

7:14A-22.8 Application requirements for construction, installation, or modification of treatment works—Stage II

(a) Persons who propose to build, install or modify treatment works that require the Department's approval pursuant to this subchapter, shall submit the following information and documents in the manner prescribed in this subchapter:

1. The Department's Treatment Works Approval application form, as defined at N.J.A.C. 7:14A-22.6(a)1, (original) signed, dated and imprinted with a seal where applicable; and

2. The appropriate fee, calculated in accordance with N.J.A.C. 7:14A-22.25, made payable to Treasurer, State of New Jersey, Environmental Services Fund;

3. A resolution and/or written statement of consent from the affected municipality, sewerage authority, owner of the receiving treatment plant, owner/operator of the wastewater conveyance system into which the project will directly connect, and district sludge management lead planning agency (if applicable, see (a)3ii below) or completion of the Department's form WQM003.

i. Prior to the submission of an application for treatment works approval, the applicant shall submit (return receipt requested) a copy of the application (at a minimum) to the affected sewerage authority (not required for direct dischargers) and to the municipality in which the construction will be located, with a request that they provide a written statement of consent of the application.

(1) A written statement of consent by the municipality shall include the statement that the project as proposed is in conformance with the requirements of all municipal ordinances and that the governing body of the municipality accepts and approves of the project as proposed by the applicant. If the statement of consent is signed by anyone other than the mayor, the municipality shall file with the Department an official resolution by the governing body delegating such responsibility to the named individual.

ii. A written statement of consent from the district sludge management lead planning agency is required only for applications that involve construction of residual management units at ultimate residuals management sites.

iii. Written statements of consent from the affected sewerage authority shall contain a certification concerning the plant's compliance with applicable NJPDES permit requirements.

iv. A written statement of consent from the owner/operator of the conveyance system must certify that the

conveyance system has adequate conveyance capacity as defined in N.J.A.C. 7:14A-1.2, to convey the additional flow.

v. If an applicant is unable to obtain the required written statement of consent, then the applicant may choose to follow the procedures stated in (a)3v(1) through (5) below. An application may be considered complete only after the 60 day period of notification, as required in (a)3v(1) through (5) below, has elapsed.

(1) The affected sewerage authority or municipality shall submit a written statement of consent to the application or submit written comments to the Department within 60 days of the request for consent. Prior to the expiration of the 60 day period to respond a request for a written statement of consent, the municipality or sewerage authority may request a 30 day extension for review of a request for consent.

(2) Any document issued by a sewerage authority or municipality which is tentative, preliminary, or conditional approval shall not be considered a statement of consent.

(3) When the affected sewerage authority or municipality does not consent to a project, it shall state all reasons for rejection or disapproval in a resolution and send a certified copy of the resolution to the Department.

(4) When the affected municipality or sewerage authority expressly denies a request for a written statement of consent for a project, the permit application may be determined by the Department to be incomplete for processing; or in the alternative, the Department may review the reasons for denial. Any such reasons shall be considered by the Department in determining whether to issue a treatment works approval or sewer connection approval in accordance with this subchapter.

(5) When the affected municipality or sewerage authority does not issue either a written statement of consent or a denial of the request for consent, the Department, upon receipt of proof that the applicant has delivered to the affected agency a written request for a written statement of consent, shall review the reasons for the lack of consent or denial, if known on the basis of reasonably reliable information. Any such reasons shall be considered by the Department in determining whether to issue a treatment works approval or sewer connection approval in accordance with this subchapter.

4. Evidence that the following agencies have been notified by certified mail, return receipt requested, of the intent to file with the Department a treatment works approval application:

- i. The municipal environmental commission, if any;
- ii. The county environmental commission, if there is no municipal environmental commission; and
- iii. The municipal planning board;

5. For wastewater collection and conveyance systems, an original signed copy of the Department's Engineering Report Form WQM006. The Engineer's Report shall be signed and sealed (embossed) by a New Jersey licensed professional engineer;

6. For treatment units, holding tanks, equalization tanks, or treatment works other than collection and conveyance systems, in addition to the Department's form WQM006, the applicant shall prepare and submit a technical report addressing the requirements specified in N.J.A.C. 7:14A-23.5;

7. An itemized engineering cost estimate for the proposed treatment works. The cost estimate shall be in sufficient detail to indicate the basis for the estimate and the approximate separation of costs for individual sewerage facilities;

8. One set, each, of final construction plans and specifications, signed and sealed by a New Jersey licensed professional engineer, and meeting the requirements stated in N.J.A.C. 7:14A-23.4;

9. One original Dry Sewer Affidavit, if applying for a stage II "construction only" permit pursuant to N.J.A.C. 7:14A-22.9;

10. A copy of a USGS Quad Map with the project site location boundaries drawn to scale;

11. Copies of Pinelands Commission approval or certificate of filing, Delaware and Raritan Canal Commission approval, and a Highlands Preservation Area Approval, if required;

12. For sewage holding tank applications, the following additional items are required:

- i. A letter of consent from the local board of health; and
- ii. Evidence of contracts with two licensed waste haulers (one as a back-up); and

13. For a hauling/diversion treatment works application, the following additional items are required:

- i. Evidence of contracts with two licensed waste haulers (one as a back-up);
- ii. For projects involving wastewater hauling, a letter of consent from the entity accepting the wastewater for treatment and final disposal and for projects involving wastewater diversion, a letter of

consent from the municipality or authority accepting additional flow through its collection system; and

iii. A statement concerning the frequency and amount of wastewater which will be hauled/diverted. This amount shall be at least equivalent to the project's projected flow pursuant to N.J.A.C. 7:14A-23.3.

(b) All submissions, including the application, engineer's report, specifications, and plans shall bear an embossed seal of a New Jersey licensed professional engineer.

(c) Applications shall be signed by the applicant, a responsible official of the applicant as defined in (c)1 below, or an authorized agent providing that an authorization for signature is submitted with the application.

1. A responsible official is an individual meeting the requirements set forth in N.J.A.C. 7:14A-4.9.

2. Signatures older than one year at the time of submission to the Department are not acceptable, except in the case of a previously denied application, in which case the Department shall have the discretion to accept signatures older than one year, or require more recent signatures, depending upon the specific circumstances.

(d) Applications and any other information pertaining to treatment works shall be sent to the Department's Division of Water Quality, Bureau of Permit Management, PO Box 029, Trenton, NJ 08625-0029.

(e) Any inaccurate material that could affect the outcome of a treatment works approval decision or falsification of information submitted shall be cause for rejection of the application at any time during the review procedure.

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 "Treatment Works Approval application form, as defined at N.J.A.C. 7:14A-22.6(a)1" for "standard application form CP-1".

Amended by R.1997 d.107, effective May 5, 1997.

See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).

Rewrote (a)3i; in (a)3iv, amended N.J.A.C. reference; in (a)3v, amended N.J.A.C. references and added clauses (1) through (5); and in (c)1, amended N.J.A.C. references.

Amended by R.2009 d.7, effective January 5, 2009.

See: 40 N.J.R. 1478(a), 41 N.J.R. 142(a).

Section was "Requirements for construction, installation, or modification of treatment works-Stage II". In (a)2, updated the N.J.A.C. reference; rewrote (a)4; in (a)11, inserted "Commission" following "Pinelands"; deleted "or" preceding "Delaware" and inserted "and a Highlands Preservation Area Approval"; and added (d) and (e).

7:14A-22.9 Stage II "construction only" treatment works approvals

(a) "Dry/construct only" treatment works approvals are stage II approvals, for which operation may not occur until the Department issues a formal stage III approval in accordance with the provisions of this subchapter. Generally, the Department will consider applications for "dry/construct only" facilities in the following circumstances:

process is encouraged by the Department, and will be approved providing that all administrative and technical requirements of this subchapter and the technical requirements specified in N.J.A.C. 7:14A-23 are met.

(b) Flow equalization tanks proposed to serve areas with significant future growth potential will not be approved as permanent facilities. The problems associated with existing conveyance capacity in these areas should be addressed through appropriate corrective measures such as repairing, replacing, or upgrading the existing inadequate sewerage systems, controlling inflow and infiltration or other applicable remedies.

(c) In addition to the situation specified in (a) above, flow equalization tanks may be approved for permanent use when the following conditions are satisfied:

1. It is shown that a flow equalization tank is the most appropriate means of providing sewer service to the area under consideration, it is designed as an integral part of the sewage conveyance system and there are no other practical or feasible alternatives, and its use will be on a regional basis (not for individual developments); and

2. The use of the flow equalization tank is to serve areas with severely limited potential for growth and for which the applicant has demonstrated to the Department's satisfaction that the upgrading of the existing downstream conveyance system is not economically feasible due to the limited sources of contributory flow anticipated from future connections in the service area.

(d) To the maximum extent possible, the utilization of flow equalization tanks should be consolidated to accommodate multiple users. In general, the individual use of flow equalization tanks on a project specific basis is discouraged.

(e) As part of the submission of a treatment works application for a permanent flow equalization tank, the owner of the affected collection system shall submit an engineer's report meeting the requirements of N.J.A.C. 7:14A-23.5.

(f) If requested by the applicant, upon receipt of the information referenced in (e) above, the Department will conduct a Stage I review pursuant to N.J.A.C. 7:14A-22.7 and will render a finding as to the acceptability of the proposed permanent flow equalization tank.

(g) Flow equalization tanks may be approved on a temporary basis for the purpose of improving situations when inadequate conveyance capacity exists in a collection system. In such a situation, the eventual elimination of the equalization tank must be assured through either an administrative consent order that contains provisions for the corrective work to enable the elimination of the equalization tank, or through the issuance of a treatment works approval that provides a specific and mandatory schedule for the construction of downstream facilities necessary for the elimination of the equalization tank.

7:14A-22.16 Capacity assurance program

(a) Whenever the committed flow reaches or exceeds 80 percent of the permitted capacity of a treatment works, the participating municipalities and/or sewerage authorities shall submit to the Department a program to be implemented in order to prevent an overloading of their facility or a violation of their NJPDES permit. This program shall include, but is not limited to, the following:

1. Implementation of water conservation measures;
2. Reduction of inflow and infiltration (I/I) where appropriate. Measures shall be taken, to the satisfaction of the Department, which appropriately identify the causes and course of corrective action within a specified time frame;
3. Implementation of measures to maximize treatment plant capacity at a minimum cost;
4. Construction of improvements;
5. Disconnection of roof leaders, sump pumps and other sources of inflow, from sanitary sewer lines and connect into storm sewer lines where storm sewers are available and to the extent feasible;
6. Submission, on a quarterly basis, of a completed WQM007 Form to the Municipal Finance and Construction Element, Bureau of Financing and Construction Permits, PO Box 425, Trenton, New Jersey 08625-0425; and
7. Preparation for the imposition of a self-imposed sewer connection ban, as required by N.J.A.C. 7:14A-22.17, in the event that it is anticipated that additional flows will result in violations of any pollutant parameter limits contained in the plant's NJPDES or NPDES permit.

(b) For treatment plants which are subject to excessive inflow and infiltration to the extent that NJPDES permit limits for flow are occasionally exceeded during wet months, the Department will consider issuing TWAs for additional flow if, in the sewerage authority's opinion, the affected sewage treatment plant can treat flows in excess of its permitted capacity and still maintain compliance with the pollutant limits specified in its NJPDES permit. In addition to the requirements in (a)1 through 7 above, the authority shall submit a detailed technical report demonstrating its findings and providing justification for the issuance of treatment works approvals for additional contributory flows.

1. The detailed technical report referenced in (b) above must contain a discussion of the following issues:
 - i. The extent of inflow and infiltration;
 - ii. Dry weather treatment capacity at the plant;
 - iii. The plant's ability to treat additional flows;
 - iv. Water quality issues;
 - v. Status of the current NJPDES permit for the plant; and

vi. The effect that such a decision will have upon the discharge limitations contained in future NJPDES permits.

(c) If the participating municipalities and authorities do not comply with (a) above, then the Department may issue a warning notice. A warning notice shall require the sewerage authority or municipality to prepare and submit a program pursuant to N.J.S.A. 58:10A-6(h)(3) and (a) above, within 45 days of receipt of the notice.

(d) Upon approval by the Department of a program submitted pursuant to (a) or (b) above, the sewage authority and participating municipalities shall give public notice of the program in a manner designed to inform local residents, developers, local planning board and other affected persons. Such notice shall include at least the following information:

1. The name, mailing address and telephone number of the owner of the treatment works;
2. The permitted capacity of the treatment works;
3. The committed flow to the treatment works;
4. A statement that the treatment plant is approaching its permitted capacity and the possibility exists that a sewer connection ban will be imposed if the plant is unable to maintain compliance with its discharge limits; and
5. Description of the service area including the participating municipalities.

(e) In the event that the committed flow to a sewage treatment plant is at or above 100 percent of the plant's permitted capacity, and the Department determines that issues involved in (a), (b) or (c) above have not been appropriately addressed and that additional flows above the plant's permitted capacity may result in violations of their NJPDES permit, the Department may cease the further issuance of treatment works approvals for additional flow to the plant. In the event that such a decision is made, the Department, at its discretion, may grant exceptions for projects that require a TWA providing the project meets the sewer ban exemption criteria specified in N.J.A.C. 7:14A-12.22.

(f) Neither this section nor the provisions of N.J.A.C. 7:14A-22.17 shall apply to industrial treatment works that are direct dischargers to the waters of the State.

Administrative change.
See: 38 N.J.R. 1445(a).

7:14A-22.17 Sewer ban imposition

(a) A sewer connection ban shall be imposed in accordance with this subchapter, when any one of the following events occurs:

1. The downstream sewerage facilities do not have adequate conveyance capacity as defined in N.J.A.C. 7:14A-1.2;

i. If the cause of inadequate conveyance capacity is a one-time overflow occurrence which has been determined to be the result of extreme and unusual precipitation, or equipment malfunction which has been repaired, the owner/operator may notify the Department, Division of Water Quality, in writing within 20 days of the occurrence and request relief from the imposition of the sewer ban.

ii. The Department may require any local agency requesting relief pursuant to this provision to provide additional detailed justification, including, but not limited to, a sewer system capacity analysis and evaluation;

2. For a three month consecutive period, a treatment works has discharged effluent to a surface water which violates the limitations for any of the conventional pollutants, as defined in (b) below, of its NJPDES or NPDES permit, as determined by the arithmetic average of the permit parameters for the period;

3. For a three month consecutive period, a treatment works has discharged effluent to the surface water which violates any non-conventional pollutant of its NJPDES or NPDES permit, as determined by the arithmetic average of the permit parameters for the period, and the sewerage authority or municipality does not meet one of the following requirements for relief from the sewer connection ban imposition:

i. The treatment plant owner has entered into an administrative/judicial consent order with the Department that contains a schedule for the completion of improvements necessary to enable the treatment facility to comply with all the conditions and limitations of its NJPDES permit; or

ii. A treatment works approval permit for the improvements necessary to enable the treatment facility to comply with all conditions and limitations of its NJPDES permit has been issued and a contract for the construction has been awarded; or

4. For a three month consecutive period a treatment works has discharged effluent to ground water which violates any effluent or flow limitations of its NJPDES or NPDES permit, as determined by the arithmetic average of the permit parameters for the period.

(b) For the purpose of the sewer ban imposition and rescission criteria, "conventional pollutant" shall mean NJPDES discharge permit limitations established for oxygen demanding pollutants (BOD, CBOD, NBOD and TBOD), total suspended solids (TSS), pH and bacterial quality indicators (fecal coliform, total coliform, enterococci).

(c) For surface water dischargers, violations of NJPDES or NPDES effluent requirements for flow, percent removal or toxicity shall not require the imposition of a sewer connection ban. In the case of a treatment facility at or above 80 percent

of its permitted flow, the facility shall be subject to the provisions of the Capacity Assurance Program specified at N.J.A.C. 7:14A-22.16.

(d) For the purposes of ban imposition and rescission criteria only, if a valid NJPDES permit contains more than one means of measuring an oxygen demanding pollutant (example: CBOD or NBOD or TBOD), then consistent compliance with only one measurement is required.

(e) In the event that the sewerage authority and/or municipality does not impose the required sewer connection ban, the Department may cease issuing treatment works approval permits, direct the imposition of a sewer connection ban and take other enforcement actions that it deems necessary.

(f) Sewer connection bans in effect and imposed pursuant to N.J.A.C. 7:14A-22.18 shall remain in full force and effect unless specifically allowed to be rescinded by the Department in writing, and in accordance with N.J.A.C. 7:14A-22.18(f).

Amended by R.1997 d.107, effective May 5, 1997.

See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).

In (a)1, amended N.J.A.C. reference.

Administrative correction.

See: 38 N.J.R. 5153(a).

7:14A-22.18 Procedures and effective date for the imposition of a sewer connection ban

(a) Within 20 days of the treatment works becoming subject to a ban pursuant to N.J.A.C. 7:14A-22.17, the owner/operator of the subject treatment works shall:

1. Adopt a resolution imposing the sewer connection ban;

2. Cease the further approval of sewer connections to the subject treatment works as of the effective date of the ban;

3. Notify the affected municipalities that they shall cease the issuance of building permits and condition all other approvals which will require or modify a sewer connection, and which has not already obtained a valid treatment works approval issued by the Department.

- i. For projects that do not require a treatment works approval and/or sewer ban exemption pursuant to N.J.A.C. 7:14A-22.20, the municipality may issue building permits or other local approvals; and

4. Give notice of the sewer connection ban to the Department, to residents of the area that contributes to the subject treatment works, landowners therein, local planning boards, and other persons or legal entities affected by the ban, within 10 days of adoption of the ban imposition resolution, and at intervals of no more than six months in a

manner reasonably expected to be received by such persons.

(b) Other than in (a)3i above, the affected sewerage authority and participating municipalities shall not issue sewer connection approvals or endorse sewer connection applications for specific projects in the affected area unless the following requirements have been met:

1. A sewer connection ban has been implemented in accordance with this subchapter;

2. Sewer connection ban exemption criteria equivalent to, or more stringent than, those contained in N.J.A.C. 7:14A-22.22 have been adopted; and

3. The sewer connection ban ordinance, or resolution, and the sewer ban exemption for the specific project has been approved by the Department.

(c) Treatment works applications filed with the Department prior to the effective date of the sewer connection ban will be considered for approval provided that at the time of the sewerage authority's certification on the Department's Form WQM003, the receiving treatment works was operating in compliance with all applicable conditions as stated in the WQM003 Form.

(d) When the participating municipalities and/or affected sewerage authorities have failed to comply with (a) and (b) above, the Department shall cease issuing treatment works approvals and may also direct the imposition of a sewer connection ban, issue administrative orders, assess civil administrative penalties, seek judicial relief, or take any other enforcement action it deems necessary.

(e) The effective date for any sewer connection ban required to be imposed by this subchapter shall be 20 days following the date upon which the first of either of the following occurs:

1. The due date of the Discharge Monitoring Report which would indicate non-compliance in accordance with N.J.A.C. 7:14A-22.17; or

2. The date of identification of a lack of adequate conveyance capacity as defined in N.J.A.C. 7:14A-1.2.

(f) The affected sewerage authority or municipality shall apply to the Department for a rescission or modification of a sewer connection ban implemented pursuant to this subchapter at such time as a ban is no longer required in accordance with N.J.A.C. 7:14A-22.17. No ban may be rescinded without written approval from the Department.

Amended by R.1997 d.107, effective May 5, 1997.

See: 28 N.J.R. 380(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 28 N.J.R. 4697(a), 28 N.J.R. 5028(a), 29 N.J.R. 1704(a).

In (e)2, amended N.J.A.C. reference.

7:14A-22.19 General policy and procedure for sewer connection ban exemptions

(a) Each affected sewage authority, or municipality that owns a treatment works, upon the institution of a connection ban, shall adopt exemption criteria at least as stringent as those included in this subchapter in order to provide relief to persons who qualify for such relief. The burden of proof is upon the applicant for all exemption requests and the Department and each affected sewerage authority shall presume that all applicants have knowledge of the sewer connection ban after the effective date of its imposition.

(b) No exemption shall be granted to any person who subsequently proceeds with a proposed project, without first obtaining all necessary approvals, and thereby increases or creates a self-imposed hardship.

(c) For projects which require a treatment works approval pursuant to N.J.A.C. 7:14A-22.3, a sewer ban exemption approval, if required pursuant to this subchapter, shall be obtained from the Department or delegated agency, prior to filing the treatment works approval application.

(d) Before making a final decision, the Department may request additional documentation or information that is relevant to the project. Failure of the applicant to supply the additional information may serve as a basis for denial of the application.

(e) Water conservation plumbing is required in all instances of new or modified plumbing or piping. Water conservation plumbing is a condition of the exemption and does not constitute the basis for a sewer ban exemption.

(f) An exemption granted for a specific project at a determined location is not transferable to any other project or location, and is only transferable to a new owner providing the location, scope and other relevant conditions of granting the original exemption remain unchanged. Transfers to new owners meeting the requirements of this subsection do not require Department approval.

(g) Projects which have changed in scope or for which the conditions of granting the original exemption have changed are not considered to be exempt. The applicant/owner of such projects shall apply for a new sewer ban exemption in accordance with this subchapter.

7:14A-22.20 Activities which do not require an exemption from the Department

(a) Any project which has proceeded in accordance with a valid stage II and stage III treatment works approval from the Department for the construction and operation of treatment works will not require a sewer ban exemption from the Department provided that construction of the facilities is undertaken in accordance with the Department's approval.

(b) For projects which do not require a treatment works approval pursuant to N.J.A.C. 7:14A-22.4, a sewer ban exemption from the Department is not required provided that the owner/applicant of the project has obtained a building permit prior to the effective date of the sewer connection ban, and is otherwise lawfully entitled to initiate construction in conformance with previously issued valid approvals.

(c) Modifications, additions or deletions to the internal plumbing or piping of any lawfully, pre-existing building will not require a sewer ban exemption provided that:

1. The size of the building will not increase (gross area); and
2. The category and scope of use of the building will remain unchanged in accordance with N.J.A.C. 7:14A-23.3, Projected flow criteria.

(d) The replacement, rehabilitation or modification of existing conveyance and treatment facilities will not require a sewer ban exemption provided that the project does not involve any additional contributory flow, as determined by the Department.

7:14A-22.21 Application procedures for obtaining a sewer connection ban exemption from the Department

(a) The sewerage authority or municipality imposing the ban shall provide the applicant with the following:

1. A copy of the ban exemption regulations contained in N.J.A.C. 7:14-22.18 through 22.22;
2. The Department's ban exemption application form, WFR001, entitled: "Application for Exemption from a Sewer Connection Ban";
3. The effective date of the sewer connection ban; and
4. A copy of the authority's sewer ban exemption criteria.

(b) An applicant requesting an exemption shall submit the Department's application form for an exemption from a sewer connection ban and any other appropriate documentation to the appropriate sewerage authority or municipality, who shall review the request for compliance with the applicable criteria.

(c) If the affected sewerage authority or municipality determines that the applicant meets the criteria specified in N.J.A.C. 7:14A-22.22, or more stringent criteria that may be locally adopted, the authority shall forward the application package and a written letter of consent, to the Department for a final decision, unless the local authority has been delegated the authority to approve exemption requests pursuant to N.J.A.C. 7:14A-22.23.

(d) If the sewerage authority or municipality denies the sewer ban exemption request, that decision cannot be appealed to the Department.

(e) After reviewing the application for a sewer connection ban exemption, the Department will notify the affected sewerage authority of the results of its review.

(f) Before making a decision, the Department may request that the applicant supply additional documentation. If the additional requested information is not supplied, the Department may deny the exemption request.