15A NCAC 01J .1401 PURPOSE

(a) Loans and grants for wastewater systems and public water systems from the reserve accounts in the Water Infrastructure Fund shall be made in accordance with this Subchapter.

History Note: Authority G.S. 159G-44;
Eff. September 1, 2006.

15A NCAC 01J .1402 DEFINITIONS

(a) In addition to the definitions in G.S. 159G-20, the following definitions apply to this Subchapter:

(1) "Act" means the Water Infrastructure Act of 2005, G.S. 159G

(2) "Award" means the offer by the receiving agency to enter into a commitment for a specified amount.

(3) "Award of contract" means the award by the recipient to a contractor of a contract to construct the project as bid.

(4) "Bid" means the amount of money for which a contractor offers to construct the project.

(5) "Contingency costs" means unforeseen costs or situations not included in the estimate of project costs.

(6) "Commitment" means a binding agreement to pay loan or grant funds to an eligible applicant at some future time.

(7) "Date of completion" means the date on which the project has been completed, as determined by the receiving agency.

(8) "Effective date of receipt" means the earlier of the date an application is either postmarked or received at the principal offices of the receiving agency in Raleigh, North Carolina.

(9) "Fiscal year" means the state fiscal year, beginning on July 1 of a calendar year and ending on June 30 of the following calendar year. In referring to a specific fiscal year, the year named is the calendar year in which the fiscal year ends. For example, "Fiscal Year 1988" refers to the fiscal year beginning July 1, 1987 and ending June 30, 1988.

(10) "Inspection" means inspection or inspections of a project to determine percentage completion of the project and compliance with applicable federal, state and local laws or rules.

(11) "Orders" means any restrictive measure, related to the operation of its water or wastewater system, issued to an applicant. Such measures may be included in, but are not restricted to, Administrative Orders, Special Orders, Special Orders by Consent, Judicial Orders, or issued or proposed permits, permit modifications or certificates.

(12) "Project" means the works described in the application.

(13) "Priority review period" means July 1 through December 31 and January 1 through June 30 of each fiscal year.

(14) “Receiving agency” means the Division of Environmental Health with respect to receipt of applications related to public water systems and the Division of Water Quality with respect to receipt of applications related to wastewater systems.

(15) "Regional water supply system" means:

(A) A public water system that serves two or more local units of government, or

(B) A public water system that demonstrates each of the following:

(i) A specific plan to provide drinking water throughout the territory of a local unit of government, except that a municipality shall also demonstrate a specific plan to provide drinking water outside its extraterritorial jurisdiction;

(ii) Shares water supply facility resources with another public water system; and

(iii) An interlocal agreement or joint resolution to be a part of an interconnected regional water system within 10 years.

(b) "Regional wastewater system" means a wastewater system of a municipality, county, sanitary district, or other political subdivision of the State or combination thereof that serves two or more units of government.

(c) "Water Reclamation" means the production of a high level treated effluent as a reusable, non-potable water source.

(d) "Water Reuse" means the actual use or application of reclaimed water in or on areas which require water but do not require potable water quality.

History Note: Authority G.S. 159G-44;
Eff. September 1, 2006.

15A NCAC 01J .1501 ELIGIBLE PROJECT COSTS

(a) Project costs eligible under this Subchapter are limited to:

(1) the actual costs of the works described in the project application; and

(2) contingency costs, not to exceed ten percent of the estimated eligible construction costs.

Upon receipt of bids, the contingency costs shall be reduced to not more than five percent of the actual eligible construction costs as bid.

(b) Eligible costs do not include recurring annual expenditures for administration, repairs, or operation and maintenance of any wastewater system or public water system projects.

History Note: Authority G.S. 159G-44;
Eff. September 1, 2006.

15A NCAC 01J .1601 APPLICATION FILING DEADLINES

Applications to be considered in the first semi-annual priority review period of a fiscal year shall have an effective date of receipt of September 30 of that year, which shall be the filing deadline for that priority review period. Applications to be considered in the second semi-annual priority review period of a fiscal year shall have an effective date of receipt of March 31 of that year, which shall be the filing deadline for that priority review period.

History Note: Authority G.S. 159G-44;
Eff. September 1, 2006.

15A NCAC 01J .1701 COMMON CRITERIA

(a) Conservation or reuse of water - An applicant may receive a maximum of 6 bonus points for meeting the following criteria as applicable:

(1) An applicant demonstrates it has a continuing I/I program in it's wastewater sewer maintenance program. (Wastewater Projects Only) - 2 points

(2) An applicant demonstrates it has a continuing water loss reduction program in its water supply system program. (Water Supply Projects Only) - 2 points

(3) An applicant demonstrates it has:

(A) Established a water conservation incentive rate structure - 2 points

(B) Created effective incentives for new or replacement installation of low flow faucets, shower heads, and toilets - 1 point

(C) A water reclamation or reuse system - 2 points

(b) Comprehensive Land-use Plan - An applicant may receive a maximum of 6 bonus points for meeting the following criteria:

(1) An applicant demonstrates that steps have been taken toward adoption of a comprehensive land-use plan such as the adoption of a zoning ordinance. - 1 point

(2) An applicant demonstrates that it has adopted a comprehensive land-use plan that meets the requirements of G.S. 153A, Article 18 or G.S. 160A, Article 19, or applicant is not authorized to adopt a comprehensive land-use plan but is located in whole or in part in a local government unit that has adopted a comprehensive land-use plan, and that the proposed project is consistent with the plan. - 2 points

(3) An applicant demonstrates that the comprehensive land-use plan exceeds the minimum state standards for the protection of water resources. - 2 points

(4) An applicant demonstrates that actions have been taken toward implementation of the comprehensive land-use plan. - 2 points

(c) Flood Hazard Ordinance - An applicant may receive a maximum of 4 bonus points for the following criteria:

(1) A project that is located in a city or county that has adopted a flood hazard prevention ordinance under G.S. 143-215.54A or no part of the service area of the project is located within the 100-year floodplain. – 2 points

(2) This plan (ordinance) exceeds the minimum standards. – 2 points

(d) Sound management – Fiscal responsibility of the applicant (maximum points--6). The value of this categorical element shall be the sum of the points awarded by Subparagraphs (1) to (3) of this

Paragraph and the receiving agency may seek the comments of the Secretary of the Local Government Commission:

(1) The applicant has followed proper accounting and fiscal reporting procedures as reflected in the applicant's most recent report of audit, and the applicant is in substantial compliance with the provisions of the general fiscal control laws of the state. - 2 points

(2) The applicant public water system or wastewater system is fiscally self-sufficient. - 2 points

(3) Estimated revenues will provide for future administration, operation, debt principal and interest, and capital outlay and reserve. - 2 points

(e) Financial need (maximum -5 points). The value of this Paragraph will be the sum of the points assigned under Subparagraphs (1) and (2) of this Paragraph.

(1) The annual average residential cost of water, wastewater, and stormwater fees exceeds the following percentage of the median household income of the community:

(A) 2% - 3 points, or

(B) 1.5% - 2 points

(2) 20 times (Total Indebtedness plus Total Estimated Project Cost) divided by the total Appraised Property Valuation. – (maximum 2 points) Note: 20 is a factor to add points.

(f) Capital Improvement Plan - The project implements an applicant’s capital improvement plan as defined in G.S. 159G-23(7). - 4 points

(g) Coastal Habitat Protection - Plan

(1) The project is either in a county not subject to the Plan or implements a recommendation of a plan as defined in G.S. 159G-23(8). (Wastewater Projects Only)- 4 points

(2) For a water supply project that implements a recommendation of a plan as defined in G.S. 159G-23(8) and its priority points total is within 4 points of another project that affects a county subject to that Plan that does not implement such a recommendation,

then the implementing project shall be placed on the priority list ahead of the non-implementing subject project. (Water Supply Projects Only)

History Note: *Authority G.S. 159G-44;*
Eff. September 1, 2006.

15A NCAC 01J .1801 ASSIGNMENT OF CATEGORY TO WASTEWATER SYSTEM APPLICATIONS

(a) Applications to the Wastewater Accounts will be assigned a category as follows, during review of the applications:

(1) All applications for a project that improves a system that is not in compliance with permit requirements, under orders, experiencing documented infiltration and inflow into the sewer system or replaces failing septic tanks, and that have submitted final project plans and specifications for review and approval by the receiving agency, shall be placed in Category 1.

(2) All applications for a project that improves a system that is not in compliance with permit requirements, under orders, experiencing documented infiltration and inflow into the sewer system or replaces failing septic tanks, and that have not submitted final project plans and specifications for review and approval by the receiving agency shall be placed in Category 2.

(3) All applications for other projects shall be placed in Category 3.

(b) All applications in Category 1 for a specific wastewater account shall be funded in priority order before applications in Category 2 in the same account. All applications in Category 2 for a specific wastewater account shall be funded in priority order before applications in Category 3 in the same account.

History Note: *Authority G.S. 159G-44;*
Eff. September 1, 2006.

15A NCAC 01J .1901 EXISTING CONDITIONS

The maximum value **- 8 points -** of this Rule will be the value of the points assigned under Items (1) – (4) of this Rule. The proposed project includes one or more of the following classifications.

(1) Surface Water Pollution

(a) Sanitary Sewer Overflow (SSO) - 8 points

(b) Wastewater Treatment Facilities (WWTP) - 7 points

(c) Excessive Infiltration and Inflow - 6 points

(d) Collection System/Pump Station/Force Main (No SSO) - 3 points

(2) Stormwater Treatment/Management Facility

(a) Addresses/Removes Direct Discharge - 8 points

(b) Other Stormwater Quality Project - 5 points

(3) Groundwater Pollution

(a) Documented Failing Septics - 7 points

(b) Landfill Leachate Collection/Treatment - 7 points

(c) Other Groundwater Pollution Source Problem - 5 points

(4) Aquatic/Riparian Habitat and Stream Degradation - Streams, Creeks, and Estuary Restoration -5 points

History Note: Authority G.S. 159G-44;
Eff. September 1, 2006.

15A NCAC 01J .1902 WATER QUALITY IMPROVEMENT CRITERIA

The maximum value - 10 points - of this Rule will be the sum of the points assigned under Items (1) - (4) of this Rule. The project will benefit one or more of the following water quality classifications

(1) Surface Water Restoration

(a) Project benefits a waterbody on the North Carolina 303 (d) list of Impaired water with a Total Maximum Daily Load (TMDL) - 8 points

(b) Project benefits a waterbody on the North Carolina 303 (d) list of Impaired water without a Total Maximum Daily Load (TMDL) – 6 points

(2) Surface Water Protection

(a) Class “SA” (Shellfish Waters), Class “WS-I” or “WS-II” (Water Supply Source), Class “ORW” (Outstanding Resource Waters), or “HQW” (High Quality Waters) - 10 points

(b) Class “WS-III”, “WS-IV”, or “WS-V” (Water Supply Source) - 8 points

(c) Class “B” or “SB” (Bathing Waters) - 6 points

(d) Class “C” or “SC” (Fishing) - 4 points

(3) Groundwater Protection – Project benefits groundwater – 8 points

(4) Universal Stormwater Management Plan – The project will be implemented in an area where the Universal Stormwater Management Program (USMP) has been adopted and approved by the Environmental Management Commission – 2 points.

History Note: Authority G.S. 159G-44;
Eff. September 1, 2006.

15A NCAC 01J .2001 PUBLIC NECESSITY: HEALTH: SAFETY AND WELFARE

(a) Applications to the Drinking Water Reserve shall be assigned a category as follows:

(1) All applications for a project that eliminates by consolidation a public water system demonstrating a lack of technical, financial, <u>or</u> management capacity in accordance with the Safe Drinking Water Act, Sections 1402(b)(1) and 1414(h), and NCAC 15A 18C .0300, shall be placed in Category 1. The Division may generate the application for such a project.

(2) All applications for a project that eliminates compliance problems due to existing violations of the NC Drinking Water Act or anticipated violations based on data and state or federal rulemaking shall be placed in Category 2.

(2) All applications for a project addressing source or treatment needs by improving the available water supply or treatment capacity to supply existing users, improving treated water quality, or providing a permanent or emergency interconnection between systems shall be placed in Category 3.

(3) All other eligible public water system projects shall be placed in Category 4.

(b) All applications in Category 1 for a specific drinking water account shall be funded in priority order before applications in Category 2 for the same account. Similarly all applications in Category 2 for a specific drinking water account shall be funded in priority order before applications in Category 3 for the same account, and all applications in Category 3 for a specific drinking water account shall be funded in priority order before applications in Category 4 for the same account.

(c) Funding shall be limited to the most cost-effective solution for the compliance or public health problem identified in the proposed project.

History Note: Authority G.S. 159G-44;
Eff. September 1, 2006.

15A NCAC 01J .2002 PROJECT PLANNING

The maximum value - 3 points - of this categorical element is the sum of the points awarded to Item (1) and the points assigned to Item (2) of this Rule:

(1) The project is compatible with the State Water Supply Plan and the applicable local water supply facility plan submitted under G.S. 143-355(1) - 1 point.

(2) The project demonstrates long range planning, through inter-local agreements, leading to systems of regional water supply - 2 points.

History Note: Authority G.S. 159G-4;
Eff. September 1, 2006.

15A NCAC 01J .2003 SOURCE WATER PROTECTION

The maximum value - 5 points – of this Rule may be awarded from Items (1) and (2) for participation in existing source water protection activities or programs that efficiently protect the public health; points may be awarded in Items (1) and (2) of this Rule up to the maximum, as follows:

(1) Voluntary surface source water protection program, approved by the Division, pursuant to the Safe Drinking Water Act, Section 1454 - 3 points.

(2) Voluntary wellhead protection program, approved by the Division, pursuant to the Safe Drinking Water Act, Section 1428 - 3 points.

History Note: Authority G.S. 159G-44;
Eff. September 1, 2006.

15A NCAC 01J .2101 CRITERIA FOR LOAN ADJUSTMENTS

Upon receipt of bids, a loan commitment may be adjusted as follows:

(1) The loan commitment may be decreased by the receiving agency provided the project cost as bid is less than the estimated project cost.

(2) Loan commitments may be increased by the receiving agency if the project cost as bid is greater than the estimated project cost and adequate funds are available in the account from which the loan was awarded. Increases greater than ten percent of the loan commitment meeting the above criteria shall be approved jointly by the receiving agency and the Local Government Commission.

History Note: Authority G.S. 159G-44;
Eff. September 1, 2006.

15A NCAC 01J .2201 REPAYMENT OF PRINCIPAL AND INTEREST ON LOANS

(a) The interest rate to be charged on loans under this Subchapter shall be set on March 31 of every year at the lesser of four percent per annum or one half the prevailing national market rate as derived from the Bond Buyer's 20-Bond Index. The interest rate shall be the same for all loans awarded from any account except target interest rate loans.

(b) The debt instrument setting the terms and conditions of repayment of loans under this Subchapter shall be established after the receipt of bids and after any adjustments are made under Rule .2101 of this Subchapter.

(c) Interest on the debt instrument shall begin to accrue on the original date that a project's contracts are scheduled to be completed. Extensions are not allowed.

(d) All principal payments shall be made annually on or before May 1 of each year. All interest payments shall be made semiannually on or before May 1 and November 1 of each year. The first payment is due not earlier than six months after the date of actual completion of the project. In no case shall the first payment be later than 18 months from the original scheduled completion date.

(e) All principal and interest payments shall be made payable to the appropriate account as specified in the debt instrument.

History Note: Authority G.S. 159G-44;
Eff. September 1, 2006.