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**RULE ADOPTIONS**

**OTHER AGENCIES**  
**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

*40 N.J.R. 1928(a)*

**Adopted Amendments: N.J.A.C. 19:31-3.1 and 3.5**

**Authority Assistance Programs**

**Direct Loan Program; New Urban and Technology Loan Products**

Authorized By: New Jersey Economic Development Authority, Caren S. Franzini, Chief Executive Officer.

Proposed: January 7, 2008 at *40 N.J.R. 110(a)*.

Adopted: March 12, 2008 by the New Jersey Economic Development Authority, Caren S. Franzini, Chief Executive Officer.

Filed: March 12, 2008 as R.2008 d.90, **without change**.

Authority: *N.J.S.A. 34:1B-1* et seq.

Effective Date: April 7, 2008.

Expiration Date: July 22, 2010.

**Summary of Public Comment and Agency Response:**

**No public comments were received.**

**Federal Standards Statement**

The adopted amendments are not subject to any Federal standards or requirements; therefore, a Federal standards analysis is not required.

**Full text** of the adoption follows:

**(Agency Note:** The text of *N.J.A.C. 19:31-3.1(b)*, (j) and (k) below incorporates amendments proposed at *39 N.J.R. 5071(a)* and adopted elsewhere in this issue of the New Jersey Register.)

**SUBCHAPTER 3. DIRECT LOAN PROGRAM**

**19:31-3.1 Program description**

(a) (No change.)

(b) Except as otherwise provided in this subsection, direct loans are available in a maximum amount of \$ 1,250,000 for fixed asset financing and \$ 750,000 for working capital.

1.-4. (No change.)

5. For the urban loan product, the maximum loan amount will be \$ 3 million.

6. For companies awarded financing under the Edison Innovation R&D Fund by the New Jersey Commission on Science and Technology (NJCSST), the Authority may award up to 20 percent of the approved NJCSST grant, not to exceed \$ 100,000 in convertible debt financing for non-research and development related costs.

(c)-(f) (No change.)

(g) Proceeds of urban loans shall be used for fixed asset financing as set forth in (c) above, not to exceed 50 percent of total project costs, in the nine urban centers designated in the New Jersey State Development and Redevelopment Plan (Atlantic City, Camden, East Orange, Elizabeth, Jersey City, New Brunswick, Newark, Paterson and Trenton).

(h) For the Authority's Direct Loan Program, the applicant shall elect in writing, at or prior to the time of closing, a fixed interest rate as set forth in (h)1 below or at a variable interest rate as provided in (h)2 below.

1. Fixed Rate Interest:

i.-iii. (No change.)

iv. The rate to be charged for the urban loan is fixed at the time of closing at 50 percent of the Federal Discount Rate, with a floor of three percent.

v. The rate to be charged on the convertible debt portion of the Edison Innovation R&D Fund is fixed at two percent and shall be capitalized during the first five years of the financing, during which time no principal or interest payments are required. The principal and capitalized interest shall be automatically converted into equity in the event that a qualified financing in the minimum amount of \$ 500,000 shall occur during such five-year period. If no such qualified financing shall occur during that time, the principal and capitalized interest shall be amortized over the next five-year period and shall be payable monthly, with interest.

2. Variable Rate Interest: Interest on fixed asset and working capital loans is at a rate no less than three percent or the Federal Discount Rate, whichever is greater, and no more than one percent below the highest Prime Rate as published in the Wall Street Journal at the time of closing. The interest rate will be variable, adjusted on the first business day of each calendar quarter in accordance with the relationship of the original calculated interest rate to the Prime Rate or the Federal Discount rate. The maximum increase in the variable interest rate over a five year period will be five percentage points greater than the original calculated interest rate. Factors to be considered when calculating the interest rate are as set forth in (h)1 above.

3. In addition to any interest charged on a New Jersey Growth Fund or Edison Innovation R&D Fund loan, the Authority may also require the payment of additional fees and incentives, including, but not limited to, warrants, stock, stock options, a percentage of royalties, and a percentage of sales proceeds.

(i) The term of a fixed asset or working capital loan is a maximum of 10 years, although the amortization may be for a longer time based on the use of proceeds and the applicant's ability to repay. Smart Growth Predevelopment and Brown-field Redevelopment loans will have a maximum term of three years. The New Jersey Growth Fund term is a maximum of 10 years, and may allow for interest only payments for a portion of the term, or for interest and payment deferrals, with the repayment schedule to be determined on revenue and operational milestone achievement.

(j) The Authority may make direct loans in excess of \$ 1,250,000 and up to \$ 2 million for fixed assets. An applicant for a direct loan in excess of \$ 1,250,000 shall:

1.-3. (No change.)

(k) Notwithstanding (j) above, an existing New Jersey company that is not targeted by the Authority as set forth in N.J.A.C. 19:30-5, but can meet the criteria set forth in (j)2 above shall be eligible for a direct loan in excess of \$ 1,250,000 if it can demonstrate that at least 400 permanent full-time jobs shall be maintained in New Jersey and the Authority's exposure shall be maintained in New Jersey and the Authority's exposure shall not exceed \$ 50,000 per job maintained.

(l) For purposes of (j) and (k) above, the direct loan term shall not exceed 10 years.

(m) For New Market Loans:

1.-3. (No change.)

4. For New Market loans, the projects must be located within areas designated for smart growth land use development and designated by the New Jersey Development and Redevelopment Plan as in Planning Areas One or Two or is a designated center or endorsed plan. Additionally, projects must be located in communities and census tracts as approved by the Community Development Financial Institutions Fund (CDFI) as described in (m)4i through iii below and must have at least one of the characteristics described in (m)5 below.

i.-iii. (No change.)

5.-6. (No change.)

19:31-3.5 Approval process

(a)-(c) (No change.)

(d) If there has been no veto, a formal commitment letter is issued to the applicant.

1. (No change.)

2. With the exception of the New Jersey Growth Fund and the Edison Innovation R&D Fund, usually, life insurance on the applicant's principal officer(s) is required in an amount equal to the Authority's guarantee. The life insurance must name the Authority as a collateral assignee.

3. With the exception of the New Jersey Growth Fund and the Edison Innovation R&D Fund, personal guarantees of owners of 10 percent or more of the applicant are usually required, and there may be a requirement for collateral apart from the applicant's collateral to secure the personal guarantees.

(e)-(f) (No change.)