

**STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Clean Water Fund

**Final Amended
Financial Assistance Programs
Municipal Water Pollution Control
State Fiscal Year 2009
Based Upon Federal Economic
Stimulus Funding under the
American Recovery and Reinvestment Act**

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Introduction

The State of Connecticut will receive approximately \$48.5 million in stimulus funding from the American Recovery and Reinvestment Act of 2009 (ARRA) for wastewater infrastructure. In accordance with the federal legislation, this portion of the State's overall stimulus funding is directed to the Environmental Protection Agency for distribution to the states in the form of additional funding for the state revolving fund program. Hence, this \$48.5 million in new federal funding will be deposited into the Connecticut state revolving fund also known as the Clean Water Fund.

All funds within the Clean Water Fund (CWF) are governed by applicable state statutes (CGS 22a-475 through 483) and the Regulations of Connecticut State Agencies known as the CWF Regulations. Funding under the CWF is established based upon a priority rating system with criteria regarding improvements to water quality and the protection of public health. The stimulus funding must follow this same priority rating system and method of awards as the state contributions to the CWF.

The Department of Environmental Protection (DEP), through the efforts of the Treasurer's Office, is able to leverage the stimulus funds and create a purchasing power of \$85 million in new project value from the stimulus funds. Connecticut revenue bonds are utilized to fund the loan portion of Clean Water Fund project financing. As in many other states, Connecticut revenue bonds are issued as part of a leveraging financing strategy. This means that state and federal funds are deposited in the state revolving fund accounts and used as support for bond issues. As a result of this leveraged financing strategy, the amount of bonds issued and used for project financing is more than two times the amount deposited.

With this \$85 million, the amended priority list extends funding for construction of two treatment plant upgrades in New Milford and South Windsor; MDC's Green Capitols Project; and electrical generation projects at the MDC, Enfield and Norwich. These new projects will start construction as early as the spring of 2009, providing new jobs and improvements to the environment. An immediate benefit of this stimulus funding will be felt with the quick start of construction for these six projects. Both treatment plant upgrades will include energy efficient components in the form of high efficiency motors and variable frequency drives. The Green Capitols project will reduce the amount of rainwater entering the combined sewer system in Hartford. And the three electrical generation projects will reclaim energy from the treatment process, which will then be used to power a portion of the treatment plant operations.

Reasons for Amended FY 09 Priority List, Program Authorization and Use of American Recovery and Reinvestment Act Funds

The purpose of this document is to present the Department of Environmental Protection's state and federal funding assistance program for municipal water pollution control projects during state fiscal year 2009 (FY09: July 1, 2008 to June 30, 2009). This document describes the uses of funds available under Section 22a-483 of the Connecticut General Statutes and the federal funds under the Water Quality Act of 1987 and the American Recovery and Reinvestment Act of 2009.

Reasons for Amended FY 09 Priority List

With the passage of the American Recovery and Reinvestment Act of 2009 (ARRA), the State of Connecticut will receive approximately \$48.5 million in additional funding from the federal Environmental Protection Agency (EPA) for the Clean Water Fund program. Consistent with the Clean Water Fund Regulations and the program requirements of EPA, the DEP is required to amend its FY 09 Priority List to reflect the additional funding, changes to projects that have previously been listed, including costs and schedules, and the addition of potential new projects to the list.

The State of Connecticut has a long standing commitment to improving water quality, protecting public health and protecting/enhancing natural resources of this State through the Clean Water Fund program. Since its inception in 1986, more than \$961 million in general obligation bonds and \$1.753 billion in revenue bonds have been authorized and committed to wastewater infrastructure. Throughout that time period, the DEP has utilized a priority rating system adopted as part of the Clean Water Fund Regulations which has directed the funding to projects that maximize achievement of the State's goals. Whether state bond funds or ARRA funds, the State will continue its commitment to improve water quality, protect public health and protect/enhance natural resources by continuing to fund the highest rated projects.

Based upon the ARRA, funding for clean water projects will be received by the State of Connecticut through a capitalization grant from EPA to the Connecticut DEP. The funds are deposited into accounts within the Clean Water Fund to provide funding assistance for municipal water pollution control projects. In accordance with CGS Sec. 22a-478(a), the DEP is required to maintain a priority list of eligible water quality projects and a system for establishing a priority rating of all such projects and in accordance with CGS. Sec. 22a-478(b), make grants and loans to municipalities in the order of the priority to the extent funds are available. Thus, project funding is determined by the priority list. Because the ARRA funds are deposited into the Clean Water Funds accounts, the use of the ARRA funds is also determined by the priority list.

The FY 08 and FY 09 Priority List was adopted on January 17, 2008. In December of 2008, the DEP solicited municipalities for updated project information and the addition of new projects. In addition to DEP's effort, the Governor's office solicited municipalities for "shovel ready" projects for consideration of funding under ARRA. This amended FY 09 Priority List has been developed based upon both solicitation efforts. The amended FY 09 Priority List reflect changes as a result of both the ARRA funds and information from municipalities regarding project changes in costs and schedules, and the addition of new projects. Any section of the adopted FY 08 and FY 09 Priority List not shown in this amended FY 09 Priority List shall remain in effect and are hereby included in the amended priority list by reference. This amended FY 09 Priority List is consistent with the Clean Water Fund Regulations. All projects on the current priority list of January 17, 2008 were reviewed for costs and readiness to proceed for the purpose of moving the maximum number of funds to the highest rated projects as soon as practical.

The DEP and the State's municipalities were fortunate to receive significant funding in FY 09 from both state general obligation bonds and state revenue bonds. General obligation bonds of \$90 million and revenue bonds of \$180 million were authorized in the State's FY 09 capital budget and such sums have subsequently been approved by the State Bond Commission for award to municipal wastewater projects. The planning and design of new projects that the State has supported over the past few fiscal years has positioned the State to have numerous projects ready for construction in 2009. This significant State commitment to the Clean Water Fund program in FY 09 and the new ARRA funds will allow for the funding of all highly rated priority point projects which are ready to construct in the near term.

A public hearing on the adoption of this document was held in the Phoenix Auditorium, 5th floor at 79 Elm Street, Hartford, CT on March 25, 2009 at 9:30 am in accordance with state regulations regarding public participation. The priority list was made available to local officials, consulting engineers, and other governmental agencies involved with the projects prior to the hearing. All oral and written testimony presented at the hearing were considered.

Funding potentially available for the amended FY 09 is as follows:

Unallocated state revenue bond authorizations from earlier FYs	\$61,740,169
Uncommitted FY08 state revenue bond authorizations	\$31,017,000
Uncommitted FY08 state general obligation bond authorizations	\$13,366,000
Uncommitted FY 09 state general obligation bonds	\$90,000,000
Uncommitted FY 09 state revenue bonds	\$180,000,000
Federal Capitalization Grant FY 09	\$8,750,000
American Recovery & Reinvestment Act of 2009	\$48,495,300*

*In accordance with the federal requirements, half of the ARRA funds will be used as direct grants with the remainder of the ARRA leveraged as revenue bonds. This results in the ability to fund \$85 million worth of new projects directly from the ARRA funds.

Amount of and Criteria for the Use of the ARRA Funds:

Consistent with all past capitalization grants from EPA, the federal funds are distributed to the states in accordance with an allotment formula. Based upon this allotment formula, the State of Connecticut will receive approximately \$48.5 million in ARRA funds for the Clean Water Fund (CWF).

Specific criteria included within the ARRA statute are the following:

- All ARRA funds must be awarded in construction contracts by February 16, 2010. If the ARRA funds are not awarded by that date, any un-awarded funds must be returned to EPA and the State of Connecticut cannot qualify for any potential redistribution of un-awarded funds from other states.
- A minimum of 50% of the ARRA funds or approximately \$24 million shall be awarded in the form of additional subsidization to municipalities. This does not mean that any one municipality must receive a 50% grant, but that a minimum of 50% of the ARRA funds shall be equivalent to grants and other CWF financing can make up the funding for the entire project.
- 20% of the ARRA funds or \$9.7 million shall be used for green infrastructure, water efficiency, energy efficiency or other environmentally innovative activities (“green infrastructure”). EPA has prepared guidance on what qualifies or examples of types of projects that qualify under these criteria.
- Any ARRA funded project which utilizes steel, iron or manufactured goods must utilize these products from American manufacturers. EPA will be preparing guidance on implementation of these criteria.
- ARRA requires the reporting of the use of the funds at Recovery.gov.
- Although not a criterion in the final statute, House and Senate Conferees have encouraged the states to target projects in communities that have a greater need for financial assistance in order to afford the project.

DEP Determination of the Use of ARRA Funds:

The DEP has determined that the best use of the ARRA funds is as a supplemental funding source for the overall Clean Water Fund program and that all projects should receive the benefits of the CWF program as currently defined by statutes (various grant and loan combinations depending upon the category of project). It was determined that one or two municipalities should not receive financial support in excess of the current state statute provisions as this would create an unfair distribution of overall Clean Water Funds. The DEP wanted to maintain the goal of a level playing field utilizing the current statutory funding formulas.

Whether or not a municipality is designated as receiving ARRA funds, the benefits from the additional funding have statewide implications. With the addition of \$48.5 million more into the Clean Water Fund accounts, more projects can be reached. This, combined with a re-assessment of fundable projects on the FY 09 priority list, has resulted in a number of new wastewater treatment plant projects and energy efficiency projects being reached for funding, as well as being able to fund all planning grant applications as of March 2009 and for all previously funded projects to be completed.

Each project has been scrutinized for its ability to award construction contracts in the near term and definitely prior to February 16, 2010. Each construction project identified on the amended FY 09 Priority List has been determined to be capable of awarding construction contracts prior to the critical date of February 16, 2010.

DEP Determination of Projects to Receive ARRA Funds:

While the ARRA requires 50% grant, this requirement can be met without changing the state's existing grant and loan ratios for state Combined Sewer Overflow ("CSO") projects. It is important to understand that the generous funding options of the Clean Water Fund program will not change for any project, even for a project designated as an ARRA project. The designation of ARRA funding does not increase the existing grant and loan ratios for any project under the Clean Water Fund program. What is important to the State of Connecticut is that ARRA funding allows more projects to receive funding. All projects on the proposed amended priority list will be funded according to existing grant and loan ratios depending upon the type of project. The Department has evaluated which project or projects to designate as ARRA funded projects for administrative efficiencies.

Metropolitan District Commission CSO Project:

Because there are special tracking requirements for ARRA funds, as well as other compliance issues with monitoring the American steel, iron and manufactured goods criteria, the Department finds it efficient to minimize the number of projects that will receive ARRA funding. This analysis has resulted in the Department determining that the Metropolitan District Commission ("MDC") CSO project is the best match for the majority of the ARRA criteria.

In addition, the municipality of Hartford within the MDC is considered a distressed community as established by the Commissioner of Economic and Community Development pursuant to Sec 32-9p of the CGS. This meets the intent of the Conferees for the state to target funds to municipalities that are least able to afford the project due to local fiscal impacts.

Under the CWF statutes, combined sewer projects are eligible for a 50% grant. This is a direct correlation to the ARRA requirement of at least a 50% subsidization (equivalent to a 50% grant).

Based upon research conducted by DEP, the Department believes that this CSO project can readily comply with the American steel, iron and manufactured goods criterion.

With respect to the ARRA requirement that all ARRA funding must be awarded through a construction contract by February 16, 2010, the MDC contracts have all been verified that they will be awarded prior to this deadline date.

Green Infrastructure Reserve:

In order to meet the ARRA green infrastructure requirement, the Department is establishing a green infrastructure reserve. The Department has identified four green infrastructure projects as potential

ARRA projects to satisfy the 20% green infrastructure requirement. The final determination of which project or projects is so designated will be made at a later date when the Department has received guidance from EPA as to how these projects can meet the American iron, steel and manufactured goods requirements. The Department may also re-evaluate green components of other priority-listed projects for consideration in meeting the ARRA green infrastructure goal, as conditions may warrant. The Hearing Examiner's Report for this Amended Priority List provides further details on the potential projects listed as green infrastructure. The Department will notify each municipality so designated when the determination is made.

The financing necessary for all four identified projects is as follows:

• Green Capitols Project	\$500,000
• Enfield Electrical Generation	\$8,600,000
• MDC Electrical Generation	\$11,000,000
• Norwich Electrical Generation	<u>\$9,000,000</u>
Total	\$29,100,000

The Department will make best efforts to fund all four identified green infrastructure projects with the following conditions:

- The commitment of funding for each is for the amended FY09 Priority List **only** at this time. Therefore, a construction contract must be entered into by either the date of the adoption of the FY10 and 11 Priority List or by February 16, 2010, whichever comes earlier. If the FY10 and 11 Priority List adoption comes earlier, it is the Department's sole discretion to consider retention of some or all of these projects on the FY10 and 11 Priority List. The Department shall consider, including but not limited to, revised projects costs as well as the readiness to proceed and demand upon the available FY10 and 11 funds from other projects.
- The Green Capitols project set aside of \$500,000 shall be considered as a "not to exceed" number. A project of a lesser value may be developed.
- Each of the three energy recovery projects shall pursue simultaneously with CWF financing all other reasonable funding options including the Connecticut Clean Energy Fund, renewable energy credits, and energy service company contracts. Where any other funding source is available which can reduce the grant or loan required from the CWF, the municipality shall secure such other funding.

The ability to fund all four green infrastructure projects is based upon Stafford entering into a funding agreement with the United States Department of Agriculture, Rural Development program for their treatment plant upgrade project and the New Milford treatment plant upgrade project cost being \$5.8 million below the engineer's cost estimate. The Department reserves the right to either partially fund all four green infrastructure projects with the available funds or to delete one or more projects if either the projected savings from the New Milford project are not realized or if Stafford does not secure Rural Development funding. DEP will strive to fund Stafford's project by either partially funding all four green infrastructure projects with the available funds or by funding fewer green infrastructure projects while still meeting ARRA requirements.

Water Quality Management:

ARRA requires that 1% of the State's allotment be reserved for water quality planning under the Section 604(b) program. This section of the federal Clean Water Act is intended to provide funding to states for water quality management planning as defined in Section 205(j) and 303(e) of the federal law. Accordingly, \$484,900 has been reserved from the ARRA allotment for this purpose and will not be available for project use.

Fundable Project List

BOLD indicates new project or amendments not on original FY 09 Priority List

Fundable Projects: Category I*

*Projects that were either previously funded or fundable under the FY 09 Priority List and have filed funding applications or amendments which have not been executed as of February 20, 2009.

<u>Municipality</u>	<u>Description</u>	<u>CWF number</u>	<u>Project Costs</u>
Bridgeport	CSO G Area	452	\$3,000,000
Bridgeport	CSO design	621	\$2,175,900
Bridgeport	I/I construction	625-CSL	\$1,999,803
Brookfield	Sewers	584	\$5,580,000
Danbury	West Side Sewers	132-CSL	\$5,600,000
Groton	WPCF Denitrification	386	\$3,400,000
Marlborough	Sewers	210	\$2,000,000
Mattabassett District	WPCF Denitrification	567	\$4,750,000
Meriden	WPCF Denitrification	382	\$2,000,000
Middletown	I/I construction	207-CSL	\$4,229,000
Southington	Interim Denitrification	590	\$1,355,000

Fundable FY09 Projects: Construction

(In Order of Priority Points)

<u>Priority Points</u>	<u>Municipalities</u>	<u>Description</u>	<u>CWF Number</u>	<u>Project Costs</u>
35	MDC	CSO Construction	626	\$ 60,000,000
35	GNHWPCA	CSO Construction	629	\$ 19,200,000
34	West Haven	WPCF Denitrification	549	\$ 60,000,000
33	Bridgeport	CSO Construction	TBD ¹	\$ 11,000,000
29	Middletown	CSO Construction	273	\$ 2,000,000
28	Norwalk	WPCF Denitrification/CSO	612	\$ 40,000,000
24	South Windsor	WPCF Denitrification	503	\$ 39,500,000
24	New Milford	WPCF Denitrification	292	\$ 33,800,000²
21	Stafford	WPCF Denitrification	194	\$ 0³

1. To be determined at time of agreement execution
2. Will require the Bond Commission approval of unallocated revenue bonds prior to award. The Department reserves the right to re-assess which projects do not move forward with funding until the Bond Commission approves the unallocated revenue bonds.
3. The project cost is shown to be "0" based upon Stafford electing USDA Rural Development funding rather than CWF funding of the construction cost for the treatment plant upgrade. The Department reserves the right to either partially fund all four green infrastructure projects with the available funds or to delete a project if Stafford does not secure Rural Development funding and instead claims Clean Water Fund financing.

Set-Asides and Reserves

As previously noted, in developing the fundable portion of the priority list and the intended use plan, the State has established a number of set-asides and reserves required or allowed under federal and state regulations. These reserved funds are accessed on a first-come, first-served basis unless otherwise noted, and do not rely on a priority point score for allocation to qualifying municipalities.

<u>Reserve for prior commitments</u>	FY09	\$ 0
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<u>Reserve for cost increases</u>	FY09	\$ 0
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<u>Reserve for planning projects</u>	FY09	\$ 17,100,000
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The original FY 08 and FY 09 Priority List included \$6,000,000 for planning. The projects to be funded from this reserve included various planning projects in Vernon, Middletown, Norwalk, Tolland, Hamden, East Lyme, Greenwich, Norwalk, Old Saybrook and Stonington. With the additional funds available under this amended FY 09 Priority List, the following additional planning projects will now be funded: **Avon, Farmington, Manchester, Norwich, Thompson, Clinton, Bristol, Fairfield, Southington, Cheshire, Ledyard, Norwalk, and Bridgeport.** Applications have been received from all the municipalities identified above. Projects will be funded in the order in which complete applications are submitted until the planning reserve of funds is fully committed.

<u>Reserve for design projects:</u>	Non-CSO	FY09	\$ 4,400,000
	CSO	FY09	\$ 12,000,000

Because design of CSO long-term control plan projects is crucial to initiate future construction projects under consent orders, the Department is proposing to distribute the funding as follows. Actual distribution will be based upon the application received by the Department.

FY09	Bridgeport	\$ 3,000,000
	Greater New Haven	\$ 3,000,000
	MDC	\$ 6,000,000

Non-CSO design is available on a first-come, first-served basis for projects that can reasonably be expected to be funded for construction within the next three years. Potential projects known at this time include denitrification designs at both Norwich and Manchester, but others may also be funded.

Reserve for small community projects:

In an effort to ensure that funding is available from the Clean Water Fund for decentralized wastewater treatment alternatives, the Department is bifurcating the small community reserve into a decentralized/on-site management category and a sewer category. The funding allotments listed below reflect both requests received from municipalities as well as needs identified by the DEP.

Decentralized/On-Site Wastewater Management Category:	FY09	\$ 3,350,000
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Funds have been reserved for Old Saybrook - \$ 1,000,000 for design, Westbrook - \$1,000,000 for design, Clinton - \$ 1,000,000 for design, and Thompson - \$ 350,000 for design.

Sewer Category: FY09 \$ 17,450,000

The reserve for this fiscal year is earmarked as follows:

Bolton (phased)	\$ 8,500,000
New Hartford	\$ 8,950,000

Reserve for construction of regional FOG disposal facilities FY09 \$ 1,500,000

Any FOG (fat, oil, and grease) regional project may qualify for this reserve when ready to proceed. Building facilities for the receiving and treating of FOG is critical to the implementation of the FOG General Permit issued on September 30, 2005.

Reserve for Denitrification modifications FY 09 \$ 2,900,000

Likely projects to utilize this reserve are Vernon and Plymouth.

Reserve for the construction of facilities to eliminate chlorine toxicity FY09 \$ 1,300,000

The FY09 funds are earmarked for Bridgeport in the amount of \$ 1,300,000.

Reserve for green infrastructure FY09 \$ 29,100,000

This reserve is created specifically to allow the State of Connecticut to comply with the requirement that 20% of the ARRA funds or \$9.7 million shall be used for green infrastructure. These projects include **Green Capitols Project; and electrical generation projects at the MDC, Enfield and Norwich.**

Collection System Improvement Program

Reserve for construction of I/I rehabilitation projects FY09 \$ 35,000,000

Infiltration / inflow (I/I) rehabilitation projects are designed to reduce the volume and frequency of extraneous flow (storm and surface water inflow and groundwater infiltration) entering sanitary sewer systems. Projects funded under this reserve minimize sewage overflows resulting from system surcharge, reduce hydraulic overloading and energy consumption, improve treatment efficiency, and reserve capacity for future wastewater needs.

Any I/I construction project may be funded when ready to proceed, on a first-come, first-served basis until the reserve has been depleted. The Department is establishing a maximum of \$2,500,000 per fiscal year per municipality (meaning any of the 169 recognized Connecticut towns) in financial assistance from this reserve. This reserve is intended for the cost-effective reduction of infiltration and inflow and is not for structural repairs. Municipalities must demonstrate through an I/I analysis that the recommended rehabilitation results in a cost-effective reduction of infiltration or inflow.

New Projects Requested to be Added

In preparation of the American Recovery and Reinvestment Act of 2009, the Department solicited new project information from all of Connecticut's municipalities in a letter dated December 8, 2008. This request was in addition to the request to municipalities from Governor Rell for project information for stimulus funding. The Department has reviewed all responses related to wastewater infrastructure from both solicitations and, due to the large volume of projects, has grouped the projects into similar categories for the purpose of establishing priority point ratings. More than 250 projects have been requested to be added with a combined value of \$1.338 billion. However, the vast majority of the projects do not have enough priority points to be reached for funding as noted below and are not ready for construction during 2009. For a complete list of every project requested, please see the Department's website under www.ct.gov/dep/cleanwaterfund for the document "Funding Requests for Draft Amended FY 09 Priority List.

Sewer extensions: Projects within this category score points in rating criteria III.D.1, IV, and V. Depending upon the population to be served by the project, the possible ratings range from 8 to 13 points.

Pump station upgrades/improvements: Projects within this category score points in rating criteria IV and VI. C. Depending upon the population to be served by the project, the possible ratings range from 2 to 11.

Infiltration/Inflow rehabilitation: Projects within this category can score points in criteria IV, V, and VI.D. Possible ratings range from 2 to 19.

Miscellaneous treatment plant upgrades: Various upgrades were requested such as sludge thickener replacement, SCADA system, replacement of clarifier mechanisms, renewable energy-biosolids, digester improvements, etc. None of these projects entail comprehensive plant improvements, but rather are isolated equipment upgrades. Projects within this category can score points in criteria IV and VI.D. Depending upon the population served by the project, the possible ratings range from 7 to 17 points.

Whereas the lowest rated construction project on the proposed amended FY 09 Priority List is scored at 21 points, none of the project categories listed above score more priority points than 21. Therefore, none of the requested projects are reachable for funding within the amended FY 09 Priority List.

A number of the requests for funding were for categories of projects that are eligible for funding under several reserves on the FY 09 Priority List. Reserves are set aside funds for a specific purpose and are available on a first-come, first-served basis. Priority points are not applicable to these reserves and therefore, these projects do not have to be rated. There were in excess of 25 requests for planning grants for which applications have not been submitted (\$10.8 million), 15 requests for design funding (\$17.5 million) and 20 requests for infiltration/inflow removal funding (\$34.2 million)

More than ten projects related to denitrification upgrades at wastewater treatment plants were also requested. Each of these projects is already rated on the FY 09 Priority List and no changes to those ratings are recommended.