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Title 10: Conservation And Development

Chapter 55: Aid To Municipalities For Water Supply And Water Pollution Abatement And Control

Subchapter 1: General Provisions

§ 1571. Definitions

As used in this chapter:

(1) "Agency" means Agency of Natural Resources.

(2) "Board" means the Natural Resources Board.

(3) [Repealed.]

(4) "Department" means the Department of Environmental Conservation.

(5) "Municipality" means a municipality as defined in 1 V.S.A. § 126.

(6) "Water pollution abatement and control facilities" means such equipment, conveyances, and structural or nonstructural facilities owned or operated by a municipality that are needed for and appurtenant to the prevention, management, treatment, storage, or disposal of stormwater, sewage, or waste, including a wastewater treatment facility, combined sewer separation facilities, an indirect discharge system, a wastewater system, flood resiliency work related to a structural facility, or a groundwater protection project.

(7) [Repealed.]

(8) "Secretary" means the Secretary of Natural Resources or the Secretary's duly authorized representative.

(9) [Repealed.]

(10) "Designated center" means a downtown development district, village center, new town center, growth center, Vermont neighborhood, or neighborhood development area designated under 24 V.S.A. chapter 76A.

(11) "Sewage" shall have the same meaning as used in 24 V.S.A. § 3501.

(12) "Stormwater" shall have the same meaning as stormwater runoff in section 1264 of this title.

(13) "Waste" shall have the same meaning as used in section 1251 of this title. (Added 1971, No. 97, § 3, eff. April 22, 1971; amended 1981, No. 222 (Adj. Sess.), § 30; 1987, No. 76, § 18; 1997, No. 62, § 57, eff. June 26, 1997; 2003, No. 63, § 61, eff. June 11, 2003; 2003, No.

115 (Adj. Sess.), § 39, eff. Jan. 31, 2005; 2003, No. 121 (Adj. Sess.), § 63, eff. June 8, 2004; 2013, No. 147 (Adj. Sess.), § 10, eff. June 1, 2014; 2015, No. 103 (Adj. Sess.), § 5, eff. May 12, 2016.)

§ 1572. Repealed. 2015, No. 103 (Adj. Sess.), § 6, eff. May 12, 2016.

Subchapter 2: Engineering Planning Advances

§§ 1591-1595. Repealed. 2015, No. 103 (Adj. Sess.), § 7, eff. May 12, 2016.

§§ 1596-1598. Repealed. 1981, No. 222 (Adj. Sess.), § 32.

Subchapter 3: Construction Grants

§ 1621. Financial assistance

A municipality that desires State financial assistance for construction, improvement, or expansion of water pollution abatement and control facilities may make application to the Department in accordance with this subchapter. (Added 1971, No. 97, § 3, eff. April 22, 1971; amended 1997, No. 62, § 58, eff. June 26, 1997; 2015, No. 103 (Adj. Sess.), § 13, eff. May 12, 2016.)

§ 1622. Eligible projects

As used in this subchapter, eligible project costs for water pollution abatement and control facilities projects shall include equipment, conveyances, and structural or nonstructural facilities needed for and appurtenant to the prevention, management, treatment, storage, or disposal of sewage, waste, or stormwater, and the associated costs, including planning and design costs, necessary to construct the improvements, including costs to acquire land for the project. (Added 1971, No. 97, § 3, eff. April 22, 1971; amended 1971, No. 255 (Adj. Sess.), § 8, eff. April 11, 1972; 1973, No. 112, § 1, eff. April 25, 1973; 1977, No. 241 (Adj. Sess.), § 2; 1983, No. 198 (Adj. Sess.), § 2, eff. Oct. 1, 1984; 1997, No. 62, § 59, eff. June 26, 1997; 2015, No. 103 (Adj. Sess.), § 14, eff. May 12, 2016; 2017, No. 185 (Adj. Sess.), § 18, eff. May 28, 2018.)

§ 1623. Application

A municipality that has voted funds in a specific amount to construct a water pollution abatement and control facility as described in section 1622 of this title, at a meeting duly warned for that purpose, which desires to avail itself of State aid funds under this subchapter, shall apply for such funds in writing to the Department in a manner prescribed by the Department. (Added 1971, No. 97, § 3, eff. April 22, 1971; amended 1977, No. 39, § 3, eff. April 19, 1977; 2015, No. 103 (Adj. Sess.), § 15, eff. May 12, 2016.)

§§ 1624-1626a. Repealed. 2016, No. 103 (Adj. Sess.), § 16, eff. May 12, 2016.

§ 1626b. Municipal water pollution control grants

(a) Projects. The Secretary may award State assistance grants to municipalities for water pollution abatement and control facilities.

(b) Application. The Secretary shall prescribe the form of application to apply for a grant under this section. The application shall include:

- (1) a description of the project;
- (2) a schedule for project implementation;
- (3) an estimate of the project cost;
- (4) the information necessary for the Secretary to determine the grant amount using the criteria described in section 1628 of this title;
- (5) whether the project requires a permit under chapter 151 of this title; and

(6) any other information that the Secretary deems necessary to implement this section.

(c) Grant award. The Secretary shall make grant awards pursuant to the project priority system adopted under section 1628 of this title in an amount not to exceed 35 percent of eligible project costs. The Secretary shall not award a grant under this section until the applicant provides a permit or jurisdictional opinion that a permit is not required, issued pursuant to chapter 151 of this title.

(d) Payment of awards. Payment of awards shall be made pursuant to section 1627 of this title. (Added 2015, No. 103 (Adj. Sess.), § 20, eff. May 12, 2016.)

§ 1627. Payment of awards

The Department may make periodic grant payments based upon certification by the grantee that costs for which reimbursement is requested have been incurred and paid by the grantee. The recipient shall provide supporting evidence of payment upon the request of the Department. Partial payments shall be made not more frequently than monthly. Interest costs incurred in local short-term borrowing of the grant amount shall be reimbursed as part of the grant. After the construction has been completed, and its cost audited by the Department, the Department shall certify the remainder of the award to the Commissioner of Finance and Management who shall issue his or her warrant for payment. (Added 1971, No. 97, § 3, eff. April 22, 1971; amended 1977, No. 39, § 5, eff. April 19, 1977; 1983, No. 195 (Adj. Sess.), § 5(b); 1989, No. 276 (Adj. Sess.), § 32, eff. June 20, 1990.)

Subchapter 4: Priority System, Regulations, Appeals, And Transfer Of Funds

§ 1628. Priorities

The Department shall make grant awards under this chapter to eligible municipal water pollution abatement and control projects on the basis of need as determined according to a system of priorities adopted by rule by the Department and to the extent appropriate funds are available. The system of priorities shall require consideration of criteria, including:

- (1) whether a project is grant or loan eligible;
- (2) the condition of the waters affected by the project and whether the waters are:
 - (A) not in compliance with the Vermont Water Quality Standards; or
 - (B) have a total maximum daily load (TMDL);
- (3) whether the project will address water quality issues identified in a basin plan;
- (4) whether the project will abate or control pollution that is causing or may cause a threat to public health;
- (5) whether the project will address an emergency situation affecting or constituting a threat to the environment or the public health, safety, or welfare;
- (6) if the project repairs or replaces existing infrastructure, the condition and integrity of such infrastructure;
- (7) whether the project incorporates principles of environmental resiliency or sustainability, including energy efficiency, which reduce the environmental impacts of the project or a water pollution abatement and control facility;
- (8) the fiscal integrity and sustainability of the project, including whether the project is a cost-effective alternative, when compared to other alternatives;
- (9) whether the project serves a designated center;
- (10) affordability factors for the municipality or municipalities in which the project is located, including:
 - (A) median household income;
 - (B) unemployment rate; and
 - (C) population trends; and

(11) if the project removes a pollutant for which the water or waters affected by the project are impaired, the cost-effectiveness of the project at removing that pollutant. (Added 1971, No. 97, § 3, eff. April 22, 1971; amended 1981, No. 222 (Adj. Sess.), § 35; 1989, No. 276 (Adj. Sess.), § 33, eff. June 20, 1990; 2013, No. 147 (Adj. Sess.), § 11, eff. June 1, 2014; 2015, No. 103 (Adj. Sess.), § 21, eff. May 12, 2016.)

§ 1629. Appeals

Appeals of any act or decision of the Department under this subchapter shall be made in accordance with chapter 220 of this title. (Added 1971, No. 97, § 3, eff. April 22, 1971; amended 1981, No. 222 (Adj. Sess.), § 36; 2003, No. 115 (Adj. Sess.), § 40, eff. Jan. 31, 2005.)

§ 1630. Rules

The Department with the approval of the Secretary shall adopt rules consistent with this subchapter as it finds necessary for proper administration of the subchapter. (Added 1971, No. 97, § 3, eff. April 22, 1971; amended 2015, No. 103 (Adj. Sess.), § 22, eff. May 12, 2016.)

§ 1631. Transfer of funds

The Commissioner of the Department, with the approval of the Secretary of Natural Resources, the Secretary of Administration, and the Emergency Board, may transfer any unexpended balance of funds between a municipal pollution control or water supply planning or construction and storm water separation project authorized under this chapter if, in his or her judgment, financial or economic conditions are such that the best interests of the State would be served thereby. (Added 1975, No. 254 (Adj. Sess.), § 139; amended 1981, No. 222 (Adj. Sess.), § 37; 1987, No. 76, § 18.)

§ 1632. State administrative departments

For the purpose of constructing or substantially improving a water pollution abatement and control facility, any State administrative department as authorized in Title 3 shall be deemed a municipality under section 1623 of this title and subject to the terms and conditions applicable to municipalities; provided, however, that a State administrative department deemed a municipality shall only receive State assistance under this chapter if the Department has a surplus of funds at the end of each fiscal year after all municipal grant applicants have received committed funds. (Added 1979, No. 73, § 2, eff. May 7, 1979; amended 1981, No. 44; 2015, No. 103 (Adj. Sess.), § 23, eff. May 12, 2016.)

Subchapter 5: Technical And Other Services To Municipality

§ 1650. Department acting on behalf of municipality

Any municipality may request the Department to act in its behalf in undertaking the planning and construction of facilities described in this chapter. (Added 1971, No. 97, § 3, eff. April 22, 1971; amended 1981, No. 222 (Adj. Sess.), § 39.)

§ 1651. Application for assistance

When the voters of the municipality at a duly warned meeting have authorized the proper officials of the municipality to make application to and to enter into a contract with the Department for specific engineering and technical services, the municipality pursuant to a written application to the Department submitted in a form prescribed by the Department may enter into a contract with the Department under this subchapter. (Added 1971, No. 97, § 3, eff. April 22, 1971.)

§ 1652. Contracts

Upon approval of the application, the Department shall prepare and offer to the municipality a contract for services requested, which shall include such terms and conditions as the Department determines to be reasonable, including reimbursement of all costs of such services. (Added 1971, No. 97, § 3, eff. April 22, 1971.)

§ 1653. Eligibility

For the purposes of this subchapter, the Department, when acting on behalf of a municipality, is an eligible applicant for funds available under this chapter. Eligible planning and construction costs shall include the cost to the Department of undertaking these services on behalf of the municipality; however, in no case shall the Department administration charges

exceed two percent of the project cost. Nothing in this subchapter shall relieve a municipality of its duty to provide the land required for the project or to contribute funds toward the cost of the project as otherwise required by law. (Added 1971, No. 97, § 3, eff. April 22, 1971; amended 1981, No. 222 (Adj. Sess.), § 40.)