

CHAPTER 22
FINANCIAL ASSISTANCE PROGRAMS
FOR WASTEWATER TREATMENT
FACILITIES

Authority

Water Conservation Bond Act of 1969 (P.L. 1969, c.127); the Clean Waters Bond Act of 1976 (P.L. 1976, c.92); the Natural Resources Bond Act of 1980 (P.L. 1980, c.70); the Wastewater Treatment Bond Act of 1985 (P.L. 1985, c.329); the Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989 (P.L. 1989, c.181); the Pinelands Infrastructure Trust Bond Act of 1985 (P.L. 1985, c.306); the Sewage Infrastructure Improvement Act (N.J.S.A. 58:25–23 et seq.); the Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992 (P.L. 1992, c.88); N.J.S.A. 13:1D–1 et seq.; N.J.S.A. 58:11A–1 et seq.; N.J.S.A. 58:10A–1 et seq.; Executive Order No. 215(1989) and future laws authorizing the Department of Environmental Protection to provide assistance for construction of wastewater treatment facilities as to N.J.A.C. 7:22–2, 3, 5, 6, 7, 8, 9 and 10 and New Jersey Wastewater Treatment Trust Act (N.J.S.A. 58:11B–1 et seq.); the Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992 (P.L. 1992, c.88) and future laws authorizing the New Jersey Wastewater Treatment Trust to provide assistance for construction of wastewater treatment facilities as to N.J.A.C. 7:22–4, 5 and 9.

Source and Effective Date

R.1995 d.494, effective August 11, 1995.
See: 27 N.J.R. 1536(a), 27 N.J.R. 3403(a).

Executive Order No. 66(1978) Expiration Date

Chapter 22, Financial Assistance Programs for Wastewater Treatment Facilities, expires on August 11, 2000.

Chapter Historical Note

Chapter 22, Construction Grants for Wastewater Treatment Facilities, was adopted as R.1977 d.356, effective September 21, 1977. See: 9 N.J.R. 262(a), 9 N.J.R. 465(b). Chapter 22 was amended by R.1981 d.456, effective December 7, 1981. See: 13 N.J.R. 481(d), 13 N.J.R. 886(d). Subchapters 1 and 2 were repealed and new Subchapter 2, Matching Grant Procedures and Requirements; and Subchapter 8, Minimum Standards of Conduct for Officers, Employees, Agents and Members of Wastewater Utilities, were adopted by R.1987 d.38, effective January 5, 1987. See: 18 N.J.R. 1869(a), 19 N.J.R. 77(a). Subchapter 3, Fund Procedures and Requirements, was adopted as R.1987 d.37, effective January 5, 1987. See: 18 N.J.R. 1875(a), 19 N.J.R. 84(a). Subchapter 4 was repealed and a new Subchapter 4, Wastewater Treatment Trust Procedures and Requirements, was adopted by R.1987 d.40, effective January 5, 1987. See: 18 N.J.R. 1883(a), 19 N.J.R. 95(a). Subchapter 5, Determination of Allowable Costs: Fund and Trust, was adopted as R.1987 d.39, effective January 5, 1987. See: 18 N.J.R. 1891(a), 19 N.J.R. 105(a). Subchapter 6, Pinelands Procedures and Requirements, was adopted as R.1987 d.41, effective January 5, 1987. See: 18 N.J.R. 1644(a), 19 N.J.R. 110(a). Subchapter 7, Determination of Allowable Costs: Pinelands, was adopted as R.1987 d.208, effective May 4, 1987. See: 18 N.J.R. 1904(a), 19 N.J.R. 766(a). Subchapter 9, Awarding Contracts for State Assisted Projects to Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals, was adopted as R.1988 d.263, effective June 6, 1988. See: 19 N.J.R. 1604(a), 20 N.J.R. 1287(a). Subchapter 10, Environmental Assessment Requirements for State Assisted Wastewater Treatment Facilities, was adopted as R.1989 d.53, effective January 17, 1989. See: 20 N.J.R. 1983(a), 21 N.J.R. 179(a).

Pursuant to Executive Order No. 66(1978), Chapter 22, Construction Grants for Wastewater Treatment Facilities, was readopted as R.1992 d.42, effective December 27, 1991. See: 23 N.J.R. 3282(a), 24 N.J.R. 246(a). The name of Chapter 22, Construction Grants for Wastewater Treatment Facilities, was changed to Chapter 22, Financial Assistance Programs for Wastewater Treatment Facilities, by R.1993 d.242, effective June 7, 1993. See: 24 N.J.R. 4310(b), 25 N.J.R. 2271(a).

Pursuant to Executive Order No. 66(1978), Chapter 22, Financial Assistance Programs for Wastewater Treatment Facilities, was readopted as R.1995 d.494, effective August 11, 1995. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. (RESERVED)

SUBCHAPTER 2. MATCHING GRANT PROCEDURES AND REQUIREMENTS

7:22-2.1 Scope and construction

(a) This subchapter constitutes the rules governing disposition of appropriations for the purposes of planning, design, and construction of wastewater treatment facilities. State matching grants (to match Federal grant awards) will be made pursuant to the Clean Waters Bond Act of 1976 (P.L. 1976, c.92); the Water Conservation Bond Act of 1969 (P.L. 1969, c.127); the Natural Resources Bond Act of 1980 (P.L. 1980, c.70); N.J.S.A. 13:1D-1 et seq.; and N.J.S.A. 58:11A-1 et seq., and any appropriations to the Department of Environmental Protection for the purpose of providing a State matching share to projects funded under the Federal Clean Water Act and its subsequent amendments.

(b) These rules shall be liberally construed to permit the Department to effectuate the purposes of the law.

(c) The rules in this subchapter are promulgated for the following purposes:

1. To implement the purposes and objectives of the Clean Waters Bond Act of 1976 (P.L. 1976, c.92); the Water Conservation Bond Act of 1969 (P.L. 1969, c.127); the Natural Resources Bond Act of 1980 (P.L. 1980, c.70); N.J.S.A. 13:1D-1 et seq.; N.J.S.A. 58:11A-1 et seq., and any appropriations to the Department of Environmental Protection for the purpose of providing a State matching share to projects funded under the Federal Clean Water Act and its subsequent amendments;

2. To establish policies and procedures for distribution of funds for the planning, design and construction of wastewater treatment facilities;

3. To protect the public and the State of New Jersey by insuring that funds appropriated are spent in a proper manner and for the intended purposes;
4. To assure that the distribution and use of funds are consistent with the laws and policies of the State of New Jersey;
5. To establish accounting procedures for the administration of grants; and
6. To establish standards for the construction of wastewater treatment facilities.

Amended by R.1992 d.42, effective January 21, 1992.

See: 23 N.J.R. 3282(a), 24 N.J.R. 246(a).

Updated Department title.

Amended by R.1995 d.494, effective September 5, 1995.

See: 27 N.J.R. 1536(a), 27 N.J.R. 3403(a).

Case Notes

Department was without authority under Bond Act to provide assistance in the form of loans rather than grants; decision to reduce federal funding level proper. *Rockaway Valley Regional Sewerage Authority v. Dept. of Environmental Protection*, 194 N.J.Super. 52, 476 A.2d 281 (App.Div.1984).

7:22-2.2 Definitions

The following words and terms when used in this subchapter, will have the following meanings unless the context clearly indicates otherwise.

“Applicant” means any political subdivision or special district of the State or agency thereof having jurisdiction over disposal of sewage, industrial waste or other wastes, or a designated and approved management agency under Section 208 of the Federal Act that applies for a grant pursuant to the provisions of this subchapter.

“Certified mail” means any means of delivery where proof of receipt is obtained and date of receipt is recorded.

“Construction” means the preliminary planning to determine the economic and engineering feasibility of wastewater treatment facilities; the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary to the construction of wastewater treatment facilities; the erection, building, acquisition, alteration, remodeling, improvement, or extension of wastewater treatment facilities; and the inspection and supervision of the construction of wastewater treatment facilities.

“Department” means the New Jersey Department of Environmental Protection and its successors and assigns.

“Eligible costs” means costs which are determined to be eligible for Federal grant funds in accordance with 40 CFR Part 35.

“Federal Act” means the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.) and any amendatory or supplementary acts thereto.

“Federal grant” means a grant awarded pursuant to section 201 of the Federal Act.

“Final building cost” means the actual eligible cost of the final work in place for the project, the scope of which is defined in the grant agreement.

“Grant” means a State matching grant of the eligible costs of a project receiving a Federal grant.

“Grant agreement” means the legal instrument executed between the State of New Jersey and the recipient for the construction of wastewater treatment facilities. The agreement will specify: budget and project periods; the State share of eligible project costs; a description of the project scope of services to be performed; and any special conditions.

“Low bid building cost” means the actual eligible cost associated with the award of all contracts within a project scope to the lowest responsible and responsive bidder(s).

“NJPDES” means the New Jersey Pollutant Discharge Elimination System, N.J.A.C. 7:14A.

“Project” means the defined scope of services for the construction of specified facilities as approved by the Department in the grant agreement.

“Recipient” means an applicant who has received a State grant.

“Step 3” means the Step 3 activities as defined in 40 C.F.R. 35.2005.

“Substantial alteration” means any change which results in an alteration of the project costs or a change of 90 days or more in the project schedule.

“Wastewater treatment facilities” includes, but is not limited to, the plants, structures and personal property acquired, constructed or operated, or to be acquired, constructed or operated in whole or in part by or on behalf of the State or a political subdivision or subdivisions thereof, including pumping and ventilating stations, sewage treatment systems, plants and works, connections, outfalls, combined sewer overflows, interceptors, trunklines, collection systems and other personal property and appurtenances necessary or useful and convenient for the treatment, purification, or disposal in a sanitary manner of any sewage liquid or solid wastes, night soil, or industrial wastes to preserve and protect natural water resources and facilities.

Amended by R.1992 d.42, effective January 21, 1992.

See: 23 N.J.R. 3282(a), 24 N.J.R. 246(a).

Updated Department title; amended “Federal Act” and stylistic changes.

Amended by R.1995 d.494, effective September 5, 1995.
See: 27 N.J.R. 1536(a), 27 N.J.R. 3403(a).

7:22-2.3 State matching grants

(a) The Department shall request that the Legislature appropriate funds for the purpose of awarding matching

grants under the Clean Waters Bond Act of 1976 (P.L. 1976, c.92), the Water Conservation Bond Act of 1969 (P.L. 1969, c.127), and the Natural Resources Bond Act of 1980 (P.L. 1980, c.70).

2. A suitable 8½ inch by 11 inch map of the planning area which depicts the location of the proposed activity. An 8½ by 11 inch site plan showing areas of proposed construction should also be included where appropriate to the type of project proposed;

3. A narrative describing the extent of beneficial and adverse impact on environmental or cultural resource features that can be expected as a result of implementing the proposed project and basis for concluding that the proposed project qualifies for a Level 1 environmental review in accordance with (a) and (b) above. Cultural resource impacts must be determined in accordance with N.J.A.C. 7:22-10.8;

4. A summary of alternatives available, including, at a minimum, the no action alternative, and the basis for selecting the proposed action. The selected plan must be the most cost effective, environmentally sound alternative which will address the water quality or water supply need which has been identified and which is implementable. The most cost effective alternative is determined by taking into account the cost of environmental impacts and the cost of construction. The basis discussion must include the project costs, user costs, environmental impacts and effectiveness of the proposed alternatives relative to addressing the identified water quality or water supply need as compared with other alternatives considered; and

5. A summary of the involvement of the public in the development and selection of the proposed project.

(d) The Department will review the environmental planning document submitted by the project sponsor and will make one of the following determinations:

1. The Level 1 environmental planning document is complete, acceptable, and verifies the preliminary determination to proceed with this level of environmental review. In this case, the Department will prepare and issue a Level 1 decision statement as set forth in (e) below which will be sent to a project mailing list developed in accordance with N.J.A.C. 7:22-10.10(c). The project sponsor shall publish a notice in a newspaper of general circulation in the planning area within two weeks of the date of the Department's decision statement. The notice must describe the proposed action, indicate the decision by the Department to approve the project, and advise the public that the project sponsor shall, upon written request, make available for public review both the planning documents and the Department's decision statement. Upon issuance of the decision statement, planning is approved and the Department may proceed with award of a loan, subject to the provisions of (f) below, and provided the other requirements of the program have been met as specified in the applicable program rules.

2. Additional information is required to make a final determination. In this case, the Department will notify the project sponsor in writing of the deficiencies and the project sponsor shall be responsible to satisfy the deficiencies.

The Department may establish a time frame for response which, if not met, could result in a bypass of the proposed project in the applicable funding cycle.

3. A Level 1 environmental review is not appropriate. In this case, the Department will notify the project sponsor of this determination and will identify whether the project is elevated to a Level 2 or Level 3 environmental review.

(e) A Level 1 environmental decision statement will include a description of the proposed project, a summary of the need for the proposed project, alternatives considered, environmental, cultural resource and social impacts of the proposed project, costs, mitigating measures, public input, and the basis for the determination that the proposed project qualifies for a Level 1 environmental decision statement.

(f) If, at any time up until the initiation of construction, additional information becomes available, the project is modified or conditions change, such that the project would not qualify for a Level 1 environmental review, the Department will require the project sponsor to proceed with a Level 2 or Level 3 review, whichever is determined appropriate by the Department.

Amended by R.1992 d.42, effective January 21, 1992.
See: 23 N.J.R. 3282(a), 24 N.J.R. 246(a).

Modified to clarify that cultural resource impact assessments must be determined in accordance with N.J.A.C. 7:22-10.8 and content of a Level 1 environmental decision document is described. Language was added to this section to the effect that the selected plan must be the most cost effective, environmentally sound and implementable alternative.

Amended by R.1993 d.409, effective August 16, 1993.

See: 25 N.J.R. 1643(a), 25 N.J.R. 3760(a).

Amended by R.1995 d.494, effective September 5, 1995.

See: 27 N.J.R. 1536(a), 27 N.J.R. 3403(a).

Amended by R.1998 d.407, effective August 3, 1998.

See: 30 N.J.R. 1144(a), 30 N.J.R. 2863(a).

Substituted "project sponsor" for "local government unit" throughout; in (a), rewrote 1, and substituted "environmental infrastructure" for "treatment" in 2; and in (c), substituted "environmental infrastructure" for "wastewater management" in 1, and inserted references to water supply in 2.

7:22-10.5 Level 2 environmental review

(a) If a project does not qualify for a Level 1 environmental review, but the Department determines that a Level 3 environmental review is not warranted, then a Level 2 environmental review is required.

(b) For a Level 2 review, environmental planning documentation must be submitted by the project sponsor consisting of an environmental information document, results of investigations and consultations conducted pursuant to N.J.A.C. 7:22-10.8 and 10.9, and results of public participation conducted pursuant to N.J.A.C. 7:22-10.10. At a minimum, a public hearing will be required and proof of same must be included as part of a complete planning document submittal to the Department. The environmental

information document must include, where applicable, the following information:

1. A geographical description of the planning area;
2. A clear map of the planning area. The scale of the map should generally be one inch equal to 2000 feet. However, where the size of the planning area is inappropriate to this scale, a larger or smaller scale map may be required by the Department;
3. A description of and mapping, where applicable, of existing environmental conditions and features including:
 - i. Existing water quality and uses including a comparison to New Jersey water quality standards and uses established in accordance with N.J.A.C. 7:9-4, 5 or 6;
 - ii. Hydrologic characteristics;
 - iii. Water supply source, current demand and current reliable supply. Identify any designated sole source aquifer or critical water supply areas located in the planning area, if applicable;
 - iv. Geology, topography and soils types and limitations with respect to the use of on-site systems or land application of effluent or residuals. Soil information shall be taken from the Soil Conservation Service county soils maps and interpretations unless more accurate field evaluation of the specific project area is available;
 - v. Regional air quality and comparison to New Jersey Air Quality Standards established pursuant to N.J.S.A. 26:2C-1 et seq. Address conformance with the State Implementation Plan for air quality (prepared pursuant to the Federal Clean Air Act, 42 U.S.C. § 7401 et seq.);
 - vi. A general description of plant and animal communities existing in the planning area and a map of habitat types in the project's direct impact area;
 - vii. Existing land use and zoned use permitted for undeveloped areas in the planning area;
 - viii. Environmentally critical areas within the planning area, including, but not limited to, wetlands, floodplains, important farmlands, Agricultural Development Areas, important aquifer recharge areas, coastal areas, stream corridors, parks and preserves, steep slopes, and locations of endangered or threatened species or designated habitats; and
 - ix. Areas subject to the jurisdiction of the Pinelands Commission, Coastal Area Facility Review Act, or the Hackensack Meadowlands Development Commission.
4. The purpose and need for the project in terms of surface water or groundwater pollution or depletion, drinking water quality or public health problems that can be attributed to the existing environmental infrastructure facilities;

5. A description of the future environment without the proposed project;

6. A description and map of existing environmental infrastructure facilities, their service areas and population served; the design and permitted capacity; treatment type and level; current wastewater or stormwater flow or water supply demand by type (residential, commercial, industrial) and, for wastewater treatment facilities, infiltration and inflow.

7. An environmental constraints analysis prepared according to the following procedure:

i. Overlay mapping of environmentally constrained areas, which include wetlands, floodplains, endangered species sites or designated habitats, parks and preserves, and Agricultural Development Areas, in the planning area with mapping of existing land use and permitted zoning for currently undeveloped areas. Areas not yet developed which are not environmentally constrained are considered developable. Environmentally constrained, developed, and developable areas shall be clearly depicted on the mapping to be submitted.

ii. Identify existing population and current wastewater flow or water supply demand by source. Determine the extent of development which could occur according to permitted zoning in developable areas. This should be represented as a number of dwelling units and population for residential areas and area coverage for commercial and industrial areas. Information regarding existing wastewater flows and flow projections must be calculated in accordance with N.J.A.C. 7:14A-23.3 and 7:15-5.18. Current and projected water supply demand shall be calculated in accordance with N.J.A.C. 7:10-11 or 7:10-12, as applicable. These figures must be presented in a table and used in calculating the maximum wastewater flow or water supply demand projections that may be considered in planning environmental infrastructure facilities. All assumptions used in calculating wastewater flow or water supply demand from units and coverage must be explained.

8. A description of alternatives considered, including the no action alternative;

9. A cost comparison of alternatives, including capital costs, operation and maintenance costs, user cost and total project cost on a present worth basis;

10. A description of the environmental impacts for each alternative including beneficial and adverse direct, indirect (or secondary impacts) and cumulative effects with other projects. Include an assessment of such impacts associated with each alternative on the following:

i. Surface water and groundwater quality and quantity and hydrology (including new or increased depletive uses of water resources and, where new development is projected, increased nonpoint source pollution);

- ii. Plant and animal communities or other natural resources. Quantify by type the extent of such resources anticipated to be disturbed as a result of project construction;
 - iii. Environmentally critical areas, as identified in (b)3viii above. Quantify by type the extent of such resources anticipated to be disturbed as a result of project construction;
 - iv. Air quality, especially with respect to consistency with the New Jersey State Implementation Plan prepared pursuant to the Federal Clean Air Act, 42 U.S.C. §§ 7401 et seq., and the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq.;
 - vi. Where significant increases in wastewater treatment or water supply capacity will be provided, effects of induced growth on the environment and social infrastructure.
11. A description of the selected plan. The selected plan must be the most cost effective, environmentally sound alternative which addresses the identified water quality or water supply need and which is implementable. Include, where applicable, the following:
- i. Environmental infrastructure facility treatment processes, treatment level, design flow (as included in the NJPDES permit or water supply allocation permit and on an annual average basis), capacity of units, effluent quality and discharge or water supply withdrawal location. Include a site plan of the construction area. Design wastewater flow or water supply demand shall be broken down into residential, commercial and industrial, and for wastewater treatment facilities, infiltration/inflow components;
 - ii. A map of the location and service area of each environmental infrastructure facility. Unless otherwise directed by the Department, this map shall be at a scale of one inch equal to 2,000 feet. Include on the map the environmentally constrained areas and indicate that no environmental infrastructure services shall be provided to environmentally constrained areas, except where development requiring environmental infrastructure services is specifically permitted by the Department;
 - iii. Location, size, and capacity of the collection, conveyance or transmission facilities. Unless otherwise directed by the Department, the location shall be mapped at a scale of one inch equal to 2,000 feet;
 - iv. A summary of costs, including capital, operation and maintenance, present worth of total project cost and anticipated user cost;
 - v. A comparison of user cost to the median annual household income in the planning area. The base income data source shall be the latest United States Census. Income data shall be updated to the present

using the consumer price index or other equivalent means;

- vi. A summary of environmental impacts of the selected alternative, as discussed in (b)10 above;
- vii. Adverse impacts that cannot be avoided;
- viii. The relationship between short term uses of the environment and enhancement of long term productivity;
- ix. Irreversible and irretrievable commitments of resources to the project; and
- x. Mitigating measures to be incorporated during design, construction, and/or the life of the project.

12. A description of steps needed and timeframe for implementation of the project;

13. The identity of the owner or operator of the proposed facilities;

14. A list of any permits needed to implement the project and the status of obtaining the applicable permits;

15. A summary of the results of the coordination with affected Federal, State, regional, or local agencies and the public, carried out in accordance with N.J.A.C. 7:22-10.9 and 10.10;

16. For wastewater treatment and stormwater management projects, identification and assessment of consistency of the proposed project with the areawide Water Quality Management Plan which would apply to the planning area, and an assessment of whether or not the proposed project would trigger preparation of a wastewater management plan or a water quality management plan amendment in accordance with N.J.A.C. 7:15; and

17. For water supply facilities, assessment of consistency of the proposed project with the recommendations of the New Jersey Statewide Water Supply Plan.

(c) The Department will review the environmental planning documentation submitted by the project sponsor and will make one of the following determinations:

1. The Level 2 environmental planning documentation is complete and acceptable, and there will be no significant adverse impacts as a result of the proposed project. In this case, the Department will prepare and issue a preliminary Level 2 decision statement and an environmental appraisal as set forth in (d) and (e) below.

2. The Level 2 environmental planning documentation is incomplete. The Department will provide written notification to the project sponsor regarding the deficiencies. The project sponsor will be responsible for correcting the deficiencies. The Department may establish a time frame for response which, if not satisfied, could result in the bypass of a proposed project in the applicable funding cycle.

3. The Level 2 documentation is complete or incomplete but there would be a significant adverse impact if the proposed project were implemented. The Department will initially direct the project sponsor to develop and evaluate other alternatives which would not have a significant adverse impact. If such an alternative is available, the Department will direct the project sponsor to select an alternative with no significant adverse impact or forgo financial assistance. If no such alternative can be identified, then the Department will require the project sponsor to initiate the Level 3 environmental review process as set forth in N.J.A.C. 7:22-10.6.

(d) When appropriate, in accordance with (c)1 above, the Department will prepare and issue a preliminary Level 2 decision statement and environmental appraisal to the mailing list developed for the project in accordance with N.J.A.C. 7:22-10.10(c). The Department will take no further administrative action until after the conclusion of a 30-day comment period on the decision statement. If no significant adverse comment is received at that point, the Department will approve the planning and may proceed with an offer of loan assistance, provided that other requirements of the program, as set forth in the applicable program rules have been met.

(e) The Level 2 environmental appraisal attached to the decision statement will be the Department's summary of the proposed project and its impact and will include the following information:

1. A proposed project identification;
2. A proposed project description;
3. An evaluation of alternatives considered for the project area;
4. The environmental consequences of the selected plan. This will include beneficial and adverse direct and indirect impacts to water quality and hydrology, air quality, noise, natural resources, cultural resources, and environmentally critical areas;
5. Population and wastewater or stormwater flow or water supply demand projections;
6. Social and economic impacts of the proposed project;
7. Required mitigating measures;
8. A summary of the coordination with other agencies and the public regarding the proposed project;
9. References to documents used in preparation of the environmental appraisal; and
10. Maps of the planning area, service areas and the location of the proposed construction.

Amended by R.1992 d.42, effective January 21, 1992.
See: 23 N.J.R. 3282(a), 24 N.J.R. 246(a).

Modifications include a clarification regarding the public hearing; with the change, documentation related to the hearing is a part of but need not be submitted prior to the complete planning documentation. Requirements related to describing and mapping plant and animal communities were clarified so as not to imply that this feature should be mapped for the entire planning area. Requirements for describing and mapping existing wastewater treatment facilities were clarified so as not to imply that the service area of each conveyance component must be mapped. Presentation requirements for the environmental constraints analysis have been specified more clearly. The intended extent of consideration for social and economic factors was clarified by including in the enumeration impacts to environmental and social infrastructure.

Amended by R.1993 d.409, effective August 16, 1993.

See: 25 N.J.R. 1643(a), 25 N.J.R. 3760(a).

Amended by R.1995 d.494, effective September 5, 1995.

See: 27 N.J.R. 1536(a), 27 N.J.R. 3403(a).

Amended by R.1998 d.407, effective August 3, 1998.

See: 30 N.J.R. 1144(a), 30 N.J.R. 2863(a).

Rewrote (b); in (c), substituted "project sponsor" for "local government" in the introductory paragraph, and substituted "project sponsor" for "local government unit" in 2 and 3; and in (e), rewrote 5.

7:22-10.6 Level 3 environmental review

(a) The Department may determine that a Level 3 environmental review is required pursuant to N.J.A.C. 7:22-10.3, 10.5(c), or as a result of significant adverse comment received during the preplanning or planning period or in response to the Department's issuance of a Level 1 or Level 2 decision statement.

(b) Additionally, the Department will require a Level 3 review when any of the following conditions are present:

1. The proposed project is expected to have significant adverse effects on the pattern and type of land use or growth and distribution of population in the project area;
2. Construction of the proposed project is expected to directly displace a significant amount of population or have a significant adverse effect on a residential area;
3. The proposed project is expected to directly or indirectly conflict significantly with Federal, State, regional, or local land use plans or policies;
4. The proposed project is expected to have significant adverse effects on environmentally critical areas either directly or indirectly or as the result of cumulative effects with other related projects; or
5. The proposed project may directly or indirectly have a significant adverse effect upon local ambient air quality, local ambient noise levels, surface water or groundwater quality or quantity, water supply, fish, shellfish, wildlife or their natural habitats.

(c) If a Level 3 environmental review is required by the Department prior to completion of a Level 2 environmental information document, then an environmental information document must be prepared in accordance with N.J.A.C. 7:22-10.5(b). In addition, an environmental impact statement must be prepared under a Level 3 environmental review. Environmental impact statements shall be prepared by the project sponsor. The Department must approve the scope, content and conclusion of both draft and final environmental impact statements prior to publication. The procedure will be as follows: