

**CHAPTER 1A**

**WATER SUPPLY LOAN PROGRAMS**

**Authority**

Water Supply Bond Act of 1981, P.L. 1981, c.261, as amended by P.L. 1983, c.355; N.J.S.A. 13:1B-3; 13:1D-9; 40A:11-1 et seq.; 58:1A-1 et seq.; N.J.S.A. 58:12A-1 et seq.; N.J.S.A. 58:12A-22 through 58:12A-25; and N.J.A.C. 5:34.

**Source and Effective Date**

R.1992 d.252, effective May 22, 1992.  
See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 1A, Water Supply Loan Program expires on May 22, 1997.

**Chapter Historical Note**

The original text of this chapter (Guidelines on Environmental Impact Statement for New Jersey Turnpike Extension) was adopted pursuant to N.J.S.A. 27:23-1 and 27:23-23.3 et seq. and was filed and became effective on August 22, 1972 as R.1972 d.165. See: 4 N.J.R. 214(a). On October 7, 1980, R.1980 d.433 repealed this text. See: 12 N.J.R. 454(b), 12 N.J.R. 643(a). Water Supply Bond Loan Regulations for the Rehabilitation of Water Supply Facilities (this chapter) became effective June 7, 1982 as R.1982 d.179. See: 14 N.J.R. 10(a), 14 N.J.R. 573(a). This chapter was substantially amended effective August 16, 1982 as R.1982 d.281. See: 14 N.J.R. 499(c), 14 N.J.R. 915(a). Subchapter 6, Emergency Interim Rehabilitation Loan Procedures was adopted as R.1983 d.26, effective February 7, 1983. See: 14 N.J.R. 1075(b), 15 N.J.R. 141(d). Further amendments became effective November 21, 1983 as R.1983 d.534. See: 15 N.J.R. 1307(a), 15 N.J.R. 1940(a). Chapter 1A was substantially amended and the Department's rules pursuant to the Water Supply Bond Act of 1981 were consolidated by R.1984 d.232, effective June 18, 1984. See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

This chapter was readopted pursuant to Executive Order 66(1978) effective June 5, 1987 as R.1987 d.264. See: 19 N.J.R. 437(b), 19 N.J.R. 1190(b).

Public Notice: Subchapters 1 through 5 announces that the department will be accepting loan applications until June 30, 1987 for local projects for the rehabilitation or repair of publicly owned water supply transmission facilities.

See: 19 N.J.R. 777(c).

Subchapter 7, Water Supply Replacement Projects (Type B Loans or Type C Loans), was adopted as an emergency rule as R.1988 d.479, effective September 19, 1988. See: 20 N.J.R. 2470(a). The concurrent proposal was adopted as R.1988 d.574, effective November 18, 1988. See: 20 N.J.R. 3129(a).

Public Notice: The Department announces the availability of State loan funds.

See: 23 N.J.R. 1465(b).

Chapter 1A, Water Supply Loan Programs was readopted pursuant to Executive Order No. 66(1978) as R.1992 d.252, effective May 22, 1992. See: Source and Effective Date.

Public Notice: Availability of loan funds, Water Supply Loan Programs.

See: 25 N.J.R. 1579(a).

See section level annotations for specific rulemakings.

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## SUBCHAPTER 1. GENERAL PROVISIONS

### 7:1A-1.1 Scope and construction of rules

(a) The following shall constitute the rules governing loans for local projects for the rehabilitation or repair of antiquated, obsolete, damaged or inadequately operating publicly owned water supply facilities, for the interconnection of unconnected or inadequately connected water systems, and for the construction of water supply facilities or public water systems to address contamination problems as identified by the Department, pursuant to the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq., the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., the Water Supply Bond Act of 1981, P.L. 1981, c.261, as amended by P.L. 1983, c.355, N.J.S.A. 58:12A-22 through 58:12A-25, and as recommended by the New Jersey Statewide Water Supply Plan. These rules prescribe procedures, minimum standards for conduct of borrowers, and standards for obtaining loans for the rehabilitation of water supply facilities, for interconnections between water supply systems, and for the construction of water supply facilities or public water systems to address contamination problems as identified by the Department.

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

As amended, R.1984 d.232, effective June 18, 1984.  
See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

All DEP rules concerning applications for bond loans under the Water Supply Bond Act of 1981, as amended, were consolidated under this chapter. Formerly, N.J.A.C. 7:1A contained rules for the Rehabilitation of Water Supply Facilities only.

In addition, N.J.A.C. 7:1G concerning Water Supply Bond Loan Regulations for the Interconnection of Water Supply Systems was repealed with the exception of N.J.A.C. 7:1G-2.3 and 2.12 which were recodified as N.J.A.C. 7:1A-4.1 and 4.2, respectively.

Emergency amendment, R.1988 d.479, effective September 19, 1988 (expires November 18, 1988).  
See: 20 N.J.R. 2470(a).

Substituted "address" for "resolve" and added new text "Water Supply Management Act ... N.J.S.A. 58:12A-1 et seq.," and "P.L. 1988 c.106,".

Adopted concurrent proposal, R.1988 d.574, effective November 18, 1988.

See: 20 N.J.R. 2470(a), 20 N.J.R. 3129(a).

Provisions of emergency amendment R.1988 d.479 readopted without change.

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

Corrected statutory cites; added references to public water systems.

### 7:1A-1.2 Purpose of rules

(a) These rules are promulgated for the following purposes:

1. To implement the purposes and objectives of the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq., the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., the Water Supply Bond Act of 1981, P.L. 1981, c.261, as amended by P.L. 1983, c.355, N.J.S.A. 58:12A-22 through 58:12A-25, and the New Jersey Statewide Water Supply Plan; and amendments;

2. To establish policies and procedures for administration of funds appropriated pursuant to the above acts for the purpose of making State loans for local projects for the rehabilitation or repair of antiquated, obsolete, damaged or inadequately operating water supply transmission facilities, for the interconnection of unconnected or inadequately connected water supply systems, and for the construction of water supply facilities or public water systems to address contamination problems identified by the Department;

3. To protect the public and the State of New Jersey by insuring that funds appropriated are spent in a proper manner and for the intended purposes;

4. To assure that the distribution and use of funds are consistent with the laws and policies of the State of New Jersey;

5. To establish minimum standards of conduct to prevent conflicts of interest and insure proper administration of loans;

6. To establish accounting procedures for the administration of loans.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

In (a)2, added "for the interconnection of unconnected ... systems, ... problems identified by the Department;"

Emergency amendment, R.1988 d.479, effective September 19, 1988 (expires November 18, 1988).

See: 20 N.J.R. 2470(a).

Added "Safe Drinking Water Act" and "Water Supply Management Act"; substituted "address" for "resolve".

Adopted concurrent proposal, R.1988 d.574, effective November 18, 1988.

See: 20 N.J.R. 2470(a), 20 N.J.R. 3129(a).

Provisions of emergency amendment R.1988 d.479 readopted without change.

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

Corrected statutory cites; added reference to public water systems.

**7:1A-1.3 Practice where rules do not govern**

The Commissioner may rescind, amend, or expand these rules from time to time in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

**7:1A-1.4 Annual budget request**

(a) The Commissioner shall submit to the State Treasurer and the New Jersey Commission on Capital Budgeting and Planning with the Department's annual budget request, a plan for the expenditure of funds from the "Water Supply Fund" for the upcoming fiscal year.

(b) The plan shall include the following information:

1. A performance evaluation of the expenditures of the fund to date;
2. A description of programs planned during the upcoming fiscal year;
3. A copy of these rules; and
4. An estimate of expenditures for the upcoming fiscal year.

Emergency amendment, R.1988 d.479, effective September 19, 1988 (expires November 18, 1988).

See: 20 N.J.R. 2472(a).

Deleted text in (b)3 "governing the purpose ...".

Adopted concurrent proposal, R.1988 d.574, effective November 18, 1988.

See: 20 N.J.R. 2470(a), 20 N.J.R. 3129(a).

Provisions of emergency amendment R.1988 d.479 readopted without change.

**7:1A-1.5 Request for legislative appropriations**

The Department shall periodically request that the Legislature appropriate funds under the Water Supply Fund pursuant to the Water Supply Bond Act of 1981, P.L. 1981, c.261, and amendments thereto.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"and amendments thereto" added after c.261.

**7:1A-1.6 Procedure for obtaining a water supply loan**

(a) Each potential applicant for a water supply loan shall:

1. Determine if it meets the eligibility criteria of N.J.A.C. 7:1A-3.1, 4.1, 5.1, 7.3 or 7.4, as appropriate;
2. Arrange for a preapplication conference as required in N.J.A.C. 7:1A-2.3;
3. Complete the application procedures required by N.J.A.C. 7:1A-2.4 or N.J.A.C. 7:1A-7.4(b), as applicable.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

N.J.A.C. references changed.

Emergency amendment, R.1988 d.479, effective September 19, 1988 (expires November 18, 1988).

See: 20 N.J.R. 2472(a).

Deleted "bond" from text; added sections 7.3 and 7.4 to text in (a)1; added text "or N.J.A.C. 7:1A-7.4(b), as applicable."

Adopted concurrent proposal, R.1988 d.574, effective November 18, 1988.

See: 20 N.J.R. 2470(a), 20 N.J.R. 3129(a).

Provisions of emergency amendment R.1988 d.479 readopted without change.

**7:1A-1.7 Severability**

If any section, subsection, provision, clause or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these rules shall not be affected thereby.

## SUBCHAPTER 2. LOAN PROCEDURES AND REQUIREMENTS

**7:1A-2.1 Scope**

This subchapter shall prescribe procedures and requirements for the award of State loans for projects which will effectuate the purposes of the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq., the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., N.J.S.A. 58:12A-22 through 58:12A-25, and the Water Supply Bond Act of 1981, P.L. 1981, c.261, as amended by P.L. 1983, c.355, and as recommended by the New Jersey Statewide Water Supply Plan.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

Reference to "rehabilitation of water supply facilities" deleted.

Emergency amendment, R.1988 d.479, effective September 19, 1988 (expires November 18, 1988).

See: 20 N.J.R. 2470(a).

Added text "which will effectuate ... P.L. 1988, c.106, and".

Adopted concurrent proposal, R.1988 d.574, effective November 18, 1988.

See: 20 N.J.R. 2470(a), 20 N.J.R. 3129(a).

Provisions of emergency amendment R.1988 d.479 readopted without change.

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

Corrected statutory cite.

**7:1A-2.2 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 Water Supply Bond Act of 1981, P.L. 1981, c.261, as amended by P.L. 1983, c.355, the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq., the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., N.J.S.A. 58:12A-22 through 58:12A-25, and such other acts and appropriations provided to the Department for the purposes provided in this chapter.

"Administrator" means the Assistant Director of the Water Supply Element of the Department or the person designated by the Commissioner to carry out the functions of the Administrator for the purposes of this chapter.

"Applicant" means any local unit, municipality, municipally-owned public water system or privately-owned public water system that applies for a loan pursuant to the provisions of these rules and regulations.

"Bonds" means the bonds authorized to be issued, or issued under the Water Supply Bond Act of 1981, P.L. 1981, c.261 or subsequent bond acts.

"Borrower" means an applicant which has received a loan pursuant to the Act and this chapter, and which has executed a loan award document.

"Commission" means the New Jersey Commission on Capital Budgeting and Planning.

"Commissioner" means the Commissioner of the Department or his or her designated representative.

"Construct" and "Construction" mean, in addition to the usual meaning thereof, acts of construction, re-construction, replacement, improvement, betterment and the solicitation of bids in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., and the Local Public Contracts rules, N.J.A.C. 5:34.

"Contaminant" means any physical, chemical, microbiological or radiological substance or matter in water.

"Contamination problems" means an existing potable groundwater supply whose physical, chemical, microbiological or radiological condition, is or may reasonably be expected to become, such that its continued use is detrimental to public health in accordance with the New Jersey Safe Drinking Water Act Regulations, N.J.A.C. 7:10, or in accordance with the Safe Drinking Water Act N.J.S.A. 58:12A-1 et seq., particularly 58:12A-6, as applicable.

"Department" means the New Jersey Department of Environmental Protection and Energy.

"Eligible project cost" means the costs which are determined by the Department under this chapter to be eligible for a water supply bond loan.

"Eligible project scope" means: (1) the repair, replacement or reconstruction of antiquated, obsolete, damaged or inadequately operating water supply transmission facilities consisting of pipes and appurtenances including, but not limited to, pump stations, valves, surge chambers, existing interconnections and storage tanks which convey water; or (2) the construction, repair, replacement or reconstruction of parts of an inadequate or nonexistent water supply system interconnection; or (3) the planning, design and construction of water supply facilities or public water systems to address contamination problems as identified by the Department. The applicant's project scope must conform to one of these criteria to be funded pursuant to this chapter.

"Groundwater supply" means an excavation which is usually cylindrical with a casing or lining sunk into soil or rock material for the purpose of obtaining potable water.

"Interconnection" means a water supply system connection with another water supply system, or with more than one.

"Local unit" means any political subdivision of the State or agency thereof.

"Maximum contaminant level" or "M.C.L." means the maximum permissible level of a contaminant in water measured at the point at which water is delivered to the free-flowing outlet of the ultimate user of a public water system or other water system to which State primary drinking water rules apply, except in the case of turbidity where the maximum permissible level is measured at the point of entry to the distribution system. Contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition. Primary drinking water rules shall be applicable to individually owned wells. For the purposes of this chapter, the parameter of turbidity shall be excluded as a primary drinking water rule, except when violation of turbidity maximum contaminant levels occur as a result of other contaminants.

"Municipality" means any city, town, township, borough or village or any agency or instrumentality of one or more thereof.

"Primary drinking water regulation" means a regulation which:

1. Applies at a minimum to public water systems;
2. Specifies contaminants which, in the judgment of the Commissioner may have any adverse effect on the health of persons;
3. Specifies for each such contaminant either (a) maximum contaminant level if, in the judgment of the Commissioner, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or (b) if in the judgment of the Commissioner, it is not economically and technologically feasible to ascertain the level of such contaminant, each treatment technique known to the Commissioner which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of Section 4 of the New Jersey Safe Drinking Water Act, (N.J.S.A. 58:12A-4);
4. Contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels, including quality control, sampling frequencies, and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to: (a) the minimum quality of water which may be taken into the system, and (b) siting for new facilities for public systems.

"Project" means any work relating to the rehabilitation of water supply transmission facilities, the construction or rehabilitation of interconnections between water supply systems, or construction of water supply facilities or public water systems to address contamination problems.

"Public water system" means a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. Such term includes:

1. Any collection, treatment, storage and distribution facilities under control of the operator of such system and used primarily in connection with such system; and
2. Any collection or pre-treatment storage facilities not under such control which are used primarily in connection with such system.

"Residences with contaminated wells" means residences in a residential area of more than 1,500 residential units that has been found by the local department of health, or board of health, and the county board of health, or department of health, to have at least 25 percent of the wells supplying potable water to the area with contaminants in excess of the maximum contaminant levels adopted by the Department pursuant to P.L. 1983, c.443 (N.J.S.A. 58:12A-2 et seq.), as applicable.

"Transmission Facilities" means those pipes and appurtenances including but not limited to pump stations, valves, surge chambers, interconnections and storage tanks which convey water.

"Type A Funding" means loans awarded to local units out of appropriations made pursuant to the Water Supply Bond Act of 1981, P.L. 1981, c.261, to plan, design and construct projects to address contamination problems as identified by the Department (see this subchapter and N.J.A.C. 7:1A-5).

"Type B Funding" means loans awarded to municipalities, municipally owned public water systems, or privately owned public water systems as defined at N.J.S.A. 58:12A-3, out of appropriations other than appropriations made pursuant to the Water Supply Bond Act, P.L. 1981, c.261, as amended, or other bond acts, to plan, design and construct projects to address contamination problems as identified by the Department other than those addressed under Type C Funding (see this subchapter and N.J.A.C. 7:1A-7).

"Type C Funding" means loans awarded to municipalities, which meet the criteria set forth at N.J.A.C. 7:1A-7.4(b), out of appropriations deposited in the Water Supply Replacement Trust Fund to plan, design and construct projects to address contamination problems meeting special criteria as identified by the Department (see this subchapter and N.J.A.C. 7:1A-7).

"Water supply facilities" means and refers to the plants, structures, service and house connections, well sealings, interconnections between existing water supply facilities, machinery and equipment and other property, personal and mixed, constructed or operated, or to be constructed or operated, in whole or in part by or on behalf of the State, or of a political subdivision of the State or any agency thereof, for the purpose of augmenting the natural water resources of the State and making available an increased supply of water for all uses, and any and all appurtenances necessary, useful or convenient for the collecting, impounding, storing, improving, treating, filtering or transmitting of water, and for the preservation and protection of these resources and facilities and providing for the conservation and development of future water supply resources, and facilitating incidental recreational uses thereof.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"Contaminant", "Contamination problems", "Groundwater supply", "Local unit", "Maximum contaminant level", and "Primary drinking water regulation" defined; "Construct", "Eligible project scope", and "Project" revised.

Emergency amendment, R.1988 d.479, effective September 19, 1988 (expires November 18, 1988).

See: 20 N.J.R. 2470(a).

Substantially amended.

Adopted concurrent proposal, R.1988 d.574, effective November 18, 1988.

See: 20 N.J.R. 2470(a), 20 N.J.R. 3129(a).

Provisions of emergency amendment R.1988 d.479 readopted without change.

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

Amended "Act", "Administrator", "Applicant", "Commissioner", "Construct", "Contamination problems", "Department", "Eligible project scope", "Local unit", "Municipality", "Project", "Residences with contaminated wells", and "Type B Funding"; new definition "Public water system".

### 7:1A-2.3 Preapplication procedures

(a) Every applicant shall request an informal conference prior to making a formal application for a loan. During the conference the Department shall identify and explain all loan application documents. It shall also identify and answer questions concerning other Departmental permits the applicant must obtain prior to being awarded a loan. This conference is not part of the application procedure and verbal statements made during the conference shall not bind the Department. Such conferences may be waived at the discretion of the Department.

(b) Questions concerning the program and requests for a preapplication conference should be directed to:

Department of Environmental Protection and Energy

Water Supply Element

CN 029

Trenton, New Jersey 08625

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).



"Preapplication procedures" was formerly codified at N.J.A.C. 7:1A-2.4; the original text of N.J.A.C. 7:1A-2.3, "Eligibility and criteria", was recodified as N.J.A.C. 7:1A-3.1.

(a): conference waiver added.

Public Notice: Announcement that the application period for water supply bond rehabilitation and interconnection loan program is until June 30, 1988.

See: 20 N.J.R. 1297(c).

Emergency amendment, R.1988 d.479, effective September 19, 1988 (expires November 18, 1988).

See: 20 N.J.R. 2470(a).

Address change.

Adopted concurrent proposal, R.1988 d.574, effective November 18, 1988.

See: 20 N.J.R. 2470(a), 20 N.J.R. 3129(a).

Provisions of emergency amendment R.1988 d.479 readopted without change.

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

References to the Division of Water Resources changed to the Department of Environmental Protection and Energy.

### 7:1A-2.4 Application procedures

(a) To apply for a water supply loan, an applicant shall comply with all the pertinent requirements of this section. The application shall be submitted to the Department on the forms provided for that purpose.

(b) An applicant for a water supply loan shall submit:

1. A completed loan application;

2. A description of how it plans to repay the loan and pay any other expenses necessary to fully complete and implement the project, the steps it has taken to implement this plan, and the steps it plans to take before receiving the loan that will guarantee that at the time of the signing of the loan award document it will be irrevocably committed to repay the loan and pay any other expenses necessary to fully complete, implement, operate and maintain the project;

3. Evidence that all Federal, State, regional and local agencies with jurisdiction over the area have been notified of the project, including but not limited to the applicable municipal planning board and environmental commission; county planning board and environmental commission; any areawide or regional agencies concerned; and any interconnected or other water systems that may be affected;

4. A written explanation of the need for the project along with distribution system maps of the project area(s);

5. A complete proposal outlining the problem, cause and effect of these problems, the proposed solution along with a discussion of alternatives to the proposed solution. In the case of loans to address water supply contamination problems, a feasibility study, as approved by the Department, shall be submitted. In the case of rehabilitation loans, measures to insure a safe, continuous and adequately protected water supply to affected project areas shall be included, as applicable;

6. A proposed construction schedule for the project;

7. Proposed financial arrangements for both construction of the project and sale of water between the purveyors concerned, if any, and written confirmation that the proposed arrangements are acceptable to both purveyors and the New Jersey Board of Regulatory Commissioners, if applicable;

8. All other forms, agreements and subagreements the Department may require;

9. An estimate of preliminary, developmental, and construction costs by unit prices for the project. Labor, equipment, materials, supplies, overhead and contractor's and consultant's profit with supporting background and summary sheets may be requested by the Department to substantiate the estimates of unit costs. Total project costs and those project costs that the applicant anticipates to be eligible for a loan shall be separately summarized;

10. A brief description of the environmental impact of the proposed project, including brief identifications of environmental impacts of the proposed project on water quality, plant and animal life, project site land characteristics, historical sites and other environmental factors; and

11. Proof of ownership of the project, and the real property on which it is located, or the capability to use that property for water supply purposes;

12. All documentation and other information as may be necessary for the Division to adequately determine the applicant's priority point total pursuant to N.J.A.C. 7:1A-3.2, 4.2, 5.2 or 7.4(a), as appropriate.

(c) Applications shall be signed for the applicant by a person authorized by resolution or ordinance to file an application for a State loan, to represent the applicant in all matters relating to the application process, and to obligate the applicant to the terms and conditions of the loan award document.

1. Each application shall constitute an undertaking to accept the requirements of this chapter and the terms and conditions of the loan award document.

(d) Applications should be submitted well in advance of the application closing date for the application period in which the applicant wishes to be awarded a loan. There shall be at least one application period in each fiscal year. For the rehabilitation loan program, the application closing date for the application period shall be June 30.

1. For the interconnection loan program, the application closing date for the application period shall be June 30. In the case of loans for addressing water supply contamination problems, two annual application periods will be established with closing dates of December 31 and June 30 respectively. However, applications will be received and reviewed on a continuous basis. Those projects meeting exigency standards, as defined at N.J.A.C. 7:1A-5.2(b), shall be processed for immediate funding if available.

2. Additional application periods may be established as deemed necessary by the Department upon publication of a notice of the details of the additional application period in the New Jersey Register.

3. The application closing date for any application period may be extended, if deemed necessary by the Department, upon publication of a notice of extension in the New Jersey Register.

4. If the Department determines that funds are not available to award any loans in a given fiscal year, it may suspend the application period by providing notice of such suspension in the New Jersey Register by April 30.

(e) No loan shall be awarded until a State appropriation is made.

(f) Applications shall be sent to:

Department of Environmental Protection and Energy  
Water Supply Element  
CN 029  
Trenton, New Jersey 08625

As amended, R.1982 d.281, effective August 16, 1982.

See: 14 N.J.R. 499(c), 14 N.J.R. 915(a).

(b)8, 9, and 10 added.

As amended, R.1983 d.534, effective November 21, 1983.

See: 15 N.J.R. 1307(a), 15 N.J.R. 1940(a).

(b)8: "Summary sheets may be requested by the Department" was "summary sheets shall be included".

(c)1: "or persons" and "represent the applicant . . . process," added.

(d): "application period" was "year"; "initial application period" added to second sentence;

(d)1 added.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"Application procedures" was formerly codified at N.J.A.C. 7:1A-2.5.

(b)-(e) extensively revised.

Emergency amendment, R.1988 d.479, effective September 19, 1988 (expires November 18, 1988).

See: 20 N.J.R. 2470(a).

Substituted "address" for "remedy"; deleted "bond"; added "N.J.A.C. 7:1A-7.4(a)" and changed address.

Adopted concurrent proposal, R.1988 d.574, effective November 18, 1988.

See: 20 N.J.R. 2470(a), 20 N.J.R. 3129(a).

Provisions of emergency amendment R.1988 d.479 readopted without change.

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

Provision for suspension of application period added at (d)4.

### 7:1A-2.5 Use and disclosure of information

All loan applications, preapplications, and other submissions, when received by the Department, constitute public records. The Department shall make them available to persons who request their release, to the extent allowed by New Jersey and Federal law.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"Use and disclosure of information" was formerly codified at N.J.A.C. 7:1A-2.6.

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

Reference to Division changed to Department.

### 7:1A-2.6 Evaluation of application

(a) The Department shall notify the applicant that it has received the application and is evaluating it pursuant to this section. Each application shall be subjected to:

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

2. Program, technical, scientific and environmental evaluation to determine the merit and relevance of the project to the Department's program objectives, especially those recommendations described in the New Jersey Statewide Water Supply Plan;

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

4. Final administrative evaluation;

5. In cases of loans for water supply contamination problems, priority scoring of each application shall be made as soon as possible.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"Evaluation of application" was formerly codified at N.J.A.C. 7:1A-2.7.

(a)5 added.

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

Reference to Division changed to Department.

### 7:1A-2.7 Department approval/disapproval

(a) After a full review and evaluation of an application, the Department shall take one of the following actions:

1. Approve for priority ranking, if applicable, and possible loan;

2. Disapprove the application;

3. Approve for immediate funding, if available.

(b) The applicant shall be promptly notified in writing of any disapproval. A disapproval of an application shall not preclude its reconsideration or resubmittal if resubmitted by the applicant.

As amended, R.1983 d.534, effective November 21, 1983.

See: 15 N.J.R. 1307(a), 15 N.J.R. 1940(a).

(b): "approval" notification deleted: next application "year" changed to "period if resubmitted . . .".

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"Department approval/disapproval" was formerly codified at N.J.A.C. 7:1A-2.8.

(a)1: "if applicable" added.

(a)3 added.

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

Department substituted for Division.

**7:1A-2.8 Amount and terms of loan**

(a) The amount of the loan, determined by the Department, shall be based upon eligible project costs as set forth in this chapter.

(b) The interest rate for loans made pursuant to the Water Supply Bond Act of 1981, P.L. 1981, c.261, shall be established at a rate deemed appropriate by the Department of the Treasury, or as specified in appropriation acts.

(c) For rehabilitation and interconnection loans, the loan maturity period shall be for a period of no more than 10 years from the date payments to the borrower begin, unless a longer loan maturity period not to exceed 20 years can be justified to the satisfaction of the Department. For Type A funding the loan maturity period shall be for a period of no more than 20 years from the date that payments to the borrower begin. Principal and accrued interest may be prepaid by the borrower prior to the end of the loan maturity period without penalty.

(d) A rate schedule setting forth the amounts charged for sale of water by the borrower shall be established for each rehabilitation, interconnection or water supply replacement loan. For all borrowers, a portion of receipts, as stipulated by the loan award document, shall be dedicated to a specific fund for the purpose of assuring repayment of the loan by the borrower. The Department may require additional collateral to secure the loan when deemed necessary.

1. When applicable, a New Jersey Board of Regulatory Commissioners approved rate schedule setting forth the amounts charged for the sale of water by the borrower shall be established.

(e) All other financial loan terms for loans made pursuant to the Water Supply Bond Act of 1981, P.L. 1981 c.261, shall be established by agreement between the Department and the Department of the Treasury. Loan terms shall be made available to all applicants by the Department in all cases prior to execution of any loan award document.

As amended, R.1983 d.534, effective November 21, 1983.

See: 15 N.J.R. 1307(a), 15 N.J.R. 1940(a).

(b): interest rate originally set at average rate on latest sale of Water Supply Bonds.

(c): all new text.

(e) added.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"Amount and terms of loan" was formerly codified at N.J.A.C. 7:1A-2.9.

(a): "Department" was "Division".

(d): Language changed to reflect rehabilitation, interconnection, and water supply contamination loans.

Emergency amendment, R.1988 d.479, effective September 19, 1988 (expires November 18, 1988).

See: 20 N.J.R. 2470(a).

Substantially amended.

Adopted concurrent proposal, R.1988 d.574, effective November 18, 1988.

See: 20 N.J.R. 2470(a), 20 N.J.R. 3129(a).

Provisions of emergency amendment R.1988 d.479 readopted without change.

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

Reference to Board of Regulatory Commissioners added.

**7:1A-2.9 Loan award document**

(a) The Department shall prepare and transmit three copies of the loan award document to the applicant.

1. The applicant shall execute the loan award document and return it within 30 calendar days after receipt. The Department may, in its discretion, extend the time for execution. The loan award document shall be signed by a person authorized by resolution or ordinance to obligate the applicant to the terms and conditions of the loan award document.

2. The loan award document shall set forth the terms and conditions of the loan, approved project scope, budget, approved project costs, and the approved commencement and completion dates for the project or major phases thereof.

3. The loan award document shall be deemed to incorporate all requirements, provisions, and information in documents or papers submitted to the Department in the application process.

4. After the Department has completed its internal processing of the loan award document it shall transmit a copy of the executed loan award document to the borrower.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"Loan award document" was formerly codified at N.J.A.C. 7:1A-2.10.

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

Reference to Division changed to Department.

**7:1A-2.10 Effect of loan award**

(a) The loan award document shall become effective immediately after its execution by the Department and the applicant, and shall constitute an obligation of the applicable fund in the amount and for the purposes stated in the loan award document.

(b) The award of the loan shall not commit or obligate the Department to award any continuation loan to cover cost overruns for any project. The Department's policy is that cost overruns for any project or portion thereof are solely the responsibility of the borrower.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"Effect of loan award" was formerly codified at N.J.A.C. 7:1A-2.11.

(b): exception covering "testing of an interconnection" added.

Emergency amendment, R.1988 d.479, effective September 19, 1988 (expires November 18, 1988).

See: 20 N.J.R. 2470(a).

Substituted "applicable fund" for "Water Supply Fund".

Adopted concurrent proposal, R.1988 d.574, effective November 18, 1988.

See: 20 N.J.R. 2470(a), 20 N.J.R. 3129(a).



Provisions of emergency amendment R.1988 d.479 readopted without change.

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

Modified to eliminate the Department's ability to increase the loan award amount for the costs of subsequent repair, replacement or rebuilding of funded interconnections.

### 7:1A-2.11 Notice of intent

(a) The Department shall send a Notice of Intent to Award a loan to those approved applicants ranking high enough on the appropriate priority list, if applicable, to receive funds.

(b) The applicants receiving a Notice of Intent to Award a loan shall obtain all necessary Federal, State and local permits and approvals within six months of receipt of the Notice of Intent to Award a loan. Failure to obtain the required permits within the required time period shall make the project ineligible for a loan for that application period unless prior approval for an extension has been granted by the Department pursuant to N.J.A.C. 7:1A-2.12(h).

(c) If subsequent to the issuance of a Notice of Intent to Award, the applicant discovers that costs will exceed those previously estimated, or that the scope of the project will be modified, or any other circumstances appear which affect the award of priority points, the applicant shall notify the Department immediately. The Department shall then recalculate, if appropriate, the applicant's priority determination utilizing the new information submitted.

1. At the discretion of the Department, the Notice of Intent to Award may be recalled if the revised priority determination indicates that some other project should be given priority for selection or that sufficient funds would not be available for the project, or that the project no longer meets exigency standards as defined at N.J.A.C. 7:1A-5.2(b).

2. In addition, if any changes in the project costs, scope or other circumstances result in a reduction in the total eligible loan amount from the total amount specified in the Notice of Intent to Award, the Notice of Intent to Award may be recalled and revised to reflect the irrevocable reduction in the total eligible loan amount approved for the project.

(d) Any applicant receiving a Notice of Intent to Award who decides not to proceed with a project shall notify the Department within 30 days of the date of the notice. Failure to notify the Department within this time period will result in the application being removed from consideration for a loan in the current application period, as applicable.

(e) Applicants with approved projects on a priority list that are not awarded loans in any application period, as applicable, who wish to apply for a position on any subsequent priority list in any subsequent application period, may apply by a timely filing of a new water supply loan application form and by updating the other application documents required by N.J.A.C. 7:1A-2.4. This application will be treated as a new application for a water supply loan and evaluated in accordance with this chapter.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

(a)-(e) were recodified with changes, from (i)-(m) of the original text of N.J.A.C. 7:1A-2.12, "Priority determination". (a)-(h) of that text are now found at N.J.A.C. 7:1A-3.2.

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

Reference to Division changed to Department.

### 7:1A-2.12 Project development phase of water supply loan program

(a) Each applicant receiving a Notice of Intent to Award a loan shall arrange to have a pre-design conference within 30 days after receipt of the notice, and shall submit all materials required by this section to the Department within six months after receipt of the notice or within the time limits of any extension granted pursuant to (h) below.

(b) During the pre-design conference the Department shall identify and explain the requirements of this section, including design criteria and review of the requirements of the Environmental Assessment specified in (d) below. Based on information furnished by the applicant, the Department shall also determine if an approval is required for the project or any portion thereof pursuant to the Standards for Construction of Public Community Water Systems, N.J.A.C. 7:10-11.

1. If an approval is not required pursuant to the construction standards referred to in (b) above, the applicant shall still be required to comply with the requirements of said construction standards.

2. If an approval is required pursuant to the construction standards referred to in (b) above, the Department shall provide reasonable assistance to the applicant to insure compliance with the requirements of said construction standards as applicable. The Department reserves the right to require approval in accordance with said construction standards at a later date should revised or additional information so indicate.

(c) All applicants for water supply loans shall submit all materials required by this subsection, prepared in accordance with accepted engineering practices, within the specified time period.

1. A complete Engineer's Report shall be prepared, signed and sealed by a New Jersey licensed professional engineer experienced in the field of water supply. The Report shall include but not be limited to the engineering assumptions, references, calculations and conclusions relative to the structural, sanitary and hydraulic design of all elements within the project scope including all information, narrative, data, and computations necessary to support and describe the design developed and shall be in such detail as to permit complete understanding of the project design. Depending on the project scope, the Engineer's Report shall address the distribution network, topographic conditions, geotechnical consideration, pump station performance, and operating characteristics of the distribution storage system, capacity, adequacy, condition, and any changes in estimated priority points.

2. The plans for the water supply bond loan project shall be prepared by an engineer licensed by the State of New Jersey. Each drawing shall be signed and sealed and shall have a title block giving the name and location of the project, the scale or scales used, date, the name of the engineer and his or her license number. Plans shall show clearly the datum to which evaluations shown are referred. The National Geodetic Vertical Datum of 1929, (U.S.G.S.), should be used wherever possible or an equation converting to that datum given. The plans shall clearly reflect and label all existing and proposed features and shall include but not be limited to:

i. A vicinity map showing the location of the water supply loan project. A U.S.G.S. 7½ Minute Quadrangle map or acceptable substitute shall be used for this purpose.

ii. A profile and plan, if required in the judgment of the Department, of the entire transmission-grid system that is to be constructed. The plan shall include, but not be limited to, an index map, water mains, service connections, fire hydrants, gate valves, blowoff valves, air relief valves, pressure reducing valves, pumping stations, surge chambers and storage tanks. The Plan shall also include, but not be limited to, the location of all utilities and sewer lines, that is, pipelines, telegraph and telephone lines, electrical conduits, and sanitary and storm sewers that will have an effect on the project implementation.

iii. If required by the Department, a topographic and pressure contour map of the transmission grid system showing ground elevations and water pressure at various points in the system.

iv. Plan and elevation views of all storage tanks that are to be renovated, as applicable.

v. Plan and elevation views of all pumping stations that are to be renovated, as applicable.

vi. Standard details of all gate valves, check valves, air release valves, drains, surge control equipment, expansion joints, insulation joints, manholes, pump stations, gages, risers, headers and other components of the system that are to be renovated.

3. The operation, maintenance and water sale pricing provisions for the proposed interconnection, covering the responsibilities of the two purveyors interconnected, as applicable.

4. Documents assuring performance of responsibilities of all other purveyors involved with the interconnection project, as applicable.

5. Construction specifications which shall include but not be limited to:

i. The general provisions, which shall specify the rights, duties, and responsibilities of the Owner, Applicant, engineer, builder and the prescribed order of work.

ii. The technical provisions, which shall describe carefully and in detail the approved work methods, equipment, materials to be used, the results to be obtained and the project and payment schedule.

iii. All other provisions, submissions and certifications as deemed necessary by the Department or required in the loan award document.

6. A detailed cost estimate of expenses related to the planning, engineering, design, and construction of the water supply loan project. The breakdown of the cost estimates shall be by unit prices covering estimated labor, equipment, materials, supplies and contractor's overhead and profit. Background sheets will be furnished detailing the computation of the unit prices. A summary form showing Item No., description, estimated quality, unit, unit price, and estimated amount is required.

7. A report from the applicant's governing body detailing its plans to repay the loan and pay any other expenses necessary to fully complete and implement the project, a rate schedule setting forth the amounts charged for the sale of water by the borrower, the steps it has taken to implement this plan and, the steps it plans to take before receiving the loan guaranteeing that at the time of signing of the loan award document it will be irrevocably committed to repay the loan and pay any other expenses necessary to fully complete and implement the project.

(d) The Department reserves the right to waive any of the submission requirements of (c) above, subject to the provisions of the Standards for Construction of Public Community Water Systems, N.J.A.C. 7:10-11, when it has determined that submission of such information is not required or necessary in order for the Department to enter into a Loan Agreement with the applicant.

(e) All applicants except those excluded by (f) below shall submit with the materials required by this section an Environmental Assessment which shall include but not be limited to:

1. A written explanation of the need for the project;

2. A map showing the location and boundaries of the system service area;

3. A statement describing and analyzing possible direct and indirect effects of the proposed activity on the system itself as well as on adjacent and non-contiguous areas with particular reference to the effect of the project on public safety, health and welfare, public and private property, water quality and quantity, the preservation of areas, sites, structures and objects determined to have significant historical, archeological, architectural or cultural value, the public trust in wetlands and wildlife and fisheries; and the protection, preservation and enhancement of the natural environment. It shall describe and analyze:

i. The reasons why this plan and design are the most appropriate for the project;

ii. Temporary and permanent physical changes which would be caused by the proposed activity and the impact of these changes on the activity area and immediate environs;

iii. Alternatives to the proposed project which would reduce or avoid environmental damage;

iv. All measures to be taken during and after the completion of the project to reduce detrimental onsite and offsite effects;

v. Adverse environmental impacts which cannot be avoided and why they cannot be avoided;

vi. The specific benefits of the project.

(f) At the pre-design conference the Department will specify for each project those aspects of the Environmental Assessment it wants emphasized. The Department reserves the right to waive the Environmental Assessment requirement for those projects that have no significant impact on the environment.

(g) The Department shall award a loan to those applicants receiving a Notice of Intent to Award a loan, subject to available appropriations, and the provisions of 7:1A-2.11(c), who obtain and submit all required permits and materials, prepared to the satisfaction of the Department, within six months after the Notice of Intent to Award a loan or within the time limits of any extension granted pursuant to (h) below.

(h) Any applicant who fails to submit the required materials prepared in a proper manner and the required permits within the six month period shall lose its eligibility for a loan during that application period, as applicable, unless the time period is extended by the Department.

1. The Department may extend the time for submission of the required materials and/or permits for up to three months if the applicant justifies the need for such extension to the satisfaction of the Department.

2. The Department may grant an additional three months' extension for the submission of the required permits if the applicant demonstrates to the satisfaction of the Department that the permits are delayed through no fault of its own and that the delay is due to extremely unusual circumstances.

3. The Department may, at its discretion, grant time in addition to the above for submission of all required permits in the case of extenuating circumstances beyond an applicant's control.

As amended, R.1982 d.281, effective August 16, 1982.

See: 14 N.J.R. 499(c), 14 N.J.R. 915(a).

Added (b), (c)1, (c)2ii and iii, and Tables 1 and 2.

As amended, R.1983 d.534, effective November 21, 1983.

See: 15 N.J.R. 1307(a), 15 N.J.R. 1940(a).

(c)iii added; under (g), "application period" was "year".

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"Project development phase" was formerly codified at N.J.A.C. 7:1A-2.13. The original text of N.J.A.C. 7:1A-2.12 was "Priority determination"; (a)-(h) of that text are now found at N.J.A.C. 7:1A-3.2; (i)-(m) were recodified at N.J.A.C. 7:1A-2.11 as (a)-(e). (c) revised; new (d) added; former (d)-(g) redesignated (e)-(h); (h)3 added.

Emergency amendment, R.1988 d.479, effective September 19, 1988 (expires November 18, 1988).

See: 20 N.J.R. 2470(a).

Deleted "bond"; substituted "loan" for "system rehabilitation" and substituted "constructed" for "rehabilitated".

Adopted concurrent proposal, R.1988 d.574, effective November 18, 1988.

See: 20 N.J.R. 2470(a), 20 N.J.R. 3129(a).

Provisions of emergency amendment R.1988 d.479 readopted without change.

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

References to Division changed to Department; regulatory and statutory cites corrected.

### 7:1A-2.13 Eligible project costs

(a) Project costs shall be allowed to the extent permitted by this chapter and the loan award document. Eligible project costs shall be those costs set forth below:

1. Repair, replacement, or reconstruction of all or part of any obsolete, damaged, antiquated, or inadequately operating water supply transmission system, or any obsolete or antiquated water supply interconnection or construction of a new interconnection, or the planning, design and construction of water supply facilities or public water systems to address contamination problems as identified by the Department, within the scope of the approved feasibility study, including planning costs when so approved by the Department;

2. Geological and hydraulic services;

3. Interconnection testing;

4. Engineering and inspection costs;

5. Legal expenses;

6. Financial, professional, and other estimates and advice;

7. All other such expenses as may be necessary or incidental to the administration, financing, construction, reconstruction, and completion of the project, or part thereof and the placing of same in operation except as excluded by this section.

(b) Ineligible project costs shall be those costs set forth below:

1. Land acquisition costs;

2. Project design and development costs incurred prior to November 3, 1981;

3. Any costs associated with a project for which construction commenced prior to the filing of a loan application with the Department;

4. Salaries of regular water purveyor employees, expenses for governmentally owned or purveyor owned equipment, and other such force account expenses; and

5. Interest expenses.

(c) Development and construction project contracts must be awarded in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., and the Local Public Contracts rules, N.J.A.C. 5:34.

(d) Borrowers shall be provided the actual costs incurred and properly documented for the total cost of the project by the contractor(s) and subcontractor(s).

(e) Project application, design and development costs shall not be reimbursed until construction contracts have been awarded.

(f) Prior to any final award of bids for construction contracts the borrower shall submit for the Department's review and approval the final construction contracts with work specifications detailing any changes made since the Department's previous design approval.

1. The borrower shall provide a tabulation of bids received and name the party to be awarded the construction contract for the project. In the event contracts are not proposed to be awarded to the contractor submitting the lowest bid, the borrower shall provide adequate justification for said award.

2. The Department reserves the right to require the borrower to readvertise the bid specifications for the project if the certifications required in (f)3 below are deemed unsatisfactory by the Department.

3. The borrower shall certify to the Department the following:

- i. The borrower's compliance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., and the Local Public Contracts rules, N.J.A.C. 5:34;
- ii. That all contracts for the project will be awarded to the qualified, responsible and responsive bidder submitting the lowest acceptable bid; and
- iii. That the bid prices included in the bid specifications are reasonably balanced.

(g) The borrower shall forward copies of the executed construction contracts and subcontracts and associated documents to the Department within 10 days of their execution.

As amended, R.1983 d.534, effective November 21, 1983.

See: 15 N.J.R. 1307(a), 15 N.J.R. 1940(a).

(b)5, (f) and (g) added; under (d), "total cost" language added, "maximum specified in the loan award document" deleted; under (e), project "application" added.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"Eligible project costs" was formerly codified at N.J.A.C. 7:1A-2.14.

(a)1: eligible project costs broadened to include interconnections and resolution of contamination problems.

Deleted former (a)7 concerning organization and operating expenses; (a)8 made 7, "administration" and "construction" of project inserted.

(b)4: exception added.

(f)1: "tabulation of bids received" and award justification added. Emergency amendment, R.1988 d.479, effective September 19, 1988 (expires November 18, 1988).

See: 20 N.J.R. 2470(a).

Substituted "address" for "resolve".

Adopted concurrent proposal, R.1988 d.574, effective November 18, 1988.

See: 20 N.J.R. 2470(a), 20 N.J.R. 3129(a).

Provisions of emergency amendment R.1988 d.479 readopted without change.

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

Reference to public water systems added; reference to Local Public Contract rules added.

Administrative correction to (f)3i.

See: 24 N.J.R. 4368(a).

#### 7:1A-2.14 Unused loan funds

Funds saved from projects whose actual eligible implementation costs are less than the estimated eligible costs, shall be retained by the State and deposited in the applicable fund to be applied to new water supply rehabilitation, interconnection or contamination projects, as appropriate, pursuant to the act and this chapter.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"Unused loan funds" was formerly codified at N.J.A.C. 7:1A-2.15.

"interconnection or contamination projects, as appropriate," added. Emergency amendment, R.1988 d.479, effective September 19, 1988 (expires November 18, 1988).

See: 20 N.J.R. 2470(a).

Substituted "applicable fund" for "Water Supply Fund".

Adopted concurrent proposal, R.1988 d.574, effective November 18, 1988.

See: 20 N.J.R. 2470(a), 20 N.J.R. 3129(a).

Provisions of emergency amendment R.1988 d.479 readopted without change.

#### 7:1A-2.15 Recycling of funds

(a) Subject to Federal and/or State law, funds from repayment of loans issued under the authority of the Water Supply Bond Act of 1981 and this chapter shall be deposited in the Water Supply Fund created pursuant to the Water Supply Bond Act of 1981 and shall remain available for further disbursements as new loans to be awarded pursuant to this chapter.

(b) Funds from repayment of loans issued under the authority of acts other than the Water Supply Bond Act of 1981 or other bond acts shall be deposited in the Water Supply Replacement Trust Fund and shall remain available for further disbursement as new loans to be awarded pursuant to this chapter.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"Recycling of funds" was formerly codified at N.J.A.C. 7:1A-2.16.

(c) The Department and borrower may enter into an agreement to terminate the loan 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 loan, basis for settlement of loan termination costs, and the amount and date of payment of any sums due either party.

(d) Upon termination, the borrower shall refund or credit to the State of New Jersey that portion of loan funds paid to the borrower and allocable to the terminated project work, except such portion thereof as may be required to meet legal obligations incurred prior to the effective date of termination and as may be otherwise allowable. The borrower shall make no new commitments without Department approval.

1. The borrower shall reduce the amount of outstanding commitments insofar as possible and report to the Administrator the uncommitted balance of funds awarded under the loan. The Department shall make the final determination of the allowability of termination costs.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"Termination of loans" was formerly codified at N.J.A.C. 7:1A-2.33.

(b): N.J.A.C. reference changed.

#### 7:1A-2.33 Annulment of loan

(a) The Department may, in writing, annul the loan if it determines that:

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

(b) At least 10 days prior to the intended date of annulment, the Department shall give written notice to the borrower (certified mail, return receipt requested) of intent to annul the loan. The Department shall afford the borrower an opportunity for consultation prior to annulment of the loan. Upon annulment of the loan, the borrower shall return all loan funds previously paid to the borrower. The Department shall make no further payments to the borrower. In addition, the Department shall pursue such remedies as may be available under Federal, State and local law.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"Annulment of loan" was formerly codified at N.J.A.C. 7:1A-2.34.

#### 7:1A-2.34 Administrative hearings

(a) The Administrator shall make the initial decision regarding all disputes arising under a loan. The borrower shall be required to specify in writing and in detail the basis for its appeal. When a borrower so requests, the Administrator shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the borrower.

(b) A borrower may request a hearing within 15 days of a decision by the Administrator. The hearing request shall be addressed to: Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection and Energy, CN 402, Trenton, New Jersey 08625-0402. The request for a hearing shall specify in detail the basis for the appeal.

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

(d) If the borrower raises a substantial and meritorious issue and such efforts at settlement fail, the Department shall file the request for a hearing with the Office of Administrative Law. Such hearings—shall be granted and conducted in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. and any rules promulgated pursuant to those Acts.

As amended, R.1983 d.534, effective November 21, 1983.

See: 15 N.J.R. 1307(a), 15 N.J.R. 1940(a).

"in writing" requirement added to (b); new (c) added, old (c) made (d) and cross-reference to (b) inserted.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"Administrative hearings" was formerly codified at N.J.A.C. 7:1A-2.35.

(b): "basis for appeal" requirement added; requirement to hold a hearing based upon a request deleted.

(c): discretion to file a hearing request with OAL deleted.

(d): requirement to file a hearing request with OAL added.

Administrative change to (b).

See: 23 N.J.R. 3325(b).

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

Reference to Director of Division changed to Administrator.

### SUBCHAPTER 3. REHABILITATION

#### 7:1A-3.1 Eligibility and criteria

(a) Any local unit operating an antiquated, obsolete, damaged or inadequately operating water supply transmission facility in need of rehabilitation or repair is eligible for a loan in any application period where it satisfactorily completes the loan application process in a timely manner, meets the eligibility criteria set forth in this subchapter, receives the minimum priority score, and ranks high enough on the priority list to be funded. To receive a loan the project shall meet the following criteria to the satisfaction of the Department.

1. The minimum priority score set out in N.J.A.C. 7:1A-3.2 below.



2. The project shall be an independent and complete water supply rehabilitation project. An independent and complete project is one which by its implementation alone will render the specified portion(s) of the system adequate and efficient and will accomplish the purpose set forth in the application.

3. The project shall not be excessively expensive or cause unacceptably high environmental damage.

4. The project shall not conflict with any other State projects.

5. The application must be accompanied by adequate explanation of how the local unit plans to repay the loan and pay any other expenses necessary to fully complete and implement the project, the steps it has taken to implement this plan and the steps it plans to take before receiving the loan that will guarantee that at the time of the signing of the loan award document it will be irrevocably committed to repay the loan and pay any other expenses necessary to fully complete and implement the project. The local unit must comply with all standard loan provisions of the State of New Jersey.

6. The application documents shall clearly state and document how the loan will accomplish the goal set out in the application.

As amended, R.1983 d.534, effective November 21, 1983.

See: 15 N.J.R. 1307(a), 15 N.J.R. 1940(a).

(a): "application period" was "year".

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"Eligibility and criteria" was formerly codified at N.J.A.C. 7:1A-2.3.

(a)1: reference was N.J.A.C. 7:1A-2.12.

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

"Applicant" changed to "local unit".

### 7:1A-3.2 Priority determination

(a) Each project shall be assigned priority points in accordance with the provisions outlined in this section. A project shall be ranked by the number of priority points it receives.

1. A water supply system serving less than or equal to 10,000 residents shall be eligible for a loan if it receives at least eight priority points.

2. A water supply system serving between 10,001 and 50,000 residents shall be eligible for a loan if it receives at least twelve priority points.

3. A water supply system serving greater than 50,000 residents shall be eligible for a loan if it receives at least twenty priority points.

4. In the instance of systems with a large seasonal variation in the number of residents, the residential population figure utilized for the purpose of this section shall be the mean of the greater and twice the lower residential population as determined by data deemed acceptable to the Department for the most recent calendar year.

5. If in any application period there shall be less eligible projects than funds available for any of the three size categories, the eligible projects shall only be required to receive the minimum number of priority points set forth in (a)1 through 3 above and the remainder of the competitive priority ranking provisions of this section shall be waived.

(b) All applications must also meet the criteria set forth in N.J.A.C. 7:1A-3.1 to be eligible for a loan.

(c) Three separate priority lists shall be established in each application period according to the size of the water supply system as set forth in this section. Appropriations for each of the three separate priority lists shall be determined as a percentage of the total periodic appropriations by the Legislature to the Department for the purpose of implementing this chapter.

1. Thirty percent of the total Department appropriation for the purposes of implementing this regulation shall be appropriated for those eligible water supply systems that serve less than or equal to 10,000 residents.

2. Thirty percent of the total Department appropriation for the purposes of implementing this regulation shall be appropriated for those eligible water supply systems that serve between 10,001 through 50,000 residents; and

3. Forty percent of the total Department appropriation for the purposes of implementing this regulation shall be appropriated for those eligible water supply systems that serve greater than 50,000 residents.

(d) If in any application period there are an insufficient number of eligible projects on any of the three separate priority lists, the funds designated for said category shall be disbursed to eligible projects on the other priority lists in the same proportions as set forth in (c) above.

(e) A maximum loan amount for each project shall be set for each of the three categories of projects as follows:

1. A water supply system serving less than or equal to 10,000 residents may receive a loan of up to five hundred thousand dollars maximum;

2. A water supply system serving between 10,001 and 50,000 residents may receive a loan of up to one million dollars maximum;

3. A water supply system serving greater than 50,000 residents may receive a loan of up to three million dollars maximum;

4. Any loan funds appropriated for a project in excess of the actual costs spent for the completed project shall be returned to the Water Supply Fund created pursuant to the Act within 30 days of final inspection of the project by the Department.



(f) Priority points shall be given for the following factors and in the amount shown below:

1. A local unit shall receive priority points listed in priority categories set forth in (f)2, 3, 4, 5, 6 and 9 below only if the project scope includes the actual repair, rehabilitation, or correction of a problem item clearly related to said priority categories.

2. Priority points shall be awarded for the age of transmission lines and appurtenances including interconnections and surge tanks to be rehabilitated.

i. Two points shall be awarded for transmission lines and appurtenances constructed between the years 1976 through 1980;

ii. Four points shall be awarded for transmission lines and appurtenances constructed between the years 1961 through 1975;

iii. Eight points shall be awarded for transmission lines and appurtenances constructed between the years 1936 through 1960;

iv. Twelve points shall be awarded for transmission lines and appurtenances constructed between the years 1911 through 1935;

v. Sixteen points shall be awarded for transmission lines and appurtenances constructed in or before the year 1910.

3. The local unit shall be required to submit justification to the satisfaction of the Department before priority points are awarded under priority categories (f)4 and 5 below. The justification may consist of, but not be limited to, a technical analysis, a professional certification, unresolved Departmental administrative orders, unresolved Departmental directive letters, verifiable system failures and malfunctions, or other justifications as deemed acceptable by the Department.

4. Priority points shall be awarded, subject to (f)3 above, for the age of the pump station(s) to be rehabilitated.

i. Two points shall be awarded for each pump station constructed between the year 1970 through 1975;

ii. Four points shall be awarded for each pump station constructed between the year 1965 through 1969;

iii. Eight points shall be awarded for each pump station constructed between the year 1960 through 1964;

iv. Twelve points shall be awarded for each pump station constructed before the year 1960.

5. Priority points shall be awarded, subject to (f)3 above, for the age of storage tank(s) to be rehabilitated.

i. Two points shall be awarded for each storage tank constructed between the year 1970 through 1975;

ii. Four points shall be awarded for each storage tank constructed between the year 1965 through 1969;

iii. Eight points shall be awarded for each storage tank constructed between the year 1960 through 1964;

iv. Twelve points shall be awarded for each storage tank constructed before the year 1960.

6. In the instance where the project scope includes rehabilitation of different items, items of different ages, or both, the total points awarded under priority categories in (f)1, 2, 3, 4 and 5 above shall be the weighted average in accordance with the capital value associated with each item. Capital value is defined as the estimated installed cost of an existing item in its new state at the present time.

As an example see Table 1 below:

TABLE 1

Item	Age Subcategory	Points	New Cap. Cost Million (\$)	Fraction Total Cost	Points (weighted)
lines	1961-75	4	0.5	0.213	0.852
lines	1936-60	8	1.0	0.426	3.408
tank	1960-64	8	0.5	0.213	1.704
pump sta.	1965-69	4	0.1	0.043	0.172
pump sta.	1960-64	8	0.25	0.106	0.848
		total	2.35	1.001	Weighted Average 6.984

i. The points awarded above shall be rounded to the nearest whole number. In the example above, 7 priority points would be awarded.

7. Priority points shall be awarded for the percentage of the present daily demand of the local unit's water supply system that can be augmented from usable interconnections with other water systems. The present daily demand for the local unit's service area shall be calculated by totaling the daily water supply demand over a one year period ending in the month of the submission of the local unit's rehabilitation loan application and dividing this sum by 365.

i. One point shall be awarded for a system having usable interconnections that can augment between 71 through 80 percent of the present daily demand for the service area;

ii. Two points shall be awarded for a system having usable interconnections that can augment between 61 through 70 percent of the present daily demand for the service area;

iii. Three points shall be awarded for a system having usable interconnections that can augment between 41 through 60 percent of the present daily demand for the service area;

iv. Four points shall be awarded for a system having usable interconnections that can augment between 21 through 40 percent of the present daily demand for the service area;

v. Five points shall be awarded for a system having usable interconnections that can augment less than or equal to 20 percent of the present daily demand for the service area;

vi. Six points shall be awarded for a system having no usable interconnections with any other water supply system.

8. Priority points shall be awarded to systems serving a greater number of residents in proportion to net water usage. The net water usage shall be calculated by subtracting the unaccounted for water usage from the present daily demand, as calculated in (f)9 below. In the instance of systems with a large seasonal variation in the number of residents, the residential population figure shall be determined pursuant to this section.

- i. 70 gallons per capita per day or less: 12 points
- ii. 71-90 gallons per capita per day: 10 points
- iii. 91-100 gallons per capita per day: 8 points
- iv. 101-130 gallons per capita per day: 6 points
- v. 131-154 gallons per capita per day: 4 points
- vi. 155 or more gallons per capita per day: 2 points

9. Priority points shall be awarded for the leakage and other unaccountable water losses from the transmission system to be eliminated as part of the eligible project scope which shall be expressed as a percentage of the present daily demand, as calculated in (f)7 above.

i. Two points shall be awarded for the elimination of water losses of between 1 through 2 percent of the present daily demand included as part of the eligible project scope.

ii. Seven points shall be awarded for the elimination of water losses of between 3 through 5 percent of the present daily demand included as a part of the eligible project scope.

iii. Twelve points shall be awarded for the elimination of water losses of between 6 through 8 percent of the present daily demand included as a part of the eligible project scope.

iv. Fourteen points shall be awarded for the elimination of water losses of between 9 through 11 percent of the present daily demand included as a part of the eligible project scope.

v. Sixteen points shall be awarded for the elimination of water losses of between 12 through 15 percent of the present daily demand included as a part of the eligible project scope.

vi. Eighteen points shall be awarded for the elimination of water losses of between 16 through 20 percent of the present daily demand included as a part of the eligible project scope.

vii. Twenty points shall be awarded for the elimination of water losses of 21 percent or more of the present daily demand included as a part of the eligible project scope.

10. Priority points shall be awarded to each application for its cost effectiveness as compared to all the other applications within each of the population size categories specified in this section. The cost effectiveness of each project shall be expressed as gallons per day estimated to be saved per thousand dollars of estimated loan amount. Mean cost effectiveness for each population size category will be estimated by dividing total estimated water savings within the category by the corresponding total estimated loan amount. Priority points will then be awarded in accordance with the following:

- i. Cost Savings: Fifty percent or more above the mean: 30 points
- ii. Cost Savings: Thirty percent or more above the mean: 25 points
- iii. Cost Savings: Ten percent or more above the mean: 20 points
- iv. Cost Savings: Within ten percent of the mean: 15 points
- v. Cost Savings: Ten percent or more below the mean: 10 points
- vi. Cost Savings: Thirty percent or more below the mean: 5 points
- vii. Cost Savings: Fifty percent or more below the mean: 0 points
- viii. As an example see Table 2 below:

Applicant	Estimated Savings (gal/day)	Estimated (thousand \$) Loan Amount	Gal. saved/day/ \$1000 estimated loan amt.	Percentage of mean	Percentage Deviation from Mean	Points Awarded
A	20,000	1300	15.4	87.5	-12.5	10
B	30,000	1270	23.6	134	+34	25
C	50,000	2910	17.2	97.7	-2.3	10
D	42,000	1960	21.4	121.6	+21.6	20
E	15,500	1520	10.2	58	-42	5
	157,500 gal/day	\$8960				

Mean: 157,500/8,960 = 17.6 gal/day per \$1,000

(g) Total priority points shall be determined by totaling all the points awarded a local unit by (f) above.

(h) The Department shall establish and maintain a separate priority list for each application period for each of the size groups as set forth in this section in accordance with the number of priority points awarded each project pursuant to this section.

R.1982 d.281, effective August 16, 1982.

See: 14 N.J.R. 499(c), 14 N.J.R. 915(a).

As amended, R.1983 d.534, effective November 21, 1983.

See: 15 N.J.R. 1307(a), 15 N.J.R. 1940(a).

(a)-(e): 50,000 residents was 75,000. (a)5 added.

(c), (d), (h), (j), and (m): "application period" was "program year" or "year."

(c)2 and 3: "Thirty Percent" was forty and "Forty percent" was thirty.

(f)9i-vii: all percentages lowered.

(k): "Intent to Award" made "Notice of Intent to Award"; (k)2 added.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"Priority determination" was formerly codified at N.J.A.C. 7:1A-2.12. (i)-(m) of the original text is now found at N.J.A.C. 7:1A-2.11, "Notice of intent", as (a)-(e).

(b): reference was N.J.A.C. 7:1A-2.3.

(f)6: in second sentence, "existing item" was "item".

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

The age categories accompanying the priority point values for water supply rehabilitation loans have been updated by 10 years because 10 years have elapsed since the passage of the 1981 Bond Act and the original formulation of these categories.

## SUBCHAPTER 4. INTERCONNECTION

### 7:1A-4.1 Eligibility and criteria

(a) Any local unit whose system includes an antiquated, damaged, or inadequate water supply interconnection in need of rehabilitation, or repair or consolidation, or whose system lacks interconnections which qualify either as Class A or as Class B interconnections, as further defined in N.J.A.C. 7:1A-4.2, is eligible for a loan in any application period where it satisfactorily completes the loan application process in a timely manner, meets the eligibility criteria set forth in this subchapter, receives the minimum priority score, and ranks high enough on the priority list to be funded. A local unit may apply for interconnections with privately owned as well as publicly owned systems. To receive a loan the project shall meet the following criteria to the satisfaction of the Department:

1. Except for the Great Notch and New Brunswick—South River area interconnection projects the minimum priority score set out in N.J.A.C. 7:1A-4.2.

2. The project shall be an independent and complete water supply interconnection project. An independent and complete project is one which by its implementation alone will accomplish the purpose set forth in the application and raise at least one of the systems interconnected closer to the status of Class A or B interconnections.

3. The project shall have as its basic purpose the interconnection of water supply systems. It shall not be excessively expensive or cause unacceptable environmental damage.

4. The project shall not conflict with any other State projects.

5. The application shall be accompanied by adequate explanation of how the local unit plans to repay the loan and pay any other expenses necessary to fully complete and implement the project, the steps it has taken to implement this plan, and the steps it plans to take before receiving the loan that will guarantee that at the time of the signing of the loan award document it will be irrevocably committed to repay the loan and pay any other expenses necessary to fully complete and implement the project. The local unit shall comply with all standard loan provisions of the State of New Jersey.

6. The application documents shall clearly state and document how the loan will accomplish the goal set out in the application; and

7. No water supply interconnection project is eligible for a loan if construction on the project has commenced prior to filing of the loan application with the Department.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"Eligibility and criteria" was formerly codified at N.J.A.C. 7:1G-2.3.

(a): references were N.J.A.C. 7:1G-2.12.

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

"Applicant" changed to "local unit".

### 7:1A-4.2 Priority determination

(a) Each project shall be assigned priority points in accordance with the provisions outlined in this section. A project shall be ranked by the number of priority points it receives.

1. A water supply system serving 10,000 or fewer residents shall be eligible for a loan if it receives at least eight priority points.

2. A water supply system serving between 10,001 and 50,000 residents shall be eligible for a loan if it receives at least 12 priority points.

3. A water supply system serving more than 50,000 residents shall be eligible for a loan if it receives at least 20 points.

4. In the instance of systems with a large seasonal variation in the number of residents, the residential population figure utilized for the purpose of this section shall be the mean of the greater and twice the lower residential population as determined by data deemed acceptable to the Department for the most recent year.

5. If in any application period there shall be less eligible projects than funds available for any of the three size categories, the eligible projects shall only be required to receive the minimum number of priority points set forth in this subsection and the remainder of the competitive priority ranking provisions of this section shall be waived.

(b) All applications must meet the criteria set forth in N.J.A.C. 7:1A-4.1 to be eligible for a loan.

(c) Three separate priority lists shall be established in each application period according to the size of water supply systems as set forth in (a) above. Appropriations for each of the priority lists shall be determined as a percentage of the total periodic appropriations by the Legislature to the Department for the purpose of implementing this chapter. An interconnection project shall be placed into its appropriate category according to the residential population served by the local unit's water supply system.

1. Forty percent of the total Departmental appropriation for the purposes of implementing this regulation shall be appropriated for those eligible water supply systems that serve less than or equal to 10,000 residents;

2. Thirty percent of the total Department appropriation for the purposes of implementing this chapter shall be appropriated for those eligible water supply systems that serve between 10,001 through 50,000 residents; and

3. Thirty percent of the total Departmental appropriation for the purpose of implementing this chapter shall be appropriated for those eligible water supply systems that serve greater than 50,000 residents.

(d) If in any application period there are an insufficient number of eligible projects on any of the priority lists, the excess of funds designated for that category shall be disbursed to eligible projects on the other priority lists in the same proportions as set forth in (c) above.

(e) A maximum loan amount for each project shall be set for each of the three categories of projects as follows:

1. A water supply system serving 10,000 or fewer residents may receive a loan of up to \$300,000 maximum;

2. A water supply system serving between 10,001 and 50,000 residents may receive a loan of up to \$500,000 maximum;

3. A water supply system serving greater than 50,000 residents may receive a loan of up to \$800,000 maximum;

4. Any loan funds appropriated for a project in excess of the actual costs spent for the completed project shall be returned to the Water Supply Fund pursuant to the Act within 30 days of final inspection of the project by the Department.

(f) The specific goal of interconnections is to bring all purveyor systems as far as practicable into either Condition A or Condition B, as specified below.

1. In Condition A, a system shall have interconnection capacity from adjacent systems sufficient to maintain its water supply at a minimum of 75 percent of its average water supply demand while burdening no one adjacent system for more than 25 percent of its (the adjacent system's) average water supply demand.

2. In Condition B, when Condition A is impracticable to achieve, the system shall have sufficient interconnection capacity from adjacent systems to maintain its water supply at a minimum of 50 percent of its average water supply demand while burdening no one adjacent system for more than 35 percent of its (the adjacent system's) average water supply demand.

3. The average water supply demand for the local unit's and interconnected purveyors service areas shall be calculated by totaling the daily water supply demand over a one year period ending in the month of the submission of the local unit's interconnection loan application and dividing this sum by 365.

4. In instances where Condition A is impractical to achieve, the local unit shall provide justification to the satisfaction of the Department why Condition A cannot be achieved.

5. If an interconnection project results in a burden upon any adjacent supplying system in excess of 25 percent under Condition A or 35 percent under Condition B, said project shall not be eligible for an interconnection loan. An interconnection project that will increase the total interconnection capacity of a system significantly in excess of Condition A criteria shall not be fully eligible for interconnection loan funding. An interconnection project that will increase the total interconnection capacity of a system significantly in excess of Condition B criteria shall not be fully eligible for interconnection loan funding except when the project serves to decrease the reliance of the benefiting system on adjacent systems to significantly less than 35 percent.

(g) An interconnection shall be deemed to add to the water supply of either system when it is physically capable of providing an amount of additional flow under conditions of pressure and flow expected to prevail at such time, and when located where it may be distributed to points of use. An interconnection may be deemed to benefit both systems, if that will actually be the case under failure of either system.

(h) Priority points shall be governed by the following.

1. The percentage of the average water supply of a system which the interconnection can provide, up to the specific target level of 75 percent under Condition A and up to 50 percent under Condition B, computed for the two systems separately, will equal points allowed.

2. For each new interconnection or each existing interconnection not used or tested during the previous five years, which is proposed to be under the loan and which will have a capacity greater than one percent of the total average system demand, two points will be allowed.

3. Priority points shall be awarded in the amount of 10 priority points for any administrative order issued by the Department to the local unit requiring an interconnection, provided that the local unit's project scope provides for the implementation of the actions ordered by the Department in such relevant administrative order. Priority points shall also be awarded in the amount of five priority points for any directive or recommendation to provide and improve an interconnection provided that the local unit's project scope provides for the implementation of the actions directed by the Department in such relevant directive or recommendation letter.

i. No administrative order, directive or recommendation issued subsequent to September 20, 1982 may be counted towards the local unit's priority point total except for those orders issued in accordance with the procedures established by N.J.S.A. 58:1A-15e.

4. A ratio will be estimated of the maximum amount allowable for that residential size category of interconnection divided by the amount of the proposed loan.

5. A second ratio will be estimated of the residents served divided by 10,000 for small systems, 50,000 for intermediate systems, and 100,000 for the largest systems.

6. The product of these two ratios, times the sum of the points allowed under 1, 2 and 3 above, will equal the priority number allowed, for determination of priorities within each of the categories.

As amended, R.1984 d.232, effective June 18, 1984.

See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

"Priority determination" was formerly codified at N.J.A.C. 7:1G-2.12.

(c): in third sentence, category determination was by "size of the smaller of the systems interconnected".

(f)1 and 2: clarified language concerning adjacent systems and demand.

(g): in first sentence, "and when located" was "at points".

(h)2: added "or each existing interconnection", previous "five" years, and total "average" system demand.

(h)4: "residential size category" was "category".

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

The maximum loan amounts allowed for subcategory of interconnection loan projects have been increased; amended to clarify that the system capacities described in these sections are minimum criteria and the denominator in the priority point ranking system ratio has been decreased.

least three dwelling units is eligible for a Type A loan, provided it satisfactorily completes the loan application, meets the eligibility criteria set forth in this subchapter, receives the minimum priority score and ranks high enough on the priority list (as applicable) to be funded. The above requirements shall also apply to any municipality, municipally owned public water system or privately owned public water system seeking a Type B loan. To receive a Type A or Type B loan the project shall meet the following criteria to the satisfaction of the Department:

1. The minimum priority score set out in N.J.A.C. 7:1A-5.2 below.

2. The project shall be designed to relieve the impact caused by contaminated groundwater on existing publicly owned or individually owned residential water supplies.

3. For the purpose of determining a project area, the following criteria shall be considered by the Department:

i. Extent of pollution;

ii. Area of potential migration; and

iii. Aquifer vulnerability.

4. The maximum loan amount for any one project shall be \$3,000,000. In awarding a water supply loan, the Department may consider project expense and the degree of environmental impact which the project may have. Any applicant may be eligible to apply for one loan in any application period.

5. The project shall not be excessively expensive or cause unacceptably high environmental damage. The maximum loan amount for any one project shall be \$3,000,000.

6. The project shall not conflict with any other State project nor enforcement proceedings.

7. The application must be accompanied by adequate explanation of how the applicant plans to repay the loan and pay any other expenses necessary to fully complete and implement the project, the steps it has taken to implement this plan and the steps it plans to take before receiving the loan that will guarantee that at the time of the signing of the loan award document it will be irrevocably committed to repay the loan and pay any other expenses necessary to fully complete and implement the project. The applicant must comply with all standard loan provisions of the State of New Jersey.

8. The application documents shall clearly state and document how the loan will accomplish the goal set out in the application.

9. In cases where the project costs exceed the \$3,000,000 maximum loan amount the application must be accompanied by a detailed financial assessment indicating how the applicant will finance and repay the entire project costs.

## SUBCHAPTER 5. WATER SUPPLY REPLACEMENT PROJECTS (TYPE A LOANS AND TYPE B LOANS)

### 7:1A-5.1 Eligibility and criteria (Type A and B loans)

(a) Any local unit which has received notification from the Water Supply Element of the Department that groundwater supply contamination problems exist within its jurisdiction which adversely affect the potable water service of at



(b) A public meeting shall be held and pertinent project information disseminated to the public. The applicant shall be responsible for holding this meeting.

(c) The applicant shall be required to pass or to obtain from the local unit or municipality in which the applicant is located a mandatory connection ordinance prior to issuance of the loan award agreement by the Department. The applicant shall be required to pass or to obtain from the local unit or municipality in which the applicant is located a mandatory well sealing ordinance when in the judgment of the Department such well sealings are necessary to prevent additional migration of contaminants or the potential exists for additional contamination from wells which remain unused and not sealed.

(d) In the event a borrower has received approval for a grant, claim, payment, award or other loans from the State for the same project funded pursuant to this chapter, said payment shall be directly credited towards pre-payment of any outstanding principal and interest of the loan to the extent of payment received. As applicable, the outstanding principal and interest on the water supply loan shall be reduced to the amount received from the borrower and a revised repayment schedule shall be issued by the Department for the remaining maturity period of the loan.

(e) In the event a borrower receives a grant, claim, payment, award, loan or any form of payment from any government agency or receives payment for damages relating to the same project funded pursuant to this chapter, the borrower shall pre-pay, within 30 days of receipt of such grant, claim, award, loan, payment or damage payment, any outstanding principal and interest of the loan to the extent of payment received. As applicable, the outstanding principal and interest on the water supply loan shall be reduced to the amount received from the borrower and a revised payment schedule shall be issued by the Department for the remaining maturity period of the loan.

Adopted concurrent proposal, R.1988 d.574, effective November 18, 1988.

See: 20 N.J.R. 2470(a), 20 N.J.R. 3129(a).

Provisions of emergency amendment R.1988 d.479 readopted with \$3,000.00 changed to \$3,000,000 in 5.1.

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

Modified to require the applicant, and not the Department, to hold a public meeting on a water supply loan application.

#### 7:1A-5.2 Priority determination (Type A and B Loans)

(a) Each project shall be assigned priority points in accordance with the provisions outlined in this section. A project shall be ranked by the number of priority points it receives, with those projects scoring the higher points preferred for funding. No project shall be assigned priority points until the project area has been defined to the satisfaction of the Department; the most cost-effective water supply replacement project, project scope, and cost have been identified; and complete priority information has been submitted.

(b) In order to be considered for funding, a project must receive a minimum score of 100 priority points. Projects which receive a minimum score of 180 points will be considered "exigent" and will be processed for funding and the remainder of the competitive priority ranking provisions shall be waived except as noted in N.J.A.C. 7:1A-5.2(c). Upon determination that a project is exigent and sufficient funds are available, the Department shall notify the applicant of eligibility for project funding.

(c) In cases where a project classified "exigent" has been issued a notification of eligibility and processed for award but a notice of intent has not been issued and another project application is received and determined to have higher priority, and sufficient funds are not available to fund all priority ranked "exigent" projects, the project of higher exigency will commence processing for funding. In cases where a project attains "exigent" standing but sufficient loan funds are not available to cover the full requested project costs, the Department may by-pass the project to fund another "exigent" status project for which sufficient funds are available. Exigent projects for which sufficient funds are not available shall be withheld and immediately ranked and processed upon availability of funds.

(d) Projects which receive the minimum priority score but do not obtain "exigent" status will be held for the next competitive ranking determination. This determination will be made twice yearly, on January 2 and July 5, respectively, or the first working day thereafter unless extended as provided by N.J.A.C. 7:1A-2.4. Upon completion of the above semi-annual ranking and upon a determination that sufficient funds are available for a non-exigent project, the Department shall notify the applicant of eligibility of the project for funding. In such cases, if a Notice of Intent to Award has not been issued and a project determined to be of higher priority is received and sufficient loan funds are not available to cover all requested project costs, the Department may by-pass the project to fund another non-exigent project for which sufficient funds are available. In such cases where sufficient funds are not available to fund a non-exigent project either upon completion of the semi-annual priority ranking or upon withholding of the project due to receipt of an exigent project, the non-exigent project shall be withheld until the next semi-annual priority ranking.

(e) Any appropriation not committed by a notice of intent to award, or released by a recalled Notice of Intent to Award, or by failure of applicant to execute loan documents within the prescribed period, or through termination of the project shall be carried over and added to the next application period.

(f) Priority points for water supply replacement projects to address nonpublic wells with contamination problems shall be awarded based on the three factors of severity, public hardship, and population served, as indicated below:



1. The total number of dwelling units that will be serviced with potable water by the project will be calculated. The percentage of these dwelling units tested as part of a sampling program approved by the Department that have confirmed levels of contaminants at or in excess of the maximum contaminant level (M.C.L.) will be calculated. The percentage of all dwelling units tested as a part of a sampling program approved by the Department that have confirmed levels of contaminants at or above twice the M.C.L. value will also be calculated.

i. The percentage of all dwelling units to be serviced that at present are not above M.C.L. standards but can reasonably be expected to exceed that standard through continued contaminant movement, will be calculated. These three calculated percentages will be summed and the numerical value of the total will be equal to the points awarded for severity.

ii. The Federal or State standard for contaminants, whichever is lower, shall apply.

iii. For contaminants not included in the primary drinking water regulations or in (f)1.ii above, the Department may, at its discretion, set a standard for the purposes of this chapter based upon a finding that said standard is necessary for the protection of the public health. That standard shall be incorporated into applicable Departmental rules pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., as soon as practicable.

2. In considering financial hardship, project costs and the relative income levels of those affected will be considered.

i. The total construction cost of the project shall be estimated as near as practicable. A full project cost shall be calculated as 120% of this estimate. This full project cost will be assumed to be financed over a nineteen year period at an interest rate to be determined by the Department. A yearly operation and maintenance (O & M) cost will be estimated. A yearly cost per service will be calculated based upon the sum of O & M and amortization of full project costs.

ii. The State Median Family Income Level and Median Family Income Level as reported in the latest census for the applicant shall be determined.

iii. A point system reflecting the degree of hardship will be used according to the following schedule:

Project Costs:	0-\$200/yr/service:	0 pts.
	\$201-\$300/yr/service:	15 pts.
	\$301-\$400/yr/service:	30 pts.
	\$401-\$500/yr/service:	45 pts.
	over-\$501/yr/service:	60 pts.

Median Family Income Level (M.F.I.L.)  
For a municipal M.F.I.L. at or greater than the  
State M.F.I.L.

0 pts.

For a municipal M.F.I.L. between the State M.F.I.L. and 20 percent below the State M.F.I.L.	20 pts.
For a municipal M.F.I.L. at or greater than 20 percent below the State M.F.I.L.	40 pts.

iv. The total priority points awarded for the financial burden will be the sum of points awarded for project costs plus those awarded for the Median Family Income Levels.

3. Points will be awarded for population served based upon the following schedule:

For a project serving less than 50 people: 0 pts.

For a project serving less than 100 people but more than 49 people: 10 pts.

For a project serving 100 or more people: 20 pts.

(g) Priority points to address contamination problems related to publicly owned wells shall be awarded based on the three factors of severity, public hardship and population served, as indicated below:

1. Subject to a wellfield sampling program approved by the Department, the following shall address severity:

i. The rated well pump capacity tested and found to be greater than the maximum contaminant level divided by the total rated system capacity (including wells, surface water, and bulk purchase interconnections) multiplied by 100.

ii. The rated well pump capacity tested and found to be greater than two times the maximum contaminant level divided by the total rated system capacity (including wells, surface water, and bulk purchase interconnections) multiplied by 100.

iii. The rated well pump capacity that may be affected in the future divided by the total rated system capacity (including wells, surface water, and bulk purchase interconnections) multiplied by 100.

iv. The above three calculated percentages will be summed and the numerical value of the total will be equal to points awarded for severity.

v. The Federal or State standard for contaminants, whichever is lower, shall apply.

vi. For contaminants not included in the primary drinking water rules, the Department may, at its discretion, set a standard for the purposes of these rules based upon a finding that said standard is necessary for the protection of the public health. That standard shall be incorporated into applicable Departmental rules pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., as soon as practicable.

2. In considering financial hardship, project costs and the relative income levels of those affected will be considered.

i. The total construction cost of the project shall be estimated as near as practicable. A full project cost shall be calculated as 120 percent of this estimate. This full project cost will be assumed to be financed over a 19 year period at an interest rate to be determined by the Department. A yearly operation and maintenance (O & M) cost for the project will be estimated. An annual incremental cost per affected service will be calculated based upon the sum of O & M and amortization of full project costs.

ii. The State Median Family Income Level and Median Family Income Level as reported in the latest census for the applicant shall be determined.

iii. A point system reflecting the degree of hardship will be used according to the following schedule:

Incremental annual project cost per affected service:

0-\$25/yr:	0 pts.
\$26-\$75/yr:	15 pts.
\$76-\$125/yr:	30 pts.
\$126-\$175/yr:	45 pts.
over \$175/yr:	60 pts.

Affected services = Total Services x (present rated well pump capacity of wells presently contaminated plus wells anticipated to be contaminated, as estimated by the Department) divided by present rated system capacity (including wells, surface water, and bulk purchase interconnection).

Median Family Income Levels (M.F.I.L.)

For a municipal M.F.I.L. at or greater than the State M.F.I.L.	0 pts.
For a municipal M.F.I.L. between the State M.F.I.L. and 20 percent below the State M.F.I.L.	20 pts.
For a municipal M.F.I.L. at or greater than 20 percent below the State M.F.I.L.	40 pts.

iv. The total priority points awarded for the financial burden will be the sum of points awarded for project costs plus those awarded for Median Family Income Levels.

3. Points will be awarded for population served based upon the following schedule:

For a project serving less than 50 people	0 pts.
For a project serving less than 100 people but more than 49 people	10 pts.
For a project serving 100 or more people	20 pts.

(h) For ranking purposes the total priority score shall be the sum of points awarded for each of the three categories at N.J.A.C. 7:1A-5.2(f) or (g) as applicable.

Amended by R.1992 d.252, effective June 15, 1992.  
See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

The denomination in the priority point ranking system ratios for severity and affected services have been altered to account for additional sources of water supply, that is, wells, surface water, and bulk purchase interconnections, that may be components of an applicant's water supply system.

Administrative correction to (g)2iii.  
See: 24 N.J.R. 4368(a).

## SUBCHAPTER 6. EMERGENCY INTERIM REHABILITATION LOAN PROCEDURES

### 7:1A-6.1 Scope and construction rules

(a) The following shall constitute the rules governing the issuance by the Department of Emergency Interim Rehabilitation Loans to publicly owned water supply facilities for the purpose of interim rehabilitation and repair of critical water supply service disruptions pursuant to the Water Supply Bond Act of 1981, P.L. 1981, c.261, Section 5. The following provisions of N.J.A.C. 7:1A-1 and 2 shall also apply to the emergency interim rehabilitation loan procedures set forth in this subchapter: N.J.A.C. 7:1A-1.3, 1.4, 1.5, 1.7, 2.2, 2.6, 2.10, 2.11, and 2.14 through 2.35 inclusive. The emergency loan applicant shall be exempt from all provisions of N.J.A.C. 7:1A-1 and 2 unless specifically set forth above.

(b) These rules shall be strictly construed to permit the Department to effectuate the purpose of the rehabilitation loan program set forth in N.J.A.C. 7:1A-1 and 2.

### 7:1A-6.2 Definition

For the purpose of this subchapter, the following definitions, in addition to those found in N.J.A.C. 7:1A-2.2, are applicable.

"Critical water supply service disruption" means the total loss of the public potable water supply served by the emergency loan applicant to at least 25,000 residents or 50 percent of the residents within the emergency loan applicant's service area which lasts for at least a 24 hour period.

"Emergency interim rehabilitation loan" means a loan issued pursuant to N.J.A.C. 7:1A-3.

"Emergency loan applicant" means any political subdivision of the State or agency thereof that applies for an emergency interim rehabilitation loan pursuant to N.J.A.C. 7:1A-3.

### 7:1A-6.3 Application procedures

(a) To apply for an emergency interim rehabilitation loan, an emergency loan applicant shall comply with all the pertinent requirements of this section. The application shall be submitted to the Department on forms provided for that purpose.

2. The loan maturity period for all Type B and C Loans issued from the Water Supply Replacement Trust Fund shall be for a period of not more than 20 years from the date disbursement of loan funds to the borrower begins. Principal and accrued interest may be prepaid by the borrower prior to the end of the loan maturity period without penalty.

3. Unless otherwise specified by the Department of the Treasury, the amortization date for all Type B and C Loans issued from the Water Supply Replacement Trust Fund shall be 90 days after the final disbursement of loan funds to the borrower. Accrued interest on all disbursements made prior to the amortization date may be capitalized as part of the principal amount of the loan. The borrower shall make equal semi-annual debt service payments to the State commencing six months after the amortization date. Debt service schedules providing for pre-payment of accrued interest and/or declining debt service payments may be approved at the discretion of the Department. However, subject to approval by the Department of the Treasury, annual or semi-annual debt service payments by any utility authority, as borrower, shall become due as specified in the Loan Repayment Schedule and any amendments thereto.

4. For all borrowers, sufficient funds shall be deposited in a specific fund for the purpose of assuring timely repayment of the loan by the borrower.

Amended by R.1992 d.252, effective June 15, 1992.  
See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).  
Stylistic changes only.

#### 7:1A-7.3 Eligibility and criteria (Type B Loans)

For Type B Funding, any municipality, municipally owned public water system or privately owned public water system, including subdivisions or agencies thereof, may be eligible to apply for one loan in any application period. The maximum loan amount awarded to any municipality, municipally owned public water system or privately owned public water system under any application for Type B Funding shall be \$3,000,000. Eligibility and criteria for Type B Funding shall be as set forth at N.J.A.C. 7:1A-5.1(a) through (e).

Amended by R.1992 d.252, effective June 15, 1992.  
See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).  
Added reference to privately owned public water system.

#### 7:1A-7.4 Priority determination (Type B and C Loans)

(a) Priority ranking for Type B Loans shall be as set forth at N.J.A.C. 7:1A-5.2(a) through (h).

(b) For Type C Funding, a municipality having residences with contaminated wells as defined in this chapter may make application for and receive one award for a maximum of \$8,000,000 subject to meeting the following criteria to the satisfaction of the Department.

1. The municipality shall have received notification from the Water Supply Element of the Department that

groundwater contamination problems exist within its jurisdiction which adversely affect the potable water service.

2. The project shall be designed to relieve the impact caused by contaminated groundwater on existing individually owned residential water supplies. For the purpose of determining a project area, the following criteria shall be considered by the Department:

- i. Extent of pollution;
- ii. Area of potential migration; and
- iii. Aquifer vulnerability.

3. In awarding a water supply loan, the Department may consider project expense and the degree of environmental impact which the project may have.

4. The project shall not conflict with any other State project nor enforcement proceedings.

5. The application shall be accompanied by adequate explanation of how the municipality plans to repay the loan and pay any other expenses necessary to fully complete and implement the project, the steps it has taken to implement this plan and the steps it plans to take before receiving the loan that will guarantee that at the time of the signing of the loan award document it will be irrevocably committed to repay the loan and pay any other expenses necessary to fully complete and implement the project. The municipality must comply with all standard loan provisions of the State of New Jersey.

6. The application shall be completed to the satisfaction of the Department and shall state and document how the loan will accomplish the goal set out in the application.

7. The municipality shall have a contiguous residential area containing more than 1,500 residential units that has been found by the local department of health, or board of health, and the county board of health, or department of health, to have at least 25 percent of the wells supplying potable water to the area with contaminants in excess of the maximum contaminant levels to be adopted by the Department pursuant to the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., as applicable.

8. The potable water supply for the residential area shall have been deemed by the county board of health or department of health to be unfit for human consumption, and the governing body of the municipality shall have adopted a resolution banning new construction in the area pending connection of the area to a public water supply system; or the Department shall have determined that all or a portion of the ground water serving the residential area to be a well-restriction area.

9. The municipality shall certify to the Department the estimated costs for extending a public water supply system to an eligible residential area that satisfies the criteria of this section.

10. In cases where the project costs exceed the \$8,000,000 maximum loan amount, the application shall be accompanied by a detailed financial assessment indicating how the applicant will finance and repay the entire project costs.

11. Compliance with other criteria as set forth at N.J.A.C. 7:1A-5.1(c) through (e).

12. Monies from a Type C loan made hereunder are to be expended solely for the purpose of expanding the public water supply system to residences with contaminated wells as defined in this chapter.

Amended by R.1992 d.252, effective June 15, 1992.

See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a).

"Applicant" changed to "municipality".