

**CHAPTER 9**

**WATER POLLUTION CONTROL**

**Authority**

N.J.S.A. 13:1B-3, 13:1D-9, 58:4A-4.1 et seq., 58:10A-1 et seq. and 58:11A-1 et seq.

**Source and Effective Date**

R.1996 d.86, effective January 18, 1996.  
See: 27 N.J.R. 3519(a), 28 N.J.R. 1201(c).

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

The expiration date for Chapter 9, Water Pollution Control, was extended by gubernatorial directive from August 18, 2002 to February 5, 2004. See: 34 N.J.R. 3079(a).

**Chapter Historical Note**

Chapter 9, Water Pollution Control Rules, was adopted and became effective prior to September 1, 1969.

Subchapter 10, Installation of Sewerage Facilities in Critical Areas, was adopted as new rules by R.1971 d.208, effective January 15, 1972. See: 3 N.J.R. 78(a), 3 N.J.R. 255(b).

Subchapter 9, Sealing of Abandoned Wells, was adopted as new rules by R.1973 d.299, effective October 23, 1973. See: 5 N.J.R. 185(b), 5 N.J.R. 370(b).

Subchapter 11, Allocation of Waste Lands or Point-Source Dischargers, was adopted as new rules by R.1974 d.151, effective June 18, 1974. See: 6 N.J.R. 132(c), 6 N.J.R. 263(b).

Subchapter 4, Surface Water Quality Standards, was adopted as new rules by R.1974 d.310, effective December 2, 1974. See: 6 N.J.R. 302(d), 6 N.J.R. 470(c).

Subchapter 13, Sewer Extension Ban, was adopted as new rules by R.1975 d.302, effective October 16, 1975. See: 7 N.J.R. 147(a), 7 N.J.R. 499(e).

Subchapter 14, Ground Water Quality Standards, was originally adopted by R.1978 d.20, effective January 23, 1978. See: 9 N.J.R. 68(b), 10 N.J.R. 61(a).

Subchapter 15, Grants for Restoring Publicly Owned Freshwater Lakes, was adopted as new rules by R.1980 d.374, effective August 22, 1980. See: 12 N.J.R. 310(a), 12 N.J.R. 575(c).

Subchapter 3, Location of Factory within Watershed, was repealed by R.1980 d.433, effective October 7, 1980. See: 12 N.J.R. 454(b), 12 N.J.R. 643(a).

Subchapter 4, Surface Water Quality Standards, Subchapter 5, Subchapter 8, Treatment of Wastewaters Discharged into Waters of the State, Subchapter 11, Allocation of Waste Loads or Point-Source Dischargers, and Subchapter 14, Ground Water Quality Standards, were repealed by R.1981 d.80, effective March 4, 1981. See: 12 N.J.R. 108(c), 13 N.J.R. 194(b).

Pursuant to Executive Order No. 66(1978), Subchapter 2, Standards for Construction of Individual Subsurface Sewage Disposal Systems, was readopted as R.1983 d.243, effective June 3, 1983. See: 15 N.J.R. 591(a), 15 N.J.R. 1042(a).

Subchapter 10, Installation of Sewerage Facilities in Critical Areas, was repealed by R.1983 d.423, effective October 3, 1983. See: 15 N.J.R. 1155(a), 15 N.J.R. 1654(b).

Pursuant to Executive Order No. 66(1978), Subchapter 13, Sewer Extension Ban, was readopted as R.1984 d.336, effective July 23, 1984. See: 16 N.J.R. 660(a), 16 N.J.R. 2096(a).

Pursuant to Executive Order No. 66(1978), Subchapter 15, Grants for Restoring Publicly Owned Freshwater Lakes, expired on August 22, 1985

Subchapter 15, Grants Restoring Publicly Owned Freshwater Lakes, was adopted as new rules by R.1985 d.717, effective January 21, 1986. See: 17 N.J.R. 2182(a), 18 N.J.R. 163(b).

Subchapter 13, Sewer Extension Ban, was repealed by R.1987 d.445, effective November 2, 1987. See: 18 N.J.R. 2163(a), 19 N.J.R. 2000(b).

Pursuant to Executive Order No. 66(1978), Subchapter 1, Sewer Systems and Wastewater Treatment Plants, expired on April 25, 1985.

Subchapter 1, Sewer Systems and Wastewater Treatment Plants, was adopted as new rules by R.1988 d.205, effective May 2, 1988 as R.1988 d.205. See: 19 N.J.R. 2227(b), 20 N.J.R. 980(a).

Subchapter 2, Standards for Construction of Individual Subsurface Sewage Disposal Systems, was repealed by R.1989 d.450 and recodified to N.J.A.C. 7:9A, effective August 21, 1989, (operative January 1, 1990). See: 20 N.J.R. 1790(a), 21 N.J.R. 2534(a).

Pursuant to Executive Order No. 66(1978), Chapter 9, Water Pollution Control, was readopted as R.1991 d.68, effective January 18, 1991. See: 22 N.J.R. 3297(a), 23 N.J.R. 406(c).

Notice of petition to amend New Jersey Pollution Discharge Elimination System permits. See: 23 N.J.R. 236(a), 23 N.J.R. 622(b).

Subchapter 6, Ground Water Quality Standards, was repealed and new rules were adopted by R.1993 d.73, effective February 1, 1993. See: 24 N.J.R. 181(a), 25 N.J.R. 464(a).

Subchapter 4 was recodified to N.J.A.C. 7:9B-1 by R.1993 d.610, effective December 6, 1993. See: 24 N.J.R. 3983(a), 24 N.J.R. 4471(a), 25 N.J.R. 404(a), 25 N.J.R. 5569(a).

Public Notice: Opportunity for interested party review for rule amendment. See: 25 N.J.R. 411(a).

Subchapter 1, Sewer Systems and Wastewater Treatment Plants, was repealed by R.1994 d.278, effective June 6, 1994. See: 25 N.J.R. 3282(a), 26 N.J.R. 2413(b). See, now, N.J.A.C. 7:14A-22 and 23.

Pursuant to Executive Order No. 66(1978), Chapter 9 was readopted as R.1996 d.86, effective January 18, 1996. See: Source and effective date.

The expiration date for Chapter 9, Water Pollution Control, was extended by gubernatorial directive from January 18, 2001 to January 1, 2002. See: 33 N.J.R. 553(b).

The expiration date for Chapter 9, Water Pollution Control, was extended by gubernatorial directive from January 18, 2002 to August 18, 2002. See: 34 N.J.R. 920(a).

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**SUBCHAPTER 1. (RESERVED)**

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**SUBCHAPTER 2. LAKE RESTORATION FUNDS**

**Authority**  
P.L. 1996, c.70, Section 2.

**Source and Effective Date**

R.1998 d.39, effective January 5, 1998.  
See: 29 N.J.R. 2746(a), 30 N.J.R. 217(b).

**7:9-2.1 Scope and construction**

This subchapter sets forth the rules governing grants and loans to assist local governmental units and private lake associations or owners of private lakes or similar organizations for lake restoration projects pursuant to the Port of New Jersey revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bond Act of 1996, P.L. 1996, c.70, Section 2.

**7:9-2.2 Purpose**

(a) The purposes of this subchapter are as follows:

1. To set forth the criteria for grant and loan eligibility; and
2. To establish policies and procedures for distribution of funds to State agencies, local governments or similar organizations, or private lake associations or similar organizations for Phase I Diagnostic-Feasibility Studies and for Phase II Implementation Activities, as described in P.L. 1996, c.70, Section 2.

**7:9-2.3 Definitions**

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

“Applicant” means the governmental agency which has jurisdiction over or controls access to the freshwater lake, or the governmental agency which is representing the private owner with this jurisdiction or control.

“Center” means a compact form of development with a core, as defined in the “State Development and Redevelopment Plan.” Centers can range in scale from Urban Center, Regional Center, Town, Village, or Hamlet.

“Commissioner” means the Commissioner of the New Jersey Department of Environmental Protection.

“Department” means the Department of Environmental Protection.

“Freshwater lake” means any inland pond, reservoir, impoundment, or other similar body of water that has recreational value, that exhibits no oceanic and tidal influences, and that has a total dissolved solids concentration of less than one percent.

“Phase I Diagnostic-Feasibility Study” means a two part study to determine a lake’s current condition and to develop possible methods for lake restoration and protection. The two parts of this study are the diagnosis of water quality conditions, to include determination of pollutant loading sources, and the development of a feasible management/restoration plan which would address water quality conditions at the lake.

“Phase II Implementation Project” means the implementation of any water quality improvement process(es) which have been recommended by a Phase I Diagnostic-Feasibility Study.

“Public lake” means a lake owned, leased, or managed by a local government unit.

“Private lake” means lakes owned by private lake associations or similar organizations, or lakes which do not provide access to the general public.

“State-owned lakes” means lakes owned, leased, or managed by the State.

“State Development and Redevelopment Plan” means the Plan adopted pursuant the State Planning Act, N.J.S.A. 52:18A-196, et seq. The plan in effect as of January 5, 1998 was adopted on June 12, 1992.

**7:9-2.4 Types of grant/loan assistance**

(a) The Department shall administer the following types of grants or loans pursuant to this subchapter for public lakes:

1. For Phase I Diagnostic-Feasibility Studies, a maximum 50 percent of allowable costs, as grants, shall be funded by the Department and the remainder of the costs shall be funded by the applicant.
2. For Phase II Implementation Projects, a maximum 75 percent of allowable costs, as grants, shall be funded by the Department and the remainder of the costs shall be funded by the applicant.

(b) The Department shall administer the following types of grants or loans pursuant to this subchapter for State-owned lakes:

1. For Phase I Diagnostic-Feasibility Studies or Phase II Implementation Projects, up to 100 percent of allowable costs shall be funded by the Department.

(c) The Department shall administer the following types of grants or loans pursuant to this subchapter for private lakes:

1. For Phase I Diagnostic-Feasibility Studies, a maximum 50 percent of allowable costs, as loans, shall be funded by the Department and the remainder of the costs shall be funded by the applicant.
2. For Phase II Implementation Projects, a maximum 75 percent of allowable costs, as loans, shall be funded by the Department and the remainder shall be funded by the applicant.

(d) Loans to private lake associations or similar organizations or owners of private lakes as co-applicants with local government units shall bear interest of not more than two percent per year, and shall be for a term of not more than 20 years.

(e) The local government unit that is a co-applicant for a loan made to a private lake association or similar organization or owner of a private lake shall assess the cost of payment of principal and interest for any loan made pursuant to this subchapter upon the real estate benefited thereby in proportion to and not in excess of the benefits conferred. Upon failure to pay an assessment imposed pursuant to this subchapter, the property owner shall pay interest and penalties from the same time and at the same rate as for failure to pay assessments for local improvements in the municipality where imposed, and from the date of confirmation the unpaid assessment shall be a first and paramount lien upon the real estate assessed to the same extent, and to be enforced and collected in the same manner, as assessments for local improvements.

(f) All monies returned to the fund in the form of repayment of principal or payment of interest on loans for private lake restoration shall be made available to additional private lake owners.

**7:9-2.5 Application ranking/evaluation criteria**

(a) The categories used to rank lake restoration applications are as follows. Those lakes with the highest point totals shall receive priority for funding.

1. Lake use and recreational potential: Four major uses including boating, fishing, swimming and aesthetics are utilized in evaluating lake use and recreational potential. Up to three points each are awarded if the potential use includes boating, fishing or aesthetics. The following tables show points awarded for each recreational use:

Boating	
Criteria for Ranking Public, State-owned and Private Lakes	
<u>Category</u>	<u>Points</u>
Access/use for sailboats/powerboats (Drive-up boat ramp)	3 points
Limited access for boats (Open shoreline available from which to launch a car-top type boat)	1 point
Fishing	

Criteria for Ranking Public and State-owned Lakes

<u>Category</u>	<u>Points</u>
High quality fishery (Lake exhibits potential as a high quality, recreational facility)	3 points
Other fishery	1 point

Aesthetics

Criteria for Ranking Public, State-owned and Private Lakes

<u>Category</u>	<u>Points</u>
Significant contact use Park has restroom facilities, visitor/ environmental center, and/or athletic/recreational facilities)	3 points
User facilities development (Open space adjacent to the lake)	1 point

Swimming

Criteria for Ranking Public, State-owned and Private Lakes

Up to six points shall be awarded for swimming potential. This number is higher than for other uses because swimming requires consistently higher quality water than the other recreational uses.

<u>Category</u>	<u>Points</u>
Use available but threatened	6 points
Use impaired	3 points
No designated swimming	0 points

2. Population served by the lake: Local and county populations are both considered in determining potential user populations. The following criteria shall be used for ranking public and State-owned lakes only:

<u>Local population</u>	<u>Points</u>
<1,000	0 points
1,000-5,000	2 points
5,000-15,000	4 points
15,000-30,000	6 points
30,000-50,000	8 points
>50,000	10 points
<u>County population</u>	<u>Points</u>
<100,000	1 point
100,000-200,000	2 points
200,000-400,000	3 points
400,000-600,000	4 points
>600,000	5 points

3. Local interest/involvement: Local interest and involvement is considered to be the critical element in a successful lake restoration project. As such, this category shall receive the highest maximum point value. The following criteria shall be used for ranking public, State-owned and private lakes:

<u>Category</u>	<u>Points</u>
Minor involvement in management/restoration (Contact from local government and lake users; written expressions of interest; private lake association meetings)	5 points
Average involvement in management/restoration (Written expression of interest, governmental and volunteer support; private lake association meetings and volunteer activities associated with water quality)	10 points
Very involved in management/restoration (Lake association/group meetings, financial commitment, strong governmental and volunteer support; includes the adoption and/or designation of a lake management or restoration district; private lake association meetings with volunteer and financial investment in water quality activities)	20 points

4. Consistency with the State Development and Redevelopment Plan: Up to 10 points are awarded for projects that are consistent with the goals and policies of the State Development and Redevelopment Plan. The following criteria shall be used for ranking public and State-owned lakes only:

	<u>Points</u>
The lake is located within a center formally designated by the State Planning Commission:	8 points
The lake is located within a Critical Environmental/Historical Site formally designated by the State Planning Commission, located within Planning Area 5 (Environmentally Sensitive Planning Area), located within Planning Area 4B (Rural/Environmentally Sensitive Planning Area), or located within the jurisdiction of the Pinelands Protection Act.	2 points

5. Coordination with other restoration/maintenance programs: The Department encourages comprehensive approaches to lake restoration projects. Accordingly, any applications which involve other Department sponsored activities shall receive the following. These criteria shall be used for ranking public, State-owned and private lakes:

<u>Other Activity</u>	<u>Points</u>
Dam Safety Restoration	3 points
Wastewater Treatment Financing Program for non-point source projects; and/or lake water quality recognized as component of watershed management activities	5 points

6. Priority for Phase II Implementation Projects: The following criteria shall be used for ranking public, State-owned and private lakes:

	<u>Points</u>
Applicant has completed a Phase I Diagnostic-Feasibility Study	5 points

7:9-2.6 Public participation

(a) The applicant for a Phase I grant shall provide for, encourage, and assist public participation in developing a proposed lake restoration project. The applicant shall solicit public comment on the plan of study, prepare a summary of responses to the public comment, and submit the summary as part of the Phase I application.

(b) Phase I grant recipients shall solicit public comment in developing, evaluating, and selecting alternatives, in assessing potential adverse environmental impacts, and in identifying measures to mitigate any adverse impacts that were identified.

1. The grantee shall provide information describing the methods used in developing, evaluating, and selecting alternatives, in assessing potential adverse environmental impacts, and in identifying measures to mitigate any adverse impacts that were identified and distribute such information to the public at least 30 days before selecting a proposed method of lake restoration.

2. The grantee shall hold a meeting with the public after all pertinent information is distributed.

3. Phase II grant applicants shall hold a public hearing if one has not been held subsequent to completion of Phase I and prepare a summary of the responses to all public comments. The applicant shall submit the summary along with copies of any written comments to the Department with the Phase II application.

**7:9-2.7 Program administration**

(a) The Lake Restoration Bond Act of 1996 program shall be administered by the Bureau of Freshwater and Biological Monitoring, Division of Science and Research, Department of Environmental Protection.

(b) Funding availability is dependent on legislative approval. 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 "1996 Lake Restoration Fund," for the upcoming fiscal year. The Department anticipates that funding shall be awarded in two consecutive fiscal years. In order to be considered for funding in the first year of funding, applications shall be submitted to the Department no later than February 4, 1998. Applications shall consist of a detailed description of project activities for either a Phase I Diagnostic-Feasibility Project or a Phase II Implementation Project. Applications shall contain descriptions of proposed environmental monitoring, proposed budgets, project timelines, and project objectives. Applications shall also contain all information required to apply the ranking criteria set forth in N.J.A.C. 7:9-2.5. Applications shall be sent to:

New Jersey Department of Environmental Protection  
 Lakes Management Program  
 Division of Science and Research  
 PO Box 427  
 Trenton, NJ 08625-0427

(c) To be eligible for funding in the second year of funding, an application shall be received by the Department no later than one year following approval of the first appropriation bill.

(d) Upon receiving an application, the Department shall review it for completeness per the requirements of this subchapter. The Department shall notify the applicant in writing, within 14 days, of any deficiencies in the application. The applicant shall then submit any necessary information within 14 days of this notification. The Department shall notify the applicant of either approval or disapproval within 30 days of submittal of a completed application. Upon this approval, the Department shall submit the necessary appropriations request as described in N.J.A.C. 7:9-2.7.

SUBCHAPTERS 3 THROUGH 4. (RESERVED)

SUBCHAPTER 5. WASTEWATER DISCHARGE REQUIREMENTS

**7:9-5.1 Scope of rules**

(a) Unless otherwise provided by rule or statute, this subchapter shall constitute the rules of the Department of Environmental Protection with respect to the protection and enhancement of surface waters of the State pursuant to the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq. and the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq.

(b) This subchapter shall apply to effluent limitations and other requirements applicable to discharges into the surface waters of the State.

Petition for Rulemaking.  
 See: 23 N.J.R. 222(a).  
 Amended by R.1997 d.107, effective May 5, 1997.  
 See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).  
 In (a), deleted " , disinfection, and minimum treatment requirements" following "surface waters of the State" and made a nonsubstantive change.  
 Administrative correction.  
 See: 29 N.J.R. 3822(a).  
 In (a), substituted "this subchapter" for "the following".

**Case Notes**

Responsibilities of the Department of Environmental Protection in review of mausoleum construction plans; concurrent State and municipal jurisdiction over mausoleum construction. Cedar Park Cemetery v. Hayes, 132 N.J.Super. 572, 334 A.2d 386 (Law Div.1975).

Former regulation set forth the objective of the Water Resources Division to integrate and promote modern sanitary sewerage throughout the State. Cedar Park Cemetery v. Hayes, 132 N.J.Super. 572, 334 A.2d 386 (Law Div.1975).

**7:9-5.2 (Reserved)**

Repealed by R.1997 d.107, effective May 5, 1997.  
 See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).  
 Section was "Construction".

**7:9-5.3 Definitions**

The terms "discharge," "discharger," "LC<sub>50</sub>," "EC<sub>50</sub>" and "lake, pond or reservoir" as used in this subchapter are defined in the New Jersey Pollutant Discharge Elimination System rules at N.J.A.C. 7:14A-1.

Repeal and New Rule, R.1997 d.107, effective May 5, 1997.  
 See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).

Section was "Definitions".

**7:9-5.4 (Reserved)**

Correction: N.J.A.C. 7:9-5.4(a)1i and ii should have been codified as N.J.A.C. 7:9-5.4(b)1i and ii.

See: 17 N.J.R. 1759(c).

Repealed by R.1997 d.107, effective May 5, 1997.

See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).

Section was "Statements of policy".

**7:9-5.5 (Reserved)**

Repealed by R.1997 d.107, effective May 5, 1997.

See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).

Section was "Use of indicators of pollution levels".

**7:9-5.6 (Reserved)**

Repealed by R.1997 d.107, effective May 5, 1997.

See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).

Section was "Dilute industrial process wastewater".

**SUBCHAPTERS 7 THROUGH 8. (RESERVED)**

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**SUBCHAPTER 9. (RESERVED)**

**Subchapter Historical Note**

Subchapter 9, Sealing of Abandoned Wells, was repealed by R.2001 d.313, effective September 4, 2001 (operative October 4, 2001). See: 32 N.J.R. 2832(a), 33 N.J.R. 3194(a).

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**SUBCHAPTERS 10 THROUGH 14. (RESERVED)**

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**SUBCHAPTER 15. GRANTS FOR RESTORING PUBLICLY OWNED FRESHWATER LAKES**

**Authority**

N.J.S.A. 58:10A-1 and 58:11A-1.

**Source and Effective Date**

See: 34 N.J.R. 2399(a).

**Subchapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1c, Subchapter 15, Grants for Restoring Publicly Owned Freshwater Lakes, expires on February 14, 2003. See: Source and Effective Date.

**7:9-15.1 Scope of rules**

Unless otherwise provided by rule or statute, the following shall constitute the rules of the Department of Environmental Protection concerning policies and procedures for grants to assist local government in carrying out the restoration of publicly owned freshwater lakes pursuant to the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq. and the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq.

**7:9-15.2 Construction**

This subchapter shall be liberally construed to permit the department and its various divisions to discharge their statutory functions.

**7:9-15.3 Purpose**

(a) This subchapter is promulgated for the following purposes:

1. To set forth grant eligibility; and
2. To establish policies and procedures for distribution of funds to local governments for Phase I Diagnostic-feasibility studies and for Phase II Implementation activities.

**7:9-15.4 Definitions**

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

“Applicant” means the governmental agency which has jurisdiction over or controls access to the freshwater lake.

“Department” means the Department of Environmental Protection.

“Diagnostic-feasibility study” means a two part study to determine a lake’s current condition and to develop possible methods for lake restoration and protection.

“EPA” means the United States Environmental Protection Agency.

“Freshwater lake” means any inland pond, reservoir, impoundment, or other similar body of water that has recreational value, that exhibits no oceanic and tidal influences, and that has a total dissolved solids concentration of less than one percent.

**7:9-15.5 Grant eligibility**

(a) To be eligible for funding, an applicant shall meet the following criteria:

1. The freshwater lake shall offer public access through publicly owned contiguous land so that any member of the public may have the same or equivalent opportunity to enjoy privileges and benefits of the public as any other member of the public or as any resident around the lake;

2. If user fees are charged for public use and access, the fees shall be used solely for maintenance of the access and recreational facilities or for improving the lake;

3. The freshwater lake shall not be used only as a source of drinking water;

4. The proposed project shall be consistent with the applicable adopted Water Quality Management Plan;

5. Chemical application programs for aquatic weed control are not eligible for funding; and

6. A lake that can be restored by controlling the discharge of pollutants from a point source through a municipal or industrial permit under section 402 of the Federal Clean Water Act, 33 U.S.C. 1342, or through the planning and construction of wastewater treatment facilities under section 201 of the Federal Clean Water Act, 33 U.S.C. 1281, shall not be eligible for funding.

**7:9-15.6 Types of grant assistance**

(a) The Department will administer the following types of grants pursuant to this subchapter:

1. Subject to the availability of funds, approved Phase I Diagnostic-Feasibility Studies will be funded through the Department pursuant to the following formulas:

i. If an EPA grant is awarded for the project, a maximum of 70 percent of allowable costs shall be funded by EPA; a maximum of fifteen percent of allowable costs shall be funded by the Department; and the remainder of the costs shall be funded by the applicant.

ii. If no EPA grant is awarded for the project, a maximum of 50 percent of allowable costs shall be funded by the Department and the remainder of the costs shall be funded by the applicant.

2. Subject to the availability of funds, approved Phase II Implementation activities will be funded through the Department pursuant to the following formulas:

i. If an EPA grant is awarded for the project, a maximum of 50 percent of allowable costs shall be funded by EPA; a maximum of 40 percent of allowable costs shall be funded by the Department; and the remainder shall be funded by the applicant.

ii. If no EPA grant is awarded for the project, a maximum of 75 percent of allowable costs shall be funded by the Department and the remainder of the costs shall be funded by the applicant.

3. In the event that legislation is enacted appropriating funds for a specific lake restoration project which indicates that a different funding formula shall be used, that funding formula designated by the legislature shall apply.

Amended by R.1987 d.447, effective November 2, 1987.

See: 19 N.J.R. 909(a), 19 N.J.R. 2000(a).

(a)2ii maximum raised from 50 to 75 percent.

**7:9-15.7 (Reserved)****7:9-15.8 Phase I grant assistance criteria**

(a) Projects for Phase I grant assistance will be evaluated for funding based upon the following criteria:

1. Eligibility for federal funding;

i. Federal funding, when available, will provide up to 70 percent of the allowable costs of the project.

ii. The Department shall apply for federal funding for the project when these funds are available through EPA, under the Clean Lakes Program, established pursuant to section 314 of the Clean Water Act, and the regulations promulgated thereunder at 40 CFR 35.1600 et seq.;

2. Availability of local funding;

3. Accessibility of the lake to the public;

4. Population size and demography with a 15 mile radius of the lake;

5. The amount and kind of public transportation available for transport of the public to and from the public access points;

6. Consideration of whether other relatively clean publicly owned freshwater lakes within a 50 kilometer radius already adequately serve the population;

7. The historical uses of the lake and the need for and practicality of restoring the lake for those uses;

8. The degree to which the project considers the "open space" policies contained in sections 201(f), 201(g) and 208(b)(2)(A) of the Clean Water Act;

9. The reasonableness of the proposed costs relative to the proposed work, the likelihood that the project will succeed, and the potential public benefits;

10. The means for controlling anticipated adverse environmental impacts which could result from the proposed restoration of the lake;

11. Water quality in the lake, as indicated by existing data;

12. The technical feasibility of the proposed project approach and where appropriate, the estimated improvement in the lake water quality; and

13. The anticipated positive changes that the project would produce in the overall lake ecosystem, including the watershed, such as the net reduction in sediment, nutrient, and other pollutant loadings.

#### 7:9-15.9 Phase II grant assistance

(a) Projects for Phase II grant assistance will be evaluated for funding based upon the following criteria:

1. Eligibility for federal funding:
  - i. Federal funding, when available, will provide up to 50 percent of the cost of the project.
  - ii. The Department shall apply for federal funding for the project as set forth in N.J.A.C. 7:9-15.8(a)1ii.
2. The criteria contained in N.J.A.C. 7:9-15.8(a)1 through 13 will be considered; and
3. When a Phase I grant has been awarded, the Phase II project shall conform to the final plan selected under Phase I.

#### 7:9-15.10 Project period

(a) The project period for Phase I projects shall not exceed three years.

(b) The project period for Phase II projects shall not exceed four years.

#### 7:9-15.11 Public participation

(a) The applicant for a Phase I grant shall provide for, encourage, and assist public participation in developing a proposed lake restoration project. The applicant shall solicit public comment on the plan of study, prepare a summary of responses to the public comment, and submit the summary as part of the Phase I application.

(b) Phase I grant recipients shall solicit public comment in developing, evaluating, and selecting alternatives, in assessing potential adverse environmental impacts, and in identifying measures to mitigate any adverse impacts that were identified.

1. The grantee shall provide information relevant to these decisions in fact sheet or summary form and distribute such information to the public at least 30 days before selecting a proposed method of lake restoration.

2. The grantee shall hold a formal or informal meeting with the public after all pertinent information is distributed.

3. A formal public hearing shall be held if the grantee selects a lake restoration method which involves major construction, dredging, or significant modifications to the environment, or if the department determines that a hearing would be beneficial.

(c) Phase II grant applicants shall hold a formal public hearing if one has not been held subsequent to completion of Phase I and prepare a summary of the responses to all public comments. The applicant shall submit the summary along with copies of any written comments to the Department with the Phase II application.

#### 7:9-15.12 Program administration

(a) The program shall be administered by the Division of Water Resources.

(b) Within 90 days of receiving a complete application, the Department will either:

1. Conditionally approve the project for funding in an amount determined to be appropriate for the project, and if federal funding is available, submit the application to EPA for final approval;
2. Return the application to the applicant due to lack of funding; or
3. Disapprove the application and state the reasons for disapproval.

(c) The Department will establish a priority list for all applications received before September 1 of each fiscal year.

(d) Requests for further information concerning this program as well as program proposals should be directed to:

New Jersey Department of Environmental Protection  
Division of Water Resources  
CN 029  
Trenton, New Jersey 08625  
Attn: Lakes Management Coordinator