

**New Mexico  
Clean Water State Revolving Fund  
(CWSRF)  
Policies and Procedures**



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[www.nmenv.state.nm.us/cpb/cpbtop.html](http://www.nmenv.state.nm.us/cpb/cpbtop.html)

## CLEAN WATER STATE REVOLVING FUND

### INTRODUCTION

Title VI of the Clean Water Act (CWA), as amended in 1987, authorized the US Environmental Protection Agency (EPA) to make capitalization grants to states for deposit in state clean water pollution control revolving funds. In New Mexico, this fund is the Clean Water State Revolving Fund (CWSRF) also known as the Wastewater Facility Construction Loan Fund that is administered by the New Mexico Environment Department (NMED) Construction Programs Bureau. From this fund, the state can provide loans and grants to communities, counties, Indian Tribes and sanitation districts for the construction of publicly owned wastewater treatment facilities.

Congress created the CWSRF capitalization grant program to facilitate the establishment of permanent institutions in each state that would provide continuing sources of financing needed to maintain water quality. Each state has the responsibility for CWSRF day-to-day operations including providing assistance for construction.

### DEFINITIONS

1. **Brownfields** – real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.
2. **New Mexico Wastewater Facility Construction Loan Act** - 20.7.5 through 20.7.7 NMAC; and NMSA 1978 §§ 74-6A-1 through 74-6A-12 established to regulate the administration of the CWSRF which provides local authorities in New Mexico with low-cost financial assistance in the construction of necessary wastewater facilities through the creation of a self-sustaining program so as to improve and protect water quality and public health.
3. **Nonpoint Source** – pollution that is caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into lakes, rivers, wetlands, and even underground sources of drinking water. These pollutants include but are not limited to: excess fertilizers, herbicides, and insecticides from agricultural lands and residential areas; bacteria and nutrients from livestock, pet waste, and faulty septic systems; and sediment from improperly managed construction sites, crop and forest lands, and eroding stream-banks.
4. **Point Source** – pollution that is caused from readily identifiable inputs where waste is discharged to the receiving waters from a pipe or drain. May be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.
5. **Clean Water Act** – the Federal Water Pollution Control Act, more commonly known as the Clean Water Act, as amended by the Water Quality Act of 1987 (Pub. L. 100-4). 33 U.S.C. 1251 *et seq.* that establishes the basic structure for regulating discharges of pollutants into the waters of the United States.

6. **Federal Capitalization Grant** - the assistance agreement by which the EPA obligates and awards funds allotted to states for the purpose of capitalizing its revolving fund.
7. **Integrated Priority Rating System** – method approved by the WQCC for ranking CWSRF eligible projects for which financial assistance applications have been received pursuant to the Wastewater Facility Construction Loan Act.
8. **Section 319** – a section of the Clean Water Act that includes EPA guidelines for States' implementation of nonpoint source management programs.
9. **US Environmental Protection Agency** – an agency of the United States Federal Government that develops and enforces regulations that implement environmental laws enacted by Congress.
10. **Wastewater Facility** – a publicly owned system for treating or disposing of sewage or wastes either by surface or underground methods, including any equipment, plant, treatment works, structure, machinery, apparatus or land in any combination, that is acquired, used, constructed or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation or treatment of water or wastes, or for the final works, outfall sewers, interceptor sewers and collector sewers and other real or personal property and appurtenances incidental to their use or operation. It also includes a nonpoint source water pollution control or Brownfield Redevelopment project as eligible under the Clean Water Act.
11. **Wastewater Facility Construction Loan Fund** – monies appropriated by the state legislature to provide low-cost financial assistance in the construction of necessary wastewater facilities so as to improve and protect water quality and public health.
12. **Water Quality Control Commission (WQCC)** – established by the State Water Quality Act and serves as the state water pollution control agency for all purposes of the federal Clean Water Act.

### ELIGIBLE APPLICANTS FOR LOANS

Any municipality, county, Indian tribe, or sanitation district which has jurisdiction over the disposal of sewage, industrial wastes, or other waste may apply for a loan under the New Mexico Wastewater Facility Construction Loan Act, 20.7.5 NMAC through 20.7.7 NMAC and NMSA 1978 §§ 74-6A-1 through 74-6A-12.

### PRIORITY MANAGEMENT SYSTEM

The Water Quality Control Commission (WQCC), the state's water pollution control agency, adopted regulations pursuant to the Wastewater Facility Construction Loan Act. These regulations reference the approved Priority Rating System for CWSRF Loan Projects. Day-to-day administration of the priority system and of the loan grant and grant program is performed by NMED, a constituent agency of the WQCC and agent for the WQCC.

### PRIORITY LIST MANAGEMENT

In accordance with EPA regulations, the state is permitted to award loans for projects based upon the accepted state priority list, which may be for multiple years. Developed in concordance with

an approved state priority system, the priority list determines the funding sequences for individual projects. Loan assistance may be awarded to any eligible project. As part of administration of the program, the NMED has promulgated the administrative, management, and public participation procedures required to develop and to revise the priority list.

In developing the priority list NMED ensures that adequate public participation takes place. Each calendar year (usually in the spring), a notice is sent to all counties, municipalities, sanitation districts, Indian tribes, consulting engineers, and other interested parties requesting any recommended change, additions, and/or deletions to the priority list. The changes are reviewed by NMED. Public written comment is solicited on the proposed priority list, and is summarized. The priority list is then submitted to the US EPA Regional Administrator for review.

The priority list becomes effective upon approval by the state and supersedes all prior lists. The priority list may be updated throughout the year as cost estimates are revised.

A change in the accepted priority list that would significantly alter the list or significantly impact other projects on the list is subject to a public hearing. Otherwise, communities on the list are simply notified by mail of the revisions. The NMED removes a project from the project priority list when one of the following conditions applies:

- A. The project has been funded;
- B. The project is found to be ineligible by the NMED;
- C. An existing loan is terminated or annulled by the NMED; and
- D. A community signifies that it does not intend to continue in the program.

## PROJECTS ELIGIBLE FOR LOANS

The priority list contains all those projects that are eligible for loans. Low interest loans may be made up to the total eligible project cost subject to availability of funds and ability to repay in accordance with the New Mexico Wastewater Facility Construction Loan Act.

## CATEGORIES OF NEED

All projects must fit into one or more of the following categories of need to be eligible for funding:

- A. Secondary treatment or any cost-effective alternative, including septage and sludge management;
- B. Treatment more stringent than secondary or any cost-effective alternative;
- C. New interceptors and appurtenances;
- D. Infiltration/inflow correction;
- E. Major sewer system rehabilitation;
- F. New collector sewers and appurtenances;
- G. Correction of combined sewer overflows;
- H. Non-point source activities under section 319(h); and
- I. Groundwater protection activities under section 319(i).

## PRIORITY RANKING

In New Mexico, a project is ranked using the following formula:

$$\text{Integrated Priority Rating Number} = \text{PS} + \text{NPS} + \text{BR}$$

Where:

PS = the point source discharge component

NPS = the non-point source component

BR= the brownfields redevelopment component

Prior to the placement of any new project on the priority list, the applicant must submit a written request to the NMED. The request is evaluated and, if determined to be eligible under the Federal Clean Water Act of New Mexico Wastewater Facility Construction Loan Act, and then ranked based on the criteria set forth in the Integrated Priority Rating System. Determination of eligibility depends upon data provided by the applicant and verified by the NMED. Applicants for projects not meeting the requirements of the Act are not placed on the priority list.

## FUNDING LIMITATION

There is no minimum limit for a loan amount. The maximum loan amount to a borrower that is considered is 50% of available funds in a federal fiscal year. This limitation is waived, if 90 days before the close of the fiscal year, the NMED determines that pending loan applications do not fully obligate available funds in that fiscal year.

## BYPASS PROCEDURE FOR LOANS

It is the policy of NMED to make loans to communities in order of priority on the current priority list to the extent reasonable considering the following:

- A. Willingness of a community to accept a loan;
- B. Financial capability of the community to service the loan, to perform operation and maintenance, to maintain a replacement fund and a debt service reserve fund; and
- C. Readiness to proceed.

Loans may be awarded for a project regardless of placement on the priority list. Projects that are not ready to proceed to the interim loan agreement stage within six months of allocation of available loan funds may be bypassed by projects lower on the priority list that are ready to proceed. A project that is bypassed in one fiscal year may receive a loan in a subsequent fiscal year but may not retain its allocation ranking over projects that are new to the priority list during a new six-month period in a subsequent fiscal year.

## RESERVES

Upon receipt of the Annual Advice of Allowance of federal capitalization grant funds from the US EPA Regional Administrator, certain reserves are required to be set aside by the state to be used for specific purposes. The dollar amount of the reserve is determined when the Advice of Allowance is issued. Any sum made available to the state through de-obligation or re-allotment from other states will be treated in the same manner as the most recent allotment.

- A. Reserve for Water Quality Management: each state shall reserve no less than \$100,000 nor more than 1% from its annual allotment to carry out water quality management planning pursuant to section 604(b). Funds reserved for this purpose are subject to re-allotment by EPA if not used during the allotment period. From this reserve, the state shall carry out water quality management planning tasks, including but not limited to, determining the nature, extent, and cause of water quality problems in various areas of the state and interstate region, and reporting on these annually.
- B. Each state may utilize up to 4% of its state revolving loan fund capitalization grant from US EPA for reasonable administration expenses of the loan fund pursuant to section 603(d)(7) of the Clean Water Act.