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TITLE 490 - WATER RESOURCES BOARD

CHAPTER 00 - N/A

SUBCHAPTER 00 - N/A

PART 7 - Water Quality Protection Charges

~~7.1 Imposition Of Water Quality Protection Charge~~

7.1 Purpose and Authority

This section prescribes procedures and requirements for the imposition, collection, remittance and distribution of at the water quality protection charge, ~~collection and remittance of a water quality protection charge and disbursement of water quality protection funds and bond proceeds. These rules and procedures supercede all previous rules and procedures for water quality protection charges on file with the Secretary of State.~~ authorized by R.I. Gen. Laws Chapter 46-15.3, as amended.

7.2 Definitions

- A. The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:
1. "Act" ~~shall mean the Public Drinking Water Protection Program,~~ means R.I. Gen. Laws Chapter 46-15.3, as amended.
 2. "Bank" means Rhode Island Infrastructure Bank as established by R.I. General Laws Chapter 46-12.2, as amended.
 - ~~2.3.~~ "Board" ~~shall mean~~ means the Rhode Island Water Resources Board as established by R.I. Gen. Laws Chapter 46-15 and 15.1, as amended.
 - ~~3.4.~~ "Eligible expenditure" ~~shall mean~~ means the acquisition of a fee simple interest or of a conservation restriction, as that term is defined in ~~R.I. Gen. Laws § 34, Chapter 39 Paragraph (2)(a) of the General Laws of Rhode Island,~~ and as amended, or other interest further detailed in watershed lands including, but not limited to, costs and expenses relating to the improvement of such lands or interests therein, maintenance of the lands or roads or interests therein, § 46-15.3-4 and taxes thereon, and the costs of preparation of water quality protection plans and updates, and

~~related property surveys and appraisals, or the funding of the construction of physical improvements that directly protect the quality and safety of the public drinking water supply. Watershed lands eligible for protection may be located within or without the state. No funds shall be used to extend service lines or expand system capacity.~~ by the Board.

- ~~4.5.~~ "Bank WQPC Fund" shall mean means the water quality protection fund; which shall be ~~administered by, and be~~ in the custody of the ~~treasurer of the Board.~~ Rhode Island Infrastructure Bank. Such fund shall consist of such amounts as ~~the state may from time~~ be remitted to time-appropriate, ~~the Bank by water suppliers~~ of all water quality protection charges other than:
- a. the six and nine-tenths percent (6.9%) of the charges collected and retained by the each water supplier for any purpose relating to the operation of the supplier, and
 - b. the fifty seven percent (57%) of the charges collected and remitted by each supplier to the General Treasurer, pursuant to the Act and R.I. Gen. Laws Chapter 46-12.2.
- ~~6.~~ "State WQPC Fund" means the water quality protection fund which shall be in the custody of the General Treasurer. Such fund shall consist of such amounts as may be remitted to the state by water suppliers of all water quality protection charges other than:
- a. the six and nine-tenths percent (6.9%) of the charges collected and retained by ~~the~~ each water supplier for any purpose relating to the operation of the supplier, ~~of proceeds from the sale of bonds and notes secured by pledging or assigning, in whole or in part, the revenues~~and
 - b. the thirty-six and ~~other monies held or to be deposited in the water quality protection fund,~~ one-tenths percent (36.1%) of the charges collected and ~~any other revenues derived under~~remitted by each supplier to Rhode Island Infrastructure Bank, pursuant to the Act and R.I. Gen. Laws Chapter 46-~~15.3, as amended~~12.2.
- ~~57.~~ "Receipt of sale" ~~shall mean~~ means acknowledgement that public drinking water has been exchanged for an agreed sum of money, or other consideration of any kind.
- ~~68.~~ "Sale" ~~shall mean~~ means all retail sales of potable water to end users for any purpose in the ordinary course of business by a supplier, except for sales subject to the 65 years of age and older exemption, the commercial

agricultural producer exemption, or the out-of-state potable water source exemption as set forth in the Act.

- ~~79.~~ "Supplier(s) of public drinking water" or "Water supplier and suppliers" - ~~shall mean~~ means any city, town, district, or other municipal, quasi-municipal or public or private corporation or company engaged in the sale of potable water and the water supply business in Rhode Island, ~~provided, however, that only suppliers which withdraw water from wells, reservoirs, springs, or other original sources in potable quality shall be entitled to disbursement of funds.~~
- ~~810.~~ "Water quality protection charge" ~~shall mean~~ means a water quality protection charge imposed upon suppliers of public drinking water ~~based upon billings for sales of public drinking water at~~ pursuant to the ~~rate established~~ Act.
11. "WQPC Eligible Project List" means the list of projects approved by ~~law for each sale whether that water be used for drinking or other purposes.~~ the Board as eligible for funding from the Bank WQPC Fund and as published by the Board.

7.3 Applicability

- A. The water quality protection charge shall be imposed per R.I. Gen. Laws § 46-15.3-5, as amended.
1. Exemptions from water quality protection charges for elderly customers shall be made only upon proper application and qualifications. These exemptions shall be applied prospectively only to billings rendered after application and qualification and the attainment of age 65.
 2. Suppliers shall require proof of age in the same manner as the supplier requires proof of age to support applications for exemptions from or freezes on local property taxes, if applicable. If not applicable, suppliers shall require proof of age by means such as a driver's license or a birth certificate. ~~In order~~ To be eligible for the elderly exemption, the property for which the exemption is sought must be occupied by the elderly person seeking the exemption and water service must be in the name of the elderly person seeking the exemption. The elderly exemption shall apply only to that portion of the property occupied by the elderly person and the members of the elderly person's household. ~~["~~ "Household" as used herein means one or more persons occupying a dwelling unit and living as a single non-profit housekeeping unit. "Household" does not include bona fide lessees, tenants or roomers, and boarders on contract. ~~"].~~

3. The water quality protection charge shall be pro-rated by the number of living units to provide for only such portion of the premises occupied by the elderly person or his or her household to benefit from the exemption. For example, if an elderly person seeking an exemption occupies one unit of a three-unit apartment house metered in the name of the elderly person, the elderly person will qualify for an exemption from only 1/3 of the water quality protection charge.
 4. Elderly exemptions shall continue only so long as qualification for exemption continues in all respects.
- B. All commercial agriculture producers shall be exempt from the imposition of the water quality protection charge for that amount of water used to irrigate commercial crops either in the fields or green houses provided that said producers have a conservation plan on file with their respective conservation district.
- C. No water quality protection charge shall be imposed on that portion of a supplier's retail billing representing potable water furnished to customers by purchase of water in its finished, potable form from sources outside the state. The water quality protection charge imposed on a supplier purchasing water from outside the state shall be pro rata imposed on such supplier's retail billings for that portion of potable water supplied from within the state. For each billing, suppliers shall provide the Board such supplier's gross water production, distribution, and other data demonstrating to the Board the reasonableness of the supplier's apportionment of finished potable water generated from sources within and outside the state. The Board shall notify the Bank of any contested matters arising between the Board and a supplier under this section.

7.24 Collection of Water Quality Protection Charge

- A. Water Quality Protection Charges collected and remitted shall be based on supplier billings. Amount "due for supplier's billings " in these rules means amount due from customers at such time customers may pay without the imposition of penalties or interest or such other time as customer bills will not be overdue. The supplier's billings subject to remittance are deemed to be the billings due from the supplier's customers in the amounts and at such times the billings are due to the supplier from its customers, pursuant to R.I. Gen. Laws § 46-15.3-9.
- B. The supplier shall remit all amounts due for supplier's billings to the Bank and the Board respectively on or before the twentieth (20th) day of the second month following the month of billing.

C. Each remittance to the Bank and the Board shall be accompanied by a completed remittance form provided by the Bank and the Board for their respective funds.

D. A record of billings shall be maintained by every supplier, showing:

1. The amount of water billed, amount of water quality protection charges billed, and amounts of water quality protection charges remitted to the Bank and the Board.
2. The number of exemptions from the water quality protection charge granted to a purchaser who is 65 years of age and over.
3. The number of exemptions from the water quality protection charge granted to a commercial agricultural producer.
4. Suppliers shall maintain their records regarding water consumption, billings, sales, and exemptions for at least a 6-year period. Suppliers shall for the same period maintain their records regarding elderly and commercial agricultural exemption applications. Suppliers shall provide the Bank and the Board with full access to their books and records and any other information reasonably required by the Bank and the Board to insure proper remittance of water quality protection charges to the Bank and the Board and compliance with the Act ~~and these rules~~, R.I. Gen. Laws Chapter 46-12.2, and any policies of the Bank related to the administration of water quality protection charges.

~~5~~E. Suppliers shall provide the Bank and the Board with a copy of their audited financial statements within 180 days of the end of supplier's fiscal year. Suppliers shall provide the Bank and the Board with a copy of any annual report filings with the Division of Public Utilities and Carriers regarding billings and consumption. Such materials shall be filed with the Bank and the Board at the same time the filing is made with the Division of Public Utilities and Carriers.

~~6. For all suppliers other than the City of Providence acting through the Providence Water Supply Board, or suppliers purchasing water from the City of Providence acting through the Providence Water Supply Board, the supplier shall remit to the Board by the 20th day of each month any and all water quality protection charges due for supplier's billings occurring in the second calendar month preceding such remittance. Amount "due for supplier's billings" in these rules means amount due from customers at such time customers may pay without the imposition of penalties or interest or such other time as customer bills will not otherwise be overdue. [The supplier's billings subject to remittance are deemed to be the billings~~

~~due from the supplier's customers in the amounts and at such times the billings are due to the supplier from its customers].~~

~~7.~~

- ~~a. For suppliers purchasing water from the City of Providence acting through the Providence Water Supply Board, for that portion of such supplier's retail billings representing water furnished to the purchasers from the Providence Water Supply Board, such portion of the water quality protection charge shall be remitted to the Providence Water Supply Board by the 20th day of each month based upon any and all water quality protection charges due for the supplier's billings occurring in the second calendar month preceding such remittance, and for that portion of such supplier's retail billings representing the remaining water furnished to the purchasers from sources other than the Providence Water Supply Board, such portion of the water quality protection charge shall be remitted to the Board by the 20th day of each month based upon any and all water quality protection charges due for supplier's billings occurring in the second calendar month preceding such remittance. Amounts remitted by suppliers purchasing water from the City of Providence to both the Providence Water Supply Board and the Board shall be based pro rata on metered water production originating from the Providence Water Supply Board and from all other sources. In no event shall any supplier be responsible to collect or pay more than a single water quality protection charge with respect to water sold by such supplier. The total combined amounts to be remitted to the Board and the Providence Water Supply Board by such supplier shall equal the total water quality protection charge imposed on such supplier.~~
- ~~b. The pro-rated portion of water originating from the Providence Water Supply Board shall be determined initially based on 85% of the aggregate master meter billings from the Providence Water Supply Board to such supplier. This 85% factor acknowledges that there are system losses, unaccounted for water for public fire protection, and elderly and commercial agricultural exemptions. Reconciliation of the Providence master meters and the retail meters of such supplier shall take place at least once each calendar year and not more frequently than every 3 months. Reconciliation audits shall be prepared at the expense and direction of the supplier receiving a portion of its water supply from the Providence Water Supply Board. All data supporting reconciliation audits shall be subject to inspection by the Board and~~

~~the Providence Water Supply Board at reasonable times at the offices of the suppliers. The reconciliation audit shall be prepared by an independent auditing firm mutually agreed upon by the Providence Water Supply Board and such supplier, and acceptable to the Board. The reconciliation audit shall certify to the accuracy of billing records, list the number of metered accounts, provide an estimate of water delivered to unmetered accounts other than public fire protection, list the number of exemptions, and certify that there is a pro-active program to eliminate unmetered and unaccounted for water. If, for any auditing period, an upward adjustment is made to the 85% factor based on actual metered retail sales, and the supplier owes additional monies to the Providence Water Supply Board by the supplier, payment of such underpayment shall be made by the supplier to the Providence Water Supply Board within 45 days of such reconciliation audit and the Board shall make an equal compensating credit to such Supplier's future payments to the Board. If, for any auditing period, a downward adjustment is made to the 85% factor based on actual metered retail sales, and the Providence Water Supply Board owes additional monies to the supplier, the Providence Water Supply Board shall credit the supplier such amounts until the over payment is used up and such supplier shall remit additional monies to the Board to such credits as such credits are applied.~~

~~e. Once a reconciliation audit establishes a new percentage factor, such percentage factor shall be employed for future remittances of the water quality protection charge by the applicable supplier until such time as a new reconciliation audit establishes a different percentage factor.~~

~~8. Accompanying each remittance to the Board shall be a completed remittance advice form in the form of Exhibit A or B as appropriate attached hereto.~~

~~9. On or before the 20th day of each January and July, suppliers shall provide the Board with their projection as to water quality protection charges to be paid by suppliers to the Board over the following twelve-calendar month period. Such projections shall be submitted in the form attached hereto as Exhibit C and D as appropriate.~~

~~10. All water quality protection charges remitted to the Board, any funds as the state shall from time to time appropriate, proceeds from the sale of bonds and notes, and any monies obtained as grants, bequests, donations, gifts or fines which are intended to be used for the purposes~~

~~consistent with RIGL Title 46, Chapter 15.3, Public Drinking Water Supply System Protection Act as amended, shall be administered by and be in the custody of the Treasurer of the Board.~~

- ~~14~~F. If any supplier fails to pay the water quality protection charge imposed upon it, under the Act, the Bank and the Board shall notify such supplier in writing specifying the amount of charge due and the date by which payment is demanded. If supplier shall contest the amount due, the Bank and the Board shall consider any materials presented by the supplier to support its claim. Upon a determination by the Bank or the Board of the amount due and the failure to pay, the Bank or the Board ~~shall~~may invoke the state aid intercept provisions under the Act.

~~7.3 — Eligible Expenditures~~ 7.5 Project Eligibility Process

- ~~A. — Disbursement of funds shall be made per RIGL 46-15.3-11, as amended.~~
- ~~B. — Any monies accumulated in the Water Quality Protection Fund which are in excess of that pledged to repayment of outstanding bonds, notes, lease payments or loan payments at any given time may be used directly for eligible expenditures for purposes permitted under these rules.~~
- ~~C. — Monies subject to requisition from any bond proceeds shall be disbursed to each supplier in accordance with the proceedings authorizing the issuance of the bonds and any agreements with suppliers regarding expenditures of bond proceeds and the requisition of bond proceeds. Suppliers shall be required to expend water quality protection fund monies and bond proceeds as follows:~~
- A. Suppliers interested in seeking funding Bank WQPC Fund may submit an application to the Board according the procedure delineated below. The application is available at the Board's offices or as published by the Board. There are two types of projects the Board may consider. First, applications to acquire and permanently protect water supply land. Second, applications to construct physical improvements that directly protect drinking water quality.
1. Applications to construct physical improvements that directly protect drinking water quality must meet the eligibility requirements as set forth in § 7.6(D)(3) of this Part and must meet the land acquisition requirements set forth in § 7.6(D)(2) of this Part. No funding shall be granted pursuant to § 7.6(D)(3) of this Part until and unless the 55% requirement has been met as defined in § 7.6(D)(2) of this Part.

- B. A Supplier shall submit to the Board one copy of the complete application, additional narrative, and any maps or plans or other related documents in digital form or as a paper copy to the address specified on the application-
- C. The Board staff shall review each application and make a determination of eligibility in accordance with the Act, these regulations, and any further guidance on project eligibility established by the Board.
- D. Upon a determination by the Board staff that a project is not eligible for funding from the Bank WQPC Fund, the Supplier may appeal that determination to the Board, which may hear, in its sole discretion, such appeal with sixty (60) days from the date of submission of same.
- E. The Board staff shall forward a letter of project eligibility to Bank. Only those projects approved by the Board and/or Board Staff pursuant to these regulations are eligible for funding from the Bank's WQPC Fund.

7.6 Eligible Expenditures from the Bank Water Quality Protection Charge Fund

- A. This section applies to water quality protection charge funds remitted to the Rhode Island Infrastructure Bank pursuant to the Act and R.I. Gen. Laws Chapter 46-12.2, which shall be held by the Bank in the Bank WQPC Fund.
- B. The Bank may withdraw, and the Board and/or Board Staff may request from time to time, from the Bank WQPC Fund such amounts as are necessary for the administration of the Fund including but not limited to the costs of issuance of notes or bonds or other forms of indebtedness.
- C. Only Suppliers that withdraw water from wells, reservoirs, springs, or other original sources in potable quality shall be entitled to disbursement of funds from the Bank WQPC Fund pursuant to the Act.
- D. Eligible Expenditures for Suppliers
 - 1. Suppliers shall be required to expend ~~water quality protection~~Bank WQPC Fund monies and related bond proceeds ~~as follows:~~in accordance with the Act.
 - a2. Not less than 55% of Bank WQPC Fund monies shall be spent for the acquisition of land or rights in land or physical improvements to ~~acquire~~acquired land required to protect the quality of raw water in the water supply system. The following costs shall be included as part of the 55% requirement:

- a. ~~Expenditures for maintenance, administration, including, without limitation, costs of preparation of water supply system management plans and updates, related property surveys and appraisals, and payment of taxes shall be included as part of the 55% requirement.~~
 - b. Acquisition of watershed lands located within or outside the state.
 - c. ~~Reimbursements for preparation of a maximum of 40% of the total cost to prepare water supply system management plans and updates will be limited to 40% of total costs.~~
- ~~b3.~~ Any remaining funds may be used for ~~the funding of~~ the construction of physical improvements that directly protect the quality and safety of public drinking water supply: ~~including but not limited to the Board~~
- a. As set forth on a Board approved water quality improvements project list, which may be amended from time to time by the Board.
 - b. A supplier may appeal to the Board for consideration of projects not on the list. The Board or the Board Staff as set forth in these regulations shall make the final determination regarding the eligibility of water safety and quality improvements.
 - c. ~~No funds shall be used to extend service lines, to expand system capacity, or to install and maintain customarily applied water supply improvements. The Board shall make the final determination regarding nonstandard water quality improvements. Watershed lands eligible for protection may be located within or outside the state.~~
- ~~2.~~ ~~The costs of issuance of notes and bonds authorized by Title 46, Chapter 15.3, Public Drinking Water Protection, of the General laws of Rhode Island, as amended, may be payable from any monies in the water quality protection fund or from bond proceeds.~~
- ~~34.~~ Preparation and updates of water supply system management plans and ~~related~~ property surveys and appraisals related to eligible land acquisition may be reimbursed or paid from the ~~water quality protection funds or from bond proceeds.~~ Bank WQPC Fund monies.
- ~~D.~~ ~~In making decisions about the expenditure of money and the items sought to be requisitioned from bond proceeds, suppliers shall take into account RIGL 46-15.3-11, as amended.~~

- E. Prior to disbursement of Bank WQPC Fund monies including related note or bond proceeds to ~~such a~~ supplier, the supplier must ~~be in compliance~~ fully comply with the Water Supply System Management Planning Act, R.I. Gen. Laws Chapter 46-15.3, as amended.

7.47 Requirements for Water Quality Protection Funds

- A. The following requirements, in addition to ~~such other statutes, rules, any~~ terms; and conditions ~~as established by the Bank, as~~ may be applicable to ~~a particular~~ each supplier through the proceedings authorizing the issuance of bonds or through any supplier agreements related thereto, are conditions for approval of each disbursement of funds to a supplier from the ~~water quality protection fund or from bond proceeds~~ Bank WQPC Fund and precedent to each expenditure made pursuant to a supplier agreement:
1. The supplier shall certify that they have completed and kept current a water quality protection component ~~certified by the Board as~~ consistent with and in compliance with the requirements of R.I. Gen. Laws §§ 46; Chapter 15.3, Paragraph 7, entitled Water Quality Protection Component, General Laws of Rhode Island and 46-15.3-5.1, as amended.
 - ~~2. The disbursement and expenditure of water quality protection funds and bond proceeds must be initiated and completed in accordance with the time schedule specified in the proceedings authorizing the issuance of the bonds or any supplier agreements related thereto.~~
 - ~~3. All requisitions of bond proceeds shall be in accordance with the proceeding authorizing the issuance of the bonds and any supplier agreements related thereto.~~
 4. All expenditures financed through the ~~water quality protection fund or the requisitioning of bond proceeds~~ Bank WQPC Fund shall conform to all applicable requirements of federal, state, and local laws, ordinances, rules and regulations.
 - ~~5. All suppliers may disburse 6.9% of the charges collected and retained by the supplier as an administrative charge under the Act for any purpose relating to the operation of the supplier~~
 - ~~6. To obtain any disbursement and expenditure of water quality protection funds~~
 3. For acquisition of land or rights in land ~~pursuant to Section 3.00 (c) (1) (i) hereof,~~ the supplier must submit the following required documentation to the Board for approval:

- a. Supplier Time Schedule - Each supplier must submit an initial acquisition time schedule to the Board and the Bank. The schedule must set forth the proposed acquisitions and the approximate ~~time-frame~~ period in which each acquisition will be completed. The schedule shall be updated by the supplier from time to time as said schedule changes or as may be requested by the Board. ~~The schedule must evidence the ability of the supplier to complete the acquisitions in conformance with the requirements of § 4.4(A)(2) of this Part.~~ or the Bank.
- b. Appraisal - A real property appraisal, conducted by a real estate appraiser ~~certified~~ licensed by the state in which the real property is located, which establishes the fair market value for the land the supplier is seeking disbursement of funds for. The appraisal must comply with the Uniform Standards of Professional Appraisal Practice, as established by the Appraisal Standards Board of the Appraisal Foundation, and the Uniform Appraisal Standards for Federal Land Acquisitions, if applicable. The Board or its designee shall conduct a review of the appraisal and shall notify the supplier of acceptance or rejection of the appraisal. Any rejection shall clearly set forth the reasons for such rejection and the Board or its designee shall be available to discuss any such appraisal with a supplier.
- c. Purchase and Sale Contract - A fully executed purchase and sale contract by and between the supplier and all sellers involved in an acquisition: shall be submitted to the Board. A purchase and sale contract may only be executed ~~subsequent to~~ after the approval by the Board of the appraisal as set forth in § ~~4~~ 7.4(A)(~~63~~)(b) of this Part above. The purchase and sale contract shall contain warranties that certify that the property is ~~in compliance~~ compliant with all federal, State and local environmental requirements, which warranties shall survive the closing on the property. The purchase and sale contract shall otherwise be in form and substance satisfactory to the Board. A Certificate of Disclosure, identifying all individuals and entities having a legal interest in the property must accompany the purchase and sale contract.
- d. Survey - A Class I Survey performed by a registered land surveyor: shall be submitted to the Board. The survey shall show the property bounds of the property to be acquired, identifying any deletions from the property, easements, rights-of-way or encumbrances. ~~The survey shall be stamped by the~~ The registered surveyor shall stamp the survey. The survey must be conducted in conformance with the

Procedural and Technical Standards for the Practice of Land Surveyors in the state in which the property is located. Three (3) survey copies will be submitted to the Board.

- (1) The survey map shall:
 - (AA) Have a traverse closure of 1:10,000 feet.
 - (BB) Provide sufficient monumentation to reproduce the survey.
 - (CC) Meet all requirements of the respective city or town zoning ordinance and any applicable subdivision regulations.
 - (DD) Be in a form suitable for recording in the land evidence records of the respective city or town.
 - (i) The surveyor must also supply a metes-and-bounds property description and a Surveyor's Report adequate in form and substance for issuance of title insurance for the property.
- e. Title Insurance Commitment – A title insurance commitment from a title insurance company providing for clear title to the supplier upon acquisition of the property. The commitment shall set forth all encumbrances that do not have a material ~~effect~~effect upon the interest the supplier is acquiring.
- f. Deed or Easement Documentation – The proposed deed or conservation easement for the proposed acquisition. The deed or easement must provide that the land being acquired shall be maintained in perpetuity in a manner that protects the quality of raw water of the supplier's water supply system. The deed or easement shall perpetually restrict the property to ensure that the property is conserved for the purposes set forth herein and shall permit a transfer of the property only to a successor in function of the supplier.
- g. Supplier Resolution – A Certified Resolution, ~~or other similar~~ authorizing document of the governing board of the supplier authorizing the acquisition.
- h. Environmental Site Assessment – In the sole discretion of the Board, the supplier may be required to submit an environmental

site assessment. The site assessment must meet the guidelines set by the Rhode Island Society of Environmental Professionals or the applicable state regulatory requirements if the property is not located in Rhode Island. The Board shall approve or reject any documentation submitted pursuant to this subsection within 30 days of submission.

7.5 For non-land acquisition projects, the supplier must submit documentation acceptable to the board.

7.58 Supplier Agreements

- A. ~~Upon the borrowing of money and the issuance of bonds therefor for the purposes set forth in R.I. Gen. Laws Chapter 46-15.3, as amended, the Board~~The Bank shall enter into supplier agreements with suppliers to provide funding from the Bank WQPC Fund for eligible ~~for disbursement of bond proceeds~~projects as determined by the Board.
- B. Suppliers shall comply with all terms and conditions of such supplier agreements. The ~~Board~~Bank will be under no obligation whatsoever to approve supplier's requisitions of ~~bond proceeds if~~funds from the Bank WQPC Fund if such supplier is not current on all water quality protection charges owed to the Bank or Board in the Bank or Board's determination.

~~7.6 Administration and Performance~~

~~—The supplier bears responsibility for administration and expenditure of the water quality protection funds and bond disbursements, including any agreements made by the supplier for accomplishing program objectives. Although suppliers are encouraged to seek advice and opinion of the Board on problems that may arise, the giving of such advice and/or opinion shall not shift the responsibility for final decisions to the Board. The primary concern of the Board is that disbursed funds be used in conformance with these procedures and be used in conformance with the purposes set forth in the Act.~~

~~7.7 Fraud and Other Unlawful or Corrupt Practices~~

- A. ~~—The supplier shall administer the expenditures of water quality protection funds and bond proceeds and the award of contracts, subcontracts, and agreements, etc. generated therefrom free from bribery, graft, and other corrupt practices. The supplier bears primary responsibility for prevention and detection and for cooperation in the prosecution of any such conduct.~~

~~B. The supplier shall pursue available judicial and administrative remedies and take appropriate remedial action with respect to any allegations or evidence of any illegalities or corrupt practices. The supplier shall notify the Board immediately after such allegations or evidence comes to the supplier's attention, and shall periodically advise the Board of the status and ultimate disposition of any matter in question. Failure to immediately notify the Board of such allegations or evidence will result in the termination of the disbursement of water quality protection funds or bond proceeds to the supplier.~~

7.89 Access

The supplier and the supplier's ~~contractor, consultant~~contractors, consultants and all others employed through expenditure of ~~water quality protection funds or bond proceeds~~Bank WQPC Fund monies shall give and provide to the Bank and Board's personnel and/or representatives access to the facilities, premises, and records related to the disbursement and expenditure of ~~water quality protection funds or bond proceeds~~Bank WQPC Fund monies. The supplier shall submit to the Board such documents and information as requested by the Bank or the Board. The supplier shall retain all records related to the disbursement and expenditure of ~~water quality protection funds or bond proceeds in a generally acceptable accounting and filing mode~~Bank WQPC Fund monies.

7.9 Assignment

~~The right to receive a disbursement from the water quality protection fund or bond proceeds may not be assigned, nor may payments due under a supplier agreement be similarly encumbered, unless and until the supplier receives the prior written approval of the Board.~~

7.10 Use and Disclosure of Information

~~All records of the supplier and the Board pertaining to the imposition, collection, disbursement, and expenditure of water quality protection funds and bond proceeds constitute public records. Such records shall be available to persons who requested their release to the extent allowed by the laws of the State of Rhode Island and by federal law.~~

7.1110 Non-compliance

~~A.~~ In addition to any other rights or remedies available to the Bank and the Board whether pursuant to law, or equity, or agreement, in the event of non-compliance by the supplier with any provision ~~of R.I. Gen.(s) of the Act, or other applicable Rhode Island General Laws Chapter 46-15.3, as amended, and/or~~ or applicable Rhode Island General Laws Chapter 46-15.3, as amended, and/or or applicable regulations, or the specific requirements of these procedures, ~~and/~~ or any supplier

agreement, the Bank or the Board may ~~take any of the following actions or combination thereof:~~

1. issue a notice of non-compliance ~~pursuant to § 4.12 of this Part of these procedures;~~
2. Withhold, withhold or terminate disbursement of funds ~~pursuant to § 4.13 of this Part of these procedures~~, and/or
3. terminate or annul a disbursement pursuant to §§ 4.14 and 4.15 of this Part. the supplier agreement.

7.1211 Notice of Non-compliance

When the Board determines that the supplier is in non-compliance with any condition and/or requirement of any law, ~~of these procedures~~regulation, and/or the supplier agreement, the Bank or the Board shall notify the supplier of the non-compliance. The Bank or the Board may require the supplier, its consultants, contractors, or others employed through the expenditure of ~~water quality protection funds or bond proceeds~~Bank WQPC Fund monies to take and complete corrective action within 30 days of receipt of notice of non-compliance. If the supplier, its consultants, contractors, and others employed through the expenditure of ~~water quality protection funds~~Bank WQPC Fund monies do not take corrective action or if such action is not deemed adequate by the Bank or the Board, the ~~Board~~Bank may withhold disbursement of funds. ~~The Board, however,~~Notwithstanding the foregoing, the Bank may withhold disbursement of funds ~~pursuant to § 4.13 of this Part~~ without issuing a notice pursuant to this section.

~~7.13 Withholding of Disbursements of Funds~~

~~—The Board may withhold a disbursement of funds or any portion thereof when it determines in writing that a supplier has failed to comply with any requirements of law, and/or any provision of these procedures, and/or any specification or requirement of the supplier agreement.~~

~~7.14 Termination of Agreement~~

~~A.—The Board may terminate a supplier agreement in whole or in part for good cause. The term "good cause" shall include but not be limited to failure by the supplier to comply with the terms and conditions of the supplier agreement, including the timely payment of all water quality protection charges due the Board.~~

- ~~1. The Board shall give written notice to the supplier (certified mail, return receipt requested) of intent to terminate a supplier agreement in whole or in part at least 10 days prior to the intended date of termination, stating the reasons for proposed termination.~~
 - ~~2. The Board will afford the supplier an opportunity for consultation with the Board prior to any termination. After such opportunity for consultation, the Board may in writing (certified mail, return receipt requested) terminate the supplier agreement in whole or in part.~~
- ~~B. Upon termination, the supplier shall refund to the Board that portion of any disbursement made to the supplier for work not complete due to termination. The Board shall make the final determination of refunds due the Board because of termination of the supplier agreement.~~

~~7.15 Annulment~~

- ~~A. The Board may, in writing (certified mail, return receipt requested) annul the supplier agreement if it determines that:~~
- ~~1. Without good cause therefor substantial performance of the program has not occurred;~~
 - ~~2. The grant award was obtained by fraud, or~~
 - ~~3. Gross abuse or corrupt practices in the administration of the program has occurred.~~
- ~~B. At least 10 days prior to the intended date of annulment, the Board will give written notice to the supplier of intent to annul the supplier agreement. The Board shall afford the supplier an opportunity for consultation prior to annulment of the supplier agreement; upon annulment of the supplier agreement the supplier shall return all funds previously disbursed to the supplier. The Board will make no further disbursements to the supplier. In addition, the Board shall pursue such remedies as may be available under federal, state, and local law.~~

~~7.16 Administrative Hearings~~

- ~~— The Board shall decide all disputes under a supplier agreement or these rules. The supplier may request a hearing within 15 days of notifying the Board in writing of any dispute or disagreement in the interpretation of the supplier agreement or these rules. The Board shall grant and conduct such a hearing in accordance with the provisions of the Administrative Procedures Act, R.I. Gen. Laws Chapter 46-35, as amended. Following a hearing, the Board shall reduce its decision to writing and furnish a copy thereof to the supplier.~~

~~7.17 Liberal Construction~~

~~—The provisions of these rules shall be construed in order to accomplish the purposes hereof, and where any specific power is given to any agency by the provisions hereof, the statement thereof shall not be deemed to exclude or impair any power otherwise in these rules conferred upon that agency.~~

~~7.18 Rules and Regulations~~

~~—The Board may issue, amend, and/or repeal these rules at its discretion and in accordance with the Administrative Procedures Act, R.I. Gen Laws Chapter 42-35.~~

~~7.19~~12 Severability

If any section, subsection, provision, clause or portion of these rules is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these rules shall not be affected thereby.

~~7.20 Effective Date~~

~~—The amendments to the regulations shall take effect 20 days after filing of the amendments with the Secretary of State.~~

~~Exhibits~~

~~Exhibit A Water Quality Protection Charge~~

~~Exhibit B~~

~~Exhibit C Watershed and Well Head Protection Program~~

~~Exhibit D Surcharge Payment Projections FY 2003~~