

**PART VI. WATER FACILITIES LOAN BOARD**

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**CHAPTER 951. WATER FACILITIES RESTORATION LOANS**

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**Authority**

The provisions of this Chapter 951 issued under the Water Facilities Restoration Act, 32 Pa.C.S. § 7505, unless otherwise noted.

**Source**

The provisions of this Chapter 951 adopted July 15, 1983, effective August 13, 1983, 13 Pa.B. 2197, unless otherwise noted.

**§ 951.1. Definitions.**

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

*Act*—32 Pa.C.S. Chapter 75 (relating to Water Facilities Restoration Act).

*Administrative staff*—Staff specifically assigned by the Department of Environmental Resources to administer the regular business of the Board.

*Board*—The Water Facilities Loan Board.

*Community water supply system*—A system for the provision to the public of piped water for human consumption which services at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. The term includes water supply dams, reservoirs or other sources and any collection, treatment, storage or distribution facilities. Pumping and transmission facilities are included within the term “distribution facilities.”

*Dam facility*—Dams other than water supply dams and flood control dams.

*Department*—The particular department serving as staff to the board under section 7504 of the act (relating to Water Facilities Loan Board). In matters relating to community water supply systems, flood control facilities, and dam facilities, the term means the Department of Environmental Resources. In matters relating to port facilities, the term means the Department of Transportation.

*Flood control facility*—Structural or nonstructural projects and measures to correct, prevent, or reduce flood damages including, but not limited to, dams, dikes, other flood control works, floodproofing and storm water management projects.

*Loan category*—The three funding categories established in section 7510 of the act (relating to apportionment and appropriation of funds), specifically:

- (i) Community water supply system loans.
- (ii) Flood control facility and supply dam facility loans.
- (iii) Port facility loans.

*Municipality*—A city, borough, incorporated town, township, county or municipal authority.

*Port facility*—A facility which enhances interstate or international commerce upon tidal and inland waters of this Commonwealth. The term includes piers, wharves, docks and similar structures to which vessels may be secured; buildings on or contiguous to them; and equipment and materials essential to the use of the structures and buildings for shipping and commerce. The term includes only those facilities which are actively engaged in interstate or international commerce destined to or from any of the following Commonwealth ports:

(i) *Erie Port*. The lake-front area of Lake Erie in this Commonwealth between the Ohio state border on the west and the New York state border on the east.

(ii) *Philadelphia Port*. River-front property on the western bank of the Delaware River; those river-islands in the Delaware River under the jurisdiction of the Commonwealth commencing at the Morrisville-Trenton Railroad Bridge and flowing through the Counties of Bucks, Philadelphia, and Delaware to the Pennsylvania-Delaware border; and river-front and river-island property on both banks of the Schuylkill River from River Mile 0 (“RM”) at the junction of the Delaware River and Schuylkill River in Philadelphia County flowing north to RM 6 at the University Avenue Bridge.

(iii) *Pittsburgh Port*. All river-island and river-front property on both sides of the Monongahela River commencing at the Pennsylvania-West Virginia border (RM 91.4) and flowing through the counties of Greene, Fayette, Washington, Westmoreland, and Allegheny to the Point (RM 0) at Pittsburgh; all river-island and river-front property on both sides of the Allegheny River commencing at RM 72.0, the terminus of the Allegheny River navigation channel (above East Brady, Pennsylvania), flowing through the counties of Clarion, Armstrong, Westmoreland, and Allegheny to the Point (RM 0) at Pittsburgh; and all river-island and river-front property on both sides of the

Ohio River commencing at the Point (RM 0) at Pittsburgh and flowing through the counties of Allegheny and Beaver to the Pennsylvania-Ohio border (RM 40.0).

*Project*—The combined eligible costs in a water facilities loan application which the Board has determined to be eligible for loan financing. The term includes the activities and eligible costs described in an approved loan application which are within the scope of the act.

*Storm water management project*—A project designed to manage the quantity, quality, velocity, or direction of storm water runoff resulting from precipitation and snow or ice melt in a manner which decreases the likelihood of injury to people or property.

*Water facility*—A community water supply system, flood control facility, dam facility, or port facility.

### § 951.2. Purpose.

The purpose of this chapter is to establish administrative procedures and criteria for the award of loans under the act.

### § 951.3. Scope.

This chapter applies to all municipalities and the owners and operators of water facilities making application for a loan under the act for the repair, construction, reconstruction, rehabilitation, extension, or improvement of community water supply systems and for the repair, reconstruction, or rehabilitation of flood control, dam, and port facilities.

### § 951.4. Eligible costs.

In addition to the costs enumerated in 32 Pa.C.S. § 7512(a) (relating to costs eligible for loan financing), the following costs of approved projects shall be eligible for loan financing:

- (1) Acquisition of property rights and equipment that are preliminary to or a necessary part of a water facilities project.
- (2) Administrative costs of the applicant generated by the water facilities project and specifically included in the loan agreement.

### § 951.5. Applicant eligibility.

(a) Any owner or operator of a water facility including any person, corporation, regional authority, municipality, political subdivision, or instrumentality thereof is an eligible water facility project sponsor and may apply for a water facility loan.

(b) If the water facility project sponsor is a lessee or operator, the project sponsor must apply jointly with the water facilities owner for a water facility loan.

**Cross References**

This section cited in 25 Pa. Code § 951.9 (relating to application procedure).

**§ 951.6. Additional requirements for applications for community water supply system loans.**

(a) Each potential applicant shall attend a preapplication conference with the Department to discuss project eligibility, scope, alternatives, feasibility, and any other information relating to the project prior to initiating a formal application.

(b) Each potential applicant shall undertake a prefeasibility assessment in consultation with the Department in order to clarify and resolve issues related to the project including but not limited to conservation; water allocation; user charges; and legal, financial, and institutional issues prior to initiating a formal application.

(c) In addition to the information required in 32 Pa.C.S. § 7514 (relating to application requirements and criteria for obtaining loan), an applicant for a community water supply system loan shall provide all of the following unless expressly waived by the Board:

(1) Copies of the plans, specifications, and other supporting information for building the project.

(2) Copies of all necessary water allocation permits issued under the act of June 24, 1939 (P. L. 842, No. 365) (32 P. S. §§ 631—641) and all necessary discharge permits issued under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

(3) Copies of applications for all other permits required for the project under programs administered by the Department.

(4) A description of the major tasks necessary to implement the project including identification of all permits and easements, time schedule, and identification of persons responsible for each task.

(5) A detailed budget for the proposed project including specific cost components to accommodate determination of eligible costs for the project.

(6) Estimated rate increases resulting from the proposed project.

**Cross References**

This section cited in 25 Pa. Code § 951.9 (relating to application procedure).

**§ 951.7. Additional requirements for applications for flood control facility loans and dam facility loans.**

(a) Each potential applicant shall attend a preapplication conference with the Department to discuss project eligibility, scope, alternatives, feasibility, and any other information relating to the project prior to initiating a formal application.

(b) Each potential applicant shall undertake a prefeasibility assessment in consultation with the Department in order to clarify and resolve issues related to

the project including but not limited to dams and encroachment permits; basic design alternatives; and legal, financial, and institutional issues prior to initiating a formal application.

(c) In addition to the information required in 32 Pa.C.S. § 7514 (relating to application requirements and criteria for obtaining loan), an applicant for a flood control facility or dam facility loan shall provide all of the following unless expressly waived by the Board:

- (1) Copies of the plans and specifications and other supporting information for building the project.
- (2) Copies of applications for all necessary permits required by programs administered by the Department.
- (3) A description of the major tasks necessary to implement the project including identification of all permits and easements, time schedule, and identification of persons responsible for each task.
- (4) A detailed budget for the proposed project including specific cost components to accommodate determination of eligible costs for the project.

#### Cross References

This section cited in 25 Pa. Code § 951.9 (relating to application procedure).

### § 951.8. Additional requirements for applications for port facility loans.

In addition to that information necessary under 32 Pa.C.S. 7514 (relating to application requirements and criteria for obtaining loan), the applicant shall provide all of the following unless expressly waived by the Board:

- (1) A copy of plans and specifications for the project, including copies of all necessary permits issued by the appropriate authorities.
- (2) A description of the major tasks necessary to implement the project, the time schedule, and the persons responsible for each task.
- (3) A detailed budget for the proposed project, including specific cost components to accommodate determination of eligible costs for the project.
- (4) A statement of approval from the governing port authority and regional planning commission certifying that the proposed project is consistent with current development plans.
- (5) A financial statement prepared by public accountants covering the applicant's activity for the 3 years prior to the date of application.

#### Cross References

This section cited in 25 Pa. Code § 951.9 (relating to application procedure).

### § 951.9. Application procedure.

(a) All applications shall be made on forms approved by the Board and shall be addressed to the Board.

(b) Each application received by the Board shall be reviewed by the administrative staff for completeness and eligibility, based upon the criteria in 32 Pa.C.S. § 7514 (relating to application requirements and criteria for obtaining loan) and §§ 951.5—951.8 (relating to applicant eligibility and additional requirements for applications for community water supply system loans; flood control facility loans and dam facility loans; and port facility loans).

(c) All applications determined to be eligible and complete by the administrative staff or by the Board shall be numbered in the order of final receipt by the Board, relative to other applications in the same loan category, and shall be dated and forwarded to the Department for review.

(d) If the administrative staff determines an application is ineligible or incomplete, it shall return the application to the applicant with a written explanation of the reasons for the determination.

(e) The administrative staff's determination that an application is incomplete or ineligible shall be reviewed by the Board if the applicant files a written request with the Board within 30 days of receipt of the determination.

(f) To the extent possible, the Department will review the applications in the order assigned by the Board. The Department shall exercise due diligence to assure that all applications dated and forwarded at least 90 days prior to a regularly scheduled Board meeting are evaluated by the Department and submitted to the Board for its consideration at that meeting.

(g) The Department shall submit the reviewed applications together with its evaluations and recommendations to the Board at least 2 weeks prior to each regularly scheduled Board meeting. The Department shall provide the Board with a written evaluation of each application together with a recommended ranking of all project applications within each loan category based upon the factors in section 7515 of the act (relating to priorities for loans).

(h) The Board will provide notice to each applicant in writing advising it of the meeting at which its application will be considered.

#### **§ 951.10. Approval of applications; priority for loans.**

(a) At each regularly scheduled meeting the Board will consider the Department's recommendations and other competent information relating to the applications before the Board and will establish a priority list among the approved applications in each loan category, subject to the following conditions:

(1) The Board will approve, deny or defer each loan application under consideration and will decide upon the priority among the approved applications in each loan category in accordance with factors in section 7515 of the act (relating to priorities for loans).

(2) The Board may approve applications and place them on the priority lists until it has committed all of the funds allocated for loans in the Water Facilities Loan Fund plus not more than 50% of the funds forecast by the

Office of Budget for the Water Facilities Loan Program from the next issue of Water Facilities Loan Program bonds.

(3) The Board will commit funds to approved project applications in the numerical order that each project appears on the priority list within each loan category. Successive Board actions will add to, but will not rearrange, the priority lists.

(4) A deferred application will have no higher priority or ranking at any subsequent Board meeting than any other application under consideration.

(b) The Board retains the discretion to modify procedures in emergencies or other extraordinary circumstances.

**§ 951.11. Project implementation and reporting.**

(a) The following general requirements will apply to all water facilities projects:

(1) Before beginning any construction work, the applicant shall have a preconstruction conference with the applicant's contractor or engineer and the Department, to include a survey of work to be accomplished and the scheduling of periodic examinations by the Department. The applicant shall begin implementing the project, in accordance with its application, within 12 months of loan approval by the Board. If the applicant does not begin implementation within 12 months, the loan may be withdrawn by the Board.

(2) The applicant shall not deviate from the scope or time schedule for any project unless written approval is given by the Board.

(3) The applicant shall maintain project progress and financial records to substantiate all expenditures and activities shown in the approved organization and management plan and budget for the project.

(4) The applicant shall furnish the Board with semiannual project status reports until the project is completed. The applicant shall also provide the Board with its annual financial report for each year throughout the repayment period of the loan.

(b) The following project reporting procedures shall apply to port facilities projects only:

(1) Using approved forms, the applicant shall submit a detailed forecast of eligible costs for each quarter of the Commonwealth's fiscal year, identifying the costs to be incurred, consistent with the project budget.

(2) The applicant shall submit the forecast to the Department at least 45 days in advance of each quarter for approval.

(3) Loan funds will be disbursed to the applicant prior to the beginning of each quarter based upon the Department's approval of the costs included in the quarterly forecast request.

(4) Within 30 days after the close of each quarter, the applicant shall submit to the Department a report detailing project progress and actual costs incurred to date.

(5) The Department will adjust any funding disbursements to the applicant as may be necessary, based upon the quarterly report to actual costs incurred as compared to prior funding forecasts.

(c) If the applicant fails to comply with this section, the Board may withdraw the remaining funds allocated to the project.

**§ 951.12. Loan disbursement and loan repayment.**

An appropriate schedule and requirements for disbursements and repayment of loan funds shall be established for each project and made a part of the loan agreement.

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