

**CHAPTER 22**

**FINANCIAL ASSISTANCE PROGRAMS FOR ENVIRONMENTAL INFRASTRUCTURE FACILITIES**

**Authority**

Water Conservation Bond Act of 1969 (P.L. 1969, c.127); the Clean Waters Bond Act of 1976 (P.L. 1976, c.92); the Natural Resources Bond Act of 1980 (P.L. 1980, c.70); the Wastewater Treatment Bond Act of 1985 (P.L. 1985, c.329); the Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989 (P.L. 1989, c.181); the Pinelands Infrastructure Trust Bond Act of 1985 (P.L. 1985, c.306); the Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992 (P.L. 1992, c.88); the Water Supply Bond Act of 1981 (P.L. 1981, c.261); N.J.S.A. 13:1D-1 et seq.; N.J.S.A. 58:1A-1 et seq.; N.J.S.A. 58:10A-1 et seq.; N.J.S.A. 58:11A-1 et seq.; N.J.S.A. 58:12A-1 et seq.; Executive Order No. 215(1989) and future laws authorizing the Department of Environmental Protection to provide assistance for construction of environmental infrastructure projects, as to N.J.A.C. 7:22-2, 3, 5, 6, 7, 8, 9 and 10, and the New Jersey Environmental Infrastructure Trust Act (N.J.S.A. 58:11B-1 et seq.); the Stormwater Management and Combined Sewer Overflow Abatement Bond Act Amendments (P.L. 1997, c.225); the Water Supply Bond Act Amendments (P.L. 1997, c.223); and the Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992 (P.L. 1992, c.88) and future laws authorizing the New Jersey Environmental Infrastructure Trust to provide assistance for construction of environmental infrastructure projects as to N.J.A.C. 7:22-4, 5 and 9.

**Source and Effective Date**

R.2000 d.284, effective June 12, 2000.  
See: 32 N.J.R. 363(a), 32 N.J.R. 2426(b).

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

Chapter 22, Financial Assistance Programs for Environmental Infrastructure Facilities, expires on June 12, 2005.

**Chapter Historical Note**

Chapter 22, Construction Grants for Wastewater Treatment Facilities, was adopted as R.1977 d.356, effective September 21, 1977. See: 9 N.J.R. 262(a), 9 N.J.R. 465(b).

Subchapters 1 and 2 were repealed and Subchapter 2, Matching Grant Procedures and Requirements, and Subchapter 8, Minimum Standards of Conduct for Officers, Employees, Agents and Members of Wastewater Utilities, were adopted as new rules by R.1987 d.38, effective January 5, 1987. See: 18 N.J.R. 1869(a), 19 N.J.R. 77(a).

Subchapter 3, Fund Procedures and Requirements, was adopted as R.1987 d.37, effective January 5, 1987. See: 18 N.J.R. 1875(a), 19 N.J.R. 84(a).

Subchapter 4 was repealed and Subchapter 4, Wastewater Treatment Trust Procedures and Requirements, was adopted as new rules by R.1987 d.40, effective January 5, 1987. See: 18 N.J.R. 1883(a), 19 N.J.R. 95(a).

Subchapter 5, Determination of Allowable Costs: Fund and Trust, was adopted as R.1987 d.39, effective January 5, 1987. See: 18 N.J.R. 1891(a), 19 N.J.R. 105(a).

Subchapter 6, Pinelands Procedures and Requirements, was adopted as R.1987 d.41, effective January 5, 1987. See: 18 N.J.R. 1644(a), 19 N.J.R. 110(a).

Subchapter 7, Determination of Allowable Costs: Pinelands, was adopted as R.1987 d.208, effective May 4, 1987. See: 18 N.J.R. 1904(a), 19 N.J.R. 766(a).

Subchapter 9, Awarding Contracts for State Assisted Projects to Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals, was adopted as R.1988 d.263, effective June 6, 1988. See: 19 N.J.R. 1604(a), 20 N.J.R. 1287(a).

Subchapter 10, Environmental Assessment Requirements for State Assisted Wastewater Treatment Facilities, was adopted as R.1989 d.53, effective January 17, 1989. See: 20 N.J.R. 1983(a), 21 N.J.R. 179(a).

Pursuant to Executive Order No. 66(1978), Chapter 22, Construction Grants for Wastewater Treatment Facilities, was readopted as R.1992 d.42, effective December 27, 1991. See: 23 N.J.R. 3282(a), 24 N.J.R. 246(a).

Pursuant to Executive Order No. 66(1978), Chapter 22, Financial Assistance Programs for Wastewater Treatment Facilities, was readopted as R.1995 d.494, effective August 11, 1995. See: 27 N.J.R. 1536(a), 27 N.J.R. 3403(a).

Pursuant to Executive Order No. 66(1978), Chapter 22, Financial Assistance Programs for Environmental Infrastructure Facilities, was readopted as R.2000 d.284, effective June 12, 2000. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. (RESERVED)**

**SUBCHAPTER 2. MATCHING GRANT PROCEDURES AND REQUIREMENTS**

**7:22-2.1 Scope and construction**

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

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

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

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

matching share to projects funded under the Federal Clean Water Act and its subsequent amendments;

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

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

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

5. To establish accounting procedures for the administration of grants; and

6. To establish standards for the construction of wastewater treatment facilities.

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

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

Updated Department title.

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

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

#### Case Notes

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

#### 7:22-2.2 Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**7:22-2.3 State matching grants**

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

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