

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).

#### 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.

16. That, where a diversion may exceed the natural replenishment, the permittee may be required to install a monitoring well to document the impacts of the diversion upon the aquifer; and

17. That the Department may require a hydrogeologic test if the new diversion causes impacts which contradict the hydrogeologic information submitted with the permit application.

(b) The permittee shall allow the Department and/or its designated representative to:

1. Enter and inspect any site, building or equipment, or any portion thereof, owned or operated by the permittee, at any time, in order to ascertain compliance or non-compliance with N.J.S.A. 58:1A-1 et seq., 58:4A-4.1 et seq., 58:12A-1 et seq., these rules, or any other agreement or order issued or entered into pursuant thereto. Such right shall include, but not be limited to, the right to require the testing of any equipment at the facility, to sketch or photograph any portion of the site, building or equipment, to copy or photograph any document or records necessary to determine such compliance or non-compliance, and to interview any employees or representatives of the owner, operator or applicant. Such right shall be absolute and shall not be conditioned upon any action by the Department, except the presentation of appropriate credentials as requested and compliance with appropriate standard safety procedures.

2. The permittee, and any employees or representatives thereof, shall assist and shall not hinder or delay the Department and/or its designated representative in the performance of all aspects of any inspection. This assistance includes allowing the Department and/or its designated representative to accompany the permittee while performing any regulated activity at a particular building or property for the purpose of inspection of those activities. During such inspection by the Department and/or its designated representative, the permittee shall operate equipment under normal routine operating conditions or under such other conditions as may be requested by the Department. The permittee shall, upon request, make available such sampling and measurement equipment to the Department as needed for the purpose of making comparative measurements.

(c) The permittee shall protect each diversion source from vandalism, tampering, and contamination at all times. Department approved protection methods include:

1. Locked well/pump house;
2. Location within a locked, secure fenced area;
3. A locked, secure hatch or cover; and/or
4. 24 hour security at the diversion.

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

Recodified from 7:19-2.16 and amended by R.1995 d.162, effective March 20, 1995.  
See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

#### **7:19-2.15 Procedures for the recalling of a permit for modification or revocation**

(a) Upon a determination that the permittee has failed to comply with N.J.S.A. 58:1A-1 et seq., 58:4A-4.1 et seq., 58:12A-1 et seq., rules promulgated pursuant to those acts or its permit conditions and/or if there is substantiated evidence that the permittee is adversely affecting others and/or when in the public interest, the Department may recall the permit to determine if revocation or modification is necessary.

(b) Prior to revoking or modifying the permit, the Department shall provide the permittee with notice and a public hearing, if requested, in accordance with the procedure set forth at N.J.A.C. 7:19-2.8.

(c) Between the time the notice of the hearing is published and the hearing is held, the Department shall prepare a fact finding report which details all permit deficiencies and provides recommended solutions. This report shall be presented for comment at the public hearing.

(d) The costs of the hearing shall be paid in accordance with N.J.A.C. 7:19-2.8(f).

(e) The hearing officer shall issue a Hearing Officer's Report in accordance with the procedures set forth at N.J.A.C. 7:19-2.9, and the decision maker shall render a decision in accordance with the procedure set forth at N.J.A.C. 7:19-2.10.

(f) The permittee shall be notified of the Department's decision in accordance with the procedure set forth at N.J.A.C. 7:19-2.11.

(g) A permittee whose permit has been revoked or modified by the Department pursuant to this section may request an adjudicatory hearing in accordance with N.J.A.C. 7:19-2.13.

New Rule R.1990 d.180, effective March 19, 1990.  
See: 21 N.J.R. 3594(a), 22 N.J.R. 932(a).  
Recodified from 7:19-2.17 and amended by R.1995 d.162, effective March 20, 1995.  
See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

#### **7:19-2.16 Permit cancellation**

(a) A permittee may request the cancellation of its water supply allocation or temporary dewatering permit as follows:

1. If the permittee's water usage has declined below 100,000 gallons of water per day for more than 30 days in a consecutive 365 day period, the permittee shall submit to the Department a written request for the cancellation of the permit and assignment of a water use registration number in accordance with N.J.A.C. 7:19-2.18.

2. If the permittee does not intend to use a well or wells, the permittee shall submit to the Department a written request for the cancellation of the permit and shall seal any such well in accordance with N.J.A.C. 7:9-9.

3. If the permittee has no current water demand but may use its well in the future, the permittee shall submit to the Department a written request for cancellation of the permit and placement of the well on the Department's list of inactive wells.

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

#### 7:19-2.17 Short term water use and dewatering permits-by-rule

(a) Any person intending to divert more than 100,000 gallons of water per day for less than 31 days within a consecutive 365 day period may be authorized for such a diversion under a short term water use permit-by-rule, provided such person:

1. Completes and submits a short term water use permit-by-rule notification on a form provided by the Department, at least 30 days prior to the initiation of the diversion. This form is 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.

2. Repairs or replaces, as necessary, any well or surface water supply system which is damaged or goes dry, has reduced capacity or reduced water quality, or is otherwise rendered unusable as a result of the diversion authorized pursuant to this subsection; and

3. Submits a short term water use report on a form provided by the Department specifying the amount of water diverted each day during the duration of the diversion authorized pursuant to this subsection.

(b) Any person intending to divert more than 100,000 gallons of water per day for construction related dewatering may be authorized for such diversion under a dewatering permit-by-rule if the diversion is from a coffer dam or a confined area where the impacts of dewatering are contained, provided such person:

1. Submits a letter describing the proposed dewatering, its location, and the dewatering methods to be used to the Department at least 30 days prior to the initiation of the diversion; and

2. Repairs or replaces, as necessary, any well or surface water supply system which is damaged or goes dry, has reduced capacity or reduced water quality, or is otherwise rendered unusable as a result of the diversion authorized pursuant to this subsection.

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

#### 7:19-2.18 Water use registration requirements

(a) Any person who presently has the capability to divert more than 100,000 gallons of water per day who diverts less than that quantity and who does not have current registration, shall immediately register with the Department on forms provided by the Department. The forms shall be completed in its entirety or the application for registration will be returned so that the applicant can provide any missing information. A site map indicating the location of each diversion source shall also be submitted. Each person who applies for registration shall list in the application the State-assigned well permit numbers pursuant to N.J.S.A. 58:4A-14. Within 20 working days following receipt of the application for registration by the Department, the Department will assign a water use registration number.

(b) Each person with a water use registration shall submit an annual report by January 31 of each year detailing metered monthly water usage for the preceding calendar year on forms provided by the Department.

(c) All diversion sources shall be equipped with totalizing flow meters, which shall be calibrated at least once every five years, within 60 days of assignment of a water use registration number by the Department or within 60 days of completion of a well, whichever occurs last. If the diversion source is used solely for the purpose of fire protection or if the registrant demonstrates to the satisfaction of the Department that the installation of a totalizing flow meter is impractical or unreasonable, the registrant may estimate diversion quantities using an accurate and reasonable method approved 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).  
Amended by R.1995 d.162, effective March 20, 1995.  
See: 26 N.J.R. 4912(a), 27 N.J.R. 1265(a).

#### 7:19-2.19 (Reserved)

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

#### 7:19-2.20 (Reserved)

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

### SUBCHAPTER 3. FEE SCHEDULE FOR WATER SUPPLY ALLOCATION PERMITS AND WATER USE REGISTRATIONS

#### 7:19-3.1 Scope and authority

(a) This subchapter shall constitute the rules governing the establishment of a water supply allocation permit fee schedule,