

CLEAN WATER FINANCING
PROPOSED ADDENDA TO THE FEDERAL FISCAL YEAR 2005 (FFY2005)
PRIORITY SYSTEM DOCUMENT

AND

PROPOSED FEDERAL FISCAL YEAR 2006 (FFY2006) PRIORITY SYSTEM,
INTENDED USE PLAN, AND PROJECT PRIORITY LIST

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EPA DISCLAIMER



Richard J. Codey
Acting Governor

State of New Jersey
Department of Environmental Protection

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Commissioner

Division of Water Quality
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NOTICE OF A PUBLIC HEARING

FOR THE PROPOSED ADDENDA TO THE FFY2005 PRIORITY SYSTEM, INTENDED USE PLAN AND PROJECT PRIORITY LIST AND THE PROPOSED FFY2006 PRIORITY SYSTEM DOCUMENT FOR CLEAN WATER FINANCING

July 15, 2005

Dear Interested Party:

The New Jersey Department of Environmental Protection (Department) has determined that certain amendments are needed to the FFY2005 Priority System, Intended Use Plan and Project Priority List document. The FFY2005 Priority System document was initially made available for public comment in May 2004, with an additional public comment period in January 2005 associated with the mid-year Priority List update process first introduced in the FFY2005 document. The final FFY2005 Priority System document was sent to the United States Environmental Protection Agency (USEPA) on March 15, 2005 for their review and approval.

Subsequent to the submittal of the FFY2005 Priority System document to USEPA and based on the large number of applications received for the FFY2005 Financing Program, the Department has determined that certain funding limits need to be imposed so that the Clean Water State Revolving Fund (CWSRF) monies currently available are not depleted too rapidly. The Department is proposing to limit the amount of the Department's loan share available for "Conduit Financing" solid waste/brownfields remediation projects to \$40 million in the FFY2005 Priority System and limit the amount of the Department's loan share for any single project to \$15 million. However, the Department's share of the loan may exceed the \$15 million per project limit if the total amount of loans requested in a given fiscal year for such conduit financings is less than \$40 million. This limitation only applies to new projects in the FFY2005 Financing Program and does not apply to such projects certified in FFY2004. Additional details on this subject are included in the Proposed Addenda to the FFY2005 Priority System document.

The Proposed Addenda to the FFY2005 Priority System document also includes information on a new initiative being undertaken by USEPA in an effort to demonstrate and track the CWSRF program's positive contribution to environmental quality. USEPA has developed a small set of core measures to show how the CWSRF impacts compliance, water quality and designated uses and a one-page form that captures the reach of the CWSRF in terms of

subsidy, population affected and volume of wastewater treated. Beginning with the SFY2006 Financing Program, the Department and the project sponsors will complete the "Core Measures Project Worksheet" and the Department will submit this information to USEPA. A sample of the worksheet is included in the Appendix of this document.

In addition, the Department has developed the Proposed Federal Fiscal Year 2006 Priority System document for administration of the Clean Water State Revolving Fund (CWSRF) program. Projects eligible for assistance under the clean water program include wastewater, combined sewer and stormwater management facilities as well as nonpoint source pollution management projects (including open space land acquisition and conservation, landfill closure and construction, remedial action activities and well sealing).

A hearing on the Proposed Addenda to the FFY2005 Priority System Document and the Proposed FFY2006 Priority System document will be held at the Department of Environmental Protection, 401 East State Street, Trenton, New Jersey, in the 4th floor large conference room on Wednesday, August 3, 2005. The hearing will commence at 10:00 a.m. and conclude at the end of testimony. Presentations may be made orally or in writing; if written testimony is prepared, please limit any oral presentation to a summary of the text. The period for submitting written comments on the proposal will close August 15, 2005 (all comments must be postmarked by that date). All comments submitted in accordance with the deadline will be considered in the preparation of the final FFY2005 and FFY2006 Priority System documents.

The FFY2006 Priority System ranking methodology and the majority of the funding policies are consistent with those adopted under the FFY2005 Priority System document and includes the policies proposed to be added to the FFY2005 Priority System document and described above. In addition, the FFY2006 Priority System will continue the important changes made to the FFY2005 Priority System identified below:

- i. 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 Department-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 Department awards 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 smart growth areas.
- ii. The proposal includes the second chance option to accommodate project sponsors that miss the initial application deadline (October) for the funding cycle. Such projects are then given a second opportunity to participate in the current funding cycle. 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. In order to be considered for the second chance option, sponsors of second chance projects must submit, on or before the second chance deadline (March 6, 2006), complete planning and design documents, a loan application and proof that all applicable Department permits/approvals have been applied for.

- iii. The Department 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. Sponsors are encouraged to contact the Municipal Finance and Construction Element in the Division of Water Quality as soon as practical in the event of such emergency situations for guidance regarding applicable requirements to insure funding eligibility of the project.
- iv. The FFY2006 Proposal also establishes a process through which the Department will be updating the FFY2006 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.

The Department 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 is via compact discs (CDs). The Priority System documents will also be posted on the Department'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 Department'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).

In addition, please note that the Department and the Trust are proposing to readopt N.J.A.C. 7:22 with amendments. The Financial Assistance Programs for Environmental Infrastructure Facilities rules were set to expire on June 12, 2005. However, since the Department and the Trust filed the proposed readoption before June 12, 2005, the expiration date was statutorily extended by 180 days, until December 9, 2005. Amendments to the rules are also being proposed to (1) remove certain outdated federally-derived requirements that are no longer applicable (such as the evaluation of open space, revenue producing, and energy recovery opportunities during project planning, the development and implementation of a user charge system, the adoption of a sewer use ordinance and federal wage rate requirements), (2) clarify

procedures related to open space land acquisition projects, (3) expand the existing provisions to facilitate the financing of emergency projects, (4) update and simplify the method used to determine allowable costs related to planning and design activities and (5) clearly state that security measures at water and wastewater facilities are allowable project costs. The environmental review process has been made simpler and faster for projects which, by their nature, have virtually no potential to affect either the natural environment or cultural resources. Such projects include equipment purchases, televising and grouting of sanitary sewers, "in-kind" sanitary sewer replacement and water meter replacement.

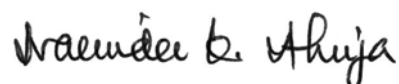
The proposal is scheduled to be published in the New Jersey Register dated July 18, 2005. A copy of the proposal is available from: Scott Shymon, Supervisor, Program Development and Land Acquisition Unit at 609-292-3859, the DEP web site at <http://www.state.nj.us/dep> and Westlaw Publishing at 1-800-808-WEST. A public hearing concerning the proposed readoption with amendments is scheduled for Wednesday, August 31, 2005 at 10:00 A.M. at the NJ Environmental Infrastructure Trust Offices located at 3131 Princeton Pike, Building 6, Suite 201 in Lawrenceville, New Jersey.

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**. For open space land acquisition projects, please contact Scott Shymon, Supervisor, Program Development and Land Acquisition Unit at **(609) 292-3859**.

For questions regarding this notice or to request a copy of the Priority System proposal either electronically, on CD or a printed version, please contact Scott Shymon, Bureau of Program Development and Technical Services, at (609) 292-3859.

Thank you, in advance, for your input on this proposal document.

Sincerely,

A handwritten signature in dark ink, reading "Narinder K. Ahuja". The signature is written in a cursive, slightly slanted style.

Narinder K. Ahuja, P.E., P.P., Director
Division of Water Quality

Enclosures

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JERSEY CITY NJ 07302

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TRENTON NJ 08625

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Proposed Addendum to the FFY2005 Priority System, Intended Use Plan and Project Priority List (Clean Water Financing)

Background

The Proposed FFY2005 Priority System document was initially made available for public comment in May 2004, with an additional public comment period in January 2005 associated with the mid-year Priority List update process first introduced in the FFY2005 document. The final FFY2005 Priority System document, with the accompanying Response Documents were sent to USEPA-Region 2 on March 15, 2005. Subsequent to the Department's submittal of the FFY2005 Priority System document to USEPA and based on the large number of applications received for the SFY2006 Financing Program, the Department has found it necessary and appropriate to make certain amendments to the policies contained therein. The primary purposes for the amendments are: (1) to propose limits on the amount of funds that the Department will use for "Conduit Financing" solid waste/brownfield remediation projects in SFY2006 and (2) to describe a new program initiated by USEPA to measure CWSRF Environmental Benefits. The following is a brief description of the two proposed amendments to the FFY2005 Priority System document.

Conduit Financing Solid Waste/Brownfield Remediation Projects

The Department has determined that funding limits are needed so that the CWSRF funds available are not depleted too rapidly. As such, the Department is proposing to limit the amount of the Department's loan share available for "Conduit Financing" solid waste/brownfield remediation projects to \$40 million in SFY2006 and limit the amount of the Department's loan share for any single project to \$15 million. However, the Department's share of the loan may exceed the \$15 million per project limit if the total amount of loans requested for such conduit financings is less than \$40 million. This limitation only applies to new projects in the SFY2006 Financing Program and does not apply to such projects certified in SFY2005.

An analysis of the Department's funds indicates that if the program continues to fund these high cost projects at the full funding level, there would be insufficient funds to fund all of the traditional projects in the future. Therefore, the Department is implementing the following:

1. Establish a separate ranked listing of Solid Waste/Brownfield Remediation projects involving conduit financings and include the list annually in the Financial Plan submitted to Legislature;
2. Limit the total amount of Department funds for projects involved with conduit financings to \$40 million in each fiscal year; and
3. Limit the amount of the loan from Department funds for any single project to \$15 million, provided that if the total amount of these loans is less than \$40 million in a fiscal year, then the remaining portion of the \$40 million would be allocated on a pro rata basis to the projects that qualify for certification by the Department and are deemed ready to proceed.

This policy is effective for the loans to be awarded in State Fiscal Year 2006. These funding limitations apply only to new projects and do not apply to projects certified in SFY2005. Specifically, the Bergen County Improvement Authority project that was certified and awarded an interim loan under the 2004 Financing Program is excluded from such limits.

Even with this \$40 million per year limitation, the Division of Water Quality anticipates that as early as State Fiscal Year 2008, the Clean Water SRF will have insufficient funds remaining to fund the entire pool of projects that it has traditionally funded. Therefore, the Department may need to revisit the policy as early as next year, depending upon the amount of funds available and the aggregate amount of CWSRF loans for which applications are received or anticipated.

CWSRF Environmental Benefits Assessment

The Proposed Addenda to the FFY2005 Priority System document also includes information on a new initiative being undertaken by USEPA in an effort to demonstrate and track the CWSRF program's positive contribution to environmental quality. USEPA has developed a small set of core measures to show how the CWSRF impacts compliance, water quality and designated uses and a one-page form that captures the reach of the CWSRF in terms of subsidy, population affected and volume of wastewater treated. Beginning with the SFY2006 Financing Program, the Department and the project sponsors will complete the "Core Measures Project Worksheet" and the Department will submit this information to USEPA. A sample of the worksheet is included in the Appendix of this document.

Public Comment Period

A public hearing will be held in conjunction with the public hearing on the Department's FFY2006 Priority System proposal on August 3, 2005 in the 4th floor conference room at the Department offices located at 401 East State Street, Trenton, NJ. The period for submitting written comments on the proposal will close August 15, 2005 (all comments must be postmarked by that date). Any comments received by the Department by the close of the comment period, regarding the Proposed Addenda to the FFY2005 Priority System document will be given due consideration by the Department in the finalization of the FFY2005 Priority System document.