

CHAPTER 103. FINANCIAL ASSISTANCE

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Cross References

This chapter cited in 25 Pa. Code § 250.1 (relating to definitions); 25 Pa. Code § 250.309 (relating to MSCs for surface water); 25 Pa. Code § 250.406 (relating to relationship to surface water quality requirements); and 25 Pa. Code § 965.1 (relating to definitions).

Subchapter A. CLEAN WATER STATE REVOLVING FUND PROJECTS PRIORITY LIST RATINGS

CLEAN WATER STATE REVOLVING FUND

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Authority

The provisions of this Subchapter A issued under section 5 of The Clean Streams Law (35 P. S. § 691.5); and section 16 of The Land and Water Conservation Reclamation Act (32 P. S. § 5116), unless otherwise noted.

Source

The provisions of this Subchapter A adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804, unless otherwise noted.

CLEAN WATER STATE REVOLVING FUND**§ 103.1. Definitions.**

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

Alternative processes and techniques—Proven methods which provide for the reclaiming and reuse of water, productively recycle wastewater constituents or otherwise eliminate the discharge of pollutants, or recover energy.

CWSRF—Clean Water State Revolving Fund—A fund administered by the Pennsylvania Infrastructure Investment Authority (PENNVEST) that provides low-interest loan funds to borrowers for the construction of facilities.

EPA—The United States Environmental Protection Agency.

Effluent limitation segment—A section, segment or zone of a stream where water quality standards are met or will be achieved if discharges are treated to meet the secondary treatment requirements specified elsewhere in this title or in the Federal Act or the regulations promulgated thereunder.

Facilities—Any device or system for the storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or liquid industrial wastes or necessary to recycle or reuse water at the most economical cost over the useful life of the works. The term includes intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from the treatment, including land for composting sludge and temporary storage of the compost and land used for the storage of treated wastewater in land treatment systems before land application; or another method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste, including waste in combined stormwater and sanitary sewer systems.

Federal Act—The Federal Water Pollution Control Act (33 U.S.C.A. §§ 1251—1387).

Federal fiscal year—October 1 through September 30.

Inadequately treated sewage—Sewage receiving less than secondary treatment as defined elsewhere in this title or in the Federal Act or the Federal regulations promulgated thereunder.

Innovative processes and techniques—Developed methods which have not been fully proven under the circumstances of their contemplated use and which represent a significant advancement over the state of the art in terms of meet-

ing the national goals of cost reduction, increased energy conservation or recovery, greater recycling and conservation of water resources (including preventing the mixing of pollutants with water), reclamation or reuse of effluents and resources (including increased productivity of arid lands), improved efficiency or reliability, or both, the beneficial use of sludges or effluent constituents, better management of toxic materials or increased environmental benefits.

Intended use plan—A plan identifying the intended uses of the moneys in the Clean Water State Revolving Fund and describing how those uses support the goals of the fund.

Municipality—A city, incorporated town, township, borough, county, municipal authority or other public body created under State law having jurisdiction over the disposal of sewage, industrial wastes or other wastes or a designated and approved management agency under 33 U.S.C.A. § 1288.

NPDES—The National system for the issuance of permits under section 402 of the Federal Act including, any State or interstate program which has been approved by the EPA, in whole or in part, under section 402 of the Federal Act (33 U.S.C.A. § 1342).

Project equivalent population—The initial population equivalent which would be served by a project implemented for the rated area at the time that the area is rated.

Project priority list—The list of identified public sewerage project needs in this Commonwealth established under this subchapter.

Sewage facilities plan—A plan developed under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20) for the provision of adequate sewage facilities, adopted by municipal officials and approved by the Department.

Small municipality—A municipality having a population of 3,500 or less based on the most recent United States Bureau of Census figures.

Water quality segment—A section, segment or zone of a stream where water quality standards are not met or achieved even if waste discharges are treated to meet the minimum treatment requirements specified elsewhere in this title or the Federal Act or the Federal regulations promulgated thereunder.

Water quality standards—The combination of water uses to be protected and water quality criteria necessary to protect those uses, as specified in Chapter 93 (relating to water quality standards).

Authority

The provisions of this § 103.1 amended under The Clean Streams Law (35 P. S. §§ 691.1—691.1001); and section 16(2) of the Land and Water Conservation and Reclamation Act (32 P. S. § 5116(2)); and The Administrative Code of 1929 (71 P. S. § 510-20).

Source

The provisions of this § 103.1 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended December 28, 1973, effective December 29, 1973, 3 Pa.B. 2957; amended December 21, 1979, effective December 22, 1979, 9 Pa.B. 4158; amended January 2, 1998, effective January 3, 1998, 28 Pa.B. 18. Immediately preceding text appears at serial pages (237402) and (233553) to (233554).

Cross References

This section cited in 25 Pa. Code § 103.11 (relating to small municipality projects).

§ 103.2. [Reserved].**Source**

The provisions of this § 103.2 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended April 29, 1977, effective May 16, 1977, 7 Pa.B. 1171; amended December 21, 1979, effective December 22, 1979, 9 Pa.B. 4158; reserved January 2, 1998, effective January 3, 1998, 28 Pa.B. 18. Immediately preceding text appears at serial page (223554).

Notes of Decisions*Strict Compliance*

When the DER decides, after a period of leniency, to require strict compliance with this section it must allow applicants a reasonable time to adjust to the new policy, and where notice of the policy change is given two months before it becomes effective, it is unreasonable. *Gilpin Township Sewage Authority v. Commonwealth*, 68 Pa. D. & C.2d 772 (1974).

§ 103.3. [Reserved].**Source**

The provisions of this § 103.3 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended December 28, 1973, effective December 29, 1973, 3 Pa.B. 2957; amended April 29, 1977, effective May 16, 1977, 7 Pa.B. 1171; reserved December 21, 1979, effective December 22, 1979, 9 Pa.B. 4158. Immediately preceding text appears at serial pages (30945) to (30946).

§ 103.4. [Reserved].**Source**

The provisions of this § 103.4 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended April 29, 1977, effective May 16, 1977, 7 Pa.B. 1171; reserved January 2, 1998, effective January 3, 1998, 28 Pa.B. 18. Immediately preceding text appears at serial page (233555).

§ 103.5. Preparation of project lists.

(a) The project priority ratings developed under this subchapter are water quality based assessments of sewage treatment needs. This priority rating system is mandated by section 216 of the Federal Act (33 U.S.C.A. § 1296) and has been approved by the EPA for ranking projects for the CWSRF project priority list and intended use plan. To be funded under the CWSRF, a project first shall appear on a project priority list and then an intended use plan list.

(b) The Department prepares project priority lists and assists PENNVEST with preparation of intended use plan lists required by Title VI of the Federal Act (33 U.S.C.A. §§ 1381—1387). These lists are prepared in conformance with 40 CFR Part 35, Subpart K (relating to State Water Pollution Control Revolving Fund) and submitted in support of annual CWSRF capitalization grant applications to the EPA.

(c) Once the Commonwealth receives its capitalization grant award, applications for funding are evaluated under the Pennsylvania Infrastructure Investment Authority Act (35 P. S. §§ 751.1—751.20) and the regulations thereunder in Part VII (relating to Pennsylvania Infrastructure Investment Authority,) including the wastewater evaluation criteria in § 963.8 (relating to wastewater project evaluation criteria). The water pollution control rating factors described in § 103.8 (relating to water pollution control) will be used by the Department in evaluating for PENNVEST the public health and safety and environmental impact criteria in the PENNVEST project evaluation process.

Authority

The provisions of this § 103.5 amended under The Clean Streams Law (35 P. S. §§ 691.1—691.1001); section 16(2) of the Land and Water Conservation and Reclamation Act (32 P. S. § 5116(2)); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

Source

The provisions of this § 103.5 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended December 28, 1973, effective December 29, 1973, 3 Pa.B. 2957; amended April 29, 1977, effective May 16, 1977, 7 Pa.B. 1171; amended December 21, 1979, effective December 22, 1979, 9 Pa.B. 4158; reserved January 2, 1998, effective January 3, 1998, 28 Pa.B. 18. Immediately preceding text appears at serial pages (233555) to (233557).

§ 103.6. Priority rating factors.

(a) Priority among eligible projects for the purpose of creating the project priority list shall be established according to the accumulation of points for each of the following rating factors weighted as shown:

- (1) Water Pollution Control—80%
- (2) Stream Segment Priority—10%
- (3) Population Affected—10%

(b) A project's total priority points shall be the sum of the points assigned in each of the individual rating factors.

Authority

The provisions of this § 103.6 amended under The Clean Streams Law (35 P.S. §§ 691.1—691.1001); section 16(2) of the Land and Water Conservation and Reclamation Act (32 P.S. § 5116(2)); and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20).

Source

The provisions of this § 103.6 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended April 29, 1977, effective May 16, 1977, 7 Pa.B. 1171; amended December 21, 1979, effective December 22, 1979, 9 Pa.B. 4158; amended January 2, 1998, effective January 3, 1998, 28 Pa.B. 18. Immediately preceding text appears at serial pages (233557) to (233558).

Notes of Decisions

The Environmental Hearing Board has jurisdiction to review actions of the Department of Environmental Resources in implementing the Federal Water Pollution Control Act (33 USC § 1251 et seq), but it could not exercise jurisdiction in a case where appellant failed to make out a colorable claim for review and the question involving the determination of priority points awarded by the Department was not disputed by the most credible showing of invalidity since only one of numerous parties affected by the priority list was before the Board. *Latrobe Municipal Authority v. Commonwealth*, 75 Pa. D. & C.2d 284 (1975).

Requiring a municipal authority to clean up its acid-mine-drainage polluted stream under state law and consequently giving such stream a lower priority in the distribution of federal funds under DER regulations is not so inconsistent or unreasonable as to give rise to a colorable claim of invalidity of the regulations that would give the courts jurisdiction to review the DER's actions in awarding a low priority. *Latrobe Municipal Authority v. Commonwealth*, 75 Pa. D. & C.2d 284 (1975).

Cross References

This section cited in 25 Pa. Code § 103.11 (relating to small municipality projects).

§ 103.7. Stream segment priority.

(a) Priority points attributable to this factor will be assigned in accordance with the following:

- (1) *Category I.* Water quality segments which have existing sewage discharges from sewerage systems, including treatment plants, and are experiencing rates of growth at or above the Statewide average in the segment's drain-

age area; excluded from this category are streams affected by mine drainage which are not scheduled for acid mine drainage reclamation projects—10 points.

(2) *Category II.* Water quality segments with drainage areas that have rates of growth below the Statewide average or segments identified as “special protection” streams—7 points.

(3) *Category III.* Effluent limitation segments—4 points.

(4) *Category IV.* Water quality segments that are affected by acid mine drainage from abandoned coal mines—1 point.

(b) Designated stream segment categories shall be those identified in the Program Plan submitted to EPA in accordance with section 106 of the Federal Act.

Source

The provisions of this § 103.7 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended December 28, 1973, effective December 29, 1973, 3 Pa.B. 2957; amended April 29, 1977, effective May 16, 1977, 7 Pa.B. 1171; amended December 21, 1979, effective December 22, 1979, 9 Pa.B. 4158. Immediately preceding text appears at serial page (30947).

Cross References

This section cited in 25 Pa. Code § 103.11 (relating to small municipality projects).

§ 103.8. Water pollution control.

(a) The number of points for water pollution control shall be based on the extent to which project implementation will eliminate detrimental effects of pollution and public health hazards from existing discharges of untreated or inadequately treated sewage.

(b) The following point values shall be used to determine rating points for this factor.

(1) *Community environment and aesthetics*—Use matrix in assigning points as follows:

(i) *Category A—24 points maximum*—Documented evidence or technical evaluation conducted or approved by the Department confirming that a majority of onlot disposal systems in the rated area are malfunctioning or otherwise inadequate with numerous instances of untreated or inadequately treated sewage found in publicly accessible areas; or untreated or inadequately treated sewage is being discharged to surface streams from sewers, storm drains, or overloaded sewage conveyance facilities in dry weather.

(ii) *Category B—16 points maximum*—The rated area has a documented history of a significant number of malfunctioning onlot disposal systems—this includes deficiently designed onlot systems and visual evidence of malfunctioning onlot systems primarily found in residential yards or adjacent areas; or documented intermittent discharges to surface streams from sewers, storm drains, or overloaded sewage conveyance facilities; or documented

evidence of discharges of inadequately treated sewage from treatment plants to water quality limitation segments.

(iii) *Category C—10 points maximum*—Existing onlot systems in the rated area are shown to occasionally malfunction; major portions of the rated area have physical condition which limit the application of onlot disposal systems; or there is visual evidence in the project area of discharges of untreated or inadequately treated sewage from sewage conveyance facilities primarily in wet weather or other periods of peak sewage flows; or documented evidence of discharges of inadequately treated sewage from treatment plants to effluent limitation segments.

(iv) *Category D—6 points maximum*—Discharges of sewage receiving at least secondary treatment but less than NPDES requirements prior to discharge.

(v) *Category E—0 points*—Present sewerage facilities are adequate.

Matrix for Community Environment and Aesthetics Category

—% of total project equivalent population in Category A

—% of total project equivalent population in Category B

—% of total project equivalent population in Category C

—% of total project equivalent population in Category D

—% of total project equivalent population in Category E

TOTAL 100%

Category/%	0	1-30	31-70	71-100
A	0	6	12	24
B	0	4	8	16
C	0	2	4	10
D	0	1	3	6
E	0	0	0	0

(Maximum total points 24)

(2) *Domestic water supply.* Points awarded in the domestic water supply category shall be assigned as follows:

(i) *18 points*—Documented evidence provided by laboratory analysis that public drinking water sources or a significant number of private drinking water sources are contaminated by malfunctioning onlot disposal systems or that downstream drinking water sources are subject to water quality standards violations due to discharges of untreated or inadequately treated sewage which would be eliminated or upgraded by project implementation.

(ii) *10 points*—Documented contamination of public or private ground-water drinking water sources supported by known subsurface soil and hydro-geologic conditions and evidence of periodic water source contamination or documentation that downstream drinking water sources are periodically subject to contamination by existing discharges of untreated or inadequately

treated sewage which would be eliminated or upgraded by project implementation, based on water quality analyses or evaluation of the stream's physical characteristics, or both.

(iii) *5 points*—Suspected contamination of public or private groundwater drinking water sources based on knowledge of subsurface soil and hydrogeologic conditions or a downstream drinking water source is shown to be affected by periodic water quality standards violations from discharges of untreated or inadequately treated sewage which would be eliminated or upgraded by project implementation based on evaluation of the stream's physical characteristics.

(iv) *0 points*—No downstream drinking water sources or no documentation or evidence that drinking water sources are affected by the sewage treatment need which would be eliminated or upgraded by project implementation.

(3) *Fish and aquatic life*. Points awarded in the fish and aquatic life category shall be assigned as follows:

(i) *14 points*—Surface waters are capable of supporting a cold or warm water fishery but documented evidence shows that they are not because of pollution caused by discharges of untreated or inadequately treated sewage which would be eliminated or upgraded by project implementation.

(ii) *8 points*—Surface waters currently supporting a depressed cold or warm water fishery shown through documentation to be caused by untreated or inadequately treated sewage which would be eliminated or upgraded by project implementation.

(iii) *5 points*—Surface waters currently supporting a cold or warm water fishery documented to be periodically affected or threatened by discharge of untreated or inadequately treated sewage which would be eliminated or upgraded by project implementation based on evaluation of the stream's physical characteristics.

(iv) *0 points*—No documentation or evidence that fish and aquatic life are affected by untreated or inadequately treated sewage discharges which would be eliminated or upgraded by project implementation.

(4) *Public bathing*. Points awarded in the public bathing category shall be assigned as follows:

(i) *8 points*—A downstream permitted public bathing beach has been closed due to contamination as a result of water quality standards violations due to discharges of untreated or inadequately treated sewage which would be eliminated or upgraded by project implementation.

(ii) *3 points*—A downstream permitted public bathing beach is shown through water quality analysis and an evaluation of stream and bathing area's physical characteristics to be subject to contamination by untreated or inadequately treated sewage discharges which would be eliminated or upgraded by project implementation.

(iii) *1 point*—A public bathing place permit has been denied because of violations of water quality standards resulting from discharges of untreated or inadequately treated sewage which would be eliminated or upgraded by project implementation.

(iv) *0 points*—No downstream public bathing uses are documented or there is no documented effect of discharges of untreated or inadequately treated sewage on downstream public bathing uses which would be eliminated or upgraded by project implementation.

(5) *Boating and recreation.* Points awarded in the boating and recreation category shall be assigned as follows:

(i) *5 points*—Documentation shows that discharges of untreated or inadequately treated sewage which would be eliminated or upgraded by project implementation prevent the use of a stream or impoundment for boating and other nonswimming and nonfishing recreational purposes due to excessive aquatic growth or other material posing a danger to the user or his equipment.

(ii) *3 points*—Discharges of untreated or inadequately treated sewage which would be eliminated or upgraded by project implementation are shown to adversely affect, but not prevent, the use of the stream or impoundment for boating and other nonswimming and nonfishing recreational purposes.

(iii) *1 point*—Discharges of untreated or inadequately treated sewage which would be eliminated or upgraded by project implementation are shown to potentially affect the use of the stream or impoundment for boating or other nonswimming and nonfishing recreational purposes.

(iv) *0 points*—No downstream boating and recreation uses are documented or there is no documented effect of untreated or inadequately treated sewage discharges which would be eliminated or upgraded by project implementation on downstream boating or other nonswimming and nonfishing recreational purposes.

(6) *Industrial water supply.* Points awarded in the industrial water supply category shall be assigned as follows:

(i) *5 points*—Documented evidence that water supply intakes for industries which process foods or make fine papers are shown to be directly affected as a result of water quality standards violations due to untreated or inadequately treated sewage discharges which would be eliminated or upgraded by project implementation.

(ii) *3 points*—The use of water supplies for industries which use water in a way that persons are exposed to untreated water is shown to be limited or restricted as a result of water quality standards violations due to untreated or inadequately treated sewage discharges which would be eliminated or upgraded by project implementation.

(iii) *1 point*—Industrial water supply intakes are shown to be adversely affected by discharges of untreated or inadequately treated sewage which

would be eliminated or upgraded by project implementation based on evaluation of the stream's physical characteristics.

(iv) *0 points*—No downstream industrial water supply intakes are documented or there is no documented effect on downstream industrial water supply uses caused by untreated or inadequately treated sewage discharges which would be eliminated or upgraded by project implementation.

(7) *Irrigation*. Points awarded in the irrigation category shall be assigned as follows:

(i) *3 points*—Irrigation water sources for crops grown or prepared for human consumption are shown to be adversely affected as a result of water quality standards violations due to discharges of untreated or inadequately treated sewage which would be eliminated or upgraded by project implementation.

(ii) *2 points*—Irrigation water sources for crops other than those grown or prepared for human consumption are shown to be adversely affected as a result of water quality standards violations due to untreated or inadequately treated sewage discharges which would be eliminated or upgraded by project implementation.

(iii) *1 point*—Irrigation sources are shown to be affected by untreated or inadequately treated sewage discharges which would be eliminated or upgraded by project implementation based on evaluation of the stream's physical characteristics.

(iv) *0 points*—No downstream irrigation uses are documented or there is no effect on downstream irrigation uses by untreated or inadequately treated sewage discharges which would be eliminated or upgraded by project implementation.

(8) *Stock watering*. Points awarded in the stock watering category shall be assigned as follows:

(i) *3 points*—Water sources used to wash and water dairy animals are documented to be adversely affected as a result of water quality standards violations due to untreated or inadequately treated sewage from discharges which would be eliminated or upgraded by project implementation.

(ii) *2 points*—Water sources used to water livestock other than dairy animals are documented to be in violation of water quality standards as a result of untreated or inadequately treated sewage from discharges which would be eliminated or upgraded by project implementation.

(iii) *1 point*—Water sources used to water livestock are shown to be contaminated by untreated or inadequately treated sewage from discharges which would be eliminated or upgraded by project implementation based on evaluation of the stream's physical characteristics.

(iv) *0 points*—No downstream stock watering is documented or there is no documented effect on downstream stock watering uses caused by

untreated or inadequately treated sewage discharges which would be eliminated or upgraded by project implementation.

**SUMMARY OF WATER POLLUTION CONTROL
RATING USE FACTOR RATINGS**

	<i>No Effect</i>	<i>Slight Effect</i>	<i>Moderate Effect</i>	<i>Great Effect</i>
Community Environment and Aesthetics	0	(See Matrix)		24
Domestic Water Supply	0	5	10	18
Fish and Aquatic Life	0	5	8	14
Public Bathing	0	1	3	8
Boating and Recreation	0	1	3	5
Industrial Water Supply	0	1	3	5
Irrigation	0	1	2	3
Stock Watering	0	1	2	3

Authority

The provisions of this § 103.8 amended under The Clean Streams Law (35 P. S. §§ 691.1—691.1001); section 16(2) of the act (32 P. S. § 5116(2)); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

Source

The provisions of this § 103.8 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended April 29, 1977, effective May 16, 1977, 7 Pa.B. 1171; amended December 21, 1979, effective December 22, 1979, 9 Pa.B. 4158; amended January 2, 1998, effective January 3, 1998, 28 Pa.B. 18. Immediately preceding text appears at serial pages (233558) to (233563).

Cross References

This section cited in 25 Pa. Code § 103.5 (relating to preparation of project lists); and 25 Pa. Code § 103.11 (relating to small municipality projects).

§ 103.9. Population affected.

(a) Priority points attributable to this factor shall be assigned as follows:

<i>Project Equivalent Population</i>	<i>Priority Points</i>
1—3,500	6
3,501—5,000	7
5,001—10,000	8
10,001—50,000	9
greater than 50,000	10

(b) Project Equivalent Population shall be the initial population equivalent to be served by the project at the time that the project is rated.

Source

The provisions of this § 103.9 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended December 28, 1973, effective December 29, 1973, 3 Pa.B. 2957; amended April 29, 1977, effective May 16, 1977, 7 Pa.B. 1171; amended December 21, 1979, effective December 22, 1979, 9 Pa.B. 4158. Immediately preceding text appears at serial page (30948).

Cross References

This section cited in 25 Pa. Code § 103.11 (relating to small municipality projects).

§ 103.10. [Reserved].**Source**

The provisions of this § 103.10 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended December 28, 1973, effective December 29, 1973, 3 Pa.B. 2957; amended April 21, 1977, effective May 16, 1977, 7 Pa.B. 1171; reserved December 21, 1979, effective December 22, 1979, 9 Pa.B. 4158. Immediately preceding text appears at serial pages (30948) to (30949).

§ 103.11. Small municipality projects.

(a) All small municipality projects shall be rated in accordance with the rating system described in §§ 103.6—103.9 except that nine points shall be assigned under the population affected factor.

(b) Where a project will serve more than one municipality, it shall qualify as a small municipality project if each municipality involved conforms to the definition of a small municipality as set forth in § 103.1 (relating to definitions).

Authority

The provisions of this § 103.11 amended under The Clean Streams Law (35 P.S. §§ 691.1—691.1001); section 16(2) of the Land and Water Conservation and Reclamation Act (32 P.S. § 5116(2)); and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20).

Source

The provisions of this § 103.11 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended December 28, 1973, effective December 29, 1973, 3 Pa.B. 2957; amended April 29, 1977, effective May 16, 1977, 7 Pa.B. 1171; amended December 21, 1979, effective December 22, 1979, 9 Pa.B. 4158; amended January 2, 1998, effective January 3, 1998, 28 Pa.B. 18. Immediately preceding text appears at serial page (233564).

§ 103.12. Other considerations.

(a) If two or more projects receive the same number of total rating points, the relative rank of the projects on the project priority list will be based on points awarded under the water pollution control factor, the higher rank being assigned to that project with the higher water pollution control points. If, after this test, the projects remain tied, the factors of stream segment priority and then population affected shall be used to break ties.

(b) In the case of a regional project when the Department determines each portion of the regional project is essential to the integrity of the project, the

Department will rank all portions of the project together as a single project and assign the same number of rating points to all portions of the regional project on the project priority list.

(c) Based on the findings and conclusions of the sewage facilities plan, the Department will consider the need to rerate projects for the purpose of ranking projects on the project priority list if the findings and conclusions of the sewage facilities plan significantly alter the definition of wastewater treatment need or the scope of the project.

Authority

The provisions of this § 103.12 amended under The Clean Streams Law (35 P. S. §§ 691.1—691.1001); section 16(2) of the Land and Water Conservation and Reclamation Act (32 P. S. § 5116(2)); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

Source

The provisions of this § 103.12 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended December 28, 1973, effective December 29, 1973, 3 Pa.B. 2957; amended April 29, 1977, effective May 16, 1977, 7 Pa.B. 1171; amended December 21, 1979, effective December 22, 1979, 9 Pa.B. 4158; amended January 2, 1998, effective January 3, 1998, 28 Pa.B. 18. Immediately preceding text appears at serial page (233565).

§ 103.13. [Reserved].

Source

The provisions of this § 103.13 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended December 28, 1973, effective December 29, 1973, 3 Pa.B. 2957; amended April 29, 1977, effective May 16, 1977, 7 Pa.B. 1171; amended December 21, 1979, effective December 22, 1979, 9 Pa.B. 4158; reserved January 2, 1998, effective January 3, 1998, 28 Pa.B. 18. Immediately preceding text appears at serial pages (233565) to (233566).

§ 103.14. [Reserved].

Source

The provisions of this § 103.14 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended December 28, 1973, effective December 29, 1973, 3 Pa.B. 2957; amended April 29, 1977, effective May 16, 1977, 7 Pa.B. 1171; amended December 21, 1979, effective December 22, 1979, 9 Pa.B. 4158; reserved January 2, 1998, effective January 3, 1998, 28 Pa.B. 18. Immediately preceding text appears at serial pages (233566) to (233567).

Notes of Decisions

Where the DER originally certifies a project to the EPA, and the EPA then rejects some portion of the project but indicates that the portion deleted could be reinstated if certain conditions are met, an amendment to the Authority's grant covering the portion to be reinstated is not a "change in scope" and thus not subject to the provisions of subsection (b)(2). *Department of Environmental Resources v. Bethlehem Township Municipal Authority*, 465 A.2d 1329 (Pa. Cmwlth. 1983).

**Subchapter B. STATE GRANTS FOR OPERATION
OF SEWAGE TREATMENT PLANTS**

GENERAL

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103.37. Transfer of ownership or right to payment.

Authority

The provisions of this Subchapter B issued under the act of August 20, 1953 (P. L. 1217, No. 339) (35 P. S. §§ 701—703), unless otherwise noted.

Source

The provisions of this Subchapter B adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804, unless otherwise noted.

GENERAL

§ 103.21. Definitions.

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

Abandoned facilities—Facilities no longer maintained or used.

Act—The act of August 20, 1953 (P. L. 1217, No. 339) (35 P. S. §§ 701—703).

Applicant municipality—A county, city, town, borough, township, school district, institution or an authority created by any one of the foregoing. If more than one municipality forms a single authority which applies for funding under this program, the term includes the total of the political boundaries of the

municipalities and population of those municipalities, whether or not the entire population of each municipality is served by the authority.

Backup facilities—Components that are not routinely used and are an alternate to another component, and which are available but not necessary for continued treatment plant operations in the event of failures or breakdowns. The term does not include necessary components, as required by a water quality management sewage permit.

Component—Equipment, structure or treatment unit used in a sewage treatment works.

Construction—The construction of new treatment works, pumping stations and intercepting sewers which are an integral part of the treatment facilities, and the altering, improving or adding to of existing treatment works, pumping stations, and intercepting sewers which are essential to the sewage treatment plant system.

First connection—The nearest point on the intercepting sewer to the sewage treatment works at which the intercepting sewer receives sewage or other liquid wastes from an outlet.

Industrial waste treatment works—An arrangement of devices and structures for treatment and disposal of industrial waste, all or part of which is required, or authorized, by a water quality management industrial waste permit issued under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

Intercepting sewer—A sewer which receives sewage from various outlets and conducts the sewage to the treatment works. The term does not include main, submain and trunk sewers.

Lift station—A sewage pumping station designed to raise sewage from areas too low to drain into available sewers, and as such are not eligible for payment consideration.

Out of service—Facilities no longer in use. The term includes obsolete and outmoded facilities.

PENNVEST—Pennsylvania Infrastructure Investment Authority Act Program.

Pennsylvania Infrastructure Investment Authority Act—An act providing low interest loans and limited grant assistance for financing sewerage and water treatment facilities. See the act of March 1, 1988 (P. L. 82, No. 16) (35 P. S. §§ 751.1—751.20).

Pumping station—Facilities to house sewage pumps and their appurtenances and the force main into which the pumps discharge.

Sewage treatment facilities—Sewage treatments works.

Sewage treatment plant—Sewage treatment works.

Sewage treatment works—An arrangement of devices and structures for treatment and disposal of sewage, all or part of which is required, or authorized, by a water quality management sewage permit issued under The Clean Streams Law. The term includes treatment and disposal devices and structures

located inside the fence surrounding the treatment works site, outfalls to the receiving stream and their appurtenances, and liquid waste disposal equipment and facilities.

Treatment facilities—Sewage treatment works.

Treatment works—Sewage treatment works.

Authority

The provisions of this § 103.21 amended under the act of August 20, 1953 (P. L. 1217, No. 339) (35 P. S. §§ 701—703); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); section 20 of the Pennsylvania Infrastructure Investment Authority Act (35 P. S. § 751.201); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

Source

The provisions of this § 103.21 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended January 22, 1982, effective January 23, 1982, 12 Pa.B. 382; amended September 27, 1991, effective September 28, 1991, 21 Pa.B. 4397. Immediately preceding text appears at serial pages (67539) and (151607).

Notes of Decisions

Applicant Municipality

Although not all of the interceptors constructed by the municipal authority were eligible for State subsidies, they were considered interceptors as they received sewage from various outlets and conducted the sewage to the treatment works. *Northampton-Bucks County Municipal Authority v. Department of Environmental Resources*, 547 A.2d 802 (Pa. Cmwlth. 1988).

§ 103.22. Date of eligibility.

(a) Sewage treatment works and necessary appurtenances constructed by municipalities and municipality authorities on or after September 1, 1937, are eligible to receive State payment. Works completed and placed in operation prior to September 1, 1937, are not eligible.

(b) The construction of sewage treatment works means works which have been completed and facilities placed in operation on or after September 1, 1937, up to and including December 31 of the year preceding the year for which payment is to be made.

Authority

The provisions of this § 103.22 amended under the act of August 20, 1953 (P. L. 1217, No. 339) (35 P. S. §§ 701—703); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

Source

The provisions of this § 103.22 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended September 27, 1991, effective September 23, 1991, 21 Pa.B. 4397. Immediately preceding text appears at serial page (151607).

§ 103.23. Date of filing application.

(a) The required application and supporting documentation shall be filed with the Department prior to February 1 annually. No application received by the Department or postmarked later than January 31 will be accepted for processing by the Department. If January 31 falls on a Saturday, Sunday or State or Federal holiday, the deadline will be the next business day.

(b) Applications shall be submitted on forms supplied by the Department.

Authority

The provisions of this § 103.23 amended under the act of August 20, 1953 (P. L. 1217, No. 339) (35 P. S. §§ 701—703); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

Source

The provisions of this § 103.23 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended January 22, 1982, effective January 23, 1982, 12 Pa.B. 382; amended September 27, 1991, effective September 28, 1991, 21 Pa.B. 4397. Immediately preceding text appears at serial page (151607).

Notes of Decisions

The EHB properly granted Department of Environmental Resources' Motion for Summary Judgment in an appeal from a DER action refusing to process an application for an annual subsidy for the operations of a sewage treatment plant when the application was postmarked after January 31 deadline. *Upper Allegheny Joint Sanitary Authority v. Department of Environmental Resources*, 567 A.2d 342 (Pa. Cmwlth. 1989); appeal denied 582 A.2d 327 (Pa. 1990).

§ 103.24. [Reserved].**Source**

The provisions of this § 103.24 reserved September 27, 1991, effective September 28, 1991, 21 Pa.B. 4397. Immediately preceding text appears at serial page (151608).

§ 103.24a. Basis for calculation of payment.

Although the act provides that payments made to applicant municipalities shall be toward the cost of operating, maintaining, repairing, replacing and other expenses related to sewage treatment works, the basis for calculation of those payments is 2% of the cost of acquisition and construction of the eligible sewage treatment works.

Source

The provisions of this § 103.24a adopted January 22, 1982, effective January 23, 1982, 12 Pa.B. 382.

§ 103.25. Eligibility for payment.

(a) Payments are to be made only to municipalities, public school districts, and municipality authorities.

(b) The act clearly indicates an intent on the part of the Legislature to have the Commonwealth share in the costs of the Clean Streams Program. Accordingly, the act shall be interpreted to permit payments to municipalities, public school districts, and municipality authorities based on construction which has furthered the Clean Streams Program as long as the construction has been approved by the Department as being in accordance with The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

(c) The sewage treatment works shall have been constructed and the facilities placed in operation on or before December 31 of the year for which payment is requested.

(d) Interceptors which are considered integral portions of the sewage treatment works and therefore eligible for payment under the act shall include the following:

(1) That portion of an interceptor between the treatment facility and the first connection.

(2) An interceptor which picks up existing municipally-owned sewers which discharge untreated sewage into the same stream that receives the treatment facility effluent, regardless of the location of the point of discharge of the sewers. The interceptor is eligible from the treatment plant back to the point of interception of the furthest untreated sewage discharge from the plant.

(3) An interceptor which picks up existing municipally-owned sewers which discharge untreated sewage into a tributary stream if that stream contributes at least 15% of the average daily flow to the stream receiving the effluent of the treatment plant, as measured at the point of effluent introduction to this main stream.

(4) An interceptor which carries at least 50% of the total sewage flow from the sewer population of the applicant municipality to the treatment plant or sewer system of another municipality; provided that the interceptor meets the criteria described in paragraph (1), (2) or (3). Where it is not feasible to obtain sewage flow statistics, demographic statistics may be used.

(e) Pumping stations on or constructed in lieu of interceptors eligible for payment under subsection (d) are also eligible as an integral part of the sewage treatment plant system.

(f) The eligible costs for engineering, financial, legal and administrative expenses incurred for project construction shall be based on the ratio of eligible construction contract costs under the act to total construction contract costs paid.

Authority

The provisions of this § 103.25 amended under the act of August 20, 1953 (P. L. 1217, No. 339) (35 P. S. §§ 701—703); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); section 20 of the Pennsylvania Infrastructure Investment Authority Act (35 P. S. § 751.20); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

Source

The provisions of this § 103.25 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended January 22, 1982, effective January 23, 1982, 12 Pa.B. 382; amended September 27, 1991, effective September 28, 1991, 21 Pa.B. 4397. Immediately preceding text appears at serial pages (151608) and (141407).

Notes of Decisions

The “first connection” limitation imposed by the Environmental Hearing Board on subsidies for new construction was an appropriate interpretation of the statutory language since the legislature used the terms “integral” and “essential”, which imply limitations. *Northampton-Bucks County Municipal Authority v. Department of Environmental Resources*, 555 A.2d 878 (Pa. 1989).

The section which limits State subsidies on sewage interceptors for first connections only was not an arbitrary and capricious limitation of the statutory language or unreasonable and is a valid regulation. *Northampton-Bucks County Municipal Authority v. Department of Environmental Resources*, 547 A.2d 802, 806 (Pa. Commw. 1988), affirmed by *Northampton-Bucks County Municipal Authority v. Department of Environmental Resources*, 555 A.2d 878 (Pa. 1989).

§ 103.26. Nonreimbursable costs.

(a) The cost of acquisition or construction may not include abandoned, out of service, backup facilities or lateral or collecting sewers.

(b) A payment or grant made by a State or Federal agency which is not paid back by the municipality, public school district or municipality authority to the State or Federal agency and which includes State grant-in-aid payment on plans, Federal grants under the Clean Water Act of 1977, the act of December 27, 1977 (Pub. L. No. 95-217, 91 Stat. 1566-1609) or similar programs, labor or materials given the municipality by a Federal or State agency or State payment made as part of the capital cost of the project for State participation, or interest earned on any form of debt instrument shall be deducted in arriving at the actual cost to the municipality, public school district or municipality authority. Calculation of these deductions shall be based on the ratio of eligible construction costs under the act to the construction costs paid for with State or Federal grant funds or PEN-NVEST loan funds.

(c) Expenditures made before September 1, 1937, may not be included.

(d) Expenditures not related to acquisition or construction of sewage treatment works are not eligible for payment.

(1) After sewage treatment works are completed and placed in operation, only expenditures for additions or modifications related to the sewage treatment process will be considered for payment. When expenditures are claimed for replacement of components related to the treatment process, the original construction cost of the replaced components and other associated costs are no longer eligible for payment the year in which the expenditures for the replacement components are claimed.

(2) The costs of acquisition of replacement parts, tools, supplies, maintenance vehicles and other equipment are not eligible for payment.

(3) Engineering, financial, legal and administrative expenses incurred in the operation of the sewerage facilities are not eligible for payment.

(e) Sewage treatment facilities funded by PENNVEST may be eligible for a subsidy under the act based on the proportion of local funds contributed toward project costs. Calculation of the local contribution shall be based on the ratio of PENNVEST loan and grant funds received to the total costs of a project funded in whole or in part through PENNVEST funds.

(1) Projects for modifications to existing sewage treatment facilities or new construction projects, or both, that receive funding under the PENNVEST program for the full amount of the as-bid construction contract costs are not eligible for a subsidy under the act.

(2) Existing sewage treatment facility components altered by project construction determined ineligible under paragraph (1) are not eligible for continued subsidy under the act of August 20, 1953 (P. L. 1217, No. 339) (Act 339). For an existing facility currently eligible for an Act 339 subsidy, only those components of the facility that remain in use will remain eligible for payment if not altered by project construction determined ineligible under paragraph (1).

(3) If Municipality A constructs a new facility or modifies an existing facility with funds received under PENNVEST and subsequently enters into a leaseback agreement with or sells the facility to Municipality B, the initial determination under this subsection regarding the facility with respect to Municipality A under this subsection shall apply to the eligibility or ineligibility of the facility to receive the Act 339 subsidy with respect to Municipality B.

(f) Industrial waste treatment works are not eligible for payment.

Authority

The provisions of this § 103.26 amended under the act of August 20, 1953 (P. L. 1217, No. 339) (35 P. S. §§ 701—703); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); section 20 of the Pennsylvania Infrastructure Investment Authority Act (35 P. S. § 751.20); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

Source

The provision of this § 103.26 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended January 22, 1982, effective January 23, 1982, 12 Pa.B. 382; amended September 27, 1991, effective September 28, 1991, 21 Pa.B. 4397. Immediately preceding text appears at serial pages (141407) to (141408).

§ 103.27. [Reserved].

Source

The provisions of this § 103.27 adopted January 22, 1982, effective January 23, 1982, 12 Pa.B. 382; reserved September 27, 1991, effective September 28, 1991, 21 Pa.B. 4397. Immediately preceding text appears at serial page (141408).

§ 103.28. Limitations of right to appeal determination.

The determination by the Department that a portion of a treatment works or other facility is not eligible for funds under the act is only reviewable in the year

in which the determination was initially made and not reviewable in a subsequent year's application if an applicant attempts to include items, previously declared ineligible, in a later application.

Authority

The provisions of this § 103.28 amended under the act of August 20, 1953 (P. L. 1217, No. 339) (35 P. S. §§ 701—703); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); section 20 of the Pennsylvania Infrastructure Investment Authority Act (35 P. S. § 751.20); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

Source

The provisions of this § 103.28 adopted January 22, 1982, effective January 23, 1982, 12 Pa.B. 382; amended September 27, 1991, effective September 28, 1991, 21 Pa.B. 4397. Immediately preceding text appears at serial pages (141408) and (78979).

CONTENTS OF APPLICATIONS

§ 103.31. Drawings.

(a) The applicant shall provide drawings of the project sufficiently detailed to support an eligibility determination.

(b) If the project involves construction of intercepting sewers or pumping stations for which payment is requested, one set of drawings shall be submitted with the application, showing the exact location and size of the intercepting sewer and its connections and the locations of the pumping stations.

Authority

The provisions of this § 103.31 amended under the act of August 20, 1953 (P. L. 1217, No. 339) (35 P. S. §§ 701—703); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

Source

The provisions of this § 103.31 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended January 22, 1982, effective January 23, 1982, 12 Pa.B. 382; amended September 27, 1991, effective September 28, 1991, 21 Pa.B. 4397. Immediately preceding text appears at serial page (78979).

§ 103.32. Cost breakdown.

A breakdown of, and supporting documentation for, the total construction cost of the treatment works is required, including intercepting sewers and pumping stations which are integral parts of the treatment facilities, the cost of land and rights of way acquired after September 1, 1937, total engineering costs covering the preparation of plans and specifications, supervision and inspection of construction, legal and financial expenses, and interest during construction with a basis for proration of the costs ascribed to eligible facilities. Supporting documentation shall include, but not be limited to:

- (1) One copy of itemized invoices.

(2) One copy of proof of payment in the form of cancelled checks or signed payment requisitions.

Authority

The provisions of this § 103.32 amended under the act of August 20, 1953 (P. L. 1217, No. 339) (35 P. S. §§ 701—703); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

Source

The provisions of this § 103.32 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended January 22, 1982, effective January 23, 1982, 12 Pa.B. 382; corrected December 30, 1982, effective January 23, 1982, 13 Pa.B. 17; amended September 27, 1991, effective September 28, 1991, 21 Pa.B. 4397. Immediately preceding text appears at serial page (78979).

§ 103.33. Payment to several municipalities.

(a) If several municipalities have combined to acquire and construct sewage treatment works, payment shall be made in relation to costs expended by the applicant municipality or municipality authority for the acquisition and construction of the sewage treatment plant and necessary appurtenances. Payment may be made only to the applicant municipality or municipality authority which participates in the costs of acquisition and construction, either alone or jointly.

(b) An applicant municipality which merely contracts with another municipality, public school district or municipality authority to have its sewage treated may not receive payment under the act.

(c) If the project is a joint one, with all the municipalities participating, the payment shall be made to the operating authority unless the Department is advised differently by the operating authority. The application shall clearly indicate to whom the payment shall be made.

Authority

The provisions of this § 103.33 amended under the act of August 20, 1953 (P. L. 1217, No. 339) (35 P. S. §§ 701—703); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

Source

The provisions of this § 103.33 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended January 22, 1982, effective January 23, 1982, 12 Pa.B. 382; amended September 27, 1991, effective September 28, 1991, 21 Pa.B. 4397. Immediately preceding text appears at serial page (78980).

§ 103.34. Leaseback agreements.

Where the works that are owned by a municipality authority are operated by a municipality under a leaseback agreement, the municipality may apply for and receive the State payment, provided the authority authorizes the Department to make the payment to the municipality.

Source

The provisions of this § 103.34 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended January 22, 1982, effective January 23, 1982, 12 Pa.B. 382. Immediately preceding text appears at serial page (19720).

§ 103.35. Miscellaneous expenses.

Engineering, financial and legal expenses or costs shall be the actual costs expended in connection with the preparation of plans, supervision of construction, securing of titles, arranging for financing and similar expenses directly related to the construction of eligible facilities.

Source

The provisions of this § 103.35, adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended January 22, 1982, effective January 23, 1982, 12 Pa.B. 382. Immediately preceding text appears at serial page (19720).

§ 103.36. Other expenses.

(a) If the project financed and constructed includes more than the sewage treatment works and necessary appurtenances, the application and supporting documentation on the costs of construction filed for the State payment shall cover only the actual costs of the construction of the sewage treatment works and appurtenances.

(b) If engineering, financial and legal costs, interest during construction and other costs include more than the sewage treatment works and necessary appurtenances, the applicant shall clearly indicate how the costs were divided to equitably cover the various items and set forth this supporting documentation as a supplement attached to the application.

Source

The provisions of this § 103.36 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended January 22, 1982, effective January 23, 1982, 12 Pa.B. 382. Immediately preceding text appears at serial page (19721).

§ 103.37. Transfer of ownership or right to payment.

(a) When ownership of an eligible facility of an applicant municipality is transferred to another eligible applicant municipality, the payment of the subsidy under the act will be made to the new public owner based on the eligible project costs determined in accordance with this subchapter.

(b) When eligible applicant Municipality A designates that Municipality B may apply for and receive its subsidy payment under the act, payment will be made to the new applicant Municipality B based on Municipality A's eligible project costs determined in accordance with this subchapter. Municipality B's application for payment shall be accompanied by resolutions from Municipalities

A and B authorizing Municipality B to apply for and receive Municipality A's subsidy payment under the act for that year.

Authority

The provisions of this § 103.37 amended under the act of August 20, 1953 (P. L. 1217, No. 339) (35 P. S. §§ 701—703); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

Source

The provisions of this § 103.37 adopted September 27, 1991, effective September 28, 1991, 21 Pa.B. 4397.

**Subchapter C. REIMBURSEMENT OF
FLOOD CONTROL PROJECTS**

GENERAL PROVISIONS

- Sec.
103.41. Establishment of flood control projects.
103.42. Reimbursement to local agency.
103.43. Information required.
103.44. Partial billings.

LAND ACQUISITION

- 103.51. Plan required.
103.52. Documents required.
103.53. Rights-of-way or easements.

RELOCATION OF FACILITIES

- 103.61. Agreement with owner.
103.62. Relocation by agency.
103.63. Relocation by owner.

Authority

The provisions of this Subchapter C issued under section 13 of the act of August 7, 1936 (P. L. 106, No. 46) (32 P. S. § 665); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), unless otherwise noted.

Source

The provisions of this Subchapter C adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804, unless otherwise noted.

GENERAL PROVISIONS**§ 103.41. Establishment of flood control projects.**

(a) The Department has been designated by the Legislature as the Commonwealth agency which shall participate with local sponsoring agencies in flood control projects.

(b) The Department has the authority to enter into agreements with local sponsoring agencies to assist them in financing certain specified local costs.

(c) The Department has the authority to make appropriate surveys and to prepare suitable plans for any proposed flood control district, and upon adoption thereof as official plans and following publication notice of such adoption, shall have the authority to establish a flood control district encompassing the area covered by the surveys and the official plans.

§ 103.42. Reimbursement to local agency.

(a) The Department normally will compensate the local sponsoring agency for up to 50% of its certified expenditures for land acquisition, relocation of facilities, and other related work in accordance with the agreement between the Department and the sponsoring agency.

(b) The Department will reimburse only for relocation of duplicate facilities. It will not cost share on any type of betterment which provides higher capacity or more elaborate facilities than those which originally existed. If betterments are made, the Department will cost share to the extent of the amount which would provide duplicate facilities, in their present condition, but no reimbursement will be provided for costs over and above this work.

(c) The following items shall not be reimbursable when routinely incurred:

- (1) Legal fees.
- (2) Surveying fees.
- (3) Filing fees.
- (4) Engineering fees.

(d) Certain requirements shall be met in order that the Department may promptly and efficiently process requests for reimbursements from the local sponsoring agency. The requirements are set forth in §§ 103.43, 103.44, 103.51—103.53 and 103.61—103.63.

§ 103.43. Information required.

The following information shall be submitted in triplicate with all requests for reimbursement:

- (1) A breakdown of the material and labor which the constructing company used, if applicable.
- (2) Copies of bills from the constructing company to the local sponsor.
- (3) Copies of cancelled checks from the sponsor to the constructing company.

- (4) An invoice from the sponsor to the Department.
- (5) A sketch showing original and relocated facilities.

Cross References

This section cited in 25 Pa. Code § 103.42 (relating to reimbursement to local agency).

§ 103.44. Partial billings.

(a) The local sponsor shall assign a partial billing number when submitting invoices to the Department with a request for reimbursement. The first invoice shall be designated as Partial Billing No. 1, the second as Partial Billing No. 2, and so on.

(b) All items forwarded to the Department with regard to a request for reimbursement shall be submitted in triplicate.

Cross References

This section cited in 25 Pa. Code § 103.42 (relating to reimbursement to local agency).

LAND ACQUISITION

§ 103.51. Plan required.

It shall be the responsibility of the sponsoring agency to provide the Department with a property and right of way acquisition plan for the flood control project prior to the Department's acting on any requests for reimbursement.

Cross References

This section cited in 25 Pa. Code § 103.42 (relating to reimbursement to local agency); and 25 Pa. Code § 103.53 (relating to rights-of-way or easements).

§ 103.52. Documents required.

The following documents, in triplicate, shall be required for back-up data for all requests to the Department for reimbursement for land acquisition made necessary by the flood control project:

- (1) Appraisal of the property taken.
- (2) Copy of the deed.
- (3) Copy of the check or evidence of payment.
- (4) Certificate of title by the attorney of the sponsor for the flood control project.
- (5) Invoice from the local sponsor to the Department requesting reimbursement.

Cross References

This section cited in 25 Pa. Code § 103.42 (relating to reimbursement to local agency); and 25 Pa. Code § 103.53 (relating to rights-of-way or easements).

§ 103.53. Rights-of-way or easements.

(a) If condemnation proceedings must be used to obtain rights of way, all of the requirements listed in §§ 103.51 and 103.52 (relating to plan required; documents required) shall be met, except that a verdict of judgment of the Court or Board of Viewers will be accepted in lieu of an appraisal. In addition, certified copies of the report of the findings of the Board of Viewers or of the Court and a receipt and release of the judgment signed by the parties in interest shall be required.

(b) When condemnation proceedings are necessary to obtain certain property, it shall be necessary to submit a certified copy of the Declaration of Taking which was signed in the county in which the real estate is located.

(c) All of the items mentioned in subsections (a) and (b) shall be submitted to the Department in triplicate when a request for reimbursement is initiated.

Cross References

This section cited in 25 Pa. Code § 103.42 (relating to reimbursement to local agency).

RELOCATION OF FACILITIES**§ 103.61. Agreement with owner.**

When the local sponsor has obtained the property necessary for flood control construction to begin, it may be found that various facilities, such as pipe lines, electric wires, roadways, railroads, and the like, may have to be relocated. To accomplish this the local sponsor shall enter into an agreement with the owner of the facilities to be relocated. There are two basic procedures to be followed with regard to the relocation of these facilities which are set forth in §§ 103.62 and 103.63 (relating to relocation by agency; and relocation by owner).

Cross References

This section cited in 25 Pa. Code § 103.42 (relating to reimbursement to local agency).

§ 103.62. Relocation by agency.

(a) If facilities are to be relocated by the local sponsor the local sponsor shall obtain construction bids for the relocation of the facilities. Using this procedure, it shall be necessary for the sponsor to draft contract documents containing all information relative to construction. The estimate of the Corps of Engineers shall be a good guideline as to the total cost involved.

(b) Copies of all bid documents, that is, newspaper advertisements, bid invitations, bid forms, proposal forms, specifications, and drawings, shall be submitted to the Department. Upon receipt of bids of all interested parties, an abstract of these bids showing all bids received and the amounts of these bids, shall be submitted to the Department. Upon receipt of a letter to proceed from the Department the sponsor may award the contract.

(c) When requesting reimbursement for work done under bid contract, triplicate copies of the contract agreement, the abstract of bids, and pertinent correspondence between the Department and the sponsor, shall be submitted in addition to the usual requirements.

Cross References

This section cited in 25 Pa. Code § 103.42 (relating to reimbursement to local agency); and 25 Pa. Code § 103.61 (relating to agreement with owner).

§ 103.63. Relocation by owner.

(a) If facilities are to be relocated by the owner, the local sponsor shall submit a written request to the Department outlining the work to be done, the persons doing it, the cost for which they will request reimbursement, and the plans showing where the facilities presently are and where they will be when relocation is completed. After reviewing this information, the Department will notify the sponsor of the degree of the participation of the Department.

(b) The sponsor shall always enter into an agreement with the persons doing the relocation work.

(c) Triplicate copies of all of the documents set forth in subsection (a) shall be required before a request for reimbursement will be processed.

Cross References

This section cited in 25 Pa. Code § 103.42 (relating to reimbursement to local agency); and 25 Pa. Code § 103.61 (relating to agreement with owner).

**Subchapter D. STATE GRANTS FOR CONSTRUCTION OF
SEWAGE FACILITIES**

Sec.
103.71—103.76. [Reserved].

STATE GRANTS FOR CONSTRUCTION

- 103.81. Scope.
- 103.82. Eligibility.
- 103.83. Applications.
- 103.84. Payments and grant amount.

Authority

The provisions of this Subchapter D issued under section 16 of The Land and Water Conservation and Reclamation Act (32 P. S. § 5116), unless otherwise noted.

Source

The provisions of this Subchapter D adopted July 26, 1974, effective August 12, 1974, 4 Pa.B. 1531, unless otherwise noted.

§ 103.71. [Reserved].**Source**

The provisions of this § 103.71 adopted July 26, 1974, effective August 12, 1974, 4 Pa.B. 1531; amended July 23, 1976, effective August 9, 1976, 6 Pa.B. 1729; amended December 6, 1985, effective December 7, 1985, 15 Pa.B. 4352; reserved January 2, 1998, effective January 3, 1998, 28 Pa.B. 18. Immediately preceding text appears at serial page (233582).

§ 103.72. [Reserved].**Source**

The provisions of this § 103.72 adopted July 26, 1974, effective August 12, 1974, 4 Pa.B. 1531; amended July 23, 1976, effective August 9, 1976, 6 Pa.B. 1729; amended December 6, 1985, effective December 7, 1985, 15 Pa.B. 4352; reserved January 2, 1998, effective January 3, 1998, 28 Pa.B. 18. Immediately preceding text appears at serial pages (233582) to (233584).

§ 103.73. [Reserved].**Source**

The provisions of this § 103.73 adopted July 26, 1974, effective August 12, 1974, 4 Pa.B. 1531; amended July 23, 1976, effective August 9, 1976, 6 Pa.B. 1729; reserved January 2, 1998, effective January 3, 1998, 28 Pa.B. 18. Immediately preceding text appears at serial page (233584).

§ 103.74. [Reserved].**Source**

The provisions of this 103.74 adopted December 6, 1985, effective December 7, 1985, 15 Pa.B. 4352; reserved January 2, 1998, effective January 3, 1998, 28 Pa.B. 18. Immediately preceding text appears at serial pages (233584) to (233585).

§ 103.75. [Reserved].**Source**

The provisions of this § 103.75 adopted July 26, 1974, effective August 12, 1974, 4 Pa.B. 1531; amended July 23, 1976, effective August 9, 1976, 6 Pa.B. 1729; amended December 6, 1985, effective December 7, 1985, 15 Pa.B. 4552; reserved January 2, 1998, effective January 3, 1998, 28 Pa.B. 18. Immediately preceding text appears at serial page (233585).

§ 103.76. [Reserved].**Source**

The provisions of this § 103.76 adopted December 6, 1985, effective December 7, 1985, 15 Pa.B. 4552; reserved January 2, 1998, effective January 3, 1998, 28 Pa.B. 18. Immediately preceding text appears at serial pages (233585) to (233586).

STATE GRANTS FOR CONSTRUCTION**§ 103.81. Scope.**

This section and §§ 103.82—103.84 implements the awarding of State grants under section 16 of The Land and Water Conservation and Reclamation Act (32 P. S. § 5116) for the construction, reconstruction or improvement of sewage treatment plants, major interceptors and other facilities appurtenant to the plant.

Source

The provisions of this § 103.81 adopted July 26, 1974, effective August 12, 1974, 4 Pa.B. 1531.

§ 103.82. Eligibility.

Projects which meet both of the following criteria are eligible for construction grants:

(1) The eligible costs of the project based on construction bids or actual construction and associated costs exceed the amount of grant funds made available from other State and Federal grant sources.

(2) The municipality to be served by the proposed project suffers from unusual financial hardship and State grant funds are available for the project. In evaluating the extent of financial hardship, the Department will consider the ratio of the median family income in the municipality to be initially served by the project to the State median family income and the annual sewer rental to be charged.

Authority

The provisions of this § 103.82 amended under The Clean Streams Law (35 P. S. §§ 691.1—691.1001); section 16(2) of the Land and Water Conservation and Reclamation Act (32 P. S. § 5116(2)); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

Source

The provisions of this § 103.82 adopted July 26, 1974, effective August 12, 1974, 4 Pa.B. 1531; amended January 2, 1998, effective January 3, 1998, 28 Pa.B. 18. Immediately preceding text appears at serial pages (233586) to (233587).

Cross References

This section cited in 25 Pa. Code § 103.81 (relating to scope).

§ 103.83. Applications.

Applications for grants shall be made on forms provided by and in a manner prescribed by the Department and shall contain and be supplemented with such information as may be required by the Department.

Authority

The provisions of this § 103.83 amended under The Clean Streams Law (35 P. S. §§ 691.1—691.1001); section 16(2) of the Land and Water Conservation and Reclamation Act (32 P. S. § 5116(2)); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

Source

The provisions of this § 103.83 adopted July 26, 1974, effective August 12, 1974, 4 Pa.B. 1531; amended January 2, 1998, effective January 3, 1998, 28 Pa.B. 18. Immediately preceding text appears at serial page (233587).

Cross References

This section cited in 25 Pa. Code § 103.81 (relating to scope).

§ 103.84. Payments.

Payment of grants funds shall be made subject to the terms and conditions established by the Department.

Authority

The provisions of this § 103.84 amended under The Clean Streams Law (35 P. S. §§ 691.1—691.1001); section 16(2) of the Land and Water Conservation and Reclamation Act (32 P. S. § 5116(2)); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

Source

The provisions of this § 103.84 adopted July 26, 1974, effective August 12, 1974, 4 Pa.B. 1531; amended January 2, 1998, effective January 3, 1998, 28 Pa.B. 18. Immediately preceding text appears at serial page (233588).

Cross References

This section cited in 25 Pa. Code § 103.81 (relating to scope).

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