

CHAPTER 22A

SEWAGE INFRASTRUCTURE IMPROVEMENT ACT GRANTS

Authority

N.J.S.A. 13:1D-1 et seq., 40:55D-93 et seq., 58:10A-1 et seq., 58:11A-1 et seq., 58:25-23 et seq., and P.L. 1989, c.181 and P.L. 1990, c.28.

Source and Effective Date

R.2005 d.154, effective April 21, 2005.
See: 36 N.J.R. 5290(a), 37 N.J.R. 1787(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 22A, Sewage Infrastructure Improvement Act Grants, expires on April 21, 2013. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 22A, Sewage Infrastructure Improvement Act Grants, was adopted as R.1990 d.69, effective February 5, 1990 with Subchapters 1 through 3 and 6. See: 21 N.J.R. 1948(a), 22 N.J.R. 368(a), 22 N.J.R. 563(b). Subchapter 4, Final Mapping and Monitoring Requirements, was adopted as R.1991 d.307, effective June 17, 1991. See: 22 N.J.R. 2870(a), 23 N.J.R. 1926(a). Subchapter 7, Interconnection/Cross-Connection Abatement Account Procedures and Requirements, was adopted as R.1993 d.409, effective August 16, 1993. See: 25 N.J.R. 1643(a), 25 N.J.R. 3760(a).

Pursuant to Executive Order No. 66(1978), Chapter 22A, Sewage Infrastructure Improvement Act Grants, was readopted as R.1995 d.47, effective December 22, 1994. See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).

Chapter 22A, Sewage Infrastructure Improvement Act Grants, was readopted as R.1999 d.414, effective November 3, 1999. See: 31 N.J.R. 2099(a), 31 N.J.R. 4012(a).

Chapter 22A, Sewage Infrastructure Improvement Act Grants, was readopted as R.2005 d.154, effective April 21, 2005. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 22A, Sewage Infrastructure Improvement Act Grants, was extended by gubernatorial directive from April 21, 2010 to April 21, 2011. See: 42 N.J.R. 468(a).

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APPENDIX A

SUBCHAPTER 1. GENERAL PROVISIONS

7:22A-1.1 Purpose

(a) This chapter prescribes the rules of the Department for the distribution of grant moneys to affected municipalities and other local government units to implement the requirements of the Act. The purpose of the rules is to prevent, control and abate water pollution caused by the discharge of untreated sewage and point and nonpoint source pollutants from stormwater sewer systems and combined sewer systems.

(b) In addition, this chapter is established to assure that the distribution and use of the moneys in the Fund is consistent with the Act and the policies of the State.

Amended by R.1991 d.307, effective June 17, 1991.
See: 22 N.J.R. 2870(a), 23 N.J.R. 1926(a).
Changed "measures" to "rules" in (a).

7:22A-1.2 Scope

(a) This chapter shall constitute the rules governing the Department's implementation of the Sewage Infrastructure Improvement Act, N.J.S.A. 58:25-23 et seq.

(b) The Act requires all affected municipalities to adopt a map of their stormwater sewer system, monitor stormwater outfall pipes and take appropriate abatement measures for interconnections, cross-connections and nonpoint sources of pollution.

(c) The Act requires any local government unit controlling or operating a combined sewer system within the State to provide appropriate pollution abatement measures at combined sewer overflow points.

(d) Any affected municipality may apply to the Department for a grant to prepare a preliminary map and inventory of their stormwater sewer system, or prepare a final map in accordance with N.J.A.C. 7:22A-4.

(e) Any local government unit authorized to control or operate a combined sewer system may apply to the Department for a grant for the planning and design of dry weather overflow elimination and/or solids/floatables reduction at combined sewer overflow points.

(f) This chapter also governs the Department's disbursement of funds from the Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989 (P.L. 1989, c.181) for the performance of activities required by the Sewage Infrastructure Improvement Act.

Amended by R.1991 d.307, effective June 17, 1991.
See: 22 N.J.R. 2870(a), 23 N.J.R. 1926(a).
Added "or prepare a final map in accordance with N.J.A.C. 7:22A-4" in (d).
Amended by R.1995 d.47, effective January 17, 1995.
See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).

7:22A-1.3 Construction of rules

This chapter shall be liberally construed to permit the Department to discharge its statutory functions under the Act and the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

Amended by R.1991 d.307, effective June 17, 1991.
See: 22 N.J.R. 2870(a), 23 N.J.R. 1926(a).
Added "and the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq."

7:22A-1.4 Definitions

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

"Act" means the New Jersey Sewage Infrastructure Improvement Act, N.J.S.A. 58:25-23 et seq.

"Affected municipality" means any municipality with a stormwater sewer system discharging directly into the salt waters of Monmouth, Ocean, Atlantic or Cape May counties.

"Allowable costs" means those costs that are eligible, reasonable, necessary and allocable to the project, permitted by generally accepted accounting principles, approved by the Department in the grant agreement, and/or otherwise determined to be allowable pursuant to this chapter.

"Applicant" means any local government unit or affected municipality that applies for financial assistance pursuant to the provisions of this chapter.

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

“Cesspool” means a type of covered pit as defined in N.J.A.C. 7:9A-2.1.

“Combined sewer system” means a sewer system that is designed to carry sanitary sewage at all times and that is also designed to collect and transport stormwater from streets and other sources, thus serving a combined purpose.

“Combined sewer overflow” means the excess flow from a combined sewer system which is not conveyed to the plant for treatment, but transmitted by pipe or other channel directly to waters of the State.

“Combined sewer overflow abatement facilities” includes, but is not limited to, any equipment, plants, structures, machinery, or apparatus, or any combination thereof, acquired, used, constructed, or operated by or on behalf of a local government unit for storage, collection, reduction, recycling, disinfection, reclamation, disposal, separation or other treatment essential to the abatement of combined sewer overflows. Such abatement measures include the elimination of dry weather overflows and the reduction of solids/floatables at combined sewer overflow points.

“Combined Sewer Overflow Account” means the component of the Municipal Stormwater Management and Combined Sewer Overflow Abatement Assistance Fund or the Stormwater Management and Combined Sewer Overflow Abatement Fund, as determined by the Department, which will be used to provide grants to local government units for the planning and design of combined sewer overflow abatement facilities.

“Combined sewer overflow point” means a discrete point in a combined sewer system which provides for the release of combined sewer overflows.

“Cross-connection” means the permitted or unpermitted physical connection of a wastewater line to a stormwater sewer system. A cross-connection shall not include a physical connection where the wastewater line carries only stormwater.

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

“Design” includes, but is not limited to, the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications and other action necessary to design appropriate abatement facilities.

“Discharge Allocation Certificate” (DAC) means the certificate issued by the Department pursuant to N.J.A.C. 7:14A-3.3 which designates the quantity and quality of pollutants which may be discharged by any person planning to undertake any activity which will result in a discharge to surface water or a substantial modification in a discharge to surface water.

“Domestic pollutant” means a pollutant which results from the discharge of household, commercial or other wastes from bathrooms, toilet facilities, home laundries and kitchens which are predominantly the result of natural human waste elimination associated with bodily function and food preparation.

“Dry weather overflow” means a type of combined sewer overflow which is not the direct result of an increase in wastewater flows due to an event of precipitation.

“Economically disadvantaged individuals” as defined in 15 U.S.C. 637(a)(6) means those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged individuals.

“Excessive bacteria level” means a bacteria level above the standards set forth in N.J.A.C. 7:22A-4.7.

“Facilities” means any component or appurtenance of any sanitary or stormwater sewer system.

“Federal grant” means a grant awarded pursuant to section 201 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.) and any amendments or supplements thereto.

“Final map” means the map, required by N.J.S.A. 58:25-25, adopted by the affected municipality that locates, lists and numbers all stormwater sewer and sanitary sewer lines within the geographical boundaries of the municipality, which are part of any stormwater sewer system that discharges into surface waters. The map shall also identify all cross-connections and known interconnections between stormwater and sanitary sewer systems, and indicate whether the cross-connections have received a permit from the Department.

“Force account work” means the use of the recipient’s own employees or equipment for approved planning or design related activities.

“Fund” means the Municipal Stormwater Management and Combined Sewer Overflow Abatement Assistance Fund established by the Sewage Infrastructure Improvement Act, N.J.S.A. 58:25-23 et seq., or the Stormwater Management and Combined Sewer Overflow Abatement Fund established by the Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989 (P.L. 1989, c.181).

“Grab sample” means a single sample collected at a particular time and place.

“Grant agreement” means a legal instrument executed between the State and a grant recipient which authorizes financial assistance and establishes the terms and conditions thereof to implement the provisions of this chapter.

“Grant modification” means any written alteration of the terms or conditions, budget or project method or other administrative, technical or financial provisions of the grant agreement.

“Ground water” means water below the land surface in a zone of saturation.

“Governing body” means chief legislative body of a local government unit or affected municipality.

“Hazardous waste facility” means a facility used for treating, storing, or disposing of hazardous waste as defined in N.J.A.C. 7:26-1.4.

“Individual subsurface sewage disposal system” means a type of septic system as defined in N.J.A.C. 7:9A-2.1.

“Industrial establishment” means any place of business or real property as defined in N.J.A.C. 7:26B-1.3.

“Industrial pollutants” means any non-domestic pollutants, including but not limited to, those pollutants regulated under Section 307(a), (b) or (c) of the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq. and any amendments thereto.

“Interconnection” means the non-physical connection of sanitary sewer system with a stormwater sewer system. Interconnections may include, but are not limited to, leaks, flows or overflows from the sanitary sewer system into the stormwater sewer system, or vice versa.

“Interconnection/cross-connection abatement facilities” includes, but is not limited to, any equipment, plants, structures, machinery, or apparatus, or any combination thereof, acquired, used, constructed or operated by, or on behalf of, an affected municipality for storage, collection, reduction, recycling, disinfection, reclamation, disposal, separation or other treatment essential to the abatement of interconnections and/or cross-connections.

“Interconnection/Cross-Connection Abatement Account” means the component of the Municipal Stormwater Management and Combined Sewer Overflow Abatement Assistance Fund or the Stormwater Management and Combined Sewer Overflow Abatement Fund, as determined by the Department, which will be used to provide grants to affected municipalities for the planning or design of interconnection/cross-connection abatement facilities.

“Local government unit” means a county, municipality, or county sewerage or utility authority, municipal sewerage or utility authority, municipal sewerage district, joint meeting, or any other political subdivision of the State or public entity authorized to control or operate a combined sewer system.

“Municipality” means a city, town, borough, county, village, parish, district, association or other public body created by or under State law.

“NJPDES” means the “New Jersey Pollutant Discharge Elimination System” as defined in N.J.A.C. 7:14A-1.9.

“Nonpoint source” means a contributing factor to water pollution as defined in N.J.A.C. 7:14A-1.9.

“Person” means an individual, corporation, company, partnership, firm, association, political subdivision of this State and any state, Federal or interstate agency, or an agent or employee thereof.

“Planning” includes, but is not limited to, the preliminary planning to determine the economic and engineering feasibility of appropriate abatement facilities.

“Pollutant” means the same definition of pollutant at N.J.A.C. 7:14A-1.9.

“Preliminary map” means the map which identifies the locations of stormwater outfalls and stormwater management basins within the geographical boundaries of an affected municipality in accordance with the requirements in N.J.A.C. 7:22A-3.10.

“Priority outfall” means any stormwater outfall discharging to salt waters listed as impaired on the 2004 New Jersey Department of Environmental Protection Integrated Water Quality Monitoring and Assessment Report, sublists 3, 4, and 5, as revised and amended in accordance with section 305(b) of the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.).

“Priority System, Intended Use Plan and Project Priority List” means the document through which projects are evaluated and ranked for funding eligibility by the Department in conformance with State law and the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.) and any amendatory or supplementary acts thereto.

“Project” means the defined services as approved by the Department in the grant agreement.

“Recipient” means any applicant which has received financial assistance pursuant to this chapter.

“Recycling center” means a facility designed to process recyclable materials as defined in N.J.A.C. 7:26-1.4.

“Salt waters” means waters having salinities generally greater than 3.5 parts per thousand at mean high tide.

“Sanitary sewer system” means a network of pipes, conduit or other physical facilities used to carry wastewater to a wastewater treatment facility. A sanitary sewer system shall not include a system which carries only stormwater.

“Scope of work” means the detailed description of the extent of services required to complete the project as specified in the grant agreement.

“Socially disadvantaged individuals” as defined in 15 U.S.C. 637(a)(5) means those individuals who have been subjected to racial and ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities. 15 U.S.C. 637(d)(3) presumes that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, and other minorities.

“Solids/floatables” means any wastes or debris floating, suspended or otherwise contained in wastewater or waters of the State.

“Solid waste facility” means any system, site, equipment or building which is utilized for the storage, collection, processing, transfer, transportation, separation, recycling, recovering or disposal of solid waste but shall not include a recycling center.

“State” means the State of New Jersey.

“Stormwater” means waters which result primarily from surface runoff and includes street wash water and drainage.

“Stormwater management basin” means a basin which temporarily impounds stormwater runoff and discharges it through a hydraulic outlet structure or through infiltration to the surrounding soil. A stormwater management basin shall include but not be limited to detention basins, retention basins and infiltration basins.

“Stormwater outfall” means the endpoint of a stormwater sewer system, or any portion thereof, where there is a direct discharge to surface waters.

“Stormwater sewer” means a sewer intended to carry only stormwater.

“Stormwater sewer system” means the designed features within a municipality which collect, convey, channel, hold, inhibit or divert the movement of stormwater.

“Subagreement” means a written agreement between a recipient and another party and any lower tier agreement for services or supplies necessary to complete the project.

“Surface waters” means any waters of the State which are not ground water.

“Value engineering” means a specialized cost control technique which uses a systematic and creative approach to identify and to focus on unnecessarily high costs in a project in order to arrive at a cost saving without sacrificing the reliability or efficiency of the project.

“Viral indicator test” means an analytical methodology using the F+ RNA coliphages to distinguish between human and non-human contamination by serotyping the phages detected.

“Wastewater” means residential, commercial, industrial, or agricultural liquid waste, septage, stormwater runoff or any combination thereof, or other residue discharged or collected into a sanitary or stormwater sewer system, or any combination thereof.

“Wastewater treatment facilities” includes, but is not limited to, any equipment, plants, structures, machinery, apparatus, or land that shall be an integral part of the treatment process or used for the ultimate disposal of residues resulting from such treatment, or any combination thereof, acquired, used, constructed, or operated by or on behalf of a local government unit for the storage, collection, reduction, recycling, reclamation, disposal, separation or other treatment of wastewater, wastewater sludges, septage or industrial wastes, including but not limited to, pumping and ventilating stations, treatment systems, plants and works, connections, extensions, outfall sewers, combined sewer overflows, intercepting sewers, trunklines, sewage overflows, sewage collection systems, and other equipment, personal property and appurtenances necessary thereto.

“Water Quality Management Plans” means the plans prepared pursuant to Section 208 and 303 of the Clean Water Act (33 U.S.C. 1251 et seq.) and the Water Quality Planning Act (N.J.S.A. 58:11A-1 et seq.).

“Waters of the State” means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of this State or subject to its jurisdiction.

Amended by R.1991 d.307, effective June 17, 1991.
See: 22 N.J.R. 2870(a), 23 N.J.R. 1926(a).

Added definitions—“Cesspool”; “Domestic pollutant”; “Excessive bacteria level”; “Grab sample”; “Hazardous waste facility”; “Individual subsurface sewage disposal system”; “Industrial establishment”; “Industrial pollutants”; “NJPDES”; “Nonpoint source”; “Person”; “Pollutant”; “Recycling center”; “Solid waste facility”; “Viral indicator test”.

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.47, effective January 17, 1995.
See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).

Amended by R.2005 d.154, effective May 16, 2005.
See: 36 N.J.R. 5290(a), 37 N.J.R. 1787(a).

Added “Priority outfall”.

7:22A-1.5 Fund procedures

(a) The moneys appropriated pursuant to the Sewage Infrastructure Improvement Act and any interest earned thereon shall be deposited in a separate interest bearing account known as the Municipal Stormwater Management and Combined Sewer Overflow Abatement Assistance Fund. The moneys available pursuant to the Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989 shall be deposited in a separate interest bearing

account known as the Stormwater Management and Combined Sewer Overflow Abatement Fund.

(b) The Department may provide grants to affected municipalities and other local government units to implement the requirements of this chapter.

(c) Prior to awarding any grant money from the Municipal Stormwater Management and Combined Sewer Overflow Abatement Assistance Fund pursuant to the Sewage Infrastructure Improvement Act, the Department shall, in writing, notify the presiding officers of both houses of the State Legislature of the applications received, the grant recipients, the amounts requested, the amounts to be awarded and the purposes for which the grants shall be used.

(d) The Department shall not award any grant money from the Stormwater Management and Combined Sewer Overflow Abatement Fund pursuant to the Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989 unless the expenditure is authorized pursuant to an appropriations act.

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.47, effective January 17, 1995.
See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).

7:22A-1.6 Administration and performance of grant agreements

The grant recipient is responsible for the administration and success of the project, notwithstanding any subagreements made by the recipient for accomplishing grant objectives. Although recipients are encouraged to seek the advice and opinion of the Department on problems that may arise, the giving of such advice shall not shift the responsibility for final decisions from the recipient to the Department. Moneys awarded pursuant to this chapter shall be used in conformance with the Act, this chapter and the provisions of the grant agreement to achieve the grant objectives and to insure that the purposes set forth in the Act are fully executed.

7:22A-1.7 Enforcement

(a) Failure by any person to comply with any requirement of the Act including, but not limited to, a violation of any rule, grant agreement, license, permit, or administrative order may result in a penalty assessed by the Department in accordance with N.J.A.C. 7:14-8 or any other enforcement action provided in the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

(b) Any municipality or public entity controlling or operating a stormwater sewer system with an unpermitted interconnection or cross-connection may bring an action in their name to require the elimination of these connections to their stormwater sewer systems in accordance with the penalty provisions of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

(c) In order to implement this chapter, all affected municipalities shall ensure that they have access to stormwater and sanitary sewer systems that are not municipally owned and operated. Affected municipalities may ensure such access by adopting an ordinance in accordance with N.J.S.A. 40:48-2; by adopting an ordinance, through their local board of health, in accordance with N.J.S.A. 26:3-33 or 3-64; by entering into agreements with private parties; or by other means that provide municipal access.

Amended by R.1993 d.409, effective August 16, 1993.
See: 25 N.J.R. 1643(a), 25 N.J.R. 3760(a).

7:22A-1.8 Noncompliance

(a) In addition to any other remedies as may be provided by law or by the grant agreement, in the event of noncompliance with any provision of the Act, any condition of the grant agreement or any requirement of this chapter, the Department may take any of the following actions or combinations thereof:

1. Issue a notice of noncompliance pursuant to N.J.A.C. 7:22A-1.9;
2. Withhold grant moneys pursuant to N.J.A.C. 7:22A-1.10;
3. Order suspension of project work pursuant to N.J.A.C. 7:22A-1.11;
4. Terminate the grant agreement or rescind the grant moneys pursuant to N.J.A.C. 7:22A-1.12 or N.J.A.C. 7:22A-1.13; and/or
5. Issue administrative orders of enforcement pursuant to the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

7:22A-1.9 Notice of noncompliance

Where the Department determines that the recipient is not in compliance with any provision of the Act, any condition of the grant agreement, or any requirement of this chapter, it will notify the recipient of the noncompliance. The Department may require the recipient, its engineer and/or contractor to take and complete corrective action within 10 working days of receipt of notice. If the corrective action is not taken or the action taken is inadequate, then the Department may issue a stop-work order, withhold disbursement or seek other relief. The Department may, however, withhold disbursement or issue a stop-work order pursuant to N.J.A.C. 7:22A-1.10 and 1.11 without the prior issuance of a notice pursuant to this section.

7:22A-1.10 Withholding of funds

The Department may withhold, upon written notice to the recipient, grant disbursements or any portion thereof where it determines that a recipient has failed to comply with any provision of the Act, any condition of the grant agreement or any requirement of this chapter.

7:22A-1.11 Stop-work orders

(a) The Department may order work to be stopped for good cause, which shall include, but not be limited to the following:

1. Default by the recipient; or
2. Noncompliance with any provision of the Act, any requirement of this chapter or any provision of the grant agreement.

(b) The Department shall limit the use of stop-work orders to those situations where it is advisable to suspend work on the project or portion or phase of the project for important Department considerations.

(c) Prior to issuance of a stop-work order, the Department shall afford the recipient an opportunity to discuss the stop-work order with the Department. The Department shall consider such discussions in preparing the order.

(d) Stop-work orders shall contain:

1. The reasons for issuance of the stop-work order;
2. A clear description of the work to be suspended;
3. Instructions as to the issuance of further orders by the recipient for materials or services;
4. The duration of the stop-work order; and
5. Other suggestions from the Department to the recipient for minimizing costs.

(e) The Department may, by written order to the recipient (certified mail, return receipt requested), require the recipient to stop all, or any part of, the project work for a period of not more than 45 days after the recipient receives the order, and for any further period to which the parties may agree.

(f) The effects of a stop-work order are as follows:

1. Upon receipt of a stop-work order, the recipient shall immediately comply with the terms thereof and shall minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within the period of the stop-work order or within any extension of that period to which the parties shall have agreed, the Department shall either:

- i. Rescind the stop-work order, in full or in part;
- ii. Terminate the work covered by such order as provided in N.J.A.C. 7:22A-1.12; or
- iii. Authorize resumption of work.

2. If a stop-work order is rescinded or the period of the order or any extension thereof expires, the recipient shall promptly resume the previously suspended work. An equitable adjustment shall be made in the project schedule, and/or the project, and the grant agreement shall be modified if necessary. However, additional project costs as a result of the stop-work order shall be the responsibility of the recipient.

7:22A-1.12 Termination of the grant agreement

(a) Termination of the grant agreement by the Department shall be conducted as follows:

1. The Department may terminate the grant agreement in whole or in part for good cause, which shall include but not be limited to:

i. Substantial failure to comply with the terms and conditions of the grant agreement;

ii. Default by the recipient;

iii. A determination that the grant moneys were obtained by fraud;

iv. Substantial performance of the project work has not occurred;

v. Gross abuse or corrupt practices in the administration of the project have occurred; or

vi. Grant moneys have been used for unallowable costs.

2. The Department shall give a written notice to the recipient (certified mail, return receipt requested) of its intent to terminate the grant agreement in whole or in part, at least 30 days prior to the intended date of termination.

3. The Department shall afford the recipient an opportunity for consultation prior to any termination. After such opportunity for consultation, the Department may, in writing (certified mail, return receipt requested), terminate the grant agreement in whole or in part.

(b) Termination of the grant agreement by the recipient shall be conducted as follows:

1. A recipient shall not unilaterally terminate the project work for which grant moneys have been awarded except for good cause and subject to negotiation and payment of appropriate termination settlement costs. The recipient shall promptly give written notice to the Department of any complete or partial termination of the project work by the recipient or intent thereof. The term "good cause" shall include, but not be limited to, circumstances beyond the control of the recipient such as fire, flood, riot or strike.

2. If the Department determines that there is good cause for the termination by the recipient of all or any portion of a project for which the grant moneys have been awarded, the Department may enter into a termination agreement or unilaterally terminate the grant agreement effective with the date of cessation of the project work by the recipient. The determination of whether there is sufficient good cause shall be solely within the discretion of the Department. If the Department determines that there is not sufficient good cause, the recipient shall remain bound by the terms and conditions of the grant agreement.

3. If the Department determines that a recipient has ceased work on a project without good cause, the Department may unilaterally terminate the grant agreement pursuant to this section or rescind the grant pursuant to N.J.A.C. 7:22A-1.13.

(c) The Department and recipient may enter into a mutual agreement to terminate at any time pursuant to terms which are consistent with this chapter. The agreement shall establish the effective date of termination of the project and the schedule for repayment of financial assistance.

(d) Upon termination by either the Department or the recipient, the recipient may be required to immediately refund or repay the entire amount of the grant moneys received from the State and waive the undistributed balance. The Department may, at its discretion, require the immediate repayment of a specific portion of the grant and allow the remainder to be repaid in accordance with a repayment schedule. The recipient shall reduce the amount of outstanding commitments insofar as possible and report to the Department the uncommitted balance of grant moneys awarded under the grant agreement. The recipient, upon termination, shall make no new commitment without the Department's specific approval thereof. The Department shall make the final determination of the allowability of termination costs.

(e) In addition to any termination action, the Department retains the right to pursue other remedies as may be available under State law as warranted.

Amended by R.1993 d.409, effective August 16, 1993.
See: 25 N.J.R. 1643(a), 25 N.J.R. 3760(a).

7:22A-1.13 Rescission of grant funds

(a) The Department may, in writing, rescind the grant if it determines that:

1. Without good cause therefor, substantial performance of the project work has not occurred;
2. The grant was obtained by fraud; or
3. Gross abuse or corrupt practices in the administration of the project have occurred.

(b) At least 30 days prior to the intended date of rescission, the Department shall give a written notice to the recipient (certified mail, return receipt requested) of its intent to rescind the grant. The Department shall afford the recipient an opportunity for consultation prior to rescission of the grant. Upon rescission of the grant, the recipient shall return all grant funds previously paid to the recipient. The Department shall make no further payments to the recipient. In addition, the Department retains the right to pursue such remedies as may be available under State law.

7:22A-1.14 Fraud and other unlawful or corrupt practices

(a) The recipient shall administer moneys pursuant to this chapter and the grant agreement and award subagreements pursuant to those funds free from bribery, graft and corrupt practices. The recipient has the primary responsibility for the prevention, detection and cooperation in the prosecution of any such conduct. The State shall also have the right to pursue administrative or other legally available remedies.

(b) The recipient shall pursue available judicial and administrative remedies and take appropriate remedial action with respect to any allegations or evidence of such illegality or corrupt practices. The recipient shall immediately notify the Department when such allegation or evidence comes to its attention and shall periodically advise the Department of the status and ultimate disposition of any related matter.

7:22A-1.15 Debarment

(a) No recipient shall enter into a subagreement for work on a project with any person debarred, suspended or disqualified from Department contracting pursuant to N.J.A.C. 7:1D-2.

(b) Recipients shall insert in every subagreement for work on a project a clause stating that any party to any subagreement may be debarred, suspended or disqualified from contracting on any project financially assisted by the State or the Department if the party commits any of the acts listed in N.J.A.C. 7:1D-2.2.

(c) The recipient, after executing the grant agreement but prior to the acceptance of grant moneys, shall certify that no party to any subagreement is included on the State Treasurer's list of debarred, suspended and disqualified bidders as a result of action by a State agency in addition to that of the Department. If the grant moneys are used for disbursement to a debarred firm, the Department reserves the right to immediately terminate the grant agreement pursuant to N.J.A.C. 7:22A-1.12 and/or to take such other action pursuant to this subchapter as may be appropriate.

(d) Any person included on the State Treasurer's list as a result of action by a State agency, who is or may become a bidder on any subagreement which is or shall be funded from the Fund under this chapter, may present information to the Department why this section should not apply to such a person. If the Department determines that it is essential to the public interest and files a finding thereof with the New Jersey Attorney General, the Department may grant an exception from the application of this section with respect to a particular contractor in keeping with N.J.A.C. 7:1D-2.9. In the alternative, the Department may suspend or debar any such person, or take such action as may be appropriate, pursuant to N.J.A.C. 7:1D-2.

Amended by R.1993 d.409, effective August 16, 1993.
See: 25 N.J.R. 1643(a), 25 N.J.R. 3760(a).
Administrative change.
See: 32 N.J.R. 1796(a).

7:22A-1.16 Administrative hearings

(a) To request an administrative hearing on a contested case, an affected municipality, local government unit or other municipality aggrieved by a decision or action of the Department may, within 20 calendar days from receipt of the decision or action, submit a written request to the Department which shall include the following information:

1. The name, address, and telephone number of the party requesting the hearing and its authorized representative, if any;

2. The position of the requester on each question of law and fact at issue and its relevance to the Department's decision;

3. Information supporting the requester's position and copies of other written documents relied upon to support the request for a hearing;

4. An estimate of the time required for the hearing (in days and/or hours); and

5. A request, if necessary, for a barrier-free hearing location for disabled persons.

(b) A hearing request not received within 20 days after receipt by the requester of the decision or within 20 days of the Department's action being challenged shall be denied by the Department.

(c) If the requester fails to include all the information required by (a) above, the Department may deny the hearing request.

(d) During the pendency of the review and hearing, the challenged Department decision or action shall remain in full force and effect, unless a stay has been requested in writing and granted by the Department.

(e) Following receipt of request for a hearing pursuant to (a) above, the Department may attempt to settle the dispute by conducting such proceedings, meetings, and conferences as deemed appropriate.

(f) If it grants the request for a hearing, the Department will file the request for a hearing with the Office of Administrative Law. The hearing shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Amended by R.1993 d.409, effective August 16, 1993.
See: 25 N.J.R. 1643(a), 25 N.J.R. 3760(a).

7:22A-1.17 Use and disclosure

All applications and submissions, when received by the Department, constitute public records of the Department. The Department shall make them available to persons who request their release to the extent required by State law.

7:22A-1.18 Access

(a) The recipient and any party to a subagreement shall provide to the Department and any authorized representative of the Department access to the facilities, premises and records related to the project. All subagreements executed by the recipient shall contain provisions allowing the Department access to the facilities, premises and records related to the project.

(b) The recipient shall submit to the Department such documents and information as requested by the Department.

(c) The recipient, and all parties to a subagreement which contract directly with the recipient to receive a portion of State moneys, may be subject to a financial audit.

(d) All records pertinent to the grant agreement shall be retained and available to the Department for a minimum of three years after issuance of the final payment by the Department, until the final audit has been made by the Department or until otherwise required by law.

7:22A-1.19 Publicity

Press releases and other public dissemination of information by the recipient concerning the project work shall acknowledge State financial assistance.

7:22A-1.20 Severability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications, and to this end, the provisions of this chapter are declared to be severable.

SUBCHAPTER 2. GRANT AGREEMENT PROCEDURES AND REQUIREMENTS

7:22A-2.1 Applicability

This subchapter establishes the Department's procedures and requirements governing the execution of every grant agreement pursuant to the Act. Any affected municipality or local government unit applying for a grant or having received a grant pursuant to the Act shall at a minimum conform with the requirements of this subchapter, as applicable.

7:22A-2.2 Grant award agreements

(a) Subsequent to the receipt of an application, the Department shall prepare and transmit the grant agreement for the grant award to the applicant.

(b) The grant agreement shall set forth the terms and conditions of the grant award, approved project scope, allowable costs, disbursement schedule, and approved commencement and completion dates for the project.

(c) The applicant shall execute the grant agreement within such period of time and pursuant to such terms and conditions as the Department may determine in its sole discretion.

(d) The grant agreement shall be executed by a person authorized by resolution to obligate the applicant to the terms and conditions of the grant agreement. A certified, true sealed copy of the authorizing resolution shall also be submitted to the Department at this time.

(e) The grant agreement shall be deemed to incorporate all requirements, provisions and information in documents or papers submitted to the Department in the application process.

(f) After the State has completed its internal processing and execution of the grant agreement, the Department shall transmit a copy of the executed grant agreement to the recipient.

(g) The State shall not execute a grant agreement if the applicant is in current default on any State loan.

7:22A-2.3 Effect of grant awards

(a) At the time of the execution of the grant agreement by the Department and the recipient, the grant award for the project shall become effective and shall constitute an obligation of moneys in the amount and for the purposes stated in the grant agreement.

(b) Cost overruns shall be the sole responsibility of the recipient. The award of funds shall not commit or obligate the Department to award any continuation or supplemental funds to cover cost overruns of the project.

(c) The award of funds by the State shall not be used as a defense by the recipient to any action by any agency for the recipient's failure to comply with the Act or to obtain all requisite permits, licenses and operating certificates.

7:22A-2.4 Grant conditions

(a) The following requirements, as well as such statutes, rules, terms and conditions which may be applicable, are conditions of each grant, and conditions to each disbursement under the grant agreement:

1. The recipient shall comply with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.;

2. The recipient shall certify that it and any party to a subagreement maintain their financial records in accordance with generally accepted accounting principles and auditing standards for governmental institutions;

3. The recipient of grants for combined sewer overflow and interconnection/cross-connection abatement projects shall comply with the rules entitled Awarding Contracts for State Assisted Projects to Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals, N.J.A.C. 7:22-9;

4. The recipient shall comply with the permit requirements of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., N.J.A.C. 7:14A and any applicable New Jersey Pollutant Discharge Elimination System permit;

5. The Department shall not be liable for and the recipient shall pay the unallowable costs of the project and shall pay the allowable costs not covered by the grant agreement;

6. The grant agreement or any amendment thereto may include special conditions necessary to assure accomplishment of the project objectives or Department requirements. The recipient shall comply with any special conditions which the Department requires in the grant agreement or any amendment thereto;

7. The recipient shall comply with all applicable requirements of federal, State, and local laws, ordinances, rules and with the requirements of the grant agreement;

8. An amount of any grant disbursement equal to 100 percent of any unpaid portion of a finally determined State assessed civil administrative penalty pursuant to N.J.A.C. 7:14-8 shall be withheld until said penalty is paid in full;

9. The recipient shall certify that it has not and shall not enter into any subagreement with, nor has any subagreement been or shall be awarded to any person debarred, suspended or disqualified from Department contracting pursuant to N.J.A.C. 7:1D-2 for any services within the scope of project work;

10. The recipient shall certify that the project or phase of the project was initiated and completed in accordance with the time schedule specified in the grant agreement or approved amendments thereto;

11. The recipient must submit proof that it and any party to a subagreement shall comply with all insurance requirements of the grant agreement and, when appropriate, certify that the insurance is in full force and effect and that the premiums have been paid;

12. The recipient shall certify that it and any party to a subagreement shall comply with the discrimination and affirmative action provisions of N.J.S.A. 10:2-1 through 10:2-4, the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq. and the rules promulgated pursuant thereto including but not limited to N.J.A.C. 17:27;

13. The recipient shall designate an officer or employee, who may be an existing officer or employee, to serve as its public agency compliance officer, pursuant to N.J.A.C. 17:27-3.5 and N.J.A.C. 7:22-9.11; and

14. The recipient shall pay not less than the prevailing wage rate to workers employed in the performance of any grant agreement for the project in accordance with the rate determined by the Commissioner of the New Jersey Department of Labor pursuant to N.J.S.A. 34:11-56.25 et seq.;

15. The recipient shall comply with the Department's standards of conduct (N.J.A.C. 7:22-8) governing public bodies or utilities created pursuant to New Jersey law to treat wastewater within the territorial boundaries of a service area and the Local Government Ethics Law (P.L. 1991, c.29; N.J.S.A. 40A:9-22);

16. The recipient shall comply with the Environmental Assessment Requirements for State Assisted Wastewater Treatment Facilities (N.J.A.C. 7:22-10);

17. No Fund moneys shall be disbursed to a local government unit which is in current default on any State loan. In order to facilitate full or partial payment of such defaulted loan obligation, the Department may, at its discretion, make a Fund disbursement where it determines that the affected municipality or local government unit will repay the defaulted loan obligation and associated penalties. Nothing in this paragraph shall in any way limit any right or duty of the Department to demand and collect at any time the total due under any such defaulted loan.

(b) The recipient shall certify that it is in compliance with all other requirements and conditions of the grant agreement.

(c) The Department may impose such other conditions as may be necessary and appropriate to implement the laws of the State and effectuate the purpose and intent of the Act.

(d) Recipients shall include the following statement in each subagreement awarded pursuant to this chapter:

"This contract or subcontract is or may be funded in part with funds from the New Jersey Department of Environmental Protection. Neither the State of New Jersey nor any of its departments, agencies, or employees is, or will be, a party to this contract or subcontract or any lower tier contract or subcontract. This contract or subcontract is subject to the requirements contained in N.J.A.C. 7:22A."

(e) The recipient shall insert into any subagreements, and shall ensure that their contractor includes within their subcontracts, the following statement:

"In accordance with the provisions of N.J.S.A. 58:11B-26, the contractor (subcontractor) agrees to comply with all of the provisions of N.J.A.C. 7:22-9."

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.47, effective January 17, 1995.
See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).
Administrative change.
See: 32 N.J.R. 1796(a).

7:22A-2.5 Project changes and modifications to grant agreements

(a) Due to the limited amount of funds available, there shall be no grant modification increasing the grant amount.

Increased costs resulting from a grant modification shall be the responsibility of the recipient.

(b) The recipient shall promptly notify the Department in writing (certified mail, return receipt requested) of events or proposed changes which may require modifications, including, but not limited to:

1. Rebudgeting;
2. Changes in approved technical plans or specifications for the project;
3. Changes which may affect the approved scope or objectives of the project;
4. Significant, changed conditions at the project site;
5. Acceleration or deceleration in the time for performance of the project or any major phase thereof; and
6. Changes which may increase or decrease the total cost of a project.

(c) If the Department decides an amendment is necessary, the recipient shall be notified and a grant amendment shall be processed in accordance with N.J.A.C. 7:22A-2.6. If the Department decides a grant amendment is not necessary, it shall follow the procedures of N.J.A.C. 7:22A-2.7 or 2.8, as applicable.

Amended by R.1993 d.409, effective August 16, 1993.
See: 25 N.J.R. 1643(a), 25 N.J.R. 3760(a).

7:22A-2.6 Grant amendments

(a) The Department shall require a grant amendment to change principal provisions of a grant agreement where project changes substantially alter the objective or scope of the project or time of performance of the project or any major phase thereof.

(b) The State and recipient shall effect a grant amendment only by a written amendment to the grant agreement executed by the State and the recipient.

Amended by R.1993 d.409, effective August 16, 1993.
See: 25 N.J.R. 1643(a), 25 N.J.R. 3760(a).

7:22A-2.7 Administrative changes

Administrative changes by the Department, such as a change in the designation of key Department personnel or of the office to which a report is to be transmitted by the recipient, or a nonsubstantial alteration of the disbursement schedule for grant moneys, constitute changes to the grant agreement (but not necessarily to the project work) and do not affect the substantive rights of the Department or the recipient. The Department may issue such changes unilaterally. Such changes shall be in writing and shall generally be effected by a letter (certified mail, return receipt requested) to the recipient from the Department as specified in the grant agreement.

7:22A-2.8 Other changes

All other project changes, which do not require a grant amendment as stated in N.J.A.C. 7:22A-2.6, shall be undertaken only upon written approval of the Department.

Amended by R.1993 d.409, effective August 16, 1993.
See: 25 N.J.R. 1643(a), 25 N.J.R. 3760(a).

7:22A-2.9 State disbursements

Disbursement of grant funds shall be made as indicated in the grant agreement at intervals as work progresses and expenses are incurred by the recipient and approved by the Department. Total disbursements shall not exceed the cumulative grant moneys indicated in the disbursement schedule of the grant agreement or the allowable costs which have been incurred at that time. No disbursement, other than an advanced payment for preliminary mapping and inventory pursuant to N.J.A.C. 7:22A-3, shall be made until the Department receives satisfactory cost documentation which shall include all forms and information required by the Department and completed in a manner satisfactory to the Department.

7:22A-2.10 Assignment

The right of a recipient to receive disbursements from the State under a grant agreement may not be assigned.

7:22A-2.11 Unused funds

Where the total amount disbursed under a grant agreement is less than the initial grant award, the grant agreement amount shall be adjusted and the difference retained by the Fund to be reallocated to other projects.

SUBCHAPTER 3. PRELIMINARY MAPPING AND INVENTORY

7:22A-3.1 Applicability

(a) All affected municipalities shall adopt a final map as required by N.J.S.A. 58:25-25 and N.J.A.C. 7:22A-4.

(b) To facilitate the preparation of a final map, any affected municipality may apply to the Department for a grant to prepare a preliminary map and inventory. As required by N.J.A.C. 7:22A-4.2(c), all affected municipalities shall prepare and submit a preliminary map in accordance with N.J.A.C. 7:22A-3.10 and 3.11, regardless of whether they received a grant to prepare a preliminary map and inventory.

Amended by R.1991 d.307, effective June 17, 1991.
See: 22 N.J.R. 2870(a), 23 N.J.R. 1926(a).

Added "and N.J.A.C. 7:22A-4." in (a).

Added "As required by N.J.A.C. 7:22A-4.2(c), all affected municipalities shall prepare and submit a preliminary map in accordance with N.J.A.C. 7:22A-3.10 and 3.11, regardless of whether they received a grant to prepare a preliminary map and inventory." in (b).

7:22A-3.2 Applicant eligibility

(a) Subject to (b) below, any affected municipality, a list of which is included in Appendix A, may apply for a grant to prepare a preliminary map and inventory.

(b) Any municipality may petition the Department's inclusion or omission from Appendix A by submitting documentary evidence which proves to the Department's satisfaction that the municipality's stormwater sewer system either does or does not directly discharge into the salt waters of Atlantic, Cape May, Monmouth or Ocean counties. A municipality may contest the Department's decision on the petition in accordance with N.J.A.C. 7:22A-1.16(b).

7:22A-3.3 Funding

Grant amounts from the Department for preliminary mapping and inventory are based on the applicant's estimated project costs and shall not exceed the maximum amounts listed in Appendix A. The Department may agree to provide up to 90 percent of the allowable project costs (subject to the maximum grant amounts set forth in Appendix A) and the applicant shall provide at least 10 percent of the allowable project costs.

7:22A-3.4 Pre-application procedures

Applicants may request a pre-application conference to discuss application procedures, prior to submission of a grant application. This conference is not part of the application procedures and verbal statements made during the conference shall not bind the Department.

Amended by R.1993 d.409, effective August 16, 1993.
See: 25 N.J.R. 1643(a), 25 N.J.R. 3760(a).

7:22A-3.5 Application procedures

(a) Each application for preliminary mapping and inventory grant moneys shall be received by the Department by February 19, 1990 or as otherwise extended by the Department.

(b) Each applicant shall include full and complete documentation in the application, including but not limited to:

1. A brief description of how the grant shall be used and the method of accomplishing those purposes;
2. A description of how the applicant plans to pay for its share of the project costs, including those costs in excess of the grant award necessary to fully complete the project;

3. A description of the steps the applicant plans to take before receiving grant moneys that shall guarantee that at the time of signing of the grant agreement that the applicant shall be irrevocably committed to pay its share of the project costs;

4. An estimated budget of the applicant's project costs;

5. A list of the salt waters into which the applicant's stormwater sewer system discharges; and

6. Any other supplementary materials the Department requires.

(c) Each applicant shall submit a certified true sealed copy of a resolution passed by the applicant. The resolution shall:

1. Authorize the filing of an application for grant moneys for preliminary mapping and inventory;

2. Specify the individual, by name or title, authorized to sign the application on behalf of the applicant;

3. Commit the applicant to providing at least 10 percent of the project costs; and

4. Commit the applicant to comply with the Department's standards for the preliminary mapping and inventory as specified in N.J.A.C. 7:22A-3.

(d) The governing body of any applicant may contract with the county health department or other county health agency to conduct the inventory and prepare the preliminary map in accordance with the requirements of this subchapter.

7:22A-3.6 Application evaluation

(a) Each application shall be subject to:

1. Preliminary administrative review to determine the completeness of the application. Incomplete applications will be returned to the applicant with a letter detailing the deficiencies. Incomplete applications which are not amended to conform to the comments of the Department and resubmitted within the timeframe established by the Department may be denied;

2. Budget evaluation to ensure that the proposed project costs are reasonable, applicable and allowable; and

3. Final administrative evaluation.

(b) During the evaluation process, the recipient shall, upon the request of the Department, submit supplemental documents or information necessary for the Department to complete its full review of the application. The Department may suspend its evaluation until the additional information or documents have been received. Failure to submit the additional information or documents may be grounds for denial of the grant application.

7:22A-3.7 Department approval or disapproval

(a) After a final evaluation of a completed application, the Department shall take one of the following actions:

1. Approve the application for a grant and initiate the preparation of a grant agreement; or

2. Disapprove the application.

(b) The applicant shall be notified in writing of the Department's decision to disapprove an application.

(c) An applicant may amend and resubmit an application disapproved by the Department within the timeframe established by the Department.

7:22A-3.8 Reporting requirements

As specified in the grant agreement, the recipient shall submit a copy of the preliminary base map prepared in accordance with N.J.A.C. 7:22A-3.10, a copy of the narrative information prepared in accordance with N.J.A.C. 7:22A-3.11 and a narrative detailing the inventory information gathered in accordance with N.J.A.C. 7:22A-3.9.

7:22A-3.9 Inventory

(a) The recipient shall inventory all existing maps, where available, showing locations of stormwater and sanitary sewer systems. The maps may include tax maps, road maps, paper topographic maps, or other maps or combination of maps.

(b) The recipient shall inventory all existing studies, surveys and reports of the stormwater and sanitary sewer systems.

(c) All maps, studies, surveys, and reports gathered during the inventory shall be maintained on file at one central location that will be identified for the Department by the recipient.

7:22A-3.10 Preliminary mapping

(a) The preliminary map shall locate and number all stormwater outfalls and all stormwater management basin locations within the geographical boundaries of the affected municipality.

(b) At a minimum, stormwater outfalls and stormwater management basins shall be plotted on the March, 1986 quarter-quad mylar transparent 1:12,000 scale air photo maps and necessary overlays which are available through the Department. The recipient shall include street names for reference purposes.

(c) The recipient shall map all outfalls as a cross at the end of the pipe. Stormwater management basins shall be mapped as a cross within a circle at the outlet point.

(d) At a minimum, the locational accuracy for all outfall points and stormwater management basins shall be plus or minus 25 feet.

7:22A-3.11 Additional information

(a) The recipient shall include the following narrative information in the format provided by the Department with the preliminary map:

1. Information regarding all numbered stormwater outfall locations, including:

- i. The diameter of each outfall;
- ii. The approximate drainage area to each outfall, in acres;
- iii. Accessibility to each outfall;
- iv. The number and type of any regulating or treatment structures at each outfall (flow gauges, overflows, etc.);
- v. The pipe material of each outfall;
- vi. The presence of dry weather discharges from each outfall;
- vii. The general land use of the drainage area to each outfall;
- viii. The name of the receiving water for each outfall;
- ix. The owner of each outfall;
- x. The state plane coordinates of each outfall; and
- xi. A descriptive location of each outfall.

2. Information regarding all numbered stormwater management basins, including:

- i. The size of the basin in acre-feet;
- ii. The type of basin;
- iii. The type of spillway (if applicable);
- iv. The general land use of the drainage area to each basin;
- v. The name of the receiving water for each basin;
- vi. The owner of each basin;
- vii. The state plane coordinates of the outlet point of each basin; and
- viii. A descriptive location of each basin.

7:22A-3.12 Allowable project costs

(a) Project costs shall be allowed to the extent permitted by this chapter and the grant agreement. Allowable project costs may include:

1. Work performed by the recipient's personnel, or any party to a subagreement after the effective date of this chapter including salaries and fringe benefits for the recipient's personnel or persons hired to complete the project; and

2. Equipment and supplies necessary used solely to complete the project which shall include, but not be limited to, graphic materials, maps, vehicle operating costs, and protective clothing.

(b) Notwithstanding (a) above, the Department shall not participate in costs for work that the Department determines is not in compliance with this chapter or the specifications or requirements of subagreements or grant agreements. Costs for work not in compliance with this chapter, the subagreements or grant agreements are unallowable.

SUBCHAPTER 4. FINAL MAPPING AND MONITORING REQUIREMENTS

7:22A-4.1 Applicability

(a) All affected municipalities shall prepare and adopt a final map of their stormwater sewer and sanitary sewer system and perform monitoring of their stormwater in accordance with the requirements of this subchapter.

(b) Affected municipalities may apply for a grant to satisfy the final mapping requirements of this subchapter. However, if for any reason an affected municipality does not receive a grant, the affected municipality is not relieved of the requirement to comply with this subchapter.

7:22A-4.2 Reporting requirements

(a) On or before June 17, 1992 or within one year from the date of execution of the final mapping grant agreement, whichever comes later, all affected municipalities shall submit a copy of the final map, adopted by the governing body of the affected municipality and prepared in accordance with N.J.A.C. 7:22A-4.3, to the Department. The affected municipality shall submit any other submittals required by N.J.A.C. 7:22A-4.3 at the time of submittal of the final map.

(b) Within 12 months of the submittal of the final map in (a) above and yearly thereafter, all affected municipalities shall submit updated portions of the final map in accordance with N.J.A.C. 7:22A-4.3(g), to the Department.

(c) On or before October 17, 1991, all affected municipalities which did not receive a grant for preliminary mapping shall submit the information required under N.J.A.C. 7:22A-3.10 and 3.11 to the Department.

(d) On or before October 17, 1991, all affected municipalities shall submit an investigative priority list in accordance with N.J.A.C. 7:22A-4.4 to the Department.

(e) All affected municipalities shall submit a copy of the sampling data collected in accordance with N.J.A.C. 7:22A-4.5 to the Department within 20 working days from the date that the municipality receives the data from the laboratory. In no case shall this time period exceed 40 working days from the date of collection of the sample.

(f) All affected municipalities shall submit a priority list for periodic monitoring in accordance with N.J.A.C. 7:22A-4.8(b) to the Department with the final map.

(g) All affected municipalities shall submit a copy of the periodic monitoring data collected in accordance with N.J.A.C. 7:22A-4.8 to the Department within 20 working days from the date that the municipality receives the data from the laboratory. In no case shall this time period exceed 40 working days from the date of collection of the sample. The submission shall note where sample analysis indicates that there are excessive levels of bacteria, as specified in N.J.A.C. 7:22A-4.7.

(h) All affected municipalities shall submit a quality assurance program plan and have the plan approved by the Department, in accordance with N.J.A.C. 7:22A-4.6(a), prior to taking any grab samples as required by N.J.A.C. 7:22A-4.5 and 4.8. The affected municipalities shall include the project specific information and submit the completed quality assurance program plan to the Department.

(i) All affected municipalities shall submit to the Department a notice of any interconnection and/or cross-connection that is found within 24 hours of the finding thereof. The notice shall include the location of the interconnection or cross-connection and the owner and operator of the system where the interconnection or cross-connection is found.

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.47, effective January 17, 1995.
See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).
Amended by R.2005 d.154, effective May 16, 2005.
See: 36 N.J.R. 5290(a), 37 N.J.R. 1787(a).

In (f), substituted "periodic" for "quarterly" following "priority list for" and deleted "or by March 18, 1995, whichever is later" at the end; in (g), substituted "periodic" for "quarterly" following "shall submit a copy of the".

7:22A-4.3 Final mapping

(a) The affected municipality shall prepare a final map which:

1. Delineates all public and private stormwater sewer lines that are located within the geographic boundaries of the affected municipality; and
2. Includes any previously mapped public and private sanitary sewage lines located within the geographical boundaries of the affected municipality.

(b) The scale of the final map shall be no larger than 1:1200 (one inch = 100 feet) and no smaller than 1:4800 (one inch = 400 feet).

(c) If the process used to develop the final map is a digital process the affected municipality shall submit to the Department a copy in digital form.

(d) All mapping shall be performed utilizing the New Jersey State plan coordinate system (feet). Either the North American Datum of 1927 or 1983 may be employed for the mapping process; however, after December of 1992 the North American Datum of 1983 shall be employed. The affected municipality shall indicate which datum was employed.

(e) The base maps used in developing the final map shall meet National Map Accuracy Standards. Tidelands maps, which have a scale of one inch = 200 feet, provide partial coverage of the coast. Affected municipalities may contact the Department to inquire about the availability of these maps for their municipality. If the tidelands maps provide full coverage of the affected municipality, these maps may be used as base maps for the final mapping.

(f) All base maps shall be certified by a licensed land surveyor or a certified photogrammetrist.

(g) Any new Global Positioning Satellite (GPS) observation shall be submitted to the Department. The coordinates of this observation and a detailed physical description of the location of this observation shall be included in this submittal.

(h) All features delineated as part of the final mapping shall be accurate to within 10 feet. A licensed professional (such as a professional planner or a professional engineer) shall certify the accuracy of the map.

(i) The affected municipality shall submit an identification of the field work (remote sensing, surveying, etc.) performed to locate the features delineated on the final map.

(j) The affected municipality shall include on the final map the following features associated with their stormwater sewer system:

1. The location of stormwater sewer pipes, including the lengths, sizes and types of pipes;
2. The location of stormwater outfalls, including the surface water classification, as set forth in the Surface Water Quality Standards, N.J.A.C. 7:9B, of the receiving water body at each outfall;
3. The location of any interconnection or cross-connection, including the access points where grab samples were taken in accordance with N.J.A.C. 7:22A-4.5(c) and (d);

4. Arrows indicating direction of flow within the pipe;
5. All stormwater sewer appurtenances, such as manholes, siphons, pumping stations, catch basins, stormwater management basins, and inlet structures. These shall be designated on the final map by suitable symbols and referenced by a legend near the title;
6. Elevations of street surfaces, sewer inverts, manhole rims and inlet structures, if known;
7. The delineation of all lots presently served by individual subsurface sewage disposal systems or cesspools;
8. The location of all industrial establishments. The affected municipality shall designate on the final map by suitable symbols and referenced by a legend near the title, those industrial establishments that have floor drains or other conveyance facilities that discharge into the stormwater sewer system, and those industrial establishments where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products or industrial machinery are exposed to stormwater;
9. The location of all hazardous waste facilities, solid waste facilities and recycling centers; and
10. Street names.

(k) The affected municipality shall include on the final map the following features, associated with the sanitary sewer system:

1. The location of previously mapped sanitary sewage pipes, including the lengths, grades, sizes and types of pipes;
2. Arrows indicating direction of flow within the pipe;
3. All sanitary sewer manholes whether previously mapped or not;
4. All previously mapped sanitary sewer appurtenances, such as siphons and pumping stations. These shall be designated on the final map by suitable symbols and referenced by a legend near the title;
5. Elevations of street surfaces, sewer inverts, manhole rims and inlet structures, if known; and
6. Street names.

(l) The affected municipality shall establish a numerical reference system for the structures located on the final map.

(m) The affected municipality shall submit the NJPDES permit number of any permitted cross-connection identified on the final map. Where an unpermitted cross-connection discharges industrial pollutants, the affected municipality shall submit the name and address of the person responsible for the cross-connection. Where an unpermitted cross-connection discharges domestic pollutants, the affected municipality shall eliminate or cause to be eliminated the cross-connection.

(n) The affected municipality shall submit the list of the potential nonpoint sources of pollution as required by N.J.A.C. 7:22A-4.5(e)2.

(o) The affected municipality may choose to produce two separate maps, one of their separate stormwater sewer system and one of their sanitary sewage system. These maps shall be produced at the same scale and shall follow the requirements of this section. These maps shall contain, at a minimum, four registration points to allow alignment of the maps when overlaid.

(p) The affected municipality shall identify all features on the final map which are neither owned nor operated by the municipality. For those features, the affected municipality shall include a separate list of the owners and/or operators.

(q) After the submission of the final map, all affected municipalities shall maintain and annually update any portion of the final map to incorporate changes or additions to the stormwater and sanitary sewer systems. The updated maps shall also incorporate any interconnections or cross-connections discovered or eliminated after adoption of the final map.

Amended by R.1995 d.47, effective January 17, 1995.
See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).

7:22A-4.4 Investigative priority listing

(a) All affected municipalities shall submit a priority list for the Department's approval which identifies the order in which the stormwater sewer systems will be investigated. The priority list shall include for each stormwater outfall the surface water classification, established in the Surface Water Quality Standards, N.J.A.C. 7:9B, for the waterbody into which the outfall discharges. The priority list shall include the stormwater outfall number established in N.J.A.C. 7:22A-3.10(a) and shall be based on the following priorities, unless the affected municipality demonstrates to the satisfaction of the Department that other priorities should be used due to site-specific conditions:

1. Dry weather discharges from stormwater outfalls discharging to ocean front waters in or adjacent to bathing areas;
2. Dry weather discharges from stormwater outfalls discharging to estuarine waters in or adjacent to bathing areas;
3. Wet weather discharges from stormwater outfalls discharging to ocean front waters in or adjacent to bathing areas;
4. Wet weather discharges from stormwater outfalls discharging to estuarine waters in or adjacent to bathing areas;

5. Dry weather discharges from stormwater outfalls discharging to estuarine waters in or adjacent to approved, seasonal or special restricted shellfish growing waters (in that order) as established in N.J.A.C. 7:12;

6. Dry weather discharges from stormwater outfalls discharging to ocean waters in or adjacent to approved, seasonal or special restricted shellfish growing waters (in that order) as established in N.J.A.C. 7:12;

7. Wet weather discharges from stormwater outfalls discharging to estuarine waters or ocean waters in or adjacent to approved, seasonal or special restricted shellfish growing waters (in that order) as established in N.J.A.C. 7:12;

8. Any other dry weather discharges from stormwater outfalls; and

9. All other wet weather discharges from stormwater outfalls.

(b) After the submission of the final map in accordance with N.J.A.C. 7:22A-4.3, the affected municipality may, based on information discovered through final mapping, submit an updated priority list.

Amended by R.1995 d.47, effective January 17, 1995.
See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).

7:22A-4.5 Identification of interconnections and cross-connections

(a) All affected municipalities shall identify all interconnections and cross-connections by investigating, in the order established in the priority list approved in N.J.A.C. 7:22A-4.4, the stormwater sewer systems within the municipality.

(b) Prior to the submission of the final map in accordance with N.J.A.C. 7:22A-4.3, all affected municipalities shall investigate at least one-third of the stormwater outfalls in accordance with (c) and (d) below. The affected municipality shall investigate the remaining stormwater outfalls by June 17, 1994 or within three years of the date of the execution of the final mapping grant agreement, whichever comes later.

(c) All affected municipalities shall investigate for the presence of interconnections and cross-connections by either:

1. Taking one grab sample of the discharge from the stormwater outfall and analyze that sample for the presence of bacterial contamination in accordance with N.J.A.C. 7:22A-4.6. If the sampling indicates excessive levels as specified in N.J.A.C. 7:22A-4.7, the affected municipality shall identify the source of the contamination in accordance with (d) below; or

2. Taking one grab sample of the discharge from the stormwater outfall and performing a viral indicator test on that sample in accordance with N.J.A.C. 7:22A-4.6. If

the test indicates that the stormwater is contaminated by a human source, the affected municipality shall identify the source of the human contamination in accordance with (d) below. If the test indicates that the stormwater is not contaminated by a human source, the affected municipality shall comply with the requirements in (e)2 below; or

3. Not performing any initial sampling or testing at the stormwater outfall, thereby foregoing the need to wait for analytical results, and assume that the discharge from the stormwater outfall would either indicate excessive levels of bacterial contamination or indicate contamination by a human source. Using this option, the affected municipality may forgo the sampling or testing of each stormwater outfall required in (c)1 or 2 above and proceed to identify any sources of contamination in accordance with (d) below. In no case shall any affected municipality forgo the sampling or testing on the assumption that the discharge from the stormwater outfall is not contaminated.

(d) The affected municipality shall, unless otherwise directed by the Department, isolate and identify the source of the contamination as follows:

1. Taking grab samples throughout the stormwater sewer system and doing one of the following:

i. Analyzing the samples for the presence of bacterial contamination in accordance with N.J.A.C. 7:22A-4.6. Where sampling has been performed in accordance with (c)1 above, the affected municipality shall continue taking grab samples at access points, such as manholes or catch-basins, upstream in the stormwater collection system until excessive levels of bacteria are no longer evident. Where outfall sampling has not been performed in accordance with (c)1 above, the affected municipality shall begin taking grab samples at the stormwater outfall; or

ii. Performing the viral indicator test in accordance with N.J.A.C. 7:22A-4.6. Where testing has been performed in accordance with (c)2 above, the affected municipality shall continue taking grab samples at access points, such as manholes or catch-basins, upstream in the stormwater collection system until the test no longer indicates human contamination. Where outfall testing has not been performed in accordance with (c)2 above, the affected municipality shall begin taking grab samples at the stormwater outfall; and

2. Using smoke testing, dye testing, video investigations, or any other analysis approved by the Department. If the tests indicate that the contamination results from an interconnection or cross-connection, the affected municipality shall comply with the requirements in (e)1 below. If the tests indicate that the contamination does not result from an interconnection or cross-connection, the affected municipality shall comply with the requirements in (e)2 below.

(e) Once the affected municipality identifies the source:

1. All affected municipalities shall eliminate, or cause to be eliminated, any interconnection or unpermitted cross-connection identified within the boundaries of the municipality. Any affected municipality or public entity controlling or operating the stormwater sewer system may require the elimination of any interconnection or unpermitted cross-connection with the use of the penalty procedures in N.J.A.C. 7:22A-1.7.

2. Contamination which does not originate from an interconnection or cross-connection (that is, nonpoint source pollution) shall be identified on a list containing the following:

- i. The isolated source area of the contamination using a narrative reference to the final map; and
- ii. A listing of the possible nonpoint sources of contamination based on observations and conclusions derived from investigating the isolated source area.

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.47, effective January 17, 1995.
See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).

7:22A-4.6 Sampling and testing requirements

(a) Prior to taking any grab samples as required by N.J.A.C. 7:22A-4.5 and 4.8, all affected municipalities shall submit a quality assurance program plan and have the plan approved by the Department. Any method used for sampling, testing or investigation shall be a method approved by the Department.

(b) All affected municipalities shall have all grab samples analyzed by a State certified laboratory which utilizes analytical methods approved by the Department pursuant to N.J.A.C. 7:18. For a laboratory performing the viral indicator test, the laboratory shall be certified in the microbiological category.

(c) All affected municipalities shall include the following information along with the data collected in accordance with N.J.A.C. 7:22A-4.5 and 4.8:

1. The number assigned to the outfall where the sample was collected;
2. The location of the outfall where the sample was collected;
3. The location of the grab samples taken throughout the stormwater system in accordance with N.J.A.C. 7:22A-4.5(d)1;
4. The date and time the sample was collected;
5. An identification of the sample as either a "wet weather" or "dry weather" sample. If a "dry weather" sample, include a description of the discharge, such as color, turbidity, odor, etc.; and

6. The method used to analyze the sample.

(d) All affected municipalities shall perform sampling or testing in accordance with N.J.A.C. 7:22A-4.5 and 4.8 as follows:

1. When performing sampling in accordance with N.J.A.C. 7:22A-4.5(c)1 or periodic sampling in accordance with N.J.A.C. 7:22A-4.8, a grab sample shall be sampled for the presence of the following bacterial indicators:

- i. Total coliform;
- ii. Fecal coliform; and
- iii. Enterococci.

2. When performing sampling in accordance with N.J.A.C. 7:22A-4.5(d)1i, a grab sample shall be sampled for the presence of the following bacterial indicators:

- i. Fecal coliform; and
- ii. Enterococci.

3. When testing in accordance with N.J.A.C. 7:22A-4.5(c)2 and (d)1ii, a grab sample shall be tested using the viral indicator test, if the test is approved by the Department.

(e) When sampling or testing a stormwater outfall which is submerged or partially submerged, grab samples shall be collected at the manhole closest to the outfall which is not influenced by the receiving water.

(f) Wet weather grab samples shall be collected from the stormwater discharge resulting from a storm event that is greater than .1 inch and at least 72 hours from the previously measurable (greater than .1 inch) storm event. Grab samples shall be collected within the first 30 minutes of the storm event. Dry weather grab samples are required to be taken when an outfall is discharging stormwater 72 hours after the previously measurable (greater than .1 inch) storm event.

Amended by R.2005 d.154, effective May 16, 2005.
See: 36 N.J.R. 5290(a), 37 N.J.R. 1787(a).

In (d), substituted "periodic" for "quarterly" following "N.J.A.C. 7:22A-4.5(c)1 or" in 1.

7:22A-4.7 Excessive bacterial levels for sample analysis

(a) Based on the surface water classification of the receiving water body as set forth in the Surface Water Quality Standards, N.J.A.C. 7:9B, bacteria levels shall be considered excessive for the purposes of this subchapter where the grab sample analysis indicates:

1. Fecal coliform levels greater than:

- i. 50 counts/100 ml for SC waters;
 - ii. 200 counts/100 ml for FW2 and SE1;
 - iii. 770 counts/100 ml for SE2; and
 - iv. 1500 counts/100 ml for SE3;
2. Enterococci levels greater than:
 - i. 33 counts/100 ml for FW2; and
 - ii. 35 counts/100 ml for SE1 and SC; or
 3. Bacterial indicator levels greater than the standard for approved shellfish waters as established by the National Shellfish Sanitation Program as set forth in its current manual of operations for all shellfish waters in N.J.A.C. 7:12.

Amended by R.1995 d.47, effective January 17, 1995.
See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).

7:22A-4.8 Periodic monitoring

(a) All affected municipalities shall initiate the periodic monitoring of their stormwater outfall lines in the first month following the approval of the final map. The affected municipality shall take a grab sample at all stormwater outfalls for any stormwater sewer system discharging into salt water in accordance with N.J.A.C. 7:22A-4.6(d)1. The sampling frequency for the periodic monitoring is as follows:

1. For priority outfalls, sampling shall be conducted twice each year;
2. For those outfalls other than those priority outfalls, sampling shall be conducted once each year.

(b) All affected municipalities shall submit a priority list, for the Department's approval, which identifies the order in which the stormwater sewer systems discharging to salt waters will be monitored on a periodic basis. This priority list shall be based on the priorities established in N.J.A.C. 7:22A-4.4.

(c) Periodic monitoring shall be performed in accordance with the sampling procedures outlined in N.J.A.C. 7:22A-4.6. Investigative sampling performed in accordance with N.J.A.C. 7:22A-4.5(c)1 or (d)1i can be used to satisfy the periodic monitoring requirements of (a) above.

(d) Periodic monitoring shall also include monitoring of any dry weather discharges identified from the stormwater outfalls. Outfalls having dry weather discharges shall be monitored during both dry and wet weather events.

(e) In the event that there is no sufficient rainfall to produce flow from any given outfall during the scheduled periodic monitoring, the affected municipality shall perform the monitoring during the next storm event to produce a sufficient flow as established in N.J.A.C. 7:22A-4.6(f).

(f) The affected municipality shall submit to the Department all periodic monitoring data and specify any excessive levels of bacteria, as set forth in 7:22A-4.7, found during periodic monitoring as required in N.J.A.C. 7:22A-4.2(g).

(g) After the completion of the investigation of all the stormwater outfalls in the municipality, as required in N.J.A.C. 7:22A-4.5(b), the affected municipality shall identify the source of the contamination in accordance with N.J.A.C. 7:22A-4.5 whenever excessive bacterial levels are found during the quarterly monitoring events.

(h) The affected municipality, after locating the source of the contamination, shall identify the person responsible for, and promptly eliminate or seek the elimination of the contamination in accordance with N.J.A.C. 7:22A-4.5(e).

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.47, effective January 17, 1995.

See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).

Amended by R.2005 d.154, effective May 16, 2005.

See: 36 N.J.R. 5290(a), 37 N.J.R. 1787(a).

Rewrote (a), (c); substituted "periodic" for "quarterly" throughout.

7:22A-4.9 Applicant eligibility for final mapping grants

(a) Subject to (b) below, any affected municipality, listed in Appendix A, may apply for a grant to prepare a final map.

(b) Any municipality may challenge the Department's inclusion or omission from Appendix A by submitting documentary evidence which proves to the Department's satisfaction that the municipality's stormwater sewer system either does or does not directly discharge into the salt waters of Atlantic, Cape May, Monmouth, or Ocean counties. A municipality may contest the Department's decision on the petition in accordance with N.J.A.C. 7:22A-1.16(b).

7:22A-4.10 Funding

(a) Grant amounts from the Department for final mapping are based on the applicant's estimated project costs. The minimum grant amount available to an affected municipality for final mapping will be \$20,000 and the maximum will be \$300,000. The minimum grant amount available shall be adjusted based upon certain development factors in the following formula:

$$\text{Maximum grant amount} = \frac{\text{MF}}{\text{Sum of MFs}} \times F + \$20,000$$

$$\text{Where: Municipal Factor (MF)} = \frac{[2(R+D+P) + S(L)]}{4}$$

R = road mileage in Appendix A of affected municipality
total road mileage of all applicant municipalities

D = $\frac{\text{developed acres of affected municipality}}{\text{total developed acres of all applicant municipalities}}$

P = $\frac{\text{population in Appendix A of affected municipality}}{\text{total population of all applicant municipalities}}$

L = $\frac{\text{developed acres of affected municipality}}{\text{land area of affected municipality in acres}}$

F = \$5,535,000.00 - \$20,000 (total applicant municipalities)

(b) The resulting amount developed pursuant to (a) above shall be rounded to the nearest 50 dollar amount and shall not exceed \$300,000. If necessary, the resulting amount shall be adjusted based on the total amount of grant funding available.

(c) The Department may provide only up to 90 percent of the allowable project costs and the applicant shall provide at least 10 percent of the allowable project costs.

Public Notice: Availability of Sewage Infrastructure Improvement Act grants.
See: 24 N.J.R. 2081(b).

7:22A-4.11 Pre-application meeting

Prior to submission of a grant application, applicants may request a pre-application conference to discuss application procedures. This conference is not part of the application procedures and verbal statements made by the Department during the conference shall not bind the Department.

Amended by R.1993 d.409, effective August 16, 1993.
See: 25 N.J.R. 1643(a), 25 N.J.R. 3760(a).

7:22A-4.12 Application procedures

(a) Applications for final mapping grant moneys shall be submitted to the Department on or before August 16, 1991 or as otherwise extended by the Department.

(b) Each applicant shall include full and complete documentation in the application, including, but not limited to:

1. A brief description of how the grant shall be used and the method of accomplishing the requirements of this subchapter;
2. A description of how the applicant plans to pay for its share of the project costs, including those costs in excess of the grant award necessary to fully complete the project;

3. A description of the steps the applicant plans to take before receiving grant moneys that shall guarantee that at the time of signing of the grant agreement that the applicant shall be irrevocably committed to pay its share of the project costs;

4. An estimated budget of the applicant's project costs;

5. If the applicant did not participate in the preliminary mapping and inventory phase of the Act, the affected municipality's developed acres, undeveloped acres and total land area in acres. Each category of acreage shall specify the land use and the density of that land use; and

6. Any other supplementary materials that the Department may require.

(c) Each applicant shall submit a certified true sealed copy of a resolution adopted by the governing body of the affected municipality. The resolution shall:

1. Authorize the filing of an application for grant moneys for final mapping;
2. Specify the individual, by title, authorized to sign the application on behalf of the applicant;
3. Commit the applicant to providing at least 10 percent of the project costs and certify that the applicant has available the 10 percent match or more, if necessary; and
4. Commit the applicant to comply with the Department's standards for the final mapping as specified in N.J.A.C. 7:22A-4.

7:22A-4.13 Application evaluation

(a) Each application shall be subject to:

1. Preliminary administrative review to determine the completeness of the application. Incomplete applications shall be returned to the applicant with a letter detailing the deficiencies. Incomplete applications which are not amended to conform to the comments of the Department and resubmitted within the time frame established by the Department may be denied;

2. Budget evaluation to ensure that the proposed project costs are reasonable, applicable and allowable; and

3. Final administrative evaluation.

(b) During the evaluation process, the recipient shall, upon the request of the Department, submit supplemental documents or information necessary for the Department to complete its full review and decision on the application. The Department may suspend its evaluation until the additional information or documents have been received. Failure to submit the additional information or documents may be grounds for denial of the grant application.

7:22A-4.14 Department approval or disapproval

(a) After a final evaluation of a completed application, the Department shall take one of the following actions:

1. Approve the application for a grant and initiate the preparation of a grant agreement; or
2. Disapprove the application.

(b) The applicant shall be notified in writing of the Department's decision to disapprove an application.

(c) An applicant may amend and resubmit an application disapproved by the Department within the time frame established by the Department.

7:22A-4.15 Allowable costs

(a) Project costs shall be allowed to the extent permitted by this subchapter and the grant agreement. The periodic monitoring requirements under N.J.A.C. 7:22A-4.8 will not be an allowable cost under the final mapping grant award. Allowable project costs may include:

1. Work performed by the recipient's personnel, or any party to a subagreement after the effective date of this subchapter, including salaries and fringe benefits for the recipient's personnel or persons hired to complete the project; and
2. Equipment and supplies used solely to complete the project which shall include, but not be limited to, video equipment, surveying equipment, vehicle operating costs, and protective clothing.

(b) Notwithstanding (a) above, the Department shall not allow costs for work that the Department determines is not in compliance with or relevant to this chapter or the specifications or requirements of subagreements or grant agreements. Costs for work not in compliance with or relevant to this chapter, the subagreements, or grant agreements are unallowable.

Amended by R.2005 d.154, effective May 16, 2005.
See: 36 N.J.R. 5290(a), 37 N.J.R. 1787(a).

In (a), substituted "periodic" for "quarterly" in the second sentence of the introductory paragraph.

SUBCHAPTER 5. (RESERVED)

SUBCHAPTER 6. COMBINED SEWER OVERFLOW ACCOUNT PROCEDURES AND REQUIREMENTS

7:22A-6.1 Applicability

This subchapter constitutes the rules of the Department governing the award of grants pursuant to the Act to local government units for the planning and design of dry weather overflow elimination and solids/floatables reduction at combined sewer overflow points throughout the State. These rules prescribe the procedures for the award of grants from the Combined Sewer Overflow Account.

Amended by R.1993 d.409, effective August 16, 1993.
See: 25 N.J.R. 1643(a), 25 N.J.R. 3760(a).

7:22A-6.2 Combined Sewer Overflow Account

(a) The moneys in the Combined Sewer Overflow Account are available for the planning and design of dry weather overflow elimination and solid/floatables reduction at combined sewer overflow points pursuant to the provisions of this subchapter.

(b) Any local government unit authorized to control or operate a combined sewer system shall be eligible to receive grant moneys from the Combined Sewer Overflow Account. Grant moneys shall be provided to the extent available to local government units for the planning and design of dry weather overflow elimination and solids/floatables reduction at combined sewer overflow points based on the points awarded to the project in accordance with the Priority System ranking criteria and the submittal of the complete application within the prescribed time frames. As a component of the proposed Priority System, the Department may establish application deadlines for applicable funding cycles and a deadline by which new applications for planning and design grants for dry weather overflow elimination and solids/floatables reduction shall no longer be accepted or acted upon. Any remaining moneys in the Combined Sewer Overflow Account would be available for other authorized purposes under the Act.

(c) The consideration for a grant award from the Combined Sewer Overflow Account shall not be used as a defense by the local government unit to any action by any agency for the local government unit's failure to comply with the Act or to obtain and comply with all requisite permits, licenses and operating certificates.

Amended by R.1993 d.409, effective August 16, 1993.
See: 25 N.J.R. 1643(a), 25 N.J.R. 3760(a).

7:22A-6.3 Terms of financial assistance from the Combined Sewer Overflow Account

(a) The Department may offer grants from the Combined Sewer Overflow Account for up to 90 percent of the allowable costs for the planning and/or design of combined sewer overflow abatement facilities.

(b) Moneys will be disbursed to recipients, upon request, as work progresses and expenses are incurred and approved by the Department unless otherwise restricted by N.J.A.C. 7:22A-6.11 or unless otherwise indicated in the grant agreement. Local government units shall submit vouchers and other documentation as may be required by the Department in support of their request for disbursement of funds.

(c) The specific terms and conditions of the financial assistance shall be incorporated into the grant agreement to be executed by the recipient and the State.

Amended by R.1993 d.409, effective August 16, 1993.
See: 25 N.J.R. 1643(a), 25 N.J.R. 3760(a).

7:22A-6.4 Criteria for project priority

(a) Each year, the Department shall develop a Priority System, Intended Use Plan and Project Priority List for the forthcoming federal Fiscal Year. The Priority System shall provide the ranking methodology which evaluates wastewater treatment facilities (including combined sewer overflow abatement facilities) individually for their anticipated impacts on existing and potential water uses in combination with present water quality conditions.

(b) Each year, the proposed Priority System, Intended Use Plan and Project Priority List shall be the subject of at least one public hearing, including a public comment period. Local government units desiring to be included on the Project Priority List shall make their request for inclusion before the close of the public comment period, except as provided for in N.J.A.C. 7:22A-6.8(a). The following shall be submitted by the authorized representative of the local government unit when requesting inclusion in the Project Priority List:

1. Brief description of the project;
2. Brief description of receiving water classification, existing water quality characteristics and existing water quality deficiencies;
3. Estimated costs associated with planning and design of the project;
4. Estimated costs associated with building the project; and
5. An estimate of population served by the combined sewer.

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.47, effective January 17, 1995.
See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).

7:22A-6.5 State and Federal funding

Local government units which receive grants from the Combined Sewer Overflow Account shall be ineligible to receive financial assistance for the same work (planning or design) within the scope of the project in the form of a Federal grant, State Matching Funds pursuant to N.J.A.C. 7:22-2, a Wastewater Treatment Fund or New Jersey Wastewater Treatment Trust loan pursuant to N.J.A.C. 7:22-3 and 4, or a Pinelands Infrastructure Trust grant or loan pursuant to N.J.A.C. 7:22-6. Further, those local government units which receive financial assistance in the form of a Federal grant, State Matching Funds pursuant to N.J.A.C. 7:22-2, a Wastewater Treatment Fund or New Jersey Wastewater Treatment Trust loan pursuant to N.J.A.C. 7:22-3 and 4, or a Pinelands Infrastructure Trust grant or loan pursuant to N.J.A.C. 7:22-6 shall be ineligible to receive grant moneys for the same work (planning or design) within the scope of the project pursuant to this subchapter.

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.47, effective January 17, 1995.
See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).

7:22A-6.6 Project funding

(a) The Department shall consider a local government unit's failure to submit the complete application within the time period specified as a decision to not pursue a grant for the project during the applicable funding cycle.

(b) Grant applications will be prioritized by the Department based on the criteria set forth in the Priority System pursuant to N.J.A.C. 7:22A-6.4. The award of grant funds from the Combined Sewer Overflow Abatement Account will be based on the application's priority relative to other applications certified for funding by the Department pursuant to N.J.A.C. 7:22A-6.9 and on the amount of available funds.

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.47, effective January 17, 1995.
See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).

7:22A-6.7 Pre-application procedures

(a) Local government units are urged to be familiar with the requirements of this subchapter and to contact the Department prior to the initiation of the planning process so that their projects are in a position to proceed in a timely manner.

(b) The Department requires a pre-application conference with potential applicants prior to submission of a formal application for Combined Sewer Overflow Account moneys. During the conference, the Department shall identify and explain all application documents. This conference is not part of the application procedures and verbal statements made during the conference shall not bind the Department.

Amended by R.1993 d.409, effective August 16, 1993.
See: 25 N.J.R. 1643(a), 25 N.J.R. 3760(a).

7:22A-6.8 Application procedures

(a) For the initial funding cycle, completed applications by local government units requesting Combined Sewer Overflow Account moneys must be received by April 6, 1990 or as otherwise extended by the Department. Since the project's rank on the Project Priority List is the first step in determining eligibility for Combined Sewer Overflow Account moneys, sponsors of projects which are not on the current Project Priority List shall provide the information listed in N.J.A.C. 7:22A-6.4(b) before or concurrently with the complete application and in conformance with applicable deadlines.

(b) For all future funding cycles, sponsors of combined sewer overflow projects shall be required to have their project placed and ranked on the Project Priority List prior to the close of the comment period for the proposed Priority System, Intended Use Plan and Project Priority List. Sponsors shall be notified of applicable application deadlines through the Priority System or through mailed notice by the Department.

(c) The Department may establish a date by which new applications for combined sewer overflow abatement measures in future funding cycles (i.e., dry weather overflow elimination and solids/floatables reduction) shall no longer be accepted or acted upon.

(d) Any local government unit, which sponsors a project in a jurisdiction in which it is not the governmental entity responsible for the wastewater conveyance and treatment facilities pursuant to the Water Quality Management Plans, to which the combined sewer system contributes shall obtain a resolution from such governmental agency consenting to the undertaking of the local government unit's project prior to or concurrently with the application for Combined Sewer Overflow Account moneys.

(e) Each application for Combined Sewer Overflow Account moneys shall be submitted to the Department in conformance with the time period specified or as otherwise extended by the Department and shall include full and complete documentation and any supplementary materials that the Department requires an applicant to furnish.

(f) Submissions which do not substantially comply with this subchapter shall not be processed further and the applicant will be so notified.

(g) The following shall be submitted when applying for a Combined Sewer Overflow Account grant for the planning of dry weather overflow elimination and solids/floatables reduction:

1. An application for a Combined Sewer Overflow Account grant for planning activities. Each application constitutes an agreement to accept the requirements of this subchapter;

2. A resolution passed by the local government unit authorizing the filing of an application for Combined Sewer Overflow Account moneys and specifying the individual authorized to sign the application on behalf of the local government unit. If two or more local government units are involved in the project, a resolution is required from each, indicating the lead applicant and the authorized representative;

3. Assurance of compliance with the civil rights requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and the New Jersey Law Against Discrimination (N.J.S.A. 10:5) (CGA Form LP-5);

4. A plan of study representing:

- i. The proposed planning area;

- ii. An identification of the entity or entities that will be conducting the planning;

- iii. The nature and scope of the planning of the proposed project including a schedule for the completion of certain tasks and a proposed public participation program (as appropriate); and

- iv. A description of the anticipated construction required for abatement and an estimate of anticipated design and construction costs;

5. Comments or approvals of relevant State, local and Federal agencies;

6. Draft engineering agreements and related cost documentation associated with specific planning activities. Project sponsors must receive authorization to award any subagreement from the Department prior to the award of any subagreement for which cost reimbursement is sought. Note that the local government unit shall be required to execute the approved engineering subagreements prior to or concurrently with the award of a Combined Sewer Overflow Account grant for planning activities;

7. Adequate information to ensure compliance with the regulations governing the award of contracts to socially and economically disadvantaged individuals (N.J.A.C. 7:22-9);

8. Proposed intermunicipal or other agreements necessary for the construction and operation of the proposed facilities, if applicable;

9. A schedule for initiation and completion of the design and building of the project including milestones; and

10. Certification from the local government unit that at least 10 percent of the planning costs for the project will be provided by the local government unit.

(h) In addition to evidence of planning documentation approval (including evidence of compliance with appropriate Water Quality Management Plans and the Environmental Assessment Requirements for State Assisted Wastewater Treatment Facilities (N.J.A.C. 7:22-10)), the following shall be submitted when applying for a Combined Sewer Overflow Account grant for the design of dry weather overflow elimination and solids/floatables reduction:

1. An application for a Combined Sewer Overflow Account grant for design activities. Each application constitutes an offer to accept the requirements of this subchapter;

2. A resolution passed by the local government unit authorizing the filing of an application for Combined Sewer Overflow Account moneys and specifying the individual authorized to sign the application on behalf of the local government unit. If two or more local government units are involved in the project, a resolution is required from each, indicating the lead applicant and the authorized representative;

3. Assurance of compliance with the civil rights requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and the New Jersey Law Against Discrimination (N.J.S.A. 10:5) (CGA Form LP-5);

4. A plan of study representing:

i. The proposed project area;

ii. An identification of the entity or entities that will be conducting the design;

iii. The nature and scope of the design of the proposed project including a schedule for the completion of certain tasks and a proposed public participation program (as appropriate); and

iv. A description of the estimated building costs for the project;

5. Comments or approvals of relevant State, local and Federal agencies;

6. Draft engineering agreements and related cost documentation associated with specific design activities. Project sponsors must receive authorization to award any subagreement from the Department prior to the award of any subagreement for which cost reimbursement is sought. Note that the local government unit shall be required to execute the approved engineering subagreements prior to or concurrently with the award of a Combined Sewer Overflow Account grant for design activities;

7. Adequate information to ensure compliance with the regulations governing the award of contracts to socially and economically disadvantaged individuals (N.J.A.C. 7:22-9);

8. Proposed intermunicipal or other agreements necessary for the construction and operation of the proposed facilities, if applicable;

9. A schedule for initiation and completion of the construction of the project including milestones; and

10. Certification from the local government unit that at least 10 percent of the design costs for the project will be provided by the local government unit.

(i) All submittals shall be made in a format compatible with the Department's geographical information system (GIS).

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.47, effective January 17, 1995.
See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).

7:22A-6.9 Evaluation of application

(a) Each application shall be subject to:

1. Preliminary administrative review to determine the completeness of the application;

2. Technical and scientific evaluation to determine the merit and relevance of the project to the Department's objectives and the objectives of the Act;

3. Budget evaluation to determine whether proposed project costs are reasonable, applicable, and allowable; and

4. Final administrative evaluation.

(b) Upon the completion of a full review and evaluation of each application, the Department shall either certify the project for funding or defer the project application.

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.47, effective January 17, 1995.
See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).

7:22A-6.10 Supplemental information

At any stage during the evaluation process, the Department may require supplemental documents or information necessary to complete its full review of the application. The Department may suspend its evaluation until such additional information or documents have been received.

7:22A-6.11 Combined Sewer Overflow Account disbursements

(a) For dry weather overflow elimination and solids/floatables reduction planning or design grants, disbursements shall be limited as follows:

1. Disbursements for allowable planning costs shall not exceed 50 percent of the allowable planning costs prior to the submission of complete planning documentation to the Department;

2. Disbursements for allowable planning costs shall not exceed 75 percent of the allowable planning costs prior to the issuance of an environmental assessment in accordance with N.J.A.C. 7:22-10;

3. Disbursements for allowable design costs shall not be made until all planning requirements have been completed to the Department's satisfaction;

4. Disbursements for allowable design costs shall not exceed 50 percent of the allowable design costs prior to the submittal of plans, specifications, contract documents and an engineer's technical design report for the project;

5. Disbursement for allowable design costs shall not exceed 75 percent of the allowable design cost prior to receiving approval of the contract documents for the building of the project from the Department.

Amended by R.1993 d.409, effective August 16, 1993.
See: 25 N.J.R. 1643(a), 25 N.J.R. 3760(a).

7:22A-6.12 Project initiation

(a) The recipient shall expeditiously initiate and complete the project in accordance with the project schedule contained in the grant agreement. Failure to promptly initiate and complete a project may result in the imposition of sanctions included in this chapter.

(b) The recipient shall not award any subagreement for planning or design of the project until authorization to award has been given by the Department.

Amended by R.1993 d.409, effective August 16, 1993.
See: 25 N.J.R. 1643(a), 25 N.J.R. 3760(a).

7:22A-6.13 Allowable project costs

(a) Project costs shall be allowed to the extent permitted by this subchapter and the grant agreement. Allowable project costs may include:

1. The costs of subagreements for planning or design of the project; and
2. The costs for establishing or using small, minority, and women's business liaison services.

(b) Notwithstanding (a), above, unallowable project costs shall include, but not be limited to:

1. The costs for water quality monitoring to obtain a NJPDES permit or Discharge Allocation Certificate;
2. The costs for subagreements for which authorization from the Department to award was not received in advance of the subagreement;
3. The costs for work that the Department determines is not in compliance with the approved scope of work for the project identified in the grant agreement; and

4. The costs for work not in compliance with this subchapter or the subagreements.

7:22A-6.14 Force account work

(a) A recipient shall not use force account work for activities related to the scope of work for which the grant was awarded where costs will exceed \$25,000 unless the recipient has received the Department's prior written approval therefor.

(b) The recipient shall demonstrate that:

1. The work can be accomplished cost effectively by the use of force account; or
2. Emergency circumstances necessitate its use.

Amended by R.1993 d.409, effective August 16, 1993.
See: 25 N.J.R. 1643(a), 25 N.J.R. 3760(a).

7:22A-6.15 Value engineering

(a) Recipients of Combined Sewer Overflow Account design grants shall conduct value engineering for the project if the total estimated building cost exceeds \$10 million or such amount as established in the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq. and any amendatory or supplementary acts thereto, whichever is greater.

(b) The value engineering recommendations shall be implemented to the maximum extent feasible.

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.47, effective January 17, 1995.
See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).

SUBCHAPTER 7. INTERCONNECTION/CROSS- CONNECTION ABATEMENT ACCOUNT PROCEDURES AND REQUIREMENTS

7:22A-7.1 Applicability

This subchapter constitutes the rules of the Department governing the award of grants pursuant to the Act to any municipality with a stormwater sewer system discharging directly into the salt waters of Monmouth, Ocean, Atlantic and Cape May Counties (that is, an affected municipality as defined in N.J.A.C. 7:22A-1.4) for the planning or design of interconnection/cross-connection abatement facilities. These rules prescribe the procedures for the award of grants from the Interconnection/Cross-Connection Abatement Account.

7:22A-7.2 Interconnection/Cross-Connection Abatement Account

(a) The moneys in the Interconnection/Cross-Connection Abatement Account are available for the planning or design of interconnection/cross-connection abatement facilities pursuant to the provisions of this subchapter.

(b) Any affected municipality with an interconnection or cross-connection of stormwater sewer systems and sanitary sewer systems is eligible to receive grant moneys from the Interconnection/Cross-Connection Abatement Account. Applications from those affected municipalities whose submittal under N.J.A.C. 7:22A-4.3 does not identify any interconnection or cross-connection within the municipality shall not be deemed complete by the Department and shall not be processed further.

(c) The consideration for a grant award from the Interconnection/Cross-Connection Abatement Account shall not be used as a defense by the applicant to any action by any agency for the affected municipality's failure to comply with the Act or to obtain and comply with all requisite permits, licenses and operating certificates.

7:22A-7.3 Terms of financial assistance from the Interconnection/Cross-Connection Abatement Account

(a) The Department may offer grants from the Interconnection/Cross-Connection Abatement Account for up to 90 percent of the allowable costs for the planning or design of interconnection/cross-connection abatement facilities.

(b) Moneys will be disbursed to recipients, upon request, as work progresses and expenses are incurred and approved by the Department unless otherwise restricted by N.J.A.C. 7:22A-7.11 or unless otherwise indicated in the grant agreement. Affected municipalities shall submit vouchers and other documentation as may be required by the Department in support of their request for disbursement of funds.

(c) The specific terms and conditions of the financial assistance shall be incorporated into the grant agreement to be executed by the recipient and the State.

7:22A-7.4 Initial planning grants

(a) Any affected municipality which has identified an interconnection/cross-connection under N.J.A.C. 7:22A-4 is eligible for an initial planning grant from the Interconnection/Cross-Connection Abatement Account. Initial planning grant award offers may be made by the Department upon the certification of an affected municipality's initial planning grant application.

(b) Initial planning grant applications may be submitted to the Department as of June 15, 1993, but not later than December 15, 1993, unless an extension is granted by the Department. Any affected municipality which requires an extension of the December 15, 1993 initial planning grant application deadline must submit their request for such an extension to the Department by December 15, 1993. The request must state the reasons why an extension should be approved and must identify a proposed date for the submittal of a complete initial planning grant application. Based on this information, the Department will determine whether to approve the extension and establish a revised initial planning grant application deadline.

(c) Initial planning grant award amounts will be as follows:

Number of stormwater outfalls in affected municipality	Initial grant amount
0-50	\$15,000
51-100	\$30,000
Greater than 100	\$50,000

In no case will the initial planning grant amount exceed 90 percent of the allowable planning costs.

7:22A-7.5 Project priority for second-round grants

(a) Any affected municipality which has identified an interconnection/cross-connection abatement under N.J.A.C. 7:22A-4 is also eligible for a second-round grant from the Interconnection/Cross-Connection Abatement Account. Second-round grant amounts will be based on the allowable planning or design costs, not to exceed 90 percent of the project costs.

(b) The Department may establish one or more application deadlines for second-round grants. For the first funding cycle, second-round planning grant applications must be submitted to the Department by December 15, 1993 unless an extension is granted by the Department. Second-round planning grant offers will not be made by the Department until all second-round planning grant applications or extension requests have been received and prioritized in accordance with (d) below. Any affected municipality which requires an extension of the December 15, 1993 second-round planning grant application deadline must submit a request for such an extension to the Department by December 15, 1993. The request must state the reasons why an extension should be approved, must identify a target date for the submittal of a complete second-round planning grant application, must include an estimated second-round planning grant amount and include sufficient information to prioritize the project in accordance with (d) below. In instances where a highly ranked project is granted an extension by the Department, the Department may reserve the estimated second-round planning grant amount identified in the affected municipality's extension request and award second-round planning grants to lower ranked projects to the extent sufficient funds are available.

(c) For future funding cycles, affected municipalities shall be notified of applicable second-round planning or design grant application deadlines through the Department's proposed Priority System, Intended Use Plan, and Project Priority List or through mailed notice by the Department.

(d) Second-round planning or design grant applications shall receive priority for financial assistance awards pursuant to this subchapter based on the following point system:

1. Applications which include one or more stormwater outfall discharges to an ocean beach or ocean beaches in municipalities that had ocean beach closures resulting from elevated bacteria levels (based on data from the Cooperative Coastal Monitoring Program administered by the Department) will be given five points for each day in which one or more ocean beaches within the municipality was closed from January 1, 1988, on. Where the Department has determined that an ocean beach closure occurred for causes other than a stormwater outfall discharge no points will be given for that ocean beach closure occurrence.

2. Applications which include one or more stormwater outfall discharges to an estuarine beach or estuarine beaches in municipalities that had estuarine beach closures resulting from elevated bacteria levels (based on data from the Cooperative Coastal Monitoring Program administered by the Department) will be given one point per year for each estuarine beach within the municipality which was closed from January 1, 1988, on. Where the Department has determined that an estuarine beach closure occurred for causes other than a stormwater outfall discharge, no points will be given for that estuarine beach closure occurrence.

3. Applications which include one or more stormwater outfall discharges to the following areas will receive points as follows:

Location of Discharge	Points
Ocean Beach(es)	0.9
Estuarine Beach(es)	0.7
Restricted Shellfish Growing Waters	0.5
Seasonal Shellfish Growing Waters	0.3
Approved Shellfish Growing Waters	0.1

4. Applications which include other stormwater outfall discharges and applications with discharges of equal priority will be prioritized based on the average bacteria level of the discharge(s) at the stormwater outfall(s). Applications which address outfalls with higher average bacteria levels will receive priority over those applications with lower average bacteria levels.

(e) Second-round planning or design applications which address stormwater outfall discharges in more than one of the above categories will be assigned the sum total of the points which they are due based on the categories of discharge included in the application.

7:22A-7.6 State and Federal funding

Affected municipalities which receive second-round grants from the Interconnection/Cross-connection Abatement Account shall be ineligible to receive financial assistance for the same work (planning or design) within the scope of the project in the form of a Federal grant, State Matching Funds pursuant to N.J.A.C. 7:22-2, a New Jersey Wastewater Treatment Fund or New Jersey Wastewater Treatment Trust loan pursuant to N.J.A.C. 7:22-3 and 4, or a Pinelands

Infrastructure Trust grant or loan pursuant to N.J.A.C. 7:22-6. Further, those affected municipalities which receive financial assistance in the form of a Federal grant, State Matching Funds pursuant to N.J.A.C. 7:22-2, a New Jersey Wastewater Treatment Fund or New Jersey Wastewater Treatment Trust loan pursuant to N.J.A.C. 7:22-3 and 4, or a Pinelands Infrastructure Trust grant or loan pursuant to N.J.A.C. 7:22-6 shall be ineligible to receive second-round grant moneys for the same work (planning or design) within the scope of the project pursuant to this subchapter. Notwithstanding the provisions of N.J.A.C. 7:22-3, 4 and 5, projects which do not receive a second-round grant pursuant to this subchapter will be eligible to receive a planning and design allowance pursuant to N.J.A.C. 7:22-5 or 7:22-7, less the amount of their initial planning grant.

Amended by R.1995 d.47, effective January 17, 1995.
See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).

7:22A-7.7 Pre-application procedures

(a) Affected municipalities are urged to be familiar with the requirements of this subchapter and to contact the Department prior to the initiation of the planning process so that their projects are in a position to proceed in a timely manner.

(b) The Department requires a pre-application conference with potential applicants prior to submission of a formal application for Interconnection/Cross-Connection Abatement Account moneys. During the conference, the Department shall identify and explain all application documents. This conference is not part of the application procedures and verbal statements made during the conference shall not bind the Department.

Amended by R.1995 d.47, effective January 17, 1995.
See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).

7:22A-7.8 Application procedures

(a) Initial planning grant applications and second-round planning grant applications must be submitted in conformance with the schedule in N.J.A.C. 7:22A-7.4(b) and 7.5(b), respectively. Affected municipalities shall be notified of future second-round planning or design grant application deadlines through the Department's proposed Priority System, Intended Use Plan, and Project Priority List or through mailed notice by the Department. All applications must include full and complete documentation and any supplementary materials that the Department requires an applicant to furnish.

(b) Second-round planning or design grant applications will be prioritized by the Department in accordance with the criteria set forth at N.J.A.C. 7:22A-7.5. The award of second-round grants from the Interconnection/Cross-Connection Abatement Account will be based on the application's priority relative to other applications and the amount of available funds.

(c) Submissions which do not substantially comply with this subchapter or which are deemed incomplete shall not be processed further. Such applicants will be notified in a timely fashion as to the extent of deficiencies in their submissions.

(d) Processing of an Interconnection/Cross-Connection Abatement Account application generally requires 60 calendar days after receipt of a complete application by the Department.

(e) The following shall be submitted when applying for an initial or second-round grant from the Interconnection/Cross-Connection Abatement Account for the planning of interconnection/cross-connection abatement facilities.

1. An application for an Interconnection/Cross-Connection Abatement Account grant for planning activities. Each application constitutes an agreement to accept the requirements of this subchapter;

2. A resolution passed by the affected municipality authorizing the filing of an application for Interconnection/Cross-Connection Abatement Account moneys and specifying the individual authorized to sign the application on behalf of the affected municipality. If two or more affected municipalities are involved in the project, a resolution is required from each, indicating the lead applicant and the authorized representative;

3. Assurance of compliance with the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and the New Jersey Law Against Discrimination (N.J.S.A. 10:5-1 et seq.) (CGA Form LP-5);

4. The final map and the additional information developed under N.J.A.C. 7:22A-4.3 which identifies specific interconnections or cross-connections. In the case of an initial planning grant application, the final map and the additional information may be limited to the area or section of the municipality in which an interconnection/cross-connection abatement need has been identified;

5. A plan of study presenting:

i. The proposed planning area;

ii. An identification of the entity or entities that will be conducting the planning;

iii. The nature and scope of the planning of the proposed project as well as a schedule for the completion of identified tasks, including those tasks necessary to adequately assess the environmental impacts of the alternatives and the selected plan and the schedule for a proposed public participation program as set forth at the Environmental Assessment Requirements for State Assisted Wastewater Treatment Facilities (N.J.A.C. 7:22-10); and

iv. A description of the anticipated construction required for abatement and an estimate of construction costs (including an estimate of anticipated designs costs);

6. Comments or approvals of relevant State, local and Federal agencies;

7. Draft engineering agreement(s) and related cost documentation associated with specific planning activities. Note that the affected municipality shall be required to execute the approved engineering subagreements prior to or concurrently with the award of an Interconnection/Cross-Connection Abatement Account grant for planning activities;

8. Adequate information to ensure compliance with the regulations entitled Awarding Contracts for State Assisted Projects to Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals (N.J.A.C. 7:22-9);

9. Proposed intermunicipal or other agreements necessary for the construction and operation of the proposed facilities, if applicable;

10. A schedule for initiation and completion of the planning, design, and building of the project, including milestones; and

11. Certification from the affected municipality that at least 10 percent of the planning costs for the project must be provided by the affected municipality.

(f) In order to qualify for a design grant, evidence of planning documentation approval (including evidence of compliance with appropriate Water Quality Management Plans and the Environmental Assessment Requirements for State Assisted Wastewater Treatment Facilities (N.J.A.C. 7:22-10)) must be provided. All project design work must be in conformance with the approved project planning work. Any variations shall be specifically addressed by the recipient and approved by the Department before the project design will be considered complete. The following information must be submitted when applying for an Interconnection/Cross-Connection Abatement Account grant for the design of interconnection/cross-connection abatement facilities:

1. An application for an Interconnection/Cross-Connection Abatement Account grant for design activities. Each application constitutes an agreement to accept the requirements of this subchapter;

2. A resolution passed by the affected municipality authorizing the filing of an application for Interconnection/Cross-Connection Abatement Account moneys and specifying the individual authorized to sign the application on behalf of the affected municipality. If two or more affected municipalities are involved in the project, a resolution is required from each, indicating the lead applicant and the authorized representative;

3. Assurance of compliance with the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and the New Jersey Law Against Discrimination (N.J.S.A. 10:5-1 et seq.) (CGA Form LP-5);

4. A plan of study presenting:

- i. The proposed project area;
- ii. An identification of the entity or entities that will design the project;
- iii. The nature and scope of the design of the proposed project as well as a schedule for the completion of identified tasks; and

iv. A description of the estimated building costs for the project;

5. Comments or approvals of relevant State, local and federal agencies;

6. Draft engineering agreement(s) and related cost documentation associated with specific design activities. Note that the affected municipality shall be required to execute the approved engineering subagreements prior to or concurrently with the award of an Interconnection/Cross-Connection Abatement Account grant for design activities;

7. Adequate information to ensure compliance with the regulations entitled Awarding Contracts for State Assisted Projects to Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals (N.J.A.C. 7:22-9);

8. Proposed intermunicipal or other agreements necessary for the construction and operation of the proposed facilities, if applicable;

9. A schedule for initiation and completion of the construction of the project including milestones; and

10. Certification from the affected municipality that at least 10 percent of the design costs for the project must be provided by the affected municipality.

(g) All mapping related submittals must be made in a format compatible with the Department's geographical information system (GIS).

7:22A-7.9 Evaluation of application

(a) Each application shall be subject to:

1. Preliminary administrative review to determine the completeness of the application. The applicant will be notified of the completeness or deficiency of the application;

2. Technical and scientific evaluation to determine the merit and relevance of the project to the Department's objectives and the objectives of the Act;

3. Budget evaluation to determine whether proposed project costs are reasonable, applicable, and allowable; and

4. Final administrative evaluation.

(b) Upon the completion of a full review and evaluation of each application, the Department will either certify the project for funding or defer the project application and notify the applicant of such action. As a result of a project deferral action, the next highest ranked project may fall within the fundable range.

Amended by R.1995 d.47, effective January 17, 1995.
See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).

7:22A-7.10 Supplemental information

At any stage during the evaluation process, the Department may require supplemental documents or information necessary to complete its full review of the application. The Department may suspend its evaluation until such additional information or documents have been received.

7:22A-7.11 Interconnection/Cross-Connection Abatement Account disbursements

(a) For initial planning grants and second-round planning or design grants, disbursements shall be limited as follows:

1. Disbursements for allowable planning costs shall not exceed 50 percent of the grant amount prior to the submission of complete planning documentation;

2. Disbursements for allowable planning costs shall not exceed 75 percent of the grant amount prior to the issuance of an environmental assessment in accordance with N.J.A.C. 7:22-10;

3. Disbursements for allowable design costs shall not be made until all planning requirements have been completed to the Department's satisfaction;

4. Disbursements for allowable design costs shall not exceed 50 percent of the allowable design costs prior to the submittal of plans, specifications, contract documents and an engineer's technical design report for the project; and

5. Disbursement for allowable design costs shall not exceed 75 percent of the allowable design costs prior to receiving approval of the contract documents for the building of the project from the Department.

7:22A-7.12 Project initiation

(a) The recipient shall expeditiously initiate and complete the project in accordance with the project schedule contained in the grant agreement. Failure to promptly initiate and complete a project may result in the imposition of sanctions included in this chapter.

(b) The recipient shall not award any subagreement(s) for planning or design of the project until authorization to award has been given by the Department.

7:22A-7.13 Allowable project costs

(a) Project costs shall be determined to be allowable to the extent permitted by this chapter and the grant agreement. Allowable project costs may include:

1. The costs of subagreements for planning or design of the project; and
2. The costs for establishing or using small, minority, and women's business liaison services.

(b) Notwithstanding (a) above, unallowable project costs shall include, but not be limited to:

1. The costs of subagreements for which authorization to award from the Department was not received in advance of the award of the subagreement for planning or design services;
2. The costs for work that the Department determines is not in compliance with the approved scope of work for the project identified in the grant agreement; and
3. The costs for work not in compliance with the applicable provisions of N.J.A.C. 7:22A-1, 2 and this subchapter or approved subagreements.

7:22A-7.14 Force account work

(a) A recipient shall not use force account work for activities related to the scope of work for which the grant was awarded where costs will exceed \$25,000 unless the recipient has received the Department's prior written approval therefor.

(b) The recipient shall demonstrate to the Department's satisfaction that:

1. The work can be accomplished cost effectively by the use of force account; or
2. Emergency circumstances necessitate its use.

7:22A-7.15 Value engineering

(a) The recipient shall conduct value engineering for the project if the total estimated building cost exceeds \$10 million or such amount as established in the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq. and any amendatory or supplementary acts thereto, whichever is greater.

(b) The value engineering recommendations shall be implemented to the maximum extent feasible.

Amended by R.1995 d.47, effective January 17, 1995.
See: 26 N.J.R. 3793(a), 27 N.J.R. 324(b).

APPENDIX A

Affected Municipalities	Road Mileage	Maximum Grant Amount Preliminary Mapping	Population
ATLANTIC COUNTY			
Absecon City	47.29	\$ 8,600	7,972
Atlantic City	104.91	\$19,100	35,014
Brigantine City	59.76	\$10,900	10,565
Corbin City	9.85	\$ 5,000	257
Egg Harbor City	54.81	\$10,000	4,676
Egg Harbor Township	222.52	\$40,500	23,485
Estell Manor City	55.57	\$10,100	1,128
Galloway Township	223.75	\$40,750	21,405
Hamilton Township	250.41	\$45,000	14,072
Linwood City	39.88	\$ 7,250	6,503
Longport Borough	13.40	\$ 5,000	1,196
Margate City	40.99	\$ 7,450	8,808
Pleasantville City	66.99	\$12,200	14,738
Port Republic City	19.26	\$ 5,000	933
Somers Point City	51.29	\$ 9,350	10,565
Ventnor City	35.82	\$ 6,500	11,364
Weymouth Township	34.09	\$ 6,200	1,530
CAPE MAY COUNTY			
Avalon Borough	41.73	\$ 7,600	2,396
Cape May City	28.58	\$ 5,200	5,912
Cape May Point Borough	7.67	\$ 5,000	287
Dennis Township	81.06	\$14,750	5,093
Lower Township	152.53	\$27,750	20,495
Middle Township	147.53	\$26,850	14,113
North Wildwood City	35.35	\$ 6,450	4,945
Ocean City	107.23	\$19,500	15,562
Sea Isle City	32.34	\$ 5,900	2,955
Stone Harbor Borough	23.93	\$ 5,000	1,327
Upper Township	102.23	\$18,600	9,483
West Cape May Borough	12.90	\$ 5,000	1,260
West Wildwood Borough	5.75	\$ 5,000	360
Wildwood City	33.60	\$ 6,100	4,969
Wildwood Crest Borough	31.87	\$ 5,800	4,074
MONMOUTH COUNTY			
Aberdeen Township	58.77	\$10,700	18,937
Allenhurst Borough	5.04	\$ 5,000	884
Asbury Park City	35.81	\$ 6,500	15,790
Atlantic Highlands	23.33	\$ 5,000	5,011
Avon-By-The-Sea Borough	12.95	\$ 5,000	2,230
Belmar Borough	24.34	\$ 5,000	6,194
Bradley Beach Borough	14.42	\$ 5,000	4,768
Brielle Borough	24.05	\$ 5,000	4,561
Deal Borough	18.04	\$ 5,000	1,790
Fair Haven Borough	23.37	\$ 5,000	5,536
Hazlet Township	65.37	\$11,900	22,939
Highlands Borough	16.82	\$ 5,000	5,149
Keansburg Borough	26.99	\$ 5,000	10,645
Keyport Borough	22.69	\$ 5,000	7,426
Little Silver Borough	32.22	\$ 5,850	5,662
Loch Arbor Village	2.05	\$ 5,000	341
Long Branch City	87.00	\$15,850	29,224
Manasquan Borough	26.38	\$ 5,000	5,316
Matawan Borough	31.18	\$ 5,700	8,566
Middletown Township	318.13	\$45,000	69,526
Monmouth Beach Borough	13.87	\$ 5,000	3,686
Neptune City	18.32	\$ 5,000	5,134
Neptune Township	121.23	\$22,050	29,289
Oceanport Borough	27.03	\$ 5,000	6,381
Red Bank Borough	29.75	\$ 5,400	11,407
Rumson Borough	48.22	\$ 8,800	7,185
Sea Bright Borough	6.66	\$ 5,000	1,847
Sea Girt Borough	16.74	\$ 5,000	2,556
Shrewsbury Borough	17.49	\$ 5,000	3,098
Spring Lake Borough	28.79	\$ 5,250	4,360
Spring Lake Heights	16.87	\$ 5,000	5,434
Tinton Falls Borough	60.81	\$11,050	11,980
Union Beach Borough	24.47	\$ 5,000	6,435
Wall Township	152.79	\$27,800	20,084

Affected Municipalities	Road Mileage	Maximum Grant Amount Preliminary Mapping	Population	Affected Municipalities	Road Mileage	Maximum Grant Amount Preliminary Mapping	Population
OCEAN COUNTY				Mantoloking Borough	6.36	\$ 5,000	441
Barneget Light Borough	9.80	\$ 5,000	662	Ocean Gate Borough	12.80	\$ 5,000	1,482
Barneget Township	80.81	\$14,700	11,401	Ocean Township	48.98	\$ 8,900	4,291
Bay Head Borough	10.52	\$ 5,000	1,307	Pine Beach Borough	14.98	\$ 5,000	1,771
Beach Haven Borough	20.41	\$ 5,000	1,765	Point Pleasant Beach	23.64	\$ 5,000	5,541
Beachwood Borough	52.10	\$ 9,500	8,551	Point Pleasant Borough	77.03	\$14,000	18,272
Berkeley Township	206.84	\$37,650	35,323	Seaside Heights Borough	12.27	\$ 5,000	2,188
Brick Township	282.16	\$45,000	62,825	Seaside Park Borough	17.18	\$ 5,000	1,800
Dover Township	392.86	\$45,000	74,198	Ship Bottom Borough	16.16	\$ 5,000	1,567
Eagleswood Township	22.31	\$ 5,000	1,121	South Toms River Borough	15.49	\$ 5,000	3,851
Harvey Cedars Borough	9.24	\$ 5,000	386	Stafford Township	140.40	\$25,550	13,276
Island Heights Borough	11.42	\$ 5,000	1,604	Surf City Borough	17.80	\$ 5,000	1,619
Lacey Township	166.84	\$30,350	20,175	Tuckerton Borough	18.92	\$ 5,000	2,897
Lavallette Borough	16.94	\$ 5,000	2,220				
Little Egg Harbor Township	95.96	\$17,450	12,533				
Long Beach Township	66.20	\$12,050	3,783				

Amended by R.1991 d.307, effective June 17, 1991.

See: 22 N.J.R. 2870(a), 23 N.J.R. 1926(a).

Added "Population" column.