

**NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

**DRINKING WATER
STATE REVOLVING FUND**

**FINAL PRIORITY SYSTEM,
INTENDED USE PLAN,
PROJECT PRIORITY LIST AND
RESPONSE DOCUMENT**

FEDERAL FISCAL YEAR 2001

May 2000



Christine Todd Whitman
Governor

Robert C. Shinn, Jr.
Commissioner

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MEMORANDUM

TO: Community Water Supply Systems
Nonprofit Noncommunity Water Supply Systems
County and Municipal Health Authorities
Environmental Groups
Engineering Consultants

FROM: Shing-Fu Hsueh, Administrator
Water Supply Administration

SUBJECT: Drinking Water State Revolving Fund Final Priority System,
Intended Use Plan, Project Priority List and Response Document for Federal
Fiscal Year 2001

DATE: May 31, 2000

This "Drinking Water State Revolving Fund Final Priority System, Intended Use Plan, Project Priority List and Response Document for Federal Fiscal Year 2001" (IUP) was initially proposed on December 28, 1999 with a public hearing held on March 21, 2000, and public comments received through March 28, 2000.

The Safe Drinking Water Act (SDWA) Amendments of 1996 authorized a Drinking Water State Revolving Fund (DWSRF) to assist publicly and privately owned community water systems and nonprofit noncommunity water systems to achieve or maintain compliance with SDWA requirements, and to further the public health objectives of the SDWA. The DWSRF is administered as a component of the Environmental Infrastructure Financing Program which also administers the state's Clean Water State Revolving Loan Fund.

States must file capitalization grant applications each year with the USEPA to secure an allotment of federal funds needed to initialize and to continue the DWSRF at the State level. The central component of the State's application to the USEPA is the attached IUP. The IUP describes how the State intends to spend the federal grant moneys, including both project and non-project set-aside expenditures. The non-project set-asides are allowed by the DWSRF for activities that are not construction related, e.g., administration, public water system supervision, technical assistance for small systems, operator certification, capacity development, source water assessment and wellhead protection programs. Project expenditures typically involve loans by the DWSRF to water systems for planning, design and construction of drinking water facilities.

Please note that in order to better manage the volume of environmental infrastructure loan projects being processed, **the Department and the Trust will be changing the project document submittal**

deadlines and eliminating the second chance option in FFY2001 and future years. The new schedule is shown on page 11 of this IUP. Also, projects can now be added to the list during the time period after publication of the proposed IUP and before it is finalized. The Project List will still be available for public review when the final IUP is mailed.

This IUP also contains the FFY2000 standard schedule and "second chance" schedule (last year for "second chance" schedule). Project sponsors must meet one of the two schedules with all applicable deadlines in order to be considered for financing in November 2000. In addition, FFY 2000 standard schedule applicants are given priority over FFY2000 "second chance" applicants, except that projects for small systems up to 15% of the DWSRF funds will be financed first, in accordance with Section III, Small Systems, of this IUP.

Should you have any questions regarding the IUP or the DWSRF program, please contact Philip Royer, Josephine Craver, or Roger Tsao at the Bureau of Safe Drinking Water at (609) 292-5550, or fax (609) 292-1654.

Attachments

c: USEPA Region II, Bruce Kiselica, Chief, Drinking Water Section
USEPA Region II, Robert Gill, SRF Coordinator
Drinking Water Quality Institute, Richard Sullivan, Chairman
USDA, Rural Development, Mike Kelsey, Director, Community and Business Programs
NJAWWA, Frank Moritz, Section Chair
NJ Rural Water Association, Rick Howlett, Program Manager
Water Supply Advisory Council
Water Supply Advisory Committee
NJ Office of State Planning, Charles Newcomb, Assistant Director
NJ Department of Community Affairs, Christine Zopicchi, Chief, Local Government Services
Board of Public Utilities, Mike Gallagher, Director
NJ Economic Development Authority, Frank T. Mancini, Jr., Director of Investment Banking
NJ Housing and Mortgage Finance Agency, Jerry Keelen
Gary Sondermeyer, Chief of Staff, NJDEP
Deputy Commissioner Robert Tudor, NJDEP, Environmental Planning and Science
Assistant Commissioner Dennis Hart, NJDEP, Environmental Regulation
Assistant Commissioner Ray Cantor, NJDEP, Land Use Management and Compliance
Director E. David Barth, NJDEP, Management and Budget
Director Narinder Ahuja, NJDEP, Division of Water Quality
Assistant Director Nicholas G. Binder, NJDEP, Municipal Finance and Construction Element
Chief Barker Hamill, NJDEP, Bureau of Safe Drinking Water
Executive Director Dirk C. Hofman, NJEIT

OVERVIEW

The Safe Drinking Water Act (SDWA) Amendments of 1996 authorized a Drinking Water State Revolving Fund (DWSRF) to assist publicly owned and privately owned community water systems and nonprofit noncommunity water systems to finance the costs of infrastructure needed to achieve or maintain compliance with SDWA requirements and to protect the public health in conformance with the objectives of the SDWA. The DWSRF is administered as a component of the Environmental Infrastructure Financing Program (EIFP) which also administers the state's Clean Water State Revolving Fund (CWSRF). The Clean Water component of New Jersey's EIFP provides low interest loans to publicly owned systems for planning, design and construction of wastewater treatment facilities and other water quality improvement projects under the federal Clean Water Act and state law. The CWSRF program is covered under a separate Intended Use Plan. Prospective project sponsors must complete a ranking form for each program to be included in the respective Priority Lists and to be eligible for financing under each program.

The SDWA authorized a total of \$9.6 billion nationally for the DWSRF through Federal Fiscal Year (FFY) 2003. The USEPA allotment for FFY2001 has not been determined to date and is estimated in this document. The results of the 1995 Drinking Water Infrastructure Needs Survey will ultimately determine the FFY2001 allotment to New Jersey. Funds available to the State for FFY2002 appropriations and beyond will be allotted according to a formula that is reflected in the most recent Needs Survey conducted pursuant to Section 1452(h) of the SDWA. Therefore, it is important to have the continued involvement of the water systems in New Jersey. Their participation in future Needs Surveys directly impacts future DWSRF allotments.

This document serves as the New Jersey Department of Environmental Protection's (NJDEP) DWSRF Priority System, Intended Use Plan (IUP) and Project Priority List and has several purposes regarding the use of anticipated federal funds, including:

- 1- the establishment of the ranking criteria under which DWSRF projects will be ranked and placed on the Priority List;
- 2- the establishment of program requirements and document submittal deadlines for award of DWSRF loans in State Fiscal Year (SFY) 2001 (i.e., November 2000) using FFY2000 federal capitalization grant funds and funds from previous federal capitalization grant funds;
- 3- the establishment of program requirements and document submittal deadlines for award of DWSRF loans in SFY2002 (i.e., November 2001) using FFY2001 federal capitalization grant funds and funds from previous federal capitalization grant funds; and
- 4- the establishment of the proposed uses of the set-asides using FFY2001 federal capitalization

grant funds.

The Priority System includes the project ranking criteria. Section 1452 (b) of the SDWA requires each State to prepare an Intended Use Plan annually to identify the use of funds in the DWSRF and describe New Jersey's planned use of its allotment of federal moneys authorized by the SDWA Amendment. The IUP details how the State of New Jersey proposes to finance projects to be included in New Jersey's program and which are to be managed by NJDEP, with respect to the FFY 2001 capitalization grant. The NJDEP intends to apply for the DWSRF capitalization grant including both project and nonproject set-aside expenditures. The nonproject set-asides provide for DWSRF activities that are not construction related and include administration of the DWSRF, technical assistance for small systems, operator certification, capacity development, State PWSS Program and source water protection. Project expenditures involve loans made by the DWSRF to water systems for the planning, design and construction of drinking water facilities.

The DWSRF program will be jointly managed by the Bureau of Safe Drinking Water and other Water Supply programs, the Municipal Finance and Construction Element of the Division of Water Quality and the New Jersey Environmental Infrastructure Trust (the Trust).

Through leveraging by the Trust (that is, the sale of revenue bonds, the proceeds of which are loaned to project sponsors), the State is able to provide low interest loans to far more projects than if leveraging was not done. It should be noted that the 1981 Water Supply Bond Act authorized financing only to publicly owned systems, and the amendments did not change this. Notwithstanding, amendments to this Act allow the State to provide the 20 percent match to the federal capitalization grant funds, a condition under both the Clean Water and the Drinking Water SRF programs.

Legislative appropriation and authorization bills will be introduced each spring for each funding cycle. The DWSRF program closed in escrow on twenty-one loans (\$77 million) for the past two funding cycles in September 1998 and September 1999, in tandem with the Clean Water component of the Environmental Infrastructure Treatment Financing Program, with loans being fully executed in November 1998 and November 1999.

The Safe Drinking Water Act Amendments of 1996 offers NJDEP the flexibility to meet the funding needs for drinking water and wastewater facilities by transferring funds from one SRF program to the other. An amount up to 33% of the Drinking Water SRF Capitalization Grant may be transferred from the CWSRF program to the DWSRF program, or vice versa. Funds may be transferred after one year has elapsed from the first DWSRF Capitalization Grant award (September 11, 1998). No transfers may take place after October 1, 2001. The USEPA has issued guidance that would allow utilization of transfer credits and transfer of funds on a net basis (i.e., funds could be moved in both directions), provided that the final transferred amount does not exceed the authorized ceiling. NJDEP is proposing to transfer up to the maximum amount authorized from the CWSRF loan repayments to the DWSRF, as needed, as long as it doesn't jeopardize the ability to fund clean water projects. In accordance with approved procedures, a transfer of funds (\$9,222,609) from CWSRF repayments to DWSRF was approved by USEPA on September 3, 1999. The Department intends to

transfer 33% of FFY98 and FFY99 capitalization grant awards this year, (\$11,724,933) from CWSRF repayments to DWSRF. Currently every eligible project under the CWSRF program that meets the program requirements and deadlines and is ready to proceed will be able to receive a CWSRF loan.

Final federal legislation was passed to allow cross-collateralization between the federal clean water and drinking water programs. The Environmental Infrastructure Financing Program has received USEPA's approval (the first in the country to do so) to utilize this option in its financing structure for both the Drinking Water and Clean Water SRF Programs.

Under the cross-collateralization option, repayments of loans from either fund MAY be used to cover any default in loan repayments. The ability to use this feature between the clean water and drinking water programs will result in significant savings to the project sponsors, particularly the drinking water project sponsors since there is not a large pool of loan repayments available for this new program. However, the State's cross-collateralization would involve only a temporary use of funds from the CWSRF and the DWSRF or vice versa if a default in loan repayment did occur (which, to date, has not occurred under the clean water program). Further, the Trust and NJDEP would take steps to collect the defaulted loan repayments, and the appropriate drinking water or clean water fund would be reimbursed.

Under the current Environmental Infrastructure Financing Program structure, all three of the bond rating agencies (Fitch, Moody's, Standard and Poor's) have given the Trust's bonds the highest rating possible. The higher the bond rating, the lower the interest rate on the bonds and, therefore, the lower the cost to the loan recipients. For example, for the last funding cycle of the DWSRF, the Trust successfully sold bonds at 5.45% for the 1999A series and 5.67% for the 1999B series (AMT). The EIFP reduces the costs that must be passed on to a project's users, because project funding is provided at half the typical market interest rate. By funding projects through the EIFP, project sponsors (and, in turn users) can expect to save up to 30 per cent on the financing of the total eligible costs of a project.

NJDEP may move funds among set-aside activities or from the set-aside account(s) to the Fund after receiving an approved amendment to the capitalization grant where permissible.

PRIORITY SYSTEM

I. Priority List - General

Placement on the Project Priority List is a prerequisite to be considered eligible for financial assistance and **all eligible projects for FFY2000 must be on this year's project priority list**. In accordance with the NJDEP's Call for Projects, mailed on May 21, 1999 to all community and nonprofit noncommunity water systems, the Project Ranking Forms were due to the NJDEP on or before August 31, 1999 in order for a project to be placed on the current Project Priority List for this funding cycle (November 2000 loans). The Call for Projects for future funding cycles will be continuous and projects can be added to the list during the time period between the publication of the proposed IUP and the final IUP. This will still allow for public review prior to the loans being issued. The Project Priority List will be created using the Project Ranking Form (see Appendix A) submitted by potential applicants. The prospective applicant has the responsibility of submitting all the required application material in a timely manner and in accordance with the deadlines published in this IUP. As indicated on page 11, the FFY2000 standard schedule projects were required to submit planning documents by June 7, 1999 and design documents by February 7, 2000. The "second chance" projects are required to submit all planning and design documents by February 7, 2000. The FFY2000 standard schedule and second chance projects are required to submit all loan applications by March 13, 2000, in order to be considered for funding in the SFY2001 funding cycle (November 2000 scheduled financing) of the DWSRF program.

Failure of a prospective applicant to submit complete planning, design and application documents within the time periods specified by this IUP will result in NJDEP bypassing the project in favor of other priority project(s) which are ready to proceed.

Presently there are 222 projects totaling \$604 million on the Project Priority List.

II. Ranking Methodology

NJDEP will rank all eligible projects according to the total number of points each project receives and will subsequently place the projects on the Project Priority List according to their ranking. The projects with the higher number of points rank above those with lesser points. Due to annual addition of new projects to the Project Priority List, or to periodic revisions to the Priority System, individual project rankings may change annually. For projects which include multiple elements as listed in priority Category A below, projects will be separately listed by the elements involved, and priority points will be assigned for each element.

Priority points will be assigned only if the project scope includes actual repair, rehabilitation, or correction of a problem or improvement clearly related to priority Category A. A project must be assigned points from Category A to be eligible for ranking, points assigned from the remaining categories are in addition to the points received in Category A.

The prospective applicant must notify NJDEP of any changes to project scope or any other circumstance which may affect the calculation of priority points. NJDEP shall then recalculate, if appropriate, the prospective applicant's ranking utilizing the new information submitted and revise the priority ranking accordingly.

The principal elements of the Priority System are: A) Compliance and Public Health Criteria, B) Approved Drinking Water Infrastructure Plan, C) Conformance with the New Jersey State Development and Redevelopment Plan, D) Affordability and E) Population. Points are assigned for each of the five priority categories discussed below, as applicable:

A. Compliance with Safe Drinking Water Act (SDWA) and Protection of Public Health

DWSRF funds are to be utilized to address contamination problems and to ensure compliance with the SDWA requirements. Priority is given to water systems in non-compliance with the surface water treatment requirements and those incurring acute, primary or action level violations as defined in the SDWA, and the NJSDWA rules (N.J.A.C. 7:10). Table 1 describes the sixteen project elements that are eligible for DWSRF funds:

Table 1

- | | |
|---|---------|
| 1. Systems which utilize surface water, that are not in compliance with the surface water treatment requirements or have had any acute violations (either fecal coliform or nitrates) and have been issued an administrative order, directive or recommendation by NJDEP requiring the correction of any noncompliance of its treatment facilities to address an immediate public health threat | 500 pts |
| 2. Systems which utilize groundwater under the direct influence of surface water, that are not in compliance with the surface water treatment requirements or have had any acute violations (either fecal coliform or nitrates) and have been issued an administrative order, directive or recommendation by NJDEP requiring the correction of any noncompliance of its treatment facilities to address an immediate public health threat | 350 pts |
| 3. Systems which utilize groundwater that have had any acute violation (either fecal coliform or nitrates) | 300 pts |
| 4. Systems which have had any maximum contaminant level | |

violations (except acute violations) or exceedance of action levels (lead and copper rule)	200 pts
5. Systems that have lost well capacity due to cutbacks in Critical Area #1 or 2 or due to saltwater intrusion and a solution is needed to preserve the aquifer as a viable aquifer	175 pts
6. Purchase of a water system to comply with the SDWA for capacity development	150 pts
7. Extension of water mains to private wells that have had any maximum contaminant level violations or exceeded lead and copper action levels	125 pts
8. Existing treatment facilities that need to be rehabilitated, replaced or repaired to ensure compliance with the SDWA	100 pts
9. Existing transmission or distribution mains with appurtenances that need to be rehabilitated, replaced, repaired or looped to pre- vent contamination caused by leaks or breaks in the pipe or improve water pressures to maintain safe levels or to ensure compliance with the SDWA	75 pts
10. Existing pump stations or finished water storage facilities that need to be rehabilitated or replaced to maintain compliance with the SDWA	60 pts
11. New finished water storage facilities or pump stations that are needed to maintain pressure in the system and/or prevent contamination	50 pts
12. Systems which have had any exceedance of any secondary drinking water regulations that have received notification issued by NJDEP that exceedance of a secondary drinking water regulation causes adverse effects on the public welfare, and for which the system has received a directive issued by the NJDEP requiring correction of the exceedance	45 pts
13. Construction of new or rehabilitation of existing interconnections between water systems to improve water pressures to maintain safe levels or to ensure compliance with the SDWA	30 pts
14. Replacement or installation of new water meters	25 pts
15. Redevelop wells or construct new wells to meet the New Jersey	

SDWA rules for required pumping capacity 15 pts

16. Other project elements, not including items 1 through 15 above, that ensure compliance with the SDWA and protect public health, as approved by NJDEP 1 pt

B. Approved Drinking Water Infrastructure Plan

Planning water system improvements that advance comprehensive water supply concepts can facilitate cost effective drinking water system improvements. To provide an incentive to plan in this way, priority points will be given to each project that implements the actual repair, rehabilitation, or correction of a problem, or improvement clearly identified in a five year master plan or five year capital improvement plan acceptable to NJDEP, or that is linked to a comprehensive water supply plan for a particular region or watershed acceptable to NJDEP. Points are assigned as follows:

1. 50 priority points will be assigned to a water system that connects to a regional solution that is contained in a comprehensive water supply plan for a particular region or watershed acceptable to NJDEP.

2. 25 priority points will be assigned to a water system that has a local five year master plan or five year capital improvement plan or that is linked to a comprehensive water supply plan for a particular region or watershed acceptable to NJDEP. The plan should contain a description of the components of the system, population growth estimates, testing done, current deficiencies, immediate recommendations, recommendations for the next five years and a map of the distribution system (not just a capital budget).

C. State Development and Redevelopment Plan

NJDEP seeks to coordinate and enhance the State Planning Commission's (SPC) efforts to implement the State Development and Redevelopment Plan. NJDEP assigns points to projects in municipalities the SPC has approved under the Center Designation Process. Points are also given to distressed areas. Points are assigned as shown in Table 2.

Table 2

1. Distressed areas that have an endorsed Strategic Revitalization Plan	20 pts
2. Urban Centers	10 pts
3. Regional Centers	5 pts
4. Towns	3 pts

- 5. Villages 2 pts
- 6. Hamlets 1 pt

Contact the N.J. Office of State Planning, Department of Community Affairs, 33 West State Street, 4th floor, P.O. Box 204, Trenton, N.J. 08625-0204 or call (609) 292-7156 for further information on the State Development and Redevelopment Plan.

Please note for water systems that service more than one municipality, the municipality that has the highest population will be counted for this category.

D. Affordability

The purpose of the affordability criteria is to determine which project sponsors' water systems are eligible for additional points under the Affordability Category.

Affordability is the degree of need for financial assistance based upon the New Jersey median household income compared to the municipal median household income (MHI). Affordability is determined by the following formula:

$$\frac{\text{Municipal MHI}}{\text{Statewide MHI}} \times 100 = \text{Affordability Factor}$$

Points are assigned as follows:

- 1. Affordability factor of 100 or greater 0 pts
- 2. Affordability factor from 85 through 99 15 pts
- 3. Affordability factor from 66 through 84 30 pts
- 4. Affordability factor less than or equal to 65 80 pts

The median household income of the municipality which the water system serves and the Statewide median household income will be determined from income data in the most recent United States census.

The NJDEP has determined that for the purposes of the DWSRF Program, a municipality whose median household income is 35% or more below the State's MHI, shall be considered a Disadvantaged Community, and will receive 80 priority points, which are proportionately greater than the other affordability factor points. (New Jersey's MHI is \$40,927 from the 1990 Census.)

A weighted MHI will be calculated for a project sponsor whose water system serves more than one

municipality, as shown in the example below.

Example

Municipalities served	MHI	Population served	Fraction of total population served	Weighted municipal MHI
Lancaster	30,000	5,000	.167	5,000
Mayberry	20,000	10,000	.333	6,660
Holmeville	25,000	15,000	.500	12,500
Total		30,000	1.00	24,160

Please note for water systems that service more than ten municipalities, the ten municipalities that have the highest populations served will be considered in the above table for the affordability factor.

Population served for resort communities will be calculated by the following equation:

$$\frac{(2 \times \text{Winter Population}) + \text{Summer Population}}{3} = \text{Avg. Population}$$

E. Population

As a tie breaker, projects will be assigned points based on the permanent population of the water system service area. In the instance of a resort community where the summer and winter populations vary greatly, the permanent population will be calculated by taking the sum of twice the winter population and once the summer population and dividing by three. For water systems that service more than one municipality, total all the permanent population served in the multiple service areas. Priority points will be calculated as the permanent population served by the water system divided by 100,000, expressed as a decimal. In the event that projects remain tied, the project which serves a greater proportionate population in the water system's area will be given higher priority.

III. Supplemental Project Priority

All projects which have received loans to date based upon engineering estimates and which may require additional funds due to the award of all project related contracts, will be given priority over new projects eligible for funding. Additionally, certain projects funded in past years may also be eligible to apply for a post-construction supplemental loan for increased costs due to differing site conditions and will be given priority over new projects seeking funds. Priority between projects that are eligible to receive supplemental loans and that received their original loans in the same funding cycle will be determined according to each project's ranking on the respective funding year's priority

list. In summary, the order of project priority is as follows:

1. Supplemental Projects
2. Small Systems up to 15% of DWSRF Funds
3. Standard Schedule Projects
4. "Second Chance" Projects

INTENDED USE PLAN

This IUP provides information on funds available through the Drinking Water SRF Program to provide financial assistance for projects using FFY 2001 capitalization grants, state match and Trust bond proceeds. Placement on the Project Priority List is a prerequisite to be considered eligible for financial assistance. Projects will be certified for funding based on the Project Priority List rank, amount of available funds, and compliance with the Program's requirements and deadlines for

completion of planning, design and loan application. Any projects that are not ready to proceed during the funding year will be bypassed, but will remain on the Project Priority List and thus be eligible to pursue loan awards in a future funding cycle. This IUP provides an opportunity for those interested to be on the FFY 2001 priority list and for second chance applicants for FFY2000. Project sponsors must meet one of the two program schedules established below in order to be funded in November 2000:

	<u>FFY2000</u> <u>Standard Schedule</u>	<u>FFY2000</u> <u>“Second Chance” Schedule</u>
Commitment Letter	February 1, 1999	February 7, 2000
Planning Documents	June 7, 1999	February 7, 2000
Design Documents	February 7, 2000	February 7, 2000
Loan Application	March 13, 2000	March 13, 2000
Loan Award	November 2000	November 2000

The FFY2000 Standard Schedule (i.e., for loan awards in November 2000) was previously published in the last NJDEP’s IUP for the DWSRF Program finalized in May 1999. Please note that the prospective applicants that are in compliance with the FFY2000 Standard Schedule will be given priority over the FY2000 “Second Chance” prospective applicants. The exception is that NJDEP will first finance projects for the small systems up to 15% of the DWSRF funds, in accordance with Section III, Small Systems, of this IUP. Also, refer to Section III, Supplemental Project Priority in the Priority System section of this IUP.

Note: A "Second Chance" schedule will no longer be offered after FFY2000. In order to better manage the large volume of environmental infrastructure projects being processed, the program is revising the project submittal deadlines for FFY2001 and beyond and switching to one schedule thereby, eliminating the "Second Chance" option. The proposed schedule for FFY2001 is as established below:

Commitment Letter and Planning Document	October 2, 2000
Design Document and Loan Application	March 5, 2001
Loan Award	November 2001

These deadlines **MUST** be adhered to or this will result in NJDEP bypassing the project in favor of other priority project(s) which are ready to proceed.

It is highly recommended that all prospective applicants attend a preplanning meeting with the Water Supply Element and Municipal Finance and Construction Element of NJDEP and the Trust, prior to the prospective applicant’s submission of a Commitment Letter. The purpose of the preplanning meeting includes discussion of DWSRF Program requirements and schedules and the prospective applicant’s project(s) and schedules. After the preplanning meeting, those prospective applicants desiring to pursue project financing through the DWSRF Program should submit a Commitment Letter to the NJDEP and proceed according to the applicable schedule.

An acceptable planning submittal must consist of a complete project report, the appropriate environmental planning documentation for the level of environmental review determined applicable by NJDEP, cultural resources information, documentation of completed public participation activities, and the results of preliminary coordination activities with lead agencies regarding environmental and permit reviews. The requirements for the planning submittal can be found in N.J.A.C. 7:22, Financial Assistance Programs for Environmental Infrastructure Facilities.

I. Eligible Systems and Projects

A. Eligible Systems

Drinking water systems that are eligible for DWSRF assistance are community water systems, both privately and publicly owned, and nonprofit noncommunity water systems. Federally owned systems and State owned systems (State agencies, such as state police, parks and forestry, corrections) are not eligible to receive DWSRF assistance. However, State authorized systems (water commissions, water supply authorities, water districts) are eligible to receive DWSRF assistance.

B. Eligible Projects

1. Compliance and public health

The DWSRF may only provide assistance for expenditures (not including monitoring, operation, and maintenance expenditures) which will facilitate compliance with national primary drinking water regulations applicable to the system or otherwise significantly further the health protection objectives of the SDWA.

Projects to address SDWA health standards that have been exceeded or to prevent future violations of the rules are eligible for funding. These include projects to maintain compliance with existing regulations for contaminants with acute health effects (e.g., the Surface Water Treatment Rule, the Total Coliform Rule, and nitrate standard) and regulations for contaminants with chronic health effects (e.g., Lead and Copper Rule, regulated inorganics, volatile organics and synthetic organics, total trihalomethanes and radiological contaminants).

Projects to replace aging infrastructure are also eligible if they are needed to maintain compliance or further the public health protection goals of the SDWA. Examples of these include projects to:

- rehabilitate or develop sources (excluding reservoirs, dams, dam rehabilitation and water rights) to replace contaminated sources;
- install or upgrade treatment facilities, if the project would improve the quality of drinking water to comply with primary or secondary drinking water standards;
- install or upgrade storage facilities, including finished water reservoirs, to prevent microbiological contaminants from entering the water system; and

- install or replace transmission and distribution pipes to prevent contamination caused by leaks or breaks in the pipe, or improve water pressure to safe levels.

Projects to consolidate water supplies as follow are eligible for DWSRF assistance: A) extension of water mains by a community water supply system to individual homes whose wells are contaminated; or B) purchase of a water system that is unable to maintain compliance for financial, managerial or technical reasons.

2. Restructuring of systems that are in noncompliance or that lack the technical, managerial or financial capability to maintain the system

The DWSRF may provide assistance to an eligible public water system to consolidate (i.e., restructure) with other public water system(s) only if the assistance will ensure that the system returns to and maintains compliance with SDWA requirements, and the owner or operator of the water system agrees to undertake feasible and appropriate changes in operations necessary to ensure the system has the technical, managerial and financial capability to comply with the SDWA requirements over the long term.

3. Allowable Costs

i. Land acquisition

Land acquisition is eligible only if it is integral to a project that is needed to meet or maintain compliance and further public health protection. In this instance, land that is integral to a project is only that land needed to locate eligible treatment or distribution projects. In addition, the acquisition has to be from a willing seller.

ii. Planning and design of a drinking water project

NJDEP has adopted rules at N.J.A.C. 7:22, entitled “Financial Assistance Programs for Environmental Infrastructure Facilities”. N.J.A.C. 7:22-5.12 establishes the eligible allowance to defray the cost of planning and design.

iii. Construction related cost of a drinking water project

The Financing Program rules (N.J.A.C. 7:22) provide eligible costs of 3% of the construction contract costs for administrative expenses, 5% of the construction contract costs for construction contingencies, and the actual cost of engineering/construction management services (NJDEP will use 12% to estimate the cost of engineering/construction management services for the purposes of developing the project priority list).

iv. Growth

Assistance may be provided to address population growth expected to occur by the date of initiation

of operation of any improvements to be funded by DWSRF assistance, but not solely in anticipation of future population growth. In determining whether or not a project is eligible for assistance, NJDEP must determine the primary purpose of the project. If the primary purpose is to supply water to or to attract new population growth, the project is not eligible to receive DWSRF funds. If the primary purpose is to address a compliance or public health problem, the entire project, including the portion necessary to accommodate a reasonable amount of growth to the date of initiation of operation of any improvements to be funded by DWSRF assistance from the NJDEP, is eligible. The remaining capacity related to growth may be funded by the Trust.

C. Projects not Eligible for Funding

The DWSRF cannot provide funding assistance for the following projects and activities:

- Dams, or rehabilitation of dams;
- Water rights, except if the water rights are owned by a system that is being purchased through consolidation as part of a capacity development strategy;
- Reservoirs, except for finished water reservoirs and those reservoirs that are part of the treatment process and are located on the property where the treatment facility is located;
- Laboratory fees for monitoring;
- Operation and maintenance expenses;
- Projects needed mainly for fire protection;
- Projects for systems that lack adequate technical, managerial and financial capability, unless assistance will ensure compliance;
- Projects for systems in significant noncompliance, unless funding will ensure compliance; and
- Projects primarily intended to serve future growth.

1. Lack of technical, managerial and financial capability

The DWSRF may not provide any type of assistance to a system that lacks the technical, managerial or financial capability to maintain SDWA compliance, unless the owner or operator of the system agrees to undertake feasible and appropriate changes in operation or if the use of the financial assistance from the DWSRF will ensure compliance over the long term. A capacity program was developed to evaluate each system to be funded to ensure each meets the capacity development requirements (see Appendix A).

2. Significant noncompliance

The DWSRF may not provide assistance to any system that is in significant noncompliance with any national drinking water regulation or variance unless NJDEP determines that the project will enable the system to return to compliance and the system will maintain an adequate level of technical, managerial and financial capability to maintain compliance.

D. Compliance Without DWSRF Funding

The inability or failure of any public water system to receive assistance from the DWSRF or any other funding agency, shall not alter the obligation of a drinking water system to comply in a timely manner with all applicable drinking water standards.

II. Description of DWSRF Financing Program

In addition to the USEPA's capitalization grant, funds are also available from two other sources, the New Jersey Water Supply Bond Fund created under the Water Supply Bond Act of 1981 and the Trust. The 1981 Bond Act authorized the creation of a general obligation debt in the amount of \$350,000,000 for the purpose of providing loans for State or local projects to rehabilitate, repair or consolidate antiquated, damaged or inadequately operating water supply facilities and to plan, design, acquire and construct various State water supply facilities. The Trust has the authority to issue bonds and to reserve any funds necessary to make loans to applicants for environmental infrastructure projects. NJDEP intends to continue to provide loans through the capitalization grant in combination with leveraging state match funds by the Trust to maximize the Program's cash flow. The Fund provides loans at 0% interest for a maximum of 20-year repayment terms, not to exceed the useful life, for one half of the allowable project costs. The Trust offers market rate loans for the remaining allowable project costs, also for a 20-year term. Table 4 illustrates the NJDEP's intended use of the FFY2001 funds. Table 5 outlines the distribution of FFY2001 nonproject set-aside funds. Nonproject set-aside funds identified in Table 5 will be used for the activities shown or reserved for use in future fiscal years use, in accordance with USEPA guidance. Funds not used for nonproject set-aside activities will be returned to the project fund for DWSRF use.

Table 4 - DWSRF Uses

	<u>FFY2001*</u>
<u>Funds Available</u>	
Federal Capitalization Grant	\$19,000,000
State Match	\$ 3,800,000
Funds Available	\$22,800,000
<u>Projected Expenditures</u>	
Nonproject Set-asides (see Table 5)	\$ 3,040,000
Funds Available for Projects	\$19,760,000
Trust Reserve Fund	\$ 1,778,400
NJDEP \$\$ Available	\$17,981,600
Trust Bond Proceeds	\$17,981,600
Funds Available for Projects (NJDEP & Trust)	\$35,963,200
Funds Available for Projects with transfer of funds from CWSRF to DWSRF, as needed. (NJDEP & Trust) **	\$47,000,000
Funds Available for Projects remaining From FFY1998,1999 & 2000 (NJDEP & Trust) ***	\$69,358,924
Total Funds for Projects	\$116,358,924

*The federal funds are estimated at \$19,000,000 for FFY2001 for planning purposes, actual amounts will be proportionally equal.

** FFY2001 funds plus transfer amount minus Trust Reserve Fund and leveraged by the Trust

***Estimate of \$55,427,173 is to be utilized in November 2000 financing program

Table 5 - Non-Project Set-Aside Fund Uses

	<u>FFY2001*</u>
<u>Non-project Set-aside Amounts</u> (see Table 4)	\$3,040,000
<u>Program Administration of DWSRF Projects (4%)</u>	\$ 760,000
<u>Small System Technical Assistance (2%) **</u>	\$ 380,000
<u>State Program Management (10%)**</u>	\$1,900,000
State PWSS Program	\$ 190,000
Source Water Program Administration	\$ 570,000
Capacity Development	\$ 570,000
Operator Certification	\$ 570,000

*The federal funds are estimated at \$19,000,000 for FFY2001 for planning purposes.

**These figures are approximate, and are subject to a workplan submittal to USEPA.

Currently NJDEP's IUP does not call for providing additional funds for disadvantaged communities. However, disadvantaged communities, as identified in the Project Priority System, Category D, Affordability Criteria will receive higher ranking points. Thus, disadvantaged communities will receive a higher priority to qualify for the low interest loans available under the DWSRF financing program.

Under the provisions of the SDWA of 1996, Section 1452(e), each State is required to deposit in the DWSRF an amount equal to at least 20% of the total amount of the capitalization grant. The funding source of the State Match is expected to be secured from the 1981 Water Supply Bond Fund.

Each State must also agree to deposit into the set-aside account where the Section 1452(g)(2) funds will be deposited, a dollar for dollar match, not to exceed an amount of 10% of the capitalization grant. Thus, the State Match for the State Program Management set-aside estimated for FFY2001 is \$1,900,000. Approximately half of the match is anticipated to be provided through the state's expenditures under the Public Water System Supervision (PWSS) not required for match purposes under the Performance Partnership Grant for that SFY and the balance from the SFY93 Public Water System Supervision expenditures not required for match purposes under the Performance Partnership Grant.

III. Small Systems

A state must annually use at least 15% of all funds credited to the DWSRF project account to provide loan assistance to systems serving fewer than 10,000 persons, to the extent that there are a sufficient number of eligible projects to fund. Therefore, a reserve fund of 15% of the DWSRF fund will be reserved to provide financing for small systems serving fewer than 10,000 residents. However, if there are not enough small systems serving fewer than 10,000 that would be eligible for the 15% reserve fund, then the moneys would be utilized for eligible projects, in priority order, that have met program requirements.

For the last two funding cycles, less than 15% of the FFY1997 and 1998 funds were utilized for small systems. In November 1998, two small systems for 12.7% and in November 1999, three small systems for 4.0% of DWSRF funds were financed. Only those systems ready to proceed were issued loans in November 1998 and November 1999. With the help of the 2% set-asides for technical assistance to small systems and a contract being prepared with New Jersey Rural Water Association, New Jersey will strive to reach the goal of 15% in future funding cycles.

IV. Nonproject Set-asides

Section 1452 of the Federal Safe Drinking Water Act authorizes the states to provide funding for certain nonproject activities, so long as the amounts do not exceed ceilings specified in the statute. Required workplans will be submitted to the USEPA with the capitalization grant application for the nonproject set-aside activities. The workplans will provide a task, output and budget breakdown for the set-asides. Any costs that are not covered by the workplans will be used to finance construction projects; where allowed, the Department reserves the authority to apply for these set-aside funds for nonproject activities under future capitalization grant applications.

A. Administration (4%)

These funds will be used to administer the DWSRF in New Jersey. These administrative costs may include expenses such as development of the Project Priority System, the IUP and Project Priority List, the capitalization grant application and other program documents. In addition, NJDEP's costs for project management for planning, design, construction, loan payment/repayment, annual reporting activities, infrastructure needs survey, etc., are also eligible. If this entire amount is not obligated in one year, the NJDEP will retain these funds to cover administrative costs in subsequent years.

B. Program Management (10%)

NJDEP intends to use this set-aside to provide support for: public water system supervision programs such as administration of the consumer confidence report program and the radon multi-media mitigation program; source water protection program; development and implementation of a strategy to generate water system technical, financial, and managerial capacity; and the management of an operator certification program.

1. State PWSS Program

USEPA has recently proposed rules for radon in drinking water. These proposed rules allows states that have a "radon-in-air" program to adopt an alternate MCL for radon in drinking water instead of adopting the proposed MCL. This strategy is based on the greater risk reduction (health benefits) to be gained by reducing radon in indoor air versus reducing the radon concentration in drinking water. The drinking water program has been working with the NJDEP's "radon-in-air" program and providing input to the development of the USEPA proposal. NJDEP is strongly considering taking the "radon multi-media mitigation program" (RMMP) approach and applying for the use of the alternate MCL for radon in drinking water (4,000 pCi/l vs 300 pCi/l). If we choose to pursue this federal strategy, the radon-in-air program will need to be enhanced to meet USEPA criteria. The RMMP will need additional resources to do this. This set-aside will provide initial funding to start this process, assuming the state decides to elect this RMMP option sometime around the end of the calendar year 2000.

NJDEP is also using part of this set-aside to fund portions of the administration of the consumers confidence report program in New Jersey.

2. Source Water Protection Program Management

The 1996 Safe Drinking Water Act Amendments require States to develop a source water assessment program. States are required to have a public participation program which consists of public advisory and technical advisory committees (or a combined committee) that advises NJDEP on a statewide source water assessment plan. NJDEP initiated the public participation program in 1998. New Jersey submitted a source water assessment plan to USEPA in July 1999. This plan received final USEPA approval on November 1, 1999. As part of the approval, NJDEP has committed to continue the public participation process. NJDEP will hold meetings with the Source Water Assessment Committee to work on the development of specific source water assessment program tasks. These public participation activities will continue to be funded by the source water protection program management set-aside. NJDEP intends to use funding from this section to administer or provide technical assistance for the source water protection program.

There are two sources of funding for the source water assessment protection program. In addition to this set-aside, NJDEP is using a one time source of funding from the FFY97 capital grant for delineations and assessments. To date NJDEP has hired six staff to work on source water assessment activities from this set-aside and also from the one time delineation and assessment set-aside. There are a total of 12 NJDEP staff working on source water assessment program, full or part-time, during the start up phase of this multi-year program. USGS studies on the susceptibility of public water supplies to potential contamination sources will be funded by the delineation and assessment set-aside. These studies are being conducted for groundwater and surface water and will take several years to complete for all contaminant groups identified in the Source Water assessment Program Plan. Concurrently, the water supply program will coordinate with State programs responsible for surface and ground water quality standards, area-wide and watershed planning as

well as wellhead and aquifer recharge programs.

3. System Capacity Development

Section 1420 of the SDWA contains the following deadlines which the State must meet to be eligible to receive set-aside for capacity development and not to jeopardize the State's allocation of DWSRF funds:

- a. by August 1997, the State must submit a list of Significant Non-Complying (SNC) systems to EPA. (On July 30, 1997 New Jersey submitted such a list containing 55 community and 92 noncommunity water systems);
- b. New Jersey sought to reaffirm the legal authority to assure that all new water systems demonstrate adequate capacity. On August 2, 1999, the New Jersey Safe Drinking Water Act was amended at N.J.S.A. 58:12A-4c(5)(b) to give NJDEP the explicit authority to require new systems technical, managerial and financial (TMF) capacity;
- c. by October 1, 1999, the State must have a capacity development program in place. On September 20, 1999, NJDEP submitted a complete plan for ensuring that all new community and nontransient noncommunity water systems demonstrate the technical, managerial and financial capacity;
- d. by August 2000, the State must establish a capacity development strategy for all public water systems;
- e. by August 2000, the State must identify factors that encourage or impair capacity development;
- f. by August 2002, the State's program (NJDEP) has to prepare a report to the Governor which reviews the efficacy of the strategy and progress made toward improving the capacity of public water systems; and
- g. after August 2002, the NJDEP is to prepare updates to the strategy and prepare a progress report for the Governor every three years thereafter.

Under Section 1420(g) of the SDWA, New Jersey is required to have a capacity development program and a Capacity Development Strategy. If a State fails to comply with the above-mentioned Capacity Development Strategy, it is subject to lose up to 10% of the DWSRF funds in FFY 2001, 15% in FFY 2002, and 20% in each fiscal year thereafter. The goals of the NJDEP's Capacity Development Strategy are to prevent the formation and approval of new nonviable public water systems and to assist and encourage consolidation of existing nonviable water systems through a well thought out process which is rational and implementable. New Jersey will review the Small Water Utility Take Over Act (N.J.S.A. 58:11-59) and companion regulation (N.J.A.C. 7:19-5) and seek to modify each, if necessary, to address existing nonviable water systems.

As a result of the legislative amendments to the N.J. SDWA which give NJDEP the legal authority to require TMF capacity, revisions to the SDWA regulations have been proposed on September 20, 1999. A new subchapter (13) has been added which covers TMF capacity for new systems. Subchapter 13 contains specific requirements for new public community and nontransient noncommunity water systems to attain TMF capacity as one of the conditions to their approval for operation. All community water systems, including those not regulated by either Department of Community Affairs or Board of Public Utilities, would have to specifically demonstrate that they have TMF capacity as part of their approval process. Likewise, applicants that wish to seek approval of a new public nontransient noncommunity water system would have to demonstrate that the proposed system owner and operator have TMF capacity to operate a nontransient water system. Any TMF capacity determinations made on the new system under the jurisdiction of the Department of Community Affairs or Board of Public Utilities will be made in consultation with the Department of Community Affairs, Division of Local Government Services or the Board of Public Utilities, Division of Water and Sewer, as appropriate.

In order to meet the federal SDWA requirements for capacity development, the State intends to accomplish the following tasks:

- a. Identify all the public water systems with a history of Significant Non-Compliance.¹
 1. List identified public water systems as of July 30, 1997 (55 community and 92 noncommunity water systems).
 2. Update status of identified systems every 3 months until the water system returns to compliance and remains in compliance for a specified period.
 3. Revise list yearly.
- b. With assistance from the Division of Law within the Department of Law and Public Safety and the New Jersey Board of Public Utilities, make a legal determination whether the existing statutes and regulations governing the approval of new water systems apply to all public water systems subject to the SDWA's system capacity requirements and whether adequate economic determination is made as to viability of the proposed system (A determination was made and revision to the Safe Drinking Water Act legislation was necessary and Law was amended August 2, 1999).

¹ PWS w/ History of Non-Compliance means a PWS which has been in SNC status for 3 or more quarters during the past three years.

- c. Inventory and provide a description of the institutional, regulatory, financial, tax and legal factors at all levels of government (local, State & federal) which encourage capacity development.
- d. Identify agencies (local & State) that would have an interest in and be involved in the development and implementation of a capacity development program.
- e. Develop a list of hardship areas and water systems which would likely benefit from private/public partnership or regionalization efforts to make them viable.
- f. Conduct roundtable discussions with local entities (CEHA agencies, and other local health departments) to explain capacity development and seek their input and/or help to implement a capacity development strategy (Four stakeholder meetings were held in 1998 to receive input from interested parties).

4. Operator Certification

NJDEP is in the process of amending its regulations in order to comply with the February 5, 1999 USEPA “Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems”. The guidelines indicate that New Jersey must require licensed operators for all public community and public nontransient noncommunity water systems, establish training requirements for license renewal based on an operator’s certification level, and assure that operator license examination questions are validated.

In order to meet these goals, NJDEP has submitted to USEPA a draft rule which requires 1) all public community and nontransient noncommunity water systems to employ licensed operators and 2) specific training requirements for license renewal based on license classification. These proposed regulations are currently undergoing internal NJDEP legal review. In addition, New Jersey has contracted with the Association of Boards of Certification (ABC) for potable water license testing to assure that New Jersey has appropriate licensed operator test questions.

NJDEP sponsored four stakeholders meetings to discuss proposed changes to our regulations. These meetings were located in four distinct areas throughout New Jersey. In addition, presentations were given at New Jersey Section of the American Water Works Association (AWWA) conferences, New Jersey Rural Water Meetings and local meetings of the Water Environmental Association (WEA). All meetings included question and answer periods in order to get maximum feedback from the audience.

Federal guidelines and proposed regulations were also extensively discussed at New Jersey’s Board of Examiner (Board) and Advisory Committee on Water Supply and Wastewater Licensed Operator Training (Advisory Committee) meetings. The Board includes representatives of New Jersey’s operator community. The Board’s purpose is to advise and assist the Department in the preparation and administration of examinations. The Advisory Committee advises the Department, through the Board, on the instructional process leading to State licensing of system operators and for the further

educational advancement of licensees. The Advisory committee includes AWWA, WEA, Water Pollution Control Association, Authorities Association, Chamber of Commerce, Business and Industry Council and educational institution representatives.

The proposed rules include a new license classification called Very Small Water System (VSWS). The VSWS license covers all public community water systems without treatment and nontransient noncommunity water systems with either no treatment or treatment consisting of disinfection and other types of relatively simple passive treatment (e.g. calcite filters). NJDEP has developed a curriculum for the training course required obtaining a VSWS license. NJDEP is also in the process of researching what is the best literature to include with these courses and plans on using ABC tests to examine candidates for this license. At this time, NJDEP is conducting internal meetings in order to determine the best method to provide VSWS training.

Since the draft regulations include Training Contact Hour (TCH) requirements for operator license renewal, NJDEP, in concert with the Advisory Committee, has developed a draft policy on approving courses for continuing education credit. NJDEP has submitted the policy to the New Jersey Section of the AWWA'S Education Committee for comment. In addition, we are in the initial process of contracting with the State Operator Training Center at Rutgers University to subsidize and thus reduce the cost of licensed operator training courses in order to make this training more easily accessible to individual operators.

The Office of Examinations and Licensing is coordinating with the New Jersey Environmental Management System (NJEMS) team to determine the best electronic method to track course approval, operator attendance and training received by individual operators. NJEMS is NJDEP's effort to integrate all its departmental databases in order to streamline the collection and management of information.

NJDEP is waiting for the USEPA's preliminary approval of our proposed regulations in order to develop a plan for the distribution of training funds to small system and unsalaried operators.

C. Small System Technical Assistance (2%)

Systems serving a population of 10,000 or less are eligible to receive technical assistance under this set-aside. NJDEP is in the process of completing a formal proposal to have an entity provide small water system technical assistance. Such assistance will include but not be limited to support for systems in significant noncompliance, GPS of well locations, assistance in filing SRF loan applications, general technical assistance visits, aid in preparing consumer confidence reports and conducting operator training seminars. NJDEP seeks to complete the contracting process for the two year contract by the first quarter of the year 2000.

The above contract is to be executed with NJ Rural Water Association. However, future funding is available to all interested and qualified entities.

V. Short and Long-Term Goal Statements

Providing a minimum of 15% of project funds to help finance improvements to small water systems and providing assistance to the highest priority projects on the Project Priority List are the most imminent short-term goals. Other short-term goals include securing NJDEP's FFY2001 drinking water capitalization grant so that funds will be available for water supply systems to comply with the SDWA.

The primary long-term goal is to continue to use funds to assist water systems to achieve and maintain drinking water quality to eliminate any violations of the SDWA. In addition, NJDEP desires to maintain the fiscal integrity of the DWSRF, and to assure a self-sustaining loan fund for future generations. NJDEP will periodically review the program so it meets the needs of the water systems and continues to address the needs of the water systems and customers.

SUMMARY OF OUTREACH EFFORTS

Federal DWSRF Guidance requires that State's DWSRF program include public participation activities. NJDEP mailed, on May 21, 1999, a preliminary Project Priority System to all community and nonprofit noncommunity water systems, county and local health authorities, selected environmental groups, selected engineering concerns, water associations and assorted State agencies, with a Call for Projects to be included in the comprehensive DWSRF Project Priority List and nonproject set-aside expenditures. The State has developed its program to make low-interest loans to community (both publicly and privately owned) and nonprofit noncommunity water systems. The Call for Projects for this funding cycle (November 2000 loans) closed on August 31, 1999. The Call for Projects for future funding cycles will be continuous and projects can be added to the list during the time period between the publication of the proposed IUP and the final IUP, this will still allow for public review prior to the loans being issued. A public hearing on the Proposed IUP was held on March 21, 2000.

In addition, the Trust has conducted outreach efforts targeted to both public and privately owned purveyors. In February 1999 the Trust mailed to the presidents and CFO's of every privately owned water company a memorandum detailing changes in federal policy that permit states to grant pre-award approval for projects proposed by privately owned water companies. The Trust includes in its periodic newsletter articles pertaining to the DWSRF. This newsletter is mailed to public and privately owned water purveyors, municipal and county officials and licensed professionals such as engineers and attorneys. Also, the Trust conducted an annual seminar on April 27 and 28, 2000 for borrowers to review the requirements, deadlines and obligations associated with the program, and makes periodic presentations to groups such as the NJ Rural Water Association, explaining and answering questions about the DWSRF program.

PROJECT PRIORITY LISTS AND NONPROJECT SET-ASIDE LIST

NJDEP developed a proposed Project Priority System which was sent to community and nonprofit noncommunity water supply systems, county and municipal health authorities, selected environmental groups, selected engineering consultants, water associations and assorted State agencies, requesting their input on the drinking water financing program. A Construction Project Ranking and Nonproject Set-aside Expenditure Input Form, included in the proposed Project Priority System, was used to solicit interested project sponsors to place proposed infrastructure projects on the Project Priority List and to solicit interested sponsors to provide input on nonproject set-aside expenditures. Appendix B lists all construction projects on the current project list (comprehensive list), projects expected to be funded in November 2000 under the fundable list, and projects already funded in November 1998 and November 1999.

APPENDIX A

- 1) Sample Commitment Letters
- 2) FFY2000/SFY2001 Drinking Water Financing Program Schedule
- 3) FFY2001/SFY2002 Drinking Water Financing Program Schedule
- 4) Construction Project Ranking and Nonproject Set-Aside Expenditure Input Form
- 5) Capacity Development Evaluation Procedure for DWSRF Project Sponsors
- 6) Chronological Summary of Capitalization Grants
- 7) Summary of Written Comment and Response
- 8) Summary of Public Hearing

Sample Commitment Letter
FFY 2000/SFY 2001 Funding Cycle
“Second Chance” Schedule

This letter, on official stationery, must be received or postmarked by February 7, 2000 to be given consideration by the New Jersey Department of Environmental Protection (NJDEP) and the New Jersey Environmental Infrastructure Trust (Trust) for inclusion as a “second chance” project in the 2000 Financing Program (for loan awards scheduled to be made in November 2000).

Dr. Shing-Fu Hsueh, Administrator
Water Supply Element
New Jersey Department of Environmental Protection
PO Box 426
Trenton, New Jersey 08625-0426

Dear Dr. Hsueh:

Subject: Project No.
 (Project Name)
 (Project Sponsor)
 (County)

In accordance with the provisions of the Priority System, Intended Use Plan and Project Priority List for FFY2000 and N.J.A.C. 7:22-3.7(a), I, _____, as
(Project Representative)

authorized representative for the above-referenced project, do hereby commit to meet the project document submittal deadlines identified below and the financial application deadline to be established by the Trust and the NJDEP for participation in the SFY 2001 Financing Program (November 2000 scheduled financing):

Planning Documents	February 7, 2000
Design Documents	February 7, 2000
Loan Application	March 13, 2000

A preplanning meeting for this project was held on _____ with representatives from the
(date)

Municipal Finance and Construction Element to discuss program requirements and schedules.

I understand that failure to comply with the submittal requirements and deadlines will result in the project being deemed ineligible for the 2000 Financing Program.

Enclosed please find a project ranking form, including any proposed modifications to the information represented in the Priority List.

Very truly yours,

(Authorized Representative)

Enclosure

c: Dirk Hofman, Executive Director
New Jersey Environmental Infrastructure Trust (w/enclosure)
P.O. Box 440
Trenton, New Jersey 08625-0440

Nicholas Binder, Assistant Director (w/enclosure)
Municipal Finance and Construction Element
P.O. Box 425, 401 East State Street
Trenton, New Jersey 08625-0425

NOTE: If a project sponsor fails to submit this commitment letter by February 7, 2000, the sponsor's projects remain on the Project Priority List and are eligible for future funding based on that year's Priority System.

information represented in the Priority List.

Very truly yours,

(Authorized Representative)

Enclosure

c: Dirk Hofman, Executive Director
New Jersey Environmental Infrastructure Trust (w/enclosure)
P.O. Box 440
Trenton, New Jersey 08625-0440

Nicholas Binder, Assistant Director (w/enclosure)
Municipal Finance and Construction Element
P.O. Box 425, 401 East State Street
Trenton, New Jersey 08625-0425

NOTE: If a project sponsor fails to submit this commitment letter by October 2, 2000 with the planning document, the sponsor's projects remain on the Project Priority List and are eligible for future funding based on that year's Priority System.

FFY2000/SFY 2001 Drinking Water Financing Program Schedule
“Second Chance” Schedule

(Using FFY2000 and Other Available Federal Monies)

<u>DATE</u>	<u>ACTION</u>
August 31, 1999	-Project ranking forms due from prospective project sponsors, in accordance with Call for Projects issued May 21, 1999 for projects not already on Priority List
On or before January 15, 2002	-NJDEP/Trust submit list of projects (based on Priority System ranking methodology) to Legislature for forthcoming State Fiscal Year
Before February 7, 2000	-Prospective project sponsors attend preplanning meeting with NJDEP prior to submitting Commitment Letter
February 7, 2000	-“Second Chance” applicants submit all planning and design documents with commitment letters to NJDEP -Standard schedule applicants were required to submit planning documents on June 7, 1999 and must submit design documents on February 7, 2000
March 13, 2000	-Applicants submit complete loan application to NJDEP
March 21, 2000	-Public hearing on FFY2001 Priority System, Intended Use Plan and Project Priority List proposal
On or before May 15, 2000	-Financial Plan for forthcoming State Fiscal Year submitted by Trust to Legislature
May 26, 2000	-Applicants submit financial addendum form to the Trust
July 1, 2000	-Legislature acts on Financial Plan -Trust transmits both draft loan agreements to qualifying applicants
Late August through September 15, 2000	-Execute NJDEP/Trust loan agreements in escrow
November 2000	-Loan award

FFY2001/SFY 2002 Drinking Water Financing Program Schedule
(Using FFY 2001 and Other Available Federal Monies)

<u>DATE</u>	<u>ACTION</u>
August 31, 1999	-Project ranking forms due from prospective project sponsors, in accordance with Call for Projects issued May 21, 1999 for projects not already on Project List
March 21, 2000	-Public hearing on FFY20001 Priority System, Intended Use Plan and Project Priority List proposal
Before September 1, 2000	-Prospective project sponsors attend preplanning meeting with NJDEP prior to submitting Commitment Letter
October 2, 2000	-Project Commitment Letters due -Applicants submit all planning documents to NJDEP
On or before January 15, 2001	-NJDEP/Trust submit list of projects (based on Priority System ranking methodology) to Legislature for forthcoming State Fiscal Year
March 5, 2001	-Applicants submit all design documents to NJDEP -Applicants submit complete loan application to NJDEP
On or before May 15, 2001	-Financial Plan for forthcoming State Fiscal Year submitted by Trust to Legislature
May 25, 2001	-Applicants submit financial addendum form to the Trust
July 1, 2001	-Legislature acts on Financial Plan -Trust transmits both draft loan agreements to qualifying applicants
Late August through September 15, 2001	-Execute NJDEP/Trust loan agreements in escrow
November 2001	-Loan award

**Drinking Water State Revolving Fund Program
Bureau of Safe Drinking Water
P.O. Box 426, Trenton, N.J. 08625-0426
Tel. No.: (609) 292-5550
Fax No.: (609) 292-1654**

**CONSTRUCTION PROJECT RANKING AND
NONPROJECT SET-ASIDE EXPENDITURE INPUT FORM**

May 21, 1999

Please complete this form for each construction project or nonproject set-aside activity to be included in the proposed DWSRF program. Provide the basic information **for each project element** so the project can be given priority points and ranked on the proposed priority list, or **for each set-aside activity** so the activity may be considered for inclusion in the nonproject set-aside expenditures, as applicable. (Refer to the attached Guidance)

1. Project or Activity Sponsor: _____
2. Contact Person: _____
3. PWS ID# (as applicable) : _____
4. Mailing Address: _____
Municipality: _____ State: _____ Zip: _____
County: _____
5. Telephone No.: (____) _____ Fax No.: (____) _____
6. Engineering Consultant (as applicable): _____
7. Mailing Address: _____
Municipality : _____ State: _____ Zip: _____
County: _____
8. Telephone No.: (____) _____ Fax No.: (____) _____

Please check one or more of the following to indicate your areas of interest in the DWSRF program:

___ DWSRF Construction Projects (Please also complete Page 2)

When are you interested in receiving construction project financing?

___ November 2000; ___ November 2001; ___ Beyond 2001

___ DWSRF Nonproject Set-Aside Expenditures (Please also complete Page 3)

When are you interested in receiving nonproject set-aside activity funding?

___ November 2000; ___ November 2001; ___ Beyond 2001

Page 2 of 3

DWSRF CONSTRUCTION PROJECTS

9. Project Description: (attach additional sheets, if necessary) _____

10. Need for Project (List by project element): _____

11. Estimated construction contract cost: \$ _____

12. Copy of acceptable drinking water infrastructure plan or comprehensive regional water plan attached: _____ yes _____ no

13. Median Household Income (1990 Census): \$ _____

14. Applicable State Planning Commission center designation: _____

15. Population served by drinking water system: _____

DWSRF NONPROJECT SET-ASIDES EXPENDITURES

16. Activity Description: (attach additional sheets, if necessary) _____

17. Estimated Cost for the proposed activity: \$ _____

18. The NJDEP may approve expenditures for the following activities in accordance with Section 1452 (k) of the SDWA. Please check one or more of the following categories in which you are interested, and provide a description to support your needs:

LOANS:

_____ for water systems to acquire land or a conservation easement from a willing seller or grantor, for source water protection purposes and to ensure compliance with national primary drinking water regulations.

_____ for community water systems to implement local voluntary, incentive based source water protection measures delineated under a source water protection program.

_____ for community water systems to provide funding for the development of a source water quality protection partnership petition (optional program under consideration by NJDEP).

TECHNICAL AND FINANCIAL ASSISTANCE:

_____ for water systems as part of a capacity development strategy developed and implemented under Section 1420 (c) of the SDWA.

STATE EXPENDITURES:

_____ for the State to make expenditures for the establishment and implementation of wellhead protection programs under Section 1428 of the SDWA.

19. The NJDEP may approve expenditures for providing technical assistance to water systems serving 10,000 or fewer persons. Please indicate your interest in participating, and provide a description to support your proposal.

_____ Small System Technical Assistance.

New Jersey Capacity Development Program for Projects Financed through the Drinking Water State Revolving Fund

November 19, 1999

Background

The Safe Drinking Water Act (SDWA) Amendments of 1996 (Pub. L. 104-182) authorize a Drinking Water State Revolving Fund (DWSRF). The DWSRF is designed to assist publicly owned and privately owned community water systems and nonprofit noncommunity water systems in financing the costs of infrastructure needed to achieve or maintain compliance with SDWA requirements, and to meet the public health objectives of the SDWA.

Section 1452(a)(3) of the SDWA prohibits a state from providing DWSRF assistance to a system that lacks technical, managerial, and financial capacity or is in significant noncompliance with any requirement of a national primary drinking water regulation or variance, unless: 1) the use of the financial assistance will ensure SDWA compliance, or 2) the owner or operator of the system agrees to undertake feasible and appropriate changes to assure that adequate capabilities will be put in place, and agrees to implement such changes.

The following is a screening process that will be used to assess the technical, managerial, and financial capacity of any DWSRF project sponsors.

I. Technical Capacity

Technical capacity refers to the adequacy, operation and maintenance of a water system's infrastructure. To assure adequate technical capacity, a project sponsor must demonstrate that its water system has adequate source water and adequate infrastructure, and must demonstrate that its water system is operated by personnel with technical knowledge about applicable standards. The project sponsor must demonstrate adequate technical capacity as follows:

1. The project sponsor and its water system are not in significant noncompliance as defined by the United States Environmental Protection Agency;
2. The project sponsor and its water system has no continuing violations of New Jersey's SDWA rules (N.J.A.C. 7:10) and Water Supply Allocation Permit rules (N.J.A.C. 7:19); and
3. The project sponsor is operating its water system under a licensed operator, of the appropriate license pursuant to N.J.A.C. 7:10A, 'Licensing of Water Supply and Wastewater Treatment System Operators.'

In addition to the above, the New Jersey Department of Environmental Protection may review any of the following items for technical capacity:

1. *SDWA Compliance data and inspection reports (Sanitary Surveys)* to identify actual and potential

problems that might lead to noncompliance or degradation of drinking water quality.

2. *Operator Certification* to evaluate if the water system is being operated by an operator licensed by the State of New Jersey, with the appropriate license classifications.

3. *Vulnerability assessments* to determine potential source water contamination.

4. *Enforcement actions, administrative consent orders, or directives* issued to the water system, requiring corrective actions to ensure compliance with the SDWA.

5. *Comprehensive Performance Evaluations (CPE's)* to analyze a surface water treatment plant's performance.

6. *Consumer Complaint Records* to identify technical problems with the water system (e.g., odor, taste, or low pressure).

7. *Engineering reports, design plans, project and long-term planning documents, for improvements* to ensure compliance with Federal and New Jersey's SDWA regulations, rules, and statutes.

Note: Significant noncompliance refers to long term repeated violations that constitute a threat to public health. A detailed summary of significant noncompliance is available by contacting the NJDEP, Bureau of Safe Drinking Water, either by telephone at (609)292-5550, or by writing NJDEP, Bureau of Safe Drinking Water, P.O. Box 426, Trenton, N.J. 08625-0426.

II. Managerial Capacity

Managerial capacity refers to the personnel expertise required to administer the overall water system operations. To assure adequate managerial capacity, the project sponsor must demonstrate that relative to its water system it has clear ownership, proper and organized staffing, and effective interaction with regulators and customers. In assessing the managerial capacity of the water system, the New Jersey Department of Environmental Protection or the New Jersey Environmental Infrastructure Trust, shall consult with the Board of Public Utilities (in regards to investor-owned BPU-regulated water systems) or the Department of Community Affairs, Division of Local Government Services, as appropriate. The project sponsor must demonstrate adequate managerial capacity as follows:

1. A project sponsor or its water system is not in receivership;
2. The project sponsor demonstrates to the Department's satisfaction that it has clear ownership of the water system or that other arrangements are in place to satisfy the Federal Safe Drinking Water Act managerial capacity requirements; and
3. The project sponsor and its water system do not have any continuing violations of requirements, rules or statutes of the New Jersey Department of Environmental Protection, the Board of Public

Utilities, or the Department of Community Affairs, Division of Local Government Services, as applicable.

In addition to the above, the NJDEP may review any of the following items for managerial capacity especially when the project sponsor's water system is not regulated by the Board of Public Utilities or the Department of Community Affairs, Division of Local Government Services:

1. *A summary of biographies, resumes, and other related material from the previous five years to determine the training, expertise and education of personnel.*
2. *Business or Water System Plan to evaluate management's overall practices and ownership accountabilities to assist in evaluating the owner's understanding of current New Jersey's SDWA regulations and professional practice.*
3. *A summary of billing and collection procedures used for the water system from the previous five years.*
4. *A summary of consumer complaint records within the previous five years to identify the water system's responses to customer complaints.*

III. Financial Capacity

Financial capacity refers to the monetary resources available to a project sponsor for its water system to support the cost of operating, maintaining, and improving the water system. To assure adequate financial capacity, the project sponsor must demonstrate that relative to its water system it has sufficient revenues, fiscal controls and credit worthiness. In assessing the financial capacity of the water system, the New Jersey Department of Environmental Protection or the New Jersey Environmental Infrastructure Trust, shall consult with the Department of Treasury, the Department of Community Affairs, Division of Local Government Services, or the Board of Public Utilities (in regards to investor-owned BPU-regulated water systems), as appropriate, or may use the services of a financial consultant, to evaluate the financial capacity of the project sponsor. The project sponsor's water system meets the minimum standards for adequate financial capacity if the following is met:

1. A project sponsor regulated by the Board of Public Utilities (BPU) has obtained BPU approval of a financing petition for the project(s) to be financed through the DWSRF.
2. A project sponsor regulated by the Department of Community Affairs, Division of Local Government Services (DLGS), has obtained approval by the Local Finance Board in the DLGS for the project(s) to be financed through the DWSRF.
3. The NJDEP shall rely on the New Jersey Environmental Infrastructure Trust, with or without the assistance of a financial consultant for a project sponsor or water system not regulated by the Board

of Public Utilities or the Department of Community Affairs, Division of Local Government Services, to evaluate any financial information, including, where available, but not limited to the following:

- a. Financial statements or annual audit reports for the previous three years.
- b. Current and proposed rate schedules, as applicable; or if rate schedules are unavailable, then documents indicating the project sponsor's access to credit for operations and contingencies to demonstrate the project sponsor's capability to repay debt.
- c. A summary of any pending litigation regarding current or proposed rates.
- d. Federal and state income tax returns of the project sponsor for the previous three years.
- e. Current operating budget and projected budget, for a five year period, including debt service on the loan and any rate schedule adjustments:
 - i. Revenue projections including any assumptions on which the projections are based. Total annual percentage of budgetary increases, annual percentage increases to meet loan repayment and other non-loan project costs, and time when same shall take effect should be identified and included.
 - ii. Expense projections including a copy of the Capital Budget and assumptions on which the projections are based.
 - iii. Plans for rate increases.
 - iv. Security for the proposed loans
- f. Composition of customer base.

IV. Long Term Capacity

The NJDEP, where appropriate, will assess whether a project sponsor and its water system has a long term plan to undertake feasible and appropriate changes in operations necessary to develop adequate capacity. Information such as engineering reports, inspection reports, and other available information will be used in making these assessments. The NJDEP will encourage consolidation of water systems in an effort to improve capacity. The Small Water Utility Take Over Act (N.J.S.A. 58:11-59) and companion regulation (N.J.A.C. 7:19-5) may need to be reviewed and modified if necessary to address existing systems in significant noncompliance.

V. Systems with Inadequate Capacity

A water system that requires improvements to obtain adequate capacity can apply to the DWSRF provided that the improvements will ensure SDWA compliance. The NJDEP in consultation with the New Jersey Board of Public Utilities and the Department of Community Affairs, as applicable, will make this assessment on a case-by-case basis, with emphasis on compliance with all applicable requirements, rules or statutes of the respective agencies. The project sponsor must agree and demonstrate to the agencies' satisfaction the implementation of any required technical, managerial or financial changes necessary to obtain approval by the agencies.

VI. Systems in Significant Noncompliance

The SDWA prohibits a state from providing DWSRF assistance to a system in significant noncompliance with any requirement of a national primary drinking water regulation or variance, unless: 1) the use of the financial assistance will ensure SDWA compliance, or 2) the owner or operator of the system agrees to undertake feasible and appropriate changes to assure that adequate capabilities will be put in place, and agrees to implement such changes.

The following are procedures to evaluate systems in significant noncompliance;

1. Evaluate the project(s) in significant noncompliance;
2. Evaluate the reasons for significant noncompliance; and
3. Evaluate if the project sponsor's request for DWSRF assistance will resolve the significant noncompliance issue to the NJDEP'S satisfaction.

**Chronological Summary of DWSRF Program
Capitalization Grants**

<i>Federal Fiscal Years</i>	<i>National Appropriation (\$)</i>	<i>Allotment Formula (%)</i>	<i>New Jersey's Appropriation (\$)</i>	<i>Date Awarded</i>
FFY97	1,275,000,000	2.23	27,947,300	September 11, 1998
FFY98	725,000,000	2.44	17,347,900	September 11, 1998
FFY99	775,000,000	2.44	18,182,200	September 23, 1999
FFY00	820,000,000	2.44	18,896,600	<i>pending</i>

Funds Transferred to the DWSRF from the CWSRF

<i>Transfer Based on Capitalization Grant</i>	<i>Funds Transferred (\$)</i>	<i>Date</i>
FFY 97	9,222,609	10/13/99
FFY98 and FFY99	11,724,933	<i>pending</i>

Summary of Written Comment and Response on Project Priority System

One written comment was received and a written response was drafted. Both are summarized below.

Comment: Mr. Dennis G. Sullivan of Middlesex Water Company (MWC) submitted a comment critiquing the assignment of points in the Ranking Methodology and Priority System. MWC states that the current system “discriminates against compliance and rewards negligence” by granting large point values to systems in noncompliance and lower point values to systems seeking DWSRF funds to ensure and/or maintain compliance. In their opinion, this has created a situation that increases the cost of service for customers of water companies that have diligently invested in the maintenance of their system. MWC requested that the ranking system be altered to reward companies with outstanding compliance records with priority in the ranking system so savings could be passed on to their customers.

Response: The Department of Environmental Protection responded to MWC’s concerns with a reminder that the Bureau of Safe Drinking Water maintains a policy to address drinking water quality problems that may impact the consumers having the greatest need for water system improvements in order to secure adequate and safe drinking water. The ranking system employed by NJDEP gives priority to projects that address serious risks to public health, ensure compliance with the Safe Drinking Water Act, and assist projects in most need according to pertinent affordability criteria. In addition, this system is firmly based upon federal guidelines with the ultimate goal of compliance with the Safe Drinking Water Act. The priority system was structured such that systems in noncompliance would receive more points in order to assure future compliance. Please note that referring to Section A of the Priority System, items one through seven represent higher priority categories, but there are significantly fewer projects seeking funding that suit these categories.

There are also numerous alternative sources of funding, both Federally and State administered, available under the SRF program. Therefore these concerns could be significant in the future, if and when, the Drinking Water SRF lacks sufficient funds to finance all projects in a specific fiscal year. However, at this time, the DWSRF has sufficient funds to finance all projects that sponsors are actively seeking. MWC was notified in writing that NJDEP appreciated their comment and that the current SRF ranking system has the support of the State of New Jersey and the US Environmental Protection Agency and will therefore not be altered at this time.

DWSRF Public Hearing on March 21, 2000
Summary of Comments

No oral comments were received and one written comment was received.

A memorandum dated December 28, 1999 from Shing-Fu Hsueh, Administrator of the Water Supply Administration, publicly advertised the DWSRF hearing. The hearing officer, Joseph Miri, commenced the 1:00 PM hearing by reading a prepared statement summarizing the Proposed Priority system, Intended Use Plan, and Project Priority List and pertinent changes. The statement included a summary of the goal of the Safe Drinking Water Act, the Drinking Water State Revolving Fund, and the schedule pertinent to project sponsors seeking funding for Federal Fiscal Year 2000.

One change indicated at the hearing was that after Federal Fiscal Year 2000, the "Second Chance Schedule" would no longer be available to project sponsors. All project sponsors will be accountable to one timeline in order to manage the large volume of environmental infrastructure projects more efficiently.

Four project sponsors have withdrawn applications since the Proposed Project Priority List was published. In addition, two projects were further broken down into two separate projects each. Both of these projects were initially published as one project with multiple elements when first ranked. Also, one project was included, which was previously identified in earlier IUPs but omitted in the most recent list.

The Department of Environmental Protection will request federal funding for the Drinking Water State Revolving Fund (DWSRF) Administrative Set-Aside of four percent (4%) under the current FFY2000 Capitalization Grant Set-Aside activities. The remaining Set-Aside activities will be banked for future Capitalization Grants and the monies utilized for construction loans. The Department anticipates requesting full Set-Aside funding under the next Capitalization Grant.

After the summary was read and brief introductions were concluded, a recess was taken to allow for the arrival of any parties interested in making oral comments on the Proposed Priority system, Intended Use Plan, and Project Priority List and pertinent changes. No parties arrived to make such comments and the hearing was adjourned.

Appendix B
Construction Project Priority Lists

Appendix C
Nonproject Set-aside List

The NJDEP may approve expenditures for the following activities in accordance with Section 1452(k) of the SDWA.

LOANS:

- _____ for water systems to acquire land or a conservation easement from a willing seller or grantor, for source water protection purposes and to ensure compliance with national primary drinking water regulations.

- _____ for community water systems to implement local voluntary, incentive based source water protection measures delineated under a source water protection program.

- _____ for community water systems to provide funding for the development of a source water quality protection partnership petition (optional program under consideration by NJDEP).

TECHNICAL AND FINANCIAL ASSISTANCE:

- _____ for water systems as part of a capacity development strategy developed and implemented under Section 1420 (c) of the SDWA.

STATE EXPENDITURES:

- _____ for the State to make expenditures for the establishment and implementation of wellhead protection programs under Section 1428 of the SDWA.

The NJDEP received no responses indicating any interest in these items at this time

Although the information in this document will be funded wholly or in part by the United States Environmental Protection Agency under an assistance agreement to NJDEP's DWSRF program, it may not necessarily reflect the views of the Agency and no official endorsement should be inferred.