



**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 2003

JUNE 2002

James E. McGreevey
Governor

Bradley M. Campbell
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: Dennis Hart, 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 2003

DATE: June 30, 2002

This “Drinking Water State Revolving Fund Proposed Priority System, Intended Use Plan, Project Priority List, and Response Document Federal Fiscal Year 2003” (IUP) was initially proposed in December 2001 with a public hearing held on March 26, 2002 and public comments received through March 29, 2002.

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 FFY2003 and the FFY2002 schedules. Project sponsors must meet these schedules with all applicable deadlines in order to be considered for financing in November 2002 or 2003. 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 a change has been made to the Project Priority System. On page 7, a category for security measures has been added to Table 1 as item #12. Also, on page 14, security measures were added to the list of eligible projects. Installation and enhancement of security at drinking water systems, such as fencing, lighting, motion detectors, and cameras, will be eligible for 45 priority points. Also, a paragraph describing the funding of new wells was added. Please note for projects seeking funding for the addition of new wells that the funding and permitting process will take place over multiple years. This is due to the extended length of time required to satisfy all permit requirements and obtain permit approvals. This unique type of loan takes the appearance of a reimbursement as the sponsor must utilize its own money to initially finance the addition of the new well before the DWSRF loan is issued. Written pre-award approval is needed before the project sponsor advertises for bids. A timetable that details the process and duration of the new well funding process is available by contacting the DWSRF staff in the Bureau of Safe Drinking Water at (609) 292-5550.

Recent amendments to the Trust's enabling legislation authorized the establishment of a short-term financing program. It is proposed to channel CWSRF and DWSRF loan repayments to the Trust for this purpose. The interim loans will provide funds to project sponsors that are eligible for financing in the current fiscal year to cover project costs anticipated to be incurred prior to the award of the permanent long-term loans from the NJDEP and the Trust, which are typically awarded in November. As part of the development and implementation of the interim financing program, the Trust, in consultation with the NJDEP, will pursue the proposal and adoption of amendments to the Trust's rule to further define the application and award procedures. A rule proposal was published in the April 1, 2002 *New Jersey Register*.

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, Russell Ford, Section Chair
NJ Water Association, Rick Howlett, Executive Director
Water Supply Advisory Council
Water Supply Advisory Committee
NJ Office of State Planning, Carlos Macedo Rodrigues, Acting 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, Lawrence G. Cier, Director, Investment Banking Division
NJ Housing and Mortgage Finance Agency, Jerome Keelen, Director, Single Family Programs
Gary Sondermeyer, Chief of Staff, NJDEP
Assistant Commissioner Samuel A. Wolfe, NJDEP, Environmental Regulation
Assistant Commissioner Ernie Hann, NJDEP, Land Use Management and Compliance
Director E. David Barth, NJDEP, Management and Budget
Director Narinder K. 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) appropriation for FFY2003 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, determines the FFY2003 allotment to New Jersey. Funds available to the State for future appropriations 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), Project Priority List, and Response Document 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) 2003 (i.e., November 2002) using FFY2002 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 SFY2004 (i.e., November 2003) using FFY2003 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 FFY2003 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 2003 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 fifty-seven loans (\$256 million) over the past four funding cycles in 1998, 1999, 2000, and 2001, with loans being fully executed in November of each year.

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, three transfers of funds from CWSRF repayments to DWSRF were approved by USEPA on October 13, 1999 (\$9,222,609), October 19, 2000 (\$11,724,933), and August 28, 2001 (\$12,497,562). Legislation has extended the transfer of funds for one additional year and the NJDEP has proposed a transfer of \$6,117,738 from the CWSRF to the DWSRF. 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 EIFP 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 4.37% for the 2001A series and 4.65% for the 2001B 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 FY2003, the Trust anticipates collecting administrative fees associated with the SRF program of approximately \$3,000,000.

SRF recipients that expend \$300,000 or more in a year in Federal awards shall have a single audit conducted in conformance with the Single Audit Act.

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 FFY2002 (November 2002) 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 FFY2002 schedule projects were required to submit planning documents and commitment letters by October 1, 2001. The FFY2002 schedule projects submitted all design documents and loan applications by March 4, 2002, in order to be considered for funding in the SFY2003 funding cycle (November 2002).

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 194 projects totaling \$603,037,093 on the Project Priority List. There are 30 projects totaling \$58,939,058 on the proposed project priority list for November 2002.

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 seventeen 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. Addition or enhancement of security measures at drinking water facilities, such as fencing, lighting, motion detectors, and cameras 45 pts
13. 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 40 pts
14. 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
15. Replacement or installation of new water meters 25 pts
16. Redevelop wells or construct new wells with associated treatment facilities to meet the New Jersey SDWA rules for required pumping capacity 15 pts
17. Other project elements, not including items 1 through 16 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:

$$(\text{Municipal MHI} / \text{Statewide MHI}) \times 100 = \text{Affordability Factor}$$

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:

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

III. Supplemental Project Priority

All projects which have received loans to date which require additional funds due to the award of all project related contracts or for increased costs due to differing site conditions will be given priority over new projects eligible for funding. 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 (as defined in this document on page 20, Section III, 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 FFY2003 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 FFY2003 priority list. Project sponsors must meet the program schedule established below in order to be funded in November 2002:

FFY2002 Schedule

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

The FFY2002 Schedule (i.e., for loan awards in November 2002) was previously published in the NJDEP's last IUP for the DWSRF Program proposed in December 2001. Please note that the prospective applicants that are in compliance with the FFY2002 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 schedule for FFY2003 is as established below:

Commitment Letter and Planning Document	October 7, 2002
Design Document and Loan Application	March 3, 2003
Loan Award	November 2003

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:

Dennis Hart, 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;
- 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; and
- install and enhance security at drinking water systems, such as fencing, lighting, motion detectors, and cameras.

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.

Please note for projects seeking funding for the addition of new wells that the funding and permit process will take place over multiple years. This is due to the extended length of time required to satisfy all permit requirements and obtain permit approvals. This unique type of loan takes the appearance of a reimbursement as the sponsor must utilize its own money to initially finance the addition of the new well before the DWSRF loan is issued. An overview that details the process and duration of the new well funding process, such as the steps to construct the facility, obtain Bureau of Safe Drinking Water and Bureau of Water Allocation permits, obtain pre-award approvals, and submit all required DWSRF loan documents is summarized in a timetable. A copy of the timetable is available by contacting the DWSRF staff in the Bureau of Safe Drinking Water at (609) 292-5550. Also note that in order to maintain eligibility under the DWSRF program, a project sponsor cannot advertise for bids before executing a loan unless the Department and the Trust issue written pre-award approval. Therefore, written pre-award approval is needed before the project sponsor advertises for bids.

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 FFY2003 funds. Table 5 outlines the distribution of FFY2003 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>Funds Available</u>	<u>FFY2003*</u>
Federal Capitalization Grant	\$18,500,000
State Match	\$ 3,700,000
Funds Available	\$22,200,000
<u>Projected Expenditures</u>	
Nonproject Set-asides (see Table 5)	\$ 2,960,000
Funds Available for Projects	\$19,240,000
Trust Reserve Fund	\$ 1,731,600
NJDEP \$\$ Available	\$17,508,400
Trust Bond Proceeds	\$17,508,400
Funds Available for Projects** (NJDEP & Trust)	\$35,016,800

*The federal funds are estimated at \$18,500,000 for FFY2003 for planning purposes, actual amounts will be proportionally equal.

**In addition, some funds from previous DWSRF capitalization grants, previous transfers from CWSRF repayments, and state matching funds are anticipated to be available for funding the November 2003 funding cycle projects.

Table 5 - Non-Project Set-Aside Fund Uses
\$2,960,000 (See Table 4)

	<u>FFY2003*</u>
<u>Program Administration of DWSRF Projects (4%)</u>	\$ 740,000
<u>Small System Technical Assistance (2%) **</u>	\$ 370,000
<u>State Program Management (10%)**</u>	\$1,850,000
State PWSS Program***	\$ 856,850***
Source Water Program Administration	\$ 583,950
Capacity Development	\$ 341,600
Operator Certification	\$ 267,600

*The federal funds are estimated at \$18,500,000 for FFY2003 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 FFY2003 is \$2,050,000. The dollar to dollar state match is anticipated to be met by half of the funds coming from the SFY1993 Public Water System Supervision Program overmatch and A-280 Safe Drinking Water Tax Fund and half from the SFY2002 Public Water System Supervision Program 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 four funding cycles, the following DWSRF funds were utilized for small systems. Two small systems for 19.9% of DWSRF funds in November 1998, three small systems for 5.2% of DWSRF funds in November 1999, four small systems for 18.8% of DWSRF funds in November 2000, and 5 systems for 9.5% of DWSRF funds in November 2001 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 FFY2003 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%)

NJDEP is in the middle of a two-year contract with the New Jersey Water Association (NJWA) to provide group training and outreach to small public water systems serving less than 10,000 persons. As of November 14, 2001, NJDEP has compensated NJWA for 14 group training sessions and 39 one-on-one site visits under the Small Water System Technical Assistance contract. Group training sessions are targeted in the Northern, Central and Southern regions of New Jersey. Training topics include Basic Accounting, Consumer Outreach, Distribution Planning and Safe Drinking Water Act Requirements. Other topics are included as needed.

One on one site visits are given priority to public water systems (PWS) with 1) acute violations, 2) PWS with monitoring and reporting problems or other Maximum Contaminant Level (MCL) violations (including all Significant Non-Compliers (SNCs)), and 3) smallest and/or poorest community and Non-Transient, Non-Community (NTNC) water systems. Site visits should include the following review:

- Review of system operation and maintenance
- Review of certified operator status and provision of information on certified operator training
- Review of system sampling schedule and sampling techniques
- Guidance on specific compliance related water quality or treatment problems
- Review and recommendations on financial records
- Review of system's source and distribution system protection
- Review of data required for issuing a Consumer Confidence report
- Guidance in selecting appropriate technologies for small system needs
- Guidance on SRF and other available financial assistance
- Review of recordkeeping

The contract also provides for the development of a small system technical assistance web site.

The Bureau of Safe Drinking Water will review and determine how NJDEP contracts for small water system technical assistance in FFY2003.

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 (MMM) Program. 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 and using it for showering exposes people. Although the radon in water risk 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 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.

The NAS report published in 1999 identified the same unit risk associated with the previous USEPA analyses. Based on the NAS risk assessment and updated USEPA occurrence analysis, USEPA estimates that levels of radon in drinking water cause 168 fatal cancers each year. The NAS estimated that 89% of these fatal cancers were due to lung cancer caused by breathing radon released to indoor air from water.

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 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 MMM Program 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 2002. 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 its citizens, states that submit a letter from their Governor to the Administrator committing to develop a MMM Program 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 MMM Program as well as perform a quantitative comparison of the risk trading.

It is estimated that about 50% of New Jersey public water 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 MMM Program is between 250 and 350.

Goals

Multimedia Mitigation Programs

The MMM Program 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 MMM Program 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 MMM Program plan criteria. USEPA has identified four criteria that a State MMM Program plan is required to meet to be approved by USEPA. The four criteria are:

1. Public involvement in development of the MMM Program plan.
2. Quantitative goals for existing homes fixed and new homes built radon-resistant.
3. Strategies for achieving goals.
4. Plan to track and report results.

The following items will be addressed during FFY03:

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 the 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 MMM Program 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 New Jersey 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 New Jersey's MMM Program.
3. One staff member will be hired to work on MMM Program in addition to the staff member previously hired.
4. Outreach initiatives will be developed for various different constituents including, CWS, public, and the radon regulated community. Make contact with additional stakeholders such as the American Lung Association.
5. Several of the outreach initiatives will be implemented.

A draft MMM Program 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 replaced 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 implementing 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, and 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. The Water Supply Administration has completed its development phase of NJEMS, and is working towards implementation of the Water Supply component of the system, which will require significantly more than one year to complete. However, implementation of NJEMS alone 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 had considered 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. The selected alternative is to implement NJEMS, and to concurrently implement the USEPA Safe Drinking Water Information System (SDWIS/State). SDWIS/State will assist in providing compliance decision support and federal reporting.

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. As outlined in the FFY02 IUP, the NJDEP will supplement its existing Safe Drinking Water program data management unit with two positions to provide additional environmental professional and technical capabilities to assist in the enhancement of the current program, concurrent with the NJDEP initiative to implement both NJEMS and SDWIS/State.

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 develop primacy submittal applications and 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, Public Notification 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 position 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

NJDEP received Source Water Assessment Program (SWAP) Plan approval from USEPA in 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. During SFY03, the Source Water Assessment Advisory Committee will continue to work on the development of source water assessment program tasks using this set-aside. Additional tasks that will be funded under this program management set-aside include outreach, SWAP tasks associated with the data transfer of NJGS and USGS vulnerability data into the NJDEP databases, a newsletter, continuation of the contract development and negotiation with county health departments and New Jersey Water Association for the collection of specific well location data and attribute data, and data entry.

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. The projects funded with this set-aside must be completed by May 2003, the statutory deadline for the completion of SWAP assessments. 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

The 1996 Amendments to the SDWA create a focus on enhancing and ensuring the technical, financial, and managerial capacity of water systems to comply with the National Primary Drinking Water Regulations.

In accordance with Section 1420 (a) of the federal regulations each State shall have the legal authority to assure that all new community and non-transient non-community water systems demonstrate adequate technical, managerial and financial capacity. In New Jersey, Assembly Bill No. 2615 was signed into law on August 2, 1999 (P.L.1999 Chapter 176). This legislation amended the New Jersey Safe Drinking Water Act (N.J.S.A. 58:12A) to give New Jersey explicit legal authority to require new public water systems to demonstrate capacity. Consequently, New Jersey adopted a new rule at N.J.A.C. 7:10-13 that establishes the requirements to assure that all new public community and non-transient, non-community water systems have adequate capacity. Commissioner Robert C. Shinn, Jr. adopted the new rule on July 31, 2000. The effective date of the rule was the date of publication in the New Jersey Register on August 21, 2000. Prior to the effective date of the rule New Jersey adopted an interim policy, effective on October 1, 1999, to implement capacity requirements for new water systems.

In accordance with Section 1420 (c) of the Federal regulations each State is required to develop and implement a strategy to assist existing systems in acquiring and maintaining capacity. The United States Environmental Protection Agency approved New Jersey's Capacity Development Strategy on September 28, 2000.

Under Section 1420 of the SDWA, New Jersey has developed a capacity development program. The goals of New Jersey's Capacity Development Program are to prevent the formation and approval of new nonviable public water systems and to assist existing water systems in achieving and maintain compliance with the Federal and State SDWA regulations. States failing to comply with Section 1420 are subject to lose up to 10% of the DWSRF funds in FFY 2001, 15% in FFY 2002, and 20% in each fiscal year thereafter.

This Intended Use Plan will review the activities conducted to date and the future activities planned to implement the Capacity Development Program.

The activities conducted to date include the following:

- a. By August 1997, New Jersey must submit a list of water systems in Significant Non-Compliance (SNC) to the USEPA.

On July 30, 1997, New Jersey submitted such a list containing 55 community and 92 non-community water systems.

- b. New Jersey was required to obtain 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 New Jersey the explicit authority to require new systems to demonstrate adequate technical, managerial, and financial (TMF) capacity.

- c. By October 1, 1999, the State must have a capacity development program in place for new

systems.

On September 20, 1999, New Jersey submitted a plan to the USEPA for ensuring that new community and non-transient, non-community water systems demonstrate adequate TMF capacity. As part of the plan, New Jersey promulgated rules requiring TMF capacity for new systems that were adopted by Commissioner Robert C. Shinn, Jr. on July 31, 2000. The rules (N.J.A.C. 7:10-13) were 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.

- d. By October 2000, New Jersey must have established a capacity development strategy for all public water systems.

On August 3, 2000, New Jersey's capacity development strategy for existing systems was submitted to the USEPA. The Strategy was approved by the USEPA on September 28, 2000.

- e. By August 2000, New Jersey must submit a revised list of systems in SNC to the USEPA.

A revised list was submitted on August 1, 2000 containing 51 community and 70 non-community water systems.

- f. By August 6, 2001, New Jersey must have submitted a report to the 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.

On August 2, 2001, New Jersey submitted this report to the USEPA.

In order to comply with the federal SDWA requirements for capacity development, New Jersey intends to accomplish the following tasks:

- a. Prepare a Strategy List of public water systems requiring capacity development during FFY 2003. This list is prepared annually during September and identifies the number of TMF evaluations to be performed by the technical assistance team.
- b. Provide technical assistance to promote capacity development to those water systems that fail to demonstrate adequate technical, managerial, and financial capacity.
- c. Develop training programs and conduct training seminars for members of the Technical Assistance Team to assist them in performing capacity evaluations. A contracted vendor will provide some training during each fiscal year.
- d. Prepare a report to the USEPA and the Governor of New Jersey on the efficacy of New Jersey's capacity development strategy and progress towards improving the TMF capacity of public water systems. The first report is due September 30, 2002 (2 years after New Jersey adopts its capacity development strategy), and every 3 years thereafter. This report must

also be available to the public.

- e. Prepare and issue approximately 1,500 monitoring schedules to all community and non-transient, non-community water systems.

4. Operator Certification

The New Jersey Department of Environmental Protection (NJDEP) is in the process of readopting its regulations, N.J.A.C. 7:10A, "The Licensing of Water Supply and Wastewater Treatment Operators." The readopted regulations will comply with the USEPA's February 5, 1999 "Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems." These regulations require all public community and nontransient noncommunity water systems to employ a licensed operator by October 1, 2003.

During the past year, NJDEP's Bureau of Safe Drinking Water (BSDW) has identified all community and nontransient noncommunity public water systems that will require a licensed operator by the deadline. With the assistance of County Health Departments and through direct contact with the targeted facilities, license classifications have been assigned to all affected water systems.

The new Very Small Water System (VSWS) license classification was created to cover all public community water systems which do not have treatment and contain less than 101 service connections and nontransient noncommunity water 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 a license class for the first time as a result of the rule. BSDW with the assistance of NJDEP's stakeholder group, the Advisory Committee on Water Supply and Wastewater Licensed Operator Training (Advisory Committee), has developed a curriculum for the 12 hour training course which is a prerequisite for taking a VSWS test. The Advisory Committee is now in the process of reviewing appropriate training materials for the course, identifying available times and locations for course sessions, and obtaining qualified trainers to instruct prospective VSWS licensees. When appropriate, the Department will subsidize the cost of training and licensing candidates for VSWS certification.

The regulations also require all licensees to obtain continuing education by completing approved training courses related to the water and/or wastewater field. Licensees must acquire a prescribed number of Training Contact Hours (TCHs) over a designated three-year period for license renewal. The first period runs from October 1, 2000 to September 30, 2003. The Advisory Committee has adopted a policy to approve training courses for license renewal. NJDEP has contracted with the State Operator Training Center (SOTC) at Rutgers University to lower the cost of training for qualified licensed operators. The reduced costs have made this training more accessible to operators. In addition, the Department has recognized the New Jersey Section of the American Water Works Association, the New Jersey Water Environment Association, the New Jersey Water Association and the SOTC as qualified course providers. Therefore, all relevant courses provided by

these entities are approved as continuing education for operator license renewal. Over the last year, the Department has approved over 200 continuing education courses as acceptable for operator license renewal. We are investigating how to subsidize additional operator training courses in the future.

At this time the Office of Examinations and Licensing is still coordinating with the New Jersey Environmental Management System (NJEMS) team to determine the best electronic method to track training course approvals and TCHs obtained by individual operators. NJEMS is the Department's effort to integrate all of its departmental databases in order to streamline the collection and management of information. The credit tracking process has not been implemented to date.

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 FFY2003 drinking water capitalization grant from the USEPA so that funds will be available for water supply systems to comply with the SDWA. The NJDEP will continue to meet all USEPA deadlines for DWSRF submittals and have all submittals approved by the USEPA. Also, the NJDEP will provide opportunities for the funding of security projects to protect New Jersey's water supply facilities.

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 and 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 and will continue to encourage project sponsors to meet all socially and economically disadvantaged (SED) business requirements. The NJDEP will continue to implement all set-aside programs.

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.

This document, along with other DWSRF documents, is available at the NJDEP Public Access Center and other NJDEP informational centers. Information about this program and essential contact information is available on the NJDEP home page, <http://www.state.nj.us/dep>, which can be accessed from the State of New Jersey home page, <http://www.state.nj.us>. This IUP is also available by accessing ENDEX, the New Jersey Digital Environmental Library maintained by Rutgers, the State University of New Jersey. Public Access to ENDEX is available directly via <http://njenv.rutgers.edu/njdlb>. However, the catalogue of loans and grants is only available by contacting the DWSRF staff directly at (609) 292-5550.

NJDEP has an informational pamphlet that is 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. The NJDEP and the Trust make periodic presentations to groups, such as the NJ Water Association, explaining and answering questions about the DWSRF program. The DWSRF staff has also participated in presentations at events sponsored by the New Jersey chapter of the American Waterworks Association (NJAWWA). Also, an informational sheet was sent to community water systems serving less than 10,000 residents to ensure they are aware of the availability of loan funds.

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 conducts its annual seminar each April for borrowers to review the financial requirements, deadlines and obligations associated with the 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 2002 under the fundable list, and projects already funded in November 1998, November 1999, November 2000, and November 2001.

APPENDIX A

- 1) Sample Commitment Letter
- 2) FFY2002/SFY2003 Drinking Water Financing Program Schedule
- 3) FFY2003/SFY2004 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
FFY2003/SFY2004 Funding Cycle
Schedule

This letter, on official stationery, must be received or postmarked by October 7, 2002 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 2003 Financing Program (for loan awards scheduled to be made in November 2003).

Dennis Hart, Administrator
Water Supply Administration
New Jersey Department of Environmental Protection
PO Box 426
Trenton, New Jersey 08625-0426

Dear Mr. Hart:

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 FFY2003 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 SFY2004 Financing Program (November 2003 scheduled financing):

Commitment Letter and Planning Documents	October 7, 2002
Design Documents and Loan Application	March 3, 2003

I understand that failure to comply with the submittal requirements and deadlines will result in the project being deemed ineligible for the 2003 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.

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 proposed FFY2002 Priority System, Intended Use Plan and Project Priority List
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

FFY2003/SFY 2004 Drinking Water Financing Program Schedule

(Using FFY 2003 and Other Available Federal Monies)

<u>DATE</u>	<u>ACTION</u>
Before March 26, 2002	-Project Ranking Forms are due from prospective project sponsors for projects not already on the Project List
March 26, 2002	-Public hearing on FFY2003 Priority System, Intended Use Plan and Project Priority List proposal
Before October 7, 2002	-Prospective project sponsors attend preplanning meeting with NJDEP prior to submitting Commitment Letter
October 7, 2002	-Project Commitment Letters due -Applicants submit all planning documents to NJDEP
On or before January 15, 2003	-NJDEP/Trust submit list of projects (based on Priority System ranking methodology) to Legislature for forthcoming State Fiscal Year
March 3, 2003	-Applicants submit all design documents to NJDEP -Applicants submit complete loan application to NJDEP
On or before May 15, 2003	-Financial Plan for forthcoming State Fiscal Year submitted by Trust to Legislature
May 1, 2003	-Applicants submit financial addendum form to the Trust
July 1, 2003	-Legislature acts on Financial Plan -Trust transmits both draft loan agreements to qualifying applicants
Late August through September 15, 2003	-Execute NJDEP/Trust loan agreements in escrow
November 2003	-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

October 19, 2001

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 2003; November 2004; Beyond 2004

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 2003; November 2004; Beyond 2004

DWSRF CONSTRUCTION PROJECTS

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

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

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) _____

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	August 9, 2001
FFY02	850,000,000	2.30	18,538,600	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	October 13, 1999
FFY98 and FFY99	11,724,933	October 19, 2000
FFY00 and FFY01	12,497,562	August 28, 2001
FFY02	6,117,738	pending

Summary of Public Hearing on March 26, 2002 and Comments and Responses

A memorandum dated December 28, 2001, from Shing-Fu Hsueh, Administrator of the Water Supply Administration, publicly advertised the DWSRF hearing, which was held in conjunction with the Clean Water SRF program. The hearing officer, Theresa R. Fenton, Chief of the Bureau of Program Development and Technical Services, commenced the meeting by summarizing the Proposed Priority System, Intended Use Plan, And Project Priority System highlighting pertinent changes. The statement included a summary of the Safe Drinking Water Act, the Drinking Water SRF, and changes to projects currently on the Priority List and to the Intended Use Plan. A statement was made about the establishment of a short-term financing program.

The Project Priority System of the FFY2003 was expanded to include a category for projects that involve security measures at water supply facilities. Although these security measures were previously eligible as project components, this modification to Element A allows applicants to receive 45 points for projects that may include fencing, lighting, motion detectors and cameras to finance these security projects alone.

Additions to the Project List during the period between publishing the Proposed IUP and the Public Hearing were also discussed. Three New Jersey- American Water Company projects, a project for a new tank in Egg Harbor Township, a project for installation of iron removal in Montgomery Station, and a project to upgrade existing treatment in Frenchtown were added. Two projects to rehabilitate an existing well, construct a new well with reverse osmosis treatment and construct a storage tank were added for Sea Village Marina.

One written comment was received prior to the submittal deadline, March 29, 2002, and no oral comments were received.

COMMENT: One commenter expressed concerns that the NJDEP's FFY2003 Priority System Proposal does not give any attention to the policies of the State Development and Redevelopment Plan nor to the Governor's "Smart Growth" Executive Order. The commenter suggested that the NJDEP's Clean Water and Drinking Water priority systems promote sprawl in rural and environmentally sensitive areas, and overdevelopment in critical water supply regions and recommended that the NJDEP withdraw its proposal, conduct a policy review, revise the proposal and re-propose the documents.

RESPONSE: The NJDEP has taken many steps to incorporate aspects of the Governor's "Smart Growth" Executive Order and the policies of the State Development and Redevelopment Plan in the FFY2003 Priority System Proposal under the Drinking Water Financing Program.

For DW projects, the federal laws and regulations applicable to the DW aspects of the Financing Program require that the primary emphasis of the ranking system be compliance with the Safe Drinking Water Act and public health. Drinking water systems that are not in compliance with safe drinking water standards, as well as those with acute violations or maximum contaminant level exceedances receive the highest priority under the DW priority

system. Lower priority is provided to projects ranging from well replacement (due to saltwater intrusion) to the extension of water mains (for contamination of private wells). The lowest priority is for redevelopment or construction of new wells (to meet required pumping capacity). Thus, the DW priority system is primarily focused on existing systems that are in need of repair to maintain compliance with safe drinking water standards, rather than projects to encourage or promote growth. In fact, USEPA's oversight of the state's DW program has focused on the priority system and its ranking criteria. It should be noted that the federal Safe Drinking Water Act prohibits states from financing projects that are primarily for future growth, and the NJDEP's priority system includes this prohibition. While potential growth impacts associated with drinking water systems may be less dramatic than the growth that may be enabled by new wastewater systems in certain situations, it should be noted that DW projects involving the extension of water mains and those proposing extra capacity receive particularly close scrutiny as they proceed through the review process.

The NJDEP continues to award ranking points to projects in municipalities that the State Planning Commission (SPC) has approved under the Center Designation Process under the Priority System, as well as the points awarded to distressed municipalities and multi-jurisdictional centers. Urban centers and existing designated regional centers and towns continue to receive the highest point value under the SPC category, which means that (for similar projects) funding is focused on repairing systems in areas designated for redevelopment and dense developments.

In addition to increasing the priority of DW projects currently on the Priority List, it is anticipated that the SPC ranking points will provide an incentive for additional municipalities to seek approval under the Center Designation Process to qualify for higher priority ranking for their projects under the Drinking Water Financing Program.

The Priority System document further provides that all projects must be sized in accordance with a cost-effective analysis to accommodate existing needs as well as 20-year reserve capacity. The recipient's financial assistance will generally be limited to the cost of the project with a capacity based upon flow records and flows anticipated prior to the date of initiation of operation as established in the Fund loan agreement. While the NJDEP does not subsidize reserve capacity costs, the program's rules at *N.J.A.C. 7:22-4.36* allow the borrower to apply for a market rate Trust loan to cover incremental costs related to 20-year reserve capacity.

In addition to these steps, other means of further integrating smart growth policies under both the CW and DW funding programs are being considered. However, financing program changes are only a part of the NJDEP's efforts to address smart growth within the State. To better support the Governor's smart growth goals and to advance the state planning process, the NJDEP has initiated a review of all of its regulatory programs, including planning, permitting and financial assistance programs, to evaluate means to further promote the implementation of smart growth principles.

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.