revenues from loan repayments in each program are pledged first to the allocated portion of bonds for that program. After the revenues in each program have been used to make debt service payments on its portion funds, excess may be used to cover a revenue deficiency in the other program. Given the loan portfolio quality, robust coverage in each program, and established financial management practices, it is highly unlikely that this provision would be implemented.

VIRGINIA CLEAN WATER REVOLVING LOAN FUND GOALS

The Virginia Clean Water Revolving Loan Fund's objective is to meet the yearly loan demands of Virginia's local governments as well as citizens and corporations, as appropriate, to facilitate needed wastewater collection and treatment facilities and non-point source improvements across the Commonwealth of Virginia. DEQ will manage the Board's financial assistance programs, assuring compliance with all applicable federal and state rules and regulations and in a manner that provides for program accountability and which continues federal support for Virginia's water quality improvement activities.

Virginia's goals for FY 2021 are:

1. Implement the program in a manner that maximizes its ability to fund Virginia's pressing water quality needs.
2. Utilize the 20-year planning model to provide a relevant framework for decision making to maximize the program's capacity for funding.
3. Improve and expand the program's database system to more effectively and efficiently track and manage VCWRLF projects.
4. Maintain a program pace (ratio of cumulative assistance provided to cumulative funds

available) of at least 90%, and work toward a program pace goal equal to the EPA Region 3 average.

5. Develop a comprehensive marketing plan for the program.

PROGRAM ADMINISTRATION

The Water Quality Act of 1987 allows a state to set aside up to 4% of its SRF grant awards for administrative purposes. The Water Resources Reform and Development Act of 2014 (WRRDA) amended Section 603(d)(7) of the Federal Water Pollution Control Act to allow for two additional methods of calculating the maximum annual amount of CWSRF funds that may be used to cover the reasonable costs of administering the fund. The three options now include:

- 4% of all grant awards received by a State CWSRF;
- \$400,000; or
- 1/5% of the current valuation of the fund.

Virginia utilized the 4% calculation until the close of the FY19 capitalization grant and the opening of the FY20 grant in January 2021. Beginning with the FY20 grant, the program will utilize the 1/5% calculation to determine the maximum annual amount of program administration funds. DEQ continually reviews program operating expenses and only authorizes the drawdown of funds for activities that are reasonable and necessary for program administration and project management activities.

ANNUAL WASTEWATER ADMINISTRATIVE FEE

The State Water Control Board approved the implementation of an annual administrative fee to be placed on all VCWRLF interest bearing loans. The annual fee is 0.2% and is intended to help support the administrative costs of the program. The fee is exclusive of the subsidy provided for interest bearing loans such that loan recipients do not pay an effective rate of interest greater than the established rate. In that way, the program essentially absorbs the impact of the fee and borrowers do not incur additional costs. The fee is collected as part of the normal loan payment process. Revenue generated by the fee is accounted for separately and is subject to the same accountability requirements established for the existing administrative funds. DEQ must review and authorize all disbursements from this fee account.

WASTEWATER PROJECT LOAN INTEREST RATES AND LOAN TERMS

The wastewater part of the program is designed to provide financial assistance to localities for public wastewater facility improvement projects at interest rates ranging from a no-interest loan to the current bond market rate, based on an individual community's financial situation. Interest rates below 3% and down to a no-interest loan are considered if financial

conditions warrant and at least 75% of the project cost is applicable to solving mandated water quality problems, and/or an imminent or urgent public health concern is documented. Based on permanent authority to authorize up to 30 year loans in Section 603(d) of the 2014 Water Resources Reform and Development Act (WRRDA) and after consultation with the Virginia Resources Authority (VRA), the State Water Control Board, similar to previous years, approved changes to the program whereby the ceiling rate calculation will vary depending on the term of the loan: 20-year ceiling loan rates are set at 1.5% (150 basis points) below market rate, 25-year ceiling loan rates are 1.25% (125 basis points) below market rate, and 30-year ceiling loan rates are 1.0% (100 basis points) below market rate. Market rates are based on VRA's evaluation of market conditions that exist the month prior to each loan closing or the all-in cost of leverage bonds. For projects such as wastewater treatment plant upgrades and pump stations that involve significant mechanical equipment, the maximum loan term would be 25 years, whereas projects that primarily involve wastewater conveyance piping installation or improvements could be up to 30 years. Longer terms may be considered for extreme hardship situations to make a project feasible. Loan terms for projects using programmatic financing could extend to 30 years depending on project type and weighted average useful life. Interest rates are based on the financial impact to residential users and achieving an affordable and reasonable monthly residential sewer charge.

Additional Subsidization The 2014 Water Resources Reform and Development Act (WRRDA) amended certain sections of the Federal Water Pollution Control Act relating to the State Clean Water Revolving Fund program. Section 603(i) now includes the permanent authority for the states to provide up to a certain percentage of each year's capitalization grant (starting with the FY 2015 grant) as additional subsidization to recipients in the form of principal forgiveness, negative interest loans, or grants, under certain circumstances. As those circumstances allow, DEQ intends to award some additional subsidization amount in the form of principal forgiveness to projects which may otherwise be unaffordable based on the following two priorities: (1) high water quality benefits and (2) hardship (based on the affordability criteria described below). The WRRDA amendments require states to develop affordability criteria to assist in identifying applicants that would have difficulty financing projects without additional subsidization. They also require the states to provide an opportunity for public comment. The affordability criteria are included in this Intended Use Plan for the purpose of meeting those requirements.

For FY 2021, DEQ is implementing two supplementary uses for additional subsidization: 1) to offset the 0.5% hardship interest rate (made up of 0.2% admin fee and 0.3% interest) for applicants that formerly would have been eligible for 0% interest, and 2) to provide 75% principal forgiveness to Southwest Virginia Pilot Program projects.

Affordability Criteria All recipients whose projects provide high water quality benefits and that are authorized to receive a VCWRLF loan at the hardship interest rate qualify to be evaluated by the following three affordability criteria which will be used to determine which

projects will receive principal forgiveness:

Median Household Income (maximum 80 points) – DEQ has established guidelines for determining a reasonable sewer cost per household based on the median household income of the municipality/loan recipient. Each qualified project is analyzed to determine the projected monthly sewer cost needed to finance the project and that cost is then compared to the reasonable monthly charge discussed above. Projects with projected monthly sewer costs in excess of the reasonable cost will be given points under this affordability criterion as shown below:

Sewer Cost per Household Relative to Reasonable Cost	# Points
< 100%	0
100% to 125 %	20
125% to 150%	40
150% to 175%	60
>175%	80

Unemployment Rate (maximum 10 points) – The unemployment rate (UR) will be determined for each qualified recipient and each recipient will be given points as follows:

Locality’s Unemployment Rate	# Points
UR < Virginia UR	0
UR 0-3% above Virginia UR	5
UR > 3% above Virginia UR	10

Population Trends (maximum 10 points) – Population data for the previous 3-year period will be evaluated for each qualified recipient and each recipient will be given points as follows:

Change in Population	# Points
> +3%	0
0 to +3%	5
<0%	10

Once all of the eligible recipients have been evaluated by the three criteria above, the total number of points received by each will establish the priority for providing principal forgiveness to the recipients. DEQ will then use best professional judgment, including the impact of providing principal forgiveness on the sustainability of the Fund, the need for principal forgiveness in order to make projects affordable, alignment with program strategic initiatives, and other extenuating factors in determining the amount(s) of principal forgiveness (if any) that should be provided. For agricultural BMP projects, affordability will be determined based on financial need of the applicant.

Loan Authorization Loan authorization and subsequent interest rates and loan terms are subject to receipt of a favorable credit and financial capability recommendation from the Virginia Resources Authority. Funds loaned under the revolving loan program will be secured by the locality's pledge of its water and/or sewer system revenue, general obligation bond, or other appropriate security as deemed necessary. Principal and interest payments will be made in semiannual or yearly installments beginning no later than one year after the date of completion of construction. Payment terms and the beginning date of loan payment will be negotiated on a case-by-case basis depending on the community's financial situation.

The following document is made a part of Virginia's Intended Use Plan for FY 2021 funding consideration. This document contains the necessary measures to be taken by the State to administer the wastewater portion of the Fund.

Virginia's Wastewater Revolving Loan Fund Program Design Manual, updated May 16, 2001

The Wastewater Program Design Manual sets the policy aspects for administration of the Fund for wastewater projects, identifies SRF program requirements, identifies all applicable rules and regulations, and specifies the criteria to be utilized in the distribution of funds. Program design criteria were taken to public hearing and have been formally adopted by the Board. As deemed necessary, the program's design criteria and funding policies have been amended and revised, through public participation and Board action, to maintain the loan program's effectiveness and efficiency.

Section 319 - SRF EXPANDED USES

In order to reduce agricultural nonpoint source pollution of Virginia waters, the Virginia General Assembly amended Chapter 22 of the *Code of Virginia* in 1999 by expanding the activities of the Virginia Clean Water Revolving Loan Fund to allow low-interest loan financing to Virginia producers for the implementation of certain types of agricultural best management practices. This code section was amended in 2019 to add the option for principal forgiveness and to expand the list of eligible applicants and eligible practices.

Agricultural BMP The following documents contain the policy aspects and loan procedures for managing loans to Virginia's Producers who implement agricultural best management practices. This document was revised in 2019, adopted by the State Water Control Board at its meeting on June 27, 2019, and became effective on July 1, 2019. Since restarting the program in 2019, a number of necessary revisions to the guidelines were identified to improve program effectiveness. The guidelines were revised with stakeholder involvement and adopted by the State Water Control Board at its meeting on December 9, 2020.

Virginia's Agricultural BMP Loan Program Guidelines, updated May 9, 2012, updated July 1, 2019, updated December 9, 2020; and The Program's Banking Services Participation Agreements

Virginia's AgBMP loan eligibility criteria have been structured to comply with statutory requirements and provide the greatest water quality benefit. Twenty-two (22) of the State's established agricultural best management practices had been incorporated into DEQ's AgBMP loan program as eligible activities since they require the construction of structures or facilities and/or focus on water quality protection. The eligible practice list was expanded in 2019 to include 14 additional practices, and again in 2020 to include 4 additional practices, for a total of 40 practices.

DEQ began soliciting loan applications in January 2000. Applications received from Virginia producers (farmers and growers) were being evaluated and approved on a monthly cycle. DEQ opened the AgBMP loan program up to no-till planting equipment in February 2006 and, based on the results of the pilot program, made it a permanent part of the program. This open application period and submittal process continued through FY 2016 and resumed on July 1, 2019.

Brownfields In 2001, the Virginia General Assembly amended the Clean Water Revolving Loan Program legislation to make loan assistance available for the remediation of contaminated Brownfield properties across the Commonwealth. The purpose of the Brownfield remediation financing initiative is to encourage the cleanup and reuse of contaminated properties.

At its meeting in March 2002, the State Water Control Board tentatively adopted guidelines to implement this funding initiative in 2003, subject to public review. Subsequently, public meetings were held throughout the state and all comments received were positive.

The following document contains the policy aspects and loan procedures for managing loans to borrowers that implement Brownfield remediation projects.

Virginia's Brownfields Remediation Loan Program Guidelines, revised May 2003

DEQ plans to only solicit applications once a year, during the June/July annual solicitation period, and will continue to review and revise procedures as the program evolves.

Land Conservation In 2003, the Virginia General Assembly again amended the Clean Water Revolving Loan Program legislation to make loan assistance available for the conservation of land. The purpose of the Land Conservation Loan Program is to encourage land conservation, through financing the acquisition of fee simple title or other rights to real property, when the Board is satisfied that the action will protect or improve water quality and prevent pollution of state waters. According to the enabling legislation, VCWRLF financing for land conservation can only be made available in fiscal years when there is a balance remaining after the Fund has satisfied all eligible loan requests from local governments.

At its meeting in June 2003, the State Water Control Board tentatively adopted guidelines to implement the land conservation funding initiative in 2004, and included the solicitation of applications during this funding cycle, subject to public review. Subsequently, a public meeting was held and all comments received were positive. On October 28, 2003, the Board accepted the final version of the guidelines, which included minor modifications made in response to public comments.

The following document contains the policy aspects and loan procedures for managing loans to borrowers that implement land conservation projects.

Virginia's Land Conservation Loan Program Guidelines, accepted October 2003

Stormwater During their 2010 session, the Virginia General Assembly further expanded the activities of the Virginia Water Facilities Revolving Fund by allowing the State Water Control Board to authorize low interest loans from the Fund for construction of facilities or structures or implementation of best management practices that reduce or prevent pollution of state waters caused by stormwater runoff from impervious surfaces. According to the enabling legislation, VCWRLF financing for stormwater projects can only be available in fiscal years when loan requests for eligible wastewater treatment facilities designed to meet the state's water quality standards have first been satisfied, unless otherwise required by law.

At its meeting in December 2010, the State Water Control Board tentatively adopted guidelines to implement the stormwater funding initiative in 2011. Subsequently, a public meeting was held and all comments received were positive. On April 14, 2011, the Board accepted the final version of the guidelines, which included minor modifications made in response to public comments. DEQ began implementing this program during the FY 2012 funding cycle.

The following document contains the policy aspects and loan procedures for managing loans to borrowers that implement stormwater best management practices.

Virginia's Stormwater Loan Program Guidelines, accepted April 2011

Living Shorelines During their 2015 session, the Virginia General Assembly further expanded the activities of the Virginia Water Facilities Revolving Fund by allowing the State Water Control Board to authorize low interest loans from the Fund to a local government for establishing living shorelines or to a local government that has developed a funding program to individual citizens for the purpose of establishing living shorelines to protect or improve water quality.

At its meeting in January 2016, the State Water Control Board tentatively adopted guidelines to implement the living shorelines funding initiative in 2016. Subsequently, a public meeting

was held and all comments received were positive. On April 1, 2016, the Board accepted the final version of the guidelines, which included minor modifications made in response to public comments. DEQ began implementing this program during the FY 2017 funding cycle. This document was revised in 2019, adopted by the State Water Control Board at its meeting on June 27, 2019, and became effective on July 1, 2019.

The following documents contain the policy aspects and loan procedures for managing loans to borrowers that implement living shorelines projects.

Virginia's Living Shorelines Loan Program Guidelines and Local Plan Guidelines, accepted April 2016, updated July 1, 2019

TARGETED LOAN RECIPIENTS FOR FY 2021 LOAN ASSISTANCE

The Board's loan recipients for FY 2021 funding through its SRF have been identified. Application solicitation information was provided by email to all Virginia governmental entities, as well as potential land conservation applicants, Brownfield remediation clientele, and living shorelines applicants. All wastewater applications received were evaluated according to the approved "Yearly Loan Distribution Criteria" (Loan Priority System) contained in the *Virginia Wastewater Revolving Loan Program Design Manual*.

For FY 2021 funding consideration, as part of the Southwest Virginia Pilot Program, DEQ received 13 applications for Sewer System Evaluation Survey projects requesting a total of approximately \$1.1 million in loan assistance. Virginia's draft FY 2021 IUP and partial priority funding list, which targeted all 13 projects for a total of \$1.1 million, received tentative approval from the Director of the Department of Environmental Quality on July 14, 2020.

The staff conducted initial meetings with the FY 2021 targeted recipients and finalized the associated user charge impact analyses in accordance with the Board's guidelines. The FY 2021 IUP and partial Project Priority List (PPL), identifying 13 projects totaling \$1.1 million, became effective following approval by the Board at its meeting on September 24, 2020.

Additionally, for FY 2021 funding consideration, DEQ received 11 wastewater applications, two stormwater applications, and one living shoreline application requesting a total of approximately \$205 million in loan assistance. Virginia's updated draft FY 2021 IUP and priority funding list, which targeted all 14 projects for a total of \$205 million, received tentative approval from the Director of the Department of Environmental Quality on September 21, 2020.

The staff conducted initial meetings with the FY 2021 targeted recipients and finalized the associated user charge impact analysis in accordance with the Board's guidelines. The FY 2021 IUP and Project Priority List (PPL), identifying 14 projects totaling \$205 million, became effective following approval by the Board at its meeting on December 9, 2020. DEQ

determined that three of the FY 2021 list of projects, totaling \$32.6 million will meet the criteria as green reserve projects (two stormwater projects and one living shoreline), exceeding the green project reserve requirement for FY 2021. Material containing the list of the FY 2021 applications received and the subsequent list of projects to be considered and authorized for loan assistance in FY 2021 by the State Water Control Board is attached.

PUBLIC PARTICIPATION

The Board has made public participation an integral part of the process of developing and implementing all policies, procedures, and guidelines impacting activities of the Virginia Clean Water Revolving Loan Fund Program. For FY 2021, a Notice of the Public Meeting on the initial funding list and IUP was posted on the Virginia Regulatory Town Hall and DEQ's Clean Water Financing and Assistance Program website. The Notice provided the public with updated information on the loan program and the list of potential FY 2021 loan recipients, the staff's evaluation of the applications received, and the State's intended use of available FY 2021 funds. The public meeting was held on October 30, 2020 for the priority funding list and no comments were received.

ASSURANCES, PROPOSALS AND CERTIFICATIONS

Environmental Review

All "treatment works" projects financed through the Fund are subject to the State's Environmental Review Process as approved by EPA. Each of those projects must result in one of the following documents: Categorical Exclusion from the review, Statement of Environmental Review, or Environmental Impact Statement with a Record of Decision issued prior to loan closing. The State's procedure for conducting, processing, noticing, and approving Environmental Review documents is contained in the *Procedural Guidelines for Virginia's Wastewater Revolving Loan Fund*, as amended. All appropriate environmental issues must be addressed and measures taken to prevent or mitigate adverse environmental impacts. One procedural change was implemented in January 2008. Public notification of the issuance of categorical exclusions will no longer be done. Projects receiving categorical exclusions will still undergo all other public notification requirements, including the issuance of this IUP and the attached PPL. The State's environmental review process is not applied to projects that are not classified as "treatment works".

Program Requirements

Demonstrated compliance with the provisions of applicable program requirements and state statutes and regulations continues to be a prerequisite to receiving loan closing authorization and is required before payment can be authorized from loan proceeds for any work accomplished. No loan will be closed until the applicant has demonstrated to the satisfaction of DEQ that it has complied with all program planning and design requirements and has,

through the Financing Agreement, agreed to comply with all other applicable provisions as a condition to being reimbursed for such work.

Virginia's Wastewater Revolving Loan Program Design Manual and Procedural Guidelines, Virginia's Agricultural BMP Loan Program Guidelines, Virginia's Brownfield Remediation Loan Program Guidelines, Virginia's Land Conservation Loan Program Guidelines, Virginia's Stormwater Loan Program Guidelines and Virginia's Living Shorelines Loan Program Guidelines and Local Plan Guidelines set forth all applicable program requirements for each respective loan program. Through the implementation of these guidelines, various provisions of the Operating Agreement between EPA and the State, and through the use of internal review checklists and operating procedures, the State will assure compliance with all applicable program requirements.

Equivalency Compliance

For purposes of EPA review, DEQ will designate loan projects as an "equivalency" loan and will apply the MBE/WBE, single audit, and other federal requirements to at least the amount of projects within this loan for which the total dollar value is at least equal to the amount of the FY 2021 Capitalization Grant.

Timely Expenditures

Virginia will obligate and expend all funds in its SRF accounts in an expeditious and timely manner.

Binding Commitments

Binding commitments (financing agreements) will be executed with recipients in an amount equal to 120% of each quarterly capitalization grant payment into Virginia's Automated Standard Application for Payments (ASAP) within one (1) year after receipt.

Davis Bacon Act / American Iron and Steel / Fiscal Sustainability Plan Compliance

To the extent required by the Water Resources Reform and Development Act, DEQ agrees to include the Davis Bacon, American Iron and Steel, and Fiscal Sustainability Plan provisions in all loan agreements for "treatment works" projects.

ANNUAL REPORT AND REPORTING REQUIREMENTS

Annual Report

The EPA Regional Administrator's formal review of the State's management of the SRF Program will be through review of the Annual Report as submitted by DEQ. The Report will

provide information on loan recipients, loan amounts, and loan terms in which the State has entered into binding commitments. The Annual Report will also establish that the State has reviewed all SRF "treatment works" projects in accordance with the approved procedures, deposited its match on or before the date on which each quarterly grant payment was made, made binding commitments to provide assistance equal to 120% of the amount of each grant payment (ASAP) within one year of receipt, and complied with the program requirements.

The report will be submitted no later than 90 days after the end of the state fiscal year and will indicate the extent to which the goals and objectives, as set forth in this agreement and in each previous year's SRF Intended Use Plan, were met. It is agreed that the fiscal year will be from July 1 to June 30.

Environmental Results Reporting

Virginia agrees to complete the Environmental Results Reporting form on all projects funded through the Virginia Clean Water Revolving Loan Fund.

Other Reporting Requirements

Virginia has developed and will continue to refine a project tracking system similar to and compatible with EPA's SRF Historical Data Information to provide project tracking necessary to satisfy required milestone reporting, and financial and fiscal accounting data in order to fulfill its commitments under this agreement. Individual and specialized reports and data requests will be subject to subsequent agreements by and between the DEQ and EPA.