

“Construction” means, in addition to the usual meaning thereof, acts of construction, reconstruction, replacement, and improvement, and includes 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. 5:34-1.

“Dam restoration project” means the demolition, reconstruction, rehabilitation, or restoration of a dam that impounds water for water supply, flood control or recreation purposes.

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

“Flood control facility” means any dam, basin, dike, channelization or other measure which provides a flood control benefit to a documented flood-prone, previously developed area.

“Flood control project” means the construction, reconstruction, rehabilitation, or restoration of a flood control facility.

“Fund” means the 1992 Dam Restoration and Clean Water Trust Fund established pursuant to the Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992, P.L.1992, c. 88.

“Height of dam” means the vertical dimension from the lowest point in the streambed or ground surface at the downstream toe of the dam to the elevation of the top of dam (without camber).

“High hazard dam” means a dam, the failure of which may cause the probable loss of life or extensive property damage, as defined in the Dam Safety Standards at N.J.A.C. 7:20-1.8.

“Inland waters” means any lake, river, pond, stream, marsh, or freshwater wetland; any floodway, flood fringe area, or flood hazard area as defined in N.J.S.A. 58:16A-51 or as delineated by the Department pursuant to N.J.S.A. 58:16A-52, and any area delineated by or for the Federal government which, if appropriately regulated by a local government unit, qualifies the residents therein for Federal flood insurance.

“Inland waters project” means any flood control project, pollution control project, or recreation and conservation project as defined in this chapter.

“Loan” means a loan awarded pursuant to the Act and this chapter.

“Local government unit” means a county or a municipality, or any agency, authority, board, commission, or other instrumentality thereof; or any two or more counties or municipalities operating jointly through a joint meeting or interlocal services agreement, permitted by law, or any

agency, authority, board, commission or other instrumentality thereof; or any other local or regional entity created by the legislature as a political subdivision of the State, or any agency, authority, board, commission, or other instrumentality thereof.

“Low hazard dam” means a dam, the failure of which would result in the loss of the dam itself but little or no additional damage to other property, as defined in the Dam Safety Standards at N.J.A.C. 7:20-1.8.

“Pollution control facility” means any water conveyance or containment facility (basin, well, swale or other practice acceptable to the Department), proposed or existing, which contributes to the abatement of pollution from stormwater runoff, soil erosion, or other nonpoint sources in previously developed areas.

“Pollution control project” means the construction, reconstruction, rehabilitation, or restoration of a water pollution control facility.

“Project costs” means the applicant’s expenses incurred in connection with all things deemed by the Department to be necessary or useful and convenient for completion of a project; the execution of any agreements and franchises deemed by the Commissioner to be useful and convenient in connection with any project authorized by the Act; the procurement or provision of engineering, inspection, relocation, legal, financial, planning, geological, hydrological and other professional services, estimates and advice; and organizational, administrative and other work and services, including salaries, equipment and materials necessary to comply with the applicable provisions of the Act.

“Recreation and conservation project” means the construction, rehabilitation, or restoration of a facility, lake or stream to improve the overall quality of inland waters, including the dredging of lakes, cleaning of streams, construction of water quality related facilities to enhance recreational fishing and wildlife preserves, or other practices acceptable to the Department.

“Significant hazard dam” means a dam, the failure of which may cause significant damage to property and project operation, but loss of human life is not envisioned, as defined in the Dam Safety Standards at N.J.A.C. 7:20-1.8.

## SUBCHAPTER 2. PROJECT APPLICATION PHASE

### 7:24A-2.1 Pre-application procedures

(a) Each applicant shall request a pre-application conference prior to making a formal application for a loan. During the conference, the Department shall identify and explain all loan application procedures and requirements.

The Department shall also identify and answer questions concerning other Departmental permits the applicant must obtain prior to being awarded a loan. Neither written nor oral statements made during the pre-application conference shall bind the Department. The Department may waive the pre-application conference at its discretion.

(b) Questions concerning the dam restoration and inland waters projects loan program and requests for a pre-application conference may be directed to:

Department of Environmental Protection  
Dam Safety Section  
PO Box 419  
Trenton, NJ 08625-0419  
(609) 984-0859

Amended by R.2000 d.119, effective March 20, 2000.  
See: 31 N.J.R. 3898(a), 32 N.J.R. 1015(a).

### 7:24A-2.2 Application procedures

(a) To apply for a dam restoration or inland waters project loan, the applicant shall submit the following:

1. A completed loan application on the form available from the Department which shall include the information specified in (a)2 through 13 below;

2. A description of the applicant's plans to repay the loan and pay any other expenses necessary to fully complete and implement the project and the steps the applicant has taken or will be taking to implement this plan;

3. Evidence that all Federal, State, regional and local agencies with jurisdiction over the project have been notified of the project, including, but not limited to, the appropriate municipal planning board and environmental commission and county planning board and environmental commission;

4. Evidence that all required permits have been obtained or that steps have been taken to initiate the permit review process for the required permits in order to demonstrate that the requirements of N.J.A.C. 7:24A-3.2(c) can be met;

5. An explanation of the need for the project and a discussion of alternatives to the proposed project;

6. A statement explaining how the loan will accomplish the goal set out in the application;

7. A proposed construction schedule for the project;

8. Details of proposed financial arrangements for construction of the project;

9. All other forms, supplementary materials, agreements and subagreements which the Department may require as determined in the pre-application conference required pursuant to N.J.A.C. 7:24A-2.1(a);

10. An estimate of construction costs by unit price for the project. Estimated costs for labor, equipment, materials, supplies, overhead and contractors' and consultants' profit margins with supporting background and summary sheets as may be requested by the Department to substantiate the estimate of unit costs. Total project costs and those project costs that the applicant anticipates will be allowable project costs must be separately summarized;

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

12. Proof of the applicant's ownership of the real property on which the project is located, or the capability (right of eminent domain, conditional contract for property acquisition, easement or property owner's permission) to use that property for undertaking the project; and

13. All documentation and other information as the Department may require to adequately determine the applicant's priority point total pursuant to N.J.A.C. 7:24A-5.1.

(b) The application shall be signed by a person authorized by written resolution or ordinance of a local government unit to file an application for a loan under this chapter or to apply as a co-applicant with a private lake association or similar organization or private dam owner, to represent the local government unit in all matters relating to the application process, and to obligate the local government unit to the terms and conditions of a loan award agreement. A copy of the resolution or ordinance shall accompany the application.

(c) The application of a private lake association or similar incorporated organization shall be signed by a person authorized by written resolution of the association's or organization's board of directors or governing body to file an application for a loan under this chapter, to represent the private lake association or similar organization in all matters relating to the application process, and to obligate the private lake association or similar organization to the terms and conditions of a loan award agreement. A copy of the resolution shall accompany the application, along with the resolution required pursuant to (b) above.

(d) An application shall be submitted prior to the application closing date for the application period in which the applicant wishes to be awarded a loan. No application will be accepted after the close of business on the application closing date.

1. The initial application period and application closing date will be established subsequent to the adoption of this chapter. A notice of the details of the application period will be published in the New Jersey Register.

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.

(e) Applications shall be sent to:

Department of Environmental Protection  
Dam Safety Section  
PO Box 419  
Trenton, NJ 08625-0419

Amended by R.2000 d.119, effective March 20, 2000.  
See: 31 N.J.R. 3898(a), 32 N.J.R. 1015(a).

### 7:24A-2.3 Allowable project costs

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

1. For a dam restoration project:
  - i. All items deemed by the Department to be necessary or useful and convenient in connection with a dam restoration project;
  - ii. Execution of any agreements and franchises deemed by the Commissioner to be useful and convenient in connection with a dam restoration project;
  - iii. Procurement or provision of engineering, inspection, relocation, legal, financial, planning, geological, hydrological and other professional services, estimates and advice; and
  - iv. Organizational, administrative and other work and services, including salaries, equipment and materials necessary to comply with the applicable provisions of this chapter.
2. For an inland waters project:
  - i. All items deemed by the Department to be necessary or useful and convenient in connection with an inland waters project;
  - ii. Execution of any agreements and franchises deemed by the Commissioner to be useful and convenient in connection with an inland waters project;
  - iii. Procurement or provision of engineering, inspection, relocation, legal, financial, planning, geological, hydrological and other professional services, estimates and advice; and
  - iv. Organizational, administrative and other work and services, including salaries, equipment and materials necessary to comply with the applicable provisions of this chapter.

3. The project costs set forth below shall not be allowable:

- i. Project design and development costs incurred in preparing necessary documentation for the application phase of this loan program;
- ii. Any costs associated with a project for which construction commenced prior to the filing of a loan application with the Department;
- iii. Any items deemed by the Department to be unnecessary or not useful and convenient for the project;
- iv. Any costs funded by any Federal or other State grant or loan to the applicant; and
- v. Any costs not listed in (a)1 or (a)2 above.

### 7:24A-2.4 Use and disclosure of information

Any loan application, pre-application, or other submittal, when received by the Department, constitutes a public record. The Department shall make such records available to persons who request them to the extent allowed by State and Federal law.

### 7:24A-2.5 Application review

(a) The Department shall review each application according to the following protocol:

1. Administrative review to determine the completeness of the application;
2. Project, technical, scientific and environmental review to determine the merit and relevance of the project to the Department's program objectives;
3. Budget review to determine whether proposed project costs are allowable, reasonable, and applicable; and
4. Eligibility determination.

### 7:24A-2.6 Approval or disapproval of application

(a) Upon completion of its review of an application, the Department shall take one of the following actions:

1. Request additional information to complete the application;
2. Approve the application for priority ranking and possible loan; or
3. Disapprove the application.

(b) The Department shall promptly notify the applicant in writing of any disapproval and provide the reasons for such disapproval. A disapproval of an application shall not preclude its reconsideration during a subsequent application period if revised and resubmitted by the applicant.

**7:24A-2.7 Notice of qualification**

(a) The Department shall send a notice of qualification to an applicant who has submitted an application approved pursuant to N.J.A.C. 7:24A-2.5 and 2.6 and ranking high enough on the priority list pursuant to N.J.A.C. 7:24A-5.1 to be awarded a loan. An applicant who has submitted an application approved pursuant to N.J.A.C. 7:24A-2.5 and 2.6 but not ranking high enough on the priority list pursuant to N.J.A.C. 7:24A-5.1 to be awarded a loan shall be so notified by the Department.

(b) Any applicant who receives a notice of qualification but who decides not to proceed with a project shall so notify the Department within 30 days of the date of the notice.

(c) The Department shall award a loan to any applicant who receives a notice of qualification subject to available appropriations, execution of a loan award agreement and submittal of required permits and materials, prepared to the satisfaction of the Department, within six months after the Department issues the notice of qualification or within any extension of the period for such submittals granted pursuant to N.J.A.C. 7:24A-3.2(c).

(d) An applicant with a project on a priority list who is not awarded a loan in any application period may reapply for a position on any subsequent priority list for a subsequent application period by timely filing a new loan application form and by updating the other application documents required under N.J.A.C. 7:24A-2.2. The reapplication will be treated as a new application for a loan and will be evaluated in accordance with the requirements of this chapter.

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### SUBCHAPTER 3. PROJECT DEVELOPMENT PHASE

**7:24A-3.1 Pre-loan conference**

(a) Each applicant who receives a notice of qualification shall arrange to have a pre-loan conference within 30 days from the date of the notice of qualification and shall submit all materials required pursuant to N.J.A.C. 7:24A-3.2(a) to the Department within six months after the date of the notice of qualification or within any extension of the period for materials submittal granted pursuant to N.J.A.C. 7:24A-3.2(c).

(b) During the pre-loan conference the Department shall identify and explain the submittals required before a loan award agreement can be executed.

**7:24A-3.2 Required submittals prior to execution of a loan award agreement**

(a) An applicant who receives a notice of qualification shall submit the following materials prepared in accordance with accepted engineering practices, within the time period specified in N.J.A.C. 7:24A-3.1(a):

1. A complete engineer's report prepared, signed and sealed by a New Jersey-licensed professional engineer experienced in hydrologic, hydraulic, structural and geotechnical engineering. The report shall include, but is not limited to, the engineering assumptions, references, calculations and conclusions relative to the structural, hydrologic and hydraulic design of all elements within the project scope, as well as all information, narrative, data, and computations necessary to support and describe the design developed in such detail as to permit complete understanding of the project design;

2. Plans for the loan project prepared by a New Jersey-licensed professional engineer. 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 elevations 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;

3. Construction specifications, including, but not limited to:

- i. General provisions, specifying the rights, duties, and responsibilities of the applicant, engineer and builder, and the prescribed order of work;

- ii. Technical provisions, describing in detail the work methods, equipment, and materials to be used, the results to be obtained and the project and payment schedule; and

- iii. All other provisions, submissions and certifications deemed necessary by the Department;

4. A detailed cost estimate of expenses for the project. The breakdown of the cost estimates shall be by unit price covering estimated labor, equipment, materials, supplies and contractor's overhead and profit. A summary form showing item number, description, estimated quantity, unit, unit price, and estimated amount is required; and

5. A description of the applicant's plan to repay the loan and pay any other expenses necessary to fully complete and implement the project and the steps the applicant has taken or will be taking to implement this plan.

(b) The Department reserves the right to waive any of the submission requirements of (a) above if it determines that the submission of such information is not required or necessary in order for the Department to enter into a loan award agreement with the applicant.

(c) An applicant who receives a notice of qualification shall obtain all necessary Federal, State and local permits and approvals within six months of the date of the notice of qualification. Failure to obtain the required permits within the required time period shall disqualify the project for a loan for that application period unless prior written approval for an extension has been granted by the Department.

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

Department. The applicant must submit such written justification to the Department no later than 30 days before the expiration of the specified six-month period.