

## NEBRASKA ADMINISTRATIVE CODE

### TITLE 131 – NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

#### Chapter 2 - ELIGIBLE USE OF FUNDS AND APPLICABILITY OF FEDERAL REQUIREMENTS

001 General Requirements. Funding made from the CWSRF and the DWSRF will be made for eligible projects and activities defined in the Clean Water Act and the Safe Drinking Water Act, respectively.

001.01 The CWSRF will fund construction of publicly-owned facilities.

001.01A Categories of loan eligibility for the CWSRF shall include: ~~Primary,~~ secondary, or tertiary treatment and appurtenances; infiltration and inflow correction; major sewer system rehabilitation; new collector sewers and appurtenances; new interceptors and appurtenances; acquisition of land integral to the treatment process; acquisition of land and interests in land necessary for construction; correction of combined sewer overflows; water conservation, efficiency, or reuse; energy efficiency; reuse or recycling of wastewater, stormwater, or subsurface drainage water; development and implementation of watershed projects; measures to increase the security of treatment works; and nonpoint source control systems. Loans shall be made only for eligible items within such categories.

001.01B Eligible items for wastewater treatment works projects shall not include the costs of water rights, ~~land (other than that specified in 001.01A above), easements and rights-of-way,~~ legal costs, fiscal agent's fees, operation and maintenance costs, and municipal administrative costs.

001.02 The DWSRF will fund construction of at both privately and publicly owned community and non-profit Non-Community Public Water Systems.

001.02A Categories of loan eligibility for the Drinking Water Facilities Loan Fund shall include projects which will facilitate compliance or prevent future violations of the Primary Drinking Water Standards applicable to the system or otherwise significantly further the health protection objectives of the Safe Drinking Water Act. This includes projects to replace aging infrastructure under which the following categories apply: rehabilitation, consolidation, or development of water sources to replace contaminated sources; installation or upgrade of water treatment facilities to comply with primary or secondary standards; installation or upgrade of storage facilities, including finished water reservoirs, to prevent microbiological contaminants from entering the water system; and installation or replacement of transmission and distribution pipes to prevent contamination caused by leaks or breaks in the pipe, or improve water pressure to safe levels.

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Land is eligible only if it is integral to a project such that the land is needed to locate eligible treatment or distribution projects. In addition, the acquisition of land must be from a willing seller. Loans shall be made only for eligible items within such categories.

001.02B The DWSRF shall not provide assistance to the following: for profit, noncommunity water systems; Public Water Systems owned by Federal agencies; dams or rehabilitation of dams; water rights, except if water rights are owned by a system that is being purchased through consolidation as part of a capacity development strategy; reservoirs, except for finished water reservoirs and those reservoirs that are part of the treatment process and are located on the property where the treatment facility is located; laboratory fees for monitoring; operation and maintenance expenses; projects needed mainly for fire protection; projects for systems that lack adequate technical, managerial, and financial capability, unless assistance will ensure compliance; projects for systems in significant noncompliance, unless funding will ensure compliance; and projects primarily intended to serve future growth.

001.03 The Land Acquisition and Source Water Loan Fund will be used for the following:

001.03A Public Water Systems may use funds to acquire land or a conservation easement from a willing seller or grantor, if the purpose of the acquisition is to protect the source water of the system from contamination and to ensure compliance with Primary Drinking Water Standards.

001.03B Community Water Systems may use funds to implement local, voluntary, incentive based source water protection measures to protect source water in order to facilitate compliance with Primary Drinking Water Standards applicable to the system, or otherwise significantly further health protection objectives.

001.03C Community Water Systems may use funds to assist with voluntary local partnerships for the development and implementation of partnership recommendations for the protection of source water such as source water quality assessment, contingency plans, and demonstration projects for partners within a source water protection area.

002 Facility Planning and Design Assistance. The loan applicant will sign a loan with the Department for project construction costs prior to receiving any loan assistance for facility planning or design costs. Loan assistance for these costs is on an allowance or actual cost basis, in accordance with Chapter 4, 001.02, after the applicant has incurred the cost.

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003 Recipients of loans made from the capitalization grants provided by the Clean Water Act and the Safe Drinking Water Act must comply with all applicable Federal cross-cutting authorities.

004 If a loan applicant receives a loan for facility planning, design, and/or construction and subsequently receives a grant for any of these costs, the loan recipient shall promptly repay the loan to the extent these costs are covered by the grant.

005 Refinancing Existing Debt Obligation.

005.01 To enable a loan applicant under the CWSRF to proceed with construction using its own financing in advance of available loans, the CWSRF may buy or refinance local debt obligations, where such debt was incurred and construction was initiated after March 7, 1985.

005.02 The CWSRF may buy or refinance the debt obligation of municipalities for wastewater treatment works if the debt was incurred and construction was begun after March 7, 1985.

005.02A Eligibility and terms of such buying or refinancing shall be in accordance with the Wastewater Treatment Facilities Construction Assistance Act and other regulations in effect at time of the original loan or amendments.

005.03 To enable a loan applicant under the DWSRF to proceed with construction using its own financing in advance of available loans, the DWSRF may buy or refinance local debt obligations, where such debt was incurred and construction was initiated after July 1, 1993.

005.04 Refinanced projects shall comply with Title 131 requirements as though they were projects receiving initial financing from the fund.

006 Loans made from the CWSRF and the DWSRF shall have the following authorities attached to their use:

006.01 Age Discrimination Act, PL 94-135.

006.02 Civil Rights Act of 1964, PL 88-352.

006.03 Section 13 of PL 92-500; Prohibition against sex discrimination under the Federal Water Pollution Control Act.

006.04 Rehabilitation Act of 1973, PL 93-112.

007 Loans made from the CWSRF for wastewater treatment projects shall have the following authorities attached to their use if applicable:

007.01 Davis-Bacon Act of 1931, PL 71-798.

007.02 Consolidated Appropriations Act of 2014, Implementation of Iron and Steel Provisions of PL 113-76.

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Enabling Legislation: Neb. Rev. Stat. §§81-15,151 to 81-15,154; §71-5323

Legal Citation: Title 131, Ch. 2, Nebraska Department of Environmental Quality

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#### Chapter 4- GENERAL REQUIREMENTS FOR WASTEWATER TREATMENT WORKS PROJECTS

001 Procurement Standards for Engineering Services and Construction Contracts. Loan applicants will use their own procurement procedures which reflect applicable federal, state, and local laws and regulations. The Department will provide a guidance document to assist in procurement of engineering services.

001.01 For engineering services to be eligible, the loan applicant will submit to the Department the appropriate professional services agreement for planning, design, and/or construction administration services. The Department will review the agreement(s) for eligibility.

001.02 The Department will review costs and will provide assistance for engineering costs which are considered reasonable and acceptable. Costs that appear excessive or unjustified may be limited for loan participation. The Department may provide an allowance for planning and/or design costs. The Department may use 40 CFR Part 35 Appendix B dated February 17, 1984 as a tool to determine the allowance for engineering services.

001.03 For construction contracts the loan recipient shall follow the procedures under Chapter 4, 006.01.

002 Public Participation. Loan applicants shall conduct a minimum of the following:

002.01 One public meeting when facility planning alternatives have been developed, but before an alternative has been selected, to discuss all alternatives under consideration and the reasons for rejection of others. Public notice shall occur not less than 30 days prior to the public meeting.

002.02 One public hearing prior to formal adoption of a facility plan to discuss the proposed facility plan, financial aspects of the project, proposed annual residential and industrial user charges, and any needed mitigation measures. Public notice shall occur at least 45 days prior to the date of the hearing. However, where the Department determines that there are no substantial documents which must be reviewed for effective hearing participation and there are no complex or controversial matters to be addressed by the hearing, the notice requirement may be reduced to no less than 30 days. For noncontroversial projects the public meeting and the public hearing can be combined into one public hearing.

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003 Environmental Review. Loan applicants will conduct environmental review of projects using the following procedures.

003.01 The loan applicant should work with the Department as early as possible in the facilities planning process to determine if the project qualifies for a categorical exclusion or whether a finding of no significant impact or an environmental impact statement is required.

003.02 40 CFR Part 6 – Procedures for Implementing the National Environmental Policy Act and Assessing the Environmental Effects Abroad of EPA Actions, as amended, is hereby adopted and incorporated herein.

004 Facility Planning Requirement. Loan applicants will conduct facility planning using the following procedures:

004.01 That projects apply best practicable waste treatment technology, which is the cost-effective technology that can transport and treat wastewater, separate combined sewers, and remove excessive infiltration and inflow in publicly owned Wastewater Treatment Works.

004.02 General Facility Planning Requirements. Facility planning shall demonstrate the need for proposed facilities. Through a systematic evaluation of alternatives that are feasible in light of the unique demographic, topographic, hydrologic, and institutional characteristics of the area, the facility plan will demonstrate that the selected alternative is cost-effective (i.e., is the most economical means of meeting the applicable effluent, water quality, and public health requirements over the design life of the facility while recognizing environmental and other nonmonetary considerations). The facility plan shall also demonstrate that the selected alternative is implementable from legal, institutional, financial, and management standpoints. All facility planning requirements may not be applicable to all types of projects. Comprehensive plans or engineering reports or studies may fulfill certain facility planning requirements.

004.03 Facility plan contents. A completed facility plan shall include:

004.03A A description of both the proposed Wastewater Treatment Works, and the complete Wastewater Treatment Works of which it is a part.

004.03B A cost-effectiveness analysis of the feasible conventional, innovative, and alternative Wastewater Treatment Works, processes and techniques capable of meeting the applicable effluent, water quality, and public health requirements over the design life of the facility while recognizing environmental and other nonmonetary considerations. The planning period for the cost-effectiveness analysis shall be a minimum of 20~~twenty~~ years or the term of the loan, whichever is greater. The monetary costs to be considered must include the present worth or

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equivalent annual value of all capital costs and operation and maintenance costs. A cost-effectiveness analysis shall include:

004.03B1 An evaluation of alternative flow reduction methods.

004.03B2 A description of the relationship between the capacity of alternatives and the needs to be served, including capacity for future growth expected after the Wastewater Treatment Works become operational. This includes estimated flows from significant industrial users.

004.03B3 Cost information on total capital costs and annual operation and maintenance costs, including estimated annual or monthly costs to residential and industrial users.

004.03C A demonstration of the nonexistence or possible existence of excessive infiltration/inflow in the sewer system. See Sec. 004.05.

004.03D An evaluation of the environmental impacts including ground water and surface water impacts of alternatives.

004.03E For the selected alternative, a concise description at an appropriate level of detail of at least the following:

004.03E1 Relevant design parameters;

004.03E2 Estimated capital construction and operation and maintenance costs, and a description of the manner in which costs will be financed;

004.03E3 Cost impacts on Wastewater Treatment Works users; and

004.03E4 Institutional and management arrangements necessary for successful implementation.

004.04 Submission and review of a facility plan. Each facility plan shall be submitted to the Department for review.

004.05 Infiltration/Inflow.

004.05A General. The loan applicant shall satisfactorily demonstrate to the Department that each sewer system discharging into the proposed Wastewater Treatment Works project is not or will not be subject to excessive infiltration/inflow. As an alternative loan applicants may propose long term program measures to limit infiltration and inflow. For previously existing combined sewers, inflow is not considered excessive in any event.

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004.05B Inflow. If the rainfall induced peak inflow rate results or will result in chronic operational problems during storm events, or the rainfall induced total flow rate exceeds 275 gpcd (1040 lpcd) during storm events, the loan applicant may perform a study of the sewer system to determine the quantity of excessive inflow and to propose a rehabilitation program to eliminate the excessive inflow.

004.05C Infiltration.

004.05C1 If the flow rate at the existing Wastewater Treatment Works is 120 gpcd (450 lpcd) or less during periods of high groundwater, the loan applicant may build the project including sufficient capacity to transport and treat any existing infiltration. However, if the loan applicant finds any specific portion of its sewer system is subject to excessive infiltration, the loan applicant may document its finding in a cost-effectiveness analysis and propose a sewer rehabilitation program to eliminate that specific excessive infiltration.

004.05C2 If the flow rate at the existing treatment facility is more than 120 gpcd (450 lpcd) during periods of high groundwater, the loan applicant may perform a study of the sewer system to determine the quantity of excessive infiltration and propose a sewer rehabilitation program to eliminate the excessive infiltration.

005 Design requirements shall include, but not be limited to, the following:

005.01 A requirement that the design of Wastewater Treatment Works be by professional engineers registered in Nebraska and follow current design standards as required by the Department. The design engineer will complete the Department's design information forms and submit them to the Department with the construction contract plans and specifications.

005.02 Capacity for a minimum of twenty years, or the term of the loan, whichever is greater, for domestic and industrial growth or reasonable capacity as approved by the Department.

005.03 Cost and Effectiveness Analysis. Beginning October 1, 2015, loan recipients who submit an application will certify to the Department that the loan recipient:

005.03A Has studied and evaluated the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the proposed project or activity for which assistance is sought under this title; and

005.03B Has selected, to the maximum extent practicable, a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, taking into account:



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005.03B1 The cost of constructing the project or activity;

005.03B2 The cost of operating and maintaining the project or activity over the life of the project or activity; and

005.03B3 The cost of replacing the project or activity.

005.04 Construction contracts shall include:

005.04A Requirements for the contractor of the construction project to post separate performance and payment bonds or other security approved by the Department in the amount of the bid;

005.04B A complete statement of work to be performed, including design drawings, specifications, and the required performance schedule;

005.04C The terms and conditions of the subagreement to be awarded;

005.04D A clear explanation of the loan recipient's method of bidding and evaluating bid prices, and its method for awarding the subagreement;

005.04E Any applicable wage determination requirements;

005.04F The deadline and place to submit bids;

005.04G Requirement for bid bond for 5% of the contractor's bid.

006 Contract Award and Construction Activities.

006.01 Construction Contract Procurement and Bid Document Review and Approval. Loan recipients will use their own procurement procedures which reflect applicable federal, state, and local laws and regulations.

006.01A The Department shall review the bidding documents and authorize award of the construction contract.

006.01B In case of a single bid, the loan recipient may return the bid to the bidder unopened, promptly notify the Department, and re-advertise the project.

006.02 Preconstruction Conference. The loan recipient or its engineer is encouraged to arrange a preconstruction conference prior to issuing the notice to proceed. The purpose of the preconstruction conference is to coordinate schedules, review and emphasize regulatory requirements, resolve questions, and set the ground rules for working together during construction. At a minimum, participants in this conference should include the loan

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recipient, the construction contractor, and the engineer. The loan recipient should inform and seek the Department's participation in the preconstruction conference.

006.03 Monitoring Construction. The loan recipient shall provide and maintain competent and adequate engineering supervision and resident inspection during construction.

006.03A Department Inspections. Department officials shall monitor and inspect project construction. Department officials may also attend construction progress meetings. The purpose of these inspections shall be to ensure that construction is progressing on schedule in accordance with approved plans/specifications and to determine compliance with terms of the loan. The loan recipient is required to correct all the deficiencies which are brought to their attention as a result of Department inspection. When the project is considered substantially complete and is operating as intended, the Department shall perform a final inspection.

006.03B Initiation of operation. The loan recipient shall notify the Department in writing of the date of initiation of operation.

006.04 Change Orders. A change order is a written document, issued by the loan recipient to a contractor, which alters the price, time of completion, or any other requirement(s) of the original contract documents.

006.04A The loan recipient is responsible for the adequate and prompt management of change orders.

006.04B The loan recipient shall seek the Department's approval of all change orders and will provide documentation to support the cost and scope of work defined in the change order.

006.04C The loan recipient may request additional funds for approved change orders if the additional work results in costs which will exceed the funds allocated to the project under the original contract.

006.04D Additional funds may be made available to the loan recipient if the change order costs are considered eligible and allowable subject to availability of funds.

006.05 Operation and Maintenance Manual. The operation and maintenance manual provides the information and guidance for the day-to-day effective and efficient operation and maintenance of the project.

006.05A The loan recipient shall submit a draft of the operation and maintenance manual to the Department before loan disbursements exceed 75% of the total project costs.

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006.05B The loan recipient shall submit a final operation and maintenance manual to the Department and receive approval before loan disbursements exceed 95% of the total project costs. This obligation of the loan recipient will be defined in the loan.

006.06 Fiscal Sustainability Plan. Beginning October 1, 2014, loan recipients who submit an application whose projects involve the repair, replacement, or expansion of a publicly owned treatment work will:

006.06A Develop and implement a fiscal sustainability plan that will include:

006.06A1 An inventory of critical assets that are a part of the treatment works;

006.06A2 An evaluation of the condition and performance of inventoried assets or asset groupings;

006.06A3 A certification that the recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan; and

006.06A4 A plan for maintaining, repairing, and, as necessary, replacing the treatment works and a plan for funding such activities; or

006.06B Certify that the recipient has developed and implemented a plan that meets the requirements under Chapter 4, 006.06A.

006.07 Force Account. Project work which will be performed by the employees of the loan recipient may be categorized as force account. All significant elements of work should be performed through the competitive bidding process.

006.07A The loan recipient may elect to complete certain project work by force account. In order to undertake this responsibility, the loan recipient shall:

006.07A1 Seek prior approval from the Department;

006.07A2 Document that this work shall be performed in an efficient and cost-effective manner; and

006.07A3 Ensure that specific details of the force account effort are included in the loan as part of the project scope.

006.07B The loan recipient shall receive loan disbursements for force account work upon receipt of documentation which verifies the costs incurred. Only direct labor and material cost is eligible for loan participation under this provision.

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006.08 Small Purchases. The loan recipient may use small purchase provisions in accordance with applicable federal, state, and local laws and regulations, with prior approval of the Department. Payment for this work will require the submittal of documentation such as invoices and receipts.

008 Effect of Approval or Certification of Documents. Review or approval of facility plans, design drawings and specifications, or other documents by the Department does not relieve the loan recipient of its responsibility to properly plan, design, build, and effectively operate and maintain the Wastewater Treatment Works described in the loan as required under the Act, regulations, permits, and good management practices.

009 Access to Individual On-Site Systems. Loan recipients receiving loans for alternatives including individual on-site systems on private property shall provide assurance of access to the systems at all reasonable times for such purposes as inspection, monitoring, building, operation, rehabilitation, and replacement.

010 Sewer Use Ordinances/User Charge Systems. The loan recipient shall include the following ordinance provisions for its sewer use ordinance/user charge system. These legally binding documents shall be submitted to the Department for review and be adopted and implemented by the loan recipient before the Wastewater Treatment Works is placed in operation. The loan recipient shall also implement the user charge system and sewer use ordinance for the useful life of the Wastewater Treatment Works.

010.01 Sewer Use Ordinance. This legally binding ordinance shall prohibit any new connections from inflow sources into the Wastewater Treatment Works and require that new sewers and connections to the Wastewater Treatment Works are properly designed and constructed. This ordinance shall also require that all wastewater introduced into the Wastewater Treatment Works not contain toxics or other pollutants in amounts or concentrations that endanger public safety and physical integrity of the Wastewater Treatment Works; cause violation of effluent or water quality limitations; or preclude the selection of the most cost-effective alternative for wastewater treatment and sludge disposal.

010.02 User Charge System. The user charge system shall be designed to produce adequate revenues required for operation and maintenance (including replacement) and also to retire debt incurred due to construction of Wastewater Treatment Works if the user charge system was utilized as the dedicated revenue source. These revenues shall be maintained in at least two separate accounts, one for the operation and maintenance costs (including replacement) and the other for debt retirement costs. The requirements for the debt retirement account shall be defined in the loan. Additional accounts may be provided to meet other requirements of the loan recipient.

010.02A The loan recipient's user charge system, based on actual or estimated use of wastewater treatment services, shall provide that each user or user class pay its proportionate share of operation and maintenance (including replacement)

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costs of Wastewater Treatment Works within the Municipality's or County's service area, based on the user's proportionate contribution to the total wastewater loading from all users or user classes.

010.02B Each user charge system shall include an adequate financial management system that will accurately account for revenues generated by the system and expenditures for operation and maintenance (including replacement) of the Wastewater Treatment Works, based on an adequate budget identifying the basis for determining the annual operation and maintenance costs and the costs of personnel, material, energy, and administration.

010.02C The user charge system shall provide that the costs of operation and maintenance for all flow not directly attributable to users (i.e. infiltration/inflow) be distributed among all users based upon either of the following:

010.02C1 In the same manner that it distributes the costs for their actual use, or

010.02C2 Under a system which uses one or any combination of the following factors on a reasonable basis: flow volume of the users, land area of the users, or number of hookups or discharges of the users.

010.02D After completion of building a project, revenue from the project (e.g. sale of a treatment-related byproduct) shall be used to offset the costs of operation and maintenance. The loan recipient shall proportionately reduce all user charges.

010.02E One or more municipal legislative enactments or other appropriate authority shall incorporate the user charge system. If the loan recipient accepts wastewater from other wastewater generators, the subscribers receiving waste treatment services from the loan recipient shall adopt user charge systems in accordance with this section. Acceptable user charge systems shall also be incorporated in appropriate municipal legislative enactments or other appropriate authority of all loan recipients contributing wastes to the Wastewater Treatment Works.

010.02F The user charge system shall take precedence over any terms or conditions of agreements or contracts which are inconsistent with the requirements of this section.

Enabling Legislation: Neb. Rev. Stat. §81-15,152; §81-15,153

Legal Citation: Title 131, Ch. 4, Nebraska Department of Environmental Quality

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#### Chapter 8 - LOAN CONDITIONS AND TERMS

001 Loans will be awarded to loan applicants only after the Finding of No Significant Impact public comment period has expired or a Categorical Exclusion has been issued and the Facility Plan or engineering report requirements are completed. All loans made under the CWSRF Act and the DWSRF Act will be made only to loan applicants which meet the following requirements:

001.01 Pledge sufficient revenue sources for the repayment of the loan if such revenue may by law be pledged for that purpose;

001.02 Agree to maintain financial records according to generally accepted accounting principles and to conduct an audit of the project's financial records according to generally accepted government auditing standards;

001.03 Provide a written assurance, signed by an attorney, that the loan applicant has proper title, easements, and rights-of-way to the property on or through which the Wastewater Treatment Works, Public Water System, Source Water Protection System or Nonpoint Source Control System is to be constructed or extended;

001.04 Provide a written notice of completion and Initiation of Operation of the facility;

001.05 Employ a registered professional engineer to provide and be responsible for engineering services on the project such as a facility plan, construction contract documents, observation of construction, and startup services.

001.06 Agree to provide access to site and records to the Department, its agents, or third parties for inspections and audits of the project;

001.07 Agree to promptly initiate project construction and establish a maximum time for initiation, after which the Department may withdraw financial assistance; and

001.08 Agree to submit an annual financial statement during the term of the loan.

002 Loans made under the CWSRF Act for the construction of Wastewater Treatment Works will be made only to Municipalities or to Counties which meet the conditions of 001 of this section and, in addition, that:

002.01 Develop and implement a long term Wastewater Treatment Works management plan for the term of the loan, including yearly renewals.

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002.02 Agree to operate and maintain the Wastewater Treatment Works so that it will function properly over the structural and material design life ~~which will not be less than~~ for a minimum of twenty years or the term of the loan, whichever is greater;

002.03 Agree to provide a certified operator pursuant to Title 197 - Nebraska Department of Environmental Quality;

003 Loans made under the DWSRF Act for the construction of Public Water Systems will be made to loan applicants which meet the conditions of 001 of this section and, in addition, that:

003.01 Agree to provide a certified operator pursuant to Title 179 NAC 2 of DHHS.

003.02 Agree to maintain Capacity Development to ensure compliance with the requirements of the Safe Drinking Water Act and Title 179 NAC 2 of DHHS.

004 Loan terms will include, but not be limited to, the following:

004.01 Term limit.

004.01A Clean Water State Revolving Fund. The term of the loan will not exceed the lesser of thirty years or the projected useful life of the project;

004.01B Drinking Water State Revolving Fund. The term of the loan will not exceed twenty years or the project design period if less than twenty years, except that in the case of a disadvantaged community for Public Water Systems, the Department may provide an extended term for a loan, if the extended term terminates not later than the date that is 30 years after the date of Initiation of Operation, and does not exceed the expected design life of the project;

004.02 The interest rate will be at or below market interest rates;

004.03 The annual principal and interest payment due from a loan recipient will commence no later than one year after Initiation of Operation or no later than three years from the date of the loan, whichever occurs first. CWSRF loans will be fully amortized not later than thirty years after the date of Initiation of Operation of the project. -All DWSRF loans will be fully amortized not later than twenty years after the date of Initiation of Operation of the project; except in the case of disadvantaged communities which will be fully amortized not later than thirty years after the date of Initiation of Operation of the project.

004.04 An administrative fee up to 1% may be assessed each year against the loan principal balance on the dates set by the Department, and payable on those dates;

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004.05 The loan recipient shall immediately repay any loan when a grant has been received which covers costs provided for by such loan; and

004.06 The loan will contain a loan repayment schedule which will be revised by the Department to reflect actual loan amount upon completion of the project.

### 005 Loan Conditions.

005.01 The loan will contain such terms as are necessary to ensure compliance with the CWSRF Act or the DWSRF Act and the Clean Water Act or Safe Drinking Water Act and any regulations adopted under such acts, when applicable, or additional terms as deemed necessary by the Department.

005.02 Delinquent payment penalty and penalty interest. Payments may be considered delinquent if not received within 15 days of the due date and will be assessed with a 5 percent administrative penalty. Penalty interest will accrue at the rate of 1 percent per month of the amount of such delinquent payment from and after the due date until it is paid.

005.03 Security. The loan will contain provisions designed to ensure proper security of compliance with loan terms and repayment of principal and interest. Such provisions may include one or more of the following:

005.03A The filing of a lien upon the project in the amount of the loan together with any interest thereon. Such lien to attach to all project facilities, equipment, easements, real property, and any property of any kind or nature which is associated with the project. The Department will file a statement of the lien, its amounts, terms, and a description of the project with the county register of deeds in the county which is the site of the project. The lien will be valid until the principal loan amount with all accrued interest is paid in full or otherwise discharged. The lien will be foreclosed in accordance with applicable state laws.

005.03B For substantial non-compliance with terms and conditions of the loan, the Department may demand that the remaining balance of principal and interest become immediately due and payable.

005.03C Failure to pay any loan payment or other charges due within sixty days of the date due will result in a deduction of an equal amount from the amount of aid to loan recipients which are Municipalities or Counties to which the Municipality or County is entitled under Neb. Rev. Stat. ~~§§77-27,136 to 77-27,137-01~~ §72-1503. Such amount will be paid directly to the applicable Fund, either the Drinking Water, Clean Water, or Land Acquisition and Source Water Loan Fund.

005.04 Before any action is taken under 005.03 of this chapter, the Department shall give thirty days written notice of the Department's intent to the loan recipient. The loan



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recipient shall have such thirty day time period to comply with violated contractual terms.  
If compliance is achieved, the loan will revert to good standing.

006 All outstanding loans will be reviewed annually by the Department for compliance with loan payment provisions.

Enabling Legislation: Neb. Rev. Stat. §81-15,152; §81-15,153; §81-15,155;  
§81-15,156; §81-15,158; §§71-5321 to 71-5326

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