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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.; 58:12A-1 et seq.; and 58:12A-22 through 58:12A-25.

Source and Effective Date

R.1997 d.223, effective May 19, 1997.
See: 29 N.J.R. 7(a), 29 N.J.R. 2268(a).

Executive Order No. 66(1978) Expiration Date

Chapter 1A, Water Supply Loan Programs, expires on May 19, 2002.

Chapter Historical Note

Chapter 1A, Guidelines on Environmental Impact Statement for New Jersey Turnpike Extension, was adopted as R.1972 d.165, effective on August 22, 1972. See: 4 N.J.R. 214(a). Chapter 1A was repealed by R.1980 d.433, effective October 7, 1980. See: 12 N.J.R. 454(b), 12 N.J.R. 643(a).

Chapter 1A, Water Supply Bond Loan Regulations for the Rehabilitation of Water Supply Facilities, was adopted as R.1982 d.179, effective June 7, 1982. See: 14 N.J.R. 10(a), 14 N.J.R. 573(a). Chapter 1A was amended by R.1982 d.281, effective August 16, 1982. 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). Chapter 1A was further amended by R.1983 d.534 effective November 21, 1983. See: 15 N.J.R. 1307(a), 15 N.J.R. 1940(a); and R.1984 d.232, effective June 18, 1984. See: 16 N.J.R. 631(a), 16 N.J.R. 1479(a).

Pursuant to Executive Order No. 66(1978), Chapter 1A was readopted as R.1987 d.264, effective June 5, 1987. See: 19 N.J.R. 437(b), 19 N.J.R. 1190(b). Public Notice: Acceptance of loan applications until June 30, 1987 for local projects rehabilitating or repairing 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 emergency new rules by R.1988 d.479, effective September 19, 1988. See: 20 N.J.R. 2470(a). The concurrent proposal of Subchapter 7 was adopted as R.1988 d.574, effective November 18, 1988. See: 20 N.J.R. 3129(a). Public Notice: Availability of State loan funds. See: 23 N.J.R. 1465(b).

Pursuant to Executive Order No. 66(1978), Chapter 1A, Water Supply Bond Loan Programs, was readopted as R.1992 d.252, effective May 22, 1992. See: 24 N.J.R. 707(a), 24 N.J.R. 2245(a). As part of R.1992 d.252, effective June 15, 1992, Chapter 1A was renamed Water Supply Loan Programs. Public Notice: Availability of loan funds, Water Supply Loan Programs. See: 25 N.J.R. 1579(a).

Pursuant to Executive Order No. 66(1978), Chapter 1A, Water Supply Loan Programs, was readopted as R.1997 d.223, effective May 19, 1997. See: Source and Effective Date. As a part of R.1997 d.223, Subchapter 8, Water Supply Treatment Projects, was adopted as new rules. See, also, section annotations.

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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 or repair 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.
Amended by R.1997 d.223, effective May 19, 1997.

See: 29 N.J.R. 7(a), 29 N.J.R. 2268(a).

In (a), inserted reference to repair of water supply facilities.

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 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.

Amended by R.1997 d.223, effective May 19, 1997.

See: 29 N.J.R. 7(a), 29 N.J.R. 2268(a).

In (a)2, deleted "transmission" following "inadequately operating water supply".

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".

SUBCHAPTER 8. WATER SUPPLY TREATMENT PROJECTS

7:1A-8.1 Eligibility and criteria

(a) Any local unit operating a water supply facility which lacks treatment facilities or which includes treatment facilities that are in need of improvement, 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-8.2;
2. The project shall be an independent and complete water supply 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 or with the recommendations of the New Jersey Statewide Water Supply Plan;
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 shall guarantee that at the time of the signing of the loan award document it shall 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. A project for new treatment facilities is only eligible when there are violations or noncompliance with safe drinking water standards or treatment requirements set by the Act. New treatment facilities solely for capacity increase are not loan eligible; and

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

7:1A-8.2 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 12 priority points;
3. A water supply system serving greater than 50,000 residents shall be eligible for a loan if it receives at least 16 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; and
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 shall also meet the criteria set forth in N.J.A.C. 7:1A-8.1 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 two million dollars maximum;

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

3. A water supply system serving greater than 50,000 residents may receive a loan of up to eight 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 payment to the borrower by the Department.

(f) Priority points shall be given for treatment facilities 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)3 through 6 below only if the project scope includes actual repair, rehabilitation, correction of a problem, or improvement clearly related to said priority categories.

2. The local unit shall be required to submit justification to the satisfaction of the Department before priority points are awarded under priority categories (f)3 through 6 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, evidence of verifiable system failures and malfunctions, or other justifications as deemed acceptable by the Department.

3. Priority points shall be awarded to systems which are in violation of any safe drinking water standards or treatment requirements set by the Act, as follows:

i. Five hundred points shall be awarded for local units which:

(1) Use a surface water source(s);

(2) Do not provide any or adequate filtration treatment; and

(3) Have been issued an administrative order, directive or recommendation by the Department requiring the correction of any noncompliance of its treatment facilities to address an immediate public health threat, provided that the local unit's project scope provides for the implementation of the actions ordered, directed or recommended by the Department in such relevant administrative order, directive or recommendation letter. An immediate public health threat includes any acute violations, or non-compliance with any disinfection or filtration requirements under N.J.A.C. 7:10-9; Surface Water Treatment Requirements.

ii. Three hundred fifty points shall be awarded for local units which:

(1) Use a ground water source(s) under the direct influence of surface water;

(2) Do not provide any or adequate filtration treatment; and

(3) Have been issued an administrative order, directive or recommendation by the Department requiring the correction of any noncompliance of its treatment facilities to address an immediate public health threat, provided that the local unit's project scope provides for the implementation of the actions ordered, directed or recommended by the Department in such relevant administrative order, directive or recommendation letter. An immediate public health threat includes any acute violations, or non-compliance with any disinfection or filtration requirements under N.J.A.C. 7:10-9, Surface Water Treatment Requirements.

iii. One hundred seventy-five points shall be awarded for any primary violations or exceedances of action levels;

iv. Twenty-five points shall be awarded for any secondary violations, for which the local unit has received notification issued by the Department that exceedance of any secondary drinking water regulation causes adverse effects on the public welfare, and for which the local unit has received a directive issued by the Department requiring correction of the exceedance.

4. Priority points shall be awarded based on the impact on the local unit's available water supply of the violations in (f)3 above, as indicated below:

i. The rated pump capacity affected by the violation specified in (f)3 above divided by the total rated system capacity (including wells, surface water, and bulk purchase interconnections) multiplied by 50.

5. Priority points shall be awarded for the age of treatment units to be rehabilitated:

i. Two points shall be awarded to treatment units constructed between the years 1981 through 1985;

- ii. Four points shall be awarded to treatment units constructed between the years 1966 through 1980;
- iii. Eight points shall be awarded to treatment units constructed between the years 1941 through 1965;
- iv. Twelve points shall be awarded to treatment units constructed between the years 1916 through 1940; and
- v. Sixteen points shall be awarded to treatment units constructed in or before the year 1915.

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)5 above shall be the weighted average in accordance with the capital value (as defined at N.J.A.C. 7:1A-2.2) associated with each item.

As an example see Table 3 below:

TABLE 3

Item	Age Subcategory	Points	New Cap. Cost Million (\$)	Fraction Total Cost	Points
Filtration	1966-80	4	1.5	0.263	1.052
Filtration	1941-65	8	2.0	0.351	2.808
Sedimentation	1941-65	8	1.0	0.175	1.400
Disinfection	1981-65	2	1.2	0.211	0.422
	total		5.7	1.000	5.682

(Weighted Average)

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

(g) Additional priority points shall be given for treatment facilities for the following factors and in the amount shown below:

1. 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; and

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

2. 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 (g)1 above. In the instance of systems with a large seasonal variation in the number of residents, the residential population figure shall be determined pursuant to (a)4 above.

i. Seventy gallons per capita per day or less: 12 points;

ii. Seventy-one to 90 gallons per capita per day: 10 points;

iii. Ninety-one to 100 gallons per capita per day: eight points;

iv. One hundred one to 130 gallons per capita per day: six points;

v. One hundred thirty-one to 154 gallons per capita per day: four points; and

vi. One hundred fifty-five or more gallons per capita per day: two points.

(h) For ranking purposes, the total priority score shall be the sum of points awarded for each of the three categories at (f) and (g) above as applicable. In the event of a tie, the applicant shall be ranked in the order of receipt of the loan application by the Department.