

See: 27 N.J.R. 998(a), 27 N.J.R. 2599(a).

In (b) substituted "application form" for "DEP Application Form CP-1"; rewrote (c); in (d) inserted "in accordance with the procedures at"; added (e); and corrected citations.

Amended by R.2003 d.60, effective February 3, 2003.

See: 34 N.J.R. 74(a), 35 N.J.R. 632(a).

In (a), deleted "Therefore, this written statement will not constitute an exemption letter, issued pursuant to N.J.A.C. 7:7-2.1(e), certifying that a development is exempt from the requirements of CAFRA." following "pursuant to (a)1 below"; deleted (e).

7:1C-1.4 Application for construction permit

(a) To apply for a permit, the applicant shall prepare and submit a formal application to the appropriate agency.

1. The application shall consist of a complete application form, the fee required by N.J.A.C. 7:1C-1.5, and other materials of a format and content as specified by rules or checklist for individual permit programs.

2. Any inaccurate material which could affect the outcome of a permit decision or falsification of information submitted shall be cause for rejection of the application at any time during the review procedure, or voiding a permit approved before the misinformation was discovered.

Amended by R.1989 d.436, effective August 21, 1989.

See: 21 N.J.R. 819(a), 21 N.J.R. 2530(c).

(a)1: deleted "construction permit Standard" from form designation.

Amended by R.1995 d.356, effective July 3, 1995.

See: 27 N.J.R. 998(a), 27 N.J.R. 2599(a).

In (a)1 substituted "application form" for "and acknowledged DEP Application Form CP-1"; and substituted "checklist" for "otherwise".

7:1C-1.5 Fees

(a) Fees shall be charged for the review of any application for a construction permit in accordance with the following schedule:

1.-3. (Reserved)

4. Stream encroachment permits:

i. As used in this paragraph, the following terms shall have the following meanings:

(1) "Drainage area" means the total area contributing run-off to a specified point, expressed in acres or square miles;

(2) "Minor stream encroachment project" means an encroachment project that does not require hydrologic and/or hydraulic review; does not require review of any stormwater detention basin; does not increase potential for erosion or sedimentation in stream and does not require substantial channel modification or relocation; and does not need to be reviewed for the zero percent or 20 percent "net fill" limitations other than that associated with a single family dwelling. These shall include, but are not limited to, the following activities in a floodplain: major desnagging and stream clearing, minor dredging projects, dug ponds without structure, stormwater discharge, including direct discharge into a flood-

plain, minor water intake facilities, minor regrading, utilities in the flood plain, each channel crossing of utility, bank stabilization at grade, minor bank reestablishment and/or protection projects, less than 100 linear feet of channel modification, less than 100 linear feet of a retaining wall four foot high or less, footbridges, bridge deck replacements, recreation and habitat management structures of the Division of Fish, Game and Wildlife, farming practices (including ditches) approved by the Soil Conservation Service, and projects whose major purpose is mosquito control pursuant to N.J.S.A. 26:9-1 et seq. Governmental agencies may combine their stream cleaning projects for a calendar year and submit them as one project which will be considered a minor project.

(3) "Major stream encroachment project" means a project that requires hydrologic and/or hydraulic review or the review of stormwater detention basin(s) or involves fill or structures necessitating review for compliance with the zero percent or 20 percent "net fill" limitation specified in N.J.A.C. 7:13. In addition, the following shall be classified as a major project: development where the applicant owns or controls more than one acre in a floodplain for commercial use or a subdivision of more than 10 acres for residential use. Major project elements shall include, but not be limited to, the following activities within a floodplain: bridges, culverts, small dams, greater than 100 linear feet of channel modifications, and greater than 100 linear feet of a retaining wall more than four feet high.

ii. For each project element of minor stream encroachment projects, the fee shall be \$300.00 for each project element that is to be reviewed.

iii. For each project element of major projects, the fee shall be \$2,000 for each project element that is to be reviewed.

iv. For major stream encroachment projects requiring the establishment of an encroachment line or the modification to a stream, the fee shall be \$2,000 for each 1,000-foot reach of the channel or portion thereof.

v. For major stream encroachment projects that consist of an individual driveway culvert and fill in the floodplain for one single family residence, the fee shall be \$1,000 for the culvert and \$400.00 for the fill.

vi. Except as provided at (a)4vi above, an additional fee shall not be charged for projects involving fill associated with the development of a single family residential lot or for fill associated with bridges and culverts.

5. Treatment works approval fees shall be calculated as follows:

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i. Applicants for a treatment works approval shall be categorized based on the construction costs of their projects as follows:

(1) Category 1 includes projects where the construction costs are greater than \$1,000,000;

(2) Category 2 includes projects where the construction costs are greater than \$250,000 but are less than or equal to \$1,000,000.

(3) Category 3 includes projects where the construction costs are less than or equal to \$250,000.

ii. Fees for treatment works approvals shall be based upon the coefficient "P" where:

EB

(1)
$$"P" = T1 + 2(T2) + 4(T3) + 1,500,000(N1) + 500,000(N2);$$

(2) "EB" = the estimated budget for the Department's treatment works approval program for the forthcoming fiscal year;

(3) "T1" = the sum of the construction costs for all projects in Category 1 from the prior fiscal year;

(4) "T2" = the sum of the construction costs for all projects in Category 2 from the prior fiscal year;

(5) "T3" = the sum of the construction costs for all projects in Category 3 from the prior fiscal year;

(6) "N1" = the total number of projects in Category 1 from the prior fiscal year; and

(7) "N2" = the total number of projects in Category 2 from the prior fiscal year.

iii. All applicants for a treatment works approval shall pay one of the following fees based upon the category in which the project falls as determined by (a)5i above:

(1) Category 1 fee = $4P(\$250,000) + 2P(\$750,000) + P(\text{construction cost of the applicant's project} - \$1,000,000);$

(2) Category 2 fee = $4P(\$250,000) + 2P(\text{construction cost of the applicant's project} - \$250,000);$
or

(3) Category 3 fee = $4P(\text{construction cost of the applicant's project}).$

iv. An applicant for a treatment works approval shall pay a minimum fee of \$450.00.

v. The Department shall prepare an annual fee schedule report which will include the following:

(1) The coefficient "P" of the fee formula derived from the equation in (a)5ii above;

(2) A detailed financial statement showing the estimated budget for the forthcoming fiscal year. The statement shall include a breakdown of the treatment works approval program by account title (for example, print and office supplies, vehicular, and maintenance of vehicles); and

(3) A detailed financial statement of the previous fiscal year's actual expenditures including a breakdown by account titles, total by category of permits reviewed, actual revenue and any credit/deficit to be carried forward to the next fiscal year.

vi. The Department shall hold a public hearing concerning the fees to be assessed for the forthcoming fiscal year only when projected fees exceed 10 percent increase as compared to the previous fiscal year's fees. The Department shall hold the hearing prior to the actual assessment of fees. The Department shall provide public notice of the hearing in the New Jersey Register, DEP Bulletin, and several newspapers with general circulation.

vii. In those years not requiring a public hearing, publication of the forthcoming fiscal year's coefficient "P" together with a synopsis of the annual fee schedule report shall appear in the New Jersey Register, DEP Bulletin and several newspapers with general circulation.

viii. The annual fee schedule report may be obtained, at any time after public notice is published in accordance with (a)5vi or vii above, by submitting a request and self addressed 10 inch by 13 inch (minimum size) envelope to:

New Jersey Department of Environmental Protection
Environmental Regulation
Division of Water Quality
Bureau of Construction and Connection Permits
Annual Report Request
PO Box 029, 3rd Floor
Trenton, New Jersey 08625-0029

(b) Extensions of time for issued treatment works approvals will be granted in accordance with N.J.A.C. 7:14A-22.12.

1. Besides the base fee, an additional \$50.00 shall be charged for each extension of time requested for a Category 3 treatment works approval, and \$150.00 for each extension of time requested for a Category 1 or 2 treatment works approval.

(c) The Department shall assess a single permit fee for a project which requires more than one of the following permits, if the permit applications are submitted and processed simultaneously: CAFRA permits; waterfront development permits; coastal wetlands permits; stream encroachment permits; or freshwater wetlands permits (including individual permits, general permits, and transition area waivers) issued under N.J.A.C. 7:7A. The permit fee for the project is equal to the sum of the following:

1. The single highest permit fee for the above listed permits required for the project; and

2. Seventy-five percent of the sum of the permit fees for all other permits required for the project.

(d) For the purposes of this section, a modification to an issued permit will be processed for modified projects which will not result in a significant change in the scale, use, or impact of the project as approved. The determination as to what constitutes a significant change is within the sole discretion of the Department and will be based on a review of the original application file and the new information submitted by the applicant. A change that will cause less environmental impact than the original project will not constitute a "significant change." Significant changes generally include, but are not limited to, increased clearing, grading, filling or impervious coverage, reduction in buffers, change in foot print location, and a change in the hydraulics of a stream.

1. The fee for a request for an approval of a modification of the approved project shall be one-quarter of the total original permit fee or a minimum of \$100.00.

(e) The Department may also charge additional fees to engage such essential expertise as may be necessary for the processing and review of large scale and complex projects. The applicant will be consulted before imposition of such fees.

(f) Where a public hearing is conducted, the cost thereof, including but not limited to court reporter attendance fees, transcript costs, hearing officer fees and hearing room rental, shall be borne by the applicant unless otherwise determined by the Department for good cause shown.

(g) All fees shall be paid by check, made payable to the "Treasurer, State of New Jersey—Environmental Services Fund" and shall accompany the application.

(h) The Department shall annually adjust the fees for each activity provided in this section for stream encroachment permits. The Department shall calculate a fee adjustment factor annually, and multiply each fee by that fee adjustment factor. The Department shall calculate the fee adjustment factor by taking the following steps:

1. Project the total amount of money required to fund each 90-day permit program in the coming year. This projection shall be based upon the following data:

i. The number and type of Department staff required to perform each activity for which fees are charged;

ii. The total salaries of those staff members;

iii. The cost of fringe benefits for those staff members, calculated as a percentage of salaries, which percentage is set by the New Jersey Department of the Treasury based upon costs associated with pensions, health benefits, workers' compensation, disability benefits, unused sick leave, and the employer's share of FICA;

iv. Indirect costs attributable to those staff members. "Indirect costs" means costs incurred for a common or joint purpose, benefiting more than one cost objective, and not readily assignable to the cost objec-

tive specifically benefited without effort disproportionate to the results achieved. Indirect costs shall be calculated at the rate negotiated annually between the Department and the United States Environmental Protection Agency, multiplied by the total of salaries and fringe benefits;

v. Operating expenses (including, without limitation, expenses for postage, telephone, travel, supplies and data system management) attributable to those staff members; and

vi. The budgeted annual cost of legal services rendered by the Department of Law and Public Safety, Division of Law, in connection with each of the permit programs listed in the introductory language of (h) above.

2. Project the total amount to be available from sources other than fees, such as State appropriations or Federal grants;

3. Subtract the amount in (h)2 above from the amount in (h)1 above. The remainder is the fee revenue necessary for the coming year;

4. Divide the fee revenue necessary for the coming year by the fee revenue which was necessary for the current year;

5. Divide the volume of permit applications the Department received in the current year by the volume it expects to receive in the coming year. In projecting the expected volume of permit applications, the Department shall consider the following factors:

i. The volume of permit applications received in previous years;

ii. Based on (h)5i above, any trends toward an increasing or decreasing volume of permit applications;

iii. Information indicating a trend toward increasing or decreasing construction activity in various areas of the State; and

iv. Other data concerning economic trends reasonably likely to influence the volume of permit applications; and

6. Multiply the number provided in (h)5 above by the number provided in (h)4 above. This result is the fee adjustment factor.

(i) Each year, the Department shall prepare an Annual Ninety-Day Construction Permit Fee Schedule Report. Promptly after completing the report, the Department shall publish in the New Jersey Register a notice of opportunity for public input setting forth the adjusted fees. The notice shall state that the report is available and direct interested persons to contact the Department for a copy of the report and to provide comments within 45 days of the notice date. The Department shall promptly provide a copy to each person requesting a copy. The Department will evaluate the comments submitted and publish its findings and the final adjusted fees with their operative dates in a notice of administrative change, pursuant to N.J.A.C. 1:30-2.7(c).

(j) The Department will not make the adjustment of fees provided in (h) above or prepare the report described in (i) above for any one-year period ending June 30, if in that period the Department proposes or promulgates amendments to any fees for stream encroachment permits.

(k) Any fee under this section that is subject to N.J.A.C. 7:1L shall be payable in installments in accordance with N.J.A.C. 7:1L.

Amended by R.1976 d.76, effective March 10, 1976.
See: 8 N.J.R. 180(a).

Amended by R.1981 d.187, effective June 4, 1981.
See: 13 N.J.R. 123(c), 13 N.J.R. 334(b).

(a) substantially amended; (b): "\$50.00" was "\$25.00"; (c): "50 percent" was "25 percent".

(g): New text substituted for old.

Amended by R.1981 d.473, effective December 21, 1981.
See: 13 N.J.R. 564(a), 13 N.J.R. 943(b).

(g): deleted text concerning no maximum fee and substituted text requiring \$10,000 maximum fee with exceptions for permit applications.
Amended by R.1989 d.436, effective August 21, 1989.

See: 21 N.J.R. 819(a), 21 N.J.R. 2530(c).

Old (a)5 concerning "wastewater allocation permit" fees replaced with new (a)5 on "treatment works approval" fees. In (b), "treatment works approvals" replaced "Wastewater Allocation Permits" regarding exception nonapplication; in (b)1, categories 1-3 added; in (c), "subject to a minimum fee of \$100" added.

Amended by R.1990 d.343, effective July 16, 1990.

See: 22 N.J.R. 731(a), 22 N.J.R. 2143(c).

New fee schedule for smaller projects.

Amended by R.1993 d.111, effective March 1, 1993.

See: 24 N.J.R. 2768(a), 25 N.J.R. 924(a).

Permit fees specified at (a), text at (c) deleted and new text added at (c) and (d) and (h) through (l).

Amended by R.1994 d.337, effective July 5, 1994.

See: 26 N.J.R. 787(a), 26 N.J.R. 2789(a).

Amended by R.1994 d.379, effective July 18, 1994.

See: 26 N.J.R. 913(a), 26 N.J.R. 1561(a), 26 N.J.R. 2920(a).

Amended by R.1995 d.205, effective April 17, 1995.

See: 26 N.J.R. 3922(a), 27 N.J.R. 1576(b).

Added (k).

Amended by R.1995 d.356, effective July 3, 1995.

See: 27 N.J.R. 998(a), 27 N.J.R. 2599(a).

Made changes throughout the section.

Amended by R.2000 d.428, effective October 16, 2000.

See: 32 N.J.R. 864(a), 32 N.J.R. 3784(b).

Rewrote (a), (b) and (d).

Amended by R.2003 d.60, effective February 3, 2003.

See: 34 N.J.R. 74(a), 35 N.J.R. 632(a).

Rewrote the section.

7:1C-1.6 DEP Bulletin

(a) The Department shall publish in the "DEP Bulletin", a report of the receipt of each new application and each agency action on applications currently before it. An annual subscription for the DEP Bulletin will be distributed free of charge to each of the municipalities, each of the county planning boards, and each New Jersey public depository. All other interested persons shall pay an annual subscription fee of \$50.00 per subscription requested to cover printing and mailing costs. Publication in the "DEP Bulletin", constitutes constructive notice to all interested persons of Department actions on construction permits.

(b) The application status report shall include, but is not limited to:

1. The applicant's name;
2. The agency project number;
3. The nature of the project;
4. The date and description of significant agency action on the project.

Amended by R.1980 d.75, effective February 14, 1980.

See: 11 N.J.R. 432(b), 12 N.J.R. 113(d).

Amended by R.1993 d.111, effective March 1, 1993.

See: 24 N.J.R. 2768(a), 25 N.J.R. 924(a).

"Energy" added to Department acronym.

Amended by R.1995 d.356, effective July 3, 1995.

See: 27 N.J.R. 998(a), 27 N.J.R. 2599(a).

Rewrote (a).

7:1C-1.7 Review of application

(a) Within a maximum of 20 working days following the date of receipt of the application, the appropriate agency shall:

1. Accept the application for filing, assign an agency project number, and proceed to review on the merits; or
2. Assign an agency project number, accept the application for filing, but request in writing that the applicant submit within a specific period of time, additional information to assist in its review. In such cases, the application will not be considered complete for final review or public hearing until all the additional information has been received and deemed acceptable for review; or
3. Return the application without filing, explaining why it is unacceptable for review, and return the filing fee upon notification that the applicant does not intend to reapply.
4. Following the assignment of the agency project number, the initial application status report will be published in the DEP Bulletin.
5. The Department shall consider written initial comments from public agencies and other interested persons, received at or within 15 days after the public hearing, if one is held, or during the public comment period. Additional comments received after this date will also be included in the application file and may be considered by the Department in the application review process if relevant to the application.

(b) Except as provided in N.J.A.C. 7:50-4.1, an application subject to these rules for development of any land within the Pinelands Area as defined in N.J.S.A. 13:18A-11 is not complete unless and until the applicant has in his or her possession a Certificate of Filing, a Certificate of Compliance or an Approval Resolution from the Pinelands Commission for the proposed development of that land. Pursuant to N.J.S.A. 13:18A-10(c), no approval shall be granted for an application subject to these rules for any development in the Pinelands Area unless that development conforms to all applicable provisions of the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50).