

**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 2002**

May 2001



Donald T. DiFrancesco  
Acting 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 2002

DATE: May 31, 2001

This “Drinking Water State Revolving Fund Final Priority System, Intended Use Plan, Project Priority List and Response Document for Federal Fiscal Year 2002” (IUP) was initially proposed in December 2000 with a public hearing held on March 7, 2001, and public comments received through March 21, 2001.

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 that 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 IUP (attached). 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, technical assistance for small systems, State public water

system supervision (PWSS), source water program administration, capacity development, and operator certification. Project expenditures typically involve loans by the DWSRF to water systems for planning, design, and construction of drinking water facilities.

Projects can now be added to the list during the time period after publication of the proposed IUP and up to the public hearing. The Project List will still be available for public review when the final IUP is mailed.

This IUP also contains the FFY2002 and the FFY2001 schedules. Project sponsors must meet these schedules with all applicable deadlines in order to be considered for financing in November 2001 or 2002. Applicants are given priority in order of the ranking, except that projects for small systems will be financed first with up to 15% of the DWSRF funds, in accordance with Section III - Small Systems, of this IUP.

Please note that following changes have been made to the Project Priority List **from the Proposed IUP of December 2000 to this Final IUP for FFY 2002 and were discussed at the March 8, 2001 Public Hearing:**

- Three projects (Totowa Borough, Wrightstown MUA, and Trenton City) were added to the Project Priority List,
- One (Shorelands Water Company) was removed from the Project Priority List,
- The amount of assigned points concerning Category A was adjusted for four projects, and
- The cost for three projects was altered to reflect changes that occurred between the publication of the IUP and the Public Hearing.

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, NJ Rural Development, Mike Kelsey, Director, Community and Business Programs  
NJAWWA, **Kevin Dixon**, Section Chair  
NJ Water Association, Rick Howlett, Executive Director  
Water Supply Advisory Council  
Water Supply Advisory Committee  
NJ Office of State Planning, Charles P. Newcomb, Assistant Director  
NJ Dept. of Community Affairs, Joseph Valenti, Bureau Chief, Local Government Services  
Board of Public Utilities, Mike Gallagher, Director, Division of Water and Wastewater  
NJ Economic Development Authority, Frank T. Mancini, Jr., Director of Investment Banking  
NJ Housing and Mortgage Finance Agency, Jerome Keelen, Director, Single Family Programs  
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  
Executive Director Dirk C. Hofman, NJEIT  
Chief Barker Hamill, NJDEP, Bureau of Safe Drinking Water  
County Libraries

## 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 United States Environmental Protection Agency (USEPA) allotment for FFY2002 has not been determined to date and is estimated in this document. The results of the 1999 Drinking Water Infrastructure Needs Survey, which was published in February 2001, will ultimately determine the FFY2002 allotment to New Jersey. Funds available to the State for FFY2003 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) 2002 (i.e., November 2001) using FFY2001 federal capitalization grant funds and any remaining funds from previous federal capitalization grant funds;
- 3- the establishment of program requirements and document submittal deadlines for award of DWSRF loans in SFY2003 (i.e., November 2002) using FFY2002 federal capitalization grant funds and any remaining funds from previous federal capitalization grant funds; and
- 4- the establishment of the proposed uses of the set-asides using FFY2002 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 2002 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, State public water system supervision (PWSS) programs, source water program administration, capacity development, and operator certification. Project expenditures involve loans made by the DWSRF to water systems for the planning, design and construction of drinking water facilities.

The Bureau of Safe Drinking Water will jointly manage the DWSRF program with the Municipal Finance and Construction Element of the NJDEP 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 thirty-nine loans (\$124 million) over the past three funding cycles in 1998, 1999, and 2000, with loans being fully executed in November 1998, 1999, and 2000.

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). 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 the transfer doesn't jeopardize the ability to fund clean water projects. In accordance with approved procedures, two transfers of funds from CWSRF repayments to DWSRF were approved by USEPA on September 3, 1999 (\$9,222,609) and October 19, 2000 (\$11,724,933). The NJDEP requested a transfer of the FFY00 and FFY01 capitalization grant awards from CWSRF repayments to DWSRF (\$12,497,562) in the spring of 2001. Currently any eligible project under the CWSRF program that

meets the program requirements 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 (EIFP) 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 to the DWSRF or vice versa if a default in loan repayment did occur (which, to date, has not occurred under either 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 5.13% for the 2000A series and 5.37% for the 2000B 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% on the financing of the total eligible costs of a project.

In accordance with the USEPA's Drinking Water State Revolving Funds; Interim Final Rule, states must disclose information regarding the assessment and use of any fees associated with SRF activities that are passed on to the program participants. In New Jersey, each SRF project is financed with two loans, one from the NJDEP which utilizes federal SRF cap grants and one from the NJ Environmental Infrastructure Trust, which utilizes bond proceeds from the Trust bond sale. The NJDEP loan issued at 0% interest has no fees associated with it. The Trust's loan is issued at the same market interest rate as the Trust obtains from sale of its bonds. Rather than bonding for all of the eligible closing costs associated with each financing, the Trust only charges the borrowers a one-time surcharge of up to 0.4% of the principal Trust loan amount to partially cover the costs associated with that particular year's bond sale. These costs include such activities as: bond counsel, financial advisor, rating agencies, printing and publishing of the Notice of sale, the Preliminary Official Statement, the Official Statement, and other costs related to the Trust's bond sale. In addition, the Trust charges an annual administrative fee of up to 0.3% of the Trust's bond principal loan amount to cover the balance of the closing cost and the annual operating expenses associated with the operations of the Trust and the on-going costs associated with Loan Servicer and Trustees. The Trust Annual Fee is not included in the principal amount of the loan. Fees collected by the Trust are held in an account outside of the SRF.



In State FY2001, the Trust anticipates collecting administrative fees associated with the SRF program of approximately \$2,000,000.

## 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 FFY2001 (November 2001) must be on this year's project priority list**. The Call for Projects for all 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 public hearing date. 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 12, the FFY2001 schedule projects were required to submit planning documents and commitment letters by October 2, 2000. The FFY2001 schedule projects were required to submit all design documents and loan applications by March 5, 2001, in order to be considered for funding in the SFY2002 funding cycle (November 2001).

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 210 projects totaling \$612,278,504 on the Project Priority List. There are 46 projects totaling \$172,451,908 on the proposed project priority list for November 2001.

### 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 that 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, including associated appurtenances and water system facilities, 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 prevent 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 with associated treatment facilities 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, 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 implement the State Development and Redevelopment Plan. NJDEP assigns points to projects in municipalities that the State Planning Commission (SPC) has approved under the Center Designation Process or those that have participated in an endorsed Strategic Revitalization Plan or Regional Strategic Plan. Please note, that if a local entity has not filed with the SPC to receive a designation, projects within that entity would receive zero (0) points for this element. Points are assigned as shown in Table 2.

Table 2

1. Endorsed Strategic Revitalization Plans or Regional Strategic Plans	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 shown in Table 3.

Table 3

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, which is currently the 1990 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 is 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.

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 (see below). 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.

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

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

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. Current Year's Schedule Projects



## INTENDED USE PLAN

This IUP provides information on funds available through the Drinking Water SRF Program to provide financial assistance for projects using FFY2002 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 FFY2002 priority list. Project sponsors must **have met** the program schedule established below in order to be funded in November 2001:

### FFY2001 Schedule

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

The FFY2001 Schedule (i.e., for loan awards in November 2001) was previously published in the last NJDEP's IUP for the DWSRF Program finalized in May 2000. Please note that the prospective applicants that are in compliance with the FFY2001 Schedule will be given priority in order of ranking. The exception is that NJDEP will first finance projects for the small systems with 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.

The proposed schedule for FFY2002 is as established below:

Commitment Letter and Planning Document	October 1, 2001
Design Document and Loan Application	March 4, 2002
Loan Award	November 2002

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 BSDW 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, Subchapter 10.3 to 10.6, Financial Assistance Programs for Environmental Infrastructure Facilities. Three copies of the planning document must be submitted by the deadline to:

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

## 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, and corrections) are not eligible to receive DWSRF assistance. However, State authorized systems (water commissions, water supply authorities, and 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 technical, financial, or managerial 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 development program was created 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 FFY2002 funds. Table 5 outlines the distribution of FFY2002 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. 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.

Table 4 - DWSRF Uses

	<u>FFY2002*</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

\*The federal funds are estimated at \$19,000,000 for FFY2002 for planning purposes, actual amounts will be proportionally equal.

\*\*All funds from previous DWSRF capitalization grants, previous transfers from CWSRF repayments, and state matching funds are anticipated to be utilized for funding the November 2001 funding cycle (FFY2001) projects.

Table 5 - Non-Project Set-Aside Fund Uses

	<u>FFY2002*</u>
<u>Non-project Set-aside Amounts</u> (see Table 4)	\$3,040,000
<u>Program Administration of DWSRF Projects</u> (4%)	\$ 760,000
<u>Small System Technical Assistance</u> (2%) **	\$ 380,000
<u>State Program Management</u> (10%)**	\$1,900,000
State PWSS Program***	\$ 875,000***
Source Water Program Administration	\$ 600,000
Capacity Development	\$ 350,000
Operator Certification	\$ 275,000

\*The federal funds are estimated at \$19,000,000 for FFY2002 for planning purposes.

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

\*\*\*State PWSS Program includes Sampling, Data Management, Program Rules Development, and Radon Multi-Media Mitigation Program (MMMP). However, \$200,000 for Radon MMMP will be funded under set-aside monies banked from previous capitalization grants.

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 more 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 for New Jersey 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 for FFY2002 is \$2,100,000. The dollar to dollar state match is anticipated to be met by half of the funds coming from the SFY1993 Public Water System Supervision grant overmatch and A-280 Safe Drinking

Water Tax Fund and half from the SFY2002 Public Water System Supervision grant overmatch and A-280 Safe Drinking Water Tax Fund, as applicable.

### 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 three funding cycles, the following DWSRF funds were utilized for small systems. In November 1998, two small systems for 19.9%, in November 1999, three small systems for 5.19%, and in November 2000, four small systems for 18.8% of DWSRF funds were financed. Only those systems ready to proceed were issued loans. With the help of the 2% set-aside for technical assistance to small systems and a contract executed with New Jersey Water Association, New Jersey will continue to 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 NJDEP reserves the authority to apply for these set-aside funds for nonproject activities under future capitalization grant applications.

#### A. Utilizing Reserved Funds

Funds for the Small Systems Technical Assistance and the State Program Management categories of the set-asides have been reserved from the previous four capitalization grants awarded to NJDEP by USEPA. Portions of the total amount requested from the FFY97 and FFY98 Small Systems Technical Assistance and the State Program Management set-asides (\$2,551,764) and all of the FFY99 and FFY00 Small Systems Technical Assistance and the State Program Management set-asides (\$4,449,456) were reserved for future capitalization grant applications and those funds were utilized for construction loans at that time.

NJDEP intends to utilize the authority to allocate \$200,000 from the reserved funds for the Radon Multi-Media Mitigation Program under the FFY2002 State Program Management set-aside.

#### B. 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. These costs include endeavors to market the DWSRF program in New Jersey, such as creating websites and publishing informational brochures. If this entire amount is not obligated in one year, the NJDEP will retain these funds to cover administrative costs in subsequent years. However, the NJDEP has expended the entire 4.0% administrative set-aside each year.

#### C. Small System Technical Assistance (2%)

A two-year contract was executed with New Jersey Water Association (NJWA) to aid small systems (serving less than 10,000). Target systems will largely include those in significant noncompliance. Technical assistance will include, but not be limited to, conducting training workshops/seminars, onsite visits, creation of a small systems website, GPS of well locations, and aid in filing SRF loan applications, and preparing consumer confidence reports. This contract will be renewed in 2002.

#### D. State Program Management (10%)

NJDEP intends to use this set-aside to provide support for: (1) public water system supervision (PWSS) programs such as the radon multi-media mitigation program, data management, development of program rules, administration of the consumer confidence report program, and sampling; (2) source water protection program; (3) development and implementation of a capacity development program and strategy to generate adequate technical, financial, and managerial capacity for water systems; (4) and the management of an operator certification program.

##### 1. State PWSS Program

###### a) Radon Multi-Media Mitigation Program

The state of New Jersey is presented with a unique opportunity to develop and promote an innovative radon risk-trading program through implementation of a Multimedia Mitigation Program (MMMP). Radon poses a risk from both the air pathway and the water pathway. Radon is present in soil gas that enters homes and exposes the residents through the air pathway. It is also present in groundwater and drinking the water; using it for showering exposes people. Although the risk of exposure from radon in water is high relative to other drinking water contaminants, it is low compared to the risk of radon exposure from the air pathway.

The amendments to the SDWA in 1996 changed the approach that USEPA uses to set drinking water standards. Congress mandated a National Academy of Sciences (NAS) risk assessment to guide the setting of the Maximum Contaminant Level (MCL) for radon. Congress further stated that if USEPA promulgates an MCL "more stringent than necessary to reduce the contribution to radon in

indoor air from drinking water to a concentration of radon in outdoor air,” then the USEPA must establish an Alternate Maximum Contaminant Level (AMCL). Based on the determination by the NAS Committee that the national average outdoor radon level is 0.4 pCi/l and the transfer factor from radon in water to air is 10,000:1, the NAS Committee recommended that the AMCL be set at 4,000 pCi/l.

On November 2, 1999, the USEPA proposed a new Radon in Drinking Water regulation. The unique nature of radon and the comparison of the risk from both water and indoor air set the stage for USEPA to propose an innovative multimedia approach for radon. The proposed regulation provides States with the flexibility in how to best limit the public’s exposure to radon. States can focus their efforts on the greatest public health risks from radon – those in indoor air – while also reducing the highest risks from radon in drinking water. USEPA strongly encourages States to take full advantage of the flexibility and risk reduction opportunities in the regulation.

The proposed National Primary Drinking Water Regulations; Radon-222 in the Federal Register primarily focuses on public health protection. A Maximum Contaminant Level Goal (MCLG) is set at the level at which no known or anticipated adverse effects occur and for radon the Administrator set the MCLG at zero. Then a Maximum Contaminant Level (MCL) is set, as close to the goal as feasible, but taking into account a cost/benefit analysis as well as consideration of affordable treatment technologies for small water systems. In the proposed rule, the MCL for radon is set at 300 pCi/l. In addition to the promulgation of a MCL, USEPA proposed an AMCL of 4000 pCi/l for radon. The AMCL must be accompanied by a MMMP to address risks from radon in indoor air.

The proposed rule applies to all community water systems (CWSs) that use ground water or mixed ground and surface water. USEPA plans to publish the final rule by **the summer** of 2001. Under the proposed rule, CWSs would be required to begin their initial monitoring requirements for radon by 3 years after publication of the final rule. As an incentive for states to focus their program on the pathway that gives the greatest risk to it’s citizens, states that submit a letter from their Governor to the Administrator committing to develop a MMMP plan within 90 days of publication of the final regulation in the Federal Register are required to begin monitoring 4.5 years after publication of the final rule.

New Jersey is one of the states where the unique provisions of the SDWA for radon could have a dramatic cost savings for purveyors and an equally dramatic risk savings in terms of lung cancer deaths averted. The strong radon in air program that has been in place in NJ for over 10 years furnishes the building blocks necessary to provide substantive input into the development of a MMMP as well as perform a quantitative comparison of the risk trading. However, the MMMP will need additional resources to do this. This set-aside will provide the initial three-year funding to start this program.

It is estimated that about 50% of New Jersey public water supply systems, serving about 25% of New Jersey’s population, have radon in water levels between 300 pCi/l (MCL) and 4,000 pCi/l (AMCL). Some of these systems may have or will install treatment prior to the promulgation of the radon standard. The number of systems that might be eligible for participation in the MMMP is

between 250 and 350.

## **Goals**

The MMMP is intended to provide a more cost-effective alternative to achieve radon risk reduction by allowing States (or CWS) to address radon in indoor air from soil while reducing the highest levels of radon in drinking water. The MMMP is modeled on the National Indoor Radon Program implemented by USEPA and States to address radon in indoor air. The program has been successful in achieving indoor radon risk reduction through a variety of program strategies, which form the basis for USEPA's proposed MMMP plan criteria. USEPA has identified four criteria that a State MMMP plan is required to meet to be approved by USEPA. The four criteria are:

1. Public involvement in development of the MMMP plan.
2. Establishment of quantitative goals for the mitigation of existing homes with elevated levels of radon and for radon-resistant new construction.
3. Strategies for achieving goals.
4. Plan to track and report results.

The following items will be addressed during SFY02:

1. Continue meeting with the Radon in Water work group. The work group is made up of individuals from various groups within the NJDEP as well as Department of Health and Senior Services (DHSS), United States Geological Survey (USGS), and the radon regulated community. Input from the group is essential to the development of a MMMP for New Jersey.
2. The Radon Section has a database that is used to generate statistics about testing and mitigation in New Jersey. Individuals who perform radon testing and mitigation in NJ are required to be certified. This information is also part of the database. The database will require enhancements in order to allow for the collection of additional data as well as the manipulation of existing data. This information is required as part of the reporting mechanism to the USEPA on the status of NJ's MMMP.
3. One staff member will be hired to work on MMMP in addition to the staff member hired in SFY01.
4. Outreach initiatives will be developed for various different constituents including CWS, public, and the radon regulated community.
5. Several of the outreach initiatives will be implemented.
6. A draft MMMP will be developed and circulated for comment.

### **b) Data Management**

The New Jersey Safe Drinking Water program utilizes an existing data management unit to facilitate the program's efforts to ensure that water systems meet the requirements of the Safe Drinking Water Act. The unit currently operates an electronic data management system that maintains drinking

water system inventory data and monitoring analytical data that is used to determine compliance with both monitoring requirements and drinking water standards. The existing system is more than 10 years old and needs to be updated and enhanced to meet both the existing and the new requirements under the Safe Drinking Water Act, and to improve reporting and compliance determination capabilities.

NJDEP is in the process of developing an enterprise data management system, New Jersey Environmental Management System (NJEMS). NJDEP seeks to consolidate many of its existing individual data management systems across the department and across many media (e.g., air, water, land) into NJEMS. This represents a significant step toward an integrated department-wide data management system to be used primarily for permit, reporting, and enforcement activities. However, NJEMS will not fully address the needs of the Safe Drinking Water program concerning compliance determinations and the corresponding reporting of these determinations to USEPA.

NJDEP is also exploring alternatives to meet the Safe Drinking Water program's particular electronic data management, reporting, and compliance determination needs necessary to meet the Federal and State rules and regulations. These alternatives may include NJEMS and/or the USEPA Safe Drinking Water Information System (SDWIS).

The data management system improvements envisioned will require additional resources to accomplish the current goals of data management system upgrades and future enhancements. This set-aside will provide partial funding to assist in this process. NJDEP will supplement its existing Safe Drinking Water program data management unit with two staff to provide additional environmental professional and computer programming capabilities to assist in the enhancement of the current program, concurrent with the NJDEP initiative to develop and implement NJEMS and/or SDWIS.

#### c) Development of Program Rules

In planning for the implementation of additional Safe Drinking Water Act Regulations, the NJDEP anticipates that additional Program Management set-aside funding is needed. The NJDEP anticipates the need to fund up to three additional positions and the associated administrative costs to handle additional implementation activities associated with the following rules: Groundwater Rule, Arsenic Rule, Radon Rule, Radionuclide Rule, the M/DBP cluster of rules including Stage I DBP and Interim Enhanced Surface Water Treatment Rule, Filter Backwash Rule, and the LTI applying the IESWTR to systems less than 10,000 population. These positions would supplement existing positions in the Bureau of Safe Drinking Water currently handling the existing rules and activities.

Additionally under this set-aside fund, the NJDEP anticipates funding the administration of the consumer confidence report (CCR) program in New Jersey. This includes one FTE and the associated administrative costs to monitor the submission of CCRs to the NJDEP, advising community water systems on completing some aspects of the reports, and identify water systems that are missing CCRs.

#### d) Sampling

NJDEP receives funding for special purpose monitoring and laboratory analytical services, under the annual Public Water System Supervision (PWSS) grant authorized by the USEPA, for state administration of the Safe Drinking Water Act. Funding for these services is eligible under the PWSS grant and also under the Drinking Water State Revolving Fund, State Program Management Set-Aside for PWSS State Program.

PWSS and Set-Aside PWSS funds may not be used for routine sampling and analyses which are otherwise required of a Public Water System as part of its normal compliance monitoring requirements under the Safe Drinking Water Act rules and regulations. However, PWSS and Set-Aside PWSS funds may be used for State sampling and analyses of special purpose monitoring, surveillance monitoring, and or other discrete special one-time monitoring.

NJDEP proposes to use these additional funds for special purpose monitoring and laboratory analytical services as it determines necessary and appropriate. A few examples include monitoring nontransient noncommunity water systems for radiological contaminants, currently not required under the Safe Drinking Water Act, and monitoring synthetic organic compounds (SOC waiver program).

Accordingly, the NJDEP seeks additional PWSS grant funding of monitoring and laboratory analytical services, estimated at \$100,000, in accordance with section 1452(g)(2)(A) of the Safe Drinking Water Act.

#### 2. Source Water Protection Program Management

The 1996 Safe Drinking Water Act Amendments require States to develop a source water assessment program (SWAP) and receive program approval from USEPA by November 1999. As part of the SWAP Plan approval, NJDEP committed to continuing the public participation program set up during the development of the SWAP Plan. The Source Water Assessment Committee will continue to work on the development of source water assessment program tasks. These public participation activities will continue to be funded by the source water protection program management set-aside. Additional tasks that will continue to be funded under this program management set-aside include contract development and negotiation with county health departments and New Jersey Water Association for the collection of specific well location data and attribute data.

A one-time source of funding from the FFY97 capital grant for delineations and assessments has been used to fund the data collection and source water assessment model development projects through September 2002. In order to complete the SWAP assessments by the May 2003 deadline, the seven staff (plus one current vacancy to be filled shortly) hired to work on source water assessment activities from both the source water protection program set-aside and the one-time delineation and assessment set-aside will now be entirely funded by the source water protection program set-aside.

### 3. System Capacity Development

Section 1420 of the SDWA contains the following deadlines that 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 the USEPA. (On July 30, 1997, New Jersey submitted such a list containing 55 community and 92 noncommunity water systems. A revised list submitted on August 1, 2000, contained 51 CWS and 70 non-community 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. On August 21, 2000, rules requiring TMF capacity for new systems were published at N.J.A.C. 7:10 –13.
- d. By August 2000, the State must have established a capacity development strategy for all public water systems. On August 3, 2000, the capacity development strategy for existing systems was submitted to USEPA. This new rule was adopted by Commissioner Robert C. Shinn, Jr. on July 31, 2000, and was published in the New Jersey Register on August 21, 2000. The operative date of the rule was the date of publication in the state register.
- e. By August 2000, the State must identify factors that encourage or impair capacity development. These factors were identified in the Capacity Development Strategy submitted to the EPA on August 3, 2000.
- f. By August 6, 2001, NJDEP must submit a report to USEPA that details the success of enforcement mechanisms and initial capacity development efforts in helping these PWSs listed as having a history of SNC to improve their TMF capacity.
- g. By August 2002, the NJDEP has to prepare a report to the Governor who reviews the efficacy of the strategy and progress made toward improving the capacity of public water systems.
- h. 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 New Jersey Capacity Development Strategy was completed on August 3, 2000. 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. The Small Water Utility Take Over Act (N.J.S.A. 58:11-59) was recently modified to include sewer utilities. Companion regulation (N.J.A.C. 7:19-5) are being modified to address existing nonviable water and sewer 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 were proposed on September 20, 1999. The regulations have been adopted and published on August 21, 2000. 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 new 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.

The NJDEP also completed a capacity development Technical, Managerial, and Financial Assessment form to identify systems that may require capacity development assistance. The NJDEP published requirements for developing a managerial plan and financial plan.

### Goals

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

- a. Continue to identify and revise list of all the public water systems with a history of Significant Non-Compliance.<sup>1</sup>
  1. Continue to update status of identified systems every 3 months until the water system returns to compliance and remains in compliance for a specified period.

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

2. Revise list once every three years. A revised list was identified on August 1, 2000 (51 community and 70 non-community PWS).
- b. Implement capacity development Enhancement to Public Water Systems (PWS) that fail to demonstrate adequate technical, managerial, and financial capacity.
    1. Conduct capacity development training program in conjunction with Rutgers University and other educational institutions.
    2. Assist PWS in SNC with developing managerial and financial plan through a contract with the New Jersey Water Association.
    3. Conduct follow-up TMF assessments for PWS.
  - 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. These were identified in the strategy submitted to USEPA. They will be re-evaluated periodically as necessary.
  - 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. Immediate activities to implement the CD Strategy:
    1. Establish baseline for systems needing TMF capacity,
    2. Develop database to establish baseline,
    3. Train individuals in the NJDEP's Bureau of Safe Drinking Water to perform TMF evaluations, and
    4. Select suitable PWSs for TMF development and/or enhancement.

#### 4. Operator Certification

NJDEP has adopted amendments to N.J.A.C. 7:10A, The Licensing of Water Supply and Wastewater Treatment System Operators, published in the NJ Register on October 2, 2000. The changes were made in order to comply with USEPA's "Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water



Systems" of February 5, 1999. It requires licensed operators for all public community and public nontransient noncommunity systems and establishes continuing education requirements for those holding an operator's license. NJDEP is awaiting USEPA approval of the newly adopted regulations.

The new rules were developed with the participation and cooperation of the New Jersey Section of the American Water Works Association (NJAWWA), the New Jersey Water Association (NJWA), and the New Jersey Water Environment Association (NJWEA). Feedback on the regulations was received through stakeholder meetings held by NJDEP throughout the state. Extensive discussions on the federal guidelines and the regulations were held by New Jersey's Board of Examiners (Board) and the Advisory Committee on Water Supply and Wastewater Licensed Operator Training (Advisory Committee). The Board represents New Jersey's operator community. It assists and advises the Department in the preparation and administration of examinations. The Advisory Committee includes representatives of organizations and educational institutions within the water supply and/or wastewater field and it advises the Department on the instructional process leading to the State licensing of system operators.

The new regulations require all public community and public nontransient noncommunity systems to employ a licensed operator by October 1, 2003. This will ensure that more highly trained individuals are in charge of the roughly 100 public community and 950 public nontransient noncommunity systems that currently do not require a licensed operator. The deadline of October 1, 2003, guarantees that those seeking a license will have sufficient time to obtain one.

A new license class known as a Very Small Water System (VSWS) license shall include all public community systems without treatment and nontransient noncommunity systems with no treatment or treatment consisting of disinfection and/or other types of relatively simple passive treatment (e.g. calcite filters). This license class will apply to most of the systems requiring an operator for the first time as a result of the new rule. The license possesses less stringent education and experience requirements than other license classes. NJDEP is currently in the process of developing the training course that must be completed to obtain the VSWS license and plans on using Association of Boards of Certification (ABC) tests to examine candidates.

The regulations also require licensees to obtain continuing education by completing approved training courses related to the water and/or wastewater field. Licensees must acquire a number of Training Contact Hours (TCHs) over a designated three-year period in order to renew their license(s). The first period runs from October 2, 2000 to September 30, 2003. The Advisory Committee has adopted a policy to approve training courses for license renewal credit. NJDEP is in the process of contracting with the State Operator Training Center (SOTC) at Rutgers University to subsidize the cost of training courses taken by licensed water supply operators for license renewal. The reduced cost will make this training more easily accessible to operators.

As of October 2000, NJDEP has approved several courses within the water and/or wastewater field being conducted by NJAWWA, NJWEA, NJWA, and SOTC. Water and/or wastewater related courses that are approved by the International Association for Continuing Education and Training

(IACET) to issue Continuing Education Units (CEUs) are acceptable for TCH credit.

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. NJEMS has yet to be implemented for this purpose. The first three-year training tracking period will utilize an audit system to determine license renewals.

NJDEP plans to hire a T4W4 licensed operator to assist with the development, approval, and commencement of training courses. Two full time employees will also be funded under this set aside to assist in the administration of operator certification; one employee will be located in the NJDEP's BSDW and one will be located in the NJDEP's Examinations and Licensing Unit.

#### V. Short and Long-Term Goal Statements

Continuing to provide a minimum of 15% of project funds to help finance improvements to small water systems and providing assistance to eligible projects of the highest priority on the Project Priority List are the most imminent short-term goals. Other short-term goals include securing NJDEP's FFY2002 drinking water capitalization grant from the USEPA so that funds will be available for water supply systems to comply with the SDWA. Also the NJDEP will strive to meet all USEPA deadlines for DWSRF submittals and have all submittals approved by the USEPA.

The primary long-term goal is to continue to use all available and appropriated funds to assist New Jersey 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. The NJDEP will manage the DWSRF in a fiscally prudent manner such that the fund is available to eligible New Jersey water systems after federal capitalization ends. The NJDEP will also continue to leverage the funds to extend the State's ability to finance projects. NJDEP will periodically review the program to ensure it meets the needs of New Jersey water systems and continues to address the needs of the water systems and customers. The NJDEP will assure that the DWSRF and projects receiving funds comply with all federal "cross-cutting" regulations.

## SUMMARY OF OUTREACH EFFORTS

Federal DWSRF Guidance requires that States' DWSRF programs include public participation activities. The NJDEP distributes this proposed Project Priority System to all community and nonprofit noncommunity water systems, county and local health authorities, selected environmental groups, selected engineering consultants, water associations, county libraries, and assorted State agencies 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 available to both community (both publicly and privately owned) and nonprofit noncommunity water systems. This document serves as a Call for Projects because the Call for Projects for this and 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 public hearing date; this will still allow for public review prior to the loans being issued. A public hearing on the Proposed IUP **was** held on March 7, 2001.

This document, along with other DWSRF documents, is available at the NJDEP Public Access Center and other NJDEP informational centers. Also, information about this program and essential contact information is available on the NJDEP home page, which can be accessed from the State of New Jersey home page.

NJDEP **has** an informational pamphlet that will be distributed at various professional meetings. NJDEP has also contracted with the New Jersey Water Association to aid in marketing the DWSRF program to small systems.

In addition, the Trust has conducted outreach efforts targeted to both public and privately owned purveyors. 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 its annual seminar in April 2001 for borrowers to review the financial requirements, deadlines and obligations associated with the program, and makes periodic presentations to groups, such as the NJ 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 2001 under the fundable list, and projects already funded in November 1998, November 1999, and November 2000.

## **APPENDIX A**

- 1) Sample Commitment Letter
- 2) FFY2001/SFY2002 Drinking Water Financing Program Schedule
- 3) FFY2002/SFY2003 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 Public Hearing and Comments and Responses

**Sample Commitment Letter**  
**FFY2002/SFY2003 Funding Cycle**  
**Schedule**

This letter, on official stationery, must be received or postmarked by October 1, 2001 to be given consideration by the New Jersey Department of Environmental Protection (NJDEP) and the New Jersey Environmental Infrastructure Trust (Trust) for inclusion in the 2002 Financing Program (for loan awards scheduled to be made in November 2002).

Dr. Shing-Fu Hsueh, Administrator  
Water Supply Administration  
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 FFY2002 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 SFY2003 Financing Program (November 2002 scheduled financing):

Commitment Letter and Planning Documents	October 1, 2001
Design Documents and Loan Application	March 4, 2002

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

Bureau of Safe Drinking Water, the Municipal Finance and Construction Element, and the Trust 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 2002 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 the proper documentation in accordance with the above deadlines, the sponsor's project(s) remain on the Project Priority List and are eligible for future funding based on that year's Priority System.**

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

<b><u>DATE</u></b>	<b><u>ACTION</u></b>
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 FFY2001 Priority System, Intended Use Plan and Project Priority List proposal
Before October 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 1, 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

**FFY2002/SFY 2003 Drinking Water Financing Program Schedule**

(Using FFY 2002 and Other Available Federal Monies)

<u>DATE</u>	<u>ACTION</u>
Before March 7, 2001	-Project Ranking Forms are due from prospective project sponsors for projects not already on the Project List
March 7, 2001	-Public hearing on FFY2002 Priority System, Intended Use Plan and Project Priority List proposal
Before October 1, 2001	-Prospective project sponsors attend preplanning meeting with NJDEP prior to submitting Commitment Letter
October 1, 2001	-Project Commitment Letters due -Applicants submit all planning documents to NJDEP
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
March 4, 2002	-Applicants submit all design documents to NJDEP -Applicants submit complete loan application to NJDEP
On or before May 15, 2002	-Financial Plan for forthcoming State Fiscal Year submitted by Trust to Legislature
May 1, 2002	-Applicants submit financial addendum form to the Trust
July 1, 2002	-Legislature acts on Financial Plan -Trust transmits both draft loan agreements to qualifying applicants
Late August through September 15, 2002	-Execute NJDEP/Trust loan agreements in escrow
November 2002	-Loan award

**New Jersey Department of Environmental Protection**



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

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

**September 25, 2000**

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# (required): \_\_\_\_\_ County: \_\_\_\_\_
4. Mailing Address: \_\_\_\_\_  
Municipality: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone No.: (\_\_\_\_) \_\_\_\_\_ Fax No.: (\_\_\_\_) \_\_\_\_\_
5. Engineering Consultant (as applicable): \_\_\_\_\_
6. Mailing Address: \_\_\_\_\_  
Municipality: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
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 only)

When are you interested in receiving construction project financing?

\_\_\_ November 2002; \_\_\_ November 2003; \_\_\_ Beyond 2003

Interested in Pre-Award Approval? \_\_\_ Yes \_\_\_ No

\_\_\_ DWSRF Nonproject Set-Asides Expenditures (Please also complete Page 3 only)

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

\_\_\_ November 2002; \_\_\_ November 2003; \_\_\_ Beyond 2003

**Page 2 of 3**

**DWSRF CONSTRUCTION PROJECTS**

7. Project Description: (list by element; attach additional sheets, if necessary)

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8. Need for Project (list by project element): \_\_\_\_\_

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9. Estimated construction contract cost by element: \$ \_\_\_\_\_

10. Copy of acceptable drinking water infrastructure plan or comprehensive regional water plan attached: \_\_\_\_\_yes \_\_\_\_\_no \_\_\_\_\_will follow \_\_\_\_\_not available

11. Median Household Income (1990 Census): \$ \_\_\_\_\_  
weighted for multiple municipalities: \_\_\_\_\_yes \_\_\_\_\_no

12. Applicable State Planning Commission center designation (please see NJ State Development and Redevelopment Plan): \_\_\_\_\_

13. Population currently served by drinking water system: \_\_\_\_\_

Are there seasonal variations in population? \_\_\_\_\_Yes \_\_\_\_\_No

If so, list populations separately: \_\_\_\_\_ Winter  
\_\_\_\_\_ Summer

**DWSRF NONPROJECT SET-ASIDES EXPENDITURES**

14. Activity Description: (attach additional sheets, if necessary)\_\_\_\_\_

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15. Estimated Cost for the proposed activity: \$\_\_\_\_\_

16. 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 source water protection measures to protect source water in areas delineated under a source water assessment 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.

17. 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.

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

**Items 1 through 4:** Please complete for the project or activity sponsor that may be applying for a loan or other assistance, and identify the appropriate contact person who will represent the project or activity sponsor.

**Items 5 and 6:** Please complete for the engineering consultant that will be working with the project or activity sponsor and identify the appropriate contact person, as applicable.

**DWSRF CONSTRUCTION PROJECTS (complete page 2 only):**

**Items 7 and 8:** Describe the proposed project and the corresponding need. Each project element must be submitted on separate forms. Points will be awarded for each project element, as applicable. Attach additional sheets as necessary.

**Item 9:** Estimate the construction cost per element based on the construction contract(s) that the project sponsor anticipates will be advertised for bids. The NJDEP will estimate the support costs.

**Item 10:** Attach, as applicable, a copy of the water supply master plan, capital improvement plan or comprehensive regional water supply plan, acceptable to NJDEP.

**Item 11:** Indicate the Median Household Income from the 1990 Census that is applicable to the service area of the water system. If multiple municipalities are served, provide the weighted median household income for the service area (please see page 9 of the NJDEP Intended Use Plan). Show calculations. If you do not know the Median Household Income, the NJDEP will complete this information for you.

**Item 12:** Indicate the appropriate municipal designation under the State Development and Redevelopment Plan (urban center, town, regional center, village, or hamlet). If you do not know the appropriate municipal designation, the NJDEP will complete this information for you.

**Item 13:** Indicate the population currently served by the drinking water system based on the most recent data available. Also indicate any seasonal fluctuations in population.

**DWSRF NONPROJECT SET-ASIDE EXPENDITURES (complete page 3 only):**

**Items 14 and 15:** The information provided by participants will assist the NJDEP in its efforts to identify needs and to develop a priority system for the nonproject set-aside activities. Describe the proposed activity and the corresponding need. Each activity must be submitted on separate forms. Attach additional sheets as necessary.

**Items 16 and 17:** Such assistance should include, but is not limited to, an outreach program to explain and assist in the DWSRF program, provide practical assistance to water systems in significant noncompliance, and conduct operator training seminars.

## **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 personnel operate its water system 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 NJDEP'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	July 13, 2000
FFY01	823,185,000	2.44	18,974,800	Pending

**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	10/19/00
FFY00 and FFY01	12,497,562	pending

## **Summary of DWSRF Public Hearing and Oral Comments On March 8, 2001**

A memorandum dated December 14, 2000, from Shing-Fu Hsueh, Administrator of the Water Supply Administration, publicly advertised the DWSRF hearing. The hearing officer, Assistant Director Nicholas G. Binder, commenced the 2:00 PM hearing by reading a prepared statement summarizing the Proposed Priority System, Intended Use Plan, and Project Priority List highlighting pertinent changes. The statement included a summary of the goal of the Safe Drinking Water Act, the Drinking Water State Revolving Fund, and changes to projects currently on the Priority List and to the Intended Use Plan.

The Project Priority System of the FFY2002 Intended Use Plan was clarified for main extension to contaminated private wells and the construction of wells. The ranking of applicants located in entities listed in the State Development and Redevelopment Plan was also clarified. The statement notified that the Radon Multi Media Mitigation Program would be funded with \$200,000 from the banked set-aside monies. The statement also brought attention to the fact that other set-asides, such as Data Management, Rule Development, and Sampling, have been created.

Changes to the Project List were also discussed at the Public Hearing. Three projects (Totowa Borough, Wrightstown MUA, and Trenton City) were added and one (Shorelands Water Company) was removed during the period between the publication of the IUP and the Public Hearing. The amount of assigned points concerning Category A was adjusted for four projects and the cost for three projects was altered to reflect changes that occurred between the publication of the IUP and the Public Hearing.

Two oral comments were received at the Public Hearing and no written comments were received.

### Comment:

One commenter recommended that a program be established which would advance the planning and design allowance to project sponsors since such a program would serve as an incentive for them to proceed with the implementation of an eligible project under the Environmental Infrastructure Financing Program.

### Response:

The NJDEP has concerns related to providing up-front monies for planning and design efforts under this program. Of particular concern is that providing these funds will not ensure that the projects identified on the Priority List are actually built. Thus, the limited available funds in the program could be used for planning efforts that may not result in the construction of water quality improvement projects. The NJDEP and the Trust have and will continue to explore various improvements to enhance the program's financial incentives.

### Comment:

One commenter recommended that projects subject to low bid adjustments receive credit for Fund loan repayments on the front end of repayment schedule instead of holding the credits until the end of the loan repayment period, shortening the overall Fund loan term.

Response:

In accordance with the Fund loan agreements, once all project-related contracts have been awarded, the Fund loan amount is re-established based on the actual low bid building cost of the project's contracts. If the low bid-based allowable cost is less than the initial Fund loan amount, the funds are recovered by the NJDEP (and can be used to finance future projects) and a new Fund loan repayment schedule is issued that reduces the total Fund loan repayments accordingly beginning with the final Fund loan repayment. The Trust loan works the opposite way whereby credits due to low bid adjustment are made in the initial years of the Trust loan repayment schedule since the Trust cannot otherwise use recovered funds for future projects as a result of their bond structure. While the NJDEP understands the desire to delay the beginning of the loan repayment process, the Program's financial structure serves several purposes. This arrangement (1) allows funds recovered by the NJDEP to be used for projects in a current funding cycle and does not encumber the funds for the 20 year Fund loan term, (2) ensures that the Fund loan repayments are compatible with the Trust loan repayments to provide adequate coverage to secure the Trust bonds (resulting in a higher bond rating, a lower interest rate and a lower cost to future participants) and (3) provides some relief to recipients that receive credit due to the low bid adjustment in that the Trust loan repayments are excused in the initial year(s) of the Trust term loan. Although no change in the current structure is likely in the short term, the NJDEP and the Trust will continue to examine potential alternatives to this in the future.

**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.