

## ***New Mexico Administrative Code (NMAC)***

**TITLE 20 ENVIRONMENTAL PROTECTION**  
**CHAPTER 7 WASTEWATER AND WATER SUPPLY FACILITIES**  
**PART 5 WASTEWATER FACILITY CONSTRUCTION LOANS**

**20.7.5.1 ISSUING AGENCY:** Water Quality Control Commission.  
[20.7.5.1 NMAC - Rp, 20.7.5.1 NMAC, 12/16/2015]

**20.7.5.2 SCOPE:** This part applies to financial assistance and actions pursuant to the Wastewater Facility Construction Loan Act.  
[20.7.5.2 NMAC - Rp, 20.7.5.2 NMAC, 12/16/2015]

**20.7.5.3 STATUTORY AUTHORITY:** Wastewater Facility Construction Loan Act, Sections 74-6A-1 to 15 NMSA 1978, as amended.  
[20.7.5.3 NMAC - Rp, 20.7.5.3 NMAC, 12/16/2015]

**20.7.5.4 DURATION:** Permanent.  
[20.7.5.4 NMAC - Rp, 20.7.5.4 NMAC, 12/16/2015]

**20.7.5.5 EFFECTIVE DATE:** December 16, 2015, unless a later date is cited at the end of a section.  
[20.7.5.5 NMAC - Rp, 20.7.5.5 NMAC, 12/16/2015]

**20.7.5.6 OBJECTIVE:** The objective of this part is to establish a program to provide low cost financial assistance to state agencies, local authorities, interstate agencies, and other qualified borrowers for the acquisition, construction, or modification of wastewater facilities or other eligible projects or activities pursuant to the act.  
[20.7.5.6 NMAC - Rp, 20.7.5.6 NMAC, 12/16/2015; A, 09/29/2018]

**20.7.5.7 DEFINITIONS:** as used in this part.

- A.** “Act” means the Wastewater Facility Construction Loan Act.
- B.** “Administrative fee” means a fee assessed and collected by the department from the qualified borrower on each loan and expressed as a percentage per year on the outstanding principal amount of the loan, payable by the borrower on the same date that principal and interest on the loan are due, for deposit in the clean water administrative fund.
- C.** “Clean Water Act” means the federal Clean Water Act of 1977 and its subsequent amendments or successor provisions.
- D.** “Clean water state revolving loan administrative fund” means a separate fund created outside the wastewater facility construction loan fund/clean water state revolving fund designated solely for the costs of administering the clean water state revolving loan fund, in accordance with the Clean Water Act. Money remaining in the fund at the end of any fiscal year shall not revert to the general fund but shall accrue to the loan administrative fund and shall be used explicitly for the purpose above.
- E.** “Commission” means the water quality control commission.
- F.** “Department” means the New Mexico environment department.
- G.** “Eligible project” means any project or activity that is eligible for funding assistance under Section 603(c) of the Clean Water Act, Section 1383 of Title 33 of the United States Code, as of January 1, 2018, including a wastewater facility project, a nonpoint source water pollution control project, and a watershed project that meet the criteria of the Clean Water Act.
- H.** “Final loan agreement” means an agreement executed by the qualified borrower and the department upon completion of the project in order to document the permanent financing of the final loan amount.
- I.** “Final loan amount” means the aggregate amount of the principal disbursed by the department to the qualified borrower during the construction of the eligible project, together with accrued and unpaid interest on the aggregate principal thereof.

**J.** “Financial assistance” means loans, combination loan/grants, the purchase or refinancing of existing state agency or local political subdivision obligations, loan guarantees, credit enhancement techniques to reduce interest on loans and bonds, bond insurance and bond guarantees or any combination of these purposes.

**K.** “Force account construction” means construction performed by the employees of a local authority rather than through a contractor.

**L.** “Fund” means the wastewater facility construction loan fund established in Section 74-6A-4 NMSA 1978 of the act.

**M.** “Local authority” means a municipality, intermunicipal agency, county, incorporated county, mutual domestic water consumers association as defined by the Sanitary Projects Act, sanitation district, water and sanitation district or any similar district, recognized Indian tribe, or other issuing agency created pursuant to a joint powers agreement acting on behalf of any entity listed in this subsection.

**N.** “Payment” means a disbursement from the fund directly to the qualified borrower.

**O.** “Priority list” means the list of eligible projects ranked according to the priority system pursuant to the act.

**P.** “Priority system” means the system approved by the commission for ranking eligible projects for which financial assistance applications have been received pursuant to the act.

**Q.** “Qualified borrower” means a creditworthy borrower with an identified and verifiable repayment source that is eligible for funding pursuant to the Clean Water Act, as of January 1, 2018, including a state agency, an interstate agency, and a local authority.

**R.** “State agency” means an agency or department of the executive branch of government.

**S.** “Wastewater facility” means a publicly owned system for treating or disposing of sewage or wastes either by surface or underground methods, including any equipment, plant, treatment works, structure, machinery, apparatus or land in any combination, that is acquired, used, constructed or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation or treatment of water or wastes, or for the final disposal of residues resulting from the treatment of water or wastes, such as pumping and ventilating stations, facilities, plants and works, outfall sewers, interceptor sewers and collector sewers, and other real or personal property and appurtenances incidental to their use or operation.

[20.7.5.7 NMAC - Rp, 20.7.5.7 NMAC, 12/16/2015; A, 09/29/2018]

**20.7.5.8 CONSTRUCTION:** This part shall be liberally construed to effectuate the purposes of the act. If any provision or application of this part is held invalid, the remainder, or its application to other situations or persons, shall not be affected.

[20.7.5.8 NMAC - Rp, 20.7.5.8 NMAC, 12/16/2015]

**20.7.5.9 COMPLIANCE WITH OTHER REGULATIONS:** Compliance with this part does not relieve a person from the obligation to comply with other applicable state and federal regulations.

[20.7.5.9 NMAC - Rp, 20.7.5.9 NMAC, 12/16/2015]

**20.7.5.10 ELIGIBILITY REQUIREMENTS FOR FINANCIAL ASSISTANCE:**

**A.** Only qualified borrowers will be eligible for financial assistance from the fund.

**B.** The project must appear on the current priority list at the time of the financial assistance award.

**C.** To be eligible for financial assistance from the fund, qualified borrowers shall:

(1) meet the requirements of financial capability set by the department to assure sufficient revenue to operate and maintain the facility for its useful life, if applicable, and to repay the financial assistance;

(2) agree to operate and maintain the eligible project so that the project will function properly over its structural and material design life, if applicable;

(3) agree to maintain separate project accounts, to maintain project accounts properly in accordance with generally accepted accounting principles and to conduct an audit of the project's financial records;

(4) agree to provide a written assurance prior to construction, signed by an attorney, or other authorized representative, that the qualified borrower has or will acquire proper title, easements and rights-of-way to the property upon or through which the eligible project proposed for funding is to be constructed or extended;

(5) require the contractor of the eligible project to post a performance and payment bond in accordance with the requirements of Section 13-4-18 NMSA 1978 and its subsequent amendments and successor provisions;

(6) provide a written notice of project completion; and

(7) provide such information to the department as required in order to comply with the provisions of the Clean Water Act and state law.

**D.** Financial assistance shall be made only to qualified borrowers that establish one or more dedicated sources of revenue to repay the money received from the commission and to provide for operation, maintenance, and equipment replacement expenses.

[20.7.5.10 NMAC - Rp, 20.7.5.10 NMAC, 12/16/2015; A, 09/29/2018]

**20.7.5.11 APPLICATION PROCEDURES FOR PRIORITY LIST PLACEMENT:**

**A.** Applications for financial assistance shall be made by the qualified borrower on a form specified by the department.

**B.** Applicants for financial assistance shall provide the department with:

(1) a description of the scope of work of the project;

(2) a cost estimate of the project; and

(3) a target date for initiation of construction.

**C.** The department will review the application for eligibility, and technical merits. The department will notify the qualified borrower of any inadequacies in the submittal. The qualified borrower may correct any inadequacies and resubmit the application.

**D.** Upon determination by the department that an application is eligible and complete, the application will be ranked utilizing the priority system and will be placed on the priority list.

[20.7.5.11 NMAC - Rp, 20.7.5.11 NMAC, 12/16/2015; A, 09/29/2018]

**20.7.5.12 PRIORITY SYSTEM AND PRIORITY LIST:**

**A.** Financial assistance shall only be made to qualified borrowers on the project priority list developed in accordance with the priority system as adopted by the commission.

**B.** The commission shall adopt a system for the ranking of projects for financial assistance.

**C.** The department shall prepare a priority list of applicants for financial assistance based on the priority system approved by the commission.

[20.7.5.12 NMAC - Rp, 20.7.5.12 NMAC, 12/16/2015; A, 09/29/2018]

**20.7.5.13 ELIGIBLE AND INELIGIBLE FINANCIAL ASSISTANCE ITEMS:**

**A.** Eligible items for financial assistance made from state-only funds include but are not limited to the costs of engineering reports, contracted engineering design, inspection of construction, special engineering services, start-up services, contracted construction, materials purchased or equipment leased for force account construction, land or acquisition of existing facilities. For financial assistance made from federal funds, eligible items are those identified pursuant to the Clean Water Act.

**B.** Financial assistance shall be made only to qualified borrowers that employ or contract with a New Mexico licensed professional engineer to provide and be responsible for engineering services on the project. Such services include, but are not limited to engineering reports, construction contract documents, supervision of construction, and start-up services.

**C.** Ineligible for financial assistance made with state-only funds items include:

(1) the costs of water rights;

(2) administrative costs;

(3) fulfillment or partial fulfillment of requirements made of a subdivider by the provisions of the Land Subdivision Act or the New Mexico Subdivision Act;

(4) force account construction; and

(5) administrative fees.

[20.7.5.13 NMAC - Rp, 20.7.5.13 NMAC, 12/16/2015; A, 09/29/2018]

**20.7.5.14 ADMINISTRATION OF THE LOAN PROGRAM AND FUND:**

**A.** The loan program and fund is administered by the department as agent for the commission. Pursuant to Paragraph 10 of Subsection A of Section 74-6A-9 NMSA 1978 of the act, the department shall develop new, and implement existing, policies, procedures and guidelines necessary and appropriate to implement the provisions of the act and the Clean Water Act.

**B.** The necessary administrative expenses required of the board, the commission, and the department to implement the provisions of the act will be appropriated from the fund.

**C.** The department may impose and collect a fee from each qualified borrower that receives financial assistance from the fund, which fee shall be deposited into the clean water state revolving loan administrative fund, and used solely for the costs of administering the fund as follows:

(1) an administrative fee may be assessed on all financial assistance provided after January 1, 1996, and will be assessed on the refinancing of financial assistance after October 1, 1993;

(2) if an administrative fee is assessed pursuant to Paragraph (1) of Subsection C of 20.7.5.14 NMAC above, the total administrative fee assessed shall not exceed five percent of the total loan amount; the fee will be assessed on the outstanding principal balance of the loan payable; these fees are due on the same dates the payment of principal and interest on the loans are due, and shall be charged to each borrower, unless waived from the requirement by the department; the department may determine, establish and revise from time to time, the precise amount of the administrative fee to be charged, based on the projected costs of administering the program and other revenue available to pay such costs; the administrative fee payments must be deposited in the clean water state revolving loan administrative fund as they are received; interest on the clean water state revolving loan administrative fund shall be transferred to the administrative fund as it is received; and

(3) an administrative fee of two percent of the unpaid principal balance of the refinanced loan will be assessed against the qualified borrower and shall be paid into the clean water state revolving loan administrative fund at the time of closing of the refinancing.

**D.** Financial assistance agreements will be prepared by the department and executed by the qualified borrower for the project which can be financed with available balances in the fund.

**E.** Repayment of the loan portion of the financial assistance shall begin no later than one year after completion of the project for which the loan was executed and shall be repaid in full no later than 30 years after completion of the project. All principal and interest on loan payments shall be deposited in the fund.

**F.** The interest rate for the loan portion of the financial assistance shall be the rate in effect when the final loan agreement is executed. The interest rate shall not change during the term of the financial assistance unless refinanced in accordance with Subsection I of 20.7.5.14 NMAC. The interest rate shall be the base rate provided in Subsection G of 20.7.5.14 NMAC unless the local authority qualifies for a hardship rate provided in Subsection H of 20.7.5.14 NMAC.

**G.** At the beginning of each state fiscal year, the commission may determine a base rate for the state fiscal year which is less than or greater than the current base rate.

**H.** Hardship rates shall be approved by the department when a local authority meets the associated conditions at the time the financial assistance agreement is executed:

(1) When the local authority's per capita income is less than the statewide per capita income based on the most current United States (U.S.) bureau of census statistics.

(2) The local authority's per capita income is less than three-fourths of the statewide per capita income based upon the most current U.S. bureau of census statistics.

(3) A combination of loan and grant funds in those years when grant funding is available for assistance to rural communities.

(4) An interest rate of zero percent when:

(a) the local authority's average user cost is greater than one and eighty-two hundredths percent of the local authority's per capita income. The calculation of average user cost shall be consistent with a statewide methodology established by the department; and

(b) the local authority's per capita income is less than three-fourths of the statewide per capita income based upon the most current U.S. bureau of census statistics.

<b>Interest Rate</b>	<b>Local Authority Criteria</b>
2.375%	Per capita income equal to or above statewide average; base interest rate. (G.)
1.2%	Per capita income less than that statewide average. (H.)(1)
0.6%	Per capita income less than ¾ of the statewide average. (H.)(2)
0%	Per capita income less than three-fourths of the statewide per capita income and the average user cost is greater than one and eighty-two hundredths percent of the local authority's per capita income. (H.)(4)(a)(b)

**I.** The interest rate for a state agency shall be the lowest interest rate available above zero percent in Subsection H of Section 14 of 20.7.5 NMAC, and the interest rate for all other eligible borrowers will be the base rate at the time the loan agreement is executed.

**J.** A local authority may refinance the loan portion of the financial assistance if the local authority later qualifies for a reduced rate. The refinancing may only occur at or after the execution of a final loan agreement.

**K.** Financial assistance recipients shall comply with all applicable federal, state and local laws and regulations, including but not limited to:

- (1) procurement;
- (2) record keeping;
- (3) accounting;
- (4) audit and inspection;
- (5) occupational health and safety;
- (6) environmental review; and
- (7) non-discrimination.

**L.** In the event of default by the qualified borrower, the department as agent for the commission may enforce its rights by suit or mandamus or may utilize all other available remedies under state law.

[20.7.5.14 NMAC - Rp, 20.7.5.14 NMAC, 12/16/2015; A, 05/30/2017; A, 09/29/2018]

#### **HISTORY OF 20.7.5 NMAC:**

**Pre-NMAC History:** Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

WQC Rule 67-2, Regulations Governing Water Pollution Control in New Mexico, filed 12/5/1967.

WQC Rule 72-1, Water Quality Control Commission Regulations, filed 8/4/1972.

WQCC Rule 77-1, Amended Water Quality Control Commission Regulations, filed 1/18/1977.

WQCC Rule 81-2, Water Quality Control Commission Regulations, filed 6/2/1981.

WQCC Rule 82-1, Water Quality Control Commission Regulations, filed 8/19/1982.

#### **History of Repealed Material:**

20.7.5 NMAC, Wastewater Facility Construction Loans, filed 6/16/2000 - Repealed effective 12/16/2015.

#### **Other History:**

That applicable portion of WQCC Rule 82-1, Water Quality Control Commission Regulations (filed 8/19/1982) was renumbered, reformatted and replaced by 20 NMAC 7.5, Wastewater and Water Supply Facilities - Wastewater Facility Construction Loans, effective 11/30/1995.

20 NMAC 7.5, Wastewater and Water Supply Facilities - Wastewater Facility Construction Loans (filed 10/25/1995) renumbered, reformatted, amended, and replaced by 20.7.5 NMAC, Wastewater and Water Supply Facilities - Wastewater Facility Construction Loans, effective 7/16/2000.

#### **TITLE 20 ENVIRONMENTAL PROTECTION**

#### **CHAPTER 7 WASTEWATER AND WATER SUPPLY FACILITIES**

#### **PART 6 WASTEWATER FACILITY CONSTRUCTION LOAN POLICIES AND GUIDELINES**

**20.7.6.1 ISSUING AGENCY:** New Mexico Environment Department.

[20.7.6.1 NMAC - Rp, 20.7.6.1 NMAC, 12/30/2015]

**20.7.6.2 SCOPE:** These policies, procedures and guidelines apply to all construction projects funded in-part from funds within the wastewater facilities construction loan fund.

[20.7.6.2 NMAC - Rp, 20.7.6.2 NMAC, 12/30/2015]

**20.7.6.3 STATUTORY AUTHORITY:** Department of Environment Act, NMSA 1978, 9-7A-6.F; Wastewater Facility Construction Loan Act, NMSA 1978, Sections 74-6A-1 to 15; and Water Quality Control Act, NMSA 1978, Sections 74-6-1 to 17.

[20.7.6.3 NMAC - Rp, 20.7.6.3 NMAC, 12/30/2015]

**20.7.6.4 DURATION:** Permanent.

[20.7.6.4 NMAC - Rp, 20.7.6.4 NMAC, 12/30/2015]

**20.7.6.5 EFFECTIVE DATE:** December 30, 2015, unless a later date is cited at the end of a section.

**A.** All references to HED 88-2 (EID) or to the New Mexico Wastewater Facility Construction Loan Fund Policies, Procedures and Guidelines in any other rule shall be construed as a reference to this part.

**B.** The amendment and replacement of HED 88-2 (EID) shall not affect any administrative or judicial enforcement action pending on the effective date of such amendment nor the validity of any financial assistance provided pursuant to HED 88-2 (EID).  
[20.7.6.5 NMAC - Rp, 20.7.6.5 NMAC, 12/30/2015]

**20.7.6.6 OBJECTIVE:** The objective of this part is to establish policies, procedures and guidelines in the administration of loans from the wastewater facility construction loan fund.  
[20.7.6.6 NMAC - Rp, 20.7.6.6 NMAC, 12/30/2015]

**20.7.6.7 DEFINITIONS:** As used in this part.

**A.** "**Administrative fee**" means a fee assessed and collected by the department from the state agency or qualified borrower on each loan with an interest greater than zero percent and expressed as a percentage per year on the outstanding principal amount of the loan, payable by the borrower on the same date that principal and interest on the loan are due, for deposit in the clean water administrative fund.

**B.** "**Applicant**" means a state agency or qualified borrower that meets the following criteria: (1) placement on the current fiscal year priority list, (2) financial capability to service a loan, to perform operation and maintenance, to maintain a replacement fund and debt service reserve fund, and (3) readiness to proceed.

**C.** "**Borrower**" means a state agency or qualified borrower whose application has been approved for eligibility and is ready to proceed to an interim loan agreement.

**D.** "**Commission**" or "**WQCC**" means the New Mexico water quality control commission.

**E.** "**Department**" or "**NMED**" means the New Mexico environment department.

**F.** "**Event of default**" means the borrower failed to make the complete annual payment of principal, plus interest and administrative fee when the same shall become due and payable, as identified in the repayment schedule of the final loan agreement.

**G.** "**Final loan agreement**" means a note issued by the borrower and the state upon completion of the project to document the permanent financing of the final loan amount in substantially the form as shown in the attachments.

**H.** "**Final loan amount**" means the aggregate amount of the principal disbursed by NMED to the borrower during the project, together with accrued interest on the aggregate principal thereof.

**I.** "**Force account**" means construction performed by the employees of a local authority rather than through a contractor.

**J.** "**Fund**" or "**SRF**" means the state water pollution control revolving fund pursuant to Title VI of the Clean Water Act.

**K.** "**Interim loan agreement**" means a note, in the form of a line-of-credit, issued by the borrower and the state at the beginning of the project in anticipation of the issuance of the final loan agreement upon completion of the project in substantially the form as shown in the attachments.

**L.** "**Loan issuance**" means execution of the final loan agreement and revised promissory note.

**M.** "**Local authority**" means any municipality, intermunicipal agency, county, incorporated county, water and sanitation district or any similar district, recognized Indian tribe, mutual domestic water consumers association as defined by the Sanitary Projects Act, or other issuing agency created pursuant to a joint powers agreement acting on behalf of any entity listed in this subsection.

**N.** "**Operate and maintain**" means all necessary activities including replacement of equipment or appurtenances to ensure the dependable and economical function of a wastewater facility in accordance with its intended purpose.

**O.** "**Priority system**" means the system for ranking eligible projects for which loan applications have been received pursuant to the Wastewater Facility Construction Loan Act.

**P.** "**Priority list**" means the list of eligible projects ranked according to the priority system pursuant to the Wastewater Facility Construction Loan Act.

**Q.** "**Project**" means the planning, design, construction, repair, extension, improvement, alteration, or reconstruction of the wastewater facilities or other eligible projects as listed in the Clean Water Act by the borrower as described in the loan application.

**R.** "**Project completion**" means the date that the Department has procedurally determined that the project, phase, or segment is completed.

**S.** "**Project engineer**" means the NMED staff engineer assigned to the project.

**T.** "**Qualified Borrower**" means any credit worthy borrower with an identified and verifiable repayment source that is eligible for funding pursuant to the Clean Water Act.

U. **“State agency”** means an agency or department of the executive branch of government.

V. **“Wastewater facility”** means a publicly owned system for treating or disposing of sewage or wastes either by surface or underground methods, including any equipment, plant, treatment works, structure, machinery, apparatus or land in any combination, that is acquired, used, constructed or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation or treatment of water or wastes, or for the final disposal of residues resulting from the treatment of water or wastes, such as pumping stations, facilities, plants and works, outfall sewers, interceptor sewers and collector sewers and other real or personal property and appurtenances incidental to their use or operation. "Wastewater facility" also includes a nonpoint source water pollution control or Brownfield redevelopment project as eligible under the Clean Water Act.  
[20.7.6.7 NMAC - Rp, 20.7.6.7 NMAC, 12/30/2015; A, 3/10/2020]

**20.7.6.8 BACKGROUND:** The Department of Environment Act, Section 9-7A-6.D, NMSA 1978, provides authority to the secretary of environment to make and adopt reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its division. The authority for the New Mexico environment department to provide loans to eligible applicants for the construction of wastewater facilities is provided in Sections 74-6A-1 to 15 NMSA 1978, Wastewater Facility Construction Loan Act and in Sections 74-6-1 to 17 NMSA 1978, the New Mexico Water Quality Act. The water quality control commission adopted regulations pursuant to the Wastewater Facility Construction Loan Act which establish a program to provide financial assistance to state agencies, local authorities, interstate agencies, and other qualified borrowers for the acquisition, construction, or modification of wastewater facilities or other eligible projects or activities. Title VI of the Federal Clean Water Act, as amended, authorizes the U.S. environmental protection agency (EPA) to make capitalization grants to states for deposit in the wastewater facility construction loan fund (state revolving fund - SRF). "Final Initial Guidance - State Water Pollution Control Revolving Fund" was published by EPA on January 28, 1988, which represents EPA's approach to implementation of Title VI. EPA updated its approach to implementation of Title VI with the "Interpretive Guidance for Certain Amendments in the Water Resources Reform and Development Act to Titles I, II, V, and VI of the Federal Water Pollution Control Act" published on January 6, 2015.

[20.7.6.8 NMAC - Rp, 20.7.6.8 NMAC, 12/30/2015; A, 3/10/2020]

**20.7.6.9 CONSTRUCTION:** This part shall be liberally construed to carry out the purposes of the act. If any provision or application of this part is held invalid, the remainder or its application to other situations or persons shall not be affected.

[20.7.6.9 NMAC - Rp, 20.7.6.9 NMAC, 12/30/2015]

**20.7.6.10 COMPLIANCE WITH OTHER REGULATIONS:** Compliance with this part does not relieve a person from the obligation to comply with other applicable state and federal regulations.

[20.7.6.10 NMAC - Rp, 20.7.6.10 NMAC, 12/30/2015]

**20.7.6.11 GENERAL:**

A. Direct loans from the fund may be offered for up to one hundred percent of total eligible project costs under state and federal statutes and regulations, subject to availability of loan monies.

B. Two types of loans are available: planning/design loans and construction loans.

(1) Planning/design loans. The maximum repayment period is limited to five years from the date of the interim loan agreement. If the borrower receives a construction loan for the same project, the borrower will be provided the option of re-amortizing any remaining principal balance plus accrued interest and administrative fees on the planning/design loan upon completion of the construction project, or may make payments under both loans.

(2) Construction loans. The length of the loan repayment period will not exceed 30 years or the expected life of the project improvements, whichever is less. Loans of lesser amounts will receive a shorter repayment period depending upon the borrower's ability to service the debt in a reduced time period. The construction loan may include the cost of design and may precede the design phase of the project if the design period is relatively short and if a reasonable estimate of construction costs is available. Since the interim loan agreement is essentially a line-of-credit for planning, design, and construction of the project the borrower must agree to complete the appropriate planning requirements prior to proceeding to the design and construction phases of the project.

**C.** A long-term commitment for future funding of a phased or segmented project will not be made; although, partial or phased funding for a project (without a guarantee of future funding) may be offered when deemed necessary to meet state water quality and financial assistance objectives.

**D.** Monies in the fund shall be loaned to eligible applicants as soon as possible after the monies become available. The fund will be managed so that a reserve is held available. The amount of the reserve will be dependent on the total size of the fund, including both available and committed monies. This reserve may be used for administration of the fund, investment, and limited-purpose contingencies, including increases subject to federal and state statutes.

**E.** In the event project costs exceed the estimates in the interim loan agreement, the borrower may request that NMED consider an increase to the loan. Such request will be evaluated with respect to available uncommitted monies in the fund, financial risk of the request, and other criteria set by NMED. NMED may follow any procedure deemed appropriate under the circumstances, including renegotiation of the loan agreement in accordance with federal and state statutes.

**F.** In the event project costs are less than the estimates in the interim loan agreement, then the loan amount shall be adjusted downward by a corresponding amount at the time the final loan agreement is executed following completion of the project.

**G.** A loan shall be declared in default if the full payment is not received on the due date. Should a loan be declared in default, NMED may initiate legal action to collect past due amounts. NMED may also notify other state agencies and may take actions to preclude the borrower from receiving grant or other financial assistance from state agencies until all delinquent amounts due on the loan have been paid. In addition to these provisions, technical assistance will be provided to a borrower with a loan in default to help assess the problem and advise on corrective actions needed to bring the loan current. Should these efforts fail to produce results and the borrower fails to adhere to the prescribed payment schedule, NMED will dispatch an interdisciplinary team (representatives of the general counsel, state auditor, and local government division, as needed) to conduct a comprehensive assessment of the borrower, including, but not limited to, financial condition, management practices, fiscal capacity, economic circumstances, and violations of the terms and conditions of the legally binding final loan agreement. Upon the report of this team, NMED shall take whatever actions deemed appropriate, including court actions, to resolve the outstanding obligation.

**H.** NMED may waive or adjust any rule relative to the administration of the wastewater facility construction loan fund where it is deemed that the waiver or adjustment is in the best interest of the state and the community, and the waiver or adjustment does not violate any state or federal statute or regulation.  
[20.7.6.11 NMAC - Rp, 20.7.6.11 NMAC, 12/30/2015; A, 3/10/2020]

#### **20.7.6.12 APPLICATION PROCEDURES FOR PRIORITY LIST PLACEMENT:**

**A.** The commission at 20.7.5.11 NMAC specifies loan program application procedures. Applicants for loans shall submit a complete loan application to NMED on a form specified by NMED. Applications may be submitted at any time; although, generally an annual funding cycle is followed.

**B.** NMED shall review the applications for eligibility, technical merits, and rank the applications based on the project priority system described in 20.7.5.12 NMAC, following NMED procedures for priority system and priority list.  
[20.7.6.12 NMAC - Rp, 20.7.6.12 NMAC, 12/30/2015; A, 3/10/2020]

#### **20.7.6.13 PRIORITY SYSTEM AND PRIORITY LIST PROCEDURES:**

**A.** A project must be on the state priority list to receive a planning/design or construction loan. It is the policy of NMED to make loans to state agencies and qualified borrowers in order of priority on the current state priority list for loans to the extent reasonable considering the following:

- (1) willingness of an applicant to accept a loan;
- (2) financial capability of the applicant to service the loan, to perform operation and maintenance, and to maintain a debt coverage ratio as determined by NMED; and
- (3) readiness to proceed.

**B.** Procedures for developing and handling the annual priority system and priority list under the loan program generally follow existing procedures for the construction grants program which are briefly summarized here.

(1) A specific cap on an individual loan amount may be established by NMED each fiscal year so that the fund will be able to assist several communities each year. The cap may be set as a total of the loan funds available or as a specific dollar amount.



(2) This policy serves to maintain the flexibility of the fund each year by not excluding higher cost projects from participation, yet ensures that more than one worthwhile project will be funded each year.

(3) Fundable applicants will be notified by NMED following approval of the final priority list and a preplanning conference will be held with the applicant and its consulting engineer to identify the procedures and requirements which must be met prior to execution of an interim loan agreement. [20.7.6.13 NMAC - Rp, 20.7.6.13 NMAC, 12/30/2015; A, 3/10/2020]

#### **20.7.6.14 APPLICATION FOR FUNDABLE PROJECTS GUIDELINES - PROJECT**

**PREPLANNING CONFERENCE:** At NMED's request, a preplanning conference will be scheduled. The applicants' representatives and possibly the applicants' consulting engineers will meet with the NMED project engineers to discuss the project. Items that may be discussed are:

- A. review of SRF policies, procedures, and guidelines;
- B. enforceable requirements;
- C. eligibility of applicant;
- D. appropriate technology;
- E. user charges in relation to financial capability of the applicant being able to repay the loan;
- F. environmental impacts;
- G. procurement of A/E services;
- H. the importance of public participation; (citizen involvement will be an asset in the development of plans that reflect the needs and values of your community; informing the public early on can result in issues being resolved before delay and additional costs occur; citizen support is necessary for capital and user charge systems to fund a project); and
- I. project schedule.

[20.7.6.14 NMAC - Rp, 20.7.6.14 NMAC, 12/30/2015]

#### **20.7.6.15 GENERAL PROJECT ADMINISTRATIVE REQUIREMENTS:**

- A. Loan agreement.
  - (1) An interim loan agreement will be prepared by NMED and executed by the borrower for the project which can be financed with available loan funds and which has completed requirements set by NMED pursuant to the Clean Water Act, as amended, and the New Mexico Wastewater Facility Construction Loan Act. Projects which are not ready to proceed to the interim loan agreement stage within six months of allocation of available loan funds may be bypassed by projects lower on the priority list which are ready to proceed.
  - (2) The interim loan agreement contains several conditions and certifications including:
    - (a) certification that the borrower is a legal entity with authority to execute a loan agreement by ordinance; certification that a resolution designating signatory authority has been passed;
    - (b) copies of all executed contracts, subcontracts, agreements, and related amendments entered into by the borrower prior to the interim loan agreement, but related to this project;
    - (c) request for proposals (RFP) documentation and an engineering agreement, or letter of certificate if employing staff engineers.
- B. Security interest.
  - (1) Upon execution of an interim loan agreement with NMED for a construction project and before any proceeds of the loan are paid out to the borrower, the borrower shall execute a promissory note for the principal amount of the interim loan agreement plus interest and administrative fee on the unpaid balance at the appropriate rate per annum, and may transfer title to the property upon which the facilities are to be constructed to NMED. In lieu of, or in addition to, the transfer of title requirement, the borrower may transfer whatever interest it possesses in the property upon which facilities are to be constructed, to NMED. In either case, the value of such property or interest so transferred shall be at least equal to the amount of the loan. All such titles and interest transferred to NMED shall be secured by title insurance, if applicable, the cost of which shall be paid by the borrower. NMED shall be named as primary beneficiary of all such title insurance policies. If title insurance for the property is not applicable or is not reasonably available, as determined by NMED, then the borrower shall provide a title company's opinion on the abstract of title to the property up to the time the property was acquired by the borrower for use as a wastewater facility.
  - (2) Upon repayment of the loan, such interest or title shall be reconveyed to the borrower. Where the transfer of title or interest in the property would preclude the obtaining of federal grants, or where such transfer of title or interest is inappropriate or is prohibited by or would be in violation of existing grant-in-aid agreements, NMED may waive the requirements of transfer of title or transfer of any interest in the property,

and substitute therefore such other security of sufficient value it deems necessary such as an irrevocable pledge of revenue covenant by the borrower.

(3) After the borrower transfers title or its interest in the property to NMED as security, the borrower shall:

- (a) continue to insure the property;
- (b) be liable for all taxes and assessments; and
- (c) refrain from making major alterations that destroy the value of the security,

unless NMED gives prior approval.

**C. Allowable and unallowable costs.**

(1) Allowable costs shall be limited to those costs which are necessary, reasonable, and directly related to the efficient achievement of the objectives of the project. Costs incurred by the borrower for work performed on the project prior to execution of the interim loan agreement, but which received NMED prior approval, may be considered as allowable costs. The borrower must justify all expenditures for which it requests a disbursement of loan funds according to accepted NMED criteria and procedures. NMED may withhold disbursement of funds and may reclaim improperly documented disbursements until the borrower provides sufficient justification.

(2) All unallowable costs, including but not limited to overhead charges, administrative expenses, indirect costs, and all costs of borrower's employed inspectors and noneligible construction costs shall be paid by the borrower. The administrative fee shall not be included as principal in the loans and therefore considered an unallowable cost.

(3) The borrower agrees that it will implement, in all respects, the project outlined in the interim loan agreement.

(4) The borrower agrees to make no change in the project description without first submitting a written request to NMED and obtaining NMED approval of the required change.

**D. Accounting.** Funds received by the borrower from NMED and those funds which are contributed by the borrower shall be deposited in separate bank accounts or in a separate, identifiable ledger account. In addition, the borrower shall establish and maintain accounting procedures which will ensure strict accountability for all funds received and disbursements made by the borrower in connection with the interim loan agreement. NMED shall be responsible for examining the borrower's audited financial statements in accordance with the most recent circular on audits of states, local governments and non-profit organizations as published by the U.S. office of management and budget.

**E. Records.** The borrower shall maintain books, records, documents, and other evidence sufficient to reflect properly all costs of whatever nature claimed to have been incurred for the performance of this interim loan agreement. Such books, records, documents, ledgers, and other evidence shall be preserved and made available to NMED, state auditor, U.S. governmental accounting office, and U.S.E.P.A. office of the inspector general during the loan agreement period and for a period of six years from date of final repayment. If upon termination of the interim loan agreement, questions exist concerning proper expenditure of funds, then the borrower shall preserve and make available all books, records, documents, ledgers and other evidence relating to the interim loan agreement until such questions are settled and the borrower has received written notification to that effect from NMED.

**F. Audit and inspection.** The project sites and borrower facilities which are in any part the subject of the loan agreement, and borrower records as defined elsewhere herein, shall be subject at all reasonable times to inspection and audit by NMED, state auditor, U.S. governmental accounting office, and U.S.E.P.A. office of the inspector general during the period of the loan agreement and for a period of six years following final payment hereunder. All subcontracts let by the borrower, the cost of which are included in the interim loan agreement, shall include the substance of this audit and inspection clause.

**G. Occupational health and safety.** The borrower covenants that it will take affirmative action to ensure that the project shall be conducted in conformance with federal and state laws and regulations relating to occupational health and safety. In addition, the borrower shall assure that any contract entered into by the borrower for the performance of work on this project shall contain language by which the contractor and the borrower agree that authorized representatives of NMED occupational health and safety bureau shall have free access to the project site, and shall not be impeded in any way from performance of their duties.

**H. Nondiscrimination.**

(1) During the performance of the interim loan agreement, the borrower shall not discriminate against any employee or applicant for employment because of race, color, age, religion, sex, or national origin. The borrower shall take affirmative action to ensure nondiscrimination in employee recruitment advertising, hiring, upgrading, promotion, and selection for training (including apprenticeship).

(2) The borrower agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this clause. All solicitation or advertisement for employees placed by or on behalf of the borrower shall state that all qualified applicants will receive consideration without regard to race, color, age, religion, sex, sexual preference, or national origin. The borrower shall comply with all provisions of Title VI of the Civil Rights Act of 1964, Executive Order 11246, dated September 24, 1965, and all relevant rules, regulations, and orders of the U.S. secretary of labor. The borrower shall include the provisions of the clause in all project subcontracts.

**I.** Termination. NMED shall have the right to terminate the interim loan agreement if at any time in the judgement of NMED, the terms of the interim loan agreement have been violated or the activities described in the project description are not progressing satisfactorily. The borrower may terminate the interim loan agreement with sufficient reason. In either case, NMED shall establish following negotiations with the borrower a repayment schedule for the funds disbursed to the borrower. Such termination must be in writing.

**J.** Procurement. Sections 13-1-28 through 13-1-199 NMSA 1978 of, The Procurement Code, imposes civil and criminal penalties for its violation. In addition, New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities, and kick-backs.  
[20.7.6.15 NMAC - Rp, 20.7.6.15 NMAC, 12/30/2015; A, 3/10/2020]

#### **20.7.6.16 PROJECT PLANNING GUIDELINES:**

**A.** Facilities planning consists of those necessary plans and studies that directly relate to treatment works or other eligible projects needed to comply with enforceable requirements of the Federal Clean Water Act and New Mexico Water Quality Act. Facilities planning will substantiate the need for the proposed facilities. It is a systematic evaluation of alternatives in regard to unique demographic, topographic, hydrologic, and institutional characteristics of the area that demonstrates that the selected alternative is cost effective in meeting the applicable effluent, groundwater, and surface water quality and public health requirements over the design life of the facility or other eligible project (while recognizing environmental and other nonmonetary considerations).

**B.** The most important outcome of the planning process is the selection of the best water pollution control alternative. The facilities plan (feasibility report or engineer's report) should include:

- (1) A description of the proposed project and the complete system of which it is a part.
- (2) A description of the best practicable water pollution control technology (BPWPCT).
- (3) A cost-effective analysis of the project in meeting enforceable requirements over the design life of the project which includes a 30-year reserve capacity, if appropriate. Costs to be considered must include the present worth or equivalent annual value of all capital costs as well as operation and maintenance costs. Population forecasts should be consistent with the state needs survey.
- (4) An evaluation of improved water quality attainable by upgrading the operation and maintenance ("O & M") and efficiency of existing facilities as an alternative to new construction.
- (5) Cost information on total capital costs and annual O & M as well as estimated annual or monthly costs to residential and commercial users.
- (6) A demonstration of the nonexistence or possible existence of excessive infiltration/inflow in an existing system.
- (7) An adequate evaluation of the environmental impacts of alternatives.
- (8) An evaluation of the water supply implications of the project.
- (9) For the selected alternative, a concise description of relevant design parameters.
- (10) A description of the proposed pretreatment program if applicable.
- (11) A demonstration that the selected alternative is consistent with the applicable water quality management (WQM) plan.

(12) Demonstration that the borrower has the legal, institutional, managerial, and financial capability to ensure adequate construction and operation and maintenance of the treatment works throughout the service area. Financial capability to service this loan must also be demonstrated.

(13) Summary of public participation in the development of the facilities plan.

**C.** If any of the above information has been developed separately, it may be incorporated by reference rather than duplication.

[20.7.6.16 NMAC - Rp, 20.7.6.16 NMAC, 12/30/2015]

#### **20.7.6.17 INTERIM PAYMENTS:**

**A.** For satisfactory performance of all work and services required to be performed under the terms of the interim loan agreement, NMED shall reimburse the borrower its actual costs incurred. The borrower may

submit requests for reimbursement as often as every month. NMED shall disburse funds to the borrower when NMED determines, in its sole discretion, that expenditures have been properly documented as provided for in general requirements for allowable and unallowable costs, accounting procedures, and record keeping. Copies of all pay request vouchers shall be submitted to NMED with request for payment. Copies of all requests shall be submitted on the appropriate form furnished by NMED and shall be accompanied by appropriate documentation to assure that those costs are correct and within the approved scope of work and attached budget form. Requests shall include expenditures to date by category.

**B.** NMED and the borrower will comply with the Retainage Act (Section 57-28-2 et. seq. NMSA 1978) if money is to be withheld during construction. The project will not be considered complete until the work as defined in the interim loan agreement has been fully performed and finally and unconditionally accepted by the borrower and NMED.

**C.** Interim payments will be made as the work progresses. Said payments will be based upon requests for payment prepared and certified by the borrower or the borrower's engineer to include value of work performed, materials on hand, and materials in place in accordance with the contract. Interim payments for engineering, inspection, legal services, or other approved services shall be made in accordance with the approved contracts or agreements.

**D.** Any portion of funds allocated to the project which remain unexpended after completion of the project shall revert to the wastewater facility construction loan fund.

**E.** The borrower shall furnish NMED with an estimated disbursement schedule at the beginning of the project.

[20.7.6.17 NMAC - Rp, 20.7.6.17 NMAC, 12/30/2015]

**20.7.6.18 FINAL PAYMENT:** Upon completion of the project, final payment shall be made after final inspection has been conducted and the following have been provided, reviewed, and approved by NMED:

**A.** The borrower's certified request for payment prepared by the engineer and approved by the borrower.

**B.** A statement by the project engineer that work has been satisfactorily completed and the contractor has fulfilled all of the obligations required under the contract documents with the borrower, or if payment and materials performance bonds are "called," an acceptable close-out settlement to the borrower and contractors shall be submitted to NMED for review and approval.

**C.** Final engineering statement and recap of all engineering services, legal, administrative, and other eligible and ineligible expenses and a final request for disbursement.

**D.** Certification by the borrower that the labor standards contract provisions have been met.

**E.** Final project inspection report prepared by the engineer.

**F.** Record drawings and, if applicable, an operation and maintenance manual.

**G.** Final budget showing all funding sources utilized for costs incurred for the project by designated budget categories.

**H.** Written consent of the surety, if any, to final payment is prepared and submitted.

**I.** For projects which receive planning/design loans but do not proceed to the construction phase, completion of the project is defined as substantial completion of the project description in the interim loan agreement as determined by NMED.

[20.7.6.18 NMAC - Rp, 20.7.6.18 NMAC, 12/30/2015]

**20.7.6.19 PROJECT DESIGN REQUIREMENTS:** Before beginning the design of the project, the following requirements must be completed and submitted by the borrower to NMED and approved by NMED:

**A.** Engineering report/facilities plan, which will include:

(1) When real property is to be acquired as part of the project and within the project period submit documentation of the acquisition, including legal description, the date the property was acquired, a certified copy of title to the property, and an appraisal report by a qualified appraiser.

(2) Cost effective analyses of project alternatives capable of meeting state and federal water quality and public health requirements.

(3) Consideration of present worth or equivalent annual value of all capital cost, operation, and replacement costs.

(4) Environmental information document (EID) in detail sufficient to determine categorical exclusion, finding of no significant impact (FONSI), or need for an environmental impact statement (EIS).

- (5) Evidence of public participation.
  - (6) Information to demonstrate legal, managerial, and financial capability to properly operate and maintain the facility, maintain a repair and replacement reserve, and the ability to service this debt.
  - B. Proof of adequate property, liability, and fidelity insurance coverage for the project as shall be required by NMED. Fidelity insurance shall cover the borrower(s) employees who are responsible for handling loan monies.
  - C. Draft plan of operation which outlines staffing in compliance with the New Mexico Utility Operator Certification Act with start-up procedures that assure efficient operation and maintenance for the facilities.
  - D. Project schedule.
  - E. Proposed sewer use ordinance.
  - F. Proposed user charge system. The user charge system represents revenue for good operation and maintenance and replacement of worn-out equipment. One basis for the system is actual use which is measured in terms of water meter readings, measurement of sewer flow, etc. The rates are uniformly applied to each class (residential, commercial, or industrial) of user in proportions. If there is no existing user charge system, the first year rates should be based on the estimates of O & M costs and then adjusted annually thereafter to reflect actual O & M and replacement costs.
  - G. Number and name of NPDES permit and state groundwater permit, as applicable.
  - H. Sludge management plan which assures compliance with Sections 201 and 405 of the Clean Water Act, 40 CFR, Parts 35, 257 and 503, and New Mexico Water Quality Control Commission Groundwater Discharge Regulations 20.6.2 NMAC.
  - I. Design of the project shall be done by a consulting engineer who is registered in the state.
    - (1) Designs should adhere to sound construction practice using materials, methods, and equipment of proven dependability.
    - (2) Buildings shall be economical to operate and maintain and should be accessible to the handicapped.
    - (3) Design shall insure compliance with the NPDES permit or state groundwater discharge permit as appropriate.
    - (4) Safety shall be a prime consideration in design.
- [20.7.6.19 NMAC - Rp, 20.7.6.19 NMAC, 12/30/2015]

**20.7.6.20 PROJECT CONSTRUCTION REQUIREMENTS:**

- A. All plans and specifications and related addenda for the project must be submitted to NMED for review and approval before the project is advertised for sealed construction bids.
- B. All work relating to easements, rights of way, other property rights, and financing provisions shall be completed prior to advertising for construction sealed bids.
- C. Certified bid tabulation, recommendation of award, and evidence of full project financing should be submitted to NMED for review and approval prior to construction contract award.
- D. Competitive bidding, in accordance with applicable state laws (including local wage determinations as provided for in Section 13-4-11 NMSA 1978), shall be used for awarding of contracts. Contracts shall be awarded to the responsible bidder who submits the lowest acceptable bid, or as provided for by state law.
- E. Following NMED approval of the proposed award the borrower shall provide for each contract: (1) notice of award, (2) notice of preconstruction conference, (3) executed copies of previously approved contract form documents, and (4) notice to contractor to proceed. Performance, and payment bonds in the amount of one hundred percent of the project bid will be required of each contractor and copies of said documents will be filed with NMED. A copy of bid bond (for five percent of the construction cost) for the selected contractor will be filed with NMED.
- F. The contractor shall be required to submit a schedule for construction at the preconstruction conference for that contract.
- G. The borrower shall submit all modifications to plans, specifications, and contract change orders to NMED's project engineer promptly for approval prior to implementation of such modification or change. NMED's decision shall be rendered promptly in writing. In cases necessitating immediate action, a verbal decision will be rendered by NMED and followed by a written notification.
- H. The borrower shall arrange for the services of a qualified full-time resident project inspector, unless waived by NMED, during construction of the project. Borrower shall provide NMED with a summary of the inspector's qualifications and training to be approved by NMED prior to the preconstruction conference.

**I.** Notwithstanding those inspections performed by the borrower and its engineer, NMED shall have the right to examine all installations comprising the project, including materials delivered and stored on-site for use on the project.

**J.** After completion of the project, the borrower shall obtain from its engineer as built drawings for the project and certify to NMED that such drawings have been received.

**K.** The borrower shall provide for NMED review and approval, unless waived by NMED, an operation and maintenance manual for the project prior to ninety percent construction completion. The operation and maintenance manual shall conform to NMED requirements.

**L.** If this assistance is awarded for construction of collection lines, the borrower shall assure NMED that the existing population will connect to the collection system within a reasonable time after project completion. This shall be accomplished by adoption and annual review of an ordinance and user charge system requiring such connection to the system.

[20.7.6.20 NMAC - Rp, 20.7.6.20 NMAC, 12/30/2015; A, 3/10/2020]

**20.7.6.21 FINAL LOAN AGREEMENT AND REPAYMENT POLICY:** Upon completion of the planning/design or construction project and after final disbursement of principal to the borrower:

**A.** NMED and borrower shall execute a final loan agreement which details the final loan amount plus accrued interest and administrative fees due to the date of the final loan agreement.

**B.** NMED and borrower shall execute a revision to the promissory note and real estate mortgage (if applicable) which were recorded at the county seat at the time of the initial loan agreement. The revision shall reflect final loan amount, plus accrued interest and administrative fees due.

**C.** NMED shall prepare a repayment schedule for the borrower which details principal, plus accrued interest and administrative fees due. The schedule shall fully amortize the loan within 30 years of project completion. In some cases the amortization shall be less than 30 years. NMED shall address each loan on a case-by-case basis. The borrower may prepay the loan or any portion thereof at any time. The repayment period for a planning/design loan shall not exceed five years. The first annual repayment of principal, interest and administrative fees shall be due within one year after completion of the project.

**D.** For borrowers with planning/design loans who subsequently receive a construction loan and who choose to reamortize (roll-over) the planning/design loan, repayments for the planning/design loan may be postponed until construction of the project is completed, at which time the principal plus accrued interest and administrative fees for the planning/design loan will be rolled into the final loan agreement for the construction loan with one subsequent repayment schedule.

**E.** NMED shall annually prepare and send to the borrower a notice of payment due.

**F.** The borrower shall make a check for the full amount of the notice payable to Wastewater Facility Construction Loan Fund, Attention:

Chief, Construction Programs Bureau  
New Mexico Environment Department  
P.O. Box 5469  
Santa Fe, New Mexico 87502-6110

and mail in time to insure delivery by due date.

**G.** In the event of late payment or default by the borrower, NMED shall have the option to declare the principal, interest accrued and administrative fee on, any outstanding indebtedness forthwith due and payable automatically without notice or demand of any kind, whereupon the same shall become forthwith due and payable; and NMED may take legal recourse to implement collection.

[20.7.6.21 NMAC - Rp, 20.7.6.21 NMAC, 12/30/2015; A, 3/10/2020]

#### **HISTORY OF 20.7.6 NMAC:**

Pre-NMAC History: Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

HED 88-2 (EID) Rule 88-2 (EID), New Mexico Wastewater Facility Construction Loan Fund Policies, Procedures, and Guidelines, 9/22/1988.

#### **History of Repealed Material:**

20.7.6 NMAC, Wastewater Facility Construction Loan Policies and Guidelines, filed 6/16/2000 - Repealed effective 12/30/2015.

**Other History:**

20 NMAC 7.6, Wastewater and Water Supply Facilities - Wastewater Facility Construction Loan Policies and Guidelines, 10/25/1995.

**TITLE 20 ENVIRONMENTAL PROTECTION**  
**CHAPTER 7 WASTEWATER AND WATER SUPPLY FACILITIES**  
**PART 7 REVIEW PROCEDURES FOR WASTEWATER CONSTRUCTION LOANS**

**20.7.7.1 ISSUING AGENCY:** New Mexico Environment Department.  
[20.7.7.1 NMAC - Rp, 20.7.7.1 NMAC, 3/10/2020]

**20.7.7.2 SCOPE:** These procedures apply to all construction or planning/design projects funded in-part from the Wastewater Facilities Construction Loan Fund which is derived from the federal capitalization grant except as provided in Section 11 of 20.7.7 NMAC.  
[20.7.7.2 NMAC - Rp, 20.7.7.2 NMAC, 3/10/2020]

**20.7.7.3 STATUTORY AUTHORITY:** Department of Environment Act, Subsection D of Section 9-7A-6 NMSA 1978; Wastewater Facility Construction Loan Act, Sections 74-6A-1 to 15 NMSA 1978; and Water Quality Act, NMSA 1978, Sections 74-6-1 to 17.  
[20.7.7.3 NMAC - Rp, 20.7.7.3 NMAC, 3/10/2020]

**20.7.7.4 DURATION:** Permanent.  
[20.7.7.4 NMAC - Rp, 20.7.7.4 NMAC, 3/10/2020]

**20.7.7.5 EFFECTIVE DATE:** March 10, 2020. This Part amends and replaces the Environmental Review Procedures for Projects Funded Through the Wastewater Facility Construction Loan Program, HED 88-3 (EID), filed September 22, 1988, as amended.

**A.** All references to HED 88-3 (EID) or to the Review Procedures for Projects Funded through the Wastewater Facility Construction Loan Program in any other rule shall be construed as a reference to this Part.

**B.** The amendment and replacement of HED 88-3 (EID) shall not affect any administrative or judicial enforcement action pending on the effective date of such amendment nor the validity of any financial assistance provided pursuant to HED 88-3 (EID).

[20.7.7.5 NMAC - Rp, 20.7.7.5 NMAC, 3/10/2020]

**20.7.7.6 OBJECTIVE:** This Part establishes the New Mexico Environment Department's policy and procedures for the identification and analysis of the environmental impacts of construction of wastewater facilities funded in-part through loans from the Wastewater Facility Construction Loan Fund (which is New Mexico's SRF) and the preparation and processing of Environmental Impact Statements (EISs). This procedure shall be coordinated with and shall be consistent with NMED's environmental review responsibilities pursuant to the Governor's Executive Order 83-73, "State Clearinghouse Review Process."  
[20.7.7.6 NMAC - Rp, 20.7.7.6 NMAC, 3/10/2020]

**20.7.7.7 DEFINITIONS:** All terminology used in this Part will be consistent with the terms as defined in 40 CFR Part 1508 (the CEQ Regulations) except as provided in this Part.

**A.** "**Applicant**" means any state agency or other qualified borrower, which has filed an application for loan assistance from the SRF.

**B.** "**Environmental Information Document**" (EID) means any written analysis prepared by an applicant or contractor describing the environmental impacts of a proposed project. This document will be of sufficient scope to enable the responsible official to assess the environmental impacts of the proposed project;

**C.** "**Department**" or "**NMED**" means the New Mexico environment department.

**D.** "**environmental review**" means the process whereby an evaluation is undertaken by NMED to determine whether a proposed project may have a significant impact on the environment and therefore require the preparation of an Environmental Impact Statement (EIS);

**E.** "**Loan**" means a loan of funds by a written loan agreement from the SRF;

**F. "Planning/design loan"** means a loan which is issued for the purpose of preparation of a plan (including environmental review process) or preparation of design drawings and specifications for a potential construction project.

**G. "Project"** means a construction project which receives a loan for the purpose of building a publicly owned treatment works (POTW) or other eligible works.

**H. "Record of Decision" (ROD)** means a document prepared and issued by the NMED responsible official on the Environmental Impact Statement (EIS) which includes an identification of mitigation measures.

**I. "Responsible Official"** means the Secretary of the department who is authorized to fulfill the requirements of these procedures. The Chief of the Construction Programs Bureau is delegated the day-to-day responsibilities for implementing these procedures.

**J. "SRF"** means the state revolving loan fund as established by the Wastewater Facility Construction Loan Act.

**K. "State agency"** means an agency or department of the New Mexico executive branch of government.

[20.7.7.7 NMAC - Rp, 20.7.7.7 NMAC, 3/10/2020]

#### **20.7.7.8 BACKGROUND:**

**A.** On June 10, 2014, the President signed into law the Water Resources Reform and Development Act of 2014. The U.S. Environmental Protection Agency (EPA) issued on September 18, 2014, Interpretive Guidance for Certain Amendments in the Water Resources Reform and Development Act to Titles I, II, V, and VI of the Federal Water Pollution Control Act (FWPCA). Section 5002 states the following: All CWSRF-funded projects involving the construction of treatment works, regardless of the source of the funding must undergo an environmental review. The [EPA] has consistently interpreted the statement "with assistance made available by a State water pollution control revolving fund authorized under this title" to mean that the specific requirement identified applies to all CWSRF-funded projects, not just equivalency projects. Consistent with this prior interpretation, any project that is considered a "treatment work" as defined in the FWPCA section 212, now incorporated in FWPCA Section 502(26), must comply with the FWPCA 511(c)(1) regardless of which eligibility it is funded under (see section 603(c)). A state may choose to apply its own "NEPA-like" state environmental review process for complying with the FWPCA 511(c)(1) provided that the elements in 40 CFR 35.3140(b)(1) through (5) are met.

**B.** The department, pursuant to Section 9-7A-6 NMSA 1978, revised and adopted the procedures as outlined at 40 CFR Part 6 - Procedures for Implementing the Requirements of the Council on Environmental Quality on the National Environmental Policy Act of 1969 (NEPA).

**C.** NMED is authorized by Subsection A of Section 74-6A-4 NMSA 1978 of the Wastewater Facility Construction Loan Act to establish and administer a program to make loans to state agencies and other qualified borrowers for construction or modification of wastewater facilities. In carrying out this responsibility, the Secretary of the department has adopted policies, requirements, procedures, and guidelines for administration of the SRF which includes the primary responsibility for conducting environmental reviews and evaluations of SRF projects. Legal remedies available to the public to challenge environmental review determinations and enforcement pursuant to this procedure are provided by appeal by an aggrieved party(s) of the determination or action through administrative channels to higher authorities within NMED.

**D.** The New Mexico Water Quality Act, Sections 74-6-1 to 17 NMSA 1978, created the Water Quality Control Commission (WQCC) which is the state water pollution control agency for all purposes of the federal Clean Water Act, as amended. The WQCC may take all action necessary and appropriate to secure to New Mexico and its political subdivisions the benefits of the federal act. The Water Quality Act identifies legal remedies available to it and its constituent agencies (including NMED) in enforcement of its regulations, and legal remedies available to the public regarding implementation of programs covered by the Water Quality Act which includes the SRF.

[20.7.7.8 NMAC - Rp, 20.7.7.8 NMAC, 3/10/2020]

**20.7.7.9 CONSTRUCTION:** This Part shall be liberally construed to carry out the purposes of the Act. If any provision or application of this Part is held invalid, the remainder or its application to other situations or persons shall not be affected.

[20.7.7.9 NMAC - Rp, 20.7.7.9 NMAC, 3/10/2020]



**20.7.7.10 COMPLIANCE WITH OTHER REGULATIONS:** Compliance with this Part does not relieve a person from the obligation to comply with other applicable state and federal regulations.  
[20.7.7.10 NMAC - Rp, 20.7.7.10 NMAC, 3/10/2020]

**20.7.7.11 OVERVIEW:** The process for conducting an environmental review of wastewater facility construction projects includes the following steps.

**A. Consultation.** The applicant is encouraged to consult with NMED early in project formulation or the facilities planning stage to determine whether a project is eligible for a categorical exclusion from the remaining substantive environmental review requirements of these procedures, to determine alternatives to the proposed project for evaluation, to identify potential environmental issues, and to determine the potential need for partitioning the environmental review process or the need for an Environmental Impact Statement (EIS).

**B. Determining categorical exclusion eligibility.** At the request of an applicant, NMED will determine if a project is eligible for a categorical exclusion in accordance with the submission of a loan application and other documents submitted to NMED to substantiate the request.

**C. Documenting environmental information.** If the project is determined to be ineligible for a categorical exclusion, or if no request for a categorical exclusion is made, the potential applicant subsequently prepares an Environmental Information Document (EID) for the project.

**D.** In the event that the proposed action is of a limited nature, but does not qualify for a categorical exclusion, and that an EID had been approved previously by the EPA or NMED for wastewater facilities, the responsible official may determine to what extent updated information may suffice to provide the requisite environmental review of the project.

**E. Assessing environmental impacts.** NMED reviews the EID, prepares an environmental assessment (EA), and based upon an assessment of the environmental impacts of the proposed project NMED:

(1) Prepares and issues a Finding of No Significant Impact (FONSI); or

(2) Prepares or issues a Notice of Intent to prepare an original or supplemental EIS and

Record of Decision (ROD).

**F. Monitoring.** The construction and post-construction operation and maintenance of the facilities are monitored to ensure implementation of mitigation measures identified in the FONSI or ROD.

[20.7.7.11 NMAC - Rp, 20.7.7.11 NMAC, 3/10/2020]

**20.7.7.12 CONSULTING DURING THE PRELIMINARY ENGINEERING PROCESS:** The responsible official shall initiate the environmental review process early to identify environmental effects, avoid delays, and resolve conflicts. The environmental review process should be integrated throughout the preliminary engineering process. Potential applicants should consult with NMED early in the preliminary engineering process. The consultation should be conducted during the evaluation of project alternatives prior to the selection of a preferred alternative, to assist in resolving any identified environmental problems.

[20.7.7.12 NMAC - Rp, 20.7.7.12 NMAC, 3/10/2020]

**20.7.7.13 COORDINATION WITH OTHER ENVIRONMENTAL REVIEW AND CONSULTATION REQUIREMENTS:** Pertinent laws, regulations, or executive orders should be included in a coordinated environmental review effort as outlined in the NMED Construction Programs Bureau State Environmental Review Process (SERP), EPA' general terms and conditions of the grant, and the EPA CWSRF guidance.

[20.7.7.13 NMAC - Rp, 20.7.7.13 NMAC, 3/10/2020]

**20.7.7.14 REVIEW OF COMPLETED PRELIMINARY ENGINEERING REPORTS:** NMED shall review the completed preliminary engineering reports (PER) and EID in the development of alternatives and the selection of a preferred alternative. An adequate EID shall be an integral part of planning submitted to NMED. The EID shall be of sufficient scope to enable the responsible official to make determinations on requests for partitioning the environmental review process and for preparing an environmental assessment (EA).

[20.7.7.14 NMAC - Rp, 20.7.7.14 NMAC, 3/10/2020]

**20.7.7.15 ENVIRONMENTAL ASSESSMENT:** The environmental assessment process shall cover all potentially significant environmental impacts. NMED personnel shall assess environmental impacts before PER approval. The EID shall address all elements in 40 CFR Part 6 and follow the SERP. In minimizing the adverse effects of the proposed action:

**A.** Structural and nonstructural measures, directly or indirectly related to the facilities plan, to mitigate or eliminate adverse effects on the human and natural environments shall be identified during the environmental review. Among other measures, structural provisions include changes in facility design, size, and location; nonstructural provisions include staging facilities, monitoring and enforcement of environmental regulations, and local commitments to develop and enforce land use regulations.

**B.** NMED shall not accept a PER, nor approve loan assistance for its implementation, if the applicant has not made, or agreed to make, changes in the project, in accordance with determinations made in a FONSI or the ROD for an EIS. NMED shall condition a loan or seek other ways to ensure that the applicant will comply with such environmental review determinations.  
[20.7.7.15 NMAC - Rp, 20.7.7.15 NMAC, 3/10/2020]

**20.7.7.16 FONSI/EID DETERMINATION:** The responsible official shall apply the criteria under Section 19 of 20.7.7 NMAC to the following:

**A.** A complete PER;  
**B.** The EID; and  
**C.** Other documentation deemed necessary by the responsible official adequate to make an EIS determination by NMED. Following an independent environmental review of the projects, the responsible official shall document in writing the reasons for his determination to issue a FONSI or to prepare an EIS. The responsible official's determination to issue a FONSI or to prepare an EIS shall constitute final department action.  
[20.7.7.16 NMAC - Rp, 20.7.7.16 NMAC, 3/10/2020]

**20.7.7.17 PARTITIONING THE ENVIRONMENTAL REVIEW PROCESS:**

**A.** Purpose. Under certain circumstances, the building of a component/portion of a wastewater treatment system may be justified in advance of completing all environmental review requirements for the remainder of the system(s). When there are overriding considerations of cost or impaired program effectiveness the responsible official may approve a loan for a discrete component of a complete wastewater treatment system(s). The process of partitioning the environmental review for the discrete component shall comply with the criteria and procedures described in subsection (B) of this section. In addition, all reasonable alternatives for the overall wastewater treatment works system(s), of which the component is a part, shall have been previously identified and each part of the environmental review for the remainder of the overall facilities plan shall comply with all requirements under Sections 14 and 15 of 20.7.7 NMAC.

**B.** Criteria for partitioning. The project component must:  
**(1)** Immediately remedy a severe public health, water quality, or other environmental problem;  
**(2)** Not foreclose any reasonable alternatives identified for the overall wastewater treatment works system(s);  
**(3)** Not cause significant adverse direct or indirect environmental impacts including those which cannot be acceptably mitigated without completing the entire wastewater treatment system of which the component is a part; and  
**(4)** Not be highly controversial.

**C.** Request for partitioning. The applicant's request for partitioning must contain the following:  
**(1)** A description of the discrete component proposed for construction before completing the environmental review of the entire facilities plan;  
**(2)** How the component meets the above criteria;  
**(3)** The environmental information required by Sections 14 and 15 of 20.7.7 NMAC for the component; and  
**(4)** Any preliminary information that may be important to NMED in an EA determination for the entire facilities plan.

**D.** Approval of requests for partitioning. The responsible official shall:  
**(1)** Review the request for partitioning against all requirements of this procedure;  
**(2)** If approvable, prepare and issue a FONSI;  
**(3)** Include a loan condition prohibiting the building of additional or different components of the entire facilities plan for which the environmental review is not complete.  
[20.7.7.17 NMAC - Rp, 20.7.7.17 NMAC, 3/10/2020]

**20.7.7.18 FINDING OF NO SIGNIFICANT IMPACT (FONSI) DETERMINATION:**

**A.** Criteria for producing and distributing a FONSI. If, after completion of the EA, NMED determines that an EIS will not be required, the responsible official shall issue a FONSI. The FONSI will be based on NMED independent review of the EID and any other environmental information deemed necessary by the responsible official, consistent with the requirements of Sections 14 and 15 of 20.7.7 NMAC. The FONSI shall list mitigation measures necessary to make the recommended alternative environmentally acceptable.

**B.** Proceeding with loan agreement.

**(1)** Once the issued FONSI becomes effective for the project, after a 30 day public comment period construction may proceed unless the responsible official determines that the project or environmental conditions have changed significantly from that which underwent environmental review.

**(2)** For an EID five or more years old, the responsible official shall re-evaluate the project, environmental conditions, and public views, and, prior to approval of loan agreement, either:

**(a)** Reaffirm - issue a public notice reaffirming the original environmental determination to proceed with the project without revising the EID;

**(b)** Supplement - require an update of the EID, issue and distribute a revised FONSI with the necessary public notice or

**(c)** Reassess - withdraw the FONSI and publish a notice of intent to produce an EIS, followed by the preparation, issuance, and distribution of the EIS and ROD.

**C.** Revisions to the Project.

**(1)** Statement of Findings. If the project scope of work is revised after FONSI has been issued, but the revision is determined by NMED to be a minor revision, NMED shall issue a Statement of Findings (SOF) documenting the reason for the revision and its impact, if any, on the environment. The SOF shall be distributed to parties who previously indicated interest in the project environmental review process.

**(2)** Amendment. If the project scope of work is revised after a FONSI has been issued, but the revision is determined by NMED to be significant, NMED shall issue an amendment to the FONSI with proper public notification as identified in Section 23 of 20.7.7 NMAC and shall provide for a public meeting to discuss the amendment.

[20.7.7.18 NMAC - Rp, 20.7.7.18 NMAC, 3/10/2020]

#### **20.7.7.19 CRITERIA FOR INITIATING ENVIRONMENTAL IMPACT**

**STATEMENTS:** Conditions requiring an EIS. The responsible official shall assure that an EIS will be prepared and issued when it is determined that the proposed project will cause any of the following conditions to exist, or when:

**A.** The proposed action would result in a discharge of treated effluent from a new or modified existing facility into a body of water and the discharge is likely to have a significant effect on the quality of the receiving waters.

**B.** The proposed action is likely to directly, or through induced development, have significant adverse effect upon local ambient air quality or local ambient noise levels.

**C.** The proposed action is likely to have significant adverse effects on surface water reservoirs or navigation projects.

**D.** The proposed action would be inconsistent with state or local government, or federally-recognized Indian tribe approved land use plans or regulations, or federal land management plans.

**E.** The proposed action would be inconsistent with state or local government, or federally-recognized Indian tribe environmental, resource-protection, or land-use laws and regulations for protection of the environment.

**F.** The proposed action is likely to significantly affect the environment through the release of radioactive hazardous or toxic substances, or biota.

**G.** The proposed action involves uncertain environmental effects or highly unique environmental risks that are likely to be significant.

**H.** The proposed action is likely to significantly affect national natural landmarks or any property on or eligible for the National Register of Historic Places.

**I.** The proposed action is likely to significantly affect environmentally important natural resources such as wetlands, significant agricultural lands, aquifer recharge zones, coastal zones, barrier islands, wild and scenic rivers, and significant fish or wildlife habitat.

**J.** The proposed action in conjunction with related federal, state or local government, or federally-recognized Indian tribe projects is likely to produce significant cumulative impacts.

**K.** The proposed action is likely to significantly affect the pattern and type of land use (industrial, commercial, recreational, residential) or growth and distribution of population including altering the character of existing residential areas.

[20.7.7.19 NMAC - Rp, 20.7.7.19 NMAC, 3/10/2020]

**20.7.7.20 ENVIRONMENTAL IMPACT STATEMENT (EIS) PREPARATION:**

**A.** Steps in preparing the EIS. In addition to the other requirements specified in this procedure, the responsible official will conduct the following activities:

(1) Notice of intent. If a determination is made that an EIS will be required, the responsible official shall prepare and distribute a notice of intent.

(2) Scoping. As soon as possible, after the publication of the notice of intent, the responsible official will convene a meeting of affected federal, state, and local agencies, or affected Indian tribes, the applicant and other interested parties to determine the scope of the EIS. As part of the scoping meeting, NMED will, as a minimum:

(a) Determine the significance of issues for and the scope of those significant issues to be analyzed in depth in the EIS;

(b) Identify the preliminary range of alternatives to be considered;

(c) Identify potential cooperating agencies and determine the information or analyses that may be needed from cooperating agencies or other parties;

(d) Discuss the method for EIS preparation and the public participation strategy;

(e) Identify consultation requirements of other environmental laws; and

(f) Determine the relationship between the EIS and the completion of the facilities plan and any necessary coordination arrangements between the preparers of both documents.

(3) Identifying and evaluating alternatives. Immediately following the scoping process, the responsible official shall commence the identification and evaluation of all potentially viable alternatives to adequately address the range of issues identified in the scoping process. Additional issues may be addressed, or others eliminated, during this process and the reasons documented as part of the EIS.

**B.** Methods for preparing EIS. After NMED determines the need for an EIS, it shall select one of the following methods for its preparation:

(1) By NMED contracting directly with a qualified consulting firm;

(2) By utilizing a third party method whereby the responsible official enters into "third party agreements" for the applicant to engage and pay for the services of a third party to prepare the EIS. Such agreement shall not be initiated unless both the applicant and the responsible official agree to its creation. A third party agreement will be established prior to the applicant's EID and eliminate the need for the document. In proceeding under the third party agreement, the responsible official shall carry out the following practices:

(a) In consultation with the applicant, choose the third party contractor and manage that contract;

(b) Select the consultant based on ability and absence of conflict of interest. Third party contractors shall execute a disclosure statement prepared by the responsible official signifying they have no financial or other conflicting interest in the outcome of the project; and

(c) Specify the information to be developed and supervise the gathering, analysis, and presentation of the information. The responsible official shall have sole authority for approval and modification of the statements, analyses, and conclusions included in the third party EIS.

[20.7.7.20 NMAC - Rp, 20.7.7.20 NMAC, 3/10/2020]

**20.7.7.21 THE ENVIRONMENTAL IMPACT STATEMENT (EIS) FORMAT:** Preparers of EIS must conform with the requirements of 40 CFR, Part 1502, in writing the EIS. The format used for the EIS shall encourage good analysis and clear presentation of alternatives, including the proposed action, and their environmental, economic, and social impacts. The following standard format for EISs should be used unless the responsible official determines that there is a compelling reason to do otherwise:

**A.** Cover Sheet;

**B.** Executive Summary;

**C.** Table of Contents;

**D.** Purpose of and need for action;

**E.** Alternatives including proposed action;

**F.** Affected environment;

**G.** Environmental consequences of the alternative;  
**H.** Coordination (includes list of agencies, organizations, and persons to whom copies of the EIS are sent);

- I.** List of preparers;  
**J.** Index (commensurate with complexity of EIS);  
**K.** Appendices.

[20.7.7.21 NMAC - Rp, 20.7.7.21 NMAC, 3/10/2020]

**20.7.7.22 MONITORING FOR COMPLIANCE:**

**A.** General. The responsible official shall ensure adequate monitoring of mitigation measures and other loan conditions identified in the FONSI or ROD.

**B.** Enforcement. If the applicant fails to comply with loan conditions, the responsible official may consider applying the sanctions.

[20.7.7.22 NMAC - Rp, 20.7.7.22 NMAC, 3/10/2020]

**20.7.7.23 PUBLIC, FEDERAL AGENCY, AND OTHER STATE AGENCY INVOLVEMENT:**

**A.** NMED shall make diligent efforts to involve the public in the environmental review process consistent with program regulations and State Clearinghouse for Intergovernmental Review policies on public participation. The responsible official shall ensure that public notice is provided and shall ensure that public involvement is carried out following state policies and guidelines on public participation.

**B.** General. It is NMED's policy that certain public participation steps be achieved before NMED completes the environmental review process. At a minimum, potential applicants shall conduct one public hearing prior to formal adoption of a facilities plan to discuss the proposed facilities plan and any needed mitigation measures.

**C.** Publication of notices of intent. As soon as practicable after a decision is rendered to issue a categorical exclusion or FONSI, or to prepare an EIS (but before the signing process), the responsible official shall send the notice of intent to interested and affected members of the public, and shall publish the notice of intent in a newspaper of general circulation in the community of the project.

**D.** The responsible official shall not take administrative action on the project for at least 30 calendar days after release of the notice of determination on the categorical exclusion or release of the FONSI to allow time for public response.

**E.** EIS. The responsible official shall follow, as applicable, procedures identified at 40 CFR, Part 6, Subpart B, for official filing requirements, availability of documents, commenting process, and supplements to the EIS.

**F.** Record of Decision. The responsible official shall disseminate the record of decision to those parties which commented on the draft or final EIS. One copy shall be submitted to EPA.

**G.** Scope. The responsible official may institute additional NEPA-related public participation procedures as are deemed necessary during the environmental review process.

[20.7.7.23 NMAC - Rp, 20.7.7.23 NMAC, 3/10/2020]

**HISTORY OF 20.7.7 NMAC:**

**Pre-NMAC History:** Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

HED 88-3 (EID), New Mexico Health and Environment Department, Environmental Improvement Division, Review Procedures for Projects Funded Through The Wastewater Facility Construction Loan Program, 9/22/1988

**OTHER HISTORY:**

20 NMAC 7.7, Wastewater and Water Supply Facilities - Review Procedures For Wastewater Construction Loans, 10/25/1995

**History of Repealed Material:**

20.7.7 NMAC, Review Procedures for Wastewater Construction Loans, adopted 7/16/2000, replaced with 20.7.7 NMAC Review Procedures Wastewater Construction Loans, effective 3/10/2020.

