

- CLEAN WATER FINANCING -  
PROPOSED PRIORITY SYSTEM, INTENDED USE PLAN, AND  
PROJECT PRIORITY LIST FOR FEDERAL FISCAL YEAR 2005

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## **LIBRARY INFORMATION CENTERS**

### **ATLANTIC COUNTY**

ATLANTIC COUNTY LIBRARY  
2 SOUTH FARRAGUT ROAD  
MAYS LANDING NJ 08330

### **BERGEN COUNTY**

JOHNSON FREE PUBLIC LIBRARY  
275 MOORE STREET  
HACKENSACK NJ 07601

### **BURLINGTON COUNTY**

BURLINGTON COUNTY LIBRARY  
WOODLANE ROAD  
MT HOLLY NJ 08060

### **CAMDEN COUNTY**

CAMDEN COUNTY LIBRARY  
ECHELON URBAN CENTER  
LAUREL ROAD, VOORHEES NJ 08043

### **CAPE MAY COUNTY**

CAPE MAY COUNTY LIBRARY  
BOYD & MECHANIC STREET  
CAPE MAY COURT HOUSE NJ 08210

### **CUMBERLAND COUNTY**

CUMBERLAND COUNTY LIBRARY  
800 EAST COMMERCE STREET  
BRIDGETON NJ 08302

### **ESSEX COUNTY**

NEWARK PUBLIC LIBRARY  
5 WASHINGTON STREET  
NEWARK NJ 07102

### **GLOUCESTER COUNTY**

WEST DEPTFORD PUBLIC LIBRARY  
GROVE AVE & CROWNPOINT RD  
THOROFARE NJ 08086

### **HUDSON COUNTY**

JERSEY CITY PUBLIC LIBRARY  
472 JERSEY AVENUE  
JERSEY CITY NJ 07302

### **HUNTERDON COUNTY**

HUNTERDON COUNTY LIBRARY  
ROUTE 12, FLEMINGTON NJ 08822

### **MERCER COUNTY**

TRENTON PUBLIC LIBRARY  
120 ACADEMY STREET  
TRENTON NJ 08625

### **MIDDLESEX COUNTY**

WOODBIDGE PUBLIC LIBRARY  
GEORGE FREDERICK PLAZA  
WOODBIDGE NJ 07095

### **MONMOUTH COUNTY**

MONMOUTH COUNTY LIBRARY  
HIGHWAY 35 EASTERN BRANCH  
SHREWSBURY NJ 07701

### **MORRIS COUNTY**

MORRIS COUNTY PUBLIC LIBRARY  
30 EAST HANOVER STREET  
WHIPPANY NJ 07901

### **OCEAN COUNTY**

OCEAN COUNTY LIBRARY  
101 WASHINGTON STREET  
TOMS RIVER NJ 08753

### **PASSAIC COUNTY**

PATERSON PUBLIC LIBRARY  
250 BROADWAY  
PATERSON NJ 07501

### **SALEM COUNTY**

SALEM COUNTY PUBLIC LIBRARY  
112 WEST BROADWAY  
SALEM NJ 08079

### **SOMERSET COUNTY**

SOMERSET COUNTY LIBRARY  
NORTH BRIDGE ST & VOGT DR  
BOX 6700  
BRIDGEWATER NJ 08807

### **SUSSEX COUNTY**

SUSSEX COUNTY LIBRARY  
RD #3 BOX 76  
NEWTON NJ 07860

### **UNION COUNTY**

ELIZABETH CITY LIBRARY  
11 SOUTH BROAD STREET  
ELIZABETH NJ 07202

### **WARREN COUNTY**

PHILLIPSBURG PUBLIC LIBRARY  
200 FROST AVENUE  
PHILLIPSBURG NJ 08865

## **Financing Clean Water Projects through the Environmental Infrastructure Financing Program**

### **Proposed Priority System, Intended Use Plan, and Project Priority List For Federal Fiscal Year 2005 (FFY2005)**

#### **OVERVIEW<sup>1</sup>**

In the Water Quality Act of 1987, which amended the Clean Water Act (CWA), Congress required states to establish a Clean Water State Revolving Fund (CWSRF) program to qualify for federal capitalization grants. The CWSRF provides financial assistance for the construction of projects that protect, maintain and improve water quality. It is a self-perpetuating program, in that loan repayments are used to finance future projects. Established in 1988, New Jersey's CWSRF program is included in the Environmental Infrastructure Financing Program (EIFP). The EIFP is a partnership between the New Jersey Department of Environmental Protection (DEP) and the New Jersey Environmental Infrastructure Trust (Trust) providing low-interest loans for infrastructure projects. The DEP and the Trust also administer New Jersey's Drinking Water SRF (DWSRF) under the Safe Drinking Water Act; its priorities and policies are established in a separate Priority System document. Together, since 1988 the clean water and drinking water components of the EIFP have awarded approximately \$2.1 billion throughout the State. As of February 10, 2004, 238 of the 441 total projects totaling almost \$1.3 billion have been completed, have initiated operations, and have been administratively closed out; 203 projects totaling approximately \$1.05 billion are actively contracting or under construction.

Every year the DEP develops a "Proposed Priority System, Intended Use Plan, and Project Priority List" as required by federal and State law. After the public has had an opportunity to comment on the DEP's proposal, the DEP submits a final "Priority System, Intended Use Plan, Project Priority List, and Response Document" to USEPA for its approval. The Priority System (PS) describes the ranking methodology for the municipal water pollution control projects that are eligible for financial assistance through the EIFP. The ranking system gives higher priority to projects that address discharges of raw, diluted, or inadequately treated sewage to the State's waters during rain events, including projects to abate combined sewer overflows (CSOs) and projects to reduce infiltration and inflow (I/I) from sanitary sewer systems that overflow. CSO abatement projects are expensive and are usually located in financially distressed urban areas, making cost a serious concern. Discharges from combined sewer systems impair water uses, and can lead to the closing of beaches and shellfish beds. Projects to remediate overflows of sanitary sewage contribute to water quality improvements and result in improvements to the health, safety, aesthetic value, and recreational attributes of the State's waters.

Governor McGreevey's comprehensive Smart Growth Initiative focuses the DEP and all other agencies of New Jersey State government on three central objectives:

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<sup>1</sup> Please note that a list of acronyms and "short" names used in this document appears on page 20 of this document.

- Make developed areas healthier, more appealing places – with cleaner air, cleaner water, and more parks and open space;
- Reduce the rate at which forests, open space, farmland and other undeveloped areas are being lost to development; and,
- Promote and accelerate development in urban and suburban areas or other growth areas identified through sound planning.

To that end, the DEP is making significant regulatory changes that will strengthen protection of New Jersey's drinking water supplies and other vital natural resources by imposing stricter standards for development in environmentally sensitive areas. The regulatory changes will also streamline and expedite the permitting process and dedicate funding for infrastructure and parks in smart growth areas that are considered appropriate for development.

To advance Governor McGreevey's efforts to incorporate smart growth objectives into State policies and financing programs, the DEP initially made two significant changes to the Financing Program in FFY2003 which are being continued in the current Priority System proposal. The first change involves modifying the percentage of project costs the DEP and the Trust provides to project sponsors. Traditionally, project sponsors received a loan for half of the project costs from the Trust at market rate and a loan for the remaining project costs from the DEP at 0% interest. Under the Smart Growth Financing Package, the DEP provides 75% of the project costs at 0% interest, while the Trust provides 25% of the project costs at market rate to that portion of a project that serves Urban Centers and Complexes as designated by the State Planning Commission. To date, the State Planning Commission has designated Atlantic City, Camden, Elizabeth, Jersey City, New Brunswick, Newark, Paterson and Trenton as Urban Centers and one Urban Complex, the Hudson County Urban Complex, which includes the following municipalities: Bayonne, East Newark, Guttenberg, Harrison, Hoboken, Jersey City, Kearny, North Bergen, Secaucus, Union, Weehawken, and West New York.

In addition, the DEP offers projects located in an Urban Center/Complex the "75/25" Funding Package provided the project has direct quality of life implications for the Urban Center/Complex. An example of such a project would be odor controls for sludge management facilities (that serve areas beyond the Urban Center/Complex) located in an Urban Center that would reduce odors generated from the sludge management facilities and improve the air quality in the urban area. In addition, CSO abatement and land acquisition projects also qualified for the "75/25" Funding Package in the 2004 program.

The second change relates to funding for reserve capacity. The DEP and the Trust adopted amendments to the Financing Program rules that allow the DEP to fully fund its share of reserve capacity costs at 0% interest for projects serving areas appropriate for growth. At this time, the DEP can fully fund its share of reserve capacity costs for projects that serve designated Urban Centers and Complexes. When DEP rulemaking is adopted that advances a tiered approach to natural resources protection, DEP will fund reserve capacity in all smart growth areas.

The following changes from the DEP's FFY2004 Priority System, Intended Use Plan and Project Priority List have been included in the FFY2005 Priority System proposal:

1. The Smart Growth Financing Package (i.e., the “75/25” funding), whereby qualifying projects receive financing at one-quarter the market rate (rather than the traditional program’s half-market rate loans), has been expanded to include three additional project categories: (a) wastewater and/or stormwater infrastructure projects to serve increased populations in Transit Villages designated as such by the inter-agency Transit Village Task Force, (b) brownfields remediation projects located in DEP-designated Brownfields Development Areas (BDAs) and (c) projects that involve the repair and/or replacement of individual septic systems through a Septic Management District. In addition, the DEP is proposing to award 10 additional priority points to projects in BDAs and Transit Villages so that these projects will rank higher than similar projects that are not located in these areas.
2. The proposal includes the second chance option to accommodate project sponsors that miss the initial application deadline of October 4, 2004. Such projects will be given a second opportunity to participate in the 2005 Financing Program. Sponsors are strongly encouraged to submit the required documentation by the October deadline if at all possible. Projects that meet the October deadline will be given higher priority for eligibility for long-term funding than second chance projects, and will have a better opportunity to participate in the Trust’s interim financing program in the current funding cycle. Sponsors of second chance projects must submit, on or before March 7, 2005, complete planning and design documents, a loan application and proof that all applicable DEP permits/approvals have been applied for in order to be considered for the second chance option.
3. The DEP is also proposing additional provisions aimed at preserving the funding eligibility of construction costs that are incurred to undertake emergency repairs of existing infrastructure. These provisions will enable the Financing Program to provide preaward approval, and in some cases Trust interim financing for wastewater and stormwater infrastructure that is in need of immediate repair due to the unforeseen failure of the collection, conveyance and/or treatment components of the system. Such emergency projects would not need to be listed individually on an approved Priority List for the Trust to use CWSRF monies for its interim financing program. While the DEP has progressed in this direction, federal requirements, such as Davis-Bacon wage rates and others, continue to apply to these projects. Since timing is of the essence in addressing these situations, an expeditious approval process is being established. Sponsors are encouraged to contact MF&CE as soon as practical in the event of such emergency situations for guidance regarding applicable requirements to insure funding eligibility of the project.
4. The FFY2005 Proposal also establishes a process through which the DEP will be updating the FFY2005 Priority List later this calendar year. The List put forth later this year will include projects meeting the October commitment letter/planning document submittal deadline. Thus, a comprehensive list of projects pursuing financing under the traditional schedule will be available. In addition, those projects that commit to the traditional schedule will be able to receive interim financing from the Trust as early as January.

Beginning with the FFY2005 proposal, the DEP is no longer distributing hard copies of the Priority System document for public review. The new format for routine distribution of the Priority System documents will be via compact discs (CDs). The Priority System documents

will also be posted on the DEP's web site at <http://www.nj.gov/dep/dwq/cwpl.htm>. In addition to the complete Priority System, Intended Use Plan and Project Priority List, the Priority System CDs include a project description and project ranking worksheet for each listed project (historically available only at DEP's offices and in the Library Information Centers). Copies of the CD will continue to be available for review at any of the Library Information Centers (see the list in the Priority System document for these locations).

As indicated above, for the FFY2005 Financing Program, the DEP has expanded the universe of projects eligible for the "75/25" Smart Growth Financing Package to include the following three categories as well:

**On-Site Rehabilitation of Septic Systems** - Under the Financing Program, a local government unit may apply for funding to upgrade or replace failing on-site systems. The nature and extent of failures would be documented during planning and a Septic Management District (SMD) would have to be established in order to assure on-going operation and maintenance (typically, this involves implementing a system to assure regular, usually once every three years, pump out and/or inspection of the on-site systems). While some SMDs have formed in New Jersey (so there is institutional precedent on which to advance this option), none have tackled the costly job of system rehabilitation as yet.

By providing the Smart Growth Financing Package to such projects, the Program:

- corrects existing wastewater problems in a way that is appropriate to a rural environment;
- the correction does not result in inappropriate growth-inducement that could potentially occur with construction of a centralized collection and conveyance system;
- the on-going operation of the SMD results in pollution control benefits and reduced water supply impacts; and
- the funding enhancement may entice additional municipalities to establish their own SMD and address long-standing failing septic system problems.

**Designated Brownfields Development Areas** - These are areas that have applied for and have received formal designation by the DEP under the BDA Initiative. Applications for such designation are accepted two times per year and the list of potential applicants can be expected to grow over time. The sites within the BDA will be handled by a single project manager, who will coordinate with partnering state agencies to direct targeted technical and financial assistance to sites within the BDA neighborhoods.

Currently, eight BDAs have been designated: Trenton, Elizabeth, two areas in Camden, Palmyra, Irvington, Newark and Hillside. It is anticipated that the municipality will most often serve as the loan recipient under this option to effect remediation at multiple sites in the designated BDA, although county improvement authorities or similar entities could also participate and provide assistance in this environmental improvement effort.

By providing the Smart Growth Financing Package to such projects, the Program:

- provides a financial incentive that could encourage other municipalities to seek BDA designation to qualify for the EIFP's "75/25" funds;

- provides an alternative source of financing, and at a lower cost than is currently available to correct the water quality related aspects of brownfields remediation projects; and
- may enable more efficient use of available State funding, in which EDA funds can be directed to support the redevelopment aspects of such projects, as these costs are not eligible under the Financing Program.

**Designated Transit Villages** - The New Jersey Department of Transportation (NJDOT) and NJ TRANSIT spearhead a multi-agency Smart Growth partnership known as the Transit Village Initiative. The Transit Village Initiative helps to redevelop and revitalize communities around transit facilities to make them an appealing choice for people to live, work and play, thereby reducing reliance on the automobile. The Transit Village Initiative is an excellent model for Smart Growth because it encourages growth in New Jersey where infrastructure and public transit already exist.

Studies have shown that an increase in residential housing options within walking distance of a transit facility, typically a one quarter to one half mile radius, does more to increase transit ridership than any other type of development. Therefore, it is a goal of the Transit Village Initiative to bring more housing, more businesses and more people into communities with transit facilities.

Municipalities that have been designated a Transit Village by the inter-agency Transit Village Task Force must have an adopted land-use strategy for achieving compact, transit-supportive, mixed-use development within walking distance of transit. This can be in the form of a redevelopment plan, zoning ordinance, master plan or overlay zone. There are currently 14 designated Transit Villages. They are Pleasantville (1999), Morristown (1999), Rutherford (1999), South Amboy (1999), South Orange (1999), Riverside (2001), Rahway (2002), Metuchen (2003), Belmar (2003), Bloomfield (2003), Bound Brook (2003), Collingswood (2003), Cranford (2003) and Matawan (2003).

By providing the Smart Growth Financing Package to such projects, the Program:

- provides enhanced financing to enable municipalities to address the increased need for wastewater and/or stormwater infrastructure to serve population increases in the designated Transit Village;
- provides a financial incentive that could encourage other municipalities to seek approval for the Transit Village designation to qualify for the EIFP's "75/25" funds; and
- advances the smart growth goals inherent in the Transit Village Area Initiative, including not only the community revitalization, but two other goals of the Transit Village Initiative, to reduce traffic congestion and improve air quality by increasing transit riders.

In addition to these initiatives, the DEP will continue, for those projects that have the potential to facilitate growth or cause significant adverse environmental impacts, to evaluate thoroughly the planning submitted by the project sponsor which may include but not be limited to the water quality/quantity impacts, location in the State, impacts to riparian corridors, the existing pollution control needs, assessment of the resulting environment, detailed assessment of proposed alternatives and cost-effectiveness of the proposal. The DEP's funding decisions will

take into account the project's growth potential, the location of the project in the State and the project's aggregate impacts as determined through such evaluations.

Collectively, these initiatives will enhance the DEP's and the Trust's ability to promote smart growth and will also allow the Environmental Infrastructure Financing Program to provide funds to make it a reality. Further changes are likely as the DEP adopts additional regulatory changes to its permitting and approval processes to implement smart growth in order to more effectively guide future growth and development in the State.

Several years ago, the DEP and the Trust expanded the eligible categories for nonpoint source (NPS) pollution abatement measures in an effort to help communities address such pollution. Regulatory amendments were adopted to identify the new eligible areas and specified the requirements for projects to receive financial assistance. The broader categories include funding for landfills (for closure activities and new cell construction), open space land acquisition and conservation, remedial action activities and well sealing. Both landfill closure and new cell construction projects became eligible for financing in 2000. Financing for the other nonpoint source areas commenced in 2001. The DEP and the Trust are continuing to allocate a minimum of \$10 million in program funds to promote financing for stormwater and other NPS management projects.

The Intended Use Plan (IUP) provides information on funds available through the clean water component of the EIFP, including all federal funds allotted to the State under the CWA and available to the CWSRF in FFY2005, and also deobligated construction grant funds, which may be available to the DEP-administered Clean Water Fund (Fund). An interest-free loan from the Fund provides a portion of the individual project's allowable project cost, and a market rate loan from the Trust provides the remaining allowable cost. Allowable project costs are either shared equally between the DEP and the Trust or, for projects eligible for the "Smart Growth Financing Package," at a reduced interest rate applying the "75/25" level of funding. The Trust finances its SRF loan through the issuance of bonds secured with CWSRF funds.

The Priority List identifies projects targeted for financial assistance from the CWSRF in State Fiscal Year 2006 (SFY2006). Other than the items noted above, no significant changes have been made to the FFY2005 PS document from the policies and provisions of the FFY2004 PS.

The DEP's Priority System for FFY2005 includes two items that deal with the financial relationship between the CWSRF and the DWSRF. First, the DEP continues to extend to the DWSRF the same cross-collateralization coverage process used by the CWSRF that results in AAA ratings for the Trust bonds. Second, the DEP continues to reserve the right to transfer funds between the CWSRF and the DWSRF (up to the amount allowed by the federal Safe Drinking Water Act or other federal legislation) to provide greater flexibility to the Financing Program in addressing changing clean water or drinking water needs in the State. More details on these relationships can be found in section A of the IUP.

Although Congress provided funds to the CWSRF in FFY2004, the receipt of additional federal funding in FFY2005 and beyond is uncertain since the CWA has not yet been reauthorized. Loan repayments and State bond proceeds will still be available to address some wastewater



treatment needs but to fully address the overall water quality improvement needs of the State, additional federal funding will be required. Several legislative initiatives to reauthorize the CWA and to provide funding for wastewater projects and other water quality improvements have been proposed. It is not expected that reauthorization of the CWA will necessitate significant changes to the CWSRF and the State's FFY2005 PS document. As such, the DEP issued this document to maintain the financing program schedule. The DEP will provide opportunities for public participation if the reauthorization requires substantial revisions to the program.

Recent amendments to the Trust's enabling legislation authorized the establishment of a short-term financing program. CWSRF loan repayments would be channeled 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 DEP and the Trust, which are typically awarded in November. The Trust, in consultation with the DEP, has adopted amendments to the Trust's rule to make the short-term financing option available to prospective borrowers that receive preaward approval from the DEP and the Trust.

## **PRIORITY SYSTEM**

### **I. Project Priority List — General Information**

Clean water projects must be listed on the Project Priority List in order to be considered eligible for financial assistance under the EIFP. The applicant must also submit all the required application material in a timely manner.

The Priority List identifies the estimated total eligible building costs under the appropriate project category. Except for open space land acquisition projects, the figure under the "Total Eligible Project Cost" includes the estimated total eligible building costs, the related costs for construction services (i.e., administrative, legal, engineering, inspection, one year start-up services, etc.), the allowance for planning and/or design, three percent for the recipient's administrative costs, and a five percent contingency cost. The figure under the "Total State Amount" column represents 100 percent of the estimated total eligible project costs. Justified revised costs submitted by project sponsors in response to the public participation process will be included on the final FFY2005 List.

Any significant revisions to the Priority List during the fiscal year will be subject to a public hearing. The DEP does not, however, consider the following revisions to the Priority List to be significant:

1. Bypassing (i.e., deferring the funding of) a project to a future fiscal year if all requirements (including commitment to and compliance with the project document submittal schedule) of the CWSRF are not satisfied on schedule.
2. Increases or decreases in allowable project costs that may change the fundable range of the Priority List.

3. The addition of a project or projects to the fundable range as a result of their qualifying under the Public Health Hazard (PHH) bypass or emergency project criteria.
4. The revision of the fundable range of the Priority List as a result of a change in (1) the allocation that New Jersey receives (if any), (2) the State's contribution to the CWSRF, and/or (3) the total amount of monies made available for clean water projects from the EIFP.
5. The revision of the fundable range of the Priority List as a result of ensuring the proper dollar amount is obligated to eligible project categories (if limitations are included under the CWA's reauthorization).
6. The replacement of a project sponsor identified on the Project Priority List with another eligible project sponsor that willingly assumes the role of loan applicant for the project.

The DEP plans to prepare an update of the FFY2005 Priority List which will be subject to a public comment period later this year. The DEP will notify interested parties and prospective applicants and have the updated list available for public review at least 30 days prior to the close of comments on the modified list. With completion of the public participation process, a comprehensive list of projects pursuing financing under the traditional schedule (including any previously unlisted project that submits a commitment letter and planning on or before the October 4, 2004 deadline) will be available to the public, and those projects that meet the traditional schedule will be able to receive interim financing from the Trust as early as January.

## II. Ranking Methodology

The DEP ranks all projects on the basis of the total number of ranking points each project receives and places the projects on the Priority List according to their ranking. Projects receive points under five categories. These are: Approved Watershed Plan, Project Discharge Category, Water Use/Water Quality, State Planning Commission (SPC) Approvals, and Population. The categories are consistent with the ranking methodology of the FFY2004 PS document and are discussed in sections A through E below.

### A. Approved Watershed Plan Points

Prudent watershed planning will achieve cost-effective and environmentally sound water quality improvement within the watershed. To provide an incentive for project sponsors to complete watershed planning and to promote implementation of point and nonpoint source management projects, a project that is part of a DEP-approved watershed management plan receives 200 ranking points.

### B. Project Discharge Category Points

All projects receive ranking points based on the project discharge category. In case of multiple purpose proposals, projects qualify for the discharge category that represents the major scope of the project. If a project has aspects that can be described by more than one category, the project may be broken into separate projects. Tables IA and IB show the project discharge categories and their ranking points.

<b>Table IA. Ranking Points Related to Project Discharge Category For Wastewater Treatment Facilities</b>		
<b>Project Discharge Category</b>	<b>Description</b>	<b>Points</b>
Combined Sewer Overflow (CSO)	Correction of combined sewer systems and discharge points. Includes elimination, relocation or consolidation of discharge points and construction of facilities or purchase of equipment to remove solids and floatables.	250
Overflowing Sewers Via Infiltration/Inflow (I/I) Correction	Correction of overloaded conveyance systems that experience intermittent overflows, resulting in discharges of raw or inadequately treated sewage. Projects include rehabilitation, repair, and/or replacement of the conveyance system. Also includes Interconnection/Cross-Connection abatement projects that address documented water quality impairments.	250
Treatment Plant Improvements	Upgrade of a treatment facility or elimination of an existing facility and connection to an alternative treatment facility to meet applicable treatment levels. Also includes I/I correction within the conveyance system, if cost-effective, to allow the treatment plant to meet applicable treatment levels.	150
Sludge Treatment/Disposal Facilities	Construction of sludge management facilities such as those for dewatering, land application, composting, and incinerator repair/improvements; includes wastewater and water supply sludges.	100
Corrective Systems	Construction of facilities to promote wastewater reuse or provide collection and/or conveyance, on-site management, treatment plants, or septage treatment to improve existing wastewater management systems.	50
Overloaded Sewers Via Infiltration/Inflow (I/I) Correction	Correction of overloaded conveyance systems that do not experience intermittent overflows as well as correction of Interconnections/Cross-Connections. Includes rehabilitation, repair, or replacement, as appropriate for the system.	50

<b>Table IB. Ranking Points Related to Project Category for Stormwater and Nonpoint Source Pollution Management Facilities</b>		
<b>Project Category</b>	<b>Description</b>	<b>Points</b>
Landfill Closure, Open Space Land Acquisition and Conservation and Well Sealing	Construction of measures to prevent and control pollutants from entering groundwater at non-operating municipal landfill sites and for wells (supply and monitoring). Also included in this category are open space land acquisition and conservation projects that are associated with water quality benefits.	100
Landfill Construction and	Construction of facilities to collect, convey and/or treat leachate and runoff from new publicly owned landfill	75

Remedial Action Activities	cells or from sites that are known to contain contaminated or hazardous materials.	
Stormwater Management and other NPS activities	Construction or rehabilitation of stormwater basins, sewer systems and storm drains, extension of outfall pipes, purchase of maintenance equipment (such as street sweepers, beach cleaning equipment, aquatic weed harvesters and skimmer boats). Also included in this category are projects that stabilize streambanks, restore lakes or address runoff from salt storage facilities and the implementation of measures to reduce and/or control runoff from agricultural cropland activities and to address pollution concerns associated with manure runoff and feedlot operations.	50

### C. Water Use/Water Quality Points

Points for water uses (present and potential) and for existing water quality conditions are given to projects that will improve discharges that adversely impact surface waters. The assignment of points for “public nuisance” is given to on-site system projects where failures have been identified. Table II below shows the breakdown of the ranking points for water use; in general, the highest values are given for projects that discharge to water bodies with potable, recreational, and fishing uses.

<b>Table II. Ranking Points Related to Water Use (Existing and Potential)</b>			
<b>Water Use</b>		<b>Basis/Description</b>	<b>Points</b>
Public Potable Water Supply		Public and nonpublic community surface supply for water companies or municipalities based on NJ Statewide Water Supply Master Plan.	200
Recreation (“Primary Contact”)		Waters with bathing areas monitored routinely as public beaches as well as the Delaware River upstream of Trenton.	125
Fishing	Shellfish	State water bodies that are designated as shellfish growing waters by <i>N.J.A.C. 7:12</i> .	125
	Trout	State freshwater bodies designated for trout production or maintenance by the NJ Water Quality Standards ( <i>N.J.A.C. 7:9B</i> ).	75
	Non-trout	State freshwater classifications not designated trout production or maintenance by <i>N.J.A.C. 7:9B</i> (see Trout description above), including all Delaware River freshwater zones above mile-point 85 as defined by the Delaware River Basin Commission.	25
Public Nuisance		Indirect water use impacts; applies to areas with identified on-site wastewater treatment system failures.	50
Agriculture		Surface water for agricultural use, such as irrigation and farm ponds, based on DEP diversion permit (permits required for >70 gal/min diversion).	25
Industry		Surface water known to be used for industrial use such as cooling.	25

Table III shows the points for not meeting or marginally meeting certain water quality parameters. The points reflect the impact the parameters have on meeting the State’s goal to

protect and enhance surface water resources, quality criteria, and designated water uses. The magnitude of the contribution that municipal sewerage facilities have on each of the conditions is reflected in the points awarded under these categories. Dissolved oxygen and fecal coliform have the highest points because of their direct impact on the fishable/swimmable water use, coupled with the fact that municipal treatment facilities are a major cause of contravening water quality standards.

Nutrients reflect the presence of phosphorus/phosphates and nitrates/nitrites in a water body. Nutrients were given lower points because, although they may cause conditions that interfere with many water uses, the resulting conditions will usually not significantly affect the established water use of the site. Points were given to nutrients only if the surface waters involved significantly impact potable water reservoirs, surface water impoundments or lakes, public bathing areas, or shellfish growing waters.

Points for toxics indicate the relative magnitude of ammonia, metals, pesticides, and organic chemicals in the water body. Toxics were also given lower points since in most cases the significant contributions of toxic substances come from industrial sources and are not significantly abated by municipal treatment facilities. While NPS pollution also contributes to toxicity levels, the project types most likely to involve higher levels of toxic contaminants (such as landfills and contaminated sites) receive higher ranking than other NPS management projects in the project type category (see Table IB). In the case of the toxicity of ammonia, municipal facilities are usually the main source, but the most significant impact is associated with streams designated for trout production/maintenance, which already receive a high number of points under the water use category.

<b>Table III. Ranking Points Related to Water Quality</b>				
<b>Water Quality</b>		<b>Points for Water Quality that</b>		
		<b>Meet</b>	<b>Marginally Meet</b>	<b>Do Not Meet</b>
		<b>The Water Quality Standard*</b>		
<b>Parameter</b>	Dissolved Oxygen	0	50	100
	Fecal Coliform	0	50	100
<b>Parameter Category</b>	Nutrients	0	25	50
	Toxics	0	25	50
*The Water Quality Standard for the applicable parameter or category.				

#### D. Smart Growth Approvals

The DEP seeks to coordinate and enhance the State Planning Commission's (SPC) efforts to encourage smart growth through the implementation of the State Development and Redevelopment Plan. The DEP assigns ranking points to projects that serve municipalities that the SPC has approved under the Center Designation or Plan Endorsement Process.

For a project serving more than one municipality, the SPC points were included for ranking purposes if the designated center or the endorsed plan is a significant component of the overall project. For further information regarding the State Development and Redevelopment Plan, contact the NJ Office of Smart Growth, Department of Community Affairs, 101 South Broad Street, 7th floor, PO Box 204, Trenton NJ 08625-0204 or call (609) 292-7156.

<b>Table IV. Ranking Points Related to State Planning Commission Approvals</b>	
<b>Community Type</b>	<b>Points</b>
Urban Centers and Complexes	50
Regional Centers	25
Existing Designated Towns	15
Existing Villages	10
Hamlets	5

In addition to SPC approvals, site remediation projects located in BDAs and infrastructure projects located in designated Transit Villages also receive 10 points, so that these projects will rank higher than similar projects that are not located in these smart growth areas.

#### E. Population Points

Projects are also assigned points based on the population of the project area. One point is given for every million people living in the project area on a year-round basis. Thus, if projects have the same number of ranking points after having received all eligible points, population points become the tie breaker, with higher priority given to the project serving the higher population.

#### F. Public Health Hazard (PHH) and Emergency Repair Projects

In instances where project conditions are determined to constitute a PHH by the Commissioner of the DEP in consultation with the Commissioner of the Department of Health, the project will receive funding priority over other projects on the Priority List. The review procedure involves a survey of the extent of wastewater problems such as: incidences of sewage-borne disease, contaminated wells, and homes or buildings with sewage back up. Details of the PHH procedure are available in the FFY96 PS document and are incorporated in the FFY2005 PS document by reference. Copies of the FFY96 PS document may be requested by calling the Bureau of Program Development and Technical Services at (609) 292-3859.

The DEP recognizes that wastewater, stormwater and drinking water infrastructure may be subject to catastrophic, unanticipated events that pose a substantial threat to the public health, safety and welfare. However, failure to complete technical and environmental review procedures in accordance with the Financing Program rules adopted at *N.J.A.C. 7:22* has up to now rendered these projects ineligible under the EIFP. The DEP has reviewed this issue in detail and believes that rapid correction of emergencies while preserving the eligibility of these costs is in the public interest. Therefore, the DEP is in the process of developing a process and specific eligibility criteria to accomplish these purposes while assuring environmental protection.

Additional information regarding this new provision is contained in section D. of the Intended Use Plan that follows. It is anticipated that applicable requirements will be satisfactorily addressed and will receive public support, and that the provisions will be retained within the final 2005 Priority System document.

Projects that qualify as emergency projects will receive funding priority over all projects on the Project Priority List.

### III. Construction Grants Program Policies

The delegation of authority for the Federal Construction Grants Program from the U.S. Environmental Protection Agency to the New Jersey Department of Environmental Protection expired on June 30, 2000. As of July 1, 2000, USEPA Region II has assumed full responsibility for the program. Any questions on outstanding Federal Construction Grants projects or issues should be directed to Mr. Michael Hajducek, P.E., USEPA Region II, Water Programs Branch, 290 Broadway, New York, New York 10007, (212) 637-3858.

## **INTENDED USE PLAN**

USEPA requires the DEP to develop an Intended Use Plan (IUP) annually to qualify for CWSRF capitalization grants to support the program and the project loans. This IUP provides information on funds available through the EIFP to provide financial assistance for clean water projects in SFY2006 and identifies State policies governing loan awards. It includes information on the following:

1. The list of projects to be used for funding purposes.
2. The long and short-term goals of the state's program.
3. The programmatic activities to be supported with the anticipated funds.
4. The timing and use of such funds.
5. The criteria and method of distribution of the funds.
6. Provisions for interim reporting (as required by the Regional Administrator at the time of a capitalization grant award).

Programmatic requirements imposed by the Water Quality Act of 1987 include 1 through 5 below. It is anticipated that these provisions will be maintained in a subsequent federal reauthorization act or federal policy. If substantial changes in the Act necessitate the DEP's revision of the FFY2005 PS document, additional public participation efforts will be conducted.

1. The schedule of state capitalization grant payments, jointly agreed upon by the Administrator of the EPA and each state, is based upon the state's IUP.
2. States are required to deposit in the CWSRF, from state monies, an amount equal to at least 20 percent of the total amount of all capitalization grants made to the state.
3. The fund created with federal capitalization grants can only be used to provide assistance for (a) the construction of publicly owned treatment works, (b) the implementation of a NPS (nonpoint source) management program, which includes

construction of stormwater/NPS management facilities, and (c) the development and implementation of an estuary conservation and management plan. Although CWSRF loans may only be provided for publicly owned systems, if a government unit assumes ownership of a wastewater treatment system previously privately owned, a loan may be provided under the authority of section 603(c) of the federal CWA. A state may also deem the public ownership requirement as being met for small/on-site systems if adequate inspections and operations are ensured through the establishment of a septic management district or use of service easements. Privately owned stormwater/NPS management projects may also qualify for CWSRF loans provided the project is sponsored by the local government unit.

4. Monies in the CWSRF may be used to provide loans at or below market interest rate, for terms not greater than 20 years (after completion of construction). Repayments must begin no later than one year after completion of the project and must be credited to the CWSRF (principal and interest) for Title VI purposes. The recipient of a loan must establish a dedicated source of repayments. The CWA also authorized the use of federal CWSRF monies to refinance local debt obligations, provide guarantees, or purchase insurance.
5. Through FFY94, states were required to reserve the greater of \$100,000 or one percent of their annual allotment for the development and implementation of NPS management programs. This reserve may be re-enacted or otherwise modified for FFY2005 as a result of reauthorization of the CWA or subsequent federal guidance.

A. Financial Relationships between the CWSRF and the DWSRF

Section 302 of the amendments to the federal Safe Drinking Water Act (which established the DWSRF Program) includes authorization for states to transfer up to 33 percent of its DWSRF capitalization grant to the CWSRF or an equivalent amount from the CWSRF to the DWSRF. This transfer is at the Governor's discretion and cannot occur until at least one year after the state has received its first DWSRF capitalization grant. In New Jersey, the first DWSRF capitalization grant was awarded by USEPA on September 18, 1998.

For FFY2005, the DEP reserves the right to transfer CWSRF loan repayments to the DWSRF. While the original Safe Drinking Water Act limited the ability of the state to transfer funds after September 30, 2001, the DEP continues to reserve this option as authorized by federal legislation.

In addition to the potential transfer of funds between the CWSRF and DWSRF, the DEP is continuing its policy to cross-collateralize the DWSRF with the CWSRF. This feature results in significant savings to project sponsors and, in particular, the drinking water project sponsors since there is a large source of revenue available to cover possible loan defaults. Under the EPA-approved procedures associated with cross-collateralization, a temporary transfer of funds between the two SRFs may occur as may be necessary to cover the default of a loan repayment or other financial obligation. The DEP and the Trust would take steps to collect any obligations resulting from a loan default and reimburse the appropriate drinking water or clean water account.



B. Document Submittal Schedules

All local government units that have a project or projects listed or eligible for listing on the FFY2005 Priority List are required to commit to one of the following schedule by the appropriate date to be considered for FFY2005 funding. The commitment is made in writing to the **Assistant Director, Municipal Finance and Construction Element** (MF&CE) with a copy to the Executive Director, New Jersey Environmental Infrastructure Trust. Prior to the submission of a commitment letter, all applicants are encouraged to attend a pre-planning meeting with the appropriate area within the Municipal Finance and Construction Element.

<b>2005 Loan Program -Traditional Schedule</b>	
<b>Activity</b>	<b>Deadline</b>
Commitment Letter and Planning Documents	October 4, 2004
Design Documents and Loan Application	March 7, 2005
Loan Award	November 2005

<b>2005 Loan Program - Second Chance Schedule</b>	
<b>Activity</b>	<b>Deadline</b>
Commitment Letter, Planning Documents, Design Documents, Loan Application and Proof of Permit/Approval Application submittals	March 7, 2005
Loan Award	November 2005

Sponsors are encouraged to comply with the October deadline if at all possible, and will have several important benefits over second chance participants. Projects that meet the October deadline will be of higher priority for eligibility for long-term funding than second chance projects will have. In addition, project sponsors pursuing the traditional schedule will have a better opportunity to participate in the Trust's interim financing program in the current funding cycle.

Notwithstanding the advantages of the traditional project schedule, there may be incidences in which a project sponsor that has been unable to meet the traditional schedule can expedite the completion of the planning, design and loan application documents to qualify for funding under the current funding cycle. However, in order to provide adequate opportunity to process permits and approvals needed for projects in a timely manner, all second chance projects must submit, on or before March 7, 2005, proof that all applicable DEP permits and approvals have been applied

for. Failure to do so will render the project ineligible to pursue the second chance option. Further, if any of the permits and/or approvals required for the project require a long lead time, such as the need for a Water Quality Management Plan amendment or a major modification to the NJPDES permit, such projects will not be eligible to proceed under the expedited schedule and the project sponsor will be notified accordingly.

The planning and design documents for clean water projects must consist of:

1. A complete project report.
2. The environmental assessment report (level 1, level 2 or level 3, as determined by the DEP). For those projects that have the potential to facilitate growth or cause significant adverse environmental impacts, the DEP will evaluate thoroughly the planning submitted by the project sponsor which may include but not be limited to the water quality/quantity impacts, location in the State, impacts to riparian corridors, the existing pollution control needs, assessment of the resulting environment, detailed assessment of proposed alternatives and cost-effectiveness of the proposal. The DEP's funding decisions will take into account the project's growth potential, the project's location and the project's aggregate impacts as determined through such evaluations.
3. Complete cultural resources survey documentation.
4. Long-term sludge management plan for projects involving a treatment plant upgrade or expansion.
5. Documentation of completed public participation activities.
6. The results of preliminary coordination activities with lead agencies regarding environmental and permit concerns.
7. Plans and specifications for the project, including appropriate environmental mitigation/restoration components.
8. For open space land acquisition projects, an evaluation of the land to be acquired, including the water quality basis for the proposed land purchase.
9. For any stormwater/NPS management project, the water quality basis intended to be accomplished by the proposed work (since this is the basis that allows such projects to be eligible under the Financing Program).

Projects with unacceptable planning documentation will be bypassed (removed from the current funding period). If the local government unit does not commit to one of the document submittal schedules, the DEP will interpret this as a decision to not pursue funding in FFY2005/SFY2006 and will result in a "BEYOND 05" designation under the estimated State certification date column on the Priority List.

#### C. Loan Awards

Loan awards for new projects will be made in FFY2005/SFY2006 for up to 100 percent of the allowable project costs to cover the low bid building costs and other allowable project costs that are identified in the program rules at *N.J.A.C. 7:22-3, 4, and 5*. The loan term will generally be 20 years but can not exceed the useful life of the facility. The initial loan amount will be limited to the certified project cost, which may reflect (1) the estimated allowable project cost based on the project sponsor's loan application or (2) the low bid building cost. The adjustment to provide

funding based on the low bid building cost will be made only after all project-related contracts have been awarded.

Adjustments to provide warranted loan increases for differing site conditions will be made only after all allowable project costs have been incurred. Consideration will be given to providing warranted loan increases, subject to: the DEP's and the Trust's approval, legislative approval in the form of an appropriations bill(s) providing such monies, and the availability of funds. Any dollar changes in cost estimates for projects on the Priority List may result in the DEP requesting the municipality to provide a third-party concurrence on the cost change. Should cost underruns occur after a low bid building cost adjustment and the completion of construction, budget line item changes may be approved for allowable cost overruns. In these cases, administrative/legal/fiscal costs will not be subject to the three percent limit as specified in the rules. A greater amount could be approved should sufficient funds remain and if sufficient justification and documentation for the higher costs are submitted and approved. If a recipient receives DEP approval to reduce the project scope through the elimination of a contract (or portion thereof), the eligible project cost (and therefore the financial assistance amount) will be reduced through the DEP's and the Trust's "deobligation". The amount to be deobligated will be equal to the estimated cost of the scope of work included in the original loan award.

Local government units are required to meet the technical, administrative, and environmental provisions of the rules of the DEP and the Trust (*N.J.A.C. 7:22-3, 4, 5, 8, 9, and 10*). Disbursement and loan repayment provisions must also be consistent with the rules.

Planning and design costs alone are not directly eligible for financial assistance from the EIFP. However, an allowance to assist in defraying planning and design expenses will be included in the financial assistance agreement for the construction of the project, if State funding for planning and design has not otherwise been awarded, such as through the Sewage Infrastructure Improvement Act Grants Program.

Financial assistance will only be awarded to a distinct project segment that will result, in itself, in an operable treatment works (i.e., not relying on award of funds for additional portions of the project). Financial assistance awards will not be made to projects that are under an enforcement action unless a federal or State court-sanctioned order or State administrative order (only accepted in certain cases) specifying a compliance schedule has been established. A copy of the judicial or administrative order will be required at the time of submittal of the project application.

All wastewater treatment projects must be sized in accordance with a cost-effective analysis to accommodate existing needs as well as 20-year reserve capacity. Historically, the recipient's financial assistance from DEP was 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. In order to advance the State's smart growth initiatives, the DEP and the Trust have recently adopted amendments to the Financing Program rule that allows the DEP to fully fund its share of project costs related to reserve capacity for projects that serve areas determined to be suitable for growth upon promulgation of DEP rules. In the interim, the rule

amendments allow the DEP to fully fund its share of reserve capacity costs for designated Urban Centers and Complexes as approved by the State Planning Commission.

#### D. Preaward Approvals and Emergency Projects

Eligible projects can qualify to receive preaward approvals if the requirements of the rules (*N.J.A.C.* 7:22-3.32 and 4.32) are met. This is a significant difference from the federal grants program, since project sponsors may maintain the eligibility of project costs incurred prior to the execution of formal State agreements. However, to maintain the eligibility of such costs, project planning (including the issuance and expiration of an Environmental Assessment prepared by the DEP) and design and contract documents (including issuance of authorization to advertise and award contracts for which reimbursement is sought) must be reviewed and approved by the Municipal Finance and Construction Element. Further, all permits and approvals for the construction of the project must be secured. It should be noted that federal policy limits the amount of funds the States may withdraw from capitalization grants for “refinancings.” Since federal policy defines any costs incurred prior to loan award to be “refinanced,” there is a possibility that reimbursement for all preaward costs may not be feasible at the time of loan award.

The DEP recognizes that wastewater, stormwater and drinking water infrastructure may be faced with unanticipated emergency situations that pose a substantial threat to the public health, safety and welfare. However, failure to complete technical and environmental review procedures in accordance with the Financing Program rules adopted at *N.J.A.C.* 7:22 has up to now rendered these projects ineligible under the EIFP. The DEP has reviewed this issue in detail and believes that immediate correction of such emergencies while preserving the eligibility of these costs is in the public interest. Therefore, the DEP is in the process of developing a process and specific eligibility criteria to accomplish these purposes while assuring environmental protection.

The DEP expects to complete the assessment of technical (such as the applicability of minority business participation requirements, federally mandated Davis-Bacon wage rates, etc.) and environmental program requirements shortly. The proposed process, eligibility criteria, and limitations, as well as the qualifications for a Level 1 environmental review, will be summarized within an Environmental Decision Document, and will be distributed on a statewide basis in an effort to solicit public comment prior to finalization of emergency funding proposal.

Qualifying emergency conditions would include those which **are currently resulting** in substantial pollution of the environment (such as collapse of a wastewater line) and/or substantial curtailment of the functions of the infrastructure (such as delivery of drinking water). It is anticipated that applicable requirements will be satisfactorily addressed and will receive public support, and that the provisions will be retained within the final 2005 Priority System document.

As indicated in the Priority System section of this document, emergency projects will receive funding priority over all other projects on the Project Priority List, both for interim as well as long-term financing.

#### E. Socially and Economically Disadvantaged (SED) Business Participation

Project sponsors are required to set a goal of awarding at least 10 percent of a project's costs for construction, materials, or services to small business concerns owned and controlled by SED individuals as defined in the Small Business Act (15 U.S.C. 637(a) and (d)) and any rules promulgated pursuant thereto. The DEP and the Trust have adopted the SED rules (at *N.J.A.C.* 7:22-9), that identify the SED utilization requirements that project sponsors will have to meet.

#### F. Stormwater/Nonpoint Source (NPS) Management Projects

Because of the increasing water quality concerns related to stormwater runoff, the DEP and the Trust have expanded the scope of the Financing Program to include construction costs for a wide variety of stormwater/NPS management projects. The EIFP will allocate a minimum of \$10 million in clean water funds to this category in FFY2005. The DEP's general view, after consultation with local and regional planners and stormwater managers, is that expensive structural retrofits should not be implemented before completion of regional analysis and planning. Thus, if the project will impact the capacity, hydrology, or hydraulics of existing stormwater management facilities, systems, or downstream waterbodies, a watershed management plan appropriate to the project's location should be prepared. Watershed management planning, a key component of the watershed approach, assesses the overall needs of an area to ensure that proposed projects will improve/maintain water quality, water quantity and ecosystem health in a cost-effective manner. Watershed management planning differs from the individual project planning which is site-specific and which is a routine requirement of funding under the EIFP. Although the EIFP does not fund watershed management planning, the EIFP does provide an allowance for a project's site-specific planning and design. The allowance is based on a percentage of the building costs. Stormwater/NPS management projects must support efforts to achieve and/or maintain water quality, compatible with designated uses of the water body.

Implementation of USEPA's Phase II Municipal Stormwater Program requires municipalities, counties and other public entities to control stormwater discharges from new and existing developments. In New Jersey, the program is being implemented through the issuance of NJPDES general permits. Program implementation will require capital expenditures for equipment acquisition, additional personnel to implement best management practices, and expenses for public education (an innovative component, to change the behavior of people to reduce environmental impacts). Low-cost funding for the equipment procurement and construction of needed facilities is available through the EIFP, and is described in more detail below. The DEP is also exploring additional sources of funds to provide increased levels of financial support to local governments to help defray the costs for achieving compliance with the requirements of the NJPDES Permits. For FY2004, the DEP is in the process of awarding \$6 million in grants to municipalities and counties to implement the NJPDES permit requirements. The Governor's proposed FY2005 budget includes an additional \$6 million to continue such grants to municipalities and counties in FY2005. The DEP is also pursuing other options to provide additional funding as well, and anticipates availability of additional grant funds for capital projects to be combined with SRF loans (up to 20% grants and 80% SRF loans). In

anticipation of this, DEP encourages project sponsors to proceed with submitting construction-related projects for the Priority List.

The stormwater/NPS management projects that are eligible for EIFP loans include both new or modifications of stormwater management systems, facilities, basins, or other stormwater/NPS management facilities (including land acquisition to site the eligible facilities). Stormwater/NPS management projects also include, but are not limited to: installation of packed media filters, replacement of existing storm drains with newer designs that incorporate features to remove solids, floatables, oil and grease, and/or other pollutants; purchase or replacement of equipment to reduce solids and/or floatables, such as netting on outfalls and skimmer boats; purchase of maintenance equipment, such as street sweepers, leaf collection equipment, beach cleaning equipment, and aquatic weed harvesters; rehabilitation of tide gates and existing basins or other stormwater systems, including pump stations; extension and/or stabilization of outfall points; implementation/construction of systems that will result in water quality benefits, such as salt storage structures/runoff control systems, feedlot manure/runoff control systems, and streambank/lake stabilization/restoration projects which are consistent with habitat protection.

In FFY2000, the Financing Program added the water quality aspects of landfill closure and new cell construction to the list of eligible NPS projects as described below. In FFY2001, open space land acquisition and conservation, remedial action activities and well sealing were added to the list of eligible NPS projects under the EIFP as described further below:

**Landfill Closure and Construction** - The Financing Program also includes landfill closure and landfill construction projects under eligible NPS projects. The DEP recognizes that landfills are a major pollution concern and are identified as a nonpoint source of pollution in the State's Stormwater and NPS Program Plan developed under Section 319 of the Clean Water Act. Eligible landfill closure activities include such items as landfill capping systems, leachate collection, storage and treatment systems, side slope seepage prevention and controls, gas condensate systems and other activities. Financing for landfill construction projects is generally limited to those project elements that prevent, reduce, or control the generation of leachate or are required for the collection, storage and treatment of leachate. Elements of a landfill construction project that may be financed include landfill liner systems, leachate removal or collection systems, and related maintenance equipment, toe-drains and cut-off walls, leachate sampling facilities and equipment, leachate storage facilities (lagoons, tanks, tank covers and aeration systems), leachate evaporation systems, and others. In addition to leachate controls, other eligible elements include barge shelters, containment booms, litter fences, and other means to prevent municipal solid waste from blowing off the landfill site and polluting surface waters. Before any landfill closure or construction project is approved under the Financing Program, the project sponsor must submit and receive all applicable permits and approvals from the DEP's Division of Solid and Hazardous Waste.

**Open Space Land Acquisition and Conservation** - The EIFP provides loans to municipal and county applicants for the preservation of open space land as a means to provide an overall water quality benefit to the project area. A conservation restriction (easement) is applied, which ensures that the water quality is protected in perpetuity. Passive recreational uses such as hiking, cross-country skiing, horseback riding and birding are allowed on the portion of the parcels that

are purchased with loans from the EIFP. Development is not allowed on the properties that are acquired through the EIFP, since this encourages the use of impervious surfaces and causes land alterations which can adversely affect the hydrology of an area as well as other nonpoint source impacts. Surface runoff can increase and groundwater filtration can decrease. Since most of New Jersey consists of sole source aquifers, which “are those aquifers that contribute more than 50% of the drinking water to a specific area and the water would be impossible to replace if the aquifer were contaminated” (NJ Geological Survey), the protection of these resources is an environmental priority. When the land remains as open space with no development pressures, the water recharge to these vital aquifer systems is protected. In addition, other environmental resources (i.e., endangered species, wetlands, stream corridors, floodplains, etc.) that may be present will also benefit from the protection of the parcel.

**Remedial Action Activities** - The clean-up of hazardous waste sites and other contaminated sites is critical to preventing further contamination of groundwaters in the State. The water-quality related components of projects to effect spill cleanups, brownfields restoration and hazardous waste site cleanups are some examples of the activities that are eligible through the Financing Program. Treatment of contaminated groundwater also qualifies for financing if the treated water is returned to the environment. While treatment solely to provide a safe drinking water supply is ineligible for CWSRF financing, it is eligible for DWSRF financing.

**Well Sealing** - The proper sealing of unused monitoring and water supply wells is also important to protect groundwaters in the State. Municipalities and other public entities can sponsor projects through the Financing Program to properly fill, seal, and abandon wells in accordance with N.J.A.C. 7:9-9.

#### G. Combined Sewer Overflows (CSOs)

The DEP has recently issued a draft permit that proposes to revoke and reissue the New Jersey Pollutant Discharge Elimination System (NJPDES) General Permit for Combined Sewer System (CSS) NJPDES No. NJ0105023. Currently, the General Permit includes the provision for the implementation of all of the Nine Minimum Controls deemed appropriate and applicable to owners and/ or operators of the CSS collection and conveyance systems. Furthermore, the permit initiated the first phase of the planning activities of the National CSO Control Policy’s Long-term Control Planning (LTCP) process by requiring the performance of land-side monitoring and modeling activities for use in the development of Storm Water Management Models (SWMMs) of the CSSs. The proposed changes to this permit will further the development of CSO LTCPs. Specifically, the draft general permit proposes to include additional provisions that will require owners and operators of the CSS to perform Planning/Preliminary Engineering Studies for the implementation of pathogen controls.

Low-cost funding for the implementation of needed facilities is available through the EIFP. Such projects are, in fact, eligible for the enhanced Smart Growth Funding Package. However, the DEP is currently investigating sources of funds to provide increased levels of financial support to local governments to help defray the costs to achieve compliance with the requirements of the General Permit as well as implementation of CSO Long-term Control Plans.

## H. Short-Term and Long-Term Goals; Miscellaneous Items

The short-term goal of New Jersey's financing program is to provide funding to needed, high-ranked water quality improvement projects. The long-term goal of the program is to establish a sound, self-sufficient, self-perpetuating financing program to assist communities with the financial burden of providing costly wastewater treatment and stormwater/nonpoint source management facilities to meet on-going water quality improvement/maintenance needs of the State.

As provided for in the January 1988 Initial Guidance for State Revolving Funds, a state that has deposited monies in a dedicated revolving fund after March 7, 1985 and prior to receiving a capitalization grant, may credit these monies toward the match, binding commitments, and equivalency requirements. Since some of the projects certified by the DEP receive state-only sources of funding, these state-only projects may qualify under the federal criteria to bank monies to satisfy the CWSRF's match, binding commitment, and equivalency requirements.

In recognition that modifications to the IUP may occur, the DEP may provide updates of the IUP to the USEPA. DEP will submit an Annual Report representing the actual use of the CWSRF funds to the USEPA in accordance with the requirements of the Water Quality Act of 1987 and Agency guidance.

In accordance with the USEPA Policy on Fees Charged on Assistance Provided Under the SRF Programs, 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 DEP which utilizes federal SRF capitalization grants and one from the NJ Environmental Infrastructure Trust, which utilizes bond proceeds from the Trust bond sale. Each year, the DEP evaluates the need to assess a loan origination fee and/or an annual administrative fee to cover the DEP portion of the program's administrative costs. The amount of the fee (if any) is established in conjunction with the annual budget process for the particular State fiscal year and borrowers are notified in advance of escrow closing as to the estimated cost of the fee that will be charged on their loan to be closed in November.

In the past, adequate resources were available to cover the DEP's costs for administration of the project without levying a fee. Given tight fiscal constraints, the Fiscal Year 2004 Appropriations Act required the DEP to collect an amount not less than \$5 million from the November 2003 borrowers. Rather than require cash payment from the project sponsors, the Trust included the DEP loan origination fee in the borrowers' Trust loan (and secured that portion of the bond issue with non-SRF funds) to cover \$5 million of DEP's costs in administering the Financing Program. It is anticipated that the Fiscal Year 2005 Appropriations Act will again require the DEP to collect as much as \$5 million from CWSRF and DWSRF project sponsors to cover program administration costs. The amount of the DEP loan origination fee will be proportionally allocated among the participants in the FFY2005/ SFY2006 Program. There is no SRF funding involved in the DEP loan origination fee.



The Trust's loan is issued at the same market interest rate as the Trust obtains from the sale of its bonds. Rather than bonding for all of the eligible closing costs associated with each financing, the Trust 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 issuance 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 the Loan Servicer and Trustees. The Trust Annual Fee is not included in the principal amount of the loan. The annual fees collected by the trust are held in an account outside of the SRF. In SFY2006, the Trust anticipates collecting administrative fees associated with the CWSRF and DWSRF programs of approximately \$2.5 million.

<b>FFY2005 Financing Program Schedule for Clean Water Projects</b>	
<b>Date</b>	<b>Action</b>
As soon as possible	Prospective applicants attend a preplanning meeting with DEP – MF&CE representatives.
June 9, 2004	Public hearing on Proposed FFY2005 PS document.
June 21, 2004	1. Close of comment period. 2. Public Health Hazard (PHH) bypass requests due.
October 4, 2004	FFY2005 traditional schedule applicants submit commitment letter, all planning documents (i.e., project reports) to DEP, including final NJPDES permit.
(on or before) January 15, 2005	DEP/Trust submits list of projects (based on Priority System ranking methodology) to Legislature for forthcoming State Fiscal Year.
March 7, 2005	FFY2005 traditional schedule applicants submit design and complete loan application. FFY2005 second chance applicants submit commitment letter, planning, design, loan application and proof that all permits/approvals have been applied for.
April 2005	Trust conducts Financial Seminars for FFY2005 applicants.
(on or before) May 15, 2005	Financial Plan for State Fiscal Year 2006 submitted by DEP/Trust to Legislature.
(on or about) July 1, 2005	1. Legislature acts on Financial Plan. 2. DEP/Trust transmit draft loan agreements to qualifying applicants.
(on or about) September 15, 2005	1. Trust financial transactions completed. 2. Execute DEP/Trust loan agreements in escrow.
November 2005	DEP/Trust loan closing with FFY2005 sponsors.

### **Acronyms and Short Names**

CSO	Combined Sewer Overflow
CWA	Clean Water Act
CWSRF	Clean Water State Revolving Fund
DEP	Department of Environmental Protection (New Jersey)
DWSRF	Drinking Water State Revolving Fund
EIFP	Environmental Infrastructure Financing Program
EPA	Environmental Protection Agency (United States)
FFY	Federal Fiscal Year
Fund	Clean Water Fund
I/I	Infiltration/Inflow
I/C	Interconnection/Cross-connection
IUP	Intended Use Plan
List	Project Priority List
MF&CE	Municipal Finance and Construction Element
NJAC	New Jersey Administrative Code
NPS	Nonpoint Source
PHH	Public Health Hazard
PS	Priority System, Intended Use Plan and Project Priority List
SED	Socially and Economically Disadvantaged
SFY	State Fiscal Year
SPC	State Planning Commission
SRF	State Revolving Fund
Trust	Environmental Infrastructure Trust

**APPENDIX A:**

- 1) Project Status/Cost Update Form
- 2) Sample Commitment Letters

**-Clean Water Financing-**  
**FFY2005 PROJECT STATUS/COST UPDATE**

The following FFY2005 Project Status/Cost Update Form must be used to update information on currently ranked projects or to propose new projects for inclusion on the FFY2005 Project Priority List. Please complete the form according to the instructions below, and include estimated building costs for each category of project need. All costs should be updated to March 2005. Those applicants who desire to update project status/costs, but do not want to commit to meeting the project submittal deadlines, should submit the Project Status/Cost Update Form with an appropriate cover letter.

Section A: 1) The project sponsor must be the entity which will assure proper operation and maintenance of the facilities or equipment to be constructed, rehabilitated or purchased.

2) For existing projects listed on the FFY2004 Project Priority List, write the number listed. For unlisted projects, write "NEW" in the space provided.

3) For existing projects listed on the FFY2004 Project Priority List, write the name listed. If this name is to be changed, write "change to", and then the new name. For new projects, write a short descriptive title in the space provided.

4-7) Write the address of the agency stated on Line #1.

8-9) Write the name and telephone number of the responsible official of the agency stated on Line #1.

10-11) Write the name and telephone number of the consulting engineer for the project.

Section B: Write a brief description of the project in the space provided; for example - upgrade and expand the existing sewage treatment plant, new gravity interceptor, I/I reduction program, stormwater basin rehabilitation, etc. Also, if a Public Health Hazard Bypass is being sought, so indicate.

Section C: Eligible Category

Category 1- For projects which currently do not meet secondary treatment standards or the repair/expansion of existing facilities to provide secondary treatment. Secondary treatment provides a 30-day average effluent quality of 30 mg/l or less for both SS and BOD with 85 percent removal of these pollutants. Also, projects which will provide facilities to reuse wastewater or treat sludge or septage are included in this category.

Category 2- Applies to treatment facilities to upgrade to meet effluent limitations (30 day average) for BOD and SS less than 30 mg/L, or provide for the removal of ammonia, nitrogen, phosphorus or other pollutants, or to provide stringent disinfection by means of coagulation or filtration facilities.

- Category 3A- Applies to projects which will reduce infiltration/inflow using "minor" rehabilitation procedures such as grouting/lining of existing sewers, installation of watertight manholes, replacement of short stretches of sewer, etc. Interconnection/Cross-Connection abatement projects will typically be included in this category.
- Category 3B- Involves the replacement of existing pipes or manholes. This is done where pipes and manholes have lost their structural integrity or where an increase in pipe size or change in alignment is needed.
- Category 4A- For the construction of collection sewers to service areas currently using on-site systems of wastewater treatment and disposal. Such sewers consist of the common collection sewers, within a publicly owned treatment system, which are primarily installed to receive wastewater directly from facilities which convey wastewater from individual systems.
- Category 4B- A sewer which is designed to intercept wastewater from a final point in one or more collection systems or from an existing major discharge of raw or inadequately treated wastewater for transport to a treatment facility, another interceptor, or another municipality.
- Category 5- Applies to projects to correct overflow conditions in combined sewer systems and repair/rehabilitation of combined sewer lines. Such systems concurrently transport wastewater and storm and/or tidal flows.
- Category 6- Applies to projects which address problems caused by runoff discharged via separate stormwater sewer systems and may include the installation of packed media filters, replacement of existing storm drains with newer designs that incorporate features to remove solids, floatables, oil and grease and/or other pollutants; purchase or replacement of equipment to reduce solids and/or floatables, such as netting on outfalls and skimmer boats; purchase of maintenance equipment, such as street sweepers, leaf collection equipment, low-application rate salt spreaders and aquatic weed harvesters; beach cleaning equipment; rehabilitation of tide gates and existing basins or other stormwater systems, including pump stations; extension and/or stabilization of outfall points; and salt storage structures/runoff control systems.
- Category 7- Applies to projects to address nonpoint source pollution from such activities as cropland and animal agriculture (such as feedlot manure/runoff control systems), as well as silviculture and urban runoff, where stormwater runoff is not transported via a separate storm sewer. Also included in this category are the water quality aspects of municipal landfill closure and construction projects, open space land acquisition and conservation projects, remedial action activities, well sealing, streambank/lake stabilization/restoration projects which are consistent with habitat protection and those projects identified in category 6 above where the municipal storm sewer system is not permitted as a point source.

Building Costs - Costs related to the erection, acquisition, alteration, remodeling, improvement or extension of treatment works. These costs are exclusive of the architectural/engineering costs defined below.

Architectural/Engineering (A/E) Costs - Costs of consulting services to be incurred during the construction phase of the project, generally estimated at 12% of building costs. These costs are exclusive of planning and design costs.

In addition to the building and A/E costs above, a project's estimated allowable cost will include 3% of building costs for the recipient's administration, 5% for unanticipated cost increases and a planning and design allowance

Basis of Cost: State the source used to estimate the building costs. For example, engineer's estimate, updated 201 Facilities Plan, Project Report, etc.

Section D: NEW PROJECTS ONLY- Complete the project narrative form as follows -

1) Project Name - as for Section A, Line 3.

2) Service Area - indicate all areas, or portions thereof, in which the proposed wastewater treatment facilities will operate. If possible, provide a map (USGS scale) of the service area.

3) Existing Population - state the best available local estimate and indicate source of information; otherwise, current State Data Center estimates should be used.

4) Need for Project - justify the need for the project in relation to its effect(s) on existing water use and water quality (refer to the Ranking Methodology section of the Priority System). For projects involving treatment plants, provide the following information, based on the most recent four month period:

- a) NJPDES Permit Number
- b) Flow - Design and Existing
- c) Effluent Levels of BOD and SS (mg/l and percent removal)

5) Project Description: provide a brief, but thorough, description of the proposed project, including major components and treatment units, sewer lengths, sludge practices, etc.

For additional information or assistance, contact:  
Kevin Power  
FY2005 Project Priority List  
Coordinator  
(609) 292-3859

Send completed forms to:  
Stanley V. Cach, Jr., P.E., P.P.,  
Assistant Director  
Municipal Finance and Construction Element  
Division of Water Quality  
PO Box 425  
Trenton, NJ 08625-0425

**-Clean Water Financing-**  
**FFY2005 PROJECT STATUS/COST UPDATE FORM**

A. (1) Applicant:\_\_\_\_\_

(2) Project No: 34\_\_\_\_\_

(3) Project Name:\_\_\_\_\_

(4) Applicant Address:\_\_\_\_\_

(5) City:\_\_\_\_\_ (6) County:\_\_\_\_\_ (7) Zip:\_\_\_\_\_

(8) Applicant Contact:\_\_\_\_\_ (9) Tel:(    )\_\_\_\_\_

(10) Consultant:\_\_\_\_\_ (11) Tel:(    )\_\_\_\_\_

B. Brief Description of Project:\_\_\_\_\_

<u>C. Eligible Category</u>	<u>Cost</u>
1 Secondary/Sludge/Septage Treatment	\$_____
2 Advanced Treatment	\$_____
3A Infiltration/Inflow Correction	\$_____
3B Major Sanitary Sewer System Rehabilitation	\$_____
4A New Collection Sewers and Appurtenances	\$_____
4B New Interceptors and Appurtenances	\$_____
5 Correction of Combined Sewer Overflows	\$_____
6 Stormwater Management	\$_____
7 Nonpoint Source Pollution Management	\$_____
Total Building Costs	\$_____
Architectural/Engineering Costs	\$_____

Basis of Cost Estimates: \_\_\_\_\_

\_\_\_\_\_

**D. Project Narrative (New Projects Only)**

(1) Project Name: \_\_\_\_\_

(2) Service Area: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(3) Population: \_\_\_\_\_

(4) Water Quality-Based Need for Project:

(5) Project Description:



### **Commitment letter information**

For project-specific questions or to request a pre-planning meeting, please contact Gautam Patel, Chief, Bureau of Financing and Construction Permits at **(609) 984-6840**, or for open space land acquisition projects, please contact Scott Shymon, Supervisor, Bureau of Program Development and Technical Services at **(609) 292-3859**

Commitment letter deadlines: <b>Traditional Schedule</b>	<b>October 4, 2004</b>
<b>Second Chance Schedule</b>	<b>March 7, 2005</b>

It is important to note that, with inclusion of the Priority List update process and the second chance option, it is particularly important that project sponsors meet the commitment letter and document submittal deadlines, as the DEP will be proceeding with finalization of the project lists, either to support the Priority List update or to prepare the required May report to the Legislature and the appropriation bills for the funding cycle immediately after the deadlines.

*NOTE: If a project sponsor fails to submit a commitment letter and applicable project documentation by the deadlines (October 4, 2004 for the traditional schedule or March 7, 2005 for the second chance schedule), the sponsor's project will remain on the Project Priority List and will be eligible for future funding based on that year's Priority System.*

**-Clean Water Financing-**

**SAMPLE COMMITMENT LETTER FOR FFY2005/SFY2006 FUNDING  
Traditional Schedule**

(This letter, on official stationery, **must be received or postmarked by October 4, 2004** to be given consideration by the Department of Environmental Protection and the New Jersey Environmental Infrastructure Trust for inclusion in the 2005 Financing Program.)

Stanley V. Cach, Jr., P.E., P.P., Assistant Director  
Municipal Finance and Construction Element  
Division of Water Quality  
New Jersey Department of Environmental Protection  
PO Box 425  
Trenton, New Jersey 08625-0425

Dear Mr. Cach:

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

In accordance with the provisions of the Federal Fiscal Year 2005 (FFY2005) Priority System document and *N.J.A.C. 7:22-3.7 (a)*, I, \_\_\_\_\_, as 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 State for participation in the 2005 Financing Program.

Planning Documents  
Design Documents and Loan Application

October 4, 2004  
March 7, 2005

A pre-planning meeting for this project was held on \_\_\_\_\_ (insert date of meeting) with representatives from the Municipal Finance and Construction Element to discuss program requirements and schedules.

I understand that failure to comply with the submittal requirements and deadlines as specified above will result in the project being deemed ineligible for funding in the 2005 Financing Program.

Enclosed please find a project status/cost update form including proposed modifications to the information presented in the Priority List.

Very truly yours,

---

(Authorized Representative)

Enclosure

c: Dennis Hart, Executive Director  
New Jersey Environmental Infrastructure Trust  
PO Box 440  
Trenton, NJ 08625-0440

**-Clean Water Financing-**

**SAMPLE COMMITMENT LETTER FOR FFY2005/SFY2006 FUNDING  
Second Chance Schedule**

(This letter, on official stationary, **must be received or postmarked by March 7, 2005** to be given consideration by the Department of Environmental Protection and the New Jersey Environmental Infrastructure Trust for inclusion in the 2005 Financing Program.)

Stanley V. Cach, Jr., P.E., P.P., Assistant Director  
Municipal Finance and Construction Element  
Division of Water Quality  
New Jersey Department of Environmental Protection  
PO Box 425  
Trenton, New Jersey 08625-0425

Dear Mr. Cach:

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

In accordance with the provisions of the Federal Fiscal Year 2005 (FFY2005) Priority System document and *N.J.A.C. 7:22-3.7* (a), I, \_\_\_\_\_, as 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 State for participation in the 2005 Financing Program.

Planning Documents	March 7, 2005
Design Documents and Loan Application	March 7, 2005

Copies of the cover letters that have been sent to the appropriate permitting and approval agencies evidencing application to said agencies on or before the March 7, 2005 deadline for the applicable permits/approvals for the project referenced above will also be submitted.

A pre-planning meeting for this project was held on \_\_\_\_\_ (insert date of meeting) with representatives from the Municipal Finance and Construction Element to discuss program requirements and schedules.

I understand that failure to comply with the submittal requirements and deadlines as specified above will result in the project being deemed ineligible for funding in the 2005 Financing Program.

Enclosed please find a project status/cost update form including proposed modifications to the information presented in the Priority List.

Very truly yours,

---

(Authorized Representative)

Enclosure

c: Dennis Hart, Executive Director  
New Jersey Environmental Infrastructure Trust  
PO Box 440  
Trenton, NJ 08625-0440