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CHAPTER 1L

PAYMENT SCHEDULE FOR PERMIT APPLICATION FEES

Authority

N.J.S.A. 13:1D-124.

Source and Effective Date

R.1995 d.205, effective April 17, 1995.
See: 26 N.J.R. 3922(a), 27 N.J.R. 1576(b).

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Chapter 1L, Payment Schedule for Permit Application Fees, expires on April 17, 2000.

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SUBCHAPTER 1. GENERAL PROVISIONS

7:1L-1.1 Purpose and applicability

(a) This chapter institutes a system for the payment of permit application fees in installments. The amount of each installment is one-third of the total fee. The due dates for the installments are based upon the Department's completion of its duties and responsibilities at specific stages of the application review process.

(b) This chapter applies to any application for a permit for which the permit application fee is more than \$1,000, except as provided in (c) and (d) below. If an applicant submits applications for more than one permit, the applicability of this chapter is based on the permit application fee for each permit, and not upon the aggregate of the permit application fees for all of the permits.

(c) This chapter institutes a money-back guarantee for permit application fee for the permits listed at N.J.A.C. 7:1L-2.8. In the event the Department misses a deadline established under N.J.A.C. 7:1L-2.8, the permit application fee will be refunded upon request and the Department shall

continue to work on issuing a decision on the application. The deadlines set forth at N.J.A.C. 7:1L-2.8 are based upon the completion of the Department's duties and responsibilities at specific stages of the application review process.

(d) This chapter does not apply to any license or certification fee.

(e) This chapter does not apply to the payment of a permit application fee if:

1. Another applicable provision of this title provides for the permit application fee to be payable in installments based on milestones in the permit process; and
2. The fee for a given milestone under that other provision of this title is less than the installment would be payable under N.J.A.C. 7:1L-2.1.

(f) This chapter does not apply to a fee for an application to renew or modify a New Jersey Pollutant Discharge Elimination System permit under N.J.A.C. 7:14A.

Amended by R.1997 d.66, effective September 2, 1997.
See: 28 N.J.R. 242(a), 29 N.J.R. 3817(b).

Inserted new (c), and recodified (c) through (e) as (d) through (f).

7:1L-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Applicant" means the person in whose name a permit is to be issued.

"Completed application" means an application containing all of the information designated on the checklist adopted by the Department under N.J.S.A. 13:1D-101, for the class or category of permit for which an application is made.

"Department" means the Department of Environmental Protection.

"Final action" means a decision to issue a permit, deny a permit, or conditionally issue a permit.

"License or certification fee" means any fee, assessment or other charge imposed by the Department in connection with the licensing or certification of any member of a regulated profession or occupation, or any person seeking to become a member of a regulated profession or occupation.

"Member of a regulated profession or occupation" means any person subject to regulation by licensure or certification by the Department pursuant to any law of this State.

"Permit" means any permit, registration or license issued by the Department, establishing the regulatory and management requirements for an ongoing regulated activity as

authorized by federal law or the following State laws, as such laws are amended and supplemented:

1. The laws governing waterfront and harbor facilities, N.J.S.A. 12:5-1 through 11;
2. The Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., including without limitation N.J.S.A. 13:1E-5 and 26;
3. The Comprehensive Regulated Medical Waste Management Act, N.J.S.A. 13:1E-48.1 through 48.25;
4. The laws governing leaf composting facilities, N.J.S.A. 13:1E-99.21a through 99.21f;
5. The Statewide Mandatory Source Separation and Recycling Act, N.J.S.A. 13:1E-99.11 through 99.39, including without limitation 13:1E-99.21a through 99.21f;
6. The Pesticide Control Act of 1971, N.J.S.A. 13:1F-1 through 18;
7. The Industrial Site Recovery Act, N.J.S.A. 13:1K-6 through 13;
8. The Toxic Catastrophe Prevention Act, N.J.S.A. 13:1K-19 through 32;
9. The Wetlands Act of 1970, N.J.S.A. 13:9A-1 through 10;
10. The Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 through 30;
11. The Coastal Area Facility Review Act, N.J.S.A. 13:19-1 through 21;
12. The Air Pollution Control Act, N.J.S.A. 26:2C-1 through 19.5;
13. The Water Supply Management Act, N.J.S.A. 58:1A-1 through 17;
14. The laws governing well drillers and pump installers, N.J.S.A. 58:4A-5 through 28;
15. The Water Pollution Control Act, N.J.S.A. 58:10A-1 through 14.6;
16. The laws governing the underground storage of hazardous substances, N.J.S.A. 58:10A-21 through 37;
17. The Safe Drinking Water Act; N.J.S.A. 58:12A-1 through 25; and
18. The Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 through 66.

"Permit application fee" or "fee" means any fee, assessment or other charge imposed by the Department for a permit.

"Person" means any individual or entity.

SUBCHAPTER 2. PAYMENT SCHEDULES

7:1L-2.1 Payment of permit application fees in installments

(a) If the fee for a permit application is more than \$1,000, the applicant seeking the permit may pay the fee in accordance with the schedule set forth in (a)1, 2 and 3 below:

1. One-third of the total fee at the time the applicant files the application for the permit.
2. One-third of the total fee within 20 calendar days after the date specified in the notice under N.J.A.C. 7:1L-2.2, stating that the application for the permit is a "completed application"; and
3. One-third of the total fee within 20 calendar days after the date specified in the notice under N.J.A.C. 7:1L-2.2, stating that the Department has taken final action on the permit application. The due date of this final installment may be postponed in accordance with N.J.A.C. 7:1L-2.3.

7:1L-2.2 Notice by the Department

(a) After the Department determines that an application for a permit is a "completed application," the Department shall send written notice of this determination to the applicant. In the notice, the Department shall:

1. Certify that it has completed administrative review of the application;
2. State that it has determined that the application is a "completed application";
3. State the amount of the fee installment that is due; and
4. State the date on which the fee installment is due. The due date is 20 calendar days after the date the notice is mailed to the applicant.

(b) If an application becomes a "completed application" by operation of N.J.S.A. 13:1D-30, 13:1D-102(b), or any other law that deems an application complete if the Department fails to notify the applicant of deficiencies in the application within a specified time, the Department shall send written notice to the applicant. In the notice, the Department shall:

1. Certify that the application has become a "completed application" by operation of law; and
2. State the amount of the fee installment that is due; and
3. State the date on which the fee installment is due. The due date is 20 calendar days after the date the notice is mailed to the applicant.

(c) After the Department determines the final action to be taken on a permit, the Department shall send written notice of the action to the applicant, specifying therein the date on which the action was taken. If the final action is to issue the permit or to conditionally issue a permit, the Department may satisfy this requirement by sending a copy of the permit (which may be marked "void" on one or more pages) to the applicant, and stating the amount of the fee installment that is due and the due date of the installment. If the Department does not send a copy of the permit, in the notice the Department shall:

1. Certify that it is taking final action on the permit;
2. Specify the action and its findings or conclusions with regard to the application;
3. State the amount of the fee installment that is due; and
4. State the date on which the fee installment is due. The due date is 20 calendar days after the date the notice is mailed to the applicant.

7:1L-2.3 Payment of fees in contested cases

(a) When an applicant appeals a decision of the Department to deny a permit or to include certain terms or conditions in a permit, and the appeal results in a contested case pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 through 21, the fee installment required under N.J.A.C. 7:1L-2.1(a)3 shall not be payable until:

1. A final decision in the contested case has been issued by the Commissioner of the Department pursuant to N.J.A.C. 1:1-18.6(a) or (c); or
2. The contested case has been concluded before the issuance of the final decision, such as through a settlement under N.J.A.C. 1:1-19.1 or a withdrawal under N.J.A.C. 1:1-19.2.

7:1L-2.4 Payment of fees when permit review is discontinued

If the Department discontinues its review of an application at the applicant's request, the applicant shall pay the Department the costs it incurred in reviewing the application before receiving the request to discontinue review. The Department shall send a written notice to the applicant, stating the amount of such costs and the date on which payment of such costs is due. The due date is 20 calendar days after the date the notice is mailed to the applicant.

7:1L-2.5 Effect of non-payment of fees

(a) The determination that an application is a "completed application" depends in part upon the submission of the requisite fee. Accordingly, if an applicant fails to pay an installment of a permit application fee when the installment is due, the application will no longer be considered a "completed application" until the installment is paid.

(b) In determining when the time allotted to the Department to approve, condition or disapprove an application for a permit under any law or regulation (including, without limitation, N.J.S.A. 13:1D-31 and 32) expires, the running of that time shall be considered suspended during the period in which an application is temporarily not considered a "completed application" pursuant to (a) above.

(c) If an applicant fails to pay an installment of a permit application fee when the installment is due, that non-payment is grounds for the Department to suspend its review of the permit until the installment is paid.

(d) If an applicant has not yet paid an installment of a permit application fee within 20 calendar days after payment was due, that non-payment is grounds for the Department to deny the application.

(e) If within 120 calendar days after a denial for non-payment under (d) above, the Department receives a written request from the applicant stating that the applicant desires to reinstate the application, then:

1. The original application will be deemed to have been resubmitted as a new application, and any time limit for reaching a decision on the application will again be allotted to the Department in full; and
2. The fees that the applicant paid in connection with the original application shall be credited toward the new application.

(f) Fees may be credited under (e)2 above only for the first resubmittal under (e)1 above.

7:1L-2.6 Permit conditioned on payment of fee

No permit issued by the Department shall become effective until the applicant pays the fee in full. After the Department receives payment in full in connection with a permit that is to be issued or conditionally issued, the Department shall notify the applicant in writing that the permit is effective. If the Department has previously sent the applicant a copy of the permit marked "void" on selected pages, the Department shall send the applicant the originals of such pages without the marking.

7:1L-2.7 Action for nonpayment

This subchapter shall not be construed to limit the Department's remedies under any applicable law or regulation in connection with an unpaid installment of a permit application fee. Such remedies may include, without limitation, the assessment of penalties and interest, and the taking of administrative or legal action to collect the unpaid installments and interest thereon.

7:1L-2.8 Permits to which money-back guarantee applies; time frames

(a) The time frames established under this section do not include a public comment period. If the Department deter-

mines that it is appropriate to provide a period for public comment on an application for one of the permits listed at (e) below, four months will be added to the listed time frames.

(b) If the Department does not meet a specified time frame due to delay on the applicant's part, the money-back guarantee shall not apply.

(c) Time frames begin when an application is determined to be a completed application.

(d) A permit applicant may waive its claim to a money-back guarantee in order to continue negotiations and discussions with the Department of relevant issues and conditions of the permit. The applicant shall notify the Department in writing of its decision to waive its claim to a money-back guarantee.

(e) The permits to which the money-back guarantee applies and the applicable time frames for final Departmental action on the permit application are as follows:

1. Air Quality Regulation	Level 1 permits Level 2 permits Level 3 permits	30 days 90 days 180 days
2. Hazardous Waste Regulation	Minor modifications to a HWP permit Less than 90 days Accumulation	90 days

3. Land Use Regulation

Tank approval	120 days
Laboratory testing facility approval	120 days
On-site recycling to produce fuel	120 days
Freshwater Wetland General Permits	90 days
Freshwater Wetland Transition Area Waivers (submitted with a previously issued Letter of Interpretation)	90 days
Joint Application—Freshwater Wetland Transition Area Waiver and Letter of Interpretation)	120 days
Freshwater Wetlands Individual Permits	180 days
New Surface Source	300 days
New Public Water Systems	1,000 days
New Well	800 days
Distribution Modifications	200 days
Treatment Modifications	200 days
Water Allocation Permits—Dewatering—no public hearing	150 days
—Modifications—no public hearing	300 days
—New Permit—Surface/Groundwater	300 days
—Dewatering, Modifications, Initial (with public hearing)	430 days

4. Water Supply Permits

New Rule, R.1997 d.66, effective September 2, 1997.
See: 28 N.J.R. 242(a), 29 N.J.R. 3817(b).