

1. The allocation represented by one-half of the difference between the total base allocation as established pursuant to (b) above for all permittees and the total of 1991 withdrawals from the PRM aquifer system is designated water allocation credits.

2. Such water allocation credits may be transferred provided that the credits transferred are for local use only, as "local use" is defined in N.J.A.C. 7:19-1.3, and the increased diversion will not have an adverse impact upon the PRM aquifer system or other users of the system. The transfer shall be made in accordance with N.J.A.C. 7:19-8.7.

3. The base allocation of any affected permittee in the Water Allocation Credit Receiving Area who demonstrates that a net reduction in its water use over the period from 1978 to 1991, inclusive, was the result of documented water conservation efforts shall be supplemented by water conservation credits. Water conservation credits shall be equal to 50 percent of the difference between the maximum volume of water withdrawn during this period and 1991, and shall be used by the permittee to satisfy its water demands. Conservation credits cannot be sold, leased or transferred from their geographic location.

4. A supplier of an interconnected system shall have the right to obtain water allocation credits in an amount that would allow transfer of additional volumes through the interconnection provided that such additional volumes do not exceed 50 percent of the volume transferred through the interconnection in 1991.

(e) The governing body of a county may establish a water allocation credit exchange. The water allocation credit exchange shall initially contain the water allocation credits determined pursuant to (d)1 above. The water allocation credits shall be considered a common resource, administered by the county in consultation with the Department. Any county governing body that establishes a water allocation credit exchange shall submit to the Department an implementation plan for review and approval.

(f) Water allocation credits become part of a permittee's base allocation once they are transferred from the water allocation credit exchange to the permittee. Transfers of water allocation credits from the credit exchange are subject to Department approval in accordance with N.J.A.C. 7:19-8.7.

New Rule, R.1995 d.162, effective March 20, 1995.  
See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

#### 7:19-8.6 Base allocation transfers

(a) Within areas of critical water supply concern, a permittee may transfer base allocations with the Department's approval, in order to facilitate the transfer of water to areas of anticipated growth or areas where alternative supplies of water are not available.

(b) The base allocation from the sending party, the permittee from which the base allocation is transferred, shall be transferred to the receiving party, the permittee to which the base allocation is transferred. Upon transfer of all or a portion of the base allocation by the sending party, the diversion privileges for that permittee shall be reduced by the Department, by an amount equal to the transferred base allocation and the diversion privileges of the receiving party shall be increased by an amount equal to the transferred base allocation.

(c) A permittee proposing to permanently transfer a portion of its base allocation to another permittee may do so either in a direct transaction between the two parties or through the auspices of a county water credit exchange established pursuant to N.J.A.C. 7:19-8.5(e). The Department shall review and approve such a permanent transfer in accordance with N.J.A.C. 7:19-8.7.

(d) The Department does not consider the leasing of base allocations a viable long term water supply alternative but may consider it to be an acceptable short term alternative until a dependable long term alternative water supply is available.

(e) The permittee proposing to transfer all or part of its base allocation diversion privileges must be the applicant for approval of the transfer of base allocation pursuant to N.J.A.C. 7:19-8.7.

New Rule, R.1995 d.162, effective March 20, 1995.  
See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

#### 7:19-8.7 Base allocation and water supply allocation credit transfer procedure

(a) A permittee seeking to transfer all or part of its base allocation or the permittee seeking to obtain water supply allocation credits shall submit an application to the Department which shall include the following:

1. A map showing the locations of the wells from which the base allocation is proposed to be transferred and the location of the receiving wells. Wells shall be identified by the Department's well permit number;
2. The aquifer and amount of base allocation or water supply allocation credits to be transferred;
3. An assessment of the impact of the transfer on the water resource and other users of the resource in the vicinity of receiving wells; and
4. Information demonstrating that the sending party's demands can be met after the transfer of the base allocation.

(b) The Department shall approve, subject to other applicable requirements of this chapter, a permanent transfer of any or all of a permittee's base allocation to another permittee through a permit modification in accordance with

N.J.A.C. 7:19-2.2, provided that the transfer will not result in:

1. A diversion which is from an aquifer different from that in which the sending well is located;
2. A diversion which is closer to the salt water interface, or is at a lower potentiometric surface than the sending well, and further degrades the condition of the water supply source; and
3. The sending party's inability to meet its water supply demands.

(c) The Department will not approve a transfer of base allocations or water allocation credits if the receiving party does not develop and implement an appropriate water conservation and drought management plan pursuant to N.J.A.C. 7:19-2.14(a)10 or if the alternative water supply plan required pursuant to N.J.A.C. 7:19-8.3(d) is not in accordance with the water supply alternatives adopted by the Department pursuant to N.J.A.C. 7:19-8.3(a)4.

(d) The receiving party's use of the water does not have to be for the same purpose as the sending party's use of the water.

(e) Any wells for which the total diversion privileges have been transferred shall be sealed in accordance with N.J.A.C. 7:9-9.

(f) If, because of the receipt of the transferred base allocation or water supply allocation credits, the receiving party would require a new diversion source, an increase in pumping capacity, or an increase in monthly and/or yearly allocation, the receiving party shall apply for a permit modification in accordance with N.J.A.C. 7:19-2.2.

(g) If the purchase of additional base allocation or water supply allocation credits is solely for the purpose of replacing water allocation reduced as a result of Department-implemented action, this will be considered a minor modification of the permit. Upon receipt of notification that the transaction has been completed, the Department will proceed in accordance with N.J.A.C. 7:19-1.5(b).

(h) If the sending party retains diversion rights in excess of 100,000 gallons per day, the reduction in allocation will be considered a minor modification of the permit. Upon receipt of notification that the transfer has been completed, the Department will proceed in accordance with N.J.A.C. 7:19-1.5(b).

New Rule, R.1995 d.162, effective March 20, 1995.  
See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

### 7:19-8.8 Adjudicatory hearings

A permittee who believes himself or herself to be aggrieved by a decision of the Department pursuant to this subchapter may request an adjudicatory hearing in accordance with N.J.A.C. 7:19-2.13.

New Rule, R.1995 d.162, effective March 20, 1995.  
See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

## SUBCHAPTER 9. ESTABLISHMENT OF WATER SURCHARGE SCHEDULE

### Subchapter Historical Note

Subchapter 9, Establishment of Water Surcharge Schedule, was recodified from N.J.A.C. 7:19B-1 by R.1995 d.162, effective March 20, 1995. See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

### 7:19-9.1 Scope and authority

This subchapter, adopted pursuant to the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq., shall constitute the rules governing the establishment of a water surcharge schedule applicable during a declared state of emergency as mandated by Executive Order No. 5, signed by Governor Thomas Kean on April 27, 1982.

Recodified from 7:19B-1.1 and amended by R.1995 d.162, effective March 20, 1995.  
See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

### 7:19-9.2 Purpose

The purpose of this subchapter is to establish a water surcharge schedule for the retail costs of water supplies during water emergencies, declared by the Governor of the State of New Jersey. The schedule will be utilized by all applicable water purveyors in the event of such a declared emergency.

Recodified from 7:19B-1.2 and amended by R.1995 d.162, effective March 20, 1995.  
See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

### 7:19-9.3 Establishment of the water emergency surcharge schedule

(a) Once a water emergency has been declared, as provided at N.J.S.A. 58:1A-4, and at the initiation of Phase II, the Drought Coordinator shall cause to be implemented the following water surcharge schedules established for the retail cost of water:

1. During Phase II of a water emergency the normal water rate shall be charged residential users for the first 50 gallons per capita used daily. Any water used above the prescribed amount in each billing period shall be charged the normal rate plus a \$5.00 surcharge for each additional 100 cubic feet or portion thereof (one cubic foot equals about 7.5 gallons). This rate may be increased, up to a maximum surcharge of \$10.00 for each additional 100 cubic feet or portion thereof, at the discretion of the Drought Coordinator should Phase II continue or should desired conservation levels not be met.

2. During Phase II of a water emergency, non-residential users of water shall be charged the normal water rate plus 0.33 times the normal rate as a surcharge for all water purchased. This rate may be increased, up to a maximum of the normal rate plus 0.50 times the normal rate, at the discretion of the Drought Coordinator should Phase II continue or should desired conservation levels not be met.

3. Water surcharge schedules set forth herein may be reviewed and adjusted, after notice and public hearing, in order to fulfill the objectives of the Act and Executive Order No. 5 (1982).

4. Each purveyor shall give appropriate notice of the imposition of the surcharge schedule, as directed by the Department.

5. The Drought Coordinator may authorize the owner of any building or complex with multiple dwelling units, where the individual dwelling units lack individual water meters, to pass through the surcharge to the occupants of the individual dwelling units. The pass-through shall be pro rated in proportion to the number of bedrooms served by the water meter. No political subdivision of the State shall enact or enforce any ordinance, rule, regulation, or order which shall prevent such a pass-through. Prior to the imposition of a pass-through, the owner of any building or complex with multiple dwelling units shall comply with the following requirements, including, but not limited to:

- i. An inspection for leaks and the repair of water fixtures;
- ii. The installation of water conservation fixtures and devices;
- iii. The dissemination of information to the building's occupants on the need for water conservation; and
- iv. The submission of a report to the Drought Coordinator detailing the owner's compliance with the above requirements and setting forth the procedures to be used to insure proper collection and payment of the surcharges.

(1) The Drought Coordinator may require owners to submit updated reports and may revoke an authorization to pass-through surcharges where the owner has failed to comply with the requirements of this paragraph.

Amended by R.1990 d.164, effective March 19, 1990.

See: 22 N.J.R. 18(a), 22 N.J.R. 947(a).

Drought Coordinator given authority to increase water emergency surcharge rates, as specified.

#### **7:19-9.4 Submission of the water emergency surcharge schedule; quarterly report**

(a) Upon declaration of a water emergency, each applicable water purveyor shall submit a copy of its water surcharge

schedule, determined pursuant to the method provided herein, to the Department of Environmental Protection.

(b) For monitoring purposes, each applicable water purveyor shall submit a bi-monthly report on its surcharge and rationing activities to the Water Emergency Task Force using forms provided by the Department.

(c) The purveyors shall also submit a quarterly report to the Department of Environmental Protection and the Department of Treasury and the Board of Public Utilities, where applicable, detailing the source, amount and other information required by these agencies concerning excess sums collected pursuant to the water surcharge schedule.

(d) The purveyors shall submit any additional reports and submittals necessary to properly manage a water emergency as may be required by the Department.

Amended by R.1990 d.164, effective March 19, 1990.

See: 22 N.J.R. 18(a), 22 N.J.R. 947(a).

New (b) and (d) added; old (b) recodified.

#### **7:19-9.5 Collection of the emergency water surcharge; water emergency fund**

(a) It shall be the responsibility of the applicable water purveyor to assess and collect all sums under the water surcharge schedule and to forward, on a quarterly basis, those sums in excess of the amount collected under normal water rates, to a collecting authority designated by the Department of Treasury for deposit into a cash management account to be known as the "Water Emergency Fund."

(b) Access to the monies in the Fund shall be limited to the State Treasurer and the Commissioner of the Department of Environmental Protection or their designees.

(c) Interest accrued on the monies in this fund shall be credited to the Fund.

(d) The Fund shall be disposed of as directed by the Drought Coordinator, in consultation with the Commissioner, only for the following purposes;

1. The promotion of water conservation, the purchase of water conservation devices for distribution to water users affected by the water supply emergency, and emergency projects;
2. Reimbursement, in whole or part, to water purveyors for reasonable expenses incurred in the administration and enforcement of the accelerated rate schedule; and
3. Reasonable administrative costs directly attributed to the water supply emergency incurred by the State in the discharge of duties and responsibilities under an Executive Order which declares a water supply emergency.

(e) A customer of record shall pay the surcharge assessed pursuant to (a) above to its water purveyor within 30 days after receipt of a bill for such surcharge.

Amended by R.1990 d.164, effective March 19, 1990.  
See: 22 N.J.R. 18(a), 22 N.J.R. 947(a).  
New (e) added.

#### **7:19-9.6 Exemption from the water emergency surcharge schedule**

Exemptions from water rationing requirements in this subchapter may be granted by the Department according to the procedures and standards in N.J.A.C. 7:19-10.

Amended by R.1995 d.162, effective March 20, 1995.  
See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

### **SUBCHAPTER 10. POWERS OF THE COMMISSIONER DURING A WATER EMERGENCY**

#### **Subchapter Historical Note**

Subchapter 10, Powers of the Commissioner during a Water Emergency, was recodified from N.J.A.C. 7:19A-2 by R.1995 d.162, effective March 20, 1995. See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

#### **7:19-10.1 Scope**

This subchapter establishes the restrictions and requirements that the Commissioner may impose on water purveyors and users during a water emergency, notwithstanding any State or local law or contractual agreement. The Commissioner may impose such additional restrictions and requirements during a water emergency he deems necessary to alleviate the water emergency.

#### **7:19-10.2 Restrictions and requirements placed on water purveyors**

(a) The restrictions and requirements placed by the Commissioner on water purveyors during a water emergency may include the following:

1. Reduction by a specified amount of the use of any water supply;
2. Utilization of an alternate water supply where possible;
3. Emergency interconnections between water supply systems;
4. Transfer of water from any public or private system;
5. Cessation of the use of any water supply;
6. Alteration of passing flow requirements. Such alteration in passing flow requirements does not exempt the purveyor from paying appropriate excess diversion fees;

7. Imposition of bans on adjustable water uses;
8. Other modifications or measures to insure an adequate water supply;
9. Reduction, reapportionment and/or redistribution of their particular water supply;
10. Cessation of the distribution of their particular water supply;
11. Distribution of a specified amount of water to certain users; and
12. Collection by water purveyors of rates pursuant to the water emergency rate schedule.

Amended by R.1990 d.180, effective March 19, 1990.  
See: 21 N.J.R. 3594(a), 22 N.J.R. 932(a).  
Fee payment requirements added to (a)6.

#### **7:19-10.3 Requirements placed on departments and agencies within State government**

After a determination by the Commissioner and after notice to the appropriate State government body, agency, department, said body, agency, or department shall provide immediately, any information, assistance, resources and personnel as shall be necessary for the Commissioner to discharge his or her functions and responsibilities under the Act or this subchapter.

Amended by R.1995 d.162, effective March 20, 1995.  
See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

### **SUBCHAPTER 11. GENERAL POWERS OF THE DEPARTMENT**

#### **Subchapter Historical Note**

Subchapter 11, General Powers of the Department, was recodified from N.J.A.C. 7:19A-3 by R.1995 d.162, effective March 20, 1995. See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

#### **7:19-11.1 Scope**

This subchapter establishes the requirements that the Commissioner shall impose on water purveyors and users, but not limited thereto, after the effective date of this chapter.

#### **7:19-11.2 Water purveyor emergency response plans and teams**

(a) Water purveyors serving more than 3,000 residents, and other purveyors when requested by the Department shall develop and submit to the Department:

1. Emergency response plans by February 16, 1986, for water purveyors serving more than 50,000 residents or by March 19, 1991 for water purveyors serving more than 3,000 residents but not more than 50,000 residents.
  - i. The plans shall include, but not be limited to:

- (1) Organization structure including names of emergency response team members and telephone numbers;
- (2) Emergency notification and communication procedures;
- (3) Interconnections and backup supplies to be utilized;
- (4) Interim water restrictions, conservation measures and alternate sources of water;
- (5) Coordination procedures for emergency response with other agencies;
- (6) Resources inventory;
- (7) Vulnerability assessment; and
- (8) Any other information the Department deems necessary to respond to unforeseen water emergencies and long-term relatively predictable water emergencies.

2. Revised and updated emergency response plans whenever there is a significant change to the procedures in the plan, but in all cases at least every two years. Any change in emergency response personnel or their telephone numbers shall be reported to the Department within two weeks after such change.

(b) Water purveyor emergency response teams shall be comprised of managerial, technical, operations, and public information personnel to implement the emergency response plan. The members of the emergency response teams shall be listed in the emergency response plans.

(c) The water purveyor shall undertake the periodic evaluation of the effectiveness of the emergency response plan and shall incorporate the results of such evaluations into the plan revisions and updates.

Amended by R.1990 d.180, effective March 19, 1990.  
See: 21 N.J.R. 3594(a), 22 N.J.R. 932(a).

Added requirement that purveyors of water to more than 3,000 people submit emergency response plan at (a); elements of plan added at (a)2; revision requirements added at (a)3.

#### 7:19-11.3 Interconnection tests

(a) Complete interconnection flow tests shall be taken by the water purveyor when specifically ordered by the Department during an emergency.

(b) Any purveyor wishing to be exempt from the requirements of this section on the basis of hardship, should petition the Department and demonstrate that same would result in extraordinary hardship to the water purveyor.

(c) Such tests shall be attended by representatives of both systems.

#### 7:19-11.4 Large user contingency plans

(a) Water purveyors shall request that all water users with a rate of use of 250,000 gallons per day or more to submit contingency plans to their respective purveyors. Such users shall submit contingency plans to their respective purveyors within a time frame established by the Department. Self-supplied users with a rate of use of 250,000 gallons per day or more shall submit contingency plans to the Department. Such large user contingency plans shall include but shall not be limited to the following:

1. A description of where water conservation can be achieved in their system and what alternative supplies are available to replace existing ones.
2. A description of the measures which such user would take in the event such user was required to cease operations on a partial or total basis, outlining the expected consequences to the public which might result from such a closure and the possible alternative sources of supply of any products produced by the user or services provided by the user.

Amended by R.1990 d.180, effective March 19, 1990.  
See: 21 N.J.R. 3594(a), 22 N.J.R. 932(a).  
Contingency plans required.

#### 7:19-11.5 Other water use information

Water purveyors and water users shall provide any additional information necessary to properly manage a water emergency as required by the Department.

New Rule, R.1990 d.180, effective March 19, 1990.  
See: 21 N.J.R. 3594(a), 22 N.J.R. 932(a).

#### 7:19-11.6 Drought warning requirements

(a) During a drought warning condition identified in accordance with N.J.A.C. 7:19-13.1(d), the Department may order water purveyors to comply with any or all of the following requirements:

1. Development of an alternative water supply where possible;
2. The rehabilitation and activation of interconnections between water supply systems;
3. Complete interconnection flow tests;
4. The transfer of water from any public or private system; and
5. Other modifications or measures to insure an adequate water supply.

New Rule, R.1990 d.180, effective March 19, 1990.  
See: 21 N.J.R. 3594(a), 22 N.J.R. 932(a).  
Amended by R.1995 d.162, effective March 20, 1995.  
See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

## SUBCHAPTER 12. WATER EMERGENCY TASK FORCE

### Subchapter Historical Note

Subchapter 12, Water Emergency Task Force, was recodified from N.J.A.C. 7:19A-4 by R.1995 d.162, effective March 20, 1995. See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

### 7:19-12.1 Scope

(a) This subchapter establishes the purpose of the Water Emergency Task Force which is created to:

1. Review and make recommendations to the Commissioner regarding applications for hardship exemptions from the ban on adjustable water uses;
2. Hear appeals of water purveyors' decisions regarding applications for hardship exemptions from the requirements of the water rationing plans and make recommendations to the Commissioner; and
3. Assist the Commissioner in the formulation of policy during a water emergency.

Amended by R.1990 d.180, effective March 19, 1990.

See: 21 N.J.R. 3594(a), 22 N.J.R. 932(a).

Function of Water Emergency Task Force changed.

### 7:19-12.2 Membership; meetings

(a) The Water Emergency Task Force shall consist of State agency representatives appointed thereto by their particular agency heads. This Task Force shall be assisted by consultants, water purveyors and other advisors, as necessary.

(b) Meetings of the Task Force shall be convened at the discretion of the Chairman who shall direct its activities.

## SUBCHAPTER 13. THE PRIORITY-BASED PHASE SYSTEM OF WATER RESTRICTIONS

### Subchapter Historical Note

Subchapter 13, The Priority-Based Phase System of Water Restrictions, was recodified from N.J.A.C. 7:19A-5 by R.1995 d.162, effective March 20, 1995. See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

### 7:19-13.1 Scope

(a) This subchapter establishes the prioritized allocation of water supplies which will be implemented by the Department with the assistance of other State and local agencies once a water emergency is declared.

(b) This subchapter also defines the "phases" which denote the severity of the water emergency and upon which the prioritized allocation of water supplies and restrictions are based. Once a water emergency is declared by the Governor, the Commissioner shall immediately determine the severity of the water emergency and order the implementation of the activities specified in the appropriate phase or phases outlined below.

(c) Reservoir levels, stream flow, water quality conditions, ground water levels, time of year and other relevant criteria will be considered in determining the phase and the proper point of transition from one phase to another, during an emergency.

(d) Prior to actual declaration of a water supply emergency by the Governor, the Department may call for action to be taken under its non-emergency powers in order to reduce the likelihood or impact of any impending emergency. Where such situations involve a relative lack of precipitation or a lower than normal storage of water supplies, the Department may identify the affected area or the State as a whole as being in a "Drought Warning" condition. The Department shall give notice of and hold a public hearing prior to implementing any of the drought warning requirements in N.J.A.C. 7:19-11.6.

(e) Where the Delaware River Basin Commission, in accordance with its rules and procedures, declares a drought emergency based upon the storage in New York City's Delaware Basin reservoirs, thereby impacting the New Jersey portion of the Delaware Basin, the Governor may also declare a water emergency in the New Jersey portion of the Basin. The Department shall coordinate with the DRBC concerning the implementation of this subchapter and the Water Emergency Surcharge Schedule, N.J.A.C. 7:19-9.

(f) In the discretion of the Department, the restrictions in this Subchapter will not apply to use or diversion of salt water, except in situations where use or diversion of such water effects utilization of fresh water.

Amended by R.1990 d.180, effective March 19, 1990.

See: 21 N.J.R. 3594(a), 22 N.J.R. 932(a).

Notice and hearing requirements added at (d); criteria for drought warning condition amended.

Amended by R.1995 d.162, effective March 20, 1995.

See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

### 7:19-13.2 Agricultural activities

Pursuant to the "Agriculture Retention and Development Act", P.L. 1983, c.32 agricultural activities on land in a municipally-approved program shall be exempt from this subchapter unless the Governor declares that the public safety and welfare require otherwise.

### 7:19-13.3 Phase I: Available water supply levels determined to be below normal

(a) Voluntary water conservation may be encouraged at this phase.

(b) A ban on adjustable water uses may be instituted at this phase. Such adjustable uses include:

1. The watering of all plant growth, except commercially grown food crops, sod at commercial sod farms and nursery stock at nurseries or retail outlets;

2. The washing of vehicles, except by businesses engaged exclusively in car washing on site, including self-service car washes equipped with total recycle of both wash and rinse water, or in those instances where a threat to public health may exist;

3. The washing of streets, driveways, sidewalks or paved areas;

4. The serving of water in restaurants, clubs, or eating places unless specifically requested by patrons;

5. The use of water for flushing sewers by municipalities or any public or private entity except as municipal health officials deem necessary in the interest of public health or safety;

6. The use of fire hydrants by fire companies for testing fire apparatus and for fire department drills except as the municipal governing body and the purveyor deem necessary in the interest of public safety;

7. The use of fire hydrants by municipal road departments, contractors, and all others, except as necessary for fire fighting or protection purposes;

8. The use of water for all outdoor recreational purposes;

9. The washing of buildings or other structures, except for windows; and

10. Any other uses of water as the Commissioner may designate. The Commissioner shall effect such designations by administrative order and such designations shall be effective immediately upon adoption by the Commissioner and shall be published in the New Jersey Register as soon thereafter as possible.

(c) Variables affecting the application of a ban on adjustable water users include but are not limited to the following:

1. Severity of the water emergency;
2. Time of year; or
3. Climatic conditions.

(d) Any person wishing to be exempt from the ban on adjustable water uses shall file an application for a hardship exemption in accordance with N.J.A.C. 7:19-16.1.

(e) If the Phase I activities fail to achieve water demand management objectives, Phases II through IV shall be implemented in a manner that reflects the existing water supply conditions.

Amended by R.1995 d.162, effective March 20, 1995.  
See: 26 N.J.R. 4912(a), N.J.R. 1265(a).

#### 7:19-13.4 Phase II: Severity; substantial threat to the public health and welfare

(a) Non-residential users shall be subject to the water emergency rate schedule as provided by rule. (See N.J.A.C. 7:19-9).

(b) Water rationing shall be instituted at a maximum daily rate of 50 gallons of water per person for residential users.

(c) Based on the limitations on water use imposed during Phase II or a subsequent phase of an emergency and the number of customers served by an affected water purveyor, each such purveyor shall be assigned a water use allocation target. The affected purveyors shall be required to make good faith efforts to remain within these targets. Such targets may be modified in subsequent phases of the emergency.

(d) Any person wishing to be exempt from the requirements of this section shall file an application for a hardship exemption in accordance with N.J.A.C. 7:19-16.2.

Amended by R.1995 d.162, effective March 20, 1995.  
See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

#### 7:19-13.5 Phase III: Further rationing required

This stage requires further rationing of water supplies to all sectors or the selective curtailment of industrial water users in accordance with N.J.A.C. 7:19-14.

Amended by R.1990 d.180, effective March 19, 1990.  
See: 21 N.J.R. 3594(a), 22 N.J.R. 932(a).

Requirement for both changed to either rationing or curtailment.  
Amended by R.1995 d.162, effective March 20, 1995.  
See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

#### 7:19-13.6 Phase IV: Disaster stage

(a) At the disaster stage, public health and safety cannot be guaranteed. Water quality is of major concern.

(b) Maintenance of health facilities shall be at emergency levels.

(c) Industrial use shall be further curtailed and selective closings shall occur. Interruptions in water service may be necessary.

### SUBCHAPTER 14. INDUSTRIAL CURTAILMENT STRATEGY

#### Subchapter Historical Note

Subchapter 14, Industrial Curtailment Strategy, was recodified from N.J.A.C. 7:19A-6 by R.1995 d.162, effective March 20, 1995. See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

**7:19-14.1 Scope**

This subchapter establishes the components of the industrial curtailment strategy and the procedural steps to effectuate this strategy in Phases III and IV.

**7:19-14.2 Procedure for the selective curtailment during a water emergency situation**

(a) The Department shall require the purveyors and water users to submit appropriate information upon request in order to prepare for possible water curtailment.

(b) The Commissioner shall determine that supplies are at a level which justify initiating Phase III actions, including partial industrial curtailments.

(c) Industry wholly dependent upon public water supply, shall be closed (Phase IV) unless exempted by the Department.

Amended by R.1990 d.180, effective March 19, 1990.  
See: 21 N.J.R. 3594(a), 22 N.J.R. 932(a).

Added "upon request"; deleted "self-supplied", "Phase I" and data base revision update requirements.

**7:19-14.3 Basis of selective curtailment**

(a) Selective curtailment of large industrial users, as referred to in Phase III, shall be based upon:

1. Water consumption per work site;
2. Number of employees per work site;
3. Essential nature of the industry; and
4. Other pertinent data.

(b) After considering the essential nature of the industry and other pertinent data, the first priority for curtailment shall be those industries with high water use and a low number of employees per work site relative to water use.

**7:19-14.4 Submission of water supply information**

Industrial users, water purveyors and other water users, shall submit to the Department, upon its request, all information relating to water consumption and employment required by N.J.A.C. 7:19-11.4, 11.5, 14.2 and 14.3.

Amended by R.1990 d.180, effective March 19, 1990.  
See: 21 N.J.R. 3594(a), 22 N.J.R. 932(a).

Water purveyors and other users also required to submit information; reference to N.J.A.C. 7:19A-3.4 and 3.5 added.  
Amended by R.1995 d.162, effective March 20, 1995.  
See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

**SUBCHAPTER 15. EMERGENCY WATER TRANSFER PRICING****Subchapter Historical Note**

Subchapter 15, Emergency Water Transfer Pricing, was recodified from N.J.A.C. 7:19A-8 by R.1995 d.162, effective March 20, 1995. See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

**7:19-15.1 General pricing procedures**

(a) Within 90 days after the effective date of this chapter, all water purveyors having physical interconnections with other water purveyors shall initiate negotiations with the interconnected purveyors regarding the prices to be charged for supplying of water through such interconnections ordered by the Commissioner during a water supply emergency.

1. Prices may be expressed either in terms of specific prices or of a formula.

(b) The water purveyors shall submit the record of negotiations, and the agreed upon prices if arrived at, to the Board of Public Utilities, if within its jurisdiction, or the Department, in all other cases, for approval and/or reconciliation of differences and approval in accordance with the following time schedule;

1. Within 12 months after the effective date of this chapter:

- i. All water purveyors with interconnections 12 inches in diameter or greater between their systems;
- ii. All water purveyors having interconnections of any size with water purveyors serving those seashore communities having shoreline contiguous with the Atlantic Ocean proper from Cape May to Highlands inclusive where the water supply serves 10,000 or more residents for two months or more per year.

2. Within 36 months after the effective date of this chapter:

- i. All water purveyors with interconnections of 8 inches in diameter or greater where either system serves 10,000 or more residents; and
- ii. All water purveyors interconnected with purveyors serving seashore communities having shoreline contiguous with the Atlantic Ocean proper from Cape May to Highlands inclusive, except those covered by (b)1ii above.

3. Within five years after the effective date of this chapter all other water purveyors interconnected with another water purveyor.

**7:19-15.2 Criteria for pricing**

(a) In the event an emergency transfer of water is ordered by the Commissioner, the price charged to the receiving system should be based upon fair compensation, reasonable rate relief and just and equitable terms as to not create a situation wherein the customers or owners of the supplying systems are subsidizing the transfer.

(b) Where an emergency transfer is ordered by the Commissioner which requires a reduction in the amount of water used by existing customers of the supplying system in order to effectuate the transfer, the price charged to the receiving system should be set at a level which will insure the fair recovery of all costs incurred by the supplying system as a result of the reduction.

(c) Where an emergency transfer requiring no such reduction is mandated, the normal bulk water rates for existing regular customers of the supplier should receive serious considerations in determining the price of transferred water, except that this should not apply, for example, where such bulk rates are for off-peak water.

(d) Where such rates have not been established, rates may, in appropriate cases, be set so as to achieve revenue levels to cover the following requirements related to the facilities utilized to produce and transport water to the emergency purchaser:

1. Operation and maintenance;
2. Depreciation;
3. Taxes or payment in lieu thereof; and
4. Return (original plant investment minus depreciation times the rate of return) or debt service.

(e) Any foreseeable additional cost attributable to a mandated transfer shall be borne by the buyer of the water.

(f) Price schedules may specify that rate adjustments may be made later if actual costs fall short of or are greater than expected.

(g) If existing agreement on water transfer rates and other terms has been reached by the purveyors involved in such transfer and approved by the Department, the above criteria (a)-(f) shall not apply.

**7:19-15.3 Price resolution process**

(a) Whenever during a water supply emergency a transfer of water has been made between one purveyor and one or more other purveyors, and the supplying water purveyor determines that additional cost recovery is required the following procedure shall be followed:

1. The supplying water purveyor, the receiving water purveyor and any other water purveyor whose facility was used to effectuate the transfer shall have 30 days from the date the supplying water purveyor gives notice that additional cost recovery is required to reach agreement as to the amount of additional charge.

(b) If the informal negotiation process is unsuccessful, any party may then file a written request for the initiation of formal proceedings to the Commissioner and the Board of Public Utilities where appropriate within 60 days of the

ending date for negotiation specified in (a) above. Said request shall include:

1. The added charge the party is proposing;
2. Substantiated arguments supporting the charge; and
3. Any other pertinent data including but not limited to the following:
  - i. The extent to which, if any, there would be curtailment of use by regular customers of the supplying system as a result of the sharing of the resources, and concomitant loss of revenue;
  - ii. The cost to the supplying system which would not be incurred except for the fact that the transfer must be made and any other costs which the party believes should be attributed to the transfer, including a detailed explanation of cost calculation;
  - iii. All wholesale and retail rates (with terms and conditions):

- (1) Charged by the supplying system to its customers;
- (2) Paid by the receiving system to its suppliers; and
- (3) Charged by the receiving system to its customers.

(c) The Commissioner or the Board of Public Utilities shall review the submitted requests, decide the fair compensation, and advise the parties.

(d) The actual transfer of water shall be accomplished in accordance with the order issued by the Department without regard to the time required for settlement of the added charge.

**SUBCHAPTER 16. HARDSHIP EXEMPTION PROCEDURES**

**Subchapter Historical Note**

Subchapter 16, Hardship Exemption Procedures, was recodified from N.J.A.C. 7:19A-9 by R.1995 d.162, effective March 20, 1995. See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

**7:19-16.1 Application procedures for hardship exemption from the ban on adjustable water uses**

(a) Any person wishing to be exempt wholly or partially from the ban on adjustable water uses may apply for a hardship exemption according to the following procedures:

1. The applicant shall submit his or her request along with full documentation supporting the request to the attention of the Water Emergency Task Force at the following address:

Water Emergency Task Force  
c/o Water Supply Element  
CN 426  
Trenton, New Jersey 08625

2. The applicant's submittal shall include a demonstration that extraordinary hardship and no reasonable alternative exists if the exemption is not granted.

3. After the Task Force's review of the application and the Task Force's recommendation to the Commissioner, the Commissioner shall notify the applicant in writing of his or her decision and the reasons for the decision. Before making a recommendation, the Task Force may request the applicant to supply additional documentation. An exemption approved by the Commissioner may be rescinded should public health, safety and the welfare require further reduction in water use.

4. An exemption granted to an applicant for a specific property, purpose or person is not transferable to any other property, purpose or person without prior approval from the Task Force which may be obtained by submitting a request to the Task Force including full documentation.

Amended by R.1990 d.180, effective March 19, 1990.  
See: 21 N.J.R. 3594(a), 22 N.J.R. 932(a).

Commissioner assumes responsibility for decision on request for exemption.

Amended by R.1995 d.162, effective March 20, 1995.  
See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

### **7:19-16.2 Application procedures for hardship exemption from the requirements of water rationing**

(a) Any person wishing to be exempt from the requirements of water rationing may, within 30 days following receipt of the surcharge bill issued pursuant to N.J.A.C. 7:19-9, file an application for a hardship exemption with the appropriate water purveyor according to the following procedures:

1. The applicant shall submit the request for exemption along with whatever documentation which would aid the water purveyor in making its decision.

2. The applicant's submittal shall include a demonstration that extraordinary hardship and no reasonable alternative exists if the exemption is not granted.

3. After review of the application, the water purveyor shall notify the applicant of the results of its review. Before making a decision, the water purveyor may request the applicant to supply additional documentation.

4. An exemption granted to an applicant for a specific property, purpose or person is not transferable to any other property, purpose or person without prior approval from the water purveyor.

5. The denial by the water purveyor of an application for exemption entitles the applicant to appeal to the Water Emergency Task Force.

6. The water purveyor is required to notify the Task Force within seven days of all of its approvals. The Task Force may, at its discretion, review any approval granted and recommend to the Commissioner whether to uphold or deny said approval.

(b) An appeal to the Water Emergency Task Force shall contain the following documentation:

1. A copy of the original request for exemption with any documentation submitted to the water purveyor.

2. A copy of the exemption decision by the water purveyor.

3. No appeal from the decision of the water purveyor on an exemption application will be accepted unless received by the Task Force within 30 days following the date of the denial by the water purveyor.

(c) The Task Force shall review the request for appeal and all supporting documentation and make a recommendation to the Commissioner. The Commissioner shall notify the applicant in writing of his or her decision and the reasons for the decision. Before making a recommendation, the Task Force may request the applicant to supply additional documentation.

Amended by R.1990 d.180, effective March 19, 1990.  
See: 21 N.J.R. 3594(a), 22 N.J.R. 932(a).

Filing of requests for hardship exemptions and appeals limited to 30 days.

Amended by R.1995 d.162, effective March 20, 1995.  
See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

## **SUBCHAPTER 17. DEPARTMENT ORDERS**

### **Subchapter Historical Note**

Subchapter 17, Department Orders, was recodified from N.J.A.C. 7:19A-10 by R.1995 d.162, effective March 20, 1995. See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

### **7:19-17.1 Requirements for Departmental orders issued during a water emergency**

(a) All Departmental orders issued pursuant to N.J.A.C. 7:19-9 through 17 will be based upon fair compensation, reasonable rate relief, and just and equitable terms.

(b) Subsequent to the issuance of an order and compliance therewith, the basis upon which the order was issued will be determined after notice and hearing.

Amended by R.1995 d.162, effective March 20, 1995.  
See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).