

CHAPTER 7

DEPARTMENT OF ENVIRONMENTAL
PROTECTION EMERGENCY WATER
SUPPLY ALLOCATION PLAN CASES

Authority

N.J.S.A. 52:14F-5(e), (f) and (g).

Source and Effective Date

R.1992 d.213, effective April 21, 1992.
See: 24 N.J.R. 321(a), 24 N.J.R. 1873(b).

Executive Order No. 66(1978) Expiration Date

Chapter 7, Department of Environmental Protection Emergency Water Supply Allocation Plan Cases, expires on April 21, 1997.

Chapter Historical Note

Chapter 7, Department of Environmental Protection Emergency Water Supply Allocation Plan Cases, was adopted as Emergency New Rule, R.1985 d.347, effective June 11, 1985, to expire August 12, 1985. See: 17 N.J.R. 1674(a). The concurrent proposal to the emergency adoption was adopted as R.1985 d.446, effective August 9, 1985. See: 17 N.J.R. 2099(a). Chapter 7 was repealed by R.1987 d.200 and new rules were adopted, effective May 4, 1987 but operative July 1, 1987. See: 18 N.J.R. 728(a), 18 N.J.R. 1728(a), 19 N.J.R. 715(a). Pursuant to Executive Order No. 66(1978), Chapter 7 was readopted as R.1992 d.213. See: Source and Effective Date.

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SUBCHAPTER 1. APPLICABILITY

1:7-1.1 Applicability

(a) The rules in this chapter shall apply to hearings arising under N.J.A.C. 7:19A-1.1 et seq. concerning the denial of an application for a hardship exemption from water rationing or the ban on adjustable water uses. Any aspect of the hearing not covered by these special hearing rules shall be governed by the Uniform Administrative Procedure Rules (U.A.P.R.) contained in N.J.A.C. 1:1. To the extent that these rules are inconsistent with the U.A.P.R., these rules shall apply.

SUBCHAPTER 2. DEFINITIONS

1:7-2.1 Definitions

"Applicant" means an individual or entity who is aggrieved by a decision of the Water Emergency Task Force, established by N.J.A.C. 7:19A-4.2.

SUBCHAPTER 3. (RESERVED)

SUBCHAPTER 4. AGENCY RESPONSIBILITY
BEFORE TRANSMISSION TO THE OFFICE
OF ADMINISTRATIVE LAW

1:7-4.1 Agency conference; failure to reach settlement

(a) In a case dealing with an application for a hardship exemption from water rationing or the ban on adjustable water uses, the Department of Environmental Protection (DEP) shall attempt to settle the dispute through appropriate conferences within 30 days of receiving a hearing request.

(b) If settlement is not reached, the parties shall use the conference to prepare issues and evidence for the hearing, and to determine any discovery needs.

(c) At or immediately after the conference, DEP shall supply the applicant with any materials requested pursuant to N.J.A.C. 1:7A-10.1 (Discovery).

(d) If settlement is not reached, DEP shall transmit the case to the Office of Administrative Law, including all documents upon which the Water Emergency Task Force based its decision to deny the hardship exemption.

SUBCHAPTERS 5 THROUGH 9. (RESERVED)

SUBCHAPTER 10. DISCOVERY

1:7-10.1 Discovery

(a) Discovery shall be limited to the records of DEP, including all documents relied upon by the Water Emergency Task Force with respect to the case.

(b) DEP shall supply the applicant with a copy of all discovery at or forthwith after the settlement conference.

SUBCHAPTERS 11 THROUGH 13. (RESERVED)

SUBCHAPTER 14. CONDUCT OF CASES

1:7-14.1 Proceeding on the papers

Water emergency cases may be conducted as proceedings on the papers, in accordance with N.J.A.C. 1:1-14.8.

1:7-14.2 Certification

The applicant may return a completed certification to the Clerk pursuant to N.J.A.C. 1:1-14.8. The certification shall explain why the exemption is necessary to avoid extraordinary hardship and why no reasonable alternative exists other than to grant the exemption.

1:7-14.3 In-person hearings; telephone hearings

If an in-person or telephone hearing is held, as provided by N.J.A.C. 1:1-14.8, such proceeding shall be conducted pursuant to the Uniform Administrative Procedure Rules at N.J.A.C. 1:1.

SUBCHAPTERS 15 THROUGH 21. (RESERVED)