



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Environmental Regulation

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**NOTICE OF PUBLIC HEARING
FOR THE PROPOSED FFY2009 PRIORITY SYSTEM,
INTENDED USE PLAN AND PROJECT PRIORITY LIST
DOCUMENT FOR CLEAN WATER FINANCING**

August 8, 2008

Dear Interested Party:

The Department of Environmental Protection (Department) has developed the Proposed Federal Fiscal Year 2009 (FFY2009) Priority System document for administration of the Clean Water State Revolving Fund (CWSRF) program. Projects eligible for assistance under this program include a wide variety of wastewater treatment, combined sewer and stormwater management, as well as, nonpoint source pollution control projects (including open space land acquisition and conservation, landfill closure and construction, remedial action activities and well sealing).

Cutbacks in federal funding for the CWSRF Program and increased demand for loan monies over the years indicate that sufficient funds may not be available to finance all of the projects that submit applications for the 2009 Clean Water Financing Program. Projects are certified for funding based on the project's rank, the amount of available funds, and compliance with the Program's requirements and deadlines for planning, design and application submittal.

All local government units that have a project or projects listed or eligible for listing on the FFY2009 Priority List are required to commit to the following schedule by the October 6, 2008 deadline to be considered for the 2009 Financing Program. The commitment must be 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 (Trust). Prior to the submission of a commitment letter, all applicants are encouraged to have a pre-planning meeting with appropriate officials within the Municipal Finance and Construction Element.

2009 Loan Program Schedule	
Activity	Deadline
Commitment Letter and Planning Documents	October 6, 2008
Design Documents and Loan Application	March 2, 2009
Loan Award	November 2009

A hearing on the Proposed FFY2009 Priority System document for Clean Water Financing will be held at the offices of the NJ Environmental Infrastructure Trust, 3131 Princeton Pike, Building 6, Suite 201, Lawrenceville, New Jersey, in the large conference room on Wednesday, September 10, 2008. 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, the oral presentation should be limited to a summary of the text. The period for submitting written comments on the proposal will close on September 12, 2008 (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 FFY2009 Priority System documents.

The following changes are being proposed for the first time in the FFY2009 Priority System document:

1. With the exception of Emergency projects, sponsors of projects who seek preaward approval will be required to submit the design documents, the loan application and documentation to show that all applicable permits and approvals have been received no later than February 1, 2009. By doing so, project reviews can occur before March 2, 2009 when the design and application materials for the projects seeking funding on the regular yearly schedule are submitted. In the past, the Department has allowed projects to request preaward approval at any time during the financing cycle which has caused conflicts with the processing of projects that need to be certified in mid-Summer.
2. Projects with preaward approval will not be afforded a higher priority as was available under the 2008 Priority System. This one-year exception was necessary in 2008 to be fair to project sponsors that diligently pursued loan awards in the 2007 funding cycle but were unable to execute loan agreements in accordance with the program's schedule for legitimate reasons beyond their control. Sponsors of projects with preaward approval are still eligible for financing but will need to compete with other projects seeking financing in 2009.

Additionally, the proposal includes a notification indicating that unless additional federal or State funds are allocated for the Financing Program, the Department is considering eliminating the Brownfield Set-Aside in FFY2010. While brownfield clean-up activities would continue to be eligible, the ability of the Program to finance such projects in 2010 and beyond would be based

on the funding need for higher-ranked projects that are able to meet the program requirements and deadlines and the amount of funding available.

It should be noted that the Department made several changes to the FFY2008 Priority System document that are being continued in the FFY2009 Priority System proposal. The most significant of these changes are identified below.

A. For FFY2009, the Smart Growth Financing will continue to be available for the following category of projects:

- Wastewater and Stormwater Management Projects in or serving Urban Centers/ Complexes, Transit Villages, Brownfield Development Areas (BDAs), and TDR Receiving Areas;
- Combined Sewer Overflow Abatement Projects;
- On-Site Rehabilitation of Septic Systems; and
- Brownfield Clean-up Projects with BDA designation.

B. The Department will establish a \$30 million "Brownfields Set-Aside" for the 2009 Financing Program which will be allocated to brownfield remediation projects in order of their ranking. In cases where the available Fund loan does not cover 50 or 75 percent of the allowable project costs, the Trust may finance the remaining allowable costs. Financing above and beyond the amount set-aside for such projects will be considered if monies are available after the need for funding of higher ranking projects during the funding cycle has been satisfied. Conversely, if any set-aside funds are not used up because of reduced demand for brownfield remediation loans, the leftover funds may be used to finance projects listed on the Priority List that may otherwise not receive financing in the 2009 Program.

C. The Department is also continuing the practice of setting a \$25 million per project limit on the amount of Fund monies that a conduit borrower/private activity project can receive in the 2009 Financing Program. Previously-financed conduit borrowers are not eligible for supplemental Fund loans from the Department to cover unanticipated cost increases due to bid receipt, differing site conditions, change orders or other circumstances. However, the Trust may offer loans to cover cost overruns for these projects subject to the allowable cost limitations of N.J.A.C. 7:22-4 and 5.

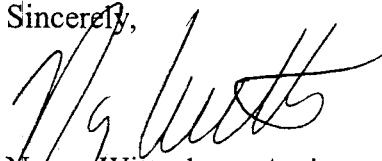
D. The FFY2008 Priority System established a separate classification for projects where a developer, LLC, partnership or other private entity is involved and a local government unit serves as the project sponsor to statutorily qualify for loans from the Department and the Trust. This classification is proposed to be continued in FFY2009. In cases where a local government unit sponsors a project on behalf of a private entity and commits to providing a general obligation pledge (including its unlimited taxing power) or a municipal guarantee as security for the DEP and Trust loans, the project is considered exempt from the above noted conduit borrower classification and the associated financing limitations.

The Department no longer routinely distributes hard copies of the Priority System document for public review but will make individual exceptions upon request, if necessary. The format for distribution of the Priority System documents is via compact discs (CDs) and posting 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 and the web posting include a project description and project ranking worksheet for each listed project.

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, please contact Scott Shymon, Bureau of Program Development and Technical Services, at (609) 292-3859.

Thank you for your anticipated input on this proposal document.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy Wittenberg", written in a cursive style.

Nancy Wittenberg, Assistant Commissioner
Environmental Regulation