

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
PUBLIC NOTICE

Pursuant to the provisions of R.I. Gen. Laws Chapters 42-17.1 and 46-12, as amended, and consistent with the procedures set forth in the R.I. Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35, the Rhode Island Department of Environmental Management hereby gives notice of its intention to afford the public an opportunity to offer written comment and to request the scheduling of a public comment hearing at which oral and written comments may be offered concerning the Department's intention to repeal the following rules and regulations :

[Amended Rules and Regulations Pertaining to a User Fee System for Point Source Dischargers  
that Discharge Pollutants into the Waters of the State](#)  
[ERLID # 960](#)

[Rules and Regulations for Non-Governmental Water Pollution Control Facilities Fund of the  
Rhode Island Clean Water Act Environmental Trust Fund](#)  
[ERLID # 944](#)

Pawtuxet River Authority Bond Fund Nine Million Dollar Bond Issue, Rules and Regulations for  
the Grant Program for Municipalities within the Pawtuxet River Watershed for the Planning,  
Engineering and Construction of Facilities and Activities to Upgrade the Water Quality of the  
Pawtuxet River Nine Million Dollar Bond  
[ERLID # 948](#)  
[ERLID # 949](#)

Written comments concerning the proposed repeal of the above regulations will be accepted at the Division of Water Resources, Department of Environmental Management, 235 Promenade Street, Providence, Rhode Island 02908 on or before 4:00 p.m. on May 8, 2014. A public hearing on the proposed repeal of the above regulations will be held if the Department receives requests for such a hearing from twenty-five (25) or more people, a governmental agency or subdivision, or an association having not less than twenty-five (25) members on or before 4:00 p.m. on May 8, 2014. If a public hearing is to be conducted, a public notice will be posted announcing the date, time, and place of such hearing.

The Department has determined that small businesses should not be adversely impacted by the proposed repeal of the above regulations. The public comment period is being afforded to solicit comment on the proposed repeal of the above regulations and to allow public input from small businesses or any cities or towns, which may nevertheless believe that they may be adversely affected. Small businesses are requested to comment on the proposed repeal of the above regulations as to how such proposed action can be changed to minimize the impact on those small businesses affected.

A copy of the subject regulations will be available for examination from April 7, 2014 through May 8, 2014 by mail or at the offices of the Division of Water Resources, which is located at [235 Promenade Street](#), Providence, RI 02908. Electronic copies of the subject regulations are also available by clicking on the above links.

Signed this 7<sup>th</sup> day of April, 2014.  
Janet L. Coit, Director

Rhode Island Department of Environmental Management  
Office of Water Resources

Amended Rules and Regulations Pertaining to a User Fee System for Point  
Source Dischargers that Discharge Pollutants into the Waters of the State  
ERLID # 960

Concise Summary of Proposed Action

The subject regulations were adopted by the Department in September 1986 in order to comply with statutory mandate set forth in R.I. Gen. Laws § § 46-12-4 and 46-12-4.1. These enabling statutes were repealed effective July 1, 2012. Thus, these regulations have become and are now moot.

On the basis, of the above, the subject regulations are no longer necessary and should be repealed and expired.

Rhode Island Department of Environmental Management  
Office of Water Resources

Rules and Regulations for Non-Governmental Water Pollution Control Facilities  
Fund of the Rhode Island Clean Water Act Environmental Trust Fund  
ERLID # 944

Summary of Proposed Action

The subject regulations were adopted in order to implement the Non-Governmental Water Pollution Control Facilities Fund (NGWPCFF) that was part of the 1986 RI Clean Water Act Environmental Trust Fund Bond which was approved by the voters of this State. The NGWPCFF permitted the Department to award grants to businesses and farmers through 2004 but has not made any further awards. Funding opportunities for non-governmental entities has been superseded by the Narragansett Bay Water Quality Restoration Fund which was passed by the RI voters in 2004 and was reauthorized in 2012. Any unexpended funds in the NGWPCFF can be re-allocated within the existing programs pursuant to the 1986 RI Clean Water Act Environmental Trust Fund. Thus, these regulations have become and are now moot.

On the basis, of the above, the subject regulations are no longer necessary and should be repealed and expired.

Rhode Island Department of Environmental Management  
Office of Water Resources

Pawtuxet River Authority Bond Fund Nine Million Dollar Bond Issue, Rules and Regulations for the Grant Program for Municipalities within the Pawtuxet River Watershed for the Planning, Engineering and Construction of Facilities and Activities to Upgrade the Water Quality of the Pawtuxet River Nine Million Dollar Bond

ERLID # 948

ERLID # 949

Concise Summary of Proposed Action

The subject regulations were adopted by the Department in order to implement the Pawtuxet River Water Quality Fund and the Pawtuxet River Authority Bond Fund both of which were one time bond referenda approved by the Rhode Island voters approved in 1989 and 1990. There has been no effort made in the ensuing twenty plus years to reauthorize these funds. The monies from these two bond funds have been expended with the exception of a small amount in the Pawtuxet River Authority Bond Fund that is not adequate to support the capital projects the fund was intended to support. Thus, these regulations have become and are now moot.

On the basis, of the above, the subject regulations are no longer necessary and should be repealed and expired.

**~~STATE OF RHODE ISLAND~~**  
**~~DEPARTMENT OF ENVIRONMENTAL MANAGEMENT~~**  
**~~DIVISION OF WATER RESOURCES~~**

**AMENDED**  
**RULES AND REGULATIONS PERTAINING TO A USER FEE SYSTEM FOR**  
**POINT SOURCE DISCHARGERS THAT DISCHARGE POLLUTANTS INTO**  
**THE WATERS OF THE STATE**

**SEPTEMBER 1988**

**~~AUTHORITY: Chapters 46-12, 42-17, and 42-35 of the General Laws~~**  
**~~of Rhode Island, 1956 as amended.~~**

## TABLE OF CONTENTS

	<u>Page</u>
1.00 Purpose	1
2.00 Authority	1
3.00 Definitions	1
4.00 Severability	3
5.00 Application of these Regulations	3
6.00 User Fee System	4
7.00 Pollution Monitoring Program	5
8.00 Effective Date	5
9.00 Superseded Rules and Regulations	5

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
DIVISION OF WATER RESOURCES

**RULES AND REGULATIONS PERTAINING TO A USER FEE SYSTEM  
FOR POINT SOURCE DISCHARGERS THAT DISCHARGE POLLUTANTS  
INTO THE WATERS OF THE STATE**

**SECTION**

**1.00—Purpose**

The purpose of these regulations is to establish a user fee system for point sources dischargers that discharge pollutants into the surface waters of the State. The funds from such fees will be used by the Department of Environmental Management to develop and operate a pollution monitoring system and to protect, preserve, and upgrade the surface waters into which the discharges flow.

**2.00—Authority**

These regulations are adopted pursuant to Chapters 46-12, 42-17.1, and 42-35 of the General Laws of Rhode Island as amended.

**3.00—Definitions**

The following terms shall, unless otherwise specified, be construed in harmony with and shall supplement those terms contained in the Regulations for the Rhode Island Pollutant Discharge Elimination System (RIPDES).

**"Annual User Fee Assessment Date"** means the date designated each year by the Director that the Department mails to each point source discharger an assessment of its annual user fee.

**"Biological Concentration Factor"** means the pollutant concentration in the fish relative to the surrounding water.

**"Clean Water Act"** means the Federal law enacted under 33 U.S.C. 1251 et seq. and any amendments thereto.

**"Conventional Pollutants"** will be determined using these tests: BOD<sub>5</sub>, Total Suspended Solids, pH, Settleable Solids, and Fecal Coliform Bacteria.

**"Department"** means the Rhode Island Department of Environmental Management (DEM).

**"Director"** means the director of the Department of Environmental Management or any subordinate or subordinates to whom he has delegated the powers and duties vested in him by these regulations.

~~"Discharge" means the addition of any pollutants to the waters from any point source.~~

~~"Discharger" means any person, corporation, municipality, sewerage authority, or other legal entity that discharges, causes a discharge, permits a discharge, or who fails to exercise reasonable care to prevent a discharge.~~

~~"EPA" means the United States Environmental Protection Agency.~~

~~"Facility" means any point source or any other activity (including land or appurtenances thereto) that is subject to regulation under the RIPDES or NPDES permit program.~~

~~"Fee Assessment Document" means a report, prepared at least annually by the Director, containing an analysis of the cost of the pollution monitoring program and an assessment of the annual user fees.~~

~~"Metal Priority Pollutants" are: Antimony, Arsenic, Beryllium, Cadmium, Chromium, Copper, Lead, Mercury, Nickel, Selenium, Silver, Thallium, and Zinc; additional: Asbestos, Total Cyanide, and Total Phenols.~~

~~"Monitoring" means any method established by the Director or the EPA for identifying and assessing pollutants discharged from point sources into surface waters of the State.~~

~~"Municipality" means a city, town, borough, county, parish, district, quasi-governmental corporation, association, or other public body created by (or under) State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, an Indian Tribe, or a designated and approved management agency under Section 208 of the Clean Water Act.~~

~~"National Pollutant Discharge Elimination System (NPDES)" means the national program for issuing, modifying, revoking (and reissuing), terminating, monitoring (and enforcing) permits, and imposing (and enforcing) pretreatment requirements under Sections 307, 318, 402, and 405 of the Clean Water Act; it includes any State program approved by the Regional Administrator.~~

~~"Organic Priority Pollutants" are those pollutants designated priority pollutants by the EPA except metals, total phenol, and total cyanide.~~

~~"Partial Scan" means analyzing the effluent for pollutants that previous data indicates is in the discharge.~~

~~"Person" means an individual, trust, firm, joint stock company, corporation (including a quasi-governmental corporation), partnership, association, syndicate, municipality, municipal (or state agency), fire district, club, nonprofit agency (or subdivision), commission, department, bureau, agency (or department) of the State or Federal government (including a quasi-governmental corporation) or any interstate body, and any agent or employee thereof.~~



**"Point Source"** means any discernible, confined, and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation (or vessel), or other floating craft from which pollutants are or may be discharged; this term excludes return flows from irrigated agriculture.

**"Pollutant"** means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked (or discarded) equipment, rock, sand, or cellar dirt or any industrial, municipal, or agricultural waste and other wastes.

**"Pollutant Monitoring Program"** means all those actions undertaken by the Department, including the procurement of all necessary equipment and personnel, to: (a) develop, operate, maintain, and enforce a means of monitoring the discharge of pollutants into the surface waters of the State from point source dischargers, (b) assess the overall impact from such discharges, and (c) protect, preserve, and upgrade the surface waters into which such discharges flow.

**"Priority Pollutant"** means those pollutants specified pursuant to Section 307(a)(1) of the Clean Water Act.

**"Regional Administrator"** means the Regional Administrator of the appropriate Regional Office of the Environmental Protection Agency or an authorized representative of the Regional Administrator.

**"RIPDES"** means the Rhode Island Pollutant Discharge Elimination System and the Regulations promulgated to implement the system.

**"Total Scan"** means analyzing the effluent for pollutants that previous data indicates is in the discharge or that might be in the discharge or both.

**"Waters of the State" or "Water"** means all surface water and groundwater of the State of Rhode Island including all tidewaters, territorial seas, wetlands, land masses partially (or wholly) submerged in water, and both inter and intra state bodies of water that are, have been, or will be used in commerce (by industry) for the harvesting of fish and shellfish or for recreational purposes.

#### **4.00 — Severability**

If any provision of these rules and regulations, of the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the remainder of the rules and regulations shall not be affected thereby.

#### **5.00 — Application of these Regulations**

- (a) — These regulations shall be liberally construed to permit the Department to effectuate the purposes of the State law.

- ~~(b) — For the purpose of these regulations, point source discharges may be sampled at the point of discharge and at an appropriate upstream and downstream location as determined by the Department.~~
- ~~(c) — Nothing in these rules and regulations shall limit the Director's power and duty to issued an immediate order pursuant to Section 46-12-10 of the General Laws of Rhode Island.~~
- ~~(d) — These regulations shall be construed in harmony with, and as a supplement to, all regulations promulgated by the Department pursuant to Chapters 46-12, 42-17.1 and 42-35 of the General Laws of Rhode Island.~~

#### **6.00 — User Fee System**

- ~~(a) — The Director hereby establishes a system of assessing user fees on point source dischargers that discharge into the surface waters of the State. Monies derived from the user fee system shall be used exclusively for a pollution monitoring program and shall not be substituted for funds appropriated by the State or Federal Government for similar purposes.~~
- ~~(b) — The user fees:~~
  - ~~(i) — Shall be individually based on the need for monitoring a facility's discharge because of the potential for environmental degradation that its effluent poses as determined by the Director; such determination by the Director shall be set forth in a Fee Assessment Document which the Director will make available for public review and comment prior to the Annual User Fee Assessment Date;~~
  - ~~(ii) — Shall not exceed the cost to the State for monitoring such facilities;~~
  - ~~(iii) — Shall be assessed on an annual basis and shall be paid in full within forty-five (45) days of the Annual User Fee Assessment Date;~~
  - ~~(iv) — Shall be assessed on a new source which begins operations after the Annual User Fee Assessment Date based upon the estimated volume of its discharge, the type of pollutants likely to be present, and the anticipated number of samples that can reasonably be taken prior to the next Annual User Fee Assessment Date; and~~
  - ~~(v) — Shall be rebated in whole or in part, if a point source permanently ceases all discharge operations after the Annual User Fee Assessment Date, and some or all of the annual samples were not collected.~~
- ~~(c) — The Director may, at any time prior to the next Annual User Fee Assessment Date, issue a supplemental Fee Assessment Document and assess additional user~~

~~fees, so long as the total user fee does not exceed the provisions in Section 6(b)(ii), or issue a credit that may be applied to future user fee charges.~~

~~(d) — Any person who fails to pay the user fee within forty five (45) days of the assessment date shall be in violation of these regulations. Each day after the assessment date the user fee remains unpaid constitutes a separate violation and subjects the violator to appropriate administrative, civil, and criminal sanctions as provided by law.~~

~~(e) — The Director may authorize a refund of user fees upon promulgation of the Fee Assessment Document and upon a finding that fees were collected in excess of those required.~~

#### **7.00 — Pollution Monitoring Program**

~~The Director establishes a pollution monitoring program that is designed to:~~

~~(i) — Develop, operate, maintain, and enforce a means of monitoring the discharge of pollutants into the surface waters of the State from point source dischargers;~~

~~(ii) — Assess the overall impact from such dischargers, and~~

~~(iii) — Protect, preserve, and upgrade the surface waters into which such discharges flow.~~

#### **8.00 — Effective Date**

~~These rules and regulations become effective twenty (20) days following their filing with the Office of the Secretary of State; the annual user fee is due and owing forty five (45) days after each Annual User Fee Assessment Date.~~

#### **9.00 — Superseded Rules and Regulations**

~~On the effective date of these rules and regulations the Rules and Regulations Pertaining to a User Fee System for Point Source Dischargers who Discharge Pollutants into the Waters of the State, adopted and filed with the Secretary State on August 15, 1986, are hereby revoked.~~

~~The foregoing rules and regulations, after due notice and hearing, are hereby adopted and filed with the Secretary of State this \_\_\_\_\_ day of \_\_\_\_\_ to become effective twenty (20) days thereafter, in accordance with the provisions of Chapter 46-12, 42-17, and 42-35 of the General Laws of Rhode Island, 1956 as amended.~~

\_\_\_\_\_  
Director  
Department of Environmental Management

Notice given on \_\_\_\_\_

Hearing held on \_\_\_\_\_

Effective \_\_\_\_\_

~~Rules and Regulations for the NON GOVERNMENTAL  
WATER POLLUTION CONTROL FACILITIES FUND of the  
RHODE ISLAND CLEAN WATER ACT ENVIRONMENTAL TRUST FUND~~



~~October 1993~~

~~(Regulation Number 12-190-012)~~

~~These rules and regulations are promulgated pursuant to the provisions of Chapters 42-35, 42-17.1, and 46-12, in particular '46-12-24, of the Rhode Island General Laws of 1956, as amended.~~

~~STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT~~

~~RULES AND REGULATIONS FOR  
NON-GOVERNMENTAL WATER POLLUTION FACILITIES CONTROL FUND~~

~~TABLE OF CONTENTS SECTION~~

<del>1.00 PURPOSE.....</del>	<del>3</del>
<del>SECTION 2.00 LEGAL AUTHORITY.....</del>	<del>3</del>
<del>SECTION 3.00 SUPERSEDED RULES.....</del>	<del>3</del>
<del>SECTION 4.00 LIBERAL APPLICATION.....</del>	<del>3</del>
<del>SECTION 5.00 SEVERABILITY.....</del>	<del>3</del>
<del>SECTION 6.00 ADMINISTRATIVE FINDINGS.....</del>	<del>3</del>
<del>SECTION 7.00 DEFINITIONS.....</del>	<del>4</del>
<del>SECTION 8.00 ELIGIBILITY CRITERIA.....</del>	<del>5</del>
<del>SECTION 9.00 AVAILABLE FUNDS.....</del>	<del>7</del>
<del>SECTION 10.00 APPLICATION REQUIREMENTS.....</del>	<del>8</del>
<del>SECTION 11.00 SELECTION CRITERIA.....</del>	<del>8</del>
<del>SECTION 12.00 ADMINISTRATIVE PROCEDURES.....</del>	<del>9</del>
<del>APPENDIX A PROJECT RATING CRITERIA.....</del>	<del>10</del>

~~STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT~~

~~RULES AND REGULATIONS GOVERNING THE NON-GOVERNMENTAL WATER  
POLLUTION CONTROL FACILITIES GRANT AND LOAN PROGRAM~~

~~SECTION 1.00 PURPOSE~~

~~The purpose of these regulations is to govern the use of the \$1,500,000 portion of the RI Clean Water Act Environmental Trust Fund allotted for "non-governmental water pollution control facilities, including pretreatment."~~

~~SECTION 2.00 LEGAL AUTHORITY~~

~~These rules and regulations are promulgated pursuant to the provisions of Chapters 42-35, 42-17.1, and 46-12, in particular 46-12-24, of the Rhode Island General Laws of 1956, as amended.~~

~~SECTION 3.00 SUPERSEDED RULES~~

~~These rules and regulations supercede the "Rules and Regulations Governing the Non-Governmental Water Pollution Control Facilities Program" dated September, 1991.~~

~~SECTION 4.00 LIBERAL APPLICATION~~

~~The terms and provisions of these rules and regulations shall be liberally construed to allow the Department to effectuate the purposes of state law, goals, and policies.~~

~~SECTION 5.00 SEVERABILITY~~

~~If any provision of these rules and regulations or the application thereof is held invalid by a court of competent jurisdiction, the remainder of the rules and regulations shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections shall not affect the validity of the remainder of these rules and regulations.~~

~~SECTION 6.00 ADMINISTRATIVE FINDINGS~~

~~The goal of the RI Clean Water Act Environmental Trust Fund is the abatement of water pollution. This portion of the fund is meant to provide funding assistance for the construction and/or rehabilitation of non-governmental commercial and industrial water pollution control facilities. Such facilities must have as their primary purpose water pollution abatement, through the treatment of sewage; treatment and/or pretreatment of industrial wastewater to remove pollutants; or sedimentation and erosion control at existing sites and facilities.~~

~~All monies in the fund shall be expended in accordance with the general laws of the State of Rhode Island and are hereby restricted to providing grants and loans for activities that will result in water pollution reduction, pollution prevention and/or protection of the waters of the state.~~

## ~~SECTION 7.00 DEFINITIONS~~

~~As used in these rules and regulations the following definitions will apply.~~

~~Applicant means any person or persons applying for monies under these rules and regulations.~~

~~Department means the Department of Environmental Management (DEM).~~

~~Director means the Director of the Department of Environmental Management or the subordinate(s) to whom the Director has delegated powers and duties vested in the Director by these regulations.~~

~~Governmental Entity means any Rhode Island state or local governmental body or Rhode Island state agency and any entity publicly funded, appointed or otherwise organized by federal, RI state or local government for governmental purposes.~~

~~Grant means money given to eligible entities with no repayment due if the grantee is in substantial compliance with all terms of the grant.~~

~~Industrial Wastewater means all wastewater from non-domestic sources, including sewage from boats and marinas.~~

~~Loans means money awarded to selected applicants subject to repayment on terms and schedules set by the Director of the Department of Environmental Management.~~

~~Permit means an authorization, license or equivalent control document issued by the Department to implement regulations promulgated by the Department.~~

~~Person means an individual, trust, firm, joint stock company, corporation (including a quasi-governmental corporation) partnership, association, syndicate, fire district, club, non-profit agency (or any subdivision, commission, department, bureau, agency or department of state or federal government (including any quasi-governmental corporation) or of any interstate body).~~

~~Pollutant means any material or effluent which may alter the aesthetic, chemical, physical, biological, or radiological characteristic and/or integrity of water, including but not limited to, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, or agricultural waste, and other wastes, petroleum or petroleum products, including but not limited to oil.~~

~~Pollution means the manmade or man-induced non-beneficial alteration of the aesthetic, physical, chemical, biological, radiological or thermal integrity of an aquatic ecosystem.~~

~~Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW.~~

~~Privately Owned Treatment Works means any facility which is (a) owned by a private individual or private party or corporation or other private entity and which is used for the treatment of pollutants. This definition includes sewers, pipes if they convey wastewater to a privately owned treatment works, as well as any equipment, buildings or machinery used in the treatment operation; and, (b) not a POTW.~~



~~Project~~ means an action or facility that corrects, substantially reduces, or prevents pollution.

~~Publicly Owned Treatment Works (POTW)~~ means any facility for the treatment of pollutants, owned by the state or any political subdivision thereof, municipality or other public entity, including quasi-governmental corporations. This definition includes sewers, or pipes, which convey wastewater to a POTW, and any equipment, buildings, or machinery used in the treatment operation.

~~Rhode Island Pollutant Discharge Elimination System (RIPDES)~~ means the Rhode Island system for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing discharge permits and imposing and enforcing pretreatment requirements pursuant to Title 46, Chapter 12 of the General Laws of Rhode Island and the Clean Water Act.

~~RIPDES Regulations~~ means the Rhode Island Pollutant Discharge Elimination System Regulations promulgated by the Department and any amendments thereto.

~~Wastewater~~ means all flows and sanitary and combined sewers and all septage generated within the jurisdiction of the local governmental unit.

~~Sewage~~ means human waste, or wastes from toilets and other receptacles intended to receive or retain body waste, and any wastes, including waste from human households, commercial establishments, and industries, and stormwater runoff, that are discharged to or otherwise enter a publicly or privately owned treatment works.

## ~~SECTION 8.00 ELIGIBILITY CRITERIA~~

### ~~8.01 Eligible Applicants~~

- ~~a. Eligible applicants include, but are not limited to, the following businesses and persons located in Rhode Island:~~
- ~~private businesses,~~
  - ~~private colleges and universities,~~
  - ~~private hospitals,~~
  - ~~non-profit organizations,~~
  - ~~public utilities~~
- ~~b. At the Director's discretion, these monies may be used to secure other funding to carry out the purposes of this program.~~

### ~~8.02 Regulatory Compliance~~

- ~~a. Any person requesting a grant or loan pursuant to these regulations shall disclose in writing the following with each application:~~
- ~~1. Any and all permits which have been issued to the applicant or the subject facility by the Department, the Coastal Resources Management Council, the Army Corps of Engineers, or the United States Environmental Protection Agency;~~
  - ~~2. Any and all compliance schedules, or consent agreements/decrees, final decrees or orders, or any form of approval with conditions attendant thereto, which may have been issued to or entered into by the applicant or the subject facility by the Department, the Coastal Resources Management Council, the Army Corps of Engineers, or the United States~~

~~Environmental Protection Agency;~~

~~3. For each and every item identified in subsection 8.02(a)(1) or 8.02(a)(2), the applicant shall set out in writing whether the applicant is in compliance with any and all requirements prescribed in the identified item;~~

~~4. An instance of non-compliance as set out in subsection 8.02(a)(3) may, at the discretion of the Director, result in the denial, modification or imposition of conditions on the granting of an applicant's request for funding pursuant to these regulations. The Director in determining what effect, if any, an applicant's non-compliance may have, shall consider the following criteria:-~~

- ~~-a. The extent of applicant's noncompliance;~~
- ~~-b. The applicant's history of compliance/non-compliance with Federal, State, and local environmental regulatory requirements;~~
- ~~-c. The speed and degree to which the applicant responded to the instance of noncompliance;~~
- ~~-d. Any action which the applicant may have taken to remedy or mitigate any harm resulting from noncompliance; and~~
- ~~-e. The extent to which the non-compliance may have been intentional, willful or knowing.~~

~~b. Completion of water pollution abatement projects shall not result in the violation of any federal, state, local statutes or regulations.~~

#### ~~8.03 Eligible Projects~~

~~a. Eligible projects shall include, but are not limited to the following:-~~

- ~~-Construction/rehabilitation of privately-owned sewers which serve businesses or industries.~~
- ~~-Installation/Upgrade of pretreatment facilities including grease traps.~~
- ~~-Replacement/rehabilitation of failing septic systems that serve businesses or industries.~~
- ~~-Marine pumpout stations.~~
- ~~-Sedimentation and erosion controls.~~
- ~~-Demonstration projects that employ technologies that are proven effective, but not used in~~  
~~\_\_\_\_\_ Rhode Island.~~
- ~~-Installation of package treatment plants for on-site disposal of sewage.~~

~~8.04 The following projects shall be ineligible for funding pursuant to these regulations:-~~

- ~~\_\_\_\_\_ Projects using experimental technology.~~
- ~~\_\_\_\_\_ Projects whose primary results will be improvement in productivity rather than pollution reduction.~~
- ~~\_\_\_\_\_ Projects that propose to correct a criminal violation.~~
- ~~\_\_\_\_\_ Research projects.~~

#### ~~8.05 Eligible Costs~~

~~a. Grants~~

- ~~1. Project design—a maximum of 50% of the cost of the design of the project may be eligible for grant financing provided the project includes a construction completion schedule except as provided for~~

~~in 8.05(a)(3).~~

~~2. Construction – a maximum of 50% of the cost of construction of the project may be eligible for grant financing contingent upon the completion and approval by DEM of project design plans except as provided for in 8.05(a)(3).~~

~~3. Individual grants shall be limited to a maximum of \$75,000, for total eligible project costs of \$150,000. The minimum amount of an individual grant shall be \$2,500, for total eligible project costs of \$5,000. At the discretion of the Director, projects that provide statewide or regional benefits in water pollution control may be funded at a level greater than 50%.~~

~~b. Loans~~

~~Detailed regulations for loans have not been developed at this time.~~

~~1. Project design – 100% of the cost of the design of the project may be eligible for loan financing provided the project includes a construction completion schedule.~~

~~2. Construction – 100% of the cost of construction of the project be may eligible for loan financing.~~

~~3. All loans shall be secured with collateral or lien equal in value to the amount of the loan.~~

~~4. Individual loans shall be limited to a maximum of \$75,000 and a minimum of \$25,000.~~

~~SECTION 9.00 AVAILABLE FUNDS~~

~~A total of \$1,500,000 is to be used for both grants and loans. Funds will be available as grants and revolving loans to colleges, universities, hospitals and other private, non-governmental, commercial and industrial entities.~~

~~SECTION 10.00 APPLICATION REQUIREMENTS~~

~~10.01. Applications shall be submitted to Department of Environmental Management, Division of Water Resources, 291 Promenade Street, Providence, RI 02908 and shall include the following:~~

~~a. A letter requesting consideration for funding with a concise project description consisting of: a statement of the purpose of the project, the environmental benefit(s) and why it is eligible for funding under this program and any other information pertinent to the project;~~

~~-~~

~~b. A project schedule and budget;~~

~~c. A statement of outstanding compliance violations;~~

~~d. For demonstration projects, the applicant must agree to share any and all information and data derived from the project with the Department and all other interested parties;~~

~~e. All applications shall be signed by the chief financial officer of the applicant;~~

~~f. Any other supporting materials.~~

~~10.02 All proposals shall be subject to review by the Division of Water Resources and any other Divisions of the Department as the Director may determine to be appropriate.~~

~~10.03 Any other information that may be required by the Department to evaluate the application.~~

## ~~SECTION 11.00 SELECTION CRITERIA~~

### ~~11.01 Eligibility Review~~

~~a. The Department's staff will review each application to evaluate the project and make an eligibility determination as well as ensure the completeness of the application.~~

~~b. In order to satisfy the eligibility determination, the following criteria will be considered:~~

~~1. The projects must address a source of pollution to the waters of the State;~~

~~2. The projects must provide a reliable means of mitigating the identified pollution problem.~~

~~c. If requirements 11.01(b)(1) and 11.01(b)(2) are satisfied then the project will be ranked and rated based upon:~~

~~1. The severity and magnitude of the problem;~~

~~2. The value of the resources to be water pollution protected;~~

~~3. The beneficial impact to the waters of the State or to the affected POTW;~~

~~4. Readiness to proceed.~~

## ~~SECTION 12.00 ADMINISTRATIVE PROCEDURES~~

### ~~12.01 Project Review~~

~~a. The Department, through the project review committee, shall review projects and prioritize them for funding in accordance with the criteria listed in Section 11.00 of these regulations. The Department will review applications and notify applicants of results within 90 days of the receipt of applications that meet all requirements.~~

~~b. The project review committee at a minimum will consist of three representatives from the Division of Water Resources.~~

~~c. Recommendations for awards will be made on the basis of a majority vote of the review committee. The final determination for funding will be made by the Chief of the Division of Water Resources to be forwarded to the Director for approval.~~

### ~~12.02 Grant/Loan Award~~

~~a. Successful applicants will receive a grant or loan offer specifying the amount, duration and conditions of the award. The offer will be in the form of a binding contract.~~

~~\_\_\_\_\_ b. Recipients will be required to sign, accept and return the offer to the Department within fifteen (15) days. Failure to execute the agreement within the fifteen (15) days may result in the cancellation of the grant or loan award. The Director may award these monies to the next highest rated project.~~

~~\_\_\_\_\_ c. Recipients will have 90 (ninety) days from the date of the acceptance of the grant offer to submit contract documents including complete plans and specifications, to the appropriate reviewing agencies. Recipients must also provide in this time period, proof of the necessary grant match by either letters of credit, loan agreements, dedicated escrow accounts or any pre-approved proof of matching funds by the Department.~~

~~\_\_\_\_\_ d. The recipient is responsible for obtaining any other necessary permits or approvals from any federal, state, or local agency with authority over the project or project area. Copies of these permits/approvals must be submitted to the Department for inclusion in the project file before the first payment request. Payments will be made in two to four installments as reimbursement for eligible expenses. Requests for reimbursement must include documentation of the incurred, eligible costs. Such documentation will be detailed in the grant offer.~~

~~\_\_\_\_\_ e. The Director may suspend, modify or revoke any awards granted pursuant to these regulations in the event that subsequent examination reveals any data included in an application form, submittal, plan or sketch to be incorrect or not in compliance with these regulations.~~

~~Appendix A~~

~~NON-GOVERNMENTAL WATER POLLUTION CONTROL FACILITIES FUND~~

~~PROJECT PRIORITY DETERMINATION SYSTEM SUMMARY SHEET~~

~~RATING DATE: \_\_\_\_\_~~

~~APPLICANT: \_\_\_\_\_~~

~~PROJECT NAME: \_\_\_\_\_~~

~~PROJECT COST: \_\_\_\_\_~~

~~PROJECT DESCRIPTION:-~~

~~REVIEWERS' COMMENTS:      +            +            +            +~~

~~REVIEWERS' INITIALS:~~

~~PROJECT RATING CRITERIA SUMMARY~~

~~I. SEVERITY AND MAGNITUDE OF PROBLEM~~

~~II. VALUE OF THE RESOURCES TO BE PROTECTED~~

~~III. BENEFICIAL IMPACT TO WATER OF THE STATE~~

~~IV. READINESS TO PROCEED CRITERIA~~

~~GRAND TOTAL~~

\_\_\_\_\_

## ~~PROJECT RATING CRITERIA \*~~

### ~~I. SEVERITY AND MAGNITUDE OF PROBLEM Point Actual Values Rating~~

~~A-1 Enforcement Action Issued By DEM 5~~

~~A-2 Enforcement Action Issued By Local Governmental Unit~~

~~A-3 Occasional Violation of Permit 1~~

~~B-1 Raw Sewage Discharge to Waterbody -- (\$5000 GPD) 5~~

~~B-2 Raw Sewage Discharge to Waterbody -- (<5000 GPD) 3~~

~~C-1 Failing I.S.D.S. -- Documented Water Quality Degradation 5~~

~~C-2 Failing I.S.D.S. -- Formal Notice(s) of Violation Issued 3~~

~~C-3 Failing I.S.D.S. -- No Formal Notice(s) 1~~

~~D-1 Untreated Runoff / Documented Water Quality Degradation 5~~

~~D-2 Untreated Runoff from Production Site or Materials Handling Area  
3~~

~~Section I - Total Points~~

### ~~II. VALUE OF THE RESOURCES TO BE PROTECTED [Use Water Quality Classification/Shellfish Closure Maps]~~

~~A. Surface Water Classification Point Factors (General)~~

~~A-1 Does Project Affect: Existing/Potential Drinking Water Supply 8~~

~~A-2 Does Project Affect: Shellfish Harvesting 6~~

~~A-3 Does Project Affect: Bathing 6~~

~~A-4 Does Project Affect: Recreational Boating or Fishing 2~~

~~B. Surface Water Body Targeting (Point Source)~~

~~B-1 Reclamation From Toxics (Rivers/Marine Waters)[State Clean  
Water Strategy Table A3-3] \*\*\*~~

~~B-1-a High Priority 5~~

~~B-1-b Medium Priority 3~~

~~B-1-c Others 1~~

~~B-2 Protection From Toxics (Rivers/Marine Waters)[State Clean Water  
Strategy Table A3-4] \*\*\*~~

~~B-2-a High Priority 5~~

~~B-2-b Medium Priority 3~~

~~B-2-c Others 1~~

~~B-3 Protection of Rhode Island Lakes [State Clean Water Strategy Table  
A3-8]  
B-3-a High Priority (Top 20) 5  
B-3-b Medium Priority (Middle 20) 3  
B-3-c Others (Bottom 20) 1  
Subtotal II A & B~~



## ~~C. Non-Point Source (NPS) Water Quality Prioritization~~

### ~~PROTECTION (Use NPS Plan Table B-2) \*\*~~

#### ~~C-1 Drinking Water Supplies~~

~~C-1-a High Priority (Above 75th Percentile) 7~~

~~C-1-b Medium Priority (Middle 50%) 5~~

~~C-1-c Others (Lowest 25%) 3~~

#### ~~C-2 Bathing and Recreation~~

~~C-2-a High Priority (Above 75th Percentile) 5~~

~~C-2-b Medium Priority (Middle 50%) 3~~

~~C-2-c Others (Lowest 25%) 1~~

#### ~~C-3 Habitat~~

~~C-3-a High Priority (Above 75th Percentile) 5~~

~~C-3-b Medium Priority (Middle 50%) 3~~

~~C-3-c Others (Lowest 25%) 1~~

### ~~RESTORATION (Use NPS Plan Table B-3) \*\*~~

#### ~~C-4 Drinking Water Supplies~~

~~C-4-a High Priority (Above 60th Percentile) 7~~

~~C-4-b Others (Lowest 60%) 5~~

#### ~~C-5 Bathing and Recreation~~

~~C-5-a High Priority (Above 75th Percentile) 5~~

~~C-5-b Medium Priority (Middle 50%) 3~~

~~C-5-c Others (Lowest 25%) 1~~

#### ~~C-6 Habitat~~

~~C-6-a High Priority (Above 75th Percentile) 5~~

~~C-6-b Medium Priority (Middle 50%) 3~~

~~C-6-c Others (Lowest 25%) 1~~

## ~~D. Groundwater Protection Factor [Use Groundwater Protection Strategy]~~

~~D-1 Wellhead Protection Area for Community Water System Well 5~~

~~D-2 Designated Sole Source Aquifer (Appendix G-2: GAA & GA only) 4~~

~~D-3 Area of GAA Groundwater (page 5) 3~~

~~D-4 Area of GA Groundwater (page 5) 2~~

~~D-5 Area of GB Groundwater (page 5) 1~~

~~D-6 Area of GC Groundwater (page 5) 0~~

~~Section II - Total Points \*\*\*~~

### ~~III BENEFICIAL IMPACT TO THE WATER OF THE STATE OR POTW~~

~~A-1 Project may result in Change of Surface Water Classification 10~~

~~A-2 Project may result in Change of Groundwater Classification 7~~

~~A-3 Project may eliminate a Use Impairment 7~~

~~B-1 Project may Eliminate a Known Source of POTW Upsets 10~~

~~B-2 Project may Help POTW to meet Permit Limit 5~~

~~B-3 Project will Improve POW Plant Reliability 3~~

~~C-1 Project Reclaims Usable Resources from Wastewater 7~~

~~C-2 Project will result in Waste Minimization 5~~

~~C-3 Project will a Significant Reduction in Water Usage 3~~

~~Section III - Total Points~~

### ~~IV. READINESS TO PROCEED~~

~~A-1 Design is Complete, Current and Accurate 5~~

~~A-2 Cost Estimate is Current and Accurate 2~~

~~A-3 Identified Applicant Share 5~~

~~A-4 Applicant has Received an Order of Approval 2~~

~~Section IV - Total Points~~

### ~~RATING SUMMARY~~

~~Section I - Total Points~~

~~Section II - Total Points~~

~~Section III - Total Points~~

## ~~Section IV--Total Points~~

### ~~GRAND TOTAL~~

#### ~~Footnotes for Appendix I:~~

~~\* Select one criterion, at most, for each category. For example, choose A 1, A 2 or neither in Sections I, II(A), II(D), & III as applicable. Likewise, choose B 1 a, B 1 b, or B 1 c in Sections II(B) & II(C), as applicable. However, this rule does not apply to Section IV where each and every criterion which applies is chosen.~~

~~\*\* For water bodies that are included on both the reclamation and protection from toxic lists or the non point source and restoration lists, the highest point rating under either of those lists must be used, but not both.~~

~~The foregoing "Interceptor Bond Fund" after due notice, is hereby adopted and filed with the Secretary of State this day of to become effective twenty (20) days thereafter, in accordance with the provisions of Chapters 42-35, 42-17.1, and 46-12 of the General Laws of Rhode Island of 1956, as amended.~~

~~Louise Durfee, Director  
Department of Environmental Management~~

~~Notice Given on:  
Public Hearing held:  
Filing Date:  
Effective Date:~~

DEM-DWR-03-91, SEP-91

~~DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
DIVISION OF WATER RESOURCES~~

I, \_\_\_\_\_, hereby certify the attached  
is a true copy of the "Rules and Regulations for the Non-  
Governmental Water Pollution Control Facilities Fund", dated  
September, 1991, developed by the Rhode Island Department of  
Environmental Management to be filed with the Secretary of  
State.

The above sworn and signed before me on the \_\_\_\_th day of \_\_\_\_, 199\_\_.  
\_\_\_\_\_, Notary Public.

My commission expires on the \_\_\_\_th day of \_\_\_\_, 199\_\_.

~~STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
OFFICE OF WATER RESOURCES~~

~~PAWTUXET RIVER AUTHORITY BOND FUND  
Nine Million Dollar Bond Issue~~

~~Rules and Regulations for the Grant Program for  
Municipalities within the Pawtuxet River Watershed for  
Planning, Engineering and Construction of  
Facilities and Activities to Upgrade the Water  
Quality of the Pawtuxet River~~

~~10 April 2001~~

~~AUTHORITY: Regulations adopted pursuant to Chapters  
46-12, 42-17.1 and 42-35 of the General Laws  
of Rhode Island of 1956, as amended and Article 2, Section 1 of Public laws  
Chapter 90-434~~

# PAWTUXET RIVER AUTHORITY BOND FUND

## Rules and Regulations

### Table of Contents

	Page
Section 1 Purpose	1
Section 2 Authority	1
Section 3 Severability	1
Section 4 Applicability	1
Section 5 Definitions	2
Section 6 Goals	4
Section 7 Available Funds	4
Section 8 Eligibility Requirements	5
Section 9 Procurement Process	8
Section 10 Payments	12
Section 11 Non-Compliance	13
Section 12 Termination of the Fund	13

~~1.00 ——— PURPOSE — The purpose of these Regulations is to implement ARTICLE 2 SECTION 1, “Relating to the Narragansett Bay Water Quality Management District Commission Fund” of Rhode Island Public Laws Chapter 90-434, AN ACT AUTHORIZING THE STATE OF RHODE ISLAND TO ISSUE GENERAL OBLIGATION BONDS AND NOTES ON THE AMOUNT NOT TO EXCEED \$ 166,895,540. FOR THE PURPOSE OF CAPITAL DEVELOPMENT. The purpose of this section of this law was to transfer \$9,000,000 from the Narragansett Bay Water Quality Management District Commission to the Pawtuxet River District Commission. In March of 1998 the Rhode Island General Assembly amended Section 46-24-9 of the General Laws entitled” Pawtuxet River Authority.” This Legislation transferred all of the powers previously given to the Pawtuxet River District Commission to the Pawtuxet River Authority. By Resolution on June 7, 1999, the Pawtuxet River Authority conferred any responsibly to govern the administrative and technical review for the \$9,000,000 proceeds of the state’s general obligation bonds to the Department of Environmental Management. The Office of Water Resources of the Rhode Island Department of Environmental Management will administer the grant program.~~

~~2.00 ——— AUTHORITY — These regulations are adopted pursuant to Chapters 46-12 and 42-17.1 of the General Laws of Rhode Island of 1956, as amended. These regulations are being promulgated in accordance with Chapter 42-35 of the General Laws of Rhode Island~~

~~3.00 ——— SEVERABILITY — If any of these regulations or the application thereof to any municipality or circumstances is held invalid by a court of competent jurisdiction, the remainder of the regulations shall not be affected thereby. The invalidity of any section or sections shall not affect the validity of the remainder of these regulations.~~

~~4.00 ——— APPLICABILITY — The grants provided under these regulations are applicable only to the municipalities of Cranston, Warwick and West Warwick.~~



~~5.00~~ ~~DEFINITIONS~~ Unless the context specifically indicates otherwise, the meaning of terms used in these Rules and Regulations shall be as follows:

~~Architectural/Engineering (A/E) Services~~ Consultations, investigations, reports, or services for planning, design-type, or construction projects within the scope of the practice of architecture or professional engineering as defined by the State of Rhode Island.

~~Clean Water Act (CWA)~~ The Federal law enacted under 33 U. S. C. Section 1251 et. seq. as amended.

~~Consent Decree~~ Consent Decree and Judgment issued between RIDEM and the Town of West Warwick C. A. 90-6679 as amended, RIDEM and the City of Cranston C. A. No. 90-6678 as amended and RIDEM and the City of Warwick C. A. 90-6677 as amended

~~Construction~~ Erection, building, alteration, remodeling, improvements, or extension of buildings, structures or other property.

~~Design~~ Preparation of detailed plans and specifications (includes construction drawings, specifications, other contract documents).

~~Design-Build~~ a method of project delivery in which the owner contracts with a single entity to take responsibility for the design and construction of a project

~~Design-Bid-Build~~ the traditional delivery method where design and construction are sequential and contracted with two contracts and two contractors.

~~Director~~ The Director of the Rhode Island Department of Environmental Management or his or her designee.

~~EPA~~ The United States Environmental Protection Agency.

~~Engineering Services During Construction~~ the scope of work will generally include:

1. ~~Those applicable services normally associated with engineering supervision and inspection during construction (e.g. resident inspection, interpretation of plans and specifications, resolution of technical problems, preparation of estimates of work in place, review of claims, shop drawings and change orders, etc.); and~~
2. ~~Preparation and implementation of a final plan of operation, including the preparation of an operation and maintenance (O&M) manual.~~

~~Department or DEM The Department of Environmental Management of the State of Rhode Island.~~

~~Individual Sewage Disposal System (ISDS) Any system of piping, tanks, disposal areas, alternative toilets or other facilities designed to function as a unit to convey, store, treat and/or dispose of sanitary sewage by means other than discharge into a public sewage collection system.~~

~~Planning (Facilities Planning) All planning and studies necessary to meet the facility planning requirements of the State Clean Water Act, Rhode Island General Law 46-12, and other applicable Federal and Rhode Island State Regulations promulgated to implement the Federal Clean Water Act. A Facilities Plan investigates, identifies, and forecasts needs. A full range of alternatives to address those needs is evaluated based on various criteria including cost effectiveness over the life of the project and environmental impact. Based upon the evaluation, an alternative is recommended and an environmental assessment of the alternative is performed. A final Facilities Plan will contain a description of the total recommended project, preliminary engineering data, costs and scheduling information on the design and construction of the project.~~

~~Privatization—the disposition or transfer of an infrastructure asset, by long-term lease, from a state or local government to a private party.—The leasee may be responsible for any or all of the following depending on the form of the agreement; planning, design, financing, construction of any planned or required system improvements, testing, operating and maintenance of the asset.~~

~~Services Agreements or Contracts—all types of agreements, including grants and orders, for planning, design, construction or operation of wastewater treatment facilities including awards; contracts of a fixed-price, cost, cost-plus-a-fee, or incentive type; contracts provided for the issuance of job or task orders; leases; letter contracts, purchase orders, and construction.~~

~~Service Firm—any provider of operation, planning, design, construction or any combination of them.~~

~~Wastewater Treatment Facility—Any equipment, devices and systems for preventing, abating, reducing, storing, conveying,———treating, separating, recycling, reclaiming, or disposing of wastewater from domestic, commercial and industrial sources or any———combinations of such, excluding Individual Sewage Disposal———Systems.~~

~~6.00———GOAL—The goal of the Fund is to provide financial assistance to the three Pawtuxet municipalities of Cranston, Warwick and West Warwick to address water quality problems of the Pawtuxet River and meet the Rhode Island Pollutant Discharge Elimination System permit limitations.~~

~~7.00———AVAILABLE FUNDS—Up to nine million dollars (\$9,000,000.00) is to be allocated to the Rhode Island Department of Environmental Management to be available for grants to the three Pawtuxet municipalities of Cranston, Warwick and West Warwick for ninety percent (90%) of the eligible costs incurred for the~~

~~planning, design and construction of advanced wastewater treatment facilities and associated water pollution control actions and construction activities to improve water quality within the Pawtuxet River Watershed. Certification that the ten percent (10%) local share of the project cost is available shall be required for the receipt of state grant funds. The municipalities can not use any other state grant funds for their local match of the ten percent (10%) share.~~

#### ~~8.00~~ ELIGIBILITY REQUIREMENTS

~~A. Request for Proposals (RFP) for Facilities Planning, Design, Design-Build and Privatization Services Agreements must be reviewed and accepted by DEM and, when required, by the EPA.~~

~~B. Services Agreements must meet all applicable state and federal requirements. The Department of Environmental Management will review and reserves the right to require amendments to the scope of services for all services agreements, and subagreements in excess of ten thousand dollars (\$10,000.00) to meet all applicable state and federal requirements. Specific contract provisions that are required include the following:~~

- ~~1. General—Each services agreement, and subagreement in excess of ten thousand dollars (\$10,000.00) must include provisions defining a sound and complete agreement, including but not limited to:~~
  - ~~(a) Nature, scope and extent of work to be performed;~~
  - ~~(b) Time frame for performance;~~
  - ~~(c) Total cost of the services agreement including cost estimate, which indicates the estimated man-hours for each Task and the direct cost, indirect cost, overhead, and profit separately. The overhead rate must be documented~~

~~by a recent audit performed by a federal or state agency;  
and~~

~~(d) — Payment provisions.~~

~~2. Appropriate “Model subagreement clauses” as stipulated in  
Federal Regulations 40 CFR Part 33; Procurement Under  
Assistance Agreements, Subpart F, para. 33.1030.~~

~~3. Time of Performance provision which will indicate the  
scheduled completion of all work, and all specific milestones,  
such as submittal of draft reports, final reports, etc., as required  
by the Consent Decree.~~

~~In addition, each agreement must include a detailed schedule,  
which reflects the time frames for completing all work under  
each of the tasks, indicates the sequence in which the tasks  
must be completed and identifies significant subcontractor  
inputs.~~

~~4. The service firm shall establish and maintain the necessary  
programs to be in conformance with all Rhode Island State  
Laws, and Rules & Regulations pertaining to Equal  
Employment Opportunity/Affirmative Action.~~

~~5. Project Team — The service firm shall employ on the work a  
qualified project team. The service firm shall designate a  
representative with authority to act for the service firm. The  
project representative shall be designated in writing.~~

~~6. Subcontracts — The service firm must warrant that it will not  
subcontract any portion of the tasks or subtasks it is obligated to  
perform under the service contract agreement without the prior  
written consent of the Owner. Execution of the said service  
agreement would constitute such consent concerning any~~

~~subcontractor specifically named in the service contract agreement.~~

~~7. The service firm shall maintain during the life of the services contract agreement such minimum public liability and property damage insurance as may be required by the General Laws of Rhode Island. The service firm shall also maintain professional liability insurance covering damages resulting from errors or omissions of the service firm. The limit of liability shall not be less than one million dollars (\$1,000,000.00) for the work under this services agreement.~~

~~E. Department of Environmental Management Approvals. The Department of Environmental Management will review and approve the following:~~

- ~~1) Plan of Study for Facilities Planning Effort;~~
- ~~2) Facilities Plan or Update;~~
- ~~3) Environmental Information Document/E.I.S.;~~
- ~~4) Preliminary Engineering Design Report;~~
- ~~5) Value Engineering Study Report for any projects exceeding ten million dollars (\$10,000,000.00);~~
- ~~6) Plans and Specifications including final design prior to notice of bid;~~
- ~~7) Construction Contracts; and,~~
- ~~8) Other approvals specifically required within the Consent Decree and Judgement for Advanced Wastewater Treatment, and all other approvals specifically required by federal or state laws applicable to the bond fund or administration thereof.~~

~~F. All approvals issued by the Department of Environmental Management in accordance with the Rules and Regulations for the~~

~~Pawtuxet River Water Quality Fund (Ten Million Dollar Bond Issues) shall be considered valid for the purpose of this bond fund~~

- ~~G. Permits/Approvals/Assents. All other necessary permits/approvals/assents from other State or Federal agencies with jurisdiction over the project must be obtained.~~
- ~~H. MBE/WBE Requirements. All service firms (if applicable), will be in compliance with the State of Rhode Island Minority Business Enterprise Regulations implementing, in part, Section 1 of the Public Laws of 1986, Chapter 493 (R.I. General Laws, Chapter 37-14.1). Documentation of compliance from the R.I Minority Business Enterprise Commission must be provided to The Department of Environmental Management.~~
- ~~I. Eligible/Ineligible Costs. Project cost eligibility and reimbursement shall be based on approvals issued by the Rhode Island Department of Environmental Management for all engineering, construction and service agreements. Direct costs associated with procurement, such as advertising and printing shall also be eligible.~~

## ~~9.00 — PROCUREMENT PROCESS~~

- ~~A. Procurement of Planning or Design Services~~
- ~~1. Public Notice of Request for Proposals (RFPs). The municipality must give adequate public notice for competitively negotiated procurement of the services agreement. The notice of a request must state how to obtain associated documents. Requests for Proposals must be written, contain enough information to enable a prospective offeror to prepare a Proposal, contain all evaluation criteria and the relative~~

~~importance attached to each, and clearly state the deadline and place to submit Proposals.~~

~~2. Evaluation of Proposals. The municipalities must uniformly and objectively evaluate all proposals submitted in response to the Request for Proposals. Municipalities must base their determinations of qualified offerors and acceptable Proposals solely on the evaluation criteria stated in the Request for Proposals.~~

~~3. Selection procedure for negotiation and award of subagreement for A/E services. The municipality will use responses to requests for statements of qualifications to determine the most qualified A/E firms or firm. After selecting and ranking the most qualified A/E firm or firms, the municipality will request technical proposals from the offeror or offerors and inform them of the evaluation criteria the municipality will use to rank the proposals. The municipality shall attempt to negotiate fair and reasonable compensation with the A/E firm.~~

~~4. Use of same A/E firm during construction. If the municipality is satisfied with the qualifications and performance of the A/E firm who provided design services for the project and wishes to retain that firm or individual during construction of the project, the municipality may do so without further public notice and evaluation of qualifications provided original procurement was in accordance with Sections 1, 2, and 3.~~

~~5. If a Municipality decides on a Design-Build Method of construction, the selection of the Design-Build Firm must follow the procurement process of Sections 1, 2 and 3 above.~~

**B. Procurement of Privatization Services —**



- ~~1. Public Notice of Request for Proposals (RFPs). The municipality must give adequate notice for competitively negotiated procurement of the Privatization Services. The notice of request must state how to obtain associated documents. Requests for Proposals must be written, contain enough information to enable a prospective offerer to prepare a proposal, contain all evaluation criteria and the relative importance attached to each, and clearly state the deadline and place to submit proposals.~~
- ~~2. Evaluation of Proposals. The Municipalities must uniformly and objectively evaluate all proposals submitted in response to the Request for Proposals. Municipalities must base their determination of qualified offerors and acceptable proposals solely on the evaluation criteria stated in the request for proposals.~~
- ~~3. Selection procedure for negotiation and award of a Privatization Contract. The municipality will use responses to requests for statements of qualifications to determine the most qualified firm or firms. After selecting and ranking the most qualified firm or firms, the municipality will request technical proposals from the offeror or offerors and inform them of the evaluation criteria the municipality will use to rank the proposals. The municipality shall then attempt to negotiate fair and reasonable compensation for the work and services to be performed under the contract.~~

C. Procurement of Design Bid Build Contracts

- ~~1. Formal advertising procurement method. The requirements in this section shall apply to formally advertised construction~~

~~contracts in excess of ten thousand dollars (\$10,000.00). Formal advertising means the public solicitation of sealed bids and the award of a construction contract based on a fixed price (lump sum, unit price or a combination of the two) to the lowest responsive, responsible bidder.~~

~~2. Formal advertising requires at a minimum:~~

- ~~(a) Complete, adequate, and realistic specifications or purchase description of what is required;~~
- ~~(b) The opportunity for responsible bidders who are willing and able to compete effectively for the municipalities' business;~~
- ~~(c) A procurement that lends itself to the award of a fixed price contract;~~
- ~~(d) That the selection of the successful bidder be made principally on the basis of price.~~

~~3. Public notice and solicitation of bids. The municipality shall give adequate public notice of the solicitation, inviting bids and stating when and how the bidding documents may be obtained or examined.~~

~~4. Time for Preparing Bids. The municipality must allow a minimum of thirty days (30), but not more than ninety (90) calendar days between the date the public notice is first published and the date by which bids must be submitted.~~

~~5. Adequate bidding documents. The municipality's bidding documents shall include:~~

- ~~(a) A complete statement of work to be performed including, where appropriate, design drawings and specifications and the required performance schedule;~~

- ~~(b) The terms and conditions of the construction contract to be awarded, including payment, delivery schedules, point of delivery and acceptance;~~
- ~~(c) A clear explanation of the municipalities' method of bidding and the method of evaluating bid prices, and the basis and method for awarding the construction contract;~~
- ~~(d) Any other responsibility requirements or evaluation criteria which the municipality will use in evaluation of bids;~~
- ~~(e) The deadline and place to submit the bids.~~

~~6. Public opening of bids. The municipality shall publicly open bids at the place, date and time announced in the bidding documents.~~

~~7. Award to the lowest, responsive, responsible bidder.~~

~~1) The municipality shall award all bids in accordance with the methods and criteria in the bidding documents.~~

~~2) The municipality shall award a fixed price construction contract to the lowest, responsive, responsible bidder.~~

~~Where specified in the bidding documents, the municipality shall consider factors such as discounts, transportation costs and life cycle costs to determine the low bid only when prior experience of the municipality indicates that it generally accepts such discounts.~~

~~3) The municipality may reject all bids only when it has sound, documented business reasons, which are in the best interest of the program.~~

~~10.00 — PAYMENTS — Payments under these grants are on a reimbursable basis. The municipality must submit source-level documents to prove incurred costs. DEM will review and~~

~~certify payment for ninety percent (90%) of the eligible costs. The municipality will certify to the best of their knowledge and belief that:~~

~~\_\_\_\_\_ A. the billed disbursement costs are in accordance with the terms and conditions of the project: \_\_\_\_\_ B. the reimbursement represents the State share due that has not been previously requested: \_\_\_\_\_ C. that inspections have been performed and all work is in accordance with the terms of the award. Where the municipality has a privatized facility payment will be made by DEM to the municipality and the municipality will then reimburse the privatization firm in accordance with any specific contract arrangements.~~

~~11.00 \_\_\_\_\_ NON-COMPLIANCE Failure to comply with all terms and conditions of the grant agreement may result in any of the following sanctions:~~

- ~~A. Withholding of payments~~
- ~~B. Suspension or termination of the grant for cause~~
- ~~C. Annulment of the grant~~
- ~~D. Other appropriate administrative proceeding~~
- ~~E. Institution of judicial proceedings~~

~~12.00 \_\_\_\_\_ TERMINATION OF THE FUND Upon the finding of the Director that all monies have been expended, the fund shall be terminated.~~

~~\_\_\_\_\_ The foregoing rules and regulations, after due notice and hearing, are hereby adopted and filed with the Secretary of State this \_\_\_\_\_ day of April 2001, to become effective twenty (20) days thereafter, in accordance with the provisions of Chapter 46-12, 42-17.1 and 42-35 of the General Laws of Rhode Island of 1956, as amended and Section Article 2, Section 1 of Rhode Island Public Law 90-434.~~

~~Director~~

~~Department of Environmental Management~~

~~Notice given on: 31 January 2001~~

~~Hearing held on: N/A~~

# ~~Effective~~

~~STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
OFFICE OF WATER RESOURCES~~

~~PAWTUXET RIVER WATER QUALITY FUND~~

~~Rules and Regulations for the Grant Program for  
Municipalities Within the Pawtuxet River Watershed for  
Planning, Engineering and Construction of  
Facilities and Activities to Upgrade the Water  
Quality of the Pawtuxet River~~

~~20 March 1990  
Amended 14 January 2000~~

~~AUTHORITY: Regulations adopted pursuant to Chapters  
46-12, 42-17.1 and 42-35 of the General Laws  
of Rhode Island of 1956, as amended and Sections  
1-(1) (g) and 7 (g) of Rhode Island Public Law 89-552~~

# ~~PAWTUXET RIVER WATER QUALITY FUND~~

## ~~Rules and Regulations~~

### ~~Table of Contents~~

	<del>Page</del>
<del>Section 1 Purpose</del>	<del>1</del>
<del>Section 2 Authority</del>	<del>1</del>
<del>Section 3 Severability</del>	<del>1</del>
<del>Section 4 Applicability</del>	<del>1</del>
<del>Section 5 Definitions</del>	<del>1</del>
<del>Section 6 Goal</del>	<del>4</del>
<del>Section 7 Available Funds</del>	<del>4</del>
<del>Section 8 Eligibility Requirements</del>	
<del>Section 9 Evaluation of Regional Alternatives</del>	<del>10</del>
<del>Section 10 Procurement Process Payments</del>	<del>13</del>
<del>Section 11 Payments</del>	<del>14</del>
<del>Section 12 Non-Compliance</del>	<del>15</del>
<del>Section 13 Termination of the Fund</del>	<del>15</del>

~~1.00 PURPOSE The purpose of these Regulations is to implement sections 1(1) (g) and 7 (g) "Pawtuxet River Water Quality" of Rhode Island Public Laws Chapter 89-552, AN ACT TO PROVIDE AUTHORITY TO ISSUE BONDS AND NOTES TO FINANCE THE 1989 CAPITAL DEVELOPMENT PROGRAM. The purpose of this section of the law is to provide grants to the municipalities within the Pawtuxet River Watershed for planning, engineering and construction of facilities, and activities to upgrade the water quality of the Pawtuxet River. The grant program will be administered by the Office of Water Resources of the Rhode Island Department of Environmental Management.~~

~~2.00 AUTHORITY These regulations are adopted pursuant to Chapters 46-12 and 42-17.1 of the General Laws of Rhode Island of 1956, as amended. These regulations are being promulgated in accordance with Chapter 42-35 of the General Laws of Rhode Island.~~

~~3.00 SEVERABILITY If any of these regulations or the application thereof to any municipality or circumstances is held invalid by a court of competent jurisdiction, the remainder of the regulations shall not be affected thereby. The invalidity of any section or sections shall not affect the validity of the remainder of these regulations.~~

~~4.00 APPLICABILITY The grants provided under these regulations are applicable only to the municipalities of Cranston, Warwick and West Warwick.~~

~~5.00 DEFINITIONS Unless the context specifically indicates otherwise, the meaning of terms used in these Rules and Regulations shall be as follows:~~

~~Architectural/Engineering (A/E) Services—~~

~~Consultations, investigations, reports, or services for planning, design type, or construction projects within the scope of the practice of architecture or professional engineering as defined by the State of Rhode Island.~~



~~Clean Water Act (CWA) — The Federal law enacted under 33 U. S. C. Section 1251 et. seq as amended.~~

~~Construction — Erection, building, alteration, remodeling, improvements, or extension of buildings, structures or other property.~~

~~Cooperative Regional Agreement — A written agreement between and among the municipalities of Cranston, Warwick and West Warwick to develop, evaluate and consider regional solutions or remedies to improve and upgrade the water quality of the Pawtuxet River.~~

~~Design — Preparation of detailed plans and specifications (includes construction drawings, specifications, other contract documents).~~

~~Director — The Director of the Rhode Island Department of Environmental Management or his or her designee.~~

~~Engineering Services During Construction — the scope of work will generally include:~~

- ~~1. Those applicable services normally associated with engineering supervision and inspection during construction (e.g. resident inspection, interpretation of plans and specifications, resolution of technical problems, preparation of estimates of work in place, review of claims, shop drawings and change orders, etc.); and~~
- ~~2. Preparation and implementation of a final plan of operation, including the preparation of an operation and maintenance (O&M) manual~~

~~Individual Sewage Disposal System (ISDS) — Any system of piping, tanks, disposal areas, alternative toilets or other facilities designed to function as a unit to convey, store, treat and/or dispose of sanitary sewage by means other than discharge into a public sewage collection system.~~

~~Planning (Facilities Planning) All planning and studies necessary to meet the facility planning requirements of the State Clean Water Act, Rhode Island General Law 46-12, and other applicable Federal and Rhode Island State Regulations promulgated to implement the Federal Clean Water Act. A Facilities Plan investigates, identifies, and forecasts needs. A full range of alternatives to address those needs is evaluated based on various criteria including cost effectiveness over the life of the project and environmental impact.~~

~~Based upon the evaluation, an alternative is recommended and an environmental assessment of the alternative is performed. A final Facilities Plan will contain a description of the total recommended project, the contracts necessary to build the project, preliminary engineering data, costs and scheduling information on the design and construction of the project.~~

~~Severe Economic Hardship If the total residential cost as a percentage (%) of median household income (MHI) is greater than two percent (2%), the community may declare severe economic hardship. The formulas for calculation are:~~

~~Total Residential Cost per Household as a Percentage of MHI =~~

$$\frac{\text{Average Residential Cost per Household}}{\text{Average MHI}}$$

$$\frac{\text{Average Residential Cost per Household} = \text{Residential Flow Proportion} \times (\text{OM\&R Costs} + \text{Debt Financing Costs})}{\text{Number of Households}}$$

$$\text{Where Residential Flow Proportion} = \frac{\text{Flow per Household} \times \text{Number of Households}}{\text{Current Average Flow}}$$

~~Wastewater Treatment Facility—Any equipment, devices, and systems, for preventing, abating, reducing, storing, conveying, treating, separating, recycling, reclaiming, or disposing of wastewater from domestic, commercial and industrial sources or any combinations of such, excluding Individual Sewage Disposal Systems.~~

~~6.00 GOAL—The goal of the Fund is to provide financial assistance to the three Pawtuxet municipalities of Cranston, Warwick and West Warwick to address water quality problems of the Pawtuxet River and meet the Rhode Island Pollutant Discharge Elimination System permit limitations.~~

~~7.00 AVAILABLE FUNDS—Up to ten million dollars (\$10,000,000.00) is to be allocated to the Rhode Island Department of Environmental Management to be available for grants to the three Pawtuxet municipalities of Cranston, Warwick and West Warwick for ninety percent (90%) of the eligible costs incurred for the planning, design and construction of advanced wastewater treatment facilities and associated water pollution control actions and construction activities to improve water quality within the Pawtuxet River Watershed provided that the three municipalities enter into a cooperative regional agreement to address the water quality problems of the Pawtuxet River. This agreement must be reviewed and commented upon by the Rhode Island Department of Environmental Management and executed by the municipalities before any grants are awarded. Certification that the ten percent (10%) local share of the project cost is available shall be required for the receipt of state grant funds unless any municipality can demonstrate to the Director that such share will constitute a severe economic hardship to that community. The municipality may submit to the Director in place of the calculations of severe economic hardship (See Definitions Section 5.00), a Financial Capability Analysis based on E.P.A.'s Financial Capability Guidebook and any additional calculations or documentation to prove the required match~~

~~would place a severe economic hardship on the municipality. The municipalities can not use any other state grant funds for their local match of the ten percent (10%) share.~~

#### ~~8.00 ELIGIBILITY REQUIREMENTS~~

~~A. Cooperative Regional Agreement. Prior to execution of the written cooperative regional agreement among the three Pawtuxet municipalities of Cranston, Warwick and West Warwick, the draft agreement must be reviewed and commented upon by the Rhode Island Department of Environmental Management. This agreement shall be modified prior to the commencement of the design phase and the construction phase, to accommodate any regional wastewater treatment activities. These modifications to the agreement will also be reviewed by the Rhode Island Department of Environmental Management.~~

~~B. Any subcontract work performed for the benefit of all three (3) municipalities of Cranston, Warwick and West Warwick shall be coordinated by a single Architectural/Engineering (A/E) Services firm to be designated through the Cooperative Regional Agreement. All information and data produced by this work effort will be shared equally by the three municipalities of Cranston, Warwick and West Warwick. Only the designated A/E firm responsible for the administration of the subcontract will be eligible for overhead and profit remuneration.~~

~~C. Request for Proposals (REP) for Facilities Planning and Design. The REP must be reviewed and accepted by the Department of Environmental Management.~~

~~D. A/E Services Agreements. The Department of Environmental Management will review, and reserves the right to require~~

~~amendments to, the scope of services for all A/E services agreements, and subagreements in excess of ten thousand dollars (\$10,000.00) to meet all applicable state and federal requirements. Specific contract provisions that are required include the following:~~

- ~~1. General—Each A/E services agreement, and subagreement in excess of ten thousand dollars (\$10,000.00) must include provisions defining a sound and complete agreement, including but not limited to:
  - ~~(a) Nature, scope and extent of work to be performed;~~
  - ~~(b) Time frame for performance;~~
  - ~~(c) Total cost of the A/E services agreement including cost estimate which indicates the estimated manhours for each Tasks and the direct cost, indirect cost, overhead and profit separately. The overhead rate must be documented by a recent audit performed by a federal or state agency; and~~
  - ~~(d) Payment provisions.~~~~
- ~~2. Appropriate "Model subagreement clauses" as stipulated in Federal Regulations 40 CFR Part 33; Procurement Under Assistance Agreements, Subpart F. pare. 33.1030.~~
- ~~3. Time of Performance provision which will indicate the scheduled completion of all work, and all specific milestones, such as submittal of draft reports, final reports, etc., as required by the Consent Decree. In addition, each A/E agreement must include a detailed schedule which reflects the time frames for completing all work under each of the tasks, indicates the sequence in which the tasks must be completed, identifies significant subcontractor inputs and indicates the interrelationships and interdependencies between work items that control progress of the overall scope of work.~~

- ~~4. The A/E firm shall establish and maintain the necessary programs to be in conformance with all Rhode Island State Laws, and Rules & Regulations pertaining to Equal Employment Opportunity/Affirmative Action.~~
- ~~5. Project Team—The A/E firm shall employ on the work a qualified project team. The A/E firm shall designate a representative with authority to act for the A/E firm. The project representative shall be designated in writing.~~
- ~~6. Subcontracts—The A/E firm must warrant that it will not subcontract any portion of the tasks or subtasks it is obligated to perform under the Agreement without the prior written consent of the Owner. Execution of the said Agreement would constitute such consent concerning any subcontractor specifically named in the Agreement.~~
- ~~7. The A/E firm shall maintain during the life of the Agreement such minimum public liability and property damage insurance as may be required by the General Laws of Rhode Island. The A/E firm shall also maintain professional liability insurance covering damages resulting from errors or omissions of the A/E firm. The limit of liability shall not be less than five hundred thousand dollars (\$500,000.00) for the work under this A/E Services Agreement.~~

~~E. Department of Environmental Management Approvals. The Department of Environmental Management will review and approve the following:~~

- ~~1. Plan of Study for Facilities Planning Effort;~~
- ~~2. Facilities Plan or Update;~~
- ~~3. Environmental Information Document/E.I.S.;~~
- ~~4. Preliminary Engineering Design Report;~~
- ~~5. Value Engineering Study Report for any projects exceeding ten million dollars (\$10,000,000.00);~~
- ~~6. Plans and Specifications including final design prior to notice of bid;~~
- ~~7. Construction Contracts; and,~~
- ~~8. Other approvals specifically required within the Consent Decree and Judgement for Advanced Wastewater Treatment, and all other approvals specifically required by federal or state laws applicable to the bond fund or administration thereof.~~

~~F. Permits/Approvals/Assents. All other necessary permits/approvals/assents from other State or Federal agencies with jurisdiction over the project must be obtained.~~

~~G. MBE/WBE Requirements. All contractors including A/E Services (if applicable), will be in compliance with the State of Rhode Island Minority Business Enterprise Regulations implementing, in part, Section 1 of the Public Laws of 1986, Chapter 493 (R.I. General Laws, Chapter 37-14.1). Documentation of compliance from the Director of the Rhode Island Department of Administration must be provided to The Department of Environmental Management.~~

~~H. Eligible/Ineligible Costs. Project cost eligibility and reimbursement shall be based on approvals issued by the Rhode Island Department of Environmental Management for all engineering agreements and construction contracts. Direct costs associated with procurement, such as advertising and printing, shall also be eligible. The costs associated with modeling efforts which may be necessary to determine the feasibility, water quality impacts and the cost effectiveness of the alternative wastewater solutions shall be eligible. Any scientific sampling or modeling effort directed at questioning the validity of the following documents shall be ineligible:~~

- ~~1) Liberti, Angelo S., (1987) A Waste Load Allocation for DO/BOD Dynamics of the Pawtuxet River, Rhode Island, M.S. Comprehensive Report, URI.~~
- ~~2) McCarthy, Brian J., (1986) Fate and Transport of Scam Metals in the Pawtuxet River, M.S. Thesis, URI~~
- ~~3) Quinn, James G., Hoffman, Eva J., Latimer, James S., and Constance G. Carey, (1985) A Study of the Water Quality of the Pawtuxet River: Chemical Monitoring and Computer Modeling of Pollutants, Volume 1: Chemical Monitoring of Pollutants in the Pawtuxet River, pp. 249.~~
- ~~4) Scott, Kevin and Raymond M. Wright, (1987) Modeling Dissolved Oxygen in Transient Flow Conditions.~~
- ~~5) Wright, Raymond M., and Brian J. McCarthy, (1985), A Study of the Water Quality of the Pawtuxet River: Chemical Monitoring and Computer Modeling of Pollutants, Volume 2: Computer Modeling of Toxic Pollutants in the Pawtuxet River, pp. 173.~~



~~6. Rhode Island Department of Environmental Management, Office of Water Resources, (1988) Pawtuxet River Waste Load Allocation Strategy for the development of RIPDES Permit Limits.~~

~~7. Rhode Island Department of Environmental Management, Office of Water Resources, (1988) Responsiveness Summary to Comments Received on the Draft RIPDES Permits for the Cranston, Warwick and West Warwick WWTFs.~~

~~The sole exception to this limitation is that if such work is performed at municipal expense, and if such work serves as the basis for the Director of the Rhode Island Department of Environmental Management to subsequently issue significant modifications to the RIPDES permit effluent limits, or require additional treatment not addressed by or contained in the current permit, the expenses for such effort shall be an eligible and allowable grant cost.~~

#### ~~9.00 EVALUATION OF REGIONAL ALTERNATIVES DURING~~ ~~FACILITIES PLANNING~~

~~A. Each municipality shall develop and screen each possible regional alternative considered with respect to that municipality itself.~~

~~B. Under provisions established in the Cooperative Regional Agreement, a committee composed of representatives of the three (3) municipalities of Cranston, Warwick and West Warwick and the Department of Environmental Management will be formed for the purpose of evaluating regional alternatives. The committee will initially screen all alternatives, including those listed below, to determine the feasibility of each and decide which alternatives will be further evaluated. The committee's determination shall be based on information and documentation provided by the A/E firms as part of the alternative development. As a minimum,~~

~~the following regional alternatives must be evaluated as part of the Facilities Planning process:~~

- ~~1) Regional advanced wastewater treatment facility(ies) versus individual advanced wastewater treatment facilities or alternatives.~~
- ~~2) Discharge of secondary treated effluents of two or more of the municipalities into the Providence River in the area of the Field's Point Wastewater Treatment Facility.~~
- ~~3) Discharge of advance treated effluents of two or more of the municipalities into the Narragansett Bay.~~
- ~~4) Providing advanced treatment with alternative discharge locations on the Pawtuxet River to improve the characteristics of the dissolved oxygen sag curve.~~
- ~~5) Sludge handling treatment and disposal.~~

~~Each of the remaining alternatives considered feasible will be further evaluated by only one of The A/E firms. Upon conclusion of all of the A/E firms evaluations, the results will be presented to the municipalities.~~

~~C. Again under provisions established in the Cooperative Regional Agreement, the three (3) municipalities will form a consensus of opinion on the ranking of all the alternatives evaluated.~~

~~D. The Phase I facilities plan for each community shall include that community's engineering evaluations and the ranked alternatives.~~

~~E. Upon concurrence by Rhode Island Department of Environmental Management, the requirement for consideration of regional alternatives is met.~~

## ~~10.00 PROCUREMENT PROCESS~~

### ~~10.10 PROCUREMENT OF PLANNING OR DESIGN SERVICES~~

- ~~A. Public Notice of Request for Proposals (RFPs). The municipality must give adequate public notice for competitively negotiated procurement of A/E services. The notice of a request must state how to obtain associated documents. Requests for proposals must be written, contain enough information to enable a prospective offeror to prepare a proposal, contain all evaluation criteria and the relative importance attached to each, and clearly state the deadline and place to submit proposals.~~
- ~~B. Evaluation of proposals. The municipalities must uniformly and objectively evaluate all proposals submitted in response to the request for proposals. Municipalities must base their determinations of qualified offerors and acceptable proposals solely on the evaluation criteria stated in the request for proposals.~~
- ~~C. Selection procedure for negotiation and award of subagreement for A/E services. The municipality will use responses to requests for statements of qualifications to determine the most qualified A/E firms or firm. After selecting and ranking the most qualified A/E firm or firms, the municipality will request technical proposals from the offeror or offerors and inform them of the evaluation criteria the municipality will use to rank the proposals. The municipality shall attempt to negotiate fair and reasonable compensation with the A/E firm.~~
- ~~D. Use of same A/E firm during construction. If the municipality is satisfied with the qualifications and performance of the A/E firm who provided design services for the project and wishes to retain that firm or individual during construction of the project, the municipality may do so without further public notice and evaluation of qualifications provided original procurement was in accordance with Sections A, B, and C.~~

## ~~10.20 PROCUREMENT OF CONSTRUCTION CONTRACTS~~

~~A. Formal advertising procurement method. The requirements in this section shall apply to formally advertised construction contracts in excess of ten thousand dollars (\$ 10,000.00). Formal advertising means the public solicitation of sealed bids and the award of a construction contract based on a fixed price (lump sum, unit price or a combination of the two) to the lowest responsive, responsible bidder.~~

~~B. Formal advertising requires at a minimum:~~

- ~~1. Complete, adequate, and realistic specifications or purchase description of what is required;~~
- ~~2. The opportunity for responsible bidders who are willing and able to compete effectively for the municipalities' business;~~
- ~~3. A procurement that lends itself to the award of a fixed price contract;~~
- ~~4. That the selection of the successful bidder be made principally on the basis of price.~~

~~C. Public notice and solicitation of bids. The municipality shall give adequate public notice of the solicitation, inviting bids and stating when and how the bidding documents may be obtained or examined.~~

~~D. Time for Preparing Bids. The municipality must allow a minimum of thirty days, but not more than ninety (90) calendar days between the date the public notice is first published and the date by which bids must be submitted.~~

~~E. Adequate bidding documents. The municipalities' bidding documents shall include:~~

- ~~1) A complete statement of work to be performed including, where appropriate, design drawings and specifications and the required performance schedule;~~

- ~~2) The terms and conditions of the construction contract to be awarded, including payment, delivery schedules, point of delivery and acceptance;~~
  - ~~3) A clear explanation of the municipalities' method of bidding and the method of evaluating bid prices, and the basis and method for awarding the construction contract;~~
  - ~~4) Any other responsibility requirements or evaluation criteria which the municipality will use in evaluation of bids;~~
  - ~~5) The deadline and place to submit the bids.~~
- ~~F. Public opening of bids. The municipality shall publicly open bids at the place, date and time announced in the bidding documents.~~
- ~~G. Award to the lowest, responsive, responsible bidder.~~
- ~~1) The municipality shall award all bids in accordance with the methods and criteria in the bidding documents.~~
  - ~~2) The municipality shall award a fixed-price construction contract to the lowest, responsive, responsible bidder. Where specified in the bidding documents, the municipality shall consider factors such as discounts, transportation costs and life cycle costs to determine the low bid only when prior experience of the municipality indicates that it generally accepts such discounts.~~
  - ~~3) The municipality may reject all bids only when it has sound, documented business reasons which are in the best interest of the program.~~

~~11.00 PAYMENTS Payments under these grants are on a reimbursable basis. The municipality must submit source documents to prove incurred costs. Expenditures made by the municipalities after the — effective passage of the act on 11 July 1989 shall be eligible for reimbursement with the prior written approval of the~~

~~Department of Environmental Management. DEM will review and certify payment for ninety percent (90%) of the eligible costs.~~

~~12.00 NON-COMPLIANCE Failure to comply with all terms and conditions of the grant agreement may result in any of the following sanctions:~~

- ~~A. Withholding of payments~~
- ~~B. Suspension or termination of the grant for cause~~
- ~~C. Annulment of the grant~~
- ~~D. Other appropriate administrative proceeding~~
- ~~E. Institution of judicial proceedings~~

~~13.00 TERMINATION OF THE FUND Upon the finding of the Director that all monies have been expended, the fund shall be terminated.~~

~~The foregoing rules and regulations, after due notice and hearing, are hereby adopted and filed with the Secretary of State this 14<sup>th</sup> day of January, 2000, to become effective twenty (20) days thereafter, in accordance with the provisions of Chapter 46-12, 42-17.1 and 42-3-5 of the General Laws of Rhode Island of 1956, as amended and Section 1 (1) (g) and 7 (g) of Rhode Island Public Law 89-552.~~

---

---

~~Director~~

~~Department of Environmental Management~~

~~Notice given on 27 October 1999~~

~~Effective 03 February 2000~~