

3. That the plans for the proposed diversion are just and equitable to the other water users affected thereby, and that the withdrawal does not adversely affect other existing withdrawals, either ground or surface;

4. That, in the case of a ground water diversion, the proposed diversion will not cause an increase in saline intrusion that renders the water resource unfit for use; will not spread ground water contamination; and will not interfere with any ground water remediation plan or activity;

5. If permit application is made for a period longer than that listed in N.J.A.C. 7:19-2.14(a)1, reasons why a permit of such duration is required by economic considerations, including, for example, necessity of amortizing a new investment over an extended period of time, and the public interest; and

6. That any structures required for a proposed diversion are not located within a State-designated freshwater wetland or transition area. If this is not shown by submission of a map showing those wetlands or a written statement which identifies those wetland areas, the applicant shall comply with N.J.S.A. 13:9-1 et seq. and N.J.A.C. 7:7A.

(g) The applicant shall submit any other information which substantiates the need for the proposed allocation and supports the designated choice of water resource for the allocation. For diversions for nonpotable purposes the applicant shall analyze the availability and utilization of lower quality water and provide documentation that the diversion is of the lowest acceptable quality water considering the intended use.

(h) If the applicant fails to establish any of the items required pursuant to (f) and (g) above, or if the Department determines that a more viable alternative source of water is available, or if the proposed diversion is not in accordance with the New Jersey Statewide Water Supply Plan, the Department will deny the application.

(i) The applicant shall submit a Water Conservation and Drought Management Plan on forms provided by the Department, unless the diversion for which the applicant seeks a permit will be used for one of the following activities:

1. Ground water remediation;
2. Sand and gravel mining; or
3. Water which is returned to its source without a substantial diminution in quantity.

(j) The applicant shall submit a summary sheet which identifies all contracts which have been entered into for the bulk sale or purchase of water in accordance with N.J.A.C. 7:19-7.3.

(k) The applicant for a water supply allocation permit shall, upon submission of an initial, renewal or modification application, sign the following certifications on the application forms:

1. "I certify under penalty of law that the information provided in this document is true, accurate and complete. I

am aware that there are significant civil and criminal penalties for submitting false, inaccurate or incomplete information, including fines and or imprisonment." This certification shall be signed by the highest ranking individual at the facility with overall responsibility for that facility.

2. "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this application and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant civil and criminal penalties for submitting false, inaccurate or incomplete information, including the possibility of fine and/or imprisonment." This certification shall be signed as follows:

- i. For a corporation, by a principal executive officer of at least the level of vice president;
- ii. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or
- iii. For a municipality, State, Federal or other public agency, by either the principal executive officer or ranking elected official.

3. Where the highest ranking corporate, partnership, or governmental officer or official at the facility required to certify pursuant to (k)1 above is the same person as the official required to certify pursuant to (k)2, only the certification in (k)1 shall be made. In all other cases, the certifications required pursuant to both (k)1 and 2 shall be made.

(l) The applicant shall submit evidence that the flow meters on all existing diversion sources have been calibrated to within five percent accuracy in the five years prior to the date of application, unless exempted under N.J.A.C. 7:19-2.14(a)4.

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

Additional watershed and aquifer information required.  
Administrative Correction to (f)8.  
See: 22 N.J.R. 1265(a).

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

#### Case Notes

Golf course's contention failed that the water accumulated in its storage ponds in the winter and spring months from its irrigation well should not count toward its 100,000 gpd registration limit when released and used in the summer to irrigate the golf course (modifying and adopting 2008 N.J. AGEN LEXIS 302). *Vineyards Golf v. N.J. Dep't of Env'tl. Prot., Water Supply Permitting Element, OAL Dkt. No. ELU 6221-07, Final Decision (May 29, 2008).*

#### 7:19-2.3 Application requirements for temporary dewatering permits

(a) An applicant for a temporary dewatering permit shall contact the Department in accordance with N.J.A.C. 7:19-1.9 to obtain current application forms and other instructions and information necessary to file a complete application. The

applicant for the temporary dewatering permit shall be the project owner or utility responsible for the construction and not the contractor.

(b) The applicant shall follow all the instructions, complete the application forms, obtain and prepare all other documents required by the instructions, and submit the completed application, other documents, required information and any applicable fees required pursuant to N.J.A.C. 7:19-3 to the Department.

(c) The applicant shall list the depth to water, the corresponding surface elevations, and the projected depths of excavations and dewatering over the work site.

(d) The applicant shall discuss the geology, hydrogeology, and the expected impacts of the proposed diversion both on the resource and other users of the water resource.

(e) The applicant shall provide a list of the following items, along with a United States Geological Survey topographic quadrangle map with the locations of the items identified thereon:

1. The proposed withdrawal site, including latitude and longitude;
2. All water supply wells within a one-quarter-mile radius; and
3. All landfills and ground water contamination sites within a one-quarter-mile radius.

(f) If dewatering will occur at a depth of greater than 50 feet, the Department may require the applicant to identify the items required pursuant to (e)2 and 3 above at a radius greater than one-quarter-mile.

(g) The applicant shall provide all information which establishes:

1. That the proposed diversion is in the public interest;
2. That the plans for the proposed diversion are just and equitable to the other water users affected thereby, and that the withdrawal does not adversely affect other existing withdrawals, either ground or surface; and
3. That the proposed diversion will not reduce the dry season flow of any river or stream so as to adversely affect the river or stream.

(h) Each applicant for a temporary dewatering permit shall, upon submission of an initial, modification or renewal application sign the certifications on the application forms in accordance with N.J.A.C. 7:19-2.2(k).

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

Formerly "Additional application requirements for county or municipal public water supplies".

#### 7:19-2.4 Application requirements for renewal of permits

(a) Applications for renewal of current permits shall be submitted three months prior to expiration of the current permit.

(b) Applicants for renewal of current permits shall submit appropriate application forms and other information as requested of a specific applicant by the Department for the proper implementation of the Act and this chapter. Copies of the application forms are included in the 1993 Technical Manual for Water Allocation Permits, prepared by and available from the Department in accordance with P.L.1991, c.422 (N.J.S.A. 13:1D-111 et seq.), as updated or revised.

(c) If the permittee does not comply with (a) and (b) above, the Department may:

1. Notify the permittee by certified mail that the permit has expired;
2. Take appropriate enforcement action including the assessment of penalties under N.J.A.C. 7:19-18; and
3. Require the permittee to file an application as a new applicant in accordance with N.J.A.C. 7:19-2.2 or 2.3 and pay the initial fee and annual fee as set forth in N.J.A.C. 7:19-3.

(d) In order to prioritize its workload, the Department may, in its discretion, grant a one-time extension of a permit for a period not to exceed one year.

(e) A current permit for which a complete renewal application package is submitted to the Department three months prior to the expiration date shall remain in effect until the Department grants or denies the renewal application.

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

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

Text at (a) deleted; new (a), (c) and (d) added; (b) recodified.

Recodified from 7:19-2.5 and amended by R.1995 d.162, effective March 20, 1995.

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

Prior text at 7:19-2.4, Additional Water Supply Allocation Permit application requirements for privately owned public water supplies, repealed.

#### 7:19-2.5 Application review

(a) The Department will make a preliminary review of each application as follows:

1. If the application does not contain all documents and information required pursuant to N.J.A.C. 7:19-2.2 through 2.4, the Department may, at its discretion, within 20 working days of receipt of the application, return the application or advise the applicant in writing as to the additional information required to make the application administratively complete and the date by which the additional information must be received by the Department. If an application is returned, the applicant will be advised in writing as to the additional information required to make the application complete.

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

### 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.

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.

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.